CONGRESSIONAL RECORD:

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CONTAINING

THE PROCEEDINGS AND DEBATES



OF THE

FORTY-FIFTH CONGRESS, THIRD SESSION.

VOLUME VIII.

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VOLUME VIII, PART I.

CONGRESSIONAL RECORD.

FORTY-FIFTH CONGRESS, THIRD SESSION.

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PROCEEDINGS AND DEBATES OF THE FORTY-FIFTH CONGRESS.

THIRD SESSION.

IN SENATE.

MONDAY, *December* 2, 1878.

The first Monday of December being the day prescribed by the Constitution of the United States for the annual meeting of Congress, the third session of the Forty-fifth Congress commenced this day.

The Senators assembled in the Senate Chamber at the Capitol, in the city of Washington.

The VICE-PRESIDENT of the United States (Hon. WILLIAM A. WHEELER, of New York) took the chair and called the Senate to order at twelve o'clock noon.

SENATORS PRESENT.

The following Senators were present: From the State of—
Maine—James G. Blaine and Hannibal Hamlin.
New Hampshire—E. H. Rollins and Bainbridge Wadleigh.
Vermont—George F. Edmunds and Justin S. Morrill.
Massachusetts—Henry L. Dawes.
Rhode Island—Henry B. Anthony and Ambrose E. Burnside.
Connecticut—William W. Eaton.
New Jersey—John R. McPherson and Theodore F. Randolph.
Pennsylvania—James Donald Cameron and William A. Wallace.
Delaware—Thomas F. Bayard and Eli Saulsbury.
Maryland—George R. Dennis.
Virginia—John W. Johnston and Robert E. Withers.
North Carolina—Matt W. Ransom.
South Carolina—M. C. Butler.
Georgia—Benjamin H. Hill.
Florida—Simon B. Conover and Charles W. Jones.
Alabama—John T. Morgan.
Mississippi—Blanche K. Bruce and L. Q. C. Lamar.
Louisiana—James B. Eustis and William Pitt Kellogg.
Texas—Richard Coke and Samuel B. Maxey.
Arkansas—Stephen W. Dorsey and Augustus H. Garland.
Missouri—David H. Armstrong.
Tennessee—James E. Bailey and Isham G. Harris.
Kentucky—James B. Beck and Thomas C. McCreery.
West Virginia—Henry G. Davis and Frank Hereford.
Ohio—Stanley Matthews and Allen G. Thurman.
Indiana—Joseph E. McDonald and Daniel W. Voorhees.
Illinois—David Davis and Richard J. Oglesby.
Michigan—Isaac P. Christiancy and Thomas W. Ferry.
Wisconsin—Angus Cameron and Timothy O. Howe.
Iowa—William B. Allison and Samuel J. Kirkwood.
Minnesota—Samuel J. R. McMillan and William Windom.
Kansas—John J. Ingalls.
Nebraska—Algernon S. Paddock and Alvin Saunders.
California—Newton Booth.
Oregon—La Fayette Grover and John H. Mitchell.
Colorado—Jerome B. Chaffee and Henry M. Teller.

PRAYER.

Rev. BYRON SUNDERLAND, D. D., Chaplain to the Senate, offered the following prayer:

Almighty and Everlasting God, suffer us to come before Thee at this time in worship and adoration! Great and marvelous are Thy ways; when, out of fever and funeral, Thou hast set up the marriage of the nation, when over the heavy summer months Thou hast breathed the beauty of a martyr endurance and a noble magnanimity! The billows of a dark providence have gone over us; but out of the sea of human sorrow Thou hast bidden forth the angel forms of human sympathy and generosity, so that the spirit of a great brotherhood has risen to walk upon the waves even as the feet of Him who once rescued his perishing apostle. God be praised that He alone is able to bridge the gulf between the subtle chemistry of nature and the still more subtle conscience of the human soul. God be praised that He alone is able to cause this scene of our earthly desolation to blossom with the flowering and fragrant hope of a blessed immortality.

Bless, we beseech Thee, Thy servants, the President and Vice-President of the United States and all our rulers, law-givers, governors, and executives, and all the people of the land. Bless, we beseech Thee, the Congress this day assembled; and as Thou hast preserved the lives of all these, Thy servants, and hast brought them in safety to this high field of labor, we pray Thee endow them with abundant strength and wisdom for the responsibility and task before them. And be favorable unto our nation. Grant that nothing may impede its onward march in probity, in courage, in all true greatness, that we may be a people to Thy praise in all generations. Through Jesus Christ, our Lord. Amen.

NOTIFICATION TO THE HOUSE.

Mr. ANTHONY offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that a quorum of each House is assembled, and that Congress is ready to receive any communication he may be pleased to make.

By unanimous consent, the Vice-President was authorized to appoint the committee on the part of the Senate; and Messrs. ANTHONY and BAYARD were appointed.

HOUR OF MEETING.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the hour of the daily meeting of the Senate be twelve o'clock meridian, until otherwise ordered.

PROPOSED TRANSFER OF INDIAN BUREAU.

Mr. SAUNDERS. I offer the following resolution:

Resolved, That the Public Printer is hereby authorized and directed to print the testimony taken and to be taken, the reports of the committee, and the accompanying documents, of the joint committee to consider the feasibility of transferring the Indian Bureau to the War Department.

The VICE-PRESIDENT. Does the Senator from Nebraska desire immediate action upon the resolution?

Mr. SAUNDERS. I should like to have it considered now because the Printer must have authority from the Senate before he can print the testimony.

The VICE-PRESIDENT. Is there unanimous consent that the resolution be now considered?

Mr. DAVIS, of West Virginia. Unless there is a pressing necessity for immediate printing, the resolution had better take the usual course and go to the Committee on Printing, when appointed.

Mr. SAUNDERS. I will state in one word that the only necessity for immediate printing is that the amount of testimony is large, and as some members of the committee were not present when it was taken they are anxious to see it, and if it is not printed at once the committee probably cannot make a report as early as they otherwise could.

The VICE-PRESIDENT. Under the rule the resolution will go to the Committee on Printing, when appointed.

PREVENTION OF EPIDEMIC DISEASES.

Mr. HARRIS. I offer the following resolution, and I desire to give notice that I shall ask the Senate to consider it to-morrow:

Whereas the epidemic which has recently prevailed in large districts of several of the States of the Union has been so destructive to human life and the interests and prosperity of the whole country as to make it a subject of gravest public concern, and its prevention in future an important duty, to the end that its return may be prevented, so far as prompt and decided action can prevent:

Be it resolved by the Senate, (the House of Representatives concurring,) That a joint select committee of four Senators, to be appointed by the President of the Senate, and five Representatives, to be appointed by the Speaker of the House, be appointed to investigate and report the best means of preventing the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States; that said committee be allowed a clerk and, if in the course of its investigations it is found necessary, a stenographer; and that said committee have power to send for persons and papers, to employ experts and scientists, not to exceed seven in number, and send them to, and by subcommittee visit, recently infected localities, for the purpose of obtaining the fullest and most accurate information; and that said committee may report at any time during the present session of Congress, by bill or otherwise.

The VICE-PRESIDENT. The resolution will lie on the table, subject to the call of the Senator from Tennessee.

Mr. EDMUNDS. And let it be printed.

The VICE-PRESIDENT. It will be printed, under the rule.

Mr. LAMAR. Mr. President, I had intended to offer a resolution of the same character, and in order that they may be printed together I now submit it.

The resolution was read, and ordered to lie on the table and be printed, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That a commission is hereby authorized and constituted, to consist of three Senators, to be appointed by the Senate, three members of the House of Representatives, to be appointed by the Speaker, and experts not exceeding seven in number, to be selected by and associated with them, with authority to determine the time and place of meeting, to employ stenographers and clerks, and to take testimony, whose duty it shall be to inquire into the history and the means of prevention and arrest of yellow fever, and to report the facts and their opinions and recommendations at any time.

Mr. EUSTIS. Mr. President, I offer the following resolution on the same subject:

Resolved by the Senate, (the House concurring,) That a joint committee composed of five members of the Senate and five members of the House of Representatives be appointed by the President of the Senate and the Speaker, whose duty it shall be to inquire into the causes and circumstances of the late yellow-fever epidemic, and to report what legislation, if any, should be enacted by Congress to prevent a recurrence of the same; that said joint committee be authorized to send for persons and papers and employ stenographers.

The VICE-PRESIDENT. This resolution will also be printed and laid on the table.

THE TRADE-DOLLAR.

Mr. VOORHEES. I offer, Mr. President, the following resolution:

Resolved, That the Committee on Finance be, and is hereby, instructed to inquire into the expediency of making the trade-dollar authorized by section 15 of the act of Congress approved February, 1873, a legal tender for all debts, public and private, and providing for its recoinage into the standard dollar of 412½ grains.

Mr. EDMUNDS. Let that go over, Mr. President.

The VICE-PRESIDENT. The resolution goes over under the rule.

EXERCISE OF ELECTIVE FRANCHISE.

Mr. BLAINE submitted the following resolutions; which were read:

Resolved, That the Committee on the Judiciary be instructed to inquire and report to the Senate whether at the recent elections the constitutional rights of American citizens were violated in any of the States of the Union; whether the right of suffrage of citizens of the United States, or of any class of such citizens, was denied or abridged by the action of the election officers of any State in refusing to receive their votes, in failing to count them, or in receiving and counting fraudulent ballots in pursuance of a conspiracy to make the lawful votes of such citizens of none effect; and whether such citizens were prevented from exercising the elective franchise, or forced to use it against their wishes, by violence or threats, or hostile demonstrations of armed men or other organizations, or by any other unlawful means or practices.

Resolved, That the Committee on the Judiciary be further instructed to inquire and report whether it is within the competency of Congress to provide by additional legislation for the more perfect security of the right of suffrage to citizens of the United States in all the States of the Union.

Resolved, That in prosecuting these inquiries the Committee on the Judiciary shall have the right to send for persons and papers.

The VICE-PRESIDENT. Does the Senator from Maine desire action on the resolutions at this time?

Mr. BLAINE. I have no personal preference.

Mr. THURMAN. Let them go over.

The VICE-PRESIDENT. The resolutions will go over under the rule.

Mr. EDMUNDS. They ought to be printed. I move that an order be made to print them for the use of the Senate.

The motion was agreed to.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of JUSTIN S. MORRILL, chosen by the Legislature of Vermont a Senator from that State for the term beginning March 4, 1879; which were read and ordered to be filed.

SURVEYS OF TERRITORIES.

The VICE-PRESIDENT laid before the Senate a letter of O. C. Marsh, vice-president and acting president of the National Academy of Sciences, held in New York, November 6, 1878, submitting the report on the scientific surveys of the Territories made by the National Academy of Sciences in accordance with the requirement of law contained in the act "making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878; which was ordered to lie on the table and be printed, to be referred to the Committee on Appropriations, when appointed.

REPORT OF SECRETARY OF SENATE.

The VICE-PRESIDENT also laid before the Senate the annual report of the Secretary of the Senate, communicating, in obedience to law, a statement of the receipts and expenditures of the Senate from July 1, 1877, to June 30, 1878, and a statement of property in his possession belonging to the United States December 2, 1878; which was ordered to lie on the table and be printed.

REPORT OF SERGEANT-AT-ARMS.

The VICE-PRESIDENT also laid before the Senate the annual report of the Sergeant-at-Arms of the Senate, communicating, in obedience to law, a statement of property in his possession belonging to the United States December 2, 1878; which was ordered to lie on the table and be printed.

COURT OF CLAIMS REPORT.

The VICE-PRESIDENT also laid before the Senate the report of the clerk of the Court of Claims, communicating, in obedience to law, a statement of judgments rendered by that court for the year ending December 2, 1878; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented the petition of Anson Dart, praying compensation for services performed in the Indian service, in the Territory of Oregon, in 1850; which was ordered to lie on the table, to be referred to the Committee on Indian Affairs, when appointed.

Mr. MORRILL. I also present a joint resolution of the Legislature of the State of Vermont, relating to the remonetization of silver, which I ask to have read and referred to the Committee on Finance, when appointed.

The joint resolution was read, as follows:

Joint resolution relating to the remonetization of silver.

Whereas the Bland silver bill, passed at the last session of Congress, has not met the hopes of its friends in maintaining the value of silver bullion or inducing other nations to join this in remonetizing silver, as was confidently predicted by its friends; and

Whereas the fears of its opponents, wherein they predicted that the metal would constantly fluctuate in value and that the gold-standard nations would not join us in making a double standard of value, have proved true; and

Whereas the bullion value of our 412½ grain silver dollar has fallen from ninety-two and one-half cents at the time of the passage of the act to eighty-four and one-half cents at the present time; and

Whereas a legal-tender dollar, whose debt-paying power is 100 cents and whose purchasing value in the chief commercial markets of the world is only eighty-four and one-half cents, wars against exports and promotes imports: Therefore,

Resolved by the house of representatives, That our Senators and Representatives in Congress are requested to use all honorable efforts to have the silver bill so modified as to lessen or prevent the evil effects sure to flow therefrom.

Resolved, That the commodities of this country are now based on gold values, and that if the silver bill is not modified a great inflation of values will in time take place, by free banking, based on a silver dollar of eighty-four and one-half cents as a legal-tender reserve, and that it would be a great wrong to thus inflate values and thereby necessitate another cruel shrinkage of values.

Resolved, That either the number of grains of silver in our dollar should be increased, so as to make it of equal value with the gold dollar, or, more preferable, that the amount of its coinage or its legal tender should be limited.

Resolved, That the governor be requested to forward to the United States Senate and House of Representatives, and to each of our Senators and Representatives in Congress, one copy of the foregoing preamble and resolutions.

EBEN P. COLTON,
President of the Senate.
JAMES L. MARTIN,
Speaker of the House of Representatives.

Mr. MORRILL also presented the petition of Caroline M. Lamb, of Vermont; the petition of George N. M. Bean, of Vermont, and the petition of Rose McNally, of Vermont, praying the passage of the House bill providing that all pensions shall commence at the date of the discharge or death of the soldiers for whom they are granted; which were ordered to lie on the table, to be referred to the Committee on Pensions, when appointed.

Mr. DAWES presented the petition of Theophilus P. Chandler, late subtreasurer at Boston, Massachusetts, asking to be relieved from liability on account of fraudulent acts of a subordinate in which he was not at fault; which was ordered to lie on the table, to be referred to the Committee on Claims, when appointed.

He also presented the petition of W. H. Dunbar, of Massachusetts,

and the petition of Peter Bushier, of Massachusetts, praying the passage of the House bill providing that all pensions shall commence at the date of the discharge or death of the soldiers for whom they are granted; which were ordered to lie on the table, to be referred to the Committee on Pensions, when appointed.

Mr. JOHNSTON presented the petition of Henry R. Rathbone, late major Fifth United States Infantry, praying the passage of a law providing that his name may be placed on the retired list of the Army; which was ordered to lie on the table, to be referred to the Committee on Military Affairs, when appointed.

Mr. THURMAN presented the memorial of Mary Hopperton, widow of Edward Hopperton, deceased, late a wheelwright in the Quartermaster's Department, United States Army, praying the passage of a law authorizing the payment to her of a pension at the rate of $8 per month from the date of the death of her husband; which was ordered to lie on the table, to be referred to the Committee on Pensions, when appointed.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1414) granting a pension to James H. Woodard; which was read twice by its title and ordered to lie on the table, to be referred to the Committee on Pensions, when appointed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1415) for the relief of the bondsmen of the late Captain Richard Stevenson, assistant quartermaster; which was read twice by its title and ordered to lie on the table, to be referred to the Committee on the Judiciary, when appointed.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1416) to provide for retiring the trade-dollar and for its recoinage into the standard silver dollar; which was read twice by its title and ordered to lie on the table, to be referred to the Committee on Finance, when appointed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1417) amendatory of title 48 of the Revised Statutes of the United States, so as to authorize the purchase of foreign-built ships by citizens of the United States; which was read twice by its title and ordered to lie on the table, to be referred to the Committee on Commerce, when appointed.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1418) for the relief of H. R. Rathbone; which was read twice by its title, and ordered to lie on the table, to be referred to the Committee on Military Affairs, when appointed.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1419) granting a pension to Mrs. Rosa Gale; which was read twice by its title, and ordered to lie on the table, to be referred to the Committee on Pensions, when appointed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. McDONALD, it was

Ordered, That the papers in the matter of James H. Woodard be taken from the files and referred to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

At twelve o'clock and fifty minutes p. m. Mr. GEORGE M. ADAMS, the Clerk of the House of Representatives, appeared at the bar of the Senate and delivered the following message:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives has assembled, and that the House is now ready to proceed to business.

The House of Representatives has appointed Mr. JOHN D. C. ATKINS of Tennessee, Mr. SAMUEL S. COX of New York, and Mr. JAMES A. GARFIELD of Ohio, a committee on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make.

RECESS.

Mr. THURMAN. I move that the Senate take a recess for three-quarters of an hour.

The motion was agreed to; and the Senate accordingly took a recess till one o'clock and thirty-five minutes p. m., when the Vice President resumed the chair.

PRESIDENT'S ANNUAL MESSAGE.

Mr. ANTHONY. Mr. President, the joint committee appointed by the two Houses of Congress to wait upon the President of the United States and inform him that they were organized for the dispatch of business and were ready to receive any communication which it might be his pleasure to make to them, have performed the duty assigned them, and the President replied that he would communicate with the two Houses immediately in writing.

At one o'clock and thirty-eight minutes p. m. Mr. W. K. RODGERS, the Private Secretary of the President of the United States, appeared at the bar of the Senate, and said:

Mr. President: I am directed by the President of the United States to deliver to the Senate a message in writing.

The message was received from the Secretary and handed to the Vice-President.

The VICE-PRESIDENT. The Chair lays before the Senate the annual message of the President of the United States, which the Secretary will read.

The Secretary of the Senate, Mr. GEORGE C. GORHAM, read the message, as follows:

Fellow-citizens of the Senate and House of Representatives:

Our heartfelt gratitude is due to the Divine Being, who holds in His hands the destinies of nations, for the continued bestowal, during the last year, of countless blessings upon our country.

We are at peace with all other nations. Our public credit has greatly improved, and is, perhaps, now stronger than ever before. Abundant harvests have rewarded the labors of those who till the soil, our manufacturing industries are reviving, and it is believed that general prosperity, which has been so long anxiously looked for, is at last within our reach.

The enjoyment of health by our people generally has, however, been interrupted, during the past season, by the prevalence of a fatal pestilence, the yellow fever, in some portions of the Southern States, creating an emergency which called for prompt and extraordinary measures of relief. The disease appeared as an epidemic at New Orleans and at other places on the Lower Mississippi soon after midsummer. It was rapidly spread by fugitives from the infected cities and towns, and did not disappear until early in November. The States of Louisiana, Mississippi, and Tennessee have suffered severely. About one hundred thousand cases are believed to have occurred, of which about twenty thousand, according to intelligent estimates, proved fatal. It is impossible to estimate with any approach to accuracy the loss to the country occasioned by this epidemic. It is to be reckoned by the hundred millions of dollars. The suffering and destitution that resulted excited the deepest sympathy in all parts of the Union. Physicians and nurses hastened from every quarter to the assistance of the afflicted communities. Voluntary contributions of money and supplies, in every needed form, were speedily and generously furnished. The Government was able to respond in some measure to the call for help by providing tents, medicines, and food for the sick and destitute, the requisite direction for the purpose being given in the confident expectation that this action of the Executive would receive the sanction of Congress. About eighteen hundred tents, and rations of the value of about $25,000, were sent to cities and towns which applied for them, full details of which will be furnished to Congress by the proper Department.

The fearful spread of this pestilence has awakened a very general public sentiment in favor of national sanitary administration, which shall not only control quarantine, but have the sanitary supervision of internal commerce in times of epidemics and hold an advisory relation to the state and municipal health authorities, with power to deal with whatever endangers the public health and which the municipal and state authorities are unable to regulate. The national quarantine act, approved April 29, 1878, which was passed too late in the last session of Congress to provide the means for carrying it into practical operation during the past season, is a step in the direction here indicated. In view of the necessity for the most effective measures, by quarantine and otherwise, for the protection of our seaports and the country generally from this and other epidemics, it is recommended that Congress give to the whole subject early and careful consideration.

The permanent pacification of the country by the complete protection of all citizens in every civil and political right continues to be of paramount interest with the great body of our people. Every step in this direction is welcomed with public approval, and every interruption of steady and uniform progress to the desired consummation awakens general uneasiness and widespread condemnation. The recent congressional elections have furnished a direct and trustworthy test of the advance thus far made in the practical establishment of the right of suffrage secured by the Constitution to the liberated race in the southern States. All disturbing influences, real or imaginary, had been removed from all of these States.

The three constitutional amendments which conferred freedom and equality of civil and political rights upon the colored people of the South were adopted, by the concurrent action of the great body of good citizens who maintained the authority of the National Government and the integrity and perpetuity of the Union at such a cost of treasure and life, as a wise and necessary embodiment in the organic law of the just results of the war. The people of the former slaveholding States accepted these results, and gave, in every practicable form, assurances that the thirteenth, fourteenth, and fifteenth amendments, and laws passed in pursuance thereof, should, in good faith, be enforced, rigidly and impartially, in letter and spirit, to the end that the humblest citizen, without distinction of race or color, should, under them, receive full and equal protection in person and property and in political rights and privileges. By these constitutional amendments the southern section of the Union obtained a large increase of political power in Congress and in the Electoral College, and the country justly expected that elections would proceed, as to the enfranchised race, upon the same circumstances of legal and constitutional freedom and protection which obtained in all the other States of the Union. The friends of law and order looked forward to the conduct of these elections, as offering to the general judgment of the country an important opportunity to measure the degree in which the right of suffrage could be exercised by the colored people and would be respected

by their fellow-citizens; but a more general enjoyment of freedom of suffrage by the colored people, and a more just and generous protection of that freedom by the communities of which they form a part, were generally anticipated than the record of the elections discloses. In some of those States in which the colored people have been unable to make their opinions felt in the elections the result is mainly due to influences not easily measured or remedied by legal protection; but in the States of Louisiana and South Carolina at large, and in some particular congressional districts outside of those States, the records of the elections seem to compel the conclusion that the rights of the colored voters have been overridden, and their participation in the elections not permitted to be either general or free.

It will be for the Congress for which these elections were held to make such examinations into their conduct as may be appropriate to determine the validity of the claims of members to their seats. In the mean while it becomes the duty of the executive and judicial departments of the Government, each in its province, to inquire into and punish violations of the laws of the United States which have occurred. I can but repeat what I said in this connection in my last message, that whatever authority rests with me to this end I shall not hesitate to put forth, and I am unwilling to forego a renewed appeal to the Legislatures, the courts, the executive authorities, and the people of the States where these wrongs have been perpetrated, to give their assistance toward bringing to justice the offenders and preventing a repetition of the crimes. No means within my power will be spared to obtain a full and fair investigation of the alleged crimes and to secure the conviction and just punishment of the guilty.

It is to be observed that the principal appropriation made for the Department of Justice at the last session contained the following clause: "And for defraying the expenses which may be incurred in the enforcement of the act approved February 28, 1871, entitled 'An act to amend an act approved May 30, 1870, entitled "An act to enforce the rights of citizens of the United States to vote in the several States of the Union, and for other purposes,"' or any acts amendatory thereof or supplementary thereto." It is the opinion of the Attorney-General that the expenses of these proceedings will largely exceed the amount which was thus provided, and I rely confidently upon Congress to make adequate appropriations to enable the executive department to enforce the laws.

I respectfully urge upon your attention that the congressional elections in every district, in a very important sense, are justly a matter of political interest and concern throughout the whole country. Each State, every political party, is entitled to the share of power which is conferred by the legal and constitutional suffrage. It is the right of every citizen, possessing the qualifications prescribed by law, to cast one unintimidated ballot and to have his ballot honestly counted. So long as the exercise of this power and the enjoyment of this right are common and equal, practically as well as formally, submission to the results of the suffrage will be accorded loyally and cheerfully, and all the departments of government will feel the true vigor of the popular will thus expressed. No temporary or administrative interests of government, however urgent or weighty, will ever displace the zeal of our people in defense of the primary rights of citizenship. They understand that the protection of liberty requires the maintenance, in full vigor, of the manly methods of free speech, free press, and free suffrage, and will sustain the full authority of government to enforce the laws which are framed to preserve these inestimable rights. The material progress and welfare of the States depend on the protection afforded to their citizens. There can be no peace without such protection, no prosperity without peace, and the whole country is deeply interested in the growth and prosperity of all its parts.

While the country has not yet reached complete unity of feeling and reciprocal confidence between the communities so lately and so seriously estranged, I feel an absolute assurance that the tendencies are in that direction and with increasing force. The power of public opinion will override all political prejudices and all sectional or State attachments in demanding that all over our wide territory the name and character of citizen of the United States shall mean one and the same thing, and carry with them unchallenged security and respect.

Our relations with other countries continue peaceful. Our neutrality in contests between foreign Powers has been maintained and respected.

The universal exposition held at Paris during the past summer has been attended by large numbers of our citizens. The brief period allowed for the preparation and arrangement of the contributions of our citizens to this great exposition was well employed in energetic and judicious efforts to overcome this disadvantage. These efforts, led and directed by the commissioner-general, were remarkably successful, and the exhibition of the products of American industry was creditable and gratifying in scope and character. The reports of the United States commissioners, giving its results in detail, will be duly laid before you. Our participation in this international competition for the favor and the trade of the world may be expected to produce useful and important results in promoting intercourse, friendship, and commerce with other nations.

In accordance with the provisions of the act of February 28, 1878, three commissioners were appointed to an international conference on the subject of adopting a common ratio between gold and silver, for the purpose of establishing, internationally, the use of bimetallic money, and securing fixity of relative value between those metals. Invitations were addressed to the various governments which had expressed a willingness to participate in its deliberations. The conference held its meetings in Paris, in August last. The report of the commissioners, herewith submitted, will show its results. No common ratio between gold and silver could be agreed upon by the conference. The general conclusion was reached that it is necessary to maintain in the world the monetary functions of silver as well as of gold, leaving the selection of the use of one or the other of these two metals, or of both, to be made by each State.

Congress having appropriated at its last session the sum of $5,500,000 to pay the award of the joint commission at Halifax, if, after correspondence with the British government on the subject of the conformity of the award to the requirements of the treaty and to the terms of the question thereby submitted to the commission, the President shall deem it his duty to make the payment, communications upon these points were addressed to the British government through the legation of the United States at London. Failing to obtain the concurrence of the British government in the views of this Government respecting the award, I have deemed it my duty to tender the sum named, within the year fixed by the treaty, accompanied by a notice of the grounds of the payment, and a protest against any other construction of the same. The correspondence upon this subject will be laid before you.

The Spanish government has officially announced the termination of the insurrection in Cuba, and the restoration of peace throughout that island. Confident expectations are expressed of a revival of trade and prosperity, which it is earnestly hoped may prove well founded. Numerous claims of American citizens for relief for injuries or restoration of property have been among the incidents of the long-continued hostilities. Some of these claims are in process of adjustment by Spain, and the others are promised early and careful consideration.

The treaty made with Italy, in regard to reciprocal consular privileges, has been duly ratified and proclaimed.

No questions of grave importance have arisen with any other of the European powers

The Japanese government has been desirous of a revision of such parts of its treaties with foreign powers as relate to commerce, and, it is understood, has addressed to each of the treaty powers a request to open negotiations with that view. The United States Government has been inclined to regard the matter favorably. Whatever restrictions upon trade with Japan are found injurious to that people cannot but affect injuriously nations holding commercial intercourse with them. Japan, after a long period of seclusion, has within the past few years made rapid strides in the path of enlightenment and progress, and, not unreasonably, is looking forward to the time when her relations with the nations of Europe and America shall be assimilated to those which they hold with each other. A treaty looking to this end has been made, which will be submitted for the consideration of the Senate.

After an interval of several years the Chinese government has again sent envoys to the United States. They have been received, and a permanent legation is now established here by that government. It is not doubted that this step will be of advantage to both nations in promoting friendly relations and removing causes of difference.

The treaty with the Samoan Islands, having been duly ratified and accepted on the part of both governments, is now in operation, and a survey and soundings of the harbor of Pago-Pago have been made by a naval vessel of the United States, with a view of its occupation as a naval station, if found desirable to the service.

Since the resumption of diplomatic relations with Mexico correspondence has been opened and still continues between the two governments upon the various questions which at one time seemed to endanger their relations. While no formal agreement has been reached as to the troubles on the border, much has been done to repress and diminish them. The effective force of United States troops on the Rio Grande, by a strict and faithful compliance with instructions, has done much to remove the sources of dispute, and it is now understood that a like force of Mexican troops on the other side of the river is also making an energetic movement against the marauding Indian tribes. This Government looks with the greatest satisfaction upon every evidence of strength in the national authority of Mexico and upon every effort put forth to prevent or punish incursions upon our territory. Reluctant to assume any action or attitude in the control of these incursions by military movements across the border not imperatively demanded for the protection of the lives and property of our own citizens, I shall take the earliest opportunity, consistent with the proper discharge of this plain duty, to recognize the ability of the Mexican government to restrain effectively violations of our territory. It is proposed to hold next year an international exhibition in Mexico, and it is believed that the display of the agricultural and manufacturing products of the two nations will tend to better understanding and increased commercial intercourse between their people.

With Brazil, and the republics of Central and South America, some steps have been taken toward the development of closer commercial intercourse. Diplomatic relations have been resumed with Co-

lombia and with Bolivia. A boundary question between the Argentine Republic and Paraguay has been submitted by those governments for arbitration to the President of the United States, and I have, after careful examination, given a decision upon it.

A naval expedition up the Amazon and Madeira Rivers has brought back information valuable both for scientific and commercial purposes. A like expedition is about visiting the coast of Africa and the Indian Ocean. The reports of diplomatic and consular officers in relation to the development of our foreign commerce have furnished many facts that have proved of public interest and have stimulated to practical exertion the enterprise of our people.

The report of the Secretary of the Treasury furnishes a detailed statement of the operations of that Department of the Government, and of the condition of the public finances.

The ordinary revenues from all sources for the fiscal year ended June 30, 1878, were $257,763,878.70; the ordinary expenditures for the same period were $236,964,326.80—leaving a surplus revenue for the year of $20,799,551.90.

The receipts for the present fiscal year, ending June 30, 1879, actual and estimated, are as follows: Actual receipts for the first quarter, commencing July 1, 1878, $73,389,743.43; estimated receipts for the remaining three quarters of the year, $191,110,256.57; total receipts for the current fiscal year, actual and estimated, $264,500,000. The expenditures for the same period will be, actual and estimated, as follows: For the quarter commencing July 1, 1878, actual expenditures, $73,344,573.27; and for the remaining three quarters of the year the expenditures are estimated at $166,755,426.73—making the total expenditures $240,100,000; and leaving an estimated surplus revenue for the year ending June 30, 1879, of $24,400,000.

The total receipts during the next fiscal year, ending June 30, 1880, estimated according to existing laws, will be $264,500,000; and the estimated ordinary expenditures for the same period will be $236,320,412.68; leaving a surplus of $28,179,587.32 for that year.

In the foregoing statements of expenditures, actual and estimated, no amount is allowed for the sinking fund provided for by the act approved February 25, 1862, which requires that 1 per cent. of the entire debt of the United States shall be purchased or paid within each fiscal year, to be set apart as a sinking fund. There has been, however, a substantial compliance with the conditions of the laws. By its terms the public debt should have been reduced between 1862 and the close of the last fiscal year $518,361,806.28; the actual reduction of the ascertained debt in that period has been $720,644,739.61; being in excess of the reduction required by the sinking-fund act—$202,282,933.33.

The amount of the public debt, less cash in the Treasury, November 1, 1878, was $2,024,200,083.18—a reduction since the same date last year of $23,150,617.39.

The progress made during the last year in refunding the public debt at lower rates of interest is very gratifying. The amount of 4 per cent. bonds sold during the present year prior to November 23, 1878, is $100,270,900, and 6 per cent. bonds, commonly known as five-twenties, to an equal amount, have been or will be redeemed as calls mature.

It has been the policy of the Department to place the 4 per cent. bonds within easy reach of every citizen who desires to invest his savings, whether small or great, in these securities. The Secretary of the Treasury recommends that the law be so modified that small sums may be invested, and that through the post-offices, or other agents of the Government, the freest opportunity may be given in all parts of the country for such investments.

The best mode suggested is, that the Department be authorized to issue certificates of deposit, of the denomination of $10, bearing interest at the rate of 3.65 per cent. per annum and convertible at any time within one year after their issue into the 4 per cent. bonds authorized by the refunding act, and to be issued only in exchange for United States notes sent to the Treasury by mail or otherwise. Such a provision of law, supported by suitable regulations, would enable any person readily, without cost or risk, to convert his money into an interest-bearing security of the United States, and the money so received could be applied to the redemption of 6 per cent. bonds.

The coinage of gold during the last fiscal year was $52,798,980. The coinage of silver dollars, under the act passed February 28, 1878, amounted on the 23d of November, 1878, to $19,814,550, of which amount $4,984,947 are in circulation, and the balance, $14,829,603, is still in the possession of the Government.

With views unchanged with regard to the act under which the coinage of silver proceeds, it has been the purpose of the Secretary faithfully to execute the law, and to afford a fair trial to the measure.

In the present financial condition of the country, I am persuaded that the welfare of legitimate business and industry of every description will be best promoted by abstaining from all attempts to make radical changes in the existing financial legislation. Let it be understood that during the coming year the business of the country will be undisturbed by governmental interference with the laws affecting it, and we may confidently expect that the resumption of specie payments, which will take place at the appointed time, will be successfully and easily maintained, and that it will be followed by a healthful and enduring revival of business prosperity. Let the healing influence of time, the inherent energies of our people, and the boundless resources of our country, have a fair opportunity, and relief from present difficulties will surely follow.

The report of the Secretary of War shows that the Army has been well and economically supplied, that our small force has been actively employed, and has faithfully performed all the service required of it. The *morale* of the Army has improved, and the number of desertions has materially decreased during the year.

The Secretary recommends—

1. That a pension be granted to the widow of the late Lieutenant Henry H. Benner, Eighteenth Infantry, who lost his life by yellow fever while in command of the steamer J. M. Chambers, sent with supplies for the relief of sufferers in the South from that disease.

2. The establishment of the annuity scheme for the benefit of the heirs of deceased officers, as suggested by the Paymaster-General.

3. The adoption by Congress of a plan for the publication of the records of the War of the Rebellion, now being prepared for that purpose.

4. The increase of the extra per diem of soldier-teachers employed in post-schools, and liberal appropriations for the erection of buildings for schools and libraries at the different posts.

5. The repeal or amendment of the act of June 18, 1878, forbidding the "use of the Army as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as may be expressly authorized by the Constitution or by act of Congress."

6. The passage of a joint resolution of Congress legalizing the issues of rations, tents, and medicines which were made for the relief of sufferers from yellow fever.

7. That provision be made for the erection of a fire-proof building for the preservation of certain valuable records now constantly exposed to destruction by fire.

These recommendations are all commended to your favorable consideration.

The report of the Secretary of the Navy shows that the Navy has improved during the last fiscal year. Work has been done on seventy-five vessels, ten of which have been thoroughly repaired and made ready for sea. Two others are in rapid progress toward completion. The total expenditures of the year, including the amount appropriated for the deficiencies of the previous year, were $17,468,392.65. The actual expenses chargeable to the year, exclusive of these deficiencies, were $13,306,914.09, or $767,199.18 less than those of the previous year, and $4,928,677.74 less than the expenses including the deficiencies. The estimates for the fiscal year ending June 30, 1880, are $14,562,381.45, exceeding the appropriations of the present year only $33,949.75, which excess is occasioned by the demands of the Naval Academy and the Marine Corps, as explained in the Secretary's report. The appropriations for the present fiscal year are $14,528,431.70, which, in the opinion of the Secretary, will be ample for all the current expenses of the Department during the year. The amount drawn from the Treasury from July 1 to November 1, 1878, is $4,740,544.14, of which, $70,980.75 has been refunded, leaving as the expenditure for that period $4,669,563.39, or $520,899.24 less than the corresponding period of the last fiscal year.

The report of the Postmaster-General embraces a detailed statement of the operations of the Post-Office Department. The expenditures of that Department for the fiscal year ended June 30, 1878, were $34,165,084.49. The receipts, including sales of stamps, money-order business, and official stamps, were $29,277,516.95. The sum of $290,436.90, included in the foregoing statement of expenditures, is chargeable to preceding years, so that the actual expenditures for the fiscal year ended June 30, 1878, are $33,874,647.50. The amount drawn from the Treasury on appropriations, in addition to the revenues of the Department, was $5,307,652.82. The expenditures for the fiscal year ending June 30, 1880, are estimated at $36,571,900 and the receipts from all sources at $30,664,023.90, leaving a deficiency to be appropriated out of the Treasury of $5,907,876.10. The report calls attention to the fact that the compensation of postmasters and of railroads for carrying the mails is regulated by law, and that the failure of Congress to appropriate the amounts required for these purposes does not relieve the Government of responsibility, but necessarily increases the deficiency bills which Congress will be called upon to pass.

In providing for the postal service the following questions are presented: Should Congress annually appropriate a sum for its expenses largely in excess of its revenues, or should such rates of postage be established as will make the Department self-sustaining? Should the postal service be reduced by excluding from the mails matter which does not pay its way? Should the number of post-routes be diminished? Should other methods be adopted which will increase the revenues or diminish the expenses of the postal service?

The international postal congress, which met at Paris, May 1, 1878, and continued in session until June 4 of the same year, was composed of delegates from nearly all the civilized countries of the world. It adopted a new convention, to take the place of the treaty concluded at Berne, October 9, 1874, which goes into effect on the 1st of April, 1879, between the countries whose delegates have signed it. It was ratified and approved, by and with the consent of the President, August 13, 1878. A synopsis of this universal postal convention will be found in the report of the Postmaster-General, and the full text in the appendix thereto. In its origin the postal union com-

prised twenty-three countries, having a population of three hundred and fifty millions of people. On the 1st of April next it will comprise forty-three countries and colonies, with a population of more than six hundred and fifty millions of people, and will soon, by the accession of the few remaining countries and colonies which maintain organized postal services, constitute, in fact as well as in name, as its new title indicates, a universal union, regulating, upon a uniform basis of cheap postage rates, the postal intercourse between all civilized nations.

Some embarrassment has arisen out of the conflict between the customs laws of this country and the provisions of the postal convention in regard to the transmission of foreign books and newspapers to this country by mail. It is hoped that Congress will be able to devise some means of reconciling the difficulties which have thus been created, so as to do justice to all parties involved.

The business of the Supreme Court, and of the courts in many of the circuits, has increased to such an extent during the past years that additional legislation is imperative to relieve and prevent the delay of justice, and possible oppression to suitors, which is thus occasioned. The encumbered condition of these dockets is presented anew in the report of the Attorney-General, and the remedy suggested is earnestly urged for congressional action. The creation of additional circuit judges, as proposed, would afford a complete remedy, and would involve an expense, at the present rate of salaries, of not more than $60,000 a year.

The annual reports of the Secretary of the Interior and of the Commissioner of Indian Affairs present an elaborate account of the present condition of the Indian tribes, and of that branch of the public service which ministers to their interests. While the conduct of the Indians generally has been orderly, and their relations with their neighbors friendly and peaceful, two local disturbances have occurred, which were deplorable in their character, but remained, happily, confined to a comparatively small number of Indians. The discontent among the Bannacks, which led first to some acts of violence on the part of some members of the tribe and finally to the outbreak, appears to have been caused by an insufficiency of food on the reservation, and this insufficiency to have been owing to the inadequacy of the appropriations made by Congress to the wants of the Indians at a time when the Indians were prevented from supplying the deficiency by hunting. After an arduous pursuit by the troops of the United States, and several engagements, the hostile Indians were reduced to subjection, and the larger part of them surrendered themselves as prisoners. In this connection I desire to call attention to the recommendation made by the Secretary of the Interior, that a sufficient fund be placed at the disposal of the Executive, to be used, with proper accountability, at discretion, in sudden emergencies of the Indian service.

The other case of disturbance was that of a band of Northern Cheyennes, who suddenly left their reservation in the Indian Territory and marched rapidly through the States of Kansas and Nebraska in the direction of their old hunting-grounds, committing murders and other crimes on their way. From documents accompanying the report of the Secretary of the Interior it appears that this disorderly band was as fully supplied with the necessaries of life as the forty-seven hundred other Indians who remained quietly on the reservation, and that the disturbance was caused by men of a restless and mischievous disposition among the Indians themselves. Almost the whole of this band have surrendered to the military authorities, and it is a gratifying fact that when some of them had taken refuge in the camp of the Red Cloud Sioux, with whom they had been in friendly relations, the Sioux held them as prisoners and readily gave them up to the officers of the United States, thus giving new proof of the loyal spirit which, alarming rumors to the contrary notwithstanding, they have uniformly shown ever since the wishes they expressed at the council of September, 1877, had been complied with.

Both the Secretary of the Interior and the Secretary of War unite in the recommendation that provision be made by Congress for the organization of a corps of mounted "Indian auxiliaries," to be under the control of the Army, and to be used for the purpose of keeping the Indians on their reservations and preventing or repressing disturbance on their part. I earnestly concur in this recommendation. It is believed that the organization of such a body of Indian cavalry, receiving a moderate pay from the Government, would considerably weaken the restless element among the Indians by withdrawing from it a number of young men and giving them congenial employment under the Government, it being a matter of experience that Indians in our service, almost without exception, are faithful in the performance of the duties assigned to them. Such an organization would materially aid the Army in the accomplishment of a task for which its numerical strength is sometimes found insufficient.

But while the employment of force for the prevention or repression of Indian troubles is of occasional necessity, and wise preparation should be made to that end, greater reliance must be placed on humane and civilizing agencies for the ultimate solution of what is called the Indian problem. It may be very difficult and require much patient effort to curb the unruly spirit of the savage Indian to the restraints of civilized life, but experience shows that it is not impossible. Many of the tribes which are now quiet and orderly and self-supporting were once as savage as any that at present roam over the plains or in the mountains of the Far West, and were then considered inaccessible to civilizing influences. It may be impossible to raise them fully up to the level of the white population of the United States, but we should not forget that they are the aborigines of the country, and called the soil their own on which our people have grown rich, powerful, and happy. We owe it to them as a moral duty to help them in attaining at least that degree of civilization which they may be able to reach. It is not only our duty—it is also our interest to do so. Indians who have become agriculturists or herdsmen, and feel an interest in property, will thenceforth cease to be a warlike and disturbing element. It is also a well authenticated fact that Indians are apt to be peaceable and quiet when their children are at school, and I am gratified to know, from the expressions of Indians themselves, and from many concurring reports, that there is a steadily increasing desire, even among Indians belonging to comparatively wild tribes, to have their children educated. I invite attention to the reports of the Secretary of the Interior and the Commissioner of Indian Affairs, touching the experiment recently inaugurated, in taking fifty Indian children, boys and girls, from different tribes, to the Hampton Normal Agricultural Institute, in Virginia, where they are to receive an elementary English education and training in agriculture and other useful work, to be returned to their tribes, after the completed course, as interpreters, instructors, and examples. It is reported that the officer charged with the selection of those children might have had thousands of young Indians sent with him had it been possible to make provision for them. I agree with the Secretary of the Interior in saying that "the result of this interesting experiment, if favorable, may be destined to become an important factor in the advancement of civilization among the Indians."

The question whether a change in the control of the Indian service should be made was, at the last session of Congress, referred to a committee for inquiry and report. Without desiring to anticipate that report, I venture to express the hope that in the decision of so important a question the views expressed above may not be lost sight of, and that the decision, whatever it may be, will arrest further agitation of this subject, such agitation being apt to produce a disturbing effect upon the service as well as on the Indians themselves.

In the enrollment of the bill making appropriations for sundry civil expenses at the last session of Congress that portion which provided for the continuation of the Hot Springs commission was omitted. As the commission had completed the work of taking testimony on the many conflicting claims, the suspension of their labors, before determining the rights of claimants, threatened, for a time, to embarrass the interests, not only of the Government, but also of a large number of the citizens of Hot Springs, who were waiting for final action on their claims before beginning contemplated improvements. In order to prevent serious difficulties, which were apprehended, and at the solicitation of many leading citizens of Hot Springs, and others interested in the welfare of the town, the Secretary of the Interior was authorized to request the late commissioners to take charge of the records of their proceedings, and to perform such work as could properly be done by them under such circumstances, to facilitate the future adjudication of the claims at an early day and to preserve the status of the claimants until their rights should be finally determined. The late commissioners complied with that request, and report that the testimony in all the cases has been written out, examined, briefed, and so arranged as to facilitate an early settlement when authorized by law. It is recommended that the requisite authority be given at as early a day in the session as possible, and that a fair compensation be allowed the late commissioners for the expense incurred and the labor performed by them since the 25th of June last.

I invite the attention of Congress to the recommendations made by the Secretary of the Interior with regard to the preservation of the timber on the public lands of the United States. The protection of the public property is one of the first duties of the Government. The Department of the Interior should therefore be enabled by sufficient appropriations to enforce the laws in that respect. But this matter appears still more important as a question of public economy. The rapid destruction of our forests is an evil fraught with the gravest consequences, especially in the mountainous districts, where the rocky slopes, once denuded of their trees, will remain so forever. There the injury, once done, cannot be repaired. I fully concur with the Secretary of the Interior in the opinion that, for this reason, legislation touching the public timber in the mountainous States and Territories of the West should be especially well considered, and that existing laws, in which the destruction of the forests is not sufficiently guarded against, should be speedily modified. A general law concerning this important subject appears to me to be a matter of urgent public necessity.

From the organization of the Government, the importance of encouraging, by all possible means, the increase of our agricultural productions has been acknowledged and urged upon the attention of Congress and the people as the surest and readiest means of increasing our substantial and enduring prosperity.

The words of Washington are as applicable to-day as when, in his eighth annual message, he said: "It is not to be doubted that, with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population and other circumstances of maturity, this truth becomes more appar-

ent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse—and to what object can it be dedicated with greater propriety? Among the means which have been employed to this end, none have been attended with greater success than the establishment of boards composed of proper characters, charged with collecting and diffusing information, and enabled, by premiums and small pecuniary aids, to encourage and assist the spirit of discovery and improvement, this species of establishment contributing doubly to the increase of improvement by stimulating to enterprise and experiment, and by drawing to a common center the results everywhere of individual skill and observation, and spreading them thence over the whole nation. Experience accordingly hath shown that they are very cheap instruments of immense national benefit."

The great preponderance of the agricultural over any other interest in the United States entitles it to all the consideration claimed for it by Washington. About one-half of the population of the United States is engaged in agriculture. The value of the agricultural products of the United States for the year 1878 is estimated at $3,000,000,000. The exports of agricultural products for the year 1877, as appears from the report of the Bureau of Statistics, were $524,000,000. The great extent of our country, with its diversity of soil and climate, enables us to produce within our own borders and by our own labor not only the necessaries but most of the luxuries that are consumed in civilized countries. Yet, notwithstanding our advantages of soil, climate, and intercommunication, it appears from the statistical statements in the report of the Commissioner of Agriculture that we import annually from foreign lands many millions of dollars' worth of agricultural products which could be raised in our own country.

Numerous questions arise in the practice of advanced agriculture which can only be answered by experiments, often costly and sometimes fruitless, which are beyond the means of private individuals, and are a just and proper charge on the whole nation for the benefit of the nation. It is good policy, especially in times of depression and uncertainty in other business pursuits, with a vast area of uncultivated, and hence unproductive, territory wisely opened to homestead settlement, to encourage, by every proper and legitimate means, the occupation and tillage of the soil. The efforts of the Department of Agriculture to stimulate old and introduce new agricultural industries, to improve the quality and increase the quantity of our products, to determine the value of old or establish the importance of new methods of culture, are worthy of your careful and favorable consideration, and assistance by such appropriations of money and enlargement of facilities as may seem to be demanded by the present favorable conditions for the growth and rapid development of this important interest.

The abuse of animals in transit is widely attracting public attention. A national convention of societies specially interested in the subject has recently met at Baltimore, and the facts developed, both in regard to cruelties to animals and the effect of such cruelties upon the public health, would seem to demand the careful consideration of Congress, and the enactment of more efficient laws for the prevention of these abuses.

The report of the Commissioner of the Bureau of Education shows very gratifying progress throughout the country, in all the interests committed to the care of this important office. The report is especially encouraging with respect to the extension of the advantages of the common-school system in sections of the country where the general enjoyment of the privilege of free schools is not yet attained.

To education more than to any other agency we are to look, as the resource for the advancement of the people in the requisite knowledge and appreciation of their rights and responsiblities as citizens, and I desire to repeat the suggestion contained in my former message in behalf of the enactment of appropriate measures by Congress for the purpose of supplementing with national aid the local systems of education in the several States.

Adequate accommodations for the great library which is overgrowing the capacity of the rooms now occupied at the Capitol should be provided without further delay. This invaluable collection of books, manuscripts, and illustrative art has grown to such proportions, in connection with the copyright system of the country, as to demand the prompt and careful attention of Congress to save it from injury in its present crowded and insufficient quarters. As this library is national in its character, and must, from the nature of the case, increase even more rapidly in the future than in the past, it cannot be doubted that the people will sanction any wise expenditure to preserve it and to enlarge its usefulness.

The appeal of the Regents of the Smithsonian Institution for the means to organize, exhibit, and make available for the public benefit the articles now stored away belonging to the National Museum, I heartily recommend to your favorable consideration.

The attention of Congress is again invited to the condition of the river front of the city of Washington. It is a matter of vital importance to the health of the residents of the National Capital, both temporary and permanent, that the lowlands in front of the city, now subject to tidal overflow, should be reclaimed. In their present condition these flats obstruct the drainage of the city and are a dangerous source of malarial poison. The reclamation will improve the navigation of the river by restricting and consequently deepening its channel, and is also of importance when considered in connection with the extension of the public ground and the enlargement of the park west and south of the Washington Monument. The report of the board of survey, heretofore ordered by act of Congress, on the improvement of the harbor of Washington and Georgetown, is respectfully commended to consideration.

The report of the commissioners of the District of Columbia presents a detailed statement of the affairs of the District.

The relative expenditures by the United States and the District for local purposes is contrasted, showing that the expenditures by the people of the District greatly exceed those of the General Government. The exhibit is made in connection with estimates for the requisite repair of the defective pavements and sewers of the city, which is a work of immediate necessity, and, in the same connection, a plan is presented for the permanent funding of the outstanding securities of the District.

The benevolent, reformatory, and penal institutions of the District are all entitled to the favorable attention of Congress. The Reform School needs additional buildings and teachers. Appropriations which will place all of these institutions in a condition to become models of usefulness and beneficence will be regarded by the country as liberality wisely bestowed.

The commissioners, with evident justice, request attention to the discrimination made by Congress against the District in the donation of land for the support of the public schools, and ask that the same liberality that has been shown to the inhabitants of the various States and Territories of the United States may be extended to the District of Columbia.

The commissioners also invite attention to the damage inflicted upon public and private interests by the present location of the depots and switching-tracks of the several railroads entering the city, and ask for legislation looking to their removal. The recommendations and suggestions contained in the report will, I trust, receive the careful consideration of Congress.

Sufficient time has, perhaps, not elapsed since the reorganization of the government of the District, under the recent legislation of Congress, for the expression of a confident opinion as to its successful operation; but the practical results already attained are so satisfactory that the friends of the new government may well urge upon Congress the wisdom of its continuance, without essential modification, until, by actual experience, its advantages and defects may be more fully ascertained.

R. B. HAYES.

EXECUTIVE MANSION, *December* 2, 1878.

The message, with the accompanying documents, was ordered to lie on the table and be printed.

DEPARTMENTAL REPORTS.

The VICE-PRESIDENT laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances for the year 1878; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter of the Attorney-General, transmitting the annual report of the Department of Justice for the year 1878; which was ordered to lie on the table and be printed.

He also laid before the Senate the sixteenth annual report of the Comptroller of the Currency; which was ordered to lie on the table and be printed.

Mr. ALLISON. I move that the Senate do now adjourn.

The motion was agreed to; and (at two o'clock and twenty-six minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 2, 1878.

This being the day designated by the Constitution, the members of the House of Representatives of the Forty-fifth Congress assembled in their Hall for their third session. At twelve o'clock m., the Speaker, Hon. SAMUEL J. RANDALL, a member from the State of Pennsylvania, called the House to order.

PRAYER.

The Chaplain, Rev. W. P. HARRISON, D. D., offered the following prayer:

To Thee, Almighty God our Heavenly Father, the Giver of every good and perfect gift, the Author of all our mercies, we render thanks for the good providence which has spared the lives of these representatives of the people and permitted them again to assemble to resume their legislative labors.

O God, our Father, we implore the divine protection and guidance in their behalf, that in all the measures of legislation divine wisdom may aid them; that all that is done may promote the welfare of the people.

We pray Thy blessing upon Thy servants, the President and Vice-President of the United States, the officers and members of the Senate, the presiding officer and officers of this House, and all these representatives.

O Lord, our God, may it please Thee to bless our common country,

that peace and harmony may prevail everywhere, and all bitterness and strife may be done away. May justice and harmony and peace and prosperity prevail throughout our land, that all the people of all the sections may be united in the bonds of brotherly love.

These and all other blessings Thou seest we need we ask in the name of Jesus Christ our Redeemer. Amen.

ROLL-CALL.

The SPEAKER. This being the time fixed by the Constitution for the opening of the third session of the Forty-fifth Congress, the Clerk will now call the roll of members to ascertain whether there be a quorum present, and will also call the names of the Delegates from the several Territories.

The Clerk then called the roll, and the following members answered to their names:

MAINE.

Thomas B. Reed.
William P. Frye.
Stephen D. Lindsey.
Llewellyn Powers.
Eugene Hale.

NEW HAMPSHIRE.

Frank Jones.
James F. Briggs.
Henry W. Blair.

VERMONT.

Charles H. Joyce.
Dudley C. Denison.
George W. Hendee.

MASSACHUSETTS.

Benjamin W. Harris.
Benjamin Dean.
Leopold Morse.
William Claflin.
Amasa Norcross.
George D. Robinson.

RHODE ISLAND.

Benjamin T. Eames.
Latimer W. Ballou.

CONNECTICUT.

James Phelps.
John T. Wait.

NEW YORK.

James W. Covert.
William D. Veeder.
Simeon B. Chittenden.
Archibald M. Bliss.
Nicholas Muller.
Samuel S. Cox.
Anthony Eickhoff.
Anson G. McCook.
Fernando Wood.
Abram S. Hewitt.
Benjamin A. Willis.
Clarkson N. Potter.
John H. Ketcham.
Stephen L. Mayham.
Martin I. Townsend.
Andrew Williams.
Amaziah B. James.
John H. Starin.
Solomon Bundy.
George A. Bagley.
William J. Bacon.
Frank Hiscock.
Elbridge G. Lapham.
Jeremiah W. Dwight.
John N. Hungerford.
E. Kirke Hart.
George W. Patterson.

NEW JERSEY.

John Howard Pugh.
Miles Ross.
Augustus W. Cutler.
Thomas B. Peddie.
Augustus A. Hardenbergh.

PENNSYLVANIA.

Chapman Freeman.
Charles O'Neill.
Samuel J. Randall.
William D. Kelley.
Alfred C. Harmer.
William Ward.
I. Newton Evans.
Hiester Clymer.
A. Herr Smith.
Francis D. Collins.
Hendrick B. Wright.
James B. Reilly.
John W. Killinger.
Edward Overton, jr.
John I. Mitchell.
Jacob M. Campbell.
William S. Stenger.
Levi Maish.
Jacob Turney.
Russell Errett.
Thomas M. Bayne.
William S. Shallenberger.
Harry White.
John M. Thompson.
Lewis F. Watson.

DELAWARE.

James Williams.

MARYLAND.

Charles B. Roberts.
William Kimmel.
Eli J. Henkle.

VIRGINIA.

John Goode, jr.
Joseph Jorgensen.
George C. Cabell.
John T. Harris.
Eppa Hunton.

NORTH CAROLINA.

Curtis H. Brogden.
Alfred M. Waddell.
Joseph J. Davis.
Alfred M. Scales.
Walter L. Steele.
William M. Robbins.
Robert B. Vance.

SOUTH CAROLINA.

Joseph H. Rainey.
Richard H. Cain.
D. Wyatt Aiken.
John H. Evins.
Robert Smalls.

GEORGIA.

Julian Hartridge.
Philip Cook.
Henry R. Harris.
James H. Blount.
William H. Felton.
Alexander H. Stephens.
Hiram P. Bell.

ALABAMA.

James Taylor Jones.
Hilary A. Herbert.
Jere N. Williams.
Charles M. Shelley.
Robert F. Ligon.
Goldsmith W. Hewitt.
William H. Forney.

MISSISSIPPI.

H. L. Muldrow.
Van H. Manning.
Otho R. Singleton.
Charles E. Hooker.
J. R. Chalmers.

LOUISIANA.

Randall L. Gibson.
E. John Ellis.
Joseph H. Acklen.

OHIO.

Milton Sayler.
Henry B. Banning.
John A. McMahon.
Americus V. Rice.
Jacob D. Cox.
J. Warren Keifer.
John S. Jones.
Charles Foster.
Henry S. Neal.
Thomas Ewing.
Ebenezer B. Finley.
Nelson H. Van Vorhes.
Lorenzo Danford.
William McKinley, jr.
James Monroe.
James A. Garfield.
Amos Townsend.

KENTUCKY.

Andrew R. Boone.
James A. McKenzie.
John W. Caldwell.
J. Proctor Knott.
Albert S. Willis.
Joseph C. S. Blackburn.
Milton J. Durham.
Thomas Turner.
John B. Clarke.

TENNESSEE.

James H. Randolph.
J. M. Thornburgh.
George G. Dibrell.
John M. Bright.
John F. House.
Washington C. Whitthorne.
J. D. C. Atkins.
W. P. Caldwell.
Casey Young.

INDIANA.

Benoni S. Fuller.
Thomas R. Cobb.
George A. Bicknell.
Leonidas Sexton.
Thomas M. Browne.
Milton S. Robinson.
Morton C. Hunter.
Michael D. White.
William H. Calkins.
James L. Evans.
Andrew H. Hamilton.
John H. Baker.

ILLINOIS.

William Aldrich.
Carter H. Harrison.
Lorenzo Brentano.
William Lathrop.
Horatio C. Burchard.
Phillip C. Hayes.
Greenbury L. Fort.
Thomas A. Boyd.
Robert M. Knapp.
William M. Springer.
Joseph G. Cannon.
John R. Eden.
William A. J. Sparks.
William R. Morrison.
Richard W. Townshend.

MISSOURI.

Anthony Ittner.
Richard P. Bland.
Thomas T. Crittenden.
Benjamin J. Franklin.
David Rea.
Henry M. Pollard.
John B. Clark, jr.
Aylett H. Buckner.

ARKANSAS.

William F. Slemons.
Jordan E. Cravens.
Thomas M. Gunter

MICHIGAN.

Alpheus S. Williams.
Edwin W. Keightley.
John W. Stone.
Mark S. Brewer.
Edwin Willits.
Omar D. Conger.
Jay A. Hubbell.

TEXAS.

John H. Reagan.
J. W. Throckmorton.
Roger Q. Mills.
D. C. Giddings.
Gustave Schleicher.

IOWA.

Joseph C. Stone.
Hiram Price.
Nathaniel C. Deering.
Rush Clark.
Ezekiel S. Sampson.
Henry J. B. Cummings.
William F. Sapp.
Addison Oliver.

WISCONSIN.

Charles G. Williams.
Lucien B. Caswell.
George C. Hazelton.
Edward S. Bragg.
H. L. Humphrey.
Thad. C. Pound.

CALIFORNIA.

Horace Davis.
Horace F. Page.
John K. Luttrell.
Peter D. Wigginton.

MINNESOTA.

Mark H. Dunnell.
Horace B. Strait.
Jacob H. Stewart.

OREGON.

Richard Williams.

KANSAS.

William A. Phillips.
Dudley C. Haskell.
Thomas Ryan.

WEST VIRGINIA.

Benjamin Wilson.
Benjamin F. Martin.
John E. Kenna.

NEVADA.

Thomas Wren.

COLORADO.

Thomas M. Patterson.

The following Delegates answered to their names:

NEW MEXICO.

Trinidad Romero.

UTAH.

George Q. Cannon.

DAKOTA.

Jefferson P. Kidder.

WYOMING.

William W. Corlett.

The SPEAKER. Members desiring to announce the absence of their colleagues and the reason therefor will now have an opportunity of doing so.

Mr. STEPHENS, of Georgia. My colleague, Mr. SMITH, is absent in consequence of sickness in his family, and desires leave of absence for a few days.

The SPEAKER. The Chair hears no objection, and leave of absence will be granted accordingly.

Mr. HARRIS, of Virginia. My colleague, Mr. PRIDEMORE, is detained at home by illness in his family.

Mr. BLACKBURN. My colleague, Mr. CARLISLE, is absent by reason of important business.

Mr. ROBINSON, of Indiana. I desire to announce the absence of my colleague, Mr. HANNA, on account of important business.

Mr. SLEMONS. My colleague, Mr. GAUSE, is detained at home by sickness.

Mr. THROCKMORTON. My colleague, Mr. CULBERSON, is detained at home on account of important business, and asks leave of absence for one week.

Mr. FINLEY. My colleague, Mr. DICKEY, is detained at home on important business.

Mr. CLAFLIN. My colleague, Mr. LORING, is detained at home by illness.

The SPEAKER. Two hundred and thirty-six members have answered to their names, more than a quorum. If there are any new members to be sworn in they will now come forward.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that a quorum of that body had assembled and was ready to proceed to business.

It further announced the passage of a resolution providing for the appointment of a committee on its part, to join such committee as may be appointed on the part of the House, to wait upon the President and inform him a quorum of each House had assembled, and that Congress was ready to receive any communication he may be pleased to make, and that Mr. ANTHONY and Mr. BAYARD had been appointed as such committee on its part.

NEW MEMBERS SWORN.

Mr. JAMES. I present the credentials of Mr. John M. Bailey, elected to fill the vacancy in the sixteenth congressional district of the State of New York, occasioned by the death of Mr. Terrence J. Quinn.

Mr. SAPP. I present the credentials of Mr. Thomas J. Majors, elected to fill the vacancy in the representation of the State of Nebraska, occasioned by the death of Mr. Frank Welch. The credentials are regular, and there is no contest.

The SPEAKER. If there be no objection, the reading of the certificates will be waived, and they will be printed as part of the proceedings.

There was no objection.

Mr. BAILEY and Mr. MAJORS presented themselves, and were duly qualified by taking the oath prescribed by section 1756 of the Revised Statutes.

The certificates are as follows:

State of New York, ss:

We, the secretary of state, comptroller, attorney-general, and State engineer and surveyor of said State, having formed a board of State canvassers, and having canvassed and estimated the whole number of votes given for Representative in the Forty-fifth Congress of the United States in the sixteenth congressional district in said State, at the general election held in the said State on the 5th day of November, 1878, according to the certified statements of the said votes received by the secretary of state in the manner directed by law, do hereby determine, declare, and certify that John M. Bailey, by the greatest number of votes given in the said district, at said election, was, in accordance with the laws of said State, duly and regularly elected Representative of the State of New York in the Forty-fifth Congress of the United States, in place of Terrence J. Quinn, deceased.

Given under our hands at the office of the secretary of state of said State, in the city of Albany, the 25th day of November, in the year of our Lord 1878.

ALLEN C. BEACH,
Secretary of State.
F. P. OLCOTT,
Comptroller.
A. SCHOONMAKER, JR.,
Attorney-General.
HORATIO SEYMOUR, JR.,
State Engineer and Surveyor.

STATE OF NEW YORK,
Office of the Secretary of State, ss:

I certify that I have compared the foregoing with an original certificate filed in this office, and that the same is a correct transcript therefrom and of the whole of such original.

Given under my hand and seal of office, at the city of Albany, this 25th day of November, 1878.

[L. S.] ALLEN C. BEACH,
Secretary of State.

STATE OF NEBRASKA EXECUTIVE OFFICE,
Lincoln, November 20, 1878.

I, Silas Garber, governor of the State of Nebraska, do hereby certify that a general election for the State of Nebraska was held November 5, 1878, pursuant to law and in accordance with the proclamation hereto attached; that the votes cast at said election for other than executive State officers were duly canvassed this day in the manner provided by law, and that for the office of Representative in Congress, to fill the vacancy occasioned by the death of Hon. Frank Welch, Thomas J. Majors received 28,221 votes; Alexander Bear, 21,124 votes; scattering, 21; and Thomas J Majors having received the highest number of votes cast, he was declared duly elected to the office of Representative in Congress for the State of Nebraska, to fill the vacancy in the Forty-fifth Congress of the United States occasioned as aforesaid.

In testimony whereof I have hereunto set my hand and caused the great seal of the State of Nebraska to be hereunto affixed.

Done at Lincoln this 20th day of November, A. D. 1878.

[L. S.] SILAS GARBER, *Governor.*

By the governor:
BRUNO TZSCHUCK, *Secretary of State.*

PROCLAMATION

Whereas the death of Hon. Frank Welch has caused a vacancy in the office of Representative in Congress to exist in this State; and

Whereas the Constitution of the United States requires the executive to issue writs of election to fill such vacancies,

Therefore I, Silas Garber, governor of the State of Nebraska, do hereby notify the county commissioners of the several counties of this State that it becomes their duty to take the necessary steps, in the manner prescribed by law, for the election of a Representative to the Forty-fifth Congress to fill the unexpired term for which the late Hon. Frank Welch was elected, and that said election shall take place at the general election to be held on Tuesday, the 5th day of November, A. D. 1878, and the returns of said election shall be made to the secretary of state, as directed by law.

In testimony whereof I have hereunto set my hand and caused to be affixed the great seal of the State of Nebraska.

Done at Lincoln this 17th day of September, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third, and of the State of Nebraska the thirteenth.

[L. S.] SILAS GARBER, *Governor.*

By the governor:
BRUNO TZSCHUCK, *Secretary of State.*

MESSAGE TO THE SENATE.

Mr. WOOD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House be directed to inform the Senate that a quorum of the House of Representatives has assembled and that the House is ready to proceed to business.

MESSAGE TO THE PRESIDENT.

Mr. ATKINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three members be appointed on the part of the House, to join the committee which has been appointed on the part of the Senate, to wait upon the President and inform him that a quorum of both Houses has assembled and that Congress is ready to receive any communication he may be pleased to make.

The SPEAKER named as members of such committee on the part of the House Mr. ATKINS of Tennessee, Mr. COX of New York, and Mr. GARFIELD of Ohio.

RECESS.

Mr. BLOUNT. I move that the House take a recess for one hour.

The motion was agreed to; and accordingly (at twelve o'clock and forty minutes p. m.) the House took a recess for one hour.

The recess having expired, the House resumed its session.

PRESIDENT'S MESSAGE.

Mr. ATKINS. Mr. Speaker, the joint committee appointed to wait upon the President and inform him that the two Houses are ready to receive any communication he may be pleased to make have discharged that duty, and he requested us to say to the two Houses that he will send a communication to them immediately.

Mr. W. K. RODGERS, Private Secretary of the President, having been announced at the bar, said:

Mr. Speaker, I am directed by the President of the United States to deliver to the House of Representatives a message in writing.

The SPEAKER. The Clerk will read the message just received from the President of the United States.

The Clerk read the annual message.

[It will be found in the proceedings of the Senate.]

PRINTING THE PRESIDENT'S MESSAGE, ETC.

Mr. WOOD. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the President's annual message be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WOOD. I cannot avoid making one or two remarks with reference to a portion of the President's message. Although, as a whole, the document is highly satisfactory, as it will doubtless be to the country, yet there are some references in it which I think should be met at the earliest practicable moment. I allude to that portion which relates to the late elections in the Southern States. I fail to see, that which the President appears to see, any disposition in the South to void or to annul in any regard the recent amendments to the Constitution. I have failed to see any indication on the part of the people of the Southern States at any election, at any time, under any circumstances, for a series of years past, of a disposition differing from that of the rest of the country to obey the laws and the Government under which we live.

I regret that insinuations to the contrary should come from the President. He commenced his administration with a noble and patriotic declaration that he was opposed to the military despotism which had been exercised by his predecessor over the Southern States and that he would withdraw the troops and give to that people the same right of self-government which is vouchsafed under our institutions to all people. I have watched, sir, with interest the history of this Administration from that time to this to see whether the President would live up to this or be forced from it by an aggressive wing of his own party, who were dissatisfied with the position he had taken. And it has been a matter of great interest to the whole country to know whether he would continue the noble and patriotic course he had marked out for himself in this regard, or whether he would succumb to the reckless and radical elements who flourish only in controversy, sectional strife, and bloodshed.

Now sir, while the President expresses it in very mild and very decorous language, yet he indicates quite clearly that the condition

of the South is not satisfactory. He refers especially to the elections in South Carolina and Louisiana. Although there are thirteen Southern States, yet he has been able to single out but two States, and two isolated instances in those two States, which he dignifies by making them an object of discussion in his present annual message. Sir, this is an ominous and portentous indication. It is an indication of vacillation and of weakness utterly beneath him and the exalted position he holds. And being an indication of the present disposition of the Executive, I tremble for the future welfare of the country if he has thus fallen a victim to the worst element of the party to which he belongs. With this feeling I have felt it my duty to interpose my denial to these charges. They are without substantial foundation. The President's eyes were wide open to a few unimportant disturbances and irregularities in Carolina and Louisiana, but were tightly closed to what occurred in the city of New York, where four thousand citizens, legally registered voters, with as much right to vote as you or myself, were dragged to prison by Government officials on the morning of the late election and committed by the hundreds to an iron cage, miscalled a prison, as common prisoners guilty of crime. Almost within the hearing of the President these arbitrary arrests were made and the right of suffrage denied and the grossest outrages perpetrated upon thousands of white men who were guilty of no offense except that it be an offense to support the democratic party. Those who have induced the President to complain of these alleged Southern wrongs took good care to omit asking him to include the far greater wrongs which transpired in the great city of New York. The President did not hear of these frauds and intimidations, and the republican press of New York took care not to inform him of them.

I regret, Mr. Speaker, that the President has thought proper to lend the sanction of his high office to the reiteration of the misrepresentation with reference to the South. I believe him to be an honest and patriotic man, and that he should permit himself thus to become an instrument in the hands of the ultra wing of the republican party is a matter, in my judgment, for profound regret.

I will now, unless some gentleman desires to be heard, move the previous question.

Mr. GARFIELD. Will the gentleman from New York yield to me for a few moments?

The SPEAKER. How much time does the gentleman from Ohio wish?

Mr. GARFIELD. Five or ten minutes.

Mr. WOOD, of New York. I will yield to the gentleman for ten minutes.

Mr. GARFIELD. It is very unusual, Mr. Speaker, to interrupt these ordinary formal proceedings of receiving and printing the President's annual message by debating any of its suggestions; and the remarks of the gentleman from New York are especially inopportune in view of the fact that we have not the advantage of seeing in print the exact language of the President which the gentleman has seen fit to criticise. Indeed, I do not remember the precise language of the message, as read at the Clerk's desk; but the purpose of the gentleman from New York is very plain. He calls attention to certain references in the message to some alleged disturbance and illegal proceedings in the course of the recent national elections in several of the States of this Union, and contrasts this reference with what he chooses to call "the noble beginning of the Administration in favor of self-government." The gentleman charges the Administration with vacillation, because the President has seen fit to refer to disturbances in the Federal elections.

Now, if the right of a State to attend to its own local concerns undisturbed is in any way inconsistent with the right of the National Government to attend to national elections and see that they are undisturbed; if that is what the gentleman calls vacillation, I hope we shall all vacillate; that we shall be quite as determined to maintain the right of the National Government to secure to all its citizens the undisturbed right to participate freely in national elections under national laws as we are to defend the rights of State governments in the just exercise of all their functions in local affairs.

The gentleman seems in haste to convict the Administration of inconsistency; but if he can make no stronger case than this, I doubt if his followers will congratulate him on this early opening of the winter's debate.

The gentleman says he cannot see that there has been any disturbance in any elections except in his own city.

The gentleman has doubtless seen if not disturbances at least some changes, perhaps some vacillation, in his city and State which may have obscured his vision as to other disturbances, but I did not suppose he was specially anxious to discuss them. But for his remarks I should not have been so unkind as to remind him of them at this time.

But even if the gentleman did not see any disturbances in the recent national elections elsewhere, yet if the President did see them it was his duty as the Chief Executive to say so, and he has said so in his annual message.

This is not the time to discuss the topics of which the message treats; but it is proper to say that if the President has seen that in any part of this Union there has been a failure to recognize the full rights of all citizens, however humble, or however black, to their rights of suffrage under the Constitution and laws, he would not only neglect his duty, but would commit a positive fault if he did not lay the facts before Congress and suggest a remedy. He has referred to it modestly and temperately, and has invited the attention of Congress to the alleged wrongs. Does the gentleman object to having the attention of Congress called to so grave an allegation? Has any gentleman from the South or North any reason why he does not wish the attention of Congress pointed to it? Can it be a small matter which is said to involve the rights of perhaps a million people in at least two States of the Union?

I welcome this calling of the attention of Congress to the elections anywhere in the country; and where respectable authority alleges an interference with the full rights of American citizens in a national election, such allegation deserves the prompt and careful consideration of this body. Even in the gentleman's own view of the case he ought to thank the President for opening the question, for it affords the gentleman an excellent opportunity to have these vacillations in his city examined also. If any wrong has been done to him or his friends in New York, I hope they will also be examined.

Now, I may be misinformed, and I am not now here to charge any State or the people of any State with committing wrong; but the impression has been made upon my mind, after a somewhat careful reading of the public journals of this country, that very considerable illegal disturbances have taken place in some of the States referred to by the President. I do not know it to be true; but so much has been said that even in my remote quarter of the Union I have heard more about it than the gentleman from New York seems to have heard. I have often heard it said that bold, open intimidation and concealed fraud were employed in one or two States, notably in the State of South Carolina; and that in districts in which overwhelming majorities of one political party had hitherto shown themselves, that majority was not only suppressed at the recent election, but there was no sign of its existence at the ballot-box. Perhaps this is an exaggeration; but, if so, it is an exaggeration that has been sown broadcast throughout the public press. And in a Congress so notable as this for investigating all charges of wrong-doing [laughter on the republican side] I should have supposed that our friends on the other side would have welcomed this suggestion of the President as exactly in the line of their policy. Yet instead of that, before the message has been printed, before any of the usual courtesies have been shown, the gentleman from New York [Mr. WOOD] rises and expresses his surprise and astonishment that there should be any reference whatever to these notable circumstances alleged to be facts by so large a number of citizens. I hope the gentleman will not, as we have so often heard charged upon this floor, seek to stifle investigation. [Renewed laughter.]

Mr. WOOD. One word, Mr. Speaker, in reply to my friend from Ohio, [Mr. GARFIELD,] to correct an error into which he has fallen as to the practice in regard to the President's message. It certainly must be within his recollection that very frequently motions to refer to the Committee of the Whole the message of the President have led to debate.

Aside from that, however, I desire to correct the gentleman in another regard. He says I expressed my surprise. He is in error; I expressed my regret that the Chief Executive of the United States, when able to indicate only two instances occurring in but two States of the Union, should have deemed those two cases of sufficient importance to be presented to the world in his annual message as indicating a rebellious southern spirit. There is little in the message itself on this subject that is really important aside from the fact that the President in his so-called "southern policy" has gone back on himself, and this is a grave and significant indication. I am not surprised that the gentleman from Ohio [Mr. GARFIELD] should hear in his district what is not heard elsewhere. Nor am I surprised that he and others have succeeded in inducing the Executive to aid them in raising the "bloody shirt," [laughter on the republican side,] so that they can hold on to their ill-gotten power and continue that power by the aid of the Treasury of the United States. I now call the previous question.

Mr. HALE. Will the gentleman from New York [Mr. WOOD] yield to me for two or three minutes?

Mr. WOOD. Certainly.

Mr. HALE. I should say nothing here and now but for the to me surprising attempt on the part of the gentleman from New York, [Mr. WOOD,] the chairman of the Committee of Ways and Means, and the leader of his side of the House, to belittle the subject-matter which the President has, in my judgment, fittingly brought to our attention.

The gentleman from New York is alarmed that the President should have seen fit in his message to call the attention of this House to excesses and violences and perhaps frauds in two States of this Union. He blames the Chief Magistrate because he has seen fit to refer to so small a matter as that. Why, sir, a British ministry has before now been driven from office because it failed to interpose the protection of the government when the right of a single British citizen has been assailed or interfered with either abroad or at home or in any of the dependent provinces of that great empire. And the gentleman from New York stands here and in this unprecedented fashion blames the President because he asks our attention to the wholesale deprivation of the rights of citizens by thousands throughout two States of this Union.

Sir, this question will not and shall not be allowed to be put down in this way. The President of the United States honestly and ear-

nestly in the direction of conciliation did what many of his party friends believed to be injudicious, while others sustained him, in withdrawing every armed soldier in the South and let home government, as it was called, set in. Now, upon the heels of that, when no soldier stalks in any southern election precinct, when no bayonet is compelling peace or forcing power upon southern communities, when there should be in South Carolina and in Florida and in every other Southern State the same freedom in elections that there is in Northern States—upon the heels of all this come outrages, frauds, and the blackest sort of cheating, to which the President has called our attention. And the gentleman from New York [Mr. WOOD] says that this is an indication that the President is to be dragooned by the radical wing of the republican party into the course indicated by his message. He regrets that that wing of the party is likely to control.

Now let me tell the gentleman that on this fundamental doctrine of the protection of the citizen in all his rights there is no radical and no conservative wing of the republican party. However much the proposition may be sought to be put down, however much other things may be arrayed for the purpose of stifling the discussion of it, there is one party in the land that is so united to a man upon the proposition that the American citizen, North, South, and everywhere, must be and shall be protected in the exercise of all his constitutional rights. [Applause on the republican side.]

Mr. WOOD. I yield five minutes to my colleague, [Mr. COX, of New York.]

Mr. COX, of New York. Mr. Speaker, I am very much delighted to see my friend from Maine. [Laughter.] I was afraid he had gone so far north that he had dropped into Simm's Hole, or some other place. [Laughter.] I wonder that my friend did not complain of some "vacillations" in the State of Maine and BLAINE. [Laughter.] I wonder that he did not call us to an account in one form or another as to certain little elections that took place up there, instead of being so prompt to censure my colleague for his remarks about New York and other matters. Why should my colleague be censured by the gentleman from Ohio and the gentleman from Maine?

What did my colleague remark? Simply this: that he regretted the President was color-blind; except this, that he could see things in South Carolina and Louisiana, while he could not see the monstrous tyranny of Federal officers in other cities, especially in the city and State of New York. Does the gentleman know what transpired in that city at the election? Does he know the conduct of the United States commissioner? That superserviceable official has called in question the naturalization of over fifty thousand people, male and female, naturalized from 1853 to 1868. By raising a question as to the naturalization of certain persons during these fifteen years he has put in jeopardy estates which passed through the phases of acquirement, escheatment, &c., during that time, to say nothing of that high estate of the American citizen—adopted or not—the right of suffrage, in regard to which your President has said in his message just read that in this country it is the right of every citizen to cast an honest vote and to have his vote counted honestly!

There may have been irregularities South; there may have been tissue ballots placed in some boxes, as I see it alleged. But when gentlemen make a point of that kind, as no doubt the President in his message meant to do, they fail to remember that the navy-yards, run under radical supervision, (which the gentleman from Maine knows all about,) ran, not very recently, the "tape-worm" ticket in California, a foot long and an inch wide. [Laughter.] Microscopes were in demand. Did I hear the eloquent gentleman from Ohio or the gentleman from Maine, when it was presented here, ever denounce tape-worm tickets and politics? Not much. [Laughter.]

No, Mr. Speaker, when in the city of New York men were taken from their homes because they happened to be naturalized in a particular year (1868, when frauds were doubtless committed;) when it was sought to invalidate all records of naturalization for that year because of certain frauds of a limited character; when there was scouted the principle that a record of naturalization, like other records, imports absolute verity, and the *onus probandi* lies on the other side to invalidate it; when the power was exercised by a United States officer by imprisoning hundreds to intimidate thousands of voters—to defeat among others my valued friend here on my right, [Mr. EICKHOFF,] who lost a thousand votes by this villiany and outrage; when all this was done, ah, sir, the eyes of the Executive, who was himself counted in so honestly, were closed to the great facts transpiring so recently in the city of New York and other cities under similar Federal supervision.

Mr. Speaker, I am not responsible for the beginning of this debate. I shrink from no investigation as to any election North or South. I demand it whenever there is a challenge. I do not know why there is on the other side a disposition to laugh when we speak of this subject.

Mr. O'NEILL. It is so funny coming from that side of the House.

Mr. COX, of New York. Why, it is not funny. You have a President counted in by fraud, as we all know how. It is not funny.

Mr. NEAL made an inaudible remark.

Mr. COX, of New York. I do not hear the remark of the gentleman. They are laughing on the other side, probably for want of thought.

Mr. TOWNSEND, of New York, rose.

Mr. COX, of New York. What I wish to say is simply this: this side of the House has the right to investigate all frauds, and will demand it——

Mr. TOWNSEND, of New York. We were only thinking of those "ciphers."

Mr. COX, of New York. Why, sir, this gentleman is another of the "vacillations" of the House. [Laughter.] There has been a great "vacillation" all over the country; but, thank God, with all the "vacillations" the old democratic party will in the next Congress have the Senate and the House also. [Laughter and applause.]

Mr. WOOD. I now demand the previous question on the adoption of my resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution of Mr. WOOD was adopted.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WEST POINT APPROPRIATION BILL.

Mr. DURHAM, from the Committee on Appropriations, reported a bill (H. R. No. 5230) making appropriations for the Military Academy for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time.

Mr. GARFIELD. I reserve all points of order on this bill.

Mr. DURHAM. I move that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed. I also give notice that after the morning hour to-morrow I will call it up for consideration.

The motion of Mr. DURHAM was agreed to.

FORTIFICATION APPROPRIATION BILL.

Mr. BAKER, of Indiana, from the Committee on Appropriations, reported a bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GARFIELD. I reserve all points of order on this bill.

Mr. BAKER, of Indiana. I give notice that on Wednesday next I shall move that the House go into Committee of the Whole for the consideration of this bill.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. SMITH, of Georgia, indefinitely, on account of sickness in his family;

To Mr. BOUCK, for one week, on account of important business; and

To Mr. DAVIDSON, for twelve days, on account of sickness.

Mr. WOOD. I move that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: The petition of James M. McRea, of Jackson, Madison County, Tennessee, for compensation for property taken by the United States Army during the late war—to the Committee on War Claims.

Also, the petition of John W. Willett, of Denmark, Madison County, Tennessee, of similar import—to the same committee.

Also, papers relating to the claim of Isaiah Sweat, of McNairy County, Tennessee, for compensation for property taken by the United States Army—to the same committee.

By Mr. CHITTENDEN: The petition of Ann M. Paulding, widow of the late Rear-Admiral Paulding, for a pension; together with a letter from the Secretary of the Navy acknowledging the eminent services rendered by Admiral Paulding—to the Committee on Invalid Pensions.

By Mr. DEAN: The petition of the South Boston Iron Company, that the facilities of that company for the manufacture of heavy ordnance be not lost, and for the manufacture of ten and twelve inch rifle-guns—to the Committee on Military Affairs.

By Mr. HUNTON: The petition of J. V. Davis, superintendent of the Alexandria (Virginia) National Cemetery, for compensation for property burned in the lodge attached to said cemetery, which property he might have saved from destruction but for his efforts to save the Government records intrusted to him—to the Committee of Claims.

By Mr. KETCHAM: Memorial of Messrs. Paulding, Kemble & Co., of Cold Spring, New York, favoring the purchase of additional heavy ordnance for use in fortifications of the harbors of the United States—to the Committee on Military Affairs.

By Mr. KIDDER: The petition of John Olson and others, for the establishment of a post-route between Vermillion and Glenwood, in the Territory of Dakota—to the Committee on the Post-Office and Post-Roads.

By Mr. LAPHAM: The petition of Ralph T. Wood, William S.

Briggs, and others, of Penn Yan, New York, favoring the granting of the petition of Howland Hemphill for payment of damages suffered by him in consequence of the acts of agents of the United States Government—to the Committee of Claims.

By Mr. MANNING: The petition of Nancy P. Garison, of Benton County, Mississippi, for compensation for quartermaster stores, subsistence, and supplies taken by the United States Army—to the Committee on War Claims.

By Mr. McCOOK: The petition of George C. Jenks, for an extension of letters-patent upon an improvement in drop-letter boxes—to the Committee on Patents.

By Mr. O'NEILL: The petition of Margaret Dickson, widow of James Dickson, late a private in Company B, Sixty-ninth Regiment Pennsylvania Volunteers, for a pension—to the Committee on Invalid Pensions.

By Mr. RICE, of Ohio: The petition of Edward J. Russell, late a private in Company F, Nineteenth Indiana Volunteers, for an increase of pension—to the same committee.

By Mr. WILLITS: The petition of William Shade, for a pension—to the same committee.

By Mr. YOUNG: The petition of George W. Beasley, of La Grange, Fayette County, Tennessee, for compensation for property taken by the United States Army during the late war—to the Committee of Claims.

Also, the petition of Rosanna H. Black, of Hardeman County, Tennessee, of similar import—to the same committee.

Also, the petition of Mrs. Martha C. Cole, of Germantown, Shelby County, Tennessee, of similar import—to the same committee.

Also, the petition of William R. Kearney, of Bolivar, Hardeman County, Tennessee, of similar import—to the same committee.

Also, the petition of John H. McClellan, of Memphis, Tennessee, of similar import—to the same committee.

Also, the petition of Lewallen Rhodes, of Germantown, Shelby County, Tennessee, of similar import—to the same committee.

Also, the petition of John H. Wooley, of La Grange, Tennessee, of similar import—to the same committee.

IN SENATE.

TUESDAY, *December* 3, 1878.

JOHN B. GORDON, a Senator from the State of Georgia; AUGUSTUS S. MERRIMON, a Senator from the State of North Carolina; PRESTON B. PLUMB, a Senator from the State of Kansas; and WILLIAM PINKNEY WHYTE, a Senator from the State of Maryland, appeared in their seats to-day.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

COMMITTEES OF THE SENATE.

Mr. ANTHONY. Mr. President, I move that the Senate proceed to the election of the standing and select committees of the Senate for the present session.

The motion was agreed to.

Mr. ANTHONY. I ask that the rule which requires the committees to be selected by ballot be dispensed with.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Rhode Island? The Chair hears none, and the rule is dispensed with.

Mr. ANTHONY. Understanding it to be agreeable to our friends on the other side, I offer the following resolution:

Resolved, That the standing and other committees of the Senate existing at the close of the last session, be, and the same are hereby, revived and continued, with the same powers, until the further order of the Senate.

The resolution was considered by unanimous consent, and agreed to.

The committees as thus constituted are as follows:

STANDING COMMITTEES.

On Privileges and Elections—Messrs. Wadleigh, (chairman,) Mitchell, Cameron of Wisconsin, McMillan, Hoar, Ingalls, Saulsbury, Merrimon, and Hill.

On Foreign Relations—Messrs. Hamlin, (chairman,) Howe, Conkling, Matthews, Kirkwood, McCreery, Eaton, Johnston, and Wallace.

On Finance—Messrs. Morrill, (chairman,) Dawes, Ferry, Jones of Nevada, Allison, Bayard, Kernan, Wallace, and Voorhees.

On Appropriations—Messrs. Windom, (chairman,) Sargent, Allison, Dorsey, Blaine, Davis of West Virginia, Withers, Eaton, and Beck.

On Commerce—Messrs. Conkling, (chairman,) Spencer, McMillan, Patterson, Jones of Nevada, Gordon, Dennis, Ransom, and Randolph.

On Manufactures—Messrs. Rollins, (chairman,) Burnside, Cameron of Pennsylvania, Johnston, and McPherson.

On Agriculture—Messrs. Paddock, (chairman,) Sharon, Hoar, Davis of West Virginia, and Gordon.

On Military Affairs—Messrs. Spencer, (chairman,) Burnside, Wadleigh, Plumb, Cameron of Pennsylvania, Randolph, Cockrell, Maxey, and Butler.

On Naval Affairs—Messrs. Sargent, (chairman,) Anthony, Conover, Blaine, Whyte, McPherson, and Jones of Florida.

On the Judiciary—Messrs. Edmunds, (chairman,) Conkling, Howe, Christiancy, Davis of Illinois, Thurman, and McDonald.

On Post-Offices and Post-Roads—Messrs. Ferry, (chairman,) Hamlin, Paddock, Conover, Kirkwood, Burnside, Saulsbury, Maxey, and Bailey.

On Public Lands—Messrs. Oglesby, (chairman,) Paddock, Booth, Chaffee, Plumb, McDonald, Jones of Florida, Grover, and Garland.

On Private Land Claims—Messrs. Thurman, (chairman,) Bayard, Edmunds, Christiancy, and Grover.

On Indian Affairs—Messrs. Allison, (chairman,) Oglesby, Ingalls, Saunders, McCreery, Coke, and Eustis.

On Pensions—Messrs. Ingalls, (chairman,) Bruce, Kirkwood, Kellogg, Withers, Bailey, and Voorhees.

On Revolutionary Claims—Messrs. Johnston, (chairman,) Jones of Florida, Hill, Dawes, and McMillan.

On Claims—Messrs. McMillan, (chairman,) Mitchell, Cameron of Wisconsin, Teller, Hoar, Cockrell, Hereford, Harris, and Morgan.

On the District of Columbia—Messrs. Dorsey, (chairman,) Spencer, Ingalls, Rollins, Merrimon, Barnum, and Harris.

On Patents—Messrs. Booth, (chairman,) Wadleigh, Hoar, Kernan, and Morgan.

On Public Buildings and Grounds—Messrs. Dawes, (chairman,) Morrill, Cameron of Pennsylvania, Saulsbury, and Eustis.

On Territories—Messrs. Patterson, (chairman,) Chaffee, Saunders, Kellogg, Garland, Grover, and Hereford.

On Railroads—Messrs. Mitchell, (chairman,) Dawes, Dorsey, Teller, Saunders, Windom, Matthews, Ransom, Barnum, Lamar, and Armstrong.

On Mines and Mining—Messrs. Sharon, (chairman,) Chaffee, Booth, Plumb, Hereford, Coke, and Hill.

On the Revision of the Laws—Messrs. Christiancy, (chairman,) Matthews, Davis of Illinois, Wallace, and Kernan.

On Education and Labor—Messrs. Burnside, (chairman,) Patterson, Morrill, Bruce, Sharon, Gordon, Maxey, Bailey, and Lamar.

On Civil Service and Retrenchment—Messrs. Teller, (chairman,) Oglesby, Patterson, Booth, McCreery, Whyte, and Beck.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Jones of Nevada, (chairman,) Rollins, and Dennis.

On Printing—Messrs. Anthony, (chairman,) Sargent, and Whyte.

On the Library—Messrs. Howe, (chairman,) Edmunds, and Ransom.

On Rules—Messrs. Blaine, (chairman,) Ferry, and Merrimon.

On Engrossed Bills—Messrs. Bayard, (chairman,) Withers, and Anthony.

On Enrolled Bills—Messrs. Conover, (chairman,) Paddock, and Armstrong.

SELECT COMMITTEES.

On the Levees of the Mississippi River—Messrs. Bruce, (chairman,) Blaine, Kellogg, Cockrell, Harris, Cameron of Wisconsin, and Eustis.

On Transportation Routes to the Seaboard—Messrs. Cameron of Wisconsin, (chairman,) Windom, Conover, Cameron of Pennsylvania, Davis of West Virginia, Lamar, Beck, and Butler.

To Examine the Several Branches of the Civil Service—Messrs. Chaffee, (chairman,) Windom, Hamlin, Merrimon, and Eaton.

To take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States—Messrs. Edmunds, (chairman,) Conkling, Howe, McMillan, Teller, Davis of Illinois, Bayard, Thurman, and Morgan.

To investigate the finance reports, books, and accounts of the Treasury Department—Messrs. Davis of West Virginia, (chairman,) Beck, Allison, Ingalls, and Cameron of Pennsylvania.

On the condition of affairs between the United States and Mexico—Messrs. Conkling, (chairman,) Hamlin, Howe, Jones of Nevada, Cameron of Pennsylvania, Eaton, and Maxey.

To make provision for taking the Tenth Census—Messrs. Morrill, (chairman,) Sargent, Cameron of Wisconsin, Matthews, Davis of Illinois, Kernan, and Morgan.

To inquire into certain matters touching the late presidential election in Louisiana—Messrs. Edmunds, (chairman,) Allison, Ingalls, Hoar, Davis of Illinois, Whyte, and Jones of Florida.

PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented the petition of Horace S. Spear, late a private of Company I, Fifth Regiment Vermont Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. EDMUNDS. I present four petitions of like character, printed on similar paper in the same way, from sundry pensioners, asking for arrears of pension. These are of the same character that have been presented from time to time and referred to the Committee on Pensions.

Mr. INGALLS. Let them lie on the table, as that subject has been reported upon.

The VICE-PRESIDENT. The petitions will lie upon the table.

Mr. ANTHONY presented the petition of John S. Cunningham, a pay director in the United States Navy, praying to be reimbursed for moneys of which the Government was defrauded by his clerk, the loss of which was assumed by him; which was referred to the Committee on Naval Affairs.

Mr. MITCHELL presented a petition of numerous ship-owners, masters, and merchants of Oregon, praying an appropriation for a harbor of refuge at Port Orford, Oregon; which was referred to the Committee on Commerce.

Mr. BOOTH presented a petition of night inspectors of the customs for the district of San Francisco, praying that their compensation be increased from $2.50 per diem to what it was formerly, $3 per diem: which was referred to the Committee on Commerce.

Mr. JOHNSTON presented the petition of Mrs. P. L. Ward, widow and executrix of William Ward, deceased, praying compensation for stores alleged to have been furnished and delivered to the Navy Department and the Quartermaster's Department of the Army by her late husband in the years 1860 and 1863; which was referred to the Committee on Claims.

Mr. ARMSTRONG presented the petition of Samuel C. Reid, in behalf of the heirs of the claimants of the late United States private armed brig General Armstrong, praying for compensation for the loss of the brig, which was destroyed by the British fleet in the port of Fayal, one of the Azores Islands, in the war of 1812; which was referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1420) for the relief of Mrs. P. L. Ward; which was read twice by its title, and referred to the Committee on Claims.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1421) to authorize the issue of certificates of deposit; which was read the first time by its title.

Mr. MORRILL. Let the bill be read in full.

The VICE-PRESIDENT. It will be reported at length.

The bill was read the second time at length, and referred to the Committee on Finance, as follows:

The Secretary of the Treasury is hereby authorized to issue, in exchange for United States notes or coin, certificates of deposit of the denomination of $10, or any multiple thereof not exceeding $100, bearing interest at the rate of 3.65 per cent. per annum, and convertible at any time within one year into the 4 per cent. bonds described in the refunding act; and the money so received shall be applied to the payment of the 5.20 bonds in the mode prescribed by said act; and he is authorized to prescribe suitable rules and regulations in conformity with this act.

Mr. ARMSTRONG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1422) to amend an act entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," approved March 3, A. D. 1875; which was read twice by its title, and referred to the Select Committee on Transportation Routes to the Seaboard.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1423) for the relief of William R. Boice; which was read twice by its title, and referred to the Committee on Claims.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1424) to amend the law with respect to wills, to regulate the transaction of probate business in the supreme court of the District of Columbia, and for other purposes; which was read twice by its title.

Mr. BAYARD. I introduce this bill at the request of the Bar Association of the District, and move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1425) to incorporate the Mount Pleasant and Potomac Side Railway Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

CUSTOM-HOUSE LOT IN PROVIDENCE.

Mr. BURNSIDE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of directing the Secretary of the Treasury to purchase, by condemnation or otherwise, all that portion of the block of land (with buildings thereon) upon which stands the old custom-house, in the city of Providence, which does not now belong to the United States, provided the sum to be paid for the same shall not exceed $120,000.

SILVER COIN FOR DUTIES.

Mr. BECK submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what amount of silver coin has been received in payment of customs dues since the beginning of the current fiscal year, and whether or not he has applied the silver coin so received, in whole or in part, to the payment of the interest on the bonds or notes of the United States; if it has not been so applied, to state the reason why; if it has been applied to that purpose in part only, to state what portion has been so used and on what character of obligation. He is directed to inform the Senate the amount of interest he has paid on the bonds and notes of the United States since the current fiscal year began, and the amount of such interest which he has paid in gold and silver coin respectively.

The VICE-PRESIDENT. Is there objection to the consideration of the resolution?

Mr. EDMUNDS. I should like to have the resolution so amended as to require the Secretary to specify the kind of silver coin, so as to see whether the coin dollar has been received, or some of the subsidiary coinage as well.

Mr. BECK. I supposed that the standard silver dollar was the only silver coin that could possibly be received for duties; but I have no objection to the resolution being amended in the way suggested.

Mr. EDMUNDS. The payment of small sums of duties might have been made in half dollars or quarters. I am sure the Senator can have no objection to asking how much and what kind of coin has been received, wherever the proper place in the resolution is.

Mr. BECK. Not at all. Let the resolution be amended by inserting the words "and denomination" after "inform the Senate what amount."

The VICE-PRESIDENT. The resolution will be so amended, if there be no objection.

The resolution, as amended, was agreed to.

THE TRADE-DOLLAR.

Mr. PADDOCK submitted the following resolution:

Resolved, That the Committee on Finance be, and is hereby, instructed to inquire into the expediency of making the trade-dollar authorized by section 15 of the act of Congress approved February 12, 1873, a legal tender for all debts, public and private, providing for the suspension of the coinage of the standard dollar of 412½ grains, the recoinage of the same into the trade-dollar of 420 grains, and for such additional coinage of the trade-dollar as the needs of the country may demand.

Mr. EDMUNDS. I think the resolution had better be printed and go over.

The VICE-PRESIDENT. It will be printed; and it goes over under the rule.

PROPOSED TRANSFER OF INDIAN BUREAU.

Mr. SAUNDERS. I move to take from the table the resolution which I submitted yesterday on the subject of printing the testimony taken by the joint committee to consider the feasibility of transferring the Indian Bureau to the War Department.

The VICE-PRESIDENT. The Chair remembers that the resolution was referred to the Committee on Printing.

Mr. SAUNDERS. The suggestion of the Senator from West Virginia [Mr. DAVIS] was that it take the regular course, which he thought would require it to go to the Committee on Printing. There is necessity for this printing to be done now. Under the rules, I think it would not be necessary for the resolution to go to the Committee on Printing, and it need not go there unless the Senate should so decide by a majority vote. There is great necessity for expediting this work.

The VICE-PRESIDENT. The Chair and the Secretary both understood the Senator from West Virginia to move the reference of the resolution to the Committee on Printing, and the motion is so recorded upon the Journal.

Mr. DAVIS, of West Virginia. I think the Chair is correct; but upon information received since my suggestion of yesterday I have no objection to any disposition of the matter that the Senator from Nebraska desires to make.

The VICE-PRESIDENT. The Chair did not suppose at the time that the resolution under the rule would go to the Committee on Printing, but upon the motion of the Senator from West Virginia it did go there. Is there objection that the order by which the resolution submitted by the Senator from Nebraska was referred to the Committee on Printing be reconsidered? The Chair hears none, and the motion to reconsider is agreed to. The resolution is before the Senate and will be read.

The resolution was read, as follows:

Resolved, That the Public Printer is hereby authorized and directed to print the testimony taken and to be taken, the reports of the committee, and the accompanying documents, of the joint committee to consider the feasibility of transferring the Indian Bureau to the War Department.

Mr. THURMAN. I wish to make one inquiry. This is a very important subject, we all know, and I desire to know of the Senator from Nebraska whether he proposes to have the usual number of copies of the testimony printed for the use of the Senate, or simply to have copies printed for the use of the committee?

Mr. SAUNDERS. For the use of the committee only at present.

Mr. THURMAN. I think that is a mistake. I think if the testimony is to be printed, the usual number for the use of the Senate should be printed.

Mr. SAUNDERS. I have no objection to printing the usual number.

Mr. THURMAN. Every Senator will want to see that testimony.

Mr. SAUNDERS. I will state to the Senator from Ohio that the object of hurrying up the printing is because three members of the committee were not present at the taking of the testimony. They are very anxious to see what has been done, and the only way is to get the slips so as to see what the testimony is. I have no objection to printing the usual number.

Mr. THURMAN. If that is not done now, there may be two prints of the same document, at double the cost to the Government.

Mr. SAUNDERS. No, sir; it is arranged and understood by the members of the committee on the part of the House that they would not present it in the House, but that it should only be presented here. That is fully understood.

The VICE-PRESIDENT. Upon the suggestion of the Senator from Ohio, and by consent of the Senator from Nebraska, the resolution will be amended so as to print the usual number for the use of the Senate, and as thus amended the question is on agreeing to the resolution.

The resolution, as amended, was agreed to.

TEXAS PACIFIC RAILROAD.

Mr. MATTHEWS. As there appears not to be any more business germane to the morning hour, I now move to take up for consideration Senate bill No. 942, being the bill known as the Texas Pacific Railroad bill, in order to discuss it. I desire to address the Senate upon it, and to have it taken up for the purpose of having it considered.

Mr. WITHERS. Do I understand the Senator to say that his wish is merely to address the Senate upon the subject?

Mr. MATTHEWS. I do.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 942) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto.

Mr. MATTHEWS. Mr. President, at the proper time in the progress of this bill toward its final disposition, I shall desire to submit certain amendments to it for the purpose of making it conform precisely to a similar bill pending now in the House of Representatives. They do not, however, affect the substance of the bill; and the remarks which I have prepared upon it are on the bill as I propose that it shall be amended.

Mr. President, Congress has already determined, by deliberate and considered acts of legislation, that national interests require the construction of an additional transcontinental railway, connecting the

valley of the Mississippi with the Pacific coast, on or near the thirty-second parallel of latitude. It has not only conferred the requisite authority for the execution of the enterprise, but has made a large and valuable grant of public lands in its aid. By the act of March 3, 1871, the Texas Pacific Railroad Company was incorporated, with authority and power to construct its railroad from Marshall, in the State of Texas, thence by the best line, near the thirty-second parallel of latitude, to El Paso; thence through New Mexico and Arizona to the Colorado River, near the southeastern boundary of California; thence by the most direct and eligible route to ship-channel in the bay of San Diego.

The capital stock of the company was fixed at $50,000,000, and it was empowered to consolidate with any railroad company theretofore chartered under national, State, or territorial laws, authorized to build a railroad on the prescribed route, with one significant exception, as follows:

But no such consolidation shall be with any competing through line of railroads to the Pacific Ocean.

The act also required uniformity of dealing with all connecting roads, and that the rates charged upon the trunk line should not exceed those that might be fixed by Congress over the Union Pacific and Central Pacific Railroads. It was declared to be a military and post road, with the right on the part of the Government to the preference in its use, at fair and reasonable rates of compensation, not to exceed the price paid by private parties for the same kind of service.

The company was required to prosecute the construction of its road so as to secure its completion within ten years from the passage of the act, and "upon failure to so complete it," the act declares, "Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion."

For the purpose of connecting the main line with the city of San Francisco, the Southern Pacific Railroad Company of California was by the same act authorized, subject to the laws of California, to construct a line of railroad from a point at or near Tehachafa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado River, upon the terms prescribed by the act of Congress July 27, 1866.

The name of the corporation was changed by the amendatory act of May 2, 1872, to that of the "Texas and Pacific Railroad Company," and the period for its completion extended to ten years from that date.

This corporation became the successor by consolidation to the Southern Pacific Railroad Company of Texas, the Memphis, El Paso and Pacific Railroad Company, and the Southern Transcontinental Railway Company, corporations created by the State of Texas, and secured to itself valuable franchises and land grants in aid of its object, derived from the liberal legislation of that State. This legislation, in the act of May 24, 1871, recites that "the speedy construction of said railway through the State of Texas would greatly enhance the value of the public lands, develop the mineral resources of the State, and give protection and security to the frontier by expelling therefrom the bands of hostile Indians by whom the western settlements are now continually scourged," and declares the grants to be made "in order to secure and promote the speedy construction of a railway through the State of Texas to the Pacific Ocean and thereby secure the incidental advantages of cheap transportation for immigrants to the western and unsettled portions of the State, facility of communication between the eastern and western boundaries, the settlement and enhancement in value of the now unoccupied public domain, and the development of the great mineral, agricultural, and stock-raising resources of the State."

Under the authority and encouragement of this legislation, State and national, the Texas and Pacific Railway Company has acquired and constructed a railway extending from Shreveport in Louisiana to Fort Worth, and from Marshall to Texarkana, and Texarkana to Sherman, making a total length of main track of 444 miles. The construction and equipment of this road, including, however, all the expenditures for survey and location of 1,457 miles of line west from Fort Worth, and for construction work and material on line in California and between Sherman and Fort Worth, represent a cost of $26,540,239.61, of which $7,018,500 is in capital stock and the remainder in mortgage bonds. The gross earnings of this portion of the line for the past year, ending May 31, 1878, is officially reported at $2,331,310.35, from which was derived a net revenue of $729,691.59, sufficient to pay all interest charges except upon land-grant bonds, and leave a surplus of $50,088.88. The sources of income, of course, are purely local.

Under the provisions of the pending bill, the Texas and Pacific Railway Company is required to construct and put in operation at least one hundred miles of its line from its present terminus at Fort Worth westwardly, and commencing at San Diego within six months build and equip at least fifty miles eastwardly within two years after its acceptance of the act, and not less than two hundred miles every two years thereafter, and to complete a continuous railway between Fort Worth and San Diego within six years from the same date.

The bill further provides that the rates for the carriage of through freight and passengers, agreed upon from time to time, between this company and connecting companies, shall be fair and reasonable, and not at any time to exceed the rates charged by competing lines for similar business; and it is expressly stipulated that—

Congress shall at all times have the right to regulate rates for the transportation of such freight and passengers and for postal and telegraphic service over the entire lines of the Texas and Pacific Railway Company and over the entire lines of connecting companies claiming privileges under the provisions of this act, and may exercise a general supervision and control, so far as it shall be necessary so to do, in the interest of the Government of the United States, to secure prompt transportation for its own wants and for the public, and to protect the actual capital invested, and all liabilities of the Government for guarantee of interest made under this act.

It is also prescribed in the second section of the bill that all the lines of railway connecting, or which may hereafter connect, with the Texas and Pacific Railway, shall be put on an equality as to all consigned through business passing either way; and no unjust discrimination in charges for freight or passengers shall be made by or against either, but no higher charges per mile for passengers and per ton per mile for freight shall be made for the haul to and from the junction of such lines than shall be charged on similar business from such junction on its own line; and all freight and passengers shall be forwarded in either direction as consigned; and except as to the ownership and general management of such connecting roads and the division of earnings, said roads shall be operated so as practically to form one line and secure to each railroad company and to the public the accommodation and advantages of a through line at all points of junction; and to make this principle effective, the right is secured to each line forming such a connection to contract currently, at the existing and established rates, for the transportation of freights and passengers to and from the road of either, and to that end to issue through bills of lading and passenger tickets, and to maintain agencies on the line or at the termini of either road for such purposes, thus affording privileges and facilities for transacting such business at such points equal to those enjoyed by the company owning the road, with further provisions authorizing the specific execution of these stipulations when violated, by judicial process.

These provisions apply to the entire road of the Texas and Pacific Railway Company, as well that portion already constructed and now in operation as that which it is proposed to construct under the authority and with the aid of the present bill.

The eastern terminus of the road is fixed by the bill upon the east bank of the Mississippi River, authority being given to cross that stream by a bridge, the actual terminus to be established by five commissioners, three of whom are required to be engineer officers of the Army, and all to be without interest in the location, whose duty it shall be to examine the various proposed routes between the Mississippi River and the present constructed road of the Texas and Pacific Railway Company; and after considering all questions of distance, cost, and transportation routes, in view of foreign as well as domestic trade and commerce, and also in view of an eligible connection with the Atlantic seaboard, to report their judgment as to the most suitable point of connection with the Mississippi River, but not to be farther north than the city of Memphis; which report, if approved by the President of the United States, shall be final and conclusive.

This extension of the present constructed road is then to be built, without delay, at the rate of fifty miles per annum, without any aid from the Government; and in case its own bonds are issued to raise the means for that purpose, secured by mortgage, it is provided that it shall not be a lien upon any property, franchise, or security pledged as an indemnity to the Government for the guarantee of interest on the bonds issued to construct any portion of the line between Fort Worth and San Diego. It is also declared, that a failure to provide for this eastern extension shall work an absolute forfeiture of all right to the guarantee of the Government on the interest of the bonds to be issued for so much of the line as may remain unconstructed at the time of such default.

The length of the unconstructed portion of the road, between Fort Worth and San Diego, as located, is stated to be 1,400 miles, of which 1,150 miles are through the plain or open country and 250 miles through rough or mountainous country.

To raise the capital necessary to build this part of the road the company is authorized to execute two series of bonds, one to be denominated Issue A to the extent of $20,000 per mile for 1,150 miles of road through the plain country, and to the extent of $35,000 per mile for 250 miles through the mountainous country, not to exceed in the aggregate $31,750,000: the other to be denominated Issue B to the extent of $5,000 per mile for the whole distance of 1,400 miles, not exceeding in the aggregate $7,000,000, or $38,750,000 of both series. These bonds are to be made payable in coin fifty years after date with interest at the rate of 5 per cent. per annum payable semi-annually. They are to be secured by a mortgage upon the road to be constructed with their proceeds, which shall be a first lien, and additionally by the following provisions:

1. The land grant under the act of March 3, 1871, of lands in the Territories of New Mexico and Arizona and the State of California, is relinquished to the United States in trust that the reservation may be opened to immediate settlement, the lands sold by the Government and the proceeds of the sales of the lands embraced in the grant applied to the payment, first, of accruing interest upon the bonds, and, second, to the accumulation of a sinking fund for their purchase and redemption.

2. All the earnings of the company over this portion of the road, derived from transportation of troops and supplies and other Government transportation, and for its postal and telegraphic service, and which would otherwise be payable by the Government, shall be retained by it and applied to the payment of current interest and the sinking fund.

3. Any deficiency then remaining, either in the interest fund or in the sinking fund, commencing with the year 1888, of 1 per cent. per annum in coin on the whole amount of bonds issued and outstanding shall be made good out of the general net earnings of the portion of the road mortgaged to secure these bonds.

To the extent to which it may be necessary to issue them for the purposes expressed in the bill, but not in excess of the maximum already mentioned, it is provided that there shall be indorsed on each bond so issued by the Secretary of the Treasury for and in the name of the United States a guarantee to the holder of the prompt payment at maturity by the United States of the interest coupons attached, being at the rate of 5 per cent. in coin, on the 1st day of April and October of each year, as the same shall mature, until the maturity of the bond, but no longer.

The guarantee does not extend to interest accruing after the maturity of the bond, nor to any portion of the principal; and the Government liability for such guarantee of interest cannot exceed $1,937,500 yearly, during the currency of the bonds.

The whole amount of both series of bonds, when executed, are to be deposited with the Secretary of the Treasury, to be issued only by him.

Whenever ten or more consecutive miles of any portion of its lines of railroad and telegraph between Fort Worth and San Diego Bay have been constructed and are ready for service with equipment, sidings, buildings, and other appurtenances necessary for the business, according to the Government standard, as required from the Union Pacific and Central Pacific Railroad Companies, the actual cost thereof, as ascertained by commissioners under oath, appointed by the President, shall be reported, and thereupon the Secretary of the Treasury shall deliver to the company for road so constructed and equipped in the plain or open country, bonds of Issue A, guaranteed as prescribed by the bill, at the rate of not exceeding an average of $20,000 per mile for 1,150 miles, and for the other portions of the road constructed and equipped in the rough or mountainous country for 250 miles such bonds at the rate not exceeding an average of $35,000 per mile; but it is provided that if it be found, from time to time, that a less number of bonds than those stipulated to be indorsed for delivery to construct and equip the whole line will provide sufficient money to meet such expenditures, then the number of bonds to be delivered shall be correspondingly reduced and all bonds not actually required to pay for the actual cost of construction as thus ascertained shall be retained in the Treasury of the United States, not to be issued, except as subsequently provided.

The bonds denominated Issue B, amounting to $5,000 per mile, it is provided shall be retained in the Treasury, and in case the net proceeds of sales of lands, with the Government transportation, telegraph and postal service, and the earnings of the road, as previously provided, shall not equal the amount to be deposited for interest by the company, the Secretary of the Treasury is authorized to sell a sufficient number of such retained guaranteed bonds of Issue B and to use the proceeds of such sales to make up any such deficiency; a provision inserted to supply a possible temporary want of revenue to meet accruing interest during the period of construction, and effectually to guard against the necessity of any advance by the Government on account of its guarantee.

When the earnings and revenues of the company from all sources, after the completion of the whole line, shall be sufficient to pay all interest guaranteed by the Government, the bonds so retained and not sold shall be issued only for the purpose of additional construction and permanent improvement, upon proof by the certificates of the commissioners that such expenditures are required by the increasing business of the company, all such additional property becoming a part of the mortgaged premises.

The scheme for public aid to this national highway is unique, and certainly reduces the possible liability of the Government to the minimum. It differs altogether, both in kind and degree, from that granted toward the construction of the Union Pacific and Central Pacific line. A comparison of the two is in reality a contrast, and the contrast is greatly in favor of the present proposition, when estimated, in view of the liability of loss to the Government in virtue of its engagements. In the case of the Union Pacific and Central Pacific line the Government made a direct advance of its own bonds to an amount double that now proposed, without any provision for payments on account of current interest, except to the extent of one-half the earnings of the roads from Government transportation and 5 per cent. of the net earnings, without provision for a sinking fund, without security for ultimate payment of the principal and accrued interest, except a second mortgage, subject to a prior lien for an equal amount, without reference to the actual cost of construction, and without reservation of power over the rates of transportation, until it appears that the net earnings of the road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs and the furnishing, running, and managing the road, shall exceed 10 per cent. upon its cost, exclusive of the 5 per cent. to be paid to the United States.

Under these provisions the Government has contracted an unconditional liability for a principal sum of $64,623,512, on which it pays an annual interest of $3,877,000, the accumulations of which, added to the principal sum, already amount to near $100,000,000.

Under the pending bill, the Government issues no bonds of its own, and becomes bound to pay none issued by others. It simply guarantees the payment of the annual interest to an amount less than $2,000,000 per annum during the currency of the bonds, and holds as indemnity the whole capital of the road, represented in the value of its construction, with all its revenue and income, secured by the lien of a mortgage, which legislation cannot displace without the consent of every individual bondholder; a road in the construction of which the Government has taken ample pains to assure itself that not a dollar has been made by way of speculation.

As the mortgage to be given by the company specifically and expressly secures the payment to the United States of the interest as it matures, it is manifest from this statement that the indemnity to the Government against ultimate loss is perfect. Its lien under the mortgage has priority over that given to the holder of the bonds for the principal sum, and ultimate loss by the Government is rendered impossible, unless it can be supposed that the road itself, when built, will not be worth the amount of the accruing interest on its cost after sinking the whole amount of the capital. Such a supposition certainly is not admissible.

The demonstration, however, on this point can be made still more complete and satisfactory. It is not, perhaps, sufficient to show that the ultimate security to the Government for reimbursement is ample. The point to be established is, that in addition to this there is no rational probability that the Government will be called upon to make any advances out of its own Treasury on account of its liability on the proposed guarantee. The utmost extent, as has already been stated, of this liability is the annual sum of $1,937,500, and that is upon the supposition that all the bonds authorized shall have been actually issued; and the question is, whether the whole of the net earnings of 1,400 miles of road from Fort Worth to San Diego, after completion, including the whole gross earnings on account of Government transportation, military and civil, with the proceeds of the sales of lands included in the land grant, will be sufficient for that purpose. To do so, laying out of the question all consideration of land sales, will require annual net earnings from this part of the line of but $1,312 per mile. The average net earnings per mile of road already completed and operated by the company for three years ending May 31, 1878, according to the official reports were $1,908, an excess over the required amount of $596 per mile; and that, without the benefit of anything but local business, earned by a mere fraction of the road not connected with either of its proposed termini, and without any business naturally belonging to it as a new transcontinental line. The fact that during the past year the Union and Central Pacific Railroad Companies earned an average of more than $12,500 per mile is, after making every allowance, an absolute assurance of safety; for, indeed, there is no reason to believe that the earnings of a new route to the Pacific on the thirty-second parallel will not, after completion, both presently and prospectively, by progressive development approximate equality with those of other lines with which it will compete for through business. As to a division of the through traffic and travel, there can be no doubt whatever. It is a matter of competition and settled upon the adjustment of rates. In regard to the development of local business, the experience of the existing lines takes away the opportunity for surprise, as there is nothing in the region traversed by the southern line that will furnish reason for any difference in this respect. And there are two circumstances characteristic of and peculiar to the proposed line that at least may be counted on to counterbalance any supposed disadvantages.

The first of these is that its construction is a completion, on the line of its own latitude, of a complete system of railroads in the States east of the Mississippi River, connecting with Atlantic and Gulf ports and intermediate points and sections, which must naturally find it to be their interest to become feeders to the Texas and Pacific Railway and all whose influence will be exerted in its favor. On the other hand, the cities of the northern Atlantic seaboard, Boston, New York, Philadelphia, and Baltimore, now receiving and sending their transcontinental traffic by other because the only existing lines, will find it to their own interest to compete with rival cities by dividing their own patronage with the southern line. The balance of advantage from this source will plainly be with the new line of transportation.

The second and more important of these circumstances is that the Texas and Pacific Railroad, skirting as it does the southern boundary of the United States, in proximity with rich mineral and agricultural provinces of old Mexico, will form a base line, from and to which lateral lines of trade and travel will speedily radiate, penetrating across the border and attracting a new and most profitable trade. The states of Chihuahua, Sonora, Coahuila, Sinoloa, and Durango will almost immediately be tributary to it; and it cannot be long before a market will be found, by means of this transit, for the productions of the United States in every portion of our sister republic. The natural entrance to its capital and center is southwardly from El Paso, via Chihuahua, Durango, Zacatecas, Lagos, and Guanajuato, to the City of Mexico, toward which, by a gradual ascent, the topography of the country invites approach and access. The key to this whole region and its entire trade, present and future, is El Paso, on the line of a railroad connecting it with both oceans and the civilization, capital, and commerce of every section of the United States. Nor can it reasonably be objected that this prospect is remote. The adjacent states of Mexico are inhabited

by a population which, if rude and uncultivated, yet nevertheless are not savage, and have established some of the habits and industries of civilized life, and are ready, as soon as the projected railroad can be built, to bring to it from considerable distances, over natural roads, the products of their labor to exchange for the manufactures of this country.

The general influence exerted by the existence and operations of such a line of trade and travel upon our international relations with Mexico would necessarily be powerful and of the most beneficial character, though the present occasion does not seem suitable for enlarging upon it. As a defense in time of war it would be equal to an army or a line of forts, but far more valuable in the preservation of peace by cultivating its arts and removing the temptations and occasions of hostility. And that it would open, by legitimate and acceptable modes, the northern states of Mexico to industrial colonies, emigrating from our own more populous districts, will not be questioned by those who have faith in the manifest destiny of the Anglo-American people to occupy and rule this continent, nor that such a settlement and the consequent development of the resources and riches of that region would be fruitful in good and peaceful results to all the inhabitants of the land.

But the present question is much narrower and more definite. It is simply this: whether this road, when constructed, will be able, by means of its entire net revenue, to pay the guaranteed interest on the cost of its construction, so as to insure the Government against any advance on account of its liability. It is a mere question of dollars and cents, and in the light of our own experience, in the history of Pacific railway enterprises, a matter of simple calculation. And the conclusion is incontrovertible, that the single items of revenue derivable from the Government itself, on account of military, Indian, postal, and telegraphic service, together with the sums now expended on those accounts, which will be saved by the economy of transportation, will be more than sufficient to meet the Government guarantee. Of course, no estimate exactly accurate can now be made of the necessary future expenditures and savings of the Government on these accounts; but we can approximate the result, within sure limits, by a comparison of known facts. We can compare the actual allowances and payments made by the Government to the Union Pacific and Central Pacific Companies for similar services, and the expenditures now made for such as are required in other ways to be performed, but of like character, on the proposed line of the Texas and Pacific Railroad, and which, on its completion, would be rendered by it.

On this point the committee of the present House of Representatives, in their report on the subject, say:

> As a simple measure of economy, the Government, in the management of its military, Indian, and postal affairs, could well afford to expend more in the construction of the line proposed by this bill than it is asked to guarantee. The rates of transportation charged on the present Pacific connection are admitted on all sides to be high. Yet the reports of the Quartermaster-General show that the saving to the Government on that line, in railroad, over the former mode of transportation by wagons, has been 75 per cent., and that for the two years preceding June 30, 1874, this saving amounted to about $2,000,000 per annum. Now, when this fact is taken into account, that between thirty and forty military posts and eleven regiments of United States soldiers, nearly half the entire Army, would draw their supplies from the Texas Pacific Railway; and the further fact that during the years 1865, 1866, and 1867, the Government actually paid $16,627,922.47, or more than five and a half millions annually, for maintaining a military force in Arizona and New Mexico, not including the expense of Indian agencies, supplies, or transportation of mails and stores, the conclusion is irresistible and unanswerable, that the Government would save more than the maximum liability to be assumed under the provisions of this bill.

It appears by a report made to the Senate by its Committee on Pacific Railroads, at the third session of the Fortieth Congress, on February 19, 1869, that the amount of Government transportation performed on the Kansas Pacific line from the time it commenced doing business, October 16, 1866, to January 1, 1869, during which the Government's use of the line averaged less than two hundred and twenty miles, was exactly $1,033,569.94.

The report of the House committee, from which an extract has been read, probably estimates too largely the number of military posts that would be supplied by the Texas and Pacific Railroad when completed. Moderating that estimate by reducing it to eighteen posts, embracing only about three thousand men and officers, or one-eighth of the Army, and it is calculated that upon the single item of transporting supplies, leaving out of the calculation the movement of the troops themselves, there would be an annual saving of $130,000. Adding to this the cost of transporting the troops when their movement is necessary, the reduction of expense by the increased efficiency of the troops, by dispatch of movement, dispensing with a large proportion of their numbers, and the cost of Government transportation on account of the Indian service and postal and telegraphic service, and it will hardly be denied that the aggregate will not fall below the maximum amount of the Government guarantee.

The following statement and tables, furnished from the Interior Department by the Auditor of Railroad Accounts, show the amounts paid each year from the opening of the roads by the Government to the Union Pacific, the Kansas Pacific, and Central Pacific Railroads for Government service:

> DEPARTMENT OF THE INTERIOR,
> OFFICE OF AUDITOR OF RAILROAD ACCOUNTS,
> *Washington, D. C., December 2, 1878.*
>
> SIR: In response to your request on Friday last, I have the honor to transmit herewith statements showing the transportation services performed for the United States by the Union Pacific Railroad Company, the Central Pacific Railroad Company, and the Kansas Pacific Railway Company, down to June 30, 1878, as near as can be ascertained at the present time.
>
> The Central Pacific Railroad Company, not reporting as requested by this office, their printed reports not containing a division of the service performed, their previous reports to this Department having been entirely in gross, and no department of the Government having made it a business to bring together these accounts in the past, the figures have been given in gross and are approximate.
>
> Very respectfully,
>
> THOMAS FRENCH, *Auditor.*
>
> Hon. STANLEY MATTHEWS,
> *United States Senate, Washington, D. C.*

Union Pacific Railroad.

	Freight.	Troops.	Mails.	Total.
July 1, '66, to Dec. 31, '68	$317,766 56	$1,004,673 06	$186,098 40	$1,508,538 02
Year ending Dec. 31, '69	203,428 54	279,947 36	268,300 70	751,676 60
Year ending Dec. 31, '70	237,913 39	287,486 12	274,513 56	799,913 07
Year ending Dec. 31, '71	213,585 15	227,903 70	283,748 00	725,236 85
Year ending Dec. 31, '72	170,158 06	303,154 12	283,855 00	757,167 18
Year ending Dec. 31, '73	219,939 65	248,117 88	283,855 00	751,912 53
Year ending Dec. 31, '74	316,840 21	250,702 76	345,758 00	913,300 97
Year ending Dec. 31, '75	234,596 13	176,243 65	325,143 00	735,982 78
Year ending Dec. 31, '76	374,387 65	223,614 78	574,139 00	1,172,141 43
Year ending Dec. 31, '77	362,208 21	293,251 25	596,775 00	1,252,234 46
Six months ending June 30, 1878	133,798 69	94,551 82	298,387 50	526,738 01
Twelve years ending June 30, 1878	2,784,622 21	3,389,646 50	*3,720,573 16	9,894,841 90

*A charge of $22,636 per month for the period from February, 1876, to June 30, 1878, inclusive, additional to the amount allowed by the Post-Office Department, is included in this statement.

Kansas Pacific Railway.

	Freight.	Troops.	Mails.	Total.
Up to Dec. 31, 1866			$10,237 50	$10,237 50
Year ending Dec. 31, '67	$368,310 02	$108,757 10	34,841 12	511,908 24
Year ending Dec. 31, '68	333,808 73	95,196 25	58,915 20	487,920 18
Year ending Dec. 31, '69	227,358 06	85,313 42	65,550 00	378,221 48
Year ending Dec. 31, '70	148,867 49	95,220 32	73,476 32	317,564 13
Year ending Dec. 31, '71	155,101 10	73,938 35	63,163 80	292,303 25
Year ending Dec. 31, '72	97,149 90	72,436 82	82,935 84	252,512 56
Year ending Dec. 31, '73	54,107 65	52,502 85	98,655 00	205,265 50
Year ending Dec. 31, '74	30,215 60	33,861 95	137,242 50	201,320 05
Year ending Dec. 31, '75	66,324 94	47,802 30	124,380 00	238,507 24
Year ending Dec. 31, '76	67,547 29	56,835 16	118,161 00	242,543 45
Year ending Dec. 31, '77	30,013 80	34,154 70	111,942 00	176,110 50
Six months ending June 30, 1878	14,225 30	3,072 96	40,011 97	57,310 23
Total to June 30, 1878	1,593,029 88	759,082 18	1,019,512 25	3,371,624 31

Central Pacific Railroad.

	Post-Office Department.	War Department.	Total.
From ——, 1867, to June 30, 1878	$2,212,449 57	$1,328,515 21	$3,540,964 78

They show that in a little less than twelve years the Government has paid to these roads, forming in fact but one line, on account of services rendered to it in the transportation of Government freight and troops and for the mails, the aggregate sum of $13,807,430.99, or at the rate per annum of $1,317,285.91.

In view of these considerations and the facts upon which they are based, I submit, Mr. President, that it is not fair or just to the present measure to dispose of it upon the summary objection that it proposes a subsidy. I am quite well aware that that word is supposed to be powerful as a spell—to be a name with which to conjure—that it conveys an odious imputation sufficient to frighten away all self-respecting support from any proposal to which it is applied; but, sir, it can hardly be regarded as the part of either wisdom or courage to shrink from the advocacy of any right cause lest it be confounded by ignorance or malice, or even through honest misconception, with something different that is wrong. Much less is there manliness in cowering before an apparition which is created by our own imaginary apprehensions, or in fleeing from the pursuit of the phantoms of our own fears.

In the present instance the word is altogether misapplied. In its odious sense the proposition of the bill has no single feature of a subsidy. It involves nothing but what falls within the usual and legitimate scope and province of our limited constitutional Government. It is not a bounty to any private interest. It is the execution of a trust and function purely public, and solely upon grounds and motives of public interest. It is not more a subsidy than is a most necessary appropriation of public money to the improvement of a river or harbor. The agency of a corporate body is employed, not for its own sake and benefit, but simply because it is the best and most convenient instrument to perform the obligation of the Government. The National Government charters a system of national banks and endows them with franchises and enables them to

employ, to their own profit, the public credit, but it would be a misnomer to nickname this valuable privilege a subsidy because it is the chosen means to render an equivalent public service.

There are some, no doubt, who sincerely believe that it is beyond the province, not merely of the National Government under the Constitution, but of government itself, even when unlimited except by its essential nature and purposes, to extend its powers and means beyond the simplest protection of individual personal rights. But that is not my creed. I believe government is something larger and deeper than that; that its limits are not to be defined by right lines; that it is the wisdom and strength of all, for all the common purposes of social life which in their nature or by reason of special circumstances cannot be compassed by individual and several action; that our Constitution is the frame of a perpetual government, which interprets itself by its adaptation to the life and growth of a people whose destiny is greater than any of their existing institutions, and that it is to be construed strictly, indeed, as against public and private rights, but liberally for their promotion, in order that it may not fail of any of the benevolent purposes for which it was ordained.

The construction of this additional highway across the continent, in my judgment, is a great, distinctive, national work. There is not a cherished object for which we can imagine ourselves to exist as a nation to which it is not a valuable auxiliary. It is a measure of national defense, and better than an army, a navy, or fortifications. It is a measure of peace upon our border with a people with whom, although our nearest neighbors, we live in a condition of constant irritation, and yet with whom we ought to have the most intimate and mutually profitable relations of friendly commerce. It is a measure of civilization to the Indians in our Southern and Western States and Territories, not only by concentrating our power of forcible subjection, but bringing them within easy reach of the influences which must either change their habits to those of civilized life or hasten their extermination. It is a measure of domestic empire, binding together by multiplied ties the interests of our Atlantic and Pacific coasts. It is a measure of commerce between the States, furnishing new markets to regions not able fairly to share in the communications which have been heretofore established, and who have a fair right to demand a development, to national proportions, of their local resources, and to establish upon their own lines of latitude, the course of emigration and trade. It is a measure of commerce with foreign nations, opening a new highway, under national regulation, to the growing traffic with the world beyond our western seas, emancipated from the shackles of a monopoly and solving for the continent the great problem of cheap transportation, yielding to capital enough, but exacting from productions no more than, under the supervision and guardianship of the Government itself, shall, from time to time, be found adequate to a healthy equilibrium between the great forces of production and distribution.

It is this feature which makes the present proposition unique and gives to it its chief value and significance. The bill secures to Congress, in unequivocal terms, the right to regulate rates for the transportation of through freight and passengers and for postal and telegraphic service, not merely over that portion of the line constructed under the provisions of the bill, but over the entire lines of the Texas and Pacific Railway, including that portion now in operation, and over the entire lines of connecting companies claiming privileges under the provisions of the bill, and the right to exercise a general supervision and control, so far as it shall be necessary so to do in the interest of the Government of the United States, to secure prompt transportation for its own wants and for the public, and to protect the actual capital invested and all liabilities of the Government for guarantee of interest made under the act.

The guarantee of earnings sufficient to pay the interest on the cost of construction is the natural and necessary corollary from the reservation of the unlimited control over the prices of transportation. For it is manifest that without an equivalent guarantee private capital could not put itself at the mercy of arbitrary control in the hands of its customers with adverse interests. Certainly none can be found with private means to build such a road, giving up the right to a voice in determining whether its operations shall be conducted at a profit or a loss. But if the Government reserves the power to dictate rates, it has also created an interest in behalf of the public, which it represents by its own guarantee of net income sufficient to pay the interest on the capital invested in the actual cost of construction, to maintain rates so as to indemnify itself.

It is from overlooking the fact of this provision and underestimating its value that has led to a misapprehension of the attitude toward this project of the Southern Pacific Railroad Company of California, inducing a belief in some quarters that it proposed and stood ready to carry forward into complete execution this scheme of a new competing Pacific Railroad without aid from the Government. This is altogether a mistake. I know of no such offer. The Southern Pacific Railroad Company of California, in connection with the Central Pacific Railroad Company of that State, has built a railroad to Fort Yuma, has crossed the military reservation at that point and the Colorado River into Arizona, and is reported to be proceeding, without congressional authority certainly, but under laws of that Territory, to Maricopa Wells, in a direction apparently tending to El Paso, and professing the intention to construct to that point; whether for the purpose there of making a railroad connection, under a Texas charter, to Galveston and New Orleans, or whether intending to diverge before reaching El Paso, so as to meet the Atchison, Topeka, and Santa Fé Railroad at Albuquerque or Casa Colorado, is the subject at present of conjecture merely.

But what that company has done, or is now doing and may hereafter do, is altogether immaterial, and for this reason: that, whatever it may do or intend, it does not mean to construct or to aid in the construction of a transcontinental railway which shall compete for business or in rates with the existing line from San Francisco to Omaha. More than this seems to be the intent, and that is, that whatever it is engaged in doing has at least for one of its purposes that of defeating and preventing the construction and operation of the Texas and Pacific Railroad as a free and open highway competing for the through trade and travel between the oceans, subject to the unlimited regulation of Congress and at rates to be from time to time established by it in the sole interest of the Government and people of the United States And the sacrifices the Southern and Central Pacific Railroad Companies show themselves willing to make to that end in the construction of lines which they shall continue to control in the interest of their present monopoly is the measure of what they fear from the establishment of an open competition by means of the Texas and Pacific Railroad. The evil they fear to their own interests is precisely equal to the public good which it means and measures. If those who plan and labor for public interests alone were a match in clear-sightedness and zeal for those who plan and labor for their private and personal ends, the enthusiasm in behalf of the pending bill would be at least equal to the energy and determination displayed by its rivals to defeat it.

I impute to the great corporations now in possession and control of the sole highway to the Pacific, and to their able and powerful managers, no motives and designs with any vice not inherent in human nature itself, nor charge them with deliberately and consciously seeking a private benefit at the expense of a manifest public good. It is quite likely that they believe the interests of the whole nation can be best subserved by measures which they devise for the promotion of their own, for no mistake is more easily fallen into than to substitute our own for the public good.

But what I believe and affirm is, that these companies and their managers are determined, if possible, to preoccupy the ground and forestall the action of Congress, in order that, by defeating as unnecessary the pending proposition, they may be left in the undisturbed possession and enjoyment of the right to tax, according to the demands of their own interests, the vast volume of transcontinental trade and traffic which enriches their treasury and enables them to build up breastworks against competition.

Let those who are unwilling to emancipate this enormous public interest from the burden of this ever-growing mortgage by the construction of a line which shall be the servant and not the master of this trade, for fear of the popular condemnation of subsidies, reflect upon the ten-fold greater subsidy which they vote to the existing lines by perpetuating their monopoly and securing to them permanently the right and power of dictating the terms upon which they will perform the public duty for which they were created. It is a strange and incongruous spectacle that a popular jealousy against subsidies and corporate privileges should be invoked against a measure the very object of which is, and whose effect must certainly be, to curb and restrain monopoly built upon subsidy, and in behalf of corporate power more potent and exacting than any ever before known in our history.

Some idea of its capacity to prey upon the commerce it was intended to foster and facilitate may be gathered from the fact that the joint management of the present Pacific roads is able to exact $2,400 a car load of ten tons of what it is pleased to style *double first-class freight* from every shipper who is unwilling to agree to give to its line, as against the ocean route by steamship or sailing vessel, the whole of his freight in all seasons. It would be better, as a matter of pecuniary profit to the people, that the Government should at once release these roads from the obligation to repay their indebtedness to it, in consideration of a concession of the right to regulate their tariff of charges. The excess that might reasonably be thus reduced would be cheaply capitalized at the amount of the debt, large as it is. It would be better still to establish a competition by the construction of a new road, subject to the regulation of the Government, which, in its turn, upon the principle of competition, would be the regulator of all its rivals. At the worst, it is but the transfer of an investment now employed as a means of injury and oppression to the trade of the whole country into an instrument for its emancipation.

How effective an instrument for that purpose the Texas and Pacific Railroad might and would be is made manifest by a comparison between the cost of its construction with that of the existing lines; for it is evident that the reasonable cost of transportation will be lessened by whatever lessens the cost of the indispensable means of effecting it. If the existing roads could be replaced by others at much less than their original and present cost, of course the new substitutes could afford, making equal profits upon the investment, to perform the same service at a proportionably less charge; and if a competing road can be built at a less cost than that of existing lines, it is evident that the new and cheaper road, can dictate the rates for its rivals.

A comparison between the existing lines from the Mississippi River at Rock Island, to San Francisco, by Omaha, and the proposed line of the Texas and Pacific Railroad, as to the cost of construction and operation, will show the following results:

The length of the Texas and Pacific Railroad, constructed and to be constructed, according to the provisions of this bill, from the Mississippi River to San Diego, is 1,807 miles at the longest distance; that of the line on the forty-first parallel, from Rock Island to San Francisco, is 2,227 miles; a difference of 360 miles in favor of that now proposed.

The difference in the cost of construction is much more marked. On the northern line it is for 2,277 miles $251,613,924, which is an average of $112,983 per mile. On the Texas and Pacific line, estimating for the cost of the longest extension to the Mississippi River, it will be $64,172,000, or an average of but $36,316 per mile. This is less than one-third the average cost of the present line and is an aggregate saving for the whole line of $186,441,924, or $76,667 per mile of road.

This average of $36,316 is nearly $10,000 per mile in excess of the estimated cost of the new road to be constructed, because it includes the higher average of the constructed portion east of Fort Worth, built during the period of high prices and under great disadvantages for the transportation of material, and also the whole amount of the $7,000,000 of bonds to be retained by the United States, a part only of which it is believed will be actually issued. And to complete the transit from San Diego to San Francisco a steamship plant of five or six first-class steamers could be created at a cost not exceeding $3,000,000, which, in addition to the Arizona, New Mexican, and transcontinental traffic, would accommodate all the coast business between San Diego and San Francisco.

But adding the cost of the Southern Pacific Railroad of California as a branch of the Texas and Pacific Railroad from Fort Yuma, to make an all-rail connection with San Francisco, which is for 720 miles $67,299,120, and we have the aggregate cost of the entire line $131,471,120, which is still $120,142,804 less than the cost of the present line via Omaha.

That the cost of operating the Texas and Pacific line will be less than that of the Union Pacific and Central Pacific is manifest from various considerations. The distance, as we have seen, is 360 miles in favor of the former. In addition, the difference in the character of the roads, as to curves and grades, is still more in its favor. By the Texas and Pacific line the divide of the continent is crossed at an elevation of 4,893 feet on very light grades, not exceeding 66 feet to the mile, while on the entire line the total length of grades between 80 and 105 feet will not exceed 45 miles, and between 66 and 80 feet, 72 miles. The maximum gradient, except at a few points, is not more than 66 feet to the mile. The extreme elevation upon the line is 5,027 feet, against 8,235 feet upon the Union Pacific and 6,988 feet upon the Central Pacific road; the total ascent and descent being 38,245 feet, against 54,812 feet on the other line. This difference of altitude of itself constitutes a difference of climate, with the natural result of a line which is free from obstruction by snow at all seasons of the year, forming the natural highway across the continent, as well as the shortest that can be constructed within United States territory between the two oceans.

What verge and room there is for a reduction in the tolls levied by way of transportation charges upon the commerce carried across the continent is to be seen most conspicuously by a review of the progressive increase of rates for the past three years as established by the present line.

The tariff of these companies in force previous to March 4, 1875, shows that their through freight rates between New York and San Francisco were on first-class goods $3.25 per one hundred pounds; on second-class goods, $2 per one hundred pounds; on third-class goods, $1.90 per one hundred pounds; on fourth-class goods, $1.80 per one hundred pounds, with special rates as against sailing-vessels around Cape Horn for low-grade freights running from $1.40 to $1.70 per one hundred pounds.

In that month, immediately after the adjournment of Congress, a bill to secure the completion of the Texas and Pacific Railway having failed, and the Pacific mail steamship subsidy act having been repealed, a new tariff of freight rates between New York and San Francisco was issued, by which first-class freights were raised to $5 per one hundred pounds; and on the 29th of the same month the rates were increased to $6 for first class, $5 for second class, $4 for third class, and $3 for fourth class.

These rates nominally have continued in force until the present time; but by a circular issued by the companies, a copy of which I have examined, dated July 29, 1878, and issued since the adjournment of Congress at its last session, notice is given of very important changes in the classification of merchandise, affecting the rates of freight in a very remarkable degree. The following are examples:

Blankets, which, in the regular published freight tariff of February 28, 1878, are rated as second class, under the circular of July 29 are declared to be double first class, and when shipped in bales, under written release, at one-and-a-half times first-class rates.

Organs, melodeons, and pianos, boxed, are changed from first class to one-and-a-half times first class.

Ribbons, &c., changed from first class to double first class.

So canvas, clothing, comfortables, cotton bags and bagging, and many other articles are changed from first and second class to double first class. By that change, first-class goods, instead of paying on a ten-ton car load at $6 per one hundred pounds, amounting to $1,200, would pay $2,640, and even that double rate is to be doubled upon any excess of twenty-two hundred pounds loaded in any car by the shipper.

No exhibit other than this is needed to account for the fact that, while during the past years of business depression all other railroads in the country have shared the losses of the community, many having struggled in vain to earn the interest on their indebtedness and but few able to pay dividends to their stockholders, the net earnings and profits of these companies have enabled them, even on a decreased volume of business, for the year ending June 30, 1878, to declare and pay as dividends—the Union Pacific, $2,204,700; the Central Pacific, $1,342,040; as appears by the official report of the Secretary of the Interior, just laid on our table.

Mr. President, I do not envy these companies their wealth and power. I do not refer to these facts to excite hostility to their prosperity. I do not accuse them of any illegality. I do not invoke against them any legislation to deprive them of any of their just rights. I do not even think it would be legitimate for Congress to exert its acknowledged power to take from them the fruit of any reasonable expectation. But a mere description of these privileges and opportunities includes the conviction of an inevitable abuse of their powers. Irresponsible authority lodged in a corporate body organized for the profit of its members never has failed and never will fail of being abused. It ought to be counteracted and checked, and that can best be done by setting in healthful activity the wholesome and corrective principle of competition, by the operation of which the keen rivalry and sharp struggle of opposing private interests co-operate for the public good. That sole ground is the sufficient justification for the passage of the pending bill.

Thus far, Mr. President, I have considered the merits of this measure upon grounds of public interest, equally affecting the whole country without any distinction of locality. In respect to the topic first considered, if the construction and operation of this road should have, as it must have, the effect to lighten the present tax upon the transcontinental commerce, that advantage would accrue equally to every part and section of the country. There is not an industry in the land that would not in some degree share in the benefit. Every commercial city and center would feel its influence in quickened productions and a livelier trade; and Boston, New York, and Philadelphia would reap their share of the profit, even though not one of them should ever in fact receive by means of it an additional customer or a single pound of merchandise to their markets. And so also every expected service from which I have derived an argument is one to be rendered to the general good, and not specially to that of any part of the country.

But I should do injustice to my own convictions if I altogether omitted one consideration which I confess has materially contributed to the formation of my favorable opinion of the project.

The Constitution of the United States, while it conferred upon Congress general power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," has nevertheless deemed it important also to declare that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." And this is but one expression and illustration of that spirit of impartiality which pervades the whole frame of the Government. The Constitution knows no section, makes no discrimination between States, and the rule of its administration is equal and exact justice among all its citizens. The Government owes protection to and demands obedience alike from all without distinction of color, creed, or condition, and every power is a trust for the whole and all its parts. Even the incidental advantages arising unavoidably in the exercise of its functions ought to be distributed so as not to excite suspicion of partiality.

The circumstances that led to the location and construction of the present railroad line to the Pacific are well known. The occasion was a national necessity that admitted of no delay and was permitted no choice. There is nothing to regret in the legislation of that day except the want of faith which could not foresee the wonderful success of the enterprise as an investment of capital and which therefore conceded to corporate privilege more than was needed for the public service or advantageous to the public interests.

But it is undeniable that, in point of fact, it has not only caused an unexampled development and growth of the territory the improvement has traversed, but has greatly enriched the lines of transportation and the commercial cities and centers with which it was directly connected. And while it has been of incalculable benefit to the general interests of the country at large, it has also, and quite as conspicuously, conferred special and immensely valuable advantages upon particular localities. It has been the natural and most profitable extension and development of the east and west lines of railroad north of the Ohio River, and contributed to the wealth which a new and rich commerce has brought to the cities, both inland and on the sea-coast, in the line of that trade. That commerce is in its infancy; its growth is certain; its ultimate magnitude beyond all present conception.

The States and Territories on the South Atlantic, the Gulf of Mexico, the Lower Mississippi, and Texas, shall they not participate in its

profits? They have their productions, some peculiar to their region, that are wanted in the more distant markets of our continental empire, and in the still more distant markets of the world beyond the seas. They have their own east and west lines of railroad communication connecting the ports and cities of the South Atlantic and the Gulf of Mexico with the valley of the Mississippi, and stretching beyond toward the western frontiers of Texas. The undeveloped territories, farther west and in the same latitude, are expecting, with untold treasures of precious ores, the opportunity of settlement and development. Southern California, with her magnificent harbor at San Diego, presents her claim to consideration. As a mere question of commerce, internal and external, and of national internal improvement, the consideration of that justice which consists in the impartial administration and application of the powers and resources of the Government among the material interests of the different parts of the country is conclusive in behalf of the present measure. It is indeed by comparison less than justice, if the rule of justice is equality, and tardy too; indeed the very least that ought to be tendered in satisfaction of its rightful claims.

Mr. President, my interest in this question existed before I had any expectation of ever occupying a seat in this body. In November, 1875, I was one of many delegates representing the commercial bodies of the city of Cincinnati, in a convention called to consider the subject which assembled in the city of Saint Louis. I was unexpectedly to myself called to preside over that large and most respectable body, and as such it was made my duty to prepare an address to the people of the United States expressing the sense of the convention upon the merits of this measure. In doing so, upon the particular topic which I have just presented, I used language which I am willing now and here to adopt. It is as follows:

The line of said road in behalf of which the present appeal is made is intended to connect the entire southern system of railroads—terminating at the Mississippi River and reaching through the interior to the Atlantic—with the Pacific coast. That its construction and completion would put them on an equal footing with the parallel lines to the north, for the transcontinental trade, is quite evident, and that they have a right to expect that equality follows from the character of our Government, as equal and impartial in its administration, discriminating neither for nor against any. That it would rapidly develop the sparsely settled country in the Southwest, and people the Territories between Texas and the Pacific with a tide of emigrants flowing along their accustomed lines of latitude, is equally evident to all who have observed the conditions according to which our borders have advanced toward the west. That it would give new life to the railroad system of the South, by furnishing it its natural and legitimate extension, those most interested will bear unquestionable testimony, a result that of itself would be the sign and consequence of an active and revived industry wherever their lines penetrate. The South would live again, and find a new and better life than ever before in the busy and diversified industry of a contented, because prospering, population. Does not this consideration weigh heavily in the argument for the public aid to this enterprise? We have been waiting long years for the people of the South to forget the calamities of our civil war. Nothing will tend so greatly and so certainly to bury the remembrance of them forever as the rising of that tide of prosperity which is sure to come in upon them, and upon us all, like a flood, when the Government shall stretch out its hands to them to help and not to hurt, and to lend to them for a time, without cost or loss to itself, that public credit which would be so much strengthened and increased by the general prosperity which it will be used to promote. Such a measure would be the great healing act of Federal legislation, giving its assurance that the people of the Union and their common representatives, in the exercise of the public power and the employment of the common wealth, know no sections in the country, no divisions among the people, but are zealous and anxious to exert all their functions, so as equally to promote the growth and prosperity of every part and member.

Mr. President, if considerations of local interest are or ought to have any weight in the determination of this question, there is one which I may be excused for adverting to as naturally having an influence upon my own course as one of the Senators from Ohio. The principal city of that State, the city of Cincinnati, with which my own personal history and interests are identified, is now about completing a railroad to Chattanooga in Tennessee, a distance of a little over three hundred miles. It has already authorized in its construction the expenditure of $18,000,000. The investment, including its equipment, will ultimately represent a capital of over $20,000,000. The work was begun and has been prosecuted by the city in its municipal character and as its sole proprietor. It has been executed under laws of the State, the constitution of which expressly declares that—

The General Assembly shall never authorize any county, city, town, or township, by vote of its citizens or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for or loan its credit to or in aid of any such company, corporation, or association;

the supreme court of the State deciding that the prohibition did not extend to the construction of a railroad by the city itself, that being a public work within the legitimate purposes of municipal organization, even although it is built outside the State itself. The object of the city in this large outlay of money is to secure to itself trade from the railroad system of the South. At Chattanooga it connects immediately with the Memphis and Charleston Railroad, and through it and others with the whole system of railroads which covers with its network the area between the South Atlantic and Gulf coasts and the Mississippi River and west through Texas, as far as it may be extended. Whether the city of Cincinnati shall reap the benefit it has expected from the construction of its own southern road, in which it has so large an interest, direct and indirect, depends upon the prosperous development of the business of that entire southern system of which it has thus become a part. And it is a matter of special and peculiar interest whether it shall, by means of that connection, be permitted to share in the transcontinental and Pacific commerce.

The construction of the Texas and Pacific Railroad will form a line in which its own road will constitute an important link. The value to its manufactures and trade of such a connection, while it would not of itself justify, in my own eyes, my advocacy of the measure, yet, as it coincides with the great and general interests of the whole country that are involved with it, enables me to satisfy my own convictions of duty and at the same time assist in promoting the local interest of those who constitute at least a part of my constituency. It is my strong conviction that, if the present bill becomes a law, as I trust it will, when the great work it proposes to aid shall be constructed and in successful operation, its beneficent influence upon the various and extensive interests, not of the South alone, nor of any particular locality, but of the whole country and of all its parts, will be as universally acknowledged as it will be widely, deeply, and permanently felt, and will amply justify and vindicate those who to-day advocate and support it.

The VICE-PRESIDENT. The bill called up by the Senator from Ohio will now resume and retain its place upon the Calendar.

OMISSION IN ENROLLMENT.

Mr. CONOVER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee of three Senators, to be appointed by the Chair, be directed to investigate and report to the Senate how or in what manner a section in the bill (H. R. No. 5130) known as the sundry civil bill, relating to the Hot Springs of Arkansas, passed at the last session of Congress, was omitted in the bill as enrolled; whether Senator CONOVER had any connection therewith; whether any officer of the Government, and who, pretended, after the adjournment of the last session of Congress, to investigate the matter; what investigation was made, and what testimony, if any, was taken in that investigation; as well as the testimony to be taken by the said committee; and that said committee have power to send for persons and papers.

HOUSE BILL REFERRED.

The VICE-PRESIDENT laid before the Senate the bill (H. R. No. 4228) to promote the education of the blind; and it was read twice by its title, and referred to the Committee on Education and Labor.

DISTRICT SEWERAGE.

Mr. ROLLINS, from the Committee on the District of Columbia, presented a plan for the improvement of the system of sewerage in the District of Columbia, submitted at the invitation of that committee by Gustavus A. Karwiese; which was ordered to be printed, and referred to the Committee on the District of Columbia.

EXECUTIVE SESSION.

Several executive messages were received from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at one o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 3, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MORNING HOUR.

Mr. HALE. As there was no morning hour yesterday for the reference of bills and as many gentlemen desire to introduce them for reference, I suggest by unanimous consent a morning hour be allowed to-day for that purpose.

The SPEAKER. Or so much as may be necessary.

Mr. KELLEY. Let it be for the introduction and reference of bills and resolutions.

Mr. HALE. Precisely as the ordinary morning hour, for introduction and reference.

The SPEAKER. The Chair will state the proposition to the House.

Mr. REAGAN. I understand the bill reported from the Committee on Commerce in relation to interstate commerce is the unfinished business before the House, but I will interpose no objection if the morning hour will not interfere with that bill.

The SPEAKER. The Chair will see that bill does not lose any of its rights. It is affected, however, by Rule 136 of the House and by Joint Rule 21, both rules providing that the unfinished business of a preceding session shall not be taken up until after six days of the succeeding session. The Chair of course will recognize the gentleman from Texas at the expiration of that time on the unfinished business to which he refers.

The gentleman from Maine proposes by unanimous consent there shall be allowed a morning hour, as if on Monday, for the purpose of introducing bills and resolutions for reference. Is there objection?

There was no objection, and it was ordered accordingly

Mr. BANNING. Is the call to continue until all the States are gone through with?

The SPEAKER. The Chair so understands.

PRINTING PRESIDENT'S MESSAGE.

Mr. GARFIELD. I ask to introduce the usual joint resolution touching the printing of the President's message.

The Clerk read as follows:

Resolved, That 20,000 copies of the President's message with reports of the Departments proper, and without the accompanying documents, be printed for the use of the House of Representatives.

The SPEAKER. That resolution, under the law, will be referred to the Committee on Printing.

PERSONAL EXPLANATION.

Mr. PATTERSON, of New York. I rise, Mr. Speaker, to what I deem to be a question of privilege. On the 21st day of June last a gentleman introduced a resolution in relation to war claims. It was put on its passage, and had in the affirmative 24 and in the negative 123 votes; and I was reported on that occasion as being absent or dodging. I was not absent, nor did I withhold my vote, but voted in the negative on that question. I desire the record shall show, if possible, that I was not out of my seat, but was here on that occasion and voted in the negative.

The SPEAKER. The Chair is unable to see how the Journal of the last session of Congress can be corrected, but the object the gentleman has in view is reached by the statement he has just made, as it will go into the RECORD. The Chair desires to say in addition that he knows of no member of the House who during the last session of Congress was more constant in his attendance upon the sessions of the House than the gentleman from New York.

PROCEEDINGS IN MANDAMUS.

Mr. HALE (by request) introduced a bill (H. R. No. 5232) to regulate proceedings in mandamus; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DENNIS SULLIVAN.

Mr. JONES, of New Hampshire, introduced a bill (H. R. No. 5233) granting an increase of pension to Dennis Sullivan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PROPERTY IN CUSTODY OF POSTMASTERS.

Mr. HENDEE introduced a bill (H. R. No. 5234) authorizing the Sixth Auditor of the Treasury Department to examine and allow claims against the United States for property lost or destroyed while in the custody of postmasters; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

REMONETIZATION OF SILVER.

Mr. HENDEE also presented joint resolution of the Legislature of the State of Vermont, relative to the remonetization of silver; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

DAVID WARD.

Mr. JOYCE introduced a bill (H. R. No. 5235) for the relief of David Ward, of Middlesex, Washington County, Vermont; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

INCREASE OF CERTAIN PENSIONS.

Mr. HARRIS, of Massachusetts, introduced a bill (H. R. No. 5236) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REDEMPTION OF TRADE-DOLLARS.

Mr. PHELPS introduced a bill (H. R. No. 5237) to provide for the redemption and recoinage of trade-dollars and their reissue in standard dollars of 412½ grains; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CERTIFICATES OF DEPOSIT.

Mr. WOOD introduced a bill (H. R. No. 5238) to authorize the issue of certificates of deposit; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM NEPHEW KING.

Mr. WOOD also introduced a bill (H. R. No. 5239) for the relief of William Nephew King; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

AMENDMENT OF SUNDRY CIVIL ACT.

Mr. WILLIS, of New York, introduced a bill (H. R. No. 5240) to amend a certain section of an act approved June 20, 1878, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes;" which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

TREATY WITH THE NORTH GERMAN CONFEDERATION.

Mr. COX, of New York, introduced a joint resolution (H. R. No. 202) as to giving notice to the North German Confederation to terminate the treaty of February 22, 1868; which was read a first and second time.

Mr. BLACKBURN. I ask that the joint resolution may be read at length.

The joint resolution was read *in extenso*, and was referred to the Committee on Foreign Affairs, and ordered to be printed.

ANN M. PAULDING.

Mr. CHITTENDEN introduced a bill (H. R. No. 5241) granting a pension to Ann M. Paulding, widow of Rear-Admiral Hiram Paulding; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PHEBE BARNES.

Mr. PATTERSON, of New York, introduced a bill (H. R. No. 5242) for the relief of Phebe Barnes, widow of Dexter Barnes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHAPTER 10 OF REVISED STATUTES.

Mr. HARDENBERGH introduced a bill (H. R. No. 5243) to repeal chapter 10 of the Revised Statutes, entitled "Legacies and Successions," and to repeal all reservations of said taxes in former repealing statutes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

DRY-DOCK AT LEAGUE ISLAND.

Mr. FREEMAN introduced a bill (H. R. No. 5244) appropriating $400,000 for the erection of a dry-dock at League Island naval station; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

DUTY ON MATCHES.

Mr. WARD introduced a bill (H. R. No. 5245) abolishing all stamp duty and taxes on friction matches and lucifer matches; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JAMES B. FURMAN.

Mr. OVERTON introduced a bill (H. R. No. 5246) for the relief of James B. Furman of Austinville, Bradford County, Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANCIS O'CLEARY.

Mr. OVERTON also introduced a bill (H. R. No. 5247) granting a pension to Francis O'Cleary, late a private in the Eighty-ninth Regiment New York Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES N. WARNER.

Mr. OVERTON also introduced a bill (H. R. No. 5248) for the relief of Charles N. Warner, late first lieutenant of the Fourth Artillery of the Army of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LEWIS W. DETRICH.

Mr. STENGER introduced a bill (H. R. No. 5249) to increase the pension of Lewis W. Detrich; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOUNTY LAND.

Mr. HARRIS, of Virginia, introduced a joint resolution (H. R. No. 203) repealing so much of joint resolution No. 46, approved March 2, 1867, as requires proof of loyalty before soldiers of the war of 1812 or their widows can obtain bounty land under the act of March 3, 1855; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CONGRESSIONAL ELECTIONS.

Mr. RAINEY introduced a bill (H. R. No. 5250) to further regulate the manner of holding elections for Representatives in Congress and to punish fraud at such elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENTS.

Mr. BELL introduced a bill (H. R. No. 5251) to repeal an act entitled "An act to provide for the resumption of specie payments;" which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

INTERNAL-REVENUE OFFICERS.

Mr. BELL also introduced a bill (H. R. No. 5252) to abolish certain internal-revenue officers; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

INTERNAL-REVENUE LAWS.

Mr. BELL also introduced a bill (H. R. No. 5253) to amend the internal-revenue laws; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON TOBACCO.

Mr. BELL also introduced a bill (H. R. No. 5254) to authorize the producers of tobacco to dispose of the same without the payment of any tax thereon; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PUBLIC PRINTING.

Mr. SINGLETON introduced a bill (H. R. No. 5255) to reduce the expenses of the public printing and binding, and for other purposes; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

DELLA BENNER.

Mr. CHALMERS introduced a bill (H. R. No. 5256) granting a pension to Mrs. Della Benner, widow of the late Lieutenant Hiram H. Benner; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

FEDERAL ELECTIONS.

Mr. CHALMERS also introduced a bill (H. R. No. 5257) to prevent corruption in elections; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

YELLOW-FEVER EPIDEMIC.

Mr. HOOKER submitted a concurrent resolution relating to the recent yellow-fever epidemic; which was read, and referred to the Committee on Rules.

MISSISSIPPI LEVEES.

Mr. GIBSON introduced a bill (H. R. No. 5258) for the improvement of the Mississippi River from the head of the passes near its mouth to its headwaters; which was read a first and second time, referred to the Committee on the Mississippi Levees and the Improvement of the Mississippi River, and ordered to be printed.

YELLOW FEVER.

Mr. GIBSON also submitted a concurrent resolution for the appointment of a commission to inquire into the history of yellow fever and the means of its prevention and arrest; which was read, and referred to the Committee on Rules.

RIVER AND HARBOR IMPROVEMENTS.

Mr. GIBSON also introduced a bill (H. R. No. 5259) to amend an act entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, approved March 3, A. D. 1875;" which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

YELLOW FEVER.

Mr. ACKLEN submitted a concurrent resolution for the appointment of a committee to investigate the causes of the late yellow-fever epidemic, and report if legislation by Congress is necessary to prevent a recurrence thereof; which was read, and referred to the Committee on Rules.

JOHN K. DIXON.

Mr. BANNING introduced a bill (H. R. No. 5260) honorably mustering out of the service John K. Dixon, late private Company K, Eleventh Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

I. D. CLARK.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 5261) granting a pension to I. D. Clark, late major Fifty-second Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES DOUGHERTY.

Mr. McMAHON introduced a bill (H. R. No. 5262) granting a pension to Charles Dougherty, late private in Company B, Seventh Regiment West Virginia Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FREEMAN JOHNSON.

Mr. McMAHON also introduced a bill (H. R. No. 5263) granting a pension to Freeman Johnson, late private in Company F, One hundred and forty-fourth Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD WELSH.

Mr. McMAHON also introduced a bill (H. R. No. 5264) granting a pension to Edward Welsh, late a private in Company F, Twenty-sixth Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK HARDIMAN.

Mr. McMAHON also introduced a bill (H. R. No. 5265) granting a pension to Patrick Hardiman, late private in Company D, Sixth Regiment Kentucky Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL MEENAN.

Mr. McMAHON also introduced a bill (H. R. No. 5266) granting a pension to Daniel Meenan, late a private in Company G, Ninety-third Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM BUCKLEY.

Mr. McMAHON also introduced a bill (H. R. No. 5267) granting a pension to William Buckley, late a private in Company C, Fiftieth Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRADE-DOLLAR.

Mr. DURHAM introduced a bill (H. R. No. 5268) making the trade-dollar a legal tender; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

WILLIAM H. H. M'PHERSON.

Mr. DURHAM also introduced a bill (H. R. No. 5269) granting a pension to William H. H. McPherson, Company G, Twenty-Second Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EPIDEMICS.

Mr. YOUNG presented a concurrent resolution for the appointment of a select committee by the Senate and House of Representatives on the subject of epidemics; which was referred to the Committee on Rules.

Mr. YOUNG. I ask that the resolution be read and printed in the RECORD.

The SPEAKER. That cannot be done at this time and under this call. At the conclusion of the morning hour it will be in order to submit that request to the House.

SILVER COINS.

Mr. DIBRELL introduced a bill (H. R. No. 5270) making the trade-dollar and other silver coins a legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

RICHARD STEVENSON.

Mr. ROBINSON, of Indiana, introduced a bill (H. R. No. 5271) for the relief of the heirs and legal representatives of Richard Stevenson, late assistant quartermaster of volunteers, and his bondsmen; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM KNIGHT.

Mr. ROBINSON, of Indiana, also introduced a bill (H. R. No. 5272) granting a pension to William Knight, late a private in the Nineteenth Indiana Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRADE-DOLLAR.

Mr. HUNTER introduced a bill (H. R. No. 5273) to require the Secretary of the Treasury of the United States to cause the trade-dollar to be received and exchanged for the legal silver dollar of the United States; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JAMES H. WOODARD.

Mr. EVANS, of Indiana, introduced a bill (H. R. No. 5274) granting a pension to James H. Woodard; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

He also introduced a bill (H. R. No. 5275) for the relief of James H. Woodard; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN N. BRADY.

Mr. BAKER, of Indiana, introduced a bill (H. R. No. 5276) granting a pension to John N. Brady, late a private in Company G, Forty-eighth Regiment Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRADE-DOLLARS.

Mr. FORT introduced a bill (H. R. No. 5277) to provide for the exchange of trade-dollars for legal-tender silver dollars, and for other purposes; which was read a first and second time.

Mr. FORT. I move that this bill be referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. STEPHENS, of Georgia. Does not this bill belong to the Committee on Coinage, Weights, and Measures? I ask that it be read.

The bill was read at length.

Mr. STEPHENS, of Georgia. Three or four bills upon this subject have already been introduced this morning and referred to the Committee on Coinage, Weights, and Measures, and I think this bill should take the same course.

Mr. FORT. I conceive that this bill relates to the currency quality of the silver dollar and in no degree to the question of coinage, which is entirely mechanical. I think the bill should go to the Committee on Banking and Currency, as it relates to the currency of the country.

The SPEAKER. That is a question for the House to determine. The gentleman from Illinois [Mr. FORT] moves that the bill introduced by him be referred to the Committee on Banking and Currency. The gentleman from Georgia [Mr. STEPHENS] moves to amend so as to refer the bill to the Committee on Coinage, Weights, and Measures. The question will be first upon the amendment.

The question was taken upon the motion of Mr. STEPHENS, of Georgia; and upon a division—ayes 106, noes 40—it was agreed to.

So the bill was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JAMES D. R. BROWN.

Mr. TOWNSHEND, of Illinois, introduced a bill (H. R. No. 5278) granting an increase of pension to James D. R. Brown, late private Company H, Sixty-sixth Regiment of Indiana Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL Z. WARD.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 5279) granting a pension to Daniel Z. Ward, late a private in Company I, One hundred and seventeenth Regiment of Infantry, Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WYATT BOTTS.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 5280) granting a pension to Wyatt Botts, late a private in Company B, Eighty-eighth Regiment of Infantry, Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE A. WILSON.

Mr. BOYD introduced a bill (H. R. No. 5281) for the relief of George A. Wilson, of Peoria, Illinois; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

INTERNAL IMPROVEMENTS IN MISSOURI.

Mr. BUCKNER introduced a bill (H. R. No. 5282) for the improvement of the navigation of the Cuivre River, in the State of Missouri; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. BUCKNER also introduced a bill (H. R. No. 5283) to improve the landing and harbor at Saint Charles, Missouri, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOSEPH H. M'GEE.

Mr. POLLARD introduced a bill (H. R. No. 5284) granting a pension to Joseph H. McGee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. SLEMONS introduced a bill (H. R. No. 5285) to repeal section 3412, chapter 8, second edition, Revised Statutes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

JUDICIAL RECORDS OF WESTERN DISTRICT OF TEXAS.

Mr. REAGAN introduced a bill (H. R. No. 5286) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TRADE-DOLLAR.

Mr. PRICE introduced a bill (H. R. No. 5287) making the trade-dollar a legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

COLONEL G. W. LAPOINTE.

Mr. HUMPHREY introduced a bill (H. R. No. 5288) granting a pension to Colonel G. W. Lapointe; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRIVATE LAND CLAIMS.

Mr. PAGE (by request) introduced a bill (H. R. No. 5289) to provide for ascertaining and settling private land claims in certain States and Territories; which was read a first and second time.

Mr. PAGE. I ask that this bill be referred to the Committee on Public Lands, and ordered to be printed.

The SPEAKER. By the title of the bill, the more appropriate reference would appear to be the Committee on Private Land Claims.

Mr. PAGE. I think the bill ought to go to the Committee on Public Lands.

The SPEAKER. Does it relate to private land claims? If it does, it ought to go to the Committee on Private Land Claims.

Mr. PAGE. Very well; let it go there. If that is not the right reference it can be changed.

The SPEAKER. The Chair will give the gentleman every opportunity to correct the reference if it should be erroneous.

The bill was referred to the Committee on Private Land Claims, and ordered to be printed.

MARCELLUS WILSON.

Mr. LUTTRELL introduced a bill (H. R. No. 5290) to amend an act entitled "An act to restore the name of Marcellus Wilson, of the Regiment of Mounted Riflemen in the Mexican war, to the pension roll;" which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RILEY, HARDIN & TAYLOR.

Mr. LUTTRELL also introduced a bill (H. R. No. 5291) for the relief of Riley, Hardin & Taylor; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JURISDICTION OF COURT OF CLAIMS.

Mr. LUTTRELL also introduced a bill (H. R. No. 5292) to confer upon the United States Court of Claims jurisdiction in certain cases; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SACRAMENTO RIVER.

Mr. LUTTRELL also introduced a bill (H. R. No. 5293) to appropriate money to improve the navigation of the Sacramento River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

FEATHER RIVER.

Mr. LUTTRELL also introduced a bill (H. R. No. 5294) to appropriate money to improve the navigation of Feather River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

KLAMATH INDIAN RESERVATION, OREGON.

Mr. LUTTRELL (by request) also introduced a bill (H. R. No. 5295) to adjust the claims of the owners of lands within the limits of the Klamath Indian reservation in the State of Oregon; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SETTLERS ON LANDS IN MINNESOTA.

Mr. STEWART introduced a bill (H. R. No. 5296) for the relief of settlers on lands in Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

COIN AND BULLION RESERVES, TREASURY UNITED STATES.

Mr. PHILLIPS introduced a bill (H. R. No. 5297) to maintain and limit the coin and bullion reserves in the Treasury of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

SIOUX CITY AND PEMBINA RAILROAD.

Mr. KIDDER introduced a bill (H. R. No. 5298) granting the right of way and depot grounds to the Sioux City and Pembina Railroad Company through the public lands of the United States from Beloit, in the State of Iowa, to the Missouri River, in the Territory of Dakota, at or near the mouth of White River; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

EXPULSION OF JULIUS BAUMER.

Mr. BRENTANO, by unanimous consent, submitted the following resolution; which was referred to the Committee on Foreign Affairs:

Resolved, That the President of the United States be requested to transmit to this House, if not incompatible with the public interest, all the papers and correspondence between this Government and the government of the German Empire in reference to the expulsion from the whole territory of the German Empire of Julius Baumer, a naturalized citizen of the United States, and a resident of the city of Chicago, in the State of Illinois, while on a visit to his aged parents at Münsten, Westphalia, in the Kingdom of Prussia, by the Prussian government, in violation of the treaty of May 1, 1828.

PURCHASE OF FOREIGN-BUILT SHIPS.

Mr. HARRISON introduced a bill (H. R. No. 5299) to amend the Revised Statutes of the United States so as to allow the purchase and register of foreign-built ships by citizens of the United States; which was read a first and second time.

Mr. HARRISON. I move that bill be referred to the Committee on Commerce and ordered to be printed.

Mr. KELLEY. The proper reference would be to the Committee of Ways and Means, and I make that motion.

Mr. HARRISON. Let the bill be read.

The bill was read, as follows:

A bill to amend title 48 of the Revised Statutes of the United States so as to authorize the purchase of foreign-built ships by citizens of the United States.

Be it enacted by the Senate and House of Representatives, &c., That so many of the various provisions of title 48 of the Revised Statutes, entitled "Regulations of Commerce and Navigation," embraced in chapters 1 to 9 in said title, and from section

4131 to section 4305, both inclusive, as prohibit or restrict citizens of the United States from purchasing ships built in other countries, to be used in the carrying trade of the United States, or which impose taxes, burdens, or restrictions on such ships, where owned by American citizens, which are not imposed on ships built in the United States, be, and hereby are, repealed; and it shall be lawful hereafter for all citizens of the United States to buy ships built in whole or in part in any foreign country and have them registered as ships of the United States; and when so purchased and registered, such ships shall be entitled to all the rights and subject only to the same regulations as are now provided by law for the government and management of ships built wholly within the United States and owned and controlled by citizens thereof.

Mr. REAGAN. Mr. Speaker, that subject-matter has been before the Committee on Commerce, and in my judgment it is not appropriate to the Committee of Ways and Means.

Mr. KELLEY. I desire to say that it is a proposition seriously affecting the revenues, as well as the whole tariff system. It proposes to admit, when manufactured into a ship, an infinite number of dutiable articles; and as questions of revenue belong to the Committee of Ways and Means, it seems to me the bill should go to that committee. It would work a complete revolution in many departments of our customs revenue, and no subject could be more appropriate for the consideration of the committee charged with that subject than the one here involved.

Mr. WOOD. I concur entirely with the gentleman from Pennsylvania, and for the additional reason that the subject has been already referred by the House to the Committee of Ways and Means. That committee had it under consideration during the last session, and came to a conclusion upon it. As it does involve, as my friend has said, questions of revenue and tariff, it certainly should go to the committee having exclusive jurisdiction of those subjects.

The SPEAKER. The Chair begs to remind the House debate on this must be very brief.

Mr. HARRISON. One word. My impression is, both the gentlemen of the Committee of Ways and Means are widely mistaken in their construction of this proposition. There is now no duty on ships. This is simply a question whether a ship built in foreign ship-yards may be introduced into the United States or not.

Mr. KELLEY. It is made up of dutiable articles.

Mr. HARRISON. If you please, it is not whether duty shall be taken off, but shall foreign-built ships be allowed to be brought here and registered? May they be brought into this country? I moved to refer it to the Committee on Commerce as the committee eminently fitted and properly constructed to examine into that question. It relates to commerce, which is of more importance to the country than anything else. It is wholly a question of commerce, and not of revenue.

Mr. REAGAN. The question of revenue does not enter into this matter, but, as indicated in the bill, it is a question of policy. The policy of the bill is the main subject, and that is whether foreign-built ships, which are now prohibited from being purchased and put under commission in the United States, may be hereafter brought in. That does not affect the revenues directly, because foreign-built ships are now prohibited and no duty or revenue is collected from them. It is not a question primarily of revenue at all. That is but the incident to the question which is presented to the House, which is one relating to the commercial interests of the country.

The SPEAKER. The gentleman from Illinois, who introduces the bill, moves to refer it to the Committee on Commerce. The gentleman from Pennsylvania [Mr. KELLEY] moves to amend that motion so that the bill shall be referred to the Committee of Ways and Means. The question is first on the amendment.

The House divided; and there were—ayes 83, noes 85.

Mr. KELLY and Mr. LUTTRELL called for tellers.

Tellers were ordered; and Mr. HARRISON and Mr. KELLEY were appointed.

The House again divided; and the tellers reported—ayes 66, noes 91.

So the amendment was not agreed to.

The motion was agreed to; and the bill was accordingly referred to the Committee on Commerce, and ordered to be printed.

TERMS OF COURT IN KANSAS.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 5300) to provide for the holding of terms of the district and circuit courts of the United States at Fort Scott, Kansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOSEPH POTTS.

Mr. CRITTENDEN, by unanimous consent, introduced a bill (H. R. No. 5301) to place the name of Joseph Potts, of Johnson County, Missouri, on the pension-list; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TRADE-DOLLARS.

Mr. BAKER, of Indiana, by unanimous consent, introduced a bill (H. R. No. 5302) making the trade-dollars convertible into the legal-tender silver dollars at par, at the option of the holders, and to regulate and restrict the coinage of trade-dollars; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

HELEN M. SCHOLEFIELD.

Mr. BACON, by unanimous consent, introduced a bill (H. R. No. 5303) for the relief of Helen M. Scholefield, administratrix of the estate of Major C. M. Scholefield, deceased, late an additional paymaster of the Army; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

TRADE-DOLLARS.

Mr. CUTLER, by unanimous consent, introduced a bill (H. R. No. 5304) to provide for retiring the trade-dollar and for its recoinage into the standard silver dollar; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

NATURALIZATION TREATY WITH PRUSSIA.

Mr. SPRINGER, by unanimous consent, introduced a joint resolution (H. R. No. 204) providing for the termination of the naturalization treaty between the United States and Prussia; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DURHAM. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding to the consideration of the Military Academy appropriation bill, and pending that motion I move that all general debate on the bill be limited to five minutes.

The motion to limit debate was agreed to.

The motion that the House resolve itself into the Committee of the Whole on the state of the Union was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. BLACKBURN in the chair.

The CHAIRMAN. Under the order of the House the committee takes up for consideration at this time the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes. The House has ordered that general debate be limited to five minutes.

Mr. CONGER. I wish to inquire of the gentleman reporting the bill if it has been printed.

Mr. DURHAM. Yes, sir; the bill is in print. The printer's number is 5889. I ask that by unanimous consent the first reading of the bill be dispensed with.

There was no objection.

The clerk proceeded to read the bill by paragraphs for amendment, and read the following paragraph:

For repairs and improvements, timber, plank, boards, joists, wall-strips, laths, shingles, slate, tin, sheet-lead, zinc, nails, screws, locks, hinges, glass, paint, turpentine, oils, bricks, varnish, stone, lime, cement, plaster, hair, sewer and drain pipe, blasting-powder, fuse, iron, steel, tools, mantels, and other similar materials, and for pay of citizen mechanics and labor employed upon repairs that cannot be done by enlisted men, $11,000.

Mr. BEEBE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding after line 50 as follows:
For furnishing an increased and permanent supply of water, $50,000.

Mr. BEEBE. Mr. Chairman, after a somewhat careful personal examination into this matter, I have become thoroughly convinced that it is absolute inhumanity on the part of the Government of the United States to maintain that post at West Point in the condition it is in at present. The Department, the officers in command, and all interested there, have year after year asked Congress to make an appropriation that will provide an increased supply of water. They need it for personal use; they need it in order to render available the drainage facilities of the Academy. That post is now in such a condition that the sanitary interests of those who are compelled to remain there absolutely demand this appropriation. The Board of Visitors have repeatedly recommended it, and all the officers stationed at the post.

All that is asked to secure a wholesome supply of water for the use of the academy is a small appropriation of $50,000. The stream which has supplied fresh water to that post for years has been decreasing in its volume because of the removal of timber and for other reasons, and now this additional source of supply is absolutely required, and I trust the committee will recommend the adoption of the amendment I have suggested. In respect to the matter of supply the Board of Visitors adopted the following resolution:

Resolved, That this board, after careful examination, is satisfied that the present water supply of the post is wholly inadequate to the sanitary requirements of the cadets, officers, and men here stationed, or to furnish proper facilities for the protection of the public buildings and property in case of fire.

Those extensive and expensive buildings are almost wholly at the mercy of the flames at certain seasons of the year. When the water supply is diminished, should fire break out in those buildings it would be absolutely impossible to save them. Every consideration of economy, as well as of humanity, demands that this appropriation be made, and I earnestly hope that this committee will second me in my effort to secure it.

Mr. DURHAM. This is not the first time that a proposition has been made here for the purpose of purchasing what is called "Round Pond." But the recommendation of my friend from New York makes a difference of $10,000. The Book of Estimates only asks for $40,000, but my friend goes $10,000 further; he wants $50,000.

Now, at the last session the commandant of the post recommended the purchase of what is called "Round Pond," a small lake about four

miles from this little town. Now, it is true the Board of Visitors recommended the purchase of this pond, but they do not place it upon as high ground as the gentleman from New York. My friend argues very strongly that this matter is absolutely necessary.

There is nothing in the Book of Estimates or in the recommendation of the Board of Visitors that this thing is absolutely necessary, and the committee have not come to the conclusion that it is absolutely necessary. It may be very proper, it may be very expedient under certain circumstances to have that pond. I will venture the assertion that they do not need "absolutely" this supply of water.

It is like what is called the "hospital." The hospital foundation was laid there for a splendid superstructure, and after years shows that it is scarcely needed at all. What I mean by that is that it is a sort of luxury that can be used, and hence it is that the committee of visitors recommend the $40,000 and not $50,000. Still it is not necessary that it should be purchased; they can do very well without it; a conclusion the committee came to after mature deliberation.

Why, Mr. Chairman, if I have but a moment further——

Mr. BEEBE. If the gentleman will allow me I must be permitted to say that they have not done "very well without it."

Mr. DURHAM. Why! there is not a healthier place scarcely anywhere than West Point. In regard to the hospital, I understand the record shows that there have not been a half dozen students sick at any one time.

Mr. FOSTER. Inasmuch as the Board of Visitors has been referred to, I will send up to the Clerk's desk to be read their report on this subject.

The Clerk read as follows:

In respect to the matter of water supply, the board adopted the following resolution:

Resolved, That this board, after careful examination, is satisfied that the present water supply of the post is wholly inadequate to the sanitary requirements of the cadets, officers, and men here stationed, or to furnish proper facilities for the protection of the public buildings and property in case of fire.

From a letter addressed to the board, at their request, by Captain C. H. Ernst, of the Corps of Engineers, (and which will be found in full in the appendix to this report, marked B,) and from other sources of information, it appears that during the dry seasons the ordinary supply of water for the post not unfrequently fails entirely, while the quality is at all times indifferent.

During the summer of 1876, for several weeks the use of bath-rooms and water-closets was prohibited, the water backs of all ranges were removed at considerable cost for plumbing, and at the front gate of each house was to be seen a barrel, which was filled daily from a cart. During this time there were no means of checking a fire had one broken out, the health of the inhabitants was in danger from the poisonous gases from sewers and waste-pipes, and much labor needed for other things was absorbed in providing the daily supply such as it was.

In 1877 the regular supply of water was again exhausted and water had to be repumped into the main from a spring near the level of the Hudson River, which is about one hundred and fifty feet below the level of the principal buildings.

This expedient presented the necessity of removing the water backs and of hauling, but it furnished no protection against fire and would not have answered the other purposes for any considerable length of time.

A good and adequate supply of water for all the academical buildings and grounds can, however, be readily obtained from a small mountain lake or pond situated about four miles from the post and at an elevation above the post of about seven hundred and fifteen feet. And this lake and the necessary lands adjoining can now be purchased by the Government, and all the expenditures for conducting a supply of four hundred thousand gallons daily to the post be defrayed at a cost which will not be in excess of $40,000.

Mr. FOSTER. The report of the Board of Visitors establishes three things: first, that at all times the quality of the water is indifferent; secondly, that in dry seasons they have no supply at all, and the cadets are prohibited from using the closets; lastly, that there is no protection against fire.

Now, these are the three things that this House should consider: first, that at all times the quality of the water is indifferent, and during the last three seasons they have been compelled to haul water for their supply, and there is no protection against fire.

Mr. BEEBE. The gentleman from Kentucky——

Mr. FOSTER. Just a word, Mr. Chairman. I suggest to my friend from New York that he reduce the amount.

Mr. BEEBE. That is what I propose to do. Feeling as I do the necessity for prompt action in this matter, I introduced the resolution for the sum of $50,000.

As to the play that my friend from Kentucky, the distinguished logician, makes upon the term absolutely, I suppose this bill is not absolutely necessary, and I suppose the Government of the United States could continue its existence without it. I suppose the country could be continued without any West Point whatever. We might resolve ourselves into a community of Quakers, and when smitten upon one cheek turn the other also. The information that I have obtained is by personal inspection upon the ground. I went to West Point prejudiced against this proposition. I make no proposition for the purchase of Round Lake or any other pond. I merely submit that there shall be some interest taken by the Government of the United States in the matter of the protection of the property from fire.

I ask that the appropriation be reduced, as I have suggested, from $50,000 to $40,000.

Mr. BANNING. I wish merely to say in addition to the statement which has been read here from the report of the Board of Visitors for this year, that the Board of Visitors to West Point for the year previous, after having carefully examined this question, unanimously came to the conclusion that the water supply for the post should be increased, and reported unanimously in favor of an appropriation for that purpose.

Mr. DURHAM. I would ask my distinguished friend whether they recommended the purchase of Round Pond, as it is called here?

Mr. BANNING. I do not recollect whether we recommended the purchase of Round Pond or not. But after a careful examination of the question we found that the water supply was not sufficient, and that at times the quality of the water was not good. I think the question of Round Pond was brought up, but it was not fully considered. My recollection is that I was in favor of purchasing Round Pond. General Schofield and other distinguished officers favored that purchase because it afforded the best and most lasting supply of water.

I am quite willing to trust these men, the managers of the West Point post, in this matter, and to appropriate a sum sufficient to procure good fresh water for the institution. I hope the amendment will prevail.

Mr. DURHAM. I am certainly as good a friend of that institution as any gentleman upon this floor, and I want these students to be healthy: I want the professors to be healthy. It is something a little remarkable that gentlemen cannot point out any case of disease that has occurred at West Point because of this impure water of which they are complaining. No such statement is made in the report anywhere. There is simply in the Book of Estimates a recommendation to purchase the pond, perhaps not in as strong terms as the Board of Visitors would make it. Now I suggest that if a supply of water be necessary there, $10,000 will be sufficient to pay for putting in plenty of good cisterns, which will be of more use than all the round ponds in the country. [Mr. BEEBE shook his head.] The gentleman may shake his head. I do not know whether this is in his district or not.

Mr. BANNING. Will the gentleman allow me——

Mr. DURHAM. I have yielded to the gentleman once.

Mr. BANNING. And I yielded to you.

Mr. DURHAM. Very well, I will yield.

Mr. BANNING. The cisterns would be merely temporary, while the plan proposed will be permanent. We had better make permanent improvements than resort to temporary expedients.

Mr. DURHAM. Why, sir, they had a pond, and they say it has gone dry. You can fill the cisterns every winter. This pond may go dry, too.

Mr. FRYE. Will the gentleman allow me a question?

Mr. DURHAM. Certainly, if I am allowed time.

Mr. FRYE. The gentleman says that sufficient and proper cisterns can be made for $10,000. Could not good pine-wood water-tanks be made cheaper?

Mr. DURHAM. How is that? I did not hear the gentleman distinctly.

Mr. FRYE. Would not some good pine-wood water-tanks, costing about $50 each, be much cheaper?

Mr. DURHAM. I do not know. I do not live in a pine country; the gentleman does. I do not know anything about pine. If the gentleman will talk about oak, then I can tell him something about that.

Mr. BEEBE. Perhaps the gentleman from Kentucky [Mr. DURHAM] is prejudiced against water. [Laughter.]

Mr. DURHAM. Ah! "prejudiced against water." I might say that the gentleman himself might not need it when there was so much of a mixture up there.

Mr. BANNING. The pond that went dry was an artificial pond, such as the gentleman proposes to make. This is a natural lake giving a large and sufficient supply of water.

Mr. SPARKS. Will it not go dry, too?

Mr. BANNING. Not until the Lord makes all things dry.

Mr. DURHAM. This is an expensive luxury which is proposed. I insist that this institution has got along with their present supply of water without any inconvenience whatever. I insist that one-fourth of this proposed appropriation will supply a system of cisterns that will be better a great deal than this Round Pond.

Permit me to say that only two years ago the estimate was that with $13,000 we could obtain as good a supply of water for this institution as was needed. But Round Pond was not discovered then. It has been discovered within the last two years, and consequently it is proposed to increase the appropriation from $13,000 to $40,000. That is the whole state of the case.

Mr. FORT. I was one of the Board of Visitors who it is said made the report which has been referred to here. Now, in regard to that report, allow me to say that I never saw it or heard of it until it was read here to-day. I will further state that as one of the members of that board I did try to investigate this subject of a supply of water for that post. My colleague, General MANNING, of Mississippi, and myself made a visit to this famous Round Pond that has been referred to.

Mr. WHITE, of Pennsylvania. Call it lake.

Mr. FORT. Well, call it a lake. If it is a lake it is a very small lake; and it is not a very large pond, either. [Laughter.]

I will say for one that I would be entirely willing to vote for $50,000, or even more, to supply that post permanently with water; but I must say that when I came to see this pond or lake I was very much disappointed. I fear that if we should appropriate $50,000 to provide for carrying the waters of this pond to supply this post, in a very short number of years we should have to hunt for some other pond from which to get water. That is the only thing which would make me hesitate to vote for this appropriation. If the gentleman from New York [Mr. BEEBE] can assure the House that this pond

will give a sufficient supply of water I shall be inclined to vote for his amendment.

Mr. BEEBE. If the gentleman will allow me just a moment, I merely desire to say that I object to the disposition evinced here to prejudice this proposition by connecting it with Round Pond or any other pond. I merely want the West Point Academy supplied with a sufficient quantity of pure, wholesome water.

Mr. FORT. That is just what I wish.

Mr. BEEBE. There is nothing in the amendment I propose that has any reference at all to Round Pond. I do not care how the appropriation is limited, or how carefully it is guarded, but I do contend that some measure of this sort should be adopted.

Mr. FORT. The Board of Visitors was informed that a survey had been made for the purpose of laying down pipes to Round Pond, and also an estimate of the cost. In that estimate the price of the pond was put, I think, at $3,000, while the right of way to the pond made up in our judgment, or at least in my judgment, an enormous part of the appropriation.

I fear that on tapping the pond it may be found that its supply of water will be inadequate, because a very small water-shed drains into the pond—perhaps not more than twenty or thirty acres; and whether the pond has any subterranean supply is not clear, to me at least. If it should be found that this pond will furnish a sufficient supply of water, I think it our duty to tap it for the benefit of this Military Academy; but I, for one, am not satisfied that such is the case.

Mr. FINLEY. Mr. Chairman, as I understand, the amendment of the gentleman from New York does not provide for the purchase of Round Pond. I do not understand how gentlemen reach the conclusion that this is a proposition to purchase Round Pond. I hold the amendment in my hand, and it provides for an appropriation of $40,000 for furnishing a permanent supply of water. I observe that in the Book of Estimates authority of law is asked for the purchase of Round Pond; and I doubt very much whether the Secretary of War, without specific legislation, would have power to make a purchase of that kind. I certainly understand that the amendment of the gentleman from New York does not confer such power, but simply gives the superintendent of the academy authority to increase the supply of water.

As I understand from the gentleman from Ohio [Mr. BANNING] and others that the Board of Visitors recommends this appropriation and deems it necessary on the ground that the present supply of water is inadequate, I am prepared to vote for it. I think we should not be picayunish in a matter of this kind. I believe we should make a sufficiently liberal appropriation. While I would object, without further consideration and further information on the subject, to the purchase of Round Pond, I am, nevertheless, willing to vote for this appropriation for an additional supply of water.

Mr. BLOUNT. Mr. Chairman, the arguments presented in this discussion in relation to the quantity of water required at West Point remind me of a similar discussion which sprang up here in reference to a hospital at the same place. If you will take the reports of the Surgeon-General's Office for many, many years, you will find them to contain highly complimentary language as to the facilities provided at West Point for hospital purposes. Yet suddenly, during the first session of the last Congress, we were informed that the hospital facilities there were inadequate, and a very great outcry was raised on that point; but when we came to inquire into the matter more particularly we found connected with the idea of increased hospital facilities a very earnest desire on the part of certain officers at West Point for increased accommodations for their families. The idea was to get a new hospital and use the present one as quarters for officers' families. The two ideas grew up together, side by side. The idea of procuring additional accommodations for the families of officers was the underlying consideration of the proposition to provide increased facilities for meeting the wants of the sick. Until the former object was conceived there had been no suggestion in reference to the latter.

So, likewise, in regard to this proposed appropriation for increasing the water facilities. The gentleman from Ohio has read from the report of the Board of Visitors for 1876 and 1877. It was then that this agitation of an increased water supply commenced. Prior to that time there had been no trouble. Gentlemen do not cite the reports of previous Boards of Visitors. Suddenly an idea was conceived that the water supply was short; and that idea has been hammered at ever since. It is impressed upon the Board of Visitors whenever they go there. It has been urged in this way for the last two years.

Sir, no proposition comes to this House that is not covered all over with reasons, reasons which as a general rule disappear on investigation. In nothing do we see more fertility than in finding expedients and reasons for getting appropriations through this House. I trust that at least in this short session we shall not countenance any proposition of this kind.

Mr. BRIDGES. Mr. Chairman, I am opposed to this appropriation, both on principle and from experience. I look upon it as the forerunner of another appropriation which this House will be called upon to make in a very short time. If we now appropriate this sum of $40,000, it will not be long before we shall be informed that the amount has been expended, and we shall be urged to make another appropriation. I have not learned from the discussion thus far whether there has been any survey by an experienced engineer of the ground from the pond to the point where it is proposed to introduce the water. We have no estimate of the cost, no data upon which we can safely rely in making the appropriation now asked for.

Sir, I am reminded of an occasion during the Thirty-third Congress when this House was called upon to appropriate money for the purpose of introducing water from the Upper Potomac into the city of Washington for the purpose, as was alleged, of protecting the public buildings. I opposed that measure. I said then that if the introduction of water for the purpose of protecting the public buildings was the only object, we could obtain water from the Potomac near by, and force it up into a reservoir here upon Capitol Hill, (just as has been done at Fairmount, in Philadelphia,) to be distributed thence to every public building in the city for its protection. But there was an undercurrent in connection with that proposition. That was not the only reason given for introducing water in that manner. Almost every inhabitant of the city of Washington would button-hole members of Congress and say it was necessary to have water. But, sir, it was for their own domestic purposes more than for the protection of the public buildings. I said then, "appropriate money for the introduction of water from the Upper Potomac as it has been introduced and it will cost this Government millions and millions of money." My prediction has proven to be true, for that aqueduct has cost this Government many millions of money to introduce the water as it is introduced now.

I therefore say this appropriation will be only the forerunner of another appropriation, and it will not be long before we will be called upon to grant more money for the purpose of introducing water from perhaps another round pond.

Besides, we have yet to learn whether there is any outflow of water from this pond, and if so, what the quantity of that outflow is. Now we should know that before we make this large appropriation of money for any such purpose.

Mr. HEWITT, of New York. I move, Mr. Chairman, the following amendment to the amendment of my colleague.

The Clerk read as follows:

Provided, That not more than $5,000 shall be expended for the purchase of the necessary land and water rights and the right of way: *And provided further*, That no portion of the sum hereby appropriated shall be expended until the Secretary of War shall decide that the sum hereby appropriated is sufficient to secure an adequate supply of pure water.

Mr. HEWITT, of New York. Mr. Chairman, from the statements which have been submitted to the committee it is quite evident this House is not in possession of such information as will enable it to legislate intelligently on this important matter. It is not clear that even $40,000 will secure the property necessary to give an adequate supply of water. There is an estimate in the report of the Board of Visitors by which $5,000 is allowed for that purpose, but I also observe that the quantity of water as there estimated for is limited to the period which covers the dry season, and that is supposed to be sufficient for some time to come—several years to come.

I think it is admitted by everybody this post ought to be supplied with good water, but I think we should proceed with some caution in the matter. The Secretary of War undoubtedly, if the amendment is put in the form which I suggest, will be very careful to permit no expenditure unless he is satisfied there will be a permanent adequate supply of pure water. I trust with that amendment the motion of my friend from New York will be adopted.

Mr. BEEBE. I understand my colleague from New York to state that amount of $5,000 is what the estimate specifies for the purpose. With that view and with that understanding, I think the committee is ready to accept that amendment.

Mr. WHITE, of Pennsylvania. Mr. Chairman, I am not willing to vote for this amendment after the remark made by my friend from Illinois, [Mr. FORT,] who said that he was one of the visitors last year to West Point, and that so far as this report is concerned he never saw it and did not join in it. He told us, furthermore, that he had visited this Round Lake or Round Pond, and from the examination that he was able to make he is satisfied it is not sufficient for the purpose in contemplation.

Now, I find in an appendix to this report of the Board of Visitors to West Point an itemized statement of the amount necessary to purchase this lake and to make the necessary connection for supplying water to this post. If the information of the gentleman from Illinois is correct, then this appropriation is practically little more than a waste of the public money, for it will not accomplish the purpose desired. The estimate of the amount necessary to purchase this lake or pond and eleven acres of ground in the aggregate is $5,000. Pass the amendment of the gentleman from New York and it will commit this House and the Government to the purchase of property which the gentleman from Illinois has told us will not accomplish the purpose.

Mr. BEEBE. It does not commit the Government at all.

Mr. HEWITT, of New York. Let me say that in the amendment I offer it is limited and dependent upon the decision of the Secretary of War that this money will accomplish the purpose.

Mr. WHITE, of Pennsylvania. If the gentleman will allow me, I fancy the head of the Department will be regulated by the report of the engineers, whose statement, made here, is in favor of this purchase of Round Lake, which the Board of Visitors, according to the statement of the gentleman from Illinois, do not approve of.

Mr. HEWITT, of New York. Some one must decide all these questions.

Mr. WHITE, of Pennsylvania. I am aware of that, but it is for the House to decide now whether it will make this appropriation of money or not.

Mr. DURHAM. I wish to say one single word, and that is simply this: In reference to the statement made by the gentleman from Illinois, the House will bear in mind these reports are all gotten up without the sanction of the whole Board of Visitors. Some, perhaps, may never see the report. The gentleman from Illinois said he never saw it, and I venture the statement that my friend from Mississippi never saw it until it came to the House. As has been remarked by my friend from Georgia, this is the way in which these matters are gotten up at these institutions.

Mr. BLOUNT. The gentleman from Mississippi said that he never did see it.

Mr. DURHAM. He told me so a moment ago.

Mr. FORT. I do not wish to impeach this report in any way. I only wish to say that I never saw it myself until to-day.

Mr. DURHAM. I wish to say to the gentlemen of this committee, if they come to serve on the Committee on Appropriations they will find that they will have to be very careful about all these estimates. The gentleman from New York [Mr. BEEBE] says he has made an investigation about this matter. So have I. I have not been upon the ground so as to make a personal examination. I have, however, made use of all the means in my power, and I say this committee ought to be cautious about committing themselves to this forty-thousand-dollar proposition. I ask for a vote.

Mr. FORT. I desire to say a word. This report speaks of the purchase of eleven acres. It ought to be understood that these eleven acres are not all covered with water; they include all the ground that drains into this pond. The pond itself is a very small affair; eleven acres are what drains into it; and if the Government purchases eleven acres, it will purchase all the land that drains into this lake. For my part, I am in favor, as I said before, of supplying that post with water, but I was not quite sure that this small pond would be adequate for the purpose.

Mr. HEWITT, of New York. I would like to ask my friend from Illinois whether he does not think the amendment I have offered guards that sufficiently: that no portion of the money shall be expended until the Secretary of War shall be satisfied and decides it is sufficient.

Mr. FORT. I think that ought to guard it.

Mr. MANNING. I desire to correct an impression which perhaps exists in the mind of my friend from Kentucky, [Mr. DURHAM.] I never saw the report submitted by Mr. Wells, the president of the Board of Visitors, until yesterday. But I do not mean here and now to condemn this report. After a somewhat hasty reading of it, so far as I am aware, I concur in the suggestions which the report contains. I took the trip which was referred to by my friend from Illinois [Mr. FORT] to see this mountain pond. Indeed, I introduced the resolution before the Board of Visitors that we should examine that pond and take the engineer with us so as to see what the probable cost would be. Of course our examination was a hasty one, and we relied largely upon the engineer who accompanied us upon that trip.

I felt quite sure when at West Point, and I have learned nothing since to change that opinion, that the supply of water was inadequate. And I desire to say to my friend from Georgia [Mr. BLOUNT] that I do not agree with him that in 1876, for the first time, a cry was raised that there was not a sufficient supply of water at West Point. I heard there, and I see that Mr. Wells has made the statement here, that

From other sources of information—

Speaking of the question whether they had sufficient water or not—and I may say that I heard it from many persons; General Schofield was perhaps my first informant, the engineer, Captain Ernst, was another, I think, with whom I conversed—

From other sources of information, it appears that during the dry season—

Not in 1876 merely, but for years—

the ordinary supply of water for the post not unfrequently fails entirely, while the quality is at all times indifferent.

I heard from several gentlemen that barrels of water were placed at the gates of the persons who resided there—the persons belonging to the Academy, students and professors. I heard that the baths had to be abandoned; I heard that the closets had to be abandoned, and that two millions of property were exposed there, during the dry seasons, to fire.

I am not prepared to say at this moment, for I do not know, whether $40,000 is too much. I had to rely then, and I do so now, very largely upon the estimate made by Captain Ernst. I did not catch the precise effect of the amendment of the gentleman from New York [Mr. HEWITT] to the amendment of his colleague, [Mr. BEEBE.] Before the vote is taken I would ask that that amendment be again read.

The amendment to the amendment was again read.

Mr. BEEBE. Is it competent for me to accept the amendment of my colleague?

The CHAIRMAN. It is competent for the gentleman to accept it unless there be objection. [After a pause.] There being no objection, the gentleman from New York [Mr. BEEBE] is permitted to accept the amendment offered by his colleague.

Mr. DURHAM. I ask for a vote on the amendment.

The question being taken on the adoption of the amendment as modified by the addition of the proviso offered by Mr. HEWITT, of New York, there were—ayes 86, noes 49.

So the amendment was agreed to.

Mr. DURHAM. I shall demand a vote in the House on that proposition.

The Clerk resumed the reading of the bill, and read the following paragraph:

For continuing and furnishing for use the main building and one wing for the new hospital for cadets, $12,000.

Mr. FOSTER. I move to amend by striking out "$12,000" and inserting "$30,000."

Mr. Chairman, it is the policy of the gentlemen having charge of the appropriations to build this hospital wing for cadets at West Point. I differ from them in this regard. It will take about $36,000 to complete the wing. They propose to appropriate $12,000 a year to do it. I think that unwise, and that it would be better, cheaper, and more economical to appropriate the entire sum at once. I think there is no disagreement in the committee as to the ultimate completion of the wing; but instead of making the appropriation by installments, as the sum is small, it strikes me that the wise course is to appropriate enough at once for the completion of the wing.

Mr. HEWITT, of New York. I suggest to my friend from Ohio to make the amendment so as to cover two years.

Mr. FOSTER. Make it, then, $24,000.

Mr. DURHAM. There was a fight over this matter at the last session, and this was rather a subject of compromise than otherwise on the part of the committee of conference at that time. It was a matter of compromise in the committee of conference that the appropriation should run in accordance with that agreement as stated by Mr. SMITH, of Pennsylvania, and myself. We put $12,000 this year, and I trust the House will stand by it. This is the cause of it. I admit very frankly that the work will be completed some time, but I hope the amendment will be voted down for the reason I have stated.

The question was taken on the amendment of Mr. FOSTER; and on a division there were—ayes 57, noes 61.

So the amendment was not agreed to.

Mr. DURHAM. I now move that the committee rise and report the bill to the House.

The question was taken, and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally and particularly the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, and had instructed him to report the same back to the House with an amendment, with a recommendation that the amendment be agreed to and that the bill be passed.

Mr. DURHAM. I move the previous question upon the bill and the amendment.

The previous question was seconded and the main question ordered.

The amendment reported by the Committee of the Whole on the state of the Union was read, as follows:

Amend by adding, after line 50, as follows:

For furnishing an increased and permanent supply of water, $40,000: *Provided*, That not more than $5,000 shall be expended for the purchase of the necessary land and water rights and the right of way: *And provided further*, That no portion of the sum hereby appropriated shall be expended until the Secretary of War shall decide the sum hereby appropriated is sufficient to secure an adequate supply of pure water.

The first question was upon agreeing to the amendment reported from the Committee of the Whole on the state of the Union.

Mr. DURHAM. On that amendment I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 140, nays 73, not voting 78; as follows:

YEAS—140.

Acklen,	Claflin,	Harmer,	McCook,
Aldrich,	Clark, Rush	Harris, Benj. W.	McGowan,
Bacon,	Cole,	Hart,	McKinley,
Bagley,	Conger,	Haskell,	McMahon,
Bailey,	Cox, Jacob D.	Hayes,	Metcalfe,
Baker, John H.	Cummings,	Hewitt, Abram S.	Mitchell,
Baker, William H.	Cutler,	Hooker,	Monroe,
Ballou,	Danford,	Hubbell,	Morse,
Banning,	Davis, Horace	Hunter,	Muller,
Bayne,	Davis, Joseph J.	Hunton,	Norcross,
Beebe,	Deering,	Humphrey,	Oliver,
Bicknell,	Denison,	Hungerford,	O'Neill,
Blair,	Dwight,	Ittner,	Overton,
Bliss,	Eames,	James,	Page,
Boyd,	Eickhoff,	Jones, John S.	Patterson, G. W.
Brentano,	Ellis,	Joyce,	Phillips,
Brewer,	Errett,	Keifer,	Pollard,
Briggs,	Evans, I. Newton	Keightley,	Potter,
Browne,	Evans, James L.	Ketcham,	Pound,
Bundy,	Finley,	Killinger,	Price,
Burchard,	Fort,	Lapham,	Pugh,
Calkins,	Fester,	Lathrop,	Rainey,
Campbell,	Franklin,	Lindsey,	Randolph,
Cannon,	Freeman,	Majors,	Reed,
Caswell,	Frye,	Manning,	Reilly,
Chalmers,	Gardner,	Marsh,	Rice, Americus V.
Chittenden,	Hardenbergh,	Mayham,	Robinson, G. D.

Robinson, M. S.	Stenger,	Townsend, M. I.	Williams, Andrew
Ryan,	Stone, John W.	Van Vorhes,	Williams, C. G.
Sampson,	Stone, Joseph C.	Veeder,	Williams, James
Sapp,	Strait,	Wait,	Williams, Richard
Shallenberger,	Thompson,	Ward,	Willis, Benj. A.
Smalls,	Thornburgh,	Watson,	Willits,
Smith, A. Herr	Tipton,	White, Michael D.	Wood,
Starin,	Townsend, Amos	Williams, A. S.	Wren.

NAYS—73.

Aiken,	Dibrell,	Jones, Frank	Slemons,
Bell,	Dickey,	Kenna,	Sparks,
Blackburn,	Durham,	Kimmel,	Springer,
Blount,	Eden,	Knott,	Steele,
Boone,	Elam,	Landers,	Throckmorton,
Bridges,	Evins, John H.	Ligon,	Townshend, R. W.
Bright,	Felton,	Maish,	Tucker,
Buckner,	Forney,	Martin,	Turner,
Cabell,	Garth,	McKenzie,	Vance,
Caldwell, J. W.	Giddings,	Mills,	White, Harry
Clark, Alvah A.	Goode,	Muldrow,	Whitthorne,
Clark of Missouri,	Gunter,	Phelps,	Wigginton,
Clymer,	Hamilton,	Rea,	Williams, Jere N.
Cobb,	Harris, Henry R.	Reagan,	Willis, Albert S.
Collins,	Harris, John T.	Robbins,	Wilson,
Cook,	Harrison,	Robertson,	Wright.
Covert,	Herbert,	Ross,	
Cravens,	Hewitt, G. W.	Scales,	
Crittenden,	House,	Singleton,	

NOT VOTING—78.

Atkins,	Dean,	Hiscock,	Roberts.
Banks,	Douglas,	Jones, James T.	Sayler,
Benedict,	Dunnell,	Jorgensen,	Schleicher,
Bisbee,	Ellsworth,	Kelley,	Sexton,
Bland,	Ewing,	Knapp,	Shelley,
Bouck,	Fuller,	Lockwood,	Sinnickson,
Bragg,	Garfield,	Loring,	Smith, William E.
Brogden,	Gause,	Luttrell,	Southard,
Burdick,	Gibson,	Lynde,	Stephens,
Butler,	Glover,	Mackey,	Stewart,
Cain,	Hale,	Money,	Swann,
Caldwell, W. P.	Hanna,	Morgan,	Turney,
Camp,	Hartridge,	Morrison,	Waddell,
Candler,	Hartzell,	Neal,	Walker,
Carlisle,	Hatcher,	Patterson, T. M.	Walsh,
Clarke of Kentucky,	Hazelton,	Peddie,	Warner,
Cox, Samuel S.	Hendee,	Powers,	Yeates,
Crapo,	Henderson,	Pridemore,	Young.
Culberson,	Henkle,	Rice, William W.	
Davidson,	Henry,	Riddle,	

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. STEWART. I am paired with Mr. DAVIDSON, of Florida. If he were present, I would vote "ay."

Mr. DEERING. Mr. BANKS, of Massachusetts, is paired upon all political questions with Mr. BLAND, of Missouri.

Mr. HARRIS, of Massachusetts. My colleague, Mr. CRAPO, is confined to his room by sickness.

Mr. STRAIT. My colleague, Mr. DUNNELL, is absent on account of sickness. If he were present, he would vote "ay."

Mr. CLARK, of Missouri. My colleague, Mr. BLAND, is detained from the House by indisposition.

The result of the vote was then announced as above recorded.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DURHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WOOD. I move that the House now adjourn.

Mr. BAKER, of Indiana. I ask the gentleman from New York [Mr. WOOD] to withdraw that motion for a few minutes.

Mr. WOOD. For what purpose?

The SPEAKER. The Chair wishes to state that the gentleman from Indiana [Mr. BAKER] desires to ask the House to proceed now to the consideration of the fortification appropriation bill.

Mr. WOOD. How long will it take?

Mr. BAKER, of Indiana. The bill which I desire to have considered at this time is identically the same bill that was passed last year without objection by both Houses. I do not think its consideration will take more than five minutes.

Mr. WOOD. I will withdraw the motion to adjourn.

FORTIFICATION APPROPRIATION BILL.

Mr. BAKER, of Indiana. I move that the rules be suspended and the House now resolve itself into Committee of the Whole for the consideration of the fortification appropriation bill. And pending that motion I move that all general debate on the bill be limited to one minute.

The motion to limit debate was agreed to.

The motion of Mr. BAKER, of Indiana, was then agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. POTTER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BAKER, of Indiana. I ask unanimous consent that the first and formal reading of the bill be dispensed with, and that the bill be now read by paragraphs for amendment.

There was no objection, and it was so ordered.

The Clerk then read the bill.

No amendment was offered.

Mr. BAKER, of Indiana. I move that the committee now rise and report the bill to the House without amendment, and with a recommendation that the same do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POTTER reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, and had directed him to report the same back to the House without amendment, and with the recommendation that the same do pass.

Mr. BAKER, of Indiana. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. BAKER, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WOOD. I now renew the motion that the House adjourn.

YELLOW-FEVER EPIDEMIC.

The SPEAKER. The gentleman from Tennessee [Mr. YOUNG] asked this morning during the morning hour that a concurrent resolution offered by him to provide for a joint committee to investigate the subject of the yellow-fever epidemic be printed in the RECORD. It was not in order for the Chair to submit that request to the House at that time. The gentleman from Mississippi [Mr. HOOKER] made a similar request. The Chair would suggest that all the propositions upon the subject of the yellow-fever epidemic—there were but four or five of them—be printed in the RECORD.

There was no objection, and it was so ordered.

The concurrent resolutions are as follows:

By Mr. ACKLEN:

Resolved by the House of Representatives, (the Senate concurring,) That a committee of four members of the Senate and five members of the House of Representatives be appointed respectively by the President of the Senate and the Speaker of the House of Representatives to investigate the origin and causes of the late yellow-fever epidemic, to employ such experts, clerks, and stenographers as are needed, to send for persons and papers, to send said experts or visit by subcommittee the lately infected and other places, and to report at any time by bill or otherwise what legislation, if any, shall be enacted by Congress to prevent a recurrence of like epidemics.

By Mr. GIBSON:

Resolved by the House of Representatives, (the Senate concurring,) That a commission is hereby authorized and constituted, to consist of five (5) Senators, to be appointed by the Senate; five (5) members of the House of Representatives, to be appointed by the Speaker; and experts not exceeding seven (7) in number, to be selected by and associated with them, with authority to determine the time and place of meeting, to employ a stenographer and clerk, to take testimony, and whose duty it shall be to inquire into the recent history and the means of prevention and arrest of yellow fever, and to report the facts and their opinions and recommendations at any time.

By Mr. HOOKER:

Resolved by the House of Representatives, (the Senate concurring,) That a joint committee of seven on the part of the House and ——— on the part of the Senate be appointed by the presiding officers of the Senate and House, to be styled the Sanitary Committee, whose duty it shall be—

First. To inquire into the nature and cause of the recent yellow-fever epidemic.

Second. To inquire as to the safest and best mode of preventing its return by establishment of a national quarantine or otherwise.

Third. To confer with the legislative committee appointed by the national health convention at its recent session in the city of Richmond, Virginia.

Fourth. Said committee shall have power to send for persons and papers and to administer oaths to witnesses, and are empowered to report by bill or otherwise.

By Mr. YOUNG:

Whereas the epidemic which has recently prevailed in large districts of several of the States of the Union has been so destructive to human life and the interests and prosperity of the whole country as to make it a subject of gravest public concern, and its prevention in future an important duty, to the end that its return may be prevented so far as prompt and decided action can prevent,

Be it resolved by the House of Representatives, (the Senate concurring,) That a joint select committee of four Senators, to be appointed by the President of the Senate, and five Representatives, to be appointed by the Speaker of the House, be appointed to investigate and report the best means of preventing the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States. That said committee be allowed a clerk, and, if in the course of its investigations it is found necessary, a stenographer. And that said committee have power to send for persons and papers, to employ experts and scientists, not to exceed seven in number, and send them to, and by subcommittee visit, recently infected localities and other places for the purpose of obtaining the fullest and most accurate information; and that said committee may report at any time during the present session of Congress, by bill or otherwise.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (coming over from

the last session) of the following title; when the Speaker signed the same:

An act (H. R. No. 1625) granting a pension to Abram V. Miller, late a lieutenant in Company E of the One hundred and eighty-fourth Regiment of Pennsylvania Volunteers.

LEAVE OF ABSENCE.

Leave of absence was granted by unanimous consent as follows:

To Mr. MACKEY, for four days; and

To Mr. BURDICK, for ten days, on account of important business.

ISABEL L. EVANS.

Mr. BELL, by unanimous consent, introduced a bill (H. R. No. 5305) granting an increase of pension to Isabel L. Evans; which was read a first and second time, referred to the Committee on Invalid Pensions, andordered to be printed.

JOSEPH W. SEELEY.

Mr. BREWER, by unanimous consent, introduced a bill (H. R. No. 5306) to increase the pension of Joseph W. Seeley, late a private in Company H, Seventh Michigan Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COMPENSATION OF POSTMASTERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting a communication from the Sixth Auditor in relation to the compensation of certain postmasters; which was referred to the Committee on Appropriations.

REPORT OF THE COMPTROLLER OF CURRENCY.

The SPEAKER also laid before the House a letter from the Comptroller of the Currency, transmitting his annual report; which was referred to the Committee on Banking and Currency.

CONDITION OF THE FINANCES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, submitting his annual report on the condition of the finances for the year 1878; which was referred to the Committee of Ways and Means.

DOORKEEPER OF THE HOUSE.

The SPEAKER also laid before the House a letter from the Doorkeeper of the House of Representatives, transmitting an inventory of the public property in his possession at the commencement of the third session of the Forty-fifth Congress; which was referred to the Committee of Accounts, and ordered to be printed.

JUDGMENTS OF THE COURT OF CLAIMS.

The SPEAKER also laid before the House a letter from the chief clerk of the Court of Claims, transmitting, in pursuance of section 1057 of the Revised Statutes, a statement of the judgments rendered by said court for the year ending December 2, 1878; which was referred to the Committee on Appropriations.

SURVEYS OF THE TERRITORIES.

The SPEAKER also laid before the House a letter from the acting president of the National Academy of Sciences, transmitting a report from the National Academy of Sciences on the subject of the surveys of the Territories; which was referred to the Committee on Appropriations, and ordered to be printed.

The SPEAKER. This report is accompanied by additional documents. The Committee on Appropriations ought to be authorized to have printed such of the documents as to them may seem desirable. The Chair will ask that consent be given for that purpose.

There was no objection, and it was so ordered.

SITE OF CONGRESSIONAL LIBRARY.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the value of lands proposed to be purchased for the site of the Congressional Library; which was referred to the Committee on Appropriations.

LAWS OF MONTANA TERRITORY.

The SPEAKER also laid before the House a letter from the secretary of the Territory of Montana, transmitting laws, memorials, and resolutions of that Territory passed at the tenth regular session of the Legislative Assembly thereof, beginning January 8, 1877, and ending February 16, 1877; which was referred to the Committee on the Territories.

ORDER OF BUSINESS.

Mr. HEWITT, of Alabama. I desire to give notice that to-morrow, after the morning hour, I shall move to go into the Committee of the Whole for the purpose of considering further the bill (H. R. No. 257) granting pensions to certain soldiers and sailors in the Mexican and other wars therein named.

The motion of Mr. WOOD that the House adjourn was agreed to; and accordingly (at three o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: Papers relating to the claim of James A. Henry for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. BACON: The petition of Anson Dart, for compensation for services rendered the United States as Indian superintendent on the Pacific coast, northwest—to the Committee on Indian Affairs.

By Mr. BELL: The petition of Isabel L. Evans, for an increase of pension—to the Committee on Invalid Pensions.

Also, a paper relating to the establishment of post-routes from Hiwassee, Georgia, to Shooting Creek, North Carolina; from Jefferson to Jug Tavern; from Toccoa City, via Talula Falls, to Clayton; from Head of Tennessee to Burton; from Sulphur Springs to Sulphur Springs Station; from Gainsville, via Jug Tavern, to Monroe; from Belton to Cleveland; and from Maysville to Homer, all in the State of Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. BREWER: The petition of Joseph W. Seeley, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. BROGDEN: Papers relating to the claim of Benjamin F. Parrott for compensation for supplies taken by the United States Army—to the Committee on War Claims.

By Mr. BUCKNER: The petition of John George Hertwig, of Saint Louis, Missouri, for reimbursement of expenses in attending a competitive examination for a clerkship in the Interior Department—to the Committee of Claims.

By Mr. COLE: Memorial of Sam C. Reid, for himself and the heirs of the claimants of the late United States private armed brig General Armstrong, asking compensation for said brig destroyed by the British fleet on the 27th of September, 1814, in the port of Fayal, Azores Islands—to the same committee.

By Mr. CORLETT: A paper relating to the claim of T. E. Warren for supplies furnished the officers in charge of the penitentiary of Wyoming Territory in 1875—to the same committee.

By Mr. CRAVENS: Papers relating to the claim of James M. Barker for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, papers relating to the claim of Mrs. Ann Edmondson, of similar import—to the same committee.

Also, papers relating to the claim of Mary A. Wilson, of similar import—to the same committee.

By Mr. DAVIS, of California: The petition of Charles White, for compensation for property lost on board the Martha, captured by the Shenandoah—to the Committee on the Judiciary.

Also, memorial of merchants of San Francisco, California, relative to the distribution of the Geneva award—to the same committee.

By Mr. FORNEY: Papers relating to the claim of William H. Huff for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. GARTH: Papers relating to the claim of Sarah Townsley, administratrix of Stephen Townsley, deceased, of similar import—to the same committee.

Also, papers relating to the claim of Hamilton F. Arthur, of similar import—to the same committee.

By Mr. HARRIS, of Georgia: A paper relating to the establishment of post-routes from Oakland to Rocky Mount; from Campbellton, via Harrisville and Watkins, to Whitesburgh; and from Atlanta, via Ben Hill and Sandtown, to Chapel Hill, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. HEWITT, of Alabama: Papers relating to the claim of William T. Hamner for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, papers relating to the claim of John Belcher, of similar import—to the same committee.

By Mr. HOOKER: Papers relating to the claim of A. H. Gardner, of similar import—to the same committee.

By Mr. HUNTON: Papers relating to the claim of Duncan James, of similar import—to the same committee.

Also, papers relating to the claim of James H. Shumate, of similar import—to the same committee.

Also, papers relating to the claim of Arthur Ashton, of similar import—to the same committee.

By Mr. ITTNER: The petition of Adolph Bower, of Saint Louis, Missouri, to be refunded the amount collected from him by United States officials as tax on rope and bagging—to the Committee of Claims.

By Mr. JOYCE: Papers relating to the claim of David Ward for reimbursement of amount of a Treasury note destroyed by fire—to the same committee.

By Mr. LUTTRELL: The petition of Riley, Hardin & Taylor, for compensation for loss and injury sustained by raids of Indians of the Bannack and Piute tribes—to the same committee.

Also, resolutions of the Chamber of Commerce of San Francisco, California, opposing any reduction of the duties on foreign wines and spirituous liquors—to the Committee of Ways and Means.

Also, memorial of S. W. Rosenstock & Co., and 30 other mercantile firms of San Francisco, California, relative to the Geneva award—to the Committee on the Judiciary.

Also, the petition of Marcellus Wilson, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. MANNING: Papers relating to the claim of Thomas B. Smith, administrator of the estate of Thomas S. Hardaway, deceased, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. McMAHON: The petition of James Blair, late a private in Company E, First Regiment United States Cavalry, Mexican war, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Adam Miller, of similar import—to the same committee.

Also, the petition of Thomas Russell, of similar import—to the same committee.

Also, the petition of Henry S. Woodward, of similar import—to the same committee.

Also, the petition of Jacob Yeager, late a private in Company E, Seventy-ninth Regiment Indiana Volunteers and Veteran Reserve Corps, of similar import—to the same committee.

Also, the petition of Joseph Schultz, for arrears of pension—to the same committee.

Also, the petition of Michael Cable, for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. MORSE: The petition of the Boston Society of the Medical Sciences, that the metric system of weights and measures shall be exclusively used in all the business of the United States Government after some fixed date—to the Committee on Coinage, Weights, and Measures.

Also, the petition of the Boston Society for Medical Observation, of similar import—to the same committee.

By Mr. OVERTON: The petition of Charles N. Warner, late an officer in the United States Army, that he be restored to his former relative rank and position therein—to the Committee on Military Affairs.

Also, the petition of Francis O'Cleary, for a pension—to the Committee on Invalid Pensions.

By Mr. PAGE: Memorial of citizens of San Francisco, relative to the Geneva award—to the Committee on the Judiciary.

By Mr. PATTERSON, of New York: The petition of Florian W. Ames, of Dunkirk, New York, to have refunded to him $300 paid by him as commutation money during the late war—to the Committee of Claims.

By Mr. PRICE: The petition of soldiers of Iowa, for the equalization of bounties to all soldiers of the Union Army—to the Committee on Invalid Pensions.

By Mr. RANDOLPH: Papers relating to the claim of Greenbury B. Mitchell for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, papers relating to the claim of Greenbury B. Vineyard, of similar import—to the same committee.

By Mr. RICE, of Ohio: The petition of Elizabeth Middleton, for restoration to the pension-roll—to the Committee on Invalid Pensions.

By Mr. SAMPSON: A paper relating to the petition of Simeon M. Preston, for relief for the loss suffered by him by the act of the President of the United States in pardoning D. C. Kearns, convicted of embezzlement—to the Committee of Claims.

By Mr. VANCE: Papers relating to the claim of William D. Whitted for compensation for supplies taken by the United States Army—to the Committee on War Claims.

By Mr. WATSON: The petition of P. T. Campbell, late a private in Company F, Fifty-eighth Pennsylvania Veteran Volunteers, for "veteran bounty"—to the Committee on Military Affairs.

By Mr. WOOD: The petition of druggists and doctors of South Carolina, for the abolition of the druggist's liquor-license tax—to the Committee of Ways and Means.

By Mr. YOUNG: Papers relating to the claim of Reuben B. Bass, for compensation for property taken by the United States Army—to the Committee on War Claims.

IN SENATE.

WEDNESDAY, *December* 4, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

JOHN J. PATTERSON, a Senator from the State of South Carolina, appeared in his seat to-day.

OMISSION IN ENROLLMENT.

The VICE-PRESIDENT appointed Mr. FERRY, Mr. DAVIS of Illinois, and Mr. RANDOLPH as the committee provided for by the resolution adopted by the Senate yesterday, relative to an omission in the enrollment of the sundry civil appropriation bill at the last session of Congress.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Postmaster-General, transmitting a communication from the Auditor of the Treasury for the Post-Office Department, in regard to the compensation of certain postmasters upon whose nominations the Senate failed to act during the special session of Congress which met October 15, 1877; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

BACHELDER'S SKETCH OF THE BATTLE OF GETTYSBURGH.

The VICE-PRESIDENT laid before the Senate the following communication; which was read, referred to the Committee on Military Affairs, and ordered to be printed:

SOCIETY OF THE ARMY OF THE POTOMAC,
OFFICE OF RECORDING SECRETARY,
27 *Park Place, New York, December* 3, 1878.

SIR: In pursuance of the instructions of the Society of the Army of the Potomac, I have the honor to forward the annexed resolution of the Society of the Army of the Potomac, passed at their last annual meeting, June 5, 1878.

Very respectfully, your obedient servant,

HORATIO C. KING,
Recording Secretary.

Hon. WILLIAM A. WHEELER,
Vice-President of the United States.

The speeches being concluded, the following resolution was offered by General Barnum, and approved by the society:

Whereas the battle of Gettysburgh was, and always will be, considered one of the great historic events of the nation; and

Whereas Mr. John B. Bachelder, of Boston, at the commencement of the late war, foreseeing the value of a thorough detailed knowledge of the great culminating battles between the States sure to ensue, and realizing the importance of collecting such data while all the details were fresh in the minds of the participants and while the men lived who could furnish the facts or refute the errors, did abandon his business and attach himself to the Army as early as 1862, that he might be in position to do the work promptly and thoroughly wherever such an event took place, following its marches, sketching and noting the details of battles; and

Whereas at Gettysburgh he reached the field immediately after the battle was fought, while the wounded from every regiment of both armies remained to tell the story, and while the havoc of battle marked the limits of the field; that he sketched its vast proportions, the accuracy of which we recognize, and the citizens of Gettysburgh indorse; that he remained there for months, going over the field with wounded men of both armies, carefully noting their descriptions of the battle, and indicating the positions of their commands on his sketch; that he visited the Army at the front, submitting his notes to the assembled officers of the different regiments, verifying the data obtained at Gettysburgh, and fully establishing the position of every command, noting its movements and incidents in battle; that on his invitation many of us visited the battle-field for the purpose of contributing our knowledge to its history, where in council we verified our positions and explained our movements; that many of our comrades in battle who furnished him material and personal reminiscences when at the front fell in the subsequent battles before Richmond, and many others who went with us to Gettysburgh are now dead, and Mr. Bachelder holds the only notes of their experience from which a connected narrative can be written; and, in a word, that throughout the past sixteen years he has given his time and the best efforts of his life to perpetuate the history of the battle of Gettysburgh; that his efforts in collecting material have been crowned with wonderful success; that his verity and impartiality have won alike the encomiums of distinguished officers of both armies; that his knowledge and authority on matters pertaining to that battle have been recognized by the War Department, in employing him to locate the positions of troops on the Government maps of that battle; that we, members of the Society of the Army of the Potomac, officers who led that army at that battle, fully realizing the value which the material collected by Mr. Bachelder must possess for all time, and knowing that if lost it can never be replaced, and that unless it is compiled by him who collected it and knows its value, it will be lost at his death, and to a great extent die with him: Therefore,

Be it resolved, That Congress be respectfully urged to give the subject its early attention, and that the recommendation of the Chief of Engineers and Secretary of War, (printed in Senate Document No. 42,) asking that an adequate appropriation be made to continue, compile, and complete this great work in the same careful, painstaking, liberal manner as has heretofore characterized the enterprise, and our secretary be instructed to forward copies of this resolution to the President of the Senate and the Speaker of the House of Representatives of the United States Congress.

PETITIONS AND MEMORIALS.

Mr. BECK presented the petition of Samuel Castleman, of Louisville, Kentucky, praying compensation for services as clerk in the assistant adjutant-general's office at Louisville, Kentucky; which was referred to the Committee on Military Affairs.

Mr. KIRKWOOD presented a petition of citizens of Indianola, Iowa, praying Congress to increase the pension of A. W. Richards, late of Company G, Third Iowa Infantry Volunteers; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1426) for the relief of Samuel Castleman; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1427) to amend the judiciary act as to suits against certain corporations; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. SAULSBURY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1428) relating to the redemption of United States legal-tender notes; which was read the first time by its title.

Mr. BAILEY. I ask that that bill be read at length.

The VICE-PRESIDENT. It will be reported at length.

The bill was read the second time at length, and referred to the Committee on Finance, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed, in redeeming United States legal-tender notes as required by the act of Congress approved January 14, 1875, to pay to each and every person, bank, corporation, or association of persons presenting said notes for redemption, 75 per cent. of the amount of said notes so presented in gold coin, and 25 per cent. in legal-tender silver dollars.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1429) granting a pension to Elizabeth F. Long; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. KIRKWOOD (by request) asked, and by unanimous consent

obtained, leave to introduce a bill (S. No. 1430) for the relief of Daniel M. Cook; which was read twice by its title, and referred to the Committee on Patents.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1431) making further appropriation for continuing the construction of the canal and locks around the Cascades of the Columbia River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1432) to provide for the settlement of all outstanding claims against the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1433) to regulate the jurisdiction of justices of the peace in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1434) to compensate George W. Morse for his labor and expenses in adapting his system of breech-loading fire-arms and ammunition to the arms of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. JOHNSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EUSTIS. I ask leave to introduce a bill making an appropriation for constructing, rebuilding, and repairing levees on the Mississippi River, and I give notice that I shall ask leave of the Senate to submit some remarks upon the bill on Thursday of next week at the expiration of the morning hour. Meanwhile let it lie on the table.

By unanimous consent, leave was granted to introduce a bill (S. No. 1436) appropriating money for constructing, rebuilding, and repairing levees on the Mississippi River in the States of Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana; which was read twice by its title, and ordered to lie on the table.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 43) repealing so much of joint resolution No. 46, approved March 2, 1867, as requires proof of loyalty by soldiers of the war of 1812 and their widows in applications for bounty land; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WALLACE, it was

Ordered, That the petition and papers in the case of Thomas P. Blair be taken from the files of the Senate and referred to the Committee on Claims.

ADVANCEMENT OF AGRICULTURAL INTERESTS.

Mr. DAVIS, of West Virginia, submitted the following resolution; which was read:

Whereas agriculture is the foundation of nearly all our wealth and it is mainly through the exportation of its products that we are paying off our large indebtedness, foreign and domestic, and have the present large balance of trade in our favor; and

Whereas although about one-half of the people of this country are engaged in agricultural pursuits and all other interests are dependent upon this, our leading and most important interest, commercial and otherwise, yet but little has been done by the General Government to promote agriculture, while other less general and important interests have been largely aided: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That the committees on agriculture of the respective Houses be, and they are hereby, instructed to consider generally the subject of agriculture, and report, by bill or otherwise, what can or ought to be done by the General Government to better advance, encourage, and foster agricultural interests, and that said committees shall have the power to send for persons and papers.

Mr. DAVIS, of West Virginia. I wish to state that at some not distant day I expect to call the resolution up for the purpose of submitting some remarks upon the subject. I move that the resolution lie on the table and be printed.

The motion was agreed to.

ROCKY MOUNTAIN SURVEYS.

Mr. DAVIS, of Illinois, (by request,) submitted the following resolutions; which were referred to the Committee on Printing:

Resolved by the Senate, (the House concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the Black Hills, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution, the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

Resolved by the Senate, (the House concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

Resolved by the Senate, (the House concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 1625) granting a pension to Abram V. Miller, late lieutenant in Company E of the One hundred and eighty-fourth Regiment of Pennsylvania Volunteers.

The message also announced that the House had passed the following bills:

A bill (S. No. 824) establishing the rank of the senior inspector-general;

A bill (S. No. 1133) for the relief of William Gibson; and

A bill (S. No. 1367) to aid in the protection of the public buildings and property against loss and damage by fire.

The message further announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5219) granting a pension to Belinda McDonald;

A bill (H. R. No. 5220) to amend an act approved August 14, 1876, entitled "An act making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and for other purposes."

A bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes;

A bill (H. R. No. 5231) making appropriations for fortifications and other works of defense and for the armament thereof for the fiscal year ending June 30, 1880, and for other purposes; and

A joint resolution (H. R. No. 201) proposing an amendment to the Constitution prohibiting the payment of claims of disloyal persons for property injured or destroyed in the late war of the rebellion.

PREVENTION OF EPIDEMIC DISEASES.

Mr. HARRIS. Mr. President, I ask the Senate to proceed to the consideration of the resolution that I had the honor to submit on Monday last on the subject of the epidemic that prevailed last summer.

The VICE-PRESIDENT. The resolution will be reported at length.

The resolution was read, as follows:

Whereas the epidemic which has recently prevailed in large districts of several of the States of the Union has been so destructive to human life and the interests and prosperity of the whole country as to make it a subject of gravest public concern, and its prevention in future an important duty, to the end that its return may be prevented, so far as prompt and decided action can prevent:

Be it resolved by the Senate, (the House of Representatives concurring,) That a joint select committee of four Senators, to be appointed by the President of the Senate, and five Representatives, to be appointed by the Speaker of the House, be appointed to investigate and report the best means of preventing the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States; that said committee be allowed a clerk and, if in the course of its investigations it is found necessary, a stenographer; and that said committee have power to send for persons and papers, to employ experts and scientists, not to exceed seven in number, and send them to, and by subcommittee visit, recently infected localities, for the purpose of obtaining the fullest and most accurate information; and that said committee may report at any time during the present session of Congress, by bill or otherwise.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution? The Chair hears none. It is before the Senate.

Mr. EDMUNDS. Mr. President, I should like to suggest to the Senator from Tennessee the propriety of so amending his resolution as to make the committee which this body authorizes a committee of the Senate, with power, if the Senator likes, to act in concurrence with any similar committee of the House of Representatives, for the Senate has on a good many occasions, when attention has been drawn to it, been adversely inclined in respect to having joint committees. It has been thought hitherto (and I, certainly, have always thought so) that the independence, indeed the good-will of the two bodies, is much better subserved, as well as their convenience, by having their committees separate in respect of matters of this kind and every other, except some executive act like having charge of the Library, and in fact there they are practically separate. If it is agreeable to the Senator, I should like to move to amend the resolution so as to make this committee a committee of five Senators or seven Senators, whichever he prefers, with a clause that they shall have power to sit and act in concurrence with any similar committee of the House of Representatives.

Mr. HARRIS. The suggestion of the Senator from Vermont is one that I considered when drafting my resolution, and his suggestion would be even preferable to the form in which I put the resolution but for one single reason, and that is that if we raise a Senate committee to investigate the questions involved, and if there be also a House committee, it will result in the conducting of two investigations, or the existence of two committees engaged in investigating the same matter, when, in my judgment, one committee would investigate it just as satisfactorily and at very much less expense. It is perfectly agreeable to me, even more agreeable, to have a committee of the Senate of five, seven, or nine members—I care not as to the number so that it reaches as high as five or seven—than to have a joint committee, and I have no objection to it except the one I have suggested. If that objection is not appreciated by the Senate, I prefer a Senate committee.

Mr. EDMUNDS. I do not think that the objection ought to outweigh the consideration I have presented, and I do not think that, in point of fact, in practice the objection would exist at all. If the House of Representatives desires to inquire into this, undoubtedly very important, subject, and wishes to raise a committee also, then the House of Representatives will be quite as willing, instead of having a joint committee, to authorize its committee to act in concurrence with a similar committee of the Senate. Then, of course, the responsible and respectable gentlemen on the two committees would arrange for joint sittings, as is the practice in all the States that I know anything about, where they always have independent committees; and if a subject is under common investigation in the two Houses, the two committees arrange to take only one set of testimony and sit together. Then they report according to their respective views to their two Houses; which preserves the entire independency and good feeling that ought to exist between the two Houses on all occasions.

I will run the risk, as it is agreeable personally to my friend, of moving to so amend this resolution as to make it a committee of five Senators——

Mr. HARRIS. If the Senator will modify the resolution so as to make it to consist of seven instead of five I shall very cheerfully accept his suggestion.

Mr. EDMUNDS. Very well.

Mr. HARRIS. I should prefer a separate committee but for the reason that I have suggested. Here is a copy of the resolution. [Handing copy.] The Senator will please make the modifications.

Mr. EDMUNDS. I move to strike out the word "joint" in the second line, and the word "four" in the same line before "Senators," and insert in lieu of "four" the word "seven;" after "Senators" and before "appointed" to strike out "to;" and then to strike out the words "and five Representatives, to be appointed by the Speaker of the House;" so as to read:

That a select committee of seven Senators be appointed by the President of the Senate, &c.

And then strike out the words "be appointed" before the words "to investigate and report the best means," &c.

The VICE-PRESIDENT. The Senator from Vermont proposes to amend the resolution so as to make it read as will now be read by the Secretary.

The SECRETARY. The resolution, if amended as proposed, will read:

Be it resolved by the Senate, That a select committee of seven Senators be appointed by the President of the Senate to investigate and report the best means of preventing the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States; that said committee be allowed a clerk and, if in the course of its investigations it is found necessary, a stenographer; and that said committee have power to send for persons and papers, to employ experts and scientists, not to exceed seven in number, and send them to, and by subcommittee visit, recently infected localities, for the purpose of obtaining the fullest and most accurate information; and that said committee may report at any time during the present session of Congress by bill or otherwise.

The amendments were agreed to.

Mr. EDMUNDS. I will move to amend further by striking out the words in the last line "at any time during the present session of Congress;" so as to read "may report by bill or otherwise." It is the same thing; these words are mere surplusage, of no account in any way. The amendment is a mere matter of form.

Mr. HARRIS. I have no objection to that.

The amendment was agreed to.

Mr. EDMUNDS. In the line of what I have suggested, for the convenience that has been spoken of, for the committees of the Senate and House to act together if they see fit, I move to add to the resolution:

And that said committee have power to sit and act in concurrence with any similar committee of the House of Representatives.

The VICE-PRESIDENT. To this amendment the Chair hears no objection.

Mr. HARRIS. None whatever. The amendment is made necessary by making it a Senate committee.

Mr. EDMUNDS. I should like to say one word in reference to one aspect of this subject. As I have said, of course it is one that interests everybody, as it ought; but the question has occurred to my mind as to what clause of the Constitution it is that would authorize Congress by a law to provide for the prevention of any epidemic disease, except in the nature of a quarantine on the external boundaries of the United States, where it has been supposed under some authority or other we have power to act. It is true that if we have no power, that would be no valid objection to this resolution of inquiry, because, I take it, nobody would question under the general-welfare clause the power of either House of Congress to inquire into any subject they like, and an inquiry even alone may throw great light upon the subject and enable States to do better than otherwise. There may be some authority drawn from the commercial clause of the Constitution as to the regulation of commerce between the States, possibly, or there may be some other which would justify legislation. I should like to hear the views of my honorable friend from Tennessee upon that subject.

Mr. HARRIS. Mr. President, upon the point suggested by the Senator from Vermont, I have only to say that I have not investigated the question as to the extent of the power of Congress to legislate upon questions of public health, but have supposed that under the power to regulate commerce ample power may be found for such legislation as may be necessary; but, as suggested by the Senator from Vermont, it is not necessary to discuss or determine the extent of the constitutional power to legislate upon the subject at this stage of the proceeding, that being one of the questions that will be investigated and reported upon by the committee, and in the progress of that investigation I hope to have the valuable aid of the Senator from Vermont in finding the power necessary to apply whatever preventive remedy may be thought most effective. The importance of the investigation provided for by the resolution under consideration is so obvious as not to require either explanation or argument. So great have been the calamities of the people of the recently infected districts resulting from the epidemic which prevailed during the last summer as to have excited a profound sympathy throughout the civilized world, and a charity as broad, generous, and munificent as the necessities of the occasion were great. The people of every State in the Union, North and South, East and West, as well as those of almost every nation in the civilized world, responded to the necessities of the sufferers in the stricken localities with most generous and lavish hands. If the recurrence of such calamities as have so seriously afflicted a large portion of the American people within the last few months can be prevented by any action of Congress, none can doubt the importance or the duty of applying the most effectual remedy before the return of another summer. I therefore hope that the resolution may be adopted and the matter promptly and thoroughly investigated, so that if there be a means of preventing the introduction and spread of epidemics so destructive to human life, it may be promptly applied.

The VICE-PRESIDENT. As amended, will the Senate agree to the resolution?

The resolution, as amended, was agreed to.

The VICE-PRESIDENT. Will the Senate agree to the preamble?

The preamble was agreed to.

TEXAS PACIFIC RAILROAD.

Mr. MATTHEWS. Mr. President, in the last days of the last session of this body, I gave notice that on this day I would move to take up for consideration Senate bill No. 942, relating to the Texas Pacific Railroad, in respect to which I had the honor to submit some remarks yesterday. I desire now to submit that motion.

My object is to bring the bill before the Senate for consideration, for discussion so far as Senators desire to have it discussed, and that it may be disposed of finally by a vote of the Senate according to the rules of the Senate as soon as the convenience of a majority of the body may require it. My object is to have it taken up now. If any one is not ready to speak and desires, however, to be heard upon the bill, it can be laid aside informally and so not stand in the way of the transaction of any other business of the Senate. Inasmuch as the Senate is not clogged at present by any public business of any imperative importance, I trust that the motion will prevail.

Mr. MITCHELL. I desire to inquire of the Senator from Ohio if he is advised whether any Senator desires to speak on the question to-day?

Mr. MATTHEWS. I do not know of any Senator who wishes to be heard to-day.

Mr. MITCHELL. I would suggest in that connection, as there are quite a number of Senators who are not yet in their seats this session, it would be hardly proper, I should think, to take up a subject of such magnitude with a view of bringing it to a vote at once.

Mr. MATTHEWS. The Senator probably did not understand that I said it was not my intention to precipitate a vote upon the bill, or to urge a vote even, any sooner than according to the rules of the Senate and the wishes of a majority of the Senate it might be convenient to do so. I desire that every gentleman who wishes to be heard upon the measure shall be heard, and I do not wish in any way to even reap an advantage, much less take one, from the absence of any gentlemen who are opposed to the measure. I simply desire to put the bill in the way and in the course of disposition, so that it may have its place and be disposed of at an early day in the session, as soon as it can be properly disposed of.

Mr. MITCHELL. I think there can be no objection, if any Senator desires to discuss the question, to taking the bill up; but I can see very great objection to taking it up with a view of pressing it to a vote at this early day in the session, when so many Senators are not present.

Mr. MORRILL. Mr. President, this question is altogether too important to be pressed in the first week of the session. I am very sure that the measure will not lose its place so long as the Senator from Ohio is here to back it up, but I should regret that a discussion should be forced upon the Senate before members are prepared at all to discuss it intelligently. I have no doubt that there will be many speeches on this subject before it can be finally disposed of; but in the first week of the session it seems to me entirely different from our usual practice to bring forward a measure of this magnitude for immediate discussion and disposal. I trust, therefore, the Senator from Ohio will not insist upon bringing the question up day by day in the very first week of the session.

The VICE-PRESIDENT. The question is on the motion of the Senator from Ohio that the Senate do now proceed to the consideration of the Texas Pacific Railroad bill.

The motion was not agreed to; there being on a division—ayes 19, noes 22.

Mr. MATTHEWS. I desire to give notice that when the bill is taken up I shall submit certain amendments which I hold in my hand, and I move that they now be printed and laid on the table.

The motion to print was agreed to.

HOUSE BILLS REFERRED.

Mr. WINDOM. I ask that the Military Academy and fortification appropriation bill just received from the House of Representatives be taken from the table and referred to the Committee on Appropriations.

The VICE-PRESIDENT. The Chair will lay those bills and other bills received from the House of Representatives before the Senate.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Appropriations:

A bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes; and

A bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes;

The joint resolution (H. R. No. 201) proposing an amendment to the Constitution prohibiting the payment of claims of disloyal persons for property injured or destroyed in the late war of the rebellion was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 5219) granting a pension to Belinda McDonald was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 5220) to amend an act approved August 14, 1876, entitled "An act making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and for other purposes," was read twice by its title, and referred to the Committee on Claims.

EXECUTIVE SESSION.

The VICE-PRESIDENT. Is there further business of the morning hour? [A pause.] Will the Senate proceed to the consideration of the Calendar of general roders?

Mr. EDMUNDS. Mr. President, I move that the Senate proceed to the consideration of executive business. I believe there are some messages which have been received to-day.

The motion was agreed to; and the Senate proceeded to the consideration of executive business; after twenty-two minutes spent in executive session the doors were reopened, and (at one o'clock and ten minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 4, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The regular business for this morning, fixed by assignment under suspension of the rules, or unanimous consent, which is equivalent, is the consideration of the bill coming over from last session, known as the Geneva award bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award.

Mr. KNOTT. Mr. Speaker, in consequence of the absence of a number of gentlemen who feel a deep interest in this measure, especially several members of the Judiciary Committee who desire to be heard, I respectfully ask, at their request, that the consideration of this bill be postponed by unanimous consent until next Tuesday, to have then the same privileges which it now has upon the Calendar.

The SPEAKER. Is there objection to the proposition of the gentleman from Kentucky?

Mr. REAGAN. I have no objection to making this order if it is not to interfere with the previous order with reference to the bill relating to interstate commerce.

Mr. FRYE. I understand the proposition of the gentleman from Kentucky to be that this Geneva award bill shall come up next Tuesday with the same rights and privileges which it now has.

Mr. KNOTT. Precisely so.

Mr. FRYE. That is, to continue before the House from day to day until disposed of.

The SPEAKER. The order of the House on this subject will be read, so that the exact position of the bill may be understood.

The Clerk read as follows:

June 1, 1878, the bill reported without amendment, made the special order for Wednesday, December 4, 1878, after the reading of the Journal, and from day to day thereafter until disposed of.

The SPEAKER. The Chair desires to say, in reply to the gentleman from Texas, [Mr. REAGAN,] that this special order now interferes with the unfinished business in which the gentleman from Texas is interested; and if this special order is to retain all its rights, as proposed by the gentleman from Kentucky and as understood by the gentleman from Maine, [Mr. FRYE,] it will of course still interfere with the other bill to the extent of taking precedence of it as a subject of consideration.

Mr. REAGAN. Then I do not consent to the proposition, because the bill to which I have referred is one about which there is a great deal of anxiety, and I must insist upon its retaining its place.

Mr. GARFIELD. I desire to inquire whether the bill referred to by the gentleman from Texas was not itself a special order; whether it is not thus in the nature of a special order having the position of unfinished business and therefore entitled to priority over a new special order?

The SPEAKER. The memory of the Chair is not exact on that point. The order of the House will be read.

The Clerk read as follows:

House bill No. 3547, to regulate interstate commerce and to prohibit unjust discriminations by common carriers, pending when the morning hour expired, May 9, and made a special order for May 11 after the morning hour.

The SPEAKER. The gentleman from Ohio is correct; the bill has attached to it the characteristic of unfinished business.

Mr. GARFIELD. My suggestion of course is not made in hostility to either of these measures, because I want to hear both discussed; but it occurs to me further that perhaps the six days' rule may stand in the way of one or both of these bills.

The SPEAKER. As to the Geneva award bill a particular day was fixed for its consideration under a suspension of the rules, which suspended the operation of the six days' rule as well as all others inconsistent with this order of the House.

Mr. GARFIELD. Then the six days' rule would not apply to that bill, but it would to the other.

The SPEAKER. The Chair thinks not; otherwise the House would have inserted some qualification of that kind in the order. The Chair hears no objection to the suggestion of the gentleman from Kentucky, and it is agreed to.

REPRINTING OF A BILL.

Mr. BUCKNER. I ask unanimous consent that House bill No. 4247, a bill reported from the Committee on Banking and Currency and proposing to retire the national-bank circulation, be ordered to be printed.

There being no objection, it was ordered accordingly.

SURVEY OF ROCKY MOUNTAIN REGION.

Mr. EDEN, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the Geology of the High Plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer under the direction of the Joint Committee on Public Printing.

Mr. EDEN also, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

GEOLOGY OF THE BLACK HILLS.

Mr. EDEN also, by unanimous consent, submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the House, (the Senate concurring therein,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the Geology of the Black Hills, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution, the illustrations and charts to be made by the Public Printer under the direction of the Joint Committee on the Public Printing.

COMMERCIAL INTERCOURSE WITH SOUTH AMERICA.

Mr. WOOD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State and the Postmaster-General be requested to communicate to this House any information received by them, or either of them, since last session of Congress in relation to the commercial and postal intercourse between the United States and the countries of South America.

COMMERCIAL RELATIONS WITH MEXICO.

Mr. SCHLEICHER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to the House of Representatives, if in his judgement compatible with the public interest, a copy of a dispatch dated October 9, 1878, addressed to the Secretary of State by the United States minister in Mexico, together with a copy of a communication accompanying said dispatch, upon the subject of commercial relations between the United States and that country.

WATER RENTS, ETC., HOT SPRINGS, ARKANSAS.

Mr. FINLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish this House a detailed statement of the amounts collected at the Hot Springs in Arkansas for taxes and water rents, showing what sums, if any, have been collected for taxes and ground rents, what, if any, for water rents, and whether said water rents have been collected upon bath-tubs or from invalids, and if from bath-tubs, how much is collected per tub or bath; if from invalids, how much *per capita*; or whether said water rents have been collected in any other manner, and how such sums, if any have been collected, have been disbursed or disposed of, and under what law said collections and disbursements have been made, and to what person or persons said disbursements have been made, and how much to each person.

ERROR OF ENROLLMENT.

Mr. ATKINS. I ask by unanimous consent to introduce a bill (H. R. No. 5307) to correct an error of enrollment in the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes. As it is to correct an error of enrollment of a bill of the last session, I hope there will be no objection to its consideration at this time. In addition to the legislation heretofore proposed there is an addition in the pending bill to pay the commissioners since the 25th of June last, and that is the only addition.

Mr. EDEN. Let the bill be read.

The SPEAKER. The bill will first be read, and the Chair will then ask for objection.

The Clerk read as follows:

Be it enacted, &c., That the sum of $27,500, or so much thereof as may be necessary, is hereby appropriated to pay for clerk hire, engineering, marshal's fees, salaries, and other expenses of the Hot Springs commission; and the President of the United States be, and he is hereby, authorized to appoint three discreet, competent, and disinterested persons, who shall constitute a board of commissioners, any two of whom shall constitute a quorum, who shall hold their offices for the period of one year from the date of their appointment, and shall have the same powers and authority in all respects as was provided for the commissioners appointed under the act of Congress approved March 3, 1877, entitled "An act in relation to the Hot Springs reservation, in the State of Arkansas;" which act is hereby revived and continued in full force for the purpose of enabling said board of commissioners to take possession of all records, papers, and proofs, and to determine the claims presented to the board of commissioners appointed under said act, whose term of office has expired, and to do and perform all other acts and duties authorized by said act; and the Secretary of the Interior is hereby directed to lease to the present proprietors of the Arlington Hotel, or their assigns, the grounds, not exceeding one acre, now occupied by them, for a period of ten years, unless otherwise provided by law, at an annual rental of $1,000; and he is further directed to lease the bath-houses of a permanent nature now upon the Hot Springs reservation to the owners of the same, and lease to any person or persons, upon such terms as may be agreed on, sites for the building of other bath-houses, for the term of five years, unless otherwise provided by law, under such rules and regulations as he may prescribe; and the tax imposed shall not exceed $15 per tub per annum, including land rent: *Provided*, That said leases shall in no way prejudice any legal right that any person or persons may have acquired under the act hereby revived and continued to any improvements on said ground: *And provided further*, That to prevent monopoly, no bath-house or hotel shall be supplied with more than enough water for forty bath-tubs of the usual size, unless there shall be more than enough hot water to supply all other demands for the same, in which case no single establishment shall be allowed more than forty bath-tubs of the usual size.

In cases were fractions of lots are made by straightening, widening, or laying out streets, the commissioners shall have power to determine the disposal of the same, giving the preference to the owners of abutting lots: *Provided*, That all titles given, or to be given by the United States, shall explicitly exclude the right to the purchaser of the land, his heirs or assigns, from ever boring thereon for hot water, and the Hot Springs, with the reservation and mountain, are hereby dedicated to the United States, and shall forever remain free from sale or alienation.

SEC. 2. *And be it further enacted*, That the late commissioners, employed since the 25th of June last, under the request of the Secretary of the Interior, by direction of the President, shall be allowed the necessary expenses incurred by them in forwarding the work, and compensation for their services at the rate provided by the act creating the commission approved March 3, 1877, the disbursements to be made as authorized by said act; and for this purpose the unexpended balance of the appropriation made December 15, 1877, for continuing the work of the Hot Springs commission, amounting to $9,324.80, or so much thereof as may be necessary, is hereby reappropriated and made available.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. EDEN. I wish to reserve all points of order until we learn something more about the matter.

The SPEAKER. The Chair will preserve the rights of all gentlemen.

Mr. WHITTHORNE. I desire to ask my colleague [Mr. ATKINS] how this mistake occurred. Very grave intimations have been made affecting very high officers of the Government as well as employés of the one branch and the other of Congress, and I would like to know how the mistake happened.

Mr. GARFIELD. I would like to ask the gentleman from Tennessee one question back of that.

Mr. HAMILTON rose.

The SPEAKER. The Chair begs that but one gentleman will speak at a time. To whom does the gentleman from Tennessee yield?

Mr. ATKINS. I desire to hear all the questions that may be addressed to me on this subject. I yield to the gentleman from Indiana, [Mr. HAMILTON.]

Mr. HAMILTON. That bill was enrolled by Mr. RAINEY, of South Carolina. I desire to ask the gentleman from Tennessee whether or not he intends to cast any reflections on the honorable gentleman from South Carolina.

Mr. ATKINS. It is not a matter of fact that the gentleman from South Carolina [Mr. RAINEY] enrolled the bill. He simply read the bill. I do not cast any reflections on Mr. RAINEY. On the contrary I stand here to compliment him on his faithfulness and his extraordinary labor on that memorable night. I think the gentleman from South Carolina discharged his whole duty. I will now hear the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I desire to ask the gentleman the only question I am interested in just now, which is to know whether the bill we have just heard read is an exact copy of what the House and the Senate passed?

Mr. ATKINS. It is, with the addition of the second section, which provides for the payment of these commissioners who have acted by the request of the Secretary of the Interior, on the suggestion of the President, of the 25th June last.

Mr. GARFIELD. That being the case, I think, on the faith of what the gentleman from Tennessee has stated, there should be no objection to the passage of the bill at this time.

Mr. ATKINS. I desire now to answer the question of my colleague, [Mr. WHITTHORNE.] Of course, I do not know, Mr. Speaker, how this accident or this event happened. I do not know whether the legislation was abstracted intentionally or whether it was lost. But I will state this, that after it was omitted from the enrolled bill, I felt it to be my duty to address a letter to the Secretary of the Treasury urging him to use the detective force of his Department to ascertain the truth of this matter. He has made some investigations, and a report of them has been made and addressed to myself, as chairman of the Committee on Appropriations, which report I design at an early day to lay before our committee. Of course, I do not myself know anything about the facts.

The SPEAKER. In this connection the Chair desires to state that the Clerk of the House, the enrolling officer in chief, Mr. King, and the gentleman from South Carolina, [Mr. RAINEY,] have all called upon the Chair and requested there should be an investigation into this subject. They demand this investigation as a right, feeling confident that they will be fully and entirely vindicated. The Chair said in reply to them he was ready at any moment to recognize any one who sought to introduce the subject for the consideration of the House. The Chair thinks it due to the officers mentioned and to the gentleman from South Carolina to make this statement.

Mr. EDEN. I wish to ask the gentleman from Tennessee a question in reference to the new section in this bill. It seems that there is a new section added to the bill that was not embraced in the clause in the sundry civil bill at the last session. This new section proposes to pay these commissioners, I suppose, the same compensation that they have been receiving under the law, upon the ground or theory that they have been acting at the suggestion of the Secretary of the Interior. I cannot see upon what theory we can pay these commissioners anything. They did not occupy any official position, and there is no act that they could do that would have any legal or binding effect upon anybody; and it occurs to me it would be setting a wrong example to allow the Secretary of the Interior or anybody else to request somebody to act in an official capacity when there is no law authorizing it; to act in that way for months and months, and then to come to Congress for an appropriation. It is true this mistake that occurred in the enrolling of the bill presented an extraordinary case. Nevertheless there was no law under which these men could act as commissioners, and the Secretary of the Interior had no right to appoint any such officers. There are no such officers known to the law; and if we set an example of this sort the probability is we will be constantly called upon to make appropriations for somebody who has been acting in some sort of capacity at the request of a Cabinet officer or somebody else. I think this is a bad precedent, and I object to this action unless my doubts upon that point can be removed.

Mr. ATKINS. I desire to say just one word in reply. I will admit, as a general principle, that the gentleman from Illinois is correct in the position he takes; but, sir, such an instance will probably not occur again in ten, or twenty, or thirty years. I do not know when such a case as this has occurred. I do not know that any such instance has occurred as in this case. I admit that in some way some words or sentences have dropped out of the legislation relating to this entire subject. Now these commissioners were acting under the law, and it was the intention of Congress to continue that law. It had passed the House, and had been sent to the enrolling-room for enrollment, and there this mistake occurred. The House had nothing further to do with it. The House had passed judgment upon it, and there was nothing left but for the Speaker to attach his name to the bill containing this provision, and when he signed the bill he thought that that legislation was incorporated in it. I say for that reason that the principle suggested by the gentleman is not analogous to the case, because it would be a great hardship for that commission not to have been continued. The interests of the United States required it as well as the interests of individuals; and therefore I think that the Secretary of the Interior did not commit any very great breach of duty in appointing the commission to continue the service, and it is now for Congress to correct the evil. I hope the gentleman from Illinois will withdraw his objection to the bill and allow it to come before the House.

Mr. EDEN. The gentleman from Tennessee [Mr. ATKINS] has not answered the objection I made at all. I have made no point as to the necessity of this legislation; that seems to have been passed upon by the last House. We are constantly making precedents of this kind, and the precedent made in this case may be used hereafter in accomplishing a bad object.

Mr. ATKINS. Does the gentleman intend to take the position that these commissioners have no right to their pay because they were not acting under the law of the 25th of June last?

Mr. EDEN. I take the position that there is no act which they have done that can have any legal or binding effect upon any one; but I do not propose to take the responsibility upon myself of objecting to the payment to this commission. I will not insist on the point of order; if the House sees fit to pass the bill it can do so and I shall not object.

The SPEAKER. The gentleman now has the absolute right to object to the present consideration of the bill. As the Chair understands the gentleman, he does not object to its consideration.

Mr. EDEN. I do not object to the correction of the error made at the last session.

Mr. ATKINS. If there is a single gentleman on the floor who objects to the second section of the bill, I will withdraw it.

Mr. EDEN. I do object to the second section of the bill.

Mr. ATKINS. Then I withdraw it.

Mr. EDEN. If the gentleman withdraws that section, I have no objection to the bill.

Mr. ATKINS. Of course a single objection is fatal to the consideration of the bill at this time.

Mr. SPARKS. If the gentleman from Tennessee will withdraw that single section there will be no objection to the bill.

Mr. ATKINS. Then I withdraw the second section of the bill; I do it under compulsion.

The SPEAKER. The gentleman from Illinois withdraws his objection, it being understood that the second section of the bill is withdrawn.

Mr. PATTERSON, of New York. Do I understand that this bill is what was left out at the last session?

The SPEAKER. Exactly.

Mr. PATTERSON, of New York. Then, there should not be the slightest objection to the passage of this bill.

The bill, as modified, was read, as follows:

A bill to correct an error of enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $27,500, or so much thereof as may be necessary, is hereby appropriated to pay for clerk hire, engineering, marshal's fees, salaries, and other expenses of the Hot Springs commission; and the President of the United States be, and he is hereby, authorized to appoint three discreet, competent, and disinterested persons, who shall constitute a board of commissioners, any two of whom shall constitute a quorum, who shall hold their offices for the period of one year from the date of their appointment, and shall have the same powers and authority in all respects as was provided for the commissioners appointed under the act of Congress approved March 3, 1877, entitled "An act in relation to the Hot Springs reservation in the State of Arkansas;" which act is hereby revived and continued in full force for the purpose of enabling said board of commissioners to take possession of all records, papers, and proofs, and to determine the claims presented to the board of commissioners appointed under said act, whose term of office has expired, and to do and perform all other acts and duties authorized by said act. And the Secretary of the Interior is hereby directed to lease to the present proprietors of the Arlington Hotel, or their assigns, the grounds, not exceeding one acre, now occupied by them, for a period of ten years, unless otherwise provided by law, at an annual rental of $1,000; and he is further directed to lease the bath-houses of a permanent nature now upon the Hot Springs reservation to the owners of the same, and lease to any person or persons, upon such terms as may be agreed on, sites for the building of other bath-houses for the term of five years, unless otherwise provided by law, under such rules and regulations as he may prescribe; and the tax imposed shall not exceed $15 per tub per annum, including land rent: *Provided*, That said leases shall in no way prejudice any legal right that any person or persons may have acquired under the act hereby revived and continued to any improvements on said ground: *And provided further*, That to prevent monopoly, no bath-house or hotel shall be supplied with more than enough water for forty bath-tubs of the usual size, unless there shall be more than enough hot water to supply all other demands for the same, in which case no single establishment shall be allowed more than forty bath-tubs of the usual size.

In cases where fractions of lots are made by straightening, widening, or laying out streets, the commissioners shall have power to determine the disposal of the same, giving the preference to the owners of abutting lots: *Provided*, That all titles given or to be given by the United States shall explicitly exclude the right to the purchaser of the land, his heirs or assigns, from ever boring thereon for hot water; and the Hot Springs, with the reservation and mountain, are hereby dedicated to the United States, and shall remain forever free from sale or alienation.

Mr. VEEDER. I move to amend by inserting, after the word "appoint," "by and with the advice and consent of the Senate." I understand that to be acceptable.

The amendment was agreed to.

Mr. HEWITT, of New York. I have an amendment to offer, in order to correct what was an omission of myself. I think that when it is read it will commend itself to the entire judgment of the House.

The amendment was read, as follows:

Insert, after the words "more than forty bath-tubs of the usual size:"

And provided further, That the superintendent shall provide and maintain a sufficient number of free baths for the use of the indigent, and the expense thereof shall be defrayed out of the rentals hereinbefore provided for.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEPOSITS OF MONEY BELONGING TO THE UNITED STATES.

Mr. KELLEY. I ask unanimous consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be directed to inform this House whether any money belonging to the Treasury of the United States was in possession and custody of any national or State bank or private banker on the 30th of September and November, 1878, as on deposit or otherwise other than deposits made by disbursing agents, and to state the name and location of the banks or bankers who held such money and the amount held by each respectively.

There being no objection, the resolution was adopted.

Mr. KELLEY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INCREASE OF PENSIONS.

Mr. FRYE, by unanimous consent, introduced a bill (H. R. No. 5308) to amend chapter 261 of the laws passed during the second session of the Forty-fifth Congress increasing the pensions of certain pensioned soldiers and sailors; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

URIAH W. BRIGGS.

Mr. FRYE also, by unanimous consent, introduced a bill (H. R. No. 5309) increasing the pension of Uriah W. Briggs; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONGRESSIONAL LIBRARY.

Mr. COX, of New York. I desire to move to reconsider a reference which was made yesterday. The letter of the Secretary of the Interior relative to the value of lands proposed to be purchased for the site of the Congressional Library was by mistake referred to the Committee on Appropriations. I desire to move to reconsider that reference, and that the communication be referred to the Committee on the Library and printed.

The motion was agreed to.

JACOB L. SHINN.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 5310) for the relief of Jacob L. Shinn, of Pope County, Arkansas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SALLY MURRAY BUCHANAN.

Mr. SWANN, by unanimous consent, introduced a bill (H. R. No. 5311) granting a pension to Sally Murray Buchanan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TIMBER DEPREDATIONS.

Mr. HOOKER. I ask unanimous consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read the resolution, as follows:

Resolved, That the Attorney-General of the United States be, and he is hereby, requested to furnish the House of Representatives with an account of all moneys expended by the Department of Justice in prosecutions for timber depredations in the State of Mississippi, and that he furnish the House with the number of suits instituted, number dismissed, number successfully prosecuted, and number of cases still pending, and with the accounts of the marshal of the southern district of Mississippi in each and every of said suits, and that he give a detailed statement of accounts presented by said marshal to his department, whether the same have been paid and allowed or not; and that he also furnish to this House a statement of all contracts and with amounts paid or agreed to be paid to any and all attorneys employed in aid of the regular attorney of the Government.

The SPEAKER. Is there objection to the adoption of this resolution?

Mr. CONGER. I object to it now.

Mr. COX, of New York. I move that the House now adjourn.

SILVER DOLLAR.

Mr. FORT. I ask consent to offer a resolution for adoption at this time.

Mr. COX, of New York. I will hear it.

The Clerk read as follows:

Resolved, That the legal-tender quality of silver dollars of 412½ grains of standard silver shall be maintained and enforced, and that any discrimination against said silver dollars by any national banking association, by refusing to receive them and treat them as legal dollars, shall be deemed a defiance of the laws of the United States. And the Committee on Banking and Currency is hereby instructed to mature and bring in a bill to provide for the withdrawal of the circulating notes of all such banks so offending.

Mr. HEWITT, of New York. I object to that.

Mr. BEEBE. It is a proposition to resolve that the obedience of the law is a defiance of it.

Mr. COX, of New York. I am willing to have that resolution passed.

Mr. HEWITT, of New York. I object to it.

Mr. FORT. I would like to have it referred.

The SPEAKER. It is objected to by several members.

The question was upon the motion of Mr. COX, of New York, that the House adjourn. Upon a division there were—ayes 145, noes 47.

Before the result of the vote was announced,

Mr. TOWNSEND, of New York, called for the yeas and nays.

The yeas and nays were not ordered, there being 21 in the affirmative; not one-fifth of the last vote.

So the motion to adjourn was agreed to; and accordingly (at one o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLISS: The petition of Isaac L. Dusenberry and Margaret Dusenberry, for the correction of the military record of Isaac L. Dusenberry, late a private in Company F, One hundred and seventy-third Regiment New York Volunteers—to the Committee on Military Affairs.

By Mr. BRIGHT: Papers relating to the bill to relieve Alexander & Co. from a penalty imposed upon them for an alleged violation of the United States revenue laws—to the Committee of Claims.

By Mr. DAVIS, of California: The petition of night inspectors of customs for San Francisco, for an increase of their pay—to the Committee on Commerce.

By Mr. HEWITT, of Alabama: Papers relating to the claim of Thomas L. Shamblin, of Tuscaloosa County, Alabama, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. HUNTON: Papers relating to the claim of the heirs of Richard Windsor to have refunded to them the amount paid the United States at a confiscation sale for certain property, which sale has been adjudged illegal and void and the property bought recovered from them—to the Committee on the Judiciary.

By Mr. LUTTRELL: The petition of J. B. Moulton and others, watchmen in the Post-Office Department, for the restoration of their salaries to $720 per annum—to the Committee on the Post-Office and Post-Roads.

Also, the petition of Henry C. De Ahna, for compensation for alleged wrongs done him and hardships suffered by him by reason of his removal from the office of collector of customs, district of Alaska—to the Committee of Ways and Means.

Also, the petition of citizens of Alaska Territory, for the organization of courts of law therein, accompanied by reports from the officers of the United States and others as to the condition of affairs in said Territory—to the same committee.

By Mr. PRICE: The petition of Joseph Parkins, for extra compensation owing to alterations made in the plan for the construction of a cornice at the Rock Island arsenal—to the Committee of Claims.

IN SENATE.

THURSDAY, *December* 5, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

FRANCIS M. COCKRELL, a Senator from the State of Missouri, appeared in his seat to-day.

PREVENTION OF EPIDEMIC DISEASES.

The VICE-PRESIDENT appointed Mr. HARRIS, Mr. MATTHEWS, Mr. LAMAR, Mr. PADDOCK, Mr. CONOVER, Mr. GARLAND, and Mr. EUSTIS as the select committee provided for by the resolution adopted by the Senate yesterday relative to the introduction, spread, and prevention of epidemic diseases in the United States.

COMMITTEE SERVICE.

Mr. WALLACE. I send to the Chair the following list of a few changes in standing committees of this body which have been agreed upon:

Mr. EATON retires from the Committee on Appropriations and Mr. WALLACE takes his place.

Mr. MORGAN retires from the Committee on Patents and Mr. EATON takes his place.

Mr. WALLACE retires from the Committee on Foreign Relations and Mr. MORGAN takes his place.

The VICE-PRESIDENT. To these changes the Chair hears no objection.

Mr. FERRY. I ask to be excused from service on the special committee appointed yesterday to investigate an omission in the enrollment of the sundry civil appropriation bill.

The VICE-PRESIDENT. The Senator from Michigan asks to be excused from service on the special committee appointed yesterday in relation to an omission in the enrollment of the sundry civil bill at the last session of Congress. Is there objection? The Chair hears none, and he is excused. The Chair appoints the Senator from Massachusetts [Mr. DAWES] to fill the vacancy.

Mr. DAVIS, of Illinois. Mr. President, I am on a special committee charged with another duty, and I ask to be relieved also from service upon the committee just mentioned.

The VICE-PRESIDENT. The Senator from Illinois asks to be relieved from serving on the select committee appointed yesterday in the matter of the omission of the provision in relation to the Hot Springs reservation from the sundry civil bill of last year. Is there objection? The Chair hears none, and he is excused.

Mr. DAWES. Mr. President, I must ask the same indulgence——

Mr. DAVIS, of Illinois. I made the request, if the Senator from Massachusetts will allow me, because I am on another special committee. That was the only reason I did it. I would have no objection to serve if I were not on another committee of which the Senator from Vermont [Mr. EDMUNDS] is chairman that will occupy my time.

Mr. DAWES. I am compelled by the course of events to ask the same indulgence of the Senate, and therefore I ask to be excused from service on the committee. I am willing to discharge any duty that the Senate may devolve upon me; but I do not see why Senators should devolve an unpleasant duty upon others in this way, and I ask to be excused also.

The VICE-PRESIDENT. Will the Senate excuse the Senator from Massachusetts from service upon the committee relative to an omission in the enrollment of the sundry civil appropriation bill? The Chair hears no objection, and he is excused.

The vacancies were filled by the appointment of Mr. CAMERON, of Wisconsin, to fill the vacancy caused by the resignation of Mr. DAWES, and Mr. EATON to fill the vacancy caused by the resignation of Mr. DAVIS, of Illinois.

The committee therefore consists of Messrs. CAMERON, of Wisconsin, EATON, and RANDOLPH.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a letter from the Commissioner of Patents recommending an appropriation of $28,700 for additional examiners, clerks, and laborers in the Patent Office; which was referred to the Committee on Appropriations.

He also laid before the Senate a letter of the Treasurer of the United States, transmitting copies of accounts rendered to and adjusted with the Sixth Auditor of the Treasury for the fiscal year ending June 29, 1878; which was ordered to lie on the table.

The VICE-PRESIDENT. These documents are very voluminous, and the Chair will refer the propriety of printing them to the Committee on Printing.

The VICE-PRESIDENT also laid before the Senate a letter from the Treasurer of the United States, transmitting, in compliance with the requirements of section 311 of the Revised Statutes of the United States, fair and accurate copies of the accounts rendered to and settled with the First Comptroller for the fiscal year ending June 30, 1878; which was ordered to lie on the table.

The VICE-PRESIDENT. The Chair will make a like order in reference to the printing of this communication as in regard to the communication last presented.

EXPENSES OF CALIFORNIA IN INDIAN WARS.

The VICE-PRESIDENT laid before the Senate the following communication from the governor of California; which was read, and referred to the Committee on Appropriations:

STATE OF CALIFORNIA, EXECUTIVE DEPARTMENT,
Sacramento, June 8, 1878.

To the Senate and House of Representatives of the United States of America:

The senate and assembly of this State having adopted, on March 30, 1878, resolutions as follows:

"First. That our Senators be instructed and our Representatives requested to urge upon Congress the immediate payment of all bonds, coupons, and certificates of coupons issued by the State of California for expenses incurred in the Indian wars which have not been paid by the General Government; second, that his excellency the governor be requested to cause a statement of all such bonds, certificates, and coupons, and the circumstances connected therewith, to be prepared by the comptroller, and, upon such statement being prepared, to cause an application to be made to Congress, in the name of the State of California, for the payment of said bonds, coupons, and certificates; third, and that he forward a copy of these resolutions to each of our Senators and Representatives in Congress;"

And the comptroller having made a statement of the "bonds, coupons, and certificates of coupons issued by the State of California, for expenses incurred in the Indian wars" (a copy of which is hereto appended,) from which statement it appears that there yet remains of such issue of bonds, coupons, and certificates of coupons unpaid by the United States Government the sum of $241,625.62; and the United States Government having, by action heretofore taken, recognized the validity of the bonds, coupons, &c., issued by the State of California for expenses incurred in the Indian wars, and the obligation of the said United States Government to pay the same:

Now, therefore, I, William Irwin, governor of the State of California, do make application to your honorable bodies, in the name of the State, and respectfully ask that you do at once appropriate, of the moneys in the United States Treasury, a sum sufficient to pay "the bonds, coupons, and certificates of coupons issued by the State of California to defray expenses incurred in the Indian wars," and remaining unpaid by the United States Government, as shown by the accompanying report of the comptroller, and direct the payment of the same to the State of California.

[SEAL.] WILLIAM IRWIN,
Governor.

By the governor:
THOMAS BECK, *Secretary of State.*

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented the petition of Martha Edwards, of Portland, Maine, widow of Daniel Brown, who was a soldier of the war of 1812, praying to be allowed a pension under the act of February 14, 1871; which was referred to the Committee on Pensions.

He also presented the petition of John Smith, of Saccarappa, Cumberland County, Maine, praying to be allowed a pension for wounds received in the service; which, with the accompanying papers, was referred to the Committee on Pensions.

Mr. DORSEY. I present a petition of 470 residents upon the Hot Springs reservation, asking that the error in a clause of the sundry civil appropriation bill relating to that reservation be rectified. As

I expect to call the matter up during the day, I move that the petition lie on the table for the present.

The motion was agreed to.

Mr. DORSEY. I also present a memorial of the city council of the same place of the same import as the petition just presented. I move that it also lie on the table.

The motion was agreed to.

Mr. WITHERS. I present the petition of William B. Whiting, a commodore in the United States Navy, praying the early consideration by the Senate of Senate bill No. 647, granting him a pension. As the bill is before the Senate, I suppose the petition will lie on the table, to be considered in connection with the bill.

The VICE-PRESIDENT. That order will be made.

Mr. HOWE presented the petition of Henry F. Lines, of Chicago, Illinois, praying compensation for services rendered as cipher clerk and military-telegraph operator in the years 1864 and 1865; which was referred to the Committee on Claims.

Mr. COCKRELL presented the petition of Walbridge, Holland & Brown, of Saint Louis, Missouri, praying compensation for services rendered the United States as stenographers at Saint Louis, Missouri, in February, 1877; which was referred to the Committee on Claims.

PRESIDENTIAL ELECTIONS.

Mr. EDMUNDS. While the Senate is comparatively full, I wish to give notice that it is my intention on Monday next to ask the Senate to consider, with a view to action upon it, the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon. This, as everybody understands, is a very important subject that was reported upon by bill on the 24th of May, 1878, by a select committee having charge of that subject. It has been laid over until this time, and I hope that Senators between now and Monday will examine the bill and be ready to proceed with its actual business consideration at that time.

The VICE-PRESIDENT. After the morning hour?

Mr. EDMUNDS. After the morning hour.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1437) relating to public printing and binding; which was read twice by its title, and referred to the Committee on Printing.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1438) making further appropriation for continuing the improvement of the Upper Willamette River, Oregon; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1439) making appropriation for further improving the Upper Columbia and Snake Rivers; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1440) appropriating $150,000 for continuing the improvement of the Lower Willamette and Columbia Rivers from Portland, Oregon, to the sea; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1441) for the relief of homestead settlers on the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. OGLESBY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1442) granting a pension to Charles C. Merrick; which was read twice by its title, and referred to the Committee on Pensions.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1443) for the relief of vessels of the United States officered by aliens; which was read twice by its title, and referred to the Committee on Commerce.

INTERCOURSE WITH SOUTH AMERICA.

Mr. FERRY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to transmit to the Senate any information which may have been received by the Departments concerning postal and commercial intercourse between the United States and South American countries, together with any recommendations, desirable to be submitted, of measures to be adopted for facilitating and improving such intercourse.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. MORRILL submitted the following resolution:

Resolved, That the Secretary of the Treasury be requested to report to the Senate the amount of deposits in the Treasury due to the Freedman's Savings and Trust Company at the end of each year since the appointment of commissioners of the same; whether any interest has been or ought to be allowed upon such deposits; what the annual expenses have been attending the appointment of the commission and its management of the business; what parcels of real estate, if any, which it would be advantageous to the Government of the United States to purchase at a fair valuation; and what legislation would be necessary to finally close up the affairs of the company and allow the commissioners to retire.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. MORRILL. Mr. President, I understand that the commissioners are very anxious to retire from further service on this commission, but under existing law it is supposed that they cannot legally relieve themselves from responsibility. My own opinion is that the original managers of this institution ought to have been criminally prosecuted; but I suppose now it is too late. We certainly gave this institution of the Freedman's Bank and Trust Company some sort of credit throughout the country, and are largely responsible, certainly since 1874, for its prudent and efficient management. I understand now that there is a very considerable sum in the Treasury, and that there have been large sums for years past lying idle there. Some further legislation seems to be necessary in order to enable the business of the company to be wound up, and to enable us to have the business conducted at a much less expense.

Mr. THURMAN. I understand that this is a mere resolution of inquiry.

Mr. MORRILL. It asks for information; that is all.

The resolution was agreed to.

ADJOURNMENT TO MONDAY.

Mr. THURMAN. Mr. President, I do not think it has been the custom of the Senate to go to the general Calendar in the first week of the session; and as no business has been prepared, I imagine, during this week, I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. ANTHONY. I had hoped that the Senate would take up the Calendar of unobjected cases to-day and to-morrow, and I have prepared a resolution to that effect.

Mr. THURMAN. We might take up the Calendar to-day, but I think we may as well adjourn over at the end of to-day's session until Monday. I think we shall facilitate business by so doing.

Mr. ANTHONY. With a short session to-morrow we might dispose of a considerable number of unobjected cases on the Calendar.

The VICE-PRESIDENT. The question is on the motion of the Senator from Ohio, that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to; there being on a division—ayes 27, noes 15.

PREVENTION OF EPIDEMIC DISEASES.

Mr. GARLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That so much of the President's message as relates to the yellow fever be referred to the select committee raised under the resolution passed on yesterday to consider the subject of epidemic diseases.

THE CALENDAR.

Mr. ANTHONY. Mr. President, I propose to offer a resolution similar to one that I have offered in several sessions, and which has been received with favor by the Senate; though I confess I do it with some doubt and diffidence. It undoubtedly facilitates the transaction of business, and enables the Senate to reach a great number of cases which have passed through all the preliminary stages of legislation, subjected to careful examination and investigation by committees and reported favorably to the Senate, but which, in the pressure of more important business, are never otherwise reached. Yet at the same time I think it leads to hasty legislation and that a good deal of mischief has been done by passing bills that ought not to be acted upon without further discussion. But on the principle that it is better that ninety-nine guilty persons should escape than that one innocent person should suffer, I offer the resolution, and hope, if it passes, that the guardians of the Treasury will be in their seats to object to cases that ought not to pass.

The resolution was read, as follows:

Resolved, That to-day at one o'clock the Senate will proceed to the consideration of the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

The VICE-PRESIDENT. Is there objection to the present consideration of this resolution?

Mr. MATTHEWS. I object.

The VICE-PRESIDENT. Objection being made, the resolution will go over under the rule.

WALKER'S STATISTICAL ATLAS.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the copies of Walker's Statistical Atlas heretofore ordered for the use of the Senate be bound by the Public Printer.

SENATOR FROM SOUTH CAROLINA.

Mr. CAMERON, of Wisconsin. I submit the following resolution, and ask for its present consideration:

Resolved, That 100 copies of the report made to the Committee on Privileges and Elections by Mr. CAMERON, of Wisconsin, in the matter of the claim of David T. Corbin to a seat in this body as Senator from the State of South Carolina, be printed for the use of said committee.

The VICE-PRESIDENT. Is this order reported from the committee?

Mr. CAMERON, of Wisconsin. Yes, sir.

The VICE-PRESIDENT. Then it need not be referred.

The resolution was considered by unanimous consent, and agreed to.

INTERNAL-REVENUE LAWS.

Mr. WITHERS. Near the close of the last session a bill was received from the House of Representatives reducing the tax upon tobacco, and it was referred to the Committee on Finance. As the chairman of that committee is present I take this occasion to express the hope that a speedy report will be made upon that bill, either favorably or unfavorably, because the interest which it is designed to protect and serve is suffering extremely from the uncertainty with regard to the action of Congress upon that subject.

Mr. FERRY. Will the Senator state the number of the bill?

Mr. WITHERS. I refer to the bill (H. R. No. 4414) to amend the laws relating to internal revenue. It is a bill which proposes to reduce the tax on tobacco from twenty-four cents to sixteen cents a pound. I simply request that prompt action be had in the committee upon the matter for the reasons already assigned.

SURETIES OF GEORGE W. CLARKE.

Mr. DORSEY. I move that the Senate proceed to the consideration of the bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SAULSBURY. I think it had better go over. We do not know anything about the facts in the case.

The VICE-PRESIDENT. The question is whether the Senate will now consider it.

Mr. DORSEY. The bill cannot go over on one objection.

The VICE-PRESIDENT. It cannot. The question is on the motion to proceed to the consideration of the bill.

Mr. SAULSBURY. I thought the order was that objected cases should go over.

The VICE-PRESIDENT. That order was proposed to take effect at the expiration of the morning hour. The question is on the motion to consider the bill at this time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It releases Jesse Turner, James M. Brown, Charles F. Brown, and the estates of S. M. Hays, Hiram Brodie, S. F. Cotterell, P. H. White, and Joseph J. Green, deceased, from any and all liability as the sureties upon the official bond of George W. Clarke, formerly Indian agent; the release to take effect upon the payment of the legal costs heretofore accrued in the prosecution of the claim by the United States. But all the rights and remedies of the Government on the bond as against Clarke shall in no manner be affected, but remain in full force and effect in law.

Mr. MORRILL. Is there any report accompanying the bill?

Mr. DORSEY. There is a report from the Committee on Claims.

Mr. MORRILL. Let it be read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. HEREFORD April 4, 1878:

The Committee on Claims, to whom was referred the petition of Jesse Turner and others, asking to be relieved from liability as sureties on bond of George W. Clarke, report as follows:

George W. Clarke was appointed Indian agent and gave bonds as such August 19, 1854, in a penalty of $40,000, with S. M. Hays, Phineas H. White, Charles F. Brown, S. F. Cotterell, Hiram Brodie, James M. Brown, Joseph J. Green, and Jesse Turner as sureties. All of the sureties are dead except James M. Brown, Charles F. Brown, and Jesse Turner.

The agent, Clarke, was found to be in default and relieved from duty on December 31, 1856. The amount of the defalcation is found to be $1,245.77.

No further action was taken in this case until December 15, 1875, when each of the parties living was notified.

Suit was instituted March 6, 1877, in the United States district court for the western district of Arkansas.

The above are the facts as gathered from a letter of Hon. K. Rayner, Solicitor of the Treasury, bearing date February 7, 1878, in response to a letter from a member of this committee, to whom the subject had been referred. The following is an affidavit in the case, which is substantiated by several others:

STATE OF ARKANSAS, *Crawford County, ss:*

I, Augustus J. Ward, of Crawford County, State of Arkansas, do state upon oath, that I have resided at Van Buren, Crawford County, for the last thirty-four years; that I was well acquainted with George W. Clarke, and Samuel M. Hayes, P. H. White, S. F. Cotterell, Hiram Brodie, J. J. Green, Charles F. Brown, James M. Brown, and Jesse Turner, his securities upon his bond as Indian agent, upon which his now reported defalcation occurred in December, 1856. I know that George W. Clarke was the owner of real estate at that time of considerable amount, but do not know what encumbrances, if any, existed against it. His family resided here during most of the time he was in Kansas as Indian agent. Clarke was an energetic man to raise money. All the persons who are named as the securities upon his bond were in solvent circumstances in December, 1856. Since that time, up to the time of the breaking out of the late war, the sum of fifteen hundred dollars could have been made out of any one of them. Since then, the results of the late war and other causes changed the circumstances of all the persons named as Clarke's securities, and most of them are unable to pay who survived the war.

P. H. White died about 1857; he was a merchant, engaged in business at this place; his estate was closed by administration since the war, and did not pay the creditors in full.

Joseph J. Green died in the spring of 1863; his estate was administered upon; after paying his debts but little was left, which was used or expended for the support of his children; the administration has been closed long since.

Samuel M. Hays, one of the securities upon Clarke's bond, died in 1871. His estate has been administered upon; not yet closed. He left some property, both real and personal, but, after the payment of the debts probated against the estate, I think there will be but little left.

Hiram Brodie, one of the securities on Clarke's bond, died in February, 1875. The estate is being administered upon, and I am informed and believe that after the payment of the debts probated against said estate there will be but little left; the property of the estate was small in amount.

Sutton F. Cotterell, another of the reported securities, died about November, 1875, at Little Rock, Arkansas. His estate was insolvent. Had no property, as I am informed.

Charles F. Brown, another of the named securities upon Clarke's bond, is insolvent; has no property; took the benefit of the bankrupt law since the war, and has been discharged; paid his debts in that way.

James M. Brown left this county in 1862; had property in negroes and mules at the time he left here, and some real estate, long since sold. His present circumstances I have no means of knowing, as he resides in the State of Texas.

Jesse Turner I have known intimately for thirty-four years. He is a practicing attorney at this place, advanced in life; has some real estate, and should he have this debt to pay it will greatly embarrass him, and he can only pay it at a great sacrifice of his small amount of property.

I have been engaged in the business of a merchant, most of the time at my residence, at Van Buren, Crawford County, for the past thirty four years, and have, as I believe, the means of knowledge of the matters hereinbefore stated by me.

AUGUSTUS J. WARD.

Sworn to and subscribed before me this 15th day of February, A. D. 1878.

JOHN B. OGDEN,
Notary Public.

From the letter of the Solicitor of the Treasury and this affidavit we obtain the following facts:

George W. Clarke, the Indian agent, became defaulter, and his defalcation was known to the Government December 31, 1856. No further action was taken in the matter until December 15, 1875—a space of nineteen years lacking fifteen days—the sureties being uninformed of the defalcation for that space of time. Suit was brought March 6, 1877, which is more than twenty years after the right of action had accrued. If the Government had used proper diligence it is quite probable all or a good portion of the amount could have been made out of the principal. Certainly the other securities could have all been compelled to pay their pro rata of the amount, and these securities relieved to that extent. The Government by its own laches has lost a part of its security, and to that extent has damaged the other remaining securities.

In a case in England it was declared by one of the judges "that long dormant claims have more of cruelty than justice in them, and that Christianity forbids an attempt at enforcing the payment of a debt which time and misfortune have rendered the debtor unable to discharge." (See A'Lourt *vs.* Cross, 3 Bing. R., 329.)

Of the original eight sureties, five are dead and three living, and possessed of very limited means, perhaps none worth anything, unless it be Jesse Turner, who is a practicing attorney, advanced in years, and owning a small amount of real estate.

Under the circumstances the committee believe that great injustice has been done to the sureties by the delay on the part of the Government, and think that the remaining sureties should be relieved from liability on said bond, and therefore report the accompanying bill and recommend its passage.

Mr. MORRILL. Mr. President, I suppose that there is no other objection to this than there is to any other case where bondsmen are called upon to pay what they had agreed to pay in the event of any defalcation of the principal. I see nothing in this except the usual argument that some parties have failed, and that it will be a great hardship upon those who have not failed to pay the Government what they agreed to pay in case of a defalcation. Unless we intend to abandon the whole system of requiring bonds to be given for the faithful performance of these trusts, I certainly cannot see why we should vote in favor of a bill of this character.

Mr. McMILLAN. Mr. President, there was no minority report in this case; but as a member of the Committee on Claims I could not concur in the action of the majority. My colleague upon the committee, the Senator from Wisconsin, [Mr. CAMERON,] I believe took the same view of this case that I did. While there was no minority report made, I think the objection stated by the Senator from Vermont [Mr. MORRILL] is a valid objection to the bill, and I shall oppose its passage.

Mr. GARLAND. Mr. President, this bill was before the Senate on the 25th of last April, and some little discussion was then had upon it, and some information was brought out more than the report discloses. I wish to call the attention of the Senator from Vermont to one particular fact which was disclosed then, and which probably has escaped his memory. George W. Clarke, the principal in this bond, several years after this default on his part, was appointed by the Navy Department to a very high and responsible office, and held that office under that appointment until the commencement of the war between the States.

There is no such thing recognized in the law as that parties shall be required to exercise more than due and proper diligence in any case. You may talk as you please to the effect that the sureties were bound to know that the principal was in default; admit that upon its face to be correct; yet when the Government of the United States appointed this man to a second office, higher and more important and more responsible than the one he formerly held, his sureties might well conclude that the Government was satisfied with this person and had no charge against him upon his previous undertaking with the Government. A letter from the Secretary of the Navy showing a second appointment will be found in the RECORD. I call the attention of the Senator from Vermont, who took his seat a few moments ago, to the RECORD of the 25th of last April.

But there is a higher and loftier consideration lying at the bottom of this matter than I have stated. We know that we read in the books that "no time runs against the king;" that the Government is not bound by a statute of limitations unless specially named in that statute; but whenever the Government has put herself in the position of an individual and has gone into the courts of the country, she has been held to the same degree of diligence and to the same exercise of energy, if I may use the expression, to which an individual is held. In other words, her rights stand no better and no higher in that tribunal than those of the individual who attends before it.

There is a very singular thing in this case, Mr. President. We look at the statutes of the United States and we find that there is no stat-

ute of limitation as to official bonds except in the case of marshals. It is possible that some Senator, it may be the Senator from Vermont, can tell me why such a provision was made as to marshals and not as to any other officers of the Government. But if he cannot give the reason, I say that such being the law written upon the statute-book, one reason would seem to be that the law-makers thought Congress was at any time competent to deal with these cases equitably and fairly, as they should be dealt with, regardless of the rigid and the unbending rules that have been established in the courts of law.

Does the Senator tell me or undertake to tell the Senate that in no case is a surety under circumstances of this kind to be relieved? Is there no possible condition under which securities can be relieved? I contend he must lay down that broad principle or he must vote for the relief that is asked in the bill as reported by the Committee on Claims.

Now look for a moment at the circumstances of the case. Time has elapsed amounting to nearly the average period of human life. In that time this part of the world has changed front, really, and sureties who had forgotten they had ever signed such a bond are now brought into the courts of the country to answer this default of their principal, whom the Government honored afterward with a higher and better office, and said to him, "well done, thou good and faithful servant"—a higher and better office than the one he had before and under which this default is claimed to have occurred.

It is produced in testimony here that many of these sureties have died, others have become worthless, and but one now, in the State of Arkansas, is worth the money that is claimed on this bond. He is a high and respectable attorney of that State, and is advanced in years. He is advanced too far, according to the testimony, to turn back upon the path of life and to reinstate himself in his position.

I think if the Senator from Vermont will examine the report clearly and look at the testimony, he cannot withhold his support from the bill. I am now, and I will be, among the last in this Senate to vote indiscriminately for relief of this character; but here is an application which, if any one will take the time to read it, speaks in words louder and better than I can speak for this relief that is proffered. On the face of these proceedings I say the Senator must stand upon the broad principle that in no case can relief be granted, if the relief asked here is not granted to this security. If I am allowed to allude to him, this old gentleman, Mr. Turner, had in the courts of the United States his plea drawn of *non est factum*, that he never signed such a bond, it having been so long since it was signed and so long since the alleged default occurred.

As for the danger of any precedent, which was incidentally alluded to by the Senator from Vermont, I am not afraid of that kind of argument. I am always prepared to do right in the given case presented to me; and you may bring cases of this kind as often as you please, at every turn of the hand of the clock in the day, if you please, and I shall vote for them, come from what section of the country they may. I ask the Senator from Vermont to read the report in this particular case which was made by the Senator from West Virginia [Mr. HEREFORD] on behalf of the Committee on Claims.

Mr. MORRILL. Mr. President, I am not one of those who contend that there are no cases where relief should be afforded to parties who have signed as sureties for the faithful performance of duties on the part of any office-holder, but at a time like this, when there seems to be almost a universal tendency to defalcation throughout the country, I am not for throwing aside such securities as we have taken to guard the Treasury against loss. In this case it would seem to be contended by the Senator from Arkansas that because this party had so artfully concealed the defalcation that it was not known for years, so that the party himself was intrusted again by the Government with important functions to be discharged officially, therefore we should now excuse the sureties on his bond. Mr. President, there are no facts stated in the report here but what would come up in any case. The allegation simply is that it would be a hardship on the part of these sureties to be compelled to pay the Government what they owe. I trust we shall not set the example of throwing aside such securities as we are bound to take in all similar circumstances.

Mr. HEREFORD. Mr. President, the facts in this case are very few and very simple. George W. Clarke was appointed Indian agent in 1854, and gave his bond with this party, Mr. Turner, as one of the securities. In 1856 he became a defaulter in the sum of about $1,245. At the time that he became a defaulter, as the evidence shows, the debt could have been made out of the principal if the Government had brought suit. The report furthermore shows that not only could the debt have been made out of the principal, or certainly a great part of it, but also each one of the sureties could have been compelled to pay his *pro rata* share of that defalcation. Now the Government lays upon its oars for twenty-odd years, till nearly all the securities are dead, and those that are living have become bankrupt and the estates of those that are dead have been settled up and whatever there was has been divided among those to whom it was coming, so that the case now presented to this body is this: Will this Government compel one of the sureties, after the lapse of twenty-odd years, to pay the whole of the debt of this principal?

The Senator from Vermont says that the party is liable. Nobody disputes that; but is the Government in every instance going to make money out of a party simply because he is liable under the law? No, sir. Not only at the last session, but I expect at every session of Congress, parties similarly situated have been relieved by a liberal Government. Time and again last session parties were relieved that came before this body with no more equity in their cases than this.

I recollect one case that was presented to this body by the Senator from Michigan [Mr. FERRY] where a postmaster had been robbed and there had been no laches on his part. He and his securities were responsible under the law notwithstanding the robbery. The robbery did not relieve him and his securities. And yet this Senate, in its liberality, in its sense of justice, relieved that postmaster and his securities, though he was responsible under the law. Why not, then, relieve this party? Much more the party in this case, I think, ought to be relieved than in that, for the Government in this case, if it had done as it would have been compelled to do if it had been a private citizen, ought to have brought suit soon after the ascertainment of the defalcation. It did not do that, and thereby this security has lost many of his rights. I mean that if he had under such circumstances paid the debt he could have gone upon his principal for it, or, if the principal was insolvent he could have gone upon his co-securities; but they are all insolvent, and he is the only one left out of whom the money can be made.

There is no plainer principle in law than this, which is applied in a similar case, where a party who is indebted to several others fails, or where a creditor has several securities responsible to him. There if the creditor releases any security that he may have against his principal, he thereby, *pro tanto* at least—and some of the books go much further—releases the security. The principle here I say is the same; the logic is the same. The Government by not bringing suit until twenty-odd years have elapsed has allowed time and the changes in the condition of the affairs of men to produce insolvency and death until a state of affairs has been brought about where there is nobody now living, principal or co-security, out of whom one dollar can be made except this man. This is the result of non-action on the part of the General Government. The precedent of granting relief in such a case is not a bad precedent; it is right and just; and this body ought never to hesitate in doing that which it thinks is right and just.

As was urged by the Senator from Arkansas, when Clarke went out of this office as a defaulter and the General Government appointed him to a much higher office, it thereby said to his securities that this man was worthy of credit by the General Government.

Mr. McMILLAN. Will the Senator from West Virginia allow me to inquire whether it appears from the report that the defaulting officer was appointed to a higher position?

Mr. HEREFORD. No, sir; I did not conceive it necessary to incorporate that in the report.

Mr. McMILLAN. Please state the facts in regard to it.

Mr. HEREFORD. I believe the chairman of the committee will well recollect—I do; it is in the papers—a statement of one of the heads of the Departments, in the evidence on file in this case, that he was appointed subsequent to this defalcation to a higher office, in the Navy Department, I believe.

Mr. McMILLAN. At what time does that appear to have taken place?

Mr. HEREFORD. I forget the date; but it was subsequent to the defalcation. I did not conceive it necessary to incorporate that fact in the report; but that is one of the facts in the case.

I cannot see how this body can for one second hesitate to relieve this security from this responsibility. Here he is on the verge of the grave, and if he is compelled to pay this twelve hundred and odd dollars with the interest that has accrued thereupon it makes him a bankrupt.

I believe, Mr. President, the Senate will do in this case as it did in many similar cases last session—relieve the party from liability. Why, sir, suppose a case. Are we not to relieve a party simply because there is legal liability? Suppose the Treasurer of the United States to-day was robbed, and every dollar taken out of the vaults of the Treasury of the United States by highway robbery, in which there was no complicity on his part, and he was guilty of no laches, no negligence of any kind: what then? Under the law that United States Treasurer would be responsible for every dollar; but would not the Senate as a mere act of justice relieve that Treasurer? Certainly it would. The principle, the logic, and the philosophy are the same in that case as in this. I cannot believe that this great Government will seek to make this paltry sum out of this poor man after they have lain on their oars twenty-odd years and allowed the principal and all the securities except this one man to become insolvent.

Mr. MAXEY. Mr. President, there are two of the securities of George W. Clarke, late Indian agent, living. One of these is Mr. Turner, of Arkansas, and the other James M. Brown, of Texas. The latter I know personally; the first I know professionally, and I know him to be a gentleman of high character. These gentlemen had a right to look to the property of the principal on that bond and the property of their co-securities as indemnification in the event that they were forced to pay. In 1858 the Government of the United States appointed Mr. Clarke a purser in the Navy, a bonded officer, accepted his bond, and he began to discharge the functions of that office under that bond. These securities had a perfect right to consider that the Government of the United States had looked to his situation as an Indian agent, that his accounts had been fairly settled, and that they stood discharged of their bond by reason of the

Government appointing him to the second office and taking the second bond. The result, therefore, would be that naturally these securities would no longer look to the principal or their co-securities for indemnification; and thus the matter stood, if I remember the record which was made up here on the 25th of April, from 1856 until suit was instituted in 1875.

It does seem to me, therefore, that by the very act of the Government itself these securities were thrown off their guard and were not longer required to look to the property of the principal or their co-securities for indemnity. On page 2846 of the RECORD for last session is a letter from the Navy Department, as follows:

NAVY DEPARTMENT,
Washington, April 10, 1878.

SIR: I have the honor to inform you, in reply to your letter of the 9th instant, that George W. Clarke, of Arkansas, was appointed a paymaster in the United States Navy June 2, 1856; August 20, 1858, he was ordered to the Supply; May 16, 1859, detached and settle accounts; January 9, 1860, to the Pawnee; February 10, August 21, 1860, detached and to the Powhatan; March 28, 1861, detached and settle accounts; April 3, 1861, ordered to Washington to settle accounts; June 1, 1861, dismissed from the naval service, from April 2, 1861.

Very respectfully, &c.,
R. W. THOMPSON,
Secretary of the Navy.

Hon. A. H. GARLAND,
United States Senate, Washington, D. C.

That shows conclusively what I stated, that the Government did appoint this man Clarke to an important office—purser in the Navy—after he had been appointed Indian agent, after this bond had been executed by Turner, Brown, and others, and after he had exercised the duties of Indian agent and had retired from that position. The reasonable presumption would be, as the law required that all the accounts should be settled up before this new and important office was conferred on him, that that had been done; and if the Government, by its own laches, by its own negligence, by its oversight in looking into the condition of Clarke's accounts as Indian agent, did appoint him to the position of purser in the Navy, and let this matter rest for nineteen years, whereby the securities of Clarke were thrown entirely off their guard, equity, justice, fair dealing between man and man, and good morals demand that these securities, now in their old days, should not be required to come forward and pay that which has been brought upon them by reason of the action of the Government itself.

Mr. ANTHONY. Mr. President, I did not listen to the report with that attention that I should have done; but it seems to me, as I understand it, this defalcation occurred nearly thirty years ago, and the Government allowed it to rest for more than twenty years without any interference by way of prosecution. Now, the statute wisely provides a limitation for private debts; and although this limitation does not apply by statute to public debts, the equity applies, and it seems to me that the other sureties who have died bankrupt should have been notified in time to have paid their proportion of the loss for which they were responsible, and not throw it all upon the surviving sureties. It seems to me that the claim is an equitable one as well as a merciful one.

Mr. EDMUNDS. Mr. President, this is as good a time as any, perhaps, to understand the principles upon which we are willing to proceed in cases of sureties upon Government bonds. If the law ought to be that the statute of limitations shall apply, then we ought to make the law so, in order that everybody may fare alike and that the United States shall not be put to the expense of prosecuting people after the time when the statute should otherwise have run when it comes to no end. But, although this subject has been under discussion very often and for a great number of years, nobody has proposed to change the statutes of limitation for the obvious reason that the Government of the United States, like the governments of the States, is obliged to rely upon officers and agents to do its business, and it has not the private and personal interest and the private and personal means of taking care of its own affairs that private citizens have.

The state of the case, then, is, that in order properly to relieve a surety the Government must have been guilty of some unjust conduct toward him. If it has been guilty of unjust conduct toward the surety, then plainly it ought to suffer the consequences of it, and not turn them over upon the surety. That is the only rule, I take it, upon which we could justly proceed.

Now, what has been the conduct of the Government and what has been the conduct of this gentleman? From his own petition the case appears to be just this: that he and others became the sureties of this man, Clarke, in 1854. Now he proceeds:

That some time in the year 1856 the said Clarke, while engaged in the performance of the duties of his agency, became involved in serious difficulties growing out of the troubles then existing in Kansas, and was either removed from office or compelled to resign.

That, so far, would naturally raise, as this is the very petitioner himself who is stating his case, the presumption in a fair mind, I take it, that this man was not behaving as he ought to have behaved in the office, and that this was known to his sureties who then, within two years from the time they signed his bond, were on the spot; and the person for whose benefit this bill is proposed states this himself; he is the petitioner, with one other co-surety:

Your memorialists are informed, and believe it to be true, that at the time said Clarke ceased to be said Indian agent he was a defaulter to the Government of the United States in a considerable sum of money, which defalcation was well known to the said Government, and no steps whatever taken to enforce the payment thereof.

This party seems to be studiously careful not to say that it was equally well known to the sureties, and in the papers which I have here there is no pretense of any evidence that it was not known to them. Neither this petitioner nor any of his associates appears to be willing to make an affidavit that they were ignorant of the fact that they were liable on this bond for a defalcation. It appeared, on the contrary, to have been a notorious transaction, known to them and to all the sureties, and, as these sureties now state, as they believe, to the Government of the United States. It ought to have been known to the proper Department, as a matter of course. It does not necessarily follow that it was known to the President of the United States when he appointed this man or nominated him to be a purser in the Navy two or three years afterward. That does not necessarily follow. You can scarcely say that the President of the United States is bound to know, when a person is presented to him for office who is not in office then, either that he has been a former Indian agent or a commissioner of deeds, or whatever it may be, or has held any other office that was not a very notorious one. Two years afterward, I think it is stated here, this person was appointed a purser in the Navy, and that at that time also they think the Government could have made the money, because it was understood that Clarke had in his possession a large amount of gold. The Government could not very well violate his personal rights by seizing the gold from his body for a debt. That would hardly do. If it was Government gold there would be another means of getting it; but if it was his own gold, so far as the bond went the Government could not seize it by the marshal, I suppose.

Mr. MITCHELL. I should like to inquire of the Senator from Vermont whether it appears from the papers in this case that the Government paid Clarke his salary as purser, and for how long, after the Government knew that he was in default by virtue of his other position?

Mr. EDMUNDS. I do not know.

Mr. MITCHELL. If that were so, it was in direct violation of law, in violation of the statute of 1828 I believe it is, and it would, in my judgment, be a wrong, to say the least, on the part of the Government as againt these sureties.

Mr. EDMUNDS. That brings us right around to the question which I should be glad to have the Senate consider and adopt some definite rule upon, whether the Government in the sense in which we are now speaking of it as the responsible administration of the affairs of the United States, is chargeable with the neglect of its agents. That is the question. Now we will say that this man owed the Government $1,500 for moneys deposited with him as Indian agent. He was removed from office and was afterward appointed to a place in the Navy, and the Navy paymaster, he showing his commission and that his name appeared on the muster-roll of that particular ship as present for duty, pays him the salary that belongs to him for a month. Now, then, suppose that the Navy paymaster knew that Clarke was a debtor of the Government, would that relieve Mr. Clarke or his sureties on the bond upon which he was a debtor because this Navy pay agent had violated his duty in paying this money? My friend would not contend for that.

Mr. MITCHELL. I certainly would contend that in a court of law on a suit upon the bond against the sureties that fact would relieve the sureties at least to the extent of the amount so paid.

Mr. EDMUNDS. Very good. Supposing that to be so, then there is no occasion for this bill if there is any such fact, because he has got a defense; but this gentleman does not seem to be advised by his counsel, wherever this suit is pending, that that would make a very good defense; and I respectfully submit to my friend, with great deference to his better judgment, that I am not able to agree with him about that kind of law. The Supreme Court of the United States has decided, and decided rightly, that the Government cannot be made responsible for the misconduct of the officers whom the law has provided for the administration of its affairs. That arose in a very celebrated case that grew out of the rebellion, where quartermasters or others drew great drafts that ought not to have been drawn and that got into the hands of innocent holders. But if the law is as my friend says it is about the holding back the salary, the naval paymaster had no right to pay it. I understand the Supreme Court to have decided, and I believe it to be the law whether they have decided it or not, that the fact that the naval paymaster did pay it does not change the relations of the United States toward this man's bond or his sureties at all, either in point of law or in point of equity, for the reason that there is a duty on the part of the sureties as well as upon the part of the officers of the Government. They have some duties to perform; they have undertaken some obligations; and they have no more right to complain of the delay of the United States in not suing a debt which they know or have the means of knowing that they owe to the Treasury of the United States, than the United States has to complain of them for not paying it until they are sued. There was nothing in the fact that the United States did not sue which prevented their going to the Treasury and depositing the money that they owed, as I have known sureties to do without suit before now when their principals had got into difficulty, although it is not a very common practice, I believe, with sureties; and I think that is what we lose sight of.

Of course this is a very small case, involving only about $1,200, which will not break the Treasury probably, particularly as we have silver now; but it is a thing we constantly lose sight of that while

there is a duty on the part of some officers of the United States whom the law has appointed, as the Solicitor of the Treasury to prosecute bonds, there is a corresponding duty on the part of the sureties who sign the bonds to pay when a default occurs. There is that duty on their part because the accounts are always open to them to see, when their principal goes out of office, that his accounts are settled and their obligation discharged. There is no pretense in this instance in the petition of this gentleman and his associates, not even a hint, that the circumstance of this debt's existing was not just as well known to them as it was to the Solicitor of the Treasury or whatever officer had charge of that bond. If they had shown to us in this instance that they were really and actually ignorant, and had no ground of suspicion that this man went out of office with a balance in his hands due to the United States, and that these circumstances had intervened, it would make a different case; but they do not say so. I assume, therefore, that the truth is not so, because they speak upon the subject; they speak of the notorious circumstances under which he disappeared from this office and became a private citizen; and the only point they make in the petition is the fact that the United States did not sue them when it might have sued them all, and got the money out of them all, instead of a part.

Now, then, if I have stated the principle correctly, and I think I have, if from the papers the principle applies to this state of the case that the sureties are in equity entitled to relief, the Senate ought to be ready to follow the same rule in every other case of the kind. Then it comes right down to this statement, that in case of a default on an official bond known both to the sureties and to the accounting officers of the Government, if the Government neglects to sue the sureties until some change in their relation between themselves makes it inconvenient for one of them to pay it all, the Government has lost its right in justice and in equity. You cannot carry on a government that way, Mr. President, even under a republican administration, although this appears to have taken place under a democratic one.

Mr. TELLER. Mr. President, I think the Senator from Vermont [Mr. EDMUNDS] has overlooked some of the papers on the files. He assumes that the sureties were aware of the defalcation of the principal. Now, there is not any evidence that they ever did know it, and all the facts in the case show that they did not know it.

Mr. EDMUNDS. Why, then, did they not make an affidavit that they did not know?

Mr. TELLER. I suppose they did not make the affidavit because the case was prepared at a long distance from here, and perhaps the parties did not understand that they would be called upon to meet that view of the case. The record shows that this man went out of office in December, 1856. The record also shows that in 1858 he was appointed to another office, which was a declaration on the part of the Government at least to the sureties that he was not indebted to the Government, because the appointment was a violation of law if he was so indebted.

Mr. EDMUNDS. Where is the law for that?

Mr. TELLER. The act of 1828.

Mr. EDMUNDS. I should like to see that statute.

Mr. TELLER. I ought perhaps to change my statement. The law to which I refer does not say he shall not be appointed, but it makes it the duty of the Government, as I understand, not to pay him any money under an office when he is indebted to the Government, which amounts to the same thing practically. The Government did then proceed to appoint him to a lucrative office, required bonds of him, and paid him his salary undoubtedly, for there is no evidence that they did not. From the Department of Justice we find they did not know in that office that he was ever a defaulter until March, 1860. I have here the letter from the Solicitor's office, in which he says:

> The agent was found to be in default and relieved from duty on the 31st of December, 1856—

Not default financially, but default I suppose in some other particular, because he adds:

> His accounts were examined in the office of the Second Comptroller of the Treasury, and on the 14th March, 1860, he was found to be indebted to the United States in the sum of $1,245.77.

So I think it may be inferred that the sureties had no knowledge of this defalcation, although I will admit that it perhaps was their duty to have come down to Washington and seen whether the man whose bond they had signed had paid up as the provisions of the bond required; yet that is such an unusual thing, such an unheard of thing, that I suppose it will hardly be exacted of these men. It seems to me that if the Government will lay by for twenty-one years lacking a few months after the defalcation is or ought to be brought home to the knowledge of the Government, when the circumstances of all these men have changed, an equitable case at least is presented. I suppose if these men had a legal defense they would not be here with this application.

Mr. MCMILLAN. Mr. President, I have no particular interest in having this claim rejected by the Senate. The only reason why objection is made by me is that it involves a principle which will be continually presented to the Committee on Claims and to the Senate for disposition. If in this case the claim is allowed, it must follow, it seems to me, that in any other case of the default of a principal on an official bond the sureties may ask to be relieved from their liability. So far as I recollect the facts of the case as they were presented to the committee at the last session—I have not had an opportunity of examining the papers at this session—the impression was left upon my mind that the sureties in this case were advised of the defalcation on the part of their principal as an Indian agent, and that he was removed from his office on account of the defalcation, as stated in the report of the committee, on the 31st day of December, 1856.

Now, if these sureties were aware that their principal had made default to the Government of the United States, it was their duty to come forward and pay that indebtedness. They could have protected themselves in that way. If their principal was abundantly able to pay the default, they could have secured themselves and secured the Government at the same time. In addition to that it is well known that during a large portion of the time that intervened between the date of this default and the period when the General Government undertook to collect this bond, the country was not in a condition when the bond could have been enforced. The State of Arkansas was out of the Union practically, and the Government could not enforce her rights against these sureties, and the circumstances of the times both before and since the commencement and termination of the war have been such as to excuse the Government for inattention to a matter of this kind which occurred in 1856. As soon as the Government could give her attention to these matters, it has been done, and she is prosecuting this bond; and the fact that some of the sureties are dead and the estates insolvent is no ground of equity here against the Government of the United States.

If a statute of limitations is to be passed to be applied to the Government of the United States, that should be done upon due consideration, and the principle should be applied under a general law. There are no facts here that will make this case an exception to any of the cases where defaults have occurred and any considerable time has elapsed since the fact was known to the Government.

There is no hardship, certainly, in these parties being called upon to pay an indebtedness which they knew (because that fact does appear indirectly all through the papers) existed at the time this default occurred. If we pass this bill, we may as well conclude that no official bond can be enforced against sureties hereafter, because the claim will present itself with equal force.

The bill was reported to the Senate without amendment.

On the question of ordering the bill to be engrossed for a third reading, a division was called for, and the ayes were 30, the noes 5—not a quorum voting.

Mr. EDMUNDS. We may as well take the yeas and nays on this question, and the call will produce a quorum.

The yeas and nays were ordered; and being taken, resulted—yeas 43, nays 7; as follows:

YEAS—43.

Allison,	Conover,	Ingalls,	Oglesby,
Anthony,	Dawes,	Johnston,	Patterson,
Bailey,	Dorsey,	Jones of Florida,	Plumb,
Bayard,	Eaton,	Kellogg,	Randolph,
Beck,	Eustis,	Lamar,	Ransom,
Booth,	Garland,	McCreery,	Rollins,
Burnside,	Gordon,	McDonald,	Saulsbury,
Butler,	Grover,	Maxey,	Teller,
Christiancy,	Harris,	Merrimon,	Voorhees,
Cockrell,	Hereford,	Mitchell,	Withers.
Coke,	Hill,	Morgan,	

NAYS—7.

Cameron of Wis.,	Ferry,	McMillan,	Windom.
Edmunds,	Howe,	Morrill,	

ABSENT—26.

Armstrong,	Davis of Illinois,	Kirkwood,	Spencer,
Barnum,	Davis of West Va.,	McPherson,	Thurman,
Blaine,	Dennis,	Matthews,	Wadleigh,
Bruce,	Hamlin,	Paddock,	Wallace,
Cameron of Pa.,	Hoar,	Sargent,	Whyte.
Chaffee,	Jones of Nevada,	Saunders,	
Conkling,	Kernan,	Sharon,	

So the bill was ordered to be engrossed for a third reading.

The bill was read the third time, and passed.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirteen minutes spent in executive session the doors were reopened, and (at one o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 5, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

DIPLOMATIC APPROPRIATION BILL.

Mr. SINGLETON, from the Committee on Appropriations, reported a bill (H. R. No. 5312) making appropriations for the consular and

diplomatic service of the Government for the year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SINGLETON. I give notice that I shall call up this bill on Tuesday next, immediately after the morning hour.

NAVAL APPROPRIATION BILL.

Mr. CLYMER, from the Committee on Appropriations, reported a bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CLYMER. I give notice that I shall call up this bill for consideration immediately after the diplomatic appropriation bill is disposed of.

Mr. EDEN. I wish to reserve all points of order on both the appropriation bills just reported.

FRANCIS M. JOHNSON.

Mr. SHELLEY. I ask unanimous consent that the reference of the bill (H. R. No. 4820) for the relief of Francis M. Johnston be changed from the Committee on Public Lands to the Committee on Private Land Claims.

There being no objection, it was ordered accordingly.

ADJOURNMENT TILL MONDAY.

Mr. ATKINS. I move that when the House adjourns to-day it adjourn to meet on Monday next.

The motion was agreed to.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DIPLOMATIC AND CONSULAR SERVICE.

Mr. WILSON, by unanimous consent, presented correspondence of the Department of State in relation to the diplomatic and consular service of the United States; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

BENJAMIN FRANKLIN.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R. No. 5314) granting a pension to Benjamin Franklin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JUDICIAL RECORDS WESTERN DISTRICT OF TEXAS.

Mr. REAGAN. I ask unanimous consent to introduce and have passed at once a bill to provide for supplying the records of the district and circuit courts of the United States for the western district of Texas, which were lately destroyed by fire.

The SPEAKER. The bill will be read for information.

The Clerk read as follows:

A bill to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire.

Be it enacted, &c., That it shall be the duty of the district attorney for the western district of Texas to take such steps as may be necessary to restore the records and files of the circuit and district courts of said district which were destroyed by fire on the night of the 16th of November, 1878, and in which the United States is interested, so far as the judges of said courts respectively shall deem it essential to the interests of the United States that said records and files be restored; and the judges of said courts, respectively, are authorized to direct such steps to be taken as in their opinion shall be deemed advisable to restore the judgment dockets and indices of said courts, and for that purpose may direct the performance, by the clerks of said courts, and by the United States attorney for said district, of any duty incident thereto; and said clerks and said district attorney shall be allowed such compensation and disbursements for services rendered under this act (in cases where no compensation is provided by law for such services) as may be allowed by the Attorney-General and certified to be just and reasonable by the judge of the court in which said services are rendered, and the amount so allowed shall be paid out of the judiciary fund: *Provided, however*, That the sum allowed the clerks of said courts shall not exceed the sum of $8,000, and the entire compensation of the United States district attorney for such services shall not exceed the sum of $4,000.

Mr. EDEN. Is this bill presented for reference merely?

The SPEAKER. It is offered for immediate action.

Mr. REAGAN. I will state that the bill is an exact copy (except as to the names) of the act of 1872, authorizing the supplying of the records of the United States court which were burned at Chicago. The only change we have made is to reduce by 50 per cent. the amount appropriated in that case. I desire to have read letters from the Attorney-General of the United States, and from the judge of that district.

The SPEAKER. If there be no objection these letters will be read, after which the Chair will recognize the right of any gentleman to object.

The Clerk read as follows:

DEPARTMENT OF JUSTICE,
Washington, December 2, 1878.

SIR: You will please find inclosed herewith the two letters received by you from Judge Thomas H. Duval, of the western district of Texas, in which is given an account of the late fire in Tyler, Texas, which destroyed the records of the courts of the United States held in that place. I have considered your oral proposition that Congress should at an early day make provision for the restoration of the records in this case similar to the one made in the case of the Chicago fire in 1871, and agree with you that suitable legislation should be obtained if possible to effect the object above expressed.

Very respectfully,

CHARLES DEVENS,
Attorney-General.

Hon. JOHN H. REAGAN,
House of Representatives.

TYLER, *November* 21, 1878.

MY DEAR JUDGE: On Saturday night last, about one o'clock, the building occupied here by the United States circuit and district courts was consumed by fire, together with all the records and papers. With the exception of the judges' docket of civil cases in the circuit court, and a docket, kept by the clerk for his own convenience, of the criminal cases pending before the district court, everything was lost. Never was destruction of a court's records more total and complete. The fire commenced in the basement of a house adjoining the court-house on the east side, and I suppose had burned for some time under the court building before it was discovered. When the flames burst out above it was impossible, owing to the heat and smoke, to save anything of consequence, except out of the marshal's office. In less than an hour the records and papers, accumulating for the last twenty-five years, were swept away.

On looking at page 169 of the United States Revised Statutes you will find three sections of a general law providing for the restoration of destroyed records, &c. But they are rather meager, and wanting in details. Immediately following these sections are two or three others, passed in 1872, to meet the exigencies of a fire by which the records of the circuit and district courts of the United States for the northern district of Illinois were consumed on the 9th October, 1871.

To remedy, as far as possible, the great loss, public and private, resulting from the fire here, I would respectfully suggest that you prepare and introduce in Congress as soon as it meets a bill containing provisions similar to those in reference to the fire, and such other provisions, if any, as you may conceive to be proper and necessary to meet the requirements of the case. The United States district attorney and clerk can render most important aid in restoring records here, and they should be paid for this extra labor, as they were in Illinois. Of course the amount of their compensation should be fixed at what might be deemed reasonable and just, considering the great interests involved and the urgency of the case. I suppose there will be no difficulty in getting Congress to pass such a bill as I have suggested. What was done for a court in Illinois ought to be done for one in Texas under like circumstances. If such an act is promptly passed much of the loss growing out of the fire here may be remedied before the next meeting of the court on the fourth Monday of April.

Our capable and worthy clerk, W. C. Robards, has sustained a great loss by this fire in many respects, especially by the destruction of his ledger and fee-books. They were consumed, with everything else in his iron safe. All the records and papers in the bankrupt court were destroyed, among others.

As the Tyler branch of the Federal court is in your district, and I know you will feel an interest in the subject, I address you this letter. I shall reopen the courts here day after to-morrow, to do what little I can in the way of repairing damages by making such orders as may seem to be within my power under existing circumstances.

I will be glad to hear from you in reference to the subject of this letter. Write to me at Austin.

Very truly your friend and obedient servant,

T. H. DUVAL.

Hon. JOHN H. REAGAN.

There being no objection, the bill (H. R. No. 5315) was received, read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHAPLAINS IN THE NAVY.

Mr. JONES, of New Hampshire, by unanimous consent, introduced a bill (H. R. No. 5316) regulating the appointment and relative rank of chaplains in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. BRENTANO. I rise to a personal explanation. I send to the desk a copy of the Washington Post, of July 24, 1878, and ask the Clerk to read the article which I have marked.

The Clerk read as follows:

THOSE SPECIAL ASSESSMENTS—WHO ARE THE PRINCIPAL DEBTORS—HOW THE 3.65 CLAUSE WAS PASSED.—The bill for the payment of assessments for special improvements in the District, which passed Congress at its last session, is again attracting some attention, from a statement made a few days since that Mr. Hayes had referred the subject to the Attorney-General and that there was a strong probability that the operations of the law would be suspended until Congress again assembled. Of course Mr. Hayes has no such power, and the rumor undoubtedly arose from the fact that just after the passage of the bill by both Houses several vigorous protests were presented to Mr. Hayes, requesting him to veto it. Delegations of wealthy property-owners interested in its defeat also called at the White House. The Executive referred the matter to his Attorney-General, who declared the measure a legal one, and it was signed and became a law. By its provisions the commissioners are charged with its execution, and arrangements have already been made by them to enforce it. Congress also gave the property-holders a chance to reduce these assessments by an entire revision of the charges made, and thousands have availed themselves of the opportunity offered and filed their claims. The amount outstanding for special assessments will foot up to upward of $1,300,000, due principally by the wealthy property-owners, Mr. Corcoran heading the list with about $25,000. The Linthicum estate, in the county, opposite the Georgetown line, controlled by Mr. Josiah Dent, one of the commissioners, is next upon the list, followed by the names of Columbus Alexander, Kilbourn & Latta, Horace S. Johnson, and Henry S. Davis. About one-fifth of the above-named amount is represented in suits now pending in the courts against the legality of the original assessments. Mr. Corcoran has persistently refused to pay any of these assessments, but departed from his firm determination a few days since in the sale of the lots on B street, northwest, between Fourteenth and Fifteenth, to the Government for the Bureau of Engraving and Printing. The Government agents found a lien of $2,000 on these lots for special improvements and so informed Mr. Corcoran. He offered to give bonds for the payment until the matter was settled in the courts, but the Government required an absolutely free title, and he was compelled to settle this much in order to consummate the sale. The First National Bank of New York holds special improvement liens to upward of a quarter of a million dollars, and it is now pretty strongly rumored, since the smoke and dust of the contest has passed, that the 3.65 bond ring, of which this bank is the acknowledged head, spent a quarter of a million dollars in securing the passage of the following clause in the permanent form of government bill, namely: "Hereafter the Secretary of the Treasury shall pay the interest on the 3.65 bonds of the District of Columbia, issued in pursuance of the act of Congress approved June 20, 1874, when the same shall become due and payable; and all amounts so paid shall be credited as a part of the appropriation for the year by the United States toward the expenses of the District of Columbia, as hereinbefore provided." Thirteen million seven hundred and forty-three thousand two hundred and fifty dollars of these bonds are outstanding, the First National Bank of New York being the principal holders. A short time before the passage of the bill they were quoted at 76, and the day after at 85; thus up-

ward of a million dollars was made on the "raise." There are some ugly rumors afloat as to the manner in which the corruption fund to secure the passage of the bill was disposed of, and who received it. An indignant property-owner avers that a Vermont Representative got away with $25,000, and a Chicago member and a Maryland member with $12,250 apiece, and that the balance of the fund went to the Senate committee.

Mr. BRENTANO. There are three Representatives from the city of Chicago in this House. One of those three who sits on this side of the House [Mr. ALDRICH] voted against the bill. My friend on the other side of the House from the city of Chicago [Mr. HARRISON] did not vote on the bill at all. I am the only member from Chicago who voted for the bill, and am at the same time a member of the Committee for the District of Columbia, which committee prepared the bill. Now, Mr. Speaker, I cannot afford to have this spot on my character, and therefore I move the resolution which I send to the desk.

The Clerk read as follows:

Whereas the Washington Post, a daily newspaper published in the city of Washington, District of Columbia, did, in its issue of July 24, 1878, contain in its editorial columns an article headed "*Those special assessments—Who are the principal debtors—How the 3.65 clause was passed,*" and which article, charging corruption against members of Congress in reference to the bill providing a permanent form of government for the District of Columbia, concludes as follows:

"There are some ugly rumors afloat as to the manner in which the corruption fund to secure the passage of the bill was disposed of, and who received it. An indignant property-owner avers that a Vermont Representative got away with $25,000, and a Chicago member and a Maryland member with $12,250 apiece, and that the balance of the fund went to the Senate committee;" and

Whereas the facts alleged in said article and the averment of "an indignant property-owner" published in said article constitute the charge of the crime of accepting a bribe by members of Congress, the punishment for which is provided for in section 5500 of the Revised Statutes; and

Whereas the substance of said article and the charges contained therein have been telegraphed by special dispatches and by the Associated Press all over the country and otherwise copied and spread out by many newspapers: Therefore,

Resolved, That the Committee on Reform in the Civil Service be, and it is hereby, directed to inquire into the said charges against certain members of this House, and to report at any time to this House whether any member, especially any member from Vermont, Chicago, or Maryland, is guilty of any act as charged in said article of the Washington Post; and the committee is authorized to send for persons and papers.

Mr. HENKLE. Mr. Speaker, I hope the House will pass the resolution presented by the gentleman from Illinois [Mr. BRENTANO] without a dissenting voice. I do not entertain a sanguine hope that a committee of investigation by this House or any other investigation will bring to light the scoundrels who have given origin to this scandal. This is the only means left, however, by and through which members may vindicate themselves from the slanderous aspersions of those who seem to make it their special vocation to malign the character of gentlemen whose course has not chimed with their own interests. Soon after the appearance of this article in the Washington Post I addressed a letter to the editor of that paper demanding of him the name of the author of the article, and to be informed who the "indignant property-owner" was who averred that corrupt influences had been used to secure the passage of the bill in question and that so much of the corruption fund had gone to different parties. The answer was unsatisfactory and evasive. I wrote another letter, demanding in more peremptory terms to know who was the author of the letter. That letter was not answered at all.

Now, if the character of members of this House is to be continually subjected to malicious slanders of this sort, without any sort of justification, it is time that Congress took some steps by which the members of this body should be protected. I hope, therefore, that this resolution will pass without a dissenting voice and that no effort will be spared by that committee to probe this subject to the bottom. If there is corruption, reveal it; turn the sunlight upon this whole subject; and if it is a malicious slander, let the perpetrators of the slander be brought to the bar of public justice.

Mr. FRYE. As a warm personal friend of the gentleman from Vermont, who is a member of the District Committee, [Mr. HENDEE,] and as one having implicit confidence in that gentleman's integrity, I desire simply to call attention to the fact that Mr. HENDEE is absent now from the House at his rooms with a sick family.

The question being taken on agreeing to the preamble and resolution, they were unanimously adopted.

UNIT OF VALUE.

Mr. SCALES, by unanimous consent, introduced a bill (H. R. No. 5317) fixing the value of the trade and Mexican dollars and providing that the legal-tender silver dollar shall be the unit of value; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

BRANDY MADE OF APPLES, ETC.

Mr. SCALES also, by unanimous consent, introduced a bill (H. R. No. 5318) to abolish all taxes on brandy made of apples, peaches, or grapes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

OMAHA RAILROAD BRIDGE.

Mr. FINLEY, by unanimous consent, introduced a bill (H. R. No. 5319) limiting rates for the transportation of freight and passengers over the bridge constructed by the Union Pacific Railroad Company across the Missouri River at Omaha, Nebraska; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAMES P. ALCON.

Mr. FINLEY also, by unanimous consent, introduced a resolution instructing the Committee of Accounts to allow and pay to James P. Alcon what may be due him for services as messenger; which was read, and referred to the Committee of Accounts.

TREATY BETWEEN UNITED STATES AND OSAGE INDIANS.

Mr. CALKINS, by unanimous consent, introduced a bill (H. R. No. 5320) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

LEVI ARNOLD.

Mr. WRIGHT, by unanimous consent, introduced a bill (H. R. No. 5321) granting a pension to Levi Arnold; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PROFESSOR HAYDEN'S SURVEY.

Mr. PATTERSON, of Colorado, by unanimous consent, submitted the following resolution; which was read, and referred, under the law, to the Joint Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878; 5,000 of which shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 copies for the use of the office of the survey.

SURVEY OF THE TERRITORIES.

Mr. PATTERSON, of Colorado, also, by unanimous consent, introduced the following resolution; which was read, and referred, under the law, to the Joint Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed at the Government Printing Office 3,000 copies each of volumes 3, 8, and 13 of the final reports of Geological and Geographical Survey of the Territories, in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Department of the Interior, the illustrations to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

JULIUS BAUMER.

Mr. COX, of New York, from the Committee on Foreign Affairs, reported back, with a favorable recommendation, the following resolution introduced by Mr. BRENTANO:

Resolved, That the President of the United States be requested to transmit to this House, if not incompatible with the public interest, all the papers and correspondence between this Government and the government of the German Empire in reference to the expulsion from the whole territory of the German Empire of Julius Baumer, a naturalized citizen of the United States and a resident of the city of Chicago, in the State of Illinois, while on a visit to his aged parents at Münster, Westphalia, in the kingdom of Prussia, by the Prussian government, in violation of the treaty of May 1, 1828.

Mr. COX, of New York. I ask for action upon the resolution at this time.

The question was taken, and the resolution was agreed to.

Mr. COX, of New York, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROBERT H. FIELD.

Mr. KENNA, by unanimous consent, introduced a bill (H. R. No. 5322) for the relief of Robert H. Field, of Kanawha County, West Virginia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RANK OF WARRANT OFFICERS.

Mr. MORSE, by unanimous consent, introduced a bill (H. R. No. 5323) giving assimilated rank to warrant officers; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

GEORGE C. BUCKNAM.

Mr. MORSE also, by unanimous consent, introduced a bill (H. R. No. 5324) granting an increase of pension to George C. Bucknam; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CUSTOM-HOUSE, CHICAGO, ILLINOIS.

Mr. HARRISON, by unanimous consent, submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the House the names of all the employés at the custom-house in the city of Chicago, with their salary, and the nature of their duties, since the appointment of the present collector at that post.

Mr. HARRISON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUITS IN UNITED STATES COURTS.

Mr. WILLIS, of Kentucky, by unanimous consent, introduced a bill (H. R. No. 5325) to enable certain persons to sue in United States courts without payment of, or security for, costs; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SIGNAL STATION, BLOCK ISLAND.

On motion of Mr. EAMES, leave was granted to withdraw from the files of the House all petitions and papers heretofore presented relating to the establishment of a signal station at Block Island, in the State of Rhode Island, and the same were referred to the Committee on Appropriations.

Mr. EAMES also presented the following petition of citizens of Rhode Island and other States, for the establishment of a signal station on Block Island to be connected with the mainland by a telegraph cable:

To the honorable Senate and House of Representatives of the United States in Congress assembled:

We, the undersigned, who have visited Block Island, recognize the importance and advantage to the maratime commerce of the United States of the establishment at that point of a signal station to be connected with the mainland by a telegraph cable.

Block Island is situated at the entrance of Long Island Sound, through which all vessels plying between New York and eastern ports pass. It is also on the direct line of maritime intercourse with Europe and all the Atlantic coast ports, and from the south light on the island the courses are taken by all European and coasting steamers and vessels.

The usefulness of the Signal Service is so well recognized that to establish the importance of a station at this point we need but mention the fact that there is no place on our whole Atlantic coast more exposed or where the signal of foul or fair weather would be greeted by so many vessels, since in a clear atmosphere an average of two hundred sails may be seen from the south light-house daily.

Telegraphic communication with the mainland would also add much to the service of the life-saving stations already established here in announcing wrecks, which are of frequent occurrence on this coast, and in obtaining relief to distress signals they are now unable to answer.

The cost of such a station and cable would be but little compared with their great importance to the commerce of the country, and as Block Island is rapidly becoming a most favored summer resort a large revenue would be received at the cable office from commercial and miscellaneous business.

The necessity of this signal station and cable has been recognized and earnestly recommended by Government officers and attachés of the service, among whom may be mentioned the late president of the Light-House Board, the much lamented Professor Joseph Henry.

For these and further reasons that shall be apparent, we earnestly and respectfully urge upon your honorable bodies that such station and cable shall be established at this point.

The petition was referred to the Committee on Appropriations.

ORANGE E. BOWERS.

Mr. LATHROP, by unanimous consent, introduced a bill (H. R. No. 5326) granting a pension to Orange E. Bowers, late private Company H, Fifteenth Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAREPTA M. I. HENRY.

Mr. LATHROP also, by unanimous consent, introduced a bill (H. R. No. 5327) granting a pension to Sarepta M. I. Henry, widow of James W. Henry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES BRUIEN.

Mr. SHALLENBERGER, by unanimous consent, introduced a bill (H. R. No. 5328) granting a pension to James Bruien, late sergeant Company H, Forty-fifth United States Colored Troops; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL G. BLISS.

Mr. SHALLENBERGER also, by unanimous consent, introduced a bill (H. R. No. 5329) granting a pension to Samuel G. Bliss, late private Company A, Forty-third Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS LOWRY.

Mr. SHALLENBERGER also, by unanimous consent, introduced a bill (H. R. No. 5330) granting a pension to Thomas Lowry, late sergeant Company A, One hundred forty-seventh Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HANNAH DIMOND.

Mr. SHALLENBERGER also, by unanimous consent, introduced a bill (H. R. No. 5331) granting a pension to Hannah Dimond, mother of Thomas Dimond, late private Company C, Sixty-third Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. MORSE.

Mr. POLLARD, by unanimous consent, from the Committee on Patents, reported a bill (H. R. No. 5332) for the relief of George W. Morse; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. TOWNSHEND, of Illinois, asked and obtained leave to submit the views of the minority of the committee upon the same subject, and that they be printed.

JOHN M'INTOSH KELL.

Mr. CANDLER, by unanimous consent, introduced a bill (H. R. No. 5333) for the removal of the political disabilities of John McIntosh Kell, of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DEPRESSION OF BUSINESS.

Mr. HEWITT, of New York. I ask consent at this time to report to the House the testimony taken by the special committee in regard to the depression of business. I move that the testimony be recommitted to that committee, and that the committee be authorized to have printed such portion of the testimony already taken and of such testimony as may hereafter be taken as to the committee may seem desirable.

There was no objection, and it was so ordered.

H. R. RATHBONE.

Mr. BUNDY, by unanimous consent, introduced a bill (H. R. No. 5334) for the relief of H. R. Rathbone, late major Fifth United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AARON SHERIDAN.

Mr. HAYES, by unanimous consent, introduced a bill (H. R. No. 5335) granting a pension to the minor children of Aaron Sheridan, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MATTHEW M'DONNELL.

Mr. HAYES also, by unanimous consent, introduced a bill (H. R. No. 5336) for the relief of Matthew McDonnell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY MAPES.

Mr. HAYES also, by unanimous consent, introduced a bill (H. R. No. 5337) for the relief of Henry Mapes, late of Company C, Eighty-eighth Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MESSENGER FOR WAR CLAIMS COMMITTEE.

Mr. EDEN, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee of Accounts:

Resolved, That the Committee on War Claims be authorized to appoint a messenger during the present session of Congress at the same rate of compensation as a laborer.

TIMBER DEPREDATIONS.

Mr. ACKLEN, by unanimous consent, submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Attorney-General of the United States be, and he is hereby, requested to furnish the House of Representatives with an account of all moneys expended by the Department of Justice in prosecutions for timber depredations in the State of Louisiana, and that he furnish the House with the number of suits instituted, number dismissed, number successfully prosecuted, and number of cases still pending, and with the accounts of the marshal of the southern district of Louisiana in each and every of said suits, and that he give a detailed statement of accounts presented by said marshal to his Department, whether the same have been paid and allowed or not; and that he also furnish to this House a statement of all contracts and with amounts paid or agreed to be paid to any and all attorneys employed in aid of the regular attorney of the Government.

MORTON C. FISHER.

Mr. TUCKER, by unanimous consent, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 4962) for the relief of Morton C. Fisher.

The question was upon ordering the bill to be engrossed and read a third time.

The bill remits the duties levied upon two steam-plows imported by Morton C. Fisher into the port of San Francisco for his own use.

Mr. EDEN. I wish the gentleman from Virginia [Mr. TUCKER] would get a bill through to allow a good many things to come in free of duty. I do not know why these plows should come in free rather than many other things.

Mr. TUCKER. They were imported by Mr. Fisher for his own use, and it has been usual always to remit duties in such cases.

The SPEAKER. The Chair is advised that this bill is unanimously reported favorably from the Committee of Ways and Means.

Mr. TUCKER. That is correct.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 1367) to aid in the protection of the public buildings and property against loss and damage by fire;

A bill (S. No. 824) establishing the rank of the senior inspector-general; and

A bill (S. No. 1133) for the relief of William Gibson.

WEST POINT COMMERCIAL COMPANY OF VIRGINIA.

Mr. TUCKER, by unanimous consent, introduced a bill (H. R. No. 5338) to authorize the West Point Commercial Company of Virginia to do business in foreign countries; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AMENDMENT OF PENSION LAWS.

Mr. McMAHON, by unanimous consent, introduced a bill (H. R. No. 5339) to amend the pension laws; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

SIMON C. CHAMBERLIN.

Mr. OLIVER, by unanimous consent, introduced a bill (H. R. No. 5340) for the relief of Simon C. Chamberlin, of Susanville, Lassen County, California; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM R. ROGERS.

Mr. HENDERSON, by unanimous consent, introduced a bill (H. R. No. 5341) granting a pension to William R. Rogers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATHANIEL JOHNSON COFFIN.

Mr. JONES, of New Hampshire, by unanimous consent, introduced a bill (H. R. No. 5342) granting a pension to Nathaniel Johnson Coffin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUCCESSOR TO HENRY DOUGLAS.

Mr. ATKINS. Mr. Speaker, since the adjournment of Congress last June, a man named Douglas, for many years an employé of this House, has died. As his name is mentioned in the appropriation bill in connection with the position he held, it is believed by the Doorkeeper that a successor cannot be appointed without special authority from the House, as the salary of the office was appropriated to Mr. Douglas by name. I therefore move that the Doorkeeper be authorized to appoint a man in place of Douglas at the same salary for the balance of this fiscal year.

The SPEAKER. To be paid out of the contingent fund.

Mr. GARFIELD. The payment ought to be made out of the contingent fund.

Mr. ATKINS. Yes, sir.

Mr. GARFIELD. The name of Mr. Douglas was specified in the appropriation bill because he had been in the service of the House for a long time; but it is manifestly right that somebody should fill his place.

The SPEAKER. Provision for the payment of the successor might be made ultimately in the deficiency bill, but for immediate payment the money must come out of the contingent fund.

The motion of Mr. ATKINS was agreed to.

POST-ROADS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, recommending the establishing of certain post-roads; which was referred to the Committee on the Post-Office and Post-Roads.

ACCOUNTS OF TREASURY DEPARTMENT.

The SPEAKER also laid before the House a letter from the Treasurer of the United States, transmitting a copy of the Treasurer's account rendered to and adjusted by the Sixth Auditor of the Treasury, for the fiscal year ending June 30, 1878; which was referred to the Committee on Appropriations.

The SPEAKER also laid before the House a letter from the Treasurer of the United States, transmitting, in compliance with section 311 of the Revised Statutes, "fair" and "accurate" copies of the accounts "rendered" to and "settled with the First Comptroller;" which was referred to the Committee on Appropriations.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The SPEAKER also laid before the House a letter from the commissioners of the Freedman's Savings and Trust Company, relative to the sale of certain real estate belonging to that institution; which was referred to the Committee on Banking and Currency.

INDIAN DEPREDATIONS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting additional papers in the Indian depredation claim of L. A. Thrasher and Mrs. C. C. Short, transmitted to Congress January 20, 1875; which was referred to the Committee on Appropriations.

G. W. CRAWFORD.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the application of G. W. Crawford, of Alabama, for appointment as second lieutenant; which was referred to the Committee on Military Affairs.

PROTESTS AND APPEALS IN CUSTOMS-DUTIES CASES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, recommending a change in the law relating to the protests and appeals from assessments of duties in customs cases; which was referred to the Committee of Ways and Means.

INCREASE OF FORCE IN PATENT OFFICE.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Patents relative to an appropriation for additional assistant examiners, clerks, and laborers in his office; which was referred to the Committee on Appropriations.

FORT CUMMINGS MILITARY RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending that the United States retain possession of the Fort Cummings military reservation; which was referred to the Committee on Military Affairs.

CAPTAIN BATES AND LIEUTENANT YECKLEY.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the passage of a bill for the relief of Captain Bates and Lieutenant Yeckley; which was referred to the Committee on Military Affairs.

PRIVATE LAND CLAIM IN NEW MEXICO.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report of the surveyor-general of New Mexico on private land claim No. 76; which was referred to the Committee on Private Land Claims.

SUSPENDED LAND ENTRIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a report of the Commissioner of the General Land Office on the adjudication of suspended land entries during the year ended June 30, 1878; which was referred to the Committee on Public Lands.

LAWS OF WYOMING.

The SPEAKER also laid before the House a letter from the secretary of the Territory of Wyoming, transmitting a copy of the session laws of Wyoming passed by the fifth Legislative Assembly; which was referred to the Committee on the Judiciary.

CONTESTED ELECTION, HARALSON VS. SHELLEY.

The SPEAKER also laid before the House testimony in the contested-election case of Jere Haralson against C. M. Shelley, fourth congressional district of Alabama, in behalf of the contestant; which was referred to the Committee of Elections.

ELIAS AND EUNICE O. BREWER.

Mr. BREWER, by unanimous consent, introduced a bill (H. R. No. 5343) for the relief of Elias and Eunice O. Brewer, of Ingham County, Michigan; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

YELLOW-FEVER EPIDEMIC.

Mr. WOOD. As there seems to be no pressing business before the House, I desire to call its attention to a concurrent resolution adopted by the Senate on yesterday to provide for an investigation as to the late yellow-fever epidemic. As the House has decided to adjourn over until Monday, I desire to suggest that some arrangement of a like character to that which the Senate has made be made by the House before its adjournment to-day. The Senate has appointed a committee of seven members to act in conjunction substantially with a like committee of this House; and as time is very important, that a report may be made during the present session of Congress, I desire to call the attention of the House to the necessity of adopting some resolution on this question before its adjournment to-day. I would like to ask the Speaker whether the Committee on Rules, to which this subject was referred, is now ready to report?

The SPEAKER. The Committee on Rules, the Chair understands, have delayed reporting in consequence of the indisposition of the gentleman from Georgia, [Mr. STEPHENS,] a member of the Committee on Rules. The Chair understands, however, that the gentleman from Ohio [Mr. GARFIELD] is now authorized to report from that committee.

Mr. GARFIELD. I am instructed by the Committee on Rules to report the concurrent resolution which I send to the desk.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring.) That a commission is hereby authorized and constituted, to consist of four (4) Senators, to be appointed by the Senate; five (5) members of the House of Representatives, to be appointed by the Speaker; and experts not exceeding seven (7) in number, to be selected by and associated with them, with authority to determine the time and place of meeting, to employ stenographers and clerks, to take testimony, and by subcommittees to visit the recently infected localities and other places, whose duty it shall be to inquire into the recent history and the means of prevention and arrest of yellow fever and other epidemic diseases, and to report the facts and their opinions and recommendations by bill or otherwise, at any time.

Mr. GARFIELD. If there be any gentlemen who desire to say anything on the resolution I will yield to them.

Mr. HOOKER. I desire to say a word or two.

Mr. WOOD. Before the gentleman from Mississippi says anything I desire to ask the gentleman from Ohio whether the Committee on Rules, at the time of the adoption of this report presented by him, were in possession of the action of the Senate, as the report made by the Committee on Rules appears to differ very much from the action of the Senate.

Mr. GARFIELD. The action of the Senate had not come to hand when the Committee on Rules met. Several resolutions were sent by the House to the committee, four or five I think, introduced by different gentlemen, and the committee selected what they thought the most comprehensive; in fact this resolution combines pretty much

everything that was suggested in the several resolutions before the committee. Of course if anything has been learned or any new light has been thrown on the subject by the Senate resolution this is the time to embody the better view in the one I have reported.

On the general subject I wish to say a single word before the gentleman from Mississippi proceeds. The Committee on Rules did not go into the discussion of what power the Congress may possess in this matter. It was enough for them to know that even under the strictest construction of the Constitution we have an undoubted right to make quarantine regulations of the high seas around our harbors and along our navigable rivers, and that we had the further clear and unquestioned right to take care of the health of our own Army and Navy and of the officers in the custom-houses and other public offices located at the various ports. Beyond that we did not think it necessary to raise any question, proposing to let the commission examine that subject should any doubt arise as to the power of the Government on this subject. Our chief concern was to provide for exploring the facts connected with the appalling pestilence which has ravaged so large a portion of the Union.

On that question I am glad to say that not only we who occupy these seats but Americans everywhere are as absolutely one as men can be on this earth. The invisible power which carried sudden death to so many households also touched a depth in the American heart which party passion has invaded; and out of that depth have come the purest and noblest sympathies of which human nature is capable. Guided by those impulses, let us seek to give a wise direction to any efforts which the future may require.

I yield to the gentleman from Mississippi [Mr. HOOKER] whatever time he may wish to occupy.

Mr. HOOKER. Mr. Speaker, I am gratified, for one, that the Committee on Rules, to whom was referred the several propositions submitted a day or two ago, have been unanimous in their action. I was about to suggest what has been referred to by the gentleman from New York, [Mr. WOOD,] that the action of the Senate, which indicates that it is the opinion of that body that a commission of seven Senators, to act in concert with a similar committee of this House, be appointed and report to the respective bodies such legislation as may be necessary to effect the purpose had in view. I am glad to hear the gentleman from Ohio [Mr. GARFIELD] express what I am sure will find a response in every heart in every portion of our common country, that this affliction, which has visited us with a virulence hitherto unknown to this disease, has evoked a feeling which makes all mankind "akin to one another." It breaks down all barriers of party; it prostrates all considerations of section, and makes us in deed and in truth feel that we are one people, of one origin, one blood and lineage.

I feel gratified, sir, that the committee have acted with so much unanimity, and I have nothing to say against the report except that I would suggest, as has been done by my friend, [Mr. WOOD,] as we are now in possession of the action of the Senate we had better make the resolution of the House conform to the action of that body in this, that we will appoint a committee—whether or not it shall embrace experts outside I am not clear on that question—but I think that a commission should be created by the two Houses which will suggest some practical legislation on this subject so that it may not be said, as was said in the message of the President, that the act of April 29, 1878, passed too late to go into practical effect. I am satisfied that no member of the profession which has devoted itself with so much zeal and fidelity to the relief of the afflicted everywhere will not promptly respond to the appeal of the commission and give whatever information they may possess upon that subject to it. Experience has demonstrated during the last terrible affliction which visited such a large region of our country that rigid quarantine regulations may be implicitly relied on. It is a remarkable fact that the epidemic never found lodgment on the Atlantic coast, though this was the first section of our country to suffer in former epidemics.

It was my fortune to be in Mobile on the very day on which the quarantine was enforced, and I thought at the time, as many thought, that it was a hardship both upon the traveler and upon the commercial interests of the country. We all lived to see that the city of Mobile had acted with a foresight which saved her in a large degree from being one of the cities visited by this great scourge.

It did not prevail at Natchez, so intimately connected with New Orleans, situated on the Mississippi River, four hundred miles from this great commercial center. Natchez, at a very early day, established her quarantine, and the result was that while the fell scourge approached within eight miles of it on the south and seven miles on the north, not a solitary case up to this good hour has appeared in Natchez, one of the largest cities, commercially and in population, in the State of Mississippi, and which had always suffered when the fever prevailed in New Orleans. These two instances alone demonstrate the necessity of a quarantine being kept up by our Navy, which would find a useful occupation in the protection of the health of the people. I say that these two instances demonstrate that what one city has accomplished the whole Union may accomplish by adopting an extended coast quarantine. And, sir, the experience of the past summer—the fatal experience of the past summer—shows the security which may result from stringent quarantine regulations in regard to this terrible disease.

This disease will go everywhere where the condition of the atmosphere and temperature will carry it. It went up into the State of the gentleman from Ohio to Gallipolis; it went where it had never been known before, into the States of Kentucky and Tennessee. I am glad to say that when our afflicted people sought refuge in healthier regions, somewhat to the peril of the inhabitants thereof, especially in Louisville, Kentucky, her generous people threw open wide her doors to the fugitives from my section.

I think that experience has demonstrated that it is a fever of foreign origin, and that vessels or goods from foreign ports bring it into this country, and therefore that it may be excluded by a rigid quarantine, which in its character will substantially protect us from the incursions of this disease from New York to Galveston.

We are aware of the fact that in former years it visited even the city of New York; and if it shall appear again with a virulence as great as that of last summer, we know not what regions of our country may be visited and devastated by it.

It may be urged that this would be an interference with commerce. Sir, there is a higher consideration than the mere protection of the commerce of our own country, or that of others under treaty stipulations and regulations. That consideration is the preservation of the public health of the country by all the means that the Government possesses and can carry into effect.

I give my most hearty assent to the report of the Committee on Rules, and I trust it will be adopted with the same unanimity here that characterized the adoption of a similar resolution in the other branch of Congress.

One word more, Mr. Speaker, and I will be done, and it is this: in this terrible affliction, when the hand of this fell destroyer was laid upon our people everywhere, it was scarcely known when throughout this broad land, from Boston, New York, Philadelphia, Chicago, from even the smallest towns and hamlets all through the northern and western portions of our country, they came to our relief with a practical generosity and large-hearted benevolence which will never be forgotten by a suffering and afflicted people whose gratitude they cannot find fitting words to express. [Applause.]

Mr. COX, of New York. The House will remember that the gentleman from Georgia [Mr. HARTRIDGE] at the last session introduced a bill in reference to quarantine regulations. That bill had a national scope and significance. The House, by an amendment which I offered, reserved and preserved the local police regulations connected with quarantine already hitherto established.

I think that any lawyer of this House who will look at the case of Ogden *vs.* Gibbons, 9th Wheaton, page 1, will see that quarantine is a police regulation. We must not, in our anxieties, forget that it is a State institution, and that it will lose its efficiency just so far as we make it an institution of a general nature, without practical accountability to the local authorities of the State or city.

My friend from Mississippi [Mr. HOOKER] praises the city of Mobile, where he found just quarantine regulations. He says that Mobile was rescued from the yellow fever by her own local municipal police regulations. Why was that? It was because Mobile had a municipal quarantine as Philadelphia has, as Boston has, as New York has. And I would ask of this proposed commission that when they come to investigate this matter they shall not seek in any way to overturn local police regulations, by means of which they have guarded so carefully, scientifically, and equitably against disease in our various ports and places.

This is not a new question before this House. We have tried to anticipate all these disasters. Sacrifices must be borne. But for sacrifices there will be no salvation. From the time of Calvary till now, nothing has ever been gained of goodness and greatness except through sacrifice.

I would be willing to repeat all the plaudits which gentlemen have made here, if I had the power and the rhetoric, in honor of those who sent relief to the South in their hour of danger and suffering.

But one thing I will not sacrifice. It is the local police and municipal regulations by which alone these great disasters can be prevented. There is only one way to prevent the yellow fever from spreading from New Orleans to Dakota, from Savannah to New York, and that is by strict non-intercourse with the tropical islands. I say "non-intercourse." "This involves self-sacrifice." You must make sacrifices, gentlemen of the South, in the matter of commerce. I have the assurance from practical men, not merely scientific men, but men who have had experience and know what they speak of, that in order to stop the yellow fever from coming here you must have "non-intercourse" with the islands and countries of the tropics; you must sacrifice, or all your legislation will not avail.

Mr. GARFIELD. While I agree heartily with what the gentleman from New York [Mr. COX] has just said, that in a time of threatened pestilence it is vitally essential that we have non-intercourse with the countries where the yellow fever is indigenous, yet I would inquire how the State of Louisiana, for instance, can have non-intercourse when the Government of the United States controls the mouth of the Mississippi and the high seas?

Mr. COX, of New York. The gentleman from Georgia [Mr. HARTRIDGE] introduced a bill last session to meet that case. The President says that bill has not yet become operative. Let us be quiet. Do not be in a hurry to trench upon municipal rules and regulations. I have stood here for years contending for New York and other local quarantine regulations. I will not oppose this resolution. Let it pass; let us have the largest inquiry and the best remedial legislation possible.

Mr. HOOKER. This will not interfere at all with the local quarantine regulations.

Mr. YOUNG. I desire to say a few words on a different branch of the subject. It is yet too early, it seems to me, to discuss the constitutional power of Congress to enact any law for the protection of the public health. A question more important and material to be considered now is the resolution before the House. I have no objection to it. It meets my entire concurrence. In view, however, of the action of the Senate, it might be well to have this resolution recommitted to the Committee on Rules, that they may have a conference with some members of the other branch. As the House knows, a resolution was adopted yesterday by the Senate creating a separate committee of that body, which has been already appointed. If we now adopt a resolution concurrent in form, providing for the appointment of a joint committee, the Senate, in order to concur in our resolution, would necessarily have to rescind its action of yesterday.

In order, therefore, that there may be no complication about this matter, I would suggest that the resolution reported by the gentleman from Ohio be recommitted to the Committee on Rules, that they may confer with some members of the Senate. This course would probably prevent some delay which otherwise may occur.

This is an important question to us, and one which should be acted on promptly. I foresee that if this resolution in its present form be adopted it will in all probability be rejected by the Senate and sent back, so that we shall have to conform our action to the action taken yesterday by that body.

I would suggest to the gentleman from Ohio that the Senate resolution of yesterday, with some trifling modifications, be submitted to the House in lieu of the resolution reported from the Committee on Rules, or that the whole matter be recommitted to the Committee on Rules for further consideration. If the gentleman from Ohio has no objection I believe I will test the sense of the House by submitting a resolution similar in form to that adopted yesterday by the Senate, but embracing the necessary alterations. Has the gentleman from Ohio anything to say on that point?

Mr. GARFIELD. I am not instructed by the committee to accept any proposition of that kind; but, of course, we all want to get this matter in the best possible shape, and it is proper that the judgment of the House be taken on any proposition which the gentleman may desire to submit. It strikes me in the outset that if the Senate and the House have different committees we shall double the expense of the investigation, and perhaps obtain two reports which will run in different grooves; so that between the two we may get into a wrangle and accomplish nothing. It seems to me it would be far better to have but one committee, a joint committee of the two Houses, so that the conclusion reached shall be one conclusion, not two. Besides, with a joint committee the expense need not be much more than half what it would be otherwise. For this reason I should prefer a joint committee.

Mr. YOUNG. I do not wish to be understood as objecting at all to this report.

The resolution reported by Mr. GARFIELD was adopted.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WOOD. I move that the House adjourn.

The motion was agreed to; and accordingly (at one o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: The petition of W. C. McHaney, of Henderson County, Tennessee, for compensation for cotton taken by the United States Army—to the Committee on War Claims.

By Mr. BREWER: Papers relating to the claim of Elias and Eunice O. Brewer—to the Committee of Claims.

By Mr. CHITTENDEN: The petition of ladies of the Church of Messiah, of Brooklyn, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. DIBRELL: The petition of the bishop of Tennessee, for compensation for damages to St. Peter's and St. Paul's church building at Chattanooga, Tennessee, used by the United States Army—to the Committee on War Claims.

By Mr. HATCHER: The petition of Silas Knox, of New Madrid, Missouri, for compensation for property taken by the United States Army—to the same committee.

By Mr. JONES, of Ohio: The petition of citizens of Union Township, Union County, Ohio, to grant to the Union Township Monumental Association four pieces of condemned ordnance of the United States and sixteen cannon-balls for the ornamentation of the soldiers' monument erected in said township—to the Committee on Military Affairs.

By Mr. LAPHAM: Resolutions of the commissioners of emigration of the State of New York, and of the superintendents of the poor of said State, in convention assembled, favoring the passage of the bill (H. R. No. 3704) to regulate immigration—to the Committee on Commerce.

By Mr. REED: The petition of Henry En Earl, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. SHALLENBERGER: The petition of Dr. D. McKinney, that a pension be granted James Bruien, late sergeant of Company H, Forty-fifth Regiment Pennsylvania Volunteers—to the same committee.

By Mr. WIGGINTON: The petition of P. M. C. Lockette and 62 others, for the establishment of a post-route from Mariposa, via Lewis Ranch, to Union post-office, California—to the Committee on the Post-Office and Post-Roads.

By Mr. WILSON: The petition of Anderson Langford, for a pension—to the Committee on Invalid Pensions.

Also, the petition of J. E. Reeside, for compensation for carrying United States mails—to the Committee of Claims.

By Mr. WRIGHT: The petition of Levi Arnold, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

MONDAY, *December* 9, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Thursday last was read and approved.

GEORGE F. HOAR, a Senator from the State of Massachusetts, and ROSCOE CONKLING and FRANCIS KERNAN, Senators from the State of New York, appeared in their seats to-day.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5307) to correct an error of enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes;

A bill (H. R. No. 4962) for the relief of Morton C. Fisher; and

A bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire.

The message also announced that the House had passed a concurrent resolution authorizing the appointment of a commission consisting of Senators and Representatives to inquire into the recent history and means of prevention and arrest of yellow fever and other epidemic diseases; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 1367) to aid in the protection of the public buildings and property against loss and damage by fire;

A bill (S. No. 824) establishing the rank of the senior inspector-general;

A bill (S. No. 1133) for the relief of William Gibson; and

A bill (H. R. No. 1625) granting a pension to Abram V. Miller, late a lieutenant in Company E of the One hundred and eighty-fourth Regiment of Pennsylvania Volunteers.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of State, transmitting, in compliance with the requirement of section 208 of the Revised Statutes, a statement of the fees collected, accounted for, and reported by the various diplomatic and consular officers of the United States during the year which ended December 31, 1877; which was referred to the Committee on Appropriations, and ordered to be printed.

EXPENSES OF THE DISTRICT OF COLUMBIA.

The VICE-PRESIDENT laid before the Senate a letter of the commissioners of the District of Columbia, communicating, in obedience to law, estimates of the receipts and expenditures of the District of Columbia for the fiscal year ending June 30, 1879, and June 30, 1880; which was referred to the Committee on the District of Columbia, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. WHYTE. I present the petition of Professor F. Miles, Dr. R. M. Sherry, W. C. Van Bibber, John R. Uhler, D. C. Gilman, D. R. Uhler, and other citizens of Maryland, praying for the passage of a law creating a commission to inquire into the nature and treatment of yellow fever and allied epidemic diseases. Inasmuch as there has been a select committee already appointed for that purpose, I move the reference of this petition to that committee.

The motion was agreed to.

Mr. WHYTE presented the petition of S. Rosenfeld & Co., of Baltimore, Maryland, praying for the passage of a law refunding to them certain taxes erroneously paid upon tobacco, snuff, and cigars; which was referred to the Committee on Finance.

Mr. KERNAN. I present thirteen petitions of citizens of the State

of New York, ex-volunteer soldiers in the late war, praying for the passage of a bill providing for the payment of arrears of pension. I move their reference to the Committee on Pensions.

The motion was agreed to.

Mr. KERNAN presented a resolution adopted by the board of commissioners of emigration and also by a convention of superintendents of the poor of the State of New York, recommending the passage of the bill (H. R. No. 3704) granting protection to immigrants and at the same time preventing them from becoming a charge upon the cities, counties, and towns of that State; which was referred to the Committee on Commerce.

Mr. KIRKWOOD presented the petition of William Crum, of Johnson County, Iowa, praying to have refunded to him certain internal-revenue taxes improperly collected from him on distilled spirits; which was referred to the Committee on Claims.

Mr. ANTHONY presented the petition of Surgeon George F. Winslow, of the United States Navy, praying that the date of his commission in the Navy may be changed from the 2d of April, 1875, to the 27th of May, 1871; which was referred to the Committee on Naval Affairs.

Mr. BECK. I present additional evidence in the claim of John Thorns, of Fayette County, Kentucky, praying to be allowed compensation for corn, oats, hay, fuel, and other quartermaster stores taken for the use of and used by the Army of the United States in the years 1862, 1863, and 1864. The bill for his relief (S. No. 66) is now on the Calendar, and I wish to have it recommitted to the Committee on Claims for the purpose of considering the additional evidence. I have conferred with the chairman of that committee, and the motion to recommit has his approbation.

The VICE-PRESIDENT. That will be a resolution, and it will lie on the table until that order is reached. The additional papers will be referred to the Committee on Claims.

Mr. McMILLAN. I present a memorial of the Veteran Association of Minnesota in favor of the passage of the House bill providing for the payment of arrears of pension. I move that it be referred to the Committee on Military Affairs, and I may be permitted to say——

Mr. INGALLS. The Committee on Pensions have had that subject under consideration for the past two years and have reported two bills upon the subject, one of which is now upon the table and the other before the House of Representatives. I ask that this and all similar petitions may lie upon the table.

Mr. McMILLAN. The request that the petition be referred to the Committee on Military Affairs was a mistake on my part; it was not intentional. I desire that it be referred to the Committee on Pensions.

Mr. INGALLS. The Senator misunderstood me. The bill on that subject has been reported to the Senate, and I ask that the petition lie upon the table.

Mr. McMILLAN. That is satisfactory, sir.

The VICE-PRESIDENT. That order will be entered and the petition will lie upon the table.

Mr. MITCHELL presented the petition of Mrs. L. H. Price, Mary E. Babcock, Bessie E. Morton, Mrs. S. Stirritt, C. Hardin, Augustus Briggs, and others, citizens of Monmouth, Warren County, Illinois; the petition of Mrs. L. T. F. Davis, Harriet N. Graves, Sarah A. Soule, Ida M. Morgan, Jessie Lee, Frederick Morgan, and others, citizens of Belvidere, Thayer County, Nebraska; the petition of Louise Paine Horan, Mrs. Elizabeth Tyler, Emily R. Derby, Thompson H. Murch, and others, citizens of Rockland, Knox County, Maine; the petition of Mrs. Eliza W. Hedges, Mrs. M. Morris, J. F. Hedges, William Woodward, and others, citizens of Cynthiana, Harrison County, Kentucky; the petition of Sarah R. Hand, Anna Kerr, Juline Bates, Homer G. Bates, Andrew Kerr, and others, citizens of Steuben, Crawford County, Pennsylvania; and the petition of Almira W. Anthony, Mary P. Wheeler, Sarah A. Owen, Levi Gilbert, John H. Babcock, and others, citizens of Kasson, Dodge County, Minnesota, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which were referred to the Committee on Privileges and Elections.

Mr. BURNSIDE presented the petition of S. Moffitt and others, praying, on behalf of Sophia Vincent, widow of Martin Vincent, late of Company E, Fourteenth Regiment United States Infantry, that she be allowed arrears of pension, and also for the amendment of the pension laws so as to allow pensions from the date of the death or discharge of the soldiers to whom granted; which was referred to the Committee on Pensions.

Mr. CONKLING. I have received thirty-seven petitions from soldiers and the widows of soldiers of the late war praying the passage of the House bill granting arrears of pension. I move their reference to the Committee on Pensions.

The motion was agreed to.

Mr. CONKLING presented the petition of Patrick Bolton, late sergeant of Company F, Fifty-first Regiment New York Volunteers, praying to be restored to the pension-roll; which was referred to the Committee on Pensions.

He also presented the petition of Ann M. Paulding, widow of Hiram Paulding, deceased, late senior rear-admiral of the United States Navy, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. PADDOCK presented the petition of Frank North and others, citizens of Nebraska, praying for the establishment of a post-route from the North Platte to the Running Water in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. McDONALD presented the petition of Abram F. Farrar, late captain of Company F, Thirty-fifth Regiment Indiana Volunteers, praying to be granted a pension; which was referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1444) for the relief of S. Rosenfeld & Co.; which was read twice by its title, and referred to the Committee on Finance.

Mr. ARMSTRONG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1445) for the relief of Eugene Wells; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HAMLIN. I have been requested to introduce a bill for promoting the efficiency of the corps of chaplains of the United States Navy, and to ask that it be referred to the Committee on Naval Affairs; and I take this occasion to invite the early attention of the Committee on Naval Affairs to the bill which I present.

By unanimous consent, leave was granted to introduce a bill (S. No. 1446) for promoting the efficiency of the corps of chaplains of the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1447) to establish a mail-route in the State of Wisconsin; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1448) to establish certain post-roads in the State of Kansas; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1449) for the relief of S. D. Houston; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1450) making an appropriation for continuing the improvement of the Missouri River at Atchison, Kansas; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1451) authorizing the construction of a breakwater and a harbor of refuge on the Pacific coast; which was read twice by its title.

Mr. MITCHELL. I move that the bill lie on the table for the present, and I give notice that at an early day I shall call it up and submit some remarks in favor of the proposition.

The motion was agreed to.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1452) making an appropriation to improve the entrance to Coos Bay and harbor, Oregon; which was read twice by its title, and ordered to lie on the table.

Mr. BURNSIDE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1453) for the relief of Major James Belger; which was read twice by its title and, with the accompanying petition, referred to the Committee on Military Affairs.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1454) granting a pension to Ann M. Paulding, widow of Hiram Paulding, late senior rear-admiral of the United States Navy; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CONKLING. I am requested to ask leave to introduce a bill of which I have no personal knowledge as to its merits.

By unanimous consent, leave was granted to introduce a bill (S. No. 1455) to reward Augustus Watson for inventing and introducing stamped newspaper-wrappers on sale at post-offices for seventeen years; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1456) granting a pension to Abram F. Farrar; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1457) for the better protection of life during marine disasters; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1458) to establish certain post-routes in the State of Nebraska; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1459) for the relief of Francis S. Davidson; which was read twice by its title, and referred to the Committee on Military Affairs.

BILL RECOMMITTED.

Mr. BECK. The motion I rose to make some time ago I believe is now in order. I move that the bill (S. No. 66) for the relief of John Thorns, of Fayette County, Kentucky, the vote of indefinite postpone-

ment having been reconsidered at the last session, be recommitted to the Committee on Claims, to whom additional evidence in the case was to-day referred.

The VICE-PRESIDENT. To this the Chair hears no objection, and the order will be entered.

AMENDMENT TO POST-ROUTE BILL.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads.

AMENDMENT OF PATENT LAWS.

Mr. BOOTH. I wish to give notice that on Wednesday next, that being the day for which the bill is made a special order, I shall offer certain amendments to the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes. I send the amendments to the Chair and ask that they be printed.

The VICE-PRESIDENT. They will be printed and laid upon the table, subject to the call of the Senator from California.

HOUSE BILLS REFERRED.

On motion of Mr. FERRY, it was

Ordered, That the bill (H. R. No. 5217) to fix the pay of letter-carriers be taken from the Calendar and referred to the Committee on Post-Offices and Post-Roads.

The bill (H. R. No. 4962) for the relief of Morton C. Fisher was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 5307) to correct an error of enrollment in the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, was read twice by its title.

Mr. DORSEY. I should like to have that matter considered now. It simply proposes to re-enact what was passed at the last session of Congress in regard to the Hot Springs reservation, and which was omitted in the enrollment of the act.

The VICE-PRESIDENT. The bill will be reported at length.

The Secretary proceeded to read the bill, and was interrupted by

Mr. EDMUNDS. I do not think that bill ought to pass without being printed and going to a committee. I notice what I think, as far as has been read, one omission in it; that is, I think it will be so construed as not to provide any compensation for the labor of the commissioners during this interval, as it speaks of the commission; there may be some subsequent clause, but as far as the reading has proceeded that seems to be the effect; and it is too important a bill to pass in this way, in my belief. I hope that it will be printed and go to the Committee on Appropriations.

The VICE-PRESIDENT. The bill will be printed under the rule. To the motion of the Senator from Vermont the Chair hears no objection.

The bill was referred to the Committee on Appropriations.

PREVENTION OF EPIDEMIC DISEASES.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of the House of Representatives; which was read:

Resolved by the House of Representatives, (the Senate concurring.) That a commission is hereby authorized and constituted, to consist of four (4) Senators, to be appointed by the Senate; five (5) members of the House of Representatives, to be appointed by the Speaker; and experts not exceeding seven (7) in number, to be selected by and associated with them, with authority to determine the time and place of meeting, to employ stenographers and clerks, to take testimony, and by subcommittees to visit the recently infected localities and other places, whose duty it shall be to inquire into the recent history and the means of prevention and arrest of yellow fever and other epidemic diseases, and to report the facts and their opinions and recommendations by bill or otherwise, at any time.

Mr. HARRIS. Supposing the proper reference of that resolution would be to the select committee raised by the Senate to investigate the same matter, the select committee has had the concurrent resolution under consideration; and in view of the fact that the Senate has appointed a Senate committee charged with the investigation of the same matter, which committee has already organized and is ready to enter upon the work, with the hope that when the House is informed of that action it will adopt similar action, and the two committees may act together, the select committee have instructed me to recommend to the Senate non-concurrence in the concurrent resolution of the House; and I make that recommendation.

The VICE-PRESIDENT. The question is, Will the Senate concur in the House resolution just reported?

The resolution was not concurred in.

Mr. EDMUNDS. I should like to inquire whether the House of Representatives has been notified of the action of the Senate in respect to the appointment of the select committee of which the Senator from Tennessee is chairman?

Mr. HARRIS. I think no formal notice has been given the House of Representatives of the action of the Senate in the appointment of the committee referred to.

The VICE-PRESIDENT. No formal notice has been given.

Mr. EDMUNDS. I move, then, that the Secretary be directed to transmit to the House a copy of the Senate resolution, with the names of the Senators appointed as such committee.

The VICE-PRESIDENT. That order will be entered.

IMMUNITY OF DIPLOMATIC AGENTS.

Mr. BAYARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to transmit to the Senate, if not incompatible with the public interests, copies of all correspondence which has recently been had by the Department of State with any foreign power, or its legation in this country, respecting the immunity of diplomatic agents of a foreign government from judicial proceedings against them while received as such and residing in the United States; and also whether, in his opinion, the laws of the United States in that regard, as contained in the Revised Statutes, require amendment.

ELECTION IN SOUTH CAROLINA AND LOUISIANA.

Mr. CAMERON, of Wisconsin, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be, and he hereby is, requested to furnish the Senate, if not incompatible with the public interests, with copies of reports of United States marshals and other officials, and such other correspondence as he may have relative to the recent election in the States of South Carolina and Louisiana.

OREGON STEAM NAVIGATION COMPANY.

Mr. MITCHELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, directed to furnish the Senate a statement of all amounts, together with rates, paid by the War Department of the Government to the Oregon Steam Navigation Company of Portland, Oregon, for Government transportation, and for hire of steamboats used in transporting troops and property, respectively and separately, during each of the ten years last past, on the Columbia River and its tributaries above Fort Vancouver, Washington Territory.

INDIAN TRIBES IN INDIAN TERRITORY.

Mr. GARLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire whether it will not be wise and expedient by appropriate legislation—

First. To provide for the revision of the existing laws regulating intercourse with the Indian tribes in the Indian Territory.

Second. To issue and deliver to the treasurers or other proper authorities of said nations, bonds of the United States bearing 4½ per cent. interest in lieu of all moneys held in trust for them by the United States, except the funds for educational purposes, and of the capital of all annuities and annual payments due and made to them under existing treaties and laws, and of all bonds of any of the States held in trust for them, and of all other moneys due any of them by virtue of express stipulations of treaties; with direction to the Secretary of the Treasury to ascertain the amounts for which such bonds should issue; and in case of disagreement between himself and the authorities or delegates of either of said nations as to the extent or amount of any of such indebtedness, to refer the same to the Court of Claims for adjudication, to be there proceeded upon like other claims upon contracts against the United States.

SPECIAL ORDERS ON THE CALENDAR.

Mr. THURMAN. I wish to make an inquiry if it is in order to do so. I find at the head of the Calendar placed on our tables this morning two bills marked "special orders," one of which was made a special order for the 1st of April last and the other for the 18th of April. Those days having gone by, I wish to inquire of the President of the Senate whether those bills are still special orders, and, if so, for what day? It seems to me that the order making them special orders has become obsolete. I do not know, however, what the practice of the Senate is, and I should like to know for certain reasons whether or no they are special orders.

The VICE-PRESIDENT. The Chair is of the opinion that they have lost their place as special orders.

AMENDMENT OF PATENT LAWS.

Mr. WINDOM submitted the following resolution:

Whereas it is alleged that the United States patent system, which was intended for the encouragement and protection of meritorious inventors, has become in many cases the instrument of dishonest speculators and unscrupulous assignees, agents, and attorneys, whereby the grossest injustice and most intolerable oppressions are perpetrated in the name and by the authority of the Government: Therefore,

Resolved, That the Committee on Patents be instructed to consider the expediency of substituting some other mode of compensating inventors in place of the existing monopoly and royalty system, and that pending such investigation the said committee be further instructed to inquire what amendments, if any, may be necessary to give adequate protection to the public and to prevent further unjust and odious exactions under the patent laws, and that said committee report by bill or otherwise.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. WINDOM. Mr. President, no one appreciates more highly than myself the skill and genius of the American inventor. I know something of his immense contributions to the wealth and productive power of this country, and none shall excel me in efforts to provide for him all reasonable and proper encouragement and protection. In proposing a radical modification of the patent laws I wage no war upon the honest inventor, but seek to protect the public from a class of reckless speculators and patent knaves, who, by the aid of your laws, fatten upon both the inventor and the public. The proposition is in the interest of the meritorious inventor as well as of the community at large. There is a prevailing conviction in the public mind that the system of granting monopolies as a reward for inventions is of very questionable expediency at best, and recent transactions in several western States have so intensified that conviction that I am satisfied a majority of the people would to-day vote to abolish the entire system. They are quite willing to concede a fair and reasonable compensation to the meritorious inventor, but they

are not willing that such compensation shall any longer take the form of an odious monopoly, whereby they may be insulted, harassed, and robbed, as has been recently done in certain notorious cases. They will pay for the results of brain work and the productions of genius as freely as for physical labor, but they will not any longer cheerfully consent that a system which was designed to encourage and protect honest inventors shall be so perverted as to become the instrument by which pretended inventions may be bought or stolen, and then employed, under the authority of the United States, as the means of insulting, oppressing, and plundering the public.

The patent laws seem to have been framed wholly in the interest of the patentee and of the conscienceless speculator who may be sharp enough to obtain control of his monopoly, but with an utter disregard of the rights and interests of the people. For instance, when the decision of an examiner is *in favor* of a patent there is no review or supervision in the interest of the public, and his action is *final* and the patent issues. But when he *rejects* an application there is an appeal, first to the board of examiners, next to the Commissioner himself, and finally, if all these fail to pull him through, the applicant may go to one of the courts of the District of Columbia, where, as a rule, absolutely nothing is known of the "state of the art" bearing upon the invention or the rules and usages which should govern in patent cases. With all these chances in his favor, and usually urging an *ex parte* case, where no adverse interest is present to suggest objections, it is no wonder that the applicant generally succeeds and that the country is flooded with worthless patents whose only practical use can be to embarrass honest inventors, to discourage really meritorious inventions, to harass and plunder the public, and to bring the entire system into disrepute.

Under existing laws and usages, mistakes on the part of examiners are inevitable. In the first place, under the pretense of economy, we deny to the office a sufficient force or an adequate compensation and compel the employment of the lowest grade of clerks, and sometimes of messengers and laborers, in the responsible duty of examiners. But even if this bad phase of demagogism were removed, it would still be impossible in the very nature of the case, under existing laws, to avoid mistakes which unfortunately almost invariably occur in the interest of the applicant who is present and to the detriment of the public who are not heard. Take an illustration. The applicant appears with some device which he claims to be *new* and *useful*. No public notice is given of his application, and nobody but himself, his attorney, and the examiner know anything about it. The examiner searches the records of the office and finds no claim or patent with which, in his judgment, this one is an interference, and as he does not happen to know of any like device in practical use he orders the patent to issue. Substantially the same thing may have been in use a dozen years, and in as many States, but if his observation does not happen to have been sufficiently ubiquitous to have included it, and if the applicant is not kind enough to call his attention to a fact that would defeat his own case—nobody else can—he proceeds to clothe the patentee with special prerogative to go forth in the name and by the authority of the United States to levy contributions upon the public at his own will and pleasure.

In the present crowded condition of business in the Patent Office, and owing to inadequate appropriations, these examinations and decisions are frequently made, as I am informed, by a half-starved, lowest-grade clerk, or even a messenger, who may thus confer upon some shrewd and unscrupulous applicant a power of taxation as absolute as, and in its form and essence far more arbitrary and offensive than, Congress itself would dare to exercise. I am making no complaint against the United States Patent Office as now administered, for I am convinced it is far more conservative and careful now than a few years ago. I am speaking of the system itself.

Do you answer that the people have the courts for their protection, and if the claims of the patentee are invalid or unjust they may be successfully resisted? True, but how much protection do your courts afford after you have armed a man with the *prima facie* right to collect $5 or $10 each from ten thousand people? Is it any special gratification to those people to be told that by paying from one hundred to a thousand dollars attorney fees and risking as much more in the costs of contesting in the United States courts they can possibly avoid the payment of $5 or $10 royalty? Such advice may appeal to their stubbornness and pride, or even to their patriotism, but not to a poor man's discretion. And usually the sharp swindlers who take advantage of your patent-laws to cheat and rob the public are shrewd enough to make up a "*friendly* case," in which their *confederates are on both sides*, and under the false pretense of contesting the validity of the patent, while in fact withholding from the court all knowledge of its defects, they procure a decision of the United States circuit court, and sometimes even of the Supreme Court of the United States itself, affirming its validity.

Thus armed with a sovereign prerogative often fraudulently obtained in the first place, and then fraudulently confirmed by misleading the courts, the conspirators are ready for work, and agencies are established at some convenient point in each State and the people are ordered to present themselves humbly in the august presence of the favored owners of this fragment of sovereign power and pay such "royalty" as they may be pleased to assess. Good care is taken to publish the facts, that the patent has been issued by the Government and confirmed by some United States district court, and then notice is given that if settlement be not made at once suits will be commenced. Very often suits are commenced without any notice. And, as if to stimulate their victims to respond more promptly to the exactions of these plunderers, whom we have thus authorized to prey upon the public, our laws provide that in case the people are tardy in paying said "royalty," and suits are brought to enforce such payments, *triple damages* may be assessed by the courts. Section 59 of the act approved July 8, 1870, reads:

> That damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia or of any Territory, in the name of the *party interested either as patentee, assignee, or grantee*. And whenever in any such action a verdict shall be rendered for the plaintiff the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding *three times the amount of such verdict*, together with the costs.

It will be observed that this section gives to the "party interested either as patentee, assignee, or grantee" in that sacred thing known as a patent the right to bring his suit almost anywhere and in almost any court in the United States or Territories, without reference to the residence, the convenience, or the expense of the defendant, who may be mercilessly dragged into a distant State or Territory if a judge can be anywhere found in the interest of the plaintiff. And after a jury has deliberately ascertained upon their oaths the "actual damages sustained" the court may treble them as a punishment to the defendant for daring to question the royal prerogatives of the patentee.

Nor does the law stop even here in its relentless determination to hunt down and ruin every person who may have the temerity to appeal to the courts for protection against the favored owner or assignee of a patent. Fearing, apparently, that the section just quoted might leave some open door of escape for the public and that the patentee might still lack some extreme power to enforce his reactions, section 55 of the same act authorizes an injunction—

> To prevent the violation of any right secured by patent on such terms as the court may deem reasonable; and upon a decree being rendered in any such action for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction, and the court shall have the same powers to increase the same in its discretion that are given by said act to increase the damages found by verdicts in actions upon the case.

In plain English this section means—

First, that the defendant's business may be closed by an injunction.

Second, that all his profits from the use of the patent shall be confiscated and given to the patent owner.

Third, that, in addition to closing his business and confiscating his property, he shall pay to the complainant all the damages the latter has sustained.

And if the court and the complainant are not satisfied that all this is enough to utterly ruin the defendant, the court is authorized to finish the work by increasing the damages assessed by itself *three hundred per cent.* I doubt if the statutes of this or any other civilized country exhibit a specimen of legislation so grossly unjust and so utterly indefensible as this.

Is it any wonder when the owner of a patent is armed with such powers, obtained direct from the Government, fraudulently confirmed by means of a friendly case in some United States court, and backed by a statute of the United States threatening *confiscation* and *triple damages* to all who question or delay, the people will sometimes pay millions of dollars in small sums rather than risk a contest in which they find the Patent Office, the United States courts, and even Congress itself against them, and which in the end may prove their utter ruin? The wonder is that they have so long tolerated such laws. The injustice of a system is often best demonstrated by the results it produces. I have a case in mind which illustrates better than any I have ever observed the defects, absurdities, and dangers of the existing system and the intolerable wrongs and oppressions which may be and are practiced under it.

Some twelve years ago the United States Patent Office, after a full and careful investigation, twice rejected the application of one Nelson W. Green for a patent on what is popularly known as the "drive-well" process, which consisted of nothing more than driving an iron rod into the soft ground until water is reached, then withdrawing the rod and inserting a perforated tube into the hole, through which water is drawn by means of a pump. The evidence now seems to be conclusive that long before Green's application was made, or his pretended invention conceived, the same or a similar process had been in practical use in several places. The Patent Office ascertained upon inquiry at the time that other parties antedated the Green claim and awarded the patent to them.

Being unable to procure favorable action in the Patent Office, where the merits of his case were understood and appreciated, Green appealed to one of the courts of the District of Columbia, where, without an adequate investigation and with little or no knowledge of the rules and usages applicable to such cases, the judge, upon some sort of a compromise between the parties, ordered the issue of two patents, one to Suggett for the "*perforated pipes* and *point* for sinking wells," and one to Green for the "broad claim of sinking wells by driving down the pump or rod without removing the dirt upward." In other words, for the marvelous discovery that a "hole" could be made in soft ground by driving an iron rod into it, a court of the District of

Columbia authorized and empowered Green to proceed to levy contributions, amounting to millions of dollars, on the people of the United States; and a like authority was also conferred on Suggett for his discovery that water could be drawn through a "perforated pipe."

In 1866, a case involving the validity of Green's patent was tried in the United States circuit court for the southern district of New York. Whether or not it was a "friendly case," in which the conspirators were on both sides, I am not advised; but the decision of the judge on some of the points raised is painfully suggestive of such a suspicion. One of the principal grounds upon which the validity of the patent was challenged was that said Green had delayed his application some four or five years after he pretended to have made the discovery, and therefore must be held to have abandoned it to the public. But, as appears from the decision of the Court, the public was not to be protected in that way, and hence some excuse must be found for the delay. The judge stated that the "delay must certainly be deemed extraordinary," but that it was excused by the "unusual circumstances" which attended it.

Those "unusual circumstances" which in the opinion of the court afforded a "sufficient excuse" were recited by Judge Benedict in substance as follows: That soon after his invention the said "*Green had felt compelled to shoot McNett, one of the captains of a regiment*" which he (Green) was then raising for the war; that "the effect upon Green was disastrous in the extreme;" that the people of the county were so outraged by the act that his "regiment required the protection of a battery to save it from their violence;" that "it was removed to Washington, where Green was relieved from command and then dismissed the service and subjected to military charges;" that "he was in addition harassed by civil suits brought to charge him with personal liability for articles used by his regiment;" that "he was also arrested and indicted for shooting McNett;" that he only escaped conviction by a disagreement of the jury;" that "during this period he became involved in church difficulties, was expelled from the church, and compelled to appeal to the bishop," and "was also involved in litigation with his pastor."

The grounds upon which the court excused the "extraordinary delay" and denied to the public rights accruing from Green's lack of ordinary vigilance seemed to me so remarkable that my curiosity was stimulated to make further inquiry as to the character of some of the transactions which, in the opinion of the court, "furnished a *proper* excuse" for omitting the vigilance usually required of patentees for the protection of the public.

In an able report upon the subject made by Judge-Advocate Holt, in which he carefully reviewed the facts produced on Green's criminal trial, he stated some of his conclusions as follows:

> The entire evidence and the charge of the judge in summing up the case having now been read, the conclusion is arrived at by this bureau that Green was not justified in shooting McNett, that his act was in itself reckless and intemperate, and was not necessary for the purpose of enforcing discipline.
>
> The action by the latter (Green) must be viewed precisely as it would be viewed if he had killed McNett; and the opinion is entertained that this action resorted to under the circumstances described, and not in the field before the enemy, but in a camp situated in the heart of a loyal State, *was altogether without justification*.

In other words, after a most careful examination of the case the learned judge advocate arrived at the conclusion that the act of shooting McNett was a clear case of intended murder on the part of said Green, and that his action must be viewed precisely as if the murderous intent had succeeded.

It is not surprising, therefore, that, in the language of Judge Benedict, "the effect upon Green was disastrous in the extreme," but the extraordinary feature of the case is, that we suffer to remain upon our statute-books a system of laws which a United States circuit court of moderate intelligence, and presumably honest, felt compelled to construe in so extraordinary a manner. The vigilance required of inventors in making known their claims through the Patent Office is designed for the protection of the public, and yet here is a case where such vigilance was excused because through an unsuccessful attempt to commit murder the applicant became involved in so many troubles with his regiment, troubles with his neighbors, troubles with the grand jury, troubles with the criminal courts, with his Government, with his church, and with his pastor, that he could not be expected to find time to give notice of his pretended invention by applying for a patent, and therefore, owing to the extreme pressure of his engagements, he must be excused from complying with the ordinary conditions required of inventors and the public must be saddled with an odious monopoly for his benefit. It will be readily admitted that Green must have been *very busy* during those troublesome years, but his engagements do not seem to have differed materially from those which usually engage the attention of men who "feel compelled" to violate the criminal laws. Certainly they were not of so meritorious a nature as to justify a sensible and honest court, acting under just and reasonable laws, in granting him special favors at the expense of the people. Presuming that court to have been both sensible and honest, I think no further argument is necessary to show that our patent laws are sadly in need of radical modification.

The evidence, as I have said, is now very conclusive that the same device or process on which the court in the District of Columbia ordered a patent after it had been twice refused by the Patent Office was in use in several States before Green pretended to have made his invention, and yet a patent without even the merit of originality granted to a man with such a record, and granted, too, partly *because* of that very record, has been put into the hands of a ring of knavish agents and attorneys, who in the name and by authority of the Government of the United States are now robbing the people of millions of dollars. It is said by those best informed that their plunder already amounts to several hundred thousands, and will eventually reach, if unchecked, from seven to ten millions. Not content with exacting from the hundreds and thousands of poor people who are unable to pay anything the "royalty" of $10 which they themselves have fixed, their disreputable agents and attorneys resort to all kinds of villainous tricks to increase their ill-gotten gains by means of the law which authorizes confiscation and *triple damages* in case a suit is brought. To this end notices of their demands are published, if at all, in places least likely to attract the attention of their victims, or the time is so short that the people are unable to pay, or when the time for payment is fixed, suits are sometimes commenced before the expiration of the period named by themselves.

I am informed by the newspapers, that in one town of Minnesota the people were notified to deposit $10 each by a certain day, in a bank named. Many of them made the required deposit on the day fixed, but were astonished and outraged beyond measure to find that suits had been commenced against them that morning, and that they must either pay $46.50 or incur the greater expense of attorney fees and the costs of contesting the case through the circuit and Supreme courts of the United States. This villainous bill of costs embraces among other things "$30 for *triple damages*" authorized by the laws of the United States, and "$6.50 for drawing and printing the complaint."

This kind of rascality is being committed, not in Minnesota alone, but in several other western States, and will extend to every other State in the Union where the common device has been practiced of obtaining water from a hole in soft ground, made by driving into it a rod of iron and inserting a perforated tube. And when the people shall have paid from seven to ten millions for this wonderful discovery the plunderers, grown rich and, if possible, more insolent by their intolerable extortions, will be ready to harvest another crop of "royalties" from the same victims for Suggett's "new and useful," not to say marvelous, invention, whereby the world has been taught the astonishing fact that water may be drawn through a "perforated pipe." This case is by no means exceptional in the history of wrongs and oppressions which have been committed under our laws. I have mentioned it merely to illustrate some of the villainies that are perpetrated under the present system and some of the public grievances which, if not speedily removed by judicious modifications of the law, will result in sweeping the entire system from the statutes.

The proceedings I would now suggest as a remedy for these wrongs is, that Congress carefully consider the expediency of substituting some other mode of compensating inventors in place of the existing "monopoly" and "royalty" system which, in its very nomenclature and nature, is utterly repugnant to our American ideas, and in its practical application intolerably offensive and unjust.

Pending the consideration of this radical change, several amendments may be made which will greatly improve the present system and relieve it of some of its most unjust, irritating, and dangerous features.

I submit that under all the circumstances it is high time Congress address itself to the task of providing some remedy for the injustice and legalized robbery which are being perpetrated under our own laws. If the existing system can be so amended as to properly reward the inventor and at the same time afford adequate protection to the public, let it be so amended; but if such protection to the public be impossible, then let it be abolished at once and forever.

It is high time that we should cease to legislate wholly in the interest of inventors and their assignees, and remember that the public have some rights which even patentees and legislators are bound to respect. If my resolution shall tend to promote inquiry in that direction it will have contributed something toward the removal of a grievance too intolerable and offensive to be longer patiently endured.

NOTICES OF BUSINESS.

Several Senators addressed the Chair.

The VICE-PRESIDENT. The morning hour has expired. The Chair recognizes the Senator from Vermont, [Mr. EDMUNDS,] in pursuance of the notice he gave.

Mr. EDMUNDS. According to that notice, I move that the Senate proceed to the consideration of Senate bill No. 1308 relating to the method of ascertaining the election of President and Vice-President of the United States.

The motion was agreed to.

Mr. BLAINE. Before the Senator from Vermont proceeds with his bill, I desire to give notice that, if agreeable to the Senate, I shall call up the resolutions which I submitted last week, on Wednesday, the day after to-morrow, at one o'clock.

Mr. WADLEIGH. I desire to give notice that there was assigned at the last session of Congress for that day the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, and I shall be compelled to insist that that bill be taken up at that time.

Mr. BLAINE. I shall not detain the Senate very long, and will

not interfere with the Senator's bill. How long does the Senator from New Hampshire suppose it would require for the Senate to consider the bill to which he refers?

Mr. WADLEIGH. I do not know. The committee desire that the bill shall be acted on at that time. A reason for action may be found in the speech just made by my friend, the Senator from Minnesota, [Mr. WINDOM.]

Mr. BLAINE. I think one can be disposed of very promptly and will not be in the way of the other. At all events I shall ask the Senate to hear me briefly at one o'clock on Wednesday.

The VICE-PRESIDENT. The Senate will decide at that time which shall have the preference.

PRESIDENTIAL ELECTIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1398) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Mr. EDMUNDS. Mr. President, before I proceed to explain the scope of this bill and to state the views of the committee upon it, I will ask the Senate to allow the correction of one or two typographical errors that appear in the printed bill. In section 3 in the print, line 2, it reads:

The electors of each State shall meet and give their votes *upon* the second Monday in January.

That should be "*on*" as a mere matter of taste.

The VICE-PRESIDENT. That change will be made if there be no objection. The Chair hears none.

Mr. EDMUNDS. In section 5, line 3, after the word "chosen," there should be a comma.

The VICE-PRESIDENT. It will be inserted.

Mr. EDMUNDS. In section 9 on page 6, line 14, the comma after the word "otherwise" should be stricken out so as to read "or otherwise under this act."

The VICE-PRESIDENT. The comma will be erased.

The bill, as amended, was read at length, as follows:

A bill to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the electors of President and Vice-President shall be appointed in each State on the first Tuesday in October in every fourth year succeeding the election of a President and Vice-President, and on the same day in October whenever there shall be a vacancy in both the offices of President and Vice-President declared and certified as hereinafter provided; but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

SEC. 2. Whenever there shall be a vacancy in both the offices of President and Vice-President occurring more than two months next preceding the first Tuesday in any month of October other than that next preceding the expiration of the term of office for which the President and Vice-President last in office were elected, the Secretary of State shall forthwith cause a notification thereof to be made to the executive of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State. The notification shall specify that electors of President and Vice-President of the United States shall be appointed in the several States on the first Tuesday in October then next ensuing.

SEC. 3. The electors of each State shall meet and give their votes on the second Monday in January next following their appointment at such place in each State as the Legislature of such State shall direct.

SEC. 4. Each State may provide, by law enacted prior to the day in this act named for the appointment of the electors, for the trial and determination of any controversy concerning the appointment of electors, before the time fixed for the meeting of the electors, in any manner it shall deem expedient. Every such determination made pursuant to such law so enacted before said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes, as provided in the Constitution and as hereinafter regulated.

SEC. 5. It shall be the duty of the executive of each State to cause three lists of the names of the electors of such State duly ascertained to have been chosen, to be made and certified and to be delivered to the electors on or before the day on which they are required by this act to meet.

SEC. 6. Congress shall be in session on the second Monday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day; and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates, and papers purporting to be certificates, of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted as in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and together with a list of the votes be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall in like manner submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative votes of both Houses. If more than one return, or paper purporting to be a return, from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 4 of this act to have been appointed; but in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 4 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so provided for by its Legislature. And in such case of more than one return, or paper purporting to be a return, from a State, if there shall have been no such determination of the question in the State as aforesaid, then those votes and those only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State. When the two Houses have voted they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

SEC. 7. That while the two Houses shall be in meeting, as provided in this act, no debate shall be allowed, and no question shall be put by the presiding officer except to either House on a motion to withdraw; and he shall have power to preserve order.

SEC. 8. That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not oftener than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

SEC. 9. That at such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of ten o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

SEC. 10. That section 140 of the Revised Statutes of the United States be, and the same is hereby, so amended that the words "first Wednesday in January then next ensuing" be stricken out and the words "second Monday next after their meeting" be inserted therein.

SEC. 11. That section 141 of the Revised Statutes of the United States be, and the same is hereby, so amended that the words "first Wednesday" be stricken out and the words "on or before the day" inserted therein.

SEC. 12. That sections 131, 135, 136, 142, 147, 148, and 149 be, and the same are hereby, repealed.

Mr. EDMUNDS. Mr. President, the first duty of the committee undoubtedly is to explain to the Senate precisely, and concisely I hope too, what the bill provides. That I will attempt to do briefly.

The first section of the bill changes the time of election from the first Tuesday in November, as I will state it in a general way; it does not always happen upon the first Tuesday, but I state it that way for convenience,—changes the time of choosing the electors from the first Tuesday in November to the first Tuesday in October, making the presidential election in the various States, the appointment of electors, a month earlier than by the present law. And in the same connection I will refer to section 3 which provides that the electors shall meet and give their votes on the second Monday in January next following their appointment, instead of meeting and giving their votes on the first Wednesday in December as now provided by law. The object of these two provisions in sections 1 and 3 is to produce a longer period of time between the choice of electors in the States and the meeting of the electors, in order to dispose of any dispute or question that may arise in respect of who have been chosen as the electors.

The second section of the bill, following the old act of 1792 in respect of providing for vacancies in the offices of President and Vice-President of the United States, provides for a special election, and provides in substance that that special election shall be held in the same way that the regular and general election is, and with the same effect; but it provides that if this vacancy occurs within two months next before the first Tuesday in the October preceding the end of an ordinary presidential term there shall be no special election, but the general election takes its place. If such an event should happen as a vacancy in the offices of both President and Vice-President, I will say for illustration in the first year of the present ordinary and regular term, then there is to be a special election held under a notification from the Secretary of State, conducted in the same way, and the votes counted in the same way, and so on; but that leaves open and raises, I may say, the same question that could exist now under the present law as to the period of time for which this special election is held. The present law (which in respect of the special election is in substance just like that proposed with a little variation of time) does not declare, and the Constitution does not definitely and clearly declare, for how long the President and Vice-President thus elected at a special election shall hold. Under ordinary notions in most of the States we are led to take it that where there is a vacancy in an office and somebody is specially elected or appointed to fill that vacancy, just as it is in respect of a vacancy in the Senate, the specially elected officer only holds to fill out the term. But when the committee came to consider this question as to how long this specially elected President and Vice-President could hold—by "specially elected," I mean elected out of the regular order of four years—we were met by the plain statement in the Constitution that the

President and Vice-President of the United States shall hold their offices "during the term of four years;" and thus it would seem to follow that if a vacancy shall occur in both these offices so that the Executive Magistracy of the nation is left unfilled and it is to be filled as soon thereafter as possible in accordance with our republican notions of government, the persons thus elected must hold for four years, starting of course from the ordinary time, or some definite period, say the 4th of March as in the other cases. That might result in the case I have supposed in an election in the first year of the Presidency which should run for four years, and thus change the calendar order of the periods that now exist and have existed since the formation of the Constitution. I think I am safe in saying that, while the committee perhaps would not have thought that that was the best thing to do, but might have thought that the best thing, if it had been left entirely to the discretion of Congress, would be merely to fill up the vacancy and then have the regular election, they perceived that the Constitution in its plain and explicit language left no choice or discretion to Congress, in that particular, but that the plain words of the Constitution must be executed, that if a vacancy should occur in the two offices, I will say in the first or second year of a term, the persons newly elected to fill those offices must hold for the four years that the Constitution speaks of.

That, Mr. President, is not very important in respect of the chief objects of this bill, but still it is due to the Senate that the committee should call its attention to this circumstance which the bill involves, but which it does not involve any more than the present law.

The fourth section, which is one the subject of which gave the committee the greatest difficulty, provides this in substance: that each State may by a law enacted beforehand (so that the law thus enacted shall not be for a particular election or a particular purpose to aid the friends of one candidate rather than another according to the political disposition of the Legislature) provide for the trial and determination of any controversy that may arise in that State respecting who has been chosen or appointed an elector, and that such a determination in accordance with the State laws shall be had before the time of the meeting of the electors, so that no confusion can be produced or conflict of authority in the State, it being decided in advance; and then this action of the State through the methods provided by its Legislature in determining who are its electors in this great act of the choosing of the Chief Magistrate, its determination shall be received at the national capital when the votes are opened and counted, and that it shall not be in the rightful power of whoever is entitled to count the votes, be it the President of the Senate, as some have supposed; be it the two Houses acting independently as two judges on the bench, as some have supposed; be it whatever tribunal Congress may authorize to do this function, as others have supposed; be it what it may, this determination of the State for itself, in advance of the action of the electors as to who the people are whom it has chosen, shall be binding and conclusive in respect of going on with the ceremony of determining the result of the vote. That is the substance of the fourth section.

The fifth section is just what the law is now, that it is the duty of the executive of the State to make and certify three lists of the electors thus ascertained to have been chosen if there be a controversy, and according to the ordinary form if there be not one, which shall be delivered to the electors, and so on, substantially in the way the law now provides.

The sixth section provides in the largest part of it for the mere ceremony, the ordinary procedure in point of form of the counting of these votes; but it also provides for an authentic and responsible determination for the time being at any rate—I say nothing of what would be the ultimate rights of parties in the judicial tribunals—of ascertaining the result, and this provision is what has been practically the course of the history of all these counts from the origin of the Government, and that is that the two Houses shall meet in their respective organized capacities and at a certain time and place, and that the votes shall be opened in a certain order. If there be an objection, that objection shall be stated and signed by a certain number of members of each body, and that then each House shall consider that objection, which, of course, implies that the President of the Senate shall not consider it. They are the bodies to whom whatever objection or question may arise is referred, and their decision is to govern in the disposition of the question; the preceding section, four, having provided the principles upon which that decision, in one aspect of it, that is the identity and lawful title of the electors, shall proceed.

It also provides for a case which has arisen, and which, of course, possibly may arise again; and that is the case of a decision in the State by the methods that its recognized laws have provided, but a decision by two tribunals that its Legislature has set up. If the Legislature has provided by law, for instance, that the supreme court of the State shall decide summarily a dispute as to who has been appointed elector, and if there happen to be two supreme courts in that State, one of them a constitutional and legal one, and the other not, but each claiming that character; or, if the Legislature shall have provided that the Legislature itself shall decide any dispute, and there happen to be two Legislatures each claiming to be the rightful and constitutional Legislature of the State, then this decision of the supreme court or this decision of the Legislature will not govern in the count unless the two Houses concur in finding that the one court or the one Legislature of that State is the true court or the true Legislature. In that case, then, that being ascertained, the decision of the true court or the true Legislature is to govern. But if the two Houses find a state of things in the State so grave, so aggravated, so abnormal, so monstrous I might say as that there are two judicial or two political bodies in a State having all the insignia of character and responsibility and status, then this bill provides that in a conflicting decision of such two bodies in respect of who are the electors of that State neither shall be received until the political power of this Government shall concur in determining which is the true one. That being determined, then of course the decision of the true one follows as in the other case.

It seemed to the committee impossible to provide any more satisfactory means of disposing of a difficulty of this grave, and I am glad to say rare, character than this. We may with propriety say that the act of the State itself, when we know politically what the State is, shall determine whom it has chosen for its electors; but when the State is divided into two political powers, each having a *de facto* existence, that raises a political question which involves the recognition of the political relations of that State so far as they can be manifested through its actual government to the National Government of the United States, and we thought it safe to say, and indeed the only thing to say, that in a case of that character no State should be recognized in respect of its organized form of government as entitled to have a vote counted for President that the two great political bodies of the Federal Government should not agree in recognizing as the true State.

I believe, Mr. President, that states fairly the point of the sixth section upon that subject. Then the sixth section also provides for the case where a State through neglect or otherwise should have failed to provide for determining for itself, in case of dispute, who are its electors, and a contest should arise afterward without such provision and determination between two sets of men claiming to be such. In that case the bill provides that no contested vote of that character in case of double returns, when the State has not chosen to decide it for itself, shall be received unless both Houses concur in receiving it. There would seem to be no convenient, or indeed theoretically possible, way, so long as the two Houses act, of disposing of that question otherwise, because between contestants of that character, with two judges to decide upon the question and no decision or determination in the State whose duty it is to select and identify the electors, it seems impossible to recognize one set by the vote of one House, rather than the other.

The seventh section provides the ordinary arrangement for the conduct of affairs when the two Houses are met; that is to say, that there shall be no debate, because debate implies the consumption of time, and also implies the necessary consequence of a decision by somebody of the subject debated, and it necessarily follows from that, as this section puts it, that no question shall be put by the presiding officer when the two Houses are thus together except the one of their separation for the purpose named in the act; and it also provides the necessary and proper declaration that the presiding officer shall have power to preserve order.

The eighth section provides that when a question arises in the method and under the forms prescribed in the act the two Houses shall separate, and in order to prevent delays the bill requires that the vote shall be taken in each House presently; that is to say, on a five minutes' debate by any member who wishes to speak, at the end of two hours the main question shall be decided by each House; and then they shall again meet, and the presiding officer shall announce the result of their respective votes.

The ninth section provides for the more orderly formality of seats, &c., and also provides that the joint meeting shall not be dissolved until the whole business is finished. It provides that no recess shall be taken, which is another provision against delay, unless a question such as the act provides for being raised shall have been raised; and in that case it is competent for either House to take a recess not beyond ten o'clock of the next day, Sundays excepted, while each House is having under consideration one of these questions. It then provides, to guard against a conflict of parties and opinions in the two Houses as between each other, that if the counting of the electoral votes and the declaration of the result shall not have been accomplished before the fifth calendar day after the first meeting as provided in the act, no further or other recess shall be taken at all. That is to guard against the possibility that a faction in either House disliking the probable result of an orderly and complete procedure should by dilatory motions and other means undertake to postpone a final disposition of the subject until after the 4th of March, at which time the term of one of the two Houses would have expired ordinarily, and the other would have discontinued its sittings by operation of law.

The tenth, eleventh, and twelfth sections are mere changes of the phraseology, and repeals of some of the sections of the Revised Statutes which stand in conflict with these times of meeting, &c. I need not particularly refer to them.

The first thing, Mr. President, that ought to be considered, undoubtedly, is the state of the Constitution upon this subject, and that is to be found in only two or three places, and in very few and simple words. Article 2, section 1, provides, first, that—

The executive power shall be vested in a President of the United States of Amer-

ica. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, &c.

That is in section 1 of article 2; but the existing provision of the Constitution as to the mode of election is in the twelfth amendment, which I will read in lieu of that:

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote.

It is unnecessary to read the rest of that provision as this bill does not bear upon it. Article 1, section 8, of the Constitution, clause 18, provides this in defining and declaring the powers of Congress:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

These provisions of the Constitution I believe are all that bear directly upon the question we now have under consideration, the first being in the natural and logical order of the consideration of this question the one that I first read, the first section of the second article to which I now invite the careful scrutiny and consideration of the honorable members of the Senate who do me the honor to listen to me. The very first statement is after the declaration that the executive power shall be vested in the President, "that each State shall appoint" its electors. This, then, it will be seen, is a duty that is imposed upon the State in language that it appears to me does not admit of doubt or misconstruction. It is the duty of the State in its political and coequal character, with every one of its sisters, to appoint the number of electors to which it is entitled under the Constitution. It is the act of the State, and as Mr. Madison, one of the fathers and constructors of the Constitution, stated in the Federalist, in the time of it and before the Constitution was adopted and as an exposition of the true character of the Constitution in respect of the election of the President, "it is the political act of each one of the States in its definite and independent character," which it was to exercise freely for itself in selecting the persons who were to express its voice in the election of President. He says in the thirty-eighth number of the Federalist:

The next relation is, to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the Legislature of a particular State. So far the government is *national*, not *federal*. The Senate, on the other hand, will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is *federal*, not *national*. The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society. The eventual election, again, is to be made by that branch of the legislature which consists of the national Representatives; but in this particular act, they are to be thrown into the form of individual delegations, from so many distinct and coequal bodies-politic. From this aspect of the government, it appears to be of a mixed character, presenting at least as many *federal* as *national* features.

The particular declaration to which I wish to call the attention of the Senate, although it is hardly necessary, the language of the Constitution is so plain, is that—

The immediate election of the President is to be made by the States in their political characters.

That is to say, it is the political right of the State as a State to select for itself and without the intervention or decision of any other power, the persons to the number to which it is entitled who are to express its choice in the electoral college for the Chief Magistrate of the Union.

Then it goes on to provide in this same clause:

In such manner as the Legislature thereof may direct.

So that taking the whole clause together it reads:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled.

That not only fortifies, but to my mind clinches conclusively the doctrine that the ultimate selection, the actual, the effectual, selection which is to count in the final expression in this Chamber or in that of the other House where the votes are counted as the voice of the State, is to be made by the State, and it is to be made in the manner that the Legislature of that State may direct. In other words, it is wholly, exclusively, absolutely a matter which the Constitution has remitted to the State and to its authority.

Now, what does "manner" include, Mr. President, in respect of what the Legislature is to do? The language is that the State is to appoint its electors who are to give their votes and whose votes are to be counted here as the voice of the State for President. The Constitution says that the manner of doing that, of this selection, shall be such as the legislative power of the State shall direct. Is it not within the manner of this selection for the Legislature of the State to provide that he and he only shall be an elector of that State who in case of a dispute shall have submitted to a certain test of ascertaining whether he is the genuine man the State has appointed or not? If it is not, then there is no value in the delegation to the Legislature of the State of the power to prescribe the manner in which this choice shall be made.

Can you say that above the State or behind it or somewhere there is still a Federal power to enter that State and say (in spite of the declaration of its constituted authorities that those persons and those only who have conformed to certain requisites of the law shall be the electors) that somebody else shall? The Legislature may say that they themselves will appoint the electors. Would it do for the counting power, wherever it may be, in such a case to say, "Well, this is a provision that is within the Constitution, as everybody knows it is, but we are satisfied that this particular Legislature acted under a mistake; they thought that these electors were going to vote for the other candidate for President, and we therefore will exercise the full power that belongs to a court of appeal or review to open the whole record and decide for ourselves what that Legislature intended to have done and ought to have done under the circumstances." That will not do, Mr. President. The two Houses have no power to say that. The form of the action of the State, its most solemn and authentic procedure, which the Constitution says shall be the act of the State, and then in the other clause that the act of the State shall be respected and its votes counted, you will have to change for a decision of Congress, or a Vice President, or a President of the Senate, or whatever committee or tribunal the law may select or determine upon as the true one to count the votes.

This fourth section, then, which provides for the conclusiveness of this State determination, is merely saying that the counting authority will recognize as the true act of the State, and give effect to it as such, that body of people that the State itself has finally through its own action determined to be the persons it has chosen. That is all. Can anything be more just if you are to respect the rights of the States under this clause of the Constitution? The very thing, without any law, without any provision, without any rule, that the two Houses meet to do, if it belongs to them to do it, or the very thing that the President of the Senate is to do if it belongs to him to do it, is to count and declare the result of the vote of the State; that is, to ascertain the will of the State, not according to his notion of what he thinks that will ought to have been, but according to his intellectual and judicial or administrative perception of the fact of what that State has done. Therefore this section simply provides that what this bill assumes to be, or confers as, the counting and declaring power shall respect and follow the choice of the State of her electors, and that the evidence of that choice shall be the action of the very machinery that the State itself has provided to determine whom she has chosen.

This action of the State, Mr. President, you will observe, is not an action of a sovereign and independent body in its original and natural right as a separate and independent body, as between foreign nations such acts of intercourse might take place, because without the Constitution of the United States there would be no such officer as President to be elected; without the Constitution of the United States there would be no such means of the selection of such an officer, if we had one, to be found. The duty of the State, and therefore its power, is one that did not pre-exist in itself, to elect a President for itself and for all the others of its sisters; but it is a right and a duty that is imposed upon it by the Federal Constitution, and the Federal Constitution has therefore measured and defined precisely the power that that State shall exert, and precisely the manner in which it shall be exerted. Then this law comes in under the Constitution to declare that when we have this authentic declaration of this exertion by the State of the power that the Constitution has reposed in it and the duty of exercising that power that it has imposed upon it, the national authority will respect the exercise of that power just as it is bound to respect the exercise of every other power the State may possess.

So it appeared to the committee that this provision that that body of men shall be taken to be the electors whom the State has appointed in the manner that the Legislature shall have determined that their appointment shall be ascertained, is an inherent part of the right which the State acquires under the Constitution to select its electors for itself and an inherent part of the duty that the Constitution has imposed upon the counting power, let it rest wherever it may, of recognizing and respecting this determination of the State as to the choice and identity of its electors. When you take the next step and have ascertained the body of persons who are to give their votes, then this clause of the Constitution has exhausted itself, the State has no further legal and legitimate concern in the way of control

over the action of the electors. The duty and the power that is confided to the State is the duty of choosing a body of men and of choosing them finally, so that that choice shall have its effect in the final aggregate of the votes which are to be counted. That duty being done, then the electors so chosen and determined are officers, under the Constitution, of the United States, whose duties are pointed out by the Constitution, and of course it follows that they in the course of their conduct are subject to the Constitution and the constitutional laws of the United States and to nothing else.

There is a difference that will be immediately observed in respect of this power of the States, between this clause as to the choice of electors of President and Vice-President, and the clauses in relation to the election of Senators and Representatives. You will notice, sir, that in respect of Senators and Representatives, the same language is used, but the source of power to which it refers is quite a different one. It provides that each State in respect of the choice of members of Congress may determine the manner in which those elections shall be held; but it does not stop there as it does as to the electors of President. It adds that Congress may at any time take jurisdiction of that subject and provide by its own laws for the manner in which congressional elections shall be carried on, which of course involves the decision of every dispute that arises under them. In regard to the election of Senators, the Constitution declares that it is within the power of Congress to provide everything in respect of the manner of electing Senators to this body except the place for choosing them. In respect of the appointment of electors of President and Vice-President the Constitution confers no such power upon the Federal authority in any form, but it declares that the sole judge of the manner, the sole regulator of the manner, the sole provider of the means shall be the legislative authority of the State that the Constitution declares shall appoint its electors.

This bill, then, in this respect of which I am speaking, simply provides—you may measure and discuss it in what way you will—that the solemn and determinate voice of the State in the selection of the persons whom the Constitution says it shall select and whose votes shall be counted, shall be left where the Constitution leaves it, with the State, and that the counting authority shall respect that act of the State and not undertake upon any notions of its own to overturn it.

There is something still left; and I say this to those Senators who have sometimes appeared to suppose that if the two Houses of Congress, as this scheme is, have the counting power, the two Houses exercise revisory and judicial powers over whatever questions may legitimately arise. Suppose they do, what then is the true interpretation and the true effect of this bill? It only acts upon that revising and quasi-judicial power, if you call it such—and I assume it for the purpose of this aspect of the argument—in exactly the same way that from the foundation of the Government it has in all sorts of aspects acted upon the judicial power that the Constitution creates. That is to say, it regulates the mode of procedure, it defines the rules of evidence, and calls upon the court, if you call it a court, to respect the act and deed of the State which is authenticated in a certain way. That is all.

The Constitution says that the Supreme Court of the United States shall have jurisdiction of all cases that affect public embassadors. Now suppose the Congress of the United States immediately after the formation of the Government had decided that the only and conclusive evidence as to who is an embassador over whom that jurisdiction is to be exercised shall be an appointment of a sovereign under the great seal of state of the foreign country from which he purports to come, and that it should not be competent as a consequence for the Supreme Court to take up either upon public opinion or upon its own private notions, separate affidavits or what not, to prove the character of the person entitled to appeal to its jurisdiction or upon whom its jurisdiction might rightfully be exercised. Does anybody question that the court would have bowed in obedience to that law and said "it is within the legitimate province of the legislative power to provide laws by which this court is to be governed in ascertaining who are and what class are the persons who are entitled to its protection?" Nobody would question it. Other instances as to citizenship, as to the public character of officers, as to the authentication of records from the Departments fill your statutes with regulations that it shall be the duty of the judicial power to receive as authentic and give effect to them accordingly copies certified and formalized in a certain way; and when in some instances the courts have been appealed to to disregard these regulations of law and to say that it is a part of the judicial power to make its own regulations for the government of itself and that it is by Congress an invasion of the judicial power and a limitation of it to prescribe rules, the court with unanimous voice and for almost a century whenever the question has arisen has said "No, we cannot take that view of it, we cannot make regulations for the administration of the very powers that the Constitution has conferred upon us," not conferred by law, "against an act of Congress; but it falls within the legislative power to give effect to the jurisdiction that is imposed upon us and to regulate its administration," just as in all civilized nations it has always been regulated by the national statutes. So that if it were to be established (which I do not at all agree to, but I do not wish to go into that matter now) that the power of the two Houses recognized in this bill, or conferred by it, as the case may be, of exercising a certain canvassing scrutiny over these votes is a plenary and judicial power, there would still be the rightful jurisdiction of the legislative authority of the United States to declare that that jurisdiction and that plenary revising and canvassing power should be exercised in conformity with certain rules in order to give effect to what the Constitution declares to be the root and substance of the whole matter—the independent and untrammeled voice of the State selecting for itself and by its own instrumentalities the persons whom it has chosen and there is still left in that view of the case, as with the courts in the other cases I have referred to, the revising power of determining in the case that I have named, first, whether the Legislature of the given State has provided by law for a determination of the dispute; second, whether that dispute has been determined in conformity with the regulations and by the steps that that law prescribes; that is, whether the jurisdiction thus invoked has been followed. Then there only follows the consequence as in the other cases I have named, to illustrate—and I might spend a day in instances, enough certainly to convince the mind of any man, I think—there only follows the consequence that this court, (if you call it such,) of the two Houses, when it finds that the Legislature of the State has made this provision, when it finds that the provision has been followed, is bound upon the principles and declarations of this act, as it would be without it indeed, on the principles of law, to respect and to follow the determination of the State. I say, then, that we have not taken away the jurisdiction of the two Houses if it exists; we have not cramped it; we have only provided that in the exercise of that jurisdiction the test of what is the voice of the State shall be found in the declaration of the State itself. That is all.

I now come, sir, because I wish to be very brief and will take an opportunity hereafter, if it be necessary, to refer to authorities and decisions and precedents for what I have undertaken to uphold—I come to what this function is of counting the votes; and on that I do not wish to provoke a discussion, because it is apparently immaterial, with any gentleman who may differ with me. I know, as I believe I have said, that some have been, and no doubt now are, of the opinion that the function of counting and as involved in that of determining the identity and validity of a vote to a certain degree, is with the presiding officer of the Senate, whether he happens to be the Vice-President of the United States, or the President *pro tempore* of the body. That has been so thoroughly discussed hitherto, and so emphatically decided in an instance where it was largely according to the political wishes of a majority of this body at any rate—and that is the only body I am speaking to—to hold to the authority of the President of the Senate, that I do not think it necessary (certainly it is not on this occasion) to go into any discussion. The Senate held by a very large majority that no such power existed.

The next question would be whether this power resides in the two Houses, because the scope of this act in the other part of it is either to recognize the existence in the two Houses as two judges of election, so to speak, of the power to count and decide the necessary questions that are involved in that, and so regulates the exercise of that jurisdiction, or else it is a jurisdiction and an authority that the Constitution has not specifically lodged in any department of the Government but has only declared that it shall be exercised; and if that be the true construction of the Constitution, of course it follows that it is open to legislative provision and that Congress may confer upon the two Houses the administrative faculty, with all that it involves, of proceeding with this ceremony of the counting of the votes of the States and with the decision of all the questions that necessarily arise in every act, whether you call it an executive act, an administrative act, or a judicial act, because it is impossible as everybody knows to carry on a government for a day even in the simplest and the humblest of its executive functions, without recognizing by law in the simplest and humblest executive officer a certain amount of deciding power and a certain amount of responsibility. The judge of a court issues his warrant in conformity to law for the arrest of A B, and it is placed in the hands of the marshal. You say at first sight there is nothing for the marshal to decide, he is to arrest A B; but that very fact implies that the marshal must decide in executing that warrant between A B and the eight hundred million, or whatever it may be, in the world if his jurisdiction extended so far, or between A B and in the forty million if his jurisdiction extended over the United States, or the five million as it is in the State of New York, whether A B is one of that five million or whether some other man is the one that he is after. In other words, the marshal must decide for the time being the identity of the man whom he takes into his custody. He decides undoubtedly at his peril. So the President of the United States is authorized by the Constitution to do a great variety of executive acts in certain contingencies, and through his subordinate officers acting under his authority he proceeds to do those acts. In doing them the discretion of the executive power in the application of the law to the subject upon which it speaks must be exercised, judgment, discretion, will, choice. He exercises it at his peril; so do his subordinates where it is administrative. Where it is purely executive, if he makes a mistake the remedy of the citizen is clear and his redress perfect. If it is a matter where the Constitution or the law confides it to him as a judicial discretion, and he exercises it in an ill way rather than a good one, of course it is a perfectly legal

fact, and it must stand; he is the sole judge, and your only case then is, if he does it corruptly, to impeach him.

Mr. President, I say this only to call your attention and that of the honorable Senators to the circumstance that whether you say this power is with the two Houses under the Constitution, or whether you say this bill providing for the exertion of it confers it as well, is of no consequence. If it is there, it is the subject of regulation; if it is not there, then it is within the competency of Congress, as everybody will agree, to provide for its being exercised by somebody, and in either case it is, as is the judicial power, to be exercised in conformity to the Constitution and in conformity to the regulations exerted in the spirit of the Constitution to carry the Constitution into effect.

The Constitution, then, saying that the State shall appoint its electors, and saying that that appointment, which means the creation of somebody whose vote is to be counted and nothing else, shall be in the manner that the Legislature shall direct, it is within the competence of Congress, as it appears to us, whether the power of counting be judicial, or wherever it may be lodged, or wherever it may be reposed, either by the Constitution or by the law, to declare that the counting tribunal, whatever it may be, shall obey the Constitution in respecting the act of the State done in conformity with it. It does not take away a deciding power, if one exists; it only regulates the means and the evidence which the court, if you call it a court, shall give effect to.

Of course, Mr. President, any person who believes that the two Houses of Congress do not under the Constitution possess any power at all to participate, except as witnesses, in the count of these votes, but that that power resides in the President of the Senate alone, would be obliged necessarily to vote against this bill irrespective of the effect that we give to the voice of the State, because it does provide for the action of the two Houses. He would not be obliged to vote against the fourth section of the bill, if it stood alone, framed to guide the exercise of the jurisdiction of the President of the Senate, because if it were with him, Congress could with equal propriety and with equal validity under the Constitution declare what should be the true authentication of the voice of the State which he should be bound to respect, that authentication being in the direction that the Constitution provides of expressing its voice in the manner that its Legislature directed. But apart from that, of course those who believe that the President of the Senate has this power of counting, be it much or little, as this bill is framed in all its aspects, could not vote for it; but to any gentleman who believes that the power resides in the two Houses, I respectfully submit that this bill does not in its fourth section—nobody claims that it does in any of the others—trench in the least upon the exercise of that power, but it provides regulations in the same manner and of the same nature that the recognized course of the history of this Government shows have always been provided for its judiciary, and which the very letter of the Constitution as to the appointment of electors and the manner of their appointment declares shall have effect, even if you had not any law, that the authentic voice of the State itself declaring who are her electors shall be recognized and respected.

I have now stated, Mr. President, about the sum and substance of the nature and scope of this bill. I have reason to suppose, from the previous votes of this body, that in respect of the chief part, perhaps every part of it except the fourth section, it would command, as the best thing possible under existing circumstances, the votes of a very large majority of this body. In the committee there were one or two of our brethren who were not able to see so clearly as the rest of us thought we did that this fourth section did not prescribe a coercive exercise of jurisdiction by the two Houses if they possessed it, and did not, therefore, in a certain way detract from the power that they thought the Constitution had given to the two Houses to go to the bottom of everything; but to the rest of us, and for the reasons I have stated, it appeared that it did not even in that aspect of the case.

The importance of this subject is so great, the time now in the middle of a presidential term is so opportune, before any excitement begins, before ambitions are stimulated and the heats of parties are revived, for a disposition of this subject, by exercising all the faculties that we possess under the Constitution as it is for the future, that I shall hope the Senate will enter into the consideration of this subject and dispose of it in some way by making such provisions as shall be consonant with the will of a majority of this body, before we set it aside and take up any other business whatever.

Mr. MORGAN. Mr. President——

Mr. CONKLING. Unless the Senator from Alabama wishes to speak now, I will move that the Senate proceed to the consideration of executive business.

Mr. MORGAN. I desire to submit some remarks on this bill tomorrow.

Mr. CONKLING. Then I submit that motion.

The VICE-PRESIDENT. The Senator from New York moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at two o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 9, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Thursday last was read and approved.

PERSONAL EXPLANATION.

Mr. ATKINS. I rise to a question of personal privilege.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] rises to a personal explanation.

Mr. ATKINS. I ask the Clerk to read what I send to the desk.

The SPEAKER. The Chair would prefer to recognize the gentleman for this purpose after the morning hour. The practice heretofore has been to allow nothing to interfere with the business of the morning hour.

Mr. ATKINS. Very well.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twelve minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

JAMES S. HALL.

Mr. HALE introduced a bill (H. R. No. 5344) relating to the pension of James S. Hall, of Maine; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PAY DEPARTMENT OF THE ARMY.

Mr. JOYCE introduced a bill (H. R. No. 5345) to correct an appointment in the pay department of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PENSIONS.

Mr. JOYCE also introduced a bill (H. R. No. 5346) to amend section 4702, title 57, Revised Statutes of the United States, relating to pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

He also introduced a bill (H. R. No. 5347) to repeal section 4717, title 47, Revised Statutes of the United States, which bars the prosecution of claims for pensions after five years from date of filing; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SILVER COINAGE.

Mr. JOYCE also presented a joint resolution, adopted by the General Assembly of the State of Vermont at its session of 1878, relating to the remonetization of silver, and recommending that either the coinage or the legal-tender character of silver coins be limited; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

AMERICAN SHIP-BUILDING.

Mr. MORSE introduced a bill (H. R. No. 5348) for the encouragement of American ship-building and American manufacturing; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NORWEGIAN BARK ATLANTIC.

Mr. ROBINSON, of Massachusetts, introduced a bill (H. R. No. 5349) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia, and for the payment of any award made by said commission; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

FRANCIS S. DAVIDSON.

Mr. HARRIS, of Massachusetts, introduced a bill (H. R. No. 5350) for the relief of Francis S. Davidson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PURCHASE OF LOT, PROVIDENCE, RHODE ISLAND.

Mr. EAMES introduced a bill (H. R. No. 5351) to authorize the Secretary of the Treasury to purchase a lot of land in Providence, Rhode Island, for the use of the Government; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

EXEMPTION OF SAVINGS-BANKS, ETC.

Mr. BALLOU introduced a bill (H. R. No. 5352) to exempt from taxation savings-banks and institutions having no capital stock; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WAR OF 1812.

Mr. PHELPS introduced a bill (H. R. No. 5353) to amend section 3 of the act of March 9, 1878, relating to pensions for service in the

war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

REVOLUTIONARY PENSIONS.

Mr. PHELPS also introduced a bill (H. R. No. 5354) to amend section 4742 of the Revised Statutes of the United States relating to revolutionary pensions, and for other purposes; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

LUCY C. RAYMOND.

Mr. WAIT introduced a bill (H. R. No. 5355) granting a pension to Lucy C. Raymond; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

USEBUS SWEET.

Mr. BAKER, of New York, introduced a bill (H. R. No. 5356) granting a pension to Usebus Sweet; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLOMON PRINDLE.

Mr. WILLIAMS, of New York, introduced a bill (H. R. No. 5357) granting a pension to Solomon Prindle; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF HARLEM RIVER.

Mr. WILLIS, of New York, introduced a bill (H. R. No. 5358) appropriating moneys for the improvement of Harlem River between Randall's Island and Hudson River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CANCELLATION OF REVENUE STAMPS.

Mr. WILLIS, of New York, introduced a bill (H. R. No. 5359) to prevent frauds upon the revenue by using a certain method for cancellation of revenue stamps; which was read a first and second time, referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

PUBLIC BUILDINGS, ALBANY, NEW YORK.

Mr. BAILEY introduced a bill (H. R. No. 5360) appropriating moneys for the construction of a public building in the city of Albany, to be used for custom-house, post-office, and other purposes; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

DANIEL W. GRAHAM.

Mr. THOMPSON introduced a bill (H. R. No. 5361) granting a pension to Daniel W. Graham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. PATTERSON.

Mr. STENGER introduced a bill (H. R. No. 5362) granting a pension to John H. Patterson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CONSOLIDATION OF OFFICES IN BANKRUPTCY.

Mr. STENGER also introduced a bill (H. R. No. 5363) to consolidate the offices of registers in bankruptcy in certain cities; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY B. KIRBY.

Mr. MACKEY introduced a bill (H. R. No. 5364) for the relief of Mary B. Kirby; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

ROBERT P. WILSON.

Mr. O'NEILL introduced a bill (H. R. No. 5365) for the relief of Robert P. Wilson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES INMAN.

Mr. SHALLENBERGER introduced a bill (H. R. No. 5366) granting a pension to James Inman, late private Company B, Knapp's Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT BURTON RODNEY.

Mr. WILLIAMS, of Delaware, introduced a bill (H. R. No. 5367) to transfer Paymaster Robert Burton Rodney from the retired list to the active list of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SALLY MURRAY BUCHANAN.

Mr. SWANN introduced a bill (H. R. No. 5368) granting a pension to Sally Murray Buchanan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH T. WINDER.

Mr. SWANN also introduced a bill (H. R. No. 5369) granting a pension to Elizabeth T. Winder; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MOUNT PLEASANT AND POTOMAC SIDE RAILWAY COMPANY.

Mr. HENKLE introduced a bill (H. R. No. 5370) to incorporate the Mount Pleasant and Potomac Side Railway Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CAPITOL, NORTH O STREET, ETC., RAILWAY COMPANY.

Mr. HENKLE also introduced a bill (H. R. No. 5371) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

HEIRS OF JAMES BROADUS.

Mr. HUNTON introduced a bill (H. R. No. 5372) for the relief of the heirs of James Broadus, of the Second Regiment of the Virginia Continental Line in the war of the Revolution; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

WILLIAM H. WARD.

Mr. GOODE introduced a bill (H. R. No. 5373) to remove the political disabilities of William H. Ward, of Norfolk, Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WESTERN JUDICIAL DISTRICT, NORTH CAROLINA.

Mr. STEELE introduced a bill (H. R. No. 5374) to provide for the appointment of an additional clerk in the western judicial district of North Carolina; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUPERVISORS OF ELECTION.

Mr. VANCE introduced a bill (H. R. No. 5375) to repeal the law authorizing United States courts to appoint supervisors of elections and to prevent abuses in the election laws; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PUBLIC BUILDING, GOLDSBOROUGH, NORTH CAROLINA.

Mr. BROGDEN introduced a bill (H. R. No. 5376) to provide for the erection of a public building in the city of Goldsborough, in the State of North Carolina; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

STANDARD SILVER DOLLAR.

Mr. FELTON introduced a bill (H. R. No. 5377) to compel national banks to recognize and receive the standard legal-tender silver dollar as equivalent in value to the gold coins of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

RECOINAGE.

Mr. FELTON also introduced a bill (H. R. No. 5378) to make trade and Mexican silver dollars a legal tender for all dues at their nominal value, and to require their recoinage into standard silver dollars; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

ELIZABETH A. CLOUD.

Mr. FELTON also introduced a bill (H. R. No. 5379) to relieve Elizabeth A. Cloud; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

FINANCIAL EMBARRASSMENTS.

Mr. BELL (by request) introduced a bill (H. R. No. 5380) for the relief of the financial embarrassments of the people, and for other purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

MARSHALS' FEE-BOOKS.

Mr. HERBERT introduced a bill (H. R. No. 5381) to require marshals to keep fee-books, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MILEAGE OF MARSHALS.

Mr. HERBERT also introduced a bill (H. R. No. 5382) to regulate mileage of marshals, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CONSPIRACY.

Mr. HERBERT also introduced a bill (H. R. No. 5383) to amend section 5440 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BRIGADIER-GENERAL GABRIEL R. PAUL.

Mr. SHELLEY introduced a bill (H. R. No. 5384) for the relief of Brigadier-General Gabriel R. Paul, who was shot through both eyes while in command of his brigade at the battle of Gettysburgh; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS G. DOUGLASS.

Mr. SHELLEY also introduced a bill (H. R. No. 5385) for the relief of Thomas G. Douglass, late first sergeant Company F, Second Battalion, Fifteenth United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMENDMENT OF ARMY OFFICER'S RECORD.

Mr. SHELLEY also (by request) introduced a bill (H. R. No. 5386) to amend an Army officer's record; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EUGENIA DUFFEY AND OTHERS.

Mr. ACKLEN introduced a bill (H. R. No. 5387) for the relief of Eugenia Duffey, W. B. Duffey, and John Elzy, of Louisiana; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PHILIP FLOOD.

Mr. MONROE introduced a bill (H. R. No. 5388) for the relief of Philip Flood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

STEPHEN D. POND.

Mr. MONROE also introduced a bill (H. R. No. 5389) granting a pension to Stephen D. Pond; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY SHRIBER.

Mr. MONROE also introduced a bill (H. R. No. 5390) for the relief of Henry Shriber; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SANFORD S. PARKER.

Mr. MONROE also introduced a bill (H. R. No. 5391) granting increase of pension to Sanford S. Parker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WELLS B. WHITMORE.

Mr. JONES, of Ohio, introduced a bill (H. R. No. 5392) for the relief of Wells B. Whitmore, of Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ANTHONY PETERSON.

Mr. KEIFER introduced a bill (H. R. No. 5393) for the relief of Anthony Peterson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

D. M. COOK.

Mr. SAYLER introduced a bill (H. R. No. 5394) for the relief of D. M. Cook; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

JOHN WITCOMBE.

Mr. BANNING introduced a bill (H. R. No. 5395) for the relief of John Witcombe; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

VALENTINE RAPP.

Mr. BANNING also introduced a bill (H. R. No. 5396) granting a pension to Valentine Rapp; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY TRAUERNICHT.

Mr. BANNING also introduced a bill (H. R. No. 5397) for the relief of Henry Trauernicht; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY CLAY.

Mr. BANNING also introduced a bill (H. R. No. 5398) granting a pension to Henry Clay; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN REID.

Mr. BANNING also introduced a bill (H. R. No. 5399) for the relief of John Reid, of Cincinnati, Ohio; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

THOMAS J. WILLIAMS.

Mr. BANNING also introduced a bill (H. R. No. 5400) for the relief of Thomas J. Williams; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PETER MARCH AND OTHERS.

Mr. BANNING also introduced a bill (H. R. No. 5401) for the relief of Peter March, Frederick Kimmerly, David Vaughn, Barney Schooley, Eliza Scott, (widow of Joseph Scott,) Phebe C. Clement, (widow of Isaac M. Clement,) Frederick Smith, Owen McNabb, and Thomas Miller; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ANDREW J. HERRON.

Mr. GARFIELD introduced a bill (H. R. No. 5402) granting a pension to Andrew J. Herron; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN KAYE.

Mr. WILLIS, of Kentucky, introduced a bill (H. R. No. 5403) for the relief of John Kaye; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MRS. SALLIE T. WARD.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 5404) granting a pension to Mrs. Sallie T. Ward; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SUBSIDIARY COIN.

Mr. ATKINS introduced a bill (H. R. No. 5405) to make minor or subsidiary coins a legal tender for all debts due the Government, including payment of customs dues; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

LINCOLN SAVINGS-BANK, FAYETTEVILLE, TENNESSEE.

Mr. BRIGHT introduced a bill (H. R. No. 5406) for the relief of the Lincoln Savings-Bank of Fayetteville, Tennessee; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOAB BARNES.

Mr. RIDDLE introduced a bill (H. R. No. 5407) granting a pension to Joab Barnes, a soldier of the Florida war of 1836; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. CORN.

Mr. DIBRELL introduced a bill (H. R. No. 5408) granting a pension to George W. Corn, of Polk County, Tennessee; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

FIVE-TWENTY BONDS.

Mr. DIBRELL also introduced a bill (H. R. No. 5409) directing the Secretary of the Treasury to use the ten millions legal tenders held for the redemption of fractional currency in payment of that amount of 5-20 bonds; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

TENNESSEE RIVER.

Mr. DIBRELL also introduced a bill (H. R. No. 5410) making an appropriation to continue the work on the Tennessee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HIWASSEE RIVER.

Mr. DIBRELL also introduced a bill (H. R. No. 5411) making an appropriation to continue the work on the Hawassee River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CUMBERLAND RIVER.

Mr. DIBRELL also introduced a bill (H. R. No. 5412) to improve the navigation of the Coney Fork of Cumberland River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MISSISSIPPI RIVER.

Mr. YOUNG introduced a bill (H. R. No. 5413) to provide for improving the navigation of the Mississippi River and for the reclamation of the lowlands of the States bordering thereon; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARINE HOSPITAL, MEMPHIS, TENNESSEE.

Mr. YOUNG also introduced a bill (H. R. No. 5414) to provide for the building of a marine hospital in the city of Memphis, Tennessee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAMES B. WHITE.

Mr. HAMILTON introduced a bill (H. R. No. 5415) for the relief of James B. White; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

REBECCA S. ALLEN.

Mr. BICKNELL introduced a bill (H. R. No. 5416) granting a pension to Rebecca S. Allen; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL H. PATTERSON.

Mr. BICKNELL also introduced a bill (H. R. No. 5417) for the relief of Samuel H. Patterson, of Clark County, Indiana; which was read a first and second time, and referred to the Committee on War Claims.

FREDERIC VOGEL.

Mr. BROWNE introduced a bill (H. R. No. 5418) for the relief of Frederic Vogel, of Franklin County, Indiana; which was read a first

and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES L. RIGOR.

Mr. BROWNE also introduced a bill (H. R. No. 5419) granting a pension to James L. Rigor, late private Company G, Sixty-ninth Indiana Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANCIS M. WAY.

Mr. BROWNE also introduced a bill (H. R. No. 5420) for the relief of Francis M. Way, postmaster at Winchester, Indiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JAMES L. PEARCE.

Mr. BROWNE also introduced a bill (H. R. No. 5421) for the relief of James L. Pearce, postmaster at Williamsburgh, Indiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WASHINGTON L. COLGROVE.

Mr. BROWNE also introduced a bill (H. R. No. 5422) for the relief of Washington L. Colgrove, of Winchester, Indiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

CHARLES S. HAYES.

Mr. BROWNE also introduced a bill (H. R. No. 5423) for the relief of Charles S. Hayes, of Lawrenceburgh, Indiana; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHARGES TO JURIES IN THE DISTRICT OF COLUMBIA.

Mr. BAKER, of Indiana, introduced a bill (H. R. No. 5424) to regulate the practice in the supreme court of the District of Columbia in charging juries in civil and criminal causes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SURVEY OF SAINT JOSEPH RIVER.

Mr. BAKER, of Indiana, also introduced a bill (H. R. No. 5425) making an appropriation for the survey of the Saint Joseph River from its mouth, in the State of Michigan, to the city of Elkhart, in the State of Indiana, to determine the cost and character of the improvements necessary to render said river navigable for lake vessels between said points; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN E. SMITH.

Mr. CALKINS introduced a bill (H. R. No. 5426) granting a pension to John E. Smith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLOTTE STEWART.

Mr. CALKINS also introduced a bill (H. R. No. 5427) granting a pension to Charlotte Stewart; which was read a first and second time referred to the Committee on Invalid Pensions, and ordered to be printed.

LEGAL-TENDER COIN OF THE UNITED STATES.

Mr. BURCHARD introduced a bill (H. R. No. 5428) requiring national banking associations to receive the full legal-tender coins of the United States on deposit at par, and in exchange at par, for United States or national-bank notes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

He also introduced a bill (H. R. No. 5429) authorizing and requiring the Treasurer of the United States to receive the coins of the United States in exchange for United States notes; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

REVENUE FROM CIGARS.

Mr. BURCHARD also (by request) introduced a bill (H. R. No. 5430) to secure more efficient collection of the revenue from cigars; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

THOMAS J. SPENCER.

Mr. HARTZELL introduced a bill (H. R. No. 5431) for the relief of First Lieutenant and Brevet Captain Thomas J. Spencer, of the Tenth Regiment of Cavalry, United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES E. WENTWORTH.

Mr. LATHROP introduced a bill (H. R. No. 5432) for the relief of Charles E. Wentworth, of Sandwich, Illinois; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SUSAN E. VAN BUSKIRK.

Mr. TIPTON introduced a bill (H. R. No. 5433) granting a pension to Susan E. Van Buskirk; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARMON BUNN.

Mr. TIPTON also introduced a bill (H. R. No. 5434) granting a pension to Harmon Bunn, of Tazewell County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. HATTIE BOWMAN.

Mr. TIPTON also introduced a bill (H. R. No. 5435) granting a pension to Mrs. Hattie Bowman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM RUSMISELL.

Mr. TIPTON also introduced a bill (H. R. No. 5436) for the relief of William Rusmisell, postmaster at Stanford, McLean County, Illinois; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

COINAGE OF STANDARD SILVER DOLLAR.

Mr. BUCKNER introduced a bill (H. R. No. 5437) to amend an act entitled "An act to authorize the coinage of the standard silver dollar, and to restore its legal-tender character, and for other purposes," enacted February 28, 1878; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

EMMA A. PORCH.

Mr. CRITTENDEN introduced a bill (H. R. No. 5438) to place the name of Emma A. Porch, of Cole County, Missouri, on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BRUCE'S ISLAND.

Mr. COLE introduced a bill (H. R. No. 5439) relinquishing the right of the United States to an island therein named; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

MATHIAS WONDRAK.

Mr. COLE also introduced a bill (H. R. No. 5440) granting a pension to Mathias Wondrak; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN DIXON.

Mr. POLLARD introduced a bill (H. R. No. 5441) for the relief of John Dixon; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EUGENE WELLS.

Mr. POLLARD also introduced a bill (H. R. No. 5442) for the relief of Eugene Wells; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DANIEL V. COLCLAZIER.

Mr. GUNTER introduced a bill (H. R. No. 5443) for the relief of Daniel V. Colclazier; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NOAH H. BADGETT.

Mr. CRAVENS introduced a bill (H. R. No. 5444) for the relief of Noah H. Badgett, of Pulaski County, Arkansas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ANN FORSYTH.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 5445) granting a pension to Ann Forsyth; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DISTRICT JUDGE, WESTERN JUDICIAL DISTRICT, MICHIGAN.

Mr. STONE, of Michigan, introduced a bill (H. R. No. 5446) to increase the salary of the district judge of the western judicial district of Michigan; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

EDWARD P. DENHAM.

Mr. STONE, of Michigan, also introduced a bill (H. R. No. 5447) granting an increase of pension to Edward P. Denham; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. STANDISH.

Mr. STONE, of Michigan, also introduced a bill (H. R. No. 5448) for the relief of John H. Standish; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

RIGHT OF WAY TO FLORIDA INTERNATIONAL SHIP-CANAL COMPANY.

Mr. SCHLEICHER (by request) introduced a bill (H. R. No. 5449) to grant the right of way to the Florida International Ship-Canal Company and to authorize the building and operating of a telegraph line along said canal; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

REPAIR OF GOVERNMENT BARRACKS AND BUILDINGS, AUSTIN, TEXAS.

Mr. GIDDINGS introduced a bill (H. R. No. 5450) making an appropriation for repairs of barracks and Government buildings at Austin,

Texas; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REDEMPTION AND REISSUE OF FRACTIONAL SILVER CURRENCY.

Mr. CUMMINGS introduced a bill (H. R. No. 5451) to provide for the redemption of certain silver coins of the United States, to wit: the half dollars, quarter dollars, dimes, and half dimes, and for the reissue thereof; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

JAMES W. ROBBINS.

Mr. CLARK, of Iowa, (by request,) introduced a bill (H. R. No. 5452) granting a pension to James W. Robbins; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOUTH FARALLON ISLAND, CALIFORNIA.

Mr. LUTTRELL introduced a bill (H. R. No. 5453) to appropriate money for the establishment of a fog-bell and steam-whistle on South Farallon Island, California; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CALIFORNIA INDIAN WAR EXPENSES.

Mr. DAVIS, of California, introduced a bill (H. R. No. 5454) to reimburse the State of California for expenses incurred in the Indian wars; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

INDIAN WAR EXPENSES.

Mr. DAVIS, of California, also presented joint resolution of the Legislature of the State of California, praying for reimbursement of expenses incurred in Indian wars; which was referred to the Committee on Indian Affairs, and ordered to be printed.

THOMAS S. BRIDGES.

Mr. PAGE (by request) introduced a bill (H. R. No. 5455) for the relief of Thomas S. Bridges; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HOOPA VALLEY INDIAN RESERVATION.

Mr. PAGE also introduced a bill (H. R. No. 5456) to authorize Dr. C. E. Price, of the United States Army, to receive the pay allowed by law for discharging the duties of physician to the Hoopa Valley Indian reservation; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

FOURTEENTH AND FIFTEENTH AMENDMENTS TO THE CONSTITUTION.

Mr. PAGE also introduced a bill (H. R. No. 5457) to enforce the fourteenth and fifteenth amendments to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

GEORGE W. TOWLE.

Mr. STRAIT introduced a bill (H. R. No. 5458) for the relief of George W. Towle; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CONSTRUCTION OF CANAL AND LOCKS, COLUMBIA RIVER, OREGON.

Mr. WILLIAMS, of Oregon, introduced a bill (H. R. No. 5459) making a further appropriation for the purpose of continuing the construction of canal and locks at the Cascades of the Columbia River, in the State of Oregon; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CLAIMS FOR HORSES.

Mr. PHILLIPS introduced a bill (H. R. No. 5460) to provide for the payment of claims for horses used in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUGET SOUND, WASHINGTON TERRITORY.

Mr. JACOBS introduced a bill (H. R. No. 5461) making an appropriation for the purchase of a site and for the erection of a fog-signal on Sandy Point, Puget Sound, Washington Territory; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF UPPER COLUMBIA AND SNAKE RIVERS.

Mr. JACOBS also introduced a bill (H. R. No. 5462) making an appropriation for the improvement of the navigation of the Upper Columbia and Snake Rivers in Washington Territory; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ELECTION OF TERRITORIAL OFFICERS.

Mr. KIDDER introduced a bill (H. R. No. 5463) to guarantee to the people of the several Territories the right to elect certain territorial officers; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

The SPEAKER. The call having been completed gentlemen who were not present when their States were called and now desire to introduce bills will be recognized for that purpose.

EDWARD SHIELDS AND OTHERS.

Mr. O'NEILL introduced a bill (H. R. No. 5464) for the relief of Edward Shields, Mary Willis, Michael Farrell, Ellen Butler, Henry Steger, and Hugh McLaughlin; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PENSIONS.

Mr. BRIDGES introduced a bill (H. R. No. 5465) to prevent the receipt of *ex parte* affidavits, letters, statements, or written communications by the Commissioner of Pensions, under an injunction of secrecy, against the allowance of pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. REBECCA NABORS.

Mr. MANNING introduced a bill (H. R. No. 5466) for the relief of Mrs. Rebecca Nabors as postmistress at Holly Springs, Mississippi; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

STATE OF PENNSYLVANIA.

Mr. MAISH introduced a bill (H. R. No. 5467) to reimburse the State of Pennsylvania for moneys paid by said State for losses sustained by citizens thereof during the war of the rebellion, and to pay to the said State the balance of the claims of citizens thereof for such losses as are now on file in the office of the auditor-general of the said State; which was read a first and second time.

Mr. MAISH. I move that the bill be referred to the Committee on Military Affairs.

The SPEAKER. The Chair thinks this is a bill which should go to the Committee on War Claims.

Mr. MAISH. Other bills of a similar nature have gone to the Committee on Military Affairs.

The SPEAKER. The Chair has no objection.

The bill was referred to the Committee on Military Affairs, and ordered to be printed.

UNIFORM STANDARD OF VALUE.

Mr. HEWITT, of New York, introduced a bill (H. R. No. 5468) to secure a uniform standard of value; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

MUSCLE SHOALS CANAL.

Mr. GARTH introduced a bill (H. R. No. 5469) continuing the work on Muscle Shoals Canal in the State of Alabama; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WATER RATES IN THE DISTRICT.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 5470) to authorize the commissioners of the District of Columbia to adjust and fix the water rates within said District; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

INTEREST ON DISTRICT BONDS.

Mr. WILLIAMS, of Michigan, also introduced a bill (H. R. No. 5471) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CHARLES H. FOX.

Mr. SPRINGER introduced a bill (H. R. No. 5472) granting a pension to Charles H. Fox; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

STANDARD SILVER DOLLAR.

Mr. WHITE, of Pennsylvania, introduced a bill (H. R. No. 5473) to amend an act entitled "An act to authorize the coinage of the standard silver dollar, and to restore its legal-tender character," which became a law February 28, 1878; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PUBLIC BUILDINGS AT MARQUETTE, MICHIGAN.

Mr. HUBBELL introduced a bill (H. R. No. 5474) to provide for a building for the use of the Federal courts, post-office, customs, internal-revenue, land, and other civil offices, in the city of Marquette, Michigan; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JEFFERSON SAVAGE.

Mr. LINDSEY introduced a bill (H. R. No. 5475) for the relief of Jefferson Savage, late a first lieutenant Third Regiment Maine Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PERSONAL EXPLANATION.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] desires to make a personal explanation.

Mr. ATKINS. I send to the desk a copy of the New York Herald of December 6, 1878, and ask the Clerk to read the article which I have marked.

The Clerk read as follows:

WASHINGTON, *December* 5, 1878.

THE HOT SPRINGS COMMISSION CLAUSE IN THE SUNDRY CIVIL SERVICE BILL—SENATOR CONOVER'S STATEMENT.

The Senate committee to investigate the charge that Senator CONOVER was implicated in the work of tampering with the sundry civil bill last summer, from which the Hot Springs commission clause was left out, will hardly be able to get to work until next week, as some of the members appointed by Mr. WHEELER show a disinclination to serve. Senator CONOVER, in his defense, says he will show that the bill was not fully compared by the Enrolling Committee and that there is no evidence extant that the bill was completed and perfected when it left the House side of the Capitol to go over to the President. It will be remembered that in the excitement and dissipation of the closing hours of the session Mr. RAINEY, the colored member from South Carolina, was the only representative of the Enrolling Committee who stood at his post. Now Senator CONOVER intends to show by the evidence of Mr. RAINEY and Mr. King, his clerk, that the chairman of the Appropriations Committee, Mr. ATKINS, came to him while he was engaged in comparing the sundry civil bill, and when he was within twenty pages of completing it, and insisted that he [Mr. RAINEY] should desist and give up the bill and report it to the House, that it was all right as it was, and that it wouldn't do to prolong the session any further by waiting to complete the comparison; that Mr. RAINEY, in obedience to his sworn duty as a Congressman and member of the committee, protested against reporting or turning in the bill until it was thoroughly revised by him, and that he was responsible for its proper preparation; that thereupon Mr. ATKINS renewed his entreaty and gathered up and took away the bill in its unfinished state, and that the Hot Springs provision was contained in the last twenty pages, which, had Mr. RAINEY been allowed to do his duty, would have duly contained and expressed the will of Congress.

It will be remembered that Mr. ATKINS asked the Treasury Department to put a secret service agent to work to detect the reason of the flaw in the bill, and that the agent selected implicated Senator CONOVER by suspicion and circumstantial evidence. The above is the rejoinder of Senator CONOVER to the action of Mr. ATKINS. The report of this agent is still kept a secret from the House and the press, but will be handed over by Mr. ATKINS to the Senate investigating committee when the latter organizes for business. Its contents have been generally discounted through the leaking or gossiping of the Treasury detectives.

Mr. ATKINS. Mr. Speaker, this is the first time I have ever risen to a question of personal privilege throughout a somewhat lengthy public service. The gravamen of the article just read is that, in my anxiety to have the sundry civil bill returned to the House for the Speaker's signature, I "gathered up and took the bill away in its unfinished state;" in this manner the missing clause may have been lost. In answer to that charge I ask the Clerk to read the letters of Messrs. King and Jenness, the enrolling and assistant enrolling clerks, and also the letter of Mr. RAINEY, the member of the Committee on Enrolled Bills, who compared the bill.

The Clerk read as follows:

WASHINGTON, D. C., *December* 7, 1878.

SIR: In reply to your inquiry as to whether I saw the sundry civil appropriation bill in your possession, I will say: that I never saw the bill in your possession the night of the adjournment after it was enrolled nor during the course of its comparison after its enrollment, and the statement which appears in the New York Herald that you took the bill and by so doing prevented its proper comparison is not true.

Very respectfully,

THOMAS F. KING.

Hon. J. D. C. ATKINS.

I was present all night during the comparison of sundry civil bill, and concur in the foregoing statements of Mr. King.

G. H. JENNESS,
Assistant Enrolling Clerk.

During the comparison of the sundry civil bill I had entire control of the same. At no time did it pass out of my hands into yours, or any one else's until signed by the Speaker, the statement in the New York Herald of the 6th instant to the contrary notwithstanding.

J. H. RAINEY,
Of Committee on Enrolled Bills.

Mr. ATKINS. It will be seen that these gentlemen positively contradict the statement in the Herald correspondence. Additional testimony of officers and members of this House to the same effect could be adduced if necessary. The charge that I touched the bill or any part of it is absolutely untrue. I have endeavored to find out the authorship of this article, but have only been able to trace it to impersonal and irresponsible sources.

As the writer of the article, both in the beginning and conclusion of it, purports to foreshadow what will be the defense of Senator S. B. CONOVER, and proposes to represent that gentleman, I therefore addressed a letter to him inquiring his connection with the misrepresentation that it was through my alleged handling of the bill that the clause was lost. I ask the Clerk to read my letter and the reply.

The Clerk read as follows:

Hon. S. B. CONOVER:

I invite your attention to a letter which appeared in the New York Herald of the 6th instant, purporting to foreshadow some of the grounds of your "defense" in the investigation now pending relative to the Hot Springs commission clause in the last sundry civil appropriation bill, which failed to become a law. In this article this language occurs: "and thereupon Mr. ATKINS renewed his entreaty, and gathered up and took away the bill in its unfinished state." * * * As the beginning and the conclusion of the article in the Herald refers to this charge against me, to wit, that I "gathered up and took the bill away in its unfinished state," as the ground of your defense, I write you this note to inquire whether you suggested or authorized any such statement either to the Herald correspondent or to any one else.

Respectfully,

J. D. C. ATKINS.

UNITED STATES SENATE CHAMBER,
Washington, December 8, 1878.

SIR: I am in receipt of your note of this date, in which you desire to be informed whether or not I "suggested or authorized any such statement as appears in the New York Herald of the 6th instant, either to the Herald correspondent or to any one else," in relation to a missing clause of the sundry civil bill.

In reply I would state that the article referred to does me injustice as well as yourself. It is a mistake. Your name has never been mentioned by me in connection with the "Hot Springs bill" except as to the fact that the report of the "Secret Service Bureau" was transmitted to you officially.

Respectfully,

S. B. CONOVER.

Hon. J. D. C. ATKINS.

Mr. ATKINS. The House will observe that Mr. CONOVER flatly and positively contradicts the statement of the Herald correspondent, who professed to anticipate his defense upon what authority I know not.

ORDER OF BUSINESS.

The SPEAKER. Several gentlemen desire to present House resolutions for reference, and the Chair asks consent to recognize such requests as they are not embraced strictly within the rule of the morning hour.

Mr. GARFIELD. For reference only?

The SPEAKER. Only for reference.

Mr. CONGER. Subject to objection, I suppose?

The SPEAKER. The Chair presumes they are subject to objection.

CRIMINAL PROSECUTIONS IN STATE COURTS.

Mr. CABELL, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on the Judiciary:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so amending section 641 and the succeeding sections of the Revised Statutes of the United States as that no criminal prosecution commenced in any State court for any cause whatsoever shall be removed from such State court into any circuit court of the United States for the trial thereof, and to repeal all acts and parts of acts providing for the same.

SILVER DOLLARS.

Mr. TOWNSHEND, of Illinois. I offer the preamble and resolution which I send to the desk.

The Clerk read as follows:

Whereas the Secretary of the Treasury has informed this House, in his annual report of December 2, 1878, that "a satisfactory arrangement has been made by which all drafts on the banks held by the Treasury are to be paid at the clearing-house, (meaning the New York Clearing-House Association,) and all drafts on the Treasury held by them are to be paid to the clearing-house at the office of the assistant treasurer in United States notes;" and

Whereas said clearing-house association, composed of forty-five national banks and thirteen State banks, has adopted, among other rules for the government of the banks in said association, for the transaction of business after the 1st day of January, 1879, a rule prohibiting payment of balances at the clearing-house in silver dollars, except as subsidiary coin in small sums, (say under $10;) and

Whereas such a rule is in violation of the law which has made silver dollars of 412½ grains of standard silver a full legal tender for all public or private debts, and is an unlawful conspiracy to nullify a law of the United States: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he is hereby, requested to inform this House whether the Treasury Department has acquiesced in and is to be governed by said rule in its settlements with the banks of said association.

The SPEAKER. The resolution will be referred to the Committee on Banking and Currency.

Mr. TOWNSHEND, of Illinois. I ask for action on the resolution at this time. It is an inquiry addressed to the Secretary of the Treasury, and I presume there will be no objection to it.

The SPEAKER. Is there objection to the adoption of the preamble and resolution?

Mr. HALE. I think they had better be referred.

Mr. TOWNSHEND, of Illinois. I should like action to be taken upon them at this time, because the resolution is simply an inquiry addressed to the Secretary of the Treasury.

The SPEAKER. If referred to the Committee on Banking and Currency the committee when on call can report it back to the House, if in their judgment they deem it proper to do so.

Mr. TOWNSHEND, of Illinois. Very well.

The preamble and resolution were referred to the Committee on Banking and Currency.

Mr. TOWNSHEND, of Illinois, also, by unanimous consent, submitted the following preamble and resolution; which were read, and referred to the Committee on the Judiciary:

Whereas the New York Clearing-House Association, composed of forty-five national banks and other banking associations, has adopted, among other rules for the government of the banks in said association, for the transaction of business after the 1st day of January, 1879, a rule prohibiting payment of balances at the clearing-house in silver dollars, except as subsidiary coin, in small sums, (say under $10;) and

Whereas such a rule is in violation of the law which has made silver dollars of 412½ grains of standard silver a legal tender for all public or private debts, and is an unlawful conspiracy to nullify a law of the United States: Therefore,

Be it resolved, That the Committee on the Judiciary is hereby instructed to advise this House whether, under the present law, said national banks have by such conspiracy forfeited their charters, or whether further legislation is necessary to revoke the charter of any national-banking association which has or may enter into such a conspiracy, or which may refuse to receive said silver dollars as legal tenders.

ORDER OF BUSINESS.

Mr. HALE. It is understood that these resolutions are not to be brought back on a motion to reconsider.

The SPEAKER. They will not be, having been introduced and referred by unanimous consent. In the judgment of the Chair there seems to be a deficiency in the rules in regard to the introduction of simple House resolutions. The rule provides that if the call for bills and joint resolutions for reference on Monday shall be concluded before the expiration of a morning hour, the remainder of the hour

shall be devoted to the introduction of House resolutions. The morning hour of Monday is almost invariably exhausted either because of the number of bills introduced, or by a resort to the reading of bills with the intention of exhausting the hour, and the result is that members have seldom an opportunity to offer House resolutions. It was for that reason that the Chair made the request this morning.

CONDITION OF THE TREASURY.

Mr. SAYLER. I ask consent to submit the preamble and resolution which I send to the Clerk's desk to be read.

The Clerk read as follows:

Whereas public interests and a just regard for the rights of the people demand that their Representatives in Congress should be informed as to the exact condition of the Treasury, so as to enable them to enact such legislation as will promote the general good, especially at this time when the experiment of resumption of specie payments is about to begin, through which violent fluctuations in the value of property and serious embarrassments in the payment of debts may occur unless resumption can be permanently maintained, after it has begun, and made equal in its operations in all sections and to all classes: Therefore,

Resolved, That the Secretary of the Treasury be, and he hereby is, instructed to report to this body within five days from the passage of this resolution—

First. The exact amount of actual gold coin and gold bullion and silver coin and silver bullion, respectively, received into the Treasury between January 31 and October 1, 1878.

Second. The exact amount of each, respectively, received in payment for customs dues, for 4 per cent. bonds, and from all other sources, each in detail, between said dates.

Third. The exact amount of each, respectively, paid out for interest on the public debt, for called bonds, for circulation, and for all other purposes, each in detail between said dates.

Fourth. The exact amount of all subscriptions for 4 per cent. bonds, redeemed fractional currency, legal-tender and national-bank notes, clearing-house or other certificates, contracts, securities, or agreements entered on the books of the Department, or otherwise counted as a part of the coin balance in the Treasury, each in detail, between said dates.

Fifth. The exact increase to the principal of the interest-bearing debt of the Government, with the kind of payment actually received for the same, in detail, between said dates.

Sixth. The exact amount of actual gold coin and gold bullion and silver coin and silver bullion, respectively, in the Treasury owned by the Government, and where it was located on the 1st day of December, 1878.

Seventh. The exact amount of coin coupons, demand notes, coin certificates in the Treasury, coin certificates outstanding, amount set apart for the sinking fund and its interest; bonds redeemed, with their interest; called bonds on which interest has ceased, with their interest; called bonds on which interest had not ceased; interest due and unpaid, accrued interest on the public debt due to individuals or trusts for bullion deposited for which no certificates had been issued, with the amount and kind of all other notes, bonds, or obligations payable in coin, except the principal of the national debt, as they appeared on the books of the Department or otherwise on the 1st day of December, 1878, with the exact amount of actual gold and silver coin owned by the Government after deducting the aggregate of such sums and its per cent. to the total amount of legal-tender and national-bank notes in circulation on said date.

Mr. GARFIELD. It would require all the force in the Treasury for two months to answer that resolution.

Mr. HALE. Let it be referred.

Mr. SAYLER. That is what I desire, to have it referred.

Mr. GARFIELD. I object.

Mr. SAYLER. I understood that unanimous consent was given for members to offer resolutions for reference.

The SPEAKER. The Chair thinks not, for at the very time the Chair asked for consent he heard members on the left interpose a reservation.

Mr. FOSTER. If the gentleman from Ohio will add an appropriation of $25,000 to carry out the resolution I will not object.

Mr. SAYLER. The country, then, is not to be informed in regard to the condition of the Treasury.

TENNESSEE CLAIMS FOR KEEPING PRISONERS.

Mr. HOUSE. I ask unanimous consent that Senate bill No. 882, to authorize the proper accounting officer of the Treasury to audit and pay the claim of the State of Tennessee for keeping United States military prisoners, be now taken from the Speaker's table and referred to the Committee on Claims.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Claims.

HOLIDAY RECESS.

Mr. BURCHARD, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee of Ways and Means:

Resolved by the House of Representatives, (the Senate concurring,) That when the House adjourns on Saturday, the 21st instant, it stands adjourned until Monday, January 6, 1879.

TIMBER DEPREDATIONS.

Mr. HOOKER. I ask leave to offer a resolution calling for information, to be acted on at this time.

The SPEAKER. The Chair is confined to a call for resolutions for reference.

Mr. HOOKER. I desire to have it put upon its passage.

The SPEAKER. The resolution will be read, and if no one objects it will be put upon its passage.

The Clerk read the resolution, as follows:

Resolved, That the Attorney-General of the United States be, and he is hereby, requested to furnish the House of Representatives with an account of all moneys expended by the Department of Justice in prosecutions for timber depredations in the State of Mississippi, and that he furnish the House with the number of suits instituted, number dismissed, number successfully prosecuted, and number of cases still pending, and with the accounts of the marshal of the southern district of Mississippi in each and every of said suits, and that he give a detailed statement of accounts presented by said marshal to his Department, whether the same have been paid and allowed or not; and that he also furnish to this House a statement of all contracts and with amounts paid or agreed to be paid to any and all attorneys employed in aid of the regular attorney of the Government.

Mr. CONGER. I object to that resolution.

Mr. HOOKER. I rise to a point of order. When I offered this resolution the other day a single objection, then made by the same gentleman who now objects, carried it over, because I was then asking leave to offer it by unanimous consent. I now propose to offer the resolution as one which may be offered on Monday. I would ask the Speaker the parliamentary question whether I am not in order in offering this resolution and asking for its adoption at this time?

The SPEAKER. The Chair thinks not. A few moments ago the Chair stated to the House that in his judgment there was a deficiency in the rules in regard to the offering of House resolutions. The rule now provides that after the call of States and Territories for the introduction of bills and joint resolutions for reference to their appropriate committees in the morning hour of Monday shall have been concluded, if any of the hour be left then House resolutions may be offered. The practical result, however, is that seldom if ever is an opportunity given for offering House resolutions during the morning hour of Monday.

Mr. HOOKER. I will ask whether the morning hour has not expired?

The SPEAKER. The Chair will add that under Rule 52, to which the Chair desires to refer the gentleman from Mississippi, there is another mode provided for the offering of House resolutions after the committees are called for reports, but conflicting rules and higher privileges almost always prevent such opportunity.

Mr. LUTTRELL. I wish to make a parliamentary inquiry. Has not the gentleman from Mississippi or any other member on this floor the right to move to suspend the rules?

The SPEAKER. The Chair will recognize the gentleman from Kentucky [Mr. DURHAM] as first on the list to move to suspend the rules, if objection is made to the course now being proceeded with by unanimous consent.

Mr. DURHAM. I move to suspend the rules and put on its passage the bill which I send to the desk.

The SPEAKER. As a number of gentlemen desired to bring before the House matters of personal interest to themselves to which there would probably be no objection the Chair was anxious to afford them that opportunity. But if objection is made, the Chair must adhere to the order of business as established by the rules. Before the motion of the gentleman from Kentucky is entertained, the gentleman from Ohio [Mr. SOUTHARD] desires to give some notice.

PRESIDENTIAL ELECTIONS.

Mr. SOUTHARD. I desire to give notice that I will call up for consideration—immediately on the assembling of Congress after the holiday vacation—a bill to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

ORDER OF BUSINESS.

Mr. DURHAM. I now renew my motion to suspend the rules and pass the bill which I have sent to the desk.

Mr. CONGER. I desire to inquire whether at this session the practice will conform to the same rule which was adopted at the last session in regard to awarding members the floor for motions to suspend the rules according to the list in the possession of the Chair?

The SPEAKER. Substantially the same practice will be followed; but the Chair will endeavor so to adjust recognitions between the two sides of the House that there shall be exact fairness in this respect as to motions to suspend the rules on Monday. At the last session, there was some dissatisfaction in reference to this matter, which the Chair desires to avoid at the present session if possible.

Mr. CONGER. I simply wish to know what the rule will be at this session.

The SPEAKER. The practice, so far as the Chair may be able to execute it, will be to recognize first a gentleman on one side of the House and then a gentleman on the other, following in other respects the order in which gentlemen stand on the list.

Mr. CONGER. The old list?

The SPEAKER. No, sir; the new list. There is quite a large new list. The Chair is anxious to have both sides satisfied in reference to these recognitions on Monday.

Mr. CONGER. Then, what is the position of gentlemen whose names were on the old list and who were not reached?

The SPEAKER. The Chair thinks that the old list expired with the adjournment of the last session. The Chair will endeavor to see that no disadvantage shall be suffered by either side.

Mr. CONGER. It would have been pleasant to us if we had known that the old list was to be discarded, so that we might have renewed our applications for recognition.

The SPEAKER. They have been renewed in many instances.

Mr. CONGER. Then, only those who had notice can have renewed their applications.

The SPEAKER. The Chair has given no notice on this subject until now.

Mr. DURHAM. I will say to the gentleman that I had received no notice at all when I had my name put down.

The SPEAKER. These requests for recognition upon motions to suspend the rules seem to have been filed at the desk without consulting or advising with the Speaker. The Chair, as he has already stated, intends to depart from the order of this list so far as to allow each side of the House an equal number of recognitions.

Mr. CONGER. I would suggest whether it would not be proper to follow the old list until all the gentlemen named on it have had their opportunity, and then to adopt the new list.

The SPEAKER. If the House should so express its pleasure, the Chair would conform to it.

Mr. CONGER. That course would seem to be just to those gentlemen who were as dilligent as they could have been at the last session, and who had their names on the list at that time.

The SPEAKER. The Chair does not think that the gentleman from Michigan [Mr. CONGER] ever suffered in this House from any want of diligence on his part. [Laughter.] He has been unusually diligent; and the Chair speaks with entire sincerity and truth when he says so.

Mr. CONGER. I do not call in question the sincerity of the Chair on this occasion.

The SPEAKER. The gentleman shall suffer no disadvantage if the Chair can prevent it.

TRADE-DOLLAR.

Mr. DURHAM. I move to suspend the rules and pass the bill which I have sent to the desk.

The Clerk read as follows:

A bill to provide for the exchange and recoinage of the trade-dollar and to cease the further coinage of the trade-dollar.

Be it enacted, &c., That there shall be no further coinage of the trade-dollar, and that the Secretary of the Treasury shall cause to be exchanged at the Treasury and the various subtreasuries of the United States legal-tender silver dollars at par, and shall recoin said trade-dollars into legal-tender dollars of 412½ grains of standard silver as now provided by law.

Mr. DWIGHT. I desire to object to this bill.

The SPEAKER. The motion is to suspend the rules under which the gentleman would not have the right to object.

Mr. LUTTRELL. I would like to inquire whether after the question is taken on the motion to suspend the rules there will be opportunity to offer amendments to the bill?

The SPEAKER. There will not be. The motion is to suspend the rules and pass the bill.

Mr. LUTTRELL. I think the bill ought to be amended.

Mr. EDEN. I would like to make an inquiry of the gentleman who has presented this bill.

The SPEAKER. That is not in order, except by unanimous consent.

Mr. STONE, of Michigan. I ask that the bill be again read.

The SPEAKER. If there be no objection, the bill will be again read. It relates to an important subject, and the Chair thinks it ought to be thoroughly understood.

The bill was again read.

Mr. DURHAM. There is an omission of some words there which I ask leave to supply.

The SPEAKER. The gentleman will step to the Clerk's desk and make the correction he desires.

Mr. WOOD. Is it in order to ask a question as to the meaning of a certain portion of this resolution?

The SPEAKER. Debate is not in order, except by unanimous consent.

Mr. WOOD. I desire to ask the gentleman from Kentucky what he proposes to do with the trade-dollars now in circulation under his resolution? [Cries of "Vote!" "Vote!"]

The SPEAKER. As there has been a word added to the bill the Chair thinks it essential it should be again read as modified, because the insertion of a word may alter the effect of the bill entirely.

The Clerk read the bill as modified, as follows:

That there shall be no further coinage of the trade-dollar, and the Secretary of the Treasury shall cause to be exchanged at the Treasury and the various subtreasuries of the United States legal-tender silver dollars at par for trade-dollars, and shall recoin said trade-dollars into legal-tender dollars of 412½ grains of standard silver as now provided by law.

Mr. EDEN. Let me ask the gentleman from Kentucky whether that will increase the amount of coinage over and above what is now provided by law? [Cries of "Vote!" "Vote!"]

The SPEAKER. There is objection to debate and it cannot be had without unanimous consent.

Mr. DURHAM demanded the yeas and nays under a suspension of the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 153, nays 92, not voting 46; as follows:

YEAS—153.

Acklen,	Boone,	Cabell,	Clark, Alvah A.
Atkins,	Bouck,	Cain,	Clark of Missouri,
Bailey,	Bridges,	Caldwell, John W.	Clarke of Kentucky,
Baker, John H.	Bright,	Caldwell, W. P.	Clark, Rush
Banning,	Brogden,	Calkins,	Clymer,
Bell,	Browne,	Campbell,	Cobb,
Bicknell,	Buckner,	Candler,	Cox, Jacob D.
Blackburn,	Bundy,	Cannon,	Cravens,
Blount,	Burchard,	Chalmers,	Crittenden,
Cummings,	Harris, John T.	Mayham,	Shelley,
Cutler,	Harrison,	McKenzie,	Singleton,
Danford,	Hartridge,	McKinley,	Siemons,
Davis, Joseph J.	Hartzell,	McMahon,	Southard,
Deering,	Haskell,	Mills,	Sparks,
Dibrell,	Hatcher,	Money,	Springer,
Dickey,	Hazelton,	Monroe,	Steele,
Durham,	Henkle,	Morgan,	Stone, Joseph C.
Elam,	Herbert,	Muldrow,	Strait,
Ellis,	Hewitt, G. W.	Neal,	Tipton,
Errett,	Hooker,	Patterson, G. W.	Townshend, R. W.
Evans, James L.	House,	Phelps,	Tucker,
Evins, John H.	Hunter,	Phillips,	Turner,
Ewing,	Hunton,	Pollard,	Turney,
Felton,	Ittner,	Price,	Vance,
Finley,	James,	Rea,	Van Vorhes,
Forney,	Jones, James T.	Reagan,	Waddell,
Fort,	Jones, John S.	Rice, Americus V.	White, Harry
Franklin,	Kelley,	Riddle,	White, Michael D.
Fuller,	Kenna,	Robbins,	Whitthorne,
Gardner,	Killinger,	Robertson,	Wigginton,
Garth,	Kimmel,	Robinson, M. S.	Williams, C. G.
Gibson,	Landers,	Ross,	Williams, Jere N.
Giddings,	Ligon,	Ryan,	Willis, Albert S.
Glover,	Luttrell,	Sampson,	Wilson,
Goode,	Mackey,	Sapp,	Wright,
Gunter,	Majors,	Sayler,	Yeates.
Hamilton,	Manning,	Scales,	
Hanna,	Marsh,	Sexton,	
Harris, Henry R.	Martin,	Shallenberger,	

NAYS—92.

Aldrich,	Dwight,	Jones, Frank	Rice, William W.
Bacon,	Eames,	Joyce,	Robinson, G. D.
Bagley,	Eden,	Keifer,	Schleicher,
Baker, William H.	Eickhoff,	Keightley,	Sinnickson,
Ballou,	Ellsworth,	Ketcham,	Smith, A. Herr
Bayne,	Evans, I. Newton	Lapham,	Starin,
Blair,	Foster,	Lathrop,	Stenger,
Bliss,	Freeman,	Lindsey,	Stone, John W.
Boyd,	Frye,	Maish,	Thompson,
Brentano,	Garfield,	McCook,	Thornburgh,
Brewer,	Hale,	McGowan,	Townsend, Amos
Briggs,	Hardenbergh,	Mitchell,	Townsend, M. I.
Burdick,	Harmer,	Morrison,	Wait,
Camp,	Harris, Benj. W.	Morse,	Warner,
Caswell,	Hart,	Norcross,	Watson,
Chittenden,	Hayes,	Oliver,	Williams, Andrew
Claflin,	Hendee,	O'Neill,	Williams, A. S.
Cole,	Henderson,	Overton,	Williams, James
Conger,	Hewitt, Abram S.	Page,	Williams, Richard
Covert,	Hiscock,	Patterson, T. M.	Willis, Benj. A.
Davis, Horace	Hubbell,	Potter,	Willits,
Dean,	Humphrey,	Powers,	Wood,
Denison,	Hungerford,	Reed,	Wren.

NOT VOTING—46.

Aiken,	Crapo,	Lynde,	Smith, William E.
Banks,	Culberson,	Metcalfe,	Stephens,
Beebe,	Davidson,	Muller,	Stewart,
Benedict,	Douglas,	Peddie,	Swann,
Bisbee,	Dunnell,	Pound,	Throckmorton,
Bland,	Gause,	Pridemore	Veeder,
Bragg,	Henry,	Pugh,	Walker,
Butler,	Jorgensen,	Rainey,	Walsh,
Carlisle,	Knapp,	Randolph,	Ward,
Collins,	Knott,	Reilly,	Young.
Cook,	Lockwood,	Roberts,	
Cox, Samuel S.	Loring,	Smalls,	

So (two-thirds not having voted in favor thereof) the rules were not suspended, and the bill was not passed.

During the vote,

Mr. HART said: My colleague, Mr. LOCKWOOD, is paired with Mr. PUGH, of New Jersey.

Mr. YOUNG. I am paired with Mr. LORING, of Massachusetts.

Mr. MCKENZIE. My colleague, Mr. KNOTT, is detained at his room by sickness.

Mr. GIDDINGS. My colleague, Mr. THROCKMORTON, is detained from the House on account of sickness.

Mr. BLOUNT. My colleague, Mr. COOK, is absent on account of sickness.

Mr. EICKHOFF. My colleagues, Mr. COX and Mr. MULLER, are absent on account of important business, and I cannot say how either would vote.

Mr. HARDENBERGH. My colleague, Mr. PEDDIE, who is detained from the House, is paired with Mr. PRIDEMORE, of Virginia. If here, he would vote in the negative.

Mr. HARRIS, of Virginia. My colleague, Mr. PRIDEMORE, is detained at home by the illness of his wife.

Mr. DEERING. I wish to state that Mr. BANKS, of Massachusetts, is paired with Mr. BLAND, of Missouri.

Mr. EVANS, of Pennsylvania. My colleague, Mr. WARD, who is absent on important business, is paired with Mr. AIKEN, of South Carolina.

Mr. REAGAN. I have been requested by my colleague, Mr. THROCKMORTON, to state that he is confined to his room by illness.

Mr. STRAIT. My colleague, Mr. DUNNELL, is absent on account of sickness.

Mr. BLAND. I ask that my vote be withdrawn, having inadvertently voted, as I am paired with Mr. BANKS. If he were here, I would vote in the affirmative.

Mr. STEWART. I am paired with Mr. DAVIDSON, of Florida. If he were present, I would vote in the negative.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. SYMPSON, one of its clerks, announced the passage of a bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent; in which concurrence was requested.

It further announced the passage of a resolution for the appointment of a committee to investigate and report the best means to prevent the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States, and that it had appointed Mr. HARRIS, Mr. MATTHEWS, Mr. LAMAR, Mr. PADDOCK, Mr. CONOVER, Mr. GARLAND, and Mr. EUSTIS as the members of said committee.

It further announced its disagreement to the resolution of the House for the appointment of a joint committee to inquire into the recent history and means of prevention and arrest of yellow fever and other epidemic diseases.

LEGAL-TENDER QUALITY OF SILVER DOLLARS.

Mr. FORT. I move that the rules be suspended and that the resolution which I send to the desk be adopted.

The Clerk read the resolution, as follows:

Resolved, That the legal-tender quality of silver dollars of 412½ grains of standard silver shall be maintained and enforced, and that any discrimination against said silver dollars by any national banking association by refusing to receive them and treat them as legal dollars shall be deemed a defiance of the laws of the United States, and the Committee on Banking and Currency is hereby instructed to mature and bring in a bill to provide for the withdrawal of the circulating notes of all such banks so offending.

Mr. CHITTENDEN and other members called for the yeas and nays.

The yeas and nays were ordered.

Mr. ATKINS. I ask that the resolution be again read.

The resolution was again read.

Mr. TOWNSHEND, of Illinois. I desire to offer an amendment to the resolution.

The SPEAKER. An amendment is not in order.

The question was taken; and there were—yeas 151, nays 90, not voting 50; as follows:

YEAS—151.

Acklen,	Dickey,	Hunter,	Ross,
Atkins,	Durham,	Hunton,	Ryan,
Baker, John H.	Eden,	Ittner,	Sampson,
Banning,	Elam,	Jones, James T.	Sapp,
Bell,	Ellis,	Keifer,	Sayler,
Bicknell,	Evans, James L.	Kelley,	Scales,
Blackburn,	Evins, John H.	Kenna,	Sexton,
Blount,	Ewing,	Kimmel,	Shallenberger,
Boone,	Felton,	Lathrop,	Shelley,
Bouck,	Finley,	Ligon,	Singleton,
Boyd,	Forney,	Luttrell,	Slemons,
Bridges,	Fort,	Mackey,	Southard,
Bright,	Franklin,	Majors,	Sparks,
Brogden,	Fuller,	Manning,	Springer,
Browne,	Gardner,	Marsh,	Steele,
Buckner,	Garth,	Martin,	Strait,
Bundy,	Giddings,	Mayham,	Thompson,
Burchard,	Glover,	McKenzie,	Tipton,
Cabell,	Goode,	McMahon,	Townshend, R. W.
Caldwell, John W.	Gunter,	Mills,	Tucker,
Caldwell, W. P.	Hamilton,	Money,	Turner,
Calkins,	Hanna,	Morgan,	Turney,
Candler,	Hardenbergh,	Morrison,	Vance,
Cannon,	Harris, Henry R.	Muldrow,	Van Vorhes,
Chalmers,	Harris, John T.	Oliver,	Waddell,
Clark, Alvah A.	Harrison,	Page,	Warner,
Clark of Missouri,	Hartridge,	Patterson, T. M.	White, Harry
Clarke of Kentucky,	Hartzell,	Phelps,	White, Michael D.
Clark, Rush	Haskell,	Phillips,	Whitthorne,
Clymer,	Hatcher,	Price,	Wigginton,
Cobb,	Hayes,	Rainey,	Williams, C. G.
Cravens,	Henderson,	Rea,	Williams, Jere N.
Crittenden,	Henkle,	Reagan,	Willis, Albert S.
Cummings,	Hewitt, G. W.	Rice, Americus V.	Wilson,
Cutler,	Herbert,	Riddle,	Wren,
Davis, Joseph J.	Hooker,	Robbins,	Wright,
Deering,	House,	Robertson,	Yeates.
Dibrell,	Hubbell,	Robinson, M. S.	

NAYS—90.

Aldrich,	Danford,	James,	Potter,
Bacon,	Davis, Horace	Jones, Frank	Reed,
Bagley,	Dean,	Jones, John S.	Rice, William W.
Bailey,	Denison,	Joyce,	Robinson, G. D.
Baker, William H.	Dwight,	Keightley,	Schleicher,
Ballou,	Eames,	Ketcham,	Sinnickson,
Bayne,	Eickhoff,	Killinger,	Smith, A. Herr
Blair,	Ellsworth,	Landers,	Starin,
Bliss,	Errett,	Lapham,	Stenger,
Brentano,	Evans, I. Newton	Lindsey,	Stone, John W.
Brewer,	Foster,	Maish,	Thornburgh,
Briggs,	Freeman,	McCook,	Townsend, M. I.
Burdick,	Garfield,	McGowan,	Wait,
Cain,	Hale,	McKinley,	Watson,
Camp,	Harmer,	Mitchell,	Williams, Andrew
Campbell,	Harris, Benj. W.	Monroe,	Williams, A. S.
Caswell,	Hart,	Morse,	Williams, James
Chittenden,	Hazelton,	Neal,	Williams, Richard
Claflin,	Hendee,	Norcross,	Willis, Benj. A.
Cole,	Hewitt, Abram S.	O'Neill,	Willits,
Conger,	Hiscock,	Overton,	Wood.
Covert,	Humphrey,	Patterson, G. W.	
Cox, Jacob D.	Hungerford,	Pollard,	

NOT VOTING—50.

Aiken,	Culberson,	Lynde,	Stephens,
Banks,	Davidson,	Metcalfe,	Stewart,
Beebe,	Douglas,	Muller,	Stone, Joseph C.
Benedict,	Dunnell,	Peddie,	Swann,
Bisbee,	Frye,	Pound,	Throckmorton,
Bland,	Gause,	Powers,	Townsend, Amos
Bragg,	Gibson,	Pridemore,	Veeder,
Butler,	Henry,	Pugh,	Walker,
Carlisle,	Jorgensen,	Randolph,	Walsh,
Collins,	Knapp,	Reilly,	Ward,
Cook,	Knott,	Roberts,	Young.
Cox, Samuel S.	Lockwood,	Smalls,	
Crapo,	Loring,	Smith, William E.	

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the call of the roll the following announcements were made:

Mr. FRYE. I am paired with the gentleman from Kentucky, Mr. KNOTT, who is confined to his room by sickness.

Mr. STEWART. I am paired with Mr. DAVIDSON, of Florida.

Mr. POWERS. I am paired with the gentleman from Kentucky, Mr. CARLISLE. If he were present, I should vote "no."

Mr. AIKEN. I am paired with Mr. WARD, of Pennsylvania. If he were present, I should vote "ay."

Mr. TOWNSHEND, of Illinois. My colleague, Mr. KNAPP, is prevented from being present by illness.

Mr. HART. My colleague from New York, Mr. LOCKWOOD, is paired with Mr. PUGH, of New Jersey, on this question.

Mr. BELL. My colleague from Georgia, Mr. STEPHENS, is detained at his room by indisposition.

Mr. YOUNG. I am paired with Mr. LORING, of Massachusetts.

Mr. BLAND. I am paired with Mr. BANKS, of Massachusetts. If he were present, I would vote "ay."

Mr. STONE, of Iowa. I am paired with Mr. COOK, of Georgia.

The result of the vote was then announced as above recorded.

CORRUPTION IN ELECTIONS.

Mr. BLOUNT. I move that the House do now adjourn.

The SPEAKER. The gentleman from Mississippi [Mr. CHALMERS] has been recognized.

Mr. CHALMERS. I move that the rules be suspended and that the Committee on the Judiciary be discharged from the further consideration of the bill (H. R. No. 5257) to prevent corruption in elections, and that the bill be passed.

The SPEAKER. The bill will be read, but the motion to adjourn is in order, if pressed.

The bill was read, as follows:

Be it enacted, &c., That no officer, agent, or contractor, or other person holding any office or employment of profit or trust under the Constitution and laws of the United States of America, shall, by the contribution of money or other valuable thing, or by the use or abuse of any official privilege or function, or by threat and menaces, or in any other manner, intermeddle with the election of any member or members of either House of Congress or of the President or Vice-President of the United States of America; and every such officer or other person offending therein shall be held guilty of a high misdemeanor, and on conviction thereof in any court of the United States having jurisdiction thereof shall be removed from such office or employment, and fined in a sum not exceeding $1,000; and that all laws and parts of laws in conflict with this act be, and the same are hereby, repealed.

SEC. 2. That any person who shall, by solicitation or otherwise, attempt to induce any officer or person holding an employment of profit or trust under the United States to contribute money or any valuable thing, to be used for election purposes in any election enumerated in this act, shall be held guilty of a high misdemeanor, and on conviction thereof in any court of the United States having jurisdiction thereof shall be fined in a sum not exceeding $1,000.

The SPEAKER. The Chair understands the gentleman from Georgia [Mr. BLOUNT] to insist on his motion. The gentleman from Mississippi is advised that the bill which has just been read will be the first business in order next Monday after the morning hour.

Mr. CHALMERS. Very well.

FEES OF DIPLOMATIC AND CONSULAR OFFICERS.

The SPEAKER. The Chair asks unanimous consent to present certain executive communications which it is important should be referred.

There was no objection.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting a statement of such fees as have been collected, accounted for, and reported by the various diplomatic and consular officers of the United States for the year ended December 31, 1877; which was referred to the Committee on Foreign Affairs.

FRESH-BEEF ISSUES.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting copies of contracts for fresh-beef issues to troops; which was referred to the Committee of Ways and Means.

MILITARY PRISON AT FORT LEAVENWORTH.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting recommendations in regard to the military prison at Fort Leavenworth; which was referred to the Committee on Military Affairs.

ASSESSMENTS IN DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the collection of certain assessments

in the District of Columbia; which was referred to the Committee for the District of Columbia.

LIEUTENANT R. K. BAILEY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a list of articles lost by Lieutenant R. K. Bailey on steamer Don Cameron; which was referred to the Committee on Military Affairs.

DUTIES ON SUGAR.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting draft of a bill to regulate duties on certain classes of sugars, and for other purposes; which was referred to the Committee of Ways and Means.

PUBLIC DOCUMENTS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a statement showing the number of public documents received by that Department for distribution on behalf of the Government during the fiscal year ended June 30, 1878; which was referred to the Committee on Printing.

RECEIPTS AND EXPENDITURES OF DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from the commissioners of the District of Columbia, transmitting estimates of receipts and expenditures of the District of Columbia for the fiscal years ending June 30, 1879, and June 30, 1880; which was referred to the Committee for the District of Columbia.

JOHN B. BATCHELDER.

The SPEAKER also laid before the House a letter from the secretary of the Society of the Army of the Potomac, transmitting a copy of resolutions adopted by said society recommending the employment of John B. Batchelder; which was referred to the Committee on Military Affairs.

POSTAL RAILWAY CARS.

The SPEAKER also laid before the House a letter from the Postmaster-General, relative to the discontinuance of the postal railway cars; which was referred to the Committee on Appropriations.

THE LATE JOSEPH HENRY.

Mr. CLYMER. I ask unanimous consent to submit for adoption at this time a concurrent resolution, to which I think there will be no objection.

The concurrent resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring.) That the Congress of the United States will take part in the services to be observed on Thursday evening, January 16, 1879, in honor of the memory of Joseph Henry, late secretary of the Smithsonian Institution, under the auspices of the Regents thereof, and for that purpose the Senators and Representatives will assemble on that evening in the Hall of the House of Representatives, the Vice-President, supported by the Speaker of the House, to preside on that occasion.

There being no objection, the resolution was adopted.

ADMISSION TO THE FLOOR OF THE HOUSE.

Mr. WILSON, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That Edward Clarke, architect of the Capitol, who is charged with the duty of heating and ventilating the same, be admitted to the floor of the Hall of the House of Representatives during the sessions of Congress.

EPIDEMIC DISEASES.

Mr. YOUNG. I ask unanimous consent to submit for consideration and adoption at this time the preamble and resolution which I send to the Clerk's desk.

The Clerk read as follows:

Whereas the epidemic which has recently prevailed in large districts of several States of the Union has been so destructive of human life and its interests and the prosperity of the whole country as to make it the subject of gravest public concern, and its prevention in future an important duty, to the end that its return may be prevented so far as the same can be done by decided action and prompt legislation: Therefore,

Be it resolved by the House of Representatives, That a select committee of nine Representatives be appointed by the Speaker of the House, who shall, in connection with a like committee already created by resolution of the Senate, investigate and report the best method of preventing the introduction and spread of epidemic diseases, especially of yellow fever and cholera, within the limits of the United States; that said committee shall be allowed a clerk and, if in the course of its investigation it is found necessary, a stenographer; and may have power to send for persons and papers and employ experts and scientists, not exceeding seven in number, and may send them to, and visit by subcommittees, recently infected localities and other places for the purpose of obtaining the fullest and most accurate information in reference to the origin, introduction, and prevention of said epidemic diseases; and should the work of said committee and scientists not be completed before the expiration of the present session of Congress, they may sit during vacation, and also have power to report by bill or otherwise at any time.

The SPEAKER. The Chair would suggest to the gentleman from Tennessee [Mr. YOUNG] that the House has not power by a simple resolution to authorize one of its committees to sit after the *sine die* adjournment of Congress.

Mr. YOUNG. I think there is a rule of the House which authorizes that to be done by special resolution. I cannot call the attention of the Speaker to the rule just at this time, but I examined it the other day.

The SPEAKER. It might possibly be done by law, but not by a resolution of the House. The rule to which the gentleman refers, the Chair thinks, is not comprehensive enough to accomplish the object of the gentleman.

Mr. YOUNG. I think the Chair is probably correct, and I will strike out that portion of the resolution.

The SPEAKER. If it shall be found necessary hereafter, then a law can be passed upon the subject.

The resolution, as modified, was then adopted.

MESSENGER FOR COMMITTEES.

Mr. VANCE, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts:

Resolved, That the Committee on Patents and the Committee on Railways and Canals be, and they are hereby, authorized to jointly employ a messenger for the present session of Congress, to be paid out of the contingent fund of the House of Representatives, at the same rate of compensation as is now allowed to messengers appointed by the Doorkeeper.

HEADQUARTERS OF DISTRICT POLICE.

Mr. LANDERS, by unanimous consent, submitted the following resolution; which was referred to the Committee for the District of Columbia:

Resolved, That the Committee for the District of Columbia be, and they hereby are, requested to communicate to this House an estimate of the expense required to remodel and repair the old central guard-house, on Louisiana avenue between Ninth and Tenth streets, so that it can be used for police station-house purposes or as a police headquarters; and that the present building used for police headquarters be occupied until this House takes some action in the matter.

MODIFICATION OF A BILL.

The SPEAKER. The gentleman from North Carolina, [Mr. BROGDEN,] who introduced this morning a bill with reference to a court-house, desires consent to strike out a single word before the bill is printed. If there be no objection leave to make the change will be granted.

There was no objection.

TREASURER'S REPORT.

Mr. ATKINS. I have before me a copy of the report of the Treasurer of the United States for the present fiscal year, rendered to and adjusted by the Sixth Auditor. It was referred the other day to the Committee on Appropriations. I desire to report it back and move its reference to the Committee of Ways and Means.

There being no objection, the reference of the document was changed accordingly.

GREENLEAF CILLEY.

Mr. CRITTENDEN. I ask unanimous consent that the bill (S. No. 1305) for the relief of Greenleaf Cilley be taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

There being no objection, it was ordered accordingly.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WARD for one week, on account of important business.

ADMINISTRATORS OF E. L. ALLEN.

Mr. BRIGHT, by unanimous consent, introduced a bill (H. R. No. 5476) for the relief of M. D. Hampton and C. S. Wilson, administrators of E. L. Allen, deceased; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

The question being taken on the motion of Mr. BLOUNT, that the House adjourn, it was agreed to; and accordingly (at three o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAKER, of Indiana: The petition of Columbus C. Bennett, of Steuben County, Indiana, for compensation for stores and supplies taken by the United States Army—to the Committee on War Claims.

By Mr. BANNING: The petition of Thomas J. Williams, late second lieutenant Company G, Seventh Ohio Cavalry, for additional compensation as an officer in the United States Army—to the Committee on Military Affairs.

Also, the petition of John Witcombe, for additional bounty—to the same committee.

By Mr. BELL: The petition of W. B. Whitmore, for reimbursement of amount expended by him in defending himself against the charge of murder for the killing of an illicit distiller, said killing occurring while in the discharge of his duty as deputy United States marshal—to the Committee of Claims.

By Mr. CLAFLIN: Memorial of the Women's Christian Association of Washington, District of Columbia, asking that a liberal appropriation be made to aid them in their labors in rendering assistance to the poor—to the Committee for the District of Columbia.

By Mr. DIBRELL: The petition of W. C. Shelton, for compensation for services as lieutenant-colonel Seventh Tennessee Infantry—to the Committee on Military Affairs.

By Mr. EAMES: The petition of the Chamber of Commerce of New York, for a signal station at Block Island—to the Committee on Appropriations.

Also, the petition of Surgeon George F. Winslow, United States Navy, that the date of his commission as surgeon be changed from April 2, 1875, to May 27, 1871—to the Committee on Naval Affairs.

By Mr. ERRETT: The petition of fourteen women of Pittsburgh,

Pennsylvania, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. FINLEY: The petition of Tracy, Avery & Co., and others, of Mansfield, Ohio, that the tariff on sugars be made at so much per pound, without regard to color or quality—to the Committee of Ways and Means.

By Mr. FOSTER: The petition of John Briordy, for a pension—to the Committee on Invalid Pensions.

By Mr. HALE: The petition of Lucy Moore, for a pension—to the same committee.

Also, the petition of W. M. Haycock and other citizens of Calais, Maine, for the erection of a new public building for a custom-house and post-office at said place—to the Committee on Public Buildings and Grounds.

By Mr. HUNTON: The petition of Peter Julius, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Henry C. Brawner, for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, the petition of Allen T. Callahan, of similar import—to the same committee.

By Mr. JONES, of New Hampshire: The petition of Wm. H. Sise, Daniel Marcy, John H. Bailey, John H. Broughton, and other citizens of Portsmouth, New Hampshire, that a full pension be granted Major Alfred J. Hill—to the Committee on Invalid Pensions.

By Mr. KEIFER: The petition of Rinehart, Ballard & Co., and others, of Springfield, Ohio, against the second extension of the Birdsell patent on thrashers and hullers—to the Committee on Patents.

By Mr. KIDDER: Papers relating to the claim of Pierre Garreaux, for compensation for property taken by depredating Indians—to the Committee on Indian Affairs.

Also, a paper relating to the establishment of post-routes from Kemp, via Woodland, Belcher's Ford, Drake Ranch, to Fort Pierre; from Kemp to Oakwood, and from Lake Village to Madison, Dakota Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. KNOTT: Memorial of Captain Robert Craddock, of the revolutionary army, asking compensation for services rendered as an officer in said army—to the Committee on War Claims.

By Mr. LAPHAM: The petition of Charles H. Wisner, for a pension—to the Committee on Invalid Pensions.

By Mr. McMAHON: The petition of Lewis Mangum, for a pension—to the same committee.

By Mr. MONROE: The petition of Stephen D. Pond, of similar import—to the same committee.

Also, the petition of Henry Sherber, to be relieved from accounting for $240 in postage-stamps of which he was robbed on the 29th of September, 1878—to the Committee of Claims.

By Mr. O'NEILL: The petition of Robert P. Wilson, late captain Fifth United States Cavalry, that the President be authorized to appoint him a captain in the Army—to the Committee on Military Affairs.

By Mr. PATTERSON, of Colorado: The petition of the women of Fort Collins, Colorado, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of William K. Boone & Co. and others, of Lima, Ohio, against the extension to John C. Birdsell of a patent for an improvement in combined clover thrashers and hullers—to the Committee on Patents.

Also, the petition of Francis Ehrenborg, for a pension—to the Committee on Invalid Pensions.

Also, the petition of John Greiner, of similar import—to the same committee.

Also, the petition of Charles Kamprof, of similar import—to the same committee.

Also, the petition of Frank Miller, of similar import—to the same committee.

Also, the petition of John Mottenmeyer, of similar import—to the same committee.

Also, the petition of Joseph Newman, of similar import—to the same committee.

Also, the petition of John Schorp, of similar import—to the same committee.

Also, the petition of Charles Slotterbeck, of similar import—to the same committee.

Also, the petition of Francis Wunderlin, of similar import—to the same committee.

Also, the petition of Charles Zollikofer, of similar import—to the same committee.

By Mr. SCHLEICHER: The petition of Maurice Samuelsohn, of similar import—to the same committee.

By Mr. SOUTHARD: The petition of Prisilla Palmer, of similar import—to the same committee.

By Mr. WILLIS, of Kentucky: Papers relating to the claim of John Kaye for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. WRIGHT: The petition of the laborers of the Post-Office Department, that their wages be restored to $720 per annum—to the Committee on the Post-Office and Post-Roads.

By Mr. YEATES: Papers relating to the claim of Elvey Russell for compensation for property taken by the United States Army—to the Committee on War Claims.

IN SENATE.

TUESDAY, *December* 10, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

GEORGE E. SPENCER, a Senator from the State of Alabama, appeared in his seat to-day.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a message of the President of the United States, transmitting, in compliance with a resolution of the Senate of the 27th of May last, calling for information in relation to the claims of John G. Kendrick and other citizens of the United States against the government of Nicaragua for personal injuries October 19, 1855, at Virgin Bay, in the territory of Nicaragua, alleged to have been inflicted by soldiers acting under the authority or by the permission of that government, a report from the Secretary of State, together with copies of papers therein referred to; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of War, transmitting information on the subject of the loss of baggage by the sinking of the steamer J. Don Cameron in May, 1877; which was referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. MAXEY presented the petition of the Baptist General Association of the State of Texas, praying that the Wichitas and other tribes of Indians at the Wichita agency may have lands for houses set apart within the reservation for the use of the several families within each tribe; which was referred to the Committee on Indian Affairs.

Mr. HAMLIN presented the petition of William Collins, of Waldo, Maine, praying payment of certain moneys alleged to be due him as bounty for services of the schooner Sarah Franklin, employed in the fisheries in the year 1866; which was referred to the Committee on Commerce.

Mr. BECK. I am requested by one of the Representatives from California to present the petition of Henry C. De Ahna, late collector of customs for the district of Alaska, praying compensation for services rendered. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. BOOTH presented the memorial of John G. Downey and others, citizens of California, remonstrating against the adoption of a proposed commercial treaty between France and the United States affecting the present rates of duty upon imported wines and brandies; which was referred to the Committee on Finance.

He also presented the petition of J. C. Johnson & Co. and other business firms of San Francisco, praying to be compensated out of the Geneva award for losses incurred by them in the payment of war premiums during the late war; which was referred to the Committee on the Judiciary.

Mr. PADDOCK presented the petition of Henry H. Clark and others, citizens of Nebraska, praying for the establishment of a mail-route from Kearney, Buffalo County, to Lena, Custer County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HOAR presented four petitions of citizens of Massachusetts, praying the passage of a law providing that pensions shall commence from the date of the death or discharge of the soldiers to whom granted; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the bill (S. No. 833) for the relief of James E. Macklin, lieutenant Eleventh Infantry, United States Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 457) to provide for the settlement of accounts with certain railway companies, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SPENCER. I am also directed by the Committee on Military Affairs, to whom was referred the bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army, to report it with an amendment, and to ask the passage of the bill as amended. As this is purely a personal bill and will not take any time, I should like to have the present consideration of it.

The VICE-PRESIDENT. The Senator from Alabama will wait until the business of the Calendar is called, and then the Chair will recognize him.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 409) for the relief of James Clift, late captain Fifth Tennessee Cavalry, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. KERNAN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1469) to authorize the issue of certain duplicate registered bonds to the Manhattan Savings Insti-

tution; which was read twice by its title, and referred to the Committee on Finance.

Mr. LAMAR (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1461) to promote the education of the blind; which was read twice by its title, and referred to the Committee on Education and Labor.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1462) to establish a department of public health; which was read twice by its title, and referred to the select committee to investigate and report on the best means of preventing the introduction and spread of epidemic diseases.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1463) to authorize the exchange of subsidiary coin for trade-dollars; which was read twice by its title, and referred to the Committee on Finance.

Mr. JONES, of Florida, (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1464) granting the right of way to the Florida International Ship-Canal Company and to build and operate a telegraph line along said canal; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1465) granting a pension to Theodore Halberstadt; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1466) for the relief of William J. Pollock; which was read twice by its title, and referred to the Committee on Finance.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1467) to amend the fifth and sixth sections of the act entitled "An act establishing post-routes, and for other purposes;" which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BOOTH (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1468) to confer on the United States Court of Claims jurisdiction over certain Alabama claims; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1469) for the relief of W. P. Moran; which was read twice by its title, and referred to the Committee on Claims.

Mr. HOWE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1470) for the relief of Sewell B. Corbett; which was read twice by its title, and referred to the Committee on the Judiciary.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1471) for the relief of Dabny Walker; which was read twice by its title, and referred to the Committee on Claims.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1472) granting a pension to Elizabeth T. Winder; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1473) granting a pension to Sally Murray Buchanan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1474) granting a pension to John G. Eckles; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 44) instructing the Attorney-General of the United States to bring certain suits in the name of the United States to set aside certain patents to lands of the Black Bob band of Shawnee Indians; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT TO THE POST-ROUTE BILL.

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

TESTIMONY OF JAMES E. ANDERSON.

Mr. ALLISON, from the select committee to inquire into certain matters touching the late presidential election in Louisiana, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the House of Representatives be respectfully requested to transmit to the Senate a copy of the testimony of one James E. Anderson relating to Hon. STANLEY MATTHEWS, a member of the Senate from the State of Ohio, understood to have been taken before one of the committees of the House of Representatives.

REPORTS OF MAJOR JOHN M. WILSON.

Mr. MITCHELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to furnish the Senate with copies of the reports of Major John M. Wilson, of the United States Engineer Corps, made in pursuance of the act of June, 1878, authorizing surveys to be made of the ports of Foulweather, Port Orford, Coos Bay, Alsea, and of Coquille River, Oregon.

OMISSION IN ENROLLMENT.

Mr. CAMERON, of Wisconsin, from the select committee relative to an error in the enrollment of the sundry civil appropriation bill at the last session of Congress, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the special committee appointed under resolution of the Senate of December 3, introduced by Senator CONOVER, be empowered to employ a stenographer and have the testimony taken by the committee printed from day to day as the same is taken.

DR. JUNIUS L. POWELL.

Mr. SPENCER. I move that the Senate proceed to the consideration of the bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army, being the bill which I just now reported from the Committee on Military Affairs.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the President of the United States to appoint, by and with the advice and consent of the Senate, Dr. Junius L. Powell an assistant surgeon in the United States Army, with the rank of first lieutenant, to date from June 6, 1878; and relieves him from the disabilities imposed by the twenty-eighth section of the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866.

The bill was reported from the Committee on Military Affairs with an amendment, in line 9, to strike out the words "disabilities imposed by" and insert the words "operation of."

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. EDMUNDS. I should like to hear the bill again read for information, as it is short.

The Secretary read the bill.

Mr. EDMUNDS. Mr. President, I should like to hear the Senator reporting the bill tell us exactly what it means and what is the necessity for this proposed legislation.

Mr. SPENCER. Mr. President, Dr. Powell has been for some time acting as assistant surgeon in the United States Army. His confirmation is now pending before the Senate. He cannot be confirmed because at a very early age he served in the confederate army. The only object of the bill is to remove that disability, if you call it a disability. At a very young age he was a confederate soldier, and there is an act of Congress which prevents any one who served in the confederate army from accepting a commission in the Army of the United States. The Committee on Military Affairs, after an examination of this case, have reported the bill unanimously. That is all there is in it.

Mr. EDMUNDS. The bill involves a very important principle, if I may say so without offending anybody's sensibilities just now. The statutes of the United States, passed either during the rebellion or soon after its close, provided that the Army should not be filled up by persons who had engaged in the rebellion; and, so far as I know, this is the first instance in which it has been proposed to change that law. If this case stands upon some special circumstances which would make it clearly distinguishable from other cases of that character, which of course may be innumerable, then those circumstances of distinction ought to be clearly stated. If there are no such circumstances of distinction, then it appears to me that it is obviously just not to make a piece of special and personal legislation of this matter, but to repeal the statute which prohibits the enlistment and appointment of that class of citizens in the Army, so that there will be fair play and equal rights as to all. Inasmuch, therefore, as the bill involves merely the propriety of continuing that law upon the statute-book, as the case is now stated, I should hope that it would go over until we may have time to consider and see exactly what the law is, and what are the principles upon which it rests, if there are any—(there were thought to be some I suppose at the time it was passed,)—and whether it ought to be repealed. We certainly ought not to make fish of one and flesh of another in respect of that class of our fellow-citizens whom this bill affects as to one of them and whom the general law affects as to others. I move, therefore, that the consideration of the bill be postponed until to-morrow.

Mr. SPENCER. Before that is done I should like to have read a communication from General Sherman and several other officers of the Army who strongly recommend the treatment of this as an exceptional case; and it was upon their recommendation that the report was made. The Secretary will read the communication accompanying the bill.

The VICE-PRESIDENT. The reading of the communication is called for, and it will be read.

The Secretary read as follows:

HEADQUARTERS SECOND UNITED STATES ARTILLERY,
Fort McHenry, Baltimore, June 16, 1878.

To the Chairman Military Committee, United States Senate:

SIR: I would respectfully ask your special attention to, and favorable action upon, the case of Dr. J. L. Powell, whose nomination for the appointment of assistant surgeon United States Army is now before your committee.

Dr. Powell has been an acting assistant surgeon in the Army for the past four years. As such he made two arduous campaigns against the Kiowa and Comanche Indians, for which he received notices of commendation from Generals Miles and Mackenzie, under whose immediate command he served. Dr. Powell also made the campaign (Powder River) of General Crook against the Sioux, being the senior medical officer of the Fifth Regiment United States Cavalry, during which he per-

formed dangerous and very arduous duty. He served under my command two years ago, and is now again serving under my command at this post, and has made for himself a deserved reputation for professional knowledge and skill, for subordinate and zealous soldiership, and for loyal and patriotic citizenship.

If I am correctly informed, Dr. Powell's trouble before your committee arises from certain services rendered by him in the military force of the confederacy during the rebellion. I do not know what the extent of that service was; but as he was a minor during the whole of that period, it would not seem that he is or ought to be now legally disqualified for appointment in the military service of the United States. Certainly the four years of valuable and loyal service which he has rendered in the United States Army since the rebellion, should entitle him to the most favorable construction of the law and of the past and present rulings of your committee.

I beg, again, to ask of you and of the Military Committee favorable action in this case.

I am, sir, very respectfully, your obedient servant,

WILLIAM F. BARRY,
Colonel Second Artillery, Brevet Major-General United States Army.

[Indorsement.]

WASHINGTON, D. C., *June* 17, 1878.

GENERAL SPENCER, *Chairman Military Committee, Senate:*

Please read this and hear the bearer, Dr. Powell. He is well known to us, and is highly esteemed. We must encourage *good men*, who once served in the confederate army, when, as in this case, they cheerfully and zealously serve the national cause.

W. T. SHERMAN, *General.*

Mr. SPENCER. There is very little in this case. This man has been serving as a contract surgeon for four or five years; he has distinguished himself in that service, and consequently he has been examined and been appointed as a regular surgeon in the Army. The Senate cannot act on his appointment unless a bill for his relief is passed. In view of the recommendation of the Army officers under whom he served, the committee unanimously concluded that we ought to make this an exceptional case.

The VICE-PRESIDENT. The Senator from Vermont moves that the further consideration of the bill be postponed until to-morrow.

Mr. EDMUNDS. I should be glad to have that done, because I wish to look at exactly what the state of the law is now as it respects this whole subject. The only exceptional feature about this particular case appears to be that this gentleman served the confederacy when he was under twenty-one years of age. If that is a proper exception, then instead of passing this bill we ought to pass an act which provides in general that all classes of our fellow-citizens who served in the confederacy before they were twenty-one years of age shall not be debarred from appointment in the Army on account of their service under the confederacy. If this is to be treated as exceptional on the ground that this gentleman has served in the Army in fact for four years already by contract, then I should submit, I think with some confidence, that it does not make any exception at all in a just sense. It amounts to saying, if it be an exception, that this gentleman has acted differently while serving in the Army practically for four years from what other people who were engaged in the confederacy would have done. That I do not agree to. I do not suppose there is anybody who ever entertained the notion that a person who had served bravely and faithfully in that cause, as erroneous and as wrong as it was, would not serve bravely and faithfully in the Army of the United States when the power of that Army was directed against the Indians or any foreign foe. It would be an imputation upon the courage and the honor of every gentleman who engaged in the confederate service if this is to be treated as an exception.

It will not do, therefore, to say that this case is an exception for the reason that this gentleman having chosen voluntarily to engage by contract in the service of the Army of the United States has performed his duties gallantly and faithfully. That is an exception which would not stand a minute, Mr. President. As much as I disliked the confederacy and as much as I regret all that the confederacy attempted to do, and all that it did do, (and it came pretty near doing a good deal,) I certainly never entertained the notion that anybody who engaged in that would not have done, if he had since the opportunity, precisely what this gentleman has done, and that if he undertook to doctor the soldiers in times of peril he would not do it well. It will not do, therefore, to put it on such an exception.

Whether the time has come to wipe off from the statute-book this barrier which was placed there years ago, is an important question, which I would be glad to have time to consider. If it has come, then let us wipe it off manfully and squarely as to all of them or as to some class of them. If it has not come, then do not let us, on any individual pressure and upon an exception that does not exist in point of principle, undertake to pass favorite and personal legislation of this character. At any rate I should like to have the bill go over until we can think of it.

Mr. SPENCER. This is a very small matter. We certainly can dispose of the bill to-day without taking another time and occupying the Senate again by its consideration, which would be the result of letting it go over. I hope the bill will either be passed or rejected now. For my part I shall vote for it, and I hope all will vote for its passage.

Mr. MAXEY. Mr. President, I trust the bill will not go over, for this reason: the case as reported from the Committee on Military Affairs unquestionably presents as strong an appeal in equity in behalf of the bill as could well be presented. I fully concur with the Senator from Vermont that if this bill should pass it might be well to have a general law removing all disabilities in like cases. I have thought so for many years. As a matter of practical fact we know that one laboring under the disability of the third section of the fourteenth amendment must, according to the view taken by Congress, get his disabilities specially removed. I do not think it would be just or wise, as this gentleman has served the Government of the United States for four years thoroughly and well, as stated, in arduous and dangerous service, that his particular case should stand the chance of the passage of a general law any more than that one who asks for the removal of his disabilities under the fourteenth amendment should be kept waiting to the end of his life for a general law to be passed. It seems to me the two cases are parallel. I think this case stands on its own worth, and there are few, if any, who should vote against this bill, although they might vote against the removal of disabilities in such cases generally.

Mr. EDMUNDS. I am sorry that the honorable Senator from Alabama and the honorable Senator from Texas are in such hot haste that they are unwilling that a matter which involves so extensive considerations as this really does, on being called up in the morning hour and for the first time, should be laid over for a day in order that Senators who do not see their way quite so clearly may look into it. I should hope that the Senate would be willing to do that. But the suggestion made by the Senator from Texas as to the fourteenth amendment does not apply at all to this class of cases, as it appears to me. This gentleman, unless he held office under the United States and afterward engaged in the rebellion, is not amenable to the disabilities of the fourteenth amendment. It is not said that he did. Therefore the fourteenth amendment does not apply to him; but the act of Congress in respect of the Army of the United States (which was found, when the Army was most needed to protect the integrity of the Union, to have a very considerable proportion of its members turn up on the other side) provided that thereafter the Army should not be filled up by persons who engaged in war upon the United States. That is what the statute says. Of course, the provisions of that act gradually cease to apply, because the lapse of years brings upon the stage of military operations a new class of persons who were too young to have engaged in the rebellion in any intelligent sense, or at all, from that section of the Union, and who therefore are open to appointment, and are appointed in the Army and to West Point every day; but in respect of those who did actually engage in it there stands the act of Congress, and it was supposed to be based upon some principle, that if any untoward event of the same nature should happen in any section of the Union hereafter the Army would not be found in the condition that it was found in 1861, and that there were loyal citizens enough in the United States both North and South to keep the Army full of brave and patriotic and intelligent men without resorting to that class of our citizens.

I take it that no man has a right to be employed in the Army of the United States any more than he has a right to be employed in civil office. It is a question of choice by the Government acting in a constitutional way as to what citizens they will call upon or accept for the performance of the various kinds of public service. Congress has said in this law that in making choice of those who are to be intrusted with the military power of the Government that choice shall not fall upon the class of citizens who had undertaken to overthrow it. Now, it is proposed by this committee, and it is proposed to be done without time to consider for those who do not see quite so quickly as others, that instantly we shall make a precedent which will logically and necessarily lead us to follow it and enlarge upon it, and to generalize from it, until you have by implication and by practice repealed the law entirely. If the law ought to be repealed, then I submit, as I did before, it ought to be repealed in terms, and not by special selections of people who can first, as Mr. Jefferson Davis might himself, I suppose, get employed in some way in the military service and exert his well-known skill in that direction for a year or two, or three or four years, and then be entitled, upon this theory of special consideration, to be again appointed a major-general, or whatever he was, in the Army of the United States. If that be so, Mr. President, we ought to know it fairly and squarely, and not in such an indirect way as this. If the Senate is unwilling to have this matter postponed until to-morrow, I shall be very sorry.

Mr. INGALLS. Was not this bill reported this morning from the committee?

The VICE-PRESIDENT. It was.

Mr. INGALLS. Does it not, then, go over under the rules, if objection is made to its consideration?

The VICE-PRESIDENT. It does not, having been entertained by the Senate by unanimous consent.

Mr. BECK. Is the bill open to amendment now?

The VICE-PRESIDENT. The motion pending is that of the Senator from Vermont, that the further consideration of this bill be postponed until to-morrow. The question is on that motion.

The question being put, it was declared that the noes appeared to prevail.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 34; as follows:

YEAS—24.

Allison,	Booth,	Chaffee,	Edmunds,
Anthony,	Cameron of Wis.,	Christiancy,	Ferry,

Hamlin,	Kirkwood,	Morrill,	Rollins,
Howe,	Matthews,	Oglesby,	Saunders,
Ingalls,	McMillan,	Paddock,	Teller,
Kellogg,	Mitchell,	Plumb,	Windom.

NAYS—34.

Armstrong,	Davis of W. Va.,	Jones of Florida,	Randolph,
Bailey,	Dennis,	Kernan,	Ransom,
Bayard,	Eaton,	Lamar,	Spencer,
Beck,	Eustis,	McCreery,	Voorhees,
Burnside,	Garland,	McDonald,	Wallace,
Butler,	Grover,	McPherson,	Withers,
Cameron of Pa.,	Harris,	Maxey,	Whyte.
Cockrell,	Hereford,	Merrimon,	
Coke,	Hill,	Morgan,	

ABSENT—18.

Barnum,	Davis of Illinois,	Johnston,	Sharon,
Blaine,	Dawes,	Jones of Nevada,	Thurman,
Bruce,	Dorsey,	Patterson,	Wadleigh.
Conkling,	Gordon,	Sargent,	
Conover,	Hoar,	Saulsbury,	

So the motion was not agreed to.

The VICE-PRESIDENT. The question is, Will the Senate concur in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. BECK. When I rose to ask the question whether the bill was open to amendment, it was with the purpose of offering a second section to the bill for the repeal of section 1218 of the Revised Statutes providing that no person who had served in the military service of the Confederate States shall be appointed to any position in the Army. I will not move that amendment now to this bill, but I give notice that I will introduce a bill in the morning looking to that end.

The VICE-PRESIDENT. Shall this bill be engrossed for a third reading?

Mr. EDMUNDS. I ask for the yeas and nays on this question.

The yeas and nays were ordered; and being taken, resulted—yeas 39, nays 21; as follows:

YEAS—39.

Armstrong,	Davis of W. Va.,	Johnston,	Paddock
Bailey,	Dennis,	Jones of Florida,	Randolph,
Bayard,	Dorsey,	Kernan,	Ransom,
Beck,	Eaton,	Lamar,	Saulsbury,
Burnside,	Eustis,	McCreery,	Spencer,
Butler,	Garland,	McDonald,	Voorhees,
Chaffee,	Grover,	McPherson,	Wallace,
Cockrell,	Harris,	Maxey,	Whyte,
Coke,	Hereford,	Merrimon,	Withers.
Conover,	Hill,	Morgan,	

NAYS—21.

Allison,	Ferry,	Matthews,	Saunders,
Anthony,	Hamlin,	Mitchell,	Teller,
Booth,	Howe,	Morrill,	Windom.
Cameron of Wis.,	Ingalls,	Oglesby,	
Dawes,	Kirkwood,	Plumb,	
Edmunds,	McMillan,	Rollins,	

ABSENT—16.

Barnum,	Christiancy,	Hoar,	Sargent,
Blaine,	Conkling,	Jones of Nevada,	Sharon,
Bruce,	Davis of Illinois,	Kellogg,	Thurman,
Cameron of Pa.,	Gordon,	Patterson,	Wadleigh.

So the bill was ordered to be engrossed for a third reading.

The bill was read the third time.

Mr. HOWE. Mr. President, I want to say one word. I voted against the engrossing of this bill, voting upon the question of time and not upon the merits of the bill. I dare say that to-morrow I should vote for the engrossing and for the passage of the bill, but just now I voted to postpone the consideration of the bill until to-morrow. It is very rarely, if ever, that I have known such a motion as that fail when put upon the ground that motion was put upon, simply asking for time to examine the present state of the law upon the question involved in this bill. The Senate denied that request upon what looked almost like a party vote. I did not think that question of postponement for a single day was a party question. Following that came the question of engrossing the bill, and that seems to have been decided very much upon the same ground. I voted with my political friends, and yet I do not know that I am opposed to the passage of this bill. I rather think I should vote in favor of the passage of the bill from what I heard fall from the mouth of the chairman of the committee that reported it, but I certainly could not vote for the passage of the bill to-day.

The VICE-PRESIDENT. The bill having had three several readings, the question is, shall it pass?

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a concurrent resolution relative to the services to be observed on Thursday evening, January 16, 1879, in honor of the memory of Joseph Henry, late secretary of the Smithsonian Institution, under the auspices of the Regents thereof; in which the concurrence of the Senate was requested.

ARMY REORGANIZATION COMMISSION.

On motion of Mr. BURNSIDE, it was

Ordered, That the members on the part of the Senate of the joint commission on the reorganization of the Army have leave to sit in committee during the session of the Senate to-morrow.

MEMORIAL SERVICES TO PROFESSOR HENRY.

Mr. HAMLIN. Mr. President, I ask the indulgence of the Senate to take from the table the resolution of the House making provision for the services in memory of the late Professor Henry. I think it will occupy no time of the Senate, and it is desirable that it shall be passed, so that it may be known that the agreement is concluded.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The Chair will lay before the Senate the concurrent resolution of the House of Representatives.

The resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring therein,) That the Congress of the United States will take part in the services to be observed on Thursday evening, January 16, A. D. 1879, in honor of the memory of Joseph Henry, late secretary of the Smithsonian Institution, under the auspices of the Regents thereof, and for that purpose the Senators and Members will assemble on that evening in the Hall of the House of Representatives, the Vice-President of the United States, supported by the Speaker of the House, to preside on that occasion.

The resolution was agreed to.

PRESIDENTIAL ELECTIONS.

The VICE-PRESIDENT. Will the Senate consider the Calendar of general orders?

Mr. EDMUNDS. The morning hour has so nearly expired that it would hardly be useful to take up the general orders. I suggest that the morning hour be considered as concluded and that we proceed to the consideration of the unfinished business of yesterday.

The VICE-PRESIDENT. Is there objection? The Chair hears none. The morning hour has expired by unanimous consent, and the Senate, as in Committee of the Whole, will resume the consideration of the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon, upon which the Senator from Alabama [Mr. MORGAN] is entitled to the floor.

Mr. MORGAN. Mr. President, after the very full and clear statement of the principles on which the measure rests and of its conformity to the Constitution of the United States, to which we listened yesterday in the remarks of the Senator from Vermont, [Mr. EDMUNDS,] not much remains to be said by those who favor the bill now before the Senate. The friends of the bill can well afford to rest upon that exposition of its merits as a plan to regulate the counting of the electoral votes for President and Vice-President of the United States. I would cheerfully rest upon that argument, at least until it is assailed, if I did not recognize the propriety of stating my views upon this measure at this stage of the debate.

The Senator from Vermont and myself are not in harmony in our political affiliations; indeed we are very widely separated in this respect; but this circumstance has not prevented our concurrence of opinion as to the wisdom and necessity of this measure as a means which, if not fully satisfactory, is as nearly sufficient as any we are likely to adopt to save the country in future from some dangers which we have recently witnessed and from which we have barely escaped.

I allude to this matter, however, only to emphasize the statement that this bill is not shaped with any reference to the interests of any political party, so far as I know or believe. When this bill was reported to the Senate at the last session the attitude of the great political parties of the country, both in the House and in the Senate, was such that there appeared to be a most gratifying assurance that the adoption of a just and impartial system of laws governing presidential elections was possible. Some events which I need not recount have occurred since that time which have added something to the heat of party controversy. The nearer approach of the presidential election, which will occur within two years, has made it, perhaps, less probable that we can agree on a measure which has not in its provisions some specific reference to that event. But it is none the less our duty on that account, but on the contrary our duty seems to be rendered more imperative by the rapid approach of that election and by the pressure which ordinarily it exerts upon the public mind, to give to the country a constitutional, just, and acceptable system of laws for regulating and aiding in the enforcement of this great right, so far as it is to be affected by any officer or any department of the Government of the United States. In deciding upon a measure of such importance and in so framing its various parts as to secure to the States and to Congress, and to each House of Congress and to each member of Congress, the full and exact measure of every privilege, power, and right secured to each and all by the Constitution of the United States, there is need for dispassionate consideration and judgment and for that spirit of judicial impartiality which considers no result but the good of the country and no argument that would not as deeply impress the mind of true Americans fifty years hence as it would at this moment.

This is a question that does not necessarily grow clearer or that is even disembarrassed of doubts and difficulties by the mere lapse of time or by the march of events. Indeed, our experiences in this connection, while they furnish us with many solemn admonitions and have added to the number and gravity of the ascertained dangers that we are called upon to meet or to avoid, have failed to point out the precise measures through which we are to secure our safety and

peace in the future. We are not yet standing in a light that is perfectly clear. The system heretofore adopted by Congress (if we can say with any exactness of speech that we have ever had a system) for the election of a President has been dangerously obscure, and its imperfections have been fearfully alarming on some occasions to the country. We have tried many experiments—efforts that are not entitled to a higher distinction when we contrast them with any proper system of laws adapted to a subject so important as this; and of the rulings that we have made in our twenty-three counts of votes for President of the United States I do not believe that either House of Congress would now be content to adopt all of those made on either occasion as a permanent plan. We would not adopt them as settled precedents even to the limited extent that those rulings have touched a few of the many questions which have arisen and may yet arise. We have not yet adopted any plans or indeed any theories that satisfy the country on this grave subject. Our latest plan, which was substituted for all previous rules, laws, and precedents, was of all others the most unsatisfactory. That plan has met almost universal condemnation, and it has left upon the minds of millions of our people a conviction that it was only an instrumentality to condone fraud and to expose the peace and welfare of the country to extreme danger. This plan, which wrecked all former precedents, and is itself in turn wrecked by the judgment of the people, in its disappearance has left us nothing but an unhappy experience as our guide. The entire field in reference to which we are now to legislate is open, without any law or rule of government that is to control the Senate and House of Representatives with reference to the real difficulties to be met when they shall convene in 1881 to count the next vote for President and Vice-President.

It is not to be denied, I think, that our electoral system, as it is developed in the Constitution and in the amendments thereto, is yet incomplete in some of the details of the plan which the framers of that great body of organic law projected. In failing to supply these omissions of details, particularly in the provisions that relate to the powers and duties of the two Houses of Congress in counting the votes, I believe that those who gave to us this new and then untried system felt that it was their duty to trust to the patriotism and wisdom of the people who should follow them to apply the lessons of experience as they arose to the bettering of their system; and I also believe that they thought that these deficiencies could be supplied and that their system could be fully perfected through the legislative powers of Congress and of the States; but chiefly of the States. They underestimated, possibly, the growth of this country and the enormous increase of presidential patronage and power through the multiplying of offices to be filled by his appointment; and, consequently, they failed to perceive fully the hazard of leaving a subject so replete with dangerous temptations to the fluctuating tide of feeling and interest that often sways the Congress back and forth, as a feather is tossed by a wave of the sea. Those who originated our electoral system preferred to trust to the patriotism of Congress rather than to the compulsion of mandatory provisions in the organic law to secure a fair count of the votes after the electors had cast them and certified them to the President of the Senate. I hope in this we shall not disappoint a sacred confidence.

In the part that I am permitted to take in the endeavor to supply what has been thus left unprovided I must, at least, feel conscious that I am not willingly engaged in the prostitution of this great trust to the mere purposes of partisanship, or to the advantage of any section of the country over another, or of any class of people at the expense of another class. I would not imperil, and certainly I would not deny, the rights or privileges of the people in electing presidential electors, or the rights of the States to provide by law for the manner of their appointment, or the rights of the Senate and House of Representatives in ascertaining and declaring the result of elections made by electors of President and Vice-President, or the rights of the States, through their Representatives in Congress, as the second or substituted electoral bodies, to elect these officers; but I would provide such reasonable and just rules of evidence and of procedure as would enable each State to certify its vote in a manner to secure its being counted, and also to enable the tribunals appointed to count and declare the elections to perform their respective constitutional duties with certainty, with justice, and without conflict.

In seeking the best and safest guide in this delicate and difficult work it has seemed to me that it is to be found in the closest following of the language of the Constitution. I am not acquainted with any plan that has more impressed me with its faithfulness to the Constitution than the measure reported by the select committee of the Senate. It is this feature of close observance of the Constitution that, above all others, has satisfied the doubts that have arisen in my mind in my efforts to explore the wide field of operations which is covered by this bill, so that I might feel satisfied in conclusion as to its usefulness and safety to the country in the present time and in the future. Fearful doubts and misgivings must arise in the mind of any man as to the consequences that will follow a measure which is so constantly in contact with every powerful and moving passion and so sensibly affects every possible interest of many millions living and to live. In this matter I confess that I desire to take shelter as closely as possible under the Constitution as my proper protection against the consequences if evil instead of good should result from this measure. I vote for it more on the ground that I believe it is constitutionally correct than because I believe it to be the wisest or safest measure that could be devised if we were now permitted to legislate without any constitutional constraint. There is in our presidential electoral system a feature that is so opposed to the free popular system upon which all other elections in the United States are based that public opinion, choosing between the two systems, has almost neutralized the constitutional functions of the colleges of presidential electors and has deprived them of that high power of independent action which was originally designed as a check upon the popular will, and has completely subordinated the electors to the position of mere registers of the wishes of the people. This discrepancy between the popular will and the electoral system is much in the way of proper legislation. For many years past an earnest effort has been put forth to dispense with the intervention of the electoral colleges as being merely formal and useless parts of the machinery of government, and dangerous because they have on some occasions been the means of thwarting the popular will as declared in the election. But that is still our constitutional system, and while it remains it should be our care to guard it the more sedulously because it is for the time without the jealous guardianship which always attends those provisions of the Constitution that engage the affections of the people.

We have two bodies of electors who may choose a President and Vice-President. The primary body, appointed in each State under State laws, has the power to vote for President and Vice-President in the electoral colleges and to transmit the record of their votes, certified to the President of the Senate. This body, consisting of many colleges, has the power to elect, but it has not the power to count the votes cast or to ascertain or to declare the election. This board (I use the term for convenience) has the absolute right to name the persons who alone may be elected to these offices. The power of election, whether successfully completed by the action of this board or by its successor, is confined to the persons it may name in the votes cast in the several colleges. So that under our Constitution the power of nomination to these offices originates with, and is confined to, this primary board. No person can be made President of the United States by election to that office who is not voted for in the electoral colleges. If every elector chosen in the States should so far betray and disappoint the expressed wishes of the people as to vote directly against their instructions, no power in this Government could lawfully question the validity of their choice. Their absolute right, under certain constitutional restrictions, to elect a President and Vice-President according to their own views of their duty to the country is beyond all dispute under our Constitution; but they cannot claim this supreme power or lawfully exercise it unless the States have conferred it upon them by appointment under State laws. And no other power is set up in the Constitution that is expressly authorized to adjudge and decide upon the validity of their appointment. If such a power belongs to the Senate and House of Representatives when they are assembled to count the votes, it is a power that is derived by implication from the power to direct the counting of the vote. Express power is given by the Constitution to the States to appoint electors and to provide by law for the manner in which that appointment shall be made. The power thus conferred includes necessarily the right to do everything that is essential to a valid and complete appointment of electors. It cannot be said, however, that any express power is given to any other tribunal to annul or disregard the appointment of electors made by the States.

When the people or the other appointing power of each State have appointed electors they have conferred upon them a high office and a great dignity—an office of extraordinary powers, which, with reference to the rights of the incumbent, is not to be lightly considered. One who participates in the election of a President and Vice-President, as the appointee of a State, would in any country less democratic than ours be regarded with great reverence, and his rights, in the full and free exercise of his official powers and duties, would be guarded with the most jealous care. Whatever respect our people may feel for this office and its incumbents, Congress must value them according to the fact that in this office is reposed so much of the destiny of this great country as depends upon the choice of its Chief Magistrate once at least every four years.

The power conferred upon the Senate and House of Representatives to count the votes is of a subordinate character, when compared with the power given to the several electors to cast the votes for President and Vice-President. The two Houses of Congress cannot in any event appoint or elect a President of the United States, nor can they appoint an elector. They can only obey the choice made by the electors, as they are informed that it has been lawfully expressed, and after this is ascertained they may declare the result. So the powers of the two Houses, while they are separate from those of the States, and are independent of the powers of the States, are not above them. In this sphere of authority the States are supreme, and are not amenable to the control of any other power.

The supremacy of the States in the appointment of electors is derived by a grant in the Constitution of the United States; and in view of the provision of the Constitution which declares that the Constitution of the United States and the laws made in pursuance thereof are supreme, ultimately and undeniably this power when exercised by a State is as supreme as the power of Congress when exerted in the enactment of any law plainly within its constitutional authority. Yet in what I have to say in this bill, as in any vote I may give with ref-

erence to it, I shall not lose sight of the fact that is equally apparent, that the Senate and House of Representatives, by concurring in any count of the electoral votes, and by declaring as a result of the count the election of certain persons for whom the electors had voted as President and Vice-President, can make that election valid under the Constitution. This power could be abused so that the people would refuse submission to the persons so declared elected; but such refusal would be revolution, however much it might be justified in morals or by the right to demand redress for governmental abuse.

When we see, therefore, that under our constitutional electoral system there may be such serious conflict between the rights and authority of the States and of the Senate and House of Representatives, and that the latter may undo or disregard the action of the former, we can better understand and appreciate the importance of a wise and proper exercise of the legislative powers of Congress as an intermediary between these two great and distinct constitutional electoral bodies.

If it does not rest with Congress to provide by law some means that may be adequate to prevent an unseemly and dangerous antagonism between these bodies, then there is no power that can come between them, and we must abandon our country to the dangers of revolution on every occasion when a President is to be chosen. The very apprehensions we all feel that Congress may make matters worse by trying to better them by legislation grow out of our earnest convictions that the dangers which threaten our country in this direction are real and terrible.

It has been contended by some that Congress has no authority whatever to provide any laws for the government of the Houses met to count the votes for President, and that all such legislation is improper. I think it is a sufficient answer to this objection that the provisions of the Constitution in reference to the counting of the electoral votes are not in any respect self-executing. They are of that class of powers mentioned in section 8 of article 1 which are to be carried into execution by laws to be enacted by Congress. By the express provision of that section Congress may pass laws to carry into execution any powers provided for in the Constitution, whether vested in the Government of the United States or in any Department or officer thereof. The Congress of the United States, in the very beginning of our Government, enacted laws on this subject, and so far as legislative precedent and legislative contemporaneous construction of the Constitution can go they have exploded the theory upon which the objectors are proceeding that I have referred to. It was then provided that—

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

It also provided that—

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the Legislature of such State may direct.

In order to give some more complete effect to that provision of the Constitution, which perhaps the framers of this law thought was more permissive than mandatory, in the same act it was provided that—

The electors shall vote for President and Vice-President, respectively, in the manner directed by the Constitution.

It did not annex any penalty to their failure to vote, but it undertook to enforce, I suppose upon the conscience of electors, the necessary public duty of discharging the functions of the great office conferred upon them by the States respectively.

The same course of reasoning adopted by those who suggest this objection which would deprive Congress of all right to provide by law for the procedure to be followed in counting the electoral vote would equally apply, and with more force, to the regulations that are imposed by law even upon the Supreme Court. That court is the final arbiter of every cause and every question that falls within its jurisdiction. It can make a final judgment and compel its execution. It is certainly as independent of Congress as is the officer or tribunal authorized to count the electoral vote, yet Congress defines its jurisdiction in many instances, limits it in others, gives it writs and other processes, provides for it clerks and other officers, prescribes its terms, and declares what number of judges shall constitute a quorum, compels it to obey laws that regulate the instruments of evidence, the weight of evidence, the competency of witnesses, and the effect of evidence. Congress requires the Supreme Court to adopt the practice of the State courts and to abandon the rules of practice adopted by the judges when they are in conflict and to give effect to the decisions of State courts upon the validity of State statutes, though the decisions they are bound to obey are against the conscience of the judges. I fail to perceive that the course of legislation on such subjects gives the slightest weight to the objection that Congress cannot even regulate the procedure of the tribunal that is to count the electoral votes.

This bill, as I understand its provisions, is framed upon the proposition that the power to adjudge and to decide upon the validity of the appointment of electors resides in the States, and may be completely and finally exercised through tribunals created by State laws and regulated in their procedure by State laws. It does not, however, adopt the idea that, if the States decline to adjudge and decide conclusively who are appointed electors, there is no other constitutional authority that can make such a decision. On the contrary, it provides rules to govern in such case the action of the two Houses of Congress as the tribunal which may decide, if the State has failed to decide, the validity of the appointment of the electors. Without stopping at this point to consider more particularly the provisions of this part of the bill with reference to their fitness to accomplish this purpose, I proceed to say that the bill does not by express provision attempt to dispose of the question of the eligibility of the electors that may be appointed by the States. I think that this is the true constitutional course to be observed in this matter. The Constitution expressly declares certain grounds of ineligibility of electors, which operate *ex proprio vigore* so as to annul any appointment of such persons.

Other grounds of disqualification of electors may exist, such as age or sex, a want of citizenship, insanity, or corruption through bribery, which the bill does not attempt to provide for. It is a presumption that we must indulge that the States will make provision for such cases in their laws respecting the qualifications of electors, but if they shall fail to do so the Houses of Congress are at liberty to act upon such objections. The bill includes the power of the Houses to take such action by requiring their concurrence in a separate and affirmative vote in counting or refusing to count all votes that have been transmitted to them by the colleges of electors, excepting only the instance in which the States whose returns are questioned have through their own tribunals determined who are lawfully appointed electors of such States upon a controversy instituted for that purpose.

The leading provisions of this measure may be thus stated with reference to the principles on which they are founded:

First. The bill secures firmly and broadly that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

Second. It secures to the State the right to determine under its own laws what persons have been appointed as electors.

Third. This right the State can enforce fully and conclusively, in reference to all matters that are constitutionally within its jurisdiction, if a contest or controversy arises and is carried before the State tribunals for decision.

Fourth. It asserts the right in Congress to give to the action of a State so deciding a controversy as to who are appointed electors, a conclusive effect as evidence of the lawful title of electors who shall have been so determined to have been appointed; and that such evidence shall govern in counting the vote, without the necessity of the concurrence of the two Houses in a vote affirming its validity.

Fifth. It secures to the States the right to demand the separate and affirmative concurrent vote of the two Houses in counting the electoral vote, in the following cases:

1. In rejecting a vote from a State from which but one return has been received.

2. In deciding which of two tribunals in a State, claiming the right to determine which of the electors have been appointed, is the lawful tribunal; and,

3. In deciding which of two or more returns from a State shall be counted, where the State tribunals have not determined who are the electors.

Sixth. It secures to a Senator and a member of the House of Representatives the right to join in a demand that the two Houses, met to count the vote, shall consider, separately, any objection in writing that they may submit to the counting of any vote that is offered to be counted.

The bill does not attempt to define what shall be the character of the objection thus to be submitted; it only provides that in certain named cases or circumstances it shall require the concurrent affirmative vote of the Houses, voting separately, to reject the vote to which objection is made, and in the other cases it requires a vote in like manner concurring and affirmative to admit the vote to be counted.

The concurrence of the Houses, that is thus required, does not depend upon the nature of the objection to the vote, but upon the circumstances attending it when it is offered to be counted.

If the State authorities have certified the electors in due form, according to State laws, then the vote is to be counted, unless the Houses concur in an affirmative vote to reject it. If it has been passed upon by the State tribunal duly authorized by State laws to determine its validity upon a contest, then it is to be counted. In these instances the vote is supported by either a presumptive or conclusive intendment in favor of its validity, which is imparted to it by the action of the State authorities. In the absence of such presumption, or where it operates alike in reference to two or more persons claiming a right to cast the same vote, this bill requires the Houses by an affirmative vote to determine which is the lawful vote. If the States neglect or refuse to make final and conclusive decisions of all matters within their jurisdiction, (all matters indeed that relate to the validity of the appointment of electors,) it seems but reasonable that when the tribunal that is required to count the vote and declare the election acts upon the subject, it should be provided by law that only one branch of that tribunal should not be permitted finally to determine the matter. It is the better and safer rule that the Houses should concur, even if in such case their non-concurrence should disfranchise the State. Every State can save its vote, if it will do so, against the power of any tribunal lawfully to exclude it for any cause except for the constitutional disability of its electors or for

fraud in the action of the State tribunal that determines the validity of the appointment.

If this bill becomes a law the States will see the importance of using their rightful authority to provide for the settlement of contested elections or the appointment of electors before the electoral vote is cast. It is within the scope of their authority to compel persons to contest the question whether they are the lawful electors before the State tribunals and to enact laws which shall annul every pretext of lawful authority to represent the State in the electoral colleges that is claimed by persons who refuse to enter such contests. The distinct enunciation of these rights and powers of the State governments will induce them, as I believe, to settle all questions of contested claims by different persons to the lawful authority to cast electoral votes of the States, and they will thus be excluded as elements of strife from consideration by the Senate and the House when they are met to count the votes.

I do not like the words "on paper purporting to be a return" found in several connections in the sixth section of the bill, and especially do I mistrust the effect of these words when they occur in line 53 of the sixth section:

> And in such case of more than one return, or paper purporting to be a return, from a State, if there shall have been no such determination of the question in the State as aforesaid, then those votes and those only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State.

I am afraid that their presence in the text of the law would suggest an inducement to some enterprising persons to send to the Vice-President papers purporting to be returns from States, and by means of such fraud gain the possible advantage of disfranchising a State to get rid of its vote against their favorite.

The words signify nothing in the structure of the sentence where they occur beyond a [illegible]utious effort to embrace every possible case that could arise upon more than one return from a State; each return having some real ground of good faith to support its claim to recognition.

I think this overcaution to prevent the exclusion of a return made in good faith from consideration by the two Houses, on the ground that, in contemplation of law, it is not in fact a return, opens a still wider door to the danger of the introduction of returns that are not made in good faith; that are merely simulated returns, but are drawn up in such form as that they purport to be honest returns. These reflections also suggest the point, upon which the bill is silent, that where a paper purporting to be a return from a State of a vote by electors for President and Vice-President is sent to the President of the Senate, and a question is made whether it is a forged, or false, or simulated paper, that either House should have the right to declare its judgment that such paper is false, or forged, or simulated, and that thereupon it should be rejected. And also that such an objection, when made, should be acted upon separately by each House, and its decision should be announced by the presiding officer in joint meeting, before any other objection should be considered to such vote. These points escaped my attention in the committee, and I now suggest them to the committee, as I should have done at that time, for their consideration. It may be that the bill will be improved by their introduction into it by amendment; at all events it is proper that I should bring these matters to the attention of the committee and of the Senate.

This bill is an earnest and bold movement to assert the rights of the States in the enjoyment of this important privilege of free constitutional government. It recognizes the right of each State to appoint electors to vote for President and Vice-President and the right of the Legislature of each State to direct the manner of appointing electors. This is an express grant of constitutional power to the States, and by necessity the power thus granted is supreme in the same sense that the Constitution of the United States is supreme. The power to appoint electors and to direct the manner of their appointment cannot be taken away from the States by any law or by the action of any department of the United States Government. This power must be removed from the Constitution before it can be denied to the States or before any department of the Government can usurp it or participate in its exercise. It is a power that must be fully and completely exercised by the States in conformity to State laws without their being constrained, directed, or obstructed by any other power whatever.

The States have each the supreme right granted to them in the Constitution to enforce such laws as their Legislature may enact, directing the manner of appointing electors; and this right is in full effect until the choice has been so made. The office of elector is created by the Constitution of the United States, and it is filled by the appointment of a certain number of persons by the States in pursuance of State laws. Every act of the State government that is done in conformity to its laws, and that is not inconsistent with other parts of the Constitution of the United States, in providing a manner of appointment and in making an appointment of electors, is conclusively binding on the Senate and House of Representatives when they are assembled to open and count the votes and declare the election of a President and Vice-President of the United States. At what point in this State procedure will any other power intervene to arrest, correct, or reverse its action? And if no other power can so intervene, where do we find the constitutional authority in any tribunal to reject or disregard the lawful action of the State in the appointment of electors? It does not exist, Mr. President, as to any act that it is within the jurisdiction of the State to perform, or in reference to any fact that it is within its jurisdiction to ascertain and determine under its own laws, so as to completely exercise the power of appointment. Within these limits of jurisdiction the authority of the State to determine finally every fact necessary to the full exercise of its power of appointment, as it is regulated by its own laws, is conclusive and unquestionable.

In those States where the right to elect the electors is confided by State laws to the people, the right to ascertain whether fraud has corrupted the election and to what extent the election has thus corrupted—has been invalidated—is a right that rests solely with the State tribunals created by the State laws to decide. The power is given by the Constitution to each House of Congress to judge of the election of its members. Such power is not given to each House, or to both, to judge of the election of electors of President and Vice-President of the United States by the people of the State.

It is the right of each State to determine these elections and declare the result through its own tribunals. The choice of electors in a State may be by popular election, or it may be by appointment of the governor, or by the Legislature, if the State laws so provide.

This choice, when made and duly certified by the State authorities, is not to be acted upon by the Senate and House of Representatives as merely an election within a State, but as an appointment by the State. When every person required by State laws to participate in the acts necessary to make a valid appointment of electors has performed the duty required by such laws, and the record of these acts is ascertained by the designated State authority to be lawful and complete, the result is the authentic act of the State appointing electors of President and Vice-President. To go back through all these preliminary acts with an inquiry as to frauds in every ballot-box and irregularities in every return, to find a point on which to question this result, is to deny entirely all the force and significance of the Constitution which says that "each State shall appoint" a number of electors in such manner as the Legislature thereof may direct. If one line of inquiry may thus be prosecuted, any and every question must be open, and the consequence would be that the procedure in the States, which must result in the appointment of electors, or in nothing, would be no more than a collection of facts upon which the Houses could declare the State disfranchised, or else they would make the appointment of electors that they determined that the State should have made.

We cannot rationally assume that if these matters are at all open to question, after the State has passed upon them in the final act of appointing electors, the two Houses of Congress are authorized either in joint or separate action to revise the decision of the States and to go into the merits of the case, as such interference is called.

The Constitution affords no hint of the existence of such power in both or either of the Houses. It is entirely silent upon this point, and if we contrast this studied silence in reference to any such power in the Senate or House of Representatives with the express grant of power to the States to appoint electors in such number as they may direct by law, there can be no reasonable ground for doubt that this express grant of power was intended to exclude the idea of any grant of a power by implication to any other tribunal that is in such direct hostility of conflict with the rights of the State.

This bill does not affirm the right of the two Houses to question the validity of an election of presidential electors in a State by the people, nor does it disaffirm the right except in the case where the State authorities, acting under a law of the State, have, upon a contest instituted, determined the validity of the appointment of electors as a result of such election. The bill deals only with the vote that is necessary to be concurrently given by the two Houses in rejecting an electoral vote from a State that may be regularly certified by the State authorities. The bill might have gone farther and have closed all investigations into the mere regularity of the action of the State in making the appointment of electors, and all inquiry whether the state of facts upon which that action was based justified the appointment of the persons as electors who afterward cast the votes; but it would be useless to make a provision of law to govern the two Houses in anything beyond the regulation of their procedure, since they are the final judges of the election of President and Vice-President and their declaration of the result is conclusive. The Houses, I admit, will judge and determine the extent to which their inquiries may reach in their effort to ascertain who are the legal electors of a State; but if the paramount right of the State has been exerted lawfully in deciding upon the same issue, then the matter is finally decided and the Houses must accept it as a final decision if they respect the Constitution. And I hold, but the bill does not assert the doctrine, that in the absence of any decision of the State tribunals, made upon a contest, the action of the State authority in certifying to the appointment of electors, if it is made in pursuance of the laws of the State, is final unless it is assailed for the fraud of the State tribunal in making and certifying such decision.

The true rule as I believe in reference to this much-mooted question is that an honest judgment of the lawful State tribunal must stand, though it be erroneous, and a judgment rendered corruptly has no validity. But the bill leaves this question open, except that it very properly adopts the rule that all presumptions are in favor of

the honesty of dealing on the part of governments and of public officers as well as of all private citizens. I do not undertake to say that there is a clear and express authority in the Constitution for all the provisions of this bill, but I have not been able to discover that any of its provisions are in conflict with the Constitution or that the bill infringes upon the constitutional authority and jurisdiction of either House of Congress. It is a bill to regulate the exercise of constitutional powers in some of the particulars in reference to which the Constitution is silent, and to secure obedience to the Constitution where its provisions are express. The great point secured by the bill is the right of the States to determine in their own tribunals, when a contest is made, who are the electors rightfully appointed by the State. This is the only case in which the Senate and House of Representatives, met in convention, are bound by this law to accept and count a vote of one elector to the exclusion of another.

Still this is a rule of evidence, and not a rule of decision. It is also directory, and cannot be mandatory. As a decision it relates only to the question which of two returns shall be counted, the one in preference to the other, and on that point it is conclusive, because the State has already decided through its lawful tribunals which is its lawful vote, and by necessity has excluded the other. It does not preclude the right of the concurring Houses to deny to the State a right to have its electors cast the vote, if the decision by which those electors were held to be lawfully appointed was a judgment corruptly rendered by the State tribunal, or if the elector was bribed to cast his vote for the person for whom he voted; or if he had become insane, and was in that condition when he voted; or if he was disqualified, at the time of his appointment, under the provisions of the Constitution. These and other like fatal objections to a vote cast by an elector are made available for its rejection under the provision of the bill that "no electoral vote or votes from any State from which but one return has been received shall be rejected, except by the affirmative vote of both Houses." This part of the bill I consider a distinct admission of the powers of the two Houses, acting separately but concurrently, to reject any vote of any State by an affirmative vote, but not an admission of its right to count or consider a vote that the lawful tribunal of the State has rejected on a contest before it. This is a necessary corollary to the power of the Houses to make a judicial decision, or a conclusive declaration as to the validity of any vote that the State authority has not condemned upon a contest had before it.

It would neither be wise nor safe to undertake to specify the cases in which such decisions to reject a vote may be made, if, indeed, we have the power to do this. The Houses count the votes and declare the result under the powers given them by the Constitution, and we cannot abridge this right, but we can regulate its exercise. I believe that it is true that the Houses met to count the votes may, by a concurrent action, disregard the laws enacted to regulate their procedure and may yet declare an election which will be valid under the Constitution. This is a consequence of the finality of these decisions, and a sanction that must sometimes be given to usurpation for the sake of peace. Yet it is a duty that Congress cannot properly omit to provide such regulations for their guidance and government as are requisite to secure, as far as possible, the peaceful and safe transmission of the chief executive power from one person to another in accordance with the results of our quadrennial elections. If we are to suppose that laws enacted by Congress and approved by the President will be violated by the tribunal that is to make the final and conclusive declaration of the election of our Presidents and Vice-Presidents, we can with equal certainty assume that this will not be done against the expressed will of the people, or without the urgent necessity of preventing some great wrong to the country. In any event our plain course of duty seems to be in the direction of an effort to regulate by law, as far as we can, the procedure in counting the electoral votes.

In all countries the transmission of the supreme executive authority from one person to another, in succession, is always perilous and is always agitating to the public mind. Our system of constitutional law, aided by statutes, can be made comparatively secure against such dangers. Still we have had some struggles in our elections which should admonish us of the danger of leaving these contests without the greatest security that may be provided by wise and just laws. It is true that such laws cannot be made penal in their character, so as to punish those who alone are required to respect and obey them, and yet do sometimes violate them. But if we enact laws that are correct in principle and just in their provisions, I believe that public opinion will so far sustain them that few will be found who are sufficiently reckless to disobey them.

It is too late to make rules or enact laws to govern the action of the two Houses after the arrival of the period for their joint meeting to count the votes. The hazard of leaving this subject open until after the States have appointed electors is too fearfully illustrated in our last presidential election to require anything beyond a mere allusion to our then condition to startle the country with alarm at the thought that we may be again exposed to such perils.

The highest demand of duty, supported by a decent respect for the honor of the country and by a proper regard for its safety, requires that we should legislate, as far as we can, in advance of the next presidential election, to secure judicial fairness and impartiality in the count of the electoral votes. We may not, by such legislation, secure this result, but we shall, at least, be able to save ourselves from the reproach of having failed to do what we could to provide, in advance, against the betrayal of the rights of the States and of the people, through the interested zeal of the great political parties or the corrupt interference of men who are ever alert to gain power and riches at the expense of everything that is sacred.

Nothing can be more disturbing to the country or can more seriously affect its prosperity than to aggravate the anxieties of the people with reference to the count of the electoral votes for President and Vice-President.

If Congress denies to itself the power to provide laws to regulate the counting of the votes, or refuses to provide such regulations, it will confirm the apprehensions of many of our people, I might say millions of them, that we shall never again be able, peacefully, to count the votes for President and Vice-President where the election is close. If the bill now before the Senate is defective or vicious, let us find a proper substitute for it; but let us not neglect a duty that we owe to humanity, as well as to our country, by refusing to make some provision of law that will at least assist the constituted authorities in placing the chief executive power, peacefully, in the possession of the man whom the people shall elect through the appointed agents of the States representing the people.

Mr. JONES, of Florida. Mr. President, I shall consume but very little of the time of the Senate in stating my objections to this bill. The subject it professes to regulate is so full of difficulties that I have no complaint to make of the efforts of the committee, and I freely admit that it is much easier to point out objections to the measure than to supply them by better and wiser provisions.

The first section of the bill, following the Constitution, requires that all the electors shall be appointed on the second Tuesday in October. The fixing of the time is left to Congress, but the day, whatever it may be, must be the same throughout the United States. This requirement, as we know, was regarded as a most important one, for it is plain that if the appointment of electors could take place in the States on different days, the election of the Chief Magistrate would be controlled by intrigues and influences which would stifle the honest voice of the people. Suppose it were competent for the States to vote on different days, that all but one State voted on the same day and that the vote of this last State was sufficient to determine the election of President: does any one suppose that after it was ascertained that the election depended upon the vote of a single State it would be possible to have an election there which would be free and tranquil? Is it not clear that every influence of party and power, all that wealth and authority could do, would be done on both sides of the contest to secure that vote? And is it not more than probable that such an immense power concentrated within such narrow bounds would prove too strong for the arm of local authority; and with the mind of the whole country excited as we know it would be, an outbreak of violence on such an occasion and in such a State would convulse the entire Union? Every evil which would be likely to result from the appointment of electors on different days might be expected to follow from the operation of this bill.

The framers of the Constitution guarded the interest not of one State but of every State. The question here is not in regard to the right of a single Commonwealth to select its delegates in the electoral college, but it involves a greater power: it involves the right to select a number of men who, it may be, will hold in their hands the title to the first office in the world.

What does the Constitution mean when it requires the appointment of the electors to be made on the same day throughout the Union? Does it not mean that on that day, and on that day alone, the rights and powers of every elector shall be fixed and determined, so that the whole country on the night of the day of the election can understand who has been elected President? What, sir, would be our condition if, after the election on the second Tuesday in October and until the 1st of January following, nearly three months, this great country, with its immense interests, should be kept in a state of suspense and excitement? I need not tell grave Senators of the influence which an event like this has upon all the business interests of the country, how much is gained to all classes when it is satisfactorily ended, or how much is lost when uncertainty intervenes to produce alarms and dangers. Under the fourth section of this bill, should it become a law, no one would be able to tell who was elected President until after the contests which it provides for were all settled. The time intervening between the election and the meeting of the electors may be taken up by legal proceedings to determine the title of a sufficient number of electors to control the presidential office. And ought an issue of that kind—one so full of danger to the whole country, involving its peace and happiness, and it may be the liberty of every man within it—be confided to some local magistrate who never had an idea above what was necessary to settle matters of petty jurisdiction? While the Constitution very wisely has left the mode of selecting electors to the States and is not particular as to how this power is exercised, still it has taken the precaution to guard the interests of the whole Union in two most important particulars connected with such elections. These are that all the electors must be appointed on the same day and that they must cast their votes for President and Vice-President on the same day.

Whatever you may do here you must not and cannot leave open any important question entering into the appointment of electors

after the second Tuesday in October. The people of the whole Union have an interest in this matter even greater than any which can belong to any State, for a contest over a single vote in Florida or Oregon, as we well know, might lead to the agitation of the whole country, and endanger the very foundations of the Government. Have we not had some experience of what is likely to result in every case of a close election when under any system of laws the power of electing a President is placed in the hands of a few men, or an insignificant tribunal? When during the last election it was ascertained that the fate of the Presidency depended upon the decision of two persons unknown beyond the neighborhood in which they lived, and that they carried in their pockets the fortunes of the two great parties of the country, did not these men and the State to which they belonged rise to a height of interest and importance never before dreamt of by any one? Can we ever forget the patriotic pilgrimages of those "visiting statesmen," who, laying aside for a time the ease and comforts which surrounded them, rushed into Florida and Louisiana to fawn and cringe before the new-born majesty of McLin and Wells? Is any one weak enough to imagine that if it should again happen that the fate of the Presidency depended upon the decision of a local court of any kind a controversy like that could be carried on like other contests?

Do we not know that in proportion to the magnitude of the interests involved, the hopes and fears excited by the event, such a tribunal would rise to the highest pitch of importance and power? Would you expect to see the two great parties of the Union, forty millions of people, stand quietly by and await with calmness and composure the result of such a proceeding? Figure to your mind the picture of two local parties with Smith's Form Book on one corner of their table and a defaced copy of the Holy Bible on the other, sitting in a spare room of a country grocery and hearing with studied patience the great question who they should make President of the United States.

Sir, I once witnessed something like this, and I pray to God I shall never behold anything like it again. I saw two men carried by accident to the highest pitch of this great power. I saw the fortunes and destinies of this whole people for a time in the keeping of a returning board in a single State. I saw them surrounded by parasites and flatterers from every quarter of the land. I saw how "the stormy wave of the multitude retired at their approach." I witnessed with sorrow and humiliation and apprehension for the country the congregation of a large part of the Army of the United States to do the bidding of these men and to put down the strong indignation of the people. After seeing all this, I am well satisfied that nothing could be more unwise or unsafe than to give the sanction of congressional legislation to a mode of settling electoral contests which has been tried and found wanting. There is nothing in this bill which leads us to conclude that any different processes will be resorted to, in some of the States at least, to determine the Presidency than were resorted to in 1876. The character of the tribunal is not designated; there is nothing definite; it is left absolutely to the decision of the States, and it was boldly claimed in 1876 that when a State decided through a returning board that one set of electors was elected the tribunal here must acquiesce. That is the principle of this bill. I must confess that the fourth section of this bill is not at all satisfactory to me. Under this bill any returning board could perpetrate as much fraud as it pleased and certify it here and there would be no power to look into it.

I am aware that the late electoral commission based its conclusions upon the conclusive character of the State returns. But did this concession to State power and sovereignty, did this following the shadow and disregarding the substance, satisfy the people of the States concerned or a majority of the voters of the United States?

But suppose the States do not adopt the suggestion of Congress as contained in this bill, where is your power to enforce it? You say in the fourth section that the States may enact laws looking to the adjustment of all controversies growing out of the election of presidential electors in the State; but you cannot enforce that. You admit upon the face of your bill that you have no power to enforce it, that it is a mere suggestion from this Government to the States that they ought to pass a law providing for the adjustment of all electoral controversies. Suppose the laws of the States remain as they now are after the passage of this bill, and it is very likely that they would in a great measure so remain, what would be the effect of a State return? Would it be *prima facie* or conclusive evidence of its correctness. Or suppose some States decide to provide machinery for the adjustment of electoral contests and others do not. You have no power to enforce your wishes in this matter. You would be compelled to adopt two distinct rules in regard to the same kind of returns. If one State shall follow the suggestion of the law and constitute a tribunal prior to the time fixed for the counting of the electoral votes and if there should be a trial and a determination to settle that question, I presume when the latter return came here it would be accepted under the provisions of this law as conclusive. But suppose that the State did not, relying upon the law as it now stands—and the laws throughout the Union are generally satisfactory on that subject and simply comply with the act of 1792—and certified only the title of the electors, what then? In the one case I presume the record would be conclusive evidence that they were the electors, and in the other it would be only *prima facie* evidence. Unless you have the power to enforce this uniform rule and make it applicable to all States, I think you will find great difficulty in carrying out this part of it.

Notwithstanding all that has been said in favor of this bill as a State-rights measure it gives to Congress a power over the election of President which in my judgment is most dangerous. It was the observation of a very wise man on this floor that there is very little difference between leaving the presidential election to Congress and leaving Congress to decide that election. The sixth section of this bill gives Congress the power to set aside the vote of any State in this Union if one Senator and one Representative can be found to object to it. This is stating it pretty broadly, but the power is there. I know it is not a legitimate argument to argue against the existence of power from the abuse of it; but on questions of this kind all experience teaches us that whenever Congress is called to act it will act in a party spirit. Unfortunately for the country, unfortunately for all, it will be impossible to obtain any decision by Congress, in my judgment, on a question of this kind into which party spirit will not enter. That is the great danger in the whole business. Am I to be told that the party majority in Congress will always be wise, moderate, and just, and that there is no danger from usurpation and passion? Give to one Senator and one Representative the power to set in motion this congressional machinery against the electoral votes of the States, and I believe, sir, that the time is not far distant when it will prove to be the most dangerous delegation of authority ever conferred upon two men.

There are many other objections that I could make to this bill; but I conceive that it is most important in the view that I take of the meaning of the Constitution, and the practice under it, that there should be no outstanding contest over the electors after election day if it can be possibly avoided; that the Constitution in requiring the electors to be selected on a given day, and placing that time under the control of the General Government, clearly indicates what the purpose was in regard to it. It was that everything appertaining to or connected with the election of the electors should be settled upon that day. The counting of their votes was another thing and was remitted to another tribunal. The casting of their votes was another thing, and that was required to be done at a certain day in order to cut off the possibility of intrigue and those other influences which we well know have in times past operated to destroy freedom. Each independent elector voting in his State at a designated time would not be open to the same temptations that an aggregate college of electors sitting together would be open to. This was the reason that induced the framers of the Constitution to make the time uniform when they should meet and cast the votes of the States. What difference is there between electing electors on different days and leaving open after the election day a number of contests which may involve the title to their offices? After the first Tuesday in October the election is over, but you have a contest in Florida, in North Carolina, in Kentucky, it may be in New York, and no living man would be able to say what will be the decision of those local tribunals to whose judgments, under this bill, the main question is submitted. The election has settled nothing; it has brought a controversy into existence which in its progress, as I said a while ago, may involve the very foundations of the Government, for the reason I have assigned.

Mr. EDMUNDS. Mr. President, if no other gentleman wishes to occupy the floor, as I desire to get on with this bill, I will now say a word in reply to my distinguished friend from Florida, whose point of objection to the fourth section of the bill is, first, that it leaves provision for a controversy which cannot be determined and will not be determined on the day on which by law the electors are appointed throughout the United States, and that that is fatal to the philosophy and to the safety of the scheme. Suppose that we have not any provision for determining a controversy that does arise out of action on that day and we are without any law, are we any better off? Does the Senator go upon the principle that there will be no controversy if you do not have any court to decide it on the spot? That seems to be the logic of the argument; and therefore, if you do not provide for allowing a State to find out who its electors are that it has the right to appoint in case there is a dispute, then there is safety for the country, because, as the logic I will suppose is, there will never be any controversy in the State as to who are electors if you do not have the tribunal which is proposed! That I think is not sound logic.

We all know from experience and from the philosophy of human affairs that in a great many instances an election will be so close or will have in it such elements as to raise a fair doubt, to say nothing of the unfair ones and contrivances, but a fair doubt and question as to what the voice of the State has been on that day. It always occurs at elections in every State, in every county, in every municipality everywhere. What are you to do? You cannot settle it on that day; that is physically impossible. You must take, therefore, whatever grief there is in the fact that in some particular State on a day when electors have been appointed it is not absolutely determined which of two sets of candidates have been elected. Will it be any better to postpone that controversy until immediately before the new President is to take his place than it will be to allow the State itself, in its own way, by a preordained law and regulation, to eliminate the false from the true, and to certify only those electors who according to its laws, its own will, will thus have determined to have been chosen? That is what the Constitution says, that is the will of the

State in this choice, and the fourth section only provides a means of ascertaining the will of the State in case of dispute, and then respect it; and then, of course, if there is no dispute, you get the will of the State as you do in the case of States nine times out of ten without any question whatever.

My honorable friend says then that another part of the bill is very dangerous, because there is conferred upon Congress, or recognized in it, the power of determining controversies that have not been determined in the States, and that party spirit will guide every determination. Suppose that to be true, what better can you do? You must elect a President; you must count the vote; and if the question arises on the counting of the vote somebody must decide it for the time being. Suppose you have not any law, then you are in a state of chaos. Neither House may be able to agree at the moment upon precisely the rules it will adopt for itself; or if each House is able to agree upon something and does not vote down everything, its neighbor, its correlative court, the other judge of the election, if you style it so, may not agree to that; and you gain nothing, therefore, by having no law in the place of some law, although you may say that party spirit will enter into it. So it will, Mr. President. Party spirit will enter into everything to a degree, but my honorable friend is mistaken when he says that on every occasion party spirit will govern the judgment of the two Houses, or govern the judgment of a tribunal that is called upon to decide the question that is remitted to it. If the Senator from Florida will read the proceedings of the electoral commission, as it was called, he will see that there were some questions which were critical indeed where party spirit was not strong enough to divide by party lines the votes of the members of that tribunal. If my honorable friend will look at the records of the two Houses on that late memorable occasion, upon cases that the tribunal did not pass upon, he will also see that party spirit was not strong enough and coercive enough to move members to vote according to party interests, because there were one or two or three or more cases of that character where the votes of democrats and republicans concurred in saying that a particular objection was or was not valid. It is to be said to the credit of human nature and of patriotism, that it is only in questions that come very near the line and where it is difficult for the intellect to decide between opposing considerations and arguments that this party bias which possesses us all really has control. But be it much or little, it is everywhere, and the best that legislation and government can do is to provide by preceding laws and arrangements for such just settlement as is possible of disputed questions; and under the Constitution, if we believe in the rights of States at all, to have them settled as the Constitution intended they should be settled, by the State itself as a part of determining finally who are the agents who are to express its voice in the choice of President.

Mr. WHYTE. I move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. If the Senator will allow me to say so, although that motion is not debatable, I will state that my only objection to it is that other Senators desire to speak and it is desirable to get on with this bill to a determination at the earliest period of time consistent with the convenience of Senators and with our other duties. A Senator has given notice that to-morrow he wishes to address the Senate upon another subject, and I should hope that the Senate would proceed with diligence in the disposition of this subject until it is finally disposed of. If some Senator who wishes to speak is not ready to speak to-day, of course I should hardly be disposed to insist at this moment that he should be crowded out, but I wish to have the Senate understand, if it will support me in it, that this bill is to be the business of the Senate until it is disposed of.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The question is on the motion of the Senator from Maryland, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at two o'clock and thirty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 10, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

EPIDEMIC DISEASES.

The SPEAKER announced the appointment of the following select committee in pursuance of a resolution of the House adopted yesterday: Mr. CASEY YOUNG, of Tennessee; Mr. RANDALL L. GIBSON, of Louisiana; Mr. CHARLES E. HOOKER, of Mississippi; Mr. JOHN GOODE, of Virginia; Mr. JULIAN HARTRIDGE, of Georgia; Mr. LEOPOLD MORSE, of Massachusetts; Mr. JAMES A. GARFIELD, of Ohio; Mr. ALFRED C. HARMER, of Pennsylvania; and Mr. SIMEON B. CHITTENDEN, of New York.

VACANCIES ON COMMITTEES.

The SPEAKER also announced the following appointments to fill vacancies on the committees named respectively:

Committee on Public Lands, Mr. THOMAS J. MAJORS, of Nebraska.

Committee on Expenditures on Public Buildings, Mr. JOHN M. BAILEY, of New York.

Committee on the Post-Office and Post-Roads, Mr. JOHN K. LUTTRELL, of California.

ORDER OF BUSINESS.

Mr. SINGLETON. I rise to move that the House resolve itself into Committee of the Whole for the consideration of the diplomatic and consular appropriation bill.

IRON-CLAD MONITOR MONADNOC.

Mr. LUTTRELL. I ask unanimous consent to offer a resolution calling for executive information. I have conferred with gentlemen on both sides of the House, and I think there will be no objection.

The resolution was read, as follows:

Resolved, That the Secretary of the Navy is hereby directed to communicate to this House the occasion of the delay in the completion of the work on the iron-clad double-turreted monitor Monadnoc at Vallejo, California; also whether damages have been or are being sustained through reason of said delay, with the nature, extent, and amount of said damages.

There being no objection, the resolution was considered and adopted.

Mr. LUTTRELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. FINLEY. Will the gentleman from Mississippi yield to me for a moment?

Mr. SINGLETON. I will yield to my colleague, [Mr. HOOKER.]

Mr. HOOKER. I ask unanimous consent, Mr. Speaker, to take from the Speaker's table Senate bill No. 726 merely for the purpose of referring it to the appropriate committee, the Committee on War Claims.

The SPEAKER. The bill cannot be found, and the matter will go over for the present.

Mr. FINLEY. I ask the gentleman from Mississippi to yield to me.

Mr. PAGE. I demand the regular order of business.

Mr. SINGLETON. I move the House resolve itself into the Committee of the Whole on the state of the Union to consider the consular and diplomatic appropriation bill; and pending that motion I move all general debate be closed in five minutes.

GENEVA AWARD BILL.

Mr. KNOTT. Mr. Speaker, before that question is put I desire to make an inquiry. The special order for this morning immediately after the reading of the Journal is the consideration of the Geneva award bill, and I would inquire whether that bill will lose any of its present privileges should the motion of the gentleman from Mississippi prevail?

The SPEAKER. It will not.

Mr. KNOTT. Or will it go over until to-morrow morning?

The SPEAKER. It will go over exactly as it is, as it is a special order from day to day, as the Chair is advised.

Mr. KNOTT. I desire specifically to know whether it will come up to-morrow morning immediately after the reading of the Journal.

The SPEAKER. It will come up whenever the House is disposed to take it up. The Chair has uniformly recognized the motion to go into the Committee of the Whole on the state of the Union to consider appropriation bills.

Mr. KNOTT. I understand that. I only desire the Geneva award bill shall hold its place with its present privileges.

The SPEAKER. It will hold it.

Mr. KNOTT. My present indisposition may require me to leave the Hall.

The SPEAKER. By going to the consideration of the appropriation bills the Geneva award bill is only temporarily postponed.

Mr. KNOTT. If there be no appropriation bills intervening it is the understanding, then, that the Geneva award bill shall come up with its present privileges.

The SPEAKER. There is no understanding the House can agree to now. It will come up with its full rights.

Mr. CLYMER. I wish to give notice that as soon as the consular and diplomatic appropriation bill is disposed of I will call up the Navy appropriation bill.

The SPEAKER. The Chair does not understand the gentleman from Kentucky as antagonizing any of the appropriation bills.

Mr. KNOTT. Certainly not.

DISTRIBUTION OF THE PRESIDENT'S MESSAGE.

Mr. WOOD. I ask the gentleman from Mississippi to yield to me to offer the usual resolutions from the Committee of Ways and Means for the distribution of the President's message to the appropriate committees. It will give rise, I think, to no objection and will be disposed of in five minutes.

Mr. GARFIELD. It might be agreed that the resolution should be introduced and referred to the Committee of the Whole on the state of the Union, and that when the House resolves itself into commit-

tee the resolution distributing the President's message shall first be disposed of, and then that the committee shall proceed to the consideration of the appropriation bill.

The SPEAKER. The Chair will recognize the gentleman from New York, chairman of the Committee of Ways and Means, after the appropriation bill has been disposed of, or if he prefers it the Chair will recognize the gentleman from New York now.

Mr. WOOD. I will yield to the gentleman from Mississippi, and take the floor after the appropriation bill has been disposed of.

CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON. I move the House resolve itself into Committee of the Whole on the state of the Union for the purpose of taking up and considering a bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes; and pending that motion I move all general debate be closed in five minutes.

The motions were agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. SPRINGER in the chair.

The CHAIRMAN. By order of the House, all general debate is closed on the pending consular and diplomatic appropriation bill in five minutes.

Mr. SINGLETON. I move that the first reading of the bill for information be dispensed with.

The motion was agreed to.

Mr. SINGLETON. Mr. Chairman, I have no speech to make. The bill now before the committee is as it passed the House at the last session before it went to the Senate. It will be remembered its provisions were then fully discussed, the discussion occupying some days, and therefore I take it that the bill embodies the sense of this House. It is not, however, the law as it was enacted after it came from the conference committee, the Senate having added a great many amendments, but it is the bill passed by the House before it went to the Senate. Its provisions have been discussed not only at the last session, but at previous sessions of Congress.

Mr. WILSON, of West Virginia. I desire to call the attention of the gentleman having charge of this bill to the fact that a communication from the Secretary of State to the chairman of the Committee on Foreign Affairs was ordered to be printed and recommitted to that committee. That committee has had the subject under consideration, but has not had time to examine and ascertain whether the Committee on Appropriations has complied to any extent with the request of the Secretary of State.

Mr. SINGLETON. I would suggest to the gentleman from West Virginia that all this information will be developed in the reading of the bill. There are several requests made by the Secretary of State with which we have complied, and there are several with which we have not. I call for the reading of the bill by paragraphs.

The Clerk proceeded to read the bill by paragraphs for amendment, and read as follows:

That the following sums be, and the same are hereby, appropriated for the service of the fiscal year ending June 30, 1880, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, namely:

For salaries of envoys extraordinary and ministers plenipotentiary to Great Britain, France, Germany, and Russia, at $15,000 each, $60,000.

Mr. HALE. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 10, strike out "$15,000" and insert "$17,500," and instead of "$60,000" insert "$70,000."

Mr. HALE. I offer this amendment, Mr. Chairman, for the purpose of bringing the bill back to the status where it was left last year by the consent of the two Houses. I have no doubt that in the end that will be the result this year. I do not believe that the House now is prepared to enter into any new contest upon these diplomatic salaries, and I believe it is better that this body should take the responsibility and put the salaries where they were agreed upon last year, so as not to leave it a matter of arrangement between the two Houses. The salaries for these first-class missions have been for years $17,500 each. Last year the House entered into the contest, seeking to cut them down to $15,000, but in the end had to give up the contest and let the salaries go at the old rate. The conference committee so finally reported and were upheld by the vote of the House.

Now my friend, the chairman of the subcommittee, has deemed it better to go back to that old contest and renew it and send the bill over to the Senate as we sent it before. My way would be to take the bill as it was finally adjusted last year, leaving the salaries at $17,500, and not renew the contest. That is the whole story about it. I do not need to go into the arguments, because they have been offered repeatedly and are fresh in the minds of members. It is simply a question of policy in the run of the business of the House and the Senate. I do not think the House is ready to go into and maintain these old conflicts that were finally settled by compromise last year. I therefore urge this amendment to leave the amount as it was settled last year.

Mr. SINGLETON. This question has been discussed very fully more than once in this House, and it has been determined again and again that these salaries ought to be reduced. The gentleman from Maine says that perhaps this will be the end of the matter after the bill shall have gone to a committee of conference. I am not one of those who believe in surrendering to the enemy until the proper time comes. If it be true that the Senate still insists upon retaining these salaries at $17,500 and we can make no compromise with them, it may be possible that will be the result; but the gentleman has no right to anticipate such a result.

There is another reason of some weight which should be considered. I find that during the year 1877—and I take the figures from the report of the Fifth Auditor—in France the whole expenses of the mission, including chargés, second secretaries, &c., were $27,815.78. I find that during the last year the salaries and expenses at the same court amounted to $30,585.42.

Now, sir, if we put these salaries at $17,500 a year, and allow these contingent expenses, or whatever expenses there may be, to accumulate from year to year at the rate of $2,000 or $3,000, it seems to me there is no landing-place for us. I do not know where we shall tie up. I am disposed, therefore, to object to what I believe to be extravagance and at least to this increase of expenditure at these courts.

This is not only true of the mission to France but is true of first-class missions at other points. How is it that year after year these expenses are increased, as we find them in the instance I have mentioned, at the rate of two thousand or three thousand a year? We must put on the drags. The time has come when we must check this extravagance on the part of our foreign ministers as well as our officers at home. I therefore am in favor of leaving the salaries as this House placed them at the last session, at $15,000 a year, giving the ministers their first and second secretaries of legation. The second secretaries were omitted last year on the motion of the Senate conferees and not by the action of the House. We are now willing to restore them, and we allow as salaries for the ministers the $15,000 which this House in its wisdom deemed to be sufficient. If it shall come at last that we cannot help ourselves, we will have to yield something to Senate exactions, and as gracefully as possible; but I am not in favor of this House yielding up any view or opinion it entertains in regard to any subject simply because the Senate may choose to differ from it.

Mr. MONROE. I wish to ask the gentleman from Mississippi whether the second secretaries are restored in this bill.

Mr. SINGLETON. They are.

Mr. GARFIELD. I move to amend by striking out the last word. I wish to make a suggestion, not in the spirit of antagonism. I think every man familiar with the business of the Appropriations Committee recognizes this fact, that it is a very dangerous thing in the practice of this House to leave a very large proportion of our legislative work in the hands of conference committees, especially as conference committees are always pressed for time in the last days of the session. Now we have before us a bill in regard to which the gentleman in charge of it very plainly intimates we shall be compelled to recede before we get through from the main position taken in it, leaving the points to be finally adjusted in the end by conference committees.

Mr. SINGLETON. Oh, no!

Mr. GARFIELD. That really leaves all of our work here a sort of moot discussion, knowing as we do most certainly that what we are now passing will not be the final shape of the law, but that it is to be left to a committee of six gentlemen at the last end of the session and in the night to determine practically the legislation on this whole subject. Now I do not think the House of Representatives ought to convert itself into a moot debating club, to go through with the form of passing the consular bill, when we know that will not be its final shape.

I want to say another thing. So far as I have studied the current of public thought and of political feeling in this country, no feeling has shown itself more strongly than the tendency of the public mind in the past few months. The man who attempts to get up a political excitement in this country on the old sectional issues will find himself without a party and without support. The man who wants to serve his country must put himself in the line of its leading thought, and that is the restoration of business, trade, commerce, industry, sound political economy, honest money, and honest payment of all obligations. And the man who can add anything in the direction of the accomplishment of any of these purposes is a public benefactor.

Now, among the most important things that lie in this direction is our foreign trade. We have seen it grow up until now we sell abroad more than we buy from abroad by almost $300,000,000. Never in our history has our trade abroad been of such vast proportions and of so great consequence as it is now at the very time when we are discussing this consular and commercial bill. Yet at this time, in view of all this, when we need all our activities in the field of our foreign consulates to take care of this great and growing commerce of the United States, here comes a bill that cuts down deeply, strongly, savagely, unwisely, from what the last House and the last Senate agreed upon and settled after an extended debate.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARFIELD. If the gentleman will allow me a single moment more. I remember very well the able and learned presentation of this case by the gentleman from New York, [Mr. HEWITT,] and at last, after a long struggle, his views prevailed. Now, I hope we will not have the debate upon this subject over again, only to come out at last as we did then. I wish the gentleman from Mississippi [Mr

SINGLETON] would allow this bill to be recommitted to the Committee on Appropriations, in order that it may be reported on the basis of the law of the last session.

Mr. SINGLETON. I am glad to hear the gentleman state what he does to-day in regard to the increase of our commerce. It is well known that since the democratic party has had control in this House we have been constantly cutting down expenses of the consular and diplomatic service which we deemed were not necessary, and the cry has been all the while, "You will cripple if not destroy our commerce." Yet, notwithstanding all that, the gentleman says the commerce of the country has continued to increase, showing that our foreign intercourse has not been crippled by the reductions which we have heretofore made.

The gentleman says that we now are cutting down savagely and unwisely. I think he has not examined the bill or he would not have made that declaration. By the law of last year there was appropriated $1,076,135. By the bill now reported the amount is fixed at $1,038,435. That is a very small difference, and not sufficient to make the House determine that it will not hold on to its idea of economy. The House, I think, should insist upon the position it has heretofore taken and keep upon the line which it has established for the past few years. It will not do to say that because the Senate may entertain different views upon the subject, therefore the House must surrender at once. How does the gentleman know that the Senate will not agree to this bill? Has he had any indication of that fact which he can lay before this House? It may well be supposed that they will yield to the opinion of the House, coming as its members do immediately from the people and representing the popular will more directly than does the Senate. Is it not as reasonable to suppose that they will yield to our opinions as that we must give way to theirs? I hope that the House, having agreed upon this bill at the last session and the session before, (only that we cut a little deeper the first year,) will not back down from its position.

Mr. GARFIELD. I withdraw my formal amendment.

Mr. HEWITT, of New York. I renew it for the purpose of asking the gentleman from Mississippi a question. Did I understand the gentleman correctly as saying that the reports of the Fifth Auditor showed that the contingent expenses of our foreign missions had increased during the last year?

Mr. SINGLETON. I did not so state. I said that the expenses had increased, but I did not say what expenses. And I referred particularly to the expenses of the mission to France.

Mr. HEWITT, of New York. It was only the expenses of the mission to France of which the gentleman spoke?

Mr. SINGLETON. That was what I spoke of; but I think the same will be found true in other cases.

Mr. HEWITT, of New York. I find by examining the report of the Fifth Auditor for the fiscal year ending June 30, 1877, that the contingent expenses of all the foreign missions amounted to $60,401.02. I find by referring to his report for the fiscal year ending June 30, 1878, that the contingent expenses of all the foreign missions amounted to $50,308.78, showing a saving of a little over $10,000 during the last fiscal year in the amount for the contingent expenses.

I hold that this is due to the care with which the Committee on Appropriations perfected the bill on this subject at the last session. I find in reference to the consulates that the contingent expenses for 1877 were $119,988, while for 1878 they are $110,000, showing also a saving during the last year of about $10,000 on contingent expenses.

I trust that the economy thus introduced into the expenditures of the Government will be continued. I do not propose to discuss the main question. At the last session I went over that ground very fully; and last night I did what I very rarely do—I read over my own speech made at the last session on this subject to see whether I had anything to take back; and I do not wish to take back anything I then said.

I believe that the diplomatic expenses of this Government can be largely reduced. I believe that we can dispense with many of the minor missions. I am in favor of doing so. I believe that we can consolidate missions with great advantage; and I think the reform we should attempt in this direction will be appreciated by the country at large. But so long as we maintain missions, so long as they are provided for in our appropriation bills, I am not in favor of inadequate compensation. In the Forty-fourth Congress I stated as the result of my personal examination that the salaries allowed to our foreign ministers were not in my judgment excessive. I repeat that statement now. I think that the sum paid in London and in Paris is not sufficient to meet the legitimate expenses to which the American minister at each of these places is necessarily subjected. I say that no minister in London can by any possibility live within the salary which is now assigned him by law. I am not in favor of an increase; I am in favor of complying with the law as we find it on the statute-book, which allows this minister $17,500. I was not in favor of the proposed reduction at the last session; I am not in favor of it now; but I then expressed the hope, and I now repeat it, that the Committee on Foreign Affairs will in the next Congress (as this is rapidly coming to an end) take up this whole subject, revise the system, improve the means of foreign intercourse, and allow such salaries to those officers who are retained as may enable them to live at foreign ports without degrading the name and the honor of the American people.

[Here the hammer fell.]

Mr. SINGLETON. I do not know whether the gentleman from New York intended to controvert what I said in regard to the cost of the mission to France.

Mr. HEWITT, of New York. I did not.

Mr. SINGLETON. I have before me the report of the Fifth Auditor for the year 1877 and also 1878, and I find, as I have already said, that for 1877 the whole expenses of the mission to France were $27,715, while for the year 1878 these expenses are increased to $30,585.42.

Mr. HEWITT, of New York. I spoke of the aggregate of all the missions.

The CHAIRMAN. The *pro forma* amendment is withdrawn; and the question is on the amendment of the gentleman from Maine, [Mr. HALE.]

The question being taken, there were—ayes 92, noes 99.

Mr. HALE called for tellers.

Tellers were ordered; and Mr. HALE and Mr. SINGLETON were appointed.

The committee divided; and the tellers reported—ayes 98, noes 91.

So the amendment was agreed to.

Mr. SINGLETON. I give notice that I shall ask for a vote on this amendment in the House.

The Clerk read as follows:

For salaries of envoys extraordinary and ministers plenipotentiary to Spain, Austria, Italy, Brazil, Mexico, Japan, and China, at $10,000 each, $70,000.

Mr. HALE. I move to amend by striking out "$10,000" in the paragraph just read, and inserting "$12,000;" also by striking out "$70,000" and inserting "$84,000." I will take no time in discussing this amendment. It is in the same line as the amendment just adopted.

Mr. SINGLETON. I will simply say that the bill on this subject as passed at the last session reduced these salaries from $12,000 to $10,000.

The question being taken on the amendment of Mr. HALE, it was not agreed to; there being—ayes 83, noes 92.

The Clerk read as follows:

For salaries of envoys extraordinary and ministers plenipotentiary to Chili and Peru, at $8,000 each, $16,000 each.

Mr. ATKINS. I move to amend this paragraph by striking out after "$16,000" the word "each," which is evidently a mistake.

Mr. SINGLETON. This amendment is all right.

The amendment was agreed to.

The Clerk read as follows:

For ministers resident at Sweden and Norway, Turkey, Venezuela, Hawaiian Islands, and the United States of Colombia, at $7,500 each, $37,500.

Mr. CONGER. I move to amend the paragraph just read by inserting after Norway the words "Belgium, Netherlands;" also by striking out at the end of the paragraph "$37,500" and inserting "$52,500." I cannot understand why the ministers to these two countries are omitted in this bill. When I inquired about this matter of the gentleman who reports the bill, I understood him to say that the bill left these ministers as they are under the present law; but I may have misunderstood him. Our commercial relations with Belgium and the Netherlands are as important as with any other nation in the world. From these countries we have, perhaps, a larger immigration than from any other source, so that in this respect there is more need of a minister than with regard to any other nation. I think that the discussion had last year on this point must have satisfied those who remember it that these are important places and that ministers to them should be retained. I will not prolong the discussion, for I do not think it necessary.

Mr. SINGLETON. I hope this amendment will not prevail. I know that this subject was fully discussed at the last session, and the House determined not to retain these ministers as they were not considered important. We have three or four consuls in Belgium. We have one at Antwerp and one at Brussels at $2,500 each. We have a sixth-class consul at Verviers and one at Liege, at $1,500 each. It is unnecessary we should have a minister at Belgium at all.

Mr. SPARKS. State whether the bill of last year has it in or not?

Mr. SINGLETON. The bill as it passed before going to the Senate?

Mr. SPARKS. Yes.

Mr. SINGLETON. It did not. The law as it passed the House finally did contain it. It was restored by the Senate.

Mr. SPARKS. The law, then, has it in?

Mr. SINGLETON. It has.

The committee divided; and there were—ayes 82, noes 83.

Mr. CONGER demanded tellers.

Tellers were ordered; and Mr. SINGLETON and Mr. CONGER were appointed.

The committee again divided; and the tellers reported—ayes 86, noes 91.

So the amendment was rejected.

The Clerk read as follows:

For salary of chargé d'affaires to Portugal, $5,000.

Mr. MONROE. I offer the following amendment to come in immediately after the thirty-eighth line. I send it up to the Clerk to be read.

The Clerk read as follows:

For salary of chargé d'affaires to Greece, $5,000.

Mr. MONROE. Mr. Chairman, as I understand it, the law which

provides for a chargé d'affaires to Greece has never been repealed, but for a year or two past the appropriation for the salary of that officer has been omitted.

I hold in my hand a letter addressed by the Secretary of State to the chairman of the Committee on Foreign Affairs, in which he calls attention to the serious inconvenience which has resulted from the omission to make the proper appropriation for salary of the chargé d'affaires to Greece, and I do not know that I can do any better than to send up to the Clerk and have read the few sentences from the letter of the Secretary which refer to that matter. They seem to me to make it plain we ought to restore that appropriation, and hence I have offered this amendment.

The Clerk read as follows:

The renewal of the appropriation formerly made of $5,000 for the salary of a chargé d'affaires to Greece is respectfully but earnestly requested. At this juncture in the affairs of Eastern Europe, when the hopes of peace and good-will based on the arrangement of Berlin may at any time be dispelled by reason of the evident discontent of the Greeks, the presence of a responsible diplomatic representative at Athens is deemed to be very necessary.

Indeed, so intensely was the Department convinced of this necessity that it has requested the incumbent of the mission to continue at his post and discharge his diplomatic functions under his appointment until such time as Congress might revise its late action in failing to make an appropriation for his salary. This Mr. Read has consented to do at much personal inconvenience and loss. In addition to the usual duties of his office, the chargé d'affaires has recently been instructed to open negotiations with the Greek government for the conclusion of an extradition treaty with that country, the only one of the European Mediterranean powers with which no treaty exists to that end. I trust that your committee will take such steps as will restore the appropriation for the mission to Greece, in the interest of the public service and of the development of our Mediterranean trade.

Mr. MONROE. I have only to add that this appropriation is reported to Congress in the regular estimates from the Department of State; and in addition to furnishing those estimates the Secretary of State, on his responsibility as an officer, takes this further opportunity to urge upon Congress the importance of the restoration of this salary.

Mr. HEWITT, of New York. Mr. Chairman, Greece is an example in point of the remark which I made when I addressed the House a few moments ago. It is an inconsiderable power; it has no political weight in the affairs of the world; and whatever the treaty of Berlin may do in Europe, it cannot in any wise have any effect on the interests of this country. Whether the area of Greece shall be enlarged by the addition to her northern borders of a portion of the plains of Macedonia, or otherwise, can be of no consequence to us. We maintain a minister already at Turkey. During the whole time of the Turkish war that minister was endeavoring to communicate some intelligence of value to this Government. His dispatches have been published; I have read such as the Secretary of State has given to the world, and I find that in no case did he ever succeed in communicating anything to this Government which was of any consequence to us or which had not been anticipated by the newspapers.

In regard to Greece, there is no center of political intelligence at that point. If we have commercial interests there let them be taken care of by consuls. Our trade is inconsiderable, our political relations a nullity; and as to the present incumbent I wish to speak of him with due respect; but nevertheless if gentlemen will take the trouble to read his dispatches they will come to the conclusion the less we have of them the better the country will be served.

I therefore oppose the appropriation as being exactly contrary to the policy which I think ought to be pursued by this Government, the maintenance at most of two or three legations at prominent courts, subordinating all other interests to their control, and protecting such commercial interests as we may have by the enlargement of our consular system.

Mr. BACON. I trust very sincerely the amendment will prevail. If my memory serves me the United States was the first nation to recognize the independence of Greece, and we have always taken the deepest interest in the fortunes of that country and have always maintained relations with it. Mr. Reed, our minister, a most accomplished gentleman, has remained there at his own expense on account of the importance of the station, and now all that is asked is that we restore the mission as it was before. I hope for the honor of the country and the reputation of Greece, her name and fame, we shall vote this small appropriation, especially as the Secretary of State has urged it upon Congress.

The question being taken, there were—ayes 48, noes 82.

So (further count not being called for) the amendment was not agreed to.

Mr. CAIN. I move to amend by inserting at line 34 "$4,000" instead of "$2,500;" so that the paragraph will read:

For minister resident and consul-general to Liberia, $4,000.

Mr. SINGLETON. We cannot go back. We have passed that paragraph.

The CHAIRMAN. The committee had passed the paragraph, but the Chair hopes there will be no objection to the gentleman from South Carolina recurring to it, as he is not in the habit of troubling the House. If there be no objection, the Chair will entertain the amendment.

Mr. SPARKS. The gentleman from Mississippi [Mr. SINGLETON] objected to going back.

The CHAIRMAN. Is there objection to returning to the paragraph indicated by the gentleman from South Carolina?

Mr. SINGLETON. I object.

The Clerk resumed the reading of the bill, and read the following paragraph:

For salaries of the secretaries to the legations at Austria, Italy, Mexico, and Spain, at $1,800 each, $7,200.

Mr. HEWITT, of New York. I should like to call the attention of my friend the chairman of the subcommittee to an amendment which I think had better be inserted at this point. It is as follows:

In line 46, after the word "Mexico," insert "Brazil;" and in line 47 strike out "$7,200" and insert "$9,000;" so that it will read:

For salaries of the secretaries to the legations at Austria, Italy, Mexico, Brazil, and Spain, at $1,800 each, $9,000.

It will be remembered that this matter was thoroughly discussed in the House at the last session. It was proposed to devolve the duties of the secretary of legation at Brazil on the consul-general. My friend from Ohio [Mr. MONROE] who had himself been consul-general at Rio Janeiro made it so clear that such a consolidation of duties was impossible, and the necessity of a secretary at Brazil in consequence of the increasing trade is so obvious, that I suggest to my friend the chairman of the subcommittee that he should accept the amendment which I have offered.

Mr. SPARKS. There is a consul-general there now.

Mr. HEWITT, of New York. The honorable gentleman from Ohio made it plain at the last session that the consul-general could not perform the duties of secretary of legation, the duties of the secretary being at the court in a town thirty-five or forty miles north of Rio, while the consul-general has to stay in Rio. I moved at the last session to strike out that item but I am now convinced that it is a great damage to the public interest not to have a secretary of legation at Brazil.

Mr. SINGLETON. I agree fully with the gentleman from New York as to this matter. The efforts we are making now to get the Brazilian trade and to encourage the friendly relations between the two countries make it important we should adopt this amendment, and I accept it very cheerfully.

The amendment was agreed to.

The Clerk read the following paragraph:

For salaries of the second secretaries to the legations at Great Britain, France, and Germany, at $2,000 each, $6,000.

Mr. FORT. I offer the following amendment:

In line 49 strike out the words "and Germany" and insert the word "and" after "Great Britain;" and in line 50 strike out "$6,000" and insert "$4,000;" so that it will read:

For salaries of the second secretaries of legations at Great Britain and France, at $2,000 each, $4,000.

I offer this amendment not merely upon my own judgment, but from having learned from those who have had much experience in foreign service that this second secretary is not necessary; and I call upon the chairman of the Committee on Appropriations to permit a letter addressed to him by Hon. E. B. Washburne to be read, which I think will show this office is not necessary.

Mr. ATKINS. I concur most fully with the gentleman from Illinois in the motion he has made, and I most cheerfully submit the letter of Mr. Washburne. I served with that gentleman here twenty years ago, and I believe him to be an eminently practical man and have great confidence in his judgment. I think the amendment is a proper one.

The Clerk read as follows:

My own judgment is that a second secretary is needed in London, but at no other legation. There was never the least necessity for a second secretary at Berlin. A second secretary there was as absolutely useless as a minister to Greece.

E. B. W.

Mr. SINGLETON. I certainly shall not object to the striking out of that portion of the paragraph as it comes from the other side of the House. I wish to say, however, that the Secretary of State, Mr. Evarts, has laid before the committee a voluminous correspondence between himself and the minister at Berlin, in which he insists that he cannot get along unless he has this second secretary. The Secretary of State has very earnestly requested that this office be continued, and that an appropriation be made to pay the party who fills it. But if it shall be deemed proper by the friends of the Secretary upon the statement of Mr. Washburne to strike this out, as it is in the line of economy, I do not feel myself at liberty to object.

Mr. FORT. I am informed that the principal secretary can attend to all the duties very easily.

Mr. SPARKS. I ask my colleague if his amendment covers France?

Mr. FORT. No, sir. It only proposes to strike out the office of second secretary of legation in Germany.

Mr. WILSON. I desire to have read an extract from the letter of Secretary Evarts on this subject.

The Clerk read as follows:

I beg leave to add my own earnest representations to those of the ministers for the continuance of the second secretaries at London, Paris, and Berlin.

The complex details and great amount of the work devolving upon those legations, and the need of responding to repeated demands on the part of the American traveling public in those frequented capitals make the services of a second secretary imperatively necessary, and it is believed that the performance of the labor of the first-class missions with the aid of a single secretary is utterly impossible. Had it not been for the generous abnegation of the present incumbents in remaining at their posts without compensation, it is certain that the utility of those three legations would have been seriously impaired during the past five months. The failure to provide compensation for second secretaries in the current appropriation act was not in consequence of any suggestion on the part of this Department, and had the proposal to make such a change been intimated to it, I am satisfied that the views

of the Department and the needs of the public service would have prevailed to prevent the omission.

Mr. CLYMER. I have very great respect, in common doubtless with every member of this House, for the gentleman from Illinois, Mr. Washburne, upon whose suggestion it is proposed to drop from this bill the second secretary of legation at Berlin. But it does seem to me that we may be acting inconsiderately. It cannot be that that gentleman has the same knowledge of the wants of that legation as the very estimable gentleman, Mr. Bayard Taylor, who is the minister to that court. From my knowledge of Mr. Taylor I do not think it possible that he would make a solemn statement to the Department of State in regard to the necessity for this second secretary unless such a necessity really existed.

When we consider the enormous German population of this country, constantly applying to the legation at Berlin for information in reference to many matters relating to person and property which affect them here and there, I can well see that at no other court in Europe may there be such an amount of correspondence as at Berlin. I would therefore rather be inclined to respect the judgment of our minister there than the judgment of one who can have no other knowledge in reference to it than from hearsay and by reason of his own experience as minister to France.

I do not wish to be extravagant in regard to the public service, as every one will bear me witness. Yet I may say that in regard to so inconsiderable a sum as we may appropriate here I can understand that by depriving the mission of it we may be doing great injustice to vast numbers of people, and impose labors that it may be inconvenient and almost impossible for one secretary to perform. I therefore beg the House not to act hastily upon this matter, and not to strike out this appropriation without some better information than we now have.

The question was taken upon the amendment moved by Mr. FORT, and it was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

For the consuls-general at Vienna, Frankfort, Rome, and Constantinople, each, $2,500; $10,000.

Mr. HEWITT, of New York. I move to amend the paragraph just read by inserting after the word "Rome" the word "Athens," so that we may have a consul-general in Greece; also, by striking out at the end of the paragraph "$10,000" and inserting "$12,500."

Mr. SINGLETON. I have no objection to that; I think we should have some representative in Greece. Upon an examination of the bill I find that no provision is made for a representative in that country.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

SCHEDULE C.

Class VII.—At $1,000 per annum.

GREAT BRITAIN.

Ceylon, Gaspé Basin, Windsor, (Nova Scotia.)

Mr. HALE. I desire to move an amendment in regard to three different consulates now existing, and to which I think there will be no objection. I do not propose to create any new consulates, but to restore some that this bill proposes to abolish. And I will say to the gentleman in charge of the bill [Mr. SINGLETON] that I will offer no other amendments after this. I move to amend by inserting after the paragraph just read the words:

Venice, Nantz, Stettin.

The question was taken upon the amendment moved by Mr. HALE; and upon a division it was not agreed to—ayes 63, noes 80.

MESSAGE FROM THE SENATE.

The committee rose informally, and the Speaker resumed the chair.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed and requested the concurrence of the House in a bill of the following title:

A bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Navy.

The message further announced that the Senate requested the House of Representatives to transmit to the Senate a copy of the testimony of one James E. Anderson relative to Hon. STANLEY MATTHEWS, a member of the Senate from the State of Ohio, understood to have been taken before one of the committees of the House of Representatives.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The Committee of the Whole resumed its session, and proceeded with the consideration of the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

The Clerk resumed the reading of the bill and read the following:

For expenses of shipping and discharging seamen at Liverpool, London, Cardiff, Belfast, and Hamburg, to be allotted as may seem proper to the Secretary of State, $6,000: *Provided*, That the fees collected at these ports for shipping and discharging seamen shall be paid into the Treasury as required by law.

Mr. HEWITT, of New York. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

And the President is requested to revise the tariff of consular fees and prescribe such rates as will make them conform as nearly as may be to the fees charged by other commercial nations for similar services.

Mr. HEWITT, of New York. It is well known, Mr. Chairman, that American ships have very nearly disappeared from the face of the ocean. It is one of the great problems which Congress must solve at some future day, by what process those ships are to be restored. For myself I have no hesitation in saying that I think the true remedy is to authorize American citizens to buy ships in the cheapest markets, whether at home or abroad.

Under international law and under treaties, Germans, Norwegians, Swedes, and all other nations may go to the cheapest markets for ships, bring them into our ports, carry away our products, and bring back return cargoes. The only human being on the face of the habitable globe who is prohibited from going where he can get a cheap ship is the American citizen. The remedy is is our hand, and that is to permit our citizens to buy ships where they can buy them most cheaply. But there are minor difficulties which we can correct here and now. I have taken some trouble to ascertain the petty exactions which are imposed upon American ship-owners in the pursuit of their business; exactions which are imposed by no other commercial nation of the world. I hold in my hand an original bill presented by the consul of the United States at Liverpool to the captain of the American ship Hamilton Fish, almost the last of the old liners left upon the ocean. I find that that bill for consular fees amounts to £21 2*s*. If the same service had been rendered by a British consul to a British ship under the British tariff of fees the bill would have amounted to £4 12*s*. 6*d*.

Therefore American ship-masters, and of course American commerce, are subjected by our Government to charges at least five times as great as those charged against the British ship by the British consul. Now, it is simply impossible that American commerce can sustain itself against such discriminations imposed by its own Government. Under the law the President of the United States has the power to correct these discriminations. In my remarks at the last session I called attention to this matter; but nothing was done in regard to it. It is true that the question was referred to, not in the bill, but only in a speech; still I think the suggestion was so important and obvious that it ought to have attracted attention. I now ask this House to put the request in the form of an amendment to this bill. It appropriates no money; it only calls the attention of the Chief Executive to a grievance to which a commercial nation ought not to be subjected for one hour.

I hold in my hand the American fee-list, by which it will be seen that one hundred and twenty-nine different acts are charged for in sums varying from $2.50 to twenty-five cents. Here also is the British fee-list, comprising thirty-nine items, not one of which is more than 10*s*., and nearly all of which are 1*s*. or 2*s*.

These facts are known at the State Department; they are known to the Government; they are published in all the consular regulations; and I hope that in thus calling attention to the subject we may awaken the administrators of this Government to a sense of their duty in regard to the shipping and the commerce of this country.

The amendment of Mr. HEWITT, of New York, was agreed to.

The Clerk read as follows:

For allowance to widows or heirs of deceased diplomatic and consular officers for the time that would be necessarily occupied in making the transit from the post of duty of the deceased to his residence in the United States, $5,000. And the salaries provided in this act for the officers within named respectively shall be in full for the annual salaries thereof from and after the 1st day of July, 1878; and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Mr. SINGLETON. I move to amend by striking out, in line 331, "1878" and inserting "1879."

The amendment was agreed to.

Mr. HEWITT, of New York. I wish to move an amendment, to which the gentleman in charge of this bill will, I think, promptly accede. In the Book of Estimates I find submitted the following estimate:

Revising and editing consular regulations:

For expenses of revising and editing the consular regulations, $5,000, or so much thereof as may be necessary, to be available immediately.

Then follows this note:

NOTE.—The existing diplomatic and consular regulations having been rendered inaccurate by reason of subsequent legislation, decisions of the Departments, and changes in treaties, it is deemed very desirable that a new edition should be published at once.

Now I move the following amendment, to come in after the paragraph last read by the Clerk:

For expenses of revising and editing the consular regulations, $3,000, or so much thereof as may be necessary, to be available immediately.

I think that, in connection with the amendment recently adopted as to consular fees, this amendment is absolutely indispensable.

Mr. SINGLETON. I think there can be no objection to this amendment. If these regulations are to be revised, it is necessary that we should appropriate money to pay for the work. I therefore make no objection.

The amendment was agreed to.

The Clerk read as follows:

For diplomatic and consular service, to be expended in the discretion of the President, $20,000.

Mr. WHITTHORNE. I move to amend the paragraph just read by striking out "$20,000" and inserting the following:

Seventy thousand dollars: *Provided*, That $50,000 of said sum, or so much thereof as may be necessary, shall be used by the President, in his discretion, for the purpose of negotiating such treaties with Mexico, the Central and South American states as will promote and facilitate the commerce and trade of the United States with said countries.

Mr. SINGLETON. I make a point of order on this amendment. It does not properly belong to this bill.

Mr. WHITTHORNE. I trust that my friend from Mississippi [Mr. SINGLETON] will not insist on this point of order. If he does, I should like to be heard upon it for one moment.

The CHAIRMAN. The Chair will hear the gentleman from Tennessee upon the point of order.

Mr. WHITTHORNE. The paragraph as it stands in this bill provides:

For diplomatic and consular service, to be expended in the discretion of the President, $20,000.

My amendment proposes simply to increase the amount of this appropriation, and in increasing it directs how a portion of the fund shall be used. I submit that it is germane, that it is pertinent, that it is within the line of the law and within the line of the bill itself.

Now I hope my friend from Mississippi [Mr. SINGLETON] will indulge me just one moment on the merits of the question.

Mr. SINGLETON. Certainly. I do not wish to press the point of order until I have heard what the gentleman has to say.

Mr. WHITTHORNE. Then, with the indulgence of the Chair, I would like to direct the attention of the House for one moment to the important subject indicated in the amendment I have had the honor to propose for the consideration of the committee. It contemplates that the efforts of the executive department of the Government should be directed to opening and increasing the trade of the United States with Mexico, the Central American states, and the South American states.

Every gentleman on this floor is familiar with the astonishing fact that this country is now by mutiplied millions producing more than our people can consume. We present to the world the astonishing fact that our exports largely exceed our imports. And it is a fact that our constituents at home appreciate that for their products they get but little return. And why? Because their products are put upon the markets of the world at prices dictated by the purchasers. With markets open to us and open to our industries, with fields of enterprise and trade, it is to be expected our industries will then receive a commensurate return or reward. The legislative department of the Government cannot do it of itself, and it behooves the executive department to aid the industries of the country in opening those markets.

When we come, Mr. Chairman, to look abroad for one moment——

The CHAIRMAN. The Chair understands the gentleman from Tennessee to be discussing the question whether this amendment is in order or not.

Mr. WHITTHORNE. I understood I was speaking by the indulgence of the Chair and by the consent of my friend from Mississippi.

The CHAIRMAN. The Chair prefers the point of order shall be disposed of first, and then the gentleman can be heard on the merits of the proposition.

Mr. SINGLETON. I must insist on my point of order, but I am willing to hear what the gentleman has to say, and therefore have withdrawn the point of order for a moment.

Mr. WHITTHORNE. I had said but a word or two on the point of order and had assumed the Chair and the gentleman from Mississippi were indulging me in a few words on the merits of the question.

The CHAIRMAN. If there be no objection the gentleman will proceed, as the Chair certainly has no objection to such indulgence.

Mr. WHITTHORNE. I was about saying, when we come to look at the trade of those countries with which, so to speak, I invite intercourse, the legislative department of the Government should clothe the executive department with the means of opening that intercourse; that when we come to look at the trade of those countries the fact is presented that out of a trade of nearly $600,000,000 in value at this time, although they are our next-door neighbors and although we should command their trade, yet the fact is the United States does not possess one-fourth of that amount. And I say, although there is demand for our agricultural products, for our agricultural implements, for our manufacturing wealth, it is yet reserved for other and more distant countries to supply that demand. We have the means, we have the ability; in fact we do supply that demand, but in so doing we make use of another country, to whom is given our carrying trade. As we stand to-day at the very borders of Mexico, that country whose wealth and industry are open to us now, counted and represented in our exports by from seven to eight millions of dollars, the time is not far distant when, with proper commercial relations, the value of that trade would be worth $150,000,000 to $250,000,000 to our industries and our labor. It is an empire of wealth, and it behooves the statesmanship of this country to assume a control—a control not by conquest or coercion of any kind, but by commercial intercourse. There we stand with our labor and enterprise, railroad, mining, and otherwise, to-day at the threshold of Mexico, ready to cross its border in friendly relations, needing but the aid of our own Government to secure that protection of American labor and enterprise to have them enter there. It is a subject of high statesmanship on the part of our Government, and this is the opportunity, the auspicious moment, for that work.

The CHAIRMAN. The gentleman's time has expired.

Mr. SINGLETON. Mr. Chairman, I concur with the gentleman from Tennessee in all he has said as to the importance of this commerce, but I think it is a question which belongs more properly to the Committee on Commerce. That committee should take this matter into consideration and frame a bill with all the details looking to the accomplishment of the object the gentleman has set forth. I must persist in my point of order that the amendment is not germane to the matter under consideration. We have our minister and chargés and consuls there, and I cannot understand why this amendment is necessary.

Mr. WHITTHORNE. One word in reply. For what purpose is $20,000 to be used? It is put at the discretion of the President. That is the law; that is the precedent heretofore. My friend proposes to continue it in this bill. Why not? If $20,000 be legal, right, and proper, why will not $50,000 be also legal, right, and proper, or $70,000 or $100,000? I propose instead of $20,000 to make it $70,000. If we can put in $20,000 why cannot we put in $70,000? If the one is in order certainly the other is in order. The only point is that I propose by the amendment to direct how a portion of it shall be used. Is it out of order, I say, in voting $20,000 to direct the mode and manner in which it shall be used and for what purpose it shall be used?

I submit, whether you look to the rules of common sense or to the bill itself, that the proposed amendment is in order.

Mr. SINGLETON. The $20,000 is paid at the discretion of the President for the purpose of assisting the carrying on properly our consular and diplomatic intercourse with the world; not for the purpose of establishing commercial relations. The gentleman from Tennessee proposes to introduce an entirely new subject in this bill. I must insist on the point of order.

The CHAIRMAN. The Chair will decide the point of order raised by the gentleman from Mississippi. The provision of the existing law which the pending bill proposes to re-enact is as follows:

For diplomatic and consular service, to be expended in the discretion of the President, $20,000.

The amendment proposes, first, to strike out "$20,000" and insert "$70,000." That portion of the amendment is in order unquestionably; because, this being an appropriation already authorized by law, it in is order to increase it or diminish it at the discretion of the committee. The other portion of the amendment is a proviso to the effect that $50,000 of the money appropriated shall be expended in a particular way. It simply directs the manner in which a portion of this appropriation shall be expended, and is, in the opinion of the Chair, germane and in order. The point of order is therefore overruled. The question is upon agreeing to the amendment.

Mr. SINGLETON. I hope the amendment will be voted down. It certainly is a very unusual course to set the President of the United States to making treaties with foreign powers and to put $50,000 in his hands for that purpose. I hope the gentleman from Tennessee will get at his idea and carry it out in some other way. I do not think this is exactly the mode which ought to be pursued.

The amendment was not agreed to.

Mr. SINGLETON. I move that the committee rise and report the bill back to the House with the amendments.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, and had instructed him to report the same back to the House with sundry amendments.

Mr. SINGLETON. I move the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

The SPEAKER. Are separate votes desired on the amendments?

Mr. SINGLETON. I desire a separate vote on the first amendment.

Mr. HALE. I hope my friend will not take up time unnecessarily by calling the yeas and nays on that little amendment.

Mr. EDEN. Is debate in order?

The SPEAKER. It is not.

Mr. HALE. There is another appropriation bill ready for the House to proceed with.

Mr. SINGLETON. I think it my duty to insist upon a vote on this amendment that we may know how to act on it in committee of conference.

Mr. ATKINS. I call for the yeas and nays.

Mr. HALE. Why waste so much time over a little amendment?

The yeas and nays were ordered.

Mr. HALE. Will the Chair state the amendment?

The SPEAKER. The effect of the amendment is to increase the pay of the ministers to Great Britain, France, Germany, and Russia $2,500 each.

Mr. HALE. Or rather to restore their pay to what it is now; and in the Committee of the Whole the amendment was carried.

The question was taken; and there were—yeas 107, nays 117, not voting 67; as follows:

YEAS—107.

Aldrich,	Davis, Horace	Ittner,	Reed,
Bacon,	Deering,	James,	Rice, William W.
Bagley,	Denison,	Jones, John S.	Robinson, G. D.
Baker, John H.	Dwight,	Joyce,	Robinson, M. S.
Ballou,	Eames,	Keifer,	Ryan,
Bayne,	Errett,	Keightley,	Sampson,
Blair,	Evans, I. Newton	Ketcham,	Shallenberger,
Bliss,	Evans, James L.	Lapham,	Sinnickson,
Boyd,	Foster,	Lathrop,	Smalls,
Brentano,	Freeman,	Majors,	Smith, A. Herr
Brewer,	Gardner,	Marsh,	Starin,
Briggs,	Giddings,	McCook,	Stone, John W.
Bundy,	Glover,	McGowan,	Strait,
Cain,	Hale,	McKinley,	Thompson,
Calkins,	Hanna,	Metcalfe,	Thornburgh,
Camp,	Harmer,	Mitchell,	Tipton,
Cannon,	Harris, Benj. W.	Monroe,	Townsend, Amos
Caswell,	Haskell,	Neal,	Townsend, M. I.
Chittenden,	Hayes,	Norcross,	Van Vorhes,
Claflin,	Hazelton,	O'Neill,	Wait,
Clark, Rush	Hendee,	Overton,	Watson,
Cole,	Henderson,	Page,	Williams, Andrew
Conger,	Hiscock,	Patterson, G. W.	Williams, C. G.
Cox, Jacob D.	Hubbell,	Pollard,	Williams, Richard
Cummings,	Humphrey,	Potter,	Willits,
Cutler,	Hungerford,	Pound,	Wren.
Danford,	Hunter,	Rainey,	

NAYS—117.

Acklen,	Durham,	Killinger,	Ross,
Atkins,	Eden,	Kimmel,	Scales,
Banning,	Eickhoff,	Landers,	Schleicher,
Bell,	Elam,	Ligon,	Shelley,
Bicknell,	Ellis,	Mackey,	Singleton,
Blackburn,	Evins, John H.	Maish,	Slemons,
Blount,	Felton,	Manning,	Southard,
Boone,	Finley,	Martin,	Sparks,
Bouck,	Forney,	Mayham,	Springer,
Bridges,	Fort,	McKenzie,	Steele,
Bright,	Fuller,	McMahon,	Townshend, R. W.
Brogden,	Garth,	Money,	Turner,
Buckner,	Gause,	Morgan,	Turney,
Cabell,	Goode,	Morrison,	Vance,
Caldwell, John W.	Gunter,	Morse,	Warner,
Caldwell, W. P.	Hamilton,	Muldrow,	White, Harry
Campbell,	Hardenbergh,	Muller,	White, Michael D.
Candler,	Harris, Henry R.	Oliver,	Whitthorne,
Chalmers,	Harris, John T.	Phelps,	Wigginton,
Clark, Alvah A.	Harrison,	Phillips,	Williams, A. S.
Clarke of Kentucky,	Hartzell,	Powers,	Williams, James
Clark of Missouri,	Hatcher,	Price,	Williams, Jere N.
Clymer,	Henry,	Randolph,	Willis, Albert S.
Cobb,	Herbert,	Rea,	Wilson,
Covert,	Hewitt, G. W.	Reagan,	Wood,
Cravens,	House,	Rice, Americus V.	Wright,
Crittenden,	Hunton,	Riddle,	Young.
Davis, Joseph J.	Jones, Frank	Robbins,	
Dibrell,	Jones, James T.	Roberts,	
Dickey,	Kenna,	Robertson,	

NOT VOTING—67.

Aiken,	Crapo,	Jorgensen,	Sexton,
Bailey,	Culberson,	Kelley,	Smith, William E.
Baker, William H.	Davidson,	Knapp,	Stenger,
Banks,	Dean,	Knott,	Stephens,
Beebe,	Douglas,	Lindsey,	Stewart,
Benedict,	Dunnell,	Lockwood,	Stone, Joseph C.
Bisbee,	Ellsworth,	Loring,	Swann,
Bland,	Ewing,	Luttrell,	Throckmorton,
Bragg,	Franklin,	Lynde,	Tucker,
Browne,	Frye,	Mills,	Veeder,
Burchard,	Garfield,	Patterson, T. M.	Waddell,
Burdick,	Gibson,	Peddie,	Walker,
Butler,	Hart,	Pridemore,	Walsh,
Carlisle,	Hartridge,	Pugh,	Ward,
Collins,	Henkle,	Reilly,	Willis, Benj. A.
Cook,	Hewitt, Abram S.	Sapp,	Yeates.
Cox, Samuel S.	Hooker,	Sayler,	

So the amendment was not agreed to.

During the roll-call the following announcements were made:

Mr. HOOKER. I am paired with Mr. CRAPO, of Massachusetts. If he were here, he would vote "ay" and I would vote "no."

Mr. BLAND. I am paired with the gentleman from Massachusetts, Mr. BANKS. If he were here, I should vote "no."

Mr. BELL. My colleague from Georgia, Mr. STEPHENS, is detained at his room by sickness.

Mr. DIBRELL. The gentleman from Texas, Mr. MILLS, is detained by sickness in his family.

Mr. BLISS. My colleague from New York, Mr. LOCKWOOD, is paired with Mr. PUGH, of New Jersey.

Mr. AIKEN. I am paired with Mr. WARD, of Pennsylvania. If he were present, I should vote "no."

Mr. STEWART. I am paired with Mr. DAVIDSON, of Florida.

Mr. FRYE. I am paired with the gentleman from Kentucky, Mr. KNOTT, who is in his room, unwell.

Mr. SAPP. I am paired with Mr. SMITH, of Georgia. If he were here, I should vote "ay."

Mr. STONE, of Iowa. I am paired with Mr. COOK, of Georgia, who is detained at his room by sickness. If he were present, I should vote for the amendment.

Mr. HARRIS, of Massachusetts. My colleague, Mr. CRAPO, is paired with Mr. HOOKER, of Mississippi. If he were present, Mr. CRAPO would vote "ay."

Mr. BURDICK. I am paired with Mr. LYNDE, of Wisconsin. If he were here, I should vote "ay."

Mr. PATTERSON, of Colorado. I am paired with Mr. SEXTON, of Indiana. If he were present, I should vote "no."

Mr. BAILEY. I am paired with Mr. WILLIS, of New York. If he were present, I should vote "ay."

The result of the vote was then announced as above recorded.

The remaining amendments reported by the Committee of the Whole were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SINGLETON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REFUNDING THE PUBLIC DEBT.

Mr. WOOD, by unanimous consent, from the Committee of Ways and Means, reported the bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the refunding of the public debt; which was read a first and second time, recommitted to the Committee of Ways and Means, and ordered to be printed.

DISTRIBUTION OF THE PRESIDENT'S MESSAGE.

Mr. WOOD, from the Committee of Ways and Means, reported the following resolution:

Resolved, That so much of the President's message and accompanying documents as relates to the revenues and expenditures, to the sinking fund, the issuing of certificates of deposit, and the public debt, be referred to the Committee of Ways and Means; that so much as relates to appropriations be referred to the Committee on Appropriations; that so much as relates to the business of the Supreme Court be referred to the Committee on the Judiciary; that so much as relates to our foreign affairs be referred to the Committee on Foreign Affairs; that so much as relates to the yellow-fever epidemic be referred to such committee as may be appointed upon that subject; that so much as relates to the Indian affairs be referred to the Committee on Indian Affairs; that so much as relates to the Army be referred to the Committee on Military Affairs; that so much as relates to coinage be referred to the Committee on Coinage, Weights, and Measures; that so much as relates to the postal affairs be referred to the Committee on the Post-Office and Post-Roads; that so much as relates to naval affairs, to the Committee on Naval Affairs; that so much as relates to agriculture, to the Committee on Agriculture; that so much as relates to education, to the Committee on Education and Labor; that so much as relates to the Library of Congress, to the Joint Committee on the Library; that so much as relates to the District of Columbia be referred to the Committee for the District of Columbia; that so much as relates to the Hot Springs reservation be referred to the Committee on Public Lands; and that so much as refers to the alleged disturbances and irregularities in the recent congressional elections be referred to the Committee on the Judiciary, except that portion relating to the appropriation of money, which shall be referred to the Committee on Appropriations.

Mr. WOOD. The President's message having been referred to the Committee of the Whole, I move that the resolution just read be also referred to the Committee of the Whole.

The motion was agreed to.

Mr. WOOD. I now move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the President's message.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. BLOUNT in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the President's message.

Mr. WOOD. The committee has now under consideration the message of the President and the resolution just referred to it by the House for distributing the message. As that resolution has just been read to the House, it is not necessary that it be again read. If no gentleman desires to make any remarks, or to move any amendment to the resolution, I move that the committee now rise and report the resolution to the House with the recommendation that the same be adopted.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLOUNT reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the annual message of the President, and had directed him to report to the House a resolution providing for its distribution and to recommend that the same be adopted.

Mr. WOOD. I move the previous question upon the adoption of the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. CLYMER. I move that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the naval appropriation bill, and pending that motion I move that all general debate upon the bill be limited to five minutes.

The motion to limit debate was agreed to.

The motion to go into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. HARRIS, of Georgia, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes. All debate upon this bill by order of the House has been limited to five minutes.

Mr. CLYMER. I ask unanimous consent that the first and formal reading of the bill be dispensed with.

There was no objection.

Mr. CLYMER. I have but very few explanations of this bill to make to this committee. It is substantially the bill as it became a law at the last session. It is my pleasure to state to the committee that the estimates of the Secretary of the Navy for the ensuing fiscal year were less than $40,000 greater than the amount appropriated by the bill of last session. In maturing the bill the Committee on Appropriations were enabled, without detriment to the service and with the concurrence of the Navy Department, to reduce the amount asked for by the sum of $133,134.75. The law of last session appropriated the sum of $14,151,603.70. The amount asked for in this bill is $14,018,468.95; making a reduction of the amount which I have already stated. The principal reduction made by this bill is in the Bureau of Clothing and Provisions. The chief items of increase are one of $2,500 for the support of the Naval Academy, and one of about $24,000 for the support and pay of the Marine Corps.

The only change in legislation proposed by this bill is a provision legalizing and authorizing the appointment of a board of visitors at the Naval Academy at Annapolis. Heretofore these visitors have been appointed without warrant of law by the President of the United States. It was thought best by the committee that this practice should be legalized. Hence we have introduced a provision of law precisely similar to that applicable to the Academy at West Point, namely, that the President of the United States shall appoint seven of the visitors, the Speaker of the House three, and the Vice-President of the United States, or the President *pro tempore* of the Senate, as the case may be, shall appoint two.

I believe that these are the salient points of difference between this bill and the law of last session. It is my pleasure to state to the committee that this bill has received the unanimous approval of the members of the Committee on Appropriations. There is no difference of opinion there, and we trust there will be no difference of opinion here.

If at this stage of the proceedings any gentleman desires to propound any question to me, I will be most happy to answer him, if in my power.

Mr. HALE. I wish to say only that this bill has been very carefully prepared, mainly by the gentleman in charge of it, [Mr. CLYMER.] I was one of the subcommittee charged with the preparation of this bill. I believe it has already been arranged satisfactorily to the Department, and there is no portion of the bill to which I for one, representing the minority of the Committee on Appropriations, propose to offer any amendment.

I want to say one word in reference to the old and vexed subject of the pay of the Navy, which has troubled this House as it troubled previous Houses for years, and which now has disappeared as an element of strife, because the gentleman from Pennsylvania [Mr. CLYMER] in preparing the bill on this subject last year did what it is always a good thing to do in appropriation bills. Finding himself confronted with deficiencies which had accumulated from year to year, he looked them squarely in the face and recommended the appropriation of money to pay them all, so as to begin a clean score. Hence in preparing the bill this year he has found plain sailing, because of what was then done; and this bill now very nearly runs itself. The old questions do not arise to trouble either him or any of us, because under his arrangement the pay fixed by law can be readily estimated for and never need be disputed by any member. I hope this bill will go through just as reported.

The Clerk, proceeding to read the bill for amendments, read the first paragraph, providing among other things for "thirty passed assistant paymasters" and "twenty assistant paymasters."

Mr. WHITTHORNE. I wish to ask my friend from Pennsylvania whether in appropriating, for instance, for the assistant paymasters in this bill he takes the number authorized by law or the number actually in service.

Mr. CLYMER. The number actually in service.

The Clerk resumed and concluded the reading of the bill.

Mr. CLYMER. I move that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HARRIS, of Georgia, reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally and particularly the bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes, and had directed him to report the same without amendment and with a recommendation that it pass.

Mr. CLYMER demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. CLYMER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGISTERED BONDS OF MANHATTAN SAVINGS INSTITUTION.

Mr. McCOOK, by unanimous consent, introduced a bill (H. R. No. 5478) to authorize the issue of certain duplicate registered bonds to the Manhattan Savings Institution; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SETTLERS ON PUBLIC LANDS.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 5479) for the relief of settlers on the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MARGARET MEYERS.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 5480) granting a pension to Margaret Meyers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LEAVE OF ABSENCE.

The SPEAKER. The Chair asks leave of absence for to-morrow for those gentlemen of the House who are members of the joint commission on the reorganization of the Army. The object is to allow that commission to sit during the session of the House to-morrow.

There being no objection, leave was granted.

Mr. BRIGHT. I move that the House do now adjourn.

WILLIAM GIBSON.

Mr. MAISH. I ask unanimous consent that a report which has been prepared by the Committee on Naval Affairs upon the memorial of William Gibson, desiring to be placed on the active list of the Navy, be ordered to be printed.

There being no objection, it was ordered accordingly.

PAY OF A DECEASED MEMBER.

Mr. MORSE, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Sergeant-at-Arms be directed to pay to the widow of Frank Welch, late member of the Forty-fifth Congress from Nebraska, the sum of money that would have been due him from the date of his death to the end of the Congress to which he was elected.

Mr. MORSE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CENTENNIAL MEMORIAL OF THE GOVERNMENT.

Mr. FINLEY (by request) submitted the following resolution; which was referred to the Committee of Accounts:

Whereas in pursuance of the act of Congress approved January 18, 1878, the great seal of the United States has been affixed to the Government centennial memorial entitled "The Administrators of the United States Government at the Beginning of its Second Century," which is now on deposit in the Department of State; and

Whereas the said document is the property of an individual, and is liable to removal at any time: Therefore,

Be it resolved, That the Committee on Appropriations be directed to incorporate in the sundry civil appropriation bill such sum as may be sufficient to enable the Secretary of State to purchase the said State paper.

J. J. LINTS.

Mr. TOWNSEND, of Ohio, by unanimous consent, introduced a bill (H. R. No. 5481) for the relief of J. J. Lints; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PUBLIC BUILDING, NEW BERNE, NORTH CAROLINA.

On motion of Mr. BROGDEN, by unanimous consent, a bill (S. No. 1338) to provide for the purchase of a building at New Berne, North Carolina, to be used as a post-office and United States court-house, and for the accommodation of United States internal-revenue officials, and for other purposes, was taken from the Speaker's table, read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ELIZABETH ANN PORTER.

Mr. CHALMERS, by unanimous consent, introduced a bill (H. R. No. 5482) to increase the pension of Elizabeth Ann Porter, widow of William D. Porter, late commodore United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JACOB L. SHINN.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 5483) for the relief of Jacob L. Shinn; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NATIONAL MONUMENT, PLYMOUTH, MASSACHUSETTS.

Mr. HEWITT, of New York, by unanimous consent, from the Committee on Appropriations, reported back the petition of E. S. Toby and others, for aid in the completion of the national monument at

Plymouth, Massachusetts; and the same was referred to the Joint Committee on the Library.

LEAVE OF ABSENCE.

Mr. TURNER, by unanimous consent, was granted leave of absence for eleven days, on account of important business.

RENEAU FEMALE UNIVERSITY.

On motion of Mr. MANNING, by unanimous consent, leave was granted for the withdrawal from the files of the House of the memorial of the Mississippi Legislature, asking the endowment of the Reneau Female University, and also papers relative to a national female university, no adverse report having been made.

ASSISTANT MARSHALS NINTH CENSUS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior relative to the pay of assistant marshals for taking the Ninth Census; which was referred to the Select Committee on the Census.

WAR DEPARTMENT—CONTINGENT FUNDS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of expenditures of the contingent funds of the War Department and bureaus for the fiscal year ending June 30, 1878; which was referred to the Committee on Expenditures in the War Department.

EAST WING WAR, STATE, AND NAVY DEPARTMENT BUILDING.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting estimate of an appropriation for furnishing the east wing of War, State and Navy Departments building; which was referred to the Committee on Appropriations.

TESTIMONY OF JAMES E. ANDERSON.

The SPEAKER laid before the House the following communication from the Senate:

IN THE SENATE OF THE UNITED STATES, *December* 10, 1878.

Resolved, That the House of Representatives be respectfully requested to transmit to the Senate a copy of the testimony of one James E. Anderson, relating to Hon. STANLEY MATTHEWS, a member of the Senate from the State of Ohio, understood to have been taken before one of the committees of the House of Representatives.

Attest:

GEO. C. GORHAM, *Secretary*,
By WM. E. SPENCER, *Chief Clerk*.

Mr. POTTER. I move the request of the Senate for that testimony be granted.

The motion was agreed to.

ELLA LONG.

The SPEAKER. The Chair lays before the House the following request from the Senate.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES, *June* 13, 1878.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. No. 415) for the relief of Ella Long.

Attest: GEORGE C. GORHAM, *Secretary*.

The SPEAKER. There being no objection, the request of the Senate will be granted, as that has been the uniform practice heretofore.

There was no objection, and it was ordered accordingly.

WILLIAM M. KENDALL.

On motion of Mr. BAKER, of Indiana, by unanimous consent, a bill (S. No. 605) for the relief of William M. Kendall was taken from the Speaker's table, read a first and second time, and referred to the Committee on War Claims.

JESSE TURNER AND OTHERS.

Mr. CRAVENS. I ask unanimous consent to take from the Speaker's table Senate bill No. 1038, for the relief of Jesse Turner and others, sureties on the official bond of George W. Clarke, formerly Indian agent, for reference to the Committee of Claims.

Mr. REED. I insist on the motion to adjourn.

The SPEAKER. That cuts off the proposition of the gentleman from Arkansas.

And then (at three o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLACKBURN: The petition of John H. Donovan, captain United States Army, retired, that his name be placed upon the retired list of the Army as colonel—to the Committee on Military Affairs.

By Mr. BOYD: The petition of Andrew Hasmer, for compensation for cotton seized by United States officials and sold—to the Committee on the Judiciary.

By Mr. BUCKNER: A paper relating to the establishment of a post-route from Centre, Missouri, via Cincinnati, to Huntingdon, in the same State—to the Committee on the Post-Office and Post-Roads.

By Mr. HEWITT, of New York: The petition of W. H. Hubbell, for compensation for expert service rendered the House of Representatives in investigating and formulating the metric system to the United States system of coinage—to the Committee on Appropriations.

By Mr. MILLS: The petition of the Baptist General Association of the State of Texas, that the Wichita and other tribes of Indians at the Wichita agency have lands for houses set apart within their reservation to the several families in each tribe—to the Committee on Indian Affairs.

By Mr. O'NEILL: The petition of Thomas H. Rothrock, for a pension—to the Committee on Invalid Pensions.

Also, papers relating to the petition of Frederick Hidelmann, for a pension—to the same committee.

Also, the petition of Samuel M. Thatcher, for a pension—to the same committee.

By Mr. RICE, of Ohio: Papers relating to the pension claim of George W. Watson—to the same committee.

By Mr. SCALES: The petition of David T. Garrett, for a pension—to the same committee.

By Mr. THORNBURGH: The petition of J. B. Tadlock, for compensation for subsistence furnished the United States Army in 1871 and former years—to the Committee on War Claims.

Also, the petition of James S. Fain, late captain Ninth Tennessee Cavalry, for pay from June 30 to October 11, 1864—to the Committee on Military Affairs.

Also, the petition of Mary K. Cooper, of Knoxville, Tennessee, for compensation for the loss of her husband, killed while enforcing the United States revenue laws—to the Committee of Claims.

Also, the petition of James Hines, for a pension—to the Committee on Invalid Pensions.

By Mr. TOWNSEND, of New York: The petition of 938 electors of Rensselaer County, New York, for the early consideration and passage of the bill introduced by Hon. B. F. Butler in relation to the settlement of public lands—to the Committee on Public Lands.

By Mr. TUCKER: The petition of Charles H. Pointer, for a pension—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Michigan: Memorial of Captain A. F. Rockwell, assistant quartermaster United States Army, relating to the improvement of a roadway leading from the Aqueduct Bridge to the Arlington National Cemetery—to the Committee for the District of Columbia.

By Mr. WILSON: The petition of James P. Arnett, for a pension—to the Committee on Invalid Pensions.

By Mr. YOUNG: A paper relating to the claim of J. E. Merriman, for compensation for property destroyed by the forces of the United States in building a fort—to the Committee on War Claims.

IN SENATE.

WEDNESDAY, *December* 11, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

VISITORS TO WEST POINT.

The VICE-PRESIDENT appointed Mr. WINDOM and Mr. WHYTE to attend the next annual examination of cadets at the United States Military Academy at West Point, under the provisions of the Revised Statutes of the United States.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, recommending an appropriation of $50,000 for the fitting up and making ready for occupancy the new State Department building; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the petition of J. L. Frisbee, United States consul at Rio Grande do Sul, Brazil, praying that that consulate be advanced from Schedule C to Schedule B, and the salary of the consul made not less than $1,500; which was referred to the Committee on Appropriations.

Mr. BOOTH presented the petition of John Miller and others, citizens of California, praying for an appropriation for the improvement of the outlet of the Sacramento River; which was referred to the Committee on Commerce.

Mr. CAMERON, of Pennsylvania, presented the petition of James L. Reynolds and A. Wilhelm, sureties of Samuel M. Reynolds, late paymaster in the United States Army, praying to have refunded to them the amount of certain moneys paid by them as such sureties; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1408) relating to the appointment of professors of mathematics in the Navy, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3055) to promote a knowledge of steam engineering and iron-ship building among the students of scientific schools or colleges in the United States, reported it without amendment.

Mr. BLAINE. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 5307) to correct an error of

enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, to report it without amendment.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. BLAINE. I am instructed also to ask, not however to interfere with morning business, the immediate consideration of the bill.

Mr. EDMUNDS. I think it had better go over until we can see it.

The VICE-PRESIDENT. The bill goes over under the rule.

Mr. WINDOM. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, to report it with amendments.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. WINDOM. I give notice that I shall ask the Senate to consider the bill to-morrow.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, reported it with amendments.

Mr. HOAR, from the Committee on Claims, to whom was referred the bill (H. R. No. 2161) for the relief of M. G. Harman, of Virginia, reported it without amendment and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of T. G. Senseney and other heirs of the estate of Jacob Senseney, deceased, praying compensation for the use and occupancy of certain property belonging to the estate of the decedent at Winchester, Virginia, by United States military forces during the late civil war, submitted an adverse report thereon; which was ordered to be printed, and the petitioners were granted leave to withdraw their petition and papers.

He also, from the same committee, to whom was referred the bill (S. No. 960) for the relief of James C. Fox, submitted an adverse report thereon; which was ordered to be printed.

Mr. HAMLIN. The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 860) for the relief of James Fellows, have instructed me to report it adversely and recommend its indefinite postponement. No evidence has been filed with the committee in support of the bill. A communication from the Post-Office Department advises the committee that there is no evidence that there is anything due him.

The VICE-PRESIDENT. Is there a written report?

Mr. HAMLIN. There is no written report.

The VICE-PRESIDENT. The bill will be postponed indefinitely.

BILLS INTRODUCED.

Mr. CAMERON, of Pennsylvania, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1475) for the relief of the sureties, &c., of Samuel M. Reynolds, late additional paymaster of United States Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BECK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 1476) to repeal section 1218 of the Revised Statutes of the United States; which was read the first time by its title.

Mr. EDMUNDS. I should like to hear the bill read at length.

The VICE-PRESIDENT. It will be reported at length.

The bill was read the second time at length, as follows:

Be it enacted, &c., That section No. 1218 of the Revised Statutes of the United States, being in chapter 1, title 14 of said Revised Statutes, which provides that "no person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States," be, and the same is hereby, repealed.

Mr. BECK. I ask that the bill lie on the table informally, as I am not quite sure as to the committee to which I desire it to go.

The VICE-PRESIDENT. The bill will lie on the table, subject to the call of the Senator from Kentucky.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1477) to designate, classify, and fix the salaries of persons in the railway-mail service; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1478) for the relief of settlers on public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1479) relating to assessments for special improvements in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HAMLIN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1480) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop-of-war Vandalia, and for payment of any award made by said commission; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1481) authorizing the construction of a bridge across the Willamette River, between the city of Portland and the city of East Portland, in Multnomah County, State of Oregon; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1482) appropriating $175,000 for the construction of a revenue-marine steamer for services in Alaskan waters; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1483) granting a pension to Henry Stanley Wetmore, late volunteer lieutenant United States Navy; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1484) amendatory of the act to incorporate the Capitol, North O Street and South Washington Railway Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PADDOCK, it was

Ordered, That the papers in the case of Jearum Atkins be taken from the files and referred to the Committee on Agriculture.

ISSUES OF ARMS.

Mr. MERRIMON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, instructed to furnish for the use of the Senate a statement showing the number and quality of arms of all kinds, the equipments and ammunition to be used in connection therewith, supplied from the ordnance department of the Army to officers and soldiers, marshals or their deputies, Indian agents, and internal revenue officers and revenue agents, respectively; and when and where to be used, under direction of the Department of the Interior, the Department of the Treasury, and the Department of Justice, since the 1st day of January, A. D. 1872, and where such arms now are; whether such arms or any or them have been sold, and for what price, and what disposition has been made of the proceeds of any such sale, and designating by what authority such arms and other things were so supplied from time to time.

BILL RECOMMITTED.

On motion of Mr. MERRIMON, it was

Ordered, That the bill (H. R. No. 2843) to provide for taking testimony for the courts of the District of Columbia be recommitted to the Committee on the District of Columbia.

PRESIDENTIAL ELECTIONS.

The VICE-PRESIDENT. Is there further business for the morning hour? [A pause.] The Chair hears of none, and the Senate proceeds to the consideration of its unfinished business, being Senate bill No. 1308.

Mr. WADLEIGH. The consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, was assigned for to-day by the Senate. Do I understand that the bill which is now called up takes precedence of that special order?

The VICE-PRESIDENT. It does, being the unfinished business of yesterday.

Mr. WADLEIGH. I give notice, then, that I shall call up Senate bill No. 300 promptly when the consideration of the bill now before the Senate shall have been completed; and I ask that Senate bill No. 300 go over without prejudice.

The VICE-PRESIDENT. To this the Chair hears no objection. Are there amendments in Committee of the Whole to the bill before the Senate?

Mr. MATTHEWS. In reference to the notice which has just been given by the Senator from New Hampshire in regard to the bill to amend the statutes in relation to patents, I desire to say that I shall expect, and I now give notice, that at the conclusion of the debate upon the pending bill, unless there is an appropriation bill standing in the way, I shall call up Senate bill No. 942, in reference to the Texas Pacific Railway, and ask for its consideration by the Senate.

The VICE-PRESIDENT. The Senate at that time will determine which bill shall have the preference. Are there amendments as in Committee of the Whole to the bill before the Senate? The Chair hears none, and the bill is reported to the Senate. Are there amendments to the bill in the Senate?

Mr. BAYARD. Do I understand that the Senate is about to take up the bill regulating the counting of the electoral votes?

The VICE-PRESIDENT. The Senate has taken it up under the rule, it being the unfinished business of yesterday.

Mr. BAYARD. I am so very conscious of the importance and the gravity of the measure and so desirous to do my due share in reaching a proper solution of the question, that I should like a little time to decide whether I shall submit any remarks to the Senate upon that bill or not. I am disposed to favor its passage, but there are considerations to be submitted to the Senate as to portions of the bill and its effect, which I would prefer having time to consider. I do not know how long the matter which we understand is to be taken up to-day, the resolutions of the Senator from Maine, will occupy the Senate. If, however, it shall take but a short time to-day, I should be disposed to submit what I may have to say upon the electoral bill, at the close of that discussion, not to ask its delay; but I do not think the bill should be taken up and passed in the morning hour on any day. I therefore suggest that it be passed over informally for the purpose of discussion, which I shall aid the Senator from Vermont in bringing on at any time in my power.

Mr. EDMUNDS. The Senator from Delaware perfectly well un-

derstands that nothing could give me more pleasure, nothing could give the rest of the Senate more pleasure, than to hear him upon this question; and my only consideration is one that he himself has adverted to, the necessity of action, and the necessity of action speedily if we are able to act, if it is to have any final result. This is a short session of Congress; it will terminate on the 3d of March. This bill is a Senate bill. If in any form it meets the approval of this body, the House of Representatives must have time to consider and suggest amendments, it may be, or to differ, or whatever. This bill was reported at the last session of Congress a considerable period before its adjournment. I endeavored on one occasion a week or two after it was reported to get the attention of the Senate to it then, but on account of the fact that it had been recently reported and the gravity of the subject the Senate postponed its consideration. Immediately upon the opening of this session I gave notice, nearly a week in advance, that on Monday last I would ask the Senate to consider it, and urged Senators so far as I had any right to urge them to take the intervening time for the private study of the bill, so that we might go on and act. It has now been under consideration for two days and this is the third. Of course the mere temporary convenience of a Senator, as it was understood that the Senator from Maine [Mr. BLAINE] desired to have it laid aside to submit some remarks upon a resolution of his, which is a courtesy usually granted, would lead me when one o'clock comes and the Senator from Maine desires to speak to assent to hearing him for the short time that I understand he desires to be heard; and I should not urge the bill to be disposed of at this moment if the Senator from Delaware wishes to speak after that; but my only point is to ask the Senate to treat this now, as it has been under consideration so long and reported so long, as a matter of definite business, in which we must make more progress than one speech a day or two speeches a day. We ought to go on and dispose of it either to-day or to-morrow, finally. To the present object of the Senator, not to have the bill instantly disposed of, I am quite willing to yield, but because presently we shall have to do something else.

Mr. BAYARD. I was in hopes that there would have been a more extended discussion of this measure. It is one I think on which we require light from every quarter. A measure of this kind cannot be scrutinized and criticised from too many stand-points, the more the better. We are fully aware that the proceedings in the Senate, the discussions here, will be perhaps of some use elsewhere in the consideration of this bill. I am obliged to the Senator for considering my personal feelings, but I scarcely put my motion upon that ground. There remains but a half hour of the morning hour, which would not be time sufficient to enter into a discussion of a measure of this importance, and what remarks I would have to make probably have to be adjourned until after the consideration of the business which has been arranged for the day. Still I trust that we shall take up the measure as soon as possible. I desire that the action of the Senate shall be had upon the bill, and I certainly do not mean in any way to be responsible for delay, for I think it is a very serious thing to answer for. I hope the bill will be passed over informally.

Mr. EDMUNDS. The Senator from Delaware is quite right in saying that the bill ought to be studied and considered, but he must bear in mind that the general field that this bill covers has been within very recent periods more than once exhaustively explored by discussions in this Chamber, exhaustively explored by the search for and the bringing forward of every precedent and historic incident which can possibly throw light upon the general aspects of the question. It appeared to me, therefore, that extended debate, such as the occasion originally called for and produced, and such as again was produced less than two years ago upon a memorable occasion of this character, although that was a special one, would lead the Senate to be informed or to have within its reach every source of information and argument upon the general subject that could now be supplied. That led me in opening the debate on the merits of the bill to confine my remarks not so much to the general question which I thought had been exhausted as to the particular provisions and bearings of this special measure.

But, as I said, Mr. President, at this moment I should certainly not ask the Senate to pass the bill or to refuse to pass it when after a little while the Senator would like to go on.

The VICE-PRESIDENT. The Chair then understands that the bill may go over, remaining as the unfinished business of the Senate, subject only to the occupancy of the Senate by the Senator from Maine upon his resolutions relative to the exercise of the elective franchise?

Mr. EDMUNDS. Yes, sir; and to come up then.

The VICE-PRESIDENT. In the mean time the special order assigned for to-day, having been called up, will be considered until one o'clock.

REVISION OF THE PATENT LAWS.

Mr. WADLEIGH. I call up Senate bill No. 300.

The VICE-PRESIDENT. The bill is before the Senate. The Secretary will report the bill at length.

The Secretary read the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The morning hour has expired. This bill will go over to the day attaching to and following the unfinished business of the Senate.

EXERCISE OF ELECTIVE FRANCHISE.

Mr. HAMLIN. I move that all previous orders be postponed and that the Senate now proceed to the consideration of the resolutions introduced by my colleague, [Mr. BLAINE.]

The motion was agreed to.

Mr. HAMLIN. Let the resolutions be read.

The VICE-PRESIDENT. The resolutions will be reported at length.

The Secretary read the resolutions, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire and report to the Senate whether at the recent elections the constitutional rights of American citizens were violated in any of the States of the Union; whether the right of suffrage of citizens of the United States, or of any class of such citizens, was denied or abridged by the action of the election officers of any State in refusing to receive their votes, in failing to count them, or in receiving and counting fraudulent ballots in pursuance of a conspiracy to make the lawful votes of such citizens of none effect; and whether such citizens were prevented from exercising the elective franchise, or forced to use it against their wishes, by violence or threats, or hostile demonstrations of armed men or other organizations, or by any other unlawful means or practices.

Resolved, That the Committee on the Judiciary be further instructed to inquire and report whether it is within the competency of Congress to provide by additional legislation for the more perfect security of the right of suffrage to citizens of the United States in all the States of the Union.

Resolved, That in prosecuting these inquiries the Judiciary Committee shall have the right to send for persons and papers.

The VICE-PRESIDENT. The question is, Will the Senate agree to these resolutions, and upon this question the Senator from Maine [Mr. BLAINE] is entitled to the floor.

Mr. THURMAN. Before the Senator from Maine proceeds, I ask leave to move an amendment. I can withhold it, however.

Mr. BLAINE. I will yield to the Senator in a very few minutes.

Mr. THURMAN. Very well.

Mr. BLAINE. Mr. President, the pending resolutions were offered by me with a twofold purpose in view:

First, To place on record, in a definite and authentic form, the frauds and outrages by which some recent elections were carried by the Democratic party in the Southern States:

Second, To find if there be any method by which a repetition of these crimes against a free ballot may be prevented.

The newspaper is the channel through which the people of the United States are informed of current events, and the accounts given in the press represent the elections in some of the Southern States to have been accompanied by violence; in not a few cases reaching the destruction of life; to have been controlled by threats that awed and intimidated a large class of voters; to have been manipulated by fraud of the most shameless and shameful description. Indeed in South Carolina there seems to have been no election at all in any proper sense of the term. There was instead a series of skirmishes over the State in which the polling-places were regarded as forts to be captured by one party and held against the other, and where this could not be done with convenience, frauds in the count and tissue-ballot devices were resorted to in order to effectually destroy the voice of the majority. These in brief are the accounts given in the non-partisan press of the disgraceful outrages that attended the recent elections, and so far as I have seen, these statements are without serious contradiction. It is but just and fair to all parties, however, that an impartial investigation of the facts shall be made by a committee of the Senate, proceeding under the authority of law and representing the power of the nation. Hence my resolutions.

But we do not need investigation to establish certain facts already of official record. We know that one hundred and six Representatives in Congress were recently chosen in the States formerly slave-holding and that the democrats elected one hundred and one or possibly one hundred and two and the republicans four or possibly five. We know that thirty-five of these Representatives were assigned to the Southern States by reason of the colored population, and that the entire political power thus founded on the numbers of the colored people has been seized and appropriated to the aggrandizement of its own strength by the democratic party of the South.

The issue thus raised before the country, Mr. President, is not one of mere sentiment for the rights of the negro—though far distant be the day when the rights of any American citizen, however black or however poor, shall form the mere dust of the balance in any controversy; nor is the issue one that involves the waving of the "bloody shirt," to quote the elegant vernacular of democratic vituperation; nor still further is the issue as now presented only a question of the equality of the black voter of the South with the white voter of the South; the issue, Mr. President, has taken a far wider range, one of portentous magnitude; and that is, whether the white voter of the North shall be equal to the white voter of the South in shaping the policy and fixing the destiny of this country; or whether, to put it still more baldly, the white man who fought in the ranks of the Union Army shall have as weighty and influential a vote in the Government of the Republic as the white man who fought in the ranks of the rebel army. The one fought to uphold, the other to destroy, the Union of the States, and to-day he who fought to destroy is a far more important factor in the Government of the nation than he who fought to uphold it.

Let me illustrate my meaning by comparing groups of States of the same representative strength North and South. Take the States of South Carolina, Mississippi, and Louisiana. They send seventeen Representatives to Congress. Their aggregate population is con-

posed of ten hundred and thirty-five thousand whites and twelve hundred and twenty-four thousand colored; the colored being nearly two hundred thousand in excess of the whites. Of the seventeen Representatives, then, it is evident that nine were apportioned to these States by reason of their colored population, and only eight by reason of their white population; and yet in the choice of the entire seventeen Representatives the colored voters had no more voice or power than their remote kindred on the shores of Senegambia or on the Gold Coast. The ten hundred and thirty-five thousand white people had the sole and absolute choice of the entire seventeen Representatives. In contrast, take two States in the North, Iowa and Wisconsin, with seventeen Representatives. They have a white population of two million two hundred and forty-seven thousand—considerably more than double the entire white population of the three Southern States I have named. In Iowa and Wisconsin, therefore, it takes one hundred and thirty-two thousand white population to send a Representative to Congress, but in South Carolina, Mississippi, and Louisiana every sixty thousand white people send a Representative. In other words, sixty thousand white people in those Southern States have precisely the same political power in the government of the country that one hundred and thirty-two thousand white people have in Iowa and Wisconsin.

Take another group of seventeen Representatives from the South and from the North. Georgia and Alabama have a white population of eleven hundred and fifty-eight thousand and a colored population of ten hundred and twenty thousand. They send seventeen Representatives to Congress, of whom nine were apportioned on account of the white population and eight on account of the colored population. But the colored voters are not able to choose a single Representative, the white Democrats choosing the whole seventeen. The four Northern States, Michigan, Minnesota, Nebraska, and California, have seventeen Representatives, based on a white population of two and a quarter millions, or almost double the white population of Georgia and Alabama, so that in these relative groups of States we find the white man South exercises by his vote double the political power of the white man North.

Let us carry the comparison to a more comprehensive generalization. The eleven States that formed the Confederate Government had by the last census a population of nine and a half millions, of which in round numbers five and a half millions were white and four millions colored. On this aggregate population seventy-three Representatives in Congress were apportioned to those States—forty-two or three of whom were by reason of the white population, and thirty or thirty-one by reason of the colored population. At the recent election the white democracy of the South seized seventy of the seventy-three districts, and thus secured a democratic majority in the next House of Representatives. Thus it appears that throughout the States that formed the late Confederate Government sixty-five thousand whites—the very people that rebelled against the Union—are enabled to elect a Representative in Congress, while in the loyal States it requires one hundred and thirty-two thousand of the white people that fought for the Union to elect a Representative. In levying every tax, therefore, in making every appropriation of money, in fixing every line of public policy, in decreeing what shall be the fate and fortune of the Republic, the Confederate soldier South is enabled to cast a vote that is twice as powerful and twice as influential as the vote of the Union soldier North.

But the white men of the South did not acquire and do not hold this superior power by reason of law or justice, but in disregard and defiance of both. The fourteenth amendment to the Constitution was expected to be and was designed to be a preventive and corrective of all such possible abuses. The reading of the clause applicable to the case is instructive and suggestive. Hear it:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The patent, undeniable intent of this provision was that if any class of voters were denied or in any way abridged in their right of suffrage, then the class so denied or abridged should not be counted in the basis of representation; or, in other words, that no State or States should gain a large increase of representation in Congress by reason of counting any class of population not permitted to take part in electing such Representatives. But the construction given to this provision is that before any forfeiture of representation can be enforced the denial or abridgment of suffrage must be the result of a law specifically enacted by the State. Under this construction every negro voter may have his suffrage absolutely denied or fatally abridged by the violence, actual or threatened, of irresponsible mobs, or by frauds and deceptions of State officers from the governor down to the last election clerk, and then, unless some State law can be shown that authorizes the denial or abridgment, the State escapes all penalty or peril of reduced representation. This construction may be upheld by the courts, ruling on the letter of the law, "which killeth," but the spirit of justice cries aloud against the evasive and atrocious conclusion that deals out oppression to the innocent and shields the guilty from the legitimate consequences of willful transgression.

The colored citizen is thus most unhappily situated; his right of suffrage is but a hollow mockery; it holds to his ear the word of promise but breaks it always to his hope, and he ends only in being made the unwilling instrument of increasing the political strength of that party from which he received ever-tightening fetters when he was a slave and contemptuous refusal of civil rights since he was made free. He resembles indeed those unhappy captives in the East who deprived of their birthright are compelled to yield their strength to the upbuilding of the monarch from whose tyrannies they have most to fear, and to fight against the power from which alone deliverance might be expected. The franchise intended for the shield and defense of the negro has been turned against him and against his friends and has vastly increased the power of those from whom he has nothing to hope and everything to dread.

The political power thus appropriated by southern Democrats by reason of the negro population amounts to thirty-five Representatives in Congress. It is massed almost solidly and offsets the great State of New York; or Pennsylvania and New Jersey together; or the whole of New England; or Ohio and Indiana united; or the combined strength of Illinois, Minnesota, Kansas, California, Nevada, Nebraska, Colorado, and Oregon. The seizure of this power is wanton usurpation; it is flagrant outrage; it is violent perversion of the whole theory of republican government. It inures solely to the present advantage and yet, I believe, to the permanent dishonor of the Democratic party. It is by reason of this trampling down of human rights, this ruthless seizure of unlawful power that the Democratic party holds the popular branch of Congress to-day and will in less than ninety days have control of this body also, thus grasping the entire legislative department of the Government through the unlawful capture of the Southern States. If the proscribed vote of the South were cast as its lawful owners desire, the Democratic party could not gain power. Nay, if it were not counted on the other side against the instincts and the interests, against the principles and the prejudices of its lawful owners, Democratic success would be hopeless. It is not enough, then, for modern Democratic tactics that the negro vote shall be silenced; the demand goes farther and insists that it shall be counted on their side, that all the Representatives in Congress and all the Presidential electors apportioned by reason of the negro vote shall be so cast and so governed as to insure Democratic success—regardless of justice, in defiance of law.

And this injustice is wholly unprovoked. I doubt if it be in the power of the most searching investigation to show that in any Southern State during the period of Republican control any legal voter was ever debarred from the freest exercise of his suffrage. Even the revenges which would have leaped into life with many who despised the negro were buried out of sight with a magnanimity which the "superior race" fail to follow and seem reluctant to recognize. I know it is said in retort of such charges against the southern elections as I am now reviewing that unfairness of equal gravity prevails in northern elections. I hear it in many quarters and read it in the papers that in the late exciting election in Massachusetts intimidation and bulldozing, if not so rough and rancorous as in the South, were yet as widespread and effective.

I have read and yet I refuse to believe that the distinguished gentleman, who made an energetic but unsuccessful canvass for the governorship of that State, has indorsed and approved these charges, and I have accordingly made my resolutions broad enough to include their thorough investigation. I am not demanding fair elections in the South without demanding fair elections in the North also. But venturing to speak for the New England States, of whose laws and customs I know something, I dare assert that in the late election in Massachusetts, or any of her neighboring Commonwealths, it will be impossible to find even one case where a voter was driven from the polls, where a voter did not have the fullest, fairest, freest opportunity to cast the ballot of his choice and have it honestly and faithfully counted in the returns. Suffrage on this continent was first made universal in New England, and in the administration of their affairs her people have found no other appeal necessary than that which is addressed to their honesty of conviction and to their intelligent self-interest. If there be anything different to disclose I pray you show it to us that we may amend our ways.

But whenever a feeble protest is made against such injustice as I have described in the South the response we get comes to us in the form of a taunt, "What are you going to do about it?" and "How do you propose to help yourselves?" This is the stereotyped answer of defiance which intrenched wrong always gives to inquiring justice; and those who imagine it to be conclusive do not know the temper of the American people. For let me assure you that against the complicated outrage upon the right of representation lately triumphant in the South, there will be arrayed many phases of public opinion in the North not often hitherto in harmony. Men who have cared little, and affected to care less, for the rights or the wrongs of the negro suddenly find that vast monetary and commercial interests, great questions of revenue, adjustments of tariff, vast investments in manufactures, in railways, and in mines, are under the control of a Democratic Congress whose majority was obtained by depriving the negro of his rights under a common constitution and common laws. Men

who have expressed disgust with the waving of bloody shirts and have been offended with talk about negro equality are beginning to perceive that the pending question of to-day relates more pressingly to the equality of white men under this Government, and that however careless they may be about the rights or the wrongs of the negro they are very jealous and tenacious about the rights of their own race and the dignity of their own firesides and their own kindred.

I know something of public opinion in the North. I know a great deal about the views, wishes, and purposes of the Republican party of the nation. Within that entire great organization there is not one man, whose opinion is entitled to be quoted, that does not desire peace and harmony and friendship and a patriotic and fraternal union between the North and the South. This wish is spontaneous, instinctive, universal throughout the Northern States; and yet, among men of character and sense, there is surely no need of attempting to deceive ourselves as to the precise truth. First pure, then peaceable. Gush will not remove a grievance, and no disguise of State rights will close the eyes of our people to the necessity of correcting a great national wrong. Nor should the South make the fatal mistake of concluding that injustice to the negro is not also injustice to the white man; nor should it ever be forgotten that for the wrongs of both a remedy will assuredly be found. The war, with all its costly sacrifices, was fought in vain unless equal rights for all classes be established in all the States of the Union; and now, in words which are those of friendship, however differently they may be accepted, I tell the men of the South here on this floor and beyond this Chamber, that even if they could strip the negro of his constitutional rights, they can never permanently maintain the inequality of white men in this nation; they can never make a white man's vote in the South doubly as powerful in the administration of the Government as a white man's vote in the North.

In a memorable debate in the House of Commons, Mr. Macaulay reminded Daniel O'Connell, when he was moving for Repeal, that the English whigs had endured calumny, abuse, popular fury, loss of position, exclusion from Parliament rather than the great agitator himself should be less than a British subject; and Mr. Macaulay warned him that they would never suffer him to be more. Let me now remind you that the Government under whose protecting flag we sit to-day sacrificed myriads of lives and expended thousands of millions of treasure that our countrymen of the South should remain citizens of the United States, having equal personal rights and equal political privileges with all other citizens. And I venture, now and here, to warn the men of the South, in the exact words of Macaulay, that we will never suffer them to be more! [Applause in the galleries, which the Vice-President checked by rapping with his gavel.]

Mr. THURMAN. Mr. President, I offer an amendment, which I send to the Chair.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. It is proposed to add to the resolution the following:

> The committee shall also inquire whether any citizen of any State has been dismissed or threatened with dismissal from employment or the deprivation of any right or privilege by reason of his vote or intention to vote at the recent election, or has been otherwise interfered with; and to inquire whether in the year 1878 money was raised by assessment or otherwise upon Federal office-holders or employés for election purposes, and under what circumstances and by what means; and, if so, what amount was so raised and how the same was expended; and, further, whether such assessments were or not in violation of law; and shall further inquire into the action and conduct of United States supervisors of elections in the several States, and as to the number of marshals, deputy marshals, and others employed to take part in the conduct of the said elections, in what State or city appointed, the amount of money paid or promised to be paid to them, and how or by whom, and under what law or authority.

Mr. THURMAN. Mr. President, I attempted to offer that amendment before the Senator from Maine proceeded with his remarks, but failed to have an opportunity to do so. I intended then to say that whatever opinion might be entertained on this side of the Chamber as to the propriety of the original resolutions, as to the competency of Congress to make all the investigations that those resolutions contemplate, yet we were disposed to waive all scruples of that character and suffer the resolutions to pass without opposition if the amendment now proposed should be added to them.

The Senator from Maine, however, having a speech carefully studied and prepared, exercised his right to deliver that speech before my amendment could be offered. I do not complain of that at all, nor do I now rise to make any extended reply to the speech that I have heard just now. Should this debate be protracted, I may exercise my privilege of saying something in reply to the Senator from Maine, but to-day I shall confine myself to a very few general observations.

The Senator is frank in one thing. His resolutions are broad. They include all the States; they provide for an investigation whether the rights of American citizens in connection with the elective franchise have been violated or interfered with in any of the States; but he frankly admits in the very outset of his remarks that that was not his purpose; that his purpose was to assail the democracy of the South. He had two purposes in preparing this carefully elaborated speech; not to vindicate the right of suffrage throughout this whole Union, but to inquire whether the democracy of the Southern States had violated the rights of American citizens, and then to find out what could be done with them. Now, Mr. President, that is a very frank, and I have no doubt a very true, statement of the *animus* of these resolutions.

Mr. President, I said that there might be some doubts as to the propriety of this investigation. I repeat it. There may be such doubts, especially to-day. Here is a short session of Congress. We have, excluding the recess that we always take, less perhaps than two months within which to dispose of the appropriation bills and the other measures of legislation that necessarily require the attention of Congress if the business of the session is to be disposed of and no extra session is to be called. And now, sir, the Senator proposes an investigation that I defy any committee that can be formed to make with anything like thoroughness, nay, in any satisfactory manner, with anything like justice either to those who are implicated or to those who may be implicated, within the time that remains of this session of the Senate. It is a simple impossibility. I have therefore wondered why these resolutions were introduced, unless they were to be made a string upon which to hang speeches to arouse sectional hatred in one portion of this Union against an almost defenseless people in another portion of the Union. [Applause in the galleries.]

The VICE-PRESIDENT. The Chair gives notice that if this applause shall be repeated the galleries will be cleared.

Mr. EDMUNDS. And, Mr. President, if the Senator will pardon me, I hope the Chair will add, "And that the persons guilty of this disorder be taken into arrest."

The VICE-PRESIDENT. The Chair adds that.

Mr. THURMAN. And I hope that there will be no interruption whatsoever. I did not say anything when the galleries cheered the peroration of my friend from Maine, for I love an eloquent thing as much as anybody can, and have sometimes cheered it when I did not agree with it at all. [Laughter.]

Now, Mr. President, this assault of the Senator from Maine is not an assault simply, however, upon the people of the South. I said five months ago in a speech—what I beg pardon for repeating here—that it did seem to me as clear as anything in American politics could be, that there was a deliberately formed purpose, under pretext that there was a solid South, to create a solid North to rule not only the solid South, but to rule one-half nearly, if not more, of the people of the North. I thought so then; I think so yet. I thought then and I think now, that a purpose more unpatriotic, more unjust, more fraught with ruin to this country never entered the brain of man. That is my belief.

Why, Mr. President, of what is it that the Senator from Maine complains? That there were not enough republican votes at the South. That is the amount of it; and how does he make that out? He assumes, without one shadow of proof produced here, that the negroes of the South were prevented from voting, or forced to vote the democratic ticket. He assumes, therefore, that owing to those causes the negroes of the South are not represented by the members of the House of Representatives who come from that section of the Union, or by the Senators on this floor who represent southern States. What right has the Senator from Maine to say that the negroes of the South are not represented by the chosen Representatives of the South and the chosen Senators of the South? What right has he to vote those negroes himself on one side, and say that the men who have the credentials of election here do not represent their constituents? Why, Mr. President, it is a bare assumption on his part that he has no right whatever to make.

But, again, the Senator ought to have thought of this when he was framing his fourteenth and fifteenth amendments, or when he was assisting in framing them. There were men then, men of his own party too, who told him with long foresight that in the end property and intelligence and education will rule the land and ignorance cannot. Mr. President, there were men of his own party who foresaw that those people who have the intelligence, the education, and the property will not be ruled by those who have neither; and in that it is not necessary to separate the community into white people and into colored people. Not at all is it necessary to do that. No, Mr. President, the result of these constitutional amendments was easy enough to be foreseen. I am not here to-day to justify the violation of the rights of any man, however humble he may be, whatever may be the color of his skin, whatever may be the poverty of his situation. I am here for no such purpose as that. If I know my own heart, I am as much in favor of respecting the rights of every man under the Constitution as the Senator from Maine or any other Senator on this floor; but I do know that property, intelligence, education, will assert their influence everywhere on the face of this globe.

Now, Mr. President, let me say one word more on this subject. Who was it that drew the color line between the whites and the negroes in the South? Let me tell you, sir, that millions of money, of the money of the people of the United States, were expended by your agents, the Freedman's Bureau agents, in getting every colored man in the South into loyal leagues and swearing him never to vote for a democrat. That is where the color line began to be drawn. That institution which took charge of the negro at the ballot-box, took charge of him in the cotton-field, took charge of him everywhere, supervised every contract that he made, allowed no contract to be made unless it had the approval of the agents of the Freedman's Bureau, and spent the money and property called "captured and abandoned property" that was surrendered to it, and many millions of money directly appropriated out of the Treasury of the United States—it was that Bureau and its agents who first drew the color line. And yet when the white people of the South, when the men

owning the property and having the intelligence and the education at the South, saw their very social system menaced with destruction, saw their very households threatened with ruin under an inundation of barbarism directed by the most unscrupulous of men, and when they naturally came together, when they naturally united as people menaced with danger ever will unite, then a cry is raised against "the solid South!" Ah, Mr. President, it will not do. This system of legislation toward the South that began more than ten years ago is reaping its fruit; and it is not by additional penal laws that you can better the condition of this country. What does the Senator want more penal laws for? Let him look into the statute-book on this very subject; let him read the statutes in regard to the enforcement of the rights of citizens to vote, and I defy him to find in the statute-books of any civilized country on this globe a body of laws so minute, so searching, and bristling all over with fines and forfeitures as do these laws.

But that is not all. In addition to that you have a vast machinery of superintendents of election, Federal supervisors, marshals, deputy marshals, paid electioneerers out of the Treasury of the United States, under the guise of being men to preserve the freedom of suffrage and peace at elections. You have a whole army of them provided for by your statutes. What more does the Senator want? I think I see, Mr. President, what is wanted. I think this is a note which is sounded to the people of the North that they must retrace their steps; and this very party which required two amendments to the Constitution to be made in the interest, it was said, of the colored population of the South, is now preparing to face about, retrace its steps, and undo what it did only a few years ago. Either directly or by indirection that is to be done. Indeed, I thought, while the Senator from Maine was making his speech, how much reason this country, and especially the southern part of the country, had to congratulate itself that the next House of Representatives will not have a majority of gentlemen thinking like the Senator from Maine, for if he is right in what he said, if his threats are not mere idle wind—and I certainly do not attribute any such thing to him—if they are deep-seated and permanent thoughts of those with whom he acts, then I should be prepared to see a House of Representatives in which there was a republican majority exclude southern members by the score; then I should be prepared to see them decide themselves that the right of suffrage was prohibited down there to the negro, and then to see them in their supreme authority, as they would construe it, vote out the chosen Representatives of the South, not by ones, not by twos, but by the score. It is a fortunate thing for this country, it is a fortunate thing for our free institutions, that there is not in the present House of Representatives, and will not be in the next, a majority thinking as the Senator from Maine thinks, and will ing to act as I fear he is willing to act.

Mr. President, one word on the amendment I have offered. My own belief is that there is a far greater danger that menaces our institutions and menaces the right of suffrage in this country than that to which the Senator from Maine has alluded. Sir, the most disheartening thing to an American who loves free institutions is to see that year by year the corrupt use of money in elections is making its way until the time may come, and that within the observation of even the oldest man here, when elections in the United States will be as debauched as ever they were in the worst days of the old borough parliamentary elections in the mother land.

Mr. President, there is the great danger. The question is whether this country shall be governed with a view to the rights of every man, the poor man as well as the rich man, or whether the longest purse shall carry the elections and this be a mere plutocracy instead of a democratic republic. That is the danger; and that danger, let me tell my friend, exists far more in the North than it does in the South. Sir, if he wants to preserve the purity of elections, if he wants to have this Government perpetuated as a system that can be honestly administered from the primary election to the signature of a bill by the President of the United States, let him set his face and exercise his great ability in stopping the flood-gates of corruption that threaten to deluge the whole land and bring republican institutions into utter ruin and disgrace.

Mr. President, there is one thing that made me doubt a little as to the propriety of these resolutions, although, as I said, I am going to vote for them; and what the Senator from Maine has said has added to the great doubt which I entertained on that subject, and that is, that I am not quite sure that there are not persons who favor this kind of resolution and as much debate upon it as you can have and as much investigation as you can have in order to divert public attention from the real questions which ought to engage the Congress of the United States. Questions of economy, questions of finance, questions of currency, all are shoved aside that popular speeches may be made tending to excite one section of the people against another and to set their minds mad with passion, instead of appealing to their cool and deliberate reason. I certainly do not charge the Senator from Maine with having got this up for the purpose of putting aside and throwing out of view that which should form the subject of our thoughts and of our legislation, but I fear that such may be in some men's minds one of the things to be effected by such resolutions.

Mr. President, I have said much more than I intended to say; indeed I did not expect to speak ten minutes, but I have spoken twenty and I do not know but twenty-five. I beg pardon for having spoken so long and will take my seat.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Ohio.

Mr. EDMUNDS. Mr. President, I am a good deal impressed with what the Senator from Ohio has said particularly in respect of the corrupt use of money and the attempt to use it to influence elections. Disclosures that are said to have been opened and have been stated in the newspapers during the last campaign undoubtedly lead to an inquiry into that very dangerous practice, and I hope that his amendment will be so enlarged as to cover all subjects of that character. But what I rise to do now is to ask that his amendment may be printed and then to call for the regular order.

The VICE-PRESIDENT. The order to print will be entered.

Mr. BLAINE. I do not desire to detain the Senate, but I wish to say one word. The honorable Senator from Ohio has informed the country, and informed it with as much authority as any man in his party can speak, that property in the South will rule.

Mr. THURMAN. I said no such thing. I said no more of the South than I have said everywhere, that property, intelligence, and education will rule.

Mr. BLAINE. Regardless of numbers?

Mr. THURMAN. Oh, well, now, the Senator can have it "regardless of numbers," if he wants.

Mr. BLAINE. I understood the Senator; I was going to state him correctly——

Mr. THURMAN. The Senator cannot misrepresent me in regard to that. How will they rule "regardless of numbers?" By unlawful means? No, sir. Does not the Senator influence a good many people in Maine to vote as he thinks?

Mr. BLAINE. I should like to influence some in Ohio. [Laughter.]

Mr. THURMAN. He failed this year, but he does it every year, year in and year out, because he has intelligence and education and skill and property. That is the reason of it. And, sir, let me tell him that if he lived down South he would persuade—he would have a tail of negroes, more men probably than any Highland chief ever had in the Highlands, [laughter,] all by reason of his character, education, and property.

Mr. BLAINE. I am equally sure that if the Senator from Ohio lived in the South he would not have a tail of negroes following him at all. [Laughter.] We should be just in contrast. But I wanted to point this remark—the Senator qualifies it but still it stands out—and I illustrate by South Carolina with one hundred and fifty thousand more colored men than white men. And the leader of the democratic party, based as that party claims to be on the rights of the people without regard to caste or condition, without educational test or property qualification, as the democratic doctrine has always been, announces here to-day that property and education will rule. And when we assert that the South is ruled by violence he tells us that there are important questions which we should consider and that Congress has no time to waste upon that! The initial step in the organization of every legislative body, let me tell the Senator, is to see that it is honestly filled by men honestly elected; and if I were permitted by parliamentary law to speak of the other branch of Congress I would declare here to-day that the democratic party does not hold rightful sway in that House and will hold sway in the next House by fraud and outrage, which no mere declaration against sectional agitation can overcome or put out of sight. And now we are asked to abandon all sectional agitation, or asked, under the plea of abandoning sectional agitation, to submit all the grave and great questions that affect property and human rights to a Congress that is based upon the destruction of human rights—a Congress that lacks the warrant laid down by Jefferson of the right to govern. It has not "the consent of the governed." [Manifestations of applause in the galleries, which were checked by the Vice-President.]

The VICE-PRESIDENT. The resolutions go to the Calendar. The Senate resumes the consideration of its unfinished business.

Mr. LAMAR. Mr. President, when these resolutions are printed and ready for action, I may have something to say upon the question of their adoption. Before the question passes off now, I wish to make one or two remarks, not upon the resolutions, but upon one or two points submitted by the Senator from Maine.

Sir, it is not a surprising thing, nor is it an unnatural one, that that distinguished Senator should feel and manifest a deep interest in the affairs of the Southern States. The people of that section have but recently undergone a vast change, social and political; and it is reasonable, it is eminently fit and proper, that one who bore so conspicuous a part in the adoption of the measures which brought about that vast transformation, who occupies so conspicuous a position at the present time, and who perhaps will occupy a still more distinguished position in the future, should scrutinize with anxious solicitude the progress of that people to reconstruction and to their readjustment to the healthy and normal conditions of our national life. Sir, had the Senator come forward with some well-devised scheme of public education by which this newly enfranchised race, who have had such exalted duties imposed upon them without culture and without even the trained intelligence of practical experience, may be fitted to exercise their great duties as freemen and citizens and the participants in the sovereignty of Commonwealths, every one would have recognized the propriety and the patriotism of such a movement; for he would have proposed to give to that people what they most need, and what would protect them from every evil and wrong which he now alleges that they labor under.

There are other evils in that country which might call forth the lofty and enlarged measures of a patriot and of an American states-

man; but I must confess to some regret that a Senator so distinguished, in looking upon this recently dislocated member of this great American empire, instead of regarding it with reference to those great interests that affect the whole country through the long track of coming years, should have concentrated his whole attention upon its relation to parties and party contests; that nothing should have struck the Senator's notice or engaged his thoughts except the connection of that people with the ascendency and defeat of parties and their influence in Federal elections. Party organizations are no part of the Constitution, and they are agencies which work outside of the laws. But, sir, the gentleman's remarks were directed exclusively to the mere party and partisan aspects of this great subject; and with no intent whatever to utter a bitter retort I cannot but feel the regret that one of such resolute energies, of such tenacious purposes, such daring ambition, and such great abilities, should have so narrowed his mind as "to give to party what was meant for mankind."

But, sir, what is the point at last of the gentleman's argument this morning? It was remarkable for its significant omissions. It was directed exclusively to the suppression of the votes of a particular class of suffragans in the South. Mr. President, if I understood the debates at the time of the adoption of the amendment to which he refers, clothing the negroes of the South with the right of suffrage, it was to give them protection for their freedom and for the civil rights which the fourteenth amendment accorded to them. Through the protracted remarks of the Senator he could not utter one word—he could not, because it would not have been the truth if he had—to show that there was a single right of freedom or of citizenship belonging to the black race of the South that was not as secure and as well enjoyed as that of the proudest and freest white man in the land.

It is also a remarkable fact that in his indictment of the South there is no pretense that there is a single menace in her present attitude to any of the great interests of this country—not an imputation of that character—for "solid" (according to the usual phrase) as the South may be, she stands in line with a majority of the American people upon nearly every question which is now discussed in this nation or argued here in her council chambers.

But, sir, to come to the direct point, the Senator asserts that in consequence of the suppression of the negro vote at the South by means which, he alleges, are illegitimate and irregular, the South has a disproportionate party power in this Government. Sir, before this discussion is over I will show that the negro vote has not been suppressed in the South; I will demonstrate that this political phenomenon which is the subject of so much discussion and misrepresentation is a phenomenon that would occur in any free society, and that it has been brought about by the influences which intelligence and virtue and sagacity and the other elements of civilization always bring to bear upon the classes that are ignorant and debased.

But, sir, assuming all that the gentleman says to be true that there are in the House of Representatives one hundred and six Representatives elected of one party complexion and elected by means that are not what he considers legitimate, let us see where we stand in this position. Now, sir, what interest of the North, what interest of this country is endangered by it? Sir, with a united vote of the South she stands a powerless section in this Government, she is an impotent minority section in any event, unable to protect a single southern right or to defend a single southern interest.

But, says the gentleman, under the operations of these amendments the South have a representation not in proportion to the constituency which elect them, and the States of South Carolina and Mississippi and Alabama have much more power than twice the numbers in some of the Northwestern States which he mentioned. Mr. President, every member of that population in those States entitled to vote ought to be counted. You have no right to draw the line between the black and the white, and assume that the black man because he did not vote the republican ticket is therefore a suppressed voter. Is it to be assumed that in every southern State the property and population of the State are in such necessary antagonism that no amount of local misrule can teach them the advantage of their natural alliance? What right has he to assume that whites and blacks are never to vote and act together as citizens of a common country? Now, sir, let me call attention to one point in the Senator's argument. If we are to enter upon a system of legislation and political movements in order to adjust representation and political power in this Government according to the number of actually voting constituencies, the principle may operate further than the gentleman thinks.

What is the population of the State of Maine? I believe 625,000. It has been diminishing within the last twenty years. I cannot now recollect, but perhaps it is 623,000. Vermont, which is also solid, has not more than 350,000. And yet the State of Maine has as much power in this Government with her 600,000 people as the State of New York with her 5,000,000.

A SENATOR. You mean in this Chamber.

Mr. LAMAR. No, sir; I mean in this Government. Gentlemen correct me by saying "in this Chamber;" but I adhere to the phrase. I say, and repeat, that they have the affirmative power of legislation this day; 625,000 in Maine are equal to 5,000,000 in the State of New York. A positive equality of States, whatever be their population, in either Chamber where concurrent legislation is needed, is positive affirmative power in the passage of any law. Why, sir, the whole of New England has not three and a half millions of population; and yet under the operation of the Constitution and laws of the land, of which I make no complaint and which is a legitimate thing, those three and a half millions of population have six times as much power as sovereign commonwealths that have five millions. They have got as much power as twenty millions in the large Northwestern States that the gentleman called attention to.

Sir, why is one man in these Eastern States equal to twenty in the Northwest, except by virtue of the Constitution—the Constitution which we are intending to abide by and to maintain?

But as the gentleman has vouchsafed advice to southern men on this floor and outside, in all spirit of fairness and equity I will speak to the people of the New England States and tell them that in my opinion the direst foe they have got on earth is the Representative or Senator, whether from their own section or any other, that will kindle this fire whose subterranean flames will liquefy the very foundations on which these proud and free commonwealths now rear their aspiring heads. Sir, the Senator is fishing in troubled waters upon this subject; and when you come to agitate questions of this kind you will find that changes of a more radical and fundamental nature will be necessary in order to adjust representation to numbers in this Government.

I will not now proceed, sir, any further in my remarks. At another time when these resolutions come up, if they are to be discussed, I may participate in the discussion.

Mr. EDMUNDS. Mr. President, the point of the Senator from Mississippi appears to be, that if a Senator from New England proposes to inquire whether the Constitution has been violated in depriving any part of the people of the States of their right to vote for members of Congress, &c., he thereby incurs the danger of oversetting the Constitution itself which says that the States in this body shall be equal, and therefore I understand him to put it out as a warning that the people of New England through their Senators and Representatives have no right to stand up for the Constitution as it is in favor of an equal representation by the people of the States in the other House, unless they run the risk of being exposed to the danger of having their senatorial representation overturned. That, then, is the question we are invited to consider and the peril that we expose ourselves to if we undertake to inquire whether the Constitution of the United States has been violated. In other words, the representatives of the democratic party of the South say to an inquiry into a violation of the Constitution, "If you dare to make such an inquiry, you run the risk of overturning the representation of the States and reducing ourselves to a state of servitude." That is the proposition!

Mr. LAMAR. I hope the Senator will allow me to explain——

Mr. EDMUNDS. Certainly.

Mr. LAMAR. Or rather to protest against the interpretation which he has put upon my remarks. I made no such suggestion. It was simply in reply to the theory the Senator from Maine had broached, that this investigation was justified in order that the evil which he had disclosed of one hundred thousand white men in the South having a political power and vote in this Government equal to three hundred thousand somewhere else, that I said that the tendency of such a theory would lead to further investigation, and would undermine the principle and the system of government upon which our American fabric rests.

Mr. EDMUNDS. I am very glad to know, Mr. President, that the Senator did not mean what his remarks appeared to indicate; and he has misunderstood——

Mr. LAMAR. I did not mean what the gentleman has attempted to force my remarks into, but which he will never succeed in doing.

Mr. EDMUNDS. The Senator is mistaken in that. I have not attempted to force the Senator's remarks into anything. The RECORD will show exactly what he has said, and I think it will appear that I have not misstated the substance of what he has said; but the Senator has greatly mistaken, with his present explanation, the point of the Senator from Maine. The Senator from Maine did not complain of the inequality of personages in one part of the Union or another. What he complained of was, supposing what he believes to be true turns out to be so when you have an investigation, that a small number of persons in the South by a gross and outrageous violation of the Constitution have taken to themselves by that species of usurpation the power of a large number under the Constitution exercised in a rightful way in the Northwest. Is the Senator dissatisfied if that turns out to be true, or would he like to rectify it? The Senator, of course, would like to rectify it. I must assume that he would. What, then, is the use of saying that you are going to overturn the Government if we undertake to find out whether the Constitution has been grossly and flagrantly violated by a denial of equal rights in respect of the elections to the popular branch of the Congress of the United States? And where is the necessity in such a case of holding out the terror and kindling the conflagration that the Senator referred to in respect of senatorial representation upon an inquiry of that kind? The people of New England, as far as I may speak for them, believe in justice and in equal rights under the Constitution and according to it, just as the fathers and their successors have made it; and that is in the States (and I am surprised to hear a southern Senator assail the very foundation of State rights) there is and there must be political equality; that in respect of the people represented in the other branch of Congress there shall be the fair equality of fair numbers

fairly and freely exercising their rights and not the subjects of tyranny and corruption and fraud anywhere. That makes your Government; nothing more, nothing less.

I fail to see, then, Mr. President, the great danger that New England runs in undertaking to make an inquiry of this kind if the Senate agree to it. But I did not rise to enter into this discussion at all, but only now, that we have had a fair expression on both sides, to ask for the regular order.

Mr. LAMAR. Still, Mr. President, I cannot accept the position to which the Senator from Vermont assigns me. He says that he is surprised to find a southern Senator assailing the principle of State rights. He will never find me in that position, sir. I have ever been the defender of that doctrine. But surprises are constantly sprung upon us and the country will be not a little astonished to find the doctrine of State rights advocated by the distinguished Senator from Vermont.

Mr. EDMUNDS. I think not. I have always done it.

Mr. BLAINE. Mr. President, I wish to give notice that at the very earliest opportunity that the business of the Senate will permit I shall ask a vote upon these resolutions; and I desire merely to say in reply to the Senator from Mississippi that in the little colloquy between him and the Senator from Vermont I understand this to be about the residuum, that if I move an inquiry into the unconstitutional representation of Mississippi in the other House, he will move one into the constitutional representation of Maine in this branch! [Laughter.]

Mr. LAMAR. That will do pretty well for wit and pretty well for the Senator's peculiar species of perversion; but it will not do for the truth, for, sir, I protested that I not only would move no such inquiry but that I would oppose and fight against any such purpose. No, sir, the doctrine that I stated was that if the right of suffrage be invaded anywhere or any constitutional right infringed upon in any quarter or by anybody, it shall be maintained and enforced if necessary by all the constitutional power of the Government.

Mr. EDMUNDS. Then we are all at one.

Mr. LAMAR. Exactly so, but not upon the ground that States shall be deprived of any of their representatives, because under the operation of the Constitution, either in its original provisions or in its amendments, their political power may be not in exact proportion to their numerical power in this Government. And I repeat the warning against this agitation about sectional power based on numbers, I warn Senators that in throwing their net into this troubled sea they may drag to the shore a vase like that of the fisherman in the Arabian Nights from which, when the seal was once broken, a demon emerged more potent than his deliverer and threatening his destruction.

Mr. EDMUNDS. I do not know but he is here now. Now let us have the regular order.

Mr. LAMAR. I suppose that very witty remark was intended for private ears, and as I did not hear it I leave it without retort.

The VICE-PRESIDENT. The Senate will now proceed to the consideration of its unfinished business.

COMMITTEE ON OMISSION IN ENROLLMENT.

Mr. CAMERON, of Wisconsin. Before that is taken up I wish to submit a resolution. It turns out that there is no fund out of which the expenses of the select committee raised under the resolution introduced by the Senator from Florida [Mr. CONOVER] the other day can be paid. The committee has proceeded in accordance with the resolution under which it was appointed to make the investigation ordered by the Senate, and for the purpose of remedying that deficiency I, by direction of the committee, offer the following resolution:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate the fees of witnesses subpœnaed and attending before the special committee appointed under resolution of the Senate of December 3, introduced by Senator CONOVER, in relation to the omission of a part of the sundry civil bill, and all other necessary expenses attending the investigation now being made by said committee, upon being properly certified to by the chairman of said special committee.

The resolution was considered by unanimous consent, and agreed to.

PRESIDENTIAL ELECTORS.

The Senate resumed the consideration of the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential electors, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Mr. RANSOM. I move that the Senate adjourn.

Mr. EDMUNDS. Will the Senator kindly withdraw that motion for a moment?

Mr. RANSOM. Certainly, I will, sir.

Mr. EDMUNDS. I can see, after the events that have occurred here, there is so much confusion that it is very difficult to do business. If the Senate is to adjourn now, I want to give notice that I shall ask the Senate to finish the pending measure to-morrow, to sit it out and get it disposed of, so that other matters may be taken up and considered in their order. I should prefer to have the Senate go on, but it does not seem to be very easy to get anybody to pay any attention to business now.

Mr. KERNAN. As some Senators desire to speak upon the bill, not myself but others, and as they are not ready to proceed to-day, and as the Senator from New Hampshire [Mr. WADLEIGH] desires to address the Senate upon the bill to amend the statutes in relation to patents, which was made the special order for to-day, I suggest that the pending bill be laid aside informally and that he be allowed to go on now, instead of the Senate adjourning at this time.

Mr. EDMUNDS. I have no objection to the bill going over until to-morrow as unfinished business, with the understanding that we go on with it then, and go on to an end. This matter has been so long before the Senate, now for months, that I do not feel justified in this short session in having it postponed beyond to-morrow. Senators ought to have their speeches ready if they wish to deliver them.

Mr. KERNAN. I desire that we do not adjourn now but let the bill go over informally and allow the Senator from New Hampshire to present to the Senate his views upon the bill which was made the special order for to-day.

Mr. EDMUNDS. It is just as hard for the Senator from New Hampshire to speak in this state of utter confusion as it is for other people.

Mr. KERNAN. I understand that he desires to do so.

Mr. RANSOM. It was in deference to the wish of certain Senators who desire to speak on the bill reported from the select committee by the Senator from Vermont, of whom I am not among the number, that I made the motion to adjourn the Senate; but if the Senator from New Hampshire desires to bring forward the bill indicated by the Senator from New York I withdraw my motion.

The VICE-PRESIDENT. Does the Senator from Vermont assent?

Mr. RANSOM. I understood the Senator from Vermont to assent to that.

Mr. EDMUNDS. With the understanding that the electoral bill shall stand as the unfinished business to-morrow, be taken up at one o'clock or earlier if the ordinary morning business shall have been disposed of, and then to be proceeded with until it is ended, I will assent; not otherwise.

The VICE-PRESIDENT. Is it understood that to-morrow immediately at the close of the morning hour, or sooner if its business shall have been concluded, the pending bill shall be considered as unfinished business? To this the Chair hears no objection; and he recognizes the Senator from New Hampshire.

REVISION OF THE PATENT LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The Chair will state the condition of the bill. The bill was read at length this morning, but in the confusion action was not had upon the amendments of the Committee on Patents, so that action will now be necessary, or at some stage of the bill, upon the amendments of the committee.

Mr. WADLEIGH. As it will be necessary to go through with the amendments of the committee, I prefer that that shall be done now, and therefore will not address the Senate at this time.

The VICE-PRESIDENT. The amendments will be acted upon at this time.

Mr. WADLEIGH. I will say what I have to say at some other time.

The VICE-PRESIDENT. The amendments will be reported in their order by the Secretary, and action taken in Committee of the Whole.

Mr. THURMAN. My attention has been called to this bill by a great many letters. I do not profess to understand it. Therefore I hope the chairman of the committee, when the amendments are called, at least those which are important and not merely of a slight character, will explain them. I will say in a word that there is one provision upon which I have received a great many letters on both sides, and upon which I for one wish some information in order to know how to vote. There is a controversy as I understand between the railroad companies on the one side and inventors on the other. No doubt the Senator from New Hampshire knows all about what that matter is. There is some provision in this bill in respect to it which has excited a great deal of interest both among inventors and among the railroad companies. I suppose every Senator has received a number of letters upon that subject. I should like, when the amendment which bears on that particular question in which they are so much interested comes up, that the Senator will explain it and let us know what the committee did.

The VICE-PRESIDENT. The Secretary will report the amendments in their order.

The first amendment of the Committee on Patents was, in section 1, line 4, after the word "equity," to insert the words "hereafter commenced;" so as to read:

That from and after the passage of this act no profits or damages in any suit at law or in equity hereafter commenced for the infringement of a patent shall be recovered which shall have accrued more than four years next preceding the commencement of such suit.

The amendment was agreed to.

The next amendment was, in section 1, line 14, after the word "that," to insert "the limitation herein provided for shall not apply to;" in line 15, after the word "act," to strike out "may be enforced by" and insert "on which;" after the word "suits," in line 16, to insert "shall be;" and before the word "years," in line 17, to strike out "four" and insert "two;" so as to read:

Provided also, That the limitation herein provided for shall not apply to rights of action existing at the passage of this act on which suits shall be brought within two years thereafter, if not previously barred by laws already existing; but nothing

in this section contained shall revive any right of action already barred, nor prolong the right to sue on any cause of action already existing.

The amendment was agreed to.

Mr. EDMUNDS. The bill is in Committee of the Whole, is it not?

The VICE-PRESIDENT. It is.

Mr. EDMUNDS. So that these amendments can be again considered afterward.

The next amendment of the Committee on Patents was, in section 2, line 9, after the word "savings" to insert "from use;" in the same line, after the word "allowed," to insert "except in case of a use by therewith partially or completely making a product for sale;" so as to read:

In all cases where the patentee has elected to license other persons generally to use his invention, in like manner to that in which it was used by the defendant, or where it appears to the court or jury that, from the nature of the invention, it is for the interest of the patentee that other persons generally should use the same in like manner and pay him a license fee therefor, the measure of the plaintiff's damages shall be the same, both at law and in equity, and no account of profits or savings from use shall be allowed, except in case of a use by therewith partially or completely making a product for sale.

The amendment was agreed to.

The next amendment was, in section 2, line 15, after the word "the," to strike out "same" and insert "damages;" so as to read:

If a license fee has already been established by a reasonable number of transactions of a character applicable to the case at bar, that shall be adopted as the measure of said damages; but if not, then the court or jury shall determine the damages from all the evidence in the case.

The amendment was agreed to.

The next amendment was, in section 2, line 18, after the word "made," to strike out "unless it has" and insert "if he shall show that it has not;" so as to read:

In taking an account of profits in any case the defendant shall not be charged with any saving he may have made if he shall show that it has not enabled him to realize an actual profit in that part of his business connected with the use of the invention.

The amendment was agreed to.

The next amendment was, in section 2, after the word "reasonable," in line 30, to insert:

And whenever the court shall be of the opinion that the suit of the plaintiff, or the defense of the defendant, was vexatious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses, as it shall deem just and reasonable.

The amendment was agreed to.

The next amendment was, in section 2, line 42, after the word "injunction," to insert "nor to recover in a suit in equity, in addition to the profits to be accounted for, the damages the complainant has sustained by the infringements complained of;" so as to read:

Nothing contained in this section shall affect the right of the plaintiff to an injunction, nor to recover in a suit in equity, in addition to the profits to be accounted for, the damages the complainant has sustained by the infringements complained of.

The amendment was agreed to.

The next amendment was, in section 3, line 9, before the word "court" to insert "said."

The amendment was agreed to.

The next amendment was, in section 4, line 5, after the word "and," to insert "subject to such rules and regulations as the Supreme Court may establish;" so that the section will read:

The several courts vested with jurisdiction of cases arising under the patent laws may, at any time during the pendency of any patent cause, grant or suspend the issuing or operation of an injunction upon such terms as the court may impose, and, subject to such rules and regulations as the Supreme Court may establish, shall have like power after an appeal of said cause, and while the same is pending in the Supreme Court.

The amendment was agreed to.

The next amendment was, in section 5, line 10, after the word "invention," to strike out "shown in the model or drawings, or described in the original specification or its amendments, and to which he would have been entitled;" so as to make the clause read:

Section 4916 of the Revised Statutes is hereby amended so as to read as follows: Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more or less than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or in the case of his death, or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent.

The amendment was agreed to.

The next amendment was, in section 5, line 25, before the word "restriction," to strike out "and," and after "restriction" to insert "and rejection;" so as to read:

The specifications and claim in every such case shall be subject to revision, restriction, and rejection, in the same manner as original applications are.

The amendment was agreed to.

The next amendment was, in section 5, after the word "act," in line 30, to insert:

But no new matter shall be introduced into the specification not shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments.

The amendment was agreed to.

The next amendment was, in section 5, line 40, after the word "shown," to strike out "in the model or drawings, or described in the original specification or" and insert "contained, or substantially indicated in the specification or drawings of the original application and;" so as to read:

In any suit at law or in equity upon a patent hereafter reissued, the defendant, having given notice or pleaded the same in the manner set forth in the forty-ninehundred and twentieth section of the Revised Statutes, may prove in defense of the whole patent, or any of the claims thereof, that the new patent, or any claim thereof, is not for the same invention shown, contained, or substantially indicated in the specification or drawings of the original application and its amendments, and to which he would have been entitled.

The amendment was agreed to.

The next amendment was, in section 8, line 12, after the word "examined," to insert "the facts proposed to be proved by each;" so as to read:

Any person who may wish to perpetuate testimony to be used in any patent suit then pending, or which may thereafter be brought, may do so subject to the following rules and conditions: he may file a bill or petition in the circuit court of any district in which the parties having a right to sue for infringement of said patent, or against whom he shall desire to use testimony to be taken hereunder, or any of them, reside or may be found, setting forth the date, number, and subject of the patent, and the name of the patentee, the names and residences of the several parties interested in said patent, so far as known to him, the names of witnesses proposed to be examined, the facts proposed to be proved by each, and his desire to perpetuate testimony, as aforesaid.

The amendment was agreed to.

The next amendment was, in section 8, line 15, after the word "court," to insert "if it deems it just and reasonable so to do;" and in line 16, after the word "directing," to insert "before whom and;" so as to read:

On the said parties being brought into court in the usual way the court, if it deems it just and reasonable so to do, may enter an order or orders in the case, directing before whom and when and where, either within or without the district, the evidence shall be taken.

The amendment was agreed to.

The next amendment was, in section 8, after the word "and," in line 29, to strike out "then and there introduce such legal testimony of said witnesses as they may see fit, which," and insert:

The petitioners may then and there introduce such legal testimony of such witnesses as they may see fit, relating to the facts set forth in the petition; and thereupon, in relation to or in rebuttal or avoidance of the matters put in evidence by the petitioners, the respondents may introduce the legal testimony of such of said witnesses as they, or any of them, may see fit to call, and as the court, upon application in the same proceeding, may permit. The examination shall be by interrogatories, and all objections of mere form to such interrogatories shall be raised at the time or deemed to have been waived.

So as to read:

Both parties may attend at the time and place or times and places so designated by the court, or at such times and places as they may agree, and the petitioners may then and there introduce such legal testimony of such witnesses as they may see fit, relating to the facts set forth in the petition; and thereupon, in relation to or in rebuttal or avoidance of the matters put in evidence by the petitioners, the respondents may introduce the legal testimony of such of said witnesses as they, or any of them, may see fit to call, and as the court, upon application in the same proceeding, may permit. The examinations shall be by interrogatories, and all objections of mere form to such interrogatories shall be raised at the time or deemed to have been waived.

The amendment was agreed to.

The next amendment was, in section 8, line 32, before the word "evidence," to insert the word "the;" after the words "shall be," in the same line, to insert "certified by the person taking the same, and by him, or them, respectively, returned to the court, and;" and in line 36, after the word "received," to insert "so far as admissible;" so as to read:

The evidence, when so taken, shall be certified by the person taking the same, and by him, or them, respectively, returned to the court, and filed among the records of the court; and the same, or duly certified copies thereof, shall thereafter be received, so far as admissible, in all suits on said patent to which the said petitioners, or the said defendants, or any of them, or those claiming by, through, or under them, shall be parties; but the witnesses, if living, may be recalled in said suits, and re-examined or cross-examined, as the case may be, by any party.

The amendment was agreed to.

The next amendment was, in section 8, line 60, after the word "proceeding," to insert "and actually served with personal notice;" so as to make the proviso read:

Provided, That no depositions taken under this section shall be used, except as against persons who were parties to such proceeding and actually served with personal notice, or those claiming under them by interest acquired subsequent to filing said certificate in the Patent Office.

The amendment was agreed to.

The next amendment was, in section 8, line 63, after the word "and," to insert the words "provided, that," and after the word "cause," in line 66, to insert:

Except that if the party producing it in such case shows any sufficient cause then existing for using the same, it may be admitted; but whenever testimony taken hereunder by the petitioners shall be used, testimony taken in the same proceeding by the respondents, in relation to or in rebuttal or avoidance of the matters referred to by said evidence of the petitioners, may be used by the party against whom said evidence of the petitioners is used.

So as to read:

And provided, That no such depositions shall be used in any action at law when the witness is alive, competent to testify, and within the United States during any time when his testimony could be regularly taken in the cause, except that if the party producing it in such case shows any sufficient cause then existing for using the same, it may be admitted; but whenever testimony taken hereunder by the petitioners shall be used, testimony taken in the same proceeding by the respondents, in relation to or in rebuttal or avoidance of the matters referred to by

said evidence of the petitioners, may be used by the party against whom said evidence of the petitioners is used.

The amendment was agreed to.

The next amendment was, in section 10, line 4, to insert after the word "shall" the words "within a reasonable time;" so as to read:

Whenever any person shall be injured by a claim by the owners of any patent, or the parties entitled to sue thereon, or their agents, that he is infringing the same, made publicly or by notice to customers or consumers, and no suit shall, within a reasonable time, be brought and prosecuted to enforce such claim, he may file a petition in equity, in any court of the United States having jurisdiction of patent causes, to compel the person making such claim, or on whose behalf it is made, to bring or cause to be brought a suit on said patent, to test its validity and the question of its infringement by those acts which are so claimed to constitute an infringement.

The amendment was agreed to.

The next amendment was, in section 11, line 5, before the word "patent," to insert the word "original;" in line 8, before the word "patent," to insert the word "original," and at the end of the section to insert the following:

It shall be the duty of the Commissioner to keep a record of said payments; and a receipt therefor, or a certificate that the payment has been made, sealed and executed in the manner provided by law for certified copies, shall be conclusive evidence of the payment; and, upon request, it shall be the duty of the Commissioner to cause such a certificate to be indorsed upon or annexed to the letters-patent.

So as to make the section read:

On each and every patent for an invention issued after the passage of this act there shall be paid to the Commissioner a duty, as follows, namely: Fifty dollars, to be paid on or before the 1st day of January occurring next after the expiration of four years from the date of the original patent, and $100 on or before the 1st day of January occurring next after the expiration of nine years from the date of the original patent; and in default of any such payment the patent shall expire on the 1st day of April next thereafter; but the Commissioner, for good cause shown, may allow the payment to be made at any time before such 1st day of April, in which case the patent shall not become void. The Commissioner shall annually, in the month of April, publish a list of the patents which have expired for non-payment of duties. Patents issued under this law shall contain a notification of the annual duties to be paid and the time of such payments. It shall be the duty of the Commissioner to keep a record of said payments; and a receipt therefor, or a certificate that the payment has been made, sealed, and executed in the manner provided by law for certified copies, shall be conclusive evidence of the payment; and upon request it shall be the duty of the Commissioner to cause such a certificate to be indorsed upon or annexed to the letters-patent.

The amendment was agreed to.

The next amendment was, in section 12, line 13, to strike out the words "one month" and insert "two months;" so as to read:

An assignment, grant, conveyance, or exclusive license, as aforesaid, shall be void as against any subsequent purchaser, mortgagee, or licensee for a valuable consideration, without notice, unless it is recorded in the Patent-Office within two months from the execution thereof, or before the execution of such subsequent grant, conveyance, or license.

The amendment was agreed to

The next amendment was, in section 14, line 1, after the word "whoever," to insert the words "with intent to defraud;" so as to make the section read:

Whoever, with intent to defraud, conveys any interest in any patent or grants any license thereunder, knowing that the interest or right so purporting to be granted or conveyed has been previously granted in whole or in part to another, without, before the payment, either by note or otherwise, of the consideration, or any part thereof, informing the grantee or grantees of the existence or nature of such incumbrance or prior right, so far as he has actual knowledge thereof, shall, for every such offense, be punished by imprisonment not exceeding one year, or by fine not exceeding $1,000.

The amendment was agreed to.

The next amendment was, in section 16, line 7, after the word "price," to insert "and for uncertified manuscript copies the reasonable cost of making the same;" so as to read:

Section 493 of the Revised Statutes shall be, and hereby is, amended so as to read as follows: The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents, within the limits of actual cost as the minimum, and fifty cents as the maximum price, and for uncertified manuscript copies the reasonable cost of making the same; and the price to be charged for certified copies shall be the same as for uncertified copies, with the addition of twenty-five cents for the certificate and seal.

The amendment was agreed to.

The next amendment was, to strike out section 20 of the bill, in the following words:

SEC. 20. Section 4894 of the Revised Statutes shall be, and hereby is, amended so as to read as follows: All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been sent to the applicant or his agent, they shall be regarded as abandoned by the parties thereto.

The amendment was agreed to.

The next amendment was, in section [21] 20, line 12, after the word word "owners," to insert the words "or in case of death or disability, his or her legal representative;" so as to read:

And in all cases of an application by an assignee for the issue of a patent, the specification shall be signed and sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application may be made and the corrected specification sworn to and signed by the owner or owners, or in case of death or disability, his or her legal representative, of the entire interest in the patent.

The amendment was agreed to.

The next amendment was, to insert, after section 20, the following additional section:

SEC. 21. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application, in order to be a continuation of the original application, must be made within two years after the allowance thereof. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

The amendment was agreed to.

The next amendment was, to strike out section 22 of the bill, in the following words:

Section 4897 of the Revised Statutes shall be, and hereby is, repealed; but in the case of any patent which, prior to the passage of this act, has been ordered to issue, and has been forfeited for non-payment of the final fee, the renewed application provided for by said section may be made within six months from the passage of this act.

The amendment was agreed to.

The next amendment was to insert at the end of section [23] 22 the following additional proviso:

And provided further, That this section shall only be applicable to patents hereafter granted.

The amendment was agreed to.

The next amendment was, in section [24] 23, line 7, to strike out, after the word "interest," the words "as the case may be," and in line 12, after the word "examiners-in-chief," to strike out the words "or of the Commissioner or Assistant Commissioner, as the case may be."

The amendment was agreed to.

The next amendment was, in section [24] 23, line 27, after the words "prior date to the," to strike out the words "application of the;" so as to read:

That in the case of reissues no interference shall be declared with any patent of later date than that sought to be reissued, except when the original application for such subsequent patent is shown by the office records to have been of prior date to the patent sought to be reissued, nor with any application for a patent filed subsequent to the date of the patent sought to be reissued.

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The amendments of the committee are gone through with. The bill is in Committee of the Whole and still open to amendment.

Mr. WADLEIGH. The Senator from California [Mr. BOOTH] has proposed certain amendments to the bill which I desire to have acted upon.

Mr. BOOTH. I gave notice several days ago that when this bill came up for consideration to-day I would offer some amendments to it. It is only proper to say that while these amendments have not been formally passed upon by the Committee on Patents, I was requested by the committee to offer them for the consideration of the Senate. The desire of the author of the bill, the Senator from New Hampshire, is that they shall be accepted with the amendments of the committee just agreed to, so that they may be printed with the bill as amended. If there is no objection, I will offer the amendments which I send to the Clerk's desk.

The PRESIDING OFFICER. The amendments proposed by the Senator from California will be reported in their order. The first amendment proposed by him will be reported.

The SECRETARY. It is proposed to substitute for section 2 the following:

SEC. 2. In all suits for the infringement of a patent, in which, at the date of the passage of this act, no final verdict has been rendered, or no decree for an account or assessment of damages has been pronounced, the measure of the plaintiff's recovery shall be the same, both in law and in equity. If a license fee has already been established by a reasonable number of transactions applicable to the case at bar, such license fee, or a portion thereof, according to the extent and duration of the infringement proved, shall be the measure of the plaintiff's recovery in all cases, except in cases where the defendant has made an actual profit from making for sale, or selling the thing patented, or the product thereof; and in such cases the proportion of the actual profit of such making for sale or selling, due to said infringement, shall be determined, and that proportion of such actual profit shall be the measure of the plaintiff's recovery; and in an action at law the court may appoint an auditor to ascertain the same, and his report shall be *prima facie* evidence; but if such proportion shall not be equal to the amount of a license fee established, or to be determined, in the manner hereinafter provided, the plaintiff shall be entitled to recover such amount, or so much thereof as shall be in excess of the profits so awarded.

If a license fee has not already been established by a reasonable number of transactions applicable to the case at bar, a license fee for the use actually made shall be determined from all the evidence in the case; and if the case shall not fall within the exception aforesaid the same shall be adopted as the measure of the plaintiff's recovery.

And whenever the court shall be of opinion that the suit of the plaintiff, or the defense of the defendant, was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

No account of savings shall in any case be allowed; and no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid: *Provided*, That nothing herein contained shall exclude other evidence as to the utility and advantage of the invention as one element to aid in determining a license fee where none has been established. Nothing contained in this section shall affect the right of a plaintiff to an injunction.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from California will be reported.

The SECRETARY. It is proposed to amend section 5, so as to read as follows:

SEC. 5. Section 4916 of the Revised Statutes is hereby amended so as to read as follows: Whenever any patent is inoperative or invalid, by reason of a defective

or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more or less than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention and in accordance with the corrected specification, to be issued to the patentee, or in the case of his death, or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. The specifications and claim in every such case shall be subject to revision, restriction, and rejection, in the same manner as original applications are. Every patent so reissued, together with the corrected specification, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form, except as otherwise provided in this act; but no new matter shall be introduced into the specification not shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments, and which he would have been entitled to include as a part of his invention in the patent originally granted. But no reissue shall be allowed, unless applied for within seven years from the date of the original patent, or within four years from the date of the passage of this act.

Mr. BOOTH. There is a clerical error in line 31. The word "he" should be stricken out, and the words "the patentee" inserted; so as to read:

And which the patentee would have been entitled to include as a part of his invention in the patent originally granted.

The PRESIDING OFFICER. The Secretary will make the correction suggested by the Senator from California. The question is on agreeing to the amendment of the Senator from California just reported.

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 7 by striking out, in line 9, the words "as a clerical error;" also, by striking out, in line 11, the word "or," where it first occurs, and inserting in place thereof the word "and;" and by striking out in said line the words "or both."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 8 by striking out, in line 8, the words "or may be found;" also, by inserting in line 11, after the word "names," the words "and residences;" also, by inserting in line 13, after the word "each," the words "as the same, would have to be stated in an answer in equity;" also, in line 23, by inserting after the words "of such" the words "of said;" in line 27, by striking out the words "of said;" in line 33, by inserting after the word "person" the words "or persons;" in line 36, by striking out the word "admissible" and inserting in place thereof the word "competent;" in line 48, by inserting, after the word "office," the words "and within thirty days after said testimony is returned into said court, the clerk thereof shall make a copy of the petition and testimony, at the complainant's or petitioner's costs, and file the same in the Patent Office;" in lines 52 and 53, by striking out the words "or may be found;" in line 65, by striking out the words "United States" and inserting in place thereof the words "jurisdiction of the court."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 9, in lines 19 and 20, by striking out the words "adjudging said patent, or any claim thereof, to be void" and inserting in place thereof the word "therein;" also, by striking out from and including the word "certificate," in line 21, to and including the word "void," in line 24, and inserting in place thereof the words "certified copy of the decree;" in line 24, by striking out the word "certificate" and inserting in place thereof the word "copy;" also, by inserting, at the end of line 28, "and the costs thereof shall be taxed as costs of the cause;" also, in line 36, strike out the words "or are found."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 10 by striking out, in line 7, the words "of patent causes;" also, by inserting, in line 21, after the word "bring," the words "or cause to be brought."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 11 by striking out, in line 3, the word "duty," and inserting in place thereof the word "fee;" in lines 15 and 16, by striking out the word "duties" and inserting in place thereof, respectively, the word "fees;" also, in line 16, by striking out the word "annual."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 12 by striking out all of lines 8, 9, 10, and 11, and inserting in place thereof "States. An assignment, grant, or conveyance, or a license exclusive as to purpose or territory, shall be void as against any subsequent purchaser or mortgagee of said patent or licensee thereunder for a valuable."

The amendment was agreed to.

The SECRETARY. It is proposed to amend section 19 by adding at the end thereof: "But nothing herein contained shall have the effect to revive any patent heretofore expired, nor to extend the term of any existing patent."

The amendment was agreed to.

The PRESIDING OFFICER. The bill is still in Committee of the Whole and open to amendment.

Mr. WHYTE. Now that the proposed amendments have been agreed to, I hope before the bill is reported to the Senate it may be printed as amended, so that we may understand what the amendments are. I also understand that there is a reservation in regard to the amendments that have been agreed to as in Committee of the Whole that a separate vote may be taken on each amendment in the Senate if any Senator chooses.

The PRESIDING OFFICER. Under the rule a vote will be taken on the amendments in the Senate. It is the right of a Senator to demand a separate vote upon concurring in any amendment.

Mr. BOOTH. I should like to inquire if the bill as amended will be printed without further order of the Senate?

The PRESIDING OFFICER. It will be printed without further order of the Senate.

Mr. CONKLING. Will it be printed as reported to the Senate or printed as in Committee of the Whole? I understood the Senator from Maryland to suggest that it be reported to the Senate. I suggest to him that it had better remain as in Committee of the Whole.

Mr. WHYTE. That is what I said, that it should be printed as amended before the bill is reported to the Senate.

Mr. CONKLING. I beg the Senator's pardon; I misunderstood him.

The PRESIDING OFFICER. The bill will be printed as amended in Committee of the Whole. The bill is still in Committee of the Whole.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at three o'clock and sixteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 11, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. PATTERSON, of Colorado. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 763) to provide for holding term of the circuit and district courts in the district of Colorado. I will state to the House that I think there will be no debate on this bill.

Mr. WOOD. I would suggest that by unanimous consent we go to the Speaker's table for the purpose of referring the bills now there, so that we may have them in committee, whence that may be reported back again, for examination. It is obvious that a good deal of time is consumed by individual gentlemen rising here at any moment and asking that particular bills be taken from the Speaker's table.

The SPEAKER. If the suggestion of the gentleman from New York should be adopted it would relieve the Chair very much.

Mr. WOOD. My object is to avoid that loss of time by clearing the table.

Mr. HALE. What is the proposition?

The SPEAKER. That the House, by unanimous consent, go to business on the Speaker's table and take up the bills thereon, for reference only.

Mr. HALE. With the understanding that in every case a single objection makes the bill remain on the Speaker's table?

Mr. EDEN. And no bills to come back on motions to reconsider?

The SPEAKER. That would be the understanding.

Mr. HALE. Let it be clearly understood that if objection be made the bills remain on the Speaker's table.

Mr. REAGAN. I ask leave to introduce a bill for reference to the Committee on Commerce.

Mr. PATTERSON, of Colorado. Has objection been made to my motion in reference to a particular bill on the Speaker's table?

The SPEAKER. Is there objection to the proposition of the gentleman from New York?

Mr. WOOD. I would suggest to the gentleman from Colorado that his object will be attained if my proposition is acceded to.

Mr. PATTERSON, of Colorado. Not at all. I do not desire to have my bill referred. I ask for action upon it. It is important there should be action upon it at the present time. It is a bill which has reference to the holding of courts in our State. I have an amendment to offer to the Senate bill, in regard to which I have consulted gentlemen on the Judiciary Committee, and I think it will occupy but a few moments. It will give the courts in our State the facilities which are needed.

Mr. WOOD. I do not object to the request of the gentleman from Colorado.

TERM OF COURT IN COLORADO.

The SPEAKER. Is there objection to the request of the gentleman from Colorado, who asks unanimous consent to take from the Speaker's table for consideration at this time the bill (S. No. 763) to provide for holding term of the circuit and district courts in the district of Colorado?

Mr. EDEN. Let the bill first be read.

The bill was read, as follows:

Be it enacted, &c., That the circuit and district courts of the district of Colorado may, when the public interests require it, order a special term, to be held at such time and place as said courts may designate: *Provided*, That no special term of the circuit court shall be held except with the consent of the circuit judge of the circuit that the circuit or district court may order a grand or petit jury, or both, to attend such special term, by an order entered of record at least thirty days before the day on which such special term shall convene. Notice of such special term shall be published weekly for four consecutive weeks in a newspaper published at the capital of the State. And when a circuit and district court shall be held at the same time and place, the same panel of jurors shall serve in both courts.

Mr. REAGAN. If the bill will give rise to debate I must object to its present consideration.

Mr. PATTERSON, of Colorado. It will give rise to no debate. I desire to offer an amendment which was unanimously adopted by the House in the form of a bill last session.

Mr. BURCHARD. If the bill is to be amended I think it should be referred.

Mr. PATTERSON, of Colorado. I will state to the gentleman from Illinois that I have already consulted a majority of the members of the Judiciary Committee, and they are satisfied with the bill and amendment. If the amendment be adopted the bill with the amendment will go back to the Senate and will then go to a committee of conference if the Senate should not adopt the amendment. I respectfully ask gentlemen to permit this action to be taken. It is a matter of the greatest importance to the people of our State.

Mr. BURCHARD. I have no objection to the committee having leave to report the bill back at any time.

Mr. PATTERSON, of Colorado. The amendment I offer is a bill which was reported unanimously from the Committee on the Judiciary at the last session and passed the House unanimously. I ask the gentleman from Illinois to withdraw his objection.

Mr. FRYE. I desire to ask the gentleman from Colorado a question. Was the amendment submitted to the members of the Judiciary Committee severally and did we agree to it?

Mr. PATTERSON, of Colorado. I submitted it to the gentleman from Maine [Mr. FRYE] and to the chairman of the Judiciary Committee and other members of the committee and they agreed to it.

Mr. FRYE. My impression is that we had no objection to the amendment and were quite satisfied with it.

Mr. BURCHARD. Let the amendment be read.

The amendment was read, as follows:

Add to the bill the following sections:

SEC. 2. That for the trial and determination of all causes and proceedings cognizable and triable in the district court of the United States for the district of Colorado, as established by the act entitled "An act to further the administration of justice in the State of Colorado," approved June 26, 1876, the said district shall be separated into three divisions, as follows: All that part of said district lying within the following-named counties as now constituted, to wit: the counties of Bent, Las Animas, Pueblo, Huerfano, Fremont, and Custer shall constitute the southern division, and a regular term of said court for said division shall be held annually at Pueblo, to commence on the first Tuesday in February; all that part of said district lying within the following-named counties, to wit: the counties of Costilla, Conejos, Rio Grande, Saguache, Lake, Gunnison, Hinsdale, San Juan, Ouray, and La Plata, together with all that part of the Ute Indian reservation lying south of the thirty-ninth degree of north latitude in said State, shall constitute the western division, and a regular term of said court for said division shall be held annually at Del Norte, to commence on the first Tuesday in August; and the residue of the State of Colorado shall constitute the northern division, and two regular terms of said court for said division shall be held annually at Denver, to commence on the first Tuesday in May and on the first Tuesday in October. And should the judge of said district court fail to attend at the time and place of holding any one of the regular terms of the court for either of the said divisions of the aforesaid district, before the close of the fourth day of any such term, the business pending in such court shall stand adjourned to the next regular term thereof: *Provided*, That whenever the judge of said court, from any cause, shall fail to hold a regular term of said court for either of said divisions, it shall be his duty, if in his opinion the business in said court shall require, to hold an intermediate term of said court, at such time as he shall, by his order in writing, direct, addressed to the clerk and marshal of said court, at least thirty days previous to the commencement of said term, and to be published in the several newspapers published in the bounds of said divisions, the same length of time; and at any and all such intermediate terms the business of any such courts, of every nature and description whatsoever, shall have reference to, and be proceeded with, in the same manner as if the same were a regular term of the said court. And all issues of fact shall be tried at a term of said court to be held in the division where such suit should hereafter be commenced in accordance with the third section of this act. But nothing herein contained shall prevent the said district court from regulating, by general rule, the venue of transitory actions either in law or in equity, and from changing the same for a good cause to be shown.

SEC. 3. That all issues now pending in the said district court shall be tried at the places above prescribed for holding such court within the division where the cause of action may have arisen, unless otherwise ordered by said court, in pursuance of the authority given in the first section of this act; and no process issued or proceedings pending in the said district court shall be avoided or impaired by this change of the time and place of holding such court; but all process, bail bonds, and recognizances returnable at the next term of said court shall be returnable and returned to the court next held at the appropriate place, according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly; and all continuances may be made to conform to the provisions of this act.

SEC. 4. That all suits and proceedings hereafter to be brought in the said district court, not of a local nature, shall be brought in a court of the division of the district where the defendant resides; but if there be more than one defendant, and they reside in different divisions of the district, the plaintiff may sue in either division and send duplicate writ or writs to the other defendants, on which the plaintiff or his attorney shall indorse that the writ thus sent is a copy of a writ sued out of a court of the proper division of the said district; and the said writs, when executed and returned into the office from which they issued, shall constitute one suit and be proceeded in accordingly.

SEC. 5. The clerk of the district court for the district of Colorado shall appoint a deputy clerk for said court held at Pueblo and a deputy clerk for said court held at Del Norte, who shall reside and keep their offices at said places respectively. And the said clerk shall reside and keep his office at Denver. Each deputy shall keep in his office full records of all actions and proceedings in the district court held at the same place, and shall have the same power to issue all process from the said court that is or may be given to the clerks of other district courts in like cases.

SEC. 6. That the district attorney and marshal of the district of Colorado shall respectively perform the duties of district attorney and marshal of and for the southern, western, and northern divisions of the district of Colorado as established by this act; and the said marshal shall keep an office and deputy at each of the places where the sessions of the said district court are directed to be held.

SEC. 7. That in addition to the ordinary jurisdiction and powers of a district court of the United States with which the district court of Colorado has been invested, it be, and is hereby, invested, within the limits of the said southern and western divisions of same, with the exercise of concurrent jurisdiction and power, in all civil cases, now exercised by the circuit courts of the United States; and that in all cases where said court shall exercise such jurisdiction writs of error and appeals shall be allowed and taken from the judgment, orders, or decrees of said court to the Supreme Court of the United States, in the same manner and upon the same conditions as appeals may be taken from the circuit courts.

SEC. 8. Any person charged with violating any of the penal or criminal statutes of the United States of which the said district court has jurisdiction shall be proceeded against, by indictment or otherwise, within the division of said district wherein the alleged offense was committed, and shall have his or her trial at a term of the said district court held in the said division, unless for cause shown the judge shall otherwise direct; and grand and petit juries shall be summoned for the several terms of said district court in manner as is now, or may be, provided by law; and jurors shall be selected and drawn from the division of the said district in which they reside and in which the term of the said district court to which they are summoned is held.

SEC. 9. A term of the circuit court of the eighth judicial circuit shall be held at Denver, in said State, upon the first Tuesday in May and the first Tuesday in October in each year. One grand jury and one petit jury shall be summoned, and serve in both the said circuit and district courts, the terms of which are to be held in Denver.

SEC. 10. All acts and parts of acts in conflict with this act are hereby repealed.

There being no objection, the bill was taken from the Speaker's table, and the amendment was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PATTERSON, of Colorado, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. SMITH, of Pennsylvania, from the Committee on Appropriations, reported a bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SMITH, of Pennsylvania. I give notice that I will call up the bill to-morrow, after the morning hour.

Mr. FOSTER. I reserve all points of order.

ANDREW MUCKLE.

Mr. HUBBELL. I ask unanimous consent to introduce for consideration at this time a bill which should be considered and passed at once, if the relief asked for is to be given.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill, which was read, directs that the Adjutant-General of the Army remove any charge of desertion which may stand on his record against Andrew Muckle, late a private in Company F, Fifteenth Regiment Michigan Infantry Volunteers, and to forthwith grant him an honorable discharge.

The second section directs the Commissioner of the General Land Office to extend the time for proving up the homestead entry of the said Andrew Muckle, No. 2745, made at the United States land office then at Traverse City, Michigan, on the 2d day of January, 1872, for one year from the 2d day of January, 1879.

Mr. REAGAN. I think I must call for the regular order.

Mr. HUBBELL. There is a petition and there are also affidavits of parties accompanying this bill, and if gentlemen will hear them read I am sure they will allow the bill to pass at once.

Mr. WHITE, of Pennsylvania. Has this bill been referred to and considered by the Committee on Military Affairs?

Mr. HUBBELL. It has not. It came to me yesterday. If the bill shall be referred it will be of no use to the party, because the relief prayed for must be had before the 2d day of January next or he will lose his homestead. If the relief is not granted by that time, this party must lose the homestead upon which by the 2d of January next he will have lived the full time required by law.

There being no objection, the bill (H. R. No. 5485) was received, read three several times, and passed.

Mr. HUBBELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF WATCHMEN IN TREASURY DEPARTMENT.

Mr. HOOKER, by unanimous consent, presented the memorial of watchmen of the Treasury Department, praying that their pay be increased to $60 per month; which was referred to the Committee on Appropriations.

INTERSTATE COMMERCE.

Mr. REAGAN. I now call for the regular order.

The SPEAKER. The Chair desires to state that House bill No. 3547 is now in a position before the House with the main question ordered. More than once at the last session the House declined to proceed with the consideration of the bill. On the 11th day of May last the main question was ordered upon the bill; and on the Monday following, the 13th of May, the gentleman from Texas [Mr. REAGAN] moved to reconsider the vote by which the main question was ordered.

Mr. REAGAN. The object being to present a substitute for the entire bill.

The SPEAKER. Subsequently thereto the gentleman from Texas, [Mr. REAGAN,] by unanimous consent, presented an amendment in the nature of a substitute for the original bill and amendment.

Mr. HALE. Is there not a special order that comes up to-day by virtue of assignment, and must not the House first settle what business it will take up?

The SPEAKER. It is entirely within the province of the House to determine at all times what business it will proceed with. There seems to be two orders for to-day: the first is the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers, on which bill the main question has been ordered. That order must clearly be executed; but the House can decline to proceed with it at this time, just as on several occasions at the last session it declined to proceed with the consideration of the bill. If the House shall now refuse to consider the bill, then of course the special order will come up, which is the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award. If the House shall refuse to consider the interstate commerce bill, and the Geneva award bill shall come up, then after the disposition of that bill the interstate commerce bill will again come up.

Mr. HALE. My point was that the House should settle now what bill it will take up before any bill is read. Perhaps the gentleman in charge of the Geneva award bill [Mr. KNOTT] will consent to taking up the other bill first.

The SPEAKER. The main question is operating on the bill known as the interstate commerce bill.

Mr. WHITE, of Pennsylvania. Has not the interstate commerce bill the preference, unless the House shall postpone it?

The SPEAKER. The House can refuse to consider it, if the question of consideration is raised.

Mr. WHITE, of Pennsylvania. I hope it will not be.

Mr. POTTER. If the interstate commerce bill is now considered, will the Geneva award bill come up afterward?

The SPEAKER. Immediately afterward.

Mr. KNOTT. I understand the Speaker to state that the previous question is prevailing upon the interstate commerce bill and the amendment offered by the gentleman from Texas.

The SPEAKER. So the record shows.

Mr. KNOTT. That being the case, must not the vote upon the bill be taken necessarily within an hour?

The SPEAKER. The gentleman from Texas [Mr. REAGAN] can answer that better than the Chair. The Chair will state that the debate upon the bill cannot be continued beyond an hour without unanimous consent.

Mr. REAGAN. Should the main question be reconsidered and the substitute offered, will it not then be open to amendment under the five-minute rule?

The SPEAKER. The Chair thinks that the vote cannot be reconsidered by which the main question was ordered, because more than two days have transpired since that time.

Mr. REAGAN. The amendments which I desire to offer to the substitute are merely to strike out a few words. The substitute has been prepared with great care, and I would myself prefer to have the substitute read by sections and considered under the five-minute rule, until we get through with it in that way.

The SPEAKER. That can be done by unanimous consent.

Mr. KNOTT. I object to that.

Mr. REAGAN. Then I ask consent to offer three amendments which I hold in my hand, and upon which I would like to have the action of the House.

The SPEAKER. That can only be done by unanimous consent.

Mr. REAGAN. I ask unanimous consent; and I am sure no member will object, because it is necessary for the perfection of the bill that several words in two or three different places should be struck out.

The SPEAKER. The gentleman from Texas desires unanimous consent to modify the amendment heretofore offered by him in the nature of a substitute, on which the previous question is operating. His object, as the Chair understands, is to make the amendment clearer. The Clerk will read the modifications which the gentleman proposes.

The Clerk read as follows:

In section 1, lines 11 and 12, strike out the words "rendered at the same time."

In section 2, lines 5, 6, and 7, strike out the words "which rebate, drawback, or advantage is not allowed to all other persons for whom like services are performed."

In section 3, lines 4 and 5, strike out the words "for the purpose of defeating the intention of this act."

Mr. REAGAN. I ask that these modifications may be made by unanimous consent.

Mr. FRYE. I wish to ask a parliamentary question. The main question having been ordered, the gentleman from Texas, as I understand, is now entitled to an hour. Will consent to the admission of these modifications at all change his right in that respect?

The SPEAKER. It will not; the time to which the gentleman is entitled will not be changed. The gentleman asks to have these modifications made by unanimous consent, his object being, as the Chair is advised, to make clearer the meaning of the substitute. The Chair will cause the whole substitute to be read, because a long time has elapsed since the question was before the House; and it is desirable that members should be fully advised of the provisions of the measure before the vote is taken.

Mr. REAGAN. I desire members to understand that this amendment removes from the bill verbiage which was before objected to, and makes other changes from the bill formerly discussed. I hope, therefore, that gentlemen will give their attention to the reading.

The SPEAKER. The substitute on which the vote is about to be taken will be read, with the modifications proposed by the gentleman from Texas.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

That it shall be unlawful for any person or persons, engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or to or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and cotemporaneous service, in the carrying, receiving, delivering, storing, or handling of the same. And all persons, engaged as aforesaid, shall furnish, without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the cotemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage, or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property, as aforesaid, directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or services rendered, as aforesaid, by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property, as mentioned in the first section of this act, to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, breaking car-loads into less than car-loads, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property, as aforesaid, to enter into any contract, agreement, or combination, for the pooling of freights, or to pool the freights, of different and competing railroads by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property, as provided in the first section of this act, to charge or receive any greater compensation per car-load of similar property for carrying, receiving, storing, forwarding, or handling the same for a shorter than for a longer distance in one continuous carriage.

SEC. 5. That all persons engaged in carrying property, as provided in the first section of this act, shall adopt and keep posted up schedules, which shall plainly state:

First, the different kinds and classes of property to be carried;

Second, the different places between which such property shall be carried;

Third, the rates of freight and prices of carriage between such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same.

Such schedules may be changed from time to time, as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided, at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall, as aforesaid, be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons, as defined in this act, engaged as aforesaid, shall do, suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or persons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any district or circuit court of the United States, where the person or persons causing such damage can be found, or may have an agent, office, or place of business; and the person or persons so offending shall for each offense forfeit and pay a penalty of not less than $1,000, to be recovered by the United States, by action in any circuit or district court aforesaid, one-half of such penalty or penalties, when collected, to be paid to the informer. Any action to be brought as aforesaid to recover any such penalty or damages may be considered, and if so brought shall be regarded, as a subject of equity jurisdiction, and discovery and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance, preliminary or final injunctions may, without allegation or proof of

damage to any plaintiff or complainant, be granted upon proper application, restraining, forbidding, and prohibiting the commission or continuance of any acts, matters, or things, within the terms or purview of this act, prohibited or forbidden. In any action aforesaid, and upon any application for any injunction above provided for, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence, and no claim that any such testimony or evidence might or might tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled, the same as in the case of any other witness; and in case any such deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any injunction aforesaid, the same, and the production of books and papers, may and shall be had, taken, and compelled, by or before any United States commissioner, or in any manner provided or to be provided for, as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers, in or by chapter 17 of title 13 of the Revised Statutes of the United States. In actions to be brought as aforesaid, damages sustained in the period of a month or part of a month may be regarded as and counted or declared upon, or complained of generally, and as one separate cause of action, and so, whether such damages be sustained in one month or in different months; and such separate causes of action may be joined in the same action. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall directly or indirectly do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or directly or indirectly aid or abet therein; or shall directly or indirectly omit or fail to do any act, matter, or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required to be done not to be so done; or shall directly or indirectly aid or abet any such omission or failure; or shall directly or indirectly be guilty of any infraction of this act, or directly or indirectly aid or abet therein, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $1,000.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property less than an ordinary car-load, or wholly within one State or Territory, and not destined for carriage in another State or Territory, or going to or coming from some foreign country, or to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held to mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

Mr. REAGAN. Mr. Speaker, the bill which has been read is a substitute for the bill as reported by the Committee on Commerce. That bill, as first reported, was objected to because it was regarded as too verbose and too technical. The committee, after hearing the objections urged, having reported the measure in that form with some hesitancy, determined to accommodate the views of the House by rendering the bill less verbose and less technical; and it is proper for me to say that the committee was indebted to my young friend from West Virginia [Mr. KENNA] for his valuable assistance in the revision of this bill.

In addition to this, the amended bill embraces two changes, to which I should call the attention of the House. In the fourth section of the bill as originally reported provision was made requiring schedules of State freights to be posted up, as matter of comparison, in order to prevent the charging of greater rates of freight for interstate commerce than for State commerce. A number of gentlemen, it seemed, could not understand but that this provision was an interference in some way or another with the right of the States to regulate commerce within their own territory. No such thing had been intended by the bill, and the committee thought no such inference could justly be made from its terms; but the provision was not deemed of importance enough to justify its retention against the judgment of any members of the House. Hence the provision of the original bill requiring the posting up of State rates of freight as a means of comparison has been stricken out of the bill.

The bill as originally reported contained no provision against the pooling of freights by roads running to and from the same terminal points. In this substitute we make provision against the pooling of freights.

These constitute the only material changes from the substance of the bill as first reported, the other changes being verbal, and the bill now presented having for its object the attainment of the same ends intended to be accomplished by the original bill.

Some other objections were made to the original bill. One gentleman, who is not now present, (and I shall therefore not make the criticism upon his remarks which I would if he were present,) urged that the effect of the bill, whatever the object may have been, was to aid to create and to foster monopoly; and he urged against the passage of the measure the fact that there was no railroad lobby here attempting to defeat it. He had doubtless forgotten that the bill which first passed the Senate and afterward this body, in relation to the Pacific railroads—a bill of very great moment, in which large interests were involved—did not, at least in this end of the Capitol, bring lobbyists here, so far as we knew.

But, sir, I take it that we are not driven to the alternative of determining the meaning of a bill or our duty in voting for or against it by ascertaining whether there is or is not a lobby here to oppose it. We look to the grievance complained of; we ascertain the remedies which we propose for these grievances; we submit the plan of remedy to the House; we judge the necessity by such information as we have, and of the effect of the bill by its terms, and not by what this or that person may say as to his desire to see it passed or as to its effect.

It has been urged, sir, that the bill would defeat competition. There are some gentlemen who seem to have the impression that is so. It only requires examination of the bill to see that one of its controlling objects is to secure to the commercial, producing, and consuming interests of the country the necessary legitimate competition between different lines of transportation.

The provisions of the bill are few and simple. The first section provides that rates of freight or charges shall be equal alike to all persons for like service. Can there be objection to that? Who is it that will rise on this floor and say that the power of these companies to discriminate between man and man, and community and community, ought to be exercised, or can upon any principle of justice be exercised? That these discriminations have been going on is notorious to all men. I presented a portion of the evidence in my remarks during last session. The gentleman from Pennsylvania [Mr. THOMPSON] presented evidence during the last session on the same subject. The gentleman from Illinois [Mr. TOWNSHEND] presented other evidence on this subject. We have the evidence of this discrimination from the Board of Trade and Transportation of New York, from the Chamber of Commerce of New York City, from boards of trade and chambers of commerce of a number of leading commercial cities of the United States, and that evidence I have given to the House. We have the authority of the Legislature of the State of Pennsylvania, approving the provisions and objects of this bill by instructing its Senators and requesting its Representatives to support it. We have the authority of the Legislature of the great State of New York, recommending to its Senators and Representatives such a bill as this.

Mr. HEWITT, of New York. I ask the gentleman from Texas whether it is this bill the Legislature of the State of New York recommends?

Mr. REAGAN. I had better refer to what the State of New York does recommend as the best answer to the gentleman. I now read, Mr. Speaker, the printed copy in the RECORD, page 3276, of the last session of Congress, of the resolutions of the State of New York:

IN ASSEMBLY, *Albany, March 25, 1878.*

Whereas there are now before Congress several bills seeking to provide for equity in rates of freights on property transported by common carriers in this country: Therefore,

Resolved, (if the senate concur,) That our Senators and Members of the House of Representatives, in Congress assembled, be, and they are hereby, requested to use their influence to secure the enactment of any wise and equitable law having for its object the prevention of violent and injurious fluctuations and unjust discrimination in rates of freight imposed by common carriers upon property transported by them in this country.

Resolved, That the clerk of the Assembly be directed to transmit a copy of the foregoing preamble and resolution to each Senator and Member of the House of Representatives from the State of New York.

By order:

EDWD. M. JOHNSON,
Clerk.

IN SENATE, *April 5, 1878.*

Concurred in.
By order:

JOHN W. VROOMAN,
Clerk.

Mr. HEWITT, of New York. The gentleman will observe that refers to what the Representatives may regard as a wise measure.

Mr. REAGAN. These resolutions were passed while this bill was pending before the House. The gentleman, of course, is the judge between himself and his constituents as to what the Legislature meant. I will say here, Mr. Speaker, that I do not expect any one to support this bill who represents capital alone. I only expect gentlemen will support it who represent the people of the United States and their interests.

Now, sir, I have already called attention to the first section, which prohibits discrimination in freight charges. The second section gives effect to the first section by providing that it shall be unlawful for any person or persons engaged in the transportation of property as aforesaid, directly or indirectly to allow any rebate, drawback, or other advantage in any form upon shipments made or services rendered as aforesaid by him or them. The evidence of the abuse in the allowance of rebate and drawback, the injustice of the practice, the evil which it has wrought upon the commerce of the country, the wrong done to individual citizens and communities in this country, call loudly for the passage of this bill so that the power of monopoly shall no longer be exerted by corporations to the injury of the commercial interests of the country.

The third section of the bill provides that it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property, as mentioned in the first section of this act, to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, breaking car-loads into less than car-loads, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or persons carrying property, as aforesaid, to enter into any contract, agreement, or combination, for the pooling of freights, or to pool the freights, of different and

competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

The first part of this section is intended to prevent all subterfuges by which the intention of the law could be defeated by common carriers, and the latter part as will be seen prohibits "pooling."

Any one who reads the remarks and the evidence submitted by the gentleman from Illinois on this subject, any one who is familiar with the evidence before the Committee on Commerce upon this subject, will see and know the great necessity of reopening a competition which may exist between competing roads. Take for instance such points as Chicago and New York, where there may be three or four competing lines. It had been hoped that the power of monopoly and its injurious operations on the interests of the country would be prevented by competition; and so it would be if the competition of competing lines between the same points were in operation. But it has been wisely observed that where combination is possible competition is impossible; and in order to avoid the effect of competition, in order to prevent extending to the producing classes the advantages which would arise from competition, in order to prevent relieving the classes engaged in consumption from the benefits of competition, these roads may agree and have agreed to a plan of pooling their freights, the several roads meeting by their representatives and agreeing as to the relative amounts of business that each does upon its through trade. Having so agreed, the gross proceeds go into a common fund. They are pooled. The net proceeds are then divided between them in the proportions in which it is agreed they would do the through business; and thus competition is absolutely defeated and combination and monopoly absolutely organized against the productive and consuming interests, to the detriment and injury of the commerce of the country.

But I will not proceed with this discussion, for I think it may be safely assumed that every member of this House knows the evils of thus preventing competition and the wrongs inflicted on the great body of the people by it.

The fourth section of the bill is one that was objected to when it was up for debate before, because it required that the State schedules of freight should be posted up as a means of comparison only, in order to prevent charging greater rates of freight for interstate than for State commerce. Inasmuch as it seemed difficult for members to understand that this was not an interference with State commerce, and as the committee were very full and clear in their convictions that we neither had the power nor the right to interfere with State commerce, we thought we would avoid all offense by striking that out, and we made the section read as follows:

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property, as provided in the first section of this act, to charge or receive any greater compensation per car-load of similar property for carrying, receiving, storing, forwarding, or handling the same for a shorter than for a longer distance in one continuous carriage.

This is the section of the bill which some gentlemen have conceived interfered with competition. How, sir, is it possible that it can interfere with free competition? No part of the bill prescribes rates of freight to any company, whether they be high or low. No part of the bill requires any comparison of rates of freight between competing companies or any two companies, whether competing or not, so that each stands as free and independent as it is to-day if the bill should become a law to charge its own rates of freight, make them high or low as its interest or competition may induce, without interference by this law, being limited only by the requirement that freight shall be equal to all persons, that there shall be no drawbacks, and that like facilities shall be extended to all business.

Mr. PHILLIPS. Will the gentleman yield to me?

Mr. REAGAN. I yield to the gentleman for a question.

Mr. PHILLIPS. I wish to ask the gentleman from Texas if the effect of this section will not be to compel the same rates for freight carried a thousand miles *pro rata* as for ten miles?

Mr. REAGAN. I am glad the gentleman from Kansas has asked the question, as I might possibly have omitted to speak on that point, and the question which he asks me is one which has been asked by others, and which I answer with a good deal of pleasure. There is no rate per mile required to be charged. The only limitation is that a car-load of freight going fifty miles shall not be required to pay more in the gross than a car-load of freight carried a hundred miles. And if the line of transportation be one thousand miles—I will meet precisely the view which my friend from Kansas has—if the line of transportation be one thousand miles long, and the cost of transporting one car-load of freight by that line be $100, all the bill provides upon that subject is that no more shall be charged for one hundred miles, or for five hundred miles, than is charged for one thousand miles. And right here let me say, as touching the question as to the prevention of competition, we know and recognize the fact that railroads cannot carry freight for short distances as cheaply as they can carry them for long distances, and we so leave the bill as to give them the whole margin of distance. For instance, on a line of carriage for a thousand miles we allow them to charge, if they see proper to do so, as much for carrying a car-load of freight one hundred miles as for carrying it one thousand miles; but we say, "Gentlemen, you cannot do more than this." You cannot take a course that compels people to ship their commodities away from the market in order to get a start for cheap transportation back to the market. You cannot do under this bill as has been done heretofore at Pittsburgh, where freight has been carried down the Ohio River five hundred and forty miles to Cincinnati, and there put upon competing lines of railroad and brought back through Pittsburgh and carried to Philadelphia or New York cheaper than it could have been carried directly from Pittsburgh to New York or Philadelphia.

Mr. PHILLIPS. Will the gentleman allow me to ask him another question?

Mr. REAGAN. Certainly; with pleasure.

Mr. PHILLIPS. Will not the effect of this section be to prevent a company or a man who ships we will say a hundred car-loads of cattle from Kansas City from making a rate of freight at which he can carry his cattle through the State? Will he not have to pay the same rates for long distances in the State as for short distances?

Mr. REAGAN. I am glad the gentleman has asked that question, and I will endeavor to answer it. In the first section of this bill we define what interstate commerce is; and in subsequent sections we limit the operations of the bill to interstate commerce. And then in the last section of the bill we expressly exclude from the operation of the bill all State commerce. We expressly repudiate in the last section of the bill the idea that we can interfere with State commerce.

Now, that being done, I cannot understand how it can be possible that local roads can have anything to do with interstate commerce in the sense in which I understand the gentleman from Kansas [Mr. PHILLIPS] to refer to it.

Mr. EDEN. I would like to ask the gentleman a question.

Mr. REAGAN. Certainly.

Mr. EDEN. It is whether railroad companies cannot overcome all the obstacles provided in the fourth section of the bill by charging higher rates for shipping from the leading points and thereby continue the rates they now charge at the intermediate points? Is there anything in the bill to prevent that?

Mr. REAGAN. There is nothing in the bill to determine what rates shall be charged on a through route. It was our express intention not to adopt any provision in the bill that could embarrass the railroads in the management of their business in any legal manner.

Mr. EDEN. Then the probability is that under this bill, instead of rates being reduced at the intermediate points, between New York and Chicago for instance, the roads will simply increase the rates between those two points so that they may continue the rates at the intermediate points.

Mr. REAGAN. There is this much in what the gentleman from Illinois [Mr. EDEN] says; and I do not wish anybody to vote on this bill without fully understanding its object and intent. One great object of the bill is that it shall aid in preventing those railroad wars which have hitherto been so disastrous to stockholders and so injurious to the country by the fluctuations in the prices of transportation. The object is to prevent pooling, to prevent discriminations between shippers and between places, to prevent rebates, and to compel the railroads to pursue their business in an honest and legitimate way.

And now I come to answer the gentleman. The object of the bill is to prevent railroads from compelling one part of the American people to pay for the transportation of freight belonging to another part further than the line of discrimination which we allow them, charging as much, and not more, for a short distance as for a long distance. If we can get this bill passed into a law it will not only be an instrument of justice toward the people of the country, but in my own judgment, as also in the judgment of some very able and well-informed men in relation to railroad matters, it will benefit the roads themselves by preventing what we call railroad wars.

And while I am on this point I will say a word or two to my friend from Massachusetts, whom I see here, [Mr. DEAN,] and who made some objection to this bill last session which I desire to answer now, because I think he clearly misapprehended the scope and object and effect of the bill. If he shall vote upon his speech he will be voting against this bill because of something which is not within the bill at all. In the remarks which he submitted at the last session, as I now call them to mind, he said that there were short railroads in Massachusetts and in New England connected with long lines to the West, and that the effect of this bill would be to operate against the interests of those short roads.

Why, sir, how can that be? The bill does not treat of lines of road but of lines of commerce, whether composed of one or more railroads. And the rate being fixed, if it is $100 for a car-load from Chicago to Boston, under this bill a railroad company may charge $100 per car-load from Lowell to Boston. That, I think, is a full and complete answer to the objection made by the gentleman from Massachusetts.

Mr. SPARKS. If I understand the object of the gentleman from Texas [Mr. REAGAN] it is to prevent conflicts between railroads.

Mr. REAGAN. That will be one effect.

Mr. SPARKS. That being so, will it not to the same extent prevent competition between all roads?

Mr. REAGAN. I think the gentleman could not have noticed my remarks in relation to competition. I stated distinctly that there is nothing in the bill that can by any means affect competition between railroads, for the reason that we do not attempt to regulate the rates of freight at all; for the reason that we do not compare different lines of road, but leave every road free to adopt its own schedule of rates of freight.

Mr. EDEN. I ask the gentleman this question: If railroad companies cannot charge any more at non-competing points on their line than they charge at competing points, does not that prevent competition?

Mr. REAGAN. If the gentleman means to take the consequences of the view which his question implies, he will then be fair. If railroad companies undertake to carry through freights from one center of trade to another center of trade at less than compensating rates and then charge the way freights with the loss on the carriage of the through freight, we mean to defeat this; and if this is what he means by preventing competition, justice and right demand that to this extent it should be prevented. We do not mean by this bill to recognize the right to impose unjust and unequal burdens upon any one, whether at trade centers or at way stations. We mean, so far as the bill will enable us to do it, to compel those who ship upon railroads to pay their own freight at such just and reasonable rates as the interests of commerce and the interests of the road may justify and require.

Mr. EDEN. I would like to ask the gentleman one other question. Will not the effect of this bill be to prevent cities like Chicago and Saint Louis, for instance, from having the benefit of water competition?

Mr. REAGAN. I do not see how it can have that effect, because the roads can put their freights as low after this bill is passed as they can put them now. How, then, can the bill prevent the advantages of water communication? We do not prevent the railroad companies from putting their rates as low as they please.

Mr. EDEN. They will be compelled to take freight from points where there is no water communication at the same rate as from points with which there is water communication.

Mr. REAGAN. I can tell the gentleman where his view leads him. There is no way of escaping the justice of the position I have taken unless it be by insisting that all intermediate points—the way stations in town and city and country on the lines of railway—shall pay for the transportation of through freights. This is the issue sharply and clearly presented. Gentlemen have their choice to give us freights which are just and alike to all, or to vote against this bill and preserve the power of monopoly to levy exactions which have become almost unbearable upon this commerce, amounting to $18,000,000,000 annually, which now passes over our railroads.

Mr. CANNON, of Illinois. If I understand the effect of the legislation here proposed it is this: if in any case, by reason of competition or otherwise, freight is carried from one State to another at less than the carrying is actually worth, then freights must necessarily be carried between all other points for less than the service is worth, whether there is competition or not.

Mr. REAGAN. Well, Mr. Speaker, we do not undertake to say that any road shall carry freight for less than it is worth to carry it; and this remark takes away the foundation of the question which the gentleman from Illinois has put. We do not propose to say that any railroad company shall carry freights for less than will compensate them; but we do propose to prevent the wrong of requiring two-thirds of the people of the country to pay the freights of the other third.

Mr. McMAHON. Will the gentleman permit me a question?

Mr. REAGAN. I will.

Mr. McMAHON. In the cases decided by the Supreme Court of the United States as to the power of a State to regulate charges upon railroads, the decision, I believe, was put upon the ground that Congress had not acted upon this question. Suppose that Congress now acts upon the question by passing this bill, (and acts probably without full advice,) what will be the effect upon all the State laws so far as the railroads are under the control of such laws?

Mr. REAGAN. I had not expected to speak at this time on that subject; but as the gentleman from Ohio [Mr. McMAHON] asks the question, I take pleasure in answering it at once. This bill provides for the regulation of interstate commerce, and has no relation to or effect upon State legislation with reference to State commerce—not the most remote.

Mr. McMAHON. We cannot avoid its having such an effect.

Mr. REAGAN. The States have no right to regulate interstate commerce.

Mr. McMAHON. I beg the gentleman's pardon. The Supreme Court declared in the cases to which I have referred that the States had indirectly the right to affect interstate commerce, because they had the right to regulate the rates of charge within their own limits; that although interstate commerce was thus affected, yet until Congress should act upon the question the power was to this extent with these States.

Mr. REAGAN. I am aware that the Supreme Court said that State legislation might incidentally affect interstate commerce. But here we are proposing to pass a measure which defines interstate commerce, and limits its effect to such commerce wholly. We are proceeding under the Constitution, which authorizes the Congress of the United States to regulate commerce among the States, the Constitution interpreted, as I showed in my remarks when first presenting this bill to the House, by the elementary writers on the Constitution and as interpreted by the many decisions of the Supreme Court of the United States which I cited at that time. It would require more time than I now have to go over the constitutional argument; but if the gentleman will refer to my remarks at the last session he will see that in every phase in which this question has been raised the Supreme Court has held that the Congress of the United States is charged with the regulation of interstate commerce, and that the power is exclusive; that the States cannot regulate interstate commerce; that Congress cannot regulate the local commerce of a State.

These judicial decisions go further and declare that the power of Congress to regulate interstate commerce is as full, as ample, as complete as the power of a State to regulate commerce within the territory of the State. If I have time, I will be glad to call attention to a number of elementary authorities and decisions of the Supreme Court on this subject.

Mr. WRIGHT. I wish to ask the gentleman from Texas a question. What does he understand by the words "to regulate commerce between the States?" Does he understand that Congress can put a tariff upon articles which pass through a State; to fix the rate of transit through a sovereign State? What I understand by the regulation of commerce does not reach the question of direct taxation with regard to tariffs.

Mr. REAGAN. Mr. Speaker, there is something about the use of the words "sovereign States" which perhaps the gentleman does not consider. The State is sovereign as the constitutions of the United States and of the State make it so; that is, where its sovereignty is reserved it is sovereign, but here the sovereign power is delegated by the Constitution of the United States ratified by the States.

Why, then, in talking on this subject, do we talk of the sovereign rights of a State interfering with powers expressly delegated to the Congress of the United States, and held to be clearly and unquestionably delegated by all the courts of the country which have dealt with the question at all?

Mr. LATHROP. Will the gentleman allow me to ask one question in regard to the effect of the fourth section?

Mr. REAGAN. I will.

Mr. LATHROP. Under this fourth section would it not be impossible for a man to contract for the carriage of one hundred car-loads from Chicago to New York at any less than the company would take one car-load from Michigan City?

Mr. REAGAN. I think it has exactly that effect—that one monopoly shall not help the other to oppress the individual, but that a train of one hundred cars belonging to one hundred men shall be entitled to be carried at the same price as a train of one hundred cars belonging to one man.

Mr. LATHROP. Then, if I understand this bill in principle, it ignores the idea of wholesale dealing.

Mr. REAGAN. Not at all; we do not interfere with wholesale dealing; we simply demand common honesty in common carriers. In the ninth section the gentleman will see that it is provided that nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property less than an ordinary car-load, or wholly within one State or Territory, and not destined for carriage in another State or Territory, or going to or coming from some foreign country, or to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles free or at reduced rates of freight for charitable purposes or to or from public fairs and expositions for exhibition.

When we create that unit we mean that unit shall be one of the instruments to secure justice alike between all shippers; we mean that one hundred men having one hundred separate car-loads put into the same train shall have their produce carried for the same price as one man could have one hundred car-loads carried.

And at this point I desire to say this very thing of allowing rebates and drawbacks to monopolies is abundantly illustrated in its enormous evils and effects by the oppression of the Cleveland Standard Oil Company entering into a combination with the New York Central, the Erie, the Pennsylvania Central, and the Baltimore and Ohio Railroad so as to get its freight carried far below the rate allowed other producers of oil in the oil region, thereby compelling other companies and associations either to sell out to the Cleveland Standard Oil Company or to go down in bankruptcy.

Mr. POTTER. Will the gentleman yield to me for a moment?

Mr. REAGAN. I will in a moment; I am not through. The gentleman from New York [Mr. POTTER] discussed this subject during the last session, and with all his learning and ability, and with my great respect for him, I must confess my profound astonishment at some of the views he then expressed. Without turning to the speech of the gentleman, I think I remember particularly one point which I desire to call attention to, and that is where he stated his opposition to a law like this was not predicated on the belief the law itself was unjust, but upon the danger to the Congress of the United States entering upon the enactment of laws to regulate common carriers or interstate commerce. He predicts if we pass a just and wholesome law which in no way interferes with any necessary right or interest of a railroad company, but simply takes away the power of monopoly by which railroads abuse the powers secured by their charter, that when we do so we open up a field which will turn loose upon this Congress the combined influence of all the railroads in the country; and that instead of combining the influence of the railroads against the people and their representatives, he would rather permit them to outrage all right, to exercise unreasonable powers of monopoly and discriminate against individuals and communities. All this, accord-

ing to that gentleman, we must acquiesce in or rather accept than enter upon the fearful duty of legislating in hostility simply to the power of monopoly.

Sir, has it at last come to this, that the representatives of the American people have not only reached the point that they dare not on this subject legislate for the interests of the people, but that they must, like cowards, shrink away from the discharge of the high duties demanded of us by the interests of the country and of the people from fear of arraying the powers of monopoly against the representatives of the people? Why, sir, if it has come to this, turn over your constitutional government to the great corporations; allow them to plunder and rob; allow them to build up and sustain monopoly; allow them to build up an oligarchy or an aristocracy, as they may choose; allow them to exercise all the discriminations, commit all the wrongs that they are committing under their powers, and say that the people of these United States are helpless, and that their representatives have sunk so far below that patriotism which has characterized them, and that courage which must always accompany the action of a man who discharges his duty in a great representative capacity, that we dare not check them.

Why, sir, in presence of these dangerous menaces is not now the time to assert the rights of the people through their representatives; to tell these gentlemen that while we pass no law that can abridge any reasonable right they possess, while we will do nothing that can put them to inconvenience, we will, in vindicating the rights, in supporting the rights, in protecting the rights of the people, insist on the passage of a law that shall take from them the power to charge A $100 for a car-load and B $50 for a car-load of freight, or to charge one town $50 for a car-load and another, perhaps nearer the market town or city, $100 for a car-load; that shall allow drawbacks and rebates; that shall allow pooling and combinations?

Sir, it has been urged that these railroads have their corporate authority from the States, and that therefore we cannot interfere with them. We are not dealing with the question of the corporate origin of a road, we are dealing with the commerce that passes over it; and if it be true that this Congress cannot execute the provision of the Constitution authorizing it to regulate commerce among the States, because it passes over roads built under acts of incorporation by the States, we have then nullified, or we have allowed a State to nullify, a provision of the Constitution by its acts and by indirection. Such a thing cannot be thought of, cannot be permitted.

The question presented by this bill is plainly a question of whether this Congress will rise to the dignity of the occasion by meeting the necessities of the country, by abridging wrong, by punishing wrong when it occurs, by protecting the people in the equal enjoyment of their rights. It lies at the very foundation of our system of government that exclusive privileges shall be granted to none, yet exclusive privileges are daily granted by these corporations, when this Congress could not do it, nor the General Government, nor any Legislature in the States.

While on the subject of the power of controlling these corporations let me remark I know that sometimes it is said that the Dartmouth College case is a precedent for preventing Congress from restraining and controlling corporations. The decision in the Dartmouth College case was good law for the case to which it applied, that of a private eleemosynary corporation, but is not law applying to a public or quasi-public corporation; and the effort to strain it into the service as applying to a public corporation is a disregard of all principles of law. It has from time immemorial, in Great Britain, the country from which we derive our system of laws, been held that common carriers were subject to regulation by acts of Parliament. It is held by the courts of that country, much more uniformly than by the courts of our country, that the fact that these corporations derive their franchises from the public, the fact that they are common carriers, the fact that their right to exact toll at all depends on the bounty of the Government in securing to them their charter, the fact that the public is interested in their transportation—that these facts give Parliament the absolute right to legislate in regulation of them without a reservation to that effect being contained in their charters. In our country, in our constitutional form of government, superadded to all these considerations is this: that we confer upon them, I suppose in all instances, the right of eminent domain, the right to condemn private property for their use upon just compensation. Now, as private property cannot be condemned for private use, as it can only be condemned for public use, each such corporation as accepts a charter authorizing the exercise by it of the right of eminent domain accepts the constitutional inference that its functions are public; otherwise it could not exercise the right of eminent domain; so that in our country, upon this principle of the Constitution, as the exercise of the right of a public corporation is for the public good, the fact that they are common carriers for hire, the fact that the whole public is interested in the commerce which they carry, gives to Congress the power as to interstate commerce to regulate the rates of freight.

And just here I may remark that the gentleman from New York and another gentleman said if you can go to the extent required by this bill of abridging the powers of monopolies, then you can go to the extent of saying that the railroad company shall carry freights for a certain stipulated price. That we might do so is within the purview of the Constitution as interpreted by the courts; but it is not in this bill.

I will ask gentlemen to limit their objections to the bill and its objects, and not to make objections to the bill on account of possibilities that do not arise upon it. It is time enough to vote against fixing schedule rates of freight when the proposition comes before Congress. We do not propose now any such thing. We are simply concerned in controlling the power of monopolies, in preventing unjust discriminations, in preventing rebates, in preventing the railroads from charging more for shorter than for longer distances upon a single line of transportation.

In addition to that we have provided in this bill ample provision for the execution of this law by the courts. Some objections have been urged to the provisions of the bill providing for its execution. Now, it is idle to enact a law unless we are so far in earnest, unless we so well comprehend the subject, that we are able to provide for executing the provisions of that law.

Unless some member feels an interest in the subject, I do not feel that I need undertake to discuss this provision of the bill, but will simply refer to the question of making everything a violation of the law that is done against its prohibition, and everything a violation of the law that is not done when commanded to be done, and fixing the penalties upon those who violate the law. I think this bill is framed so as to cover every possible chance of violation of the law.

This bill is intended to be a vigorous law, to be the assertion of the judgment of the American people upon a great question in a way that cannot be evaded and that cannot be avoided. This bill provides that the power of the people's representatives must be respected if it becomes necessary to compel respect through the courts of the country. To this end we have made ample provision in the bill to enforce all the points I have presented. Mr. Speaker, I would inquire how much time I have left?

The SPEAKER. There are five minutes of the hour remaining.

Mr. REAGAN. There is one thing I have alluded to to which I ought perhaps again to refer. This bill interests the people of every portion of the United States. It relates to a commerce which in 1870 was estimated by the gentleman who prepares the report upon internal commerce of the United States as amounting to more than $18,000,000,000. It relates to unjust discriminations and exactions made by those who control more than seventy-five thousand miles of railroad, more than $4,000,000,000 of railroad property. My hope is that the magnitude of these interests, the wonderful power that is brought to bear against the interests and rights of the people and the prosperity of the country, has not already grown too great for the people; that this Government has not already been dwarfed in power below corporations, but that the representatives of the people are still prepared to take care of their rights and are ready to assume such responsibilities as it may be necessary we should assume in order to protect the people against unjust exactions and the exercise by monopolies of powers injurious to the people. I now yield three minutes to the gentleman from New York, [Mr. POTTER.]

Mr. POTTER. I will use those three minutes first, to say that I protest against this method of legislation. I never would have given my consent to the introduction of this substitute had I known the manner in which it was to be considered by the House.

We debated a bill which involved one of the gravest constitutional questions which can possibly arise and which proposed to change the whole system of carriage throughout the country. We refused to advance that bill toward its passage, and then the gentleman from Texas [Mr. REAGAN] asked unanimous leave to introduce a substitute, which leave was given without any knowledge that the position of the bill would cut off debate on the substitute. Then by virtue of the unanimous consent so given to him he comes in here and after having spoken an hour graciously allows to some of us three minutes to suggest our objections to this grave and important measure. Now, I do not think that the other gentlemen of this House more than myself understood what they were about when they gave consent to bring in such an amendment as this.

I wish next to protest against the declamation which assumes that gentlemen who oppose this bill do so in the interest of monopolies. The gentleman from Texas [Mr. REAGAN] talks about corporations and their dangers. I have insisted upon all that for years; I never gave a vote for the sake of favor to any corporation in my life. But this bill does not touch corporations as such; it touches persons. It is aimed not at railroad companies as companies but as carriers. Its very language is that "any person" engaged in such trade shall be subject to the provisions of this bill. The bill therefore proposes a regulation of trade, nothing else; and to say that because gentlemen do not favor such a bill as this they are therefore in favor or in the interest of monopolies is to say what is absolutely without warrant.

Those who do not favor this bill oppose it not because they favor monopolies, but because they do not believe in the regulations of trade which it proposes, and, beyond that, because they do not believe it safe for the Congress of the United States to enter upon the task of regulating the details of any business carried on by our citizens.

Mr. TOWNSHEND, of Illinois. This bill in the very beginning is aimed at corporations, because it says "lines of transportation."

Mr. POTTER. These are the words: "it shall be unlawful for any person or persons."

Mr. TOWNSHEND, of Illinois. Engaged in transportation.

Mr. POTTER. "Engaged alone or associated with others."

Mr. TOWNSHEND, of Illinois. Engaged in railroad associations!

University of Michigan

Mr. POTTER. "Engaged alone or associated with others in the transportation of property." Thus it would touch every railroad carrier and every carrier by canal or by turnpike in the land, whether a corporation or not.

Mr. REAGAN. The words "or otherwise" after "railroad" are stricken out by the amendment.

Mr. POTTER. Then, it is aimed at transportation by land alone. The bill, then, proposes a regulation of private business. Now, I say that no matter how badly a business is carried on or how unsound its principle, nothing can be more dangerous than for Congress to interfere with it. This interference itself is worse than any other evil; for if Congress has the power to regulate the manner in which a business is conducted by one part of its citizens it must have power to regulate business as conducted by any of them. Beginning, then, by regulating the tariff on railways, we may go to regulating the prices and profits of every citizen in his dealings with those outside of his State. Could anything be more unwise or more likely to end in abuse?

What is the object of this bill? To prevent discrimination in freights? Discrimination, how? Why discrimination in favor of customers at wholesale as against customers at retail. Now, assume that such discrimination is not sound or fair or wise. Is that any reason Congress should undertake to regulate it? There are abuses in every business. Take the hotels, for instance. Surely there are abuses enough in the management of hotels; but would we improve matters if we should undertake to conduct by the legislation of Congress the keeping of all the hotels in the country?

[Here the hammer fell.]

Mr. PHILLIPS. I ask unanimous consent that the time allowed for debate be extended thirty minutes.

There being no objection, the time was extended accordingly.

Mr. POTTER. I shall take, sir, but little of this time given by the House. I was saying that if Congress can interfere with one regulation of trade it can interfere with all. If it can put its hand in this way upon the business of any of its citizens, it can put its hand upon the undertakings of all of them. I am absolutely opposed myself to the creation of corporations by Congress, or to giving them any favors; but when they are created by the States to do a certain business, they have the same right to do it as other persons, except as restricted by their charters and the laws of the States creating them, and the danger of interfering with their methods of carrying on such lawful business is just the same as would be the danger of interfering with the traffic of other citizens.

The whole drift of this bill is that interstate carriers by railway shall not charge relatively more for way service than they charge for carrying freight between the extremities of the line. Why not? The gentleman from Texas says the effect of the present railway practice is to impose too high a tariff upon the intermediate localities along the line in order that between terminal points the carrier may be able to charge less. Now, why cannot this matter be safely left to the parties immediately concerned? What earthly danger is there except to the bondholders and shareholders of the railroads if these companies do carry goods between their termini at less than the cost of the service? Why should they not be permitted to do it? It is a matter which concerns them alone. I agree that as regards those interested in railroads this practice of carrying through freight for less than cost is unwise, but surely that is not an injury to the people of the country generally. It is unwise, if you please, unfair, for a man who makes shoes to sell them for less than cost wholesale; but why should Congress interfere to prevent that?

Look at our great foreign trade! How do we keep it up? How comes it that our vast surplus of grain is shipped abroad except that these crops are moved from where they are raised to the seaboard mainly without profit; sometimes for less than it costs to move them? Whom does this hurt? Surely not the country generally. It may hurt the people who own the railways, but it certainly does not hurt anybody else in the country. Yet it is proposed by this bill to prevent that, and to require the carriers to so reduce their local charges that they will be compelled to raise their through charges, and thus destroy this the only prosperous branch of foreign trade we have left. After having with tariffs and other interferences destroyed pretty much all the foreign trade; after having cut off free ships and cut off free goods, you now want to cut off free transportation.

Mr. THOMPSON. I would like to ask the gentleman a question pertinent to this matter. If the railroad companies, as the gentleman intimates, carry grain from the West to the seaboard at rates which are less than they can really afford, is it either just or proper that those who live farther east should make up for the loss which the railroads suffer in accommodating that great trade?

Mr. POTTER. It may not be just to the stockholders and the bondholders of the railways.

Mr. THOMPSON. Is it just to the people generally?

Mr. POTTER. Does the gentleman mean the body of the country?

Mr. THOMPSON. Yes, sir.

Mr. POTTER. Why not?

Mr. THOMPSON. In other words, then, if a railroad company loses on the grain which it transports from the great West it may justly make up the loss in the charges upon the Middle States for carrying the same products. And this is equity, this is justice!

Mr. POTTER. Why, in the first place, the railroad companies cannot carry anything except according to the tariffs fixed by the States creating them, and if they charge too much for service between local points the State can and will correct that. Then——

Mr. TOWNSEND, of New York. That is exactly what this bill proposes to break up. It proposes to take away from the States the right to control that matter, and to put it in the hands of Congress.

Mr. POTTER. If my colleague from the Rensselaer district [Mr. TOWNSEND] thinks that an advantage, I do not.

Mr. TOWNSEND, of New York. I say it is not an advantage. I say that this bill is conceived in folly.

Mr. POTTER. Then, Mr. Speaker, it is a great pleasure for me once in a while to be permitted to agree with my colleague.

Mr. TOWNSEND, of New York. If you did so oftener you would get into fewer scrapes. [Laughter.]

Mr. POTTER. But I do not know that I should be so often right. [Laughter.]

Now, the gentleman from Illinois [Mr. EDEN] asked the gentleman from Texas a question not yet answered. He said that in the case of goods carried from Chicago to Buffalo there is a lake transportation competing with the transportation by rail, and the railway company to do this business must carry as low as the rates for water transportation; and he asked why a railway carrier should be required to carry freight to points along its line with which there is no competing water communication at rates as low as it charges for through freight carried to points to which there is water transportation. To this there can be no answer except that the fact does not exist. But the fact does exist. Take, for instance, the railway from Chicago to Buffalo. Its line passes, let us say, Laporte, to which there is no water transportation, yet that railway under this bill must carry freight from Chicago to Laporte at water rates or else it cannot compete with lake transportation between Chicago and Buffalo at all.

Mr. REAGAN. The gentleman from New York will allow me to suggest that railroads under this bill may carry as cheaply as they please; there is nothing to prevent that.

Mr. POTTER. They may carry as cheaply as they please; yes, but the theory of cutting down the local rates until you get them as low as the through rates must result in bringing up the through rates. If one end of the beam goes down the other end of the beam must go up. The result of this equipoise must be that the carriers will have to do business as it is not naturally done, and just as the persons who engage in it find it is not practicable to do it, and in a way which I think will in the end prove to be not for the interest of the country.

Mr. REAGAN. Let me say a word here. Suppose freights are to be carried where there is competition, from Chicago to Buffalo, still the freights go by land from Buffalo to New York or by canal or in some other way than by the lakes, and these shippers of freight going through New York may be charged as much on freights from Chicago to Buffalo as from Chicago to New York. Now, then, if they may do that, can they not go as well as by water transportation, considering the water transportation has to be supplemented by land carriage over a portion of the road?

Mr. POTTER. I do not myself understand the suggestion of the gentleman from Texas. But it is not necessary to refine about it. The principal effect of this bill, as he tells us, is to forbid people doing business at points between termini at any higher rate than between the termini. That, after all, is to declare that a carrier shall not do much business any cheaper than he does little business. It is to say he shall not conduct wholesale trade at less rate than retail trade. If Congress may do that about a railroad, Congress may do it about the business of a grocer, or a dealer in cotton goods, or anybody else engaged in interstate commerce. A man who sells goods to go outside of his State cannot, according to the principle of this bill, sell at any less price one thousand cases of goods than he sells one case. There may be sometimes a man here and there hurt for want of such regulations of trade, but there can be no gain to the country as a whole by Congress undertaking to correct such evils, if they be evils. This bill is a novelty; it is an innovation; it is introduced under the pretense of justice to localities, and is said to be called for by existing conditions of trade. If it goes into effect it will result, as all these things do, in these great carriers controlling Congress and determining its action about freights themselves. Whatever evils there are in the discrimination which the great carriers make in favor of through over local freights, I believe the local dealers had better be left to the protection of the State Legislatures and the laws of trade and competition than to secure relief by the legislation of Congress.

Once let it be understood by these great railway barons that Congress can put down rates, and they will take care to see that it puts them up as well when they want that. They are the most powerful interest in the country. They have long desired action by Congress that would enable them to claim its protection against the States. Once have it understood Congress can control them, and it will turn out that Congress will be used to protect them.

Mr. TOWNSHEND, of Illinois. Let me ask the gentleman a question.

Mr. PHILLIPS. I believe, Mr. Speaker, I am entitled to the floor.

The SPEAKER. The Chair is bound to recognize the gentleman from Kansas, as it was upon his motion the time for debate was extended.

Mr. TOWNSHEND, of Illinois. The gentleman from New York has not yet concluded his speech, and he yields to me for a question.

The SPEAKER. Of course, that being the case, the Chair recognizes the gentleman from Illinois.

Mr. TOWNSHEND, of Illinois. I understood the gentleman from New York to say that the gentleman from Texas presents this bill as solely intended to prevent discrimination against parties between competing points.

Mr. POTTER. Between terminal points.

Mr. TOWNSHEND, of Illinois. Between terminal points. I do not so understand the bill, and therefore wish information from the gentleman from New York. One provision of the bill prohibits "pooling." I wish to state a fact and obtain information in regard to this point. About the 1st of August last the rate of transportation for wheat from Saint Louis to New York was somewhere between eighteen and nineteen cents a bushel. About that period wheat advanced on the market eight or nine cents. Tom Scott and the controller of the New York Central Railroad, the controller of the Baltimore and Ohio Railroad, and controller of the Erie Railroad came together and advanced the rate of transportation for wheat from Saint Louis to New York eight or nine cents per bushel. What was the result? The farmers who anticipated higher prices for their wheat product were disappointed by the men who had formed this combination.

This bill by its express terms prohibits any such "pooling" arrangement hereafter. It does not do away with but fosters competition between these lines and prevents "pooling." Therefore I maintain it is as much in the interest of competition between terminal points as for the protection of parties at intermediate points. I shall vote for the bill because from a study of its features I have come to the conclusion that every man who raises a bushel of wheat, every man who raises a bushel of corn, every man who ships a pound of freight from or to the West, needs that the strong hand of the National Government shall be stretched forth to protect him from railroad monopolies, and prevent them from levying an onerous and unjust tax upon all producers as well as consumers. I now desire an answer to my question, does not this bill protect shippers at terminal as well as at intermediate points?

Mr. POTTER. The gentleman from Illinois has asked me a question which he did not expect me to answer.

Mr. TOWNSHEND, of Illinois. Oh, yes, I did.

Mr. POTTER. For the gentleman took all the time answering the question himself. I will therefore merely say that this business of going into Congress every time a man finds something in the trade of the country injurious to his particular interest and asking Congress to interfere is the remedy beyond all others, in my judgment, which cannot in the end work anything but universal disaster. We have got too much congressional legislation in the United States now, and the more we enlarge the scope of it the worse off in the long run we shall be.

Mr. PHILLIPS. I shall only occupy a small portion of the time and shall cheerfully yield the remainder of it to other gentlemen who wish to speak.

I fully sympathize with the gentleman from Texas [Mr. REAGAN] in what he has said in regard to corporations, and companies, and railroads, as to restraining them. I hold that these are the creatures of law and should be subject to its just restrictions. But the gentleman in his measure has incorporated more. It is not merely a measure to restrain railroads from some of their questionable practices, and I think it touches these subjects in a very insufficient way, but it is a piece of legislation to advance certain interests at the expense of other interests. His bill proposes to interfere directly with the legitimate action of trade, and is a blow aimed at wholesale transactions in shipping, and the localties dependent on wholesale transactions in shipping. I will give an illustration, as a practical illustration is worth any quantity of theory.

From Kansas City, in the State of Missouri, at the mouth of the Kansas River, some three hundred or four hundred car-loads of wheat or stock are shipped every day. These cars go in a continuous run to the eastern sea-board. They are carried at very low rates. The cars go together and are returned, many of them in freight, and the company can afford to carry them at 50 per cent. less than on the shorter lines. I say that if you take away this privilege which exists in the natural order of business, the privilege of shipping beef, cattle, pork, and wheat in great bulk, by a hundred car-loads at a time from these points in the West to the eastern market, you prevent that trade from being carried on; you render it impossible. The present rates, low as they are, are so high that the producer of wheat cannot get a remunerative price for it, and if you raise the rates by this bill you virtually take away the market and put an end to a great trade. I will state, for instance, that down a line which runs from my own State to Galveston, wheat was carried at $100 a car-load of four hundred and thirty bushels, and from Galveston, at six cents, to New York. That line furnished a better market, but under this bill that line, just opening, would be virtually closed. By taking this course you would prevent one bushel of grain from going from the western producer to the eastern sea-board. You virtually shut the market to him. I should rather see steps taken to reduce than to increase the price of transportation.

I will say to my friend from Texas that I would have been glad if he had consented to have this section of his bill stricken out. There are sections of it for which I would cheerfully have voted; for while the phraseology of the bill is obscure and would probably destroy its usefulness, this section is not just in its provisions. It takes away a business advantage from one section that has accrued in a legitimate way. A man may ship a car-load from Pittsburgh or from Cincinnati, and that single car sent to New York may take weeks before it comes back to the railroad company which supplies it. It may have to be taken back all the way empty, and they cannot afford to take it at the same rate as one hundred cars which proceed without loss of time to New York and return carrying freight to the West. The gentleman from Texas knows very well it is the fact. It is a law which governs the whole course of our trade. That will be the effect of the fourth section of this bill in its present shape. I have none of the constitutional fears of my friend from New York. I think these through lines passing through the various States are under the control of this Congress or its legislation under the clause of the Constitution the gentleman from Texas has quoted. I shall never hesitate to exercise that power when a measure presents itself that is commended to my judgment, but this measure contains within it a dangerous proposition, a proposition directly interfering with legitimate business, and a proposition which ought not to receive the sanction of this House, and which I ask members carefully to examine as they vote for it.

Mr. REAGAN. Before the gentleman from Kansas takes his seat, I desire to ask him whether there is anything in the fourth section which prohibits railroad companies from returning cars at as low rates as may be agreed upon?

Mr. PHILLIPS. There is in this section a provision which prevents them from charging less for a single car to Pittsburgh than for one hundred cars to Kansas City, provided the company thought it could afford to do so.

I yield to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON, of Illinois. I regret that this bill occupies the parliamentary position that it does. It is not subject to amendment. We cannot do otherwise than vote "ay" or "no" upon the whole bill. I desire to say that I believe in the power, and that it is the duty of Congress to make all necessary regulations touching commerce among the States, and will vote for all well-conceived legislation that commends itself to my judgment to that end. But I doubt whether this bill will accomplish what is desirable to any considerable number of people in the country. That part of the substitute, especially section 3, which prohibits, or is intended to prohibit, pooling, I believe is a good measure; indeed, I had the honor originally to move an amendment to the bill which prohibited the pooling of earnings, which was adopted by the House, and I would vote for it with great pleasure if I could vote for it separately from some other provisions. But the fourth section of the substitute, which provides that you shall not charge more for a shorter than for a longer haul, I am not willing to vote for, because, as stated by a number of gentlemen, it tends to interfere with competition and with the ordinary course of trade.

Now, my friend from Illinois [Mr. TOWNSHEND] says that there have been some pooling arrangements lately which operate badly. Why was it necessary for these parties to enter into pooling arrangements? For the very reason, I apprehend, that under ordinary competition between great railway routes and water routes, these roads for the purpose of doing business upon these long hauls from the great graneries of the West to the seaboard, carried the grain for fully as low rates as they could afford, if not in some instances for lower rates. And they undertook by pooling to cut off competition. Therefore, I would prohibit by enactment all such pooling agreements.

Mr. TOWNSHEND, of Illinois. I understand there is no really practical water line of transportation from Saint Louis to New York; we are compelled to patronize railroads.

Mr. CANNON, of Illinois. There is a water line from Saint Louis to the Gulf.

Mr. TOWNSHEND, of Illinois. It is said you cannot ship wheat by way of the Gulf for the reason that it is liable to mould.

Mr. CANNON, of Illinois. Wheat is only one of the articles to be shipped, and as for that matter there is a great deal of wheat shipped by way of New Orleans. The operation of this bill would be by law to keep up in effect a continual pool, as it would prevent competition.

Mr. COLE. May I interrupt the gentleman from Illinois [Mr. CANNON] in order to reply to his colleague, [Mr. TOWNSHEND,] who has stated in effect that the river and Gulf routes from Saint Louis to the East, via the Gulf, is not a competing route to the railway transportation companies, from the fact that grain is liable to mould by that route. By stating that, the gentleman from Illinois [Mr. TOWNSHEND] is in error, as the millions of bushels of wheat, corn, and other cereals now passing through the mouth of the Mississippi from the great West abundantly testify.

Mr. HEWITT, of New York. Wheat is shipped by that way to Europe, not to New York.

Mr. CANNON, of Illinois. I understand that this bill practically by law takes away the necessity for pooling, because it practically takes away the competition between the routes from Illinois and the great West to the seaboard. Now, I for one would keep up the competition, and then I would legislate against any combinations that

interfered with competition. I would therefore prohibit pooling by law. But I would not cut it off by enacting legislation that would be worse in its effect than the pooling. I would not cut it off by legislation which would destroy the very competition that the gentleman is himself interested in. I feel an interest in this matter because, in common with other people, especially of the West, my constituents for years have been burdening themselves with debt and taxation to aid in the construction of competing lines of transportation to the lakes and the seaboard; and while we are staggering under this load of debt which we have incurred in aid of competition I am not willing to see any legislation that would rob us of the full benefit of the outlays which we have made. I would vote for a well-conceived bill providing an ample and more speedy remedy for extortion practiced by those who are engaged in interstate commerce.

Mr. HEWITT, of New York. The gentleman from Texas [Mr. REAGAN] in his remarks quoted a resolution of the Legislature of New York requesting, as I understood him to say, the Senators and Representatives from that State to support the bill under consideration. On my questioning him, however, he read the resolution, which proved to be a request to us to support a "wise" measure for the regulation of interstate transportation.

Now this bill is not a wise measure. If we were at liberty to offer amendments to it, undoubtedly it could readily be placed in such a form as would command the support of the Senators and Representatives from the State of New York. But no such opportunity is offered to us. For example, the first section of this substitute lays down a principle to which every man familiar with trade can readily subscribe. But when it goes further and provides that it shall be unlawful under any circumstances to make rebates, it is simply equivalent to saying that certain classes of business of the greatest moment to the people of this country shall no longer be carried on.

For example, take the grain trade, the great business of the West. Over $300,000,000 of the products of the West have been sent to Europe during the last fiscal year. Now, the price of grain is not fixed in Chicago or at Saint Louis, but in Mark Lane, in London. And it is made there in competition with the grain of Russia, of Algiers, of Italy, and even of far off India. In order that we may sell our grain in that market we must accept their prices. And the sum which is received by the producer of the grain in this country is the price paid in Mark Lane, less the cost of transportation from his farm to the Liverpool market.

Now, the railroad companies are interested in having continued employment for their rolling-stock, and when they find it necessary to put down rates in order to keep the foreign market, they do it, and they act as a salutary regulator in opening and keeping open the market to American trade and commerce, which otherwise would be closed to them.

I was surprised to hear the gentleman from Illinois [Mr. TOWNSHEND] quote the action of the four great railroad companies as being precluded by the terms of this bill. On his own statement what they agreed to do was simply to raise the price of transportation just as on previous occasions they had reduced the price of transportation in order to keep the foreign market.

Now, the provisions of this bill will absolutely prevent the railroad companies from taking this course hereafter, and the inevitable result will be that every particle of local transportation will be done at a higher cost than it is now, for I affirm—and every gentleman in this House having any connection with railroads will confirm what I say—that it is possible to do the local transportation upon better terms by reason of having the through transportation to supplement the trade than it would be if there were no through transportation, so that the low charges made for the transportation of grain which is to be shipped abroad not only give a higher price to the producer of that grain, but enable the railroad companies to do business for the people along the line at lower rates than they would otherwise be able to do it.

The cheapness with which transportation can be done depends upon the volume of the business and its uninterrupted flow. The more steadily the rolling-stock is employed the less the cost per ton on the freight moved. The only thing that enables our grain to be sold in the European market in competition with rival nations is that the steamships are promptly loaded with full cargoes, for steamers, like cars and locomotives, must be kept running in order to admit of cheap freights. The provisions of this bill would absolutely prohibit any rebate of freights, or any change in them under five days' notice, during which time the rolling-stock and the steamer must lie idle, and in the mean time, if the price should change, as it does almost hourly, the shipment might and often would be altogether prevented, and the sale of our products be altogether prevented. The effect of such legislation must therefore be to reduce the volume of business, to increase the cost of transportation, and to the extent of such increase reduce the net results remaining for the western producer. It would also destroy the commerce of the eastern seaports, and the existing depression in business so magnified that any recovery might well be regarded as hopeless. I cannot conceive of a measure more fraught with mischief to every class in the community, and its passage will be a crowning act of folly—in fact, an attempt to commit commercial suicide. The State of New York does not desire its Representatives to vote for any such destructive measures.

I repeat, therefore, that this bill does not contain the true remedy; but there is a remedy—a wiser and more efficient one—which was pointed out to the gentleman from Texas by the resolution of the New York Board of Trade, which he quoted in his speech at the last session. That resolution proposed that a commission of competent experts should be created by Congress to supervise interstate commerce. Just as a similar commission in Massachusetts, without power to change rates or to do anything else than to inquire into and point out abuses, has reformed the railroad system of that State, so a congressional commission appointed to overlook interstate commerce, point out abuses, and call public attention at once to any violation of the laws of trade, would very soon cure all these abuses, which I admit are very grievous and which do demand careful attention from Congress and from all who are interested in developing this great foreign trade which at length is pulling us out of the quagmire into which we have been plunged by bad financial legislation and by an extravagant government.

Mr. TOWNSHEND, of Illinois. I would like to ask the gentleman from New York a question before he takes his seat. I stated that the combination entered into by four great railroads on the 4th of last August was a pooling operation. Now, the fact is, that during the winter, when transportation on the lakes is stopped, every bushel of wheat coming from Illinois does reach the New York market by one of these four lines of railroad. Not one pound of freight does pass from the West to the East without paying tribute to one of these corporations. The managers of these four railroad companies, having complete mastery of the commerce of the West, come together and form a pool, so arranging that not one single bushel of grain shall be transported from the West to the East at less than a particular figure. Now, is not that a pooling operation?

[Here the hammer fell.]

Mr. HEWITT, of New York. If the Speaker will allow me, I will answer the gentleman's question. His definition of the word "pool" does not correspond with that of the dictionary. These roads did combine to fix a rate, but they did not combine to pool their earnings.

Mr. TOWNSHEND, of Illinois. I understand the proper definition, and I say that, according to the newspapers, they did in that instance combine to pool their earnings as well as fix the rate.

The SPEAKER. The time allowed for debate has expired. The main question having been ordered, the question is first upon the amendment in the nature of a substitute, as offered by the gentleman from Texas.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time.

The question being on the passage of the bill,

Mr. McKENZIE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 139, nays 104, not voting 48; as follows:

YEAS—139.

Acklen,	Errett,	Killinger,	Robinson, G. D.
Atkins,	Evans, I. Newton	Kimmel,	Sapp,
Bagley,	Evans, James L.	Lapham,	Scales,
Baker, John H.	Felton.	Ligon,	Schleicher,
Baker, William H.	Finley,	Luttrell,	Sexton,
Bayne,	Forney,	Maish,	Shallenberger,
Bicknell,	Fort,	Majors,	Shelley,
Blount,	Freeman,	Marsh,	Singleton,
Boone,	Fuller	Martin,	Slemons,
Bouck,	Gardner,	McGowan,	Smalls,
Boyd,	Garfield,	McKenzie,	Sparks,
Brewer,	Giddings,	McKinley,	Springer,
Bright,	Glover,	Mills,	Stenger,
Brogden,	Gunter,	Mitchell,	Stone, Joseph C.
Browne,	Hamilton.	Money,	Thompson,
Buckner,	Hanna,	Monroe,	Tipton,
Cain,	Harmer,	Muldrow,	Townshend, R. W.
Caldwell, John W.	Harris, John T.	Neal,	Turney,
Calkins,	Hartzell,	Oliver,	Vance,
Campbell,	Haskell,	Overton,	Van Vorhes,
Chalmers,	Hatcher,	Page,	Waddell,
Clark, Rush	Hayes,	Patterson, G. W.	Ward,
Clymer,	Hewitt, G. W.	Patterson, T. M.	Watson,
Cobb,	Hooker,	Pound,	White, Harry
Cox, Jacob D.	House,	Powers,	White, Michael D.
Cravens,	Hubbell,	Price,	Whitthorne,
Crittenden,	Hunter,	Rainey,	Williams, A. S.
Cummings,	Hungerford,	Randolph,	Williams, Andrew
Cutler,	Ittner,	Rea,	Williams, Jere N.
Davis, Joseph J.	Jones, James T.	Reagan,	Willits,
Dibrell,	Jones, John S.	Reilly,	Wilson,
Dickey,	Jorgensen,	Rice, Americus V.	Wren,
Dunnell,	Keifer,	Riddle,	Wright,
Elam,	Kelley,	Robbins,	Yeates.
Ellis,	Kenna,	Robertson,	

NAYS—104.

Aiken,	Briggs,	Clark, Alvah A.	Dwight,
Aldrich,	Bundy,	Clarke of Kentucky,	Eames,
Bacon,	Burchard,	Clark of Missouri,	Eden,
Bailey,	Burdick,	Cole,	Evins, John H.
Ballou,	Cabell,	Conger,	Franklin,
Banning,	Caldwell, W. P.	Covert,	Frye,
Bell,	Camp,	Danford,	Garth,
Blackburn,	Candler,	Davis, Horace	Goode,
Blair,	Cannon,	Dean,	Hardenbergh,
Bliss,	Caswell,	Deering,	Harris, Benj. W.
Brentano,	Chittenden,	Denison,	Harris, Henry R.
Bridges,	Claflin,	Durham,	Harrison,

Hart,	Ketcham,	Phillips,	Stone, John W.
Hartridge,	Knott,	Pollard,	Strait,
Hazelton,	Landers,	Potter,	Townsend, Amos
Hendee,	Lathrop,	Reed,	Townsend, M. I.
Henderson,	Lindsey,	Rice, William W.	Tucker,
Henry,	Mackey,	Ryan,	Turner,
Hewitt, Abram S.	Manning,	Sampson,	Wait,
Hiscock,	Mayham,	Sayler,	Warner,
Humphrey,	McCook,	Sinnickson,	Wigginton,
Hunton,	Metcalfe,	Smith, A. Herr	Williams, James
James,	Morrison,	Southard,	Williams, Richard
Jones, Frank	Morse,	Starin,	Willis, Albert S.
Joyce,	Norcross,	Steele,	Willis, Benj. A.
Keightley,	Phelps,	Stewart,	Wood.

NOT VOTING—48.

Banks,	Culberson,	Knapp,	Robinson, M. S.
Beebe,	Davidson,	Lockwood,	Ross,
Benedict,	Douglas,	Loring,	Smith, William E.
Bisbee,	Eickhoff,	Lynde,	Stephens.
Bland,	Ellsworth,	McMahon,	Swann,
Bragg,	Ewing,	Morgan,	Thornburgh,
Butler,	Foster,	Muller,	Throckmorton,
Carlisle,	Gause,	O'Neill,	Veeder,
Collins,	Gibson,	Peddie,	Walker,
Cook,	Hale,	Pridemore,	Walsh,
Cox, Samuel S.	Henkle,	Pugh,	Williams, C. G.
Crapo,	Herbert,	Roberts,	Young.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. BLAND. I am paired with the gentleman from Massachusetts, Mr. BANKS. If he were present, I should vote "ay."

Mr. BELL. My colleague, Mr. STEPHENS, is still detained at his room by sickness.

Mr. STEWART. I am paired on political questions with the gentleman from Florida, Mr. DAVIDSON; but not regarding this as a political question I vote "no."

The vote was then announced as above recorded.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced concurrence in resolution of the House that the Congress of the United States will take part in the services to be observed on Thursday evening, January 16, 1879, in honor of the memory of Joseph Henry, late secretary Smithsonian Institution.

GENEVA AWARD.

Mr. KNOTT. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award.

Mr. KNOTT. I call for the reading of the bill.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons and corporations claiming to be entitled to any portions of the moneys now under the control of the United States which were received from the government of Great Britain in payment of the Geneva award, or as interest thereon, be, and they are hereby, authorized to sue for the same in the United States Court of Claims at any time within one year from the passage of this act, in the same manner in which other claims are sued in said court; and the said court shall render judgment for each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain for such amount only as, in their opinion, he shall be justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations, without regard to any rule or principle of allowance, exclusion, inclusion, or distribution heretofore adopted by Congress, in chapter 459 of the laws of the Forty-third Congress, or otherwise, or by the tribunal created by said law; but all payments heretofore made on any claim by the United States shall be deducted from the judgment to be rendered thereon.

SEC. 2. That in determining the amount for which judgment is to be rendered in favor of any claimant, interest shall be allowed at the rate of 4 per cent. per annum upon the amount of such claim from the date when the court shall in each case decide that the loss out of which the claim arose was sustained by the claimant; but in entering the judgment the amount of principal and interest shall be stated separately.

SEC. 3. That such persons and corporations of the United States may respectively appeal to the Supreme Court of the United States from judgments of the Court of Claims rendered under this act, and such appeals shall be in the form now prescribed by law.

SEC. 4. That all judgments in favor of claimants under this act not appealed from or affirmed on appeal shall be paid out of the aforesaid moneys. Every person or corporation who shall sue under this act shall, within one year from the passage thereof, file with the clerk of the Court of Claims a copy, under oath, of his or their claim; and, at the expiration of the said year, the clerk of said court shall ascertain the total amount of the money and the interest thereon, then under the control of the United States, received from Great Britain in payment of the Geneva award; and thereafter each claimant, at the expiration of ten days after a judgment shall be perfected in his favor, (provided no appeal is taken; and if an appeal is taken, at the expiration of ten days after final judgment in his favor,) shall be entitled to be paid out of the aforesaid moneys the ratable proportion thereof to which he would be entitled if the entire claims so filed were allowed. The remainder of each judgment shall be paid at the expiration of three years from the passage of this act, with interest at the rate of 5 per cent. per annum from the recovery of such judgments; but if the sum of the judgments be greater than the moneys aforesaid, then the remainder of such judgments shall be paid ratably.

SEC. 5. That if necessary for the dispatch of business under this act, the clerk of the Court of Claims may appoint one or more assistants, and their salaries and all other expenses under this act shall be paid out of the said moneys.

SEC. 6. That no claim which was provable under the acts organizing and continuing the court of commissioners of Alabama claims, and was there duly presented, and was there adjudged, shall be provable under this act.

SEC. 7. That claimants under this act shall be admitted to testify in their own behalf.

SEC. 8. That appeals arising under this act shall take precedence of all other cases in the Supreme Court.

SEC. 9. That after the payment of all judgments rendered in pursuance of this act, if there shall remain any part of the said money, the same shall be and remain a special fund, to await the further action of Congress.

Mr. FRYE's amendment is as follows:

Add to first section:

But in no case shall any claim be admitted or allowed by said court by or in behalf of any insurance company or insurer, either in its or his own right, or as assignee or otherwise in the right of a person or party insured as aforesaid, unless such claimant shall show to the satisfaction of the court that during the late rebellion the sum of its or his losses in respect to its or his war risks exceeded the sum of its or his premiums or other gains upon or in respect to such war risks; and in case of any such allowance, the same shall not be greater than such excess of loss. And no claim shall be admissible or allowed by said court arising in favor of any insurance company not lawfully existing, at the time of the loss, under the laws of some one of the United States.

Mr. HARTRIDGE. I ask for the reading of the report of the committee.

The SPEAKER. Does the gentleman desire the reading of the majority and minority reports?

Mr. HARTRIDGE. I do; both.

The Clerk proceeded to read the reports, when, on motion of Mr. HARTRIDGE, by unanimous consent, the bill and Mr. FRYE's amendment, together with the majority and minority reports, and the substitute proposed by the minority, were ordered to be printed in the RECORD. The reports and substitute are as follows:

The Committee on the Judiciary, to whom were referred sundry bills in relation to the distribution of the unappropriated moneys paid to the United States by Great Britain in pursuance of the award made by the tribunal of arbitration at Geneva, having had the same under consideration, beg leave to report the accompanying bill with the recommendation that it be passed, and would respectfully submit the following views in connection therewith:

It is, of course, impossible to arrive at any just conclusion as to what disposition should be made of the unexpended balance of the fund derived from the arbitrament at Geneva without some understanding of the origin and nature of the claims for which it was awarded, as well as of the facts which led to the organization, and pertain to the transactions of the tribunal by which the award was made. It is unnecessary, however, to swell the volume of this paper with a minute history of the operations of the several confederate cruisers during the late civil war, or by numerous quotations from the voluminous correspondence between the representatives of our own and the British government, with regard to "what are generally known as the Alabama claims," in order to present the lights in which those claims were regarded by each at the time the circumstances which gave rise to them occurred. It is, perhaps, sufficient to state here the general facts familiar to all, that in consequence of the appearance upon the high seas of the Alabama, and other confederate cruisers, fitted out and sailed from British waters, a large portion of the American commercial marine was speedily transferred to the British flag, while such of our ship-owners and merchants who either preferred or were compelled by circumstances to keep their vessels and cargoes under the flag of their own country were subjected to the payment of greatly enhanced rates of insurance, where they chose to, or could, insure at all. In the mean while the pursuit of these cruisers necessarily compelled the expenditure of large sums of money by the Government of the United States, thereby adding very largely to the cost, while their very presence upon the seas manifestly tended to prolong the war.

In addition to this, these cruisers, as is well known, destroyed a large number of vessels, with their cargoes, belonging to American citizens, who claimed that their losses resulted from the failure of the British government to properly discharge its duties as a neutral, by negligently permitting the cruisers to be fitted out, supplied, and sailed from British ports, and that consequently Great Britain was liable for the damages they had sustained. In the absence of all other remedy many of them sought the interposition of their government for redress, and their claims were promptly presented to the government of Great Britain for satisfaction as soon as practicable after they accrued.

Upon the presentation of each of these claims, however, whether preferred in behalf of the owner of the ship or cargo or of the insurer who had paid the loss and claimed to be subrogated to the rights of the insured, the British government at once and emphatically denied all responsibility, and after the close of the war a list of them was prepared and printed in the Department of State under the following heading, which clearly indicates their character:

"*List of claims for property destroyed by rebel cruisers fitted out in British ports.*—The following is an abstract of the claims filed in the Department of State by American citizens, native and naturalized, for damages sustained by them as owners, mariners, freighters, or insurers of duly documented American ships captured and destroyed, or appropriated by the officers and crew of the steamer Alabama, and as owners, insurers, or otherwise interested in the cargoes of such ships, or in charter parties for the service of said ships. The several insurance companies are corporations organized and doing business under the laws of the several States in which they are respectively located."

Similar headings were affixed to the lists of losses occasioned by the Florida, Georgia, and Shenandoah. (See Appendix United States Claims, volume 4, pages 422 and 444.)

Copies of these lists were transmitted by the Secretary of State to our minister at the Court of St. James, on the 27th of August, 1866, with instructions to him to call the attention of Lord Stanley to the claims with a view to their settlement. (United States Claims, volume 3, page 632.) The instructions of the Secretary of State and the accompanying lists of claims were at once presented by our minister, Mr. Adams, to Lord Stanley, which led to the lengthy negotiations which resulted in the Johnson Stanley convention of November 10, 1868, (United States Claims, volume 3, page 701,) and the Johnson-Clarendon convention of January 14, 1869. (Ib., 732.) neither of which proved satisfactory to the United States, and finally in what is known as the treaty of Washington, concluded May 8, 1871.

In the mean time, however, the President of the United States, in his annual message, December 5, 1870, after having expressed his regret that no conclusion had been reached for the adjustment of these claims, recommended to Congress "to authorize the appointment of a commission to take proof of the amounts and ownership of these several claims on notice to the representatives of Her Majesty at Washington, and that authority be given for the settlement of these claims by the United States, so that the Government shall have the ownership of the private claims as well as the responsible control of all the demands against Great Britain." (See House Journal, third session, Forty-first Congress, page 13.)

The points in the treaty of Washington above alluded to material to the matter under consideration are as follows:

1. In the first article the two powers agreed that claims growing out of acts committed by said vessels, and generically known as the "Alabama claims," should be referred to a tribunal of arbitration, to be composed of five arbitrators, to be appointed in the manner therein prescribed, who, according to the terms of the next

succeeding article, were to meet at Geneva, Switzerland, at the earliest convenient day after their appointment, and proceed impartially and carefully to examine and decide all questions laid before them by the two governments.

2. By the third article each party was required to lay before the tribunal its written or printed case, accompanied by the documents, official correspondence, and other evidence upon which the party filing it might rely, within six months from the date of the exchange of ratifications of the treaty.

3. In the sixth article three rules were laid down, which, together with such principles of international law not inconsistent therewith as the arbitrators should consider applicable to the case, were to govern them in their adjudication of the matters submitted to their arbitrament.

4. By the seventh article the tribunal was directed to determine as to each vessel (1) whether Great Britain had, by any act or omission, failed to fulfill any duty set forth in the "three rules" or recognized by the principles of international law not inconsistent therewith, and to certify such fact as to each vessel; and (2) in case it should find that Great Britain had failed to fulfill any of said duties, it might, if it should think proper, proceed to award a sum in gross, to be paid by Great Britain to the United States for all claims referred to it.

5. And in article 10 it was agreed that, should the tribunal find that Great Britain had failed to fulfill any of said duties, and should also fail to award a sum in gross, a board of assessors should be appointed to ascertain and determine what claims were valid, and what sums should be paid by Great Britain to the United States on account of the liability arising from the failure as to each vessel according to the extent of such liability as decided by the arbitrators.

The tribunal of arbitration contemplated in this treaty met and organized at the place agreed upon, and the United States, within the time specified, presented their case, exhibiting a detailed statement of all the claims which had come to the knowledge of the Government, showing the cruiser which did the injury, the vessels destroyed, the several claimants of the vessels and cargoes, the amount of insurance on each, and all the other facts necessary to enable the tribunal to reach a conclusion as to the amount of injury committed by each cruiser, and who were the sufferers thereby. Besides these claims for direct losses, the United States also presented claims for indirect losses resulting from the operations of the confederate cruisers, including the transfer of a large part of the American commercial marine to the British flag, the enhanced rates of insurance, popularly known as "war premiums," and the addition of a large sum to the cost of the war.

The claims set up by the United States on account of indirect losses met with such a decided opposition on the part of Great Britain as threatened to defeat any settlement of the differences between the two countries if such claims should continue to be insisted upon. This led to negotiations for an additional article to the treaty which would remove the indirect claims from the consideration of the tribunal; but the two powers being unable to agree upon its terms the matter was left undetermined until the day arrived upon which the parties were to file their arguments. The United States did so, but the agent of the British government withheld that of Great Britain, and asked an adjournment in order that the two governments might come to some understanding with regard to the indirect claims.

Four days thereafter the tribunal of arbitration announced that "after the most careful perusal of all that had been urged on the part of the United States in respect to these claims, they had arrived, individually and collectively, at the conclusion that these claims did not constitute, upon principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there was no disagreement between the two governments as to the competency of the tribunal to decide thereon." (Correspondence respecting Geneva arbitration, page 152.)

The counsel of the United States at once advised Mr. Davis, the agent, that this statement of the tribunal must be accepted by the United States as determinative of its judgment upon the question of public law involved, and that the United States should announce to the tribunal that the claims covered by its opinion would not be further insisted upon before the tribunal by the United States, and might be excluded from all consideration by the tribunal in making its award. (Ibid.) Mr. Davis immediately telegraphed to Mr. Fish not only a copy of the opinion at which the tribunal had arrived but a statement of the advice he had received from the counsel of the United States thereon, to which Mr. Fish replied instructing him "that in accordance with such judgment and opinion, from henceforth he [the President] regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American commercial marine to the British flag, the enhanced payment of insurance, and the prolongation of the war and the addition of a large sum to the cost of the war and the suppression of the rebellion as adjudicated and disposed of; and that consequently they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making its award." (Correspondence, 152.

On receipt of this instruction the agent of the United States made to the tribunal the following statement:

"The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and, third, the prolongation of the war and the suppression of the rebellion is accepted by the President of the United States as determinative of their judgment upon the important questions of public law involved. The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made." (Protocol vi, page 21, volume 4, Geneva Arbitration.)

Two days thereafter Lord Tenterden, the agent of Great Britain, filed with the tribunal a paper signifying the acquiescence of his government in the views of the tribunal embraced in the declaration above recited; and Count Sclopis, the president of the tribunal, "on behalf of all the arbitrators, then declared that said several claims for indirect losses mentioned in the statement made by the agent of the United States on the 25th instant, and referred to in the statement just made by the agent of Her Britannic Majesty, are, and from henceforth shall be, wholly excluded from the consideration of the tribunal, and directed the secretary to embody this declaration in the protocol of this day's proceedings." (Protocol vii, page 22, volume 4.)

This difficulty, which had seemed to seriously threaten the further continuance of the arbitration, having been thus removed, the tribunal, as directed by the seventh article of the treaty, proceeded to inquire as to what particular cruisers for the depredations of which Great Britain should be held responsible under the three rules laid down in article 6, and the principles of public law not inconsistent therewith, on account of her alleged negligence, taking up and considering the case as to each of the following-named vessels separately, viz: the Florida, the Alabama, the Georgia, the Sumter, the Nashville, the Chickamauga, the Tallahassee, the Retribution, the Tuscaloosa, and the Shenandoah, and upon the question whether Great Britain had by any act or omission failed to fulfill any of the duties set forth in the three rules mentioned in article 6 of the treaty or recognized by the principles of international law not inconsistent therewith, as to each of the following vessels, the Sumter, the Nashville, the Georgia, the Tallahassee, and the Chickamauga, the tribunal unanimously answered "No." Upon the like question as to the Retribution, one of the arbitrators, Mr. Adams, answered "Yes, as to all the acts of this vessel," and another, Mr. Staempfli, answered "Yes, as to the loss of the Emily Fisher," the other three answering "No." Upon the same question as to the Alabama the tribunal unanimously answered "Yes," while as to the Florida four of the arbitrators answered "Yes," and one, Sir Alexander Cockburn, answered "No;" and as to the Shenandoah three of the arbitrators, Mr. Adams, Mr. Staempfli, and Count Sclopis answered "Yes," but only for the acts committed by this vessel after her departure from Melbourne on the 18th of February, 1865; the other two voted "No."

As a question of principle the tribunal then unanimously declared that Great Britain should be considered as responsible for the tenders in the same degree as for the vessels to which they were attached; and, upon the question as to the Tuscaloosa, a tender of the Alabama, the tribunal unanimously answered "Yes." The same question being taken separately upon the Taconey, the Clarence, and the Archer, tenders to the Florida, four of the arbitrators answered "Yes," and one, Sir Alexander Cockburn, answered "No." (See Protocols xxv and xxvi.)

Having thus determined that Great Britain was only responsible for the consequences of the acts of the Alabama, the Florida, and their tenders, and of the Shenandoah after she left the port of Melbourne, and having already determined that claims for indirect losses resulting from the transfer of our commercial marine to the British flag, enhanced rates of insurance, or the prolongation and increased cost of the war could not be considered by them, and such claims having been excluded from their consideration with the assent of both governments, as already seen, when the tribunal came to the discharge of their next duty under the treaty, namely, to ascertain the extent to which Great Britain was liable, the only remaining basis upon which that liability could be estimated was the "direct claims," which embraced two classes: First, claims for direct losses growing out of the destruction of vessels and their cargoes by the three vessels above named and their tenders; and, second, the expenses incurred by the United States in pursuit of those cruisers.

As to the second class of these direct claims, the judgment of the tribunal was as follows:

"Whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States, the tribunal is therefore of opinion, by a majority of three voices to two, that there is no ground for awarding to the United States any sum by way of indemnity under this head." (See Decision and Award, volume 4, page 53.)

This narrowed the basis down to the first class of "direct losses," namely, those resulting directly from the destruction of vessels and their cargoes by the three inculpated cruisers and their tenders, from which the tribunal eliminated the element of "prospective earnings" by the following decision:

"And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies, the tribunal is unanimously of opinion that there is no ground for awarding to the United States any sum by way of indemnity under this head." (Ib., 453.)

Having thus determined that the extent of the indemnity claimed by the United States should be limited to losses resulting directly from the destruction of vessels and their cargoes by the three inculpated cruisers and their tenders, it only remained for the tribunal to ascertain and award to the United States a sum in gross sufficient to cover these losses, as it was authorized to do by the seventh article of the treaty, or to remit the duty of auditing each claim properly within the purview of the award to a board of assessors, as provided in article 10. It is proper to remark in this connection that Mr. Fish, in a letter to Mr. Cushing, one of the counsel of the United States, under date December 8, 1871, used the following language, indicating the preference of the President of the United States in that regard:

"The President desires to have the subject discussed as one between the two governments; and he directs me to urge upon you strongly to secure, if possible, the award of a sum in gross. In the discussion of this question, and in the treatment of the entire case, you will be careful not to commit the Government as to the disposition of what may be awarded, or what may be recovered in the event of the appointment of the board of assessors, mentioned in the tenth article of the treaty. It is possible that there may be duplicate claims for some of the property alleged to have been captured and destroyed, as in the cases of insurers and insured. The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution. It is expected that all such committals will be avoided. (Geneva Award Papers, volume 2, page 416.)

What may have been the views of the then President of the United States, or of the Secretary of State, as to what constituted the Government of the United States, or of the rights and duties of that Government in respect to the moneys expected to be awarded by the tribunal of arbitration, or what inferences may be drawn from the language just quoted, further than as an expression of the desire of the President, and, perhaps, the Secretary, that the award should be in gross your committee deem it unnecessary here to discuss. Suffice it to say, the tribunal itself came to the conclusion that, "in accordance with the spirit and letter of the treaty of Washington, it was preferable to adopt the form of adjudication of a sum in gross rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors as provided by article 10 of the treaty," and therefore proceeded "to award to the United States a sum of $15,500,000 in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all the claims referred to the consideration of the tribunal, conformable to the provisions of article 7 of the aforesaid treaty." (Decision and Award, vol. 4, p. 53.)

The precise method by which this result was reached by the tribunal does not appear on its record, nor is it apparent by what consideration the arbitrators were influenced to award a sum in gross, further than may be inferred from their own statement quoted above, that it was preferable to adopt that form of adjudication "rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors," coupled with the following extract copied from the argument of the American counsel, which was doubtless intended to show the disadvantages of the latter mode of procedure:

"They earnestly hope that the tribunal will exercise the power conferred upon it to award a sum in gross to be paid by Great Britain to the United States. The injuries of which the United States complain were committed many years since. The original wrongs to the sufferers by the acts of the insurgent cruisers have been increased by the delay in making reparation. It will be unjust to impose further delay, and the expense of presenting claims to another tribunal, if the evidence which the United States have the honor to present for the consideration of these arbitrators shall prove to be sufficient to enable them to determine what sum in gross would be a just compensation to the United States for the injuries and losses of which they complain." (See American case, p. 489.)

It is probable, therefore, that the controlling reason for this conclusion was that by awarding a gross sum to be distributed by such a tribunal as the Government of the United States might itself provide, the disagreements, difficulties, and delays which would be likely to arise in a discussion of the details of each particular case before assessors of different nationalities, conducted by American counsel on the one side and British counsel on the other, might be obviated. And it was doubtless for the same reason that the agent and counsel of the United States, as Mr. Davis says in his report to the State Department, (vol. 1, p. 8,) "devoted their energies toward securing such a sum as should be practically an indemnity to the sufferers."

In anticipation of the payment by Great Britain of the sum thus awarded to the United States, sundry bills were introduced into the Forty-second Congress look-

ing to the establishment of some sort of tribunal for its adjudication and distribution. One of these passed the Senate and another the House. Subsequently a committee of conference was appointed upon the disagreeing votes of the two Houses, who finally agreed upon and reported a bill which was passed and approved March 3, 1873, providing that immediately upon the payment of the sum of money awarded to the United States by the tribunal of arbitration at Geneva the same should be paid into the Treasury, and used to redeem, so far as it might, the public debt of the United States, and that an amount equal to the debt so redeemed should be invested in the 5 per cent. registered bonds of the United States, to be held subject to the future disposition of Congress. The investment was accordingly made, and thus the matter stood until the assembling of the Forty-third Congress, in the first session of which numerous propositions were presented, looking to the adjudication and distribution of the fund.

As to what disposition should be made of it, however, there existed among the ablest and best-enlightened legal minds of the country, who had given the subject the most careful and elaborate consideration, the widest diversity of opinion, resulting to some extent, no doubt, from a difference in the various interests respectively represented by them.

For instance, there were those who contended with great earnestness and zeal that the claims out of which this fund arose "were all preferred by the United States as a nation against Great Britain as a nation;" that the whole subject was disensed by the counsel of the United States before the tribunal as the President desired and directed it to be, namely, "as one between two governments;" that the sum awarded was computed and paid as a reparation by one nation for the wrongs it had done to another nation, and that consequently the fund was the absolute property of the United States, freed from all trusts or conditions whatever; that it belonged as much to one citizen as another, and that Congress had no right, under the Constitution, to appropriate any portion of it to the payment of any claim whatever, unless the relation of creditor and debtor existed between the claimant and the Government.

On the other hand, there were those who, while admitting that the fund belonged absolutely to the United States "as a nation," contended with equal zeal and ability that it was competent for Congress to distribute it *ex gratia* among such of the citizens of the country who had suffered injury from the operations of the confederate cruisers, or by reason of their presence on the high seas, as, in its judgment, might seem proper under all the circumstances, whether such injury was inflicted by one of the vessels for whose acts Great Britain was held responsible, or any of those for whose transactions she was exculpated by the judgment of the tribunal, or whether the nature of their injuries "constituted, upon principles of international law applicable to such cases, good foundation for an award of compensation, or computation of damages between nations" or not, and without reference to whether their claims had been considered or excluded by the arbitrators at Geneva.

Under this view it was urged, with singular earnestness and force, that there were two classes of sufferers whose claims were peculiarly entitled to the favorable consideration of the Government: first, those whose vessels and cargoes had been captured or destroyed by the "exculpated cruisers;" and second, those who, in order to keep their ships afloat under the flag of their country, had been compelled to pay largely enhanced rates of insurance.

In behalf of the former it was maintained that the loss of the owner whose vessel was destroyed by an "exculpated cruiser" was as great as if such cruiser had been inculpated; and as grievous if the destruction had been caused by the Shenandoah eight and forty hours before she entered the port of Melbourne as if it had occurred a week or a fortnight afterward; and for the latter it was claimed that those exorbitant rates of insurance resulted directly from the acts or omissions of Great Britain in permitting the cruisers to be fitted out and soiled from her waters, while the parties who were compelled to pay them could hope to derive no possible profit therefrom, but merely an indemnification from loss, and while the exigency which demanded this extraordinary expenditure by the merchant originated in no fault of his own; that it was not even optional with him whether he would engage in ocean-borne commerce or not, for the insurgent cruisers found his fortune embarked in it when they first vexed the face of the deep; and his vessel, if abroad, was subject to capture and destruction on its homeward voyage, or, if at home, it must rot piecemeal at the wharf or brave "not only the perils of the sea, but the peril of capture;" that he was therefore obliged to pay these enhanced rates of insurance, or lose his vessel at home, or incur the risk of losing it abroad; and while he was thus at the mercy of the underwriter, who could demand such premium as he chose, "he could not charge the premium so paid either upon his freights or in the profits on his goods, because a large portion of the American tonnage was transferred to a foreign flag; and, moreover, the foreign vessel, paying no war premium, taking no risk of capture, did the carrying trade of the world in competition with the American ship-owner, who had to bring his freights down not only to a level with the freights of the neutral, but still lower, so as to enable the shipper to pay his war premium also upon his goods."

In conflict with these views, it was contended by others that the allegiance of the citizen and protection of the State were the reciprocal obligations of the social compact; that although the individual citizen had not the power to enforce its performance, it was nevertheless the highest moral duty of the Government to protect him in the possession and enjoyment of his property from wrong and depredation at home by the just administration of adequate municipal laws, and from capture and spoliation abroad by interposing in his behalf and demanding reparation for him from the nation responsible for the wrong, enforcing that demand, if needs be, by "the last argument to which kings resort;" that having thus obtained redress from a foreign country for an injury to one of its citizens, although demanded and received by it "as a nation from a nation," the Government had no more right, in natural equity, to appropriate the money so received to its own use, or to apply it in payment of the claims of those for whose benefit it had not been awarded, than it had to seize his property for public use without compensation, or to confiscate his estate for the promotion or endowment of some private charity; but was under the strongest obligation that justice, honor, morality, and the soundest principles of an enlightened public policy could impose, to pay it to him, and to him only, for whose indemnity it was demanded, upon whose loss it was computed, and for whose satisfaction it was adjudged.

Their theory was clearly and succinctly expressed by Mr. Caleb Cushing, the senior counsel of the United States at Geneva, in a letter dated October 17, 1872, while the laurels of his most famous forensic triumph were yet fresh and green upon his brow, when he was perhaps more familiar with the subject of which he was writing than any other man living, and when he said that—

"In the case of the 'Alabama claims' the United States will have in their hands a definite sum of money, awarded against England by the tribunal of arbitration, and paid over by England to the United States for distribution among the parties interested according to the award of the tribunal.

* * * * * *

"The tribunal, in the first place, adjudged Great Britain to be guilty in respect of captures made by the Alabama and the Florida and their tenders, and by the Shenandoah after her departure from Melbourne.

"The tribunal, in the second place, examined and scrutinized the schedules and estimates of individual losses presented by the United States, and on the inspection thereof awarded a sum in gross which they conceived to be sufficient (and which I think is sufficient) to afford a just indemnity to the injured citizens of the United States.

"This gross sum will within the year be paid by Great Britain to the United States, with interest on any delay; it will be received and held by the United States as a trust fund, to be distributed among parties interested, conformably to the tenor and spirit of the award of the tribunal; and the Government will be bound to make such distribution promptly and justly by the moral force of its duty of good faith to England and its obligations to fulfill the stipulations of the treaty of Washington.

"There is no contingency or uncertainty in all this. You and the other parties in interest may, I do not hesitate to say, rest assured of the honor and good faith of the Government of the United States in this respect with just as much of certitude as in the payment of the gold bonds of the Government."

As a corrollary to this general proposition, that this "gross sum" was "received and held by the United States as a trust fund, to be distributed among the parties interested, conformably to the tenor and spirit of the award of the tribunal," it was claimed that those who had suffered losses directly from the acts of the three "inculpated cruisers," under the circumstances in which Great Britain was held responsible for their transactions, had a paramount claim to the money awarded; because, first, it was for such losses and such losses alone that Great Britain was held liable; and, second, they constituted the sole basis for the computation of the "gross sum," which must, therefore, have been awarded with the view of their payment; and that the insurer who had paid such a loss was entitled, upon principles of natural equity repeatedly recognized by the most enlightened tribunals of both countries, to be subrogated to all the rights of the original loser in respect of the thing lost.

Another conclusion from the premises assumed by this class was that no sufferer by any other cruiser than the Alabama or the Florida, or their tenders, or by the Shenandoah after her departure from the port of Melbourne, was entitled to or had any claim to any portion of this fund, for the reason that the tribunal had expressly decided that Great Britain was under no obligation whatever to pay any such loss, and because no such loss was contemplated by the arbitrators, or constituted any element in the computation of the sum awarded, and, moreover, that no person could have any claim upon any part of this money on account of any enhanced rate of insurance or war premium paid by him, not only because the tribunal of arbitration had unanimously decided to exclude, and did exclude, with the approval of both governments, all such claims from any consideration in making its award on the ground that such claims did "not constitute, upon the principles of international law applicable to the case, good foundation for an award of compensation or computation of damages between nations," (see protocols v, vi, and vii, cited *supra*,) but because the Government of the United States, when it presented such claims to the consideration of the tribunal, neither expected nor desired any pecuniary compensation to be awarded therefor, but only presented them in order to have the liability of a neutral for claims of that character adjudicated and settled.*

On the other hand, those who held that it was competent for the Government to distribute this fund *ex gratia* to whomsoever it might see proper, urged with great earnestness and force that of all claims that could be presented for any part of this fund that of the insurer might, and in many instances would, be the most inequitable and unconscientious; for if the amount of his premiums or other profits in respect to or on account of his war risks had exceeded the sum of his losses on account of such risks, he was an absolute gainer, instead of having been a sufferer, from the operations of the confederate cruisers upon the high seas.

As was natural under such a contrariety of opinion, the entire subject, in all its aspects, underwent a most learned and elaborate discussion. Carefully prepared reports were presented, in which the different views with regard to the proper distribution of the fund were argued with singular clearness and force. Conferences were had upon the disagreeing votes of the two Houses, and the final result was the passage of an act, approved June 24, 1874, creating a court to be known as the "court of commissioners of Alabama claims," making it the duty of that court to receive and examine all claims admissible under said act that might be presented to it, directly resulting from damage caused by the so-called insurgent cruisers Alabama, Florida, and their tenders, and by the Shenandoah after her departure from Melbourne, on the 18th of February, 1865, and to decide upon the amount and validity of such claims in conformity with the provisions thereinafter contained, and according to the principles of law, and the merits of the several cases, requiring all such claims to be verified by the oath of the claimant, and filed within said court within six months after the organization thereof, and providing that no claims should be admissible or allowed by said court for any loss or damage for which the claimant had received compensation or indemnity from an insurance company or otherwise, except in cases where the compensation or indemnity so received was not equal to the loss or damage actually suffered, in which an allowance might be made for the difference; and also expressly excluding from allowance all claims in respect to or on account of unearned freights, gross freights, prospective profits, freights, gains, or advantages, or for wages of officers or seamen for a longer time than one year next after the breaking up of a voyage by the act of some one of the cruisers mentioned, or in behalf of any insurer or insurance company, unless such claimant should show to the satisfaction of the court that during the rebellion the sum of his or its losses by reason of his or its war risks was greater than the amount of his or its profits or other gains in respect to such risks, in which case the court might make an allowance to the claimant not exceeding such excess of his loss, or in favor of any insurance company not lawfully existing at the time of the loss under the laws of some one of the United States, or of any person not entitled at the time of his loss to the protection of the United States in the premises, or of any person who did not at all times during the rebellion bear true allegiance to the United States.

By the court organized in pursuance of the provisions of this act, circumscribed by the limitations and restrictions just recited, claims were allowed amounting to the sum of $6,183,889, and having by the terms of the act creating it, and those of a supplemental act approved July 22, 1876, extending its existence until the 1st of January, 1877, expired by limitation, there is left a balance of the sum, amounting to $9,316,120, for the distribution of which the present Congress has been called upon to provide by the several bills in relation thereto referred to your committee.

With regard to this balance, however, Congress is confronted with the same variety of conflicting claims and the same diversity of opinion with respect thereto

* Mr. Fish, in his telegram to Mr. Davis, the agent of the United States at Geneva of June 22, 1872, already quoted in this report, said: "I have laid your telegram before the President, who directs me to say that he accepts the declaration of the tribunal as its judgment upon a question of public law which he had felt that the interest of both governments required should be decided, and for the determination of which he had felt it important to present the claims referred to for the purpose of taking the opinion of the tribunal. This is the attainment of an end which this Government had in view in the putting forth of those claims. We had no desire for a pecuniary award, but desired an expression by the tribunal as to the liability of neutrals for claims of that character. The President, therefore, further accepts the opinion and advice of the counsel as set forth above, and authorizes the announcement to the tribunal that he accepts their declaration as determination of their judgment upon the important question of public law upon which he felt it his duty to seek the expression of their opinion, and that in accordance with such judgment and opinion, from henceforth, he regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American commercial marine to the British flag, the enhanced payments of insurance, and the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion, as adjudicated and disposed of; and that, consequently, they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making its award." (Papers, volume 2, page 579.)

as at the outset. It is presumed that no person has preferred a claim to any portion of it without being satisfied of his right to it, upon principles of natural equity growing out of the circumstances of the case. Yet it is manifest that some of them must be wrong, and if any of these claimants are entitled to this fund as a matter of right, it cannot be justly apportioned among others as an act of grace. In a word, if it be true that any particular claimant, or class of claimants, has an equitable right to any portion of this money, that right must necessarily have resulted from certain principles of natural justice or moral duty on the part of the Government, existing at the time the claim accrued, which Congress has no moral power to abrogate or evade by subsequent legislation, and an attempt by Congress to divest any such right by directing the distribution of the fund among others not entitled to it upon principles of natural equity equally clear would be as repugnant to the spirit of our Constitution as it would have been to have seized the ship or other thing in respect of which the right accrued, for public use without just compensation to the owner. Moreover, it cannot be denied that the duty of determining the right in cases of disputed or conflicting claim pertains legitimately to the judicial department of the Government, to be performed by it, either through the instrumentality of the regularly organized courts of the country, or such special tribunal as the legislative department may see proper to establish.

Your committee are therefore of the opinion that it would not only be wise and just, but far more in harmony with the genius of our Government, to remove all these disputed questions of private right from the arena of legislation, where the judgment may be biased by local interests and personal prejudice, or obscured by the heat and confusion of debate, and where the machinery is too cumbrous and complicated, the time too limited, the opportunity for investigation too restricted, and the variety of business too great, for the proper administration of distributive justice, to a forum where the rights of all parties claiming an interest in this fund can be deliberately adjudicated and determined by an impartial and dispassionate tribunal, "according to the principles of justice, equity, and the laws of nations."

Your committee are by no means singular in arriving at this conclusion, nor is their suggestion at all new or original with themselves. On the contrary, it is in exact harmony with the settled practice of the Government under similar circumstances for half a century or more, as may be shown by numerous precedents. For instance, in pursuance of a convention between the United States and Great Britain at London, on the 13th of November, 1826, the latter paid to this Government the sum of $1,204,960, "in lieu of and in full and complete satisfaction of all sums claimed or claimable from Great Britain by any person or persons whatever under the convention" between the two governments of 1822. In that convention article 4 provided that, the above sum "being taken as a full and final liquidation of all claims whatsoever arising under the said decision and convention, both the final adjustment of those claims and the distribution of said sum should be made in such manner as the United States alone should determine." Yet it does not appear to have been even suggested that because this sum was paid to the United States "in gross" they could justly keep it, or distribute it *ex gratia* to whomsoever Congress in its discretion might direct. On the contrary, by an act of Congress, approved March 2, 1827, a board, consisting of three commissioners and one clerk, was created, which was authorized to consider the evidence presented by the respective claimants, and "thereupon proceed to determine the said claims, and to award distribution of the said fund among the several claimants according to their respective rights." (Statutes at Large, volume 4, page 219.)

Again, in the first article of the convention between the United States and Denmark, at Copenhagen, March 28, 1830, it was agreed that the King of Denmark should pay to the Government of the United States the sum of six hundred and fifty thousand Spanish milled dollars on account of the citizens of the United States who had preferred claims relating to the seizure, detention, condemnation, or confiscation of their vessels, cargoes, or property by the public and private armed ships or by the tribunals of Denmark, or in the states subject to the Danish scepter. "By article 3 it was provided that, to ascertain the full amount and validity of those claims, a board of commissioners, consisting of three citizens of the United States, should be appointed by the President, by and with the advice and consent of the Senate, to "receive, examine, and decide upon the amount and validity of all such claims according to the merits of the several cases and to justice, equity, and the law of nations." And in pursuance of this provision, evidently inserted in the convention at the suggestion and for the benefit of the United States, Congress, by an act approved March 2, 1831, provided for the appointment of the commissioners, authorizing them to receive, examine, and decide upon the amount and validity of all such claims according to the merits of the several cases and to justice, equity, and the law of nations. (Statutes at Large, volume 4, page 446.)

Again, in article 1 of the convention between the United States and France, signed at Paris on the 4th of July, 1831, "the French government, in order to liquidate itself completely from all the reclamations preferred against it by citizens of the United States for unlawful seizures, captures, sequestrations, confiscations, or destructions of their vessels, cargoes, or other property, engages to pay the sum of 25,000,000 francs to the Government of the United States, who shall distribute it among those entitled in the manner and according to the rules which it shall determine." And in order to provide for the distribution of the "gross sum" thus derived, Congress, by an act approved July 13, 1832, created a board, consisting of three commissioners, who were authorized to receive and examine such claims according to the provisions of the convention, "and the principles of justice, equity, and the law of nations." (Statutes at Large, volume 4, page 574.)

By the first article of the convention between the United States and the kingdom of the Two Sicilies, signed at Naples on the 14th of October, 1832, the king, in order to satisfy the claims of American merchants whose vessels and cargoes had been seized and confiscated or destroyed by Murat from the year 1809 to 1812, inclusive, obliged himself to pay to the United States the sum of 2,115,000 Neapolitan ducats, 7,679 of which were to reimburse the United States for the expenses incurred by the Government in the transportation of American seamen from the kingdom of Naples during the year 1810, and the residue to be distributed among the claimants by the Government of the United States in such manner and in accordance with such rules as it might prescribe; and in order to effect the distribution of that residue the Congress, by an act approved March 2, 1833, established a commission of three to receive and examine the claims "according to the provisions of the convention and the principles of justice, equity, and the law of nations." (Statutes at Large, volume 4, page 666.)

In like manner Congress, by an act approved June 7, 1836, authorized the President, by and with the advice and consent of the Senate, to appoint one commissioner, to receive and examine all claims presented to him under the convention between the United States and Spain, signed at Madrid on the 17th of February, 1834, "according to the provisions of the same and the principles of justice, equity, and the law of nations," (Statutes at Large, vol. 5, p. 35,) that convention having provided for the payment of the sum of 12,000,000 of reals by Spain to the United States, "to be distributed by the Government of the United States among the claimants thereto in such manner as it might deem just and equitable."

On the 17th of March, 1841, a convention between the United States and Peru was signed at Lima, in which the Peruvian government stipulated to pay to the United States $300,000 in satisfaction of various claims of citizens of the United States on account of seizures, captures, detentions, sequestrations, and confiscations of their vessels, cargoes, and other property, which should be distributed by the Government of the United States among the claimants in the manner and according to such rules as it might prescribe; and Congress, by an act approved August 8, 1846, authorized and empowered the Attorney-General to adjudicate and decide the claims that might be presented under that convention "according to the merits of the several cases and the principles of justice, equity, and the law of nations." (Statutes at Large, volume 9, page 80.)

A convention was concluded between the United States and Brazil at Rio Janeiro on the 7th of January, 1849, under somewhat peculiar circumstances. It seems that the United States were so impressed with the justice of certain claims for which they demanded indemnity, and Brazil so thoroughly satisfied of their injustice, that they deemed it useless to go into any examination of them at all, but agreed upon the sum of 530,000 milreis, "which should comprehend the whole of the reclamations whatever might be their nature and amount, and as full compensation for the indemnifications claimed by the Government of the United States to be paid in a round sum, without reference to any one of said claims, upon the merits of which the two high contracting powers refrained from entering; it being left to the Government of the United States to estimate the justice that might pertain to the claimants for the purpose of distributing among them the aforesaid sum of 530,000 milreis as it might deem most proper." (See article 1 of the convention.) And in order to provide for the distribution of the sum so received, Congress, by an act approved March 20, 1850, authorized the President, by and with the advice and consent of the Senate, to appoint one commissioner to receive and decide all claims thereto, "according to the merits of the several cases, and the principles of justice, equity, the law of nations, and the stipulation of said convention." (Statutes at Large, volume 11, page 422.)

Under the convention with China, signed at Shanghai on the 8th of November, 1858, five hundred thousand taels, equivalent to about $700,000, were paid to the United States "in full liquidation of all claims of American citizens at the various ports" of China to that date; and for the distribution of this fund Congress, by an act approved March 3, 1859, authorized the President, by and with the advice and consent of the Senate, to appoint two commissioners who should form a board in China to receive and examine all claims which should be presented to them under said convention, "according to the provisions of the same, the principles of justice and international law." (Statutes at Large, volume 11, page 408.)

Upon reviewing the precedents, it will be observed that there is not a particle of difference in principle between either of them and the case under consideration. In every one of them a gross sum was paid to the United States, and in all of them except two it was expressly stipulated that the United States should distribute it among the various claimants, in such manner and under such rules as the Government might determine, and in one of those two the convention was silent as to the distribution while in the other it was provided that it should be made by commissioners. Yet in not a single one of them did Congress ever pretend to determine what particular claimants should be paid and who should not, but in every instance provided an independent tribunal to which it submitted, not the mere determination of amounts nor the question who were entitled to particular sums, but the determination of the *rights* of all the various claimants, according to the broad principles of justice, equity, and international law.

Nor is this all. This very Congress has itself affirmed the correctness of your committee's conclusions in this regard in the clearest and most forcible manner possible, and that but little more than a month ago. On the 5th of March last, Hon. Mr. CRAPO, of Massachusetts, submitted the report of the Committee on Foreign Affairs, who having had under consideration the petition of the Sun Mutual Insurance Company, the Mercantile Mutual Insurance Company, the New York Mutual Insurance Company, and the China Mutual Insurance Company, for relief in the matter of the bark Caldera and her cargo, unanimously recommended the passage of "an act supplementary to an act entitled 'An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai,' approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases." In their report the committee said:

"That the said companies are entitled to the relief asked for, and the committee hereby recommend the passage of the bill annexed to this report, giving the Court of Claims jurisdiction in the case, the facts of which appear to be as follows:

"The bark Caldera, under the command of Mathew Rooney, an American citizen, being laden with a cargo belonging to American merchants, sailed from the port of Hong-Kong on the 5th day of October, 1854, bound to the port of San Francisco; and, having been obliged to seek shelter from a storm, in the port of Keolan, on the Chinese coast, was, while at anchor there and the crew employed at the pumps, to keep the vessel free of water, boarded by armed bands of Chinese, who drove the men from the pumps, took possession of the vessel, and, after plundering her of all the cargo except granite in the lower hold, burned her, and she became a total loss.

"The petitioning insurance companies paid insurance to the amount of $72,512, being a total loss of the whole sum insured, besides a considerable sum in addition, expended in an unsuccessful effort to recover the property.

"The petitioners took all the necessary steps to establish a valid claim on the Chinese government for the amount of the loss, and Mr. Marcy, then Secretary of State, in a dispatch to Dr. Parker, fully recognized the justice of the claim, and directed its prosecution before the Chinese government.

"In 1858 Mr. Reed, the then American minister, made a convention with the Chinese government, securing indemnity for this as well as other claims, and about $700,000 was paid by the Chinese government, a large portion of which is still held by the State Department, awaiting the disposition of Congress.

"Mr. Reed recommended that the claim of the Caldera should be adjudicated at home, because the evidence could be there most easily produced. Meanwhile, under an act of Congress, passed in 1859, commissioners were appointed to pass upon all claims upon this Chinese indemnity fund. These commissioners held their sessions at Macao, in China, and to them the papers in the Caldera case were forwarded by Mr. Cass, then Secretary of State. The claim was duly filed with the commissioners, who made a deduction therefrom of 60 per cent., on the ground of a supposed prior damage by sea-water to the cargo. This deduction appears to have been made without sufficient evidence of its justice, and under a misapprehension of the law applicable to the case, and the claimants had no opportunity of being heard upon the question. They were told that the acceptance of the 50 per cent. allowed them would not preclude a rehearing of the case at Washington; but as the act of 1859 did not provide for an appeal from the decision of the commissioners, such a rehearing cannot be had without an act of Congress.

"Your committee are satisfied, from the evidence submitted to them, that it is but just that the underwriters should be allowed to present the evidence which, if they had time or proper notice, would have been presented to the commissioners, to some competent tribunal for a final decision as to the justice of their claim. Other claims presented to the commission, and which were disallowed by it, have been reviewed and paid from this fund. The case of the Neva, which was of like character to this, was entirely rejected by the commissioners, but the claimants by act of Congress were allowed a rehearing before the Attorney-General, who decided that the conclusions of the commissioners were erroneous, and payment was accorded to them. Your committee are of the opinion that the Court of Claims is the tribunal by which questions of this character should be heard and determined."

The first section of the bill provided "that any person or persons, or body-corporate, holding and making any claim upon the balance of the fund usually designated and known as the 'Chinese indemity fund,' under the control of the Department of State of the United States, and now unappropriated, for losses sustained by the plunder and destruction, in the year 1854, of the bark Caldera, and property on board of said vessel, may, at any time within twelve months after the passage of this act, commence proceedings in the United States Court of Claims against the United States, in the same manner as other suits are brought pursuant to and in virtue of the statutes of the United States and the rules of said court; and that the said Court of Claims shall have full jurisdiction to hear and deter-

mine such claim or demand, according to the principles of justice and international law;" while the second made provision that either party, plaintiff or defendant, might appeal from the decision or judgment of the Court of Claims to the Supreme Court of the United States, in the same manner as now provided for in other cases. And this bill, thus unanimously reported by the Committee on Foreign Affairs, passed the House without a dissenting voice, after full explanation by Mr. CRAPO. (See Congressional Record, March 5, 1878, pages 1483, 1484.)

Confirmed by the uniformity of these precedents in their conclusion that the determination of all the claims that may be set up to the balance of this fund should be remitted to some independent tribunal with authority to decide upon the rights of the various claimants according to the broad principles of natural justice, equity, and international law, unembarrassed by any special legislative discrimination for or against any individual or class, it was next to be determined by your committee whether it would be preferable to confer that authority upon some one of the regularly constituted courts of the United States, or to create a special commission to adjudicate the questions involved in the distribution of the remainder of this money.

To the establishment of a special commission they found many serious objections, which, however, they could not hope to express with anything like the clearness and force with which they are set forth in the following extract from the very able report of the Committee on the Judiciary of the Forty-third Congress through its distinguished chairman, Mr. BUTLER, of Massachusetts, when a similar proposition was made while this same matter was under consideration, and when it was the unanimous opinion of that committee that it would be better to submit the adjudication of these claims to a circuit court of the United States, with the right of appeal to the Supreme Court. The committee then said:

"The only antagonism of which your committee is aware to having the distribution of this fund settled by a suit in a single court, with the proper claimants made parties, comes from those who desire that a commission should be established, to sit in Washington, to adjudicate this matter. To this proposition your committee have most decided objections. Here are over $15,000,000 to be divided among certain claimants, who are urging their claims with all the zeal that private interests and large sums at stake can command, and it is well known that all Government claims of this description are generally taken in hand by a class of men known as claim agents, some of whom are admitted to the bar and some not, under no responsibility whatever to the commission, itself temporary, which can have no control over them or the propriety of their action, and, if they wrong either the clients or the Government, can administer no rebuke or punishment to them, who carry on this business of advocating claims upon the Government generally upon contingent fees and large percentages, the average of which is not lower, so far as your committee can learn, than 25 per cent.; and as the possibility of obtaining any reward for their services depends upon success, a quarter of this fund—with the accrued interest, nearly five millions—the amount of these fees which may or may not be realized, according as the commission can or cannot be moved in favor of the claimants, stands as a fund ready to be used by corrupt men to carry their purposes.

"Your committee do not believe it is wise to expose officers quasi judicial to such great temptation, and to put it in the power of interested parties to obtain claims against the Government through such great inducements as might be used under these circumstances. The prayer 'lead us not into temptation' has been ordained as necessary for the daily use and guidance of all Christian men for more than eighteen hundred years.

"Besides, the adjudications of this commission are necessarily final, as it is no part of the judicial system of the United States, so that your committee do not see how any appeal can be taken to the Supreme Court. Further, if this commission once gets itself established, there is great danger, by referring claims to it on other subject-matters, that it may be continued indefinitely, to say nothing of the very considerable expenses which would attend it, amounting to some fifty to one hundred thousand dollars, even if the Government could get five men fit to do this work, together with the other expenses, for that sum. Nor does your committee think it wise thus to add to the number of office-holders under the Government if its work can be done by the ordinary judicial machinery, which no one doubts. The record of commissions in matters of claims, as against governments, has not always been so bright and clear as to make it certain that the interest of the Government will be safe as against individual greed, while the United States can say with pride that the integrity of her highest judicial officers has never been questioned, and that of the lower very rarely, and as yet never proven.

"On the contrary, if these claims are brought before a court they must be advocated by members of its bar, who will be held responsible to the court for their action, and every adjudication must be made in open day, publishing to the world the grounds and reasons of it, and subject to appeal to the Supreme Court of the United States, as in other cases."

Your committee concluded, therefore, without expressing any opinion of their own in relation to the merits of any particular claim or class of claims to the unexpended balance of this fund, that it would be better as a precedent for future cases, better for the Government, and better for all parties claiming to have an equitable interest in it, to commit the adjudication and determination of all questions touching its distribution to the Court of Claims in the first instance, with the right in any party aggrieved to appeal to the Supreme Court of the United States, with authority to render a judgment in favor of each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain for such an amount as in the opinion of the court he may be justly entitled to under the treaty and award, according to the principles of justice, equity, and the laws of nations, leaving the court unhampered by any principle of allowance, exclusion, inclusion, or distribution adopted in chapter 458 of the laws of the Forty-third Congress or by the tribunal created by that law. This seems to your committee pre-eminently just and fair, and surely no one who claims to have any right to any portion of this fund can object to having his claim thus adjudicated, especially as provision is made in the bill for the speediest possible determination of all disputed principles of law by the Supreme Court, unless he is afraid of justice.

It may be urged, however, that the provision requiring the Supreme Court to advance appeals in these cases will be a hardship to other suitors whose causes, even as the docket now stands, cannot be reached for perhaps two or three years; but while this may be true to a certain extent, the objection will be found to be more specious than real when it is remembered that all the claims to this fund are embraced in a very few classes, and that all the legal principles about which there can be any dispute will be presented and settled in perhaps one, and certainly not over three or four cases on appeal, involving probably not over a week's delay in the ordinary business of the court, if that.

The several provisions of the bill herewith reported will be readily apprehended upon reading them, and your committee deem it unnecessary to discuss them separately, as the bill is identical in principle and very similar in detail to the bill reported by Mr. CRAPO, and recently passed by the House with such singular unanimity.

J. PROCTOR KNOTT, *Chairman.*

Mr. MCMAHON, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY:

For the first time in the history of the legislation of either branch of Congress the insurance companies have succeeded in persuading a majority of the Judiciary Committee into the recommendation of the bill advocated by them for the distribution of the Geneva award fund. As this bill now comes into the House with the approval of the committee, the undersigned, members of that committee, earnestly protest against it and ask that their reasons may be carefully considered. It proposes to do what neither the House nor the Senate has ever before approved. Indeed, it expressly overrules the previous solemn action of both Houses, after long and intelligent discussion, as expressed in the law of the 22d June, 1874; which law, with some amendments and new provisions, the minority propose to revive in their substitute.

It is plausibly made to appear in the report of the majority that the object of the committee is to give each person or corporation an equal chance by referring the controversy to the Court of Claims. Yet the purpose of the majority is made evident by its careful provision that insurance companies, no matter how successful in the war-risk business, shall not be excluded. The bill submitted pretends to be in the interest of actual sufferers only; yet the majority, instead of adopting the wise and equitable provisions of the law of June 22, 1874, determining when an insurance company was an actual loser, expressly refuses to permit the application of those provisions. And having distributed $9,000,000 of this fund upon one principle, the committee now proposes to adopt the opposite rule.

This ought not to be done without grave and good reasons. And it is not a sufficient reason to say, as is elaborately argued at great length in the report of the majority, that the action proposed is identical with the method of distribution of indemnity funds, other than the Geneva award; in other words, that there are precedents for it. All this was seriously and repeatedly urged in the Forty-second, Forty-third, and Forty-fourth Congresses without effect. Complicated questions arise, as we shall see, that require legislative action to do justice.

On the 9th day of September, A. D. 1873, the Government of the United States received from the government of Great Britain the sum of $15,500,000, the award made in our favor on the 14th day of September, A. D. 1872, by the tribunal of arbitration, held at Geneva, under the treaty of Washington. As soon as Congress met in December, A. D. 1872, bills were introduced into each House providing for the distribution of the money to be received, which was not payable by the terms of the treaty until one year after the award.

The Senate and House of Representatives of the Forty-second Congress took early action in anticipation of payment, but were unable to agree upon a mode of distribution; and upon the 3d of March, A. D. 1873, in the last days of the closing session, an act was passed ordering the payment of the money into the Treasury of the United States, and the investment of an equal amount in 5 per cent. registered bonds of the United States, "to be held subject to the future disposition of Congress." Each House passed a bill, the Senate on the 8th day of February, A. D. 1873, and the House of Representatives on the 14th day of the same month. From the beginning of this controversy there have been four principal rival claimants to the fund, as follows:

1. Persons having suffered damage by the acts of the cruisers Alabama, Florida, and Shenandoah after Melbourne, commonly known as the "inculpated cruisers." These parties, with few exceptions, were paid under the law of 1874.

2. Persons who suffered damage by the acts of the confederate cruisers Georgia, Sumter, Nashville, Tallahassee, Chickamauga, The Sallie, Jefferson Davis, Music, Boston, V. H. Joy, and the Shenandoah before reaching Melbourne, commonly designated the "exculpated cruisers," whose claims have not been paid and are disputed.

3. Insurers of vessels or cargoes, whether as persons or corporations; such insurers claiming, in every instance of loss paid by them, to be subrogated to the rights of the insured owner. Their claim to be paid has not been seriously contested when they were able to show a net loss in the business of assuming war risks. But their right to subrogation has been fiercely disputed, and, as will appear hereafter, denied by law, when they were unable to show that the sum of losses in respect to war risks exceeded the sum of premiums or other gains in the same business.

4. Persons who paid increased rates of insurance, known as war premiums, by reason of the presence of confederate cruisers upon the high seas. The claims of such persons have been constantly denied by the insurers, and between the insurers and the war-premium claimants the struggle has been steadily maintained.

Before proceeding to the merits of the controversy, a short history of the various bills, amendments, and laws that have been proposed, voted upon, or enacted by previous Congresses, or in either House, may not be without value or weight. It will show how utterly without precedent is the proposed action of the majority.

The first bill passed by the Senate, on the 8th day of February, A. D. 1873, to which allusion has been already made, provided compensation for those persons only who suffered loss or damage by the "inculpated" confederate cruisers. Insured persons were permitted to recover only their actual loss. Insurers were substantially excluded by the following provision:

"And no claim shall be admissible or allowed by said court by or in behalf of any insurance company or insurer, either in its or his own right, or as assignee or otherwise in the right of a person or party insured as aforesaid, unless such claimant shall show to the satisfaction of said court that during the late rebellion the sum of its or his losses, in respect of its or his war risks, exceeded the sum of its or his premiums or other gains upon or in respect to such war risks; and in case of any such allowance the same shall not be greater than such excess of loss."

Debate was concentrated upon a motion to strike this out. It failed, and the bill passed the Senate by a vote of 30 yeas to 18 nays.

The bill passed by the House of Representatives on the 14th day of February, A. D. 1873, (to which allusion has been already made,) provided for the payment of losses by the inculpated cruisers only, the payment of war-premium claimants, and the payment of such insurance companies or insurers as could show, by an exhibit of their books, that the war premiums received by them did not equal the losses they had suffered by the acts of all the confederate cruisers, inculpated or exculpated. An effort to include losses by exculpated cruisers and losses by the Shenandoah before leaving Melbourne failed. These claims had not then been argued in the House. A motion by Hon. CLARKSON POTTER, of New York, to strike out the clause providing indemnity to war-premium claimants and the clause limiting payment to insurers to the net loss in the business of war premiums, and to insert in lieu thereof a section providing for the payment of all losses by insurers without deduction of war premiums received by them, failed by a vote of 37 yeas to 157 nays. A substitute was offered by Hon. Luke Poland, of Vermont, providing for a general bill in equity in a circuit court to be designated by the President of the United States, to which all persons should be made defendants who had filed claims for damages by one of the inculpated cruisers, and leaving all questions of law and of fact to the said circuit court without any restriction or instruction, except that the loss or damage should be shown to have been caused by an inculpated cruiser. But it was not agreed to upon a call of the yeas and nays, the vote being—yeas 63, nays 125.

These bills in the House and Senate were independent of each other. The Senate did not agree to the House bill, the committee reporting adversely. The House by a two-third vote, under a suspension of the rules, subsequently substituted its bill by way of amendment for the Senate bill. There was a conference, which resulted in the law of March 3, for the investment of the money; and the Forty-second Congress adjourned finally without any disposition of the fund among the claimants.

On the 12th day of May, A. D. 1874, a bill was passed in the Senate of the United States which provided for the payment of losses by inculpated cruisers only, damages to be estimated upon the basis of gold coin at the time of the loss, with 4 per cent. interest; and for the transfer of the balance to the general fund of the United States Treasury. At this time the opinion prevailed that this bill would exhaust the fund. When it was sent to the House the Committee on the Judiciary reported it back with a substitute, which provided for the payment of all losses by both classes of cruisers, "exculpated" or "inculpated," for the payment of war premiums after the sailing of any confederate cruiser; but excluded insurers, un-

loss the sum of their losses exceeded the amount of war premiums received. Interest was allowed at the rate of 5 per cent. A bill of interpleader was to be filed in a circuit court, which should settle all questions, with qualified right of appeal in certain cases to the Supreme Court. The following was contained in the bill:

"*Provided*, That mutual insurance companies who have paid a loss shall be indemnified, such indemnity to be divided among its members who contributed to pay such loss at the time; but no member of any mutual insurance company shall be indemnified for any war premium paid in such company."

Mr. FRYE, of Maine, of the committee, moved to strike out this proviso, stating that the committee "had been deliberately cheated into it by the misrepresentations of the insurance men." His motion was agreed to—ayes 137, noes not counted. Mr. Poland, of Vermont, offered his substitute, proposing to refer the whole subject to a circuit court to be designated by the President, which court should pass, without restriction or instruction, upon all claims for losses by the act of any "inculpated" cruiser. It made provision for no other claims. This substitute, which received the support of the adherents of the insurance companies, was defeated by a vote of 92 yeas to 149 nays; and the bill of the committee was adopted—yeas 182, nays 101.

Upon a subsequent conference between the House and the Senate, the Senate bill was agreed to with a few modifications. The coin basis for estimate of damages was abandoned. The provision turning the balance into the Treasury was stricken out; and the clause inserted for the payment of other claims in future by Congress. A few other immaterial alterations were made, and the law of June 23, 1874, was passed. This law had a provision, as we have seen, that insurance companies could recover only their net loss in the business of assuming war risks, which was a distinct business from the general one.

The court of commissioners of Alabama claims organized under this law on the 23d day of July, A. D. 1874. Its duration was extended to January 22, 1876, by proclamation of the President, under section 8 of the statute, and by act of Congress to the 23d day of July, A. D. 1876, at which time it expired. The total amount awarded to persons entitled under this bill, including interest, was $9,316,120.

On the 6th day of July the subject came up, after long discussion, for final disposition in the House of Representatives of the Forty-fourth Congress, and a bill was passed in the House reviving the court, for the period of a year and more, giving it power to hear and pay claims for losses by all confederate cruisers and war-premium claimants. This bill revived the law of June 22, 1874, and the provision therein contained as to insurance companies.

A substitute was offered by Mr. KNOTT, of Kentucky, then, as now, chairman of the Judiciary Committee, proposing to amend the law of June 23, A. D. 1874, by reviving it, but striking out so much of section 12 as restricted the amount recoverable by insurers to the amount of their net loss in the business, giving them a right to file their claims and reviving the court for that purpose only. Mr. Lawrence, of Ohio, offered an amendment to Mr. KNOTT'S substitute, being also in the nature of a substitute. His proposition was to turn the balance of the Geneva fund into the Treasury. It was defeated by a vote of yeas 59, nays 109. Mr. KNOTT'S substitute was defeated by a vote of yeas 35, nays 151. Thus the House, by a decided vote again and for the third time, rejected the views of the insurance men; and the bill of the committee passed by a vote of yeas 107, nays 94. No action was taken upon this bill in the Senate, and the Forty-fourth Congress adjourned without providing any mode of distribution.

It will be seen that the Senate has never recognized the claims of insurers, except as modified in the law of 1874, which amounts to practical exclusion; and has never favorably considered the claims of the exculpated-cruiser claimants or of the war-premium sufferers. The House of Representatives has three times rejected the claims of insurers, except in cases of net loss; has twice provided for the payment of losses by exculpated cruisers; and has uniformly voted for the payment of the war-premium claims. The proposition of Mr. Poland, of Vermont, to refer the claims to some circuit court of the United States without instruction, except that they should grow out of the acts of an "inculpated cruiser," was defeated in the House by decided majorities in the Forty-second and the Forty-third Congresses. And a similar proposition offered in the Senate by Mr. CONKLING, of New York, was defeated by a vote of 34 nays to 23 yeas.

It was always supported by the advocates of the insurance companies, who believed that under the technical rules of courts of law they could recover their losses in every instance without being compelled to show up their gains in the multitude of risks taken where no losses occurred. And in the present Congress this proposition to refer the whole subject to the courts is the only one they have urged or advocated.

What shall be done with the remainder of this fund—now amounting to nearly $10,000,000—is one of the most important questions pending before Congress. The committee has heard many arguments upon the subject; it has had no lack of information upon the questions in issue. The proposition to cover the money into the Treasury of the United States has had no advocates and receives no support from any member of the committee, however divided upon other questions. It is true that the claims were prosecuted before the tribunal of arbitration by the United States as a nation, and that the award was made and the money paid to the Government of the United States. It is also true that no class of persons have a claim against the fund which they could prosecute to successful issue. But the fund was received by the Government in full satisfaction of all private as well as public claims against Great Britain. The Government of the United States upon several occasions distinctly disclaimed any desire for a money award in satisfaction of its claims as a nation as distinguished from the claims of individuals which had been presented by it. It was most interested in the preservation of peace, the maintenance of national honor, and the settlement of important principles for future use. To attain these ends it acquiesced in the rejection of all "national" claims, commonly designated as "indirect" damages. While it desired as large an award as justice would permit, it struggled for only a sufficient amount to make whole those of its citizens who had suffered actual losses. Under these circumstances it would be an act of gross injustice to retain this fund in the Treasury so long as a single sufferer remained unpaid. It is held under a moral obligation to do right in its distribution; and we are bound in conscience, as honest legislators, to divide it among those who have suffered loss or damage—having reasonable regard to the source from which the money came; that is to say, payment should not be made to any one who cannot show a close connection between his loss and the conduct of Great Britain in our civil war. We dismiss from further consideration the proposition to cover this fund into the Treasury of the United States. The Treasury is already too full of money not the property of the Government.

We come to the questions so long and hotly contested between the insurers and the war-premium claimants, the consideration of which involves the claims of those suffering damage by exculpated cruisers; for the argument of the insurer to exclude the war-premium claimants, if legally sound, would exclude the payment of damage by exculpated cruisers.

The argument of the insurance companies is substantially as follows: The claims for war premiums were rejected by the tribunal of arbitration, while the rights of the insurance companies were admitted, their claims computed by the British counsel, and allowed by the tribunal in the estimates by which the gross sum was arrived at; that the sum allowed was awarded to meet the individual losses caused by the inculpated cruisers and no others; that the United States Government received the award in trust for such sufferers; that in cases of insurance, the insurers stand in law and in equity in the shoes of the insured to the extent of the money paid by the insurer; that if in lieu of a sum in gross the damages had been referred, under article 10 of the treaty, to a board of assessors, the board could only have awarded damages to parties according "to the liability as decided by the arbitrators," which would have excluded war-premium claimants and losses by exculpated cruisers; that when a sum in gross was awarded, the duties that would have devolved upon the board of assessors under the treaty were transferred to the United States Government, and should be performed by it in the same manner as the treaty enjoined performance upon the board of assessors; that at an early day the rights of insurers were recognized by the Government, and their claims received and forwarded as valid claims against the British government. And the argument is pressed that the money in the hands of the Government is the money of the insurance companies, which they are prevented from recovering only by the general immunity of the Government from judicial pursuit.

These are plausible, technical arguments. They are vigorously urged by learned lawyers, and many distinguished statesmen have been convinced of their soundness.

In addition to these arguments, it is urged upon us that the questions involved are complicated legal ones fit only for judicial decision; that neither the Judiciary Committee nor the House of Representatives are constituted to pass upon them properly.

The bill proposed by the majority of the committee pretends to be in the interest of actual sufferers only. The substitute proposed by us differs from this bill in defining who are to be regarded as actual sufferers, as all previous Congresses have done. Is this a question of law? Is it a question unfit for a Judiciary Committee or too complicated for the House of Representatives? By no means. It is a question of fact peculiarly within the province of the legislative power. Should this question be referred to the Court of Claims in the general terms proposed in the bill of the majority, coupled with the express admonition that the rule laid down in the law of 1874 in regard to insurance companies should not apply, that court might make the mistake, and probably would, that an insurance company was an actual loser when it had paid only a single loss of $100,000, although in its war-risk business alone it had received premiums, where there were no losses, to the extent of $1,000,000? No Congress could ever make that mistake. Three Congresses have already spoken, the Forty-second, Forty-third, and Forty-fourth, and we have no fear as to what will be the result in the Forty-fifth. Is it a question of law as to whether one who was compelled to pay excessive war premiums by reason of the action of Great Britain was an actual loser? And can it be doubted that one whose ship or cargo was destroyed by an exculpated cruiser was an actual loser?

There can be no difficulty in our defining what we mean by an actual loser, as was done in the law of 1874. And there is great propriety in our doing it in the case of insurance companies. Let us take an instance. Suppose the Atlantic Mutual has received a premium of $1,000 on the Brilliant, and paid $50,000 loss for her destruction. The company files its claim under the law proposed by the majority. It is an actual loser in that case to the extent of $49,000. But it has had a hundred other risks, in each of which it has received $1,000 premium, without a cent of loss. It is therefore an actual gainer by the conduct of Great Britain to the extent of $51,000 over and above all losses. The bill of the majority would pay this company $49,000 and many years' interest. The substitute of the minority would not. The bill of the majority would refer the case to the court and prevent it from taking into consideration the other gains of the company in the same business. The substitute would compel the court to examine the fact before it would permit any person or corporation to share in an indemnity fund.

So far, then, as this question is concerned it is eminently proper and just that Congress should define what it means by "actual losers" before it hands these claims over to any tribunal for adjudication. That tribunal could not take into its consideration all the motives actuating our Government in its conduct before the tribunal of arbitration. Without definite instruction it would be bound by the narrow, strict, and technical rules that have been erected into a grand judicial system for the judgment of causes between man and man, and could not be guided by the high principles of natural equity which would control the sovereign power in the proper distribution of an indemnity fund. It could not relieve a sufferer by the acts of the Georgia or the Shenandoah before Melbourne; but it might be compelled to add millions of dollars to the coffers of the Atlantic Mutual Insurance Company of New York, already filled with millions of dollars of profit from the very business of assuming war risks. Yet both these ships, whose acts it would exclude, were essentially British built, manned, and equipped, although exonerated by the tribunal. The Georgia was so notoriously British that when she entered the port of Liverpool in the month of ——, A. D. 186—, she became the subject of discussion in Parliament. Mr. T. Baring said of her on the floor of the house:

"She remained the property of this person (a Liverpool merchant) until the 23d of June, when the register was canceled, he notifying the collector of her sale to foreign owners. During this period, viz., from the 1st of April to the 23d of June, the Georgia, being still registered in the name of a Liverpool merchant, and thus his property, was carrying on war against the United States with whom we were in alliance. It was while she was still a British vessel that she captured and burnt the Dictator, and captured and released under bond the Griswold, the same vessel which had brought corn to the Lancashire sufferers."

Mr. Cobden, during the same discussion, spoke of her and the conduct of Great Britain as follows:

"What is the fact? You have been carrying on war from these shores with the United States, and have been inflicting an amount of damage on the country greater than could be produced by many ordinary wars. It is estimated that the loss sustained by the capture and burning of American vessels has been about $15,000,000. But that is a small part of the injury which has been inflicted on the American marine. You have rendered the rest of her vast mercantile property useless. * * * If you raise the rate of insurance on the flag of any maritime power, you throw the trade into the hands of its competitors, because it is no longer profitable for merchants or manufacturers to employ ships to carry freights when those vessels become liable to great war risks.

* * * * * * * *

"I hold in my hand an account of the foreign trade of New York for the quarter ending June 30, 1860, and also for the quarter ending June 30, 1863, which is the last date up to which a comparison is made. I find that the total amount of the foreign trade of New York for the first period was $92,000,000, of which $62,000,000 was carried in American bottoms, and $30,000,000 in foreign. This state of things rapidly changed as the war continued, for it appears that for the quarter ending June 30, 1863, the foreign trade of New York was $88,000,000, of which $23,000,000 were carried in American vessels, and $65,000,000 in foreign; the change brought about being that while in 1860 two-thirds of the commerce of New York was carried in American bottoms, in 1863 three-fourths were carried in foreign bottoms."

Yet the owner of the ship Dictator, a sufferer to the extent of $100,000, can receive no relief under the bill of the majority, according to the law of the advocates of the insurance companies. And the owner of the ship Delphine, destroyed by the Shenandoah a few days before she reached Melbourne, cannot be paid under it. Yet both these parties were actual losers to a large amount, and would be excluded from participation in the indemnity fund by the peculiar language of the bill of the majority confining payment to those who were supposed to be recognized by the tribunal of arbitration.

In fact the bill is carefully drawn, so that if any person can have relief under it, which is doubtful, no one can succeed except the already gorged insurance companies. Should they be permitted to succeed? If they have a clear legal or equitable right it should be respected; but if, on the other hand, this fund is an indemnity fund for actual sufferers held by our Government in its sovereign capacity to distribute according to the fact to actual sufferers by the improper and hostile conduct of Great Britain, we should not permit corporations to share in it for whom

that conduct created a new and profitable business, and who realized, in consequence, enormous dividends out of the misfortunes of their fellow-citizens.

There is eminent justice in requiring them to account for gains. Their business is that of the receipt of premiums and the payment of losses. They were not engaged in any general business of buying and selling. Their profits depended on no fluctuations of the market arising from excessive supply or limited demand. The war risk business was a separate venture, kept apart from the ordinary insurance business, as was demonstrated before the committee. Hence to compel them to make a showing of their whole business, which consisted solely in the receipt and payment of money alone, is no injustice when they claim to be sufferers by the conduct of Great Britain. The truth is, and was, that Great Britain created a new business for them which was profitable.

The undersigned are of the opinion that the fund in question is an *indemnity fund*. They believe it was awarded to us as a nation. They believe that no person or corporation has a legal or equitable right to any portion of it. They regard it a fund for actual sufferers by the conduct of Great Britain. And they recognize no obligation upon the Government, in consequence of anything that transpired at Geneva, to give it any particular direction. The tribunal of arbitration dealt with the questions submitted only for the purpose of arriving at an amount to be paid by Great Britain to the United States. It remitted the distribution of the award to our Government. No claimant was permitted to be heard at Geneva. And the amount was arrived at without permitting contest between the rival claimants, and without satisfactory knowledge to the world of what claims were actually embraced in it. Hence the agent of the United States, in his report to the Government, says, volume 4 of the papers relating to the treaty:

"The deliberations of the tribunal on the subject of damages were held with closed doors. * * * It does not appear in the protocol how the arbitrators arrived at the amount."

There is nothing in the treaty of Washington directing the method of distribution; and it would have been grossly indelicate and extrajudicial in the tribunal of arbitration to have prescribed any rule of action to the sovereign power of the United States. The board of assessors was not convened. A gross sum was awarded at the earnest request of our Government; and whatever might have been the equitable rights of individuals if the board of assessors had been called together and had passed upon each individual claim, awarding a definite sum in each case to the party entitled, it is sufficient to say that this was not done. This is a complete answer to the whole argument. The very reason it was not done was because of England's indifference as to the persons to be indemnified and our own anxiety to be permitted to distribute this fund as a sovereign nation, dealing honorably and fairly by all our citizens. This will be made more apparent by an extract from the instructions of Secretary Fish to Mr. Cushing, leading counsel for the United States, given on the 8th of December, A. D. 1871, prior to his departure for Geneva. (See papers relating to the treaty, volume 2, page 415:)

"The President desires to have the subject discussed as one between the two Governments; and he directs me to urge upon you strongly to secure, if possible, the award of a sum in gross.

"In the discussion of this question and in the treatment of the entire case, you will be careful not to commit the Government as to the disposition of what may be awarded or what may be *recovered in the event of the appointment of the board of assessors* mentioned in the tenth article of the treaty. It is possible that there may be duplicate claims for some of the property alleged to have been captured or destroyed, as in the cases of insurers and insured.

"The Government wishes to hold itself free to decide as to the right and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution. It is expected that all such committal will be avoided in the argument of counsel."

In the face of such instructions, faithfully carried out, not to commit the Government to any mode of distribution, even in case the board of assessors should be convened to pass upon each particular claim in detail, and in face of the declaration that the money should be recovered in the name of the Government so that insurers and others should have no claim upon the fund, it is difficult to see the force of the argument made by insurance companies that the Government holds "their money" received by it "in trust for them." The alleged "trust" was distinctly repudiated before the receipt of the money.

The Government was acting for itself. It desired the award of a gross sum to evade all possible questions. Even if money had been received by our Government without any disclaimer of the alleged "trust" in behalf of certain sufferers, including insurance companies, the Government would not have been an "agent," "attorney," or "trustee" for such parties. It was acting in its sovereign capacity, making and carrying out a treaty, dealing with important general questions as well as private claims. The claimants had no rights which they could successfully prosecute against a foreign power. If they had had, the courts of England were as open to Americans under the petition of right as to English subjects. Their claims were in the hands of Government for prosecution, satisfaction, or abandonment, as the interest of the nation should demand, when the public peace was at stake. Whatever money was received was necessarily received by the Government for all claimants—those supposed to be entitled and those whose claims were sacrificed for the public good. For all were handled by the Government for the general interest, and the claims sacrificed or not pressed, or expressly abandoned, are as much represented in the final award as the claims expressly admitted; for their abandonment may have been a part of the consideration for valuable results actually attained.

A recent case in the English courts will be read with interest in this connection—the case of Rustomjee *vs.* The Queen, to be found in Law Reports, (1875,) Q. B. division, volume 1, page 487; and the same case, on appeal, in Law Reports, divisions 2 to 5, part 2, February, 1877, page 69. The facts were as follows:

By a treaty between the Queen of England and the Emperor of China, the emperor agreed to pay to the British government the sum of $3,000,000 on account of debts due to British subjects from certain Chinese merchants who had become insolvent, being largely indebted to British merchants. The petitioner, Rustomjee, was the owner of one of the debts covered by the payment; and during the negotiation of the treaty the British agents promised him his claim would be insisted upon, and, when received, paid to him. And the money was paid to the British plenipotentiary to pay the petitioner among others. The petitioner not having received his money, filed his "petition of right" (the ancient common-law remedy for the subject against the Crown), claiming that the queen had received his money as his agent or trustee; and praying that "Her Majesty may be pleased to direct the payment of the said sum to him." This action did not fail because the queen was not subject to judicial proceedings, as a similar case would have failed if brought against the Government of the United States. It failed because it had no merit. Chief-Justice Cockburn, one of the tribunal of arbitration, and fresh from Geneva, said, in his opinion rejecting the petition:

"In such a case a petition of right will not lie. The notion that the queen of this country, in receiving a sum of money in order to do justice to some of her subjects, to whom otherwise injustice would be done, becomes the agent of those subjects, seems to me really too wild a notion to require a single word of observation beyond that of emphatically condemning it. In like manner, to say that the sovereign becomes the "trustee" for subjects on whose behalf money has been received by the Crown, appears to be equally untenable. It comes simply to this, that Her Majesty, in order to enable her to see that injustice is not done to her subjects, stipulates for the payment in her hands of a sum of money. The distribution of that must be left to Her Majesty's discretion."

Justice Blackburn, concurring, said:

"But I do not think that it can possibly be said that when the queen has, as a high act of state, made a treaty and received money in consequence of an act of state, the mode of distributing it is in any way enforceable by a court of law, or subject to the findings of a jury. I think there is a moral claim that it be given to the right person, which must be investigated in the manner in which Her Majesty is pleased to direct, and the ministers who direct it would probably be responsible in Parliament if they did it unjustly."

Mr. Justice Lush said, in the same case:

"Again, if this were treated not as the demand of a debt recoverable at common law, but as a trust, a similar answer would be given, and it is equally valid that no subject can charge the Crown with being a trustee for him. * * * It was received by her in her sovereign character, to be dispensed, as I have said, according to the views of the advisers of the Crown as to the persons entitled and the amounts which should be fair and just as regards the claims of parties."

When this case went to the court of appeals the judgment was affirmed without dissent. In delivering the opinion of the court, Lord Coleridge, chief-justice, used the following language:

"We assent, upon full consideration, to the reasoning of the judges in the court below. The making of peace and the making of war, as they are the undoubted, so they are, perhaps, the highest acts of the prerogative of the Crown. The terms on which peace is made are in the absolute discretion of the sovereign. If Captain Elliott did (to use the words of the petitioner) promise that the queen would compel the Chinese government to pay these claims when terms of peace were arranged; if Sir Henry Pottinger did promise that these claims should be insisted on and should be paid, they both exceeded their authority, and promised what they had no power to perform, or to pledge the queen to perform. The queen might or not, as she thought fit, have made peace at all; she might or not, as she thought fit, have insisted on this money being paid her. * * * We do not say that under no circumstances can the Crown be a trustee; we do not even say that under no circumstances can the Crown be an agent; but it seems clear to us that in all that relates to the making and performance of a treaty with another sovereign the Crown is not, and cannot be, either a trustee or an agent for any subject whatever.

"We do not, indeed, doubt that on the payment of the money by the Emperor of China there was a duty on the part of the English sovereign to administer the money so received according to the stipulations of the treaty, but it was a duty to do justice to her subjects according to the advice of her responsible minister; not the duty of an agent to a principal, or of a trustee to a *cestui que trust*."

There is a strong parallel between the claim set forth by Rustomjee and that of the insurers. A sum in gross was paid to the United States, as in the case cited, not for the payment of any particular claim or claims, but "for the satisfaction of all the claims referred to the consideration of the tribunal;" and in accordance with the provisions of the treaty the tribunal declared that "all the claims referred to in the treaty as submitted to the tribunal are hereby fully, perfectly, and finally settled." No particular sum of money was found to be due or awarded to any particular claimant at Geneva. No claimant was there having a right to be heard. It was, as Gladstone, prime minister, said in Parliament, "entirely a question between the governments." Hence, when the decision in the Rustomjee case was announced in England, public attention was at once attracted to the parallel, and the London Times said, editorially, in commenting upon it:

"Similar principles in different terms would apply to such an indemnity as we paid to the United States, and it would follow, therefore, that the money was paid to the Government of the United States not in the mere capacity of a trustee for individuals, but as the sovereign authority of the nation. * * * Congress, accordingly, is perfectly within its competence in considering how the surplus shall be appropriated."

And in the very same editorial, commenting upon the claims of insurance companies, it says:

"Where a ship was fully insured, of course the owners received their compensation at the time from the underwriters, and they cannot be paid over again. But the underwriters also received their compensation, for they insured the vessel at war risks, and the additional premium not merely on the particular ship which was lost, but on the numerous other ships insured on the same favorable terms, must be regarded as having secured them against loss. They agreed in fact for the payment of certain premiums to run the risk of the very disaster which happened to any such vessel, and they must therefore be regarded as having insured themselves against the consequences. To pay further compensation to them would in this instance also be paying them twice over."

It is a significant fact in connection with this article that when it first appeared in the newspapers of this country the above remarks as to the claims of insurers were entirely omitted, with nothing to indicate that an omission was made.

In strict accord with the view that the tribunal of arbitration did not and could not pass upon the conflicting titles to the money awarded, the Supreme Court of the United States decided, in the very case relied upon by insurance companies—Comegys *vs.* Vasse, 1 Peters—(which we will examine more particularly hereafter upon another point,) that the board of commissioners appointed under the treaty with Spain to decide upon the amount and validity of the claims of American citizens had no power to decide finally to whom a claim was really due. The court says:

"They had no authority to compel parties, asserting conflicting interests, to appear and litigate before them, nor to summon witnesses to establish or repel such interests; and, under such circumstances, it cannot be presumed that it was the intention of either government to clothe them with an authority so summary and conclusive, with means so little adapted to the attainment of the ends of substantial justice."

And it is to be noted in this connection that under this treaty the parties appeared in person before the commissioners, urged their claims, and had personal awards in their favor.

The Rustomjee case, in so far as it is an authority in this country, and the opinion of the court in Comegys *vs.* Vasse, destroy the main proposition of the insurance companies. They persistently argue, as Rustomjee did, that their claims were recognized by the British and American governments; and, as Vasse's assignees did, that a sum of money was awarded to cover their particular claims; and, in the language of Mr. Evarts, that nothing prevents the pursuit of the American Government as their trustee but its general immunity from judicial pursuit. In England that immunity does not exist. The subject is entitled to his petition of right, "where his land, or goods, or money have found their way into the possession of the Crown, and the purpose of the petition is to obtain restitution, or if restitution cannot be given, compensation in money, or where the claim arises out of a contract as for goods supplied to the Crown or to the public service." (See Feather *vs.* The Queen, 6 B. & S., 294.) And the proceeding of Rustomjee failed because he had no legal or equitable right in or to the money, but was dependent upon the justice and equity of the proper executive authority.

Had the British government paid the United States a sum in gross without the intervention of a tribunal of arbitration, the parallel would have been perfect. Who doubts that the distribution would have been wholly a legislative question? Yet the only object of the tribunal was to ascertain how much Great Britain should pay the United States.

We are therefore decidedly of the opinion that in refusing to recognize the claims of the insurance companies we do not violate any legal or equitable right belonging to them. It destroys no right of property. It does not take advantage of the Government's immunity from judicial pursuit; but puts itself upon the broad ground that it is the duty of Congress to distribute this fund, the distribu-

tion of which is not and should not be a merely judicial question. There have been cases where Congress has referred the distribution of a similar fund to the ordinary courts. Under all prior treaties, the treaty itself provided for the reference and payment of private claims. But in these no complicated questions arose. They were chiefly investigations of fact, and it was not necessary to settle in advance the principles of distribution, in order that justice should be done. In the present case, as we have seen, Congress has been uniformly apprehensive that, under a general reference to the courts of law, the real sufferers would be passed by, and the extraordinary spectacle presented of the division of an indemnity fund among persons who had never lost a dollar, but whose pockets had been filled by the very acts out of which it arose.

An investigation of the causes leading to the treaty, of the character of the tribunal of arbitration, and of the reasons controlling it and the action of the two governments appearing before it, both before and during its sittings, will furnish good reason for this opinion. A narrow view of the case, and one that at first view captivates the lawyer, is this: our Government presented certain claims against Great Britain; some were rejected by the court, others were allowed or seemed to be, and all that remains for us to do is to hand over the money we received to the persons whose claims were allowed, or to refer the question to some court to settle. A broader and more correct view would be stated as follows: The tribunal of arbitration was not an ordinary court of law, and did not act on the ordinary principles of jurisprudence. It was created by the treaty. The sole object of its creation was to preserve peace by settling all matters of controversy between two powerful nations. It had no previous code of law by which it could be guided. It was to have no future existence. The treaty which created it laid down the agreed law upon which it should act, the three principles or rules, and the doctrines of international law so far as applicable. These three rules were not adopted because a part of any system of jurisprudence or of international law. They were adopted because arbitration would have been a failure without them. They were insisted upon and agreed to by the United States because of their supposed immense value to us in the future; and by the British government because their application tended to strengthen its case before the tribunal. The Government of the United States had based its claims for damages upon much broader grounds before the treaty was signed. It insisted that the prime cause of all our losses upon the sea was the premature and hasty recognition of the confederate government, which gave it belligerent rights upon the sea before a battle was fought on land, or a ship constructed. It insisted, and with great truth, that the confederate cruisers were built, manned, and equipped in British ports, and that the naval power of the insurgents was solely of British creation and maintenance. And it therefore held Great Britain responsible for all our losses upon sea; for enhanced rates of insurance; for the pursuit of confederate cruisers; and the prolongation of the war. It made no distinction between the Florida and the Georgia, or the Alabama and the Shenandoah.

When it narrowed its claims by the terms of the treaty, it did so in the interest of peace and future advantage—not from conviction of being in the wrong. When it consented before the tribunal to the exclusion of national claims, including the war premiums, the prolongation of the war, and the transfer of our marine to the British flag, it was preserving the existence of the tribunal of arbitration, which was in imminent danger, and sacrificed to the principle of peace the main elements of its case, and gained immense advantage in the rule laid down. And when the tribunal itself rejected from consideration these various national claims, it did so upon no article of the treaty or reasonable principle of international law, but after and in pursuance to a secret agreement of the two governments, necessary to the continuance of the tribunal, that in the interest of peace the tribunal should arbitrarily settle a controversy in which neither side was willing to recede.

Upon what principle of international law could the tribunal of arbitration maintain that damages for the destruction of our commercial marine, the increased cost of the war, and the payment of enhanced premiums of insurance could not be awarded or computed between nations? What becomes of arbitration in the future if this be law? The British counsel made no such argument; insisted upon no such claim. They did insist, however, that these subjects were not within the purview of the treaty, had not been submitted to the tribunal, and were not within its jurisdiction. In all the negotiations between the filing of our case at Geneva, and the agreed rejection of the national or indirect claims alluded to, the British argument was that only private claims had been submitted, and that under the treaty the American Government had waived all claim for national damages. All negotiation for a supplemental treaty failed. Arbitration was upon the very verge of failure. But, by secret agreement between the two nations, the tribunal cut the Gordian knot by ignoring the jurisdictional question raised by England, and a unanimous rejection of the claims as stated.

The truth is, the tribunal was in part a diplomatic court, whose main object was to attain peace by the settlement of all questions pending, and not to determine what individual losers or classes of sufferers should receive indemnity. It awarded indemnity on no fixed principles of justice, and its award furnishes no basis for distribution. The action of the United States in entering into the treaty, or before the tribunal, did not change and was not intended to deny the rights of its citizens in any fund it might receive. When it surrendered previous positions or abandoned classes of claims because of other greater advantages to us as a nation, it was conscious of its power to satisfy these sacrificed claims by the distribution of the fund to the actual losers when that fund came into its possession. If it surrendered valid claims for its own purposes, it has received pay for those claims as much as if they had actually entered into the computation of damages. Peace, the satisfaction of national honor, and supposed valuable principles of action in the future were all gained by our Government in the negotiation of the treaty and the award of the tribunal.

The money awarded belongs as much to these classes as to any other. They assisted in the final result, and if they were not recognized at Geneva they are entitled to recognition at home. The Government recovered the money in its own name for that express purpose. We therefore deny the proposition, insisted upon by insurance companies, that the Geneva fund represents any particular claims or classes of claims. All the "claims referred to the tribunal" were satisfied by the award. It was paid as a gross sum for that purpose. And it is the duty of the legislative power of the Government to ascertain who were actual sufferers for the purpose of indemnifying them for the loss. It should not permit its action at Geneva, in its own general interest, to destroy valid claims. Circumstances did not permit the tribunal to do justice to individuals, but only to adjust questions between nations. Congress must therefore do that justice. Courts cannot do it upon the general principles of law or equity, because the tribunal of arbitration was not guided by them in its preliminary action. It was as much a court of diplomacy as a court of law. To follow its windings would enrich the rich by robbing the poor of an indemnity fund acquired for their benefit. And to throw these claims into any ordinary court of law would prevent the consideration of all the equitable circumstances that should govern in the distribution of an indemnity fund. As Justice Maule very properly said in De Bode's case: "Neither the Queen's Bench nor any other court administers justice in general."

But it is argued that when ships and cargoes were destroyed, upon which insurance was paid, the insurer became vested, upon abandonment, with all the rights of the original owner, including his right to pursue any foreign government, through his own government, to reparation in damages. And numerous decisions upon the doctrine of subrogation have been cited in support of this view. Confidence in this proposition accounts for the zealous support given by insurance men to the bill of the committee proposing a general reference to the Court of Claims. Although the Government of the United States has rarely permitted, in Congress or in the Executive Departments, the application of this technical rule, we acknowledge its correctness in an ordinary suit at law between individuals. But there is a marked distinction between the cases cited and the one under consideration—especially that of Comegys *vs.* Vasse. All the captures by confederate cruisers were legal. The property was all destroyed. There was no property to recover. No legal right existed against the confederate government; no right of any kind existed against the government of Great Britain. Its ships of war had not committed the wrong; nor had it authorized the seizures or destruction. There was therefore no right to pursue the confederate or British government by the owner of property destroyed. As Chief-Justice Kent said in the Gracie case: "There was no legal redress remaining in contemplation of law, and therefore there was no *spes recuperandi* existing, or none which could be the subject of liquidation." And in the case of the destruction of our property by English-built confederate cruisers there was no legal redress against the British government, not merely because it was free from judicial pursuit, (which is not true, because Americans can file a petition of right,) but because, its acts or faults being acts of omission, neglect, default, it had committed no wrong to an individual, but it was answerable as a sovereign government only to our sovereign Government for the failure to preserve its neutrality, to take active steps to prevent the damage, which was a duty it owed to us in our national character. When, therefore, by treaty, we provided for the settlement of all these questions and the awarding of damages to us, it was exactly as Mr. Fish contended it should be, and Mr. Gladstone said it was:

"No claims of individuals have been submitted to arbitration in relation to the Alabama. What was submitted to arbitration was entirely a question between two governments."

And it cannot be too often repeated. The nation recovered this money, and the nation should divide it. Under previous treaties, the money was awarded to individuals.

What claim, then, have these insurance companies upon Congress to have their losses reimbursed without the consideration of the greater gains they realized? None whatever in law or in equity. Why should their demand be heard for a reference to the courts, with all the delay incident to protracted litigation? Why should we give them the opportunity to recover their losses in a court of law, with no provision for an account of their gains? The country is under no obligation to them. They assumed war risks voluntarily and as a profitable business. They charged premiums proportionate to the risk. Early in the war they defeated payment of losses under the ordinary marine risk, and the courts held with them that captures by confederate cruisers were not covered by it.

This was their first manifestation of that patriotic fervor to which allusion is here made, only because of the preposterous claim that insurance companies were patriotic in assuming war risks.

They demanded increased rates before assuming any war risk. They demanded premiums which would in their judgment, when added together, more than pay all losses they might sustain. These premiums were at times enormous. But they calculated well. For when the war was over, and the books were balanced, only four companies out of forty-five engaged in the business could show that it had been a losing one. Their net losses reached the small sum of $111,055, while the actual net gains of the remaining forty-one have been estimated at $5,000,000. These net gains they extracted, and much more, from the very war premium men whose claims they are disputing; for, in estimating gains or losses, we have been computing war risks alone. Shall we give this fund to the corporation which, in the language of the London Times, paid itself in advance for all expected losses, and more than realized these losses in heavy war premiums? Shall we give it to all the members of a mutual insurance company, to the exclusion of the particular members of that company who paid the premiums? Shall we divide the fund among the sufferers, or permit the gainers to absorb the bulk of it?

In the matter of insurance of war risks there were two classes, the insurer and the insured. The insurer certainly made money. If he did not, his losses will be reimbursed under this bill. The insured could make no money. His was an outlay for protection against disaster. If he suffered no loss, his premium was an extra and unnecessary expense. If he suffered loss, insurance rarely covered his property to the full extent. The best that could be done by a war-premium payer was to endeavor to add his extra expense to the cost of his goods or to the freight of his ship. We have seen by the statement made by Mr. Cobden that after the cruisers were let loose from England three-fourths of the commerce of New York was carried in foreign bottoms. The importers who imported the remaining fourth in American bottoms could not fix the market price in New York. The importer in foreign bottoms ruled the market. His goods had no war risks added to the prime cost. It was not, therefore, in the power of the shipper in American bottoms to regulate the price of his goods in the market and to include the war premium he was compelled to pay. He was frequently a loser, and even when he realized a net profit upon a particular adventure it would not cover the interest of his investment, the expense of his establishment, and the losses generally incident to his business from the presence of these cruisers upon the high seas. So with the owner of American ships. When he offered his vessel for freight, he was compelled to ask higher rates to cover his heavy insurance. Could he do so when the neutral ships of other nations were in port competing for the same freight? The shipper of goods in a neutral vessel had no war risks to pay upon his goods. He would naturally prefer a neutral ship with the same rate of freight prevailing. Did not the American ship-owner who was too plucky to sell or transfer his vessel suffer heavy damage, not only in the payment of premiums upon his vessel and in the general disturbance and derangement of his business, but frequently by insurance upon the very freight he carried? We know that the American people suffered enormous damage by the confederate cruisers, not only in what was destroyed but in what they accomplished in the destruction of our marine and the overthrow of business. Did insurance companies suffer one particle of this loss? They did not have a ship afloat nor a cargo on the sea. Their business was the receipt of premiums and the payment of losses. Their business was unusually prosperous. But the American merchant shipping in American bottoms, but particularly the owners of American ships trading beyond the coast, did, as a class, suffer heavy and unusual damage. The $15,500,000 paid us by England will not represent a small portion of it. Is it not fair and just, then, that where they can show the payment of extra war risks, paid after the sailing of a confederate cruiser, they should be reimbursed this loss which was caused directly to them by England's conduct in permitting the building, manning, equipping, and sailing of war ships?

The substitute offered by us has provided for the payment of such claims, with the qualification, however, that the court shall "deduct any sum in any way received by or paid to the claimant in diminution of the amount paid for any such premium, so that the actual loss only shall be allowed."

An agent, therefore, who was reimbursed by his foreign principal would not be paid, nor one who received in dividends more than his premiums.

We have also provided for the payment of the losses of all persons by any confederate cruiser, whether exculpated or inculpated, and we do so upon principles heretofore stated in part.

The original claim of our Government upon Great Britain is stated in the following extract from a formal note to Great Britain, dated May 20, 1865, and we cite it in detail, because important in this connection:

"First. That the act of recognition was precipitate and unprecedented.

"Second. That it had the effect of creating these parties belligerents after the recognition instead of merely acknowledging an existing fact.

* * * * * * *

"Fourth. That during the whole course of the struggle in America of nearly

four years in duration there has been no appearance of the insurgents as a belligerent on the ocean excepting in the shape of British vessels, constructed, equipped, supplied, manned, and armed in British ports.

* * * * * * *

"Ninth. That the injuries thus received * * * are of so grave a nature as in reason and justice to constitute a valid claim for reparation and indemnification."

Near the close of this note our Government thus sums up the case:

"The nation that recognized a power as a belligerent before it had built a vessel, and became itself the sole source of all the belligerent character it has ever possessed on the ocean, must be regarded as responsible for all the damage that has ensued from that cause to the commerce of a power with which it was under the most sacred of obligations to preserve amity and peace."

The Secretary of State officially wrote, June 13, 1868:

"I have been singularly unfortunate in my correspondence if I have not given it clearly to be understood that a violation of neutrality by the Queen's proclamation, and kindred proceedings of the British government, is regarded as a national wrong and injury to the United States, and that the lowest form of satisfaction for that national injury that the United States could accept would be found in an indemnity, without reservation or compromise, by the British government to those citizens of the United States who had suffered individual injury and damage by the vessels of war unlawfully built, equipped, manned, fitted out, or entertained and protected in the British ports and harbors."

As we have said before, we abandoned this ground only in the interest of peace, and as a basis for the treaty. We established certain rules for the guidance of the tribunal of arbitration. They were arbitrary rules. Under them the tribunal exculpated all but the Alabama, the Florida, and the Shenandoah after Melbourne. But what better claim upon the United States Government has a sufferer by the Alabama than a sufferer by the Georgia or the Shenandoah before Melbourne? The ships were of the same class, register, equipment, ownership—indeed, in every way similar. But as want of diligence, which was one of the elements established by the new rules prescribed in the treaty, could not be shown in the absence of notice by our minister in their cases, they were technically exculpated. And they were so exculpated because Great Britain had not failed to perform her duty as prescribed in said rules. But the duty upon the part of our Government is the same. We are not bound by the exculpation at home. This is an indemnity fund to be distributed according to right and justice, not according to the technical findings of the tribunal. What we waived in the treaty or before the tribunal was waived only for purposes between the two nations; and what was decided by the tribunal settled questions only between the two governments.

In adopting this view we agree with the report of a former committee of this House, from which we copy as follows:

"It will be observed in the case of some of the cruisers, that the arbitrators found Great Britain not liable, for want of sufficient evidence of complicity with that cruiser. The United States, however, are estopped from setting up that there was not sufficient evidence, because they had over and over again declared not only that there was, but that the very act of acknowledging the belligerency of the confederacy itself was the 'cause, and the only cause,' in which this evil had its origin. Besides, having so admitted its own liability and declared the liability of Great Britain upon the ground of the precipitate recognition of belligerency, why did not the Government put its case upon that ground before the tribunal? Clearly because it accepted the 'three rules' instead, for its own future advantage. (Having for its own interest withdrawn from the arbitrators the 'cause and only cause of the evil,' thus leaving the tribunal without evidence of that liability of England which the United States had over and over again, in every diplomatic form, insisted upon, is not the United States estopped from denying reparation to its citizens based upon the finding of a tribunal to which, for its own purposes, it would not submit the evidence? Indeed, by so doing, did not our Government assume this class of losses of its citizens?) Again, it will be observed that the tribunal at Geneva found Great Britain liable for the acts of the Shenandoah after she left Melbourne only; but why is there not the same obligation on the United States to protect the water-borne property of its citizens or repair the injury from the Shenandoah before Melbourne as after, especially when the United States, at the close of the war, claimed the vessel as its own property, sold it as such for a sum very considerably approximating the amount of losses from her capture before Melbourne, and thereby deprived her citizens of any remedy *in rem* against the offending vessel herself? It was in evidence before your committee that the owner of the ship Delphine was actually taking measures to bring his libel in the British courts against the Shenandoah after she returned to Liverpool for indemnity for the loss sustained in that capture of the Delphine, when the intervention of the United States, claiming the vessel as successor to the confederacy, prevented his bringing suit." (Report of House of Representatives, Forty-third Congress, first session, No. 698, page 7.)

We have also provided in the substitute for interest, at the rate of 6 per cent. per annum, upon all claims for the loss of property, and have allowed 2 per cent. per annum upon all awards heretofore made under the former law, which permitted only 4 per cent. per annum. We have done so because 6 per cent. has been the lowest prevailing rate for many years in the country where the sufferers have resided.

We have revised the law of 1874 in so far as it provided for damages to whalers for the loss of the vessel and outfit. These vessels carried no freight, but were compelled to employ numerous sailors. They went upon long voyages. The allowance of the value of the vessel and outfit did not, in the judgment of the committee, put them upon an equal footing with merchantmen. The estimates presented by Mr. Stampfli and by Sir Alexander Cockburn contained each an allowance of 25 per cent. upon the value of such vessels. We allude to this as the opinion of intelligent experts of each side upon the proper method of arriving at the fact of the actual loss. We have not adopted the 25 per cent. which Sir Alexander thought too much, but only 10 per cent., with interest thereon from the time the award bore interest. This 10 per cent. is given to those whose claims have been adjudicated as well as those that may hereafter be heard.

We have preferred to refer these cases to a special court, as was done by the previous law, whose expenses should be paid out of the fund itself, and therefore be no tax upon the people. This money has been in the hands of the Government for some time. The claimants are entitled to speedy adjudication, especially when the Government is at no extra expense. This is better than sending them to the Court of Claims, where their litigation would be at the expense of the Government and might interfere with the usual business of that court. As the questions referred by the substitute will be chiefly questions of fact, we have provided no appeal to a higher court. Speedy justice is the object of this omission. The bill proposed by the committee would crowd the Court of Claims, and lay additional burdens upon the Supreme Court of the United States, to which an appeal is allowed, besides harassing the claimants by long and tedious litigation.

JOHN A. McMAHON.
WM. P. FRYE.
BENJ. F. BUTLER.
OMAR D. CONGER.
ELBRIDGE G. LAPHAM.

[Substitute.]

A bill for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act approved June 23, 1874, entitled "An act for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award by the tribunal of arbitration constituted by the first article of the treaty concluded at Washington the 8th of May, A. D. 1871, between the United States of America and the Queen of Great Britain," be, and the same hereby is, revived, re-enacted, and continued; all the provisions thereof to take effect from and after the approval of this act, except as changed or modified by this act.

SEC. 2. That the number of judges for said court shall be three; and the agreement of two of the judges shall be necessary to decide any question arising before said court.

SEC. 3. That the judges of the court hereby re-established shall convene and organize, in the city of Washington, as soon as practicable after their appointment, and the court so organized shall exist eighteen months; and all claims provable under this act shall be verified and filed with the clerk of said court within six months from its organization, or they shall be held to be waived and barred.

SEC. 4. That the first class shall be for claims described in section 11 of said original act not already adjudicated, and for claims directly resulting from damage done on the high seas by confederate cruisers during the late rebellion, including vessels and cargoes attacked and taken on the high seas or pursued by them therefrom, although the loss or damage occurred within four miles of the shore.

In cases of the loss of a whaling-vessel and outfit, the court shall allow, in addition to the compensation provided for in the said original act, the sum of 10 per cent., in lieu of freight, upon the value of said vessel and outfit as found by said court.

And upon all judgments heretofore rendered under said act for the loss of a whaling vessel and outfits there shall be allowed the said sum of 10 per cent. upon the awards as made by the court, with 6 per cent. interest thereon from the day from which said original award bore interest until the date of payment.

The second class shall be for claims for additional interest upon judgments which have been awarded and decreed by the said court of Alabama claims under the said original act; such interest to be computed in each case from the time from which interest was allowed in the original judgments, at the rate of 2 per cent. per annum in addition thereto, to the time of payment, as hereinafter provided.

And upon all judgments to be hereafter rendered upon claims of the first class, as herein described, interest shall be allowed at the rate of 6 per cent. per annum, instead of 4, as provided in the original act.

The third class shall be for claims for the payment of premiums for war risks, whether paid to the corporations, agents, or individuals, after the sailing of any confederate cruiser; in determining which it shall be the duty of the court to deduct any sum in any way received by or paid to the claimant in diminution of the amount paid for any such premium, so that the actual loss only shall be allowed.

SEC. 5. That the judgments rendered by said court under this act shall be paid in currency by the Secretary of the Treasury out of the sum of money paid to the United States pursuant to article 7 of the treaty of Washington, and accruing therefrom, not appropriated to claims heretofore proved and allowed under the provisions of said original act and the act extending the time for the filing of claims thereunder.

And the Secretary of the Treasury is hereby authorized and directed to pay out of said fund, without further adjudication by any court, the 10 per cent. upon whaling-vessels and their outfit, with interest, as provided in section 5 of this act, upon all awards heretofore made for their loss; and to pay in the same manner the sum of 2 per cent. per annum upon judgments which have been heretofore rendered by said court, to be computed, as provided in section 5 of this act, up to the time of payment; and to enable him to make such payments, the Secretary of State is directed to furnish a certified statement to the Secretary of the Treasury from the files and records of the court in his possession.

SEC. 6. Judgments rendered in the first class shall be first paid, and as soon as entered. Payments shall be made in the second class before judgments in the third class. If the sum of money so unappropriated shall be insufficient to pay the claims of the second class in full, they shall be paid according to the proportions which they severally bear to the whole amount of such unappropriated sum after the payment of judgments in the first class; and the same rule shall be applied in the payment of judgments in the third class.

SEC. 7. No person shall be excluded from the provisions of this act by reason of his being born in any other country than one of the United States if at the time he suffered the loss or damage provided for in this act he was residing in the United States and doing business therein, or was sailing under the protection of the flag of the United States.

SEC. 8. That all claims filed, or that may hereafter be filed, in said court in the name of one or more claimants, relating to a vessel in which other claimants are interested, shall be deemed and held to be legally filed, the same as if all the parties in interest had joined in the filing of the petition.

SEC. 9. That this act shall not be construed as in any way renewing, extending or continuing any of the commissions or appointments of judges or officers of the said court of commissioners of Alabama claims issued and made by virtue of said original act.

SEC. 10. That all moneys necessary for the payment of the salaries of the judges and officers authorized by this act, and for the lawful expenses of the said court hereby re-established, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated; all of which shall be reimbursed out of the said unappropriated moneys before any of the judgments rendered under this act except the first class shall be paid. And after the reimbursement of all the expenses authorized by this act, and the payment of all the judgments rendered thereunder, if there shall remain any part of the said money, the same shall be and remain a fund from which Congress may hereafter authorize payment of other claims thereon.

Mr. WILLIS, of New York, obtained the floor, and yielded to Mr. HARTRIDGE, who moved the House adjourn.

The SPEAKER. Pending the motion to adjourn, the Chair desires to refer some executive communications.

LEAVE OF ABSENCE.

Mr. O'NEILL, by unanimous consent, was granted leave of absence, on account of the extreme illness of a near relative.

ENLISTMENT OF MARRIED MEN.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting letter from Colonel John H. King in regard to enlistment and re-enlistment of married men; which was referred to the Committee on Military Affairs.

PUBLIC BUILDINGS IN MONTANA TERRITORY.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting correspondence showing the location of the principal portion of the buildings at Missoula, Montana Territory; which was referred to the Committee on Military Affairs.

EMPLOYÉS IN THE CHICAGO CUSTOM-HOUSE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a list of the

names of all persons who have at any time been employed in the custom-house at Chicago, Illinois, since the appointment of William H. Smith as collector; which was referred to the Committee on Reform in the Civil Service.

EXPENDITURES IN THE QUARTERMASTER-GENERAL'S DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting report of expenditures in the Quartermaster-General's Department for the fiscal year ending June 30, 1878; which was referred to the Committee on Appropriations.

COMPENSATION TO INFORMERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a detailed report of all payments made by the Secretary of the Treasury as compensation to informers and seizing officers in cases of frauds against the customs-revenue laws during the fiscal year ending June 30, 1878; which was referred to the Committee of Ways and Means.

POINT SAN JOSÉ RESERVATION.

The SPEAKER also, by unanimous consent, laid before the House the report of the Chief of Engineers on House bills Nos. 5178 and 730, relative to Point San José reservation; which was referred to the Committee on Military Affairs, and ordered to be printed.

NATIONAL DEPOSITS IN BANKS, ETC.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, in reply to a resolution of the House of Representatives of the 4th instant, asking information whether any money belonging to the Treasury of the United States was in the possession and custody of any national or State bank or private banker on the 30th of September and November, 1878, as on deposit or otherwise, other than deposits made by disbursing agents, and to state who held such money, and the amount held by each respectively; which was referred to the Committee of Ways and Means.

WILSON'S SURVEYS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting copies of reports of surveys made under direction of Major J. M. Wilson, Corps of Engineers; which was referred to the Committee on Commerce.

HENRY G. CONRAD.

Mr. EDEN, by unanimous consent, introduced a bill (H. R. No. 5486) granting a pension to Henry G. Conrad; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JACOB FRY.

Mr. EDEN also, by unanimous consent, introduced a bill (H. R. No. 5487) for the relief of Jacob Fry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CENTENNIAL MEMORIAL OF THE GOVERNMENT.

Mr. McMAHON. I am instructed by the Committee of Accounts to report a resolution which was referred to that committee by mistake, and to ask that it be referred to the Committee on Rules.

The resolution was read, as follows:

Whereas in pursuance of the act of Congress approved January 18, 1878, the great seal of the United States has been affixed to the Government centennial memorial entitled "The Administrators of the United States Government at the Beginning of its Second Century," which is now on deposit in the Department of State; and

Whereas the said document is the property of an individual, and is liable to removal at any time: Therefore,

Be it resolved, That the Committee on Appropriations be directed to incorporate in the sundry civil appropriation bill such sum as may be sufficient to enable the Secretary of State to purchase the said state paper.

The Committee of Accounts was discharged from the further consideration of the resolution, and the same was referred to the Committee on Rules.

POSTAL SAVINGS-BANKS.

Mr. PHILLIPS. I ask unanimous consent that the bill (H. R. No. 4395) in relation to postal savings-banks be made a special order for next Tuesday, after the reading of the Journal.

Objection was made.

JOSEPH N. LEWIS.

Mr. COLE. I ask unanimous consent that the bill (S. No. 308) for the relief of Joseph N. Lewis be taken from the Speaker's table and referred to the Committee of Claims.

Mr. STEELE. I call for the regular order.

The SPEAKER. The regular order is the motion to adjourn.

The question being taken on Mr. HARTRIDGE'S motion, that the House do now adjourn, it was agreed to; and accordingly (at four o'clock and three minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAILEY: The petition of Margaret Kempf, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. BALLOU: The petition of the Roseville church, of Newark, New Jersey, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of the Baptist church, of Kingston, Massachusetts, of similar import—to the same committee.

By Mr. BLAIR: The petition of the Roseville church, of Orange, New Hampshire, of similar import—to the same committee.

Also, the petition of the Columbus avenue Universalist church, of Boston, Massachusetts, of similar import—to the same committee.

By Mr. CUTLER: The petition of the Grand Temple of Honor of the State of New Jersey, of similar import—to the same committee.

By Mr. DURHAM: The petition of D. M. Yocum and others, that he be relieved from accounting for $40.39 in postage-stamps stolen from the post-office at Leather's Store, Anderson County, Kentucky, on the 4th of July, 1878—to the Committee of Claims.

By Mr. EICKHOFF: Papers relating to the claim of Henry Ware for compensation for cotton seized and sold by United States officials—to the Committee on the Judiciary.

By Mr. FRYE: The petition of the Presbyterian church, of Newton, New Jersey, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of W. M. Beekman and other citizens of New York City, of similar import—to the same committee.

Also, the petition of the South Evangelical church, of Boston, Massachusetts, of similar import—to the same committee.

Also, the petition of the Free Tabernacle Methodist Episcopal church, of New York City, of similar import—to the same committee.

By Mr. JAMES: The petition of ladies of Brasher Falls, New York, to have the law against polygamy made effective—to the Committee on the Judiciary.

By Mr. KIDDER: A paper relating to making adequate appropriations for the public surveys in the Territory of Dakota—to the Committee on Appropriations.

By Mr. McGOWAN: The petition of Mrs. J. Frazier and 123 other women of Grass Lake and Leoni, Michigan, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McMAHON: The petition of Aaron Woods, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. MORGAN: The petition of Absalom Kirby, of Washington, District of Columbia, for a revision of assessments for paving Pennsylvania avenue, southeast—to the Committee for the District of Columbia.

By Mr. PRICE: The petition of the National Temperance Society, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of Daniel R. Hanwell, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. SCHLEICHER: Twelve petitions of citizens of Uvalde, Corpus Christi, Fulton, Tilden, Lamar, Echo, Goliad, Lagarta, Rio Grande City, Rockport, San Patricio, and Laredo, Texas, for the improvement of Aransas Pass—to the Committee on Commerce.

By Mr. SINGLETON: The petition of the watchmen and messengers of the War Department, that their wages be restored to the figures as they stood before the passage of the last legislative, &c., appropriation bill—to the Committee on Appropriations.

By Mr. WILLIAMS, of Wisconsin: The petition of Mrs. D. D. Robertson and 70 other ladies of Waukesha County, Wisconsin, for legislation to punish polygamy—to the Committee on the Judiciary.

By Mr. WILLIS, of New York: The petition of the Friends Temperance Union of the Society of Friends of New York City, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on Education and Labor.

IN SENATE.

THURSDAY, *December* 12, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting, in accordance with the requirements of law, a full and complete inventory of the property belonging to the United States in the buildings and grounds occupied by the Department of the Interior; which was ordered to lie upon the table, and be printed.

He also laid before the Senate a letter of the Secretary of War, communicating information in relation to the right of way granted to the Hudson River West Shore Railroad across the public lands of the United States at West Point, New York, under the act of December 14, 1867; which was referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

Mr. DAWES presented the petition of Louisa Allen, of New York, and the petition of Fannie Daniels, of New York, praying for the passage of the bill pending in the Senate in reference to arrears of pensions; which was ordered to lie on the table.

Mr. MAXEY presented the petition of W. H. Forrester and others, citizens of Mary Town, Johnson County, Texas, praying for the establishment of a post-route from Cleburne to Mansfield, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN presented the petition of N. A. Kinney and others, of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. KELLOGG presented the petition of Peyton R. Mayo, of Louisiana, praying for a pension; which was referred to the Committee on Pensions.

Mr. BUTLER presented the petition of James Chestnut, of South Carolina, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. DORSEY presented a letter from the managers and officers of the Woman's Christian Association of the District of Columbia, submitting the eighth annual report of the association, and asking further appropriations in aid of the work thereof; which was referred to the Committee on the District of Columbia.

Mr. DAVIS, of Illinois, presented the petition of William Garnett and a large number of others, citizens of Chicago, Illinois, praying for an appropriation for the construction of a canal from the southwest branch of the Chicago River to the mouth of the Calumet River, in that State; which was referred to the Committee on Commerce.

He also presented the petition of L. K. Tucker and others, citizens of Chicago, Illinois, praying that there may be set aside out of the public lands of the United States a tract of land of not less than one million acres nor more than three millions of acres, for a national charity farm, and giving reasons for the request; which was referred to the Committee on Public Lands.

Mr. HOAR presented the petition of Henry I. Bowditch, M. D., and others, of Boston, Massachusetts, praying for an appropriation by Congress for the printing of the subject catalogue of the national medical library; which was referred to the Committee on Printing.

REPORTS OF COMMITTEES.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 1477) to designate, classify, and fix the salaries of persons in the railway mail service, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 5217) to fix the pay of letter-carriers, reported it without amendment.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. No. 656) for the relief of A. L. Shotwell, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MORGAN, from the Committee on Patents, to whom was referred the bill (S. No. 550) to authorize the Commissioner of Patents to hear and determine the application of Frederick Cook, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

PUBLIC PRINTING AND BINDING.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred the bill (S. No. 1437) relating to public printing and binding, to report it with an amendment and to recommend its passage. As the bill merely concerns the convenience of Senators, Representatives, and Delegates, I ask that it be put upon its passage.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Public Printer to print and bind, under the direction of the Committee on Public Printing of either House, any paper or document required by any Senator, Representative, or Delegate, for his own use, on payment of the cost thereof with 10 per cent. of such cost in addition.

The amendment reported by the Committee on Printing was, in line 4, after the word "direction," to insert "and with the approval;" so as to read:

That the Public Printer be, and he hereby is, authorized to print, and bind under the direction and with the approval of the Committee on Public Printing of either House, &c.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1485) to grant a pension to Jacob Nix; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1486) to adjust the claims of owners of lands within the limits of the Klamath Indian reservation in the State of Oregon; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1487) for the disposal of the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COCKRELL. I ask leave to introduce a bill for the relief of John Whitford. I do this by the request of some reputable attorneys in this city. I know nothing in the world about the merits or demerits of the bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1488) for the relief of John Whitford; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1489) granting a pension to John Harlan; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MERRIMON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1490) to provide a clerk for the district and circuit courts at Charlotte, in the western district of North Carolina; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENTS TO POST-ROUTE BILL.

Mr. MAXEY and Mr. TELLER submitted amendments intended to be proposed by them to the bill (H. R. No. 5218) to establish post-roads in the several States herein named; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

MILITARY ACADEMY BILL.

Mr. MAXEY submitted an amendment intended to be proposed by him to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

FORTIFICATION APPROPRIATION BILL.

Mr. WINDOM. I ask the Senate to take up the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BLAINE. I hope the Senator from Minnesota, the chairman of the Committee on Appropriations, will waive that long enough to have the Hot Springs bill, which was reported from the same committee yesterday, disposed of.

Mr. WINDOM. This will take but a very few moments. I think we had better go on with it.

The VICE-PRESIDENT. Is there objection to taking up the bill at this time?

Mr. BLAINE. I must object to it, because, coming from the same committee, the other bill has priority.

Mr. WINDOM. I move, then, to take up the fortification appropriation bill.

Mr. BLAINE. Let us understand matters. I do not know that there is any objection to the Hot Springs bill.

Mr. McDONALD. Yes, sir; I object.

The VICE-PRESIDENT. The question is on the motion of the Senator from Minnesota to proceed to the consideration of the bill which he has named.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

Mr. BLAINE. I desire to state that yesterday, by instruction of the Committee on Appropriations, I reported the Hot Springs bill. I was the organ of the committee. It had priority of the bill which the chairman reports. It is for the Senate of course to decide which bill it will take up, but I humbly suggest to the honorable chairman of the Committee on Appropriations that it is not for him to displace the order of business from his own committee.

Mr. WINDOM. I merely suggest to the honorable Senator from Maine that I got the floor upon a bill which I had charge of and asked the Senate to proceed to the consideration of it. If the Senate desires to lay aside the fortification appropriation bill, I have no objection to taking up the Hot Springs bill or any other measure.

Mr. BLAINE. I will not of course make a contest with the chairman of my own committee, but I suppose he desired the business of the committee to proceed in the order in which the committee directed it.

The VICE-PRESIDENT. The Senate has already made its order, and the Secretary will report the bill which is before the Senate.

Mr. WINDOM. Before the bill is read I will state to the Senate that there are two amendments to the fortification bill as reported by the Committee on Appropriations. The bill as it came from the House of Representatives appropriates for the protection, preservation, and repair of fortifications $100,000, and for armaments, tests of cannon, &c., $125,000. The Committee on Appropriations recommend that the first item, to wit, for the protection, preservation, and repair of fortifications and other works of defense, be increased from $100,000 to $200,000. They make this recommendation upon two statements made by the Department. One is, that owing to recent storms serious damages have been done to some of the forts, and that it requires an additional expense to repair them. The second is, that the appropriations were for such fortifications as were not specifically provided for, and as the bill provides specifically for none, the general appropriation for that service is not large enough.

The other amendment is for $125,000 additional for the armament of sea-coast fortifications, &c. The committee, upon very full information from the Department, believe that there ought to be some additional guns of heavier caliber than those that we have; and it is also deemed expedient to order them now, as the guns are needed, in order to prevent a change in the only two establishments where these guns are made, and their conversion to other uses. In case nothing is ordered none of these guns are made. We are informed, and believe the fact to be true, that the only two establishments in the United States where these guns are made will be converted to other uses, and that it will take several years, if they be so converted, for the Government to manufacture any guns of the kind. We therefore made a small increase, amounting to $125,000. These are the only amendments of the Committee on Appropriations to the bill.

The VICE-PRESIDENT. The Secretary will read the bill, and the amendments of the Committee on Appropriations will be acted upon as they are reached.

The Secretary proceeded to read the bill.

The first amendment reported from the Committee on Appropriations was, in line 3, before the word "hundred," to strike out "one" and insert "two;" so as to read:

That the sum of $200,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the protection, preservation, and repair of fortifications and other works of defense, for the fiscal year ending June 30, 1880, the same to be expended under the direction of the Secretary of War.

The amendment was agreed to.

The Secretary resumed the reading of the bill. The next amendment was, in line 15, after the word "guns," to strike out "one hundred and twenty-five" and insert "two hundred and fifty;" so as to make the clause read:

For the armament of sea-coast fortifications, including heavy guns and howitzers for flank defense, carriages, projectiles, fuses, powder, and implements, their trial and proof, and all necessary expenses incident thereto, and for Gatling and other machine guns, $250,000.

The amendment was agreed to.

The Secretary resumed and concluded the reading of the bill.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes;

A bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes;

A bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; and

A bill (H. R. No. 5485) for the relief of Andrew Muckle.

The message further announced that the House had passed the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, with an amendment, in which it requested the concurrence of the Senate.

The message also, in compliance with the request of the Senate of the 13th of June, 1878, returned the bill (S. No. 415) for the relief of Ella Long.

The message further announced that the House had passed a resolution providing for the appointment of a committee consisting of nine Representatives who shall, in connection with a like committee already created by a resolution of the Senate, investigate and report the best method of preventing the introduction and spread of epidemic diseases, especially of yellow fever and cholera, within the limits of the United States, and had appointed as such committee Mr. CASEY YOUNG, of Tennessee; Mr. RANDALL L. GIBSON, of Louisiana; Mr. CHARLES E. HOOKER, of Mississippi; Mr. JOHN GOODE, of Virginia; Mr. JULIAN HARTRIDGE, of Georgia; Mr. LEOPOLD MORSE, of Massachusetts; Mr. JAMES A. GARFIELD, of Ohio; Mr. ALFRED C. HARMER, of Pennsylvania; and Mr. SIMEON B. CHITTENDEN, of New York.

OMISSION IN ENROLLMENT.

Mr. BLAINE. Now I ask for the consideration of the bill which was reported yesterday from the Committee on Appropriations to correct an error of enrollment in the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maine.

Mr. BLAINE. Before that motion is put, I desire to say that this bill is a literal transcript of the bill that was passed by Congress at the last session, with two exceptions. The House has inserted a provision that the commissioners shall be nominated to and confirmed by the Senate. They were previously appointed by the President without confirmation. It has also inserted a provision that there shall be a free bath-house for the indigent who visit the springs. The Senator from Arkansas [Mr. DORSEY] tells me that that was put in last year but left out by mistake. It was not, however, in the enrolled bill. This bill now is a precise transcript with those two exceptions of the act of last session, and the Committee on Appropriations have unanimously instructed me to ask the Senate to pass it.

Mr. KERNAN. I desire to inquire what is to be the length of the term of office of these commissioners?

Mr. BLAINE. One year from the date of their appointment. It is limited to one year. As I have stated to the Senate, and state to the honorable Senator now, this is simply a copy. I am not going to argue the merits of the measure because it was quite elaborately considered at the last session of Congress, and it seems now to be rather a matter of good faith to correct that which was wrongfully done in some way not known.

Mr. KERNAN. The terms of the lease, however, are the same as they were in the other bill?

Mr. BLAINE. Indentically. The Committee on Appropriations read it over word by word and letter by letter, and I have stated the only two points of difference in the whole thing.

The VICE-PRESIDENT. The question is, Will the Senate now proceed to the consideration of the bill?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5307) to correct an error of enrollment in bill "making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes."

The bill was read at length.

Mr. EDMUNDS. Mr. President, I do not expect to prevent the passage of this bill, and some bill on the subject undoubtedly ought to be passed. I think I was against this scheme at the last session; I am against it yet. I only wish to say in a word why I think it will be found in respect of some of the limitations that are intended to protect the United States against purchasers of lands getting water, that they are so carelessly or so industriously drawn as that water may still be got by the private owners by digging or other means without violating the letter of this proposed act. We all understand that where an act is a limitation upon the rights of a grantee of property, you have got to construe those limitations strictly. If the bill could be properly amended in those respects, I think it would save trouble hereafter. For instance, I notice in the reading it says that the grantees of lands from the United States are prohibited from boring for hot water. That will immediately raise in the courts half a dozen questions of how that can be evaded. A man does not bore, he excavates, he digs with a shovel, he blasts. Then there will be a very interesting question for the courts, such as occurred in respect of a great ceremonial in the Dominion of Canada the other day as to what was a low-necked dress; it will be a great question for the courts as to what is hot water, what degree of Fahrenheit is hot water, and all that sort of thing. The consequence will be, I fear,—and it is due to fair legislation that I state it, as I think so,—that this bill will be found not to be so carefully prepared in respect of the good objects that it has in view as it ought to have been. I hope it will turn out that I am in error.

Then in respect of this lease to a few persons of a hotel for ten years a similar observation might be made. There is no provision in the proposed statute that this lease shall provide for a forfeiture if the rent is not paid or on account of any other violation of the provisions that ordinarily should exist between landlord and tenant. There is an absolute command to make a lease for ten years at such an annual rate. It may be that that would imply and mean a lease with all the usual and ordinary covenants for a forfeiture of the lease for non-payment of rent or for doing any waste or injury to the property. It may be it would not. It is a positive command. It would be very easy to correct it now if Senators are willing, but that would require the bill to go back to the House and so on; so that I only, like most fault-finders, as everybody seems to think it right, put in the prophecy that it will turn out to work some mischiefs that are not now exactly foreseen.

Mr. DORSEY. The provision inserted in this bill to prevent any person buying property at the Hot Springs from boring for hot water, I thought entirely unnecessary in the first instance. The mountain upon which the springs are situated has been reserved in perpetuity to the United States. Nobody can bore upon that mountain or remove that water under the act which we passed two years ago. This measure simply relates to property entirely outside of the reservation of the United States where it is believed by some that possibly by a well six or eight hundred or a thousand feet deep hot water might be reached and brought up. I do not believe that there is a particle of truth in that theory. I do not believe there is any hot water that can be reached there at all. That provision was simply put in to prevent any chance of that sort occurring.

Now in regard to the Arlington Hotel I think if the Senator from Vermont understood the facts in the case he would not object to that legislation. The proprietors of the Arlington Hotel leased the land of Governor Rector, who was supposed at that time to own the property in fee. They erected a building at the cost of $100,000. It was afterward decided that the land belonged to the United States, and Congress passed a law requiring the hot springs and the mountain to be permanently reserved. In making that permanent reservation the commissioners included this hotel upon it. Under the law which required the reservation to be made the commissioners were required

to remove every building from the reservation and issue certificates for the payment of the same. If the Arlington Hotel, which is the principal hotel, and a very good one indeed, were removed, it would cost the Government probably $100,000. It would do great injustice to the proprietors of it, and the land from which it would be removed is not worth a penny to anybody; it is a bare rock. It is believed by all concerned, especially by the people of that town and State, that it was a just and proper thing for those men to be permitted to occupy their hotel for ten years by paying a rent of $1,000 a year. The Government does not own the hotel at all; it has no interest in it, but simply owns the ground, and the hotel has been put upon this reservation.

Mr. HILL. Mr. President, to so much of this bill as authorizes the reappointment of commissioners to complete the work left incomplete by the previous commissioners I have no objection. I think that portion of the bill ought to pass, and pass promptly, so that the controversies between the Government and the persons owning property outside of the new reservation may be settled at an early day. But to that portion of this bill which authorizes the leasing of the hotel and of existing bath-houses and of additional sites for other bath-houses on the new reservation I do very seriously object. In my opinion it ought to be stricken from this bill, and in my opinion the Congress of the United States will make a very great mistake if they do not strike it from the bill.

In the first place I have to say, Mr. President, that this provision was put on an appropriation bill at the last session as an amendment in the last hours of the session, and I believe on the very last day of the session. It was improper legislation on an appropriation bill at best. It did not undergo the scrutiny that such legislation ought to undergo by committees, and by the Senate and the House too. It is now sought to press this measure through because it is said it passed at the last session, became a law, and was omitted by mistake in enrolling the bill in which it was contained. That point has no force with me, since in my opinion it was not originally proper legislation.

I shall move to strike from this bill that portion authorizing these leases, beginning at the word "and," in line 23, and going to the word "size," in line 45.

Mr. President, in my opinion the waters of these hot springs in Arkansas constitute one of the greatest public properties in this country. They have been known already to possess virtues which cannot be found in any other waters on this continent. I doubt whether you can ever find similar waters on the continent. They are therefore exceedingly valuable for invalids all over the United States, not only of this generation, but of all future generations. They are of inestimable value, in my judgment; and we are legislating upon a subject now in which all invalids living and to live in the future will be directly and personally interested if they choose to avail themselves of the virtues of these springs. Of course I mean invalids afflicted with the peculiar diseases which these waters will cure.

It is all important, therefore, in my judgment, that the waters should be kept perfectly free from encroachment. The Government owns four sections of land, as I understand, amounting to twenty-five hundred and sixty acres. That was the original reservation. By the act of 1877, I think it was, after the decision of the Supreme Court at any rate, a new reservation was laid off by direction of the Government. That new reservation is only two hundred and sixty-five acres, leaving some twenty-two hundred or twenty-three hundred acres to be disposed of by the Government to settlers. Now, within this new reservation of two hundred and sixty-five acres, these waters are found. There are seventy-one springs, as I understand, along the foot of the Hot Springs Mountain, on this new reservation of two hundred and sixty-five acres. If you allow buildings to be constructed or continued upon that reservation for any length of time, you will certainly endanger the purity of those waters. For instance, the Arlington Hotel is built over, as I understand, three of these springs.

Mr. DORSEY. The Senator is entirely in error in that. The Arlington Hotel is not built over any spring nor very near any spring. There is not a spring within fifty feet of it.

Mr. HILL. Very well; it is not material. I will simply say that my information is that it is built over three; over two directly, and one immediately in front.

Mr. DORSEY. The Senator has been wrongly informed.

Mr. HILL. My information may be incorrect. Of course the Senator from Arkansas knows more than I do about it, and I will yield to him on that point of information. It is not very material, however; I was only offering it as an illustration.

I understand, furthermore, that the large iron bath-house is built over the largest of these springs. Is that right or wrong?

Mr. DORSEY. The large bath-house to which the Senator alludes is built partly over one of the springs, but the water is all carried out beyond the bath-house and used for other bath-houses just the same as if this one was not there.

Mr. HILL. Yes; but it is built over the spring.

Mr. DORSEY. Not exactly.

Mr. HILL. Ah, well, "not exactly," but partially.

Mr. DORSEY. Well, Mr. President, the Senator will allow me——

Mr. HILL. I only want the facts correctly.

Mr. DORSEY. Under this bill the Secretary of the Interior has the power to regulate the place of building, the character of the building, and everything in relation to it; and I presume, if he is the man he ought to be, he will not allow any bath-house to be built over a spring.

Mr. HILL. That has nothing to do with the question. I say that the iron bath-house already built, not a bath-house to be ordered to be built by the Secretary of the Interior, but the large bath-house already built, is built over the largest of these springs. I am informed, moreover, that the spring upon which this bath-house is built furnishes about one-fourth of the entire water of all the seventy-one springs of that place.

Now, Senators will perceive that if bath-houses are allowed to be built over these springs either in whole or partially, as the gentleman concedes one is built partly over a spring, the slum from the bath-house entering into that spring will destroy the water.

Mr. HARRIS. If the Senator from Georgia will allow me, I will say that I think he is laboring under a slight mistake in relation to the facts in reference to the iron bath-house. The fact is that the iron-bath house is not built over any of the springs, but in cutting out the foundations for building the bath-house a stream, one of the largest and perhaps one of the hottest at the Hot Springs, was developed, the stream gushing from the wall created by the cutting out; and the waters from it are conducted into the iron bath-house, and by pipes to other bath-houses below. That, I think, is the exact fact in regard to the location of the bath-house, so far as it is near the spring.

Mr. HILL. That is, that bath-house controls that spring. That was the only fact I cared for as material. It is not right for one bath-house to control the largest spring on that reservation. That spring, as I understand it, gives out between one-fourth and one-third of all the water of the reservation—over one-fourth of all the water furnished by the seventy-one springs—so that this spring is equal to nearly twenty ordinary springs. This spring, my friend the Senator from Tennessee admits, is controlled by this one bath-house. I submit to the Senate that is not proper. That is not leaving these springs free. But I only instance this for illustration. It is not very material to the purpose of my argument whether that spring is controlled by the one bath-house or whether that bath-house is built over the spring.

Mr. DORSEY. Will the Senator allow me a moment? The Senator is entirely in error in stating that that one spring, or that any spring, is controlled by any one bath-house. The spring to which he alludes has been built up by the owners so that it flows nearly over the top of the bath-house, and the bath-house next to it; the one named by the Senator is only allowed to have water enough for its forty tubs, and not a drop more. The rest goes to other bath-houses.

Mr. HILL. It seems almost impossible for me to get the facts right; but the Senate will excuse me when the gentlemen who advocate the bill do not themselves agree. I have stated the fact precisely as admitted by my friend from Tennessee, who was questioning my statement, and attempted to correct me.

Mr. HARRIS. I beg the Senator from Georgia to allow me to say that I am not to be understood by him as advocating the passage of the bill. I shall vote with the Senator from Georgia for the amendment he suggests, but I desired that the Senator from Georgia should understand the fact exactly as it was. The Senator from Georgia did not understand my statement if he understood me to assert that that bath-house controlled absolutely that spring, because my statement was that the water was conducted from that spring into the bath-house and portions of the water conducted from that spring by pipes to other bath-houses.

Mr. HILL. And after my friend had stated that, I asked him the question if that spring was not controlled by that one bath-house, and I certainly understood him to say yes.

Mr. HARRIS. To the extent that it is supplied by it.

Mr. HILL. To be sure.

Mr. HARRIS. And the statement was distinctly made, that water was conducted from that spring by pipes to other bath-houses.

Mr. HILL. To be sure, by the consent of the owners of that bath-house.

Mr. HARRIS. I do not know about that.

Mr. HILL. That is the way I understood it; but I certainly understood the Senator to concede the fact that that spring, furnishing between one-third and one-fourth, as I am informed, of all the water there, is controlled by that one bath-house. But let this be as it may, in my judgment there ought not to be any building at all on this new reservation that will interfere with the free use of all these springs by the people of the United States.

Mr. MERRIMON. What is the quantity of water?

Mr. HILL. That I do not know.

Mr. INGALLS. The daily discharge is about five hundred thousand gallons.

Mr. HILL. I believe I have heard that the daily discharge is about five hundred thousand gallons, and the daily discharge of this one spring to which I allude is from one hundred and twenty-five thousand to one hundred and forty thousand gallons, being over one-fourth of the whole. Now they have got a large bath-house built which as I understand entirely controls this spring, but certainly largely controls it by the admission on all hands. And that bath-house, I am informed again—and I do not know that my information is correct, for it seems that I have so much incorrect information on

this subject that I shall be glad to stand corrected in the details—I am informed that that large iron bath-house has been built upon this reservation since the decision of the Supreme Court declaring this to be the property of the United States. I desire to know if that fact is true.

Mr. DORSEY. I believe that to be true, but it was built under the authority of the Court of Claims, who had a receiver there in charge of the property. He rented the land to the parties who built on it, some people from abroad, somewhere, I do not know who they were, and they paid a large revenue. I think now that bath-house is paying $5,000 a year tax.

While I am on my feet, if the Senator from Georgia will allow me a single word, I wish to remark, that under this bill no bath-house on that reservation anywhere, this one or any other one, can ever receive more than water enough for forty bath-tubs. They cannot control any spring.

Mr. HILL. Now, Mr. President, I am told that it is true that this large bath-house was built on this reservation since the decision by the Supreme Court declaring that this property was the property of the United States. The Senator says it was built by authority of the Court of Claims; I presume by direction of the receiver appointed by the Court of Claims. That, doubtless, is true. What authority the Court of Claims or the receiver appointed by the Court of Claims had to lease the property of the United States in the reservation, I do not precisely comprehend.

Mr. DORSEY. If the Senator will turn to the act of 1870, the second section, and read the provision which I will find in a moment, he will see what authority the Court of Claims had to lease this land. He will see in that act it was a mandatory provision that it should be leased forthwith as soon as it was decided, if it was decided to belong to the Government.

Mr. HILL. The idea of leasing property temporarily is one thing; but to deduce from it authority for the construction of an immense iron bath-house, which I understand the friends of the proprietor claim cost him $20,000 or $30,000, is a monstrous proposition. That land might have been leased temporarily——

The VICE-PRESIDENT. The morning hour has expired, and the Senate resumes the consideration of its unfinished business.

Mr. BLAINE. I hope this bill will be indulged for a few moments.

Mr. GARLAND. I ask the Senator from Vermont, who has charge of the bill which is the unfinished business, to allow this to be disposed of.

Mr. EDMUNDS. If it will not take more than five minutes I will yield to it; but I think the electoral bill is a question of quite as much importance as this. I will not object to its being laid aside informally for five minutes if that time is required.

Mr. BECK. I hope the Senator from Vermont will give us thirty minutes. We can pass the bill in that time, but if not, we can lay it aside.

Mr. HILL. I will say that in my judgment a bill of this character ought not to be hurried through.

Mr. EDMUNDS. I did not hear the Senator from Kentucky.

The VICE-PRESIDENT. He asks for thirty minutes for this bill.

Mr. EDMUNDS. That is asking a good deal. The Senator from Louisiana [Mr. EUSTIS] gave notice the other day that he desired to submit some remarks to-day at one o'clock upon a bill of great interest to his section of the country,—the levee bill, I believe. It has been the universal courtesy of the Senate to grant requests of that kind except in some very extreme emergency indeed, and I do not feel at liberty to interpose any objection to his being heard under such circumstances. The consequence will be that the day will be lost and consumed without this important bill being acted upon. If there can be an understanding that we shall vote on the electoral bill to-morrow before an adjournment, and dispose of it one way or the other, then I will not object.

The VICE-PRESIDENT. Will the Senate consent that the final vote on the electoral bill shall be taken to-morrow. [A pause.] To this the Chair hears no objection. The order will be entered.

Mr. EDMUNDS. Then I assent to the thirty minutes desired, if the Senator from Louisiana is willing.

The VICE-PRESIDENT. Does the Senator from Louisiana assent to this arrangement?

Mr. EUSTIS nodded acquiescence.

Mr. BAYARD. I had supposed that to-day under the notice given by the honorable Senator from Vermont, the bill touching the count of the electoral votes was to be the unfinished business, and that it would be disposed of to-day. I understood him to say that he intended to ask the Senate to "sit it out." My convenience in this matter has been already considered by the Senate, and I do not know that any remarks I may have to make are of special force. At the same time I do propose before the vote is taken to give my reasons for a somewhat hesitating support to the bill. I prefer to do so now. At the same time if the Hot Springs bill can be disposed of in the course of half an hour, I shall have no objection whatever to letting it get through.

Mr. EDMUNDS. I had certainly no disposition whatever to interfere with the plans of the Senator from Delaware—quite the reverse, as I expressed yesterday. My only suggestion about having it understood if we could not finish the electoral bill to-day that it should certainly be finished to-morrow, was in the interest of gentlemen who wish to finish the Hot Springs bill in thirty minutes. The Senator from Louisiana, several days ago, as a matter of personal courtesy to himself gave notice that he desired to be heard in respect to the levees to-day at one o'clock, and yielding to that courtesy which has always prevailed in such respects where a Senator has given notice of a set speech, as it may be called, upon a particular topic, and without calling to mind or supposing that the Senator from Delaware desired to speak at any particular moment to-day, I made the suggestion. Certainly if it interferes with him at all I must withdraw it of course.

Mr. BAYARD. Our business is fortunately so conducted that there is a spirit, I am sure, of personal courtesy in the Senate, and a desire generally to facilitate business. I am aware that if you press off the discussion of a matter of business such as this Hot Springs affair is, it may become possibly very protracted. If this thing can be decided in the course of half an hour or so, I have no desire to interfere with the debate.

Mr. EDMUNDS. I understand the Senator from Louisiana will only wish to occupy about an hour, which still ought to leave us a couple of hours at least for the electoral bill this afternoon, after the Senator from Louisiana shall have concluded.

Mr. BAYARD. I confess I would rather not postpone what I have to say on the electoral bill to two hours from now; but if gentlemen can finish the Hot Springs bill in half an hour, I shall give way.

Mr. BLAINE. I desire with the leave of the Senate to make this remark, that in considering the Hot Springs bill the Committee on Appropriations did not take into consideration and did not deem themselves at liberty to take into consideration the merits of the bill at all. It had been enacted by Congress; it had been in some way fraudulently prevented from final enrollment; and the committee thought, and I certainly think, that the Senate could set no worse example than, if a piece of legislation fully perfected by the consent of both branches of Congress knowingly after discussion shall be stolen midway between the two branches, to allow the thief to get the privilege of a new hearing and a new trial with all the possibilities in his favor. If I were opposed to this bill, every line of it, if I had voted against it, I should certainly think that the good faith of the two branches and the purity of legislation hereafter required that we should re-enact what the two branches did enact after full knowledge and full discussion.

Mr. HILL. Mr. President, that is the very point I make. This clause was not enacted after full consideration and debate.

Mr. BLAINE. This very point was discussed two or three hours in this very Chamber.

Mr. HILL. This very point of allowing these buildings on the new reservation was provided for by an amendment to an appropriation bill, which is inconsistent with proper legislation.

Mr. BLAINE. Still the Senator from Georgia does not deny that on that amendment to the appropriation bill there was discussion in this Chamber.

Mr. HILL. Oh, not at all. Certainly there was some discussion, but I say, sir, we have a provision that legislation of this kind ought not to be put on appropriation bills, because it cannot receive due consideration.

Mr. BLAINE. That of course was a good objection at the time; but the Senate ordered that it should go on.

Mr. HILL. I understand that, quite as well as the Senator from Maine does, as I was present when the amendment was offered, and I stated at the time, as the RECORD will bear me out, that I did not believe that amendment ought to pass; but I was not sufficiently acquainted with the facts to give reasons for my opinion. The Senator from Kentucky on my right, [Mr. BECK,] a member of the Committee on Appropriations, stated frankly to the Senate that so far as he knew the amendment was proper, but he confessed at the time that he did not fully understand it. As vigilant and as earnest as he is, and having been a member of the committee himself, he did himself the justice and the Senate the justice to get up and state that he did not understand the facts, and that while it seemed to be right he did not know whether it was or not.

Now, sir, in the face of these facts I say it cannot be stated that this amendment received full and proper consideration when offered to an appropriation bill in the last days of the session and was hurried through as it was, and here now no two gentlemen can agree upon the real facts of the case. For that very reason I say the Senate ought not to allow this bill to pass in this way. It ought to receive fuller and fairer consideration. I do not believe it is proper in itself.

A friend before me very kindly admonishes me from his seat to be certain of my facts before I make statements. I say very frankly so far as the details of the facts are concerned, as I said to the Senate in the beginning, they are not at all material to this question. I may be misinformed as to certain details of the facts. The truth is that no man in this Senate Chamber seems to understand the facts; no committee has investigated them. The Senator from Maine himself says that the Committee on Appropriations did not investigate the merits of this question; and the Senate is asked to hurry through a second time very material legislation involving one of the most valuable properties of the United States, without any due consideration at all as I insist. It never has been duly and properly considered. We ought to take time. Strike out this clause from the bill and I will agree to it; strike out this provision from the bill, and it is right

enough; and then if it is proper to lease these waters and lease these buildings, bring up a regular bill authorizing the lease; let that bill go before the Committee on Public Lands or some other committee, and let it be properly investigated, and let the Senate fully understand it, and then the suggestions made by the Senator from Vermont will come in very properly. In a bill properly prepared to authorize the leasing of this property, all those provisions can be made. But to thrust in a general promiscuous provision in an appropriation bill to authorize leases of property is not proper legislation and not becoming the Senate. If it is a proper thing to be done, let it be done by a regular bill.

Now, one more remark. I alluded to these particular facts as to one building covering a certain spring, as to its having been put there since the Supreme Court decided it to be the property of the United States, not for the purpose of assailing the title of the owner of the building, or rather his equity in it, or the equity of anybody else, but to show you how dangerous it is to allow private individuals to erect buildings on this public property. They will take advantage, they will make large expenditures and then come in and plead an equity.

Mr. DORSEY. Will the Senator allow me? The act approved June 14, 1870, section 2, contains this provision——

Mr. HILL. I have just said that that is wholly immaterial.

Mr. DORSEY. I think it is very material because the Senator has made the point over and over again that the particular bath-house to which he alludes was put on this reservation without authority; that somebody had been leasing property of the United States unlawfully. Let us see.

Mr. HILL. I made no such point. I distinctly stated—the Senator certainly did not hear my last remark or he would not consume my time——

Mr. DORSEY. Will the Senator allow me to read the law on this subject?

Mr. HILL. I said that I made no issue on the right of the holder of that property under that lease, but I do say that an authority to lease by a court and through the receiver of a court is measured by the extent of that authority and can go no further. It is not intended to be a permanent thing. But that is wholly immaterial. The point I make is this: under that authority to which the Senator refers, and through the Court of Claims and through the receiver appointed by the Court of Claims, you see what a building was put up there, and now great equities are claimed in behalf of the holder of that temporary property to extend the lease and enlarge the time.

Mr. President, the only point I make, and the only material point in the case, is this: whatever may be the details of the facts, here is a great public property, a property that cannot be duplicated upon this continent. It is our duty as trustees for the whole people to preserve this property from the possibility of injury; and the best way to do that, in my opinion, is to exclude the erection of private buildings upon it. Let this reservation of two hundred and sixty-five acres be perfectly free. Give no man in the United States a privilege upon it that is not allowed to any other citizen of the United States. Allow them, if you please, to take their bath-houses off the reservation, and then the whole country can have as many bath-houses as the people want. At least, I believe that this matter is of such importance that we ought to take time to consider it; and if my amendment be carried and this provision stricken out, a bill can be introduced on the subject of authorizing leases that will be guarded, as the Senator from Vermont has well said, so that all interests may be secured and the Senate can legislate with intelligence and knowledge of what they are doing.

Mr. GARLAND. Mr. President, the questions before the Senate coming up under this bill are very few, and in my judgment very simple. I was not here at the period of the last session when the bill which has been referred to was passed, and as to what transpired in this Chamber at the time I was not informed save by the record of the proceedings of this body; but of one thing I am informed, that with the exception of two items pointed out by the Senator from Maine who has this bill in charge this is the very identical bill that was passed in the last hours of the session in June last, and the question now presented to the Senate simply is this: shall the bill that they passed at that time stand as a part of the legislation of that session?

Mr. GORDON. What are the provisions in this bill which were not in the act passed last summer?

Mr. GARLAND. I shall come to that point presently. The House of Representatives has promptly said that the legislation as it was enacted must stand. It comes to the Senate now for its action, and we pause and hesitate upon it instead of declaring at once that the legislation we then enacted shall be the legislation of that session.

Now, I will go as far as the Senator from Georgia or any other Senator in reprobating the system that has grown up of incorporating and putting in the center of an appropriation bill general legislation. That is an evil which never will receive any sanction at my hands. But it is a little too late in the day for the Senator from Georgia to make a point upon that now, when we recollect that that important feature of the statutes of the United States which relates to the competency of witnesses stands in thirteenth volume of the Statutes at Large in the very center of the body of an appropriation act. As the Senator from Maine has said in response to the Senator from Georgia, it was a good time to make that objection when the bill was before the Senate in June last, but it is too late now. The Senator must meet the question broadly and squarely, "is this an act of the Congress of the United States?" If to-morrow he or any other Senator should propose a bill to repeal it, that would be another and a different question; but the question now for practical men of the constitutional age to hold seats in this body is simply, shall we say that what we enacted in June last shall be recorded as our legislation? We simply ask, as we say in a court of justice, to make the record speak the truth. Now, will the Senator say that must be done, or will he say that it shall not be done? He does not deny, nor does any other Senator deny, that such is the truth of the record. The question is, shall it be so stated?

The Senator from Georgia has taken up some little time in stating facts to the Senate, and then says very emphatically that those facts are immaterial to this question. In that I fully and heartily concur with him, because, mark you, at the close of his remarks the leading point with him is to protect the indigent and the poor people, that they may have the use of this hot water. In that I fully concur; and if the Senator had read the bill, which I fear he never has, he would have found a full and complete protection for all that class of people. There is a clause which gives every benefit to the claims for the free use of the water by indigent and poor people. The last proviso is:

And provided further, That the superintendent shall provide and maintain a sufficient number of free baths for the use of the indigent, and the expense thereof shall be defrayed out of the rentals hereinbefore provided for.

No one of the big iron bath-houses or the little iron bath-house or any other bath-house can procure a lease so as to infringe upon this right. That is guaranteed to these indigent and afflicted people as amply and as completely, I think, as the Senator from Georgia could draft a bill to do it if he undertook the job. So, why has the Senator been talking about a certain bath-house covering one spring, and what difference does it make whether the water it uses comes from the regular, ancient spring, or whether it gushes from the earth at a point before unseen by human eye? That is nothing to the purpose. There is protection now, Mr. President, for the indigent and afflicted people. That is what the Senator from Georgia wants and all he wants. The proviso I have read covers and protects the previous power to lease given in this bill.

Mr. HILL. If the Senator will allow me, I will state that I see that clause in the part of the bill relating to leases, all of which I think ought to be in a separate bill. I will therefore modify my motion so as to strike out from the word "and," in the twenty-third line, down to the word "for," at the end of line 49, so as to leave this last proviso to be provided for with the rest in a proper bill for that purpose.

Mr. GARLAND. The wonderful inconsistency between the gentleman's remarks when he was first on the floor and this present motion I leave him to reconcile as best he may.

Mr. HILL. In my remarks before I said not one word about the indigent.

Mr. GARLAND. I beg your pardon. I am not deaf nor blind.

Mr. HILL. The RECORD will show. There was not a single allusion to them.

Mr. GARLAND. Then if the Senator made no reference to the indigent and the poor, he did say that this should be left free to everybody. This proviso is ample for that purpose; and what more does the Senator want? He seems to be hard to accommodate this morning.

Now as to the question of leasing, let us look at that for a moment. It is known to the Senate that the question of the title to Hot Springs has been in the courts and before the Land Department for over thirty years from first to last, the Government holding all the time the fee, never having issued the patent to anybody. Finally in June, 1870, Congress passed the statute to which my colleague called attention a few moments ago, placing this litigation in the Court of Claims and compelling the parties to go there and litigate with the United States the right to this property. In that they made provision for a receiver to be appointed by the Court of Claims in case the property should be adjudged to the United States, and for that receiver to make these different leases and others named in that act; many of which the receiver did make, the one alluded to by my colleague particularly and others that this bill is intended to cover. Whether his power to lease was a narrow or a broad power, he made the leases under the direction of the Court of Claims acting by and under the authority of the act of Congress; and shall it be said that the parties to whom the leases were made have no rights in equity, that they should not be considered in adjusting these matters? The thing is almost monstrous in my mind.

Mr. President, at last this is but a temporary provision to enable these parties to have their titles adjudicated there whether they be based in law or in equity; and when that is settled the Senator from Georgia may bring in any bill he pleases. The business cannot last over a year longer if these commissioners are continued. Then the Senator may bring forward any bill he pleases in reference to leases in reference to reservations. I am committed to none. I am as free and independent as to my action toward that property after the rights of my constituents there are determined as if the property were in Pensacola or in Brooklyn, and I shall give every proposition from the Senator from Georgia, or other Senators, a full and fair and frank consideration whenever it is brought forth with this view.

Now, what is the state of the case under the existing facts? Lease

have been made under color of law and the question is, shall we ignore them and trample them under foot? I do not think the Senate is prepared to do it.

The Senator from Vermont has spoken of the absence from this bill of safeguards upon the leases. Why, sir, it is never necessary to enact the whole law of landlord and tenant in providing for the leasing of property. That is well understood in the common mind of the country, and well understood in the courts of justice. The bill would be interminable, there would be no end to it, if we attempted to set forth with distinctness all the provisions and safeguards which are understood and expressed clearly in the law as to landlord and tenant.

Now, in response to the question of the Senator from Georgia [Mr. GORDON] as to the two provisions which are added to this bill——

Mr. BECK. That is not necessary. I have explained those provisions to the Senator from Georgia, [Mr. GORDON,] and he is satisfied.

Mr. GORDON. Yes, sir.

Mr. GARLAND. Very well, then I will not go into that; but I desire to say a very few words more.

There is great necessity for the enactment of this bill. If there should be any difficulties or troubles arising under it, they may be remedied after a while when these commissioners shall report what titles they have adjudicated and what not, and report the true and exact condition of the reservation. Then it will be time enough to consider them. Now, it is almost a land without law there. It is time that Congress was doing something. The various propositions for the Government to build hotels, to lease bath-houses and allow saloons and lay off walking grounds, &c., can come up at the proper time. So far as I represent the State of Arkansas, I am committed to none of them, as I said before.

I hope the Senate will enact this bill and I will go with the Senator from Georgia [Mr. HILL] or any other Senator at any time to correct any abuse there may arise or may be found to exist.

Mr. BECK. Mr. President, I only desire to say that the Committee on Appropriations considered the single question whether the integrity of the records of Congress should be maintained. The House of Representatives with great unanimity have passed this bill declaring that they should be; and it is for Senators to say whether they will open a discussion and go at large into the merits of all the questions in this case, or whether they will agree with the House of Representatives in saying that the records of the last session of Congress at which this bill was passed just as it is now, with the exception of two words added by the House, which may be stricken out or not as the Senate please, shall be preserved, in short—whether the Senate will agree with them in maintaining the integrity of the records of Congress.

We do not know whether this provision of the sundry civil bill was left out by accident or design; therefore I assume that it was by accident—it may have been by design—but whichever it was the laws as now published do not show the truth as to the action taken at the last session of this Congress relative to this matter. It is entirely immaterial, as the Senator from Texas [Mr. MAXEY] now suggests, whether it was an accident or not; but I am willing, as I said, to assume that it was an accident for all the purposes of my argument. I assert that no instance can be found in the history of the legislation of this country where Senators have refused to make the records show the truth of the action taken by Congress. It is offering a bonus to fraud; it is offering a premium to thieves to follow our conference committees and to follow our enrolling clerks all over the Capitol, after a bitter controversy has been had, so as to steal such parts of the record as they do not like and strike out such laws as they cannot defeat in honest debate, and then Senators rise here in their places and seek to renew that debate after the law has been thus stolen. I ask any Senator is he prepared to give a vote like that?

The Senate Committee on Appropriations said "this law may be a good one or it may be a bad one; it may be a law that we will repeal to-morrow morning if the Senator from Georgia will bring in a bill seeking for the repeal of the obnoxious portions of it and give us good reasons showing why it should be repealed; but we will not allow the records of this Congress to be tampered with; we will not allow any design, any accident, or anything wrong, to interfere with the truth of what we have heretofore done." I care not whether it was fully debated at the last session or not; I care not whether it came up in a proper bill or not; the Senator from Georgia was here and made his objections then; other Senators made their objections. I do not say that everything in this bill is right; but I say everything in this bill was the act of the Congress of the United States, the committee of the Senate of the United States compared it, as the Senator from Maine said, word by word, letter by letter, and took nothing from and added nothing to it, but gave notice to all the world that that act of Congress could not be falsified and that nobody hereafter should be encouraged or induced to follow conference committees or enrolling clerks and seek to steal what he may not like and then get honorable Senators to indorse the fraud by leaving it out of the records or laws of the country.

That is the view we took of it. I stand there and maintain that law in its integrity. I care nothing whether the provision is good or whether the law is good. I say I will vote to-morrow to repeal every clause in it if the Senator from Georgia or any other Senator will show that it ought to be repealed or that any portion of it ought to be repealed.

Mr. HILL. Will the Senator allow me?

Mr. BECK. Certainly.

Mr. HILL. Does he say that this portion of the enrolled bill was stolen?

Mr. BECK. I said it was lost by accident or design, and I assume that it was by accident. I want the Senator from Georgia to understand me. I charge nothing on anybody; but it might have been stolen, and if it had been stolen, would the Senator from Georgia refuse to restore it? I ask that question.

Mr. HILL. Certainly not.

Mr. BECK. Then if it was lost by accident why not restore it as well as if it was stolen?

Mr. HILL. I will ask the Senator a question, and I rose to ask him that question, and I do not propose that he shall pervert my question by asking me one before I can get mine out. Assume that this was lost by accident from the conference room or the Clerk's office, if this portion of the measure is wrong in itself, if it is not proper legislation in itself, if it is not wise legislation, will the Senator insist that it ought to be re-enacted simply because it was once inconsiderately enacted? That is the point. If that be the ground, if it is to be re-enacted simply because it was once enacted, although inconsiderately and unwisely enacted, I admit that my motion was wrong. I have taken the ground that it ought not to have been enacted at all.

The VICE-PRESIDENT. The time limited for this bill has passed. The Chair will recognize the Senator from Louisiana, [Mr. EUSTIS.]

Mr. BLAINE. If there be no objection let us have a vote. The Senator from Louisiana I am sure will agree to that.

Mr. BECK. I will withhold all remarks to get a vote.

The VICE-PRESIDENT. The bill will be continued before the Senate if there be no objection. The question is on the amendment of the Senator from Georgia [Mr. HILL] to strike out from line 23 to line 49 the words which will be read.

The SECRETARY. The proposed amendment is after the word "act," in line 23, to strike out the following words:

And the Secretary of the Interior is hereby directed to lease to the present proprietors of the Arlington Hotel or their assigns the grounds, not exceeding one acre, now occupied by them, for a period of ten years, unless otherwise provided by law, at an annual rental of $1,000. And he is further directed to lease the bath-houses of a permanent nature now upon the Hot Springs reservation to the owners of the same, and lease to any person or persons, upon such terms as may be agreed on, sites for the building of other bath-houses for the term of five years, unless otherwise provided by law, under such rules and regulations as he may prescribe; and the tax imposed shall not exceed $15 per tub per annum, including land rent: *Provided*, That said leases shall in no way prejudice any legal right that any person or persons may have acquired under the act hereby revived and continued, to any improvements on said ground: *And provided further*, That to prevent monopoly, no bath-house or hotel shall be supplied with more than enough water for forty bath-tubs of the usual size, unless there shall be more than enough hot water to supply all other demands for the same, in which case no single establishment shall be allowed more than forty bath-tubs of the usual size: *And provided further*, That the superintendent shall provide and maintain a sufficient number of free baths for the use of the indigent, and the expense thereof shall be defrayed out of the rentals hereinbefore provided for.

The VICE-PRESIDENT. The Senator from Georgia moves to strike out of the bill the matter just read. The question is on the amendment.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELLA LONG.

The VICE-PRESIDENT. Before the Senator from Louisiana [Mr. EUSTIS] is recognized, the Chair will lay before the Senate the bill (S. No. 415) for the relief of Ella Long, returned by the House of Representatives, by request, on which a motion to reconsider was entered on the 13th of June last by the Senator from Indiana [Mr. MCDONALD.] It will lie on the table for the present.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Appropriations:

A bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes; and

A bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes.

The bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 5485) for the relief of Andrew Muckle was read twice by its title, and referred to the Committee on Military Affairs.

COURTS IN COLORADO.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado.

The Secretary proceeded to read the amendment.

Mr. DAVIS, of West Virginia. Has that been to the Judiciary Committee?

The VICE-PRESIDENT. The amendment has not been. It has just come from the House of Representatives.

Mr. DAVIS, of West Virginia. Then it ought to go to the committee.

Mr. TELLER. I will say that this bill is a Senate bill returned with an amendment by the House of Representatives. It is a local bill, and is satisfactory both to the Member and to the Senators. It is a matter purely of local concern, and I should like very much to have the Senate concur in the amendment.

Mr. DAVIS, of West Virginia. I know nothing of the character of the bill, but I am opposed to bills coming from the House being acted upon immediately on their reception here. No Senator can know what they mean. The amendment is long enough for a bill; it has not been to a committee, and it certainly in my judgment ought to go there. I have no doubt it is right if the Senator says so, but one day's delay can make no difference, and it ought to go to the proper committee, in my judgment.

Mr. TELLER. The trouble is that if it goes to the Judiciary Committee it is very apt to remain there in the press of business under which they are laboring. It is a very important bill for us. A portion of the country is far distant from the place where the courts are now held. It seems to me the Senate might concur, and ought to concur, in the amendment without risking the defeat of the bill which they do risk by sending it to the committee. I should like to have the Senator from West Virginia withdraw his objection.

The VICE-PRESIDENT. When the reading of the amendment shall have been completed the motion to refer it will be in order; but the time of the Senate need not be spent in reading the amendment throughout if the Senator insists on the motion to refer.

Mr. DAVIS, of West Virginia. I was going to suggest that the amendment has not been printed. No Senator can know what it is without seeing it. I hope the Senator from Colorado will not insist on its passing to-day.

The VICE-PRESIDENT. Does the Chair understand the Senator to move the reference of the amendment?

Mr. DAVIS, of West Virginia. I want it to take its regular course and go to the committee. I believe that is best.

The VICE-PRESIDENT. It is moved that the bill be referred, with the amendment of the House, to the Committee on the Judiciary.

The motion was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed an act (S. No. 824) establishing the rank of the senior inspector-general, and an act (S. No. 1133) for the relief of William Gibson.

LEVEES OF THE MISSISSIPPI RIVER.

The VICE-PRESIDENT. The Chair will now recognize the Senator from Louisiana [Mr. EUSTIS] who gave notice of his intention to submit some remarks to-day on the bill (S. No. 1436) appropriating money for constructing, rebuilding, and repairing levees on the Mississippi River in the States of Missouri, Kentucky, Tennessee, Arkansas, Mississippi, and Louisiana. That bill having been read twice is now before the Senate as in Committee of the Whole.

Mr. EUSTIS. Mr. President, the question which is presented by the bill I have introduced is whether money should be appropriated out of the Federal Treasury for the purpose of building the levees on the Mississippi River. I am aware that this measure has been urged on various grounds. It has been said, for instance, that inasmuch as many of these levees had been destroyed by the armies of the United States during military operations, therefore the Government of the United States, as an act of justice, should rebuild the levees. It has also been urged that the great benefits which are to accrue to the Government by the reclamation of these overflowed lands constitute a sufficient reason why the Government of the United States should build these levees.

While I do not discard these considerations or any others, they do not constitute the position which I take upon this important question. I maintain that the Government of the United States has a sufficient proprietary right and control and jurisdictional authority over this river to impose upon the Government of the United States the ordinary obligations, responsibilities, and duties of ownership; that where a government or an individual has the control of any property of any species or kind, a river or what not, upon that government or upon that individual who has such control the obligation and the responsibility rests and cannot be evaded of putting and keeping the property in such a condition that it shall not do harm, damage, or injury to the property of other parties.

For instance, Mr. President, there is nothing startling in the proposition that where the Government of the United States owns a marine hospital it is the duty of the United States Government to establish such guardianship over that hospital, its property, and to provide such means that that hospital shall not become a nest of pestilential disease, so as to spread in the surrounding community. So in the case of a powder magazine; can any one doubt that it is the duty of the United States Government to exercise such control and such stewardship over that property that adjacent and contiguous property shall not be destroyed by any accident of explosion?

So it is, Mr. President, so far as national duty and national obligation are concerned, in cases even where the Government of the United States does not own the property. Is it not the duty of the United States Government for this reason, if for no other, to maintain discipline in its Army, so that the Army shall not become a mob to endanger the lives and property of citizens?

And the only rule of law which I invoke is a rule of universal application, binding upon governments as well as upon individuals, a rule of law which is coeval with the ownership of property itself, which has never been modified, and can never be modified so long as public order is considered necessary to the well-being of society: and that is that every person, legal, natural, or political, shall use and enjoy his property and keep it in such a condition that it shall not through neglect inflict damage and injury upon the property of other parties. It is not necessary for the application of this rule to establish that the United States Government has an absolute, unqualified title in the Mississippi River. We know that that river was purchased by the Federal Government, that the money was taken out of the Federal Treasury and paid for that river; and I am not quite certain that as the sovereign power, having acquired that river as it did, the Government of the United States has not a right even of disposing of that river, that the Government of the United States has not the *jus disponendi*. I am not prepared to say that there is not absolute ownership of the river by the United States Government so far as the United States Government can own any property. In one sense, all property that is owned by the United States Government is the property of the nation.

But let us take this illustration: The United States Government purchased Alaska. Suppose that there had been no individual vested rights; Alaska became the property of the nation; it became public property; it became the property of the people of the United States. Is it not clear that the United States Government by this same right which it had to acquire that property (and although the American people have a right to traverse that Territory and to carry on their commerce in that Territory) would have a right to dispose of that Territory, which right of disposal is the highest test of ownership?

But suppose you consider that the United States Government is only a trustee of the people with reference to this great stream, that it has only a fiduciary title as we call it in the civil law, that it has only a qualified title for a specific purpose, which is the purpose of public use and public commerce. Suppose that it be a property which is dedicated to public uses and which the Government of the United States cannot alienate, and therefore that it has only a qualified ownership to that property; suppose that the Government of the United States has not the same title to the Mississippi River which sovereignties on the continent of Europe have over the rivers within the dominions which they rule, I maintain that inasmuch as the Government of the United States, to the exclusion of the States, to the exclusion of any other authority, has exclusive jurisdictional control over the Mississippi River, the obligations and the responsibilities arising from that relation are precisely identical with those which would arise from absolute ownership. Take the case, for instance, of a public street, where even according to the original grant a street is dedicated to public uses and the political corporation has no power to alienate that street; yet it has been repeatedly decided in this country that although the corporation has only the power of administration and of police, which is absolute in the Federal Government as regards the Mississippi River, if that street is not kept in a proper condition and damage to property results from that neglect, the corporation is liable in damages to the party injured. And I can see no reason, Mr. President, upon the highest authority, why the Government of the United States is not responsible in damages to the thousands and thousands of people who have been ruined in the Mississippi Valley on account of the crevasses, for the reason that it is the duty of the United States, even in administration and control of its authority, to police the river and keep it within control, to discipline that river and to inclose it within its banks.

We know, Mr. President, that the jurisdictional authority of the United States Government is exclusive over that river throughout its length, and we know how that jurisdictional authority was acquired. It was acquired by the statutes of the United States and by the decisions of the Supreme Court. In the early period of our history there was a conflict going on between the Federal authority and the State governments with reference to the jurisdiction over navigable streams, a controversy which was as acrimonious upon the bench of the Supreme Court as was the slavery question. It was finally determined, after twenty-five years of contest, that the maritime and admiralty jurisdiction over those streams was exclusively vested in the Federal Government; and only a short time ago, as high up as Shreveport, on Red River, it was decided that the admiralty and maritime jurisdiction over that stream was exclusively vested in the United States Government. That jurisdiction is an exhaustive jurisdiction. It denies to the States any authority, or any power, or any responsibility, or any obligation whatsoever touching the Mississippi River. The United States Government can bridge it; the United States Government can determine what commerce shall be carried on that river, what shall be the means of transportation on that river, who shall have the privilege of navigating that river; and it is even said in one of the decisions of the Supreme Court that it has the authority to change the channel of that river.

Now, I ask, Mr. President, why is it, if every individual in this land, every corporation, is obliged to discharge the obligations and the responsibilities and the duties arising from the mere tutorship or control of property—I ask upon what ground can the United States

absolve itself from that obligation and from that responsibility, particularly when we consider the immense loss and devastation and ruin which result from omitting to discharge that obligation? And I do not understand that there is any such thing as degree in national duties and national obligations. If I can convince the Senate that it is the duty of the United States Government, that it is an obligation of the United States Government, it then follows that it is as much a question of national faith to discharge that duty, to discharge that obligation, as for the Government of the United States to pay the interest on its public debt.

I will first, Mr. President, endeavor to show why there should be a direct appropriation for the purpose of building the levees on the Mississippi River; and I need not confess that I am not a scientist; that I know very little or nothing at all about hydrographic engineering. I have examined some very able reports which have been made on this subject; and the reasons which have been given by the United States engineers in favor of the levee system have convinced me that their conclusions are well-founded and justified. I shall then proceed to call the attention of the Senate to the legal proposition that it is the duty of the United States Government to build these levees arising from the relation existing between the Government and that river. I shall endeavor to do so as briefly as possible.

Mr. President, in presenting this bill I wish also to present some of the reasons which induce me to urge them on the favorable consideration of the Senate. The subject to which they refer embraces the relations of the people of the alluvial region lying between the Missouri and the sea with this Government, as affected by the river near which they reside and the dangers with which they are certainly threatened by its floods.

Although, Mr. President, the volume of waters which the Mississippi rolls to the sea is perhaps exceeded by that of the Amazon or of the Saint Lawrence, yet in the length of its course, in the variety of climates which it traverses, in the wealth and grandeur of the communities through which it flows, and in the resources of the territory which it drains, it has no rival on the face of the globe. Where the Missouri, its greatest confluent, issues from its birthplace in the Rocky Mountains it is already a great river. In the words of the British historian, Alison:

> Between stupendous walls of rock twelve hundred feet high, and three leagues in length whose overhanging cliffs darken the awful passage, it issues forth in a deep and foaming current, three hundred yards broad, and soon swelled by other tributary streams, winds its long and solitary way through the prairies to the falls, sixty miles distant, which rival Niagara itself in sublimity and grandeur. The Mississippi, the Ohio, the Tennessee, the Illinois, the Arkansas, the Kansas, the White River, the Red River, the Saint Peter, the Wisconsin, any one of which exceeds the Rhine or the Danube in magnitude and which have given their names to the mighty States which already are settled on their shores, are but the tributaries of this prodigious artery. These various rivers, all of which are navigable with their own affiliated set of tributary streams, several thousand in number, form a vast chain of inland navigation, all connected together, and issuing into the sea by one channel, which like the arteries and veins of the human body is destined to maintain an immense interior circulation, and convey life and health to the farthest extremities of the million of square miles which constitute the magnificent garden of Central America.
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> It the majestic portal by which the Missouri issues from its icy cradle in the Rocky Mountains is one of the sublimest, the alluvial swamp through which it finds its way to the ocean in the Gulf of Mexico is one of the most interesting objects in nature. There one of the great formations of the earth is actually going forward; we are carried back to what occurred in our own continent before the creation of man. Like all great rivers, the Missouri, or the Mississippi as it is there called, does not empty itself into the sea in one continuous channel, but in a great variety of arms or mouths, which intersect in sluggish streams the great alluvial delta which is formed by the perpetual deposit of the immense volume of waters which it rolls into the sea.
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> Between these mouths of the river a vast surface, half land, half water, from fifty to a hundred miles in width and three hundred in length, fringes the whole coast, and there the enormous mass of vegetable matter constantly brought down by the Mississippi is periodically deposited. A few feet are sufficient to bring it above the level of the water except in great floods, and as soon as that is done vegetation springs up with the utmost rapidity in that prolific slime. Nothing can be conceived so dreary and yet so interesting as the prospect of these immense alluvial swamps in the course of formation. As far as the eye can reach over hundreds of square leagues nothing is to be seen but marshes, bristling with roots, trunks, and branches of trees. In winter and spring, when the floods come down, they bring with them an incalculable quantity of these broken fragments, technically called logs, which cover not only the whole of this immense semi-marine territory, but floating over it strew the sea for several miles off to such an extent that ships have often no small difficulty in making their way through them. * * * At length, as the soil accumulates and hardens, a dwarfish shrub begins to appear above the surface; larger and larger trees succeed with the decay of their more stunted predecessors, and at length, on the scene of former desolation, the magnificent riches of the virgin forest are reared.

Since these eloquent sentences were written, more than a generation has passed away, and while the forces referred to by the historian remain unimpaired in vigor, the territory upon which they are exerted has been, in a measure, subjected by the hand of industry, and the opening to the plow of wide areas of cultivable and fertile land has illustrated the immense richness of the Mississippi alluvion and the vast resources which are latent in its soil.

In the basin which we are accustomed to call the Valley of the Mississippi the waters which fall upon an area of more than a million square miles descend from the Alleghany Range on the east and the immense barrier of the Rocky Mountains on the west, and are gathered into a single channel which drains this wide-extended tract and conducts its surplus waters to the sea at a point more than four thousand miles distant, by the course of the streams, from the sources of the Missouri. The area of the country drained by this magnificent river system is more than equal to all of Europe, exclusive of Russia and Scandinavia. Its extent is more than sixteen times that of France, and more than eleven times that of the British Islands, and more than two-thirds of it is capable of supporting a population as dense as that which is embraced within the limits of the most populous commonwealths of Europe. In exact figures, the drainage area of the river Mississippi is 1,244,000 square miles; the mean annual downfall of rain is 30.4 inches, the annual discharge is 21,300,000,000 cubic feet, and the mean discharge per second is 675,000 cubic feet.

At a time which may be considered remote when compared with the chronology of recorded history, but which is modern when contrasted with the measureless procession of preceding geological ages, the Mississippi was a clear-water river, like the Saint Lawrence, flowing to the sea with an even and comparatively gentle current, and debouching at a point near the site of the present town of Plaquemine, about two hundred and forty miles, by the course of the stream, from the existing mouth; about one hundred and forty miles in a direct line northwest of the Balize, and about a hundred miles north of the actual coast of the Gulf. After the river broke through the barrier of the Ozark Mountains, (an event to which the calculations of geologists assign an antiquity of about forty-four hundred years,) and drained away the vast fresh water sea which was then its source and its feeder, the character of the Mississippi became completely changed. From a clear and limpid stream, having an inconsiderable rise and fall, and carrying to the sea so insignificant a quantity of sediment that no bar could be formed at its mouth, it was converted into a turbid, delta-forming river, affected by great floods, and pushing along its bed so large a quantity of earthy matter that its deposits have, according to the computations of Lyell, within the relatively short space of forty-four hundred years, projected forward the coast line for a distance of more than a hundred miles, and formed nearly five thousand square miles of land where formerly stood the waters of the sea.

It is with this river—an agency at once creative and destructive, a power which is at the same time a friend and an enemy, a blessing and a curse—that we have now to deal. In approaching the questions which grow out of the phenomena by which the Mississippi is characterized, and before attempting the solution of those questions, it may be well to give a brief statement of the results arrived at by the topographical engineers who have studied the hydrography of the river, who have computed its forces and calculated its dynamical laws. As I have already said, the surplus waters of 1,244,000 square miles of territory are drained into the Mississippi. From the mouth of the Missouri to the Gulf there is a fall at high water of 416 feet. The average width of the river between its banks from Cairo to Memphis is 4,470 feet; from Gaines's Landing to Red River Landing, 4,080 feet; from Baton Rouge to Donaldsonville, 3,000 feet; from Carrollton to the head of the Passes, 2,470 feet. The depth at high water, taking the flood of 1858 as a standard, is 96 feet at Columbus, 119 feet near Randolph, 83 feet at Memphis, 88 feet below the mouth of the Arkansas, 87 feet at Lake Providence, 120 feet seven miles above Vicksburgh, 111 feet at New Carthage, 118 feet at Natchez, 126 feet at Red River Landing, 103 feet at Baton Rouge, 128 feet just below Plaquemine, 180 feet below Bonnet Carré Church, 82 feet below the Bonnet Carré crevasse, 138 feet seventeen miles above New Orleans, 137 feet at Carrollton, and 151 feet at Fort St. Philip. The range between high and low water is: at Cairo, 51 feet; at Memphis, 40 feet; at Natchez, 51 feet; at Red River Landing, 44.3 feet; at Baton Rouge, 31.1 feet; at Donaldsonville, 24.3 feet; at Carrollton, 14.4 feet; at Fort St. Philip, 4.5 feet; at the head of the Passes, 2.3 feet; and at the Gulf, zero. It appears (I quote from Humphreys and Abbot:)

I. That the law which governs the mean annual rise and fall of the Mississippi varies but little from the Ohio to the Gulf.

II. That the rains which accompany the three great changes in season, to wit, winter, spring, and summer, throughout the larger part of the Mississippi basin produce three corresponding rises in the river, augmented in the spring by melting snow.

III. That above the mouth of the Arkansas the rise occasioned by the rains and melting snow which attend the setting in of the southwest winds at the transition from winter to spring in the northern and eastern part of the great valley usually attains its highest point in the latter part of March. The river then subsides until the arrival (commonly in June) of the Rocky Mountain rise, swelled by the early summer rains of the Lower Missouri and by those of the eastern portion of the Mississippi basin. It then falls rapidly until the latter part of October, when the lowest point is attained. After remaining at a stand for two or three weeks, it again rises, and more rapidly than at any other season, until checked by freezing and the diminution of rain (precipitation) in the basins of the upper rivers in January and February.

IV. Below Red River the same general oscillations occur, but somewhat later in the season the only modification being that the tributaries of the Ohio contribute their corresponding floods somewhat later, and thus maintain the stand of the river for a longer period.

V. The river is above its midstage for seven months, from the latter part of December to the latter part of July, and below it for the rest of the year.

It will thus be seen that the season of high water for all the alluvial region embraces those months when planting operations are undertaken, and when the crops are growing; and that it lasts until past midsummer; that is to say, precisely those months in which the greatest injury may be inflicted by inundation and overflow on the agricultural industry of that part of the country.

In times of flood, which are imminent every year, and which in fact

have occurred in two or three successive seasons twice during the last fifteen years, the whole of the alluvial region is liable to inundation. Against these floods the existing levees are scarcely even an approximate security. Even when they were in their best condition and had attained their greatest development, that is to say in the year 1861, they were entirely inadequate for the protection of the vast alluvial basins of Missouri, Arkansas, Mississippi, and Louisiana. It may be assumed with the utmost confidence that no local laws, no local efforts, will ever be found adequate to the solution of this momentous problem. Any system to be effective must be general, and the contingencies of uncombined human action, the conflicting interests of different localities, and the contradictory opinions of different individuals and communities present almost insurmountable obstacles to the adoption and consummation of any general system except through the agency and control of a single power like that of the Federal Government. As an illustration of the tremendous nature of the catastrophes which may at any time overwhelm the alluvial region of the Mississippi I shall refer briefly, Mr. President, to the flood of 1874. In that year there were thirty crevasses or breaks in the Louisiana levees alone, and these occurred at intervals along the whole distance from the Arkansas line to Point a la Hache, about fifty miles below New Orleans. The number, in fact, was much greater, because in some cases two or four and in one case as many as eleven breaks occurred at separate but neighboring points, and afterward combined into one.

Now, sir, a crevasse in the levees of the Mississippi River is something of which the imagination, unaided by observation, can scarcely form any accurate conception. At first it may be but a slender thread of water percolating through a crayfish hole, or a slight abrasion in the upper surface caused by the waves set in motion by a passing steamer or by a sudden storm, but in a few hours the seemingly innocent rill is swollen to a resistless torrent, the great wall of earth has given way before the tremendous pressure of the mighty river, and the waters rush through the opening with a force which soon excavates it to a depth of thirty or forty feet, with a roar which rivals the voice of Niagara and with a velocity which is great enough to draw an incautious steamer into the boiling vortex.

The effect is not simply that of an overflow, which may subside in a day or two. The level of the river, at its flood, is above that of the surrounding country; and, consequently, when the embankments break it is as if an ocean were turned upon the land. In a short time the neighboring country is converted into a sea. Cattle and horses are swept away and drowned, or forced to seek refuge on the few dry spots which remain among the seething waters; the crops are destroyed and the people are in many cases forced to abandon their homes. Sometimes, indeed, the land itself is greatly injured by these inundations; for, while the floods which come from the Red River, or the Ohio, or even the Arkansas, bring some compensation in the fertilizing character of the deposits which they leave behind, those of the Missouri, being charged with sand and alkaline earths swept down from the great deserts of the west, have a pernicious and sometimes even a ruinous effect on the lands which they invade.

In the year 1874 the phenomena which I have feebly described occurred on so extensive a scale that the catastrophe may well be regarded as a national calamity. Through the thirty Louisiana crevasses and the permanent openings in Arkansas and through the breaks on the left bank a vast body of water overspread a district of country more than three hundred miles in extent from north to south, and averaging fifty miles from east to west. I take no account, sir, in this statement, of the vast tracts inundated by the overflows of tributary rivers. I limit myself to the direct influence of the Mississippi waters from the Arkansas southward, and within this region, more than three hundred miles in length by fifty miles in width, as I have said, about twenty-two thousand square miles, much of it arable and cultivated land, much of it the most productive portion of the Southwest, was laid under water for many weeks.

Think of it, Mr. President; think of it, Senators; ponder it well—fifteen million acres of productive land—fifteen million acres, embracing a large proportion of the rich cotton and corn and sugar districts of three States, were flooded by this great national highway, this magnificent stream which is the property of the nation and over which the nation claims and exercises supreme and exclusive control. Consider it well, and then tell me, if you can, that such a calamity is local as to its character, local as to its consequences, local as to the duties which it imposes and the responsibilities which it entails. In further illustration of the disastrous nature of that great flood—the overflow of 1874—I may say that it inundated, in Arkansas, the counties of Chicot and Desha; in Mississippi, the counties of Tunica, Coahoma, Bolivar, Sunflower, Washington, Issaquena, and Warren, and in Louisiana, the parishes of East Carroll, West Carroll, Madison, Tensas, Concordia, Morehouse, Richland, Ouachita, Franklin, Caldwell, Catahoula, Avoyelles, Pointe Coupée, Saint Landry, (in part,) East Baton Rouge, (in part,) West Baton Rouge, Iberville, Saint Martin, Iberia, Saint Mary, Terre Bonne, Assumption, Ascension, Saint James, Saint John the Baptist, Saint Charles, La Fourche, Orleans, Jefferson, Saint Bernard, and Plaquemines—thirty counties and parishes.

And to exhibit more conspicuously the destruction caused by floods like that of 1874 I present a series of tabulated statements, showing the amount and value of the productions and the number of acres of improved land, with its cash valuation, in the region liable to overflow in the present condition of the Mississippi levees. I shall not challenge your patience, Mr. President, by reading the detailed statement, but I shall give the aggregates, which will be sufficient for my present purpose. In the sugar and rice growing districts of Louisiana there were under cultivation, in the year 1860, 848,753 acres of land. The cash value of the plantations was $93,227,877; the number of hogsheads of sugar produced was 321,210; the number of gallons of molasses produced was 14,007,468; the number of pounds of rice produced was 6,252,051. In 1870 the number of pounds of rice was 15,045,761. In the counties of Chicot and Desha, in Arkansas, and the parishes of Madison, Carroll, Tensas, and Concordia, in Louisiana, in 1860, the improved acres were 535,497; cash value of plantations, $62,000,000; number of bales of cotton produced, 387,000; number of bushels of corn, 3,000,000. In the alluvial region of Mississippi and Tennessee, in the same year, the improved acres were 1,024,628; the cash value of the plantations, $60,000,000; number of bales of cotton produced, 410,000; number of bushels of corn, 26,000,000. In the basin of Saint Francis, (Arkansas and Missouri,) in the same year, the improved acres were 245,364; cash value of plantations, $15,000,000; number of bushels of corn produced, 3,700,000; number of bales of cotton, 40,000. So that in 1860 the cash value of the plantations in the alluvial region was $230,000,000.

I have said, sir, that during this great flood the alluvial region was laid under water for a period of time extending over many weeks. Such, I may say, is the case in all seasons of overflow. The subsidence of the river is a far slower process than its rise. In many cases the duration of the inundation is to be measured not alone by days or by weeks, but by months. The record from 1849 to 1860, inclusive, shows the duration of high water in particular years to have been as follows: In 1849, at Carrollton, (adjoining New Orleans,) 220 days; 1850, at Carrollton, 172 days; 1851, at Lake Providence, 97 days; at New Carthage, 104 days; at Red River Landing, 50 days; at Donaldsonville, 63 days; at Carrollton, 125 days; 1852, at Donaldsonville, 68 days; at Carrollton, 108 days; 1853, at Carrollton, 150 days; 1854, at Carrollton, 111 days; 1858, at Memphis, 87 days; at Napoleon, 100 days; at New Carthage, 129 days; at Red River Landing, 118 days; at Donaldsonville, 129 days; at Carrollton, 190 days; 1859, at Memphis, 95 days; at Vicksburgh, 103 days; at Donaldsonville, 123 days; at Carrollton, 114 days. Five of these years were flood years; that is to say, years in which the alluvial region was overflowed in whole or in part.

During the period from 1865 to 1877 the same phenomena have recurred in several years and, owing to the impaired condition of the levees, to the impoverishment of the riparian populations, and the inability of the State governments or the county or parish organizations to take any efficient measures for protection, the consequences have been even more disastrous, because more severely felt than those attendant upon the great overflows which happened during the period first referred to. At such times the whole country for hundreds of miles is converted into a mimic sea. The adventurous explorer who penetrates these dreary wastes finds, instead of widening fields green with the corn and cane or gay with the blossoms of the cotton-plant, only a wilderness of turbid waters—a horizon limited on one side by the interminable line of the cypress swamp, on the other by the devastating river, and all between a watery desert. His highway is the flood; his conveyance the pirogue. Here and there a lonely house rises above the deluge to mark the site of man's fruitless contest against the tremendous forces of nature—of the defeat of his efforts and the ruin of his hopes. At intervals may be seen groups of horses, cows, oxen—lean and famished beasts struggling against starvation, whose bones will whiten the few dry places which have afforded them a temporary refuge. Such is the spectacle presented during an overflow of the Mississippi River; a phenomenon which, as I have said, is not infrequent of occurrence or limited in duration, but which happens at least five out of every eight years, and endures for days and weeks and months.

I take it for granted, Mr. President, that the levee system, as tested by experience, and as developed and perfected according to the calculations of the highest scientific authority, is that which must finally be adopted for the protection of the alluvial region of the Mississippi. I take this for granted, I say, because although other methods have been suggested and other plans devised, these methods and these plans, whatever may be their merit, however distinguished for intelligence and attainments their authors may be, can be regarded only as unverified hypotheses. In the report of General Humphreys and General Abbot on The Physics and Hydraulics of the Mississippi River—a work which may be described as a monument of profound research, of scientific skill, and of conclusive reasoning applied to the solution of hydrographical problems—in that great work the whole question of the protection of the alluvial region against overflow is exhaustively discussed. All the arguments against the levee system and in favor of it, and also the arguments for and against the proposed systems of cut-offs, outlets, and lateral reservoirs are thoroughly considered. I cannot do better, Mr. President, than to quote the language of the report, as to the conclusions reached by its eminent authors:

> The preceding discussion of the different plans of protection has been so elaborate and the conclusions adopted have been so well established, that little remains to be said under the head of recommendations. It has been demonstrated that no advantage can be derived either from diverting tributaries or from constructing reservoirs, that the plans of cut-offs, and of new or enlarged outlets to the Gulf are too costly and too dangerous to be attempted. The plan of levees on the contrary, which has always recommended itself by its simplicity and its direct repayment of investments, may be relied upon for protecting all the alluvial bottom

lands liable to inundation below Cape Girardeau. The works, it is true, will be extensive and costly, and will exact much more unity of action than has thus far been attained. The recent Legislature of Mississippi in organizing a judicious state system of operations, however, shows that the necessity of more concert is beginning to be understood.

We are told by the report that to secure this end in the most economical manner levees should be constructed. Near the mouth of the Ohio they should be made about three feet above the actual high-water level of 1858, the year selected as the plane of reference. The height above this level should be gradually increased to about seven feet at Osceola. Thence to Helena this height should be maintained. Thence to Island 71 the height should be gradually increased to ten feet. Thence to Napoleon it may be gradually reduced to eight feet. Thence to Lake Providence it must gradually be increased to eleven feet. Thence to the mouth of the Yazoo it may be gradually reduced to about six feet, which elevation should be maintained to Red River Landing. Between Red River Landing and Baton Rouge it should be uniformly about four feet, and below Baton Rouge about three feet.

These calculations are the results of the reasonings of Humphreys and Abbot, but it must be remarked that they are based on the supposition of absolute security, as far as the conditions of absolute security can be ascertained. It is to be remarked, also, that all authorities agree that the results to be desired can be reached—in other words, the problem can be solved—only by means of the application of combined effort to a uniform system. The concert of action among the riparian States suggested by Humphreys and Abbott is a chimera. It can never be assured. In order that it may be attained, even supposing conflicting interests and opposing theories be reconciled and a uniform system to be decided on, it can never even then be attained, Mr. President, even if the people of these States were convinced that the duties and responsibilities of this great work are not duties justly appertaining and responsibilities properly belonging to the Federal Government. That these duties and responsibilities are national and not local; that they are chargeable to the account of the National Government, and not to individuals, to local organizations or communities, or to State governments, is a proposition which the people of the riparian States firmly believe to be founded in reason, in morals, and in law.

In order, Mr. President, to show how futile must be any merely local efforts, any system even, however elaborate and complete, that may be limited to one or even two States, any system that one or two States are capable of carrying into effect, it is necessary only to look at the existing condition of things and to consider the laws which govern the regimen of the Mississippi River. Suppose, for instance, that the State of Louisiana were to build her levees, were to construct them so high and so strong that they would present an effectual barrier to the pressure of the river rolling along their front, would this be enough for the protection of the State? It would be all that the State could do. It would fill the measure of her power, but would it suffice? By no means, sir. For several months, in every season of high water during the last twelve years, the whole region embraced in the parishes of East Carroll, West Carroll, Madison, Concordia, and part of Avoyelles has been submerged by floods originating not entirely in crevasses in the Louisiana levees, but coming in a great part through the vast openings above the Louisiana lines.

In the State of Arkansas, between the State line and the Arkansas River, the whole river front is practically open. There are, in fact, twenty-eight miles of permanent crevasse within that distance, and the old levees still remaining are comparatively useless. Through these openings pours an immense volume of water, which, finding its way through Cypress Creek and Boggy Bayou, first fills and then overflows the great Arkansas swamp from which, issuing through Bayou Maçon, Bayou Bartholomew, and other streams, it invades Louisiana and lays under water the whole country as far south as Red River. If Red River is full, to the extent of its discharging capacity, the flood overruns the basin of the Atchafalaya and ravages the parishes of Pointe Coupée, Iberville, Assumption, Saint Martin, Iberia, and Saint Mary, and finally loses itself in the sea at Berwick's Bay. It follows, then, that any efforts within the power of Louisiana to make any system of levees that the State might devise or execute would necessarily be inconclusive and ineffectual unless supplemented by concerted and harmonious action on the part of Arkansas—a State over which Louisiana has no jurisdiction. Such a system, elaborate though it might be, perfect though it might be, as to all the forces of the river that Louisiana can control, would still leave the State exposed to inundation for its whole extent, from the Arkansas line to the sea for an average breadth from east to west of at least thirty miles. That is to say nine thousand square miles, or nearly six million acres would be liable to inundation by floods which the State of Louisiana or the people of that State would be powerless to avert.

In addition to this, sir, the consequence of the construction of a perfect system of levees by Mississippi would be to throw an additional volume of water on the Louisiana side; or, if a perfect system were constructed in Louisiana, the amount of water thrown on the Mississippi side would be proportionally augmented. If both States should establish efficient levees along their river fronts, the effect would be to raise the flood level of the lower course of the river, the slope would thus be decreased, the decrease of slope would be attended by a corresponding diminution of velocity, and necessarily of discharging capacity, and thence would follow a raising of the level of the river above and a greater liability to overflow, and more frequent inundations from the mouth of the Ohio to the Louisiana line.

It appears, Mr. President, from the report to which I have already referred, that in the flood year 1858 the actual amount of water per second, at the period of maximum discharge, passing certain specified points on the river, was as follows:

	Cubic feet.
Helena	1,334,000
Napoleon	1,221,000
Lake Providence	1,188,000
Vicksburgh	1,245,000
Red River Landing	1,238,000
Carrollton	1,188,000

The reclamation by leveeing of the swamps below Cape Girardeau would have caused a plus discharge represented by the following figures:

	Cubic feet per second.
Halena	35,000
Napoleon	197,000
Lake Providence	218,000
Vicksburgh	185,000
Red River Landing	100,000
Carrollton	109,000

It follows that leveeing the river above would raise the flood level below proportional to the augmented volume of the water thus confined within the bank, and that, as a consequence, any local system devised and executed by the States of Missouri, Arkansas, and Tennessee would compel the States of Louisiana and Mississippi to raise their levees to a height sufficiently great to protect those States against the increased floods. Since the discharge is a product of the area of the cross-section into the velocity, we find (estimating the mean width of the river at 3,000 feet and crediting to increase of velocity enough to raise the rate to 8 feet per second, which may be regarded as excessive) that the State of Louisiana would be forced to raise her levees 9 feet at Lake Providence, 7.7 feet opposite Natchez, and 4.5 feet at New Orleans.

Hence the general conclusion is that a perfect system of levees, constructed along the lower course of the river alone, would still leave Louisiana exposed to disastrous inundations. In any case these levees would raise the flood level above, and oblige Arkansas, Tennessee, and Missouri to raise their levees to a greater height than would suffice in case the lower river remained unleveed. These conclusions are based upon the established and admitted laws of dynamical hydrography. They show beyond dispute that local effort must forever be ineffectual to solve the momentous problem under consideration; and they impart to the work a character of nationality more perfect and complete than can be attributed to any that the Federal Government has ever undertaken.

I repeat, sir, that there is no prospect, that there is scarcely even a possibility, of assuring protection to the lands now actually cleared for cultivation within the limits of the riparian States by means of any local efforts or systems, and that, without the adoption of a general system such as the Federal Government alone has the power to enforce, the reclamation of the vast tracts of alluvion which would by such a system be brought within the domain of agricultural industry must be remitted to a far-distant future. The experience of more than one hundred and fifty years has demonstrated the futility of individual effort and the failure of all attempts to frame an effective organization within the States themselves. These failures cannot be attributed to any lack of energy or of effort on the part of the alluvial States or of the people of those States. On the contrary, the history of those communities is a record of untiring labor and of specious although unavailing experiment lavished on the problem of protection against the Mississippi floods, and the actual money expended from time to time in this work would more than suffice, if accumulated in a single fund and expended under judicious control, to levee the river from the mouth of the Ohio to the sea and to assure that absolute security promised by the system which Humphreys and Abbot have proposed.

I say again, sir, that with the lights now before us, with the experience of a hundred and fifty years to guide and instruct us, with the deductions of science and of reason at our command, the utter failure of all local and uncombined efforts may be confidently predicted, however great may be the sums expended upon them, and whatever seeming advantages they may confer on isolated communities or particular individuals. The protection of Missouri is possible only at the expense of Arkansas; the protection of Arkansas can be accomplished only at the cost of Louisiana and Mississippi; the protection of the country above the Louisiana line might entail permanent ruin on all the country below; the protection of the country below might involve the desolation of all the country above; protection to the whole can be attained only by a uniform and harmonious system, devised and carried into effect by a single and superior authority, such as that of the Federal Government. In short, to quote the language of Major Warren, of the topographical engineers, in a recent able report on this subject:

> The experience of over one hundred and fifty years has utterly failed to create judicious laws or effective organization in the several States themselves, and no systematic co-operation has been even attempted between them. The latter is no less important than the former, for the river has no respect for State boundaries, and deluges Arkansas through breaks in the levees of Missouri and overflows Louisiana by floods passing across the Arkansas line.

In a report now before me, made by the state engineer of Louisiana to the last session of the General Assembly of that State, these words are used:

It is equally just and important that the Federal Government should undertake the reclamation from overflow of the alluvial regions of the Mississippi Valley. No friends of any one of the plans proposed for this great work claim success unless their system can be applied throughout.

A commission of Federal and most distinguished civil engineers have elaborated and reported a general plan for the construction of levees which, if thoroughly applied to Louisiana alone, would inundate Arkansas and Mississippi and *vice versa*.

* * * * * * *

Twenty States and Territories have a servitude for drainage through Louisiana. Steamers from ten thousand miles of navigable rivers dash their waves against her levees.

The failure of the State of Arkansas to keep up her levees causes crevasses which annually inundate large tracts of our richest lands and practically denies to Louisiana the right of self-protection from overflow.

A work of such magnitude, requiring so correct, uniform, and efficient a system of engineering and finance can only be brought to a successful result as a national undertaking, free from the divisions of local interests and opinions, and independent of the precarious resources of impoverished States.

Mr. President, I challenge a refutation of these propositions. I challenge a refutation of these propositions, sir, because I know and you know, sir, and every Senator on this floor knows, that an attempt to refute them would be to deny the most conspicuous facts of physical geography and to contradict the plainest deductions of science. An examination of the history of this question will show that the riparian States, and especially the States of Louisiana and Mississippi, have used every effort and have expended vast sums of money in the fruitless endeavor to assure for themselves a reasonable immunity against the floods of our great national river. More than twenty years ago the Federal Government made to the alluvial States a donation of the swamp and overflowed lands lying within those States, it being a condition of the gift that the proceeds should be used in the construction of levees and in draining the lands subject to overflow. It was a munificent gift, a gift worthy of a great nation and of the great purposes which inspired it. But it failed because the administration and employment of the funds arising from the sale of these lands were controlled by local authorities and for local objects. In short, no amount of fidelity and sagacity and energy in the execution of this trust by the States acting separately could be attended with other than partial success and transient benefits; success sure in the end to be followed by renewed disaster, and benefits certain to be followed by the accumulated losses which necessarily result from disjointed systems and uncombined operations.

But, sir, the very fact that this magnificent donation was made, the very conditions which were attached to it, prove that even the Congress of the United States recognized the national character of this work and admitted the obligations which its national character imposed upon the Federal Government. The donated lands were the property of the nation. They were assets, which, if not then available, could be made available, and which, had the Government itself assumed the task which, perhaps magnanimously but certainly mistakenly, it remitted to the riparian States, would have produced a fund sufficient to levee the river from the Ohio to the Gulf and to bring within the domain of cultivation a region the products of which would have augmented the wealth of the country by hundreds of millions of dollars. If the Government had done directly what it thus attempted to do indirectly it would have done that which the people of the riparian States are now asking at the hands of the nation.

It will be seen, Mr. President, from what I have already said, that the question which constantly presents itself for consideration is whether or not the duty of undertaking and perfecting this great work rightly attaches to the Federal Government, or whether it must be discharged by the communities which border on the river or the people who live upon its banks. Do the encroachments of the Mississippi floods upon the property of the neighboring inhabitants and the industries of the contiguous States impose on the General Government the responsibility of protecting the property and the industries thus exposed to annually recurring losses, or must those States and their inhabitants protect themselves against the destructive agencies of a vast river over which they have no jurisdiction, no control, no right of ownership? In considering this question I remit to a secondary place the immeasurable benefits which would result from reclaiming the vast spaces now subject to inundation and rendering them available for cultivation. In the eye of the economist and the statesman it cannot be regarded as unimportant that the waste of cypress swamp and impenetrable thicket, dominated alone by the waters which the Mississippi brings from the Alleghanies and the Rocky Mountains, should be converted into fair and level fields fit for the plow and capable of adding to the wealth of the nation the untold millions which would spring from their surface in the product of the cotton-plant and the sugar-cane alone.

I therefore do not exclude this branch of the subject from my argument, but if I cannot establish that apart from any consideration of the indisputable material advantages, in a national point of view, to be derived from the reclamation of the waste places and the protection of the improved lands of the Lower Mississippi, by means of an efficient levee system—if I cannot show, Mr. President, apart from such considerations, that the duty of undertaking and perfecting this great work rests upon this Government; that it is a national, a legal, and a moral responsibility of the highest order—I shall be willing to abandon the case, and to say to my constituents and to the people of Mississippi and to the people of Arkansas, that for all time to come they are fated to combat the impetuous floods of the great national river and to expend their labor and the profits of their industry in keeping the devastating waters from their doors.

The most superficial examination, Mr. President, of a map of the United States is enough to impress the observer with the truly national character of that magnificent river, which forms the most conspicuous feature of our geography. Every State and every Territory lying between the Rocky Mountains and the Alleghanies, from the Dominion of Canada on the north, to the Mexican Gulf on the south, is watered in whole or in part by the Mississippi and its affluents. The floods which annually menace with ruin the industrious cultivators of Louisiana and Mississippi and Arkansas, and doom to sterility millions of acres potentially rich in all the varied products of the temperate and semi-tropical latitudes, do not come from Louisiana skies, but are poured down upon the lower country from the melting of snows a thousand miles away, and the freshets of far-distant rivers. It is a remarkable fact that the annual rain-fall of the whole country below the mouth of the Arkansas, for an extent of more than a hundred miles on either side of the Mississippi, would by itself have scarcely any appreciable influence on the annual rise and fall of the river. In the month of May, 1872, more than seven inches of rain fell at New Orleans within less than seven hours, a phenomenon almost unprecedented in the history of meteorological observations, at least in this country, and yet that tremendous downpour did not raise the level of the Mississippi a measurable fraction of an inch.

It is true, however, that a great and sudden rain-storm, accompanied by high winds, is a source of danger when the river is up to the top of the levees. The slightest increase is then apt, under the agitation caused by high winds, to abrade the levees and cause crevasses.

No, sir. The swamps of the lower country are filled, the levees are broken, the plantations are inundated by the vast volume of water rolled down into the channel of the Mississippi by the Missouri, the Ohio, the Illinois, the Wisconsin, the Upper Mississippi, and the Arkansas. When the Signal Office of this Government announces the impending rains which are to fertilize the fields of Ohio and Illinois and Indiana, of Wisconsin and Iowa and Kansas, and which are to fill their granaries with a wealth of agricultural products, to the people of the alluvial States it conveys a note of warning and alarm. When the same authority proclaims that commerce and industry are to be released and the wheels of a thousand steamers are to be set in motion by the breaking of the icy fetters which have bound the Northern rivers in their beds, it foretells to the people of the lower riparian States the speedy coming of the foe who so often before has ravaged their fields, has devasted their homes, destroyed their property, and blighted their hopes. Against an enemy like this the efforts of individuals, of communities, of States, have always hitherto been powerless. It is not too much to say that such efforts, disjointed, fragmentary, local in their character, as they must continue to be, cannot within any period over which our view of the future can extend, be attended with other than local and fragmentary benefits; and that under such a system generations, perhaps centuries, will pass away before the vast alluvial spaces of the Lower Mississippi Valley will be reclaimed from the dominion of the waters.

Thus it is clear that in all its physical aspects, and as to all its physical phenomena, the Mississippi River is national in its character, national through its whole course (including its greater affluents) from the Rocky Mountains, or the Alleghanies, or the plateau of Northern Minnesota, to its mouth on the shores of the Mexican Gulf. It would seem that the questions arising out of its regimen—that the duties and responsibilities springing out of the action of its waters on the lands through which it flows are, in like manner, national duties and national responsibilities. But, sir, I am prepared to go further than this. I am prepared to show that the Federal Government has not only assumed exclusive jurisdiction over all the waters of the Mississippi; that it not only possesses undoubted dominion over it, to the exclusion of all other powers, whether foreign governments or State governments, but that the United States, the nation, in fact, claims the absolute, unqualified, and indisputable ownership of the river; and that this has been the doctrine of the Government, the uncontradicted doctrine, in regard to all navigable rivers flowing through more than one State, from the year 1793 to the present moment.

For some years after the adoption of the Constitution it was believed that the admiralty and maritime jurisdiction of the United States was limited to tide-water. But in the year 1845 an act of Congress extended the admiralty and maritime jurisdiction of the Federal courts to all navigable waters flowing between or connecting ports in different States and Territories, and to the "lakes and navigable waters connecting said lakes." This jurisdiction is in its nature exclusive, and has been decided to be exclusive by the Supreme Court. The ninth section of the judiciary act of 1789, by which the first courts of admiralty were established, declares that the district courts

Shall have exclusive cognizance of all civil causes of admiralty and maritime jurisdiction * * * on waters which are navigable from the sea * * * as well as upon the high seas.

In Hine *vs.* Trevor, (4 Wallace,) Justice Miller, in delivering the opinion of the court, says:

It must be taken, therefore, as the settled law of this court that wherever the district courts of the United States have original cognizance of admiralty causes, by virtue of the act of 1789, that cognizance is exclusive, and no other court, State or national, can exercise it, with the exception always of such concurrent remedy as is given by the common law.

In The Propeller Genesee Chief *et al. vs.* Fitzhugh *et al.*, (12 Howard,) Chief-Justice Taney, in delivering the opinion of the court, refutes and completely disposes of the doctrine that the admiralty and maritime jurisdiction of the United States is limited to tide-water. Referring to the case of Waring *vs.* Clark, (5 Howard,) the Chief-Justice says:

But that case showed the unreasonableness of giving a construction to the Constitution which would measure the jurisdiction of the admiralty by the tide. For if such be the construction then a line drawn across the river Mississippi would limit the jurisdiction, although there were ports of entry above it and the water as deep and navigable and the commerce as rich and exposed to the same hazards and incidents as the commerce below. The distinction would be purely artificial and arbitrary as well as unjust, and would make the Constitution of the United States subject one part of a public river to the jurisdiction of a court of the United States and deny it to another part equally public and but a few yards distant.

It is thus shown to be the settled and undisputed doctrine of the law, as expounded by the highest of all judicial tribunals, that the exclusive admiralty and maritime jurisdiction of the United States extends to all the navigable waters of the Mississippi Valley. But further than this, sir, I maintain that the Government of the United States, the nation, that is to say, is the proprietor, the owner of the river, from the point where it begins to be navigable to the sea. And in this I have the sanction of the judgment of Thomas Jefferson, the founder of the party to which I belong, and the man to whom, above all others, is due that magnificent acquisition which has given us the ownership of the greatest river of the globe, and which has enabled our country to rival in population, in wealth, in extent, and in resources the proudest nations of the civilized world.

In the year 1793 Mr. Jefferson, then Secretary of State, addressed to the citizen Genet, representing the French Republic, a communication in which he refers to the capture of the British ship Grange, by the French frigate l'Embuscade, within the Delaware. Accompanying this communication he transmits a statement by the Attorney-General, Mr. Edmund Randolph, of the grounds on which the Government of the United States had determined that it was "bound to see that the crew be liberated and the vessel and cargo restored to their former owners." In this opinion it is declared that "the corner-stone of our claim is that the United States are proprietors of the lands on both sides of the Delaware from its head to its entrance into the sea."

This, sir, is the doctrine of this Government, proclaimed to the whole world by Mr. Jefferson—a statesman whose authority on questions involving the principles of the democratic party and the rights of the States will not be disputed—and confirmed equally by the common sense of mankind as expressed by the law of nations. (See Grotius, b. 2, c. 2, s. 12; Puff., b. 3, c. 3, s. 4; Puff., b. 4, c. 5, s. 3; Vattel, b. 1, c. 22, s. 226.) But it is superfluous to accumulate authorities on this point. It is an axiom of public law that when a river rises and debouches within the territory of one nation, the possession or dominion of that river belongs to the government representing that nation. If this is true of a river like the Delaware, as proclaimed by Mr. Jefferson, how much more must it be true of that stupendous stream which waters half of the territory of the nation, and upon the banks of which have arisen mighty commonwealths and flourishing cities.

I maintain, sir, that the Mississippi is the property of the Union; to obtain the ownership and absolute control of it was the motive which compelled its acquisition; to retain that control and that ownership the Union fought to a successful issue a long and bloody war, and crushed the most formidable resistance to national authority that history records. I maintain, sir, after a mature consideration of the facts of our history, of the doctrines of our law, of the decisions of our courts, and of the attitude uniformly assumed by our Government, that no species of property can be more national in its character. The title is national, the property is national, the dominion is national. No other sovereignty, no other power can assert any claim to the control or ownership of the Mississippi River. Can it be pretended that as regards the use of its property and the obligations of its ownership the United States has greater rights or fewer responsibilities than any other sovereign power; that it may reap the full benefit and enjoyment of so vast and magnificent a trust, and yet escape from and repudiate the responsibilities which its use imposes; that it may legislate to regulate, to police, to protect every species of property floating upon this river, to change its channel, to determine how or by whom it shall be used, and yet that the Government claiming and exercising these powers, proclaiming this absolute and undivided ownership, has no power so to regulate its flow that its devastating waters shall no longer be permitted to destroy the property, the peace, the happiness, and the hope of millions of toiling American citizens? Even when a foreign nation owned the soil on both banks of the river above its mouth, you asserted not only the right of navigation, but the right of deposit on the foreign soil which then constituted its banks. This was called and was admitted to be an imperfect right; but you secured it because you threatened war against Spain if it was not conceded.

In whose interest, sir, did the Government of the United States take this bold stand? In the interest, Mr. President, of those who were cultivating the soil on the banks of the Ohio, and the Wabash, and the Illinois, of the Tennessee, the Cumberland, and the Kentucky, affluents of the great river, but not the river itself. It was taken in their interest in order that their products might find an unimpeded outlet to the sea. And now, sir, the citizens of the alluvial States are asking this same Government, not to declare war against a foreign nation in their interest, not to set armies in the field and navies on the sea in order that the labor of their hands may be rendered more profitable and the products of their lands find an easier highway to their destined markets, but simply that you shall use this great national river, this national highway, this national property, in such a manner that the labor of their hands may have its legitimate reward, that the products of their lands may not year after year be destroyed by the unchecked flow of the river, and that they may not be made starving paupers on the richest soil on the face of the earth.

And are we to be told, in answer, that the Government might rightfully declare war in the interest of the cultivators of the valley of the Ohio, and in order to assure to the products of that region an unimpeded access to the sea through territory over which this Government had then no control; but that it cannot, in the interest of the cultivators of the alluvial lands of the Lower Mississippi, and to preserve their property and their productions from utter ruin and destruction, employ the resources of science and the agencies of industry in a war against those natural forces which originate within its jurisdiction and which are entirely within its control?

"Peace," we are told by the prince of English poets, "hath its victories no less renowned than war." Who shall say, sir, that such a victory achieved by peaceful methods over the tremendous forces of nature would not be more worthy of a great nation, more renowned in history, than the bloody triumphs of armies in the field or navies on the sea?

It is a maxim of law, Mr. President, that the owner of property shall not so use it as to injure the property of others. *Sic utere tuo ut alienum non lædas.* Does our National Government comply with this obligation in its conduct toward the people of the riparian States, in the use which it makes of that great national highway the river Mississippi? I maintain, sir, that it does not. I have shown that the Federal Government owns that river absolutely, entirely, exclusively. I have shown that the floods which devastate the alluvial States are rolled down upon them through distances measured by thousands of miles and yet entirely within the jurisdiction of the Federal Government, and that those States have no power, acting separately, to protect themselves against these floods, by any effort however great, by any expenditure of money however profuse. Can it be said, then, that the nation uses its property in conformity with the maxim which I have quoted; that it manifests in its use of that river even a decent respect for the rights and property of the people of the alluvial States when it allows them year after year to be ravaged, desolated, ruined, by the waters of that stream over which it claims and exercises undisputed sovereignty and exclusive control?

And here, Mr. President, as the question of exclusive jurisdiction is an important element in the consideration of this subject, I would refer again to the decisions of the Supreme Court which I have already quoted, and to the language of Justice Wayne in delivering the opinion of the court in Waring *et al. vs.* Clarke, 5 Howard, 495:

But the rule of tide-water within a county, and not on the sea, conforms to no code or precedent; neither marching boldly over all which is navigable, nor halting where the ocean meets the land; neither shunning to make wide inroads into the territories of juries, nor pushing as far as all which is nautical and commercial goes. The only plausible apology for it which I can find is in a total misconception, before adverted to, of the ancient and true rule, which was tide-water, but, at the same time, tide-water without the body of the county, on the high seas. But instead of the flux and reflux of the tide on the high seas, and without the body of the county or State, and to support which line stood the great pillars of a jury trial and the common law, have been attempted to be substituted, and that without authority of any statute or clause in the Constitution, as to torts, the impulses of the tides from any and every distance from the ocean sometimes encroaching from one to two hundred miles into the interior of counties and States and prostrating those great pillars most valuable to the people of the States. And what, let me repeat the inquiry, is to be gained by such a hazardous construction? Not an adherence to old and established rules, not a respect for State rights; not strengthening the Union, or its clear powers where assailed, but weakening by extending them to doubtful, irritating, and unnecessary topics; not an extension of a good system, allowing the admiralty to be one for all nautical matters, to all navigable waters and commercial questions, but falling short, in some of our vast rivers or inland seas, nearly one thousand miles from the head of navigation, and cutting off several cities with twenty, thirty, and even forty thousand population.

In the same opinion it is said that the bends are such that a boat must cross the stream three hundred and ninety times from New Orleans to Saint Louis. This repeated crossing and recrossing of the river by the thousands of steamers which ply on its waters during the season of high water is a fruitful source of danger. Crevasses have often been caused by the abrasion of the levees due to the attrition of the waters thus disturbed, and the contact of the waves that radiate from the wheels of a passing steamer. When the river is almost even with the tops of the levees—I mean such levees as the people of the States in question have hitherto been able to construct, and not such levees as those which promise absolute security, according to the calculations of eminent engineers, to which I have been so often referred—at such a time, I say, a slight and seemingly innocent displacement of the confined waters, by which the level along

the neighboring bank may be raised only a few inches, is often sufficient to cause a sudden break, through which vast tracts of country may be inundated and millions of dollars' worth of property be destroyed. These disastrous consequences result from the navigation of the river and its employment for commercial purposes.

The Government guarantees to the cultivators of the soil of the States north of the Ohio and the Missouri the use of the Mississippi as a highway for the transportation of their products to distant markets; it appropriates money to improve the navigation of the river, to remove obstructions from it, to deepen its channel. All of these things it does in the interest of trade and commerce and navigation and for the "general welfare"—I will not say the particular welfare, Mr. President—of the people of the northern part of the great valley; and in thus doing, in thus dedicating the river to these uses and assuming and exercising control of it for these uses, it inflicts irreparable damage upon the people of the lower part of that valley. The uses of the river for these purposes have a national character which is not disputed, a national character which justifies and demands the intervention of this Government by way of congressional legislation, of judicial control, and of the appropriation of moneys from the public Treasury; and yet the responsibilities growing directly out of these uses, dependent on them, created by them, have no such national character and may properly be repudiated. The duties are national, but the correlative responsibilities consequent on the discharge of those duties are local.

Can this be true, Mr. President? Does not such a proposition carry refutation on its face? Is not its simple statement its disproof? I submit, sir, that if the United States had never acquired the possession and the sovereignty of the Lower Mississippi; had that possession and that sovereignty remained in the hands of a foreign power, the right of free navigation and the right of deposit at New Orleans being conceded to this country as they were originally conceded by treaty with Spain, all damages accruing from such use of the river by American vessels would have constituted a valid basis for reclamation against this Government. And shall it now be said that while our duties have become enlarged, while our control has been extended, while our powers have been augmented, our responsibilities have become lessened until they have completely disappeared? Can it be asserted that we owe less to our own citizens under these new conditions than we should have owed to the subjects of a foreign power under the conditions which prevailed before we took possession of the country? Can it be maintained that our obligations toward the people of Missouri and Arkansas and Louisiana are not at least as binding in a national point of view as the obligations which would have been due to the subjects of Spain in an international point of view? No Senator on this floor, sir, I seriously believe, will maintain a paradox so gross.

When Mr. Jefferson in his message to Congress (4 Am. State papers, 494) communicated the information of the acquisition of Louisiana, he used these words:

> While the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the Western States and an uncontrolled navigation through their whole course, free from collision with other powers and the dangers to our peace from that source, the fertility of the country, its climate and extent, promise in due season important aids to our Treasury, an ample provision for our posterity, and a wide spread for the blessings of freedom and equal laws.

It is plain that the sagacious mind of Mr. Jefferson foresaw in the acquisition of Louisiana—and it was to that part of Louisiana lying south of the Missouri to which he particularly referred—advantages far more important than those simply attendant on the uncontrolled navigation of the river and the unimpeded transportation to a market of the products of the Ohio Valley. His far-reaching mental vision foresaw the time when that vast alluvion lying between the Missouri and the sea should be reclaimed and dedicated to the purposes of industry; when its waste of sterile waters, its forests of cypress, its thickets of cane, should be converted into broad and fertile fields, teeming with wealth and populous with toiling millions. Perhaps, even, his ardent and patriotic fancy saw "the argosies of magic sails, pilots of the purple twilight, dropping down with costly bales," the product of a land rescued by the "blessings of freedom and of equal laws" from the dominion of the reptile and the beast and the empire of the waters. It was in such a condition of things attributed to a future which he cannot have believed to be very far distant that Mr. Jefferson foresaw "important aids to our Treasury" and an "ample provision for posterity." But, sir, three-quarters of a century have passed away since this prophecy was uttered, and the important aids to our Treasury have still only a potential existence. The mighty river maintains its empire, and the ample provision which Mr. Jefferson predicted for us is still that profusion of overflowing waters lavished upon us by the skies and mountains of far-off northern climes.

This, Mr. President, was not the entertainment to which the people of Louisiana were invited when this country was acquired by the United States. They justly and naturally had other expectations and other hopes—expectations and hopes destined thus far, I regret to say, to bitter disappointment. Governor Claiborne, of Louisiana, in his first address to the people of the Territory, dated December 20, 1803, (5 Am. State papers, p. 25,) says:

> You may, with equal certainty, rest assured that your commerce will be protected, and your agriculture cherished; in a word, that your true interests will be among the primary objects of national legislation.

It was natural that Governor Claiborne and the people to whom he addressed himself should cherish these hopes. They had good reason to believe that all the phenomena of the great river which had long been the object of international dispute, which had just been the object of international treaty and national acquisition, would be similarly and equally impressed with the national character. It never occurred to them to suppose that, concurrently with the national duties and the national control which were assumed, the equally national obligations would be repudiated or evaded.

Sir, the people of Louisiana, and I include in this the people of the other alluvial States, had no reason then to anticipate this repudiation or this evasion of national obligations, and they have no reason but that which is furnished by a long and sad experience to suspect it now. Is it still maintained that the Government has no power to undertake this great work; that it has no power to expend money for the fulfillment of these obligations, and for the proper administration and execution of the trust implied in the possession, the control, and the use of the river Mississippi? How can such a doctrine be maintained, Mr. President, in face of the constant practice of the Government during many years as to other interests and other objects which if national in their character for the purpose in question are national only by questionable implication? It is the practice of the Government to appropriate every year a sum of money for the support of the Signal Service. This money is appropriated and expended in the collection and dissemination of meteorological information, with incidental reference to the solution of scientific problems, and direct reference to the agricultural and commercial interests of the country. In order that the mariner may be forewarned of the coming storm and that the farmer may anticipate the impending rain, the Government takes on itself the expense of establishing signal stations, of employing observers, of collecting information, and of publishing the results. The benefits are great, it is true; the sum of money expended is small; but it is equally true that the Federal Government does the work, confers the benefit, and pays the money.

Under the power of regulating commerce, or that more elastic clause relating to the general welfare, or that other clause empowering Congress to do what may be necessary to give effect to its constitutional legislation, under one of these grants of power, or all of them, it is indifferent which, it has been the practice of the Government to levy high duties on foreign imports, ostensibly to raise a revenue, but in many cases really to favor certain special interests, call them national interests if you will, sir, to set in motion the looms of Massachusetts and New Hampshire, to develop the mines of Pennsylvania, to enrich the salt-boilers of New York, or to support a host of other industries which it is asserted would not, in default of these indirect bounties, be able to support themselves. This we are told is protection to American industry; and we are likewise told that protection to American industry not only belongs to the Federal Government as a right, but is incumbent on it as a duty. I do not intend to quarrel with these assertions; I shall not attempt to refute them. I do not say that the system is not a good one, nor for the present argument do I utter a word of criticism as to that policy, but I ask whether protection to American industry is not as much implied in the great work which I am advocating as in the system of bounties to the manufacturers of New England and the miners of Pennsylvania?

I ask you, sir, whether the national character of this work, relating as it does to a vast river, the navigable waters of which flow through eighteen States and Territories, is not more plainly discernible than the national character of a system which, as to its constitutionality, can be defended only by doubtful and untrustworthy inferences. Do the tariff laws protect and support industries amounting to hundreds of millions of dollars in capital invested? This may be conceded, sir, although, on the other hand, it may be argued that these industries would be more self-sustaining if freed from the influence and the artificial stimulus of protective legislation; but let it be conceded, and I answer that the application of a uniform and effective system of levees to the river Mississippi would protect interests and industries equally amounting to hundreds of millions of capital invested, industries and interests which cannot protect themselves, but which, without the intervention of this Government, will be forever exposed to ruin, and even annihilation. I have already given, Mr. President, a general statement of the extent and value of the improved lands and the amount and value of the products of those lands in the regions subject to overflow below the mouth of the Arkansas. I shall supplement this by a general view of the vast results which would spring from the adoption and completion of a uniform system of efficient levees from the mouth of the Ohio to the neighborhood of the sea. For this purpose I shall adopt the language of the report of Humphreys and Abbot:

> It may be well to exhibit, in connection with this approximate estimate of the cost of leveeing the alluvial region, the extent and probable value of the lands which, thus protected from overflow, will be rendered available for cultivation. The area of those lands from Cape Girardeau to Red River is 19,450 square miles. It may be assumed that one-half of this area will be rendered cultivable, and as its value per acre may be set down at $25 the total will amount to $150,000,000. The area of the alluvial land under cultivation below the mouth of Red River is not less than 1,000,000 acres, which, at $100 per acre, by no means an extravagant estimate, gives $100,000,000 for the value of the plantations in that section, making a total of $260,000,000 for the land that will be rendered perpetually cultivable by the expenditure of $17,000,000. There is another aspect under which this part of the subject may be presented. The number of acres thus protected is 7,000,000. Each acre of alluvial land will produce one bale of cotton, worth on the average $45. We thus have for the value of the annual product of the alluvial lands $315,000,000. The loss in the Tensas bottom from the flood of 1850 furnishes an

instance of the injuries resulting from inundation. It was estimated that the loss thus occasioned exceeded $5,000,000.

The eminent authors of the report have understated the results because they have omitted from their calculation the waste lands which, by an efficient levee system, would be reclaimed below Red River. These would exceed in area the lands actually improved. Leaving this out of view, however, it will be seen that the effect of this great national work will be to protect an American industry which would very soon amount to an annual product of $315,000,000 and which would sustain itself without bounties, without a constant drain on other interests, and at the cost only of the small annual expense of keeping the levees in repair, by its peculiar, I may say its marvelous, adaptation to the soil and the climate of that region. When we shall have protected this vast industry by fulfilling our national obligations and assuming our national responsibilities; when we shall have fulfilled the just expectations so long disappointed and the reasonable hopes so long delayed; when we shall have done what justice and reason and morality and law alike require that we should do to develop the immense resources of that region too long forgotten and neglected; when we shall have converted this wilderness of waters into arable and cultivated fields and assured prosperity and happiness to the people who inhabit them, then, and not till then, shall we have discharged our duty; then, and not till then, shall we have completed our task and fulfilled the prophecy of Jefferson by extending the blessings of equal laws to all portions of our common country; then, and not till then, shall we have surpassed "the glory that was Greece, the grandeur that was Rome."

I have to apologize to the Senator from Vermont, who has so courteously allowed me a portion of his time, for detaining the Senate so long.

Mr. EDMUNDS. I have certainly listened with a very great deal of pleasure to the Senator from Louisiana.

Mr. EUSTIS. I move that the bill be referred to the Select Committee on the Levees of the Mississippi.

The motion was agreed to.

PRESIDENTIAL ELECTIONS.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The Chair will lay before the Senate the unfinished business, which is the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Mr. WINDOM. I ask the consent of the Senate to take up the West Point appropriation bill.

Mr. EDMUNDS. I hope the Senator will not insist upon that. Senators desire to speak on this bill and it is agreed that it shall be disposed of to-morrow. I hope the Senator will not press a bill which he knows will take time——

Mr. WINDOM. I know it will not take any length of time, and therefore I should like to pass it to-day; it will not take ten minutes.

Mr. EDMUNDS. The ten minutes will be just as good to-morrow afternoon.

Mr. WINDOM. I am afraid I shall not get them to-morrow afternoon.

Mr. EDMUNDS. Yes, you will.

Mr. WINDOM. The session is very short, and therefore I feel like asking the consent of the Senate to consider the bill at this time; and if it is not granted it is not my fault.

Mr. EDMUNDS. You will not lose anything by waiting until to-morrow.

Mr. WINDOM. We have two other bills ready that we want to have acted upon.

Mr. EDMUNDS. They have not been reported.

Mr. WINDOM. They are ready.

Mr. EDMUNDS. They are not ready until they are reported.

Mr. WINDOM. I ask consent of the Senate to take up the bill. If it is objected to of course I shall not press the request.

The PRESIDING OFFICER. The Chair understands that the Senator from Vermont has already objected. Does the Senator from Minnesota move to lay aside the pending and all other orders for the purpose of proceeding to the consideration of the appropriation bill?

Mr. WINDOM. I will not press it against the wish of the Senator from Vermont and others. The Senator from Delaware, [Mr. BAYARD,] I believe, has the floor upon the electoral bill. But I will give notice to the Senate that before the adjournment to-morrow afternoon, after the electoral bill is acted on, I shall ask the Senate to give me a very few moments to consider the West Point appropriation bill.

Mr. ALLISON. I understand the Senator from Delaware does not desire to go on to-day; and why not lay aside this bill informally and take up the appropriation bill?

Mr. EDMUNDS. It may be that somebody else desires to go on. Let us hear what the Senator from Delaware would like.

Mr. ALLISON. He wants to go on to-morrow morning.

Mr. EDMUNDS. Does no other Senator desire to speak this afternoon?

Mr. BAYARD. I suppose that the unfinished business for to-morrow will be the electoral-count bill, and that it will be called up at the expiration of the morning hour.

The PRESIDING OFFICER. The bill will come up at the expiration of the morning hour to-morrow.

Mr. BAYARD. I shall at that time submit a few remarks to the Senate, and shall then have the floor, I presume, for that purpose.

The PRESIDING OFFICER. The Senator from Delaware will have the floor at that time.

Mr. EDMUNDS. I should like to ask if there is any Senator who desires to speak this afternoon upon the bill under consideration, being the electoral bill. If there be none, so that we shall certainly finish it to-morrow, as the unanimous understanding is, then of course I have no objection to my friend from Minnesota going on to-night with his appropriation bill.

The PRESIDING OFFICER. Senators will hear the request made by the Senator from Vermont. If there be any Senator who desires to occupy the floor upon the pending bill, he will be recognized by the Chair.

Mr. WINDOM. There seems to be none, and therefore I ask the Senate to take up the Military Academy appropriation bill, which will not require ten minutes.

Mr. EDMUNDS. The bill under consideration is to be laid aside informally, and to be the unfinished business to-morrow whether we finish the appropriation bill to-day or not.

Mr. WINDOM. Of course.

The PRESIDING OFFICER. That is the understanding of the Senate. The pending measure will be laid aside informally until the bill suggested by the Senator from Minnesota can be taken up and considered; and if that shall not be completed before the adjournment to-day, the electoral bill is to remain the unfinished business and to have precedence to-morrow.

Mr. WADLEIGH. I desire to say that I shall press the consideration of Senate bill No. 300, which is subject only to the electoral bill in charge of the Senator from Vermont.

The PRESIDING OFFICER. Does the Senator from New Hampshire propose to antagonize that bill against the bill which the Senator from Minnesota proposes to have considered?

Mr. WADLEIGH. No, I do not.

USE OF TROOPS.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1492) to amend section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878; which was read the first time.

Mr. PADDOCK. The bill is a very, very short one and a very simple one, and one for the passage of which there is very great urgency. I shall call the attention of the Senate to it in a day or two, and I should be glad to have it read at length. It is very brief.

The bill was read the second time at length, as follows:

Be it enacted, &c., That the provisions of the fifteenth section of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, shall not be construed as applying to nor be enforced against the Army of the United States, or any part thereof, employed in the protection of life and property in the States and Territories subject to Indian incursions.

Mr. PADDOCK. I ask that the bill lie on the table until to-morrow.

Mr. EDMUNDS. You will not get it passed without a reference.

Mr. PADDOCK. Upon the assurance of my distinguished friend from Vermont that the bill will not pass without a reference, I ask that it be referred to the Committee on Military Affairs.

The PRESIDING OFFICER. The bill will be referred to the Committee on Military Affairs.

Mr. PADDOCK. I take occasion now to ask that committee to report the bill at the earliest possible moment.

REORGANIZATION OF THE ARMY.

Mr. BURNSIDE, from the joint committee on the reorganization of the Army, submitted a report accompanied by a bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

The bill was read twice by its title, and the report, with the accompanying papers, was ordered to be printed.

Mr. BURNSIDE. I move that the bill be made a special order for the 8th of January next. It is a very important bill, and a great deal of labor has been expended on it.

Mr. EDMUNDS. It would be in a little worse condition when made a special order than without.

Mr. WINDOM. If the order is not to interfere with appropriation bills I shall not object.

Mr. BURNSIDE. I have no desire to interfere with the appropriation bills.

The PRESIDING OFFICER. The Senator from Rhode Island has moved that the bill reported by the special commission upon the reorganization of the Army be made a special order for January the 8th next.

The motion was agreed to.

JOHN W. CHICKERING.

On motion of Mr. SPENCER, it was

Ordered, That 50 copies of the report on the bill (S. No. 1260) for the relief of John W. Chickering be printed for the use of the Committee on Military Affairs.

MILITARY ACADEMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider

the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

Mr. WINDOM. Before the bill is read let me say that the Committee on Appropriations have added but $2,700 to the bill as it came from the House. One thousand dollars of the addition is for the correction of an error with reference to the amount to be paid two professors. The committee have added $1,200 for a clerk to the treasurer, which I believe the treasurer has had heretofore until within a year or two, and $500 for a safe for the disbursing officer of the academy. These comprise the entire additions to the bill as it passed the House. I ask that the reading may proceed.

The PRESIDING OFFICER. Does the Senator from Minnesota desire that the Senate shall act on the amendments as they are reached in their order?

Mr. WINDOM. I desire to have the amendments acted upon as they are reached in the reading of the bill.

The Secretary proceeded to read the bill, which was reported by the Committee on Appropriations with amendments.

The first amendment was, in line 8, before the word "professors," to strike out "two" and insert "four," and in line 9, before the word "thousand," to strike out "seven" and insert "fourteen;" so as to read:

For pay of four professors, at $3,500 per annum each, $14,000.

The amendment was agreed to.

The Secretary resumed the reading of the bill.

The next amendment was, in line 10, before the word "professors," to strike out "seven" and insert "five;" and in line 11, before the word "thousand," to strike out "twenty-one" and insert "fifteen;" so as to read:

For pay of five professors, at $3,000 per annum each, $15,000.

The amendment was agreed to.

The next amendment was, after line 77, to insert:

For clerk to treasurer, $1,200.

The amendment was agreed to.

The next amendment was, after line 78, to insert:

For safe for disbursing officer's office, $500.

The amendment was agreed to.

The next amendment was, after the word "dollars" in line 140, to strike out the following proviso:

Provided, That hereafter the expenses allowed the Board of Visitors shall be paid as follows: each member of the board shall receive not exceeding five cents per mile for each mile traveled by the most direct route from his residence to West Point, and five cents per mile for each mile from said place to his residence on return, and shall in addition receive $5 per day for expenses during each day of his service at West Point.

So as to make the clause read:

For expenses of the Board of Visitors, including mileage, $3,000.

The amendment was agreed to.

The Secretary resumed and concluded the reading of the bill.

Mr. MAXEY. I move as an amendment to the pending bill in line 107, after the word "dollars" to insert:

Apparatus for illustrating the science of electricity as applied to the useful arts, $3,000.

And in the same line, to strike out "one" and insert "four," so as to make the total $4,600.

In support of the amendment which I have proposed, I send to the Clerk's desk a letter from the professor of chemistry at West Point which I ask to have read. I will state that I have personally known the writer for thirty-six years; that he is thoroughly accomplished, and the recommendation which he makes may be relied upon implicitly by the Senate.

The PRESIDING OFFICER. The letter will be read.

The Secretary read as follows:

WEST POINT, N. Y., *December* 11, 1878.

MY DEAR MAXEY: I see that the Military Academy bill has been sent to the Senate minus the item asked for from here—$3,000 for the electric light, &c., as per the inclosed scrap.

It relates to a subject just now involving, as it will continue to involve, more scientific thought than any other before the world. Every scientific journal and all the newspapers, even, are discussing it. As a matter of expense it will result in real saving when once appropriated for.

Many colleges have the apparatus in question. If the Military Academy is to keep anywhere abreast of modern science in its every-day useful applications, this appropriation is essential.

I would be derelict to my duty if I should fail to make proper efforts in this matter.

Most truly, yours,

H. L. KENDRICK.

Gen. S. B. MAXEY,
United States Senate, Washington, D. C.

Mr. MAXEY. I have only to add to what is so admirably and well said by the professor of chemistry, that the recent applications of electricity are of the utmost importance in my judgment; and if our national institution is to keep abreast with the colleges of the country it is but proper and right that we should commence now to teach the young men at West Point the due uses of electricity, and there is no better time to commence than now. The amount asked for is a mere trifle compared with the importance of the subject, and being recommended as it is by the professor of chemistry I hope that the Senate will agree to the amendment without objection.

Mr. WINDOM rose.

Mr. MAXEY. I should have stated to the chairman of the Committee on Appropriations that I would have laid the amendment before the committee before to-day, but I only received the letter this morning.

Mr. WINDOM. I was about to ask the Senator from Texas if it is estimated for by the Department. Is it estimated for in the regular estimates?

Mr. MAXEY. Yes, I think it was estimated for, but it was not acted upon by the House. The professor believes it to be so important that he desires to call the attention of the Senate to the fact, and his reasons are very accurately and well stated in the letter which has been read.

Mr. WINDOM. If the item is estimated for, I shall make no objection to it.

Mr. DAVIS, of West Virginia. I do not understand what the chairman of the committee says.

Mr. WINDOM. I asked the question, if this was in the regular estimates, and ascertaining that it is, I do not choose to resist it.

Mr. DAVIS, of West Virginia. Do I understand the chairman to say that it is estimated for in the regular estimates?

Mr. WINDOM. It is estimated for.

Mr. DAVIS, of West Virginia. If the chairman of the committee makes no objection to it, I make none.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Texas.

The question being put, the Chair declared that the ayes appeared to prevail.

Mr. BECK called for a division; which resulted—ayes 18, noes 4.

Mr. WINDOM. I call for the yeas and nays.

Mr. BECK. There is such a majority in favor of the amendment that I withdraw the call for a division.

Mr. WINDOM. I withdraw the call for the yeas and nays.

Mr. BECK. Let it go.

The PRESIDING OFFICER. The Chair will put the question again on the adoption of the amendment proposed by the Senator from Texas.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

EXECUTIVE SESSION.

Mr. BECK. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eleven minutes spent in executive session the doors were reopened, and (at four o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 12, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

SALARIES OF GOVERNMENT EMPLOYÉS.

Mr. VANCE, by unanimous consent, presented a memorial and petition of watchmen and laborers in Government Departments, praying to be restored to former salaries; which was referred to the Committee on Appropriations.

He also, by unanimous consent, presented a memorial and petition of attendants in model-room in Patent Office, praying to be restored to former salaries; which was referred to the Committee on Appropriations.

CLASSIFICATION OF MAIL MATTER, ETC.

Mr. GIDDINGS, by unanimous consent, introduced a bill (H. R. No. 5488) relating to the classification of mail matter and rates of postage thereor; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

JOHN STARK.

Mr. SEXTON, by unanimous consent, introduced a bill (H. R. No. 5489) for the relief of John Stark, United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MATTHIAS K. HAINES.

Mr. SEXTON also, by unanimous consent, introduced a bill (H. R. No. 5490) for the relief of Matthias K. Haines, United States steamer Volunteer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM R. BENTLEY.

Mr. BICKNELL, by unanimous consent, introduced a bill (H. R No. 5491) for the relief of William R. Bentley; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ANNA E. HALLOWELL.

Mr. BICKNELL also, by unanimous consent, introduced a bill (H. R. No. 5492) for the relief of Anna E. Hallowell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RENT OF UNITED STATES LAND OFFICES.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 5493) to authorize the Secretary of the Interior to make allowance for rent of United States land offices; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JOSEPH N. LEWIS.

On motion of Mr. COLE, by unanimous consent, the bill (S. No. 308) for the relief of Joseph N. Lewis, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims, not to come back on a motion to reconsider.

JOHN THOMAS.

Mr. BRENTANO, by unanimous consent, introduced a bill (H. R. No. 5494) granting a pension to John Thomas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM W. MORROW.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 5495) granting relief to William W. Morrow; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM PURCELL.

Mr. McMAHON, by unanimous consent, introduced a bill (H. R. No. 5496) for the relief of William Purcell; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

EDWARD WELSH.

Mr. McMAHON also, by unanimous consent, introduced a bill (H. R. No. 5497) for the relief of Edward Welsh; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHANGE OF REFERENCE.

Mr. SCHLEICHER, by unanimous consent, from the Committee on Railways and Canals, reported back the following, which were referred as indicated:

Remonstrance of citizens of California against a further extension of time to the Southern Pacific Railroad—to the Committee on the Pacific Railroad.

Memorial of the Legislature of Wisconsin, asking an extension of time in which to complete the Northern Pacific Railway—to the Committee on the Pacific Railroad.

Remonstrance against limiting the transportation of live stock to a given number of hours, by dealers and shippers of live stock—to the Committee on Agriculture.

A memorial in reference to palace stock-cars—to the Committee on Agriculture.

ANNA BENTON.

Mr. JOYCE, by unanimous consent, introduced a bill (H. R. No. 5498) granting a pension to Anna Benton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPORT OF HEALTH OFFICER OF THE DISTRICT.

Mr. WILLIAMS, of Michigan, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Public Printer be, and is hereby, authorized and directed to print 1,500 extra copies of the report of the health officer of the District of Columbia for the use of said health officer.

UNITED STATES COMMISSIONER JOHN I. DAVENPORT.

Mr. WOOD. I rise to a question of privilege and offer a resolution directing an investigation into the conduct of Mr. Davenport, United States commissioner of New York. That resolution is based upon a petition which I will ask to have read. I offer the resolution as a question of privilege.

The SPEAKER. The resolution will be read and then the Chair will determine whether it is a question of privilege.

The preamble and resolution were read, as follows:

Whereas it is alleged that at the election held in the city of New York on the 5th day of November, 1878, United States Commissioner John I. Davenport, acting as chief supervisor of elections in the second judicial district of New York, was guilty of illegal, unjust, and oppressive exercise of pretended authority in causing the arrest and imprisonment of citizens innocent of offense, by which he deprived them of their rights to vote and subjected them to indignities, insults, and intimidation without warrant of law or justification, which arrests have since been declared illegal in a test case by a judge of the circuit court of the United States; and

Whereas if these allegations are true that officer should be forthwith removed and punished: Therefore,

Resolved, That the Committee on the Judiciary be directed to proceed without delay to an investigation of the conduct of said Davenport at the time aforesaid, with power to sit in the city of New York by subcommittee or otherwise, and that said subcommittee shall have all the authority of the whole committee for said purpose, with power to administer oaths, to send for persons and papers, to sit during the sessions of the House, and to report at any time.

Mr. GARFIELD. I prefer that that resolution should lie over. I think it requires unanimous consent to give the committee leave to report at any time.

The SPEAKER. The gentleman from New York [Mr. WOOD] presented it as a question of privilege.

Mr. GARFIELD. It cannot be a privilege to report at any time.

The SPEAKER. If the resolution has the claimed privilege it will have the same on to-morrow as well as to-day.

Mr. GARFIELD. I hope the gentleman will allow it to be printed, so that we can see the whole scope of it.

The SPEAKER. The Chair would inquire if this officer is confirmed by the Senate?

Mr. GARFIELD. I think not.

Mr. WOOD. He is a clerk of a court and a United States commissioner, clothed with power over elections. Therefore I think it is within the power of this House to make such a statement of his case as will lead to his removal from office. I do not think it at all material whether he is confirmed by the Senate or not.

The SPEAKER. It is a powerful auxiliary fact if he is confirmed by the Senate as to scope of jurisdiction by the House.

Mr. GARFIELD. The officer to whom this resolution refers is not an officer that ever appears for confirmation by the Senate. He is appointed under the statutes by a judge, and is in no sense an officer confirmed by the Senate and therefore impeachable. If this were a proceeding in impeachment, of course it would be a high question of privilege. But as I understand it, it is not a case that comes within the purview of impeachment.

Furthermore this resolution gives the power to report at any time, which power cannot be given except by unanimous consent. I do not wish to raise objection to the consideration of this resolution, but I ask the gentleman to let it be printed so that we may see what it is; and then it may possibly be that there will be no objection to it. I do object, however, that a manuscript resolution shall be adopted here without our having an opportunity to fully understand it.

The SPEAKER. The reason the Chair asked the question whether this officer is one who was confirmed by the Senate was that in all the discussions on this subject in both Houses, so far as the Chair recollects, it has been held that this is an important element in determining the question as to the liability of an officer to impeachment.

Mr. WOOD. I am surprised at the gentleman from Ohio, [Mr. GARFIELD.] On the first day of the session he declared here very broadly that there would be no obstacle interposed by himself or his political friends to any investigation anywhere. Now, sir, we are in favor of investigation everywhere. If there has been any offense against the laws and the Constitution in any portion of the United States which it is within the power of Congress to correct, I hope that no one, especially upon a mere technical question of this character, will interpose the slightest objection.

I present this resolution in consequence of a long petition now in the hands of the Speaker, signed by most reputable citizens of New York, asking for this investigation. I am prepared to back up that petition by very many affidavits, fully sustaining every allegation put forward in this resolution. All that we ask is that this officer's conduct may be investigated; and I am surprised that the gentleman from Ohio should appear to place himself in opposition to such investigation.

Mr. BURCHARD. Will the gentleman from New York yield to me a moment?

Mr. BRIGHT. I would like to ask the gentleman a question.

Mr. WOOD. I will yield to the gentleman.

Mr. BURCHARD. All that has been asked on this side of the House has been that there might be time given to look into this matter.

Mr. BRIGHT. The gentleman from New York yielded to me.

The SPEAKER. The Chair will recognize the gentleman from Tennessee in a moment.

Mr. BURCHARD. All that has been asked on this side of the House is that time be allowed to look into this resolution. The gentleman from Ohio has not opposed the investigation. He asks that the resolution be printed and lie over that it may be examined. It has come suddenly upon the House. There is a question which suggests itself to me in regard to the frame of the resolution. It proposes that power be given to a subcommittee to administer oaths. Now, the law regulates that matter. This House cannot give power to administer oaths. The law provides that the chairman of a committee of this House may do so. This House may make a subcommittee a committee of the House, so that the chairman of the subcommittee will then by law have this power; but as the resolution is now framed it may be objectionable in that view. There may be other objections. We desire that the resolution lie over and be printed in order that it may be examined. Let it come up again to-morrow or at some future time.

Mr. GARFIELD. I want to say a word in reply to what the gentleman from New York [Mr. WOOD] has said. He will see that I not only do not object to investigation, but, as I have frequently said hitherto, I want the largest and fullest investigation, not only into what he now alleges but into every similar allegation. But I do want to see the scope of this resolution before we are called upon to act on it, and I may also want to offer some amendment to it, which I cannot do until I have opportunity to examine the whole paper

Therefore, using my right to make the technical objection, I do make it, unless the gentleman will allow us to have the resolution laid over and printed for examination.

The SPEAKER. The Chair will say to the gentleman from New York that he would himself like the resolution to go over for a day to give the Chair opportunity to examine as to the point raised.

Mr. WOOD. If the Chair will permit me, I will say in reply to the gentleman from Ohio that if he will consent to have the resolution, the petition, and the affidavits which I hold in my hand all printed in the RECORD of to-morrow morning, and will consent to make this question the special order immediately after the reading of the Journal to-morrow, I will consent that the resolution lie over. [Cries of "No!" "No!"]

Mr. GARFIELD. It is not necessary to have all these papers printed.

Mr. WOOD. Unless the proposition I have made be assented to, allowing the question to lie over may be equivalent to indefinite postponement.

The SPEAKER. The Chair thinks not.

Mr. WOOD. What, then, will be the effect?

The SPEAKER. If the resolution possesses the character of a question of privilege to-day it will not lose that character by lying over until to-morrow.

Mr. WOOD. But the gentleman from Ohio proposed to waive his objection.

Mr. GARFIELD. If this is a privileged question, the gentleman can call it up to-morrow morning.

Mr. WOOD. Will you aid me in calling it up to-morrow morning.

Mr. GARFIELD. Certainly I will.

The SPEAKER. The resolution will be again read.

The Clerk again read the resolution.

Mr. WOOD. Now, Mr. Speaker,——

The SPEAKER. The agreement, as the Chair understands, is that the resolution shall lie over. Even if a question of privilege, the question of consideration can be raised.

Mr. CONGER. Is this resolution liable to objection? I ask that it may be read. [Cries of "Too late!"] It cannot be too late. I ask that the resolution be read that I may hear it.

Mr. WOOD. The subject has been discussed by the House; and it is too late to raise any objection.

Mr. CONGER. It is not too late. The point of order, as I understand, has been reserved.

Mr. WOOD. I do not yield to the gentleman from Michigan.

Mr. CONGER. If the gentleman from New York will include all cases of this class, I am perfectly willing the resolution should be adopted.

Mr. WOOD. I do not yield to the gentleman.

The SPEAKER. When the resolution comes up it will be open to amendment, unless the House order the previous question, thereby cutting off amendments.

Mr. CONGER. If the gentleman from New York will not hear me a moment, I object to the resolution.

Mr. WOOD. I desire to know, Mr. Speaker, except on a question of order, who has the floor?

The SPEAKER. Gentlemen to the left of the Chair raised questions of order.

Mr. WOOD. The only point is whether what I have presented is a question of privilege or not.

The SPEAKER. The Chair understood the gentleman from Ohio to claim the right to object if it was not a question of privilege.

Mr. WOOD. I yielded to the gentleman from Ohio; I yielded to the gentleman from Illinois; I yielded to the gentleman from Tennessee; and I now claim the floor within my hour. I deny the right of the gentleman from Michigan to rise unless it may be a question of order.

The SPEAKER. The question of privilege has not been settled.

Mr. WOOD. It is a question of privilege.

The SPEAKER. The Chair has not decided that it was a question of privilege.

Mr. CONGER. I object to the consideration of the resolution.

The SPEAKER. The proposition, when it comes up, will be open to amendment, subject to previous question.

Mr. BURCHARD. The gentleman from Ohio has not withdrawn the point of order and the objection he makes. That objection is still pending.

The SPEAKER. The Chair understood the gentleman from Ohio to agree to withdraw his objection if the resolution were allowed to lie over.

Mr. GARFIELD. That is, if it were a question of privilege. [Laughter.]

Mr. CONGER. I object to the gentleman from Ohio doing that.

The SPEAKER. That is a mode of running in and out that the Chair does not comprehend.

Mr. GARFIELD. If it is not a question of privilege it cannot be heard without unanimous consent. I ask that it be printed and go over, so we may see it.

Mr. BURCHARD. The point of order is still pending.

Mr. GARFIELD. The point I made was this: that it was not a question of privilege in the first place, because the officer named is not an impeachable officer, and therefore this is not a proceeding in impeachment, and cannot be; and in the second place, that the resolution empowers the committee to report at any time, which cannot be done without either unanimous consent or a two-third vote. I raised both those points, but I said to the gentleman from New York that if he would let this be printed, so we might see its scope, it might be there would be no objection to it; that we wanted to look at it; but if he persisted in going on with it now we should insist on our point of order, that it is not a question of privilege, nor can it be.

Mr. WOOD. In reply to that, I will agree with the gentleman from Ohio, provided that in the RECORD to-morrow the resolution and petition and affidavits sustaining the petition shall be printed. [Cries of "No!" "No!"]

The SPEAKER. The Chair understood that assent was given to what the gentleman from New York has just asked, with the exception of the affidavits.

Mr. GARFIELD. Yes, sir; I do not object to the printing of the petition.

Mr. CONGER. Mr. Speaker, no gentleman can give away the rights of other members on this floor by assenting to anything.

The SPEAKER. The Chair will not allow any gentleman to be deprived of any right. It has not yet been decided whether this is a question of privilege or not, and the Chair himself would prefer to have it lie over until to-morrow so he can examine the subject. He does not wish to make any hasty decision.

Mr. GARFIELD. That is right.

The SPEAKER. There is no doubt it would be an impeachable offense against the man who appointed this officer, in the opinion of the Chair, and in that case would be a question of privilege; but whether it goes further than that is a question the Chair would prefer to look into with care and thoroughness.

Mr. THOMPSON. How would you impeach him?

The SPEAKER. This is a question which the Chair desires to examine. As the Chair has before stated, it is the right of any member to raise the question of consideration. It was so decided in the Peck case, and there was a similar decision in the Humphreys case, and the decisions, as the Chair understands, are all in harmony with said authorities.

Mr. CONGER. My objection to the introduction of the resolution goes over with the subject?

The SPEAKER. The Chair so understands the purpose of the gentleman from Michigan.

Mr. CONGER. Then if it holds its place——

Mr. WOOD. As I understand, the subject goes over until to-morrow morning.

The SPEAKER. The Chair so desires, as he wants to examine the subject thoroughly, whether privileged or not.

Mr. CONGER. I understand that nothing but the resolution goes into the RECORD.

The SPEAKER. The resolution and petition, but not the affidavits.

Mr. CONGER. The petition must go to the petition-box?

The SPEAKER. The Chair thinks the petition was read.

Mr. CONGER. I understand not.

The SPEAKER. The Chair is in error. It was not read, but the agreement seemed to be that the resolution and petition should be published in the RECORD.

Mr. CONGER. Then I say no agreement can bind members on this floor who are not parties to it, and I object to the introduction of that resolution.

The SPEAKER. The resolution will go over, and the Chair will be ready to decide to-morrow morning whether it presents a question of privilege or not. If it is not a question of privilege the gentleman will have the right to object. If it is a question of privilege he is not harmed in his rights in any way by the resolution going over.

Mr. CONGER. Then I object to the printing of the petition.

Mr. WOOD. I desire to report back from the Committee of Ways and Means the resolution fixing the day for adjournment over the holidays.

Mr. CONGER. The Chair has not yet decided whether the petition will be printed.

The SPEAKER. The petition will not be printed because objected to by the gentleman from Michigan.

Mr. WOOD. Does the gentleman from Michigan, on behalf of his friends, object to printing the petition?

The SPEAKER. He does for himself.

Mr. WOOD. I want the world to know it, that these gentlemen do not want investigation.

Mr. McCOOK rose.

The SPEAKER. The subject is not before the House.

Mr. McCOOK. I want to reply to my colleague, [Mr. WOOD.]

The SPEAKER. The gentleman will have an opportunity hereafter.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. WOOD. I report back from the Committee of Ways and Means the concurrent resolution referred to that committee fixing the day for the holiday adjournment, with an amendment.

The resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring.) That when the House adjourns on Saturday, the 21st instant, it stand adjourned until Monday, January 6, 1879.

The amendment of the committee was as follows:

Strike out "Saturday the 21st" and insert "Thursday the 19th;" also strike out "Monday, January 6," and insert "Wednesday, January 8;" so that the resolution will read:

Resolved by the House of Representatives, (the Senate concurring,) That when the House adjourns on Thursday, the 19th instant, it stand adjourned until Wednesday, January 8, 1879.

Mr. WOOD. I demand the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The question is first on the amendment recommended by the committee.

Mr. TOWNSHEND, of Illinois, Mr. SPRINGER, and Mr. HARTRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 110, nays 136, not voting 45; as follows:

YEAS—110.

Acklen,	Eickhoff,	Lathrop,	Sayler,
Bagley,	Ellsworth,	Lindsey,	Sexton,
Bailey,	Evans, I. Newton	Mayham,	Shallenberger,
Baker, John H.	Finley,	McCook,	Sinnickson,
Baker, William H.	Foster,	McGowan,	Smalls,
Ballou,	Freeman,	McMahon,	Smith, A. Herr
Banning,	Frye,	Metcalfe,	Southard,
Bayne,	Gardner,	Mitchell,	Sparks,
Benedict,	Garfield,	Morrison,	Starin,
Blair,	Garth,	Morse,	Stenger,
Brentano,	Gibson,	Norcross,	Stewart,
Brewer,	Hanna,	Oliver,	Stone, John W.
Bridges,	Hardenbergh,	Overton,	Strait,
Briggs,	Harris, Benj. W.	Patterson, G. W.	Thornburgh,
Burchard,	Hart,	Phelps,	Townsend, M. I.
Burdick,	Hayes,	Pollard,	Wait,
Calkins,	Herbert,	Potter,	Ward,
Camp,	Hiscock,	Powers,	Warner,
Candler,	Hubbell,	Price,	Watson,
Chittenden,	Hungerford,	Rainey,	Williams, Andrew
Cole,	Ittner,	Reed,	Williams, James
Danford,	James,	Reilly,	Williams, Jere N.
Dean,	Jones, Frank	Rice, William W.	Willis, Benj. A.
Deering,	Jones, John S.	Robbins,	Willits,
Denison,	Jorgensen,	Robertson,	Wood,
Dickey,	Kelley,	Robinson, G. D.	Young.
Eames,	Knott,	Ross,	
Eden,	Landers,	Sampson,	

NAYS—136.

Albert,	Cummings,	Hewitt, G. W.	Reagan,
Aldrich,	Cutler,	Hooker,	Rice, Americus V.
Atkins,	Davis, Horace	Hunter,	Riddle,
Bacon,	Davis, Joseph J.	Hunton,	Ryan,
Bell,	Dibrell,	Humphrey,	Sapp,
Bicknell,	Dunnell,	Jones, James T.	Scales,
Blackburn,	Durham,	Joyce,	Schleicher,
Bliss,	Elam,	Keifer,	Shelley,
Blount,	Ellis,	Keightley,	Singleton,
Boone,	Errett,	Kenna,	Siemons,
Bouck,	Evans, James L.	Ketcham,	Springer,
Boyd,	Evins, John H.	Lapham,	Steele,
Bright,	Felton,	Ligon,	Stone, Joseph C.
Bragden,	Forney,	Luttrell,	Thompson,
Browne,	Franklin,	Mackey,	Throckmorton,
Buckner,	Fuller,	Maish,	Tipton,
Bundy,	Gause,	Manning,	Townsend, Amos
Cabell,	Giddings,	Marsh,	Townshend, R. W.
Cain,	Goode,	Martin,	Tucker,
Caldwell, John W.	Gunter,	McKenzie,	Turney,
Caldwell, W. P.	Hamilton,	McKinley,	Vance,
Campbell,	Harmer,	Mills,	Van Vorhes,
Cannon,	Harris, Henry R.	Money,	Waddell,
Caswell,	Harris, John T.	Monroe,	Walker,
Claflin,	Harrison,	Morgan,	White, Michael D.
Clark of Missouri,	Hartridge,	Muldrow,	Whitthorne,
Clarke of Kentucky,	Hartzell,	Muller,	Wigginton,
Clark, Rush	Haskell,	Neal,	Williams, C. G.
Clymer,	Hatcher,	Page,	Williams, Richard
Cobb,	Hazelton,	Patterson, T. M.	Willis, Albert S.
Conger,	Henderson,	Phillips,	Wilson,
Cox, Jacob D.	Henkle,	Pound,	Wren,
Cravens,	Henry,	Randolph,	Wright,
Crittenden,	Hewitt, Abram S.	Rea,	Yeates.

NOT VOTING—45.

Banks,	Cox, Samuel S.	Killinger,	Robinson, M. S.
Beebe,	Crapo,	Kimmel,	Smith, William E.
Bisbee,	Culberson,	Knapp,	Stephens,
Bland,	Davidson,	Lockwood,	Swann,
Bragg,	Douglas,	Loring,	Turner,
Butler,	Dwight,	Lynde,	Veeder,
Carlisle,	Ewing,	Majors,	Walsh,
Chalmers,	Fort,	O'Neill,	White, Harry
Clark, Alvah A.	Glover,	Peddie,	Williams, A. S.
Collins,	Hale,	Pridemore,	
Cook,	Hendee,	Pugh,	
Covert,	House,	Roberts,	

So the amendment was not agreed to.

Mr. KNOTT. Would it be in order to move to amend the resolution by striking out Saturday, the 21st instant, and inserting Friday, the 20th?

The SPEAKER. The main question is operating. Such an amendment could be admitted by unanimous consent.

Mr. THOMPSON. I object.

The SPEAKER. The amendment could be reached by a motion to reconsider the vote by which the main question was ordered.

Mr. WOOD. If the House will permit me I desire to say that for many years the public business at this period of the session has not been in such a state of forwardness as now. Already four appropriation bills have been passed, and probably before to-morrow night there will be two more, making six appropriation bills passed before the vacation. Under the circumstances I think the public business will not suffer by agreeing to the amendment suggested by the gentleman from Kentucky.

Mr. GARFIELD. I move to reconsider the vote by which the main question was ordered.

Mr. THOMPSON. I withdraw my objection to the gentleman from Kentucky being permitted to offer his amendment.

The question being taken on Mr. KNOTT's amendment to strike out "Saturday, the 21st," and insert "Friday, the 20th," there were—ayes 121, noes 58.

So the amendment was agreed to.

The question recurred on the adoption of the resolution as amended.

Mr. STEELE. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered, only twenty-five members voting therefor.

The resolution, as amended, was agreed to.

Mr. WOOD moved to reconsider the vote by which the resolution, as amended, was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADMISSION TO THE FLOOR.

The SPEAKER. The Chair desires to ask permission of the House to bring upon the floor Hon. Thomas White, a member of the House of Commons of the Canadian Parliament.

There was no objection.

GENEVA AWARD.

The House resumed the consideration of the regular order, being the bill (H. R. No. 4553) to provide for the further distribution of the moneys under the Geneva award.

Mr. WILLIS, of New York. Mr. Speaker, not in the records of American legislation can there be found a question more grave and interesting and whose determination will be more potential in results than that presented by the majority and minority reports of the Judiciary Committee touching the disposition of the Geneva award. Unhappily, it is not a novel question. It has already been discussed in three Congresses, and the result hitherto reached has not been creditable to the American name.

For the first time, we now have a proposition that this whole question, all differences of opinion being held in abeyance, shall be submitted to a judicial tribunal, to be determined there according to the principles of equity, justice, and the law of nations. To rightly comprehend this question it is necessary to briefly state some of the facts out of which arose the controversy culminating in the treaty of Washington. It is well known that during our recent struggle for the preservation of the American Union the attitude of Great Britain was unfriendly; that the English government hastened to recognize the so-called Confederate States as a belligerent power; that aid and comfort were furnished to the confederacy; cruisers were built in English ship-yards and coaled in English harbors which committed depredations upon American commerce, sweeping away, as with a whirlwind, well-nigh the whole carrying trade of this country and subjecting our whole nation to incalculable loss—loss growing out of the prolongation of the war and the additional cost to which the people in consequence were subjected.

Pending that unparalleled struggle for existence our Government contented itself by simply presenting the claims of our citizens. While it asserted our rights violated, while it complained of the wrongs perpetrated, no effective efforts were made to secure the enforcement of the former or the redress of the latter.

When the war was ended, however, negotiations were at once instituted. While the American Government had forborne to do anything whereby England could be called to a rigid accountability for her conduct, there was nevertheless in the American mind a feeling of intense resentment. Animosities had been kindled between England and the United States. Bitter controversy raged for a series of years. But happily for the civilization of the nineteenth century, instead of having recourse to arms the intelligence and Christianity of these two great nations gained ascendency, and resort was had to the treaty-making power.

We had first the Johnson-Clarendon treaty, then the Johnson-Stanley treaty; and finally, these being rejected, a high joint commission, which assembled in this city in the spring of 1871 and whose proceedings culminated in that grandest achievement in the annals of diplomacy, the treaty of Washington. This adjustment was entirely satisfactory to the American people. The treaty embraced a declaration of regret on the part of Great Britain for wrongs committed, and also provided a mode whereby our claims against her could be definitely adjusted and paid.

That the House may understand the character of this treaty, in so far as those rules and conditions are concerned which affect this award, I will read an extract from the first article of the treaty of Washington found in Geneva Arbitration, volume 1, page 12:

Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty, and still exist, growing out of the

acts committed by the several vessels which have given rise to the claims generically known as the "Alabama claims;" and

Whereas Her Britannic Majesty has authorized her high commissioners and plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty's government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims which are not admitted by Her Britannic Majesty's government, the high contracting parties agree that all the said claims growing out of acts committed by the aforesaid vessels, and generically known as the Alabama claims, shall be referred to a tribunal of arbitration to be composed of five arbitrators, &c.

This article indicates the origin of the claims. I will now read from article 6 of the same treaty, where will be found the rules by which a neutral government is bound:

ARTICLE VI.

A neutral government is bound—

First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms or the recruitment of men.

Thirdly. To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

The next article which contains matter germane to this subject is

ARTICLE XI.

The high contracting parties engage to consider the result of the proceedings of the tribunal of arbitration and of the board of assessors, should such board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to, and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal or board, shall, from and after the conclusion of the proceedings of the tribunal or board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

Such is the character of the treaty and such are the rules by which the tribunal was bound in deciding upon its award. Now, what were the claims submitted to the tribunal by virtue of that treaty? On this subject we have information that is entirely accurate, found in the award itself, as will appear by reference to volume 1 of Papers relating to the Treaty of Washington, page 185:

1. The claims for direct losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers.
2. The national expenditures in pursuit of those cruisers.
3. The loss in the transfer of the American commercial marine to the British flag.
4. The enhanced payments of insurance.
5. The prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion.

All of them were eloquently and learnedly urged by the American counsel. But, at the very outset, Great Britain strenuously objected to the consideration of what was known as the indirect claims. Negotiations were suspended. Communications were opened with the Government at Washington, and the government at London. Pending these communications, while awaiting an answer from these respective governments, the tribunal made a declaration that—

After the most careful perusal of all that had been urged on the part of the United States in respect to these claims they had arrived, individually and collectively, at the conclusion that these claims did not constitute, upon principles of international law applicable to such cases, good foundation for an award of compensation, or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there was no disagreement between the two governments as to the competency of the tribunal to decide thereon. (Correspondence respecting Geneva arbitration, p. 152.)

The United States agent upon this declaration being made forwarded it to the Government at Washington; and what was the result? The agent received instructions from Secretary Fish that the determination was entirely acceptable to the Government of the United States; that—

The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and, third, the prolongation of the war and the suppression of the rebellion is accepted by the President of the United States as determinative of their judgment upon the important questions of public law involved. The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made. (Protocol vi, p. 21, vol. 4, Geneva Arbitration.)

It will be seen that both governments acquiesced in this determination. Gentlemen will mark that these claims were then absolutely excluded from consideration by the tribunal at Geneva; in other words, they were in express terms withdrawn, and therefore could not have entered into any adjustment or any award thereafter made by the arbitrators.

It will also be found by reference to the award that subsequently, to wit, on the 27th of August, 1872, another class of claims were rejected, those called national expenditures in pursuit of cruisers. (See Papers, vol. 4, Treaty of Washington, page 43.)

Now, what did this action involve? Why, a complete rejection of four out of the five classes of claims, so that the only claims to be considered by the tribunal at Geneva were those for direct losses growing out of the destruction of vessels and their cargoes by insurgent cruisers. These depredations were committed by a number of armed cruisers, eighteen in all, namely: Alabama, Florida, Shenandoah, Tuscaloosa, Clarence, Tacony, Archer, Retribution, Georgia, Sumter, Nashville, Tallahassee, Chickamauga, Sallie, Jefferson Davis, Music, Boston, and V. H. Joy.

Now, then, by reference to the treaty, article 7, it will be seen that it was the duty of these arbitrators to pursue each claim separately, to ascertain which particular vessel committed the depredations and which particular vessels were inculpated, if any, and as to which particular vessel England had been guilty of negligence and of a violation of her neutral duties.

Every step taken by these arbitrators, what the votes of the arbitrators were as to each vessel, will appear by reference to the award and decision published in volume 4, Treaty of Washington, page 49, *et sequitur*. Each particular claim was scrutinized with the utmost care, and it was finally decided by a vote of the arbitrators that the only vessels which were inculpated were the Florida, the Alabama, and their tenders, and the Shenandoah after leaving Melbourne.

So here we have the scope of duty decided upon by the tribunal. We have ascertained its precise jurisdiction; and that is, to determine the amount of damages sustained by American citizens by reason of the acts of the inculpated steamers, the Alabama, the Florida, and the Shenandoah after leaving Melbourne. All other claims have been carefully and positively excluded—not only decided upon adversely, but excluded from all consideration. Not only is it a fact that these claims had been absolutely excluded, but it was a determination at which the United States Government rejoiced; it was a determination that yielded unequaled advantages to this country as a neutral power.

In confirmation of the statement I have just made, I read from volume 2, Geneva Arbitration, pages 475 and 476. They are extracts from a letter written by Mr. Secretary Fish to General Schenck, then our minister, on the 23d of April, 1872, referring to the exclusion of the claims I have mentioned:

Neither the Government of the United States nor, so far as I can judge, any considerable number of the American people have ever attached much importance to these so-called indirect claims or have ever expected or desired any award of damages on their account.

Further:

In the correspondence I have gone as far as prudence would allow in intimating that we neither desired nor expected any pecuniary award, and that we should be content with an award that a state is not liable in pecuniary damages for the indirect results of a failure to observe its neutral obligations.

It is not the interest of a country situate as are the United States, with their large extent of sea-coast, a small Navy, and a smaller internal police, to have it established that a nation is liable in damages for the indirect, remote, or consequential results of a failure to observe its neutral duties. This Government expects to be in the future, as it has been in the past, a neutral much more of the time than a belligerent.

It is strange that the British government does not see that the interests of this Government do not lead them to expect or to desire a judgment on the "indirect claims," and that they fail to do justice to the sincerity of purpose, in the interests of the future harmony of the two nations, which has led the United States to lay those claims before the tribunal at Geneva.

And from what has already been said it will be clearly understood this nation expected no damages except those which have arisen from the depredations committed by the particular vessels found inculpated. Those damages necessarily belonged to these two parties, either to the owners of those vessels and cargoes, or to those who succeeded to their rights by operation of law, assignment, or otherwise. The Government holds the money as a trustee.

What did the Government do in the first instance, and which merely manifested its purpose to act in behalf of claimants whose rights I shall here urge? Citizens were invited to hand in their claims. Many had already been presented to the Government at Washington as early as 1872. They were forwarded by the Government at Washington to the government in England, and were there presented—claims from owners of those vessels and cargoes as well as from those who were subrogated to the rights of their owners—the underwriters. After the treaty had been signed, a further invitation was given to all citizens, in these words, dated September 22, 1875:

Citizens of the United States having claims against foreign governments not founded on contract, which may have originated since the 8th of February, 1853, will, without any delay which can be avoided, forward to this Department statement of same under oath, accompanied by the proper proof.

The *modus operandi* of presenting the claim, the voucher for the claim, are all set forth in the letter.

Another invitation was also issued bearing date, Washington, September 8, 1871. So it will be seen from the outset the Government was intent upon performing its duty with reference to the rights of certain citizens who had suffered by the depredations of confederate cruisers.

The Government, then, necessarily holds this award in trust. Its claims, so far as we suffered as a nation, were specifically disallowed, and we have the declaration of a Secretary of State to the effect our Government did not in reality desire any pecuniary award.

I would also call the attention of the House to the letter written by Hon. Caleb Cushing, one of our most distinguished jurists, and our counsel before the tribunal, bearing date October 17, 1872, just about the time the award was made and signed by the arbitrators:

The tribunal examined and scrutinized the estimates of the individual losses presented by the United States, and on the inspection thereof awarded a sum in gross which they believed to be sufficient, and which I think is sufficient to accord a just indemnity to injured citizens of the United States. This gross sum will within a year be paid by Great Britain to the United States with interest on any

delay. It will be received and held by the United States as a trust fund to be distributed among parties interested, conformably to the tenor and spirit of the award of the tribunal, and the Government will be bound to make such distribution promptly and justly by the moral force of its duty of good faith to England and its obligations to fulfill the stipulations of the treaty of Washington.

Gentlemen have sneered at the idea that our Government could act as a trustee for these corporations. Why, sir, the Government never could act in a capacity so exalted as when it seeks the redress of wrongs which have been perpetrated on its citizens by a foreign government. And I am happy to say the odious doctrine that this money belongs to the Government of the United States is no longer urged by any committee in this House. I am happy to say even the minority report argues this money shall not be kept in the Treasury of the United States where there is so much more now than belongs to the Government. I rejoice also that in a former discussion on this subject the honorable gentleman from Maine, [Mr. FRYE,] who advocates so eloquently and so zealously a certain character of claims which were rejected by the tribunal of Geneva, denounces the act of covering this fund into the United States Treasury as nothing but the vilest piracy.

TO WHOM SHOULD THE MONEY BE PAID.

Now, Mr. Speaker, it is conceded that if the money does not belong to the United States Government it must be held in trust for certain citizens of the United States for the payment of certain claims. It has been argued at great length hitherto, it is argued in the minority report, that for as much as this sum was paid to the United States in gross, therefore our Government is subject to no limitations so far as the disposal of that fund is concerned. Why, sir, nothing could be more mistaken, nothing can be further from the truth. The following instruction was given our counsel by Secretary Fish:

The declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payments of insurance; and, third, the prolongation of the war and the suppression of the rebellion is accepted by the President of the United States as determinative of their judgment upon the important questions of public law involved. The agent of the United States is authorized to say that, consequently, the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made. (Protocol vi, page 21, volume 4, Geneva Arbitration.)

Mr. Secretary Fish, when he insists that our commissioners shall make no committal as to the method of distribution, asserts nothing, decides nothing, and if he did, it would be an impertinence beyond his province and authority so to do, and hence of no effect.

But we have abundant evidence as to the reason why this sum was paid to the United States in gross. It will appear by reference to the American argument and also by reference to the award of the tribunal at Geneva. I refer to volume 1, page 189:

The American counsel earnestly hope the tribunal will exercise the power conferred upon it to award a sum in gross to be paid by Great Britain for injuries which the United States complain were committed many years since.

The original wrongs to the sufferers by the acts of the insurgent cruisers have been increased by the delay of making the reparation, and it will be unjust to impose further delay and the expense of presenting claims to another tribunal if the evidence which the United States have the honor to present for the consideration of these arbitrators shall prove to be sufficient to enable them to determine what sum in gross would be a just compensation to the United States for the injuries and losses of which they complain.

Now, Mr. Speaker, these are the reasons indicated which controlled the action of the tribunal at Geneva in arriving at the determination to make a payment of this sum in gross: for the convenience of suitors, to save the suitors from further expense, delay, and loss, and, furthermore, to exhibit toward the United States a generous trust and confidence that under its auspices the execution of the trust would be faithful and honest. Such are the reasons, the official reasons, why this money was paid in a gross sum. Why, sir, the idea that this payment in gross relieves the United States of any obligation with reference to the distribution of this fund is too preposterous to admit of argument. You will remember that the treaty itself provided that a board of assessors should be appointed, whose duty would have been to make provision for the payment of these claims after the tribunal had concluded its duties—a board of assessors appointed respectively by the Emperor of Brazil, by the King of Italy, by the President of the Swiss Confederation, by the President of the United States, and by the Queen of Great Britain. Does any one suppose that this board of assessors, had they been called upon to act, would have ignored the rules and limitations which had been prescribed by the treaty itself, by the tribunal which had provided for their appointment and given them their warrant of authority? Why, the idea is too ludicrous for serious consideration.

The fact that this payment was made in gross does not, as a matter of course, change the great underlying principle of this treaty. It does not in any wise affect the rights which grew out of that award and decision. The United States are in honor bound by the same rules and subject to the same conditions as though assessors had been appointed. Now, Mr. Speaker, it is conclusively established that this money is held by the United States as a trustee. Who, then, are the *cestui que trusts?* The parties whose claims were specifically allowed or the parties whose claims were specifically disallowed? That is the question presented by the two reports. These moneys rightfully belong to the owners of those vessels and cargoes which were destroyed by the inculpated steamers which are included in the statement of claims upon which the award itself was predicated, and which I shall append to my remarks. By reference to that table you can find the exact number of vessels that were destroyed, the value of each vessel, and each cargo; and the aggregate will indicate what, together with interest, constitutes the measure of damages agreed upon and the award made by the Geneva tribunal. The rights of the owners of these vessels and cargoes have been recognized in the determination already had and the payments already made. They have already received their moneys, and now I desire to find that man who has wisdom and acuteness in sufficient measure to distinguish between the rights of those men who owned those vessels and the men who by virtue of subrogation succeeded to them in their rights. Who can distinguish between the rights of the assignor and those of the assignee? I have read many arguments in the several debates held in different Congresses, and I have not yet found a plausible reason assigned why the underwriters should be denied the payment of their claims.

The decisions on this subject in England and in this country alike constitute an unbroken array. I will cite Gracie *vs.* New York Insurance Company, (8 Johnston Reports, 237,) in which Chief-Justice Kent says:

If France should at any future period agree to and actually make compensation for the capture and condemnation in question, the Government of the United States, to whom the compensation would in the first instance be payable, would become trustee for the party having the equitable title to the reimbursement; and this would clearly be the defendants (who are the insurers) if they should pay the amount.

I cite next Comegys *vs.* Vasse (1 Peters United States Reports, 193,) a case precisely similar so far as the principles of it are concerned, a case of marine insurance where a loss was paid to the owners of the vessel, and the character of the defendant's ownership (he being an underwriter) was decided. Chief-Justice Story says:

The law gives to the act of abandonment to underwriters, when accepted, all the effects which the most accurately drawn assignment would accomplish. The underwriter then stands in the place of the assured, and becomes legally entitled to all that can be recovered from destruction. It is clear that the right to compensation for damages and injuries to which citizens of the United States were entitled, and which, under the treaty with Spain, were to be subjects of compensation, passed by abandonment to the underwriters upon property which had been seized or captured.

Then, again, I quote from an argument made by Daniel Webster before the Supreme Court, in which he said, in reference to this very principle:

There is no more universal maxim of law and justice throughout the civilized and commercial world than that an underwriter who has paid a loss on ship or merchandise to the owner is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property or its proceeds be afterward recovered in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims on the ground that many of them belong to insurance companies or other underwriters is at war with the first principles of justice.—*Webster's Works*, volume 4, page 156.

Such authorities are certainly beyond the reach of assault; the doctrine they enunciate has never been contradicted in any court, and has never been questioned, to my knowledge, save in this House.

I present also the following authorities in support of my position on this question: Rhinelander *vs.* Ins. Co. of Pennsylvania, 4, Cranch, U. S., 29; Symmonds *vs.* Union Ins. Co., 4, Dallas Rep. 417; Hall & Long *vs.* Railroad Companies, 13 Wallace, 367; Randall *vs.* Cochran, 1 Vesey, sr., 98; Quebec Fire Ins. Co. *vs.* Saint Louis, 7 Moore, P. C., 286.

Further, Mr. Speaker, this doctrine was also admitted in the British case presented before the tribunal, as the following extract shows:

COUNTER-CASE OF GREAT BRITAIN.

The American insurance companies, who have paid the owners as for a total loss, are, in our opinion, entitled to be subrogated to the rights of the latter, according to the well-known principle that an underwriter who has paid, as for a total loss, acquires the rights of the assured in respect to the subject-matter of insurance. This principle was explained and acted on in the well-known English cases of Randall *vs.* Cochran (1 Vesey, sr., 98,) and The Quebec Fire Insurance Company *vs.* Saint Louis (7 Moore, P. C., 286,) and is well recognized by the courts of America.

On the other hand, it is equally clear that the underwriters cannot be entitled to anything more than the assured themselves; for the claim of the former is founded on nothing else than their title to be subrogated to the rights which the latter possessed, and which therefore cannot possibly be more extensive than the claim which the latter would be entitled to maintain.

From these considerations two consequences follow: in the first place, where the claimant is the insurance company and not the owners, compensation cannot be due for any sum exceeding the amount of the actual loss sustained by the owner, however much that sum may fall short of the amount paid by the company by reason of the property having been overinsured. In the second place, wherever the owner puts forward a claim for his loss at the same time that the insurance company also claims the money paid by them in respect to the same loss, such a double claim must at once be absolutely rejected, since to allow it would be in effect to sanction the payment of the loss twice over.

Sir Roundell Palmer especially declared that the underwriters had claims which their government was bound to respect and to which they were justly entitled. Now it is established—

First. That the government is a trustee.

Second. That these underwriters are among its *cestuy que trusts*.

Third. That an absolute right has arisen in favor of these insurance companies, which it is not in the power of Congress to divert or divest them of without grossly violating the fundamental law.

And what, pray, is urged against the enforcement of these rights? Why are insurance companies to be condemned as enemies to society, as foes to the well-being of our people? Why, sir, were it not for these marine insurance companies, were it not for their immense cap

ital, for the sagacity and wisdom exemplified in their management, what little commerce remained to us at the termination of the war would have been swept from the seas.

It occurs to me that where the absolute right exists, where damages have been conclusively proven, where it has been ascertained that these underwriters are *cestuy que trusts*, it is impertinent for any gentleman on this floor or elsewhere to discuss what their profits were. The question is not what they lost by their general business, which included risks inland on the lakes and on the rivers and along our coasts as well as those war premiums on account of which claims are here instituted and urged. The question is what the insurance companies lost by these particular depredations for which England was culpable and therefore responsible. That is the question, a legal proposition which gentlemen cannot shun.

Nobody will dispute this. If these particular eighty-nine vessels which were insured and which were destroyed by the inculpated steamers, the Alabama, the Florida, and the Shenandoah, had not been wrongfully destroyed by British negligence, by British violations of neutral rights and duties, then the moneys paid out for losses by insurance companies would have remained in the coffers of their companies. That particular amount of money, I say, is a distinct loss, absolutely proven, and belongs to the underwriters. And if the losses had not occurred and been paid in manner stated, no award of damages could have been made. What was the contract between the insured and the insurer? The insurer said to the assured: If I indemnify you, if I pay your loss, then I insist that it is not only in consideration of the premium, but also in consideration of what is known in legal parlance as the *spes recuperandi*—the hope of recovery.

Now, the insurance companies in pursuance of this contract paid these losses, and they insist upon the observance of the contract on the part of the insured or the party who represents the insured. In other words, they insist that this assignment shall be made good and respected by this House as it was by the tribunal at Geneva. And when the man who paid these enhanced premiums comes into this Congress or before the high court appointed for the distribution of this fund and insists that his contract with the underwriter shall be set aside and that he shall have these moneys which have been paid especially for the indemnity of the underwriter, then he insists upon an infamy which, if the views of the minority are crystallized into a statute, this Congress will countenance and applaud.

Gentlemen who declaim so brilliantly and vehemently about the gorged insurance companies that became so immensely wealthy, not because they violated any law, not because they pursued a course contrary to public policy, but simply because their affairs were managed with sagacity and discretion—I say the gentlemen who declaim against them are repeating simply the argument of the British counsel. Refer to the British case and there will be found everything that is venomous, everything that is slanderous which has been said in reference to the insurers in this House.

If the insurance companies did make large profits, if the insurance companies despite their losses did become gorged, that is not a matter of complaint by the American Congress. It belongs rather to England, who paid over the money that these insurance companies might be indemnified, to make the complaint. They are paid with English—not American—money. I will not say that gentlemen who represent the minority view are guilty of plagiarism when they repeat the same "stale, flat, and unprofitable" arguments against the insurance companies. But it is a coincidence most startling when those arguments are reproduced in shape, substance, and spirit precisely the same.

And the minority report goes still further, and in their assault upon the rights of the underwriter they borrow quotations from the London Times. It has come to this, that American legislators in the exercise of their sworn duties are to be controlled by the opinions of English counsel and English newspapers, and that, too, in a case already adjudicated adversely to England.

Here is an absolute right of which the underwriter cannot properly, cannot legally or constitutionally, be deprived. I say again, if anybody has a right to complain against the claims of the insurance companies it is England, the owner of the money, and not the United States, who holds it in trust for a specific purpose.

Sir, if these gentlemen opposed to claims of underwriters are honest, if they do really admire that proverb "that a false balance is an abomination to the Lord," then let them return this money to Great Britain. If we wrongfully secured it on the ground that the insurance companies were entitled to it when in fact they were not, then the money should be paid back into the English exchequer. That is honesty; that is what we have a right to expect from the champions of equity and justice.

But they do nothing, they propose nothing, of this character. They rather insist that the United States having secured this money by introducing certain character of proof, having obtained the money by using these tables furnished by underwriters, they will pay it to whomsoever they like; they will even pay it to the claimants of enhanced premiums of insurance and to those who suffered damage by the exculpated cruisers. In other words, they will pay claims which the United States positively agreed in that high court of nations, the most dignified that ever assembled on earth, that they would not insist upon and which they withdrew from consideration.

But why are we to pay these claimants of enhanced premiums? Because they were self-sacrificing patriots; because they were the men, forsooth, who kept the stars and stripes waving over the seas during the hour of our trial when our existence was imperiled. It is to be paid them as a reward for their disinterested patriotism. Why, sir, we should induce the gentleman from Chicago [Mr. HARRISON] to secure the services of the Marine Band that it may discourse sweet music in the corridor of the Capitol and celebrate the glories of these patriotic men. Surely they are altogether too good to live, especially in poverty. When these claimants paid war premiums the thought of profit never entered in their thoughts. They were not as other men are.

We are not informed by this accommodating minority report whether the claimants for damages committed by exculpated cruisers are patriots or not; but however this may be, there is one thing we do understand, and it is, that their claims were specifically disallowed.

Why, Mr. Speaker, what is the mercantile view of this discussion? How does this question of morality address itself to the mercantile mind? Here is a firm who paid enhanced premiums of insurance and who forwarded their claims for the same to the Department at Washington, which forwarded it afterward to the Government of Great Britain. This firm wrote a letter in which they disclaimed under the circumstances to receive the money belonging to the insurance companies. This is what they said:

> After the decision of the Geneva board of arbitration, disallowing the claims for war premiums, we supposed that all chance of our recovering anything for those claims was ended, and the idea of making an allowance to claimants of this character, by means of taking away from the insurance companies the amounts allowed by the Geneva board in satisfaction of their direct claims for losses of ships and cargoes vested in them as assignees, by abandonment or otherwise of the claims of the original parties, is an idea which certainly never would have occurred to us.

The writers of this letter, containing an avowal of sentiments so honorable, so exemplary, and instructive, are Grinnell, Minturn & Co., of New York City.

How fortunate if the House of Representatives in its action on this measure shall reflect the best virtue and intelligence of the American people!

Now, gentlemen, let me apply another test by which the validity of these war-premium payments can be gauged. Supposing that there had been no losses, that no damage on our commerce had been inflicted by the inculpated steamers; suppose the underwriters' claims had not been referred to that tribunal, what would the award have been? Most respectfully I invoke an answer. I ask any man who advocates these rejected claims that were excluded and disallowed, to tell me how any award would have been made unless the underwriters had presented their claims and unless damages had been inflicted by the inculpated steamers? Why, sir, the mere presentation of this proposition exposes the fraud and emptiness of the claim. There would have been no liability, and consequently no judgment, no award.

[Here the hammer fell.]

Mr. HARTRIDGE. I move that the gentleman from New York be allowed to proceed.

The SPEAKER *pro tempore*. The Chair hears no objection.

Mr. WILLIS, of New York. I am obliged to the House for this courtesy. Mr. Speaker, the moment that we depart from the rules prescribed by the tribunal at Geneva that moment all metes and bounds disappear. We are in chaos. Why, sir, if we are to pay every man who suffered indirect loss from these depredations we must indemnify every citizen of the Republic. We must indemnify every man who was engaged in the ship-chandlery business; we must indemnify every man who was engaged in the building or repair of vessels; for assuredly the business of these men was destroyed by these cruisers. We should also indemnify the thousands of soldiers who were wounded in the war during that period for which it was prolonged by reason of the unfriendliness and negligence of Great Britain.

But, Mr. Speaker, there is another phase of this question which presents itself to us more important than that which affects the rights of the claimants to this fund. It is a question as to what the effect of our action may be upon our rights as a neutral power in the future. It is well known—it has been asserted in the letters of Secretary Fish which I have read—that there was no desire on the part of our Government to receive a pecuniary award. It has been stated that this Government, by reason of the rules established by that tribunal, acquired great advantages as a neutral power. Now it will be understood whether America is willing or not to abide by the rules of that tribunal; whether, for the sake of gratifying these claimants who present themselves so vociferously at the bar of this House for the enhanced premiums of insurance and for losses that were inflicted by exculpated steamers, we shall abandon all these inestimable advantages as a neutral power, and, beyond this, violate our integrity as a people. And when Europe shall be embroiled in war, when two of those great nations shall be at enmity with each other and America seeks to avail herself of these advantages, it will be in the power of Great Britain, or of France, or of Russia, to say to us, "You accepted this money, agreeing to dispose of it according to the terms and conditions of the decision and award; but, having received it under false pretenses, you violated your obligations; you disregarded the spirit and tenor of the treaty; you recognized claims and liabilities which were decided adversely upon by that tribunal, it is true, but it is a precedent; and we insist, therefore, that you shall be bound by it, and shall not exercise those rights as a neutral to which you would have been entitled had

that trust been honestly executed." In other words, this monument of statesmanship, this great achievement of diplomacy, the treaty of Washington, which was the first step toward the brotherhood of nations, is to be torn down and trampled on by this Republic. I cannot believe that such a shameful consummation will ever be reached by this House.

Now, gentlemen, what does the majority report contemplate? It is entirely harmless. It decides nothing; commits the House to nothing. It simply asks that these claims shall be referred to a judicial tribunal, to be there determined according to justice, equity, and the laws of the nations, a tribunal where appliance can be had for ascertaining the real facts which relate to each particular claim; where the law can be quietly and properly examined and just results reached.

What reason is there why this matter should not be referred to such a tribunal? Why, sir, nobody can object to this reference. Nobody can object to the Congress of the United States renouncing a function which does not legitimately belong to it and imposing it upon a co-ordinate branch of the Government well calculated for its exercise by reason of its composition, position, and experience in such a sphere of duty. There can be no objection to it; and no man, no claimant, will be heard in protest against it unless he believes that justice will defeat him, that equity will frown upon him, that the law of nations will undo him. There can be no other reason to urge why this measure referring all questions to a judicial tribunal should be defeated.

Once again I say that our action touching the distribution of this award is awaited with deep concern, not only by our own people, but by the representatives of foreign governments. The conclusion reached by us will be hailed either as a voucher that a government of the people can fulfill its international and treaty obligations, or as a sure proof that a republic has not virtue enough to keep faith either with its own people or with foreign governments; that the people who dwell in the land of Washington could stoop to a dishonor which would not be tolerable in the Sultan of Turkey or the Ameer of Afghanistan. Once more I say, let us, waiving our differences, quietly, in obedience to discretion, to prudence, and to justice, remand this whole question to the courts, where these cases will have precedence upon the calendar; where a prompt adjustment can be had; where a conclusion will be reached creditable to our civilization, worthy of our nationality, and just to all parties concerned.

APPENDIX REFERRED TO IN FOREGOING REMARKS.

EXHIBIT A.—*Sums included in the Geneva award.*

ALABAMA.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Alert	1	Vessel and outfit	$27,858 91		$24,793 62		$27,858 91	
		Wages	11,295 00		6,198 40		6,964 72	
		Personal effects	5,650 00					
				$44,803 91		$30,992 02		$34,823 63
Altamaha	2	Vessel and outfit	12,815 60		10,680 00		12,000 00	
		Wages	11,150 00		2,670 00		3,000 00	
		Personal effects	3,200 00		816 00		816 00	
				27,165 60		14,166 00		15,816 00
Benj. Tucker	3	Vessel and outfit	68,200 00		40,050 00		45,000 00	
		Profits earned	25,200 00				25,200 00	
		Wages	29,375 00		10,012 50		5,000 00	
		Personal effects	4,835 00		1,835 00		1,835 00	
				127,610 00		51,897 50		77,035 00
Courser	4	Vessel and outfit	12,312 53		10,958 00		12,312 53	
		Loss of cargo	19,845 00					
		Wages	14,495 00		2,739 50		2,558 46	
		Personal effects	4,100 00		150 00		150 00	
				50,752 53		13,847 50		15,020 99
Elisha Dunbar	5	Vessel and outfit	57,374 65		32,040 00		36,000 00	
		Profits earned	4,095 00				4,095 00	
		Wages	7,805 00		8,010 00		3,000 00	
		Personal effects	4,925 00		1,225 00		1,225 00	
				74,199 65		41,275 00		44,320 00
Kate Corey	6	Vessel and outfit	28,212 00		17,800 00		20,000 00	
		Profits earned	8,268 00				8,268 00	
		Wages	13,380 00		4,450 00		5,000 00	
		Personal effects	3,900 25		700 00		700 00	
				33,760 25		12,950 00		33,968 00
Kingfisher	7	Vessel and outfit	16,700 00		10,680 00		12,000 00	
		Profits earned	2,328 00				2,328 00	
		Wages	28,990 00		2,670 00		1,750 00	
		Personal effects	5,274 17					
				53,292 17		13,350 00		16,078 00
Levi Starbuck	8	Vessel and outfit	63,310 00		35,600 00		40,000 00	
		Cargo	75,000 00					
		Wages	8,500 00		8,900 00		3,750 00	
		Personal effects	5,560 00		860 00		860 00	
		Damages	16,000 00					
				168,415 00		45,360 00		44,610 00
Lafayette, 2d	9	Vessel and outfit	40,775 00		21,360 00		24,000 00	
		Profits earned	45,492 00				43,191 00	
		Wages	18,955 00		5,340 00		6,000 00	
		Personal effects	6,026 00		1,276 00		1,276 00	
		Damages	500 00					
				111,748 00		27,976 00		75,467 00
Nye	10	Vessel and outfit	37,660 00		26,700 00		30,000 00	
		Insurance on prospective profits and outfits	11,442 00					
		Profits earned	36,934 00				31,184 00	
		Wages	16,725 00		6,675 00		5,000 00	
		Personal property	5,223 25		2,016 00		2,023 00	
				107,984 25		35,298 00		58,207 00
Ocean Rover	11	Vessel and outfit	78,315 00		44,500 00		50,000 00	
		Profits earned	50,825 00				48,825 00	
		Wages	10,215 00		11,125 00		6,250 00	
		Personal property	5,716 03		2,016 00		2,016 00	
				145,071 03		57,641 00		107,091 00
Ocmulgee	12	Vessel and outfit	40,000 00		35,600 00		40,000 00	
		Profits earned	77,572 00				77,572 00	
		Wages	10,680 00		8,900 00		3,000 00	
		Personal property	6,253 00		1,903 00		1,903 00	
		Damages	135,000 00					
				269,505 00		46,403 00		122,475 00
Virginia	13	Vessel and outfit	63,550 00		44,500 00		50,000 00	
		Wages	8,225 00		11,250 00		12,500 00	
		Personal effects	5,250 00					
				77,025 00		55,625 00		53,750 00
Weather Gauge	14	Vessel and outfit	10,053 84		8,948 00		10,053 84	
		Wages	8,920 00		2,237 00		2,513 46	
		Personal effects	4,541 70		692 00		692 00	
				23,515 54		11,877 00		13,259 30

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Brilliant	15	Vessel and outfit	$84,245 00		$52,500 00		$75,000 00	
		Freight	34,531 03				18,750 00	
		Cargo	5,186 80		4,616 43		5,187 00	
		Wages	6,195 00		2,100 00			
		Personal effects	5,300 00		1,250 00		1,250 00	
				$135,457 83		$60,466 43		$100,187 00
Chas. Hill	16	Vessel and outfit	32,000 00		22,400 00		32,000 00	
		Freight	11,733 33				8,000 00	
		Wages	6,280 00		904 00			
		Personal effects	5,092 60		1,543 00		15,430 00	
		Damages, &c	1,359 00					
				56,464 93		24,847 00		41,543 00
Conrad	17	Vessel and outfit	10,000 00		7,000 00		10,000 00	
		Freight					2,000 00	
		Cargo	84,241 00		53,909 08		60,572 00	
		Wages	3,955 00		280 00			
		Personal effects	3,450 00					
				101,646 00		61,189 08		73,072 00
Crenshaw	18	Vessel and outfit	20,000 00		14,000 00		20,000 00	
		Freight	6,720 71				5,000 00	
		Cargo	753 78		670 17		753 78	
		Wages	3,675 00		560 00			
		Personal effects	3,250 00					
				34,399 49		15,230 17		25,753 00
Express	19	Vessel and outfit	50,000 00		35,000 00		50,000 00	
		Freight	37,800 00				12,500 00	
		Wages	9,850 00		1,400 00			
		Personal effects	6,080 00		980 00		980 00	
				103,820 00		37,380 00		63,480 00
Golden Eagle	20	Vessel and outfit	56,000 00		30,200 00		56,000 00	
		Freight	30,000 00				14,000 00	
		Cargo	27,522 50		24,494 58		27,522 50	
		Wages	9,585 00		1,568 00			
		Personal effects	6,115 00		1,165 00		1,165 00	
				129,222 50		66,427 58		98,687 50
Jabez Snow	21	Vessel and outfit	76,200 00		49,000 00		70,000 00	
		Freight	9,408 00				17,500 00	
		Wages	7,460 00		1,960 00			
		Personal effects	8,350 00		3,500 00		3,500 00	
		Damages	3,100 00					
				104,158 00		54,460 00		91,000 00
John A. Parks	22	Vessel and outfit	56,501 00		39,550 70		56,501 00	
		Freight	42,306 00				14,125 25	
		Cargo	25,700 00		22,873 00		25,700 00	
		Wages	6,215 00		1,582 00			
		Personal effects	6,633 50		1,933 00		1,933 00	
		Damages	360 00					
				137,715 50		65,938 70		98,259 25
Lafayette, 1st	23	Vessel and outfit	80,000 00		56,000 00		80,000 00	
		Freight	18,978 00				20,000 00	
		Cargo	21,537 00		19,107 93		21,537 00	
		Wages	6,755 00		2,240 00			
		Personal effects	4,980 10		1,280 00		1,280 00	
				132,250 10		78,687 93		122,817 00
Lamplighter	24	Vessel and outfit	13,875 00		9,712 50		13,875 00	
		Freight	8,780 00				3,468 75	
		Cargo	3,450 00		3,070 50		3,450 00	
		Wages	3,355 00		388 50			
		Personal effects	4,795 00		1,845 00		1,845 00	
				34,855 00		15,016 50		22,638 75
Louisa Hatch	25	Vessel and outfit	67,250 00		47,075 00		67,250 00	
		Freight	15,000 00				16,812 50	
		Wages	6,195 00		1,883 00			
		Personal effects	7,180 00		3,130 00		3,130 00	
				95,625 00		52,088 00		87,192 50
Palmetto	26	Vessel	10,000 00		7,000 00		10,000 00	
		Cargo	12,400 00		11,036 00		12,400 00	
		Wages	2,775 00		280 00			
		Personal effects	2,683 33		433 00		433 00	
		Freight, &c					2,500 00	
				27,858 33		18,749 00		25,333 00
Rockingham	27	Vessel	91,542 00		41,001 10		90,090 00	
		Freight	78,127 10				22,500 00	
		Wages	6,980 00		1,640 04			
		Personal effects	13,304 95		8,755 00		8,755 00	
				189,954 05		51,396 14		121,255 00
S. Gildersleeve	28	Vessel, &c	35,000 00		24,500 00		35,000 00	
		Wages	7,965 00		980 00		8,750 00	
		Personal effects	5,050 00					
				48,015 00		25,480 00		43,750 00
Wave Crest	29	Vessel, &c	29,000 00		20,300 00		29,000 00	
		Freight	4,772 00				7,250 00	
		Cargo	24,092 10		21,441 88		24,092 10	
		Wages	3,215 00		812 00			
		Personal effects	2,700 00		550 00		550 00	
		Damages	850 00					
				64,629 10		43,103 88		60,892 10
Amanda	30	Vessel, &c	35,000 00		24,500 00		35,000 00	
		Freight	33,000 00				8,750 00	
		Wages	6,325 00		980 00			
		Personal effects	4,353 00		1,853 00		1,853 00	
				78,678 00		27,333 00		45,603 00
Amazonian	31	Vessel, &c	68,544 00		22,400 00		32,000 00	
		Freight	11,000 00				8,000 00	
		Cargo	54,558 00		47,844 62		53,758 00	
		Wages	5,160 00		896 00			
		Personal effects	4,350 82		2,600 82		2,600 82	
				143,612 82		73,741 44		96,358 82

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Anna F. Schmidt	32	Vessel	$50,000 00		$31,500 00		$45,000 00	
		Freight	26,300 00				11,250 00	
		Cargo	216,479 49		158,776 89		178,401 60	
		Wages	10,140 00		1,200 00			
		Personal effects	5,625 00		1,875 00		1,875 00	
Contest	33	Vessel, &c	45,000 00	$308,544 49	31,500 00	$103,411 89	45,000 00	$236,526 00
		Freight	61,500 00				11,250 00	
		Cargo	30,522 00		27,164 58		30,522 00	
		Wages	10,650 00		1,200 00			
		Personal effects	10,703 59		4,638 00		5,843 59	
Doras Prince	34	Vessel	27,000 00	158,465 97	18,900 00	64,562 58	27,000 00	92,615 59
		Freight	15,000 00				6,750 00	
		Cargo	13,776 00		12,260 64		13,776 00	
		Wages	6,240 00		756 00			
		Personal effects	6,988 00		3,433 00		3,439 00	
		Damages, &c	600 00					
Dunkirk	35	Vessel	25,467 00	69,644 60	12,236 90	35,355 64	17,467 00	50,965 00
		Freight	3,936 32				4,306 75	
		Cargo	19,507 60		17,361 76		19,507 60	
		Wages	2,625 00		489 07			
		Personal effects	3,874 64		2,374 00		2,374 00	
Golden Rule	36	Vessel	10,000 00	55,410 56	8,900 00	32,471 73	10,000 00	43,715 35
		Freight	8,207 00				2,500 00	
		Cargo	71,748 70		61,332 57		68,913 00	
		Wages	3,675 00		356 00			
		Personal effects	3,210 00		1,060 00		1,060 00	
Lauretta	37	Vessel	15,139 64	96,840 70	10,598 00	71,048 57	15,140 00	82,453 00
		Freight	3,600 00				3,785 00	
		Cargo	12,200 00		10,868 00		12,200 00	
		Wages	3,675 00		423 92			
		Personal effects	3,250 00					
Martaban	38	Vessel	35,600 00	37,264 64	24,920 00	21,889 92	35,600 00	31,125 09
		Freight					8,900 00	
		Cargo	15,000 00		13,350 00		15,070 00	
		Wages	8,050 00		996 80			
		Personal effects	11,012 25		2,322 25		2,322 25	
Olive Jane	39	Vessel	35,000 00	69,062 75	24,500 00	41,589 05	35,000 00	61,822 25
		Freight	15,000 00				8,750 00	
		Cargo	39,028 66		15,600 81		17,529 00	
		Wages	2,905 00		980 00			
		Personal effects	4,450 00		2,060 00		2,000 00	
		Damages	1,000 00					
Parker Cook	40	Vessel	9,493 33	97,383 66	6,645 34	43,080 81	9,493 33	63,279 00
		Freight	1,625 29				2,374 33	
		Cargo	14,280 94		12,710 04		14,280 94	
		Wages	2,775 00		265 81			
		Personal effects	2,915 00		655 00		655 00	
Sea Bride	41	Vessel	39,756 00	31,089 56	21,000 00	20,276 19	30,000 00	26,802 60
		Freight	21,000 00				7,500 00	
		Cargo	82,445 12		40,446 65		45,445 00	
		Wages	6,600 00		840 00			
		Personal effects	6,143 60		3,393 00		3,393 00	
Talisman	42	Vessel	101,950 00	155,944 12	48,247 50	65,679 05	68,925 00	86,338 00
		Freight	38,579 00				17,231 25	
		Wages	8,560 00		2,729 90			
		Cargo	90,371 60		80,430 19		90,371 60	
		Personal effects	8,465 00		2,455 00		2,455 00	
Sea Lark	43	Vessel	71,000 00	247,765 00	35,700 00	133,862 59	51,000 00	178,982 25
		Freight	23,500 00				12,750 00	
		Cargo	215,805 14		101,325 33		215,197 00	
		Wages	7,720 00		1,428 00			
		Personal effects	5,700 00		1,250 00		1,250 00	
Thomas B. Wales	44	Vessel	20,000 00	323,725 14	14,000 00	229,903 33	20,000 00	280,197 00
		Freight	15,165 00				5,000 00	
		Cargo	192,675 24		167,204 30		187,879 00	
		Wages	7,975 00		560 00			
		Personal effects	5,446 00		2,946 00		2,936 00	
Tycoon	45	Vessel, &c	67,375 00	241,261 24	44,860 00	184,710 30	64,000 00	215,816 00
		Freight	33,739 78				16,000 00	
		Cargo	333,763 00		297,049 07		333,763 00	
		Wages	5,540 00		1,792 00			
		Personal effects	5,151 00		1,471 00			
		Damages	11,049 60				1,471 00	
Union Jack	46	Vessel	53,000 00	456,589 38	24,500 00	345,112 07	35,000 00	415,234 00
		Freight	6,000 00				8,750 00	
		Cargo	89,886 30		51,506 68		57,872 00	
		Wages	3,960 00		980 00			
		Personal effects	5,250 00		2,400 00		2,400 00	
		Damages, &c	20,948 33					
Winged Racer	47	Vessel	56,833 00	179,044 63	39,783 10	79,386 08	56,833 00	104,022 00
		Freight	24,000 00				14,208 25	
		Cargo	276,982 91		228,714 87		256,983 00	
		Wages	13,700 00		1,591 22			
		Personal effects	14,352 00		7,952 00		7,582 00	
				385,867 91		278,041 19		335,616 25

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Manchester	48	Vessel	$411,659 60		$44,912 00		$64,160 00	
		Freight	15,000 00				16,040 00	
		Cargo	27,316 32		24,311 21		27,316 00	
		Wages	7,175 00		1,796 48			
		Personal effects	5,825 00		1,075 00		1,075 00	
		Damages	6,105 00					
				$173,080 92		$72,094 72		$108,591 00
Chastelaine	49	Vessel	10,414 00		7,289 80		10,414 00	
		Cargo	1,156 55		1,029 73		1,156 55	
		Wages	3,675 00		291 59		2,603 50	
		Personal effects	2,350 00		100 00		100 00	
				17,595 55		8,711 12		14,274 05
Emma Jane	50	Vessel	51,039 25		35,727 58		51,039 25	
		Freight	27,762 09				12,759 81	
		Wages			1,429 10			
		Personal effects	5,556 00		4,356 00		4,356 00	
		Damages, &c	2,200 00					
				86,557 34		41,512 68		68,155 06
Highlander	51	Vessel	114,000 00		58,800 00		84,000 00	
		Freight	68,402 00				21,000 00	
		Wages	10,250 00		2,352 00			
		Personal effects	13,519 00		8,769 00		8,769 00	
				206,171 00		69,921 00		113,769 00
Sonora	52	Vessel	55,800 00		39,060 00		55,800 00	
		Freight	32,244 44				13,950 00	
		Wages	5,550 00		1,562 40			
		Personal effects	5,495 00		2,595 00		2,595 00	
		Damages	2,870 00					
				102,964 44		43,217 40		72,345 00
Ariel	53	Cargo	10,000 00		8,900 00		10,000 00	
		Damages	423 38					
				10,423 38		8,900 00		10,000 00
Justina	54	Damages	7,000 00					
				7,000 00				
Morning Star	55	Damages	5,614 40					
				5,614 40				
Nora	56	Vessel	65,000 00		35,000 00		50,000 00	
		Freight	15,000 00				12,500 00	
		Wages	2,275 00		1,400 00			
		Personal effects	3,950 00		1,700 00		1,700 00	
		Damages	1,800 00					
				88,025 00		38,100 00		64,200 00
Starlight	57	Vessel	4,220 00		2,954 00		4,220 00	
		Freight	1,720 00				1,055 00	
		Wages	2,975 00		118 16			
		Personal effects	2,330 00		580 00		580 00	
				11,245 00		3,652 16		5,855 00
Baron de Castine	58	Damages	1,550 00	1,550 00				
		Grand total		6,578,250 96		3,357,362 87		4,747,230 91

FLORIDA.

Golconda	59	Vessel	$38,000 00				$28,000 00	
		Freight	4,536 00				7,000 00	
		Cargo	118,865 05				107,666 85	
		Wages	3,465 00					
		Personal property	4,329 87				679 87	
				$169,195 92		$71,005 00		$143,346 72
Rienzi	60	Vessel	10,527 00		$7,707 00		7,700 05	
		Freight	787 00		787 00		1,925 00	
		Wages	4,460 00					
		Personal property	4,950 00					
				20,724 00		8,487 00		9,625 00
Ada	61	Original claim	5,300 00		5,300 00		5,300 00	
		Personal property	1,000 00					
				6,300 00		5,300 00		5,300 00
Elizabeth Ann	62	Vessel, &c	6,700 00		8,100 00		6,700 00	
		Wages	950 00				1,425 00	
		Personal property	1,000 00					
				8,650 00		8,100 00		8,125 00
Marengo	63	Vessel, &c	5,796 00		7,296 00		5,796 00	
		Wages	950 00				1,449 00	
		Personal property	1,000 00					
				7,796 00		7,296 00		7,245 00
Rufus Choate	64	Vessel, &c	6,825 00		8,325 00		6,825 00	
		Wages	950 00				1,704 24	
		Personal property	1,000 00					
				8,775 00		8,325 00		8,531 24
Wanderer	65	Vessel, &c	6,439 00		7,839 00		6,439 00	
		Wages	950 00				1,609 75	
		Personal property	1,000 00					
				8,389 00		7,839 00		8,048 75
Anglo-Saxon	66	Vessel, &c	45,000 00		25,205 00		45,000 00	
		Freight	1,710 79		1,008 20		11,250 00	
		Cargo	5,500 00		4,840 00		5,500 00	
		Wages	6,335 00					
		Personal property	1,550 00					
				63,695 79		31,053 20		61,750 00
B. F. Hoxie	67	Vessel, &c	72,000 00		51,120 00		72,000 00	
		Freight	26,000 00		2,044 80		18,000 00	
		Wages	10,385 00					
		Personal porperty	6,850 00					
				115,155 00		53,164 80		90,000 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

FLORIDA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Avon	68	Vessel	$80,000 00		$47,570 00		$67,000 00	
		Freight	40,000 00				16,750 00	
		Cargo	47,701 40		41,976 88		47,701 00	
		Wages	8,750 00		1,427 10			
		Personal property	7,400 00		3,700 00		3,700 00	
				$183,851 40		$94,673 98		$135,151 40
Greenland	69	Vessel	30,000 00				30,000 00	
		Freight	7,200 00				7,500 00	
		Cargo	1,600 00				1,600 00	
		Wages	3,895 00					
		Personal property	4,115 00		1,065 00		1,065 00	
		Damages	360 00					
				47,170 00		10,000 00		40,165 00
Southern Cross	70	Vessel	55,000 00		21,300 00		30,000 00	
		Freight	10,000 00				7,500 00	
		Wages	8,505 00		639 00			
		Personal property	5,800 00		450 00		450 00	
				79,305 00		22,389 00		37,950 00
William C. Clark	71	Vessel	17,562 50		3,550 00		7,500 00	
		Freight	1,201 61				1,873 00	
		Cargo	4,830 30				4,830 30	
		Wages	3,815 00		106 50			
		Personal property	4,141 50				791 50	
				31,556 91		3,656 50		14,996 80
Mary Alvina	72	Vessel	11,000 00		7,810 00		11,000 00	
		Freight	3,216 00				2,750 00	
		Wages	3,675 00		234 30			
		Personal property	2,554 00		304 00		304 00	
				20,445 00		8,348 30		14,054 00
Aldebaran	73	Vessel	20,500 00		14,555 00		20,500 00	
		Cargo	476 06		419 88		476 06	
		Wages	3,675 00		436 65		5,125 00	
		Personal property	6,306 85		4,057 00		4,056 85	
				30,957 91		19,468 53		30,157 91
Clarence	74	Vessel	8,000 00		5,680 00		8,000 00	
		Cargo	11,400 00		10,032 00		11,400 00	
		Wages	3,675 00		170 40		7,000 00	
		Personal effects	3,102 50					
				26,177 40		15,882 40		21,400 00
Commonwealth	75	Vessel	37,561 58		39,050 00		50,000 00	
		Freight	24,250 00				12,500 00	
		Cargo	370,700 00		325,665 12		370,704 00	
		Wages	9,480 00		1,171 50			
		Personal effects	8,538 00		2,088 00		2,088 00	
				470,533 58		368,974 62		435,292 00
Crown Point	76	Vessel	58,200 00		41,322 00		58,200 00	
		Freight	10,100 00				14,550 00	
		Cargo	330,771 00		271,679 76		314,727 00	
		Wages	7,470 00		1,239 66			
		Personal property	9,542 00		8,842 00		4,842 00	
		Damages	20,000 00					
				436,083 00		319,083 42		392,319 00
Electric Spark	77	Vessel	166,000 00		117,860 00		166,000 00	
		Cargo	291,361 83		214,041 64		251,361 48	
		Wages	6,055 00		3,535 80		3,535 80	
		Personal property	4,950 00					
				468,366 83		335,437 44		420,896 00
Henrietta	78	Vessel	25,000 00		17,750 00		25,000 00	
		Freight	7,140 00				6,250 00	
		Cargo	32,130 94		28,285 23		32,130 94	
		Wages	5,000 00		532 50			
		Personal effects	4,286 00		1,536 00		1,536 00	
				73,536 94		48,103 73		64,916 94
Jacob Bell	79	Vessel	50,000 00		25,500 00		50,000 00	
		Freight	22,783 00				12,500 00	
		Cargo	308,290 00		271,295 20		308,290 00	
		Wages	12,450 00		1,065 00			
		Personal property	8,183 40		2,333 00		2,333 00	
		Damages, &c	20,280 00					
				421,986 40		310,193 20		373,123 00
Lapwing	80	Vessel	30,000 00		21,300 00			
		Freight	15,000 00				30,000 00	
		Cargo	30,000 00		26,400 00		7,500 00	
		Wages	4,935 00		639 00		30,000 00	
		Personal property	4,150 00					
				84,085 00		48,339 00		67,500 00
M. J. Colcord	81	Vessel	24,624 21		17,483 04			
		Freight	10,000 00				24,624 21	
		Cargo	65,867 00		58,562 96		6,156 05	
		Wages	3,955 00		524 49		65,867 00	
		Personal property	3,450 00					
				207,896 21		76,570 49		96,647 26
Red Gauntlet	82	Vessel	60,851 43		43,204 21		60,851 43	
		Freight	15,188 12				15,212 88	
		Cargo	32,677 48		28,755 76		32,677 48	
		Wages	5,675 00		1,296 12			
		Personal property	10,083 91		5,059 00		5,059 00	
				124,475 94		78,315 09		113,800 79
Star of Peace	83	Vessel	90,000 00		62,480 00		90,000 00	
		Freight	41,884 00				22,500 00	
		Cargo	386,839 65		294,237 68		353,024 65	
		Wages	8,505 00		1,874 40			
		Personal property	4,900 00		550 00		550 00	
				532,128 65		359,142 08		466,074 65
W. B. Nash	84	Vessel	9,950 19		7,064 63		9,950 19	
		Cargo	51,849 75		36,828 00		41,850 00	
		Wages	3,675 00		211 93		2,487 54	
		Personal property	3,250 00					
				68,724 94		45,004 56		54,287 74

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

FLORIDA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Oneida	85	Vessel	$20,000 00		$14,266 00		$20,000 00	
		Freight	1,294 00				5,000 00	
		Cargo	433,588 00		381,557 44		433,588 00	
		Wages	4,275 00		426 00			
		Personal property	6,750 12		4,500 00		4,500 00	
		Damages, &c	4,942 00					
				$471,849 12		$400,683 44		$463,088 00
Windward	86	Vessel	12,000 00		8,520 00		12,000 00	
		Cargo	3,933 60		3,478 64		3,933 00	
		Wages	3,675 00		255 60		3,060 00	
		Personal effects	2,750 00		500 00		500 00	
				22,358 60		12,754 24		19,493 00
Estelle	87	Vessel	18,000 00		12,780 00		18,000 00	
		Wages	3,675 00		383 40		4,500 00	
		Personal property	3,250 00					
				24,925 00		13,163 40		22,500 00
Zelinda	88	Vessel	36,000 00		25,200 00		36,000 00	
		Wages	3,675 00		766 80		9,000 00	
		Personal property	3,250 00					
				42,925 00		26,326 80		45,000 00
Umpire	89	Vessel	6,100 00		4,331 60		6,100 00	
		Freight	2,200 00				1,525 00	
		Cargo	21,155 00		18,626 49		21,155 00	
		Wages	3,675 00		129 93			
		Personal property	2,400 00		150 00		150 00	
				35,530 00		23,237 33		28,930 00
Mandamin	90	Vessel	18,129 00		12,871 59		18,129 00	
		Freight	3,800 00				4,532 25	
		Cargo	5,000 00		4,400 00		5,000 00	
		Wages	4,005 00		386 14			
		Personal property	2,550 00					
		Damages	1,143 00				27,661 25	
				34,717 00		17,637 73		37,661 25
Corris Ann	91	Vessel	20,000 00		14,220 00		20,000 00	
		Freight	1,000 00				5,000 00	
		Cargo	4,400 08		3,872 00		4,400 00	
		Wages	4,935 00		426 00			
		Personal property	4,150 00					
				34,485 00		18,498 00		25,400 00
General Berry	92	Vessel	31,576 00				31,576 00	
		Wages	1,575 00				7,894 00	
		Personal property	2,767 00				1,267 00	
				35,918 00		17,267 00		40,737 00
George Latimer	93	Vessel	16,233 24		8,544 14		12,034 00	
		Freight	685 00				3,078 50	
		Cargo	27,000 00		23,760 00		27,000 00	
		Wages	3,675 00		256 92			
		Personal property	2,250 00					
				49,831 24		32,560 46		42,112 50
Harriett Stevens	94	Vessel	30,000 00				30,000 00	
		Freight	5,300 00				5,300 00	
		Cargo	9,500 00				9,500 00	
		Wages	3,675 00					
		Personal property	3,250 00					
				51,925 00		10,000 00		47,000 00
Byzantium	95	Vessel	45,000 00		31,950 00		45,000 00	
		Freight	5,787 00				11,250 00	
		Cargo	2,548 51		2,246 74		2,548 51	
		Wages	5,455 00		958 50			
		Personal property	4,450 00					
				63,240 51		35,155 21		58,798 51
Good Speed	96	Vessel	35,000 00				35,000 00	
		Cargo	1,293 30				1,293 00	
		Wages	3,675 00				600 00	
		Personal property	3,250 00					
				43,218 30		22,000 00		36,893 00
M. Y. Davis	97	Vessel	16,100 00					
		Wages	800 00					
		Personal property	1,704 00					
				18,604 00				17,004 00
Tacony	98	Vessel	25,350 00		17,998 50		25,350 00	
		Wages	2,100 00		539 95		539 95	
		Personal property	4,022 00		772 00		772 00	
		Damages	13,500 00					
				44,972 00		19,310 45		26,661 95
Whistling Wind	99	Total claim	12,594 10	12,594 10				12,594 10
Archer	100	Total claim	4,300 00	4,300 00	4,300 00	4,300 00	4,300 00	4,300 00
Ripple	101	Vessel, outfit, and catchings	8,805 00				8,805 00	
		Wages	950 00					
		Personal property	1,000 00					
				10,755 00		8,805 00		8,805 00
		Grand total		4,618,137 88		3,025,871 00		4,051,373 00

SHENANDOAH.

Abigal	102	Vessel and outfit	$60,000 00		$39,000 00		$60,000 00	
		Profits earned	1,544 00				1,544 00	
		Wages	12,485 00		7,800 00		5,000 00	
		Personal effects	26,503 00		4,194 54		4,194 54	
				$100,532 00		$50,994 54		$70,738 54
Brunswick	103	Vessel and outfit	73,200 00		32,500 00		50,000 00	
		Profits earned	13,379 50				12,379 50	
		Wages	12,265 00		6,500 00		5,000 00	
		Personal effects	5,030 00		1,080 00		1,080 00	
				103,874 50		40,080 00		68,459 50

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

SHENANDOAH—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total
Catharine	104	Vessel and outfit	$48,677 00		$31,640 05		$48,677 00	
		Profits earned	18,329 00				18,329 00	
		Wages	14,820 00		6,328 00		12,169 25	
		Personal effects	11,845 00		1,493 10		1,493 10	
				$93,671 00		$39,461 15		$80,668 35
Congress	105	Vessel and outfit	97,000 00		36,400 00		56,000 00	
		Profits earned	33,845 00				33,845 00	
		Wages	41,310 00		7,283 00		4,500 00	
		Personal effects	5,432 00		982 00		982 00	
				177,587 00		44,662 00		95,327 00
Covington	106	Vessel and outfit	32,251 00		20,963 15		32,251 00	
		Profits earned	25,010 00				25,010 00	
		Wages	18,445 00		4,192 63		8,092 75	
		Personal effects	13,696 00		1,655 28		1,655 28	
				88,892 00		26,811 01		66,979 03
Edward Carey	107	Vessel and outfit	42,982 70		27,038 75		42,982 70	
		Wages	13,605 00		5,587 75		10,745 67	
		Personal effects	5,400 00		1,170 00		1,170 00	
		Damages	10,000 00					
				72,047 70		34,026 50		54,898 37
Euphrates	108	Vessel and outfit	59,750 00		32,500 00		50,000 00	
		Profits earned	17,814 00				17,811 00	
		Wages	12,470 00		6,500 00		5,000 00	
		Personal effects	6,813 00		3,213 00		3,213 00	
				96,847 00		42,213 00		76,027 00
Favorite	109	Vessel and outfit	110,000 00		52,000 00		60,000 00	
		Profits earned	41,070 00				41,070 00	
		Wages	12,295 00		7,800 00		5,000 00	
		Personal effects	6,359 00		2,650 00		2,650 00	
				169,094 85		42,450 00		108,720 80
General Williams	110	Vessel and outfit	73,003 85		42,365 05		73,003 85	
		Profits earned	16,292 00				16,292 00	
		Wages	19,125 00		8,473 00		7,500 00	
		Personal effects	5,485 00		1,485 00		1,485 00	
				113,905 00		52,323 00		98,280 85
Gipsey	111	Vessel and outfit	60,000 00		33,003 00		60,000 00	
		Profits earned	10,633 75				10,663 75	
		Wages	12,160 00		7,800 00		5,000 00	
		Personal effects	12,634 00		1,626 12		3,000 00	
				95,457 75		48,426 12		78,663 75
Hector	112	Vessel and outfit	81,875 00		32,500 00		50,000 00	
		Profits earned	21,346 80		113,905 85		21,346 80	
		Wages	17,010 00		6,500 00		5,000 00	
		Personal effects	5,389 00		939 00		939 00	
				125,620 80		39,939 00		77,285 80
Hillman	113	Vessel and outfit	91,250 00		32,000 00		60,000 00	
		Profits earned	10,489 75				10,489 75	
		Wages	49,960 00		7,800 00		5,000 00	
		Personal effects	5,666 75		1,216 75		1,216 75	
				157,366 50		48,016 75		76,706 50
Isaac Howland	114	Vessel and outfit	125,500 00		42,250 00		65,000 00	
		Profits earned	57,554 00				48,554 00	
		Wages	15,060 00		8,450 00		5,000 00	
		Personal effects	7,837 00		3,937 00		3,937 00	
				205,951 00		54,637 00		122,491 00
Isabella	115	Vessel and outfit	81,050 00		39,600 00		60,000 00	
		Profits earned	27,765 00				27,765 00	
		Wages	34,050 00		7,800 00		5,000 00	
		Personal effects	16,522 00		2,199 96		2,199 96	
				159,987 00		48,999 96		94,964 96
Jireh Swift	116	Vessel and outfit	60,000 00		39,000 00		60,000 00	
		Profits earned	25,500 00				25,500 00	
		Wages	15,780 00		7,800 00		7,500 00	
		Personal effects	5,993 25		2,293 00		2,293 25	
				107,273 25		49,093 00		95,293 25
Martha	117	Vessel and outfit	96,455 04		39,600 00		60,000 00	
		Profits earned	9,906 00				9,906 00	
		Wages	12,877 50		7,800 00		6,250 00	
		Personal effects	10,540 00		1,384 20		1,384 20	
				129,778 54		48,184 20		77,540 20
Nassau	118	Vessel and outfit	152,500 50		52,000 00		80,000 00	
		Profits earned	9,424 00				9,424 00	
		Wages	13,865 00		10,400 00		7,500 00	
		Personal effects	5,550 00		900 00		900 00	
				181,279 50		63,300 00		97,824 00
Nimrod	119	Vessel and outfit	79,000 00		33,000 00		60,000 00	
		Profits earned	36,781 87				27,782 00	
		Wages	41,125 00		7,800 00		5,000 00	
		Personal effects	5,218 00		1,638 00		1,638 00	
				162,124 87		48,438 00		94,420 00
Sophia Thornton	120	Vessel and outfit	86,333 00		38,533 95		50,283 00	
		Wages	13,575 00		7,706 79		6,250 00	
		Personal effects	6,851 00		2,851 00		2,851 00	
				106,759 00		49,091 74		68,384 00
Susan Abigail	121	Vessel and outfit	24,397 25		15,856 21		24,397 25	
		Cargo	18,720 12				18,726 00	
		Wages	8,920 00		3,171 64		2,500 00	
		Personal effects	4,950 00					
				56,993 37		18,029 85		45,622 25
Waverly	122	Vessel and outfit	81,250 00		32,500 00		50,000 00	
		Profits earned	34,655 00				34,655 00	
		Wages	13,860 00		6,500 00		5,000 00	
		Personal effects	5,882 00		1,732 00		1,732 00	
				135,647 00		40,732 00		91,387 00
William Thompson	123	Vessel and outfit	144,500 00		58,500 00		90,000 00	
		Profits earned	15,093 75				15,093 75	
		Wages	15,125 00		11,700 00		8,750 00	
		Personal effects	6,250 00					
				180,968 75		70,200 00		113,843 75

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

SHENANDOAH—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
William C. Nye	124	Vessel and outfit	$75,000 00		$35,750 00		$55,000 00	
		Profits earned	7,087 50				7,087 50	
		Wages	11,115 00		7,150 00		8,750 00	
		Personal effects	5,175 00		625 00		625 00	
				$98,377 50		$43,525 00		$71,462 50
Pearl	125	Vessel and outfit	27,000 00		17,550 00		27,000 00	
		Wages	12,705 00		3,510 00		2,500 00	
		Personal effects	9,750 00		6,150 00		6,150 00	
		Damages	6,200 00					
				55,655 00		27,210 00		35,650 00
General Pike	126	Detention, &c	37,000 00		16,861 50		20,000 00	
				37,000 00		16,861 50		20,000 00
James Maury	127	Detention	37,000 00		16,861 50		20,000 00	
				37,000 00		16,861 50		20,000 00
Milo	128	Detention	37,000 00		16,861 50		20,000 00	
				37,000 00		16,861 50		20,000 00
Nile	129	Detention, &c	37,000 00		16,861 50		20,000 00	
				37,000 00		16,861 50		20,000 00
		Grand total		3,124,200 88		1,145,898 88		2,041,557 60

RECAPITULATION.

	American claim.	British allowance.	Arbitrators' allowance.
Alabama	$6,578,250 96	$3,357,362 87	$4,702,461 24
Florida	4,618,137 88	3,025,871 00	4,051,572 80
Shenandoah	3,124,200 88	1,145,898 88	2,041,557 60
Total	14,320,589 72	7,529,132 75	10,795,591 64

The above are calculated without interest, which must be added.

EXHIBIT B.

List of claims filed with the Department of State by insurance companies in the United States as per revised list of claims filed with the Department of State, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims, and which were allowed by the Geneva tribunal.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Atlantic Mutual Insurance Company of New York City.		
Alert	$13,300 00	
Brilliant	18,000 00	
Conrad	16,570 00	
Palmetto	11,900 00	
Rockingham	40,000 00	
Amazonian	21,971 00	
Anna F. Schmidt	11,903 00	
Contest	100,000 00	
Dorcas Prince	13,026 00	
Dunkirk	10,200 00	
Golden Rule	7,912 00	
Olive Jane	3,750 00	
Talisman	67,680 00	
Sea Lark	36,968 00	
Thomas B. Wales	128,364 00	
Tycoon	121,986 00	
Union Jack	35,091 00	
Winged Racer	32,138 00	
Commonwealth	62,044 00	
Crown Point	63,753 00	
Electric Spark	11,765 00	
Jacob Bell	124,883 00	
Lapwing	55,000 00	
Redgauntlet	5,200 00	
Star of Peace	109,949 00	
Oneida	112,450 00	
Windward	3,953 00	
Umpire	21,155 00	
Corris Ann	1,000 00	
Catharine	26,676 00	
Congress	35,700 00	
Covington	15,000 00	
Favorite	40,000 00	
General Williams	23,792 00	
Gipsey	10,000 00	
Hillman	26,250 00	
Isaac Howland	38,000 00	
Isabella	16,800 00	
Martha	33,200 00	
Nassau	47,500 00	
Nimrod	28,000 00	
Waverly	31,250 00	
W. C. Nye	20,000 00	
		$1,653,889 00

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
New York Mutual Insurance Company, New York City.		
Brilliant	$9,245 00	
Amazonian	15,094 00	
Golden Rule	1,067 00	
Talisman	250 00	
Union Jack	2,500 00	
Manchester	7,500 00	
Crown Point	4,114 00	
Electric Spark	627 00	
Jacob Bell	17,500 00	
Star of Peace	11,445 00	
Oneida	20,000 00	
		$89,342 00
Mercantile Mutual Insurance Company, New York City.		
S. Gildersleeve	7,500 00	
Amazonian	10,075 00	
Golden Rule	1,740 00	
Sea Bride	15,000 00	
Talisman	8,000 00	
Sea Lark	750 00	
Tycoon	90 00	
Union Jack	1,100 00	
Winged Racer	1,000 00	
Crown Point	10,700 00	
Jacob Bell	15,000 00	
M. J. Colcord	3,500 00	
Redgauntlet	7,500 00	
Catharine	5,000 00	
Martha	1,000 00	
		87,955 00
Sun Mutual Insurance Company, New York City.		
Conrad	20,000 00	
John A. Parks	7,763 00	
S. Gildersleeve	10,000 00	
Amazonian	5,725 00	
Anna F. Schmidt	2,050 00	
Dunkirk	2,350 00	
Golden Rule	700 00	
Olive Jane	719 00	
Sea Lark	450 00	
Thomas B. Wales	5,000 00	
Tycoon	16,859 00	
Union Jack	1,400 00	
Avon	9,000 00	
Commonwealth	2,887 00	
Crown Point	5,619 00	
Electric Spark	3,000 00	
Jacob Bell	22,119 00	
Redgauntlet	9,000 00	
Star of Peace	41,652 00	
William B. Nash	2,000 00	
Oneida	30,162 00	

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
General Williams	$2,500 00	
Nassau	10,000 00	
		$210,955 66
Union Mutual Insurance Company, New York City.		
S. Gildersleeve	5,000 00	
Amazonian	2,719 00	
Golden Rule	667 00	
Tycoon	653 00	
Commonwealth	5,000 00	
Crown Point	7,150 00	
Jacob Bell	7,807 00	
Star of Peace	16,282 00	
		45,278 00
Commercial Mutual Insurance Company, New York City.		
S. Gildersleeve	7,500 00	
Amazonian	6,103 00	
Golden Rule	1,394 00	
Anglo-Saxon	5,500 00	
Crown Point	4,800 00	
Electric Spark	350 00	
Jacob Bell	17,500 00	
Star of Peace	13,815 00	
		56,962 00
Pacific Mutual Insurance Company, New York City.		
Amazonian	3,385 00	
Golden Rule	800 00	
Talisman	5,269 00	
Tycoon	15,121 00	
Union Jack	1,822 00	
Winged Racer	10,000 00	
Commonwealth	13,564 00	
Crown Point	198 00	
Electric Spark	8,153 00	
Jacob Bell	10,000 00	
Star of Peace	5,000 00	
Oneida	10,000 00	
		83,312 00
New England Mutual Marine Insurance Company, Boston, Massachusetts.		
Nye	2,350 00	
Express	8,000 00	
Anna F. Schmidt	21,665 00	
Dorcas Prince	10,500 00	
Talisman	10,000 00	
Sea Lark	12,174 00	
Southern Cross	20,000 00	
W. C. Clark	5,000 00	
Commonwealth	22,500 00	
Crown Point	28,000 00	
M. Y. Colcord	500 00	
Star of Peace	12,500 00	
Oneida	23,300 00	
Isabella	1,000 00	
Avon	15,000 00	
		192,489 00
China Mutual Insurance Company, Boston, Massachusetts.		
Express	9,000 00	
John A. Parks	4,000 00	
Anna F. Schmidt	16,000 00	
Dorcas Prince	11,000 00	
Talisman	3,500 00	
Thomas B. Wales	9,200 00	
Union Jack	6,850 00	
Avon	5,600 00	
Southern Cross	15,000 00	
Jacob Bell	21,000 00	
Lapwing	20,000 00	
Redgauntlet	3,520 00	
Star of Peace	33,000 00	
		157,070 00
Commercial Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Benj. Tucker	6,000 00	
Kate Cory	3,450 00	
Levi Starbuck	3,850 00	
Nye	11,442 00	
Ocean Rover	6,500 00	
Golconda	15,960 00	
Oneida	12,017 00	
Brunswick	16,200 00	
Euphrates	9,750 00	
Hector	4,500 00	
Isaac Howland	1,000 00	
Isabella	1,000 00	
Sophia Thornton	15,000 00	
William Thompson	13,500 00	
		122,169 00
Pacific Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Benj. Tucker	1,000 00	
Kingfisher	4,700 00	
Lafayette, 2d	5,400 00	
Nye	2,000 00	
Sea Lark	1,900 00	
Golconda	4,925 00	
Oneida	100 00	
		20,025 00
Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Elisha Dunbar	12,875 00	
Kate Cory	3,950 00	
Kingfisher	324 17	
Levi Starbuck	16,000 00	
Lafayette, 2d	8,125 00	
Nye	$6,160 00	
Ocean Rover	7,210 00	
Virginia	10,750 00	
Oneida	10,000 00	
Hector	10,374 00	
		$85,769 17
Union Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Elisha Dunbar	8,500 00	
Kate Cory	812 00	
Levi Starbuck	3,500 00	
Lafayette, 2d	2,500 00	
Nye	2,900 00	
Ocean Rover	16,605 00	
Virginia	800 00	
Anna F. Schmidt	900 00	
Golconda	25,000 00	
Oneida	15,000 00	
Hector	17,000 00	
Nassau	6,000 00	
Sophia Thornton	9,000 00	
William Thompson	22,500 00	
		131,017 00
Ocean Mutual Insurance Company, New Bedford, Massachusetts		
Golconda	10,300 00	
Sophia Thornton	3,050 00	
William Thompson	16,500 00	
		29,850 00
Delaware Mutual Safety Insurance Company, Philadelphia, Pennsylvania.		
Anna F. Schmidt	3,350 00	
Golden Rule	3,709 00	
Tycoon	1,708 00	
Commonwealth	15,763 00	
Corris Ann	4,400 00	
		28,930 00
Union Mutual Insurance Company, Philadelphia, Pennsylvania.		
Brilliant	1,975 00	
Tycoon	550 00	
Commonwealth	8,012 17	
Crown Point	2,259 87	
		12,797 04
Merchants' Mutual Marine Insurance Company, Bangor, Maine.		
Jabez Snow	6,200 00	
Amanda	2,500 00	
		8,700 00
Merchants' Mutual Insurance Company, Newburyport, Massachusetts.		
Amazonian	5,000 00	
Crown Point	9,000 00	
Star of Peace	9,076 00	
		23,076 00
West Dennis and Harwich Mutual Insurance Company, Dennis, Massachusetts.		
Southern Cross	450 00	
		450 00
Merchants' Mutual Insurance Company, Baltimore, Maryland.		
Clarence	19,400 00	
George Latimer	9,000 00	
		28,400 00
California Mutual Marine Insurance Company, San Francisco, California.		
Crown Point	10,085 00	
		10,085 00
Total claimed by mutual insurance companies		3,078,520 87
Great Western Insurance Company, New York City.		
John A. Parks	$15,000 00	
S. Gildersleeve	5,000 00	
Wave Crest	22,800 00	
Amazonian	3,780 00	
Anna F. Schmidt	18,156 00	
Dunkirk	8,000 00	
Golden Rule	2,950 00	
Lauretta	12,200 00	
Talisman	25,045 00	
Thomas B. Wales	4,854 00	
Tycoon	28,612 00	
Manchester	25,000 00	
Avon	30,000 00	
Commonwealth	3,720 00	
Crown Point	15,149 00	
Jacob Bell	4,360 00	
Redgauntlet	11,000 00	
Star of Peace	10,000 00	
William B. Nash	4,000 00	
Oneida	60,000 00	
		$309,635 00
Columbian Insurance Company, New York City.		
Conrad	17,295 00	
John A. Parks	14,938 00	
Lamplighter	5,000 00	
Palmetto	500 00	
Rockingham	15,000 00	
Amazonian	12,450 00	
Anna F. Schmidt	13,500 00	
Dorcas Prince	10,000 00	
Golden Rule	9,020 00	
Olive Jane	800 00	
Sea Bride	29,300 00	
Talisman	19,498 00	

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Sea Lark	$18,720 00	
Tycoon	19,855 00	
Winged Racer	5,000 00	
Manchester	10,000 00	
Emma Jane	29,000 00	
Highlander	21,000 00	
Sonora	30,000 00	
Ariel	8,500 00	
Golconda	17,250 00	
Anglo Saxon	7,000 00	
Avon	7,000 00	
Greenland	1,600 00	
Southern Cross	15,000 00	
Commonwealth	17,428 00	
Crown Point	34,539 00	
Electric Spark	40,000 00	
Star of Peace	10,000 00	
William B. Nash	20,500 00	
Oneida	20,000 00	
Moudamin	10,000 00	
Harriet Stevens	10,500 00	
Brunswick	8,000 00	
General Williams	22,500 00	
Gipsey	14,000 00	
Isaac Howland	16,500 00	
Isabella	3,050 00	
		$575,043 00
Neptune Insurance Company, New York City.		
John A. Parks	6,000 00	
Lamplighter	3,000 00	
Talisman	5,000 00	
Manchester	5,000 00	
Anglo Saxon	6,000 00	
Commonwealth	2,000 00	
Oneida	5,000 00	
Estelle	4,000 00	
		36,000 00
Metropolitan Insurance Company, New York City.		
Anna F. Schmidt	9,000 00	
Sea Lark	2,000 00	
Tycoon	200 00	
Highlander	15,000 00	
Southern Cross	5,000 00	
Commonwealth	2,000 00	
Crown Point	1,700 00	
William B. Nash	8,849 75	
Oneida	5,000 00	
Congress	5,300 00	
Favorite	10,800 00	
Hillman	5,000 00	
Isabella	800 00	
Nassau	9,000 00	
		78,849 75
Washington Marine Insurance Company, New York City.		
Anna F. Schmidt	183 00	
Tycoon	100 00	
Anglo Saxon	6,000 00	
Crown Point	1,587 89	
Oneida	12,500 00	
		20,370 89
Boylston Fire and Marine Insurance Company, Boston, Massachusetts.		
Express	6,000 00	
Anna F. Schmidt	5,000 00	
Dorcas Prince	10,500 00	
Thomas B. Wales	6,000 00	
Manchester	15,000 00	
Avon	6,008 00	
Commonwealth	3,000 00	
Crown Point	4,000 00	
Jacob Bell	21,000 00	
Star of Peace	21,508 00	
		98,008 00
Manufacturers' Insurance Company, Boston, Massachusetts.		
Lafayette, 2d	4,000 00	
Virginia	2,000 00	
Anna F. Schmidt	25,500 00	
Olive Jane	5,000 00	
Parker Cook	26,064 56	
Sea Lark	20,636 00	
Chastelaine	11,670 55	
Commonwealth	8,700 00	
Crown Point	24,450 00	
Isaac Bell	5,800 00	
M. J. Colcord	10,000 00	
Redgauntlet	20,000 00	
Star of Peace	40,949 00	
William B. Nash	15,000 00	
		219,770 11
Neptune Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	5,223 00	
Dunkirk	8,700 00	
Golden Rule	2,000 00	
Sea Lark	8,213 00	
M. J. Colcord	10,000 00	
Isaac Bell	800 00	
Redgauntlet	175 00	
		35,111 00
Mercantile Marine Insurance Company, Boston, Massachusetts.		
Sea Bird	10,000 00	
Sea Lark	5,000 00	
		15,000 00

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Washington Insurance Company, Boston, Massachusetts.		
Express	$10,000 00	
John A. Parks	10,500 00	
Anna F. Schmidt	18,210 00	
Redgauntlet	10,000 00	
Star of Peace	14,000 00	
Talisman	10,000 00	
Sea Lark	14,975 00	
		$87,685 00
Equitable Safety Insurance Company, Boston, Massachusetts.		
Express	6,000 00	
Rockingham	18,500 00	
Anna F. Schmidt	8,700 00	
Union Jack	10,000 00	
Nora	20,000 00	
Commonwealth	7,500 00	
Crown Point	1,800 00	
Redgauntlet	1,000 00	
Star of Peace	8,000 00	
		81,500 00
Franklin Insurance Company, Boston, Massachusetts.		
Dorcas Prince	750 00	
Jacob Bell	3,200 00	
Star of Peace	5,000 00	
		8,950 00
Alliance Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	15,950 00	
Talisman	7,000 00	
Thomas B. Wales	5,000 00	
Commonwealth	10,000 00	
Redgauntlet	10,000 00	
		47,950 00
Boston Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	20,400 00	
Talisman	550 00	
Sea Lark	5,300 00	
Thomas B. Wales	15,052 84	
Union Jack	5,000 00	
		46,302 84
Merchants' Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	1,000 00	
Sea Lark	5,930 00	
		6,930 00
Shoe and Leather Dealers' Fire and Marine Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	5,300 00	
Sea Lark	5,450 00	
		10,750 00
National Insurance Company, Boston, Massachusetts.		
Union Jack	8,000 00	
Redgauntlet	260 00	
Star of Peace	10,000 00	
		18,260 00
American Insurance Company, Boston, Massachusetts.		
M. J. Colcord	10,000 00	
		10,000 00
Insurance Company of the State of Pennsylvania, Philadelphia, Pennsylvania.		
Commonwealth	6,100 00	
Crown Point	6,371 16	
		12,471 16
Insurance Company of North America, Philadelphia, Pennsylvania.		
Tycoon	600 00	
Crown Point	3,069 00	
Oneida	7,500 00	
		11,169 00
Piscataqua Fire and Marine Insurance Company, South Berwick, Maine.		
Lamplighter	450 00	
Amazonian	4,000 00	
Sea Bride	2,700 00	
		7,150 00
Baltimore Marine Insurance Company, Baltimore, Maryland.		
Henrietta	20,000 00	
George Latimer	14,600 00	
		34,600 00
Maryland Insurance and Security Company, Baltimore, Maryland.		
George Latimer	9,000 00	
		9,000 00
California Insurance Company, San Francisco, California.		
Anna F. Schmidt	4,473 00	
Sea Lark	1,433 00	
Commonwealth	900 00	
		6,806 00
Total claimed by stock companies		1,787,311 75

RECAPITULATION.

Claimed by mutual companies	$3,078,520 87
Claimed by stock companies	1,787,311 75
Grand total	4,865,832 62
Number of vessels by reason of the capture whereof damages were claimed and allowed at Geneva	129
Of these were insured	89
Of these were uninsured	40

Mr. LAPHAM. Mr. Speaker, the bill under consideration may be regarded as one of the most important appropriation bills to be acted on at the present session. The questions to be decided by this House are without precedent, as the causes of the injuries complained of by the citizens of the United States are themselves without precedent in the history of the Government.

The case so often quoted in this discussion, the case of Gracie *vs.* New York Insurance Company, furnishes no criterion whatever by which to determine the questions arising here. That was a case by a party insured upon an open policy of insurance upon the ship Vermont, if I recollect aright, which had been seized by the authority of the government of France. All that is said in that case upon the question of subrogation by Justice Kent, who wrote the prevailing opinion, was entirely *obiter*. No such point was involved in the case; and although the doctrine advanced by Judge Kent may be applicable in individual cases, it can of necessity have no application whatever to the complicated questions which arise upon the state of facts growing out of which the award known as the Geneva award was made.

How have these questions arisen, Mr. Speaker? Upon what state of facts are they predicated? At the outbreak of our great civil conflict the government of Great Britain at once recognized the belligerency of the confederates. The proclamation of the Queen was issued upon the 13th of May, 1861, less than a month after the firing upon the flag at Fort Sumter. At that time the confederacy had not a flag afloat upon the ocean nor a ship built anywhere. The blockade of our ports prevented her putting any vessels afloat. And the effect of this proclamation of the Queen, or of the British government, was not only greatly to impair the credit of the nation then struggling to obtain the means with which to prosecute the war, but its direct effect was to lead to the creation of ships of war for the purpose of preying on the commerce of the United States. Accordingly, on the 22d of March, 1862, the Florida, built as the Oreto, sailed from Liverpool, and was the first of the confederate cruisers which began to prey on our commerce. It continued afloat until the month of October, 1864, when it was seized in the harbor of Bahia by a United States steamer.

During this period the Florida destroyed thirty-six vessels belonging to citizens of the United States, the estimated value of which was about $3,000,000.

The next ship which set sail from Liverpool was the Alabama. It sailed from that port on the 15th of May, 1862. It kept on its piratical course until the month of June, 1864, when it was sunk in the ocean by the well-directed fire of Captain Winslow from the guns of the Kearsarge, having destroyed about seventy vessels, valued at something over $5,000,000.

The next vessel which went out was the Georgia, which was built at Dumbarton, on the Clyde, and sailed on the 2d of April, 1863. This was afloat until it was seized in August, 1864, having captured and destroyed only nine vessels, the estimated value of which was $332,000.

The next and last ship which sailed was the Shenandoah, or Sea King, which left London on the 8th of October, 1864, and arrived at Melbourne, on the 25th of January, 1865. During this period, the Shenandoah captured nine vessels, the last of which was the bark Delphine, on the 29th of December, 1864. The Shenandoah was manned in part, when she set sail, with the same men who were rescued from the Alabama as she was sinking in the ocean. From Melbourne she sailed to the North Pacific and destroyed about thirty whalers. The value of the vessels destroyed by the Shenandoah in all aggregates about four and a half million dollars.

Now, Mr. Speaker, the effect of this vast destruction of property and of the great peril to the rest of American shipping was unlike anything of which we have a precedent in history. It furnished a new and general business for the insurance companies in the opening of accounts for war risks or war premiums. It operated to effect a transfer of our merchant vessels to the protection of the British flag and almost annihilated our commerce in American ships. It compelled the owners of such vessels as refused to transfer them to the British flag to pay the large war premiums exacted by the insurance companies. It prolonged the prosecution of the war. It greatly imperiled, as I have said, the credit of the nation, and resulted in what have been properly termed in this discussion direct and indirect damages to the Government and citizens of the United States.

The Government insisted from the first that Great Britain was responsible for all these injuries, national and individual, direct and indirect, and after protracted correspondence and negotiations the Johnson-Clarendon treaty was first signed in January, 1869. This treaty provided only for the adjustment of claims of the citizens of the United States suffering loss by the operation of the confederate cruisers and excluded all national claims of every description.

In the then temper of the public mind a treaty so narrow as that was rejected by the Senate of the United States with only one dissenting vote in its favor. Negotiations from the time of the rejection of that treaty in the winter of 1869 were suspended until the fall of the year 1869. They were then renewed and were kept up at intervals until the fall of the year 1870. In his annual message to Congress in that year the President of the United States addressed this recommendation to Congress:

> I regret to say that no conclusion has been reached for the adjustment of the claims against Great Britain, growing out of the course adopted by that government during the rebellion. The cabinet of London, so far as its views have been expressed, does not appear to be willing to concede that Her Majesty's government was guilty of any negligence, or did or permitted any act during the war by which the United States has just cause of complaint. Our firm and unalterable convictions are directly the reverse. I therefore recommend to Congress to authorize the appointment of a commission to take proof of the amounts and the ownership of these several claims on notice to the representatives of Her Majesty at Washington, and that authority be given for the settlement of the claims by the United States, so that the Government shall have the ownership of the private claims, as well as the responsible control of all the demands against Great Britain.

Now, sir, it is easy to see, if time had permitted and this policy of the Administration had been carried out and the private claims had been purchased by the Government of the United States, that would have settled all the controversies which are now pending before us; and whatever sum had been awarded to the Government or whatever sum the Government chose to accept would have been the absolute property of the United States, without any condition, express or implied, imposed upon it.

In accordance with this recommendation of the President a bill was introduced into the House of Representatives providing a commission to determine the damage to citizens of the United States for the acts of the Florida, the Alabama, the Georgia, the Shenandoah, and their tenders; in other words the contemplated action of Congress under that recommendation of President Grant embraced every description of claim which had been presented on the part of citizens for damages by all the confederate cruisers and their tenders; and if the recommendation had been carried out, unquestionably a satisfaction would have been made by the Government of every claim of every description which has since been made upon this fund.

Early in the winter of 1871, not long after this recommendation and the introduction of the bill to which I have referred, negotiations were again opened between the two governments, and the prospect of success was such that the proposed legislation to enable the Government to acquire the title to these claims was abandoned.

The result was the joint high commission and the treaty of Washington, and the tribunal thereby created finally awarded a gross sum of fifteen and one half million dollars, to be paid in one year from the date of the award. This sum was awarded—and I beg the attention of the members of this House to the language—this sum was awarded as the indemnity to be paid by Great Britain to the United States "for the satisfaction of all the claims referred to the tribunal;" and the tribunal also in express terms declared:

> That all the claims referred to in the treaty as submitted to the tribunal are hereby fully, perfectly, and finally settled, whether the same may or may not have been presented to the notice of or made, preferred, or laid before the tribunal.

In other words, this sum of fifteen and one-half million dollars was designed by the arbitrators at Geneva, was designed by the action of the two governments, as a complete acquittal of the British government from every description of liability or complaint for the action of any of its vessels or of the vessels fitted out in its ports, whether what are termed the inculpated or the exculpated cruisers. For great national ends, and in the exercise of its sovereignty as to the treaty-making power, the Government assumed to do this act. At the same time, while inviting an award in gross, and, as I said, almost pleading for it, the Government was careful that there should be no commitment whatever on the part of the United States as to the disposition to be made of this fund or of any fund which might be awarded by the tribunal at Geneva. The instructions were thus explicit:

> The President desires to have the subject discussed as one between the two governments; and he directs me to urge upon you strongly to secure if possible the award of a sum in gross. In the discussion of this question and in the treatment of the entire case you will be careful not to commit the Government as to the disposition of what may be awarded, or what may be recovered in the event of the appointment of the board of assessors mentioned in the tenth article of the treaty. It is possible that there may be duplicate claims for some of the property alleged to have been captured and destroyed, as in the cases of insurers and insured. The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case.

What, then, becomes of the argument of the honorable gentleman from New York [Mr. WILLIS] who has just resumed his seat that this award is a judgment in favor of the insurance companies? It is little else than mockery to claim to treat it as such. The instruction proceeds:

> If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution. It is expected that all such committals will be avoided.

Now, language could be no more explicit than the language I have quoted to show that the design of the United States in obtaining the award of this sum as an indemnifying award, as a fund of indemnity, was to reserve full and complete power and control over the distribution of the fund. While it is true that the Government has received this money as its own and has the absolute legal title to it, yet the extract which I have just read clearly contemplates that it is an indemnity fund, to be distributed among those who suffered by the acts of the confederate cruisers, and upon principles of equity as broad as the claims for injuries which were satisfied by the payment of the money.

Upon no other principles than these, and in no other view than this, that the equities of the claimants of this fund are as broad as the claims which were discharged by its payment, can the obligation resting upon the Government of the United States be properly performed. The Government is not strictly or technically a trustee. But there results from the circumstances under which this money was paid to the Government and received by it an obligation to do justice to the sufferers by the acts of the confederate cruisers, and of

all the confederate cruisers; to do justice to the men who suffered upon the high seas as a consequence of the war.

In the early part of the negotiations Lord Stanley, writing to Sir Frederick Bruce, used this language:

> The real question at issue is the liability of the British government to make good the losses occasioned to American commerce by the operations of confederate ships of war in which British subjects are alleged at some time or other to have had more or less interest, and which in their character of confederate ships of war were at different times admitted into ports of Her Majesty's dominions.
>
> * * * * * * * *
>
> The real matter at issue between the two governments, when kept apart from collateral consederations, is whether, in the matters connected with the vessels out of whose depredations the claims of American citizens have arisen, the course pursued by the British government and by those who acted under its authority was such as would involve a moral responsibility on the part of the British government to make good, either in whole or in part, the losses of American citizens?

This fund having been awarded to indemnify sufferers, there is a like moral obligation resting upon the Government of the United States to apply it equitably and justly for the purposes for which it was obtained. There is an obligation resting upon the Government of the United States to so make distribution as to compensate those who suffered, and not to furnish enormous gains to any one. It was not designed to build up the fortunes of those who expected to make gains by their operations during the war.

Now I humbly submit this distribution should be made without reference to the opinions expressed by the members of the tribunal at Geneva, without reference to the question whether the injuries were caused by the inculpated or the exculpated cruisers.

I have shown you that the Sea King or Shenandoah destroyed nine vessels before reaching Melbourne, the last of which was the bark Delphine, burned on the 29th of December, 1864. With full knowledge of her piratical course from the time she sailed until that act of destruction and until she reached Melbourne, with the full knowledge of the fact that she had already destroyed nine vessels, under what circumstances and in what manner was she received at that port?

I quote from the statement of Mr. Hunt, the master's mate of the vessel, a much better description than I could give in any language of my own, even if I had been an eye-witness of what took place:

> That tarry in Melbourne was one of the bright reminiscences of our adventurous cruise round the world. I do not suppose so much hospitality ever was or ever will be shown to another ship in that port, and there were few, if any, who sailed in the Shenandoah who will not carry to their grave many pleasant memories of the days they spent on the shores of Australia.
>
> * * * * * * *
>
> Until the end of our sojourn in Australia it was one continuous *fête*. Every place of public amusement was not only open to us, but our presence was earnestly solicited by the managers thereof, probably because we were curiosities and drew well. Balls, *soirées*, and receptions followed in such rapid succession that the memory of one was lost in another, and, in brief, we were so persistently and continually lionized that we were in serious danger of becoming vain, and taking the glory to ourselves instead of placing it to the credit of the cause for which we labored.
>
> * * * * * * *
>
> More than seven thousand people passed over the railroad from Melbourne to Sandridge, *en route* for the Shenandoah, one Sunday, besides hundreds of others who came by other modes of conveyance.

Now, with full knowledge, I say, of her piratical course up to the time she came to Melbourne she was thus received; she was refitted, for she was unfit to go into arctic waters; she was recoaled, and she was supplied with additional men and left Melbourne on the 18th of February, 1865, for the Northern Pacific Ocean.

Now, what was the work done by this vessel there? As I have already said she destroyed nearly thirty whalers after leaving Melbourne. On the 28th of June, 1865, she came in sight of ten whalers in a group. As a device to relieve them from apprehension, the Stars and Stripes were raised at the mast-head, and thus lulled into security these ten whalers remained quiet until they found themselves directly under the guns of the Shenandoah with the confederate flag substituted for the flag of the Union. They fell an easy prey. Two of them were employed as transports for the crews of the ten. The other eight were set on fire, and the Shenandoah anchored at a safe distance to watch the conflagration. She remained there at anchor until the charred hulks of these eight whalers went hissing down to the bottomless depths of the sea. That was done after it was known on board the Shenandoah that President Lincoln had been assassinated and that Richmond had fallen into the hands of the Union Army.

Now, I ask any man on this floor who loves justice and believes in right, to answer me this question. Upon what principle shall you allow the owners of these ten whalers or insurance companies having insured them, if they paid for the loss, to be paid for their destruction, while the owner of the bark Delphine, the last vessel destroyed by the Shenandoah before she reached Melbourne, is to go uncompensated for the loss and injury which he sustained?

If it be possible by any act of recognition to adopt the character of a wrong-doer and a trespasser, that was done in the case of the Shenandoah. And the case of the bark Delphine is simply a type which enables us, if we desire to be just and to do what is right, to see what class of sufferers by the exculpated cruisers shall be compensated out of the remainder of this fund.

I repeat, Mr. Speaker, the award at Geneva was in no sense an adjudication as to the individual rights of any person. It was made expressly otherwise, and in gross for the indemnity of all for losses sustained by the acts of the confederate cruisers. It is in no sense a judgment. It is the result of an exercise of the treaty-making power in the interest of peace for the future security of neutrals; and the fact that it was reached by the intervention of arbitrators does not change the result.

If the Government of the United States had accepted the offer of Great Britain to pay the sum awarded in full satisfaction of all claims, national and individual, the position of the fund would have been the same as it is now. For illustration, suppose a guardian presents to a wrong-doer a claim for compensation for $1,000 each for three of his wards? The wrong-doer replies: "It may be that I have injured one of them to the extent of a thousand dollars; but I deny that I have injured the other two." "Very well," says the guardian, "we will submit this question to arbitration." They select arbitrators, and they determine that the alleged wrong-doer shall pay the sum of $1,000, not for the injury to either ward, but as a gross sum in full satisfaction of the claim of the guardian for all three of his wards. Now is anything determined by such an award and by the receipt of the money under it as to what shall be done with that money as between the three wards? Obviously it is a fund to be disposed of as among them according to their equities and according to their rights.

In his message to Congress in December, 1872, after the making of this award, the President employs this language:

> It will be the province of Congress to provide for the distribution among those who may be entitled to it of their respective shares of the money to be paid. It is deemed advisable that no time be lost in making an examination of the several cases in which *indemnification* may be due.

Not payment—not payment to the insurance companies of the sum awarded to them by the Geneva tribunal, but to ascertain the parties to whom *indemnification* is due out of this fund. If the insurance companies, as claimed by my honorable colleague [Mr. WILLIS] are absolutely entitled to this money, it is not an indemnity fund; it is a fund which the Government holds, as he claims, strictly as a trustee; and, although having the legal title, it is bound to pay it to them without reference to any other question or consideration.

Mr. Speaker, this fund has never been so treated by any department of the Government since the award was made. The subject of the disposition of this fund was very elaborately discussed by both Houses of the Forty-second Congress. No agreement was reached, but this fact does appear, that the Judiciary Committees of the House and the Senate were of opinion after careful consideration, and both reported bills based on the theory, that no legal right or fiduciary trust restrains Congress from the exercise of its own judgment in determining who were the actual ultimate unindemnified losers by the acts and faults complained of, and equitably distributing the fund among such cruisers and such only. The Forty-second Congress simply provided that this fund, which was in gold, should be covered into the Treasury and invested in the 5 per cent. obligations of the Government, and such investment was made. The question came up again in the Forty-third Congress and resulted in the passage of the act of June 23, 1874, which was the result of the deliberations of the Forty-second as well as the Forty-third Congress, the result of wide discussion and consideration, not only on the part of the committees of the two Houses, but of most elaborate debates on the floor in both branches.

By that act the claims for direct losses, national and individual, by the inculpated cruisers were provided for, and it was also provided that the insurance companies should be paid the losses they had actually sustained over and above war premiums, whether by the inculpated or the exculpated cruisers, and that the balance should remain in the Treasury a fund from which Congress might thereafter authorize the payment of claims thereon.

Now, Mr. Speaker, a crowning objection to the proposal of the report of the majority that this whole question be committed to the Court of Claims, with a right of appeal to the Supreme Court of the United States, is that it would cause delay and might lead to an entire reversal of the action of Congress thus far and of the policy upon which this fund has thus far been distributed. If there be anything in regard to this fund which should be deemed settled for all time, it is that the legislation of the Forty-third Congress so far as it determines the principles upon which this distribution is to be made shall be accepted as final and conclusive upon the subject.

The insurance companies, as being entitled, in the judgment of Congress, to the highest equity after actual losers, have been paid all the losses which they sustained by means of the operation of all these confederate vessels, both the exculpated and the inculpated cruisers. They have made up a general account of all their losses, and have taken from that the war premiums they received, of which they kept a separate account, and the balance has been paid them. The direct losses of the Government, which were trifling, and the direct losses of individuals by the inculpated cruisers have also been paid. About half the fund was absorbed in making these payments, and in round numbers the sum of $10,000,000 in currency remains yet to be disposed of by the action of Congress.

Another objection to the proposal of the majority is not only that it provides for long delay and vexatious litigation in the courts, which will keep the poor claimants upon this fund out of the receipt of their money for a series of years, but it entails the extire expense of the litigation upon the Government of the United States.

The theory of the minority, as was the theory of the act of 1874, is that all the expense attendant upon the distribution of this fund should be paid out of the fund itself by a tribunal created for the express purpose of disposing of the questions of fact which arise in

the case upon the principles established by the law of Congress, and that all the expense of it should be paid out of the fund itself instead of being borne by the General Government.

The question now arises what is to be done with this balance of $10,000,000 of currency. There was much elaborate discussion in the Forty-fourth Congress and also during the remainder of the Forty-third Congress on this same subject. Bills were passed in both Houses in the second session of the Forty-third Congress and in the Forty-fourth Congress in substance like the bill reported by the minority of the Judiciary Committee, which has been read to the House, or was published in the RECORD, and is part of the proceedings of yesterday.

There have been some heretofore in favor of returning the balance of this fund to Great Britain. I apprehend, Mr. Speaker, now that we have paid and Great Britain has very readily grasped $5,500,000 for having caught a few mackerel and for the privilege of catching a few more, the number who are in favor of returning this to Great Britain will grow less and less daily. [Laughter.]

Some are for covering it into the Treasury of the United States. I believe there is nothing in either of the propositions now pending before the House on this subject. That idea seems to have been abandoned. It remains, then, a fund to be given to the class of persons in this country who suffered by the acts of the confederate cruisers, if that class of persons can be found.

Now it is argued that the term "indirect claims," which were excluded by the opinion of the arbitrators at Geneva, embraces the claims of those who paid war premiums during the war. Mr. Speaker, I cannot concur in this opinion. It seems to me that the owner of an American vessel who refused to transfer it to the British flag, who paid war premiums upon it, who was deprived of competition by reason of the large transfer to the British flag, who suffered these war premiums as an actual loss, and never was reimbursed for them, is, above all other classes of persons, entitled to compensation out of this fund. The patriotism of such men cannot be doubted; their fidelity to the Government cannot be questioned, and their willingness to help preserve the mere remnant of American commerce entitles them, in my judgment, to the highest consideration in the disposition which is to be made of this money. The bill of the minority provides that they shall only be paid their actual losses. They kept an account, and if they realized any return for the war premiums they were compelled to pay they will have to account for that as the insurance companies accounted for their war premiums, and only the balance can be received by them.

Another class of persons who it seems to me are clearly entitled to compensation out of this fund are those who suffered injuries by what are termed the "exculpated cruisers." The act of 1874 virtually determines that because insurance companies have been paid upon the basis of that claim and by that mode of allowance. The owner of the Delphine is as much entitled, I repeat, to compensation from this money as is the owner of the last whaler which was burned in the Arctic Ocean by the Shenandoah. It was an act of the same vessel, fitted out for the same piratical purpose, pursuing a continued course of wrong, which has resulted in these grave losses.

Mr. Speaker, there are many other details growing out of the recommendations of the minority report and the bill which is recommended by the minority as a substitute to which I might advert, but I shall leave that for my associates on the committee who are more familiar with those details and content myself with the discussion of these general considerations growing out of the condition of the fund and the leading comments upon it. And in conclusion, sir, I repeat, this sum of money, although received by the Government in its absolute right as a sovereign in the exercise of the treaty-making power, although the legal title to it is in the United States, nevertheless it is a fund which came into the Treasury of the Government designed as an indemnity to all who lost by the action of the British government or the confederate cruisers during the whole period of our civil war.

Sir, I repeat what I said on a former occasion. Good faith is a jewel. It is so as between man and man. It is much more so as between the government and the people the government represents; and the highest duty, the most implicit good faith demands of the Government that in disposing of this money every man who suffered by the acts of the confederate cruisers shall be compensated for his loss if there be money enough left to accomplish that purpose.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1437) relating to public printing and binding.

The message further announced that the Senate had passed, without amendment, a bill of the House of the following title:

A bill (H. R. No. 5307) to correct an error of enrollment in the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

GENEVA AWARD.

The House resumed the consideration of the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award.

Mr. BICKNELL. Mr. Speaker, in our war with the confederates, Great Britain having violated her neutral obligations, our citizens injured thereby had a right to redress from the British government. By the law of nations they might have sought that redress by petition to that government. By the Constitution of the United States our citizens in such a case are forbidden to proceed directly against a foreign government, but their right to redress remains, to be enforced only by the intervention of the United States. Our injured citizens demanded such intervention and obtained it.

Our Government made a public declaration through its Department of State, in 1871, that it "would present to the tribunal at Geneva, to be taken into account in estimating the sum to be paid to the United States, all the Alabama claims." It gave notice to the claimants to send in their claims for that purpose without delay. The people obeyed the notice and sent in their claims accordingly.

The tribunal at Geneva was a board of arbitrators with power to make a binding award; the Government declared to the people "Send in your claims and we will present them, and collect them if we can." On the faith of that the people sent in their claims to be presented. Whether these facts and the subsequent collection of the money created a technical trust or not, they certainly created some obligation on the part of our Government; there was a duty incumbent on the Government after receiving the claims, and a further duty after receiving the money. In the Rustomjee case the money was paid by the Emperor of China to Queen Victoria under a treaty. Chief-Justice Coleridge, in delivering the opinion of the highest court of England, said: "On the payment of the money by the Emperor of China there was a duty on the part of the English sovereign to administer the money so received according to the stipulations of the treaty." So here it may be said, upon the payment of the money awarded it became the duty of the United States to administer the money according to the award. The Government presented these private claims to the arbitrators, and at the same time presented its own claims.

The private claims were for direct losses by destruction of vessels and cargoes, and also for losses by payment of enhanced premiums for insurance. The claims of the Government were for expenses in the pursuit of the confederate cruisers, and for losses by the transfer of American commerce to the British flag, and for the prolonged duration of the war by reason of the action of the cruisers. The arbitrators decided unanimously that, "on the principles of international law, applicable to such cases, there was no foundation for any award of compensation" for the enhanced war premiums, nor for the loss of commerce, nor for the prolonged duration of the war. The United States thereupon declared that those three claims would not be insisted on and might be excluded from all further consideration in the award, and the arbitrators entered a declaration to that effect in their record. After this neither arbitrators nor parties had anything more to do with enhanced war premiums, or loss of commerce, or prolonged duration of the war; those three topics were as completely out of the case as if they had never been in it.

The arbitrators next decided that there was no ground for awarding to the United States any sum by way of indemnity for costs of pursuit of the confederate cruisers.

This decision left but one class of claims pending before the arbitrators, namely, claims for direct losses by destruction of ships and cargoes; everything else had been settled by the previous decisions. The arbitrators next decided that Great Britain had violated her neutral obligations as to the Alabama, the Florida, and the Shenandoah after she left Melbourne, and had not violated her neutral obligations as to any of the other cruisers. This decision settled the question that the only damages to be awarded were damages for the destruction of ships and cargoes by those three cruisers, and in order to make the award nothing further was required than to ascertain what vessels and cargoes had been destroyed by the three guilty cruisers, and the values of such vessels and cargoes. Upon these points elaborate statements and estimates and proofs were made before the arbitrators by both parties. The arbitrators were authorized to award a sum in gross large enough to cover all the claims allowed, or to send the cases to a board of assessors. At the earnest request of the United States, and to avoid the trouble, expense, and delay of assessors, the arbitrators themselves ascertained the amounts and agreed upon fifteen and a half millions of dollars as a sum large enough to cover all the claims proved and allowed, and interest at 6 per cent.

The only claims allowed were for ships and cargoes destroyed by the Alabama, the Florida, and the Shenandoah after she left Melbourne. For these only did Great Britain pay the money. These only were settled by the payment. The other claims were also settled and put at rest by the award, the arbitrators having decided that for them nothing could be allowed. The United States having received the money, questions arose about the distribution of it. A part of it has been distributed under an act of Congress which has expired. There are about $10,000,000 yet to be distributed. The bill reported by the Judiciary Committee provides that "all claimants of the money may sue in the Court of Claims as in other cases," and that said court shall render judgment "according to the principles of justice, equity, and the law of nations." These are the principles that govern such cases, and these principles undoubtedly can be better ascertained and applied in such a court than in Congress.

Upon these considerations I urge the passage of the bill of the

committee. The amendment of the gentleman from Maine is objectionable because it seeks to deprive one class of claimants, the insurers, of rights which were expressly recognized by the arbitrators and adopted by them as the basis of their award, such rights as have never heretofore been denied in any general court of law or equity anywhere. No right, legal or equitable, is more fully sustained by all the authorities than the right of an insurer who has paid for a lost vessel to take the place of the owner and succeed to all his advantages. The notion that such a right can be taken away or impaired by reference to the insurer's profits in other cases is absolutely without support in law or equity or general usage.

The amendment of the gentleman from Ohio is objectionable because it recognizes as valid claims which were utterly rejected by the arbitrators, for which they decided that nothing could be allowed and for which nothing was awarded, namely, claims for enhanced premiums of insurance.

The United States has the power to confiscate all this money, to withhold it from those for whom only it was paid, and apply it on any or all of the rejected claims, private or public; but we are bound in justice, in equity, in honor, and in good morals to pay the money upon the claims for which the United States received it, and for which Great Britain paid it. That duty will be fulfilled if the bill of the Judiciary Committee shall become a law. It will be violated if either of the proposed amendments shall become a law.

There may be some special pleading in support of these amendments, but no sophistry can disguise the question. It is simply this: Shall we pay the money on the claims recognized and allowed by the arbitrators, or upon claims rejected and disallowed? To this question the valid answer is the obvious one; we are bound to apply the money to the claims on which it was paid and received.

Mr. POTTER. I speak to this subject at the request of the chairman of the Committee on the Judiciary. I agree with my colleague [Mr. LAPHAM] that the subject is one of the highest public importance. It embraces difficult and complicated questions; questions upon which it is, I think, as easy to go wrong on first impressions as upon almost any public question I have met. I remember very well that I went wrong myself when my attention was first called to this subject. I remember, too, that in the first discussion I heard in this House about these Alabama claims my friend the late Mr. Kerr, than whom there was no purer nor wiser nor braver public man, declared that such had been his experience also.

Our Government holds a fund received from Great Britain upon claims that it presented against that nation under the circumstances just stated by the gentleman from Indiana [Mr. BICKNELL] who has so succinctly and ably and judicially summarized this case; claims presented by the Government of the United States for losses to itself as sovereign and claims presented by it for losses suffered by individual citizens, presented on their behalf and at their request.

Now, a citizen who has lost his property by the negligence of a neutral nation has a right to compensation, but no remedy. He can petition the neutral nation for redress, or he can ask his own government to apply for redress. In this matter our citizens did not petition Great Britain for redress. Some of them were about to do so when the President expressed the desire that all claims because of the negligence of Great Britain during the war should be presented by our Government itself.

What, then, is the liability of our Government for the sum of money received upon an award for claims such as these? Does it hold the fund so received at its discretion, to give it away to whom it chooses, governed only by its own sense of what is best? Or does it hold it under any obligation, moral or otherwise, to give it to the persons upon whose claims it was collected; or to account in any way to the persons in respect of whose losses it was paid?

That minority of the Committee on the Judiciary, in the views they have presented in their dissent from the report of that committee, have met this question fairly and frankly. They say that in respect of this fund the Government of the United States is under no liability whatever. They have cited to us the case of the English government, which collected from China a sum of money for debts due from China to specific citizens of Great Britain, the principal claim being that of an Indian merchant which the agents of the British government, at the time they were pressing China for these claims, promised should be collected for him; and they tell us that the English courts held that Great Britain was not liable to be proceeded against at law by any of those claimants whose debts had thus been recovered by the government from China, and notably not by the identical Indian merchant whom the British agents had most in mind when they pressed these claims.

Now, Mr. Speaker, there was such a case and such a judgment, but it seems to me, that the gentlemen in citing this case have failed to present the real ground of that decision. I agree that the English sovereign was not liable to be proceeded against by petition of right in respect to this money so collected of China; that she collected and held it as sovereign under no legal liability whatever; just so we hold the Alabama fund under no legal liability whatever. The sovereign of Great Britain in respect of her subjects is under the general liability of a sovereign to all her people, but beyond that she is sometimes under special liabilities to some of her subjects because of money which she personally owes them, or because of some personal obligation she may have come under to them, or because she has consented as to some one of her subjects to stand as a trustee of his property or estates. If the subject would proceed against her for some such specific claim in respect of which she stands under some personal liability to him, he may proceed by petition of right; but if a subject seeks relief in respect of some duty or right which she owes him not personally but as a sovereign and arising out of her action as sovereign, then her courts have no jurisdiction to hear such claim. She must determine it herself with the advice of her council.

In that respect Great Britain is like our own Government. We have a Court of Claims in which the legal claims of our citizens against the Government arising upon contract may be prosecuted. The Government has also duties to its citizens as a nation which can be enforced only by the Congress and in its discretion. I agree that this Alabama money is one of those things in respect of which the Government is not subject to any legal prosecution, and in respect of which it holds the money to be distributed only in the discretion and judgment of Congress, just as the sovereign held the money recovered from China for the debts of that nation to her subjects. But what is that discretion and duty? It is, I agree, the same discretion and duty, and no higher, as that under which the Queen of Great Britain held the money paid under the Chinese treaty; a discretion to be exercised according to moral rights; to be exercised according to justice; to be exercised acording to the natural rights of the claimants in respect of the fund she so collected; a discretion to be exercised with the advice of her council instead of the judgment of her law courts. That is all, sir, the decision in this English case amounts to. Every one of the judges in that case, while declaring that the queen was not liable to be proceeded against by petition of right for money thus collected of China in her sovereign capacity, said also that she held it under her prerogative as a sovereign to be distributed by the advice of her council according to the moral rights to the fund of the respective claimants. Just so we of the Congress hold this fund to be distributed by the advice of each other and such other best advice as we may obtain, but to be distributed not according to caprice, but according to the moral right of the claimant for it, if there be any one having any moral right to any part of it.

Now, whether there be any moral right in respect of the distribution of this money, whether any one citizen can say, not that he has any legal right to it, but that he has a moral claim to any part of this money over any other citizen, depends upon what it was paid for.

We all know the history of this fund. The United States claimed that by reason of the negligence of Great Britain we had suffered various losses, namely: First, the prolongation and increased cost of the war; second, the transfer of our commerce by the effects of the war to the English flag; third, the enhanced premiums paid by our citizens for insurance. These were called the claims for indirect losses. And we know the fate they met. They were declared by the judgment of the tribunal, and the unanimous judgment of it I believe, not to afford, neither of them, any just ground of claim on the part of our Government against Great Britain whatever. And not only was that the determination of the tribunal, but it was the determination accepted both by the United States and by Great Britain. In the communication formally made to the tribunal upon the part of our Government it was declared that—

> The declaration made by the tribunal that these indirect claims must be disallowed and rejected is accepted by the President of the United States as determinative of their judgment upon the important questions of public law involved. The agent of the United States is authorized to say that consequently the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made.

That disposed, sir, and finally, of the indirect claims. We come, then, to the other claims presented by our Government, called the claims for direct losses. Now, what were the direct claims? Why, the claims because of the losses and damage sustained by citizens of the United States for their ships and goods which had been destroyed upon the high seas by these confederate cruisers, including as well of course the ships of the Government itself so destroyed as the ships of its citizens; and, beyond that, claims for damage to the owners of ships and goods because of the loss of prospective profits upon their ventures; all claims, however, arising from the destruction of enumerated vessels. Well, now, what was adjudicated in regard to these direct claims? First, that our Government was not entitled to recover for any loss that took place by the Sumter and several other vessels, whose names I have forgotten, that belonged in the same category with the Sumter; next, that she could not recover for the expenses she had incurred in pursuit of the confederate cruisers; next, she could not recover for the losses occasioned by the Shenandoah before she left Melbourne; and that in all these respects Great Britain was not in fault. And, finally, that Great Britain was liable for the losses occasioned by the Alabama, by the Florida, and by the Shenandoah after she left Melbourne.

So, sir, when you get down to that point in the decisions of the Geneva tribunal and to the further declaration of the tribunal that in estimating the losses occasioned by the Alabama, Florida, and Shenandoah after Melbourne they would not reckon anticipated profits and would allow for net freights instead of for gross freights, you get to a point at which every possible claim presented to the tribunal had been disallowed and was eliminated, except only the claims for the one hundred and seventeen vessels and their cargoes beginning with the Adelaide and ending with the Zebra, presented by our citizens, (I do not now recall the number of vessels so claimed for and their names, but I use these for illustration,) and based upon our esti-

mate of the valuation of such ships and cargoes and claimed by our Government in consequence of such presentation.

Now, can any gentleman say that upon that state of facts this Government stands under no obligation of duty and conscience to give this money to the owners of those ships and the goods which were laden on them? Does it not shock any man's sense of right to hold that if our Government should go to collect moneys due to its citizens from, if you please, Venezuela, and should succeed in getting in some $200,000 that that state owes upon its bonds to our people, scattered all over the United States, that it might then say to them, "We have collected this money in our sovereign capacity; we have it in our Treasury and shall pay it to whom we please. Instead of giving it to you we will give it to the poor Indians in the far West, who are much more in need of it than you bondholders, because you are generally rich and have, as a whole, done well with your investments, however it may be with these Venezuela bonds." Could Government decently do this? Has she any right to do anything else with the money so collected than to give it to the people for whom it was paid? Surely, upon every principle of reason and justice, no. Just so in this case it is to the persons interested in the ships and the cargoes specified before the tribunal and there allowed for, and the only claims there allowed for, that she ought to give the money paid to her because of such allowance for the destruction of their property.

But it is said there was not any specified allowance for ships and cargoes so provided. That is true. It is said there was instead a round and gross sum awarded; and that is true. And yet it is none the less true that such gross sum was allowed for ships and cargoes, and for nothing else.

Why do I say this? Because it was for ships and cargoes destroyed by the inculpated cruisers and for those alone that the sum of $15,500,000 awarded was made up. We presented a list of say one hundred and seventeen ships, if that was the number—I repeat I use that number by way of illustration only—and we presented at the same time proofs of their value. Of course our people made proofs of value in war times when currency was low and the value of ships and goods might naturally and conscientiously then be stated at high rates. Great Britain also made an estimate of the value of those one hundred and seventeen ships and their cargoes which was much lower than our valuation; and when the tribunal had determined it would allow for ships and cargoes and nothing else, instead of taking proof as to their value it fixed that value and the amount of the allowance by taking the American valuation of the enumerated ships and the cargoes on them, and the English valuation of the enumerated ships and the cargoes on them and dividing the aggregate in two, and assuming the mean of the two alleged valuations as the true valuation, which amounted, with some little special allowance to fishing vessels and some minor deductions, to the sum of $10,121,044. Then subsequently they added interest to the sum of money so allowed, and that interest was determined at 6 per cent., as we learn from Sir Alexander Cockburn's opinion, and the tribunal thus reached as the amount to be allowed for these vessels and cargoes the sum of $15,409,289.69. Now, having got there, they awarded $15,500,000. Having got for specific vessels and specific cargoes and interest a valuation of $15,409,000, they allowed a round sum of $15,500,000.

Now, it has over and over again been claimed that that difference between the tribunal's valuation of the ships and cargoes allowed for and the amount of the award left our Government at liberty to say that the money paid was the result of national claims, or at least not paid for individual property.

Now, I venture to think that when every claim had been eliminated except the claims for ships and cargoes, and when these claims had been paid to the Government, the fact that a receipt in full was given by the Government made no difference in its liability to the owners of these vessels. Suppose I come to you with claims in behalf of A, B, C, and D; you satisfy me that A's claim is bad, that B's claim is bad, that C's claim is bad, and I give them up; then you pay me the claim of D, and take a receipt in full instead of a receipt specifying D's claim particularly as paid. Does that alter the situation at all? Can it change my liability to D in any way? Besides, there was a reason for the tribunal fixing a round sum and requiring a receipt in full. There was reason for declaring that the sum of $15,500,000 was paid for something besides these enumerated vessels and cargoes valued at $15,409,000. What was that something? Why, that there were or might be other vessels and other cargoes of the same class destroyed by the inculpated cruisers for which claims had not then been presented, but for which, upon the principles determined by the tribunal, Great Britain would have been liable. What was meant by the award of that round sum was to close the door against any further presentation of claims of that sort—I mean the sort of claims allowed for. This explains satisfactorily the trifling difference between the sum actually due according to the estimate of the tribunal for ships and cargoes destroyed by the inculpated cruisers and the sum actually awarded.

Now, when gentlemen say that this money thus paid for these one hundred and seventeen ships and their cargoes should go to pay enhanced war premiums for which the tribunal declared Great Britain was not liable—a decision which we accepted—it seems to me they might as well ask to have this money applied to any other charitable purpose. The real losers in this war, in one sense, were the persons who paid the enhanced premium; but we are dealing with a sum of money paid by the government of Great Britain for losses resulting from its negligence—not for charity; not for anything else but damages for that negligence; and the losses so resulting from the negligence of Great Britain and allowed for were the losses of ships and cargoes which were destroyed. Not only was there no allowance for enhanced premiums of insurance, but this is one of the things for which it was expressly declared Great Britain was not liable; and that decision we accepted. So in regard to the exculpated cruisers. Some gentleman may say, "The Shenandoah sailed into Melbourne on a Sunday morning and sailed out on Sunday night, and it is very hard that a man who lost his ship by the Shenandoah on the Saturday preceding should not be compensated for that loss, while the man who lost his vessel by the Shenandoah on the following Monday is paid in full." It may be hard, but the difficulty is with the nature of the case. It was for letting the Shenandoah escape from Melbourne that Great Britain was held liable; and in respect to the destruction on the Saturday before she left there, it was one of those misfortunes for which Great Britain at least was not liable, and for the payment of which the money paid for the negligence she did commit in respect of enumerated ships can no more be diverted rightfully than could any other money.

It is said, often and truthfully, that the amount of this award exceeds the just claim of the persons who upon the statement I have been making have alone any right to this money. That is so. Our ships were overvalued. They were overvalued, I assume, because the depreciation of our currency was then such that valuations made in it would from subsequent appreciation of the currency to par with gold give us too large a fund and would leave in our hands a fund more than sufficient to pay the losses for which it was allowed. When we have paid the losses for which it was allowed, we can then say what shall be done with the surplus; but I submit that until we discharge this duty we have no business to be giving the surplus away. In my judgment, when that time comes the surplus ought to be covered into the Treasury; but I believe also as regards the amount necessary to discharge the claims of the persons interested in the ships and cargoes for which Great Britain paid this money it ought either to be paid to the men for whose property it was allowed or else it ought to be returned to Great Britain.

Now, it is said that our Government constantly declared that it was not to be committed as to the mode of distributing this award. I agree that it declared it was not to be committed as to this; and it was not committed. It might have been committed but for this declaration; but it was not committed. Why do I say it might have been committed? Because it so happens as matter of fact that this whole business of getting up claims against Great Britain by private parties was started and kept in motion mainly by the insurance companies. They are the people who began it; it was they who pressed the Government; it was their claims that were sent forward; it was their counsel, Mr. Evarts, who became counsel before the tribunal for the Government; and it was precisely because the Government did not intend that the question which we are now speaking to, or rather which I shall presently speak to, should be prejudged that the Government declared it would not have the mode of distribution settled in the treaty. But that did not alter rights; that did not change the ownership of the property for which the money was paid; that did not alter a man's status in regard to the money recovered for his property. The mode of distribution has not been preadjudicated. We are here to-day to say what the mode ought to be.

And let me say here, I look with some satisfaction upon the progress of the House in that regard. I remember in the Forty-second Congress, when I suggested that it should be referred to some court to distribute this fund on the principles of natural equity and justice, I stood absolutely alone. No other member of the Judiciary Committee agreed with me about it. When I got into the Forty-third Congress I had agreeing with me there in my views of this question the gentleman from Vermont, that able and experienced jurist, Mr. Poland, the gentleman from Ohio, now president of the Erie Railway, Mr. Jewett, and my colleague from the Albany district, that eloquent lawyer, Mr. Tremaine, now lately deceased, in all, four members of the Judiciary Committee. At last, in this Congress, and I may be pardoned if I feel some satisfaction in the fact that it is a democratic Congress, the Judiciary Committee, by a majority of all its members, has reported a bill to refer the determination of this question to a court of justice.

But we are told not to send this fund to any court of justice to be distributed, as in that event some insurer may get a portion of it who, on the whole, was not a loser by the war. That is not impossible. The struggle in regard to this fund has mainly been between the insurers on the one hand, and the men who have claims for the payment of enhanced war risks on the other. These claims for enhanced premiums have, I hear, largely gone into the hands of men who devote attention to them, for a share of what may be recovered on them; and they form a large and pressing interest, but none the less are entitled to consideration and justice. And the other claims remain in the hands of insurers where they always have been, and they form another strong interest. Now, an insurance company is not entitled to any favor. No corporation, in my judgment, is entitled to any favors, but just so long as our laws permit the creation of these artificial persons, just so long are they entitled to justice—nothing else, not to favor, but to justice, and to that they are as much entitled as is any other citizen.

Now what are the relations of a marine insurer to property destroyed

upon the high seas. They differ from the relations of an ordinary inland insurance against fire. The usual contract of marine insurance is that in case of loss the insurer will, if called on to do so, pay a fixed sum and take the property insured. I have a ship valued at and insured for $100,000 which is sunk by collision with another vessel and I abandon my ship over to the insurance company and take my $100,000, and the right to my ship sunk in the bottom of the ocean and the right to collect her loss of the ship that sunk her both go to the insurance company. If they can recover the ship or damages for her loss they are to keep them, and if it should only cost two or three thousand dollars to raise the ship, so much the better for the insurer under the contract. Just so, their right to this fund, so far as they have any right at all, arises solely from the fact that by their contracts with the owners of the ships they bought some of the ships destroyed by the inculpated cruiser, and by their contracts with the owners of cargoes bought some of the cargoes laden on such ships. And just so far as they have not done that they cannot have any right in respect of this fund at all.

It is said the owners of ships and of cargoes ought in some cases not to be paid out of this fund because they made a profit out of the business connected with insuring ships in war times and therefore they were not losers by the war. The fallacy lies in the sense of the word "loser." I am a merchant in New York, if you please, engaged in trade, in silk or tea; my warehouses are full of goods when a war breaks out, a ship of mine on the high seas is captured by one of the cruisers escaping by the negligence of Great Britain, yet the effect of the war in putting up the prices of my stock is such that I have absolutely gained in respect of my whole property, so that I am better off notwithstanding the loss of this ship because of the war than before; but am I not a loser of my ship for all that, and is Great Britain any less liable to me on that account? So here. What sort of reply would it have been for Great Britain to answer us at the tribunal of Geneva, Why, gentlemen, your ship-owners were paid for their ships by the insurers and the business the insurers were enabled to carry on because of our negligence was such that they actually made by the war instead of losing, and therefore you ought to recover nothing? That is exactly what the counsel for Great Britain did urge, and what the tribunal repudiated. It is exactly what every man under the circumstances must see should be repudiated, because the question is, who lost by the negligence of Great Britain and what was his loss, not whether he gained or lost by the war.

Suppose my horse has been stolen and some one should bet me one hundred dollars to five dollars that my horse will not be recovered within the next fortnight. I make the bet with him and my horse is not recovered and the hundred dollars, the full value of the stolen animal, is paid to me. Suppose, too, that two years afterward the horse should turn up in a remote part of the country and I say to the person having him, give me back my horse which has been stolen from me. Suppose then he should answer no, you have been paid through your wager all that your horse was worth and I am no longer bound to return him. Would we not all say that such an answer was intolerable nonsense?

And just so it is in regard to these insurance companies. I do not believe that at the time anybody supposed that Great Britain would ever pay a dime for their losses. I believe the first who conceived the idea of getting money from Great Britain for these losses was these very insurance companies, and it was their luck that the money was recovered just as it would have been my luck in the case supposed had I found my stolen horse. The profit in either case belongs to the owners of the property, not by favor, but by right.

I happen to have in my district one man who was interested in this fund. He was a large trader to the East Indies, and he took it into his head early in the war that the premium for war risks was too high, and he decided he would be his own insurer. Accordingly he opened an account with himself as an insurer. On one side of the account he charged himself with the premiums which he would have paid to the companies for insurance, and on the other side he credited that account with the losses of any of his ships. He lost, I think, one ship, and he told me that the upshot of his account was that it showed a profit. The insurance that he charged against himself amounted as a whole to more than the value of the ship that was lost. But when we passed the first Alabama claims bill he marched straight down here and collected the money for that same ship that was lost, notwithstanding the profit of his account as insurer.

But if instead of insuring himself he had been insured by a neighbor, neither he nor that neighbor could, according to the minority of this committee, have recovered anything for the lost ship. Is that right?

Now, the question whether a claimant was insured or uninsured does not concern us. Does the money which we have belong to the owners of the ships that were lost, is the question? If so, then it should go to the parties interested, whether they carried on their business of sailing ships and carrying goods or insuring them wisely or unwisely, whether they were fortunate at it or unfortunate. That is a matter beyond the reach of Congress to adjust, or ought to be.

I say it ought to be beyond the reach of Congress to adjust, for Congress should legislate by right and not by favor. In this minority report there is a declaration that if this fund is left for Congress to distribute, it never will be distributed to these insurers, whereas if the question goes to a court it may be so distributed to them.

Now I venture to say that is no reason for not sending the fund to the courts to be distributed. The very first duty of a government is to do justice. You do not want a government to do favors. Men can get favors without the help of government. We can get along without any sort of government if we are to go only on the principle of favor. We represent the eyes of the figure of Justice as bound so that she may not distinguish those she loves from those she hates. To my mind one of the worst governments to be conceived of would be a popular government without limitation that left three hundred or four hundred gentlemen assembled together here the power to dispose of the money in the Treasury without regard to right and with reference only to favor. I appeal to every man within the sound of my voice to say whether month by month and year by year he does not become more and more convinced that there is not on the face of the earth so respectable a body as this less fitted to administer justice according to right and to law.

I therefore favor the transmission of this fund to some independent tribunal to distribute this fund in cold blood according to right, and according to nothing else but right.

If that should result in those being paid out of the fund whom I think should be paid it will be well. But if not, and if the courts should give this fund to those who have, I think, no right to it, none the less we have done our duty and done the best we can when we refer the matter to a proper tribunal to be disposed of upon principles of natural equity and justice.

And here let me add one word about the danger which must follow from holding that this money was paid for anything but ships and cargoes destroyed and that it may be distributed to any but the owners of such ships and cargoes. To do that will be to leave it open to be said that after all the indirect claims were not disallowed, and leave Great Britain and all other nations hereafter to insist when we are negligent as neutrals that we must pay such indirect as well as direct losses. No, let us stand by the award and refuse to pay what the tribunal declared was not to be allowed, and pay the fund to those only to whom a court of justice may find it in morals and equity belongs.

ORDER OF BUSINESS.

The SPEAKER. With the consent of the gentleman from Kentucky [Mr. KNOTT] in charge of this bill, it will be allowed to go over until to-morrow after the reading of the Journal, and the Chair will recognize one or two gentlemen who have matters to present.

Mr. KNOTT. I have no objection to that.

There being no objection, it was so ordered.

REORGANIZATION OF THE ARMY.

Mr. BANNING, from the joint committee of the two Houses upon the subject of the reform and reorganization of the Army, submitted a report, accompanied by a bill (H. R. No. 5499) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

The bill was read a first and second time, with the accompanying report ordered to be printed, and made a special order in the House, as in Committee of the Whole, for Thursday, the 9th of January next, after the morning hour, and from day to day until disposed of.

EXCUSE FOR ABSENCE.

Mr. ATKINS. I desire to announce that my colleague, Mr. HOUSE, is detained from the House to-day by reason of sickness in his family.

CHARLES P. BIRKETT, INDIAN AGENT.

Mr. BAKER, of Indiana. Mr. Speaker, by the unanimous instruction of the Committee on Appropriations, I report a bill which I desire to be put on its passage at the present time; but before that is done I would like to be indulged, if it be in order, in a word of explanation.

The SPEAKER. The bill will first be read.

Mr. FINLEY. I reserve the right to object.

The SPEAKER. The right to object will be reserved.

The Clerk read as follows:

A bill (H. R. No. 5500) to repeal so much of the sundry civil appropriation act for the year ending June 30, 1879, as appropriates to Charles P. Birkett, the sum of $32,505.71, late Indian agent at Ponca agency, Dakota.

Be it enacted, &c., That so much of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, approved June 20, 1878," as is in the words following, that is to say, "to pay to Charles P. Birkett the sum of $32,505.71, to reimburse the said Birkett, late United States Indian agent, for amount expended by him for the benefit of the Indians at Ponca agency, Dakota," be, and the same is hereby, repealed.

The SPEAKER. The gentleman from Indiana desires to make a statement, after which the Chair will ask for objections.

Mr. BAKER, of Indiana. I desire to occupy the time of the House but a single moment. At the last session of Congress a subcommittee of which I was a member had occasion to investigate this claim; and upon our recommendation it was not placed in the sundry civil appropriation bill by this branch of Congress.

Mr. EDEN. I would like to ask the gentleman a question.

Mr. BAKER, of Indiana. Certainly.

Mr. EDEN. I would like to know why the committee allow claims of this character to get into the sundry civil appropriation bill, as they do not properly belong there?

Mr. BAKER, of Indiana. If the gentleman will give attention he shall understand.

Mr. EDEN. That is what I want to know.

Mr. BAKER, of Indiana. I had said that a subcommittee of which

I was a member had investigated at the last session of Congress this claim, and on a report that it was believed to be fraudulent in character it was not placed by this branch of Congress in the sundry civil appropriation bill.

Mr. EDEN. I think, Mr. Speaker, that if the gentleman had at the time made that fact known we should have defeated the sundry civil bill rather than pass it with that fraudulent claim in it.

Mr. BAKER, of Indiana. I desire to say that personally I had no knowledge of the fact that this item of appropriation remained in the bill after the conference had been had; or I myself, if I had been present, should have objected.

Mr. FINLEY. Will the gentleman permit me——

Mr. BAKER, of Indiana. I decline to yield at present.

Mr. FINLEY. I reserved the right to object; I insisted that that right should be reserved. Now I simply desire to ask the gentleman one question; and if it is answered favorably I shall not object; otherwise I shall. Will the gentleman yield for a question?

The SPEAKER. The gentleman from Ohio reserved the right to object; but the objection must be absolute, not conditional.

Mr. FINLEY. I understand the gentleman to yield to me for a question.

Mr. BAKER, of Indiana. Certainly; I have no objection.

Mr. FINLEY. I desire to ask the gentleman how this appropriation came to be inserted in the sundry civil bill if it is fraudulent?

Mr. BAKER, of Indiana. If gentlemen will try to restrain their impatience until I shall have proceeded a little further, I trust they will be able to understand how this thing occurred, so far as I am permitted to make the statement in accordance with parliamentary usage. I do not desire to transgress the rule in that respect.

I was about to say, when interrupted by three or four gentlemen on the other side, that this subject had been investigated and rejected by the committee. I may say that this item of appropriation was first sought to be placed on the deficiency bill when under consideration by the Committee on Appropriations of this House. It was, however, rejected, and did not go into that bill. It was then sought to be placed on the sundry civil appropriation bill, but by the unanimous voice of the Committee on Appropriations of this House it found no place in that bill. It was placed in the sundry civil appropriation bill elsewhere after the same had passed this House.

Mr. FINLEY. Where? That is what I want to know.

Mr. BAKER, of Indiana. I am not permitted to say where, but everybody knows.

Mr. EDEN. If the gentleman will allow me——

Mr. ATKINS. I hope the gentleman from Indiana will be permitted to complete his statement.

The SPEAKER. The Chair thinks the gentleman should not be interrupted except by his own consent.

Mr. BAKER, of Indiana. I desire to say that I will not yield to further interruption until I have completed my statement. Then if any pertinent and legitimate question is asked and I am permitted to retain the floor, I shall be very happy to answer it.

I say that this amendment was placed in the sundry civil appropriation bill elsewhere. The circumstances under which it was placed there and the influences that were brought to bear to place it there, I know nothing about except by common rumor. It is sufficient for me to say, however, that it is to-day embodied in the law of the land; and that without any fault of the Committee on Appropriations of this House and without any fault on the part of the House members of the committee of conference had on the bill, as I believe.

Having been informed by the Commissioner of Indian Affairs at an early day after the commencement of the present session of Congress that the Department had further evidence than was possessed last summer that this item in the bill was fraudulent from top to bottom, the Committee on Appropriations adopted a resolution requesting that all the evidence and all the facts bearing on the subject, in possession of the Indian Office or the Treasury Department, should be laid before the committee. That has been done and a voluminous mass of evidence is presented. A subcommittee consisting of two members of the Committee on Appropriations have given that evidence a patient and thorough examination, and they have reached the conclusion that this claim is wholly fraudulent. In this conclusion they are sustained by the unanimous judgment of the Committee on Appropriations of the House. It seems to me that it is sufficient for the present, without undertaking to determine now or here who is responsible for the near consummation of this fraud which is sought to be perpetrated upon the Treasury, for us to pass this bill at once and prevent further mischief. When advised by the unanimous judgment of one of the committees of the House that a fraud is liable to be consummated unless we act, we should, it seems to me, instead of undertaking to hunt around to find out who may be at fault for this item getting into the sundry civil appropriation bill, pass this bill promptly that it may go to the other end of the Capitol to receive early action there.

I am not here, Mr. Speaker, for the purpose of retailing reports that have come to me. I have no accusations to make. It is sufficient to say that I have gone through the mass of evidence presented from the beginning to the end, and that in my judgment a more unmitigated swindle was never attempted to be foisted on an appropriation bill, or a more unblushing robbery ever attempted to be perpetrated by plundering the people's treasury. I do not desire, Mr. Speaker, to go into the details, giving the items of evidence and the statements of fact. These are all before our committee. I simply desire now to ask the House to pass this bill and to pass it at once.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection, and the bill was read a first and second time.

Mr. HEWITT, of New York. If my colleague on the committee will yield to me a moment I will add a word of explanation.

Mr. BAKER, of Indiana. With pleasure.

Mr. HEWITT, of New York. When this claim came before the Committee on Appropriations it was unanimously rejected upon the ground that it was a claim and not an audited account and had never been favorably reported by the Committee of Claims. It reappeared when the sundry civil bill came from the Senate in the shape of a Senate amendment. That amendment was non-concurred in by the House. It went to the committee of conference, and in the committee of conference, I think I violate no parliamentary usage by saying, the House committee were unanimously opposed to its passage.

You remember that the sundry civil bill was in conference committee for nearly three days, almost day and night. It was necessary to arrive at some adjustment of the terms. At that time the conference committee on the part of the House had no knowledge the claim was fraudulent. They only knew it had not been properly adjudicated. On the other hand, they were assured the claim was a just claim, and the Senate committee assumed the responsibility of that fact. I do not think I can go further than that. And in the final arrangement of items this was allowed as one placed in by the Senate and the responsibility for which was assumed by the Senate conference committee.

Mr. ATKINS. Exclusively.

Mr. HEWITT, of New York. Exclusively.

Of course every gentleman knows that in the adjustment of a bill involving more than $20,000,000 it is absolutely necessary that the committee of each House shall have some power and some discretion, and the item was included without the slightest knowledge on the part of the conferees of the House that there was anything fraudulent in it, and it is not to be imagined that the Senate committee believed it to be other than just. Nevertheless it now appears to have been fraudulent, and I have no doubt the Senate will be just as prompt and just as anxious to undo the mischief as this House ought to be, and I trust will be.

Mr. EDEN. Let me ask the gentleman a single question.

Mr. HEWITT, of New York. Certainly.

Mr. EDEN. I wish to ask the gentleman from New York whether it is not a violation of the rules of the House to admit a private claim in a general appropriation bill?

Mr. HEWITT, of New York. I am not so well advised as to the rules of the House as the gentleman who asks the question. If, however, it be against the rules of the House, they were not violated in this case, because the Appropriation Committee did not allow the claim.

Mr. ATKINS. If that is the rule I will answer the gentleman that it is violated very often by the House.

The SPEAKER. The Chair is not aware there is such a rule.

Mr. ATKINS. It is a good one, though, if it did exist.

The SPEAKER. The question now recurs on the engrossment and third reading of the bill.

The bill was again read.

Mr. FINLEY. The gentleman from Indiana has yielded to me for a moment. I simply desire to say, in order to put myself right on the record, that the reason of my reserving the right to object until the gentleman from Indiana had answered the questions addressed to him, was not because I was opposed to his bill; on the contrary I am very much in favor of it. But I understood from the remarks of the gentleman from Indiana that he implied that this had got on this bill by the action of the conference committee, and I desired to bring that matter out that we might have an understanding in regard to it. It has been fully explained to my satisfaction by the gentleman from New York.

Mr. CONGER. I did not understand from the gentleman from Indiana whether this was reported from a committee.

The SPEAKER. It is a unanimous report from the Committee on Appropriations.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BAKER, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. SMITH, of Pennsylvania. I report from the Committee on Appropriations a substitute for the bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, and move that it be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. SMITH, of Pennsylvania. I now move that the House resolve itself into Committee of the Whole on the state of the Union to consider the pension appropriation bill and the substitute therefor.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. BLACKBURN in the chair, and proceeded to consider the bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, and the substitute therefor reported from the Committee on Appropriations.

The CHAIRMAN. The substitute (H. R. No. 5501) will be read.

The Clerk read as follows:

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes:

For pensions for Army invalids, for widows, minors, and dependent relatives, for survivors of the war of 1812, widows of the war of 1812, and for fees of examining surgeons, $28,600,000, as provided by the several acts of Congress: *Provided*, That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner, as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid: *And provided further*, That the amounts expended for each of the above items shall be accounted for separately.

For pay and allowances for salary, fees for preparing vouchers, rent, fuel, light, and postage on official matter directed to the Departments and bureaus at Washington, $225,000.

For Navy pensions to invalids, widows and dependent relatives, and for fees of examining surgeons, $538,500, as provided by the several acts of Congress: *Provided*, That the appropriations aforesaid for Navy pensions and other expenditures under that head shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose: *And provided further*, That the amount expended for each of the above items shall be accounted for separately.

For pay and allowances for salary, fees for preparing vouchers, rent, fuel, light, and postage on official matter directed to the Departments and bureaus at Washington, $2,500.

SEC. 2. That any unexpended balances in the items of appropriation contained in the act making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879, may be applied to the payment of such other items as may be found deficient under the appropriations provided for in the said act.

Mr. TOWNSHEND, of Illinois. I offer the following amendment:

After line 36 insert:

That section 4717 of the Revised Statutes be, and the same is hereby, repealed.

Mr. SMITH, of Pennsylvania. I make the point of order on that amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. SMITH, of Pennsylvania. Let the section be read. I do not know precisely what it is, but this is new legislation and unless it is in the direction of retrenchment it is subject to the point of order.

Mr. TOWNSHEND, of Illinois. I have here the section of the Revised Statutes to which the amendment refers. I ask the Clerk to read it.

The Clerk read as follows:

SEC. 4717. No claim for pension not prosecuted to successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension-Office, to the Adjutant-General of the Army, or the Surgeon-General of the Navy, evidence that the disease or injury which resulted in the disability or death of the person on whose account the claim is made originated in the service and in the line of duty; and if such evidence is deemed satisfactory by the officer to whom it may be submitted, he shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claim shall thereby be removed.

Mr. SMITH, of Pennsylvania. My point of order is that this is new legislation and not in the direction of economy.

Mr. TOWNSHEND, of Illinois. I am surprised that the gentleman from Pennsylvania, representing as he does the republican party, the vaunted friend of the soldier, should raise a question of order upon that section of the Revised Statutes. It is that section which has flooded this House with bills of relief for pension applicants who are deprived of meritorious claims by the section I desire repealed.

There were eighteen hundred such bills introduced in the last session, and the chairman of the Committee on Invalid Pensions informs me a very large majority of them have been brought here in consequence of that section.

I wish to say further that the Adjutant-General and the Commissioner of Pensions have recommended that that section be repealed. If repealed, we will avoid a considerable amount of special legislation as well as open the door for claimants to obtain settlements in the Pension Office of just claims.

I believe, sir, the amendment is germane to the bill. This question I know has been debated in past sessions, and I believe it has been decided both ways. I know there have been amendments of the same nature offered to other kinds of bills which have been sustained over points of order similar to the one now made. I have introduced the amendment at this time mainly because, owing to the shortness of the session, it is hardly possible to pass an independent bill for this purpose through both Houses. I know this bill will pass, and before the adjournment I desire to couple this amendment to it in order that its passage may be assured. I am sure a large majority of the members here have sufficient regard for disabled soldiers to favor the repeal of this law. Its repeal will allow an opportunity for doing justice to those entitled to pensions. Under the construction placed on that statute by the Adjutant-General's Office and the Commissioner of Pensions no soldier can obtain the removal of the bar it forms unless a record of his disability had been made at the War Department during his service in the Army.

Mr. SMITH, of Pennsylvania. I rise to a question of order. My friend from Illinois is discussing the merits of the amendment, and not the point of order raised by me.

Mr. CONGER. I submit that points of order were not reserved on this bill.

The CHAIRMAN. The gentleman from Michigan is mistaken. All points of order were reserved.

Mr. TOWNSHEND, of Illinois. I will endeavor to make my remarks pertinent to the point of order. Under the construction placed upon that section by the Adjutant-General no soldier is able to obtain a removal of the bar for the reason that officer has in effect decided that he has no power to make or amend the soldier's record in his office, notwithstanding the language of the section is plain, as it appears to me, and makes it his duty upon satisfactory evidence presented to him to make a record in conformity with the facts as proven. The language of the section reads:

And if such evidence is deemed satisfactory by the officer to whom it is submitted, he shall cause a record of the fact so proven to be made.

The Adjutant-General and the Pension Office demand record evidence of disability having been incurred in the line of the soldier's duty, and by their construction they disregard any evidence except a record made during the time of the soldier's service. Such a construction is not warranted by either the spirit or letter of the law, and defeats the liberal and patriotic purposes of Congress toward the crippled and disabled soldiers of the Republic. Many a soldier became diseased in the line of his duty in the service who did not go into a hospital or report his condition to a surgeon of the Army. He may have incurred his disability in prison while a captured soldier. In many instances at the beginning of the war the records were imperfectly or carelessly kept, and perhaps either by omission of duty on the part of the hospital stewards or the casualties of war the record was either not made or was destroyed; and after the war closed there were soldiers of high spirit who, notwithstanding their disability had been incurred in the service of their country, were too proud to become pensioners as long as by manual labor they could keep the lean wolf of hunger from their door; but old age having overtaken them or their disability growing worse, and being thereby deprived of the ability to obtain bread, they have called upon their Government for the provisions so bounteously made for them by Congress; and notwithstanding they can prove by their comrades or other satisfactory evidence that their disabilities were incurred in the line of their duty—the disability may not be thus proven in the technical phrases of the medical schools, but in such language as will easily disclose the nature of the disability—yet because of the construction placed on the law by these officers the soldier and his family are left to suffer in want and penury. The poor soldier may have won glory upon the battle-field, but he is sent to the almshouse for his reward.

I could mention other instances not arising because of this section, where it is believed the policy of the Department tends to defeat meritorious claims for pension, but I will not now go into further detail. The officers of the Government may not be censurable; they perhaps are governed by mistaken zeal. I will leave others to judge of their motives. But their construction of the law renders this legislation necessary.

Now in regard to the point of order, I insist it is not well taken, because this amendment is in line with the legislation proposed in this bill, and it is therefore germane. The bill under consideration is for the purpose of making provision for the payment of pensions. Surely this amendment is legislation of the same nature.

And I desire to say this in conclusion, that, as an American citizen and a democrat, I am proud of the fact that since the democratic party has obtained ascendency in this House there never has been any obstruction made by them to the passage of any bill recommended by committees making appropriations for soldiers. The promptness with which they have disposed of the liberal appropriations for pensions commands the admiration of all friends of the soldiers. There have been fierce contests here over appropriation bills for other purposes in which this side of this Chamber has insisted on retrenchment, but no reduction has been demanded in appropriations for pensions. This side of the House deserves commendation for the liberality and zeal with which it has supported legislation in the interest of soldiers engaged in all wars waged in behalf of our Government, thereby refuting every accusation against the democratic party of want of regard for the interest of the soldier. And I must not omit to express my admiration for the gallantry of members from the Southern States, who, notwithstanding they fought on the other side in the late war and met the Union soldiers as foes on the battle-field, have, with liberal and manly hearts, cast their ballots solidly in favor of rewarding the Union soldier for his sacrifices and services. They have on every occasion come with alacrity to the support of every bill of this kind. It is said the South is solid. She is solid on many things. She has been solid in her support on this floor of liberal appropriations for the Union soldier. The only obstruction I have found in this Congress to legislation in behalf of the soldier has been interposed by the other side of this House.

Mr. SMITH, of Pennsylvania. I must call the gentleman to order. He is not discussing the point of order.

Mr. PHILLIPS. I desire to make a parliamentary inquiry. I understood the Chair to say that all points of order had been reserved upon this bill. The proposed amendment I understand to be in the

nature of a substitute for the bill. I would inquire of the Chair if points of order have been reserved on substitutes?

The CHAIRMAN. The Chair does not think that alters the case at all. The substitute is in the nature of an amendment to the bill.

Mr. PHILLIPS. It is a new bill.

Mr. CONGER. I ask the Chair to have reference made to the record to see what was done. I think the Chair must be mistaken.

The CHAIRMAN. The Chair stated in the first instance, in answer to the gentleman from Michigan, [Mr. CONGER,] that he, the Chair, was informed by the Clerk that all points of order had been reserved upon this bill by the gentleman from Ohio, [Mr. FOSTER.]

Mr. CONGER. I wish the Clerk would examine and see if that is so.

The CHAIRMAN. The Journal has been sent for.

Mr. EDEN. I hope the gentleman from Michigan [Mr. CONGER] will not insist upon his point of order.

Mr. CONGER. "The gentleman from Michigan" has made no point of order. The gentleman from Illinois, [Mr. EDEN,] in his eagerness to say something, has violated a little the courtesies of the House. [Laughter.]

The CHAIRMAN. The Clerk will now read from the Journal what he has there recorded.

Mr. McMAHON. I desire to offer an amendment.

The CHAIRMAN. A point of order is now pending. The Clerk will read from the Journal the record upon this subject.

The Clerk read as follows:

Mr. A. HERR SMITH, from the Committee on Appropriations, reported a bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880; which said bill was read twice, committed to the Whole House on the state of the Union, and ordered to be printed.

Mr. FOSTER reserved all points of order on said bill.

Mr. SMITH, of Pennsylvania. I am not going to discuss the merits of the bill, or to inquire into the merits of the amendment now proposed to be offered. It is sufficient for us to know that there is a bill similar to this amendment now pending before the Committee on Invalid Pensions. Let that committee do its duty and report as promptly as possible, and then the bill can come up before the House for discussion. I am instructed to press this bill without allowing it to be incumbered with these foreign amendments.

Mr. CONGER. By whom is the gentleman instructed?

Mr. SMITH, of Pennsylvania. By the Committee on Appropriations.

Mr. CONGER. Then, of course, the instruction comes from the democratic majority. [Laughter.]

Mr. McMAHON. I call for the record upon that point. I think the record will show that every member of the Committee on Appropriations voted for this bill.

The CHAIRMAN. The point of order raised by the gentleman from Pennsylvania [Mr. SMITH] imposes upon the Chair the simple duty of deciding whether the amendment of the gentleman from Illinois [Mr. TOWNSHEND] is admissible upon this bill. Without intending to express any dissent from the views expressed by the gentleman from Illinois [Mr. TOWNSHEND] as to the propriety of repealing the section which he proposes to amend, the Chair holds that unquestionably the amendment is not in order upon this bill, in that it does change existing law and does not formally, upon its face, retrench expenditures.

Mr. CONGER. In order to test the sense of the gentlemen on the other side I appeal from the decision of the Chair. I desire to see how sincere the gentlemen are.

The CHAIRMAN. The gentleman from Michigan [Mr. CONGER] appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the House?

The question was taken; and upon a division there were—ayes 140, noes 2.

No further count being called for, the decision of the Chair was sustained.

Mr. McMAHON. I offer an amendment which I can hardly say changes existing law, but it may change an existing practice, a practice which I hope gentlemen on the other side will not insist on perpetuating by raising a point of order if the amendment be amenable to such a point. Let the amendment be read. I think it will speak for itself.

The Clerk read as follows:

SEC. —. No pensioner's name shall be stricken from the rolls nor shall his pension be reduced without previous notice to the pensioner; and whenever the Commissioner of Pensions has reason to believe that a pension should be discontinued or reduced he shall first give a hearing to the pensioner and permit an examination of the testimony upon either side, and he shall receive and consider further testimony offered in rebuttal, subject to his power to suspend payment during such inquiry. And in all applications for pension or bounty the petitioner or his attorney shall have a right to inspect all testimony or reports concerning his claim that may be on file in the Department.

Mr. SMITH, of Pennsylvania. I make the point of order that this amendment is not in the direction of retrenchment and changes existing law.

The CHAIRMAN. Does the gentleman from Ohio [Mr. MCMAHON] desire to be heard on the point of order?

Mr. McMAHON. I ask the gentleman from Pennsylvania to show me any statute or provision of law that authorizes the present practice.

Mr. SMITH, of Pennsylvania. It is incumbent on the gentleman to show that his amendment does not change existing law. The gentleman asks us to adopt a provision of law which will change a practice in the Department.

Mr. McMAHON. It may change an existing practice; but suppose the law does not authorize the practice.

Mr. ATKINS. This amendment proposes to make a new law on the subject, therefore it changes existing law.

Mr. SMITH, of Pennsylvania. The amendment is precisely similar to a bill which the gentleman introduced and had referred.

Mr. McMAHON. I think the gentleman from Pennsylvania, on consideration, will withdraw his point of order.

The CHAIRMAN. Does the gentleman insist on the point of order?

Mr. SMITH, of Pennsylvania. Yes, sir.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. McMAHON. Yes, sir.

Mr. SPRINGER. I ask the gentleman from Pennsylvania to withdraw his point of order. It will do no harm to allow the amendment to pass. Certainly it is in accordance with justice.

Mr. SMITH, of Pennsylvania. This very proposition is now before the Committee on Invalid Pensions; and there is a controversy between the committee and the Commissioner of Pensions as to the propriety of adopting it.

Mr. SPRINGER. There ought to be no controversy.

Mr. McMAHON. I believe I have the floor.

The CHAIRMAN. The gentleman from Ohio desires to be heard on the point of order.

Mr. McMAHON. Mr. Chairman, I have presented this amendment because my attention has been called in my own district and in other districts to what I consider a very great grievance to a poor class of men who under the existing practice——

Mr. SMITH, of Pennsylvania, rose.

Mr. McMAHON. I am speaking to the point of order; do not be uneasy.

Mr. SMITH, of Pennsylvania. If you are speaking to the point of order, then never mind the "poor pensioners" at home.

Mr. McMAHON. But I do mind the "poor pensioners." It is their case that I am after.

Mr. SMITH, of Pennsylvania. Well, I am after the point of order.

Mr. McMAHON. Well, I will put the "poor pensioners" against the gentleman's point of order. Now, there is in the Pension Bureau an existing practice for which I want the gentleman to find the law.

Mr. SMITH, of Pennsylvania. Practice makes law.

Mr. McMAHON. But you say that my amendment changes the law. I submit that when this Government has examined a man's case and allowed him a pension, thereby admitting that it owes him so much money per month under the law, there is no statute or legal provision which authorizes the Commissioner of Pensions to send out one of these pimps called "special agents" to go into the neighborhood of the pensioner and take testimony privately without notice to the pensioner, so that his first knowledge of the proceeding which deprives him of his pension is when he finds that his name has been stricken from the rolls. I repeat there is no existing law which authorizes such a proceeding. If there is, our friends on the other side ought to be ashamed to have made such a law. Such a proceeding takes from a man a right which the Government has conceded to him: a right of property so scrupulously guarded by the law that it cannot be taken from him for a debt; it cannot be assigned by the man himself. Yet this right thus carefully guarded is under the existing practice taken away by an *ex parte* proceeding on the part of the Commissioner of Pensions. I do not mean to say that this officer himself acts improperly, but he has improper agents. He is obliged to administer the law through defective instruments, and we know that office-holders do now and then get to be defective instruments—only occasionally of course with the gentlemen now in power. I know cases where men have thus been deprived improperly of their right, and I am laboring in this House to prevent such an abuse, or rather I am laboring with reference to the other House, where it is so much harder than it is here to get a measure of this kind through; not because it is a republican body, of course. I am laboring to get men restored to the pension-rolls who have been stricken from them without a particle of notice of any proceeding against them.

When the claim of a man against the Government of the United States for a pension has been allowed, by what authority does the Commissioner of Pensions send out and privately get letters or affidavits from individuals in the neighborhood of the pensioner and then act upon them, never permitting them to be inspected by the pensioner?

Mr. SMITH, of Pennsylvania. Certainly the gentleman is not addressing the Chair on the point of order.

Mr. McMAHON. Certainly all this is pertinent to the point of order.

The CHAIRMAN. The Chair thinks that the gentleman from Ohio is using considerable latitude in discussing the point of order.

Mr. McMAHON. I am on the point of order, strictly.

Mr. CONGER. No, the gentleman is on the pomt of disorder. [Laughter.]

Mr. SMITH, of Pennsylvania. The gentleman is talking of a matter of practice which has nothing to do with this bill.

Mr. McMAHON. Of course it is the practice I am complaining of and not the law. I would not charge the gentleman with upholding such a law as this. The Commissioner sits up in the Pension Bureau and the gentleman talks to him and says, "It is not nice to do this business, because we will have to develop the names of parties." I say every pensioner is entitled, as well as every criminal in the land, to be confronted with the witnesses against him—if not with the names, with their personal presence; and the idea that we shall deprive these poor men, for whom we on both sides of the House profess such unbounded love, of that right and apply to them a rule of law different from that in every other case is such that I appeal to gentlemen on the other side of the House not to insist on the point of order. I am sure if that distinguished gentleman from the State of Ohio [Mr. FOSTER] who aspires to be the next governor of the State of Ohio and probably the next President of all these United States [laughter]—I am sure if he were here he who has reserved all these points of order would himself withdraw it.

The CHAIRMAN. The gentleman's time has expired.

Mr. HALE. Let me ask the gentleman a question. Why does not the gentleman from Ohio, a gallant soldier, the present chairman of the Committee on Pensions, and as I understand a democratic aspirant for governor of that State—why does not that gentleman report this bill from his committee?

Mr. McMAHON. It never went to his committee until yesterday.

Mr. HALE. When, let me ask, will his committee be called?

Mr. McMAHON. Next Friday.

Mr. HALE. Why did not the gentleman introduce the bill last Friday and have it reported?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. SPARKS. Limitation of debate does not run on points of order.

Mr. McMAHON. I understand there is no limit of time on a point of order.

The CHAIRMAN. The Chair understands very differently.

Mr. McMAHON. I should like to answer the gentleman from Maine.

The CHAIRMAN. The gentleman's time has expired.

Mr. McMAHON. Let me say to the gentleman from Maine this will not pass into law unless you put it on an appropriation bill.

Mr. CONGER. I believe I have the floor and I desire to say a word.

Mr. ATKINS. I make the point that this debate is out of order.

The CHAIRMAN. The Chair has so ruled, and he asks the gentlemen who are not in order to take their seats.

Mr. CONGER. In regard to the point of order, I think the gentleman from Ohio will recollect that some four years ago he told this House the law authorized this very proceeding, or did not prevent it. I think it was four and a half years ago, in some remarks he made here.

Mr. SPARKS. He was not here then; that was before he was born as a member of this House.

Mr. McMAHON. The gentleman from Michigan cannot show it.

Mr. CONGER. I cannot remember the exact time.

Mr. McMAHON. It is some other McMahon; it is not me to whom he refers.

Mr. CONGER. It was some three years I believe.

Mr. McMAHON. You are mistaken in the man.

Mr. CONGER. The gentleman promised that with a democratic House he would bring in a law to change it. Why has he been slumbering so long?

Mr. TOWNSHEND, of Illinois. Let me answer. A gentleman from the Pension Committee did bring in a bill repealing this section.

Mr. CONGER. The gentleman says there is no change of law. We have heard from him before repeatedly on this subject that a change in this law was necessary, but it is only to-day he asks and urges this be passed because it does not change any law, contrary to his former assertions on that subject.

Mr. McMAHON. Do you want an answer?

Mr. CONGER. I wish to know where the gentleman's zeal has been slumbering all these years that he did not bring in a bill and force it through the House?

Mr. VANCE. I should like to state that at the last session of Congress I did introduce an amendment prohibiting the Commissioner of Pensions from dropping a pensioner as indicated, and it passed this House and went to the Senate. I do not know what became of it.

Mr. McMAHON. It has been slumbering in the Senate, I suppose. The gentleman from Michigan is under a misapprehension. Never in my congressional career have I called attention to an amendment as now pending. It is only recently this trouble has been brought to my notice, and if he will only pay one-half as much attention to these matters as I do, and get his republican friend over there to withdraw his point of order, it will go on the appropriation bill and be a law, and we will all be happy.

Mr. CONGER. I can hardly conceive it possible that the gentleman from Ohio has been so long a member of this House without knowing that soldiers were dropped from the pension-rolls, especially when he represents so great a number of soldiers as he claims. I am surprised that he should not have known they were dropped from the pension-rolls until within the last few days.

Mr. McMAHON. I did not know until then that they were dropped to such an extent.

Mr. CONGER. Must they be dropped in multitudes before attracting the gentleman's attention?

Mr. McMAHON. I had some hope that the justice of the case would have enlisted the support of gentlemen on the other side.

The CHAIRMAN. Does the gentleman from Pennsylvania insist on his point of order?

Mr. SMITH, of Pennsylvania. I do not wish, in seeking the action of the House on the bill now before it, to have it taken out of its regular legitimate course. I do not care what my friend from Ohio did or what the gentleman from Michigan did not do; what I care about is that we should act under the rules of the House. As a republican, perhaps on the stump I might take sides with the gentleman from Ohio; but we are not here on the stump, but as legislators, and we have adopted rules to which we ought to conform, and this is one of the rules which I ask to be enforced by the Chair. I ask the Chairman to decide that this is new legislation and not in the direction of economy. I have no feeling on the question, and ask the Chairman to give his decision on the amendment, not upon its merits, but upon the rule of order. If this bill should come to us from the Committee on Invalid Pensions it can be discussed on its merits.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Pennsylvania.

Mr. TOWNSHEND, of Illinois. I hope the gentleman from Pennsylvania will not insist on the point of order.

The CHAIRMAN. The gentleman from Pennsylvania has peremptorily declined to withdraw it.

Mr. McMAHON. I move that the committee rise for the purpose of moving to suspend the rules to make the amendment in order.

The CHAIRMAN. That is not in order. The gentleman, however, has the right to make the motion that the committee rise, and to ask that the amendment be admitted by unanimous consent.

Mr. McMAHON. I make that motion.

Mr. CANNON, of Illinois. Before the committee rises I wish to ask a question.

The CHAIRMAN. No debate is in order pending a motion that the committee rise.

Mr. McMAHON. I withdraw the motion, as gentlemen on the other side seem disposed to fight it.

Mr. ROBBINS. I move that the committee rise.

The motion was not agreed to.

The question being taken on the substitute, it was agreed to.

Mr. SMITH, of Pennsylvania. I move that the committee rise and report the bill as amended by the adoption of the substitute.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, and had directed him to report it back to the House with a substitute therefor.

Mr. SMITH, of Pennsylvania. I demand the previous question on the bill and amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

QUININE.

Mr. MORRISON, by unanimous consent, introduced a bill (H. R. No. 5502) to admit quinine imported from foreign countries free of duty; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

PENSIONS.

On motion of Mr. BLACKBURN, by unanimous consent, the bill (S. No. 1267) fixing the date of commencement of certain pensions and granting arrears in certain cases was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

JAMES CHESNUT.

Mr. EVINS, of South Carolina. I ask unanimous consent to introduce for passage at this time a bill to remove the political disabilities of James Chesnut, of South Carolina.

The SPEAKER. The bill is accompanied by the usual petition.

Mr. HANNA. Does it come from a committee?

The SPEAKER. It is presented by the gentleman from South Carolina, and is accompanied, like all other bills for the removal of disabilities, by a petition. The petition will be read.

The petition was read, as follows:

To the honorable the members of the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioner respectfully shows that in the year A. D. 1860 he was a Senator from South Carolina in the Senate of the United States; that on the 10th day of November in the year mentioned he resigned his seat as such Senator; that on the 20th day of December of the same year the said State withdrew from the Federal

Union; that he took part with the State, was a member of the secession convention and of the provisional government of the Confederate States, and served in the Confederate States army from the beginning to the close of the late war between the States.

Your petitioner further shows that by the third section of the fourteenth article of the Constitution of the United States he is prevented from serving either the State or the United States in any office. He therefore prays your honorable bodies to remove the political disabilities imposed on him by the said article.

All of which is respectfully submitted.

JAMES CHESNUT.

There being no objection, the bill (H. R. No. 5503) was received, read three times, and passed; two-thirds voting in favor thereof.

MAJOR JACOB E. BURBANK.

On motion of Mr. PHILLIPS, by unanimous consent, the bill (S. No. 947) for the relief of Major Jacob E. Burbank was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

REIMBURSEMENT OF KANSAS.

On motion of Mr. PHILLIPS also, by unanimous consent, the bill (S. No. 80) to reimburse the State of Kansas for expenses incurred by said State for the United States in repelling invasion and suppressing Indian hostilities was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

JAMES A. BARR.

On motion of Mr. KEIFER, by unanimous consent, the bill (S. No. 1283) for the relief of James A. Barr was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

SECTION 4234 OF REVISED STATUTES.

Mr. REAGAN, by unanimous consent, introduced a bill (H. R. No. 5504) to amend section 4234 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

L. S. ENSEL.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. No. 5505) for the relief of L. S. Ensel; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TAX SALES IN THE DISTRICT.

On motion of Mr. VANCE, by unanimous consent, the bill (S. No. 1344) relating to taxes and tax sales in the District of Columbia was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

WILLIAM B. SARDEN.

Mr. FINLEY, by unanimous consent, introduced a bill (H. R. No. 5506) granting a pension to William B. Sarden, late private Company C, Thirty-fifth Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ARMY SUBSISTENCE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report of the Commissary-General of Subsistence, showing expenditures of the subsistence department for the fiscal year ending June 30, 1878; which was referred to the Committee on Appropriations.

MARINE HOSPITAL SERVICE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a preliminary report of the Surgeon-General of the Marine Hospital Service, in relation to the national quarantine act; which was referred to the select committee on yellow fever, &c.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SINNICKSON, for one week from Friday, the 13th instant, on account of important business; and

To Mr. EICKHOFF, for one week.

And then, on motion of Mr. TOWNSEND, of New York, (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ATKINS: The petition of B. J. Young, for compensation for cotton burned by confederate forces, which had been seized and used by Federal forces for a barricade—to the Committee on War Claims.

By Mr. BAKER, of Indiana: The petition of Nicholas Easley and 86 other citizens of DeKalb County, Indiana, against a further extension of the patent of John C. Birdsell for an improvement in combined clover-threshers and hullers—to the Committee on Patents.

Also, the petition of George H. K. Moss and 178 other citizens of DeKalb County, Indiana, of similar import—to the same committee.

By Mr. BLISS: Papers relating to the petition of William and William H. Lewis for the extension of their patent for new and useful photographic plate-holders—to the same committee.

By Mr. BRIDGES: The petition of the Independent Order of Good Templars of Pennsylvania, for early and favorable action upon the Senate bill to provide for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. DIBRELL: The petition of Theodore W. Gambee, for pay for services as adjutant of the Sixteenth Tennessee Cavalry—to the Committee on Military Affairs.

By Mr. DUNNELL: A paper relating to the establishment of post-routes from Lowville, via Leeds, to Adrian; from Currie, via Marsh's, Hubbells, Amo, Big Pond, to Windom; from Currie, via Aooca, Bondin, Seward, to Worthington; from Currie, via Murray Centre, Leeds, Lost Timber, to Luterne, Minnesota—to the Committee on the Post-Office and Post-Roads.

By Mr. HARMER: The petition of Ellen Sherlock, for a pension—to the Committee on Invalid Pensions.

By Mr. HUNGERFORD: The petition of F. R. Wagner, for the restoration of the pay of examining surgeons—to the same committee.

By Mr. KETCHAM: The petition of Mrs. Sophia L. Schenck and 61 other ladies of Claverack, New York, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. LAPHAM: Resolutions adopted at a mass-meeting of workingmen engaged in the sugar-refining business, held in New York December 10, 1878, opposing a change of the tariff on sugars to so much per pound, regardless of color—to the Committee of Ways and Means.

By Mr. RICE, of Ohio: The petition of W. Blasland, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

FRIDAY, *December* 13, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

ADJOURNMENT TO MONDAY.

On motion of Mr. McDONALD, it was

Ordered, That when the Senate adjourns to day it be to meet on Monday next.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a communication from the Chief of Engineers, showing that, as the law now stands, if the office of the Chief of Engineers of the Army should become vacant no appointment to fill that vacancy could be made; which was referred to the Committee on Military Affairs.

He also laid before the Senate a letter from the Secretary of War, calling the attention of Congress to the facts in the case of William English, late cadet at the Military Academy, and recommending legislation to enable the President to appoint him a second lieutenant in the Army; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the joint commission on the completion of the Washington Monument, transmitting in compliance with the act of Congress of August 2, 1876, a report made by Lieutenant-Colonel Thomas L. Casey, United States engineer in charge of the construction of the monument; which, on motion of Mr. DAWES, was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the constitutional convention of the State of California; which was read, and referred to the Committee on Foreign Relations, as follows:

To the President and to the Senate of the United States:

The constitutional convention of the State of California, duly assembled by authority of law, at Sacramento, on the 28th day of September, A. D. 1878, for the purpose of revising the constitution of the State, respectfully memorializes the President and the Senate of the United States:

Whereas a treaty or convention between the Government of the United States and that of the Republic of France has been proposed, and is now under consideration at the city of Washington, by which convention it is proposed to so revise the existing schedule of tariffs that a large reduction shall be made in import duties upon French products, particularly wines and spirits; and

Whereas such reduction would result most disastrously to the large and growing agricultural interests of the State of California: Therefore,

This body, acting on behalf of the people of California, does most earnestly protest against the proposed revision of such tariff or any revision thereof whereby the import duties upon wines and spirits may be reduced.

And in support of such protest your memorialists respectfully show: that a large amount of capital, reaching, by intelligent and reliable estimates, the sum of $50,000,000, has been invested in the vineyards of California and the various structures and improvements connected therewith; that all conditions of people have engaged in said industry, from the laborer and the small lot-owner to the wealthy capitalist, and that the business has come to be the only means of support to thousands of the citizens of the State; that said industry is not even now largely remunerative, but at best only yields a moderate return for the capital invested and the labor employed; and that up to a very recent period the vineyards of California have had a close and constant struggle to place the industry upon a paying basis; that the proposed reduction of duties will, if carried out, utterly crush this industry, leave thousands without adequate means of support, and aggravate the distress prevailing among the producing classes without the gain of a farthing to the Government or to any person or persons in the United States, except the few engaged in the business of importing.

Wherefore, said convention has voted this protest, and caused the same to be authenticated by the signatures of the president and secretary.

Done at Sacramento, on this 4th day of December, A. D. 1878.

J. P. HOGE, *President.*

Attest:

J. A. JOHNSON, *Secretary.*

Mr. MAXEY presented the petition of R. M. Grubbs, mayor, and others, citizens of Denison, Texas, and vicinity, praying for the establishment of a branch of the United States district court in that city, with jurisdiction over the Chickasaw and Choctaw Nations of Indians; which was referred to the Committee on Indian Affairs.

Mr. McPHERSON presented the petition of John L. Lee, late captain One hundred and sixty-third New York Volunteers, praying for the passage of a law correcting the date of his muster out of service, and for pay and allowances from November 1, 1862, to December 31, 1862; which was referred to the Committee on Military Affairs.

Mr. KERNAN presented resolutions of the common council of the city of Brooklyn, New York, in favor of the passage of a bill granting a pension to Ann M. Paulding, widow of Rear-Admiral Paulding; which were referred to the Committee on Pensions.

Mr. CONKLING presented the petition of Orville Bishop and others, the petition of M. Kennedy and others, and the petition of C. Myers and others, citizens of New York, praying for the passage of a law granting arrears of pensions to the soldiers of the late war; which were ordered to lie on the table.

Mr. HOWE presented the petition of Walters & McClay and others, praying for an extension of the patents for the McKay sewing-machines; which was referred to the Committee on Patents.

Mr. BOOTH presented the petition of James Johnson, of San Francisco, praying that he may be indemnified out of the money received from the Geneva award for losses sustained by him as cook on the whaling-ship Brunswick, which was captured and destroyed by the rebel cruiser Shenandoah; which was referred to the Committee on the Judiciary.

He also presented the petition of James Towle and others, night inspectors of the district of San Francisco, indorsed by the collector and surveyor of the port, praying for an increase of compensation; which was referred to the Committee on Commerce.

Mr. ARMSTRONG presented the petition of Morris Samuelsolm, of Saint Louis, Missouri, praying for the passage of a law correcting his military record; which was referred to the Committee on Military Affairs.

He also presented the petition of Morris Samuelsolm, of Saint Louis, Missouri, praying the passage of a law granting him back pay for service as a soldier in the late war; which was referred to the Committee on Pensions.

He also presented the petition of Morris Samuelsolm, of Saint Louis, Missouri, praying for a pension; which was referred to the Committee on Pensions.

Mr. DENNIS presented a petition of the scientific and medical associations of Maryland, praying the passage of a law empowering the President to appoint a commission to investigate the causes and treatment of epidemic diseases, and for an appropriation to cover the expense of the same; which was referred to the select committee to investigate the subject of epidemic diseases.

Mr. MATTHEWS presented a letter from General W. Heine, an inmate of the National Home, inclosing the petition of R. A. Colby, also an inmate of the home, praying that immediate action be taken to protect the disabled officers and soldiers of that institution against insults, cruel treatment, and frauds committed on them; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. MORRILL. The Committee on Finance, to whom was referred the bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds to the Manhattan Savings Institution, have instructed me to report it with amendments, and if I can obtain the consent of the Senate I will ask for its present consideration.

The VICE-PRESIDENT. After the order of morning business shall have been called, the Chair will recognize the Senator from Vermont.

Mr. ROLLINS, from the Committee on the District of Columbia, submitted a letter from the commissioners of the District of Columbia, transmitting a report of Lieutenant R. L. Hoxie to Major William J. Twining, one of the commissioners, suggesting certain plans and estimates for the relief of the difficulties arising from the defects in the main sewerage system of the city of Washington; which was ordered to be printed, and recommitted to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880;

A bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina; and

A bill (H. R. No. 5500) to repeal so much of the sundry civil appropriation act, for the year ending June 30, 1879, as appropriates to Charles P. Birkett the sum of $32,505.71, as late Indian agent at Ponca agency, Dakota.

INTRODUCTION OF BILLS.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1493) for the relief of the widow of Colonel Lyman M. Kellogg; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CAMERON, of Wisconsin, (by request,) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1494) for the relief of James M. Wilbur; which was read twice by its title, and referred to the Committee on Claims.

Mr. DAWES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1495) for the relief of Frances H. Plummer; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1496) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1497) to authorize the President to appoint George Glass a master in the Navy, not in the line of promotion; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. COKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1498) to authorize the Secretary of War to contract with the Galveston and Camargo Railway Company for the immediate construction of its line of road to Rio Grande City, opposite Camargo, Mexico, as a coast defense, and for the purpose of establishing a commercial and military rail highway to the Rio Grande; which was read twice by its title, and referred to the Committee on Railroads.

Mr. COCKRELL. I ask leave to introduce a bill for the relief of Dr. Charles A. White. I do this at his request, as he is a reputable gentleman, but I know nothing about the merits or demerits of the bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1499) for the relief of Dr. Charles A. White; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. CONKLING (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1500) to amend the laws relative to pensions; which was read twice by its title.

Mr. CONKLING. If the Chair will indulge me a moment, I wish to say that this bill concerns the fees of pension agents. In connection with it I remark that I opposed as industriously as I well could a recent act on that subject which fixed a maximum rate for pension agents, under the operation of which, as was anticipated, they refused to act. This bill comes with a letter, as many other letters have come to me, from pensioners, complaining that under guise of protecting them from excessive fees a provision has been put on the statute-book which shuts the door against them when they apply for the aid of men engaged in that business. I say so much in the hope of securing the attention of the Committee on Pensions to the matter, they knowing of course much better than I do what is wise on the subject. I move the reference of the bill to the Committee on Pensions.

The motion was agreed to.

Mr. GORDON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1501) for the relief of William Battersby; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1502) to provide for the temporary increase of the Army in an emergency; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1503) for the relief of Mrs. Adele McCarty; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1504) for the relief of Louisa M. Mansfield; which was read twice by its title, and, with the accompanying petition, referred to the Committee on the Judiciary.

AMENDMENTS TO BILLS.

Mr. WITHERS submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-roads in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. GORDON. I desire to submit an amendment to the bill (S. No. 1082) to organize the National Railway Company of the United States, and for other purposes. I present this amendment by request. I have not had time to read it.

The VICE-PRESIDENT. The amendment will lie on the table and be printed, subject to the call of the Senator.

Mr. GORDON submitted an amendment intended to be proposed by him to the bill (H. R. No. 4414) to amend the laws relating to internal revenue; which was referred to the Committee on Finance, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. WITHERS, it was

Ordered, That Mrs. Margaret W. Peticolas (daughter of John Y. Worthington, deceased) be permitted to withdraw from the files the papers and the claim against the United States presented by John Y. Worthington.

MANHATTAN SAVINGS INSTITUTION.

Mr. MORRILL. I move that the Senate proceed to the considera-

tion of the bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds to the Manhattan Savings Institution. I desire to say that this bill has been considered by the Committee on Finance and unanimously recommended, and I was instructed unanimously to ask for its consideration this morning, as it is important, if any relief is to be given to the Manhattan Bank, that the bill should be acted upon before the recess. The bill also has the approval of the Secretary of the Treasury.

Mr. CONKLING. No one will object to it, I think.

Mr. MORRILL. I will explain it further after it has been read, if there is any further explanation desired.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments reported by the Committee on Finance were, in line 7, after the word "upon," to insert "evidence," and after the word "satisfactory," in line 8, to strike out the word "evidence" and insert "to him," and in the same line, after the word "furnished," to strike out the words "to him;" so as to make the bill read:

That the Secretary of the Treasury is hereby directed to issue duplicates of the hereinafter described bonds of the United States, alleged to have been stolen from the Manhattan Savings Institution of New York City, on the 27th of October, 1878, upon evidence clear and satisfactory to him being furnished that they have not been assigned, but are still the property of said institution, and upon the condition that a sufficient number of these duplicate bonds be issued to the Treasurer of the United States in trust for the said Manhattan Savings Institution, to be by him held for such time as, in the judgment of the Secretary of the Treasury, will secure the Treasurer of the United States against loss.

The amendments were agreed to.

Mr. MORRILL. A single word, Mr. President. This bill is intended to make the stolen bonds of no value to the thieves and to retain the security in the hands of the Secretary of the Treasury. Under the existing law any person in similar circumstances would be required to give bond and security to the Government. Here the Government itself retains the bonds which must be considered equally good security. I take it there can be no objection to the bill.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. THURMAN. I wish to inquire of the Senator from Vermont what security the Government has?

Mr. MORRILL. It retains the bonds themselves in the hands of the Secretary of the Treasury.

Mr. HOWE. Only a part of the bonds.

Mr. MORRILL. It will retain the whole of them.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read:

A bill to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

CHARLES P. BIRKETT.

Mr. BECK. Mr. President, I desire to move to refer the bill received from the House of Representatives this morning to repeal a clause in the sundry civil appropriation bill to the Committee on Appropriations, and on that motion I desire to say a few words at this time.

The bill (H. R. No. 5500) to repeal so much of the sundry civil appropriation act for the year ending June 30, 1879, as appropriates to Charles P. Birkett the sum of $32,505.71, as late Indian agent at Ponca agency, Dakota, was read twice by its title.

Mr. BECK. Mr. President, I desire the attention of the Senate for a few minutes only, in reference to the House bill repealing the clause of the sundry civil bill of last session for the benefit of one Charles P. Birkett, which has just been read by its title, mainly because the Committee on Appropriations of the Senate are perhaps responsible for any neglect that may have occurred in the proper investigation of the claim before it became a portion of the sundry civil appropriation bill. I was on the subcommittee appointed to examine the matter, and I introduced the bill for his relief originally. Therefore I, more than any other member of that committee, may be responsible for whatever wrong or neglect there was in it if any. We desire to have this bill referred to the Committee on Appropriations where a thorough investigation can be had to ascertain whether or not there was any fraud in the claim, as is in a somewhat offensive manner assumed elsewhere; and if there was I can assure the Senate that that committee will join with the House as promptly as they can possibly desire in having the law now proposed passed and the fraud exposed.

As is the habit with all of us, I introduced the bill at the request of a respectable attorney from my own State, in whom I had then and now have all confidence. I introduced it without examination. I did so believing as I do that every citizen has a right to have his bills presented and his petitions heard and fairly examined. The bill was referred to the Committee on Appropriations as it ought to have been upon the facts presented, that it was a deficiency to be provided for and not an unadjusted claim. A letter was sent to us by that attorney explaining it, and a statement was also made by the claimant fully setting forth his case. When the Committee on Appropriations was required to consider the sundry civil appropriation bill at a very late hour in the session, I in common with two other members of the committee formed a subcommittee to investigate as best we might all the matters contained in the bill. Mr. President, you may remember that the appropriation bills that came from the House were sent to us quite late in the session. That I do not complain of, except in this, that it deprived us of the opportunity of making that character of examination which would otherwise have been made, and threw upon us an amount of labor and responsibility which was almost impossible for any set of men to undergo and do the work well.

A large number of important appropriation bills were held back in the House for a long time, no doubt for good and sufficient reasons. When the various deficiency bills came to us—and they were numerous—we were pressed by persons who thought they had valid claims to insert them in each deficiency bill. We opposed all such applications upon the ground mainly that each deficiency bill seemed to be a pressing one and only for limited amounts and particular purposes. When the general deficiency bill was sent over to us about the 10th day of June, six months after Congress met, it was loaded down with private claims of every description at the other end of the Capitol. It was of such a character when it came here that the Senate committee felt that they were wholly unable at that late day of the session to go into it and examine carefully each item we were urged on that bill to insert—claims equally meritorious with those passed by the House—and go into the investigation of hundreds of other demands public and private. It was determined by the Senate committee not to do so, fearing that the session would either be unreasonably prolonged or that we would get into such a controversy perhaps that it would be impossible to disentangle good from bad cases. Therefore that deficiency bill was passed by the committee and the Senate just as it came from the House. We agreed, and so advised claimants, that all matters of that character should be considered in the sundry civil bill, so as to have only one bill to confer over, only one bill to examine the items of instead of having two. That decision threw an unusual amount of labor on the Senate committee in reference to the sundry civil bill. Every Department of the Government was represented before it. All asked for matters that were said to be indispensable for the good of the service. The Postmaster-General, I remember particularly, laid before us claims for very large amounts, and so with the other Departments. All the bill that gentlemen thought were meritorious—I remember among others one for a building for the Bureau of Engraving and Printing, one for taking ground on Pennsylvania avenue at the foot of the Capitol, and hundreds of others of every sort—were pressed by Senators and members; all had to be considered. Private claims were before us, urged by respectable agents and attorneys. We determined to reject all that it was possible to designate as claims, limiting ourselves to the examination of that class of cases which had been certified to as deficiencies by the Secretary of the Treasury and where they had been audited by the accounting officers of the Treasury, and as to those to insert just as few as we possibly could, keeping our own counsels so as not to invite the filing of even that class to any extent beyond what had been already done.

When Mr. Birkett's bill was called up before the committee, as it had been introduced by me the other members of the committee asked me to examine it. I did so as well as I could in the midst of an overwhelming mass of business of all kinds, sitting as we did night and day, rarely leaving the committee-room even for rest, with no means of going out to make other investigations. I remember that I took up first the letter of the Secretary of the Treasury, which is in these words:

Letter from the Secretary of the Treasury, transmitting estimates of appropriations required by the various Departments for the fiscal year ending June 30, 1876, and prior years.

TREASURY DEPARTMENT,
WASHINGTON, D. C., *March* 24, 1876.

SIR: I have the honor to transmit herewith the estimates of appropriations required by the various Departments to complete the service of the fiscal year ending June 30, 1876, and prior years, amounting to $2,723,471.70.

I am, very respectfully,

B. H. BRISTOW, *Secretary.*

Hon. M. C. KERR, *Speaker of the House of Representatives.*

Among the items of those deficiencis alleged to be necessary to complete the public service assumed by the Secretary to be correct, and claimed as deficiencies which must be supplied, not as mere private claims, by the Secretary of the Treasury, is this:

This amount to reimburse Charles P. Birkett, late United States Indian agent, for amount expended by him for the benefit of the Indians located at the Ponca agency, Dakota Territory, during the fiscal year ending June 30, 1874, being a deficiency for the fiscal year 1874, $30,589.31.

In a subsequent communication from Secretary Sherman was an additional estimate of deficiencies, almost in the same words as the letter of Secretary Bristow, making the deficiencies for the two years about the amount of the bill as passed, sent to us in this Congress:

This amount to reimburse Charles P. Birkett, late United States Indian agent, for amount expended by him for the benefit of the Indians located at the Ponca agency, Dakota Territory, during the fiscal year ending June 30, 1873, as shown by the books of the Indian Office, being a deficiency for the fiscal year 1873 and prior years, $1,097.22.

The attorney submitted to the committee a brief, in which are also these papers:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
July 1, 1876.

SIR: Your account for disbursements in the Indian department under your bonds of October 9, 1872, and February 3, 1873, has been readjusted, and by the direction of the Second Comptroller, as per his letter of June 14 and 27, 1876, you have been credited with sums which show a balance in your favor of $32,505.71,

differing by $1,175.06 from your rendering, which difference is explained by the inclosed statement.

The requisition for $129.11 has been called for, which, when issued, will entitle you to a draft for that sum.

Respectfully,

E. B. FRENCH, *Auditor.*

C. P. BIRKETT,
Washington, D. C.

Mr. DAVIS, of West Virginia. What is the date of that communication?

Mr. BECK. July 1, 1876, prior to the call by the Secretary for this money as a deficiency. On the 29th of June, 1876, is the following from the Auditor's office:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
June 29, 1876.

I certify that I have examined and adjusted the account of Charles P. Birkett, United States Indian agent, under his bonds of October 9, 1872, and February 3, 1873, and find that under the instructions and recommendations of the Second Comptroller as contained in his letters to the Second Auditor, dated June 14 and 27, 1876, there appears to be due the agent from the United States the sum of $32,505.71, in the following appropriations:

Pay of superintendent and agents, 1875	$129 11
Incidental expenses Indian service in Dakota	30,521 61
Incidental expenses Indian service in Dakota	1,854 99
Total	32,505 71

A requisition to issue for $129.11, under appropriation for "pay of superintendents and agents, 1875," to be paid to Charles P. Birkett, late Indian agent, as appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury herein.

E. B. FRENCH,
Auditor to the Second Comptroller of the Treasury, (J. D. T.,)
Second Comptroller's Office.

I admit and certify the above balance this 1st day of July, 1876.

C. C. CARPENTER,
Second Comptroller.

The two letters referred to, although they seem to have been filed before the committee, were mislaid, and were not seen by me at least, and I do not believe by any member of the committee, until within the last day or two. But acting upon the requisitions of the Secretary of the Treasury upon the settlement of the accounts as certified by the Second Auditor and Comptroller, and upon what appeared to have been a careful examination in order to test the accuracy of the claim—as shown by the detailed account rejecting over $1,100 of the vouchers originally filed—I did not see how to dispute or refuse to recommend the claim.

That account, disallowing many items, sometimes amounting only to a few cents, is too long to read. I will hand it to the reporter, asking it to be made part of my remarks. It is as follows:

Statement of differences arising on settlement of accounts of Charles P. Birkett, late United States Indian agent at Ponca agency, Dakota, from November 12, 1872, to January 31, 1875, inclusive, under his bonds of October 9, 1872, and February 3, 1873.

Balance due agent by official statement	$32,505 71
Balance due agent by his account-current	33,680 77
Difference	1,175 06

Arising as follows:

Fractional fourth quarter, 1872—Abstract A.

Voucher 7.	C. P. Birkett, salary as agent, $204.16. Error in calculation disallowed	$80 36

Abstract B.

Voucher 2.	Mills & Purdy, medicines, &c., $50.95. Item, "8-12 doz. Jam. ginger, at $4 per doz., $3," should be $2.66. Disallowed	34

First quarter, 1873—Abstract B.

Voucher 15.	Mary A. Birkett, services as clerk, 27 days in January, 24 in February, 26 in March, total 77 days, at $2.50 per day, $192.50. It appears from the letter of the Commissioner of Indian Affairs to the Second Auditor, dated May 1, 1876, accompanying this settlement, that Agent Birkett received notice February 11, 1873, that Mrs. Birkett's services as clerk would not be allowed; and the Commissioner recommends that payment be allowed to that date only. The second and ninth being Sunday, payment is allowed for 34 days at $2.50 per day, or $85. Disallowed	107 50

Second quarter, 1873—Abstract B.

Voucher 25.	Geo. W. Ira, $41.66, for services as physician, June 1 to 30, 1873, inclusive, at $500 per annum; should be $41.20. Error disallowed	46
Voucher 36.	H. S. Ford and C. Hartman, contract labor, $146.72. Item, "20,635 ft. logs, at $1,50 per 1,000 ft., $39.47," should be $30.95. Disallowed overcharge	8 52
		117 18
	Credit short addition of Abstract B	1 00
		116 18

Fourth quarter, 1873—Abstract A.

Voucher 71.	James Jones, general mechanic, paid for thirty days in September; voucher shows but twenty-six days' work. Four days disallowed, at $1.75	7 00
Voucher 76.	Mary A. Birkett, clerk, $155. The Commissioner's letter cited above (voucher 15, first quarter, 1873) recommends payment from October 1, 1873, at $2.50 per day, when employed. The voucher shows twenty-two days' work from October 1, inclusive, for which the pay is $55. Balance disallowed	100 00
Voucher 150	"Cries for Rib," laborer, $21.50. Carried to abstract $25.50. Error disallowed	4 00
Voucher 210.	Mary A. Birkett, clerical services, December, 1873, $75. Deducting Sundays and legal holidays, pay is due for 26 days, at $2.50 per day, $65. Balance disallowed	$10 00
Voucher 352.	A. Prumeaux, laborer, $63.75. This Indian is paid on voucher 307 for same time, $52.50. Double payment disallowed	52 50
Voucher 428.	George W. Howe, trader's storehouse, $300. Stock of goods in same, $1,471.70. Allowed by request of the Second Comptroller, as per his communication to the Second Auditor, dated June 27, 1876, filed with this settlement, certain articles purchased being excepted as improper purchases, amounting to	314 86
Voucher 458.	C. P. Birkett, travel expenses. Item: "Sleeping-car from Sioux City to Omaha, $4; and from Omaha to Sioux City, $4." The regular charge for one double berth between the points named is $2. Agent's explanation is insufficient to remove disallowance of excess	4 00
Voucher 460.	C. P. Birkett, travel expenses. Item: "Sleeping-car from Omaha to Sioux City, $4." Similar remarks apply. Disallowed	2 00
	Abstract sheet No. 15 is overadded	10

First quarter, 1874—Abstract A.

Voucher 3.	Mary A. Birkett, clerical services, first quarter, 1874, $225. Deducting Sundays and legal holidays, pay is due for 76 days, at $2.50 per day, $190. Balance disallowed	35 00
Voucher 5.	George Mosely, blacksmith, $101.25. Correct calculation, $96.25. Disallowed overcharge	5 00
Voucher 18.	Mark Cleveland, laborer, $108.37. Carried to abstract, $187.37. Disallowed error	79 00
Voucher 115.	H. A. Lyon, arms, &c., $322. Overadded	1 00
Voucher 129.	Steamer Hiram Wood, $60, for transporting an old engine-boiler from agency to Sioux City, Iowa, consigned to J. P. Dennis & Co., for sale. The agent not having accounted for the proceeds of sale of said boiler, the charge is suspended	60 00

Second quarter, 1874—Abstract A.

Voucher 2.	Mary A. Birkett, clerical services, second quarter, 1874, $225. Deducting Sundays, pay is due for 78 days, at $2.50 per day, $195. Balance disallowed	30 00
Voucher 3.	David Neale, engineer, April 1 to June 30, 1874, at $100 per month, $300. The records of the Indian office, as per memorandum accompanying this settlement, show that the agent reported Neale as commencing work April 7. Six days disallowed	20 00
Voucher 97.	Voucher overcarried to abstract	10

Third quarter, 1874—Abstract A.

Voucher 4.	John Hassett, temporary clerk, $75. There appearing no authority for emp'oying a temporary clerk, this charge is disallowed	75 00
Voucher 14.	John Hassett, temporary clerk, $75. Same remark applies	75 00

Fourth quarter, 1874—Abstract B.

Voucher 3.	Mary A. Birkett, clerical services, third quarter, 1874, $225. Correct pay for 78 working days, at $2.50, is $195. Balance disallowed	30 00
Voucher 7.	Daniel Sheely, temporary clerk, $75. Remark to voucher 4, third quarter, 1874, applies	75 00
Voucher 64.	Mary A. Birkett, clerical services, fourth quarter, 1874, $225. Correct pay, 77 working days, $192.50. Balance disallowed	32 50

Fractional first quarter, 1875—Abstract A.

Voucher 1.	George P. Baum, clerk, $27.50. Remark to voucher 4, third quarter, 1874, applies	27 50
Voucher 2.	C. P. Birkett, salary as agent to February 1, inclusive, $133.33. Correct amount, $129.11, pay for February 1 not being allowed, as he was relieved from duty on that date	4 22
Voucher 3.	C. P. Birkett, travel expenses, $85.96. Item: "R. R. fare from Yankton to Omaha, $23 70." Previous vouchers show the correct fare to be $8.60. Agent's explanation that the difference was occasioned by extra baggage, &c., does not suffice to allow the excess	15 10
	Difference	1,175 06

SECOND COMPTROLLER'S OFFICE, *June 29, 1876.* SECOND AUDITOR'S OFFICE, *June 29, 1876.*

In addition to these official facts and figures I requested the attorney for Mr. Birkett to give me any information he had, and received from him, in addition to the brief he had filed before the committee, the following statement, which was verified by the facts as far as I had opportunity to examine them; and no man from any Department of the Government, from the Senate or House, or from any of the committees of either, or indeed from any quarter whatever, laid before us any fact which tended to throw any suspicion on the justice of the claim. The statement I refer to reads as follows:

Charles P. Birkett, under an order from the Commissioner of Indian Affairs, performed certain work and expended certain sums aggregating $32,505.71 as agent of the Ponca tribe of Indians, saving by the promptness of his execution of said order many thousand dollars' worth of property belonging to the Government, the exigencies of the occasion requiring both the expenditure and the work performed. His vouchers were filed, examined, and passed upon by all the accounting officers of the Treasury Department, and after expurgating the same of $1,175 allowed him the above sum of $32,505.71, and recommended or remitted him to Congress for payment of the same, the appropriation to that service having been exhausted. He has waited long until his heart is sick, although urged upon Congress with a statement of the above facts, verified by the statements of the Second Auditor and Second Comptroller and recommended by the Secretary of the Treasury. If such a claim is not allowed I shall feel that injustice has been done a man who lost his arm in the cause of the Union and the Government exhibits an ingratitude of which I think it incapable.

Very respectfully,

R. C. WINTERSMITH, *Attorney*

Hon. JAMES B. BECK.

We had also Mr. Birkett's statement of his claim. He presented a case extremely meritorious. The agency where he was located was

about to be washed away by the encroachments of the Missouri River upon it and had to be moved back to safer ground. There were no appropriations available to do it. If they waited any length of time the agency buildings would be swept away. The order came from the Commissioner of Indian Affairs to move it at once. He sent an agent in person who approved of the act. The buildings were all moved back, the money for the work was paid, the vouchers filed and approved by the Commissioner of Indian Affairs, certified to by the board of peace commissioners, approved by the Secretary of the Interior, sent to the Secretary of the Treasury, assumed by him to be a deficiency, and sent to us in the letters I have read accompanied by the statement of the Auditor and Comptroller and the corrections as made; and upon these facts, having nothing else to go upon and no further time for investigation, as a member of the subcommittee I reported the facts to the whole committee, and the committee agreed that it was one of the cases they could not properly ignore. Now, after all these facts, with nothing laid before us but general charges of fraud which are always made as to all sorts of claims, if we were deceived, I have stated as briefly as possible our excuse for having been deceived. I do not yet know whether we were or not, for I have seen nothing concerning it since last session.

Mr. Birkett's statement of his case to us is as follows:

Charles P. Birkett, late United States Indian agent at Ponca agency, Todd County, Dakota, respectfully represents that his claim for a balance of disbursements at said agency, as audited and allowed by the accounting officers of the Treasury Department under a settlement of account dated July 1, 1876, amounted to $32,505.71, out of which from funds in the Treasury only available therefor he received $129.11, leaving a credit in his favor of $32,376.60.

The accompanying papers or exhibits are copies of certificates and letters of said accounting officers showing and explaining said balance of United States indebtedness to said Charles P. Birkett, to which reference is respectfully requested:

BASIS OF THE CLAIM.

It is chiefly for labor, materials, and mechanical appliances used and occupied in the tearing down and removal of the old Ponca agency buildings, over half a mile inland from the west bank of the Missouri River, where it was located, and from whence also was removed all United States Government and Indian stores, live and dead stock, with the large valuable and varied assets of the Indian service. The indebtedness also accrued for and from the rebuilding and removal of the agency storehouses and dwellings, together with all the necessary improvements, enlargements, and betterments, amounting, exclusive of Indian houses, stables, &c., to thirty-six Government buildings used for mills, shops, mechanics' houses, storehouses, military quarters, trading post, &c., as receipted for by my successor in office and shown on the rolls in the Department.

MOVING CAUSE AND DATE OF THE WORK.

The rambling and violently aggressive character of the Missouri River current all along its course, but more particularly in its Missouri location, is well known. In the "June rise," extending over the latter part of June and more than the whole of July, 1873, the threatened inroads of the river current at its inception led Agent Birkett to make strong and repeated appeals for direction and assistance in the care of the grave and important interests committed to his charge as agent there, and the fact beyond probabilities that extensive outlays would be needed for the safety and security of life and property, but could not in the last month of the fourth quarter of the fiscal year of 1872–'73 find funds remaining appropriated for "incidental expenses;" but the Missouri River would not be interdicted in its aggressive course on the agency location, which was less than one hundred yards from the Missouri bank of the flood. Agent Birkett, in view of the onus of responsibility thrown upon him, from his stand-point decided to use his best efforts in the matter, and did so, resulting in the safety and security of all the Government and Indian assets, their safe removal and security not only from peculation of goods but in providing shelter and safety from hostile Indians, whose attacks were frequent and in force.

AUTHORITY FOR OPERATIONS.

When the work of renewal and improvement had progressed in response to our necessities, by the employment of as large a force of men and teams as could be procured, in the first week of August, 1873, the then Indian Commissioner, Hon. E. P. Smith, came on a tour of inspection of the Missouri River agencies, and he and those who were with him for nearly two days examined matters at the agency as they presented themselves, and not only approved what Agent Birkett had done but authorized and directed the completion of roads, bridges, buildings, corrals, and betterments which his judgment and information led the Commissioner to decide on, and promised that funds should be provided either by congressional appropriation or otherwise to pay the expenditures thus created. This, for various reasons, was never done; and when I resigned my charge in the fall of 1874 I was directed by the Indian Office (under the same Commissioner) to assume the indebtedness thus incurred in my general accounts, which has been done, and the result has left me a large amount of debt and financial embarrassment at the decline of life, only to be relieved by congressional aid in a deficiency bill.

TESTIMONIAL ADMISSIONS ON AUDIT.

That the work done, or assumed to be done, has really been accomplished, and at less cost than similiar operations. Also that it clearly inured to the benefit of the United States Government and the Indian service.

It is also conceded that the Ponca Indians, although of the poorest of the Indian tribes, were successfully defended from their hostile neighbors, mainly without outside or military aid, and that when Agent Birkett left the Ponca Indian agency on March 1, 1875, to his official character the Indian assets were larger and of a more useful and varied character (including government comfortable dwellings) than ever before, and I therefore confidently hope to be soon relieved of the debt and consequent indebtedness hereby entailed upon me and my family after a life of hard work and usefulness.

CHARLES P. BIRKETT.

I desire only to add, Mr. President, that I never saw Mr. Birkett. I introduced the bill at the request of his attorney, whom I knew to be an honorable and respectable gentleman from my own State. I examined it, as I have stated, as well as I could during the two or three days allowed by the House, sitting night and day, carefully criticising everything we had reason to suspect, rejecting hundreds of claims, only passing favorably upon those which seemed to have been audited and approved and which seemed to have had the sanction of the Treasury officials of the Government. If we were imposed upon, I can assure the Senate the Committee on Appropriations will repeal the law and unite with the House of Representatives in exposing fraud as earnestly and as promptly as it is possible to do. I will not at this time even allude to the seeming reflections and insinuations made elsewhere; when all the facts are known no member of this committee will suffer, whoever else does.

I desired to say that much in explanation before the bill was referred, because of the connection I had with the subject.

The bill was referred to the Committee on Appropriations.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 1367) to aid in the protection of the public buildings and property against loss and damage by fire.

HOUSE BILLS REFERRED.

The bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, was read twice by its title, and referred to the Committee on Appropriations; and

The bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina, was read twice by its title, and referred to the Committee on the Judiciary.

ELLA LONG.

The VICE-PRESIDENT. The Chair will call the attention of the Senator from Indiana [Mr. MCDONALD] to the bill (S. No. 415) for the relief of Ella Long, which was returned from the House of Representatives yesterday upon request, and on which is indorsed a motion to reconsider, made on the 13th of June last by him.

Mr. MCDONALD. I wish to withdraw the motion to reconsider and let the bill pass.

The VICE-PRESIDENT. If there be no objection the motion to reconsider will be withdrawn. The Chair hears no objection, and the motion is withdrawn.

DES MOINES RIVER LANDS.

On motion of Mr. PLUMB, it was

Ordered, That the bill (S. No. 1330) to quiet title of settlers on Des Moines River lands, in the State of Iowa, and for other purposes, be recommitted to the Committee on Public Lands.

METHODIST CHURCH SOUTH.

Mr. MORGAN. I desire to give notice that on Wednesday next, in the morning hour, I shall ask the Senate to take up the bill (S. No. 910) for the relief of the book agents of the Methodist Episcopal Church South, reported from the Committee on Claims on the 13th of March last.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a resolution that when the House adjourns on Friday the 20th instant, it stand adjourned until Monday, January 6, 1879; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 5307) to correct an error of enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes; and it was thereupon signed by the Vice-President.

PRESIDENTIAL ELECTIONS.

The Senate resumed the consideration of the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon.

Mr. BAYARD. Mr. President, the exceeding importance of this subject alone induces me, as a member of the special committee by whom the bill was reported, to take part in the discussion. But I desire on this and every other subject with the consideration of which I am specially charged, to assume my full and responsible share in dealing with the question.

The great difficulties of this question will be made apparent to any one who will study the history of the formation of our Government and its administration from the earliest period down to the present day. Our fathers frequently approached the subject and have always failed satisfactorily to dispose of it, and to each generation belongs their share of the attempt to continue upon principles of settled law the peaceful and orderly administration of public affairs.

There is an urgent need now to settle this question, and I hold that the present time is especially propitious, because the unusual condition of affairs exists in the country of having the two Houses in the Congress controlled by different political majorities; and therefore a measure that shall receive the assent of both, will have the strongest guaranty of being what such a measure ought to be, a non-partisan disposition of a grave and important question.

We have now reached a period in our history, when the attention and anxieties of the American people are turned to the ways of peace and restoration, not of excitement and war. This nation needs rest and peace, and not further agitation. We need not further alienation of our people, but their thorough and permanent reconciliation. The man who will serve his country best will now seek to give it repose,

to allay confusion, and compose strifes. Its worst foe is the creator of new discords or the fomentor of strifes that should long since have passed away.

The occasion of the transfer of the executive power of any government is one of great importance; and the finest exhibition of the triumph of our system of laws has been afforded in those quiet, simple, unostentatious ceremonies wherein we have seen in this very Chamber, the robes of office and power laid aside in obedience to law to be assumed even by a political opponent. There has been a majestic simplicity in those ceremonies which has afforded me not only the deepest satisfaction, but which I believe has constituted a chief cause of our just pride and satisfaction as a people, in the contemplation of our political affairs. There is a great difficulty under any government attending the period of the succession of executive power. The history of such periods has often been marked in letters of blood, and confusion all over the world, and our own country has not been free from agitation; and our difficulties are all the greater because frequently in the heat of party excitement we depend for the machinery of peaceful transfer upon the obedience to law and order of a defeated party. The draught is heavy indeed upon the steadiness and patriotism of men who are called upon, not to yield power to their associates, or to see the forms to be continued in their own hands, but to hand it over to those against whom argument and effort have been strenuously but unsuccessfully made. So far there has been, as I say, great cause of satisfaction in this country, at the peaceful and orderly manner in which such transfers of power have been effected. But it has not always been a period free from anxiety, and two years ago every one felt, and every one who knew the true condition of affairs appreciated, the great danger and the deep anxiety of that period. We approached at that critical period very serious danger, and I hope that this bill may prove in a measure, if not wholly successful, at least to possess tendencies that shall remove, or lessen materially, the dangers of disturbance at a time when self-control and peace and order are so especially made necessary.

I view this bill as a measure tending to peace and quiet, tending to remove difficulties and to restore confidence to the public mind, and I hold that any man who can vote for it ought to support it unless some valid constitutional objection shall stand in his way.

Now, sir, the present bill, as it seems to me, does little more than declare the law as it is generally admitted to exist. It claims no new powers in the Houses of Congress over the count of the electoral vote, but it provides for the orderly exercise of admitted powers. It abdicates no powers of the two Houses. The Constitution of the United States has itself created the entire plan for the election of President and Vice-President and the methods of certification. All the powers, whether of the Congress or of the States, over that subject are created by the Constitution and are assigned by that instrument to Congress and the States respectively. Neither by law nor by any other method save a change of the Constitution by amendment, can these powers be increased or diminished; but so far as the powers of Congress are concerned they may be regulated in their exercise by legislation.

The Constitution provides that "each State shall appoint, in such manner as the Legislature thereof shall direct," its number of electors, with certain reservations that those electors shall not be Federal office-holders; but the power is unreserved, unlimited, it is complete and plenary that "*each State*" shall have this power to be enjoyed and exercised without the interference of any other State or of any other power.

If we will execute this Constitution in its spirit and meaning, Congress will in no way attempt to influence, to supervise, or in any way control the action of the State in doing that which the State alone is authorized to inaugurate and to carry to completion. The State, therefore, may appoint its electors, not being Federal officials, and the two Houses meet at the time appointed by law for counting the votes for the purpose of counting the votes; for there was no other purpose in their meeting. From the necessity of the thing, when they are so called to meet at that important juncture of public affairs, they are called for a practical and an important purpose, which is to count the votes, but the votes so counted are the votes of the electors appointed by the States, and not votes which in any way or in any degree have been influenced or appointed by the two Houses of Congress.

This bill meets my favor because it reaffirms in clear and explicit terms this exclusive power of the States over this subject, it asserts their complete independence of each other and of the Federal power in making this appointment; it wipes out all pretext of Federal supervision over or interference with the election of presidential electors, and confides it exclusively to the State.

There are some sections of this bill that are mere repetitions, or repetitions with amendment, of laws long since enacted to execute the power of Congress over this subject. The first and the third sections of the bill provide for the time of the election of the electors and the time of the casting of the electoral votes by them. The first section of the second article of the Constitution gives this power to Congress:

> The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

It will be observed that the first section of the bill changes the day for the election of electors throughout the United States from the first Tuesday in November to the first Tuesday in October, and it also fixes by section 3 the time for the meeting of the electors, on the second Monday in January of each year, instead of the first Wednesday in December of each year, as under existing law. The consequence is not to alter the principle required by the Constitution that the same day for the purpose of casting the electoral votes shall be fixed all over the Union. It simply enlarges the interim between the day of the election of the electors and the day when they are to fulfill their function by casting the electoral vote. The other day the honorable Senator from Florida, [Mr. JONES,] whose utterances always have great weight with those of us who know his integrity and intelligence, seemed to apprehend danger to the constitutional arrangement of having the election on the same day in order to prevent local or other interference, in the provisions of the present bill; but I submit to my honorable friend that surely there is no violation, in the first place, of the spirit and intent of the Constitution, because the day fixed for appointing electors is the same day all over the Union.

The bill has not provided different days in different States, but the same day for all the States, namely, in October instead of November next, as to the meeting of the electoral colleges. That is now in December. The bill proposes it shall be in January. Therefore the independence of the States that is sought to be secured by casting all their electoral votes on the same day is equally secured by the proposed bill, as it now is under existing laws. But he may say you have ninety days instead of thirty days within which improper influence or interference has a greater opportunity to be exercised. Yes, and by the same rule it will be found that opportunity to correct fraud and error has also been given an increased time. Therefore, I am unable to see that there is any conflict with the design of the Constitution, which was to prevent one State from affecting another State, or management affecting the casting of a vote, by simply enlarging the time between the day of the election of the electors and the day on which they meet and cast their votes. The time, I say, which would permit of improper influence would also permit of the cure of fraud or error if such had been attempted; and, not improperly referring to past scenes of contest on this subject, we all know that it was the shortness of the time intervening between the day of the election of electors and the meeting of electoral colleges that has permitted much that was wrong to be less efficiently counteracted.

The fourth section of this bill provides that

> Each State may provide, by law enacted prior to the day in this act named for the appointment of the electors—

Which is the first Tuesday in October—

> for the trial and determination of any controversy concerning the appointment of electors, before the time fixed for the meeting of the electors, in any manner it shall deem expedient. Every such determination made pursuant to such law so enacted before said day, and made prior to the said time of meeting of the electors, shall be conclusive evidence of the lawful title of the electors who shall have been so determined to have been appointed, and shall govern in the counting of the electoral votes, as provided in the Constitution, and as hereinafter regulated.

This language is in some degree unusual. It affects "to permit" the State to exercise this right. As I have said before, the powers and the rights of the States are fixed by the Constitution, and Congress may neither increase nor diminish them; and I hold, paraphrasing the section, it will be found to amount but to this, to a recognition of that power in the States which it seems to me ought, and by me has always been claimed and declared to reside in them, which is, that the appointment of electors is a State act, that the States have the sole power, unimpeded and uninterferred with, to execute; and by a necessary result, the voice of the State should be conclusive, when uttered through her proper organs, to prove that which she herself has done.

So that there is no grant of power, for grant there may be none; there is nothing but the recognition of that principle which is very dear to my heart, and which I hold to be essential for the perpetuity of the Government, the recognition, the affirmation, which cannot be too often repeated, the essential existence of the State as a State, as an independent and reliant pillar of the Union of States.

I did not intend to criticise unfavorably this language "may provide," but the honorable Senator from Vermont draws my attention to the fact that it is the language of the act of 1792, relating to the filling of vacancies in the offices of President and Vice-President. It would have been the same if the language of the section had been "When any State has provided by a tribunal of its choice for the certification of its ultimate decision in regard to the choice of electors, it shall be heeded and obeyed by Congress, the two Houses when they have assembled to count the vote." That is all that this section means. It is all that it can mean, because Congress has no further power over the subject. But can the objection be made to the law that the act of the State so certified by the organ of its choice shall be conclusive upon the two Houses in the count? It is not, as was said by the honorable Senator from Alabama, [Mr. MORGAN,] a rule of decision, but it is a rule of evidence fit and eminently proper for Congress to adopt; for who should indicate the truth of a choice but the party who made it, and alone had a right to make it? Such evidence, where there has been a contestation between rival claimants for the office of elector, is conclusive upon Congress as to the facts embraced in that adjudication. But I do not hold that it excludes the two Houses in joint assembly from the performance of their constitutional powers and duties over the subject, such as seeing that no Federal official shall be an elector, nor that a foreign-born citizen

should be the President of the United States, nor would it make a judgment obtained by fraud binding, because a fraudulent judgment is no judgment. Prove fraud, and you have proved that which is a universal solvent and which absolutely destroys the form of fact which it has set up. Therefore there is nothing to prevent the two Houses of Congress from penetrating a judgment obtained by fraud, because that would be no judgment at all, and so far from invading the right of the State it would be a direct decision in favor of the State.

Hence it is, sir, that I see nothing in that section objectionable, but on the contrary I see much that commends itself to my support because it is the reaffirmation of a doctrine which I had hoped would have been heretofore admitted, but which was overruled by the majority of the electoral tribunal created two years ago.

The fifth section provides merely for the preparation and forwarding of certain lists of the names of electors by the executive of each State. That is but a repetition of existing law as found on page 313 of the Manual of the Senate.

The sixth section provides for the orderly proceeding of the count of the vote, that—

> Congress shall be in session on the second Monday in February succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of one o'clock in the afternoon on that day; and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates, and papers purporting to be certificates, of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted as in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative votes of both Houses.

Passing over the mere recital of the language of the Contitu tion in the first part of this section, it will be observed that there is one provision most wholesomely contained in it. It is the exclusion of the pretension of power in the Vice-President of the United States or the President of the Senate *pro tempore* to control the count of the vote. Nay, further, it provides that both Houses must concur before the vote of any State may be rejected.

My friend from Florida in his speech the other day seemed to consider that this section gave to any one Senator and any one Representative a power of objection fatal or injurious to the right of the State. Frankly I submit to him that nothing of the kind is done, and that this simply provides that objections which may be made shall under the proposed law be presented in writing, confined to the subject matter, tersely and briefly stated, and submitted for summary decision to each House acting separately; but the concurrent vote of the two Houses must be necessary to give any such objection effect. Why, sir, as it now stands, who doubts the power of the two Houses acting concurrently to reject a vote which they believe to be contrary to the Constitution of the United States or invalid? Is not that provided for by the Constitution? Who doubts it? I have never heard any one except those very few, and even they I believe arguing for a temporary object, who held that the power of a discretionary count existed in the single hand and the single will of the Vice-President or the President *pro tempore* of the Senate. So, then, this bill leaving the power where it is to-day and where we admit it must reside, in the two Houses, to reject, simply provides for the orderly method by which the objection shall be stated.

But, sir, there is a more serious question that follows:

> If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the evidence mentioned in section 4 of this act to have been appointed.

That is to say, by the electors whom the tribunal created by the State, whether it be the Supreme Court, or whether it be any other tribunal created by the State, shall have, after contestation before them, duly decided were entitled. There the law of evidence created by section 4 comes in operation and controls the question of contested election of electors from the same State:

> But in case there shall arise the question which of two or more of such State tribunals, determining what electors have been appointed, as mentioned in section 4 of this act, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, from such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of the tribunal of such State so provided for by its Legislature. And in such case of more than one return, or paper purporting to be a return, from a State, if there shall have been no such determination of the question in the State as aforesaid, then those votes and those only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of such State.

We have had in the unhappy days of the late past, and which I trust have gone by forever, a bitter experience of double returns. Upon the face of such a fact there is illegality, irregularity, and probably fraud; because there can be no such thing as a lawful dual government in a State; there can be no such thing as two sets of electors, one must be false, and one alone can be true.

Now, it may be said is there not in this bill an evil suggestion, an invitation to make double returns? Is there not a suggestion to the defeated party to meet and go through the forms of an election, and send up here a certificate, or a paper purporting to be a certificate, which shall throw upon the two Houses the possibility, if they should differ in political sentiment by differing in their judgments, to destroy and silence the vote of the State. What is the answer to that? In the first place it is in the power of the State wholly to prevent it, either by depositing the power in the highest judicial tribunal of the State, as I may say without impropriety has been proposed in another place, or in any other tribunal the State may select as a fit and competent trustee of the power to declare the truth of that which the State accomplished on the day of election. The exercise of that power, which I believe and probably most of those who hear me believe already exists, is reaffirmed or confirmed by the provisions of this bill, because the power of the State to furnish the conclusive evidence as to which of two sets of contestants truly represents her voice as declared by the process of election, remains to be exercised at her will.

Nay, further, should such revolutionary and abnormal facts again occur in this country as the pretense of a dual Legislature or a dual government in a State, this bill contemplates really but a single Legislature as the lawful one and declares that that set of electors which is supported by the decision of the tribunal provided "by its Legislature" is the one which shall govern in the count of the vote. I therefore say that all disposition to make the attempt by a double return, taking advantage of the accidental political majority of either House of Congress, can be wholly frustrated by the exercise of the powers of the State under the Constitution which are recognized and reaffirmed by this act.

But, Mr. President, there is need of finality. Every human dispute, every human right, however important, must reach a finality to be controlled by human methods. It must be found somewhere. This bill leaves it to the State, uninfluenced and unimpeded by Congress to create that tribunal, and declare what shall be the final decision. That I hold to be wholesome, just, and necessary, and to answer the objection which is urged against permitting double returns. Until 1872 such a thing as a double return of electoral votes from a State had never been heard of. There had been a spirit of honest acquiescence in the results of elections, accepted, received, and obeyed by the American people, that would have stamped with discredit and infamy the defeated party who sought to escape from the verdict of popular election and urge upon any pretense the right to silence the voice of the State itself. Such double returns have been the fruit of lawless military interference by the Federal Executive, which alone made them possible. We must have finality at some point or time, and in some human hand and some human heart and brain the power of decision must ultimately be reposed. This bill proposes that the agents who are to exercise the final power of decision shall be the agents of the State, created by herself, controlled by herself, and therefore it seems that within her own hand lies the measure of her own safety. But if, sir, upon subjects of such importance and vastness statesmanship and elevated patriotism cannot be relied upon to triumph over party demands and personal ambition, our form of government must go to pieces. We come to that in the end. Lord Bacon said that "great empire and little minds go ill together." If self-seeking politicians shall control high powers, which only patriots and statesmen should exercise and be intrusted with, disaster only can ensue, and no letter of any statute will avail to prevent it. Nay, sir, if a sound and upright public opinion shall not compel men at least to the appearance of justice and obedience to the spirit of laws, then injustice will bear its natural fruit, and resistance and anarchy will follow in its train. Nothing is more certain, nothing is more plain than that those who commit or permit the commission of fraud will sooner or later perish by fraud just as surely as that he who takes the sword shall perish by the sword.

As I have said, the differing party majorities of our two Houses as at present constituted make the present time opportune for a settlement. This measure ought to be in the political interest of all parties. I have no right, and no wise man would wish to square such a measure with temporary party exigencies. Nor does it seem to me that we should legislate to meet only a few extreme cases or a revolutionary period in our history. The normal condition of American society is that which we have a fair right to consider and shape our laws in conformity with. Our condition of public affairs for the last fifteen years has not been normal. Such a phrase wholly fails to describe the convulsions through which the people of this country and their affairs have passed. But gradually this country is coming back to measures of reason and of justice, and is weighing the acts of men and parties to see how nearly they accord with such qualities. Reconciliation is taking the place of denunciation. Partisans may seek to stay this tide of good feeling, but they will fail. The great heart of the American people may sometimes be led to do injustice in its heat, but never will be guilty of continued spitefulness. Its prevailing

impulses are all toward justice, generosity, and good-will. The late pestilence that scourged some of the Southern States has proved this, and the countless rivulets of private beneficence on one side and of heartfelt gratitude on the other have grown into a great and mighty river of good-will and brotherly affection, in which petty and personal schemes and attempts to create discord will surely be overwhelmed. The absolute necessity of peace and good order as conditions-precedent to solid prosperity is recognized everywhere by thoughtful men and this whole country longs for it and I believe will demand it.

In my judgment the bill before us tends to smooth the path of progress in the wise adjustment of a very difficult and important subject, and I give it my support rather because of its tendency in that direction than of its actual accomplishment.

Mr. EATON. Mr. President, I agree with other Senators who say that this is a grave question. I hope I am second to no man in this body in my desire for peace and good order and love for the Constitution. I am opposed to the passage of this bill. I am opposed to the passage of any such bill. I say, sir, here, that in my judgment there can be constitutionally no legislation upon this subject. There ought not to be any legislation upon this subject. There ought to be no interposition by Congress between the States and the Constitution. If the Constitution of the United States is defective, amend it, not tinker with it by legislation. I am not prepared to say that any amendment is required, but if it is required let the people of the country determine what the organic law shall be, and not this Congress of the United States.

I said, sir, that there could not be, there ought not to be, any interposition between the Constitution and the States. The principle of legislation is vicious, and why? This instrument undertakes to and I believe does determine exactly what the power of the States is in this matter. Is any legislation required? What is necessary to constitute legislation? To legislate successfully requires the assent of the President of the United States or a two-third vote of each House of Congress over his veto. Can this principle be adopted in this case? Is this principle wise? What has the Executive of the United States under the Constitution to do with this matter? Does the Constitution give him over this subject any power? You seek now to pass a bill, and ask the Executive of the United States to sign that bill, and that bill to govern, gentlemen say not the States, but the action of the States under the organic law of the land. Sir, let us read this clause of the Constitution:

> The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the persons voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate.

That is plain, clear. The right of the States is well defined. It is absolute. It cannot be changed, tinkered with in any way, without destroying the virtue and vitality of the instrument.

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

The Senator from Delaware [Mr. BAYARD] urges as one reason why this bill should pass that it admits a great principle for which he has long contended; that is that the President of the Senate has no right to count the votes; but that that power rests in the two Houses of Congress. Well, sir, a declaration of that sort incorporated in a bill of this character may be true, and yet it furnishes no reason why legislation should be adopted in this case. Further:

> The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest number, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President.

It strikes me that this is perfect. It does not require this bill at all in any way or manner.

Mr. BAYARD. Does this bill conflict with that?

Mr. EATON. If it does not conflict with it, it is unnecessary, is the answer to that inquiry. If it does not conflict with the plain letter of the Constitution, then do not undertake to pass it, but let us stand upon this instrument, which is the organic law of the land.

Mr. BAYARD. May I ask my honorable friend, is not the Constitution filled with powers some of which are self-executing, and some of which are called non-self-executing, which require the legislative power of Congress to make provision for their exercise? Is it any objection, therefore, to a law, that it proposes to regulate and make efficient the powers which are found in the Constitution dedicated to a certain purpose?

Mr. EATON. My friend, as usual, has stated a proposition which is true, but this does not happen to belong to that class of propositions. This is self-executing. It is as plain as the sunlight. No man can read it and go wrong if he is honest. It executes itself, and God forbid that we should step between the Constitution and the States when there is a self-executing power here in the Constitution.

Mr. BAYARD. Will my friend pardon me a moment?

Mr. EATON. Certainly.

Mr. BAYARD. How can it be said that we step between the Constitution and the State, when we simply further the execution of the Constitution itself? If it were a violation, then we should step between them; but the honorable Senator seems to imply that this law is something which stands between the Constitution and its proper execution. If I thought so, I would not vote for it.

Mr. EATON. I have no doubt that my friend asserts a truism; I know that he would not vote for anything that he believed unconstitutional, and yet he may by possibility believe a thing to be constitutional that I believe to be unconstitutional, and which therefore I shall vote against. Each Senator will govern himself with regard to the powers of the Constitution.

Again, the Constitution confers upon a Congress the right to count the electoral votes cast by the several States for President and Vice-President. Is there any doubt about it? "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted." Here, I beg to say, is a delegated power to some body. To whom? To what body is this power delegated? There can be no question about it whatever that here is a delegated power by the organic law of the land to Congress. What Congress? Not the Congress of 1880, or 1881, or 1824, or 1878, and we have no control over this delegated power. It is a power delegated to that Congress which has the right under the Constitution to count the votes, and I undertake to say that this Congress can make no law with regard to the counting of the votes that will bind that Congress upon whom that duty devolves. The duty of counting the electoral votes of the States for the next President and Vice-President of the United States will devolve upon the Congress that meets in this building in 1880, not this, but the next; and here we undertake to determine a rule of action for a Congress hereafter in part to be elected, and upon whom will devolve that duty. The idea, to my mind, is monstrous that a President of the United States has the power in his hands, unless there is a two-third vote in each branch of the Federal Assembly to override him, to defeat a bill with regard to the important matter of counting the votes for the next President of the United States! The very statement of it in itself is enough to determine the whole question.

Now, what is necessary? Is any change in the organic law necessary? If so, are we not competent to advise our fellow-countrymen to advise the different States of the Union that such an amendment to the organic law would be wise, and prudent, and is necessary? This whole subject with the next Congress will be the simple passage, if anything is necessary, of a joint rule in regard to who shall preside, on which side of the Chamber the Senate shall sit, on which side of the Chamber the House of Representatives shall sit, where the Speaker's chair shall be, and who shall write down the figures. All that is mere matter of a rule to be made by the two Houses and acted upon whenever the count is had.

I may be in error; nothing is more likely; I have frequently been in error, and so have other men wiser than I; but my mind on this subject is determined. My convictions are that there can be no legislation upon this subject. Shall I undertake to put the gyves around the wrists of men who will take their seats in these two Houses a year hence? Not I. Be that their priviledge and duty, not mine. I do not accord to the President of the United States any power with regard to the counting of the votes of the next electoral college.

Gentlemen speak as though there was great danger. Sir, I am not an alarmist. I do not believe there is any danger in standing by the Constitution of the United States. I did not believe there was any danger two years ago when a bill was passed under which the choice of the people of the United States was defrauded out of an office by the illegal act of an unconstitutional machine. The Constitution is the great charter of the rights of the States and the liberties of the people. I do not propose myself to vote for any law, to be a party to any legislation that interferes in the slightest degree with the rights of each of the sovereign States—I know that term is not liked about these days, but yet I use it—of each of the sovereign States of this confederacy of sovereignties. I have no idea, Mr. President, that this bill is introduced or advocated as a condonation of any thing in the past. If I did believe that, I should characterize it with different language than what I now do.

For these reasons, Mr. President, I hold that until, if it be necessary, an amendment to the Constitution is proposed and offered to the people of the United States we should stand by that instrument as it is. No harm can result. My friend says peace is desired, good-will is needed. How will the passage of this bill, in what manner will the passage of this bill bring good feeling either between different sections of the country or between gentlemen of different political opinions? I confess I am too blind to perceive any such effect from the passage of this bill.

Mr. BAYARD. I wish to state to my honorable friend, if he will allow me, why I think it would have that effect. Although the honorable Senator may not have seen that two years ago was a period of danger, of apprehended danger and of deep anxiety, yet there were very many of his fellow-countrymen who felt it to be both. I can recollect when this whole country gave one sigh of relief when the question was settled that we were to have a finality of decision, although it was by a new and an untried tribunal; and I believe, that unless there shall be the assurance that the count of the electoral vote, and the decision of the transfer of power from one administration to another, shall be conducted quietly, orderly, conclusively, acceptably, it will create a period of apprehension, in the face of which, the business of the country, the industries of the country, the occupations of

the country, will all stand in trembling silence until it shall have passed. I hold that those periods of unrest, of anxiety, while they do not produce open, manifest injuries which all may see, yet, nevertheless, are fraught with loss, sometimes almost incalculable, by imposing a paralysis upon business and industry which results in the most enormous losses in every direction. To-day I believe the thing that is chiefly needed by this country is confidence that there will be repose, that settlements will be orderly, that business will not be arrested, that revolution will not be invoked; and, therefore, any measure that shall tend to quiescence tends to prosperity; any measure that relieves the people of this country from apprehension of difficulty in the future, which has even the tendency to relieve their minds, should be hailed, I think, with acclamation. It is for that purpose that it seems to me so especially wicked at the present time to add to the natural controversies of opinion, to the natural heats of partisanship, new flames of sectional disorder and of personal and bitter party ambitions. It is because this bill does propose that the way shall be smooth toward a quiet, orderly, accepted, lawful method of deciding a vexed and troublesome question, and that too without in any degree invading the provisions of the Federal Constitution, that I favor it and look upon it as a measure of peace and rest and of repose to a country that sadly needs it.

My friend says we stand between the Constitution and the law, and asks why legislate in regard to the Constitution? Sir, he surely forgot, omitted at the moment to state, that from 1792 down to the present day our statute-books are filled with statutes and their amendments relating to this very subject. Some of the most ancient laws, passed by the very men whose names were appended to the Constitution and who were its framers, were passed for the purpose of carrying into effect this very machinery for the election of President and Vice-President. No man has hinted but what legislation was perfectly legitimate and proper and desirable from time to time on that very subject. The only difficulty has been that the subject has been delicate, the powers involved were enormous, and men felt great anxiety; and until the necessity was forced upon them, they would not seek to decide it at all.

In 1801 this country came very near having a dissolution of its Government from the failure to choose a President and Vice-President, and then it was that the inventive patriotism of both Houses of Congress was set to work and bills were reported to both Houses of Congress on the subject which were intended to relieve from the great difficulty of that decision. Fortunately the patriotism of that day was sufficient to find another method of escape; and then as the emergency passed, the necessity for legislation seemed to pass with it, and the question was suffered to rest in peace till another time arose—in 1824, and again in 1837, and again in 1857; and so on we have gone. We came close up to the matter in 1876, and were compelled to confront this question and find a method of decision. This is, however, in 1878, a time, in advance of any difficulty, to remove the questions of doubt as to the orderly proceeding in respect of this great matter. That is all. I did not say that it removed them in every respect satisfactorily, but I did endeavor to prove to the Senate—with what effect they can best judge—that this was not a contravention of the right of any State nor of the two Houses of Congress, but that it was an orderly proceeding in the line of the Constitution tending to dispose of a difficult subject in a peaceful and legitimate manner.

Mr. EATON. Mr. President, I am not one of those wicked men, nor do I suppose my friend intended to have it go out to the country that I am one of that class that desire to stir up contentions between different sections of the country.

Mr. BAYARD. Why, Mr. President, it is utterly unnecessary for me to say certainly not.

Mr. EATON. I suppose so.

Mr. BAYARD. No man who knows the patriotic devotion of my honorable friend can believe for an instant that he would stir up strife between his countrymen, but on the contrary all know that he would do everything to allay it. I had not the most remote reference to him.

Mr. EATON. My friend had so mixed up the constitutional question with another question that is before us that it might have looked possibly as though I was one of that class of men who desired to stir up contention in the country.

Now, my friend says that in 1801 it was discovered that the Constitution was incomplete, and patriotic men, honorable men, Constitution-loving men stepped forward to relieve the difficulties of the people. And how? By congressional enactments? No. By legislation? No. How? By the very amendment to the Constitution under which we now live.

Mr. BAYARD. Surely my honorable friend is mistaken. It was the hand of John Marshall that drafted and the vote of John Marshall that passed in the House of Representatives a bill providing for a tribunal composed of members of the two Houses and an ascription of judges from the Supreme Court to decide the very question of double votes.

Mr. EATON. How long did that last? It was found to be as this will be found to be a mere wisp of straw, and wise men, patriotic men, looked for an amendment to the Constitution of the United States that would preserve alike the purity of the elections, the sovereignty of the States, and the rights of the people, and therefore the amendment to the Constitution which is now article 12 is the provision which has governed us; and if anything is necessary now, let another amendment to the Constitution be presented to the people of the States, and let us put this organic law into a proper shape if it be now improper.

Mr. EDMUNDS. Why, Mr. President, do I understand the Senator from Connecticut to maintain that, under the Constitution as it is, it is not within the competence of Congress to provide reasonable regulations for the exercise of its constitutional powers?

Mr. EATON. I have not said any such thing.

Mr. EDMUNDS. Then what is the objection to this regulation giving the State a right to its voice?

Mr. EATON. My friend is ever opportune. If I had presented this matter properly, as I tried to do, he doubtless would have arrived at a correct conclusion as to my meaning. What I say is that no legislation ought to come between a self-executing power in the Constitution and the States, and all that is required here in this matter is either an amendment to the Constitution or a simple joint rule of the two Houses in order to act under the instrument as it now is.

Mr. EDMUNDS. If it is a self-executing power, what is the need of an amendment to the Constitution, I should like to know, to carry it out?

Mr. EATON. I have not said that there was any amendment necessary. I was very careful to govern my mind and my words. I said that if there be anything necessary it is an amendment to the Constitution.

Mr. EDMUNDS. Well, if it is a self-executing power, may I ask the Senator secondly what is the need of a rule to carry it out? The Constitution itself must be the rule if it is merely self-executing.

Mr. EATON. You want a little rule to determine on which side of the Speaker's chair the honorable Senator from Vermont shall sit.

Mr. EDMUNDS. Not if the Constitution is self-executing, for then the Constitution would place me exactly in the right spot.

Mr. EATON. Mr. President, this is boys' play.

Mr. EDMUNDS. I think it is.

Mr. EATON. I think it is, and if my friend will not interfere there will be one less boy engaged in the play. [Laughter.]

Nobody doubts, nobody would undertake to say, that a rule of the two Houses may not be necessary in order to determine certain little matters. When I speak of a self-executing power in the Constitution itself, I mean in regard to the great principles which it governs, not in regard to the smaller matters which are necessary when the two Houses meet in convention.

Mr. President, I did not intend to consume half the time that I have. I only felt it to be my duty, being called upon, as one of the representatives of the States of the Union, to vote upon this measure; and being anxious now, as I always have been, that there should be good feeling between every section of our country, to express deliberately and clearly the reason why I could not vote for this bill. I have done it, sir, in my poor way, and now I shall leave the question.

Mr. MERRIMON. Mr. President, the bitter controversies, the dangers and general public discontents engendered in ascertaining the result of the late presidential election, it seems to me, make it manifest to the observing and candid mind that some legislation on the part of Congress and the several States is necessary to prevent a recurrence of the like if not still more fearful calamities. It cannot be forgotten that in so ascertaining the result of that election open violence lighting up the flames of civil war was imminent, and nothing but the highest patriotism and stern forbearance on the part of Congress and the American people prevented ruinous disaster to the Government. We still hear the mutterings of dissatisfaction and see manifested a resolute and determined purpose not to tolerate fraud and wrong in the future.

I cannot conceive of a subject more interesting to the American people than the election of their Chief Magistrate. It involves their integrity as a people, their peace, their good order, their development, their prosperity, and their happiness individually and collectively. It seems to me, therefore, that Congress will be derelict if it longer delays to make some provision to avert those dangers that every one who has his eyes open must see in connection with any successive presidential election.

Seeing and appreciating the dangers to which the country is exposed and the absolute necessity for some means of safety, I feel it to be my duty to vote for the bill now before the Senate. It presents the whole subject, and one of the first magnitude for the consideration of every member of the Senate. I have the strongest convictions that Congress ought not to allow this opportunity to pass by without enacting some appropriate law regulating the counting of the electoral votes for President and Vice-President. Alarming experience ought to forewarn us of dangers that await us, and that it will not do to delay action until the emergency arises, when wise laws become necessary. We waited two years ago until we were upon the very evil we sought to avert by the temporary and unsatisfactory act that was then passed, and the strifes and contentions that were produced from it have not yet altogether subsided. We hear the sullen mutterings of dissatisfaction on every hand to this day, and there is a resolute and determined purpose in the American mind that such results as transpired then shall not be permitted to transpire again. I seriously apprehend that, unless we shall in a spirit of patriotism, concession, and forbearance do something now, the time is not far distant when the Government and the hopes of the people may be

wrecked in transmitting the office of President from one President to his successor. This apprehension has long been entertained by the wisest and best friends of our free institutions.

When I consider the Constitution as an instrument to be construed by legal rules, and look at the history and practice of the Government in respect to the election of a President and Vice-President, I confess my amazement that there has not been in the past some general legislation regulating this subject. I can account for the absence of some such law only on the ground that the constantly recurring contentions and rivalries of political parties and public men in the past have prevented the passage of one. Repeated efforts have been made to pass a law, but without success.

The Government of the Union is a system of government. This system is embodied in the constitutions of the several States and the Constitution of the United States. The Government of the United States is not independent and absolute; the several governments of the States are not independent and absolute. The Government of the United States rests upon and is essentially a part of the governments of the several States, and the governments of the several States are essentially a part and parcel of the Government of the United States. These organic laws, State and Federal, are adjusted and organized into a good system, and the powers exercised by these governments respectively are contributive to the support of this general system. These powers are to be exercised freely and reasonably under limitations prescribed and defined for the furtherance of whatever end is contemplated by our system of Government. The powers of the governments, State and Federal, are mixed; and whenever it becomes necessary to call any of these into operation it must be done according to the limitations and restrictions prescribed.

One material and important provision in this system of Government is that in electing the President and Vice-President the several States as States shall appoint electors to elect these officers. This appears from the following plain provision of the Constitution of the United States. The clause bearing upon this subject is in these words:

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

This power to appoint is absolute, except by another provision certain officers of the United States may not be appointed. It does not imply simply the power to appoint, but it implies also the power to ascertain in a regular and orderly way that the appointment was made. The power to appoint is not subject to a higher power, nor can an act of appointment be reversed by any Federal authority. Let us examine that provision and see how it operates. In the first place the Legislature shall designate how the appointment shall be made. The Legislature may provide that the Legislature itself shall appoint the electors; it may provide that a commission provided for the purpose shall appoint them; it may provide that the supreme court or the governor shall appoint them, or it may provide that the voters of the State shall elect them by general ticket; or it may provide that each congressional district may elect one. The Legislature has absolute control over the subject of the appointment of electors, except that persons holding offices of trust or profit under the United States shall not be appointed, and that Congress may designate by law a day for appointing electors and for the counting of the electoral votes in the college. It has been said that the day for appointing electors must be the same in all the States. This may be so, but it is not necessarily so. The provision of the Constitution in this respect is as follows:

> The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Now it will be observed that there are two or three clauses in this provision. The first refers to choosing electors, the second to the counting of the electoral votes by the electors. These two provisions are distinct from each other, and note the distinction. Granting that Congress has the power to fix the day when the electors shall meet in the electoral colleges and count the votes, and that this day must be the same in all the States, that does not in any way contravene the power of a State to provide a means by which it may ascertain the result of the appointment, whether it is made by one power in the State or by another. That still remains intact; and it is the right, the duty, of a State, and it has the amplest power to provide for contesting the validity of an appointment. Suppose the appointment of electors be made by the people voting in a State; the Legislature may provide that such election may be contested before the supreme court or before any tribunal established for that purpose.

I beg here to correct an error into which it seems that many have fallen. The extract from the Constitution which I read a moment ago requires some scrutiny. There seems to be an impression that Congress not only has the power to fix the time at which the electors shall cast the electoral votes, and they must be the same day in all the States, but that it also has power to fix the time for choosing electors, and that that must also be on the same day throughout the United States. This latter view is very questionable. The phraseology used does not seem to bear any such construction. The language is:

> The Congress may determine the time of choosing the electors—

That is one clause—

> and the day on which they shall give their votes.

That is another clause. Now see what follows:

> Which day shall be the same throughout the United States.

That limitation applies to this last clause, to wit, the time of counting the electoral votes. But this is not very material. My purpose is simply to call attention to the fact that the limitation upon Congress to fix the same day throughout the United States is confined to the day when the electoral colleges shall meet and cast the electoral votes.

Mr. JONES, of Florida. Will the Senator permit me, if it does not interrupt him, to ask a question which refers to his argument on that point?

Mr. MERRIMON. Yes, sir.

Mr. JONES, of Florida. I would ask the Senator if it was not a contemporaneous construction of the Constitution that the time of electing electors shall be uniform throughout the United States? Has there ever been a different rule on the subject from the formation of the Government to the present day?

Mr. MERRIMON. Not within my knowledge; but still it is not within my knowledge that any question has ever been raised about it. There are many powers in the Constitution which Congress may be called upon to exercise in the future that never yet have been called into exercise. There is nothing, it seems to me, in the letter of the clause in question, or in the spirit of it, that prevents Congress from providing that the electors may be appointed on different days in the several States. While I think of it, let me remind the Senator from Florida that Congress has exercised power to provide that where there is a failure to appoint on the particular day designated by law the appointing power in the State may appoint electors at another subsequent time. The existing law provides for this. It has been done over and over again, and the present statute provides that electors may be appointed at a time other than that which is fixed for the general elections or appointments throughout the United States.

Mr. President, it seems to me, therefore, very clear that without any provision in the pending bill the several States have power to create tribunals before which to contest the validity of the appointment of electors, and that they may do it; they may provide that the supreme court shall do it; they may provide that a commission shall do it; they may provide that it shall be done by the Legislature, or by whatever tribunal the Legislature may see fit to designate. The power of the State for that purpose is plenary and absolute and there is no limitation upon it.

Then there is another view which I may state in reply to the Senator from Florida. The appointment of the elector is one thing; the ascertainment of who is appointed is another. Even if it were conceded that the Constitution required that the appointment should be made on a certain day prescribed by statute, and on the same day throughout the Union, that clause of the Constitution would in no sense in that case interfere with the exercise of the power to ascertain what was done on that particular day. Therefore the supreme court of the State, or a commission, or any tribunal provided by the State, might hear and determine a contest about who was appointed, whether the appointment was made by the governor or one authority or another.

I am free to admit that the fourth section of the bill under discussion, which provides that the States may do this thing, is not really necessary. It is only in affirmance of the constitutional power in the States without any act of Congress. It is merely suggestive; it does not do any harm. It is a mere statutory suggestion on the part of the United States to the several States that this power, this right, this duty is in them to provide by appropriate legislation for contesting elections, the appointment of electors having been made in the proper way.

It seems to me that this power is a very important one to be exercised. There is no more important officer of the Government than that of President; and yet, according to the doctrine of those who oppose the views that I now submit, frauds of the grossest character, intimidations, or any other monstrous means may be used to control appointments of electors, and yet the States, whose right it is to appoint, to select these electors, shall have no power on earth to correct that fraud or wrong, or whatever it may be, which has been practiced in the appointment of its electors.

Then if the power, the right, and the duty is in the State to appoint electors, when does the State cease to have jurisdiction of its electors? That is a very important question. It becomes important in this connection to ascertain, if the States have an absolute right to appoint electors for the election of President and Vice-President, when the jurisdiction of the State over them ceases and that of the Senate and House of Representatives commences. I maintain that the jurisdiction of the State ceases whenever the elector has been appointed and the appointment has been duly ascertained, and the certificate of appointment, the muniments of title to be an elector, have been delivered by the proper authority of the State to him. The State has done its office then. The State in that case, when so much has been done, has elected an agent charged with power to do an act for the State, and not only for that State but for every State in the Union, for every purpose contemplated by the Constitution of the United States, for every purpose contemplated by our system of government in that respect. The jurisdiction of the State, per force of the Constitution, over the elector and his acts

having ceased, then the jurisdiction of Congress forthwith begins. Congress has power to prescribe the day on which the electoral colleges shall meet, and by the letter of the Constitution these electoral colleges must assemble on the same day throughout the United States and cast the electoral votes. When the electors are appointed by the State as provided by its laws the power of the State over them ceases, and then their active duties begin. The Government of the United States, the Congress, is bound to accept them, unless in the appointment some provision of the Constitution of the United States is invaded, as if, for example, some one ineligible has been selected. The Congress can ascertain whether the electors, or any of them, were bribed to cast their votes for a particular person, or whether they assembled and proceeded lawfully in the electoral college to cast the votes of the State. When they have assembled according to the laws of the United States, and cast the votes for President and Vice-President, and made such evidence as the law requires of the votes that they have cast, if it shall turn out in any contingency that that has been irregular or unlawful the Congress may judge of that and count or reject the votes. The State cannot reform such irregularities, because, as I said a moment ago, the elector had passed beyond the jurisdiction of the State and into that of Congress, and Congress can reach the evil. Congress can declare that they did not assemble, can ascertain that one, two, three, or four of the electors were bribed to cast their votes one way or another in the college, and reject them. It has absolute control after they are appointed. This is according to our form of government, both State and Federal. The power to appoint electors is in the States until they are appointed, and after that the jurisdiction is in the United States, in Congress, under the Constitution.

I think, therefore, Mr. President, that there can be no reasonable doubt that the right and power to appoint electors is in the States, respectively, and to do everything that is necessary in order to ascertain that the appointment was made regularly and according to the laws of the States.

The next inquiry is, after the vote has thus been cast, how do the electoral colleges and the votes cast by them come in connection with Congress and legally within its jurisdiction? That is another very important inquiry. When do the powers of Congress come into play? How are these colleges put in communication with the two Houses of Congress? That is to be ascertained by the clause in the Constitution which I will now read and construe. Article 12 of the amendments to the Constitution, or so much of it as is necessary for my purpose, is in these words:

> The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

This clause recognizes the doctrine that I have been contending for, to wit, the right of the States to appoint the electors, and it provides the power of the Government of the United States to take jurisdiction of them after they are appointed and when they assemble in the several States to cast the votes and how they shall come in relation with Congress. After the votes are cast in the electoral colleges then they are to be sent to the President of the Senate. It has been contended in the past by some persons that because they are sent to the President of the Senate and he is required to open them in the presence of the Senate and House of Representatives, therefore he has a right to count them. That does not follow; that is a *non sequitur*. Why are they sent to him? The Constitution does not provide that they shall be sent to the Vice-President. These returns are not sent to him in his capacity as Vice-President; they are sent to him as President of the Senate, and they come to the presiding officer of the Senate whether he be the Vice-President or whether he be a Senator as President *pro tempore* of the Senate. These returns are thus sent to him sealed up; he has no right to open them; he has no right to disturb them in any way, except to hold and have custody of them until the Senate and the House of Representatives according to law come together to count them. He has no right to interfere with them in any way, except only to hold them in safety until the two Houses shall meet as the Constitution provides. They are sent to the President of the Senate, because he is an officer of great dignity, and is the regular and ordinary medium of communicating with this body. In addition to that, the Senate represents the States in their collective and sovereign capacity. The States as States appointed the electors; and the States as States elect the President. It is appropriate to send the returns to the presiding officer of the Senate. Then, again, the Senate is the higher co-ordinate branch of the Congress. All these circumstances point to the President of the Senate, whether he be the Vice-President or a Senator as President *pro tempore* of the Senate, as the appropriate person with whom to charge these sacred muniments of title to these high offices of President and Vice-President until the Congress shall come to exercise its jurisdiction and ascertain who was elected by the electoral colleges in the several States. There is no reason why he should count the votes. I can conceive of none. On the contrary it seems to me that there are many reasons why he should not count them, to which I need not advert at this moment. But as I have said, there are many reasons and considerations why he is the appropriate person, and above all others appropriate, by whom the electoral colleges should be brought into conjunction with the Congress and enable the jurisdiction of Congress to arise and come into active operation in order to ascertain who was elected in the colleges. As I have said, he is the mere custodian of the returns. He is the channel of communication whereby the Congress comes into possession of the returns made by the electoral colleges in the several States.

At a day fixed by law the Senate and House of Representatives, exercising a special jurisdiction defined and limited by the article I have just read, assemble together. In the presence of the two Houses thus assembled, the President of the Senate must open the returns, and in my judgment he ought to open them all before any action is taken. They are laid before the Senate and the House of Representatives exercising this special jurisdiction. Now let us note particularly what the Constitution provides shall then be done. Let us see. It provides in these words:

> The President of the Senate shall, in the presence of the Senate and House of Representatives—

Do what?

> open—

Not count—

> open all the certificates and the votes shall then be counted.

The President of the Senate has no power except as it is conferred by this clause. It confers upon him all the power it was intended he should exercise, which was that he should receive the votes, and in a particular place and in a particular way, that he should open them, but no power is conferred to count them. When he has thus opened them I think it is clear that he has then completed his duty as custodian of them. The further provision is:

> The votes shall then be counted.

Who shall count them? How shall they be counted? Where shall they be counted? The act of counting them implies not only the ministerial duty to count, but as well judgment in many respects. It implies the duty and power to determine, when these returns come before the two Houses of Congress in that way, whether any elector was bribed, whether his vote was purchased, whether there was intimidation or fraud, whether there was any material irregularity in the college or its proceedings, whether the requirements of the law had been complied with, whether any ineligible man acted as elector. All these questions have to be decided, and who can decide them? The President of the Senate? He has no power to do it because it is not conferred on him. Is it the Congress? It is the Senate and House of Representatives according to this language, and by necessary implication it seems to me.

But my excellent friend from Connecticut [Mr. EATON] a while ago said that this was a self-executing provision of the Constitution. How can that be if the views I have just expressed are correct? The Constitution says the votes shall be counted. There is no provision in the Constitution for determining how many of the electors were bribed; there is no provision in the Constitution designating how it shall be ascertained whether or not an armed force compelled the electors to cast their votes for a particular person; there is no provision designating the day when the colleges shall meet and cast their votes and certify them in a particular manner. Who is to exercise these important functions—not only the ministerial, but judicial too, involving the highest and most sacred rights of the American people? Clearly Congress. But how, unless Congress shall provide by statute how this provision of the Constitution shall be executed? I maintain, and have the clearest conviction that I am correct, that Congress is as much bound to provide by statute for executing this provision of the Constitution as to provide a supreme court and a circuit court and a district court; to provide for raising and organizing an army, to provide for creating a navy, to provide for raising revenue. The Constitution provides that there shall be a navy; it provides that there shall be an army; it provides that there shall be a judiciary; but it does not say how these things shall be done, except with certain limitations. How the courts shall be organized, how many there shall be, what their special jurisdictions and powers shall be; how the Army shall be raised and organized; how the Navy shall be raised and organized; how the revenues shall be collected—all these are subjects which Congress must regulate under the Constitution. It seems to me that this clause in the Constitution presents the very case where it is necessary that the power of Congress to pass a law regulating the manner of counting the vote shall be brought into operation, and it cannot be done without it. "The votes shall then be counted." How? By whom? How are decisions to be made by the Senate and House of Representatives? Plainly they must be regulated by statute. It cannot be done orderly in any other way.

My friend from Connecticut said a moment ago that if this position is correct the President of the United States will have a right to veto every resolution and order taken in connection with counting the electoral votes. I cannot agree with him in that view. When we pass a general law regulating the manner in which the electoral votes shall be counted, that is a general act of legislation, like a general law regulating the manner of organizing the courts, which the President vetoes or approves as the Constitution requires; but after

it has become a law and the Senate and House of Representatives are assembled in the exercise of the special jurisdiction conferred by the article which I have read under that law, the President has nothing to do with that any more than he has in relation to the exercise of any power conferred upon the courts or any other officer of the Government by general law.

It seems to me, therefore, that two propositions are clear: first, that the States have the absolute right and power, and it is their duty, to appoint the electors as the Legislature may direct; that they may create tribunals, and they ought to do so, for contesting the right of any one claiming to be an elector; that when the elector is appointed, and it is ascertained, and he has received the evidence of his title as such, the jurisdiction of the State ceases and that of the Federal Government begins; that when the vote is cast in the electoral college it must be sent to the President of the Senate because he is the appropriate medium through which to communicate to Congress the electoral returns; that Congress then assembles, and that Congress is the legitimate and the only legitimate power to decide all questions arising in connection with the returns, reaching back to the time of the appointment of electors for President and Vice-President; and second, Congress has power to regulate by statute the manner of counting the votes.

If this is true, then the only question that can arise is, is this bill a wise one? Is it proper legislation to execute this provision of the Constitution to which I have referred? It seems to me that it is in substance all the legislation that could be provided to that end. What are its provisions? After some details as to organizing the Senate and House of Representatives for the purpose, it provides that the electoral votes shall be counted by the Senate and House of Representatives and that the returns shall all be counted, whether regular or irregular, unless both branches of Congress voting separately shall concur in rejecting any one or more of them. What could be fairer than that; what could be juster than that; how could the rights of the States and the people of the States be more thoroughly recognized and upheld than by such a provision? I cannot see that a more liberal provision could be devised.

But there is a difficulty, a possible difficulty, that must be provided for. That is this: suppose there should be two organizations claiming authority in the State, that there should for example be two governors, two legislatures, two supreme courts, and each of these powers claiming to be the lawful government of the State should provide for appointing electors, that electors should be appointed, these should assemble, vote, and send the vote to the President of the Senate in the way prescribed by law, and each of such returns is claimed as the electoral vote of that State for President and Vice-President, how is that question to be decided? The bill provides that in a contest of that sort, in the first place, the recognized State tribunal shall determine who are the proper electors for the State, and if it has decided its decision shall be recognized. But in case there is no tribunal or no decision has been made, then that return shall be counted which both branches of the Congress, each voting separately, shall concurrently determine ought to be counted. What is fairer than that? There is a preliminary question in all such cases to be decided from which there is no escape. I do not believe any means can be devised by which this question and difficulty can be determined in any other way. The bill provides in that contingency, one that will arise seldom, I hope never again, that the return for the State shall be counted which both branches of Congress voting separately concur in saying shall be counted. That is right, that is just, and it is inevitable that it should be so. There is no escape from it, because in the case of dual returns some power must determine which is the true one. How can Congress determine which is the correct return unless it is determined by the concurrent vote of the two Houses, I cannot conceive. And in the absence of legislation, if the vote should be counted in the future as it has been in the past and such a case should arise, and there should be no joint order, and there should be no special legislation for the counting the votes, even in that case both branches would be bound to concur before the vote could be counted, because the Senate's vote is of no higher dignity than the vote of the House, and if the Senate votes that a return shall not be counted when the House votes that it shall, who is to say that it shall be? I have looked over this difficulty in every conceivable way, and I cannot conceive of any other way by which this difficulty can be solved otherwise than as provided in the bill before the Senate.

Then I think it is the only method of solving such a difficulty that would be satisfactory to the American people. If a State must be deprived of its vote it will be better satisfied when it is deprived of its vote by the judgment of Congress than if it shall be deprived of it by any other tribunal, because the States as States are represented in the Senate; the people, the American people, are represented in the House of Representatives.

These are the points, Mr. President, that I wanted to make. My convictions are clear, and being so, my duty is plain. I believe it to be my highest patriotic duty to vote for this bill without regard to party considerations. It is a high duty we owe the Government, a sacred duty we owe the people of this country, to provide for averting the tremendous dangers that threaten their safety, their very existence! But, sir, if party considerations should enter into the judgment of any one, I can see no harm that can be done to parties as matters now or by possibility may present themselves. If the same party in the country shall control both branches of Congress, there will be very little difficulty in determining questions that would arise affecting party interests. If one party shall have the ascendency in the Senate and another party shall have the ascendency in the House of Representatives, there is no means of settling this difficulty otherwise and as this bill provides.

Mr. EATON. Except an electoral commission!

Mr. MERRIMON. Yes. I join my friend in condemning the electoral commission. I am about as hostile to such a tribunal as he.

Mr. EATON. I hope so.

Mr. MERRIMON. I yielded to an emergency when I voted for the electoral commission. I yielded in casting my vote to the judgment of those older and of larger experience than I. My strong apprehension was that the electoral commission was not lawful; that it did not have the sanction of the Constitution; and I apprehended that it was inexpedient as well as unconstitutional, and said so, but I felt anxious to solve all my doubts, and yielded my judgment in the interest of patriotism and quiet and peace and in the peaceful settlement of a difficulty that I trust in God this country will never experience again.

I believe, and I have attempted to show it here, that the Constitution devolves upon Congress the duty to count the electoral votes, and that it confers the power in such a way as that it must be regulated by statute; and because that is so, therefore, Congress cannot confer power upon the Supreme Court, or on an electoral commission, or on the President of the Senate, or anybody or any power to count the electoral vote. The jurisdiction of the Senate and House of Representatives to count and to decide all questions in connection with it is absolute and exclusive.

Mr. President, I feel an earnest desire that this bill or one like it shall become a law. I believe that the best and the highest interests of the country demand that it shall pass. In view of the recent past I feel serious apprehension that if there shall be a close contest in the next presidential election we may then witness a dissolution of the Government and general ruin. I want to see this possible calamity averted. I trust this Government will be perpetual; and, sir, it is a high and patriotic duty of Congress to do everything that can be done under the Constitution to make it perpetual. I desire to contribute my humble efforts to that end. I am sure that in voting for this bill I shall contribute toward providing an effective means of averting direful calamity and establishing a strong support of our free institutions.

Mr. GARLAND. Mr. President, I beg a few minutes of the Senate's valuable time to state a single reason why I shall oppose this bill purporting to be legislation of the Congress of the United States.

Article 12 of the amendments to the Constitution, after providing for the casting of the electoral votes of the States and their transmission to the President of the Senate, provides that the President of the Senate, in the presence of the Senate and House of Representatives, shall perform certain duties. The question arises there at once what House of Representatives and what Senate does that clause of the Constitution have reference to? You will bear in mind, sir, and so must the Senators in construing this clause, that on the very front view it is obvious that there is an organized House and an organized Senate of a certain Congress of the United States in whose presence these duties are to be performed. The question comes then, the Constitution being silent, who is to judge of the purpose of the assembling of these two Houses of Congress, and who is to judge of the rules that are to be adopted for carrying into effect that purpose? They are there for some purpose. I will not quarrel with the Senator from North Carolina [Mr. MERRIMON] as to what that purpose is; but we make one step in the investigation by finding that there is an organized House, with an organized Senate, of a certain Congress to witness the performance for some purpose. What that purpose is that Congress that meets at that performance must be the judge of. The way and manner of executing that purpose that Congress must be the judge of also.

Mr. MERRIMON. Will my friend allow me to interrupt him for a moment?

Mr. GARLAND. Certainly.

Mr. MERRIMON. I submit to my friend that in contemplation of the Constitution the Congress is perpetual. There is no such thing under the Constitution as the First, the Second, the Forty-fourth, the Forty-fifth, or the Forty-sixth Congress. Congress is a perpetual body in the contemplation of the Constitution.

Mr. GARLAND. That is another illustration of the fact that when a person begins to play with words, in the end the words play with him. We have here all the time upon all our dockets and upon all our proceedings Congress No. 45, No. 44, No. 43, &c. A gentleman is elected to the lower House of Congress to begin on March eighteen hundred and so many more years and for a Congress of a certain number. I took my seat at the beginning of the Forty-fifth Congress as a member of this body. Each Congress has a specific term. We are dealing with the practical question now in hand.

Under the Constitution the two Houses of a particular Congress are assembled to witness this interesting proceeding for some purpose. Where is the power under the Constitution—and if it is not there it is nowhere—to bind that Congress by any certain procedure or any certain rules of evidence prescribed by a previous Congress? It does not exist; it cannot exist from the very language used in the

Constitution. It would be a contradiction that does not attend that instrument in any of its parts or portions.

Then, Mr. President, the Senator from North Carolina said it was astonishing that there was no general law upon this subject after so many succeeding elections witnessed and counted in this way. It would be a more astonishing thing if there was an act, because it would be a mere matter of supererogation on the part of a preceding Congress to pass such a law, and the succeeding Congress whose duty it is to witness the count could obey it or not as it saw proper, and there is no power to prevent the exercise of its judgment.

In the very first line of section 6 of this bill it is declared that

Congress shall be in session on the second Monday in February succeeding every meeting of the electors.

The Constitution says Congress shall meet at least once a year, and in December, unless otherwise provided by law. Suppose the next Congress, which will be the Forty-sixth, beginning in March, 1879, changes the time of meeting so as not to come within this provision, then you see where you are at once; your law is gone with one dash of the pen. What I mean to assert is the broad principle that as to these powers no previous Congress can prescribe a duty that will be obligatory on the Congress that is to witness the proceeding, and it is child's play to attempt it. I am not so sure but what it was for a wise purpose omitted from the Constitution and left to the Congress that should have this duty to perform to say how it should be done. They can do that in advance of the time of meeting, or they can do it at the time of counting. Here is a bill proposed to be enacted into a law to govern the action of the two Houses of the next Congress in the count of electoral votes at the next election of President. Suppose it be enacted now. The first question that presents itself in the next Congress possibly will be, is this act constitutional? and we know that we have questions enough always in this interesting proceeding without piling them up one upon another and inviting dispute and debate between the two Houses of Congress as to the way and manner in which this duty should be performed. The Houses will then have to separate, possibly, and discuss this question, and determine whether this act is constitutional and whether they can be bound by the directions of a previous Congress.

Let me illustrate. By a clause of the Constitution each House is made the judge of the elections, returns, and qualifications of its members. Suppose the Forty-fifth Congress should undertake to prescribe a procedure and rule of evidence to govern the Forty-sixth Congress, both Houses, as to contested seats in both Houses.

Mr. EDMUNDS. That is the law now, if the Senator will allow me, as to the House of Representatives.

Mr. GARLAND. I am not oblivious of the fact, and I shall come to that. When each case is presented to the Senate or House, each body would say, "We are judges of this ourselves under the Constitution, and no previous law can bind us, no previous law can tell us what we shall do." But the Senator from Vermont says such a law already exists as to the House of Representatives. Granted; and in every case in which it has been brought to the test before the House of Representatives they have said, "We will be liberal, to get at the truth, and we will disregard these rules and these regulations, and we will permit the parties to go down to the bottom of the case and ascertain the fact who was elected really and in fact." There are half a dozen cases in the contested-election reports of the House where that has been done; and were it otherwise they would not be the judges of the elections, returns, and qualifications of their members under the Constitution. Were it otherwise, they would leave that duty to a previous Congress. We must presume that the coming Congress, whose duty it will be to pass upon the next election of President, will be quite as competent as any previous Congress to prescribe its own rules and its own regulations.

I could, but for the lateness of the hour, illustrate this by other powers in the Constitution, but I think it is unnecessary. I think I have gone sufficiently far for the purpose I have in view, to show that each Congress when this count is made is to exercise its own discretion and its own judgment upon it. That brings me to this point: If an act of legislation cannot bind them, what can bind them? An amendment to the Constitution. I should have no debate, so far as I am now advised, with this bill if I believed it came within the purview and meaning of the Constitution. I believe the principles upon which the bill is based are in the main sound and good; but if it be passed as a law, as an act of Congress, I fail to see in it that finality which the Senator from Delaware so eloquently called for in the attempt to settle this question.

Mr. BAYARD. I did not say the present bill was a finality. I said that it gave a finality of decision as to contesting sets of electors to the States and allowed them finally to conclude that, but that the present bill concluded nothing as to the powers of Congress over that count.

Mr. GARLAND. Then I misunderstood the Senator. I understood him to say that this would be a finality. I am anxious myself for a finality on this matter in some shape, but I do not believe it can be secured under the Constitution of the United States by an act of Congress. It is true any act of Congress can be repealed by a succeeding Congress, but it is true still that an act passed by a previous Congress assuming to bind the hands of a succeeding Congress need not be repealed because it is void; and for that reason I oppose this bill.

Mr. JONES, of Florida. Mr. President, the Senator from North Carolina who addressed the Senate a few moments ago [Mr. MERRIMON] seemed to labor under a misapprehension in regard to the meaning of some words that I uttered in my place the other day in regard to this bill. He read the Constitution truly; he stated and stated truly that according to the letter of the law the day only on which the electors should cast their votes was required by the Constitution to be the same throughout the United States; and he seemed to think that there was a very material point in that, because while the Constitution clearly gives to Congress the power to fix the time when the electors shall be appointed, he was of opinion that if the elections were held on different days in the different States it would matter but little.

Mr. MERRIMON. What I said was that neither the language nor the spirit of the Constitution forbade that. Congress has exercised that power from the foundation of the Government, because we have a statute which provides that if the appointment of electors shall not be made on the day designated generally State the may appoint its own time.

Mr. JONES, of Florida. I argued, Mr. President, from the spirit of the law. There are many things within the spirit of the law that are not within its letter, and there are many things within the letter of the law that are not within its spirit. This is a familiar maxim of jurisprudence. I say, sir, now what I said the other day, that every reason, every argument that supported the view taken by the framers of the Constitution in requiring that the votes of the electors should be cast on a specified day, are equally applicable to the time when the electors shall be chosen. That is my proposition.

Mr. MERRIMON. Then I understand the Senator to say that if for any reason an appointment should not be made on that day in any particular State, then Congress would have no power to authorize that State to appoint on another day.

Mr. JONES, of Florida. According to your own argument Congress would have no such power, because you have already said that it belongs absolutely to the State. But I am arguing from the spirit of the law. It is a matter of very common history that when the Constitution was adopted it was the expectation of the men who framed it that the body of electors who were chosen should exercise an independent choice. It was the expectation that when they cast their votes in the electoral college for President that would be the first indication of the choice upon that grave subject.

Mr. EDMUNDS. Does the Senator mean to say that he understands history to show that it was not the expectation of the founders of the Constitution that the will of the people who were to appoint the electors, or of the Legislature if it appointed them, would not be a moral guide to the action of the electors as to the eminent citizen who should be chosen?

Mr. JONES, of Florida. I say, sir, that the history of that part of the Constitution shows that this select body of men were intended to be interposed as a barrier against what was imagined at that time to be popular violence, such as tore down the ancient republics, and that they should be absolutely confided with the right to determine the question of the Presidency for the first time within themselves.

Mr. EDMUNDS. But the Senator does not quite answer my question; that is, whether he means to say that he thinks the idea of the founders of the Constitution was that the judgment and opinion of the persons who appointed the electors, selected them to that duty, as to who ought to be chosen, was to have no influence on the judgment and opinion of the electors themselves.

Mr. JONES, of Florida. I will not go to that extent; but I will say this, in reply to the Senator from Vermont, that a very different idea then existed in regard to the powers and the duties of the electors than what prevails at the present day. I say that it never was then supposed that when the electors were chosen they would be bound down absolutely to follow the popular will as indicated at the ballot-box, as they are now. It never was the expectation, it never was the opinion of those who formed the Constitution; and in keeping with my argument, I may instance the fact that when the framers of the Constitution required that the votes of the electors should be cast on a given day throughout the Union, it was to guard against those very dangers which I tried to point out when I was on the floor the other day.

Mr. MERRIMON. The people may not elect; the governor may appoint if the Legislature so provides.

Mr. JONES, of Florida. I know that the governor may appoint——

Mr. MERRIMON. As the Legislature provides.

Mr. JONES, of Florida. But I said every argument that applies to the casting of the votes of the electors on a given day applies to their appointment on the same day, according to the spirit of the rules. It is true the Constitution says nothing more than that Congress shall fix the time, and that the day upon which they cast their votes shall be the same throughout the United States.

Mr. EDMUNDS. "May" fix the time.

Mr. JONES, of Florida. "May" fix the time; I accept the suggestion; but why did it give this power? Why did it undertake to take away from the States this authority when it left to them the regulating of the mode of the election of the electors? The history of the adoption of the Constitution tells us that if there was one thing uppermost in the minds of its framers it was that the great controversy of the succession of power should be settled on a given day.

And now when an election is held for electors say at the time fixed in this bill, the second Tuesday in October, the vote for the Presidency is determined on that day; and if the framers of the Constitution thought it important to say that their votes should be cast in the college on the same day throughout the Union, it is now equally as important that the time on which they are selected by the people should be the same day throughout the Union, and for the same reason. But I do not argue from the letter but from the spirit of the Constitution.

Mr. EDMUNDS. If I do not interrupt the Senator I should like in this connection to put this question to him, whether, even on the theory which I believe in, that the Constitution was intended to have the choice of electors represent the public judgment in each State as to who should be the President of the United States, would not the provision that the electors shall vote on the same day be equally necessary? Take the State of Vermont, for instance: the electors chosen on the first Tuesday in November were elected by a body of people who believed, I will say, in 1824 that John Quincy Adams ought to be the President of the United States. If the meeting of the electors was on different days in the different States, and a sufficient number of the other States had voted for him to secure his election lacking only the vote of the State of Vermont, then those electors might possibly have been corrupted to vote for somebody else, when the public judgment of that State that selected those gentlemen pointed to his election. And therefore, I submit to my honorable friend whether the argument for the same day for the vote of the electors would not be equally strong if the public will was to enter into the matter.

Mr. JONES, of Florida. Yes, I concede that very candidly. I make no point on that; but I was trying to explain to the Senate what I had stated the other day in connection with this subject, to show that the important point with the framers of the Constitution was that this officer should be selected at the time indicated by the election of electors.

One other matter I wish to say a word upon. The Senator from Delaware, from whom I never differ except with pain and reluctance, in speaking of what I said the other day in regard to objections here authorized to be made by a Senator and a Representative, observed that under the existing practice of the Houses the same result could be brought about that would follow from the exercise of the power given in this bill. Now I do not agree with him in that. I do not agree with him, for instance, that if the two Houses are in joint convention for the purpose of counting the electoral votes of the States that body would be bound under our present law or under any practice that has hitherto prevailed to stop its proceedings upon the objection of one Member or of one Senator. I think it would rest entirely with the discretion of the convention, or with the presiding officer thereof, whether they would stop their proceedings and retire to their two Chambers to decide upon what any two members of Congress might feel disposed to say against the returns of a State.

Mr. BAYARD. Does my honorable friend see any objection to the two Houses of Congress being informed by a Senator or a Representative that there is reason why a certain vote should not be counted, wholly without reference to prearrangement as to how that information is to be given? But if, as I suppose, the two Houses of Congress having met in joint assembly for the purpose of counting the votes, there should be information respecting an irregularity in certain votes, that information would be aptly conveyed to the assembly by some one or more of the participants in it. Now, if there be not only no harm in that, but if that be the natural way in the absence of a provision that such information would reach the assembly, to wit, through some one or more of the participants, what objection can there be to providing a formal orderly method in which those objections shall be made? That is to say, that a member of each House shall join in a written statement, framed according to their own judgment of their objection to a vote. I cannot see that any more delay would take place, but on the contrary it seems to me it would rather expedite and facilitate the business in hand if a short, succinct statement in writing should be made, instead of a long and perhaps diffuse verbal explanation. That is all.

As we now stand, I think my honorable friend would think it perfectly right and proper, if there was a joint assembly of the two Houses, that information of irregularity or wrong should be conveyed by any member of that joint assembly verbally or otherwise. So this bill provides that in a very succinct, convenient, and unobjectionable manner, as I suppose, these things should be stated in writing and signed by two parties. I can see no formidable objection to it.

Mr. JONES, of Florida. There certainly can be no objection to the manner provided in which these objections shall be made; I make no point upon that; but I say that it is an extraordinary power, and fortunately we have some experience on this subject. I very well remember when during the heat, the fiery heat of the last presidential count it was conceived by many to be a very important matter to secure the signature of a member of this body to an objection to the electoral vote of a State. I have a most distinct recollection upon that subject at a time when everything about us was full of danger, when I felt myself that the foundations of the Capitol were going from beneath my feet. I saw men rushing wildly for senatorial objectors for what? To interrupt and stay the vote being counted by the other body; and because many of us could not see reasonable ground for it, we were held to be unreasonable, as I know I was by some excellent members of the body.

Mr. MERRIMON. How do you raise objections?

Mr. JONES, of Florida. How do you raise them now? How have they been raised since the foundation of the Government?

Mr. MERRIMON. By orders.

Mr. JONES, of Florida. By orders of the body; but when you indicate absolutely by law that on an objection being made by two members of Congress the proceedings of the joint convention shall be interrupted, you give the power to two men to stay the count of the vote of every State of this Union, though the time is fixed at which it must be consummated. I do not exaggerate when I say that a power of this kind is dangerous in the extreme. It is capricious; it is arbitrary. I have seen enough of the heats of party, and I know how far they will carry men, and especially on an exciting topic like this; and under this part of the bill it would be in the power of two partisan members of the Senate and House to delay and interrupt the count, it may be to carry it over beyond the time fixed for the declaration of the result of counting the presidential vote. Now, I say whatever practice we have on that subject at the present time is better than this, because it is left to the discretion of the joint body. No man will be permitted to get up in the joint convention and interpose a captious objection to the counting of the vote of a State. It would go for nothing. If he had a substantial reason, it would be heard and the bodies would separate, as they have done in the past. But under this bill, it matters not what the character of the objection may be; it may be intended only for partisan purpose, it may be intended only to revolutionize and to destroy; but still the Houses under this bill would be bound to accept it, would be bound to separate, would be bound to cease to count and to enter upon the process, if I may call it, of delay. I say that power ought not to be allowed.

Mr. BAYARD. May I suggest to my honorable friend, if the question were left to general debate of the joint assembly would it not be in the power of any such obstructive person as he has been considering to prolong the proceeding far beyond the time possible under this bill, to enter into a diffuse verbal explanation of his objection or to debate it without end? This law provides that he shall succinctly and shortly state his objection and sign it, and then it is provided that pending the separation of the two Houses and their separate consideration debate shall be limited to five minutes for each person, not exceeding two hours for the entire period of debate. I think, therefore, so far from this provision of objection tending to prolong the joint session and to prolong the time of the count, it tends materially to shorten and circumscribe it.

Mr. JONES, of Florida. As I understand the present practice of the two Houses when they meet to count the presidential vote—at least that has been the rule in the past as I understand—no debate is permitted.

Mr. BAYARD. They can separate and stay away for days.

Mr. JONES, of Florida. They can, no doubt about that, on a reasonable objection. I know that in the case of the Wisconsin vote in 1857 when an objection was made—Senators who have read the history of that case are familiar with the excitement that it created—objection was made to the counting of the vote of Wisconsin because the electors voted upon a day different from that fixed by law. Somebody objected in the joint body to the counting of that vote. Mr. Mason was in the chair. He ruled the objection out of order. The count went on, no debate was heard, no debate was listened to there. The count went on; it was consummated. I am well aware that it gave rise to debate in the separate bodies afterward, and a great deal was said there which throws light on this very question; but in the joint body debate is never entertained, and if a frivolous objection were made to a vote I presume the presiding officer would rule it out of order and the count would have to go on. Under this law, however, they are bound to separate. I suppose the presiding officer in the case of a valid objection, if the joint body adopted a joint rule governing them as they sometimes do, would submit it to them and they would separate to decide it.

Mr. MERRIMON. I beg to say to my friend that that very case to which he now adverts illustrates the absolute importance of a regulation like this. In that case a very important objection was raised.

Mr. JONES, of Florida. I did not intend to invoke it against myself. I say that to the Senator. I am not in the habit of quoting authorities against myself. If he can give that construction to it, I am perfectly willing he shall do so.

This is all I have to say in regard to that part of the bill. The section which relates to double returns has given me a great deal of trouble. I have said nothing about it up to this time, and I do not intend to say much now. I think it embodies all that can well be put into a bill on this question; but, as I said in my remarks the other day, the inherent difficulties of this subject are so great that it is almost impossible to devise a law which shall be satisfactory. Under this section any dissatisfied elector in any of the States may send up a double return and may raise a contest upon that return; and the bill goes on to provide that if it shall appear that a contest has been had in a State and settled in accordance with the fourth section of the bill, the votes of the electors so adjudicated on shall be "counted in," to use the expression—the vote of that elector shall be counted who shall be found to have his title supported by the judgment of the tribunal

selected by the Legislature of such State; but then that only shows the difficulty of getting at the bottom of this thing. It goes on to provide that if there is any dispute or question in regard to the lawfulness of the tribunal that made the decision, you are at sea. If there should happen to be two governments, two public authorities claiming the recognition of the United States in that State, there is nothing settled. These two Houses, then, have remitted to them the question of deciding which is the lawful tribunal, which is the lawful legislature, and so on, which to my mind is a most dangerous power. We have had some experience upon that subject in the past, and we know how difficult it is to reconcile gentlemen on both sides of this Chamber in regard to differences of this description.

Besides that, you have a statute on your statute-book now, passed in pursuance of the Constitution, which gives to the Executive the power to settle all questions in regard to the lawful government of a State and the tribunals of such State. You have a law there which authorizes the President, upon application of the executive of a State, when the Legislature is not in session, to turn loose the whole power of this Government to sustain the public authority that such governor may insist is the true authority of that Commonwealth, or against him if there appears to be another government which the President deems the proper one.

I am not in the habit of drawing far-fetched cases, but suppose a case of that kind should arise, suppose you had a double government in a State, and this bill contemplates that. The executive of the State, in the absence of the Legislature, addresses himself to the President, and says, "Under the Constitution I ask for aid, and you must recognize me as being the lawful executive officer of this State." Well, the President might act as Mr. Tyler did in the case of Rhode Island against Dorr, he might just indicate by a letter to the Secretary of War that the Dorr government was not the lawful government, and all its authority and its courts would for the time being fall to the ground. That is in accordance with the Constitution and the decisions of the Supreme Court. The President, I say, has that power under an act of Congress now on the statute-book. But the other party go on and say they are the government, and they send up electoral certificates, and the two Houses of Congress under this bill have the same question remitted to them, I suppose as independent bodies, but nevertheless remitted to them for decision; and here we find two laws on the statute-book, one referring the question as to which is the lawful government in a State to one officer, and another law remitting it to a different authority. It is out of conflicts like these, sir, that troubles come. If the two Houses should happen to decide under this bill in favor of one set of electors selected by a tribunal belonging to one faction, and the Executive of the United States, sustaining the executive of the State, should take a different view, you have at once a collision between the legislative and executive authority of your own government under this bill. But I did not intend, Mr. President, to detain the Senate this long in making these additional remarks touching this measure.

Mr. HILL. Mr. President, I am one of those who believed at the time those occurrences took place, during the presidential count of 1876–'77, the country and our institutions were in great peril. I believe so still. Nothing has since occurred even to weaken that belief. I believed that we were within a few votes—speaking of persons—and within a short time of a condition of anarchy from which no escape had been provided by law, and I believe now that if certain influences brought to bear had not been brought to bear it would be impossible for any gentleman to tell where either we or our institutions would be to-day. So I do not share the opinions of those who treat lightly the importance of that hour. In my opinion, it was the most perilous hour in the history of this country, none excepted.

Now, Mr. President, if I believed that the perils which then threatened had their origin in a confusion in the law, or in any inability to understand the law and our duties under the law, I should be very much in favor of some such bill as this, very much in favor of some bill that would prevent the possible recurrence of the perils which then threatened. But, sir, I should be very uncandid if I failed to say that I did not believe then and I do not believe now that the perils which then threatened us did have their origin in any confusion in the laws or in any doubt about the powers of the two Houses of Congress. Our troubles arose from the fact, not that we had no law, but because there was not a will to obey the law. There was a purpose—I will not say the purpose was confined altogether to one party, but I will say there was a purpose, in my judgment, to have a result, law or no law. It was not because the law was not clear, but because the purpose to disregard the law was entertained. I doubt whether that evil can be remedied by legislation.

Why, sir, the very frame-work of the electoral bill of 1877 is one of the most remarkable confessions of the domination of party spirit that can be found in any country. That bill was framed upon the idea that seven members of the tribunal would feel and vote as democrats and seven would feel and vote as republicans, and the great question was to find the fifteenth man, the umpire, who would be perfectly impartial and whom everybody would be willing to trust as impartial. Perhaps I shall not be out of order when I state that I think one of the greatest tributes ever paid to any man on this continent was then paid to a gentleman who is now a distinguished member of this body, the Senator from Illinois, then a justice of the Supreme Court, [Mr. DAVIS,] because I do know the fact to be that the general belief that he was to be the fifth judge procured very many votes for that electoral bill. Why? Because, to his credit be it said, friends and foes alike were willing to concede that he approached the standard of non-partisan impartiality more nearly than any other gentleman who could be selected. The whole truth is that Mr. Hayes was declared President because eight members of that commission were republicans; and I will show that I do not say that in any partisan spirit when I add that I am not by any means satisfied that if the positions of parties had been reversed the same thing would not have resulted in behalf of the candidate of the other party.

But what I desire to present to the Senate is simply this—an idea applicable unfortunately alike—that the troubles which threatened us in 1876 and 1877 during that presidential count did not arise from any confusion in the law or any doubt about the law, but from the terrible spirit of party which then pervaded the country, and which I fear will ever pervade it, and which will defy all law. I think we are dealing now with one of the most important subjects possible under our system; and the great trouble is that it is almost beyond the reach of remedy by law. We shall have to make our final appeal at last to the people; but unfortunately the people are almost as much party-ridden as their leaders. Why, sir, it has been frequently said—and the Senator from Delaware commends this bill because he says—it settles the great principle that the Vice-President of the United States or the President *pro tempore* of the Senate shall not have the power to determine the votes or to make the count and determine questions arising as to the votes and during the count. Well, sir, I must be pardoned, but I have never thought that anybody in this country really believed that the President of the Senate did have that power. I do not wish to discredit any gentleman's intelligence, but I think it is just as clear from the Constitution as it is written as it could be from any law that could be written, that he does not possess that power; and if by some process we could compel every man to be candid and perfectly candid, I believe that everybody would confess that nobody believed any such absurdity. But party necessities brought that doctrine to the surface, and many persuaded themselves that it was true. Doubtless they were sincere in so persuading themselves.

Now, I have one trouble with this bill, and my object in taking the floor was to put myself on record on that point. This bill provides that ninety days shall elapse between the election of the electors and the vote by the electors for President and Vice-President. I venture the prediction that that single provision of this bill will give rise to more peril and trouble in the future than all the perils and troubles that now exist. I ask Senators to think of it a moment.

A friend near me says we must legislate upon the assumption that men are honest and patriotic. Unfortunately, that is a very visionary assumption, and men who legislate solely upon that assumption will not always legislate wisely. The Presidency of this country has become a wonderful stake. Its patronage of a hundred thousand office-holders is terrible; and the wisest of all the teachers of mankind, He who is infinite wisdom, said we should pray daily "lead us not into temptation." There is as much wisdom as there is Christianity in that prayer. Now, sir, imagine for a moment what this may lead to. An election comes off in October. Suppose it should result as the election did in 1876, that there should be 185 electors apparently chosen for one party and 184 chosen for the other. One vote would settle the question. Here are ninety days in which all the passions of human nature are tempted into exercise to change that result. It may be changed by force, by fraud, in a thousand forms, at least the temptation will exist, and the period of time to give expression and effect to that temptation will be ninety days.

Why, Mr. President, in the course of human events it is very natural that out of 369 or 370 persons chosen to elect the President and Vice-President one should die during those ninety days, or more than one should die during the ninety days, and death might change the result. Suppose, as occurred in 1860, and may likely occur at any election, the electoral vote of a single State should be divided. Sometimes the vote is very close. In 1860, in New Jersey, a portion of the electors, I think an equal number, were chosen of the republican party and nearly an equal number by the democratic party in the same State. Now, suppose it should happen that in a close election like that the consolidation of the vote of a State for one party or the other would change the result of the presidential election, what machinery is put at work in the State? You say the State tribunals shall settle the question; the State shall pass laws by which it shall authorize some body to determine who have been elected electors. Do you suppose that lawyers will not be found in that State, able and shrewd, to devise many means of contesting the election either of the one or the other, either by one party or the other, for the purpose of changing that result; and do you suppose if a presidential election, with all its patronage of four years and its hundreds of millions of money, depended on the vote of that State it would not be attempted?

Suppose, again, as frequently happens, as exists now in a great number of States, the judicial tribunals, the ones most likely to be clothed with power to settle these questions of contested elections of electors, should be composed of men of different politics from the apparently prevailing party in that State. The election is close. The nominal result, the apparent result, the result of the precinct elections, may declare that certain electors of the democratic party have been elected. The tribunal clothed by the laws of the State with

power to determine contests between the respective classes of electors, may be of the republican party. You have a temptation to them to take jurisdiction of the question, as they evidently will do, and determine that the electors of their own party were elected; and if the stake is the Presidency, whom will you trust? I am not saying that republicans would make decisions to suit themselves; I am not here to make a partisan speech. I say that this party spirit unfortunately dominates all parties in this country to an alarming extent; and I am afraid by law to provide ninety days within which these party passions shall have opportunity to change results involving such tremendous consequences.

I know, sir, that for the special reasons given by the able Senator from Delaware, growing out of the election of 1876, it might be reasonable to say that there should be some provision by which a State process might be made to operate upon the electors after they are declared elected and before they deposit their votes. We know in one State, for instance, I think in the State of Florida, in a few hours, perhaps in less than a few hours after the certificates of election were given to the electors, they cast the vote. That was brought about, it was said, intentionally, to prevent the service of an injunction by the courts. But, sir, if in attempting to cure that evil you open the door for a greater evil, as I believe you do by this bill, you do not improve the situation. I confess, for one, that I do not desire ever to see the country subjected to the test of 1876 again. I felt then as I never felt before, and as I trust I shall never be called upon to feel again, that there is an hour in the history of the country, as well as in that of each man in the country, when he should rise above party and remember his country and only his country. But I cannot be blind to what I then saw all around me. Able men, learned men, distinguished men, great men in the eyes of the nation, seemed intent only on accomplishing a party triumph, without regard to the consequences to the country. That is human nature. That is, unfortunately, party nature.

I admit, Mr. President, that there are great troubles around this subject; but I do not know that they can be provided against by law. After all I am not sure but that my honorable friend from Connecticut [Mr. EATON] is right, that the Constitution is the best law. One thing is certain, the Constitution is a good law, a fair law to a man who is determined to make everything subordinate to obedience to law; but a man who is determined on doing all he can to bring about a party triumph, law or no law, will be bound by neither constitutions nor statutes; and that is exactly the trouble that threatens us in this case. That is the very trouble and difficulty which environs this matter. You are trying to provide by law against the consequences of party spirit, and you are binding Samson with very weak withes. Take the very case my friend from Delaware states. He says this bill settles one great principle, which he calls a principle, to wit, as I have said, that the President of the Senate shall not make the count. Why, sir, suppose it should happen that a similar occasion should occur as occurred in 1876, when it should be important to a party to take the ground that the President of the Senate could make the count, that he embodied in himself more power and authority than all the Congress and people of the United States, and for one moment was the grand Warwick to make presidents, not kings. Suppose somebody or some party should find it convenient to take that absurd position again, would this bill be in their way? No; they would say if that power existed in the President of the Senate it was conferred upon him by the Constitution, and therefore it could not be taken away from him by your legislation. If they found it convenient to put that construction on the Constitution, they would easily find it convenient to say that you could not by legislation take away that construction; and therefore what would your bill be worth? Nothing. Still there are some provisions in this bill which I like, and I would be glad if a bill could be framed which would remedy all the difficulties. I have thought on the subject a great deal during the last two years, but I confess, after giving the subject all the attention and consideration I have, I found myself coming to the conclusion that at last we are utterly impotent to bind men by law who want power, and who are going to have power law or no law. That is the trouble in the case, and probably the Constitution is as good a law as we can get, and if you do not obey that you will not obey any, and if you do not understand that you will understand none, because I do not see myself how human language can make the matter clearer than the Constitution is on these various subjects.

Mr. THURMAN. Mr. President, I do not rise to discuss this bill at all. I shall content myself with voting against it, and without troubling the Senate with the reasons that bring me to this conclusion, I rise simply to express the hope that as soon as possible we may come to a vote.

Mr. HOAR. Mr. President, I do not propose at this late hour of the afternoon to discuss the pending measure. I propose to vote for it because, after several years' attempt to reconcile conflicting theories, the best minds which the Senate has been able to charge with the duty have reported that this is the best measure which they can devise to remove the present evil. The evil, however, is essential and inevitable after any legislation may have been adopted, which arises from the construction of the Constitution, which I think the correct construction of the Constitution, which was put upon it by the consent of a large majority of both parties at the time of the last presidential election. I could not believe that the framers of our Constitution, jealous as they were of power, jealous as they were of executive power, could have intended to intrust the grave questions which might arise during the count of a presidential vote to the determination of a single officer who, as the Constitution was originally framed, must have been one of the two last candidates for the Presidency, and in all probability under their habit of continuing the same men in public service, would be one of the candidates whose election was to be determined by the count. The only other alternative was the construction adopted, which imposed the power and duty of determining these questions upon two equal bodies, who could not therefore act by a majority, who would frequently be of different political parties, and whose difference must of course be expected to occur frequently in practice.

Now, it does not seem to me that this bill or that any bill has removed the essential difficulty which grows out of that oversight made by the framers of the Constitution. This bill provides that when, in regard to the votes returned from any State by two bodies claiming to have the right to make the return from the State, there is a difference of opinion, neither vote shall be counted. I cannot understand, I never could understand, how that could be called a count of the vote for the Presidency, when the counting power simply said they were unable to determine what individuals made up the aggregate which was to be counted. How can you count the number of votes when all you have said is that there are ninety partly for one man and partly for another, and that there are ten which you cannot determine whether they belong to the aggregate to be counted or not? That difficulty is untouched by the pending bill, and it cannot in the nature of the case be removed except by a constitutional amendment which gives to one authority, and not to the concurrence of two authorities, the power of determining these questions.

I think also that it is very unwise for the American people to leave in a body numerous and constituted like the House of Representatives, I am not sure that it is not unwise to leave in a body as numerous and constituted as is the Senate, the power of taking any part in such a decision. These bodies are liable to be affected by the tempest of excitement which prevails in the country at the time of a disputed presidential succession. They are bodies comprised, from their very nature, of men selected by political parties and representing political parties and the leaders and guides of political parties. The experience of the electoral count has shown that such men, however eminent for ability, for integrity, for public spirit, for patriotism, become largely incapable of the judicial function in the presence of such questions as these.

As I have said, I propose to vote for the bill mainly because the Senators to whom has been delegated the duty of preparing it, after long examination of the subject, have determined that for the present emergency it is the best measure which can be devised; but I desired to put on record my opinion that very little has been accomplished, and that very little can be accomplished until the public mind has reached a condition which makes a constitutional amendment possible.

Mr. EDMUNDS. At this late hour of the day I think I should trespass upon the time of the Senate and upon its judgment if I were to say anything further in support of this bill. The objections that have been made to it recognize, I think in every instance, the principle upon which the bill is founded, and that is the right of each State to determine for itself the choice of its electors. All that follows is the regulative method of going through with the administrative act of counting the votes which the States have sent to the national capital to express their choice for President of the United States.

In that state of the case I think I should waste the time of the Senate now by going into a criticism and an answer of the particular points that have been made as to the scope of the regulative power. I need only say that in those clauses of the Constitution where without any question, as there is about this, a complete jurisdiction has been invested in the Supreme Court, for instance in the deposit of the judicial power, there has never been any question, as numerous decisions of the court itself, most jealous of its rights, have shown, that it was within the constitutional function of Congress to regulate its procedure, to determine what evidence should be conclusive in that court, and in what ways and under what circumstances it should exercise its jurisdiction.

That being the present state of the case, Mr. President, I do not feel justified in going over this field again, but only ask the Senate in that spirit of conservative patriotism that I know animates all of its members, whether they agree with this bill or not, to provide a definite and lawful means of ascertaining the result of the choice of the States in cases of this character.

Mr. COCKRELL. Will the Senator from Vermont please explain why the election of presidential electors is changed from the Tuesday after the first Monday in November to the first Tuesday in October? I call his attention to the fact that the constitutions of a large number of States, for example, Mississippi, Missouri, Nebraska, Nevada, New York, Pennsylvania, Tennessee, Virginia, Wisconsin, Connecticut, Delaware, Illinois, Kansas, and probably others, require the election of State officers to be on the Tuesday after the first Monday in November. This will change the time of the elections in all those States. Is there not time enough for the settlement of all contested elections of electors for President and Vice-President after the Tuesday follow-

ing the first Monday in November and before the time designated in January?

Mr. EDMUNDS. In reply to my honorable friend from Missouri I will say that the committee most carefully and industriously considered the very question to which the Senator refers; and I believe I am safe in saying that every member of the committee, whatever were our differences in respect of methods and so on, agreed in the idea that upon the principle of the bill it was essential to its safety as a practical measure, in order that there might not be, as there was in Florida, the mere turn of a day almost, or of a week, or of a month, in respect of the ability of the State tribunals to dispose of the question which might determine its voice one way or the other. We were all of opinion, I think I am safe in saying, that it was desirable to give the longest possible time in order that questions relating to the very right of the State itself to choose its electors should be decided in that State, and not remitted for an undecided consideration here. So I believe I am safe in saying, as I do say, that all the gentlemen of the committee thought it was necessary to give the longest possible time, which amounts practically to three months.

Now, then, in respect of the State elections, what the Senator says it true as to the States he has named and, as he says, possibly as to some others. As to many of the other States, my own for instance, the election of State officers is on the first Tuesday of September, and we are required on every occasion, as we have been for a great many years, to have an election for presidential electors on one day and an election for State officers on another. That is an inconvenience, undoubtedly, but is an inconvenience after all that has some compensating benefits. If you eliminate the election of President of the United States from every local consideration, the combinations about local strifes and so on, theoretically and in a considerable degree practically you do get I think a larger and better judgment upon that single question than you would if you had the election of electors of President on the same day as that of the State officers. It is undoubtedly a certain inconvenience to every farmer, and artisan, and lawyer, and mechanic, and doctor, and everybody else who makes up the voting community of a State, to go out on two days in the year when they might do all the business at one time; but the leading idea of the committee was to make the space of time between the appointment of the electors and the meeting of the electors so great as that no State would find itself embarrassed in going through all the processes of its own declaration and provision for ascertaining what its own will was under the Constitution for itself. That is the only answer I can give to my honorable friend.

Mr. COCKRELL. Will the Senator also answer me what the committee means by the use of the word "vacancy" in section 2:

Whenever there shall be a vacancy in both the offices of the President and Vice-President occurring more than two months, &c., the Secretary of State shall forthwith cause a notification thereof to be made to the executive of every State.

Would that include a case where there should be a failure to elect by the people or a failure by the House of Representatives to choose the President in the mode prescribed by the Constitution?

Mr. EDMUNDS. I do not know, Mr. President, that I can answer precisely, certainly not for the committee, what would be the construction of the law in that state of affairs. The Constitution, as the honorable Senator is perfectly well aware, provides that Congress may by law determine what officers shall exercise the office of President of the United States when there is a vacancy in both the offices of President and Vice-President; and the committee only followed the provisions that the fathers made in 1792 for a case where the offices of President and Vice-President were both vacant. They provided, if the Senator will pardon me a moment——

Mr. COCKRELL. Permit me to call the Senator's attention to one fact. Although he is exceedingly accurate all the time, I desire to call his attention directly to this clause of the Constitution:

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The word "vacancy" does not occur there. Now the act of 1792 followed precisely, in the ninth section, the language of the Constitution.

In case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the President of the Senate, or, if there is none, then the Speaker of the House of Representatives for the time being, shall act as President until the disability is removed or a President elected.

Section 10 of the act of 1792 provided that—

Whenever the offices of President and Vice-President both become vacant, &c.

That law did not say anything in regard to the cause of the vacancy, and I wanted to know what was meant by the term "vacancy" here. If it means only the four cases designated in the Constitution, removal, death, resignation, or inability, then it is clearly within the purview of the Constitution. If it means some other case, as a failure to elect, where Congress cannot determine who has been elected, or the House cannot elect any one when it comes to them, it is an entirely different matter, and I wanted to know what this bill meant precisely.

Mr. EDMUNDS. The only answer that can be given to that is, that the Senator has stated the Constitution as he has read it just as it is. That appeared to exhaust most if not all the cases of a vacancy. The act of 1792, made by the very men in a large degree who framed the Constitution itself, uses these words:

In case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the President of the Senate, &c.

Then we come to section 147 of the Revised Statutes, which is the next section of the act of 1792:

Whenever the offices of President and Vice-President both become vacant, the Secretary of State shall forthwith cause a notification thereof to be made to the executive of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State.

My own opinion, but I do not speak for the committee, is that the construction of this act will be exactly the same as that of the act of 1792, and then that raises undoubtedly the same question that the Senator now raises. But the committee thought that in respect of a provision of this kind which had been made, it would not introduce new difficulties, and new discussions, and new doubts to be solved, by taking any other language than that which the fathers of the Government and the enactors of the law of 1792 employed in providing for a complete vacancy in both these offices. Undoubtedly if the House of Representatives, in the case supposed in the Constitution, should fail to elect by the time the term was to begin any one to be President of the United States, there would be a vacancy in that office. There can be no question of that. It would be a vacancy if the House of Representatives had failed to elect in a case of that kind, not by death, where the old officer had held till the 4th of March, not by resignation, not by removal; that is true enough; but there would be a vacancy in the office. Whether it is under the Constitution within the power of the States of this Union to elect a President in that case, I am not prepared to decide. I only am prepared to say that the committee felt justified in following the language of the fathers who made the Constitution, in providing for an emergency of that character. If it will not stand the test of constitutional criticism, and I can see that some strong arguments can be made that way, then of course an election made under such circumstances would not meet the judgment of either House of Congress, as they are the judges I must presume, and if it did not, then the officer designated by law would continue to administer the Government, the President *pro tempore* of the Senate or the Speaker of the House of Representatives, until the period of four years should have terminated and the new election for the regular term would have occurred. It is, of course, impossible to solve absolutely the critical doubt that my friend so well raises upon this language of the Constitution, which only speaks of death, resignation, removal, &c., in any satisfactory way. At least I am not able to do it; but the committee in this respect have not introduced any new law; they have only left the law by re-enactment exactly as it stands now.

Mr. THURMAN. I cannot let the remark made by the Senator from Vermont pass without calling his attention to a view of the Constitution that I am apprehensive has escaped his notice. If the House of Representatives should fail to elect a President, were the election to devolve on the House, there is but one way that I know of in which under the terms of the Constitution the office could devolve upon the Vice-President or Congress could provide who should fill that office, and that is by the interpretation or construction that shall be put upon the words "removal of the President from office:"

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President.

The case of a failure of the House of Representatives to elect is not a case of death, resignation, or inability, but the words "removal of the President from office" may be construed to be a removal by efflux of time, by the expiration of the time for which he was elected.

Mr. COCKRELL. Will the Senator allow me a moment?

Mr. THURMAN. Let me proceed, for I do not want to prolong this debate; I will not occupy five minutes. Suppose that the election of a President devolved upon the House of Representatives and the election of a Vice-President devolved upon the Senate, and the House should fail to elect, but the Senate should elect a Vice-President, then it seems to me that under the Constitution, construed as I have suggested, it may be that the Vice-President elected by the Senate would become the President of the United States, just as in other cases, just as in the case of the death of the President; and so if neither body should elect, if the House should fail to elect a President and the Senate should fail to elect a Vice-President—a very extraordinary supposition that would be—still, the old incumbent being removed from office by efflux of time, Congress might provide in such a case as that who should discharge the duties until there could be an election.

Mr. COCKRELL. I simply desired to read to the Senator from Ohio the language of the Constitution in the twelfth article of amendment, which would have saved the necessity of most of his remarks:

And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The Constitution makes express provision where the House of Representatives fail to elect, but there is no provision made where Congress itself shall fail to make any determination as to whether any one is elected or not; but when the election goes properly into the House under the plain provisions of the Constitution and the House

fail to elect or refuse to perform that duty prior to a certain day, then the Vice-President elected by the Senate, if not chosen in the general election, becomes the President. There is no provision made where the Senate shall fail to elect a Vice-President. Those are the two cases for which no provision is made, and I wanted to know whether this bill provided for those two cases and embraced them in the term "vacancy" or not.

Mr. EDMUNDS. The committee went over the whole of that very ground and it presented, in the strictest philosophical nature of the case, an insoluble problem. The committee did not think, in view of another provision of the Constitution that the President might be removed for high crimes and misdemeanors, &c., that you could say he was removed from office by the fact that his term expired. The committee therefore merely took the law as they found it enacted by the fathers to provide for a general vacancy, which in all its terms would include the case that the Senator has mentioned. But it is one of those discussions which relate to a state of circumstances that is so unlikely to occur that the committee thought the best they could do would be to leave the law on that point just as the makers of the Constitution left it when they passed the law of 1792, using the general term "vacancy."

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The question is on the passage of the bill.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GARLAND, (when his name was called.) The Senator from Florida [Mr. CONOVER] is detained from the Senate to-day on account of serious illness in his family. He requested me to pair with him, which I did. If he were here, I am informed he would vote for the bill, and I should vote against it.

Mr. McPHERSON, (when his name was called.) Upon this question I am paired with the Senator from Virginia, [Mr. JOHNSTON,] who is unable to be here. Were he here, I should vote in the affirmative and he would vote in the negative.

The Secretary resumed and concluded the call of the roll.

Mr. COCKRELL. I have not voted, and I ask simply to make one word of explanation.

The PRESIDING OFFICER. The Senator from Missouri asks unanimous consent to make a word of explanation. Is there objection?

Mr. WITHERS. Yes, I object.

The PRESIDING OFFICER. Objection is made, and it will not be in order.

The result was then announced—yeas 35, nays 26; as follows:

YEAS—35.

Allison,	Conkling,	Kellogg,	Paddock,
Anthony,	Davis of Illinois,	Kirkwood,	Patterson,
Bayard,	Dawes,	McMillan,	Plumb,
Blaine,	Edmunds,	Matthews,	Rollins,
Booth,	Ferry,	Merrimon,	Saunders,
Burnside,	Hamlin,	Mitchell,	Teller,
Cameron of Pa.,	Hoar,	Morgan,	Wadleigh,
Cameron of Wis.,	Howe,	Morrill,	Windom.
Christiancy,	Ingalls,	Oglesby,	

NAYS—26.

Armstrong,	Eaton,	Jones of Florida,	Ransom,
Bailey,	Eustis,	Kernan,	Thurman,
Beck,	Gordon,	Lamar,	Voorhees,
Butler,	Grover,	McCreery,	Wallace,
Coke,	Harris,	McDonald,	Withers.
Davis of W. Va.,	Hereford,	Maxey,	
Dennis,	Hill,	Randolph,	

ABSENT—15.

Barnum,	Conover,	Jones of Nevada,	Sharon,
Bruce,	Dorsey,	McPherson,	Spencer,
Chaffee,	Garland,	Sargent,	Whyte.
Cockrell,	Johnston,	Saulsbury,	

So the bill was passed.

Mr. COCKRELL. Mr. President, I have the floor, I believe.

The PRESIDING OFFICER. The Chair will recognize the Senator from Missouri.

Mr. COCKRELL. I desire to say, without the leave of my good friend from Virginia, that I favor a number of the provisions of this bill, and could one or two provisions have been changed I should have cheerfully and cordially voted for it. I simply desired to say that the vote was pressed, that other gentlemen took the time in discussing it and giving their explanations and their reasons, and I did not wish to consume the time of the Senate in making a speech upon the bill; but I intended to make an explanation before it got as far as it did and to explain why it was that I, although favoring most of the provisions of the bill, could not vote for it.

Mr. EDMUNDS. I ask unanimous consent to make a personal explanation for an absent Senator that I ought to have made before.

The PRESIDING OFFICER. The Senator from Vermont asks unanimous consent of the Senate to make a statement in regard to an absent Senator. Is there objection? The Chair hears none.

Mr. EDMUNDS. I merely wish to say what I ought to have said before when the vote was being called upon the passage of the bill, that the Senator from Colorado, [Mr. CHAFFEE,] who is necessarily absent, was paired with the Senator from Connecticut, [Mr. BARNUM.] If the Senator from Colorado had been present he would have voted in favor of the passage of the bill, and the Senator from Connecticut would have voted against it.

ORDER OF BUSINESS.

Mr. BLAINE. I move that the Senate take up for consideration the resolutions which I offered relative to the exercise of the elective franchise, which can go over as the unfinished business.

Mr. WADLEIGH. Senate bill No. 300 has the precedence, and I shall insist upon its standing in the order in which it now stands, and that it be taken up on Monday morning. It will occupy but little time.

Mr. BLAINE. The consideration which I would suggest, and for the consideration of the Senator from New Hampshire, is that if the resolutions which I offered are ever to be passed it is important that they be passed before the holidays, and that it will not delay his bill seriously if he will permit that business to take precedence. I think that would be a safer and better order.

Mr. WADLEIGH. I believe that upon Senate bill No. 300 there can be no extended debate whatever, and I feel confident that on the resolutions of my friend from Maine there will be a debate. His resolutions can wait for my bill. My bill cannot wait for his resolutions.

Mr. BLAINE. The Senator underrates the capacity of the Senate of the United States when he thinks there cannot be an extended debate on his measure, or on any other.

Mr. WADLEIGH. I say what I believe, Mr. President. I think that a good deal more difference of opinion has been manifested upon the resolutions which he has offered and a greater desire to discuss them than there has been manifested upon Senate bill No. 300. I move that the Senate adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire, that the Senate do now adjourn.

Mr. BLAINE. I shall insist——

The PRESIDING OFFICER. Debate is not in order. The question is on the motion to adjourn.

The question being put, a division was called for, and the ayes were 37.

Mr. BLAINE. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. I desire to ask a parliamentary question. Has the resolution from the House in relation to adjournment over the holidays been acted on?

The PRESIDING OFFICER. It has not been. It is on the table. The Secretary will call the roll on the motion to adjourn.

The question being taken by yeas and nays, resulted—yeas 35, nays 26; as follows:

YEAS—35.

Armstrong,	Davis of W. Va.,	Ingalls,	Morgan,
Bailey,	Dennis,	Jones of Florida,	Randolph,
Bayard,	Eaton,	Kernan,	Ransom,
Beck,	Eustis,	Lamar,	Thurman,
Booth,	Garland,	McCreery,	Voorhees,
Butler,	Gordon,	McDonald,	Wadleigh,
Cockrell,	Harris,	McPherson,	Wallace,
Coke,	Hereford,	Maxey,	Withers.
Davis of Illinois,	Hill,	Merrimon,	

NAYS—26.

Anthony,	Dawes,	Kirkwood,	Patterson,
Blaine,	Edmunds,	McMillan,	Plumb,
Burnside,	Ferry,	Matthews,	Rollins,
Cameron of Pa.,	Hamlin,	Mitchell,	Saunders,
Cameron of Wis.,	Hoar,	Morrill,	Teller.
Christiancy,	Howe,	Oglesby,	
Conkling,	Kellogg,	Paddock,	

ABSENT—15.

Allison,	Conover,	Jones of Nevada,	Spencer,
Barnum,	Dorsey,	Sargent,	Whyte,
Bruce,	Grover,	Saulsbury,	Windom.
Chaffee,	Johnston,	Sharon,	

So the motion was agreed to; and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 13, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

The SPEAKER. The executive council of the National Board of Trade, consisting of nine members, is now in session in this city. The Chair has been requested to ask permission of the House that they may be admitted to the floor during their sessions in this city If there be no objection the Chair will award that privilege.

There was no objection.

GOVERNMENT FUNDS IN NATIONAL BANKS.

Mr. KELLEY. By order of the Committee of Ways and Means I move that the letter of the Secretary of the Treasury in response to

a resolution of the House of the 4th instant, in relation to moneys of the United States deposited in national banks, be printed for the use of the House.

The motion was agreed to.

Mr. KELLEY. I also, in connection with the same subject, submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be directed to inform this House, at the earliest day practicable after the close of the congressional recess, whether there were any balances in coin standing to the credit of the Treasurer of the United States in any national bank on the 1st day of March, 1876, and on the first of each succeeding month to and including the 1st of January, 1879, and the names and location of the banks which held such balances and the amount held by each at the respective dates indicated.

Mr. KELLEY. To narrow the scope of the resolution I will modify it so that it will read "coin standing on funding account."

Mr. BURCHARD. How does this resolution differ from the one which the gentleman offered a few days ago, and which was replied to?

Mr. KELLEY. In this respect: the resolution of the other day inquired as to two dates, the 30th of September and the 30th of November, 1878. This resolution embraces a longer period, beginning with the 1st of March, 1876, and terminating with the coming 1st of January. I think it an inquiry legitimate for information which the House requires.

Mr. BURCHARD. Let it lie over under the rules until we can have an opportunity to see it.

Mr. KELLEY. There is no rule under which the resolution can lie over.

The SPEAKER. The effect of the suggestion of the gentleman from Illinois [Mr. BURCHARD] is in the nature of an objection.

Mr. KELLEY. If the gentleman objects to the House having this information let him say so.

Mr. BURCHARD. Let it be referred to the Committee of Ways and Means.

Mr. KELLEY. Under the force of this objection I beg leave to withdraw the resolution, and will submit it on Monday.

The resolution was accordingly withdrawn.

LOUISA M. MANSFIELD.

Mr. WAIT, by unanimous consent, introduced a bill (H. R. No. 5507) for the relief of Louisa M. Mansfield, widow and executrix of General Joseph K. F. Mansfield; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

WASHINGTON, CINCINNATI AND SAINT LOUIS RAILWAY.

Mr. SHELLEY, from the Committee on Railways and Canals, by unanimous consent, reported a bill (H. R. No. 5508) to authorize the Washington, Cincinnati, and Saint Louis Railroad Company to construct a narrow-gauge railway from tide-water to the cities of Saint Louis and Chicago; which was read a first and second time, and, with the accompanying report, ordered to be printed and recommitted to the Committee on Railways and Canals, not to be brought back on a motion to reconsider.

PERSONAL EXPLANATION.

Mr. KENNA. Mr. Speaker, I arise for the purpose of alluding to the sweeping statement made by the public press to the effect that all the members of the Committee of the House on Enrolled Bills except Mr. RAINEY were drunk on the last day or night of the last session. The statement, so far as it embraces me and insinuates that I was intoxicated, either at the time mentioned or at any other time during the entire session of eight months, is absolutely and unqualifiedly false. It is also untrue, so far as my knowledge extends, of the other members of that committee. I have procured statements of the Speaker and other officers of the House, and also of members on the floor most familiar with my condition and conduct on the last day and night and during the whole of the session, and these I offer as part of my remarks. They are as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1878.

MY DEAR SIR: Your note of yesterday, calling my attention to a statement which you say has been repeatedly made by the public press, that all the members of the Committee on Enrolled Bills except Mr. RAINEY were drunk during the last day and night of the session ending in June last, has been received, and you ask me to free you from such an accusation. I most cheerfully consent to do this, because I remember distinctly that you were on the floor and at your post all of that busy night attending untiringly to the public business. I may also take occasion to add in this connection that I have never seen you, in or out of the House, under the influence of liquor. Outrageous injustice has been done by such statements, not only to you but to the other members of the committee, and it gives me the greatest pleasure to deny them most emphatically.

Very sincerely, yours,

SAM. J. RANDALL.

Hon. JOHN E. KENNA,
House of Representatives.

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES U. S.,
Washington, D. C., December 11, 1878.

DEAR SIR: In answer to your inquiry touching the conduct of the Committee on Enrolled Bills on the night of the adjournment of the last session of Congress, I take pleasure in saying that on the night referred to I saw much of you and other members of that committee, and the statement so often repeated in the public prints to the effect that you or any other member of the committee was disqualified for the discharge of his duty is, so far as I know or believe, untrue.

I remember distinctly that between midnight and day of the night referred to you were for a considerable time engaged with me in the comparison of a number of enrolled bills, which you subsequently reported to the House, and I had no suspicion that you had even so much as tasted anything intoxicating.

I never knew of your being intoxicated even in the least degree during that entire session, and never heard any such intimation from any source until I saw in the public prints the absurd stories which have been so extensively circulated in reference to the conduct of your committee on the night referred to.

Very respectfully,

G. M. ADAMS, *Clerk.*

Hon. JOHN E. KENNA.

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES U. S.,
Washington, D. C., December 11, 1878.

SIR: Your esteemed favor of the 10th instant is received. In reply to your inquiry I take pleasure in stating that the charges that have appeared in public print, to the effect that you was drunk and neglected your official duties as a member of the Committee on Enrolled bills on the night of the adjournment of the second session Forty-fifth Congress, are wholly without foundation.

Very respectfully,

THEO. F. KING, *Enrolling Clerk.*

Hon. JOHN E. KENNA.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1878.

DEAR SIR: I have received your note of the 10th instant, inquiring whether I saw you on the last night of the last session of Congress, and whether I observed your condition and conduct. In reply, I met you often during the night; at one time I approached you and asked you if you could relieve Mr. RAINEY in the comparison of the sundry civil appropriation bill; you replied that you could, and went with me into the House enrolling-room and offered your services. Mr. RAINEY courteously declined them, saying that he preferred to complete the bill, and did so. You were not the least excited or under the slightest influence of liquor at any time during that night or during the session, that ever I knew or heard of.

Respectfully, yours,

J. D. C. ATKINS.

Hon. JOHN E. KENNA.

HOUSE OF REPRESENTATIVES,
December 11, 1878.

DEAR SIR: Yours bringing to my attention a statement alleging that you were under the influence of liquor, consequently unable to discharge duties incidental to member of Committee on Enrolled Bills on last night of the last session of Congress, is before me. I take pleasure in saying that to my own personal knowledge the aforesaid statement does you great injustice. I recollect perfectly well seeing and conversing with you on the night referred to, at a very late hour. I can therefore certify positively that you were not intoxicated then, nor at any other time so far as I am aware. You came into the committee-room that night and asked if your services were needed. At that time there was but one bill ready for comparison; that one I had in charge.

I am, very respectfully, yours, &c.,

J. H. RAINEY.

Hon. JOHN E. KENNA.

UNITED STATES SENATE CHAMBER,
Washington, December 12, 1878.

DEAR SIR: I have seen it stated in one or more papers that you, on the last night of the last session were under the influence of spirituous liquors. I regretted to see such a foul slander given circulation. I saw you frequently during the last day and the last night of that session—the last time about four o'clock of that night. I am satisfied that so far from being under the influence of liquor that you had not tasted a drop. Furthermore, I saw you very often during that session, and I do not believe you tasted a drop during that long and arduous session.

Yours, truly,

FRANK HEREFORD.

Hon. JOHN E. KENNA.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 13, 1878.

DEAR KENNA: The story that you were intoxicated on the last night of the last session of Congress, or at any time during the session, is without foundation in fact. Boarding together as we did in the same house, and associating daily in and out of Congress, I had every opportunity to have known it if anything of the kind occurred.

Yours, most truly,

B. WILSON.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 12, 1878.

MY DEAR SIR: In reply to your inquiry made to-day, in regard to the charge in some of the public prints that you were intoxicated on the last night of the last session of Congress, it affords me pleasure to say that at the time named, being unable to attend the session on account of sickness, I requested you to get General KEIFER to offer a report which I had made from the Committee on War Claims in case of the Methodist Episcopal Church South at Charleston, and the record shows it was done as requested. This shows you were attending to business. I desire to add that I was with you a great deal during the session, and unhesitatingly say I never saw you in the least intoxicated to my knowledge.

Very truly, yours,

B. F. MARTIN.

Hon. JOHN E. KENNA.

DELAWARE RIVER.

Mr. WARD, by unanimous consent, introduced a bill (H. R. No. 5509) to improve the navigation of the Delaware River by providing additional and adequate lights thereon between Cherry Island Flats and the city of Philadelphia; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

AMENDMENT OF PENSION LAWS.

Mr. SMITH, of Pennsylvania. I am instructed by the Committee on Appropriations to ask that that committee be discharged from the further consideration of the bill (H. R. No. 5339) to amend the pension laws, and that the same be referred to the Committee on Invalid Pensions.

There was no objection, and it was so ordered.

NATIONAL RAILWAY OF THE UNITED STATES.

Mr. CALKINS (by request) introduced a bill (H. R. No. 5510) to organize the National Railway of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

FORTIFICATION APPROPRIATION BILL.

Mr. BAKER, of Indiana. I ask consent that House bill No. 5231, making appropriations for fortifications and other works of defense and for the armament thereof for the fiscal year ending June 30, 1880, and for other purposes, returned from the Senate with amendments, be taken from the Speaker's table, referred to the Committee on Appropriations, and the amendments of the Senate printed.

There was no objection, and it was so ordered.

GEORGE W. CLARK.

Mr. CRAVENS. I ask unanimous consent to have taken from the Speaker's table Senate bill 1038, for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clark, formerly Indian agent, and that it be referred to the Committee on the Judiciary.

There was no objection; and accordingly the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary, not to be brought back on a motion to reconsider.

DEBT OF ARKANSAS TO THE UNITED STATES.

Mr. CRAVENS. I ask unanimous consent to have taken from the Speaker's table and referred to the Committee of Ways and Means Senate bill No. 116, authorizing the Secretary of the Treasury to adjust and settle the debt due the United States by the State of Arkansas.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means, not to be brought back on a motion to reconsider.

PENSIONS TO SOLDIERS AND SEAMEN OF THE WAR OF 1812.

Mr. WILSON. I ask unanimous consent to introduce and have passed at the present time a joint resolution construing an act of Congress granting pensions to soldiers and seamen of the war of 1812. I desire to have read in connection with this resolution, for the information of the House, a letter from the Commissioner of Pensions, on hearing which I think every gentleman here will concur in the propriety of passing the resolution.

The SPEAKER. The resolution will first be read, after which there will be opportunity for objection.

The Clerk read as follows:

Whereas, anticipating war with Great Britain, the Government of the United States received into its military and naval service persons who were discharged from such service less than fourteen days subsequent to June 18, 1812, the date of the formal declaration of war; and

Whereas, owing to the imperfect means of communication which existed at the date of the President's proclamation that peace had been established (February 18, 1815) between the United States and Great Britain, many persons who were received into the military and naval service of the United States to serve in the war of 1812 were retained in such service a considerable time after the establishment of peace: Now,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of claims for pension and bounty lands on account of service in the war of 1812 the Commissioner of Pensions shall compute all the time the soldier served between June 1, 1812, and March 1, 1815.

Mr. WILSON. I ask that a letter from the Commissioner of Pensions be now read.

The SPEAKER. Is there objection to the introduction of this joint resolution?

Mr. BREWER. Let the right to object be reserved until the letter is read.

The SPEAKER. The letter will be read, after which there will be opportunity to object.

The Clerk read as follows:

PENSION OFFICE, *December* 10, 1878.

DEAR SIR: Herewith please find draft of a joint resolution. Note that provision is made for service outside of the period of war, both at the beginning and the close of the war, and also for claims for bounty land.

The number of claimants who will be benefited is small, and it seems to me that if any relief of this sort is to be had it should cover the whole case; but you will be the better judge of what should be done.

Very respectfully, yours,

J. W. BENTLEY.

Hon. BENJAMIN WILSON,
House of Representatives.

Mr. WILSON. I hope the House will let this resolution pass at once.

Mr. ATKINS. I move that the resolution be referred to the Committee on Revolutionary Pensions and War of 1812.

The SPEAKER. That is in the nature of an objection, and would prevent the consideration of the resolution.

Mr. WILSON. I hope the resolution may be printed for the information of the House, for I am sure no member, if he understands it, will object to it.

The SPEAKER. The question is not debatable. Does the gentleman desire to have the resolution referred?

Mr. WILSON. No, sir, I do not. If it is referred it may never come back again. I hope it will be printed for the information of the House, as I shall offer it again on Monday next.

The SPEAKER. Having been read, the resolution will appear in the RECORD.

REPORT OF HEALTH OFFICER, DISTRICT OF COLUMBIA.

Mr. SINGLETON, from the Committee on Printing, reported back, without amendment, the following resolution; which was read, considered, and agreed to:

Resolved, That the Public Printer be, and is hereby, authorized and directed to print 1,500 extra copies of the report of the health officer of the District of Columbia for use of said health officer.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROFESSOR HAYDEN'S SURVEY OF THE TERRITORIES.

Mr. SINGLETON also, from the same committee, reported back, without amendment, the following resolution; which was read, considered, and adopted:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878; 5,000 copies of which shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 copies for the use of the office of the survey,

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SINGLETON also, from the same committee, reported back, without amendment, the following resolution; which was read, considered, and agreed to:

Resolved by the House of Representatives (the Senate concurring.) That there be printed at the Government Printing Office 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 500 copies for the use of the Senate, 500 copies for the use of the survey, and 500 copies for the use of the Department of the Interior; the illustrations to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. M. J. DONAHOE.

Mr. FORNEY. I ask unanimous consent to have taken from the Speaker's table and referred to the Committee of Claims Senate bill No. 1228, for the relief of Mrs. M. J. Donahoe.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims, not to be brought back on a motion to reconsider.

R. W. CORBIN.

Mr. DIBRELL. I ask unanimous consent that Senate bill No. 1173, for the relief of R. W. Corbin, be taken from the Speaker's table and referred to the Committee of Claims.

There being no objection, the bill was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims, not to be brought back on a motion to reconsider.

WILLIAM H. MORGAN—MICHAEL O'BRIEN.

Mr. RYAN. I ask unanimous consent that Senate bill No. 1405, for the relief of William H. Morgan, and Senate bill No. 658, to authorize the restoration of Michael O'Brien to the rank of first lieutenant in the Army, be taken from the Speaker's table and referred to the Committee on Military Affairs.

There being no objection, the bills were respectively taken from the Speaker's table, read a first and second time, and referred to the Committee on Millitary Affairs, not to be brought back on a motion to reconsider.

O. D. LEMERT.

Mr. RYAN also, by unanimous consent, introduced a bill (H. R. No. 5511) for the relief of O. D. Lemert, late captain First Regiment Mississippi Volunteer Infantry, African descent; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CONVEYANCE BY GUARDIANS, KANSAS.

Mr. FENN, by unanimous consent, from the Committee on Indian Affairs, reported back favorably a bill (H. R. No. 3512) to confirm certain conveyances executed by guardians appointed by the courts of the Territory and State of Kansas; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

A. D. FISHER.

Mr. FENN also, by unanimous consent, from the same committee, reported back favorably a bill (H. R. No. 1187) for the relief of A. D. Fisher, Washington Territory; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

SPEAKER'S TABLE.

Mr. DAVIS, of California. I move, by unanimous consent, Mr.

Speaker, to take from the Speaker's table for reference Senate bill No. 2.

Mr. KNOTT. Mr. Speaker, I move to go to the business upon the Speaker's table for the purpose of taking up the various bills there for reference to appropriate committees, not to be brought back by a motion to reconsider.

Mr. DUNNELL. Are they to be subject to objection?

The SPEAKER. Objection to reference will of course have the effect to leave the bill upon the Speaker's table.

Mr. DUNNELL. Then I do not object to the motion.

The motion was agreed to.

REFERENCE OF BUSINESS ON THE SPEAKER'S TABLE.

The House then proceeded to the consideration of the business on the Speaker's table, and it was taken up and disposed of as indicated below:

A bill (H. R. No. 1962) for the relief of Jane Clark, Margaret A. Jack, Christine Anderson, and Mary Johnson—returned from the Senate, with amendments.

Mr. OLIVER. Mr. Speaker, is it in order to ask to have that bill taken up and the amendments of the Senate concurred in?

The SPEAKER. Not under the order by which the House went to the Speaker's table. That order was that bills should only be taken up for reference, not to be brought back by a motion to reconsider. If the gentleman objects to the reference of the bill then it will remain upon the Speaker's table. It will not lose any of its rights.

Mr. OLIVER. I do object.

The SPEAKER. The bill then remains upon the Speaker's table.

A bill (H. R. No. 3828) to amend section 23 of the act approved June 22, 1874, entitled "An act to amend customs-revenue laws and to repeal moieties," returned from the Senate with amendments—to the Committee on Ways and Means.

A bill (H. R. No. 805) to repeal all that part of the act approved January 14, 1875, known as the resumption act, which authorized the Secretary of the Treasury to dispose of United States bonds and redeem and cancel the greenback currency, returned from the Senate with amendments.

Mr. BUCKNER. I wish to state that I have been instructed by the Committee on Banking and Currency to move the reference of that bill to that committee.

The SPEAKER. It is under the restriction that it is not to come back on a motion to reconsider.

Mr. BUCKNER. That, I believe, is the order under which the House is acting.

Mr. HANNA. I object.

The SPEAKER. The bill then remains upon the Speaker's table.

A bill (H. R. No. 5052) to amend section 3835 of the Revised Statutes of the United States, returned from the Senate with amendments—of the Committee on the Post-Office and Post-Roads.

A resolution (H. R. No. 162) for the relief of Bushrod B. Taylor, returned from the Senate with amendments—to the Committee on Naval Affairs.

A bill (S. No. 490) to authorize the appointment of commissioners to determine claims, and for other purposes, at Hot Springs, in the State of Arkansas—to the Committee on Public Lands.

A bill (S. No. 238) extending the time for the construction and completion of the Northern Pacific Railroad.

Mr. DUNNELL. I object to the reference of that bill. Let it lie upon the table.

A bill (S. No. 337) for the relief of Thomas H. Halsey, paymaster United States Army—to the Committee of Claims.

A bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico—to the Committee on Private Land Claims.

A bill (S. No. 989) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands—to the Committee on Public Lands.

A bill (S. No. 532) to incorporate the Suburban Railway Company of Washington, in the District of Columbia—to the Committee for the District of Columbia.

A bill (S. No. 1114) to amend the one hundred and third article of war—to the Committee on Military Affairs.

A bill (S. No. 796) for the relief of John Henderson—to the Committee of Claims.

A bill (S. No. 1201) for the relief of Drury Bynum—to the Committee on Public Lands.

A bill (S. No. 1060) authorizing the Secretary of War to erect headstones over the graves of Union soldiers who have been interred in private, village, or city cemeteries.

Mr. RYAN. I hope that will remain on the table.

The SPEAKER. If the gentleman objects, it does remain on the table.

Mr. RYAN. I do. I want it passed at once.

A bill (S. No. 1241) to provide for the service of process in cases of interpleader in the courts of the United States—to the Committee on the Judiciary.

A bill (S. No. 498) to provide for the appointment of an additional circuit judge in the second judicial circuit—to the Committee on the Judiciary.

A bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Fillman, the Union Transfer Company, all of Philadelphia; the Union Transfer Company of Baltimore, Maryland; and John R. Graham, late of Philadelphia, now of Washington, District of Columbia—to the Committee of Claims.

A bill (S. No. 109) defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Mr. RYAN. I hope that will not be referred.

The SPEAKER. The bill remains on the Speaker's table, objection being made.

A bill (S. No. 1277) to extend the jurisdiction of the district and circuit courts of the United States for the southern district of Florida—to the Committee on the Judiciary.

A bill (S. No. 1266) to provide for the appointment of an additional circuit judge in the seventh judicial circuit.

Mr. TIPTON. I object.

The SPEAKER. The bill remains on the table.

A bill (S. No. 542) to provide for the conveyance of the low grounds in the city of Washington under the provisions of the act of Congress, chapter 96, approved May 7, 1822—to the Committee for the District of Columbia.

A bill (S. No. 1178) to provide a fire-proof building for the use of the Bureau of Engraving and Printing and the mechanical branches of the Treasury and other Departments—to the Committee on Appropriations.

A bill (S. No. 125) to change the name of the steamer George W. Elder to Columbia—to the Committee on Commerce.

A bill (S. No. 126) to change the name of the steamer City of Chester to Portland—to the Committee on Commerce.

A bill (S. No. 864) to provide for the construction, maintenance, and operation of a military telegraph in Dakota and Montana Territories—to the Committee on Military Affairs.

A bill (S. No. 793) for the relief of Edwin R. Clarke.

Objected to by Mr. PHILLIPS.

A bill (S. No. 1350) for the relief of Chester A. Arthur, collector of the port of New York—to the Committee of Claims.

A bill (S. No. 1285) to amend the act entitled "An act to provide for furnishing trusses to disabled soldiers," approved May 28, 1872.

Mr. RICE, of Ohio. I ask for the present consideration of this bill.

The SPEAKER. That cannot be done under the present order.

Mr. RICE, of Ohio. Then let it remain on the table.

The bill remained on the Speaker's table.

A bill (S. No. 1347) to aid in the construction of a bridge across the Mississippi River, from the military reservation of Fort Snelling, in the State of Minnesota, and granting the right of way through said reservation—to the Committee on Military Affairs.

A bill (S. No. 1374) authorizing the Chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases—to the Committee on the Library.

A bill (S. No. 1328) providing for the payment of the award made by the fisheries commission at Halifax under the treaty of Washington—to the Committee on Appropriations.

A bill (S. No. 184) to authorize the Secretary of the Navy to transfer to the Secretary of the Interior, for entry and sale, all lands in the State of Florida not needed for naval purposes—to the Committee on Naval Affairs.

A bill (S. No. 214) for the relief of George V. Hebb—to the Committee of Claims.

A bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri—to the Committee on the Judiciary.

A bill (S. No. 351) for the relief of the Domestic and Indian Missions and Sunday School Board of the Southern Baptist Convention—to the Committee on Indian Affairs.

A bill (S. No. 726) for the relief of Henry E. Sizer—to the Committee on War Claims.

A bill (S. No. 748) to amend the act approved March 3, 1873, entitled "An act authorizing the award to the Vincennes University of certain vacant and abandoned lands in Knox County, Indiana.

Objected to by Mr. HANNA.

A bill (S. No. 806) for the relief of George T. Marshall—to the Committee of Claims.

A bill (S. No. 827) to provide for the sale of certain portions of the Fort Leavenworth military reservation.

Objected to by Mr. PHILLIPS.

A bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis in the State of California—to the Committee on Private Land Claims.

A bill (S. No. 934) for the relief of H. M. Billingsley.

Objected to by Mr. RYAN.

A bill (S. No. 959) to grant additional rights to homestead settlers on the public lands without railroad limits.

Objected to by Mr. RYAN.

A bill (S. No. 973) for the relief of Charles O. Allibone—to the Committee on Naval Affairs.

A bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama.

Objected to by Mr. LIGON.

A bill (S. No. 994) for the relief of Albert Ordway—to the Committee of Claims.

A bill (S. No. 1028) declaratory of the law relating to descents and

inheritance in the District of Columbia in certain cases—to the Committee for the District of Columbia.

A bill (S. No. 1087) to provide additional regulations for homesteads and pre-emptions on the public lands.

Objected to by Mr. RYAN.

A bill (S. No. 1030) donating material of war to the Washington Association of New Jersey—to the Committee on Military Affairs.

A bill (S. No. 1108) to protect Holmead Cemetery in the District of Columbia—to the Committee for the District of Columbia.

A bill (S. No. 1112) for the relief of Claude H. Masten, surviving partner of the firm of Le Vert & Masten, of Mobile, Alabama, and the children of Octavia Le Vert, deceased—to the Committee of Claims.

A bill (S. No. 1121) to amend section 1216 of the Revised Statutes, relating to certificates of merit to soldiers who have distinguished themselves—to the Committee on Military Affairs.

A bill (S. No. 1122) to amend section 1285 of the Revised Statutes, relating to $2 per month extra pay to soldiers having certificates of merit—to the Committee on Military Affairs.

A bill (S. No. 1131) for the relief of E. C. Clements—to the Committee of Claims.

A bill (S. No. 1135) to create an additional land district in the Territory of Idaho—to the Committee on Public Lands.

A bill (S. No. 1150) to amend section 5447 of the Revised Statutes of the United States in reference to the protection of revenue officers—to the Committee of Ways and Means.

A bill (S. No. 1151) to amend section 5497 of the Revised Statutes relating to embezzlement by United States officers—to the Committee on the Judiciary.

A bill (S. No. 1205) for the relief of Treadwell S. Ayres.

Objected to by Mr. YOUNG.

A bill (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army—to the Committee on Military Affairs.

A bill (S. No. 1244) for the relief of George Williams.

Mr. BRIGHT. If in order under this call, I would state that Senate bill No. 1244 is identical with House bill No. 4412, upon which the Committee of Claims has acted. If it is not proper at this time to put the bill on its passage, I ask that it remain on the table.

The SPEAKER. The Chair will so order.

Joint resolution (S. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho, to Saint Charles, Missouri.

Mr. FENN. This bill is precisely the same as House bill No. 1135 which has been reported and is now on the Calendar. Let it remain on the table.

The bill remained on the table.

A bill (S. No. 418) to amend section 532 of the Revised Statutes of the United States, relating to the division of the State of Alabama into two judicial districts—to the Committee on the Judiciary.

A bill (S. No. 879) for the relief of Luther Hall—to the Committee on Patents.

A bill (S. No. 959) in relation to certain fees allowed registers and receivers—to the Committee on Public Lands.

A bill (S. No. 964) for the relief of the owners of the bark Grapeshot—to the Committee of Ways and Means.

A bill (S. No. 1081) for the relief of David G. Potts—to the Committee of Claims.

A bill (S. No. 1100) to correct an error in section 4390 of the Revised Statutes of the United States, relating to the transportation of cattle—to the Committee on Agriculture.

A bill (S. No. 1111) for the relief of Somerville & Davis—to the Committee of Claims.

A bill (S. No. 1203) to modify the act of Congress approved April 3, A. D. 1878, entitled "An act to amend an act entitled 'An act for the support of the government for the District of Columbia for the fiscal year ending June 30, 1878, and for other purposes'"—to the Committee for the District of Columbia.

A bill (S. No. 36) to create an additional associate justice of the supreme court of the District of Columbia and for the better administration of justice in said District—to the Committee on the Judiciary.

A bill (S. No. 811) for the relief of Henry L. James—to the Committee of Claims.

A bill (S. No. 885) to amend the act approved September 27, 1850, creating the office of surveyor-general of Oregon, providing for the survey and making donations to settlers of the public lands in Oregon, and also the act amendatory thereof, approved February 14, 1853—to the Committee on Public Lands.

A bill (S. No. 980) for the relief of Charles Collins—to the Committee of Claims.

A bill (S. No. 1102) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States.

Objected to by Mr. HANNA.

A bill (S. No. 1146) for the relief of Monroe Donaho—to the Committee of Claims.

A bill (S. No. 1297) for the protection of dairymen, and to prevent deception in sales of butter and cheese in the District of Columbia—to the Committee for the District of Columbia.

A bill (S. No. 1306) for the relief of the estate of Augustin Maurin—to the Committee of Claims.

A bill (S. No. 1307) directing the Secretary of War to purchase a lot of ground situated near the city of Columbus, Ohio, now used by the United States as a cemetery—to the Committee on Military Affairs.

A bill (S. No. 1335) for the relief of James Vance and William Vance—to the Committee of Claims.

A joint resolution (S. R. No. 31) approving the adverse decision of the Commissioner of the General Land Office in the claim of Anna M. Clark.

Objected to by Mr. MCGOWAN.

A bill (S. No. 1090) for the relief of Lawrence A. Williams—to the Committee on Military Affairs.

A bill (S. No. 1268) to authorize the Secretary of War to convey to Jacob A. T. Wendell, Henry Van Allen, and John R. Bailey a part of the military reservation of Fort Mackinac.

Objected to by Mr. CONGER.

A bill (S. No. 2) releasing Frank Soule, late collector of internal revenue for the first district of California, and his sureties, from liability on his official bond—to the Committee of Ways and Means.

A bill (S. No. 1352) to restore the property known as the State Military Academy or Citadel, in the city of Charleston, South Carolina, to the State of South Carolina—to the Committee on Military Affairs.

A bill (S. No. 1365) to place Lewis Leffman, ordnance sergeant United States Army, on the retired list—to the Committee on Military Affairs.

A bill (S. No. 1366) for the relief of Robert Spaugh—to the Committee on the Judiciary.

A bill (S. No. 95) authorizing the construction of a first-class lighthouse on Tillamook Head, Oregon—to the Committee on Commerce.

A bill (S. No. 1368) in relation to the Kansas Pacific Railway, and to alter and amend the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and also to alter and amend the act of Congress approved July 2, 1864, in amendment of said first-named act.

Objected to by Mr. PHILLIPS.

A bill (S. No. 1337) creating a board to be known as the Pacific Railroad commissioners—to the Committee on the Pacific Railroad.

A bill (S. No. 752) for the relief of William H. Newman and L. A. Van Hoffman.

Objected to by Mr. HARRIS, of Virginia.

A bill (S. No. 1192) to authorize the leasing of a portion of the military reservation of New San Diego in the State of California—to the Committee on Military Affairs.

A bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia—to the Committee for the District of Columbia.

A bill (S. No. 1380) granting a pension to Josiah Kellogg—to the Committee on Invalid Pensions.

A bill (S. No. 150) for the relief of M. P. Jones—to the Committee of Claims.

A bill (S. No. 295) for the relief of William C. Edmonston—to the Committee of Claims.

A bill (S. No. 830) for the relief of Francis O. Wyse.

Objected to by Mr. ROBERTS.

A bill (S. No. 837) for the relief of the officers and privates of the New Mexico Mounted Volunteers—to the Committee on Military Affairs.

A bill (S. No. 1106) to reimburse purchasers at direct-tax sales in Arkansas declared illegal by the United States courts in consequence of a defective board of commissioners—to the Committee on the Judiciary.

A bill (S. No. 1390) for the relief of George W. Saulpau—to the Committee on War Claims.

A bill (S. No. 825) for the relief of William L. White—to the Committee on Public Lands.

A bill (S. No. 1094) for the relief of certain deserters from the United States Army in 1848—to the Committee on Military Affairs.

A bill (S. No. 26) to provide for the sale of the Fort Harker military reservation in the State of Kansas.

Objected to by Mr. PHILLIPS.

A bill (S. No. 734) for the relief of Alonzo Gessner—to the Committee on Public Lands.

A bill (S. No. 733) authorizing William J. Wilson, assistant surgeon United States Army, to receive from the Khedive of Egypt a decoration for gallantry in battle in the action near Gura, Abyssinia, March 7, 1876—to the Committee on Military Affairs.

A bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army—to the Committee on Military Affairs.

A bill (S. No. 1437) relating to public printing and binding—to the Committee on Printing.

The following concurrent resolutions were also referred as indicated:

Resolution relative to printing 2,000 extra copies of message of the President in relation to the fishery commission—to the Committee on Printing.

Resolution in relation to the award made by the fishery commission at Halifax—to the Committee on Foreign Affairs.

Resolution providing for printing the report of the Superintendent of the Coast Survey for the year 1877—to the Committee on Printing.

Resolution to print the first annual report of the United States commission in relation to the Rocky Mountain locust and the best method of preventing and guarding against its injuries—to the Committee on Printing.

Resolution to print 1,200 additional copies of Clarke and Hall's report of cases of contested elections in Congress from 1789 to 1834—to the Committee on Printing.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 5307) to correct an error of enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

E. B. LIEBERG.

Mr. DUNNELL, by unanimous consent, introduced a bill (H. R. No. 5512) for the relief of E. B. Lieberg; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

UNITED STATES COMMISSIONER JOHN I. DAVENPORT.

Mr. WOOD. I now call up the question of privilege which was raised on the resolution I submitted yesterday, so that it may be disposed of at this time if the Speaker is now ready to make his decision.

The SPEAKER. The resolution will be read.

The resolution was read, as follows:

Whereas it is alleged that at the election held in the city of New York on the 5th day of November, 1878, United States Commissioner John I. Davenport, acting as chief supervisor of elections in the second judicial district of New York, was guilty of illegal, unjust, and oppressive exercise of pretended authority in causing the arrest and imprisonment of citizens innocent of offense, by which he deprived them of their rights to vote and subjected them to indignities, insults, and intimidation without warrant of law or justification, which arrests have since been declared illegal in a test case by a judge of the circuit court of the United States; and

Whereas if these allegations are true the said Davenport should be forthwith removed and punished: Therefore,

Resolved, That the Committee on the Judiciary be directed to proceed without delay to an investigation of the conduct of said Davenport at the time aforesaid, with power to sit in the city of New York by subcommittee or otherwise, and that said subcommittee shall have all the authority of the whole committee for said purpose, with power to administer oaths, to send for persons and papers, to sit during the sessions of the House, and to report at any time.

Mr. GARFIELD. I raised the question yesterday whether this was a question of privilege. To the inquiry of the Speaker, independent of that question, as to whether Mr. Davenport was an officer impeachable under the Constitution, I replied that I doubted if he was an impeachable officer. After a little more reflection upon the subject I am now disposed to think that officer is impeachable under the Constitution. The Constitution says that civil officers are liable to impeachment. Incidentally, it defines civil officers by saying that the President shall appoint all officers except such inferior officers as Congress may empower the heads of Departments and courts to appoint. I suppose this officer will come in under that second designation. As a matter of practice, I believe there never has been a decision by any of our impeaching courts as to whether the power of impeachment includes in its jurisdiction all these minor officers. That, however, is not important in this matter. As I said before, I am inclined to believe that this officer does come within the purview of impeachment.

As to the question of privilege, which I think is independent of that, I do not propose to make any opposition to the pending resolution on that score. I do not think this resolution is a question of privilege, for it does not propose impeachment. But I waive that, being willing and desirous that the fullest investigation shall be had. For the present I propose to leave it to gentlemen on the other side to say whether they are willing to move in this case only against wrong-doers to their own people. I will add that the point I made yesterday, that we cannot without unanimous consent authorize a committee to report at any time, was well taken. I do not propose, however, to press this point, and will withdraw it.

I am willing that this resolution shall now be considered. I wish to offer two amendments in order to perfect the resolution and enlarge the scope of the investigation: to insert the word "official" before "conduct," so that only his official conduct shall be investigated, which I suppose is what the gentleman from New York [Mr. WOOD] means to get at. Then I desire to strike out the words "at the time aforesaid," which means the time of election, and insert in lieu thereof the words "during said election and the registration which preceded it." I think the investigation ought to extend to the days of registration also, to cover the whole time of registration and election, and of the facts connected therewith.

Mr. WOOD. I accept the amendments.

Mr. MILLS. How does this resolution come before the House? As a question of privilege?

The SPEAKER. The gentleman from New York [Mr. WOOD] rose in his place yesterday and stated that he submitted the resolution as a question of privilege.

Mr. MILLS. Then the question is on the right of that gentleman to submit the resolution.

The SPEAKER. It is not; the question is on the adoption of the resolution as modified.

Mr. MILLS. What I desire to inquire is, how does the gentleman from New York obtain the floor in order to bring the House to a vote on the resolution?

The SPEAKER. Because he said that he rose to a question of privilege, and that statement is not disputed.

Mr. MILLS. I am asking for information how this question came before the House?

The SPEAKER. It came over from yesterday by agreement.

Mr. McCOOK. I would like to occupy a moment or two.

Mr. WOOD. I yield to my colleague.

Mr. McCOOK. Mr. Speaker, I simply desire to say as the only Representative of the republican party on this floor from the city of New York, and as one of its candidates at the late election, that I hope no gentleman on this side will offer the slightest objection to the passage of any resolution proposing to inquire into the free exercise of the suffrage by the citizens of that city. I have old-fashioned notions in regard to this question of suffrage, and I am as much opposed to illegal interference with the voter in the city of New York as to illegal interference with the voter in the States of Louisiana or South Carolina. If men have been intimidated in New York, it is as criminal and as wicked as "bull-dozing" in Louisiana or ballot-box stuffing in South Carolina. Therefore, sir, speaking for myself alone, I desire that this resolution should be adopted.

If I had time I think I could give reasons why my distinguished colleague, the leader of the democratic party on this floor, is so exceedingly anxious for an investigation in this case. I am ignorant of any illegal interference with the right of the citizens of New York to vote at the last election day, and I have never heard from any member of the democratic party entitled to any especial degree of confidence and respect, with the exception of my colleague here, any statement that the republican voters of that city, constituting about one-third of the 130,000 or 140,000 voters there, succeeded in effectually "bull-dozing" the democrats of that great city, composing about two-thirds of the voting population.

I think I could show from figures I have before me that in the ninth congressional district of New York, for instance, the district now represented by my distinguished colleague, although in 1874 he carried his district by 2,335 majority and in 1876 by over 6,000, he was at the late election in a minority to the tune of 5,262 votes. In that district Bradley, democratic candidate for judge of court of appeals, received 14,565 votes, while WOOD, Tammany candidate for Congress, received but 7,277 votes to 6,480 for Hardy, independent democrat, and 5,726 for Berryman, republican.

Mr. Speaker, it was not perhaps the fault of the democratic party that this extraordinary condition of things occurred in the city of New York. There is over there a "wheel within a wheel." There is a difference between the democracy and "Tammany;" and whenever we have united with the anti-Tammany element the extraordinary result which the gentleman now complains of has always occurred, and I hope and believe will always occur. I repeat the expression of the hope that no man—certainly no member on this side of the House—will object to the passage of the resolution.

Mr. WOOD. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution as modified was adopted.

Mr. WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REVISION OF THE RULES.

Mr. MILLS. I rise to a question of privilege, and submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That a committee of five members of the House be appointed by the Speaker, and of which he shall be chairman, to revise and simplify the rules of the House of Representatives.

Mr. MILLS. I will state in a word my reason for offering this resolution. It is known to the House that various amendments to the rules which have been introduced have been referred to the Committee on the Rules. We have been repeatedly informed that the committee has attempted a revision of all the rules, but for some cause or other the committee has never been able to hold meetings frequently enough to perform the labor necessarily connected with this revision. At present, the venerable gentleman from Georgia [Mr. STEPHENS] is unable to attend the meetings of the committee, and the gentleman from Massachusetts [Mr. BANKS] is not present. I hope, therefore, that the Speaker of the House will be permitted to appoint a committee to revise and simplify our rules, so that this business may be effectively discharged.

The SPEAKER. The Chair suggests that this resolution had better be referred to the Committee on Rules, which has leave to report at any time.

Mr. MILLS. I am fearful that we cannot get a report, because the Speaker, as chairman of that committee, will not be able to get the committee together.

Mr. BURCHARD. I submit that under the rules any proposition for a change of the rules must lie over for one day.

Mr. MILLS. It is the constitutional privilege of a House of Representatives to adopt rules at any time; it is a continuing power of which the House cannot divest itself.

Mr. EDEN. I ask whether this is a question of privilege?

Mr. BURCHARD. Does not this question under the rules necessarily go to the Committee on Rules?

The SPEAKER. The Chair has suggested that reference.

Mr. EDEN. I have no objection to the reference of the resolution; but I object to its being entertained now as a question of privilege.

Mr. MILLS. The House has at all times the power to determine what its rules shall be. In this respect it is superior to any rules which may exist at any particular time.

The SPEAKER. The House, acting in pursuance of its constitutional power, has adopted certain limitations as to changes of its rules.

Mr. GARFIELD. The gentleman from Texas would carry the power of the House in this respect further than the Constitution justifies. It empowers each House to make rules; and one of the rules which this House has made prescribes how the rules shall be amended.

Mr. MILLS. But the gentleman from Ohio is too good a lawyer to say that this power when once exercised is exhausted. It is what may be denominated a continuing power. Would the gentleman contend that this House can bind itself by rules which it has no power to revoke?

Mr. GARFIELD. If the position of the gentleman were correct, a member could at any time interrupt our proceedings by bringing in a proposition for the amendment of the rules.

Mr. MILLS. But my resolution is offered when there is no other business before the House.

The SPEAKER. The resolution can come in by consent and be referred to the Committee on Rules, which has power to report at any time. Does the gentleman from Texas ask the reference of the resolution to that committee, which the Chair thinks will accomplish the object contemplated?

Mr. MILLS. No, sir; the reference would be utterly useless.

The SPEAKER. The resolution is not before the House.

ORDER OF BUSINESS.

Mr. BRIGHT. I call for the regular order.

The SPEAKER. The regular order being called for, the morning hour begins at thirty minutes after one o'clock. This being Friday, the committees will be called for reports of a private nature. The call rests with the Committee of Claims.

CHANGE OF REFERENCE.

On motion of Mr. BRIGHT, from the Committee of Claims, that committee was discharged from the further consideration of the following cases; and the same were referred to the Committee on War Claims:

A bill (H. R. No. 4405) for the relief of Samuel B. Bird, of Louisiana;

A bill (H. R. No. 4356) for the relief of Louden Mullen;

A bill (H. R. No. 4502) for the relief of A. B. Templeton;

A bill (H. R. No. 4501) for the relief of A. M. Maynard;

A bill (H. R. No. 4500) for the relief of Nathaniel Fitch;

A bill (H. R. No. 4499) for the relief of W. W. Warner;

A bill (H. R. No. 4496) for the relief of John S. Spangenburg;

A bill (H. R. No. 4446) for the relief of Henry Hull, of Pattersonville, Louisiana;

A bill (H. R. No. 4498) for the relief of Stephen S. Welch;

A bill (H. R. No. 4497) for the relief of Ziba Stephens;

Petition of Henry Rehder, for relief;

Petition of John H. Wooley, of La Grange, Tennessee, for property taken by the Army of the United States to the amount of $2,785;

Petition of Mrs. Martha C. Cole, of Germantown, Shelby County, Tennessee, for property taken by the Army during the war to the amount of $1,612.50;

Petition of George W. Beasley, of La Grange, Fayette County, Tennessee, for property taken by the Army during the war to the amount of $1,102;

Petition of Rosanna H. Black, of Hardeman County, Tennessee, for property taken by the United States Army during the war to the amount of $552.50;

Petition of Lewellen Rhodes, of Germantown, Shelby County, Tennessee, for property taken by the Army during the war to the amount of $438.75;

Petition of William R. Kearney, of Bolivar, Hardeman County, Tennessee, for property taken by the Army during the war to the amount of $1,000; and

Petition of John W. McClellan, Memphis, Tennessee, for compensation for commissary stores taken by the United States Army during the late war.

The SPEAKER. The Committee of Claims has been discharged from the further consideration of these cases and they have been referred to the Committee on War Claims, not to be brought back by a motion to reconsider.

A. D. COOK & CO.

Mr. BRIGHT. I am directed by the Committee of Claims to report back a bill (H. R. No. 1479) for the relief of A. D. Cook & Co., providing for the remission of a forfeiture and payment of a claim, without any accompanying report.

The SPEAKER. Is it an adverse report?

Mr. BRIGHT. By request, the committee proposes no action on the subject.

The SPEAKER. Then it is in the nature of an adverse report, and under the rules all adverse reports must be accompanied with a report in writing.

Mr. BRIGHT. I had better state to the Chair that by the request of the member who introduced the bill the committee took no action on the subject, as it was the claimant's desire, as we were informed, to withdraw the papers from the files of the House.

The SPEAKER. Does the gentleman accompany the report with a request for the withdrawal of the papers?

Mr. BRIGHT. I do.

The SPEAKER. That has the effect of discharging the committee.

The Committee of Claims was discharged from the further consideration of the subject; and it was laid on the table.

Then, on motion of Mr. BRIGHT, by unanimous consent, leave was granted for the withdrawal of the papers in the same case.

REFUND TO NORTH CAROLINA.

Mr. BRIGHT also, from the Committee of Claims, reported back favorably a bill (H. R. No. 205) to refund to the State of North Carolina certain money therein named; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. CUMMINGS subsequently asked and obtained leave to submit the views of the minority of the Committee of Claims on the above bill; and the same was ordered to be printed with the report of the majority.

MRS. MARGARET CASSIDEY.

Mr. DAVIS, of North Carolina, from the Committee of Claims, reported a bill (H. R. No. 5513) for the relief of Mrs. Margaret Cassidey; which was read a first and second time, referred to the Committee of the Whole on the Private Calender, and, with the accompanying report, ordered to be printed.

TIPTON B. COLLINS.

Mr. DAVIS, of North Carolina, also, from the same committee, reported back favorably a bill (H. R. No. 2707) for the relief of Tipton B. Collins, of Alabama; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JACKSON GRUBB.

Mr. DAVIS of North Carolina, also, from the same committee, reported back favorably a bill (H. R. No. 4038) for the relief of Jackson Grubb, of McMinn County, Tennessee; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

J. B. HOLLOWAY.

Mr. DAVIS, of North Carolina. I report back also from the Committee of Claims the bill (H. R. No. 3775) for the relief of J. B. Holloway. This claim has been satisfied. The claimant has been paid under an appropriation bill. I move, therefore, that the committee be discharged from the further consideration of the bill, and that it do lie upon the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

The message also announced that the Senate returned the bill (S. No. 415) for the relief of Ella Long.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

LABORERS, ETC., EMPLOYED BY THE GOVERNMENT.

Mr. DAVIS, of North Carolina. I also report from the Committee on Claims, as a substitute for the House bill No. 746, a bill (H. R. No. 5514) to amend the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872. This bill, Mr. Speaker, gives relief to a large number of laborers, and I ask that it be put upon its passage.

The SPEAKER. The substitute will be read.

Mr. DAVIS, of North Carolina. Let the report also be read as well as the bill.

The substitute was read, as follows:

Be it enacted, &c., That section 2 of the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872, be, and the same is hereby, amended so as to include, in the settlement therein provided for, all accounts for the services of laborers, workmen and mechanics, employed by or on behalf of the Government of the United States between the 19th day of May, 1869, and the date when full payments were commenced for eight hours' labor without reduction on account of the reduction of the hours of labor, by the act approved on the 18th day of May, 1868, when it shall be made to appear that the reduction of the hours of labor was the sole cause of the reduction of wages.

SEC. 2. *And be it further enacted*, That the provisions of this act shall extend to watchmen and ship-keepers, and the proper accounting officer of the Treasury shall be authorized and required to settle the accounts of all watchmen and ship-keepers employed by or on behalf of the Government of the United States, whose wages were reduced on account of working but eight hours, or who were required to work more than eight hours per day without increased pay, at any time since the passage of the act of June 25, 1868, constituting eight hours a day's work, and allow them pay at the per diem rate for the additional number of hours they may have been required to labor, until such time as they may have been so paid: *Provided*, it shall be made to appear that the reduction of the hours of labor was the sole cause of the reduction of wages, and provided further that the additional number of hours for which extra compensation shall be allowed shall not exceed two hours per day.

A sufficient sum is hereby appropriated out of any money in the Treasury not otherwise appropriated to meet the provisions of this act.

Mr. EDEN. I wish to inquire of the Chair if this bill is in order under the call for private bills?

Mr. COX, of New York. I hope the gentleman from Illinois will not make any point of order.

The SPEAKER. The Chair thinks this is a private bill. It is for the benefit of private individuals.

The bill (H. R. No. 5514) was read a first and second time.

The SPEAKER. The question is now on the engrossment and third reading of the bill.

Mr. CANNON, of Illinois. It is not sought to place the bill on its passage at this time?

The SPEAKER. It is.

Mr. CANNON, of Illinois. Why should it not go to the Calendar?

The SPEAKER. Because the committee have the right to report the bill for consideration, and the point was not made that it should go to the Calendar.

Mr. COX, of New York. I hope the gentleman will not insist on the point of order. It is a bill for the benefit of laborers.

Mr. CANNON, of Illinois. It may be for the benefit of laborers, but I think it should go to the Calendar like other bills.

The SPEAKER. The gentleman should have made his point sooner.

Mr. BURCHARD. My colleague made the point as soon as he learned that it was proposed to put the bill on its passage.

The SPEAKER. The Chair thinks the point should have been made sooner, but if the gentleman from Illinois insists upon it the Chair will recognize him. The point of order should have been made immediately after the bill was read through. The Chair stated that the bill had been read a first and second time and that the question was on the engrossment and third reading. After that announcement the Chair thinks that, strictly speaking, the point was made too late.

Mr. EDEN. The gentleman from North Carolina said when he reported the bill that he desired to have the bill read and also the report accompanying it.

Mr. CANNON, of Illinois. I have no objection to hearing the report read.

The SPEAKER. If the object of the gentleman from Illinois [Mr. CANNON] in not making the point of order at once was to see whether it rested against the bill or not, the Chair will see that he is protected and will recognize him to make the point of order.

Mr. CANNON, of Illinois. That was my object.

Mr. DAVIS, of North Carolina. I wish to state that this bill was before us in the last Congress, and that it was reported favorably from the Committee of Claims by Mr. Cason. The present bill follows the facts as embraced in the report then made. I think if gentlemen will listen to the report they will be satisfied that the bill should pass.

The SPEAKER. The report will be read.

Mr. COX, of New York. Is there any objection to the present consideration of the bill?

The SPEAKER. The gentleman from Illinois states that his object was, before he lost his right to make the point of order, to see whether it rested against the bill. It is never the practice of the Chair to take any advantage of gentlemen who may have been tardy in objecting on account of a misapprehension.

Mr. COX, of New York. The gentleman should have been more vigilant

Mr. CANNON, of Illinois. Let the report be read.

The report was read, as follows:

The Committee of Claims, to whom was referred the bill to amend the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872, (H. R. 746,) have had the same under consideration, and submit the following report:

A bill similar to that now under consideration was before the Forty-fourth Congress and referred to the Committee of Claims. That committee made the following report, which sets forth the facts:

"The Committee of Claims, to whom was referred the bill (H. R. 1005) to amend the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872, beg leave to submit the following report:

"The Congress of the United States, on the 25th day of June, 1868, enacted that eight hours should constitute a day's labor for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States. This law was not regarded by officers in charge of the employment of laborers, workmen, and mechanics for Government service in many parts of the United States. This was especially true in the Military Department of the Missouri, and many of the laborers, workmen, and mechanics in the Government employ were required either to work ten hours for a day's labor or be reduced one-fifth of the sum paid for each day's work, and in this manner the Government officers evaded carrying out the provisions of the eight-hour law. Your committee beg leave to refer to one or two military orders in the Department of the Missouri directing the pay and hours of labor by Government employés.

"On the 24th of February, 1869, the depot-quartermaster at Fort Leavenworth issued a circular to his employés, to set at rest all speculation as to his interpretation of the law, in which he announces that the places of labor shall, after March 1, be open ten hours each day, and those choosing to work that time should receive the pay fixed in General Order No. 6, but those choosing to work the legal day's work of eight hours should have their pay reduced one-fifth; and this order was carried out.

"On the 24th of March, 1869, the commanding general of the Department of the Missouri issues General Order No. 3, establishing the rates of pay under his interpretation of the law and reducing the same one-fifth from that of General Order No. 6, thus sustaining the circular issued a month earlier by the depot-quartermaster; and to leave no doubt that the intention was to reduce the pay because of the reduction of the hours of labor, issues, on the 26th of the same month, and just two days later, General Order No. 4, requiring all workshops and places of labor to be kept open ten hours each day on and after April 1, 1869, and allowing all employés who choose to work the ten hours the same pay as in General Order No. 6, and calling it two hours overtime, at the rate of pay for those who worked eight hours. It will be observed that the commanding general first reduces the wages for eight hours' labor one-fifth, and next gives those an opportunity to retain the old wages by working the ten hours, proving that no reduction of pay would have been made and ordered but for the reduction of the hours of labor.

"On the 19th day of May, 1869, the President of the United States issued his proclamation that no reductions should be made in the wages because of the reduction of the hours of labor. This did not settle the difficulty, for the proclamation as well as the law was disregarded. On the 11th day of May, 1872, the President issued his second proclamation, commanding all officers of the executive department of the Government to obey the law, and stated that this second proclamation was issued because the first had not been obeyed.

"Congress on the 18th day of May, 1872, passed the law paying all laborers, workmen, and mechanics employed by the Government between June 25, 1868, and May 19, 1869, who were required to work at reduced rates of pay, whether the reduction was caused by lessening the allowance of pay per day when working eight hours or continuing to work ten hours without increase of pay; which act the present bill proposes amending so as to pay the same class of Government employés as those named in the original bill, and mentioned in the President's two proclamations, to the time when the Government commenced paying full wages for eight hours' work per day, which began about the 1st day of October, 1872.

"The law above mentioned undoubtedly passed Congress under the impression that the President's first proclamation would be obeyed by the officers having charge of Government employés; but the proclamation having been disregarded, and the President having issued a second one commanding that the law should be obeyed and that eight hours should be a day's labor in Government work, it is but justice that the law should be amended so as to cover the full time in which the law was disregarded and until it was complied with after the President's second proclamation. To do otherwise would be to pay those men forced to work ten hours per day the same as others who only worked eight hours per day. To make such discrimination would, in the opinion of your committee, be unjust, and should be obviated by the passage of the accompanying bill.

"It was not until the 11th day of September, 1872, just four months after the second proclamation of the President, before the commanding general of the Department of the Missouri issued General Order No. 19, revoking General Orders Nos. 3 and 4 of 1869, and re-established the pay for labor at eight hours per day.

"It is stated by Mr. J. M. Brodhead, Second Comptroller of the Treasury, in a letter to Hon. William W. Belknap, then Secretary of War, that 'the act of 1872 applies to all laborers, workmen, and mechanics employed by the Government between June 25, 1868, and May 19, 1869, at reduced rates of pay, whether the reduction was caused by lessening the allowance of pay per day when working eight hours or by continuing to work ten hours without increase of pay. At the request of this office I understand that the Quartermaster-General has directed the proper officers of his Department to prepare rolls embracing the names of such laborers, workmen, and mechanics as are entitled to the benefits of this act, giving all data necessary to a proper settlement of their claims.'

"On the 10th day of February, 1874, the Secretary of War, impressed with the justice of these claims, called the attention of Congress to the matter and suggested the bill now under consideration as an act of justice to these claimants and as a matter of good faith on the part of the Government. There is an important reason why Congress should pass the accompanying bill, which is shown in a letter addressed by the Quartermaster-General to the Second Comptroller of the Treasury on the 28th day of September, 1872. He says, among other things: 'It is believed that many hired mechanics and workmen of the Quartermaster Department at remote points are entitled to recover additional pay under the second section of the law of May 18, 1872. It is important to save these persons, many of them being poor and illiterate, from the necessity of paying large fees to agents,' &c.

"In answer to the above letter the Second Comptroller stated:

"TREASURY DEPARTMENT,
"SECOND COMPTROLLER'S OFFICE,
"*October* 2, 1872.

"Respectfully returned to the Quartermaster-General with the recommendation that the same system be followed as has been adopted in paying employés of the Navy Department in accordance with the provisions of section 2, act May 18, 1872: that the disbursing officers of the Quartermaster Department stationed at the several military posts be caused to make out pay-rolls, showing the amounts that have been paid the employés of the War Department for services rendered, and also the balance in each case that is still due, under the stipulations of section 2, act May 18, 1872, and the proclamation of the President of May 19, 1869; said rolls, when completed, to be forwarded to the accounting officers of the Treasury, through the Quartermaster-General of the Army, for comparison and modification with the payments already made to said employés as appearing on the pay-rolls of sundry disbursing officers of the Army on file in the Treasury Department; and after said comparison has been made and certified to by the Second Comptroller and Third Auditor of the Treasury, the rolls to be returned to the proper disbursing officers of the Quartermaster Department for payment, and when payment has been made, said pay-rolls to be filed in the Treasury Department for future reference.

"J. M. BRODHEAD, *Comptroller*.

"This brings us to the probable amount of money involved in the passage of this bill. The rolls of these claiming employés are on file in the office of the Third Auditor, and that officer, in answer to a request of Senator Harvey, of Kansas, did, on the 25th day of February, 1875, officially inform him that it would require about $300,000 to settle all the claims, from the best data his office afforded, and that but $22,063.75 had been paid out up to that date for settlements under the existing law to May 19, 1869.

"Law and equity are on the side of this bill and the claimants it proposes relieving. Their position is sustained by the Quartermaster-General of the Army, is indorsed by the accounting officers of the Treasury Department, and payment recommended by the Secretary of War, all of whom have examined carefully into the matter.

"The parties seeking relief through and by this bill are laborers, workmen, and mechanics, and, through the interposition of the Quartermaster-General and the accounting officers of the Treasury Department, a system of payment has been es-

tablished so as to save them from employing attorneys and claim agents to collect the little due them, and they will be paid on rolls by the various quartermasters at their respective stations."

It appears that by the construction placed upon the act of 1872, known as the "eight-hour act," watchmen and ship-keepers were not included under any one of the classes named in the act. While these employés may not be embraced within the letter of the law, we think they come within its spirit and should be included.

Under the former system ten hours were regarded as a day's work; by contract some employés worked more than ten hours. It is to be presumed that they received higher wages for laboring longer than ten hours; any additional rate of compensation, therefore, should not extend beyond two additional hours. We report back the bill amended, so as to conform to the views set forth.

Mr. CONGER. This seems to be a public bill.

The SPEAKER. The Chair thinks it is for the benefit of individuals.

Mr. COX, of New York. I think that point comes too late.

The SPEAKER. That objection was made some time since and in time, and the Chair decided that this was a private bill. The Chair will reverse his decision if he is shown that it was wrong.

Mr. CONGER. The original law to which this is an amendment was a general law regulating the wages of employés of the Government.

Mr. CANNON, of Illinois. After hearing the report of the committee read, I will withdraw my point of order that this bill should go to the Committee of the Whole on the Private Calendar.

Mr. CONGER. I have no objection to the consideration of this bill at this time, but it seems to me to be evidently a public bill.

The SPEAKER. The Chair will direct the Clerk to read from the Digest what is stated upon the subject of private bills.

The Clerk read as follows:

The line of distinction between public and private bills is so difficult to be defined in many cases that it must rest on the opinion of the Speaker and the details of the bill. It has been the practice in Parliament, and also in Congress, to consider as private such as are "for the interest of individuals, public companies or corporations, a parish, city, or county, or other locality." To be a private bill, it must not be general in its enactments, but for the particular interest or benefit of a person or persons.

The SPEAKER. The Chair thinks that, giving a common-sense interpretation to the statement which has just been read, this bill is for the benefit of individuals.

Mr. CONGER. I have no doubt it comes within the discretion of the Chair. My impression is, that the original law of which this is an amendment was a public law, regulating the wages of all the employés of the United States.

The SPEAKER. The Chair thinks the gentleman is correct in his statement that this is an amendment to a general law. But the general law may provide the manner in which individuals shall receive relief; and that is the condition in which this bill is.

The bill was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. DAVIS, of North Carolina, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES E. FAHNESTOCK.

Mr. CUMMINGS, from the Committee of Claims, reported back with a favorable recommendation the bill (H. R. No. 1244) for the relief of Charles E. Fahnestock; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

M. S. DRAUGHN.

Mr. CUMMINGS. I am directed by the same committee to report back with a favorable recommendation Senate bill No. 471, for the relief of M. S. Draughn. I am requested by the gentleman who is most particularly interested in this bill in the House to ask for its present consideration. It is a matter involving but fifty or sixty dollars, and I do not think there will be any objection to it.

Mr. ELLSWORTH. Is this bill subject to a point of order?

Mr. CUMMINGS. It is subject to a point of order if the gentleman thinks proper to make it.

The SPEAKER. The bill will be read, and then the Chair will determine the point of order.

The bill, which was read, directs the Secretary of the Treasury to pay to M. S. Draughn, of the State of Tennessee, the sum of $60 in full for property rented from him and occupied under contract, and for which rent vouchers, now on file in the Treasury Department, were given.

Mr. ELLSWORTH. I make the point of order that this bill must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

E. ROUFF.

Mr. CUMMINGS. I am also directed by the same committee to report back with a favorable consideration Senate bill No. 1031, for the relief of the estate of E. Rouff. I have been instructed by the committee to ask for the present consideration of the bill. It is liable to the same point of order which was made upon the bill which I last reported.

The SPEAKER. The Chair understands the gentleman from Michigan [Mr. ELLSWORTH] to make the same point upon this bill.

Mr. ELLSWORTH. I do.

The SPEAKER. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

CLAIMS OF CITIZENS OF KANSAS.

Mr. CUMMINGS. I am also directed by the committee to report a bill, as a substitute for House bill No. 1179, authorizing the appointment of a commissioner and the settlement of the claims of certain citizens of Kansas named therein. The gentleman from Kansas on my left, [Mr. HASKELL,] who introduced the bill, desires me to ask for its present consideration.

Mr. BREWER. I will reserve all points of order upon the bill until it is read.

The bill (H. R. No. 5515) authorizing the settlement of the claims of certain citizens of Kansas named therein, was then read a first and second time.

The SPEAKER. The bill will be read at length.

Mr. BRIGHT. I ask leave to file a minority report upon this bill. I have not yet had an opportunity to prepare it, and for that reason among others I will ask that the bill be referred to the Committee of the Whole on the Private Calendar.

The SPEAKER. The Chair will construe the statement of the gentleman from Tennessee [Mr. BRIGHT] as raising a point of order upon the bill.

Mr. EDEN. I will make the point of order.

Mr. CUMMINGS. I do not think it is subject to a point of order. It does not make any appropriation; it merely refers this matter to the Court of Claims for adjudication.

Mr. BRIGHT. It makes no direct appropriation, but it involves a possible appropriation.

The SPEAKER. The bill will be read.

The bill was then read at length.

Mr. CONGER. Is not that bill subject to a point of order?

The SPEAKER. The Chair thinks a point of order would lie against the bill.

Mr. HASKELL. This is a measure introduced into this House by myself, and which has been considered by the Committee of Claims. It is a very simple bill and will do injury to nobody. It proposes merely to give the Court of Claims jurisdiction over some cases of loss in my State, but if it is to provoke long discussion and consume the morning hour I am entirely willing that it be consigned to the Private Calendar, though I had hoped to secure an expression from this House on its merits at this time.

Mr. CUMMINGS. I ask that the bill be referred to the Committee of the Whole on the Private Calendar.

The bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM H. THOMPSON.

Mr. WARNER, from the Committee of Claims, reported back, with a favorable recommendation, the bill (H. R. No. 960) for the relief of William H. Thompson, late collector of internal revenue for the fifth district of North Carolina; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

HENRY B. BROWN.

Mr. WARNER, from the same Committee, reported back, with a favorable recommendation, the bill (H. R. No. 1971) for the relief of Henry B. Brown; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM L. ADAMS.

Mr. WARNER, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 997) for the relief of William L. Adams; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

EDWIN ROGERS.

Mr. WARNER, from the same committee, reported back adversely the bill (S. No. 83) for the relief of Edwin Rogers, and moved that the same be laid on the table, and the accompanying report ordered to be printed.

Mr. CONGER. I ask that this bill go the Private Calendar.

The SPEAKER. That is the gentleman's right. The bill will be referred to the Committee of the Whole on the Private Calendar, with an adverse recommendation, and the report will be printed.

HARLOW J. PHELPS.

Mr. WARNER also, from the Committee of Claims, reported, as a substitute for House bill No. 604, a bill (H. R. No. 5516) for the relief of Harlow J. Phelps; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES S. WILDER.

Mr. WARNER. I am directed by the same committee to report

back, as a substitute for House bill No. 1178, a bill (H. R. No. 5517) for the relief of Charles S. Wilder, and to ask that it be now put on its passage.

The substitute was read.

Mr. EDEN. I make the point of order that this bill must receive its first consideration in Committee of the Whole.

Mr. WARNER. Very well: I do not object to that reference.

The bill was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

OLIVER MOSES.

Mr. LINDSEY, from the Committee of Claims, reported back, with a favorable recommendation, the bill (H. R. No. 2521) for the relief of Oliver Moses, of Bath, Maine, owner of the ship James A. Wright; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

OWNERS OF THE BRIG OLIVE FRANCES.

Mr. LINDSEY also, from the same committee, reported, as a substitute for House bill No. 2517, a bill (H. R. No. 5518) for the relief of the owners of the brig Olive Frances; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

GEORGE C. JENKS.

Mr. LINDSEY also, from the same committee, reported, as a substitute for House bill No. 4395, a bill (H. R. No. 5519) for the relief of George C. Jenks, of New York; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SYDNEY F. OVIATT.

Mr. LINDSEY also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 46) for the relief of Sydney F. Oviatt, postmaster at Orange, Connecticut; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed.

ROBERT C. NARRAMORE.

Mr. LINDSEY also, from the same committee, reported, as a substitute for House bill No. 690, a bill (H. R. No. 5520) for the relief of Robert C. Narramore, late postmaster at Derby, Connecticut; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

VAN B. BOWERS.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 5521) for the relief of Van B. Bowers, postmaster at Bucklin, Missouri; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANN B. HUBBARD.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 5522) for the relief of Ann B. Hubbard as administratrix of the estate of Edward Hubbard; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

AUGUSTUS B. GOODALE.

Mr. LINDSEY also, from the same committee, reported back favorably the bill (H. R. No. 2503) for the relief of Augustus B. Goodale, postmaster at Port Jervis, New York; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

DE FOREST W. CARPENTER.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 5523) for the relief of De Forest W. Carpenter, postmaster at Richford, Vermont; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MASONIC HALL COMPANY, ATLANTA, GEORGIA.

Mr. LINDSEY also, from the same committee, reported back favorably the bill (S. No. 426) for the relief of the Masonic Hall Company of Atlanta, Georgia; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

DISTRICT METROPOLITAN POLICE FORCE.

Mr. LINDSEY also, from the same committee, reported back favorably the bill (S. No. 319) for the relief of the Metropolitan police force of the District of Columbia; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

GENERAL GEORGE MAXWELL.

On motion of Mr. ELLSWORTH, from the Committee of Claims, that committee was discharged from the further consideration of the papers in the case of General George Maxwell, late marshal of the Territory of Utah, and the same were laid upon the table.

On motion of Mr. ELLSWORTH, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the same case.

EMANUEL MASON.

Mr. ELLSWORTH also, from the Committee of Claims, reported back adversely a bill (H. R. No. 3626) for the relief of Emanuel Mason, of the District of Columbia; which was laid upon the table, and the accompanying report ordered to be printed.

ANDREW BURGESS AND OTHERS.

Mr. ELLSWORTH also, from the same committee, reported a bill (H. R. No. 5524) for the relief of Andrew Burgess, John Hall, and William T. Roundtree, of the District of Columbia; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOSEPH L. STEVENS.

Mr. ELLSWORTH also, from the same committee, reported back favorably a bill (H. R. No. 3586) for the relief of Joseph L. Stevens, postmaster at Manchester, New Hampshire; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM T. LEAGUE.

Mr. ELLSWORTH also, from the same committee, reported back favorably a bill (H. R. No. 3528) for the relief of William T. League, of Franklin County, Tennessee; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL A. LOWE.

Mr. ELLSWORTH also, from the same committee, reported back favorably a bill (H. R. No. 2988) for the relief of Samuel A. Lowe; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MRS. MARY O'LOUGHLIN.

Mr. ELLSWORTH also, from the same committee, reported back favorably a bill (H. R. No. 2499) for the relief of Mrs. Mary O'Loughlin; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MILTON B. DUFFIELD.

Mr. ELLSWORTH. I am instructed by the Committee of Claims to ask that the petition of Milton B. Duffield, late marshal of the United States for the Territory of Arizona, which was reported adversely on April 4, 1878, and laid on the table, be taken from the table and again referred to the committee.

The SPEAKER. The petition is now on the files, having been laid on the table in the last session. The Chair will ask unanimous consent to have it taken from the table of the House and recommitted to the Committee of Claims.

There was no objection, and it was so ordered.

ORDER OF BUSINESS.

Mr. WILLIAMS, of Oregon. I demand the regular order.

The SPEAKER. The regular order being demanded, the Chair announces that the morning hour has expired and the gentleman from Tennessee [Mr. BRIGHT] is recognized.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

PROPOSED ADJOURNMENT OVER.

Mr. WHITE, of Pennsylvania. Pending that motion, I rise to a privileged question. I move that when the House adjourns to-day it be to meet on Monday next.

The question being taken, there were—ayes 61, noes 74.

So (further count not being called for) the motion was not agreed to.

MANHATTAN SAVINGS INSTITUTION.

Mr. WOOD. I ask unanimous consent to take from the Speaker's table a bill which has just come from the Senate, and I will ask the House to consent to it. It is the bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution. It is a bill to which there can be no possible objection, and there is a necessity for its immediate passage.

The SPEAKER. The bill will be read for information, after which objections, if any, will be in order.

The bill was read.

Mr. WILLIAMS, of Oregon. I must insist on the regular order.

Mr. WOOD. If the House will permit me to make a very brief explanation, I am certain there will be no objection to this bill.

The SPEAKER. The gentleman from Oregon insists on the regular order.

Mr. WOOD. I do not understand the gentleman from Oregon to object to this bill. I know he can have no objection to it. It is a unanimous report from the Finance Committee of the Senate, and it unanimously passed the Senate. It is simply to allow the Secretary of the Treasury to record in the Treasury Department these registered bonds which have been stolen from a savings-bank and to retain duplicate bonds in trust for that institution.

Mr. WILLIAMS, of Oregon. I have no objection to that bill, but I wish the House to proceed with the consideration of other bills which are now on the Calendar.

Mr. WOOD. Then I ask that the bill be referred to the Committee of Ways and Means.

The SPEAKER. Does the gentleman from Oregon object to the reference of the bill?

Mr. WILLIAMS, of Oregon. No, sir.

There being no objection the bill (S. No. 1460) was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DURHAM. I move that the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, with amendments by the Senate, be taken from the Speaker's table and referred to the Committee on Appropriations, and that the Senate amendments be printed.

The motion was agreed to.

CUSTOMS-REVENUE LAWS.

Mr. ROBERTS. In my absence to-day the bill (S. No. 3828) to amend section 23 of the act approved June 22, 1874, entitled "An act to amend customs-revenue laws and to repeal moities," was taken from the Speaker's table and referred to the Committee of Ways and Means. I ask unanimous consent that the bill be brought back from the committee and remain on the table.

There was no objection, and it was so ordered.

REPORT OF THE COMMISSIONERS OF CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a letter from the commissioners of claims, transmitting their eighth general report; which was referred to the Committee on War Claims.

Mr. EDEN. I desire in connection with that communication to offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That 2,000 extra copies of the eighth general report of the commissioners of claims be printed, of which 1,000 shall be for the use of the Committee on War Claims and 1,000 for the use of the said commissioners.

The SPEAKER. Every resolution for printing goes to the Committee on Printing if the amount is over $500.

Mr. EDEN. I do not know what will be the cost.

Mr. CONGER. I think there will be unanimous consent to have the report printed.

The SPEAKER. The Chair does not suppose that the cost will amount to $500, but it is the duty of the Chair to inform the House what is the rule.

There being no objection, the resolution was agreed to.

PROMOTIONS IN THE ENGINEER CORPS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from the Chief of Engineers in regard to promotions in the Engineer Corps; which was referred to the Committee on Military Affairs.

SALARIES OF COLLECTORS, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a copy of a letter from the Commissioner of Internal Revenue relative to an additional appropriation of $75,000 for salaries and expenses of collectors, &c., for the year 1879; which was referred to the Committee on Appropriations.

WILLIAM ENGLISH.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the application of William English for appointment as second lieutenant in the Army; which was referred to the Committee on Military Affairs.

WASHINGTON MONUMENT.

The SPEAKER also laid before the House a letter from the chairman of the joint commission for the completion of the Washington Monument, transmitting the report of Lieutenant-Colonel Thomas L. Casey, the United States engineer in charge of the construction of the monument; which was referred to the Committee on Appropriations.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. EVANS, of Pennsylvania, until Friday, the 20th instant, on account of important business;

To Mr. CLARK, of New Jersey, for ten days; and

To Mr. SEXTON, for one week, on account of important business.

ORDER OF BUSINESS.

Mr. BRIGHT. I now call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House now resolve itself into Committee of the Whole on the Private Calendar. Pending that motion, the gentleman from Tennessee asks unanimous consent that to-day may be considered as objection day.

Mr. WILLIAMS, of Oregon. I must object to that.

Mr. BRIGHT. I hope there will be no objection. If we do not have to-day for objection day, we will not have one until after the holiday recess.

Mr. WILLIAMS, of Oregon. I must object.

The SPEAKER. Objection is made.

The question was taken upon the motion of Mr. BRIGHT, and it was agreed to.

The SPEAKER. The House has resolved to go into Committee of the Whole on the Private Calendar, and the gentleman from Illinois, Mr. BURCHARD, will take the chair.

Mr. WILLIAMS, of Oregon. I will withdraw my objection to this being regarded as objection day.

The SPEAKER. The House is now in Committee of the Whole.

The House accordingly resolved itself into Committee of the Whole, Mr. BURCHARD in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the Private Calendar. The Clerk will report the first bill on the Calendar for consideration.

WILLIAM AND MARY COLLEGE.

The title of the first bill was a bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war.

Mr. WHITE, of Pennsylvania. I move that bill be laid aside.

Mr. GOODE. I object to that; we want a vote on the bill.

The CHAIRMAN. By order of the House, as the Chair is informed, debate on this bill has been limited to two hours.

Mr. WHITE, of Pennsylvania. The record does not show that that motion prevailed. There was a proposition of that kind pending, but the House adjourned before it was determined. I ask that the record may be referred to.

The CHAIRMAN. The Clerk will examine the record.

Mr. EDEN. I would inquire if the bill can be considered under this call, to-day being as objection day?

The CHAIRMAN. Objection days are the first and fourth Fridays.

Mr. EDEN. I understand that this was to be as objection day by unanimous consent.

The CHAIRMAN. Objection was made to that proposition.

Mr. BRIGHT. The Chair is correct; the gentleman from Oregon [Mr. WILLIAMS] objected.

Mr. WILLIAMS, of Oregon. I withdrew my objection to this being considered objection day.

Mr. FINLEY. The objection was not withdrawn. The Speaker of the House announced that the gentleman from Oregon [Mr. WILLIAMS] refused to withdraw his objection, and the House then resolved to go into Committee of the Whole.

The CHAIRMAN. The recollection of the present occupant of the Chair is that objection was made to the proposition of the gentleman from Tennessee, [Mr. BRIGHT.] Afterward the gentleman from Oregon [Mr. WILLIAMS] rose and said that he withdrew his objection; and the Speaker replied that the House had then resolved to go into Committee of the Whole, and it was too late.

Mr. CONGER. That is the fact.

Mr. WILLIAMS, of Oregon. I understood the Chair to say that the objection had been withdrawn.

The CHAIRMAN. The Chair is informed by the Clerk that the statement of the present occupant of the Chair is correct as to the proceedings which took place in the House, and that the objection was not withdrawn until after the House had resolved to go into Committee of the Whole.

Mr. GOODE. I will state to the committee that so far as the pending bill is concerned we do not desire to renew the debate upon it. It has been elaborately discussed in this House several times during the last session and during the Forty-second Congress, when it passed the House by a handsome majority. I hope it will be the pleasure of this committee now to give us a vote on the bill.

Mr. KEIFER. I desire to submit some remarks upon this bill before the vote is taken upon it.

Mr. CONGER. I desire to say that at the time of the former discussion upon the bill I was upon the list as it then stood to speak for an hour, and my friend from Ohio [Mr. KEIFER] also had the same time assigned to him.

Mr. KEIFER. All I desire to say is that I headed the list.

Mr. CONGER. I only desire to retain my right to take part in the discussion at the proper time.

Mr. WHITE, of Pennsylvania. I would inquire of the Chair if I was not correct in the statement I made, that the time for debate upon this bill has not been limited?

The CHAIRMAN. The gentleman from Ohio [Mr. KEIFER] has the floor, and before he concludes the record will be examined.

Mr. KEIFER. Before proceeding to submit my remarks, I ask that the Clerk may read the pending bill for the information of the committee.

Mr. GOODE. Will the gentleman yield for a moment?

Mr. KEIFER. Certainly.

Mr. GOODE. I want to arrive at some understanding as to the limit of debate. I had not anticipated that the discussion would be renewed at all. It is desirable that we should have some understanding——

Mr. KEIFER. If my yielding is to be counted against my time, I cannot yield.

Mr. GOODE. I ask the gentleman to yield so that we may go back into to the House and fix a limit for the debate; then he will be entitled to the floor when we come back into the committee.

Mr. KEIFER. Certainly; I have no objection to that.

Mr. GOODE. I move, then, that the committee rise for the purpose——

Mr. CONGER. I object to that.

The CHAIRMAN. As the Chair understands, the gentleman from Ohio, [Mr. KEIFER,] who is entitled to the floor, yields to the gentleman from Virginia, [Mr. GOODE.]

Mr. KEIFER. I think I had better proceed now.

Mr. GOODE. I make the motion that the committee rise.

Mr. KEIFER. I do not yield for any such purpose. I understood that the gentleman wanted to submit a proposition by common consent.

Mr. GOODE. Will the gentleman listen for one moment? I repeat the suggestion——

The CHAIRMAN. The gentleman from Ohio has withdrawn his consent to yield to the gentleman from Virginia.

Mr. KEIFER. I must decline to yield for the purpose of having the committee rise.

Mr. TUCKER. The gentleman will permit me to ask whether there is any limit to debate under the existing order of the House?

Mr. GOODE. None.

Mr. KEIFER. I think not.

The CHAIRMAN. The Clerk will read the record of the proceedings in the House when this bill was last under consideration.

The Clerk read as follows:

Mr. BRIGHT moved that the House resolve itself into Committee of the Whole House; pending which

Mr. GOODE moved that all debate on the bill (H. R. No. 189) to reimburse the College of William and Mary in Virginia for property destroyed during the late war in the said committee close in two hours after the House next resolve itself into Committee of the Whole House; pending which

Mr. CONGER moved to amend by striking out "two" and inserting "three;" pending which

Mr. HARRY WHITE moved to amend the amendment by striking out "three" and inserting "four:" which motion was disagreed to.

The question recurring on the motion of Mr. CONGER, the same was not agreed to.

The question recurring on the motion of Mr. GOODE, and being put, it was decided in the affirmative.

The yeas and nays being desired by one-fifth of the members present, were as follows: Yeas 107, nays 94, not voting 90.

So the motion to limit the debate to two hours was agreed to.

Mr. ATKINS. How much of that time has expired?

The CHAIRMAN. Since that action was taken the House has not again found itself in Committee of the Whole on this bill until to-day. The two hours' debate now commences; and the gentleman from Ohio [Mr. KEIFER] is entitled to the floor.

Mr. KEIFER. I ask that the Clerk read the pending bill.

The Clerk proceeded to read the bill, but was interrupted by

Mr. TUCKER. I wish, with the consent of the gentleman from Ohio, to make a single inquiry: is the debate now limited to two hours?

The CHAIRMAN. It is.

Mr. TUCKER. How is that time to be divided? Is there any agreement about the division of the time?

Mr. KEIFER. I do not know. This debate was opened by speeches occupying two hours on the other side. One hour has been occupied on our side by two gentlemen. That is all I know about the history of the debate.

Mr. TUCKER. Was there any understanding originally about how the time was to be divided?

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk resumed and concluded the reading of the bill, as follows:

A bill to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the College of William and Mary, in Virginia, the sum of $65,000 out of any moneys in the Treasury not otherwise appropriated, to reimburse said college for the destruction of its buildings and other property destroyed without authority by disorderly soldiers of the United States during the late war: *Provided*, That no moneys be so paid except upon accounts of such destruction, and the damage caused thereby, duly verified and proven.

Mr. KEIFER. Mr. Chairman, the friends of this bill press it from one Congress to another with a pertinacity that challenges admiration. The many speeches made in this and former Congresses in favor of the payment of the claim of William and Mary College would make a large volume. The two eloquent appeals for the passage of this bill made at the last session of this Congress by the member from Virginia [Mr. GOODE] and the member from Massachusetts [Mr. LORING] were based chiefly upon sentiment. The same remark will apply to the speeches made in favor of similar bills in former Congresses.

As a matter of sentiment I too could vote for the bill if I did not take an entirely different view of my duty. The public funds should only be voted away upon sound principles of law, public duty or policy. I regard this as a war claim, and as such to be tested by the known and well-established rules of international law, founded long since upon principles of public policy.

I may be charged because of my opposition to this bill with keeping the fires of passion engendered by the war still blazing. I disclaim any desire or purpose of doing so. Neither hatred nor ill-will toward the South or any southern man has an abiding place in my heart. Whatever the North suffered during the war has been more than requited by the losses and suffering of the South. Whatever of blood has been shed in the cause of universal constitutional liberty and for the preservation of the Union has been more than compensated for by the grand results attained. I welcome the era of reconciliation and good feeling between all sections of the country. I hope not to be behind any man, North or South, in efforts to secure universal good feeling, harmony of sentiments and purposes, provided at all times security is given for the full, complete, and final protection of all citizens of the Republic in all sections of the country in the exercise of their rights and privileges.

This bill is such that, to vote intelligently on it, will require the facts to be carefully and plainly set forth. The bill provides for the payment to William and Mary College, in Virginia, of $65,000 "to reimburse said college for the destruction of its buildings and other property, destroyed without authority by disorderly soldiers of the United States during the late war." I dislike to oppose the bill, as it is in the interest of learning. The institution is an ancient one. It was chartered under the name of William and Mary in 1693, (fourth year of the joint reign of William and Mary,) and it is said to have had an existence as far back as 1660. It was originally founded and fostered as an aristocratic institution, in opposition to free schools and popular education. As early as 1671, Sir William Berkeley, the royal colonial governor in Virginia, a patron of this college, answered the following question from the lords commissioners of foreign plantations:

What course is taken about instructing the people within your government in the Christian religion? And what provision is there made for paying of your ministry?

Answer:

The same course that is taken in England out of towns; every man, according to his ability, instructing his children.

We have forty-eight parishes, and our ministry are well paid, and by my consent should be better, if they would pray oftener and preach less. But of all other commodities, so of this; the worst are sent us, and we had few that we could boast of since the persecution in Cromwell's tyranny drove divers worthy men hither. But I thank God there are no free schools nor printing, and I hope we shall not have these hundred years; for learning has brought disobedience and heresy and sects into the world, and printing has divulged them, and libels against the best government. God keep us from both.

This royal governor may have entertained the views, at least as applied to the common people, expressed by the poet Pope, that—

A little learning is a dangerous thing;
Drink deep, or taste not the Pierian spring:
These shallow draughts intoxicate the brain,
And drinking largely sobers us again.

This college, somewhat amply endowed, held its course in the heart of a State for two centuries where free schools were unknown until since the late war. It was regarded with favor in the South; was patronized by the South; propagated southern views; was hardly open to humble people, and has always excluded women from its benefits.

It is hoped that it has made some progress since the war. By the report of the Committee on Education and Labor we learn that patriotic considerations are relied on to induce Congress to vote for this bill. I quote from that report:

Every civilized nation has its hallowed spots about which its patriotic memories cluster, and whose names rise before the imagination whenever these memories are stirred.

* * * * * * * *

Under our form of government these hallowed spots are in the custody of States. But they hold them as trustees for the whole people, and the gratitude and affection which surround and hallow them are the gratitude and affection of the whole people.

* * * * * * * *

Unless this be true the American people alone among civilized nations are without any common objects of national reverence.

And further:

We doubt if any college in America or Europe can, in proportion to the whole number borne on its catalogue, show so large a list of names famous for conspicuous patriotic service.

These considerations being pressed on this House justifies me in looking more closely into the history of this college. I do this in no spirit of recrimination. That this college was the *alma mater* of Jefferson and Marshall and a long list of eminent statesmen, jurists, and lawyers is true. On account of its great age, and the fact that there were for a long time but few contemporaries of this college, it may truthfully be said that her graduates of distinguished men are comparatively large. Admitting the fact that "her list of names famous for conspicuous patriotic service" is large, how does the case stand when we look to the history of the college and its graduates immediately before and during the late war—the country's second baptism of blood for universal freedom in America?

It is safe to say, for the number of its students and graduates, the College of William and Mary furnished more men than any other institution of learning in the land who favored secession, rebellion, and war.

Before we vote money to this college on the ground of its patriotic services to the country we should not lose sight of the fact that it was destroyed by the inexorable events of war, brought on in part through its own teachings.

This college now appeals to the Treasury of the very Government which it, through its students and graduates, sought to destroy; to restore and rebuild its burned and blackened walls within which in later days were taught lessons which denied the fundamental principle, "that all men were created equal," and which would lead inevitably to perpetuate human slavery and to the overthrow of constitutional liberty.

Its board of visitors and its faculty were disloyal. Its teachings in later years were unpatriotic to the Union, as I shall be able to show. Its president, (B. S. Ewell,) prior to and during the war, was disloyal: and he is still its president, I believe. He left his high and honorable position as president of a college which boasted one hundred years ago of its patriotism in the cause of liberty, and took up the sword to destroy the country founded by Washington, Jefferson, the Adamses, Franklin, and their copatriots, and to establish a new nation in which human slavery would be coextensive with its boundaries. The teachings of the college led its students to indorse the constitution of the so-called Confederate States, which contained a section as follows:

No bill of attainder, or *ex post facto* law, or law denying or impairing the right of property in negro slaves shall be passed. (Art. 1, sec. 9.)

I shall not trace the individual history of the many confederate heroes this college gave to the late war. The history of the students and graduates of a college lead us unmistakably to know what principles and doctrines were taught therein.

As a mother who rears her child impresses indelibly upon it her character, which is not effaced during life, so a great institution of learning impresses on its young and susceptible students its true character. If this were not so, then indeed is education in vain.

'Tis education forms the common mind:
Just as the twig is bent the tree's inclined.

Let us look into the annals of this college a little. In 1874 a history of the college was published by its faculty. At that late day the desire uppermost in the minds of the members of the faculty was "to get a perfect war record of its students."

I read a note from that history:

All students who are known to have been in the confederate army have the letters C. S. A., with known rank, attached to their names. Some, many in fact, are omitted, and as it is the desire of the faculty to get a perfect war record of all students, additional information is solicited from all concerned.

To begin with the class of 1857–'58—what was "the perfect war record of its students?"

In the class of 1857–'58, the alumni were thirty-two in number; twenty-two of these went into the Confederate States army; the other ten seem to have no history worth recording.

The class of 1858–'59 consisted of thirty-nine in number, thirty-three of whom went into the Confederate States army; six have no history.

The class of 1859–'60 consisted of thirty-four in number, thirty-two of whom went into the Confederate States army, one became an Episcopal minister, and one a Methodist minister.

The class of 1860–'61 consisted of thirty-eight in number, thirty-four of whom went into the Confederate States army—four are without history. From 1861 to 1865 the college was closed because of the war.

The history of this college I believe does not record one of its students as going into the Union Army during the late war. The committee's report is more remarkable for what it does not contain than for what it does. It seems clear that on account of the patriotic services of this college we cannot safely vote to pay this large sum of money. If, then, we cannot, on the ground that we owe as a nation a bounty to this college because its graduates have been "famous for conspicuous patriotic service" vote for this bill, can we do so on any other sound principle? Is it a war claim that should be paid on any principle of law, justice, public policy, or duty? The committee find some other and minor grounds upon which it believes this claim should be paid. Let me say here, I regret that this claim was not referred to the Committee on War Claims, where it appropriately belonged. (Several times before, however, this bill has been referred to the Committee on Education and Labor.)

Under the rules of this House it no more belonged to the Committee on Education and Labor than a claim for injury in the war to a bank building to the Committee on Banking and Currency; a claim for injury by the war to a ship, to the Committee on Naval Affairs or Commerce; a claim for injury in the war to private lands, to the Committee on Private Land Claims; a claim for injury or destruction in the war to a manufacturing establishment, to the Committee on Manufactures; a claim for the taking by the Army of products of the soil, to the Committee on Agriculture; a claim for destruction of a library or a botanical garden, to the Committee on the Library, over which my friend from New York [Mr. COX] so gracefully presides.

The propriety of the reference is hardly strengthened by the fact that the author of the bill [Mr. GOODE] is chairman of the Committee on Education and Labor and is interested in the appropriation of this large sum of money, he being one of the visitors or trustees of the college. He is at least the nominal author of the report which recommends the payment to himself and other cotrustees of $65,000. The report further finds as reasons why the claim should be paid, in addition to the one that the college is a "hallowed spot about which patriotic memories cluster," that Union soldiers, "provoked by defeat and under the influence of drink, set fire to the building and prevented the residents of the neighborhood from extinguishing the flames till it was wholly consumed;" that "the Government had taken possession of the property for its own purposes, excluding the owners and preventing them from taking any measures to secure its protection;" that "by the law of nations institutions of learning are exempted by all civilized nations from the hostilities of war."

Assuming the facts to be as stated in the first two of these reasons, nothing is better settled than that there is no legal ground, in the light of the judicial precedents, for the payment of this claim.

It is not true that by the law of nations colleges are exempted from the hostilities of war, and if such were the law it does not follow that when they are destroyed by a hostile army, either with or without the direction of those in authority, there is necessarily any legal liability resting on the Government to make restitution.

Let us consider these grounds in their order.

The bill recites that the college "was destroyed without authority by disorderly soldiers of the United States during the late war."

In other words, it is claimed that this property was destroyed by the wrongful and tortious act of the United States soldiers.

No case can be found where a sovereign or a government has ever been held liable for the torts of its officers even, let alone its humbler servants.

That the Government is not liable for the torts of its officers or agents has been repeatedly held by the Supreme Court of the United States. I quote from the *syllabi* of a case decided in 1868:

The Government is not liable on an implied assumpsit for the torts of its officers committed while in its service, and apparently for its benefit.

To admit such liability would involve the Government in all its operations in embarrassments, losses, and difficulties subversive of the public interest.—8 Wallace, 269.

Also, from the opinion of Justice Miller in the same case:

But it is not to be disguised that this case is an attempt, under the assumption of an implied contract, to make the Government responsible for the unauthorized acts of its officers, those acts being in themselves torts. No government has ever held itself liable to individuals for the misfeasance, laches, or unauthorized exercise of power by its officers and agents.

In the language of Judge Story, it does not undertake to guarantee to any person the fidelity of any of the officers or agents whom it employs, since that would involve it in all operations in endless embarrassments, and difficulties, and losses, which would be subversive of the public interest.

And further from the same opinion:

In a few adjudged cases where the United States was plaintiff, the defendants have been permitted to assert demands of various kinds by way of set-off, and these cases may afford useful guidance where they are in point. The cases of this class establish the principle that even in regard to matters connected with the cause of action relied on by the United States the Government is not responsible for the laches, however gross, of its officers.

The language of the statutes which confer jurisdiction upon the Court of Claims excludes by the strongest implication demands against the Government founded on torts. The general principle which we have already stated as applicable to all governments forbids, on a policy imposed by necessity, that they should hold themselves liable for unauthorized wrongs inflicted by their officers on the citizen, though occurring while engaged in the discharge of official duties.

It was sought in the case just cited to hold the Government liable to loyal parties because of the tort of a quartermaster. The books abound in cases to the same effect: United States *vs.* Kirkpatrick, 9 Wheat., 720; Dox *vs.* Paymaster-General, 1 Peters, 318; Connell *vs.* Voorhees, 13 Ohio, 523; Nichols *vs.* The United States, 7 Wall. 122; Flushing Ferry Co. case, 6 Ct. of Cl. 1.

If, for torts committed by high officers the Government is not liable, much less will it be liable for the unauthorized acts of private soldiers. The maxim *respondeat superior* does not apply between the General Government and its agents who are guilty of torts. I am not, however, satisfied that this college was burned by Union soldiers. There was no reason why they should do so. There were Army stores in the building. The United States forces expected to permanently occupy it. The confederates had just been driven from it. The Union officers would have protected it if only to save the stores. It is more probable that confederate soldiers fired it, on their retreat, to destroy the stores in it, and to prevent its further occupancy by Union troops, &c. In a report made by Alexander Hamilton, Secretary of the Treasury, to the House of Representatives, November 19, 1792, he stated the laws and usages of nations in relation to the payment of certain claims thus:

That according to the laws and usages of nations a State is not obliged to make compensation for damages done to its citizens by an enemy, *or wantonly or unauthorized by its troops.*

This rule is based upon sound principles and authority, and has borne the test of time.

It will be remembered that by the twelfth article of the treaty of May 8, 1871, a commission upon the claims of Her Britannic Majesty against the United States, and of the citizens of the United States against Great Britain, was constituted.

Count Louis Corti, of Italy, was made president of that commission. Right Honorable Russell Gurney, member of Parliament, member of Her Majesty's privy council and recorder of London, was appointed commissioner on behalf of Great Britain. Hon. James S. Frazer, formerly justice of the supreme court of the State of Indiana, was the commissioner for the United States.

This commission began its session in Washington in September, 1871, and during its two years' sessions passed upon four hundred and ninety-seven claims, involving war claims of every conceivable character. Counsel of the highest talent and ability appeared before it. The most of the claims filed were of British subjects residing or owning property in the United States for damages caused by the Union Army. That commission uniformly and by unanimous vote disallowed all claims against the United States for unauthorized destruction of property by soldiers, and even when works of art were involved.

I read a paragraph or two from the report of Robert S. Hale, esq., the agent on the part of the United States, to Secretary Fish, of date

of November 30, 1873, and from page 50 of volume 3 Foreign Relations United States:

In several cases there were allegations of the wanton destruction of property by United States troops, and in some cases satisfactory proof was made of the fact of such destruction by soldiers without command or authority of their commanding officers and in defiance of orders.

In the case of Anthony Barclay (No. 5) allegations were made of wanton destruction of property, including valuable furniture, china, pictures, and other works of art, books, &c. The proof was conflicting as to whether the injuries alleged were committed by soldiers or not, but if committed by soldiers it was plainly not only without authority but in direct violation of the order of General Sherman. In the award made in favor of Mr. Barclay nothing was included for property alleged to have been destroyed.

Several claims were brought for property alleged to have been destroyed by the burning of Columbia on the allegation that the city was wantonly fired by the army of General Sherman, either under his orders or with his consent and permission. A large amount of testimony was taken upon this subject, including that of General Hampton and other confederate officers on the part of the claimants, and of Generals Sherman, Logan, Howard, Woods, and other Federal officers on the part of the United States. The claims were all disallowed, all the commissioners agreeing.

Thus it appears that even the commissioner on the part of the British government did not even claim that the United States were liable for the tortious acts of their unauthorized agents, though conceded to be liable for the necessary destruction of property of British subjects as incident to the war.

We come now to the question of the liability of the Government for the alleged reason that it took possession of the college for its own purposes, excluding the owners, &c.

The fact is, when the war came the owners, or rather the custodians of the college, its president and faculty, abandoned it and joined the insurgent army.

When this college was taken possession of by the United States forces it had been abandoned as a college, and was being used as barracks, &c., by the confederate forces. (Report, 1872, Globe, volume 88, page 939.) Finding it abandoned, the officers had a right to occupy it. It was in a hostile country that had to be held and occupied by Union forces.

It is further said that it was within territory excepted from Lincoln's emancipation proclamation.

This exception was not because it was in loyal territory, but because it was, on January 1, 1863, held and occupied permanently by loyal forces and was within the Union lines. (It is not certain that the territory occupied by the college was excepted from the operation of the proclamation.)

By the custom, rules, and laws of war, unoccupied public buildings, of whatever character, are to be used for public purposes, such as shelter for stores and material of war, hospitals, &c., in preference to driving inhabitants from their dwellings.

Being rightfully, under an appropriation to military use, in possession of the Union army, (for if wrongfully in possession of that army, then, as has been shown, no liability whatever attaches,) does it follow that its destruction raises an obligation to pay for it?

It is expressly held that the Government is not liable for the burning of a building which it has seized for its use. (Lagow's case, 10 Court of Claims, 266; Green's case, 10 Court of Claims, 466.)

In Lagow's case the court say in the syllabus:

The Government is not liable for the burning of a building which it has seized and used as a small-pox hospital, and it is immaterial whether it has given up possession or whether it remains constructively in possession.

To the same effect is Filor's case, 9 Wall., 45.

By the law of nations it is said that property of institutions of learning should be preserved and protected.

Grant this to be true, and it doubtless is true, yet it does not follow that in case of the willful destruction of such an institution by a conquering army that any legal or moral obligation arises as against the government to which that army belongs to pay for such destruction.

The committee have labored in vain to find instances or precedents for such an obligation. Not one has been found. None are given in the report and none are referred to in the speeches made during this or any preceding Congress. None exist.

Let us give attention to the cases cited in the report. It is said Washington made the trustees of Princeton College a present of fifty guineas as restitution for damage it sustained from the fire of the Americans at the battle of Princeton, and that after the close of the war Louis XVI, the ally of America, caused the college buildings in the United States accidentally destroyed by the fire of his troops to be replaced and every injury to be repaired. These are the only instances found where restitution has been made for an injury to an institution of learning. Both of these were in the nature of a gratuity to loyal institutions within friendly territory. In neither case was any legal liability as against a sovereign government admitted or recognized, but the contrary. As precedents, these two instances are against the legal liability of the Government in any such case.

The committee also say:

In the bloodiest and angriest civil strifes England has respected her schools and colleges.

Grant this to be true, and it may truthfully be said that the United States to a remarkable extent "has respected her schools and colleges." The accidental or wanton destruction in the furnace of war of a school or college building under loyal or disloyal control raises no obligation on the part of the Government to pay for it. There are, it is true, some legislative precedents for reimbursing institutions of learning for damages caused by ravages of war. And here I adopt the language of Senator Sumner in a speech made January 12, 1869, in the Senate. (71 Globe, 301.)

From the beginning of our national life Congress has been called to deal with claims for losses by war. Though new in form the present case belongs to a long list whose beginning is hidden in revolutionary history. The folio of state papers now before me entitled "Claims" attest the number and variety. Even amid the struggles of the war, as early as 1779, Rev. Dr. Witherspoon was allowed $19,040 for repairs of the college at Princeton, damaged by troops. There was afterward a similar allowance to the academy at Wilmington, in Delaware, and also to the college in Rhode Island. These latter were recommended by Mr. Hamilton, while Secretary of the Treasury, as "affecting the interest of literature." On this account they were treated as exceptional. It will also be observed that they concerned claimants within our own jurisdiction.

These claims were paid in the interest of literature alone, and the institutions were at all times loyal to the Government. I do not deny but that it is a paramount duty of an army to protect colleges, school-houses, churches, works of art, &c., belonging to the enemy. But it does not follow that in case such property is destroyed or injured that payment therefor must be made.

There is probably no instance where such property held or owned by an enemy has ever been paid for, though destroyed in violation of the usages of war. As a matter of discipline and wise policy, as well as humanity toward citizens of the country through which an army is being marched the commanding general very often insists upon paying for all supplies taken for consumption by the army. The most rigid orders are often issued and enforced to prevent marauding upon the inhabitants.

The Duke of Wellington when he entered France with his victorious army from Spain, in pursuit of Marshal Soult in 1814, near the close of the final struggle of the Emperor Napoleon, punished pillage and foraging upon the French people with death, to preserve the perfect discipline of his army; and he required his officers to pay for all supplies taken from the country. But no rule of international law ever required a nation to pay for property of any kind belonging to the enemy taken or destroyed in violation of orders.

The committee quote in its report parts of paragraphs 34 to 36, section 2, of General Orders No. 100, giving instuctions to the armies of the United States in the field. (This order was prepared by Dr. Leiber and approved by President Lincoln.) These paragraphs do not deny the right to take and use for military purposes colleges and other public buildings. Paragraph 34 expressly recognizes the right to seize universities, churches, &c., and it also asserts that they "may be taxed or used when the public service may require it."

The last clause of paragraph 37 (not quoted in the report) is as follows:

This rule does not interfere with the right of the victorious invader to tax the people or their property, to levy forced loans, to billet soldiers, or to appropriate property, especially houses, land, boats, or ships, and churches, for temporary and military uses.

Halleck on the laws of war says:

War * * * makes legal enemies of all the individual members of the hostile states; * * * it also extends to property, and gives to one belligerent the right to deprive the other of everything which might add to his strength and enable him to carry on hostilities.

The people in the late war were divided territorially.

Our own Supreme Court has given us the rule of international law applied directly to our civil war. I quote from the famous prize cases:

All persons residing within this territory, whose property may be used to increase the revenues of the hostile power, are in this contest liable to be treated as enemies, though not foreigners.—2 *Black.*, 636.

See to same effect Alexandria cotton case, 2 Wall., 404.

It has already been shown that the College of William and Mary was actually used, prior to its seizure by the United States forces, by the confederate army.

In Jefferson's celebrated letter of May 12, 1792, to Minister Hammond, of Great Britain, on the subject of the liability of a nation to pay for losses sustained by the enemy in war, he says:

Since it is a condition of war that enemies may be deprived of all their rights, it is reasonable that everything of an enemy's found among his enemies should change its owner, and go to the treasury. It is, moreover, usually directed in all declarations of war that the goods of enemies, as well those found among us as those taken in war, shall be confiscated. If we follow the mere right of war, even immovable property may be sold, and its price carried into the treasury, as is the custom of movable property. But in almost all Europe, it is only notified that their profits during the war shall be received by the treasury; and the war being ended, the immovable property itself is restored, by agreement, to the former owner. (Bynk.) *Quæs. Jur. Pub.*, l. 1, c. 7.

This states a sound rule as to the status of all property of belligerants during a war. It is then perfectly clear that the *occupancy* of this property was not in any sense wrongful.

There was no attempt by its destruction to appropriate it to a public use. The Grant case, decided by the Court of Claims, (1 Court of Claims Rep., p. 41,) now so much celebrated and so often cited, does not furnish a precedent for the payment of this claim.

The court in that case found that a United States officer during the rebellion burned a mill of a loyal man, situate on loyal territory, (Arizona,) which had prior thereto been held and used by the Government of the United States for military uses, and that the mill was burned for the sole purpose of preventing it from falling into the hands of confederate forces and being used by them in aid of insurrection, &c. On this state of facts the court found, as a matter of law, the destruction was an appropriation to a public use and the owner was entitled to be paid for his mill.

The facts of this college case are widely different from those in the Grant case. There was in no sense by the destruction of the college buildings an appropriation of the same to the public use within the meaning of the Constitution.

As has already been shown many losses occur in war which cannot be compensated for to the loyal or disloyal.

The hardships and devastations of war fall unequally. Individual losses are manifold. Hopes are forever blasted and homes made desolate through death and destruction incident to war. Affection and mercy are not attributes of war gods. The great Napoleon said "red-hot shot could not be fired into a populous city with affection." General Sherman said at Atlanta, "War is cruelty and you cannot refine it." For the blood and tears shed in war there is no adequate compensation. A full summary of wrongs growing out of a great war can never be made. The full account of these on either side will never be stated. Reconciliation must come without pecuniary compensation. Purification to all concerned, always incident to the triumph of a holy cause, must be accepted in lieu of the latter. Free schools, a necessary incident of perfect freedom, given to Virginia as a result of the war, must be accepted as ample compensation for the loss of the William and Mary College buildings. Examples of the utter futility of casting up accounts of alleged national wrongs and injuries and demanding their payment are not wanting. There is a notable one of very early origin. Jewish profane and traditionary history informs us that centuries after Moses led the children of Israel out of Egypt across the Red Sea, and thence to Mount Sinai and through the wilderness to the "promised land," the King of Egypt made and presented for payment to the Israelitish nation an account of the damages and losses sustained by Egypt and the Egyptian people caused by the plagues sent by the Lord to soften the heart of Pharaoh, and also an account of the "jewels of silver and jewels of gold and raiment" borrowed of the Egyptians by the Jews at the command of the Lord immediately prior to their exodus.

The claim was stated on the part of Egypt about thus: To loss and damages caused by the river of blood; by the plague of frogs; by the plague of flies; by the murrain of beasts; by the plague of hail; by the plague of locusts, and by the smiting unto death of the "first born of Pharaoh that sat on the throne, unto the first born of the captive that was in the dungeon, and all the first born of cattle;" also for the value of the loaned "jewels of silver and jewels of gold and raiment" never returned. To this was superadded a claim for interest.

The prospect of having to pay so large a claim would appall the people of a rich nation of the present day. Not so the Hebrew people. They regarded the enormous claim with complacency. The Jews were then no special pleaders. They did not seek to cast the responsibility on their Lord. They did not demur because the claim was too remote or stale, nor because Egypt had slept too long on her pretended rights and thereby forfeited them; nor did they traverse the particular charges made or plead the general issue.

Moses had written the book of Exodus, and it had the divine sanction. Its record, to the Jews, imported absolute verity; and thereto turned the confident Egyptians for the proof of their claim. God's "chosen and peculiar people" did not, however, despair. The learned Levites went to work to state an account of offsets. Generally it included but one item, stated about thus: To work and labor performed, and services rendered by the twelve tribes of Israel, during four hundred and thirty years of unrequited Egyptian bondage in the land of Goshen, in Egypt, with all the attendant burdens, sufferings, stripes, tears, sorrows, wrongs, and deaths incident to oriental slavery. The learned ministry of Egypt, on receipt of this account, stood aghast and said, "'Tis enough!" and the claim of the "Land of the Pharaohs" was not further pressed.

This exemplifies the vanity of trying to take an account of great national wrongs, &c. The recording angel only will sum them up at the judgment day; and the Lord of Hosts will wield the divine scepter of justice.

The further application of the illustration I must leave, for want of time, to reflecting minds.

The committee further insist that:

> The colleges of the period preceding the war of the Revolution were among the most potent forces in accomplishing our independence and founding our Constitution.

And they say:

> Among them none can claim precedence over William and Mary.

It is sufficient to say, in answer to this, as has already been shown, that in advancing the cause of rebellion "none can claim precedence over William and Mary."

The committee also express the opinion—

> That if the accidents of war had led to the injury of Mount Vernon, of the house or the tomb of Washington, or of Independence Hall, in Philadelphia, we should have hastened to repair the injury.

These cases are widely different from the one under consideration. These are ancient—I might say sacred—places belonging to the nation, and they have no history around which treason to constitutional liberty ever clustered.

I make a quotation here from the remarks of President Ewell, of the college, before the Committee on Education and Labor:

> Grant the prayers of petitions like this, and no more ever will the Union need arms to save people, or their families, or their schools, or their houses of charity and learning, or their houses of God from ravages of civil war. This mode of treating the wounds of the past would be a salve indeed and heal them.

This contains an appeal and a promise that could be made on behalf of every weak and crippled institution of learning in the land, of which there are many North and South.

I hope no threat is to be implied from this language in case we fail to pass this bill? I have no time to speak of the propriety or constitutionality of Congress healing the wounds of the South by voting away the money of the people under the name of "a healing salve."

As a benefaction in the cause of education we might, possibly, be justified in passing this bill, but that would be of doubtful constitutionality. My friend [Mr. TUCKER] from Virginia could hardly vote for this bill, with his views of the constitutional powers of Congress, if it is not to be regarded as a "war claim" resting upon some legal or constitutional grounds. Too many benefactions are now pressing upon us to make an exception of William and Mary College.

We should apply the bounty of the nation as a "salve" toward healing the yet open wounds of the living bodies possessed of souls before we can be magnanimous to the soulless corporate bodies. There are yet throughout this land many sorrowing, suffering, and bleeding hearts of widows and orphans of dead soldiers, and they are not confined to the North.

Another matter contained in the committee's report deserves mention. I read from the report:

> We believe that to follow the example of Washington, of Louis XVI, of Judge Cooke, of Tryon, will make every college in America safer if civil strife or foreign war should ever hereafter disturb our peace.

It must be again noted in passing that these are not examples in favor of paying for injury or destruction of institutions of learning in an enemy's country, but noble examples in favor of protecting them in war. Washington and Louis XVI only made private donations to repair damages done by their troops to colleges loyal to the cause in which they fought. There are those who believe that to refuse to pass this bill "will make every college in America safer," because its fate will be pointed to as a warning to other colleges not to encourage civil strife, insurrection, and war, much less to teach the divinity of human slavery. The committee are equally unfortunate in saying that "no gentleman need fear that a vote for this bill will furnish a dangerous precedent for large claims against the Treasury," and that "a careful inquiry has failed to develop evidence of injuries sustained in the late rebellion by endowed institutions of learning, exceeding in all the amount of $100,000."

A full list of such institutions, with the amount of claims for damages caused by the late war would be very large. Claims of this character have been presented to Congress for payment at different times since the late war, of which I give here only a partial list:

Alabama University	$250,000
William and Mary College, Virginia	65,000
Richmond Female Institute, Virginia	4,933
East Tennessee University	18,500
Jackson College, Tennessee	11,000
Alleghany College, West Virginia	8,000
Madison Female Academy, Richmond, Virginia	10,000
Male Academy, Athens, Georgia	5,000
Strawberry Plains High School, Tennessee	8,650
Protestant Episcopal Seminary, Virginia	20,000
Newberry College, South Carolina	15,000
La Grange College, Tennessee	34,300
Howard College, Alabama	5,000
Stewart College, Tennessee	4,000
Holstein College, Tennessee	6,250
Cane Hill College, Arkansas	10,000
Total	490,633

Most of these claims are now pending in this Congress. I am informed that members on this floor say they have been resisting the presentation of a flood of claims from their respective districts of kindred character to the above, which they will be no longer able to resist successfully if this bill passes. The Committee on Education and Labor of this House have already this Congress reported in favor of paying $85,000 of the above claims from Virginia alone, namely, the claims of William and Mary College and of the Protestant Episcopal Seminary. The claims in behalf of churches south are certainly more meritorious than the one under consideration. We are bound to presume that these churches of God upheld the banner of the Prince of Peace, and not of the demon of war.

There is a single claim in favor of the Book Agents' Publishing House, Methodist Episcopal Church South, now pending in the Senate, which amounts to $458,400. The claims on behalf of churches which have been presented to Congress exceed already $1,500,000. The committee's facts and law are equally bad.

The report is a "comedy of errors." Take another instance. The committee say, as a reason why members should vote for this bill, that—

> A bill like the present passed the Forty-second Congress, but was not reached in the Senate for want of time. It was received with expressions of approbation by the press of all parties, &c.

Certainly the draughtsman of the report did not intend to deceive or mislead any person by this statement. A bill such as the one under consideration, after amendment, was defeated in the Forty-second Congress by the House overwhelmingly. On the yeas and nays the vote stood—yeas 36, nays 127, not voting 78. (Globe, volume 92, page 188, December 13, 1872.) Nor did the bill receive the approbation of

the press of all parties. In February, 1873, a bill similar to this one did pass the House by a small majority.

I conclude that on neither of the grounds set forth by the Committee on Education and Labor in their report can this House properly vote to pay this claim; nor can its payment be justified on any sound principle of law or true ground of national public policy or duty.

The CHAIRMAN. The gentlemen from Ohio has seven minutes of his hour remaining.

Mr. KEIFER. I yield three minutes to the gentleman from Illinois. [Mr. EDEN.]

Mr. EDEN. Mr. Chairman, I can say all that I wish to say on this bill in three minutes; and I am desirous to express briefly my views because I happen to be chairman of the Committee on War Claims, to which, as a general rule, claims of this class are referred.

I cannot vote for this bill; but my reasons for opposing it differ from those stated by the gentleman from Ohio, [Mr. KEIFER.] If this were the only claim of a similar character likely to arise out of the late civil war it is possible we might safely pass the bill; but if we adopt for the benefit of a particular college the rule that property destroyed in the course of military operations and on the theater of war must be paid for, then we must apply that rule in the case of all educational institutions; and I can see no reasons why we must not apply it also in the case of all church buildings and structures of a similar character. I think it is not safe for us to embark at all in the business of paying for damages committed by our armies upon the theater of active military operations. The damages thus inflicted were so enormous in amount that it would be utterly impossible to extend the rule so as to make reparation in all cases where injury of this character was suffered.

A brief paragraph from a report made by me upon a case somewhat similar to this will give all the reasons which will govern my vote in this case:

> We attach very great importance to this bill, not on account of the amount immediately involved, but because of the precedent it establishes. In the prosecution of a civil war through a period of four years, with armies aggregating a million men, and extending their operations over one-half the territory of the United States, great damage must of necessity have been done to private property, and payment for the injury in this case will be drawn into a precedent for payment in all other cases. All cases will not be precisely alike in detail; but when we open the door to the payment of claims for damages done to property by our armies in the prosecution of the war as is proposed to be done in this case, those which are to follow will be so nearly similar in principle that it will not be worth while to attempt to keep up the distinction.
>
> It may be said that in some instances the Government has paid for property destroyed by the Army in time of war. This is true. With equal truth it can be said that the Government has refused in many instances to pay damages in such cases. The rule seems to be that it is optional with the Government to pay or not to pay in such cases. Considering the enormous amount of money involved, we are of opinion that the best and safest rule for all concerned will be for the Government to adhere rigidly to the rule of non-payment of damages for destruction of and injury to property resulting from military operations during the war of the rebellion.

Mr. KEIFER. I reserve the four minutes remaining of my time to be used hereafter.

Mr. CONGER. At the request of some gentlemen, and on consultation, I will not occupy my hour to-night, but will yield to a motion that the committee rise, and will hold the floor when we go into committee again.

Mr. KEIFER. I move that the committee rise.

The motion was agreed to. The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURCHARD reported that the Committee of the Whole House had, according to order, had under consideration the Private Calendar generally, and particularly a bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war, and had come to no resolution thereon.

TRADE-DOLLAR.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 5525) to make the trade-dollar a legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CYRUS N. GRAY.

Mr. HANNA, by unanimous consent, introduced a bill (H. R. No. 5526) for the relief of Cyrus N. Gray, first lieutenant Twenty-fifth United States Infantry, for pay and rank between December 1, 1863, and February 3, 1864, period between services actual and muster actual; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FRANKLIN LANEY.

Mr. HANNA also, by unanimous consent, introduced a bill (H. R. No. 5527) for the relief of Franklin Laney; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF COOS BAY AND HARBOR, OREGON.

Mr. WILLIAMS, of Oregon, by unanimous consent, introduced a bill (H. R. No. 5528) making an appropriation to improve the entrance to Coos Bay and harbor, Oregon; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

STEAMBOAT ANNIE C. WAGANER.

Mr. JONES, of Alabama, by unanimous consent, introduced a bill (H. R. No. 5529) to change the name of the steamboat Lotus No. 2 to the Annie C. Waganar; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TREATY WITH HAWAIIAN ISLANDS.

Mr. GIBSON, by unanimous consent, introduced a joint resolution (H. R. No. 205) as to giving notice to terminate the convention of June 3, 1875, with His Majesty the King of the Hawaiian Islands; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

HENRY L. WINSOR.

Mr. DEERING, by unanimous consent, introduced a bill (H. R. No. 5530) granting a pension to Henry L. Winsor, of Waverly, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAINT CLAIR POST.

Mr. REILLY, by unanimous consent, introduced a bill (H. R. No. 5531) donating condemned cannon to Saint Clair Post, Grand Army of the Republic; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WALKER'S STATISTICAL ATLAS.

Mr. SPRINGER, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring therein,) That Senators, Members, and Delegates in Congress be allowed to have bound, free of charge, at the Government bindery, in any style the cost of which does not exceed —— dollars per volume, the number of copies of Walker's Statistical Atlas delivered to them in sheets under the provisions of the sundry civil appropriation act approved June 19, 1878.

MRS. ELIZABETH DAVIS.

Mr. CLARK, of Iowa. Mr. Speaker, there is a bill on the Private Calender which I desire to have brought before the House and recommitted to the Committee on Invalid Pensions. The reason for so doing is to enable the committee to consider some additional evidence. I move, therefore, that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 2391) granting a pension to Mrs. Elizabeth Davis, and that the same be recommitted to the Committee on Invalid Pensions.

The SPEAKER. Not to come back on a motion to reconsider.

There was no objection; and it was ordered accordingly.

ADMISSION OF CLERKS OF COMMITTEES TO THE FLOOR.

Mr. MACKEY, by unanimous consent, submitted a resolution to authorize the admission of the clerks of the several committees to the floor of the House during its session; which was referred to the Committee on Rules.

R. H. KREBS.

Mr. MACKEY also, by unanimous consent, submitted a resolution for the payment of R. H. Krebs for services in the Doorkeeper's department; which was referred to the Committee of Accounts.

GEN. GEORGE A. CUSTER.

Mr. McCOOK. I am instructed by the Committee on Military Affairs and ask unanimous consent to report for present consideration a bill authorizing the donation of twenty condemned bronzed cannon, to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point.

The bill was read. It authorizes and directs the Secretary of War to deliver to the commandant of the United States Military Academy twenty condemned bronzed cannon, if the same can be spared without detriment to the public service, to be disposed of by him as he may see proper for the purpose of aiding in the erection of a monument to the memory of General George A. Custer on the grounds of the Military Academy at West Point.

Mr. POTTER. I wish to ask the gentleman who reports the bill a question. Have we made any appropriation for that monument?

Mr. McCOOK. No, sir; $10,000 are required to put up the statue. Of that amount about $6,000 have been raised by private subscription in the city of New York.

Mr. POTTER. And this is for the purpose of donating the bronze cannon?

Mr. McCOOK. Yes, sir; the bill gives twenty condemned cannon for the purpose of completing the monument.

There being no objection, the bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point was received, read three times, and passed.

Mr. McCOOK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMERCIAL RELATIONS WITH MEXICO.

Mr. HARRISON, by unanimous consent, presented a resolution of the Manufacturers' Association of the Northwest; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD.

The resolution is as follows:

> Whereas the communication addressed to this association by Hon. J. W. Foster, United States minister to the Republic of Mexico, contains statements that are biased and prejudiced and are at variance with the official reports of United States

consuls at the several ports and stations of that republic, as published under the direction of the State Department of this Government, and in direct contradiction to the experience of well-known and responsible citizens of the United States who have resided in that country for many years; and

Whereas the commercial relations that our merchants and manufacturers are endeavoring to establish between the United States and Mexico require that the true condition of affairs in that country be fully known and thoroughly understood before investing money and time in such enterprises: Be it therefore

Resolved by the Manufacturers' Association of the Northwest, That the Congress of the United States be, and is hereby, respectfully memorialized to send a subcommittee of the Committee on Commerce of each House, respectively, to accompany an excursion party that purposes leaving this city for Mexico on the 4th day of January next, with instructions to investigate and report upon the practicability of establishing more direct and intimate commercial relations between the United States and the Republic of Mexico and to make such suggestions as the knowledge thus acquired may in their opinion be conducive to that end.

JAMES HAND.

Mr. CAMPBELL, by unanimous consent, introduced a bill (H. R. No. 5533) granting a pension to James Hand; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

And then, on motion of Mr. ATKINS, (at four o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAYNE: A paper from C. A. Drane favoring the improvement of the Youghiogheny River—to the Committee on Commerce.

By Mr. BELL: A paper relating to the establishment of a post-route from Gainesville to Argo, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. BREWER: The petition of Mrs. E. A. Sanborn, Miss E. M. Skinner, and 125 other ladies of Linden, Genesee County, Michigan, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CABELL: The petition of citizens of Virginia and North Carolina, for a post-route from Fancy Gap, Virginia, to Sparta, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. CLARK, of Iowa: Communications from Hon. R. S. Finkbine and John Weaver, esq., relating to wrongs committed by patentees—to the Committee on Patents.

Also, papers relating to the pension claim of Elizabeth Davis—to the Committee on Invalid Pensions.

By Mr. DUNNELL: The petition of E. B. Lieberg, for compensation for property taken and used by United States troops—to the Committee on War Claims.

By Mr. FENN: Papers relating to the land claim of William Craig—to the Committee on Public Lands.

By Mr. GIBSON: The petition of Dennis T. Kirby, for the passage of a law allowing him to resign and to date his resignation from the regular Army from the time of the issue of a certain order of the War Department approving the findings and sentence of a court-martial in his case—to the Committee on Military Affairs.

By Mr. HAYES: The petition of citizens of Kendall County, Illinois, that a pension be granted Mrs. Maria Cluph—to the Committee on Invalid Pensions.

By Mr. HUNTON: The petition of D. H. Maury, J. Hampton Chamberlayne, B. F. Wherry, and others, representing a public meeting held in the city of Richmond, Virginia, for a reorganization of the militia—to the Committee on the Militia.

By Mr. KIMMEL: The petition of the Scientific and Medical Association of Maryland, for the appointment of a commission to investigate the causes, treatment, and prevention of yellow fever and allied epidemic diseases—to the Committee on Rules.

Also, the petition of William Johnson, for the correction of his naval record—to the Committee on Naval Affairs.

Also, the petition of Elizabeth Hoeflich, for a pension—to the Committee on Invalid Pensions.

Also, the petition of G. Degler, of similar import—to the same committee.

By Mr. McKINLEY: The petition of 14 citizens of Stark County, Ohio, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McMAHON: The petition of Thomas Lee, for a pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of the Society of Friends of Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of J. J. Purcell, for a pension—to the Committee on Invalid Pensions.

By Mr. ROBERTS: The petition of Smith Minor, for compensation for slaves under the act of April 16, 1862, entitled "An act for the release of certain persons held to service or labor in the District of Columbia"—to the Committee of Claims.

By Mr. ROBINSON, of Massachusetts: The petition of Elizabeth Jepson and other women of the New Jerusalem church of Springfield, Massachusetts, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. STEWART: The petition of Dennis Leamy, for a pension—to the Committee on Invalid Pensions.

By Mr. WAIT: The petition of Louisa M. Mansfield, to be relieved from the payment of a judgment rendered against her by a United States court—to the Committee on the Judiciary.

By Mr. WILLITS: The petition of Charles King & Son and others, of Ypsilanti, Michigan, for a uniform tariff on sugars—to the Committee of Ways and Means.

By Mr. YOUNG: The petition of Edward Stack, for compensation for property taken by the United States Army—to the Committee on War Claims.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December* 14, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain; Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill (S. No. 1398) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon; in which the concurrence of the House was requested.

CORRECTION.

Mr. PATTERSON, of Colorado. Yesterday the bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico, was taken from the Speaker's table and referred to the Committee on Private Land Claims. Afterward, by unanimous consent of House, the order was revoked. The RECORD shows the reference, but not the revocation of the reference.

The SPEAKER. The Chair recollects very distinctly it was revoked. The Journal shows it.

Mr. PATTERSON, of Colorado. The Journal does, but the RECORD does not.

The SPEAKER. The correction will be made.

MANHATTAN SAVINGS INSTITUTION.

Mr. WOOD. I am instructed by the Committee of Ways and Means to report back, with a favorable recommendation, the bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby directed to issue duplicates of the hereinafter-described bonds of the United States, alleged to have been stolen from the Manhattan Savings Institution of New York City, on the 27th of October, 1878, upon evidence clear and satisfactory to him being furnished that they have not been assigned, but are still the property of said institution, and upon the condition that a sufficient number of these duplicate bonds be issued to the Treasurer of the United States in trust for the said Manhattan Savings Institution, to be by him held for such time as, in the judgment of the Secretary of the Treasury, will secure the Treasurer of the United States against loss.

Mr. CONGER. I do not know whether an objection will lie against the present consideration of the bill.

The SPEAKER. It will. The bill can only come before the House by unanimous consent.

Mr. CONGER. Unless there can be some amendment to the bill, making this bank give some guarantee to the Government against any loss, as is usual in such cases, I must object.

Mr. WOOD. If the gentleman will permit me a few words——

The SPEAKER. Does the gentleman from Michigan consent to the gentleman from New York making an explanation, reserving his right to object?

Mr. CONGER. Yes, sir.

Mr. WOOD. This bill provides that the Treasury Department may issue duplicate registered bonds to the Manhattan Savings Bank of New York, which was entered in October last by burglars who possessed themselves of access to the safe and carried off a large amount of securities, and, among others, some $1,300,000 of registered bonds. These bonds have not yet been restored to this institution, which is a benevolent one; but they are registered here in the Treasury Department, and of course can be of no service to the parties who may have stolen them. Now, the law requires that sureties in double the amount of the bonds shall be given to the Department before the bonds may be issued. To do so in this case would require the trustees of the institution to furnish bonds of between two and a half and three millions of dollars, which would be almost impossible for them to do. This law proposes that the Treasury Department shall issue duplicates, that these duplicates shall remain in the hands of the Government until a certain time has elapsed, so as to render it impossible that there can be any possible loss to the Government growing out of these bonds.

The bill is recommended by the Secretary of the Treasury. It was unanimously reported from the Committee on Finance of the Senate by the Senator from Vermont, Mr. MORRILL. Yesterday morning it was unanimously passed by the Senate. It was referred yesterday to the Committee of Ways and Means of this House and unanimously passed by that committee. There is a necessity for the passage of

this bill before the holiday vacation, or else it may result in the bankruptcy of this institution, simply growing out of the loss of these bonds. I am sure under these circumstances no gentleman can object to the passage of the bill.

Mr. CONGER. I wish to ask the gentleman from New York [Mr. WOOD] a question. Are all these bonds registered bonds?

Mr. WOOD. Every one of them; every bond to which this bill relates is a registered bond. Otherwise, there would be no necessity of coming here.

Mr. GARFIELD. I think the bill is right.

Mr. CONGER. One word more. I understood the gentleman from New York to say that these bonds after reissue were to remain in the Treasury for a sufficient length of time. I understood the bill as read to leave it to the discretion of an officer of the Treasury when he should issue them.

Mr. WOOD. It leaves it to the discretion of the Treasury Department. The Secretary of the Treasury of course would be responsible. In the mean time these bonds are simply duplicated, and the duplicates are issued to the Treasurer of the United States in trust for the Manhattan Savings Institution.

Mr. CONGER. I had an impression that a portion of these bonds were not registered bonds——

Mr. WOOD. Not one of them.

Mr. CONGER. And would be valid in the hands of the holder.

Mr. WOOD. None of those provided for in this bill.

Mr. CONGER. And I knew that in such cases as that the rule in this House had always been to require individuals or corporations to give proper indemnity bonds to the Government against any chance of loss.

Mr. WOOD. These are all registered bonds.

Mr. CONGER. It was in reference to that question that I raised the point. I thought that a bill for some million and a half of dollars ought not to pass without that security. If I am mistaken in the supposition that some of these bonds were not registered bonds, n that case I would not make objection.

The SPEAKER. As this is an important bill it would be better that it should be read again.

The bill was again read.

Mr. CONGER. I am unable to see from the reading of the bill that all these bonds are registered bonds.

Mr. WOOD. It so states.

Mr. CONGER. It might be well, then, to provide that this bill shall apply only to registered bonds.

Mr. WOOD. Every designation of bonds in the bill states that they are registered bonds standing in the name of the Manhattan Savings Institution of New York.

Mr. KELLEY. That is so.

The SPEAKER. The Chair will reserve the point of order.

Mr. KELLEY. I desire to assign a reason or two why this bill should be passed immediately. It is suggested by some gentlemen near me that this is a private bill and should go to the Committee of the Whole on the Private Calendar. If such a step, or any other that involves long delay, be taken, then the managers of this institution will be driven to a selection between two alternatives: the closing up of a savings bank in which the deposits amount to about $13,000,000, or the authorizing of certain policemen or agents to negotiate the repurchase of their property by rewarding the most flagrant burglary probably that was ever perpetrated, even in New York, by the payment of a large sum of money.

To refuse, therefore, to enable these gentlemen to take advantage of the right of Congress and of the Treasury to circumvent the burglaries by issuing duplicate bonds, thus rendering those they stole valueless from the moment this bill shall pass, is to make this House, the Senate already having passed the bill, an accomplice with the thieves in their game of extortion. That is the whole of it.

No injustice to the amount of a cent can result to the Government. Every bond is registered; no one of them can be transferred except at the Treasury of the United States. To refuse to give this protection against so desperate a band of burglars will be held by the community as becoming their accomplices.

The SPEAKER. Is there any further objection to the consideration of this bill at this time?

There was no objection.

The bill was then ordered to a third reading, read the third time, and passed.

Mr. WOOD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. SPARKS, from the Committee on Appropriations, reported a bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SPARKS. I desire to give notice that on Tuesday next, immediately after the reading of the Journal, I will ask the House to proceed to the consideration of this bill.

Mr. MILLS. I reserve all points of order on the bill.

The SPEAKER. The points of order will be reserved.

Mr. KNOTT. I wish the attention of the gentleman from Illinois [Mr. SPARKS] for a moment.

Mr. SPARKS. I will hear the gentleman.

Mr. KNOTT. I will suggest to him to name Wednesday instead of Tuesday.

Mr. SPARKS. Why so?

Mr. KNOTT. Because it will probably take two hours of Tuesday to dispose of the pending Geneva award bill.

Mr. SPARKS. Then, I will name Wednesday.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DURHAM. I am directed by the Committee on Appropriations to report back, with the amendments of the Senate, the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the year ending June 30, 1880, and for other purposes. The committee have considered these amendments, and beg leave to submit a report recommending concurrence in the amendment numbered 6, and non-concurrence in the amendments numbered 1, 2, 3, 4, 5, 7, 8, and 9.

The sixth amendment was read, as follows:

Insert the following: "For safe for disbursing officer's office, $300."

The amendment was concurred in.

Mr. DURHAM moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The remaining amendments were read, as follows:

In line 5, page 1, strike out "two" and insert "four;" so as to make the clause read: "For pay of four professors, at $3,500 per annum each."

In line 6, page 1, strike out "seven" and insert "fourteen;" so that, if amended, the clause will read: "For pay for four professors, at $3,500 per annum each, $14,000."

In line seven, page 1, strike out "seven" and insert "five;" so that, if amended, the clause will read: "For pay of five professors, at $3,000 per annum."

In line 8, page 1, strike out "twenty-one" and insert "fifteen;" so that, if amended, the clause will read: "For pay of five professors, at $3,000 per annum each, $15,000."

After line 18, page 3, insert: "For clerk to treasurer, $1,200."

In lines 15 and 16, on page 4, after the word "dollars," insert: "For illustrating the science of electricity as applied to the useful arts, $3,000."

In line 16, page 4, strike out "one" and insert "four."

The amendments were not concurred in.

Mr. DURHAM moved to reconsider the vote by which the House refused to concur; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASE OF FREEDMAN'S BANK BUILDING.

Mr. DURHAM. I ask unanimous consent to report back from the Committee on Appropriations the bill (S. No. 557) directing the Secretary of the Treasury to purchase certain property of the Freedman's Savings and Trust Company for the use of the United States, and for other purposes.

The SPEAKER. The bill will be read, after which there will be opportunity for objection.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase for the use of the United States all those lots and parcels of ground, with the buildings and improvements thereon, situated in the city of Washington, District of Columbia, on Pennsylvania avenue, between Fifteenth and Fifteenth-and-a-half streets, and belonging to the Freedman's Savings and Trust Company, at a sum not exceeding $275,000, to be paid and by him placed to the credit of the commissioners of the said Freedman's Savings and Trust Company on the books of the Treasurer of the United States, for distribution among its creditors, out of any money in the Treasury not otherwise appropriated, upon proof of a perfect title and the execution to the United States of a deed good and sufficient in law, and in form approved by the Attorney-General; and said sum, or so much thereof as may be necessary, is hereby appropriated for that purpose.

SEC. 2. The further sum of $5,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of fitting up the rooms upon the first floor of the fire-proof building upon said premises known as the Freedman's Bank building, under the direction of the supervising architect of the Capitol, for the use of the Court of Claims, and the removal of it and its records and papers thereto.

The Clerk was proceeding to read the report of the Committee on Appropriations upon the bill, when

Mr. EDEN said: I reserve the right to object.

The SPEAKER. The gentleman from Illinois objects, and the bill is not before the House.

INDIAN OUTRAGES IN KANSAS AND NEBRASKA.

Mr. PHILLIPS. I ask unanimous consent to offer for immediate consideration the resolution which I send to the desk.

The Clerk read as follows:

Whereas a band of wild Indians of the plains, under the care of the Department of the Interior, somewhere in the Indian Territory, broke away from their reservation during the past summer and made a raid through the settlements of Kansas and Nebraska, murdering in the western settlements of Kansas some thirty or forty persons and committing brutal outrages on helpless women and children; and

Whereas said Indians were captured by the military, and are held or are likely to be sent back to the point from which they escaped: Therefore,

Be it resolved, That the Secretary of the Interior be requested to furnish this House information whether he has surrendered the guilty or responsible parties of

such band or bands to the proper authorities of Kansas and Nebraska, to be tried by the tribunals that have competent jurisdiction, to the end that there be law on the frontier.

Mr. BURCHARD. I suggest that the gentleman insert after the word "whereas" the words "it is alleged." We do not know the facts recited in the preamble.

Mr. PHILLIPS. Very well: let that modification be made. I will state that there is a doubt as to what course will be taken by the Secretary of the Interior. I wish, if it should become necessary, to introduce legislation on the subject into this House.

Mr. CONGER. I believe the resolution declares that these Indians are in the possession of the Army.

Mr. PHILLIPS. No, sir; it does not say that they are in possession of the Army. They are not.

The SPEAKER. Is there objection to the resolution?

Mr. CONGER. I think it is a very harmless resolution and am entirely willing it should be adopted.

The resolution was adopted.

CIRCUIT COURT WEST VIRGINIA.

Mr. WILSON, by unanimous consent, introduced a bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia; which was read a first and second time.

The SPEAKER. What disposition does the gentleman propose to make of the bill?

Mr. WILSON. I desire its present consideration.

The bill, which was read, provides that hereafter the circuit court of the United States for the district of West Virginia shall be held at Parkersburgh on the 10th day of January and of June, and when either of said days shall fall on Sunday the terms shall commence on the following Monday; and all pending cases, process, rules, and proceedings shall be conducted in the same manner and with the same effect as to time as if the act had not been passed.

Mr. EDEN. I should like to inquire of the gentleman from West Virginia whether that increases the number of the terms of the court?

Mr. WILSON. It does not. It is the only time it can be arranged. This court is held by Judge Bond, and there are several States in his circuit. This is the only time he can hold terms of court in West Virginia with a view to his arrangement in other States, and I hope there will be no objection to his being accommodated.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NEW LONDON NAVY-YARD.

Mr. WAIT, by unanimous consent, introduced a bill (H. R. No. 5536) making an appropriation for continuing the work on the New London navy-yard, in the State of Connecticut; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

JOHN W. DOUGLASS.

Mr. BURCHARD, by unanimous consent, from the Committee of Ways and Means, reported back favorably the bill (S. No. 55) for the relief of John W. Douglass; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed, not to be brought back by a motion to reconsider.

ORDER OF BUSINESS.

Mr. PAGE. I desire to call for the regular order, and I will state that my object in calling for the regular order of business is that some time or other we may reach the call of committees for reports.

The SPEAKER. The regular order of business will be the Geneva award bill, and would not be a morning hour for the consideration of reports for committees.

Mr. PAGE. My object is to get to the reports of committees as soon as possible.

The SPEAKER. The question of consideration can be raised against the Geneva award bill, and if the House refuses to go on with the unfinished business, the next business in order will be the morning hour for reports from committees.

Mr. TOWNSHEND, of Illinois. I ask the gentleman from California to withdraw his demand for the regular order of business in order that I may introduce a bill.

Mr. PAGE. I withdraw the demand for the regular order.

The SPEAKER. The Chair will have to recognize the gentleman from Mississippi who is on the floor with a report from the Committee on Printing.

DISTRIBUTION OF REVISED STATUTES.

Mr. SINGLETON, from the Committee on Printing, reported a joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes to the Post-Office Department; which was read a first and second time.

The joint resolution, which was read, provides that out of the 15,000 copies of the new edition of the first volume of the Revised Statutes of the United States required by the fourth section of the act to provide for the preparation and publication of a new edition of the Revised Statutes of the United States, approved March 2, 1877, to be printed and bound, the Secretary of State shall furnish to the Post-Office Department, upon the requisition of the Postmaster-General, not exceeding 250 copies for the use of the officers and special agents of the Department and of postmasters at offices of free delivery; no provision having been made for the Post-Office Department in the joint resolution providing for the distribution and sale of the new edition of the Revised Statutes of the United States, approved May 22, 1878.

Mr. SINGLETON. I ask that the letter from the Postmaster-General be read, as it will fully explain the reason for this joint resolution.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., December 5, 1878.

SIR: I have the honor to inform you that no provision has been made for supplying this Department with copies of the new edition of the Revised Statutes, and to inclose herewith draught of a resolution for that purpose, with the request that you will bring the same to the attention of your committee and of the House of Representatives.

Very respectfully,

D. M. KEY,
Postmaster-General.

Hon. O. R. SINGLETON,
Chairman Committee on Printing, House of Representatives.

Mr. SINGLETON. This is to supply an omission in the law providing for the distribution of the new edition of the Revised Statutes.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SINGLETON moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WYATT PARISH.

Mr. TOWNSHEND, of Illinois, by unanimous consent, introduced a bill (H. R. No. 5537) granting a pension to Wyatt Parish, late a private in Captain James Bowman's company in Colonel John DeMint's battalion, in the Black Hawk war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GENEVA AWARD.

The SPEAKER. The House resumes as the regular order the consideration of the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award. The gentleman from Maine [Mr. FRYE] is recognized.

Mr. FRYE. Mr. Speaker, the subject under discussion is probably as important as any that has been before the House this session or will be, and its consideration ought to demand the attention of every member. It would have been agreeable to me if I could have prepared with care and deliberation a written argument touching the profound questions of law, of diplomacy, of history which arise in this case and have been so ably presented and will be so ably presented by other gentlemen on this floor. I purposed to do so; but it seemed to me on hearing the arguments made, and learning the scope of those that would follow, that it was my duty to forget reputation; to forget that the speech which I should make would be sent out to the world in the RECORD; to forget that I might with care and deliberation gain to myself some credit; to forget all these things and to bring the attention of the House down to certain practical questions with which I have been familiar from my long experience in this very case which is now under discussion.

For six years, sir, this case has been partially within my charge and care. I have spent more than one year of solid work upon the Geneva award and upon the question of how it should be distributed. A year's time I have devoted to it, and yet to-day I hold it to be my duty simply to confine myself to those questions which other gentlemen will neglect, which other gentlemen will forget, because in the discussion of them there is no reputation to be gained, and there is certain attack to be suffered and endured. Sir, I can endure the attack, because it has been made upon me again and again by every insurance-company lobbyist who has taken advantage of his rights under the rules of this House and lobbied for insurance companies on this floor. I can endure the assaults of the press hired by the insurance companies to attack gentlemen who differ from them in the view they take. I can stand the assaults of gentlemen on the floor of the House, like the gentleman from New York, [Mr. WILLIS,] who declares that it is impudence without parallel for any gentleman in in this discussion to undertake to inquire into the business of insurance companies, their losses, and their profits.

Sir, it is my duty to inquire into the business of insurance companies. I hold to the doctrine that this nation proceeded against Great Britain as a nation; that there was no claimant before that tribunal except the great claimant of the United States of America; that these insurance companies and these private claimants were there as witnesses and witnesses only, so that from their testimony that tribunal might find some measure of damages; that having listened to their testimony and having rendered an award of fifteen and one-half millions of dollars, that money is to-day in the Treasury of the United States, not in trust, as the gentleman from New York says, for insurance-companies or private claimants, but is in the possession

of the United States under no legal obligation to give it out anywhere on earth, but under the highest and deepest moral obligation to pay it to those who suffered from the wrongs inflicted upon this country by Great Britain.

Holding, Mr. Speaker, to that view it becomes my duty to inquire into the business of insurance companies because they are the first, the most persistent, the most audacious claimants for this fund to-day before the Congress of the United States; and, sir, they have prevailed upon the majority of the Judiciary Committee to report to this House a bill which should be entitled "a bill for the relief of insurance companies," because it is a bill that gives no relief to any person on earth except these companies. And, sir, I call the attention of the House to the fact that it gives relief to the British insurance companies precisely as it gives relief to our own. Those English insurance companies, taking advantage of their own country's wrong to us in a time of war, made millions of dollars out of our poor shipowners and importers of merchandise; and the majority of the Judiciary Committee has reported a bill which shall afford them the relief which they seek; and to-day they have powers of attorney in the hands of New York lawyers to enforce those claims provided this bill passes. It may not be known to all gentlemen that the insurance companies of England did a large business in these war risks. Every shipper of grain from the port of New York to the port of Liverpool was insured in English insurance companies, because the shipper desired to draw in advance, and the only way he could do it was to telegraph the insurance in an English company in which the consignee had confidence and would advance upon the bill of lading.

Again, sir, I desire to say that no other person can recover one single dollar under the majority bill presented by the Judiciary Committee referring the question to the Court of Claims. The insurance companies hope to recover under the doctrine of subrogation, by technical rules of law; and no other person whatever has or ought to have any hope of recovery under this bill. So it is a bill for the relief of insurance companies and for the relief of no one else.

Mr. KELLEY. For the further emolument of insurance companies.

Mr. FRYE. I shall come to that by and bye.

Now, sir, it is a square dead fight between the insurance companies of Great Britain and America and every man who lost a dollar outside of them by reason of these English cruisers; and it has been so for the three Congresses in which I have served on the Judiciary Committee. Why, sir, in the Forty-second Congress, when the matter came before the Senate of the United States, Mr. CONKLING, in behalf of the insurance companies of New York, offered an amendment, the effect of which would have been to have allowed them to recover their losses. That was voted down in the Senate after discussion by a vote of 30 to 18. The House bill to pay losses by inculpated cruisers and war premiums excluded insurance companies except they showed a net loss.

A distinguished gentleman and member of this House from New York then, as he is a distinguished member of the present House, [Mr. POTTER,] offered a motion in the House to strike out that exclusion of insurance companies. It was discussed, and giants, sir, not pigmies, took part in the discussion in favor of the companies. The gentleman from New York, [Mr. POTTER,] the gentleman from New York, Mr. Tremaine, and the gentleman from Vermont, Mr. Poland, no three more powerful gentlemen in argument could have been found in this country than were those three. That motion of Mr. POTTER was discussed, and it was defeated by a vote of 37 ayes and 157 noes; a deliberate judgment of this House, after discussion, against these insurance companies.

Then came the white-haired man from Vermont, Mr. Poland, and he put in a specious sophistical disguised court bill, the bill which the majority of the Committee on the Judiciary have now reported, and labeled a bill to refer all claims to the court; and Judge Poland did everything in his power to commend it to the House. There were about thirty members then who thought the money should be covered into the Treasury of the United States, and they joined with those members who were in favor of the insurance companies; but Judge Poland's bill was defeated by an aye vote of 63 and a nay vote of 125.

The House then by a two-third vote substituted its own bill for the Senate bill to pay for the losses caused by the inculpated cruisers, and to pay also the war-premium claims.

Again, in the Forty-third Congress the old insurance lobby was here in full force and full power. A bill passed the Senate to pay losses by inculpated cruisers. The Judiciary Committee of the House reported a substitute paying losses caused by both inculpated and exculpated cruisers and also reported in favor of paying the mutual insurance companies. When that bill came before the House I made a motion to strike out the mutual insurance companies. That motion was discussed on the floor of the House, so that every man understood it, and when the question was taken upon it the ayes were 137; the noes were too insignificant to count.

Mr. Poland again presented his now famous court bill; it was rejected—ayes 94, noes 149. The House bill passed by a majority of 31. There was a conference, and I was on the conference committee. Finally we agreed practically to the Senate bill providing that further distribution of the fund should be left to the Congress of the United States, not to the courts of the United States.

Again, in the Forty-fourth Congress they came, not disturbed, not frightened, their patience not worn out, although up to that time these insurance companies had never got but 35 votes in this House. They came here not discouraged, I say; in spite of that, they came again to the Forty-fourth Congress, and the Judiciary Committee reported a bill providing for paying losses caused by the exculpated cruisers; also war-premium claims, and excluding insurance companies except they show a net loss from their business.

The chairman of the Committee on the Judiciary, [Mr. KNOTT,] surely a gentleman of influence and weight and power in this House, and deservedly so, moved to strike out the clause excluding insurance companies from the bill. That was discussed and the motion was defeated by ayes 35, noes 151; and the bill as reported from the Committee on the Judiciary passed the House. No action was taken upon it in the Senate on account of complications that we were under at that time.

Now they have come into the Forty-fifth Congress with the same demand. Up to the commencement of this Congress there had been three subcommittees of the Committee on the Judiciary, each one made up of lawyers, and each one devoting a solid month of time to a careful examination and discussion of this case. During all that time I say these insurance companies had been defeated before the subcommittee of the Judiciary Committee. Then when the subcommittee reported to the full committee they had been defeated every time before the full committee.

In the Forty-fifth Congress for the first time they have carried a majority of the Judiciary Committee by one. The subcommittee appointed by the chairman, after a careful, labored, diligent search for the right in this matter, by a majority, determined against these insurance companies and in favor of the minority bill. But that subcommittee was overruled by the Judiciary Committee itself, and, as I said, by a majority of one these insurance companies have finally triumphed in the Judiciary Committee.

The question now comes, Shall their triumph be a lasting one? Shall this House affirm the verdict of the majority of this Judiciary Committee or shall it affirm the verdict of every other House that has sat here since this matter has come under discussion, and a verdict of every other House by an immense majority?

Did I not well say, Mr. Speaker, that it was well for me to look into the rights of the insurance companies? Why should an insurance company recover if it lost nothing? Under the bill of the Forty-third Congress every insurance company in this country that had suffered a loss by reason of its business of taking war risks has recovered the amount of that loss and has put the money into its coffers. To-day they say to us that we have no right to pay losses by exculpated cruisers. Yet they under that law recovered for losses caused by exculpated cruisers equally with losses caused by inculpated cruisers.

Mr. LUTTRELL. Did they not also recover interest as well?

Mr. FRYE. They did. To-day they affirm on the floor of this House that we have no right to pay a war-premium man, while under that law they recovered for the war premiums which they paid to other insurance companies to take their risks off their hands.

To-day they say there is no distinction to be made between inculpated and exculpated cruisers, no distinction to be made against war premiums paid when they themselves go before the courts we created. Here in Congress we are robbers, we are doing gross injustice, and Mr. Lathers, a distinguished insurance lobbyist——

Mr. WILLIS, of New York. I object to my friend calling Mr. Lathers a "lobbyist." He has never accepted anything for his services in this matter. He is a gentleman of integrity, the peer of the gentleman from Maine and every other gentleman on this floor. He should not be assailed where he cannot defend himself. If he was here to defend himself he would be quite competent to do so.

Mr. FRYE. Mr. Speaker, it is a little remarkable that a gentleman of this House should fly into such a passion——

Mr. WILLIS, of New York. Not at all.

Mr. FRYE. Because an insurance attorney is only named here.

Mr. WILLIS, of New York. He is not an attorney. He is a gentleman personally interested.

Mr. FRYE. May not an insurance attorney be a gentleman? [Laughter.]

Mr. WILLIS, of New York. Undoubtedly, but I am stating the facts as to Mr. Lathers.

Mr. FRYE. Did he not write an argument in this case?

Mr. WILLIS, of New York. He did, and one which you will find it impossible to answer.

Mr. FRYE. Well, I will try before I get through. Now, Mr. Speaker, that gentleman, who is represented by the gentleman from New York [Mr. WILLIS]——

Mr. WILLIS, of New York. No, sir.

Mr. FRYE. Defended by the gentleman from New York.

Mr. WILLIS, of New York. That is right. I want the gentleman to be accurate.

Mr. FRYE. This gentleman, Mr. Lathers, took occasion to call us who differed from him exceedingly hard and wicked names. We were without breadth and without depth, without reason and without justice, because one hundred and fifty-one of us thought the insurance companies ought not to recover from this fund, while thirty-five wise, distinguished, virtuous gentlemen, lovers of justice, thought the other way! Eleven obstinate jurors could not be brought to agree with the one honest, fair-minded man!

Mr. WILLIS, of New York. I said I wanted the question settled according to justice, equity, and the law of nations.

Mr. FRYE. Now, the gentleman from New York [Mr. WILLIS] insists that the Government of the United States became an agent of these insurance companies. Oh, to what a depth, then, has our great country fallen! An insurance agent! Let it beware how it adopts this new, and to it untried, business. Several distinguished gentlemen, during the last few years involved in its intricate mazes, have retired to the quiet repose of prison life. Our Government may perhaps become accessory to crime after the fact. [Laughter.]

The Government of the United States, controlling forty-five millions of people, is the agent of the Atlantic Mutual Insurance Company of New York! [Laughter.] The agent for what purpose? The agent of the Atlantic Mutual Insurance Company to recover of Great Britain millions of dollars, to be paid into the coffers of that company, which had already ground six million dollars from the poor shipowners and importers of the United States trying to sail their ships under the American flag.

Mr. WILLIS, of New York. As the gentleman addresses his remark to me I will say to him he is mistaken.

Mr. FRYE. Mistaken in what?

Mr. WILLIS, of New York. Mistaken in the statement that this company had extorted $6,000,000.

Mr. FRYE. Did they not make $6,000,000?

Mr. WILLIS, of New York. No, sir; these were mutual companies; their profits were divided. What the gentleman states as their profits were nothing but assets held for payment of losses or distribution among those who had paid premiums.

Mr. FRYE. I will come to that point. The Government of the United States is, like Mr. Lathers, the agent of an insurance company! This company calls upon the President of the United States and tells him that in a message to be delivered to forty-five million people he must call the attention of the world to these claims of that insurance company and demand of Great Britain that they shall be paid. Ay, more, that he shall advise the Congress of the United States to have these claims purchased, and then compel Great Britain to pay them back. Ay, more, it requires the great United States of America, as agents of insurance companies, to levy contributions on all the diplomatic powers of the country. Ay, more, it demands that the United States should call upon the Senate of the United States, the treaty-making power, to make treaties for the protection of their clients, the insurance companies. Ay, more, this Government, if Great Britain refused, was bound as the agent of these companies to declare war, fit out navies, raise up armies, spend millions upon millions of dollars and sacrifice hundreds of thousands of lives to collect the claims of their clients!

Agents of insurance companies! The idea is utterly absurd and revolting. If the United States were the agents of insurance companies they were agents also of war-premium men; were they not? They had in their charge the claims of war-premium men. If agents of insurance companies, they were agents also of the men who lost by exculpated cruisers. And if the Government of the United States as the agent of the men who lost by exculpated cruisers gave up the claims of their client in order to establish a precedent and a rule of law, then, in the name of Heaven, is not the Government of the United States responsible to that client to-day?

If the United States as agent of the war-premium men, as these gentlemen assert, yielded the claims of the war-premium men for the sake of establishing rules between two great nations, is not the United States to-day holden to the war-premium men to pay them those claims?

But there was no agency, no agency for anybody, no agency for any company. The United States had been insulted. The United States in its dignity as a country had been trifled with, had been attacked through itself and through its people, and in the capacity of a great Government had made its demand upon another great government and recovered an award; not for insurance companies, not for war-premium men, not for the men who lost by exculpated cruisers; no; but for itself, to do whatever it pleased with it; and we expect the Government through the Congress to be governed in the distribution of that fund by moral obligations alone and not by law, for there is no law in it.

But there is the other gentleman from New York, [Mr. POTTER,] and that is their only hope in a court bill, who holds that the insurance companies are subrogated, subrogated to all the rights of the insured, and hence in law they are entitled to recover from this fund and will recover under the bill which has been reported. This distinguished gentleman from New York to my left [Mr. WILLIS] calls it *spes recuperandi*, and for the benefit of the ignorant men on the floor I am glad to see he translated it. [Laughter.] But it is the doctrine of subrogation. No lawyer on the earth denies the doctrine that the underwriters, in case the ship is lost or abandoned, undoubtedly, paying the loss, is entitled to recover to himself all that is left of the timbers of the ship or the cargo.

Mr. WILLIS, of New York. Or what is recovered from the justice of foreign states, as in this case.

Mr. FRYE. I never heard such a doctrine in my life. Again, he is entitled to recover whatever can be recovered in a court of law against any trespasser who destroyed that ship or that cargo. Now, that is all he is entitled to. He is entitled to the balance of the timbers of the ship and the balance of the cargo, and he is entitled to the right of action against any wrong-doer who caused the destruction of the ship. The gentleman from New York is entitled to the timbers our confederate friends left of our ships captured by them. [Laughter.] His insurance companies may have the old hulks. They may send their divers down and bring them up.

Have they any claim against the men who caused the destruction? If they have, that can be enforced. If Raphael Semmes was a pirate, then these insurance companies have their remedies in the courts of the United States, if he were alive, to recover from any of his officers and from any of his crew or from the men who sent them there. They have a right, and a legal right, to recover for the destruction of those ships. But is there any such right? Why, it seems to me we were taught there was not by a pretty serious lesson. We took the Savannah, a privateer, early in the war, and the cry went out all over the North and all over the West that we should hang the officers and crew as pirates; and we sent them to New York and we called together a jury and we tried them as pirates and the jury disagreed, and the civilized world heard of what we were doing in America and they sent out in trumpet tones their protest. It was discussed in the French Assembly; it was discussed in the Parliament of Great Britain. It was urged there: "We have accorded belligerent rights to these gentlemen in the South whom you say are in rebellion. These men on those cruisers are commissioned officers, are acting under authority. You must treat them as prisoners of war; you cannot and dare not hang them as pirates." The North and the West quivered with excitement for their hanging, but in less than a month's time you could not have heard a whisper in the North or in the West that they should be treated any other way than as prisoners of war.

If, sir, they were prisoners of war and entitled to the treatment of prisoners of war, then a ship-owner whose ships they destroyed had no right of action which he could maintain in any court in this country for a single moment. If no right of action could be maintained, then there was no subrogation. You cannot subrogate to a mere gratuity. There is no such law, and no gentleman on this floor can find any. So much for the great doctrine of subrogation which is so attractive to every lawyer who only looks at the face of this case.

Well, then, they have another specious plea which they make; the gentleman hinted at it a moment ago. My friend from Michigan [Mr. CONGER] inquires of me whether I do not hold they might have brought and maintained suit against Great Britain. Yes, they might; if the Government of the United States would have been willing to have acted as their agent and raised armies and navies and overawed the courts of Great Britain, ultimately they might have recovered, but I think not otherwise. [Laughter.]

The gentleman from New York hinted a moment ago at one of their specious pleas and a taking one. It is this: These are mutual companies. The New York Times very kindly came in to the aid of these insurance companies, and the metropolitan press is very liable to do it. I have noticed it heretofore. Why, I do not know, but I can guess. These mutual insurance companies say they are gentlemen, ship-owners, importers, who come together making up a pool, and in making up that pool they insure each other against loss. At the end of the year, if there has been no loss, each gentleman steps up and takes out the share of the pool he put in, less office expense. If there has been a loss of $50,000 that loss is charged against the pool, and then at the end of the year each gentleman takes his share of the balance. Now that is a mutual insurance company, and they say to you, gentlemen——

Mr. WILLIS, of New York. Perhaps the gentleman will oblige us by accounting for the New England press also.

Mr. FRYE. They are all the other way. [Laughter.]

Mr. WILLIS, of New York. Yes, all the other way. It is New England *versus* the rest of the country. [Laughter.]

Mr. FRYE. The Atlantic Mutual Insurance Company is not located in New England.

Mr. WILLIS, of New York. No; happily it is not.

Mr. FRYE. Now they say, that being so, the true way for Congress to do is this: "Pay the money to us; we will pay it out to the war-premium men who paid in the war premiums to us." They wanted to make us agree to that. So they went to work in 1873 and got the New York Assembly to pass a law, and immediately on its passage they brought it here. I should say there were a dozen New York lobbyists and insurance lawyers came with it.

Mr. WILLIS, of New York. How many from New England?

Mr. FRYE. If the gentleman will please not interrupt I will proceed. I do not like to see the "galled jade wince" so much.

Mr. WILLIS, of New York. I only want the House to know both sides of the case.

Mr. FRYE. They brought that law along here—about a dozen of them—and represented to the Judiciary Committee: "See how honest we are; you see we mean to pay it out to the men who paid it in, the very men you are fighting for." What is that law which passed in 1873? Here it is:

CHAPTER 614.

An act to authorize marine insurance companies to declare extra dividends in certain cases, passed May 24, 1873.

The people of the State of New York, represented in senate and assembly, do enact as follows:

SECTION 1. If any marine insurance company, organized under the laws of this State, having paid a loss, shall receive a sum derived from the Geneva award, by

way of reimbursement of that loss, it shall be lawful for such company to divide the net amount so received, after deducting the expenses and liabilities relating hereto, among the persons or parties who paid premiums and suffered by the payment of the original loss, &c.

Mr. LUTTRELL. Did you ever know them to divide?

Mr. FRYE. Oh, yes; I have known receivers to divide between themselves and the lawyers. [Laughter.]

Now notice, gentlemen, this was done to impose upon a dignified body like the Judiciary Committee. "Shall be lawful," mind you. It does not say they "shall" do it. Oh, no; they are too witty and wise for that. They did not go to the New York assembly and get it to pass a law compelling them to pay the money out to the war-premium men who paid it in. But they went and got a law passed declaring it should be lawful for them to do it if they wanted to. Imagine the "Atlantic Mutual"—oh, no! imagine the Columbian Mutual wanting to pay out to the war-premium men!

Now, the war-premium men say, "No, thank you; we do not care to have these insurance companies take our money and pay it out to us." Why? I will tell you why. I am going to take the case of the Columbian Insurance Company in order to tell you why. The Columbian Mutual Insurance Company was organized in 1857. The figures I am about to give are taken from its annual reports. War risks served the company well. In January, 1864, they reported assets $3,140,930 made out of their war-premium business; and in 1860 the excess of losses over gains was $86,000. Between that time and 1864 they made, as I say, over $3,000,000. After reserving for estimated claims unadjusted and other contingencies $441,206, they left a profit to be divided of $695,974.52. And in 1866 they failed. Why? They failed because the war stopped. So long as they were doing a war-premium business they were solvent; in the four years they made three and a half millions. From 1864 up to 1866 they managed somehow or other to lose every dollar of it and failed. Now I know a gentleman in the eastern part of Maine whose ship was insured in the Columbian Mutual Insurance Company and it was burned by an inculpated cruiser, and then he called upon the company to pay. It refused. Action was brought and judgment recovered, but a week before judgment was recovered that Columbian company failed.

Mr. KELLEY. Having divided its assets, probably, among its members.

Mr. FRYE. Yes; having probably divided its assets, it failed; and, as near as I can learn, not over $400,000 of assets ever went into the hands of the receivers appointed by the court. What did they do with the $400,000? They paid 5 per cent. of the loss of my friend in Maine. They paid 5 per cent. on their losses. What became of the balance? I saw an official statement made by them. I could not find it among my papers; I will not say I remember it distinctly, but my impression is that that official statement showed that they paid New York lawyers $150,000 counsel fees—David Dudley Field at the head. What did they do with the rest? Nobody knows what these receivers did with the rest; but these poor ship-owners who lost their ships and got 5 per cent. from the Columbian company have pooled together and brought suit against the receivers in the city of New York to compel them to disgorge. Whether they will disgorge or not Heaven only knows; I do not.

Now these gentlemen say this Columbian company has a claim here of about $1,000,000; interest and all, a little over $1,000,000. And these gentlemen say, "Look at this admirable mutual insurance company, made up of pool-holders, and, as the Times says, of 'subscribers;' pay over this million of dollars to the receivers of the Columbian Insurance Company, and they will pay it out to you ship-owners and you cargo-owners who paid the war premiums to them." Only think of it. Is it not strange that the ship-owners and the war-premium men should object to any such guardian as the Columbian Insurance Company? Would they not have to pool together to bring suit once more against the receivers of that company in New York to see if they could make them disgorge a hundred or two thousands of this one million?

But they say this Atlantic Insurance Company is a model mutual insurance company, is a strictly mutual insurance company. Now, let me read two or three sections from the insurance laws of the State of New York and certain articles of the by-laws of the company. I have them here taken from its reports. First, a brief history.

In 1824 the Atlantic Insurance Company, a stock concern, was chartered and organized, did business for eighteen years, paid a net profit of 350 per cent. on its original capital—a remarkable success—and yet in 1842 it adopted the mutual plan. What was its motive? Certainly not charity. An examination of its charter and the insurance laws of New York will show. Twenty-one of the original stockholders obtained the charter. In examining this, I take an abstract made by Mr. Moore, of San Francisco, whose direct and indirect losses ruined him, and who died seeking his rights of Congress:

Section 10 provides that policy-holders on risks not marked off, upon which the premium is not less than $100, shall be entitled to one vote for each $100 of such premium until the outstanding scrip of the company shall amount to $500,000.

Section 11 provides that scripholders to the amount of $100, issued in the name of such holders, shall be entitled to one vote for each $100 of such scrip.

Section 13 provides that "annual dividend statements shall be made, which shall contain a fair estimate of the net profits of the company not before divided, up to and including the last day of each year, taking into view the probable amount to be paid on all claims and demands which have been or may be made against the company." After ascertaining in this mode the net profits of each period on risks marked off, the board of trustees may declare a dividend, and the officers of the company may issue certificates of a certain percentage on the premiums received for such marked-off risks, to the persons in whose names the policy of insurance was originally made, or to their representative.

Section 19 provides that the trustees of the Atlantic Mutual Insurance Company may take from themselves, as stockholders in the Atlantic Insurance Company, one-half of the stock and assets of the latter company, on such terms and for such periods as they can agree with themselves, and pay legal interest thereon, and authorizes them to appropriate and pay profits thereon *pro rata* upon the amounts received, with the premium subsequently earned.

Section 13 declares the amounts named in the scrip certificates to be conclusive, whether accepted or not. Persons entitled to such scrip can, therefore, have no claims upon the surplus earnings. It also declares that such scrip shall be percentage on the premiums received, thereby excluding policy-holders from participating in the interest derived from the large amount of invested capital.

Section 1 permits any mutual marine insurance company then existing, or that might thereafter be chartered by the Legislature, or be incorporated under any general law of the State of New York to create or unite with its existing funds a cash capital of not less than $300,000, to be divided into shares of $100 each.

Section 2 provides for payment of 7 per cent. interest on such capital, and permits the payment to the holders of stock capital, in cash, one-third of all the net profits of the business, the other two-thirds of net profit to be paid in scrip to persons entitled by the charter or articles of association to participate in its profits.

Section 4 provides that holders of cash capital or stock shall be entitled to one vote, at all elections, for each share of stock; that no person shall be entitled to vote at any election by reason of holding either policies of insurance or certificates of scrip, thereby annulling sections 10 and 11 of the charter of the Atlantic Mutual Insurance Company and depriving policy and scrip holders of all mutual marine insurance companies of membership, making scripholders simply creditors of the companies and their claims subject to be canceled at the discretion of a board of trustees, in whose election they have no voice.

This is that model company of merchants contributing to a pool. See, now, how successfully it operated.

I quote from the New York Insurance Reports, 1861, volume 1, page 527:

The Atlantic Mutual was organized in 1872. Total assets January 1, 1861, $6,646,292.10; profits for 1860, $1,594,000. Six per cent. interest on the outstanding certificates of profit will be paid to the holders thereof on and after the 5th of February, 1861.

After reserving two and one-half millions of dollars profits, the outstanding certificates of 1859 will be paid to the holders thereof. A dividend of 35 per cent. cash is declared on the net earned premiums for the year ending December 31, 1860.

For the year 1862, 40 per cent., free from Government tax, is declared.

Again, from reports of 1864:

Total amount of assets January 1, 1864, $9,265,546.32; net earnings remaining with the company, $5,268,370; profits for 1863, $2,630,800; after reserving three and one-half million dollars of profit, certificates of the issue of the year 1862 will be paid. A dividend of 40 per cent. is declared.

I call attention to the following table to illustrate the profits of these insurance companies during the war, when they were receiving war premiums:

Synopsis of business of the several insurance companies in the city of New York hereinafter named for the several years as stated, made from their own returns.

ATLANTIC MUTUAL.

For what years.	Premiums, &c.	Losses and expenses, &c.	Interest paid, cash.	Scrip dividends.
			Per cent.	*Per cent.*
1861	$4,155,165 78	$3,040,126 64	6	30
1862	4,485,253 68	2,710,705 31	6	40
1863	7,597,666 56	4,888,618 52	6	40
1864	7,964,369 14	4,629,925 30	6	40
1865	6,764,146 38	4,651,519 89	6	35
Total	30,966,601 54	19,920,895 66		

SUN MUTUAL.

1861 to October	$1,483,263 64	$1,316,300 70	6	10
1862 to October	1,629,089 61	1,362,970 22	6	16
1863 to October	2,265,576 31	2,003,788 70	6	10
1864 to October	2,192,087 12	1,620,407 11	6	30
1865, fifteen months, to December 31	2,691,751 07	2,464,241 63	7½	12
Total	10,261,767 75	8,767,708 36		

MERCANTILE MUTUAL.

(Paid dividend on capital besides.)

1861	$847,972 68	$753,322 01	6	12
1862	1,044,005 09	885,187 48	6	17
1863	1,163,741 64	1,031,436 85	6	12
1864	1,281,790 41	1,146,374 95	6	29
1865	915,013 63	842,531 89	6	(*)
Total	5,252,523 45	4,658,853 18		

* Scrip converted into stock.

Synopsis of business of the several insurance companies, &c.—Continued.

COMMERCIAL MUTUAL.

For what years.	Premiums, &c.	Losses and expenses, &c.	Interest paid, cash.	Scrip dividends.
			Per cent.	*Per cent.*
1861 to July	$581,827 94	$462,439 34	6	10
1862 to July	397,580 39	293,777 98	6	25
1863 to July	477,092 38	378,056 30	6	20
1864 to July	476,084 51	281,814 81	6	33½
1865 to July	381,191 26	243,178 11	6	35
1865, six months, to December 31	316,849 14	130,302 05	.....	25
Total	2,630,625 62	1,789,568 59		

COLUMBIAN.

1861, fourteen months, to January 2, 1862	$982,695 67	$711,382 09	(†)	(†)
1862	725,386 39	496,617 25	(†)	(†)
1863	2,362,842 02	1,225,778 69	(†)	(†)
1864	4,932,516 67	2,867,762 05	(†)	(†)
Total	9,003,440 75	5,301,540 08		

†Various to stock and dealers.

ORIENT MUTUAL.

1861 to March	$517,342 21	$383,389 87	6	18½
1862 to March	444,461 68	337,049 60	6	25
1863 to March	370,648 78	265,335 36	.....	.....
1864 to March	283,998 00	194,674 49	6	20
1865, ten months, to December 31	360,134 68	271,424 22	6	10
Total	1,976,585 35	1,451,910 54		

GREAT WESTERN.

1861	$1,600,011 94	$1,446,252 83	6	.....
1862	1,591,075 77	1,204,536 79	6	10
1863	2,476,201 57	1,507,125 58	6	25
1864	2,585,967 80	1,613,381 71	6	40
1865	2,780,031 80	2,308,959 12	6	30
Total	11,093,288 88	8,080,256 03		

UNION MUTUAL.

1861	$518,082 84	$392,025 25	6	31
1862	449,975 50	249,645 11	6	41
1863	533,970 03	322,976 77	6	28
1864	516,064 71	231,549 64	6	40
1865	507,173 15	407,944 60	6	20
Total	2,525,266 23	1,604,141 27		

NEW YORK MUTUAL.

1861 to July	$738,374 52	$642,851 81	6	10
1862 to July	562,729 37	456,798 50	6	15
1863 to July	638,471 18	445,220 97	6	10
1864 to July	514,337 24	296,509 56	6	80
1865 to July	410,485 20	291,926 80	6	12½
Total	2,864,397 51	2,133,315 64		

WASHINGTON MARINE.

1861	$205,689 37	$187,634 62	7	.....
1862	230,005 71	185,564 00	7	.....
1863	335,818 59	254,931 33	7	20
1864	466,522 59	398,582 41	7	20
1865	528,805 74	465,840 94	7	10
Total	1,766,842 00	1,492,603 30		

PACIFIC MUTUAL.

1861	$589,093 48	$487,238 07	6	10
1862	523,789 22	296,006 28	6	35
1863	701,967 16	478,331 61	6	30
1864	836,772 88	462,387 14	6	37½
1865	760,321 95	498,665 36	6	20
Total	3,411,944 69	2,222,628 46		

Now, this Atlantic Mutual Insurance Company is the mutual insurance company which to-day is making this fight in Congress, with the $6,000,000 in its coffers, held there for whom, to be paid out to whom and on whose votes nobody knows. But under the laws of New York it will not be paid out on the vote of policy-holders any way.

Now, let me look at these insurance companies a little further. There were forty-five engaged in this business; the total number of claimant companies is forty-five. The number that have failed and wound up business, after the war-premium business was over and from losses subsequent to the war, is twenty-two.

Some of them have lost their books; some of their books have been burned, some have been sold for old paper. Twenty-two of the companies have failed and gone out of business, and are to-day, through this agent, asking Congress to provide by law that they shall recover for the losses caused by the English cruisers. If they get it where will it go? Take a company that has lost its books: what are they going to do with it? How are they going to account for it?

Take the Boylston Company, in Massachusetts, which had a claim of $150,000 inclusive of interest against this fund. It sold that claim at public auction in the streets of Boston, and an agent of the Atlantic Mutual Insurance Company of New York bid it in for $1,000. Who paid the premiums to the Boylston Company? The ship-owners and the cargo-owners. What have they done with the premiums? Divided them out to stockholders. What has become of the company? After the war, and from losses incurred after the war, the company has failed.

Now, if you pay this $150,000 and interest to them, who will get it? The Atlantic Mutual Insurance Company, of New York, with its securities of six and a half millions. Is there any obligation on them to pay it out to these war-premium men? None on earth. Do you think they will do it?

Again, if these companies recover say $6,000,000 from this fund, where will it go? Must not they pay their creditors before they divide it among the premium-holders? Well, gentlemen, the total amount of unpaid liabilities of only twelve of these bankrupt companies is $13,500,000. Suppose you pay the money to them, where will it go? It will go to the creditors of the companies, those who have become their creditors since the war, if it goes out of the hands of the officers of the companies, provided you can find officers of the companies into whose hands you can pay it.

The total amount of war claims of twenty-two bankrupt or closed companies is $1,698,000. Suppose they recover the amount. Recollect that you must add to it two-thirds of the amount for interest. Suppose they recover it, will a war-premium man get a cent? Can he get a cent? Must they not, under their charter, pay their creditors since the war instead of paying it out in dividends to war-premium men? Then what becomes of this talk about mutual insurance companies taking this money and paying it out to the men who paid it in during the war? They know it is an utter impossibility for them to do it.

Then, again, we say, in behalf of the war-premium men, that we do not want any bankrupt concern to take our money and do with it as they please. Again, we say that we do not want any receiver of the Columbian Mutual Insurance Company of New York to compel us to bring a suit at law in order to force them to disgorge this money which you put into their hands.

Mr. Speaker, how much time have I remaining?

The SPEAKER *pro tempore*, (Mr. TOWNSHEND, of Illinois.) One minute.

Mr. KNOTT. I ask that the time of my colleague on the committee be extended if he so desires.

Mr. FRYE. I would like to have my time extended. I do not know exactly how long I shall require.

Mr. KNOTT. I hope there will be no objection.

The SPEAKER *pro tempore*. Unless there be objection the time of the gentleman will be extended. The Chair hears no objection.

Mr. FRYE. I desire to say right here that the New Bedford insurance companies which have not failed were strictly mutual insurance companies; yet they do not claim that they ought to be paid this money. They say "Pay it to the war-premium men who paid it into our hands. We have no desire to receive it." These companies are not here as claimants.

Again, sir, I say that in the law passed by the Forty-third Congress we provided that these insurance companies should recover all net losses on the war-premium business on the insurance of ships and cargoes against loss during the war from the casualities of war. Taking advantage of that law, they have been before the tribunal we created and have every one of them recovered every dollar of their loss. They have that money to-day. They recovered it for losses caused by exculpated cruisers, and also for the losses of war premium paid to other insurance companies to take the risks off their hands: so that to-day there is not an insurance company in America that can show one single dollar of actual loss from the insurance of vessels or cargoes during the late war.

Now, whatever gentlemen on this floor may do, however much we may be influenced by the cry which is made here for insurance companies, I submit to you, gentlemen, that you may put this case squarely to your constituents, and you cannot find one in one hundred who would vote to pay these insurance companies one single dollar. Why?

First, because they lost nothing; second, because they made money as they never made it before. Take the years 1861, 1862, 1863, 1864, and 1865. The Atlantic Mutual Insurance Company, during these years, paid as cash to its stockholders 6 per cent. annually; as dividends 30 per cent., 40 per cent., 40 per cent., 40 per cent., 35 per cent. The Sun Mutual Insurance Company, for the same year, paid to its stockholders annually 6 per cent., and then as premiums 7½ per cent., 10 per cent., 16 per cent., 30 per cent., 12 per cent. The Mercantile Mutual paid annually to its stockholders 6 per cent., and as premiums 12 per cent., 17 per cent., 12 per cent., and 20 per cent.; the Commercial Union, for the same years, 10 per cent., 25 per cent., 20 per cent., 33⅓ per cent., 35 per cent., 25 per cent. So I might go on with company after company. They lost nothing. If they did lose they recovered every dollar of that loss in the court we created. Their dividends averaged through the whole war 25 per cent. Only half of the forty-five companies claimed to be mutual companies at all; the other half were well-recognized stock companies.

To the bill of the minority I have offered an amendment proposing to exclude insurance companies from this court unless they can show net losses. It is an amendment which has been adopted in this House three times, and its opponents have never numbered more than 35. It is an amendment which will make it absolutely certain that these companies, if you send them to the court, cannot take $6,000,000 and divide it among themselves. I trust that this amendment will prevail and that the bill reported by the minority of the committee will be substituted for the majority bill as amended. Why? Because it provides payment for the men who actually suffered by reason of the English cruisers.

I know that the words "actual sufferers" are in this majority bill; and I know that at least one of the gentlemen reporting it believes it would exclude insurance companies unless they could show losses. But I greatly fear, as the companies accept it so readily, that it would not exclude them; because a loss of profits is an actual loss; a suffering on account of profits not gained is an actual suffering; and in this view they might recover. I prefer my amendment, which will make it absolutely certain that they can go no further than the law of the last Congress and the previous Congress permits them to go.

Sir, I do claim that the men who paid those war premiums are the men entitled as a matter of moral obligation——

Mr. BRIDGES. Will the gentleman permit me to ask him a question?

Mr. FRYE. With pleasure.

Mr. BRIDGES. Did all the insurance companies present their claims to the commission that was appointed under the act of 1874?

Mr. FRYE. I cannot say whether all of them who suffered loss or could show loss did or did not. I suppose they did. There were four companies from Massachusetts that presented their claims and recovered for their losses.

Mr. BRIDGES. Under the law of 1874?

Mr. FRYE. Yes, sir. Under that law all companies could present their claims if they so pleased; and as the gentleman from Pennsylvania [Mr. KELLEY] suggests, if any did not present their claims, it was their own fault and their own neglect.

Now, sir, as to these war-premium men. When the war broke out we had twenty-seven hundred thousand tons of shipping on the ocean. In two years more of peace we would have outstripped England, and would have become the mistress of the seas. She saw it. She acknowledged belligerent rights in the month of May to the confederates, and at once the Sumter sailed. She destroyed the Golden Rocket, a ship from Bangor, Maine. The owners of the Golden Rocket sued the insurance company to recover. The court held it could not recover against a loss caused by a privateer, and our ship-owners and our owners of cargoes of priceless value on every sea in the whole wide world, in every bay, in every river, in every port, saw those ships and those cargoes at the mercy of these privateers.

Now, what could they do? Where was their safety? These insurance companies held the only key on earth to the door of safety, and they held it in iron hands with iron hearts, too, behind the iron hands. They said, "We will insure you against loss." We said, "We must be insured, because all that we have in the wide world is at the mercy of these privateers. What is your rate?" They fixed the rate from 5 per cent. to 30 per cent. I saw here a moment ago a telegram asking for insurance. On one ship it was put at 19½ per cent. and on the other at 30 per cent.; $100,000 insured, $30,000 premium!

Mr. LUTTRELL. Here is the telegram and I ask my friend to read it.

Mr. FRYE. Read it yourself, please.

Mr. LUTTRELL. I thank the gentleman. I will read the telegram:

NEW YORK, *June* 24, 1863.

THOMAS DAY, *San Francisco*:

Insured the Tell, Donata, and Crockett at 19½ per cent. and the America at 30 per cent.

MITCHELL, VANCE & CO.

That is what the insurance companies, friends of the gentleman from New York, charged the merchants of San Francisco.

Mr. FRYE. What company was it?

Mr. LUTTRELL. The telegram is from Mitchell, Vance & Co.

Mr. FRYE. They fixed their rates from 5 to 35 per cent. I say the average rate from New York to Canton was 15 per cent.; and I ask you, sir, the gentleman from New York, [Mr. CHITTENDEN,] who knows, how in the name of Heaven a ship-owner could run his ship under the American flag and pay 15 per cent. on a cargo of silk and tea? We were compelled to pay whatever they asked. They fixed the rates at a price they knew would be absolutely safe and they made more than $6,000,000 by the operation.

We paid them. Now what we want is to get it back. The reply of these gentlemen is this: "Oh, yes, you paid them; that is true; but you charged it back on the goods which were imported, and thus compelled the people to pay it, so that if anybody is to receive this Geneva award it should be the people to whom you charged over your war risks." Why, sir, if gentlemen will look at it only for a moment, that is absurd. Three-fourths of all the cargoes upon the ocean during the war were carried under the English flag, where no war premiums were paid either on ships or on cargoes. Who set the markets then, the one-fourth or the three-fourths? For instance, here is my ship, the Pawnee, lying at Liverpool, waiting for freights under the American flag. The gentleman from Illinois [Mr. HARRISON] has a ship, the Resolute, lying at the same wharf, sailing under the English flag, also waiting for freights. The gentleman from Mississippi [Mr. HOOKER] is seeking the carriage of freights. He comes to our ships and says to the gentleman from Illinois, "What is your rate?" and to me, "What is yours? can you take my freights? There will be risks about it." "I have insured my ship, sir, against all risks and paid 8 per cent. I will insure your cargo against risks, too, and present you with the policy of insurance for which I paid 8 per cent." But, says the gentleman from Mississippi, "You do not make your ship equal to the ship of the gentleman from Chicago even then." "Why not?" "Because there is the risk of capture of your ship; there is the risk of detention of your ship; there is the risk, if it is destroyed, of the insurance company failing, on which you give me the policy of insurance, and to make it equal you must take my freight for less." Is not that so? And in order to get that freight from the gentleman from Mississippi I have to pay the war rate on my ship and pay the war rate on the cargo and give it to him, and then I have to carry it for less. Our ships come over to New York, and we pass our goods over to the commission merchant or the importing houses. Can I charge my war premium paid on the ship and on the cargo when my goods must compete with those which the gentleman from Illinois lands? Can I make the market price?

I say there was little or no profit to our ship-owners in the war. I say there was but little business open to us. A. A. Lowe & Co., of New York, had five ships in the China trade. They were patriotic men. They sailed them under the flag of America all through the war and lost every timber of their ships. I do not mean literally the ships themselves, but their value. They cannot get anything out of this fund because the insurance companies want it. I remember A. A. Lowe & Co. had a ship in Canton, the ship Success; and Captain McGillvray, of Maine, the owner of a ship called the Resolute was in Canton at the same time. They were both seeking freights. The freights were to be tea and silk. The Success under the American flag got twelve hundred tons of tea and two hundred tons of silk; it received $10 in currency freight and paid a war premium on the cargo, and when the ship landed in New York it had not enough out of the freight to pay the cook. Now, how as to the Resolute? The Resolute got $16 in gold for the same freight. Why $16 in gold? Because of the risk under the American flag Captain McGillvray transferred his ship to the English flag, nominally; $500 was all it cost him to do it. He ran it under the English flag all through the war, that being the whole cost. He arrived in New York at a time when gold was at 275, and he told me himself he netted $64,000 on the one trip. What did it cost to carry an American flag on the ocean to A. A. Lowe & Co., in New York?

The round voyage between New York and Shanghai is about a year. The ships could take perhaps a few hundred tons of coal out; they could not take back silk and tea, because the war premium on the ship and on the cargo would more than eat up every dollar of freight they could possibly get. American ships under the American flag rotted at the wharves of China because they had not money enough to get home.

How was it with Japan? The Japan trade was about the same as that of China. In neither could an American vessel pay expenses. It was impossible for many of them to return. More than one-half of the sales to the English were merely fictitious, nominal transfers, costing our American captains $500. The employment of our ships under our flag was limited to the coarsest and heaviest freights. They could do some business with Calcutta in hides, in jute, in rice, and in sugar. More of them were employed in the guano trade than in any other. Why? Because the Peruvian government owned the Guano Islands. All that a cargo cost them was to pay the black hands that shoveled it into the hold; and they never inquired about insurance on such a cargo. Nearly all of our large ships were engaged in this trade.

Now I wish to show you another thing. I am trying to show you that we were losing money and that we were patriotic, and not entitled to the sneer of the gentleman from New York. I have

the trade reports of New York for 1873, from which I quote the following:

Trade reports of New York for 1873.

Freights—1873.	American.	Foreign.
Jan. 3.—To Liverpool, flour, per barrel	1*s.* 3*d.*	2*s.*
To Melbourne, per foot	30 to 32*c.*	40*c.*
Jan. 7.—To Liverpool, flour	1*s.* 9*d.* to 1*s.* 10½*d.*	2*s.* 9*d.*
To Glasgow, wheat, per bushel	7¾*d.*	8¼ to 9½*d.*
Engagement of lard and all high-priced goods were exclusively in foreign vessels.		
Jan. 10.—To Liverpool, flour	1*s.* 10½*d.* to 2*s.*	2*s.* 10½*d.*
To Melbourne, per foot	27½ to 30*c.*	40*c.*
Jan. 14.—To Liverpool, beef, per tierce	4*s.*	6*s.* 6*d.*
bacon, per ton	20*s.*	30*s.* to 32*s.* 6*d.*
Feb. 14.—To Liverpool, flour	1*s.* 10*d.* to 2*s.*	2*s.* 6*d.* to 3*s.*
May 20.—Freights to Great Britain very active. The chartered cargoes have all been in foreign bottoms.		
June 24.—There was a good business done yesterday, but at considerably lower rates, by American bottoms, foreign vessels still having the preference.		
To Liverpool, flour	1*s.* 9*d.*	2*s.* 6*d.*
July 1.—There continues an active business in shipment of grain to British and continental ports by foreign bottoms at gradually appreciating prices. American bottoms are entirely neglected.		
July 22.—Foreign tonnage still abundant; American neglected.		
July 29.—To Liverpool, flour	1*s.* 3*d.*	2*s.*
Aug. 29.—To Liverpool, wheat	6*d.*	7*d.*
Sept. 12.—Freights dull; large foreign tonnage; American bottoms neglected.		
Oct. 14.—American bottoms neglected.		
Nov. 4.—Offerings are light, and neutral vessels continue to get the lion's share. Of some 150 vessels now loading for foreign ports only 20 are covered by the American flag.		

I have taken this from the trade-lists of New York, showing that there was a discrimination of from 10 to 50 per cent. against American bottoms in all the trade from New York to foreign ports, simply because the American bottoms sailed under the American flag and were liable to be captured.

And yet gentlemen say that we made money and paid war premiums because we made money. Under the American flag we made no money. We sailed our vessels because we remembered what England had done, and we were determined, if it cost us every dollar we had in the world, we would sail those vessels under the old stars and stripes and pay the price of our patriotic pride. Yet to-day when we ask for our rights we are taunted with making money and the virtue of patriotism is given to the insurance companies.

Now, sir, there is another class provided for in the bill of the minority: those who lost by the exculpated cruisers.

What are they? Let me illustrate: I will take the Shenandoah as an illustration. The Shenandoah was built in England, equipped in England, armed in England, officered in England, sailed by English sailors, and everybody in England knew on what errand she was going when she sailed. She destroyed ship after ship until she got out of coal and provisions; and then she went into Melbourne to get her supplies. A few days before she went in she captured a ship of Mr. Metcalf, of Ohio, the Delphine, and destroyed it. That ship was uninsured against that destruction. The Shenandoah then destroyed all that Mr. Metcalf had in this world. She sailed into Melbourne carrying in there as prisoners the officers and crew of the Delphine.

The Shenandoah coaled and provisioned at Melbourne. Our consul gave notice to the English consul, demanding that she should not be permitted to coal and provision in a neutral port. In spite of that notice she coaled and provisioned there, and again went to sea and again commenced destroying vessels.

Now under what they claim is the Geneva award the gentlemen hold that the ships destroyed after Melbourne must be paid for; but the ships destroyed before Melbourne, the one belonging to Mr. Metcalf, shall not be paid for. Why not? The Shenandoah was the same ship, with the same officers, with the same men, and on the same voyage; she had the same English character all through the voyage. Why, then, exculpate her before Melbourne and inculpate her after? I will undertake to show.

We had always been contending for the rights of neutrals, because we were neutrals while these countries were constantly in war. Many of us were anxious to run privateers on our own account. And our Government knew that we could put three hundred privateers on the ocean in thirty days and she would have no knowledge of it whatever. Suppose that a war had taken place between Russia and England. Within thirty days there would have been one hundred privateers on the ocean, preying on English commerce and paying back the price which she compelled us to pay by the sacrifice of our commerce; and our Government would have had no notice of it whatever.

Our Government contended for a rule which should secure the rights of neutrals. England having a claim made against her for all these cruisers was willing to listen to the determination then. The boot then was on the other foot. So she quietly agreed that actual notice to a government should be required to hold a neutral liable for privateers. Hence, the Shenandoah before Melbourne and before notice is exculpated; the Shenandoah after Melbourne and after notice is inculpated.

Now, to our country that rule in a war would be worth more than the whole of the Geneva award. Yet in order to acquire it our Government gave up and yielded all the losses by all our citizens which were caused by the exculpated cruisers. The inculpated cruisers were only three, and one of them for only a part of the time. The exculpated cruisers could be counted by the score; but they were all given up and these three only included in order that our Government in all the future might point England to a rule to which she had consented, and thus relieve herself from damages.

Now is there any moral obligation on the part of the United States to see to it that we who suffered loss by exculpated cruisers shall be paid, when the Government itself in that single rule has got more than enough to pay it over and over again in the future which lies before us?

When Mr. Metcalf heard that his ship was destroyed he started at once for New York. He heard that the Shenandoah had been seized, carried into England, and delivered to our minister. He determined to go to Europe; just before he started he learned that the Shenandoah had been sold and the proceeds covered into the Treasury of the United States. Yet, forsooth, Mr. Metcalf cannot recover one single dollar of this fifteen and a half millions, while the Atlantic Mutual Insurance Company, with its six millions of laid-up capital it is claimed on this floor shall be permitted to recover three millions more. In the name of justice will the House of Representatives of the Forty-fifth Congress allow or consent to any such monstrosity as that?

Mr. Speaker, I ask the pardon of this House for trespassing upon its patience so long as I have, and for arguing this case in this desultory and disconnected manner. I have, I admit, much feeling in the case. There are thousands of men in my own State who were made utterly poor, houseless, and homeless because they sailed their ships under the American flag in a time of war and paid the penalty because the Government was powerless to protect them. In one little city in my district the war premiums alone which were paid amount to more than the valuation of all the personal property in that city. One single constituent of mine had twenty laden ships upon the ocean when the Sumter destroyed the Golden Rocket. The penalty which these men have paid for their patriotism is poverty, poverty caused in part by the very sums they paid these insurance companies who claim at your hands to-day the reward of reducing these men to poverty.

The war, thank God, is over. The feelings generated by it are fast disappearing. So rapidly have they disappeared that I dare stand here and appeal to the gentlemen who fought on the other side, to those gentlemen who were aided by Great Britain when she sent out these privateers upon the ocean to prey upon our commerce. I dare appeal to them in the name of the flag of to-day, in the name of the country which is theirs and ours, to see to it that justice and mercy shall prevail on this great question.

Mr. STENGER. Mr. Speaker, as one of the members of the Judiciary Committee joining in the majority report upon the pending bill, I desire as briefly as I can to give my reasons for my action in that regard. I would not underrate but would rather magnify the importance of this subject. It is not only important, but I confess that it is to me one that has a peculiar fascination. The story of the operations of the confederate cruisers upon the high seas during the war of the rebellion is one of the most thrilling interest. The consequences which resulted from those operations—direct in the first instance, in the loss of vessels and cargoes, indirect in the second instance, in the transfer of a large part of the American commercial marine to the British flag, the prolongation of the war, and the enhancement of the rates of insurance—were all of the most serious moment to our Government. I have examined with very great interest everything in the negotiations between the United States and Great Britain which led to the making of the treaty of Washington under which the tribunal at Geneva was established. I have examined, too, with care, the proceedings had before that tribunal down to the rendering of the award which gave to our Government the sum of $15,500,000. All this has possessed a strange interest to me. I have admired, also, the ingenuity, skill, and force with which the arguments on either side have been presented by the gentlemen who have taken part in this discussion, evincing profound study and much learning, and characterized as they have been by a great variety and beauty of illustration. But it seems to me that my vote upon this bill is not to be governed by the arguments on either side. It is just because this bill does not decide between these rival claimants that I have given it my support.

I might (and it would be a pleasure to me) comment upon the cases of the two governments as they were presented to that tribunal, and the award itself, but under my view of our duty in the premises I would thus exhaust the patience of the House to no purpose.

I do not conceive that a discussion of those matters is necessary to the decision of the question presented by the bill which comes from the majority of the Judiciary Committee. I want to call back the

House if I can to the consideration of the bill which is pending before it. I desire to speak to it strictly.

What matters it whether I adopt the view of the gentleman from New York [Mr. WILLIS] who opened this discussion the other day, that "the award at Geneva was a judgment in favor of the insurance companies," or that I adopt the opinion of my distinguished colleague upon the Judiciary Committee, [Mr. LAPHAM,] that "it is little less than mockery to treat it as such?" What matters it whether I adopt the opinion of the distinguished gentleman from Maine, [Mr. FRYE,] that the doctrine of subrogation does not apply, or whether I adopt the doctrine of my distinguished friend from New York who sits on my left, [Mr. POTTER,] who says that the doctrine of subrogation does apply?

Under the bill which lies upon your table I need not decide that question. I propose not to decide it. I say that for the proper discussion of this case as it comes before us upon the pending bill it is not necessary that I should give an opinion one way or the other as to how this money should be distributed. It is no business of mine whether it goes to the war-premium claimants or to the insurance companies. It is no business of mine whether it goes to the people who suffered losses on account of inculpated cruisers or to the people who suffered losses on account of exculpated cruisers. That question does not arise at all in connection with the pending bill. The question is not whether I shall enter into the feelings of the distinguished gentleman from Maine who last addressed the House, who represents a district I believe which will receive of this fund $1,000,000 or more if the bill which he supports be adopted, or whether I shall enter into the feelings of those gentlemen who represent the insurance companies, and who would like to have a bill passed directing payment to them? I do not desire to partake of the zeal of either class of claimants.

I do not want to decide the question as to which of them shall come in upon the fund; and it is just for the very reason that this conflict of opinion has arisen, it is just for the very reason that there is a clash of such minds as those of the gentleman from Maine [Mr. FRYE] on the one side and the gentleman from New York [Mr. POTTER] on the other, that I halt and hesitate, and say that I ought not to decide that question and that it ought to be lifted above passion and prejudice, above the local interests of any and every section, and taken to a court which will "keep the scale of justice even and steady and not liable to waver with every new judge's opinion" or the opinion of every new set of judges.

I stand here to-day perfectly disinterested upon this question. I represent a constituency that, as far as I know, has not one dollar's worth of interest in this bill. I have no man at my back crying to me that I shall go for a bill here that will pay his losses. I have no insurance company standing at my back and saying that I shall go for a bill that will pay its losses. Therefore it is that I, speaking in explanation of my own action in signing this report and of the vote which I shall cast for the bill reported by the majority, feel that my judgment has not been influenced by any outside considerations or pressure, that the conclusion which I have reached is right, and that the distribution of this fund should be made by the courts according to the principles of "justice, equity, and the law of nations," as this bill provides. In view of this, Mr. Speaker, I am surprised at the first sentence which I find in the views of the minority upon this bill, which reads as follows:

> For the first time in the history of the legislation of either branch of Congress the insurance companies have succeeded in persuading a majority of the Judiciary Committee into the recommendation of the bill advocated by them for the distribution of the Geneva award fund.

This is the language of a report signed, among others, by two gentlemen from New England who represent nearly all the war-premium claimants upon this fund. I would not intimate that they have any personal interest in this bill—far from it; I do not believe they have. But I know how local interests of that kind must sway men's judgments so that they cannot act with that impartiality with which they would act under other circumstances; and it seems strange to me that gentlemen so situated, backed by claimants upon this fund who expect to take out of it such a large amount of money, should charge upon gentlemen of the majority that they have been "prevailed upon" by insurance companies to report this bill.

Mr. Speaker, this bill is not what the insurance companies wanted. It is not what the war-premium men wanted. Ever since the agitation of the distribution of this fund these people have come into and about the halls of Congress, and they have asked that a distribution of this fund should be made by Congress which shall pay either the one or the other. There has been one continuous, desperate struggle between these two sets of claimants. The insurance companies would be glad if they could get a bill passed through this House ordering payment of this fund, just as the war-premium claimants would wish to have distribution made to them by our legislation. And, sir, I say that so far as the substitute reported by the minority goes, it proposes that we as Representatives in Congress shall say that a certain class or certain classes of people shall be paid and other classes excluded, while the bill of the majority proposes that there shall be no discrimination between the parties when they come into court, but that they shall stand upon an equal footing.

Thus situated between these rival claimants, the majority of the Judiciary Committee came to what conclusion? Why, that they would send all these claimants to a court. That was thought better than a commission. It was thought better than a board of commissioners such as that which is proposed to be revived and re-established by the bill offered as a substitute by the minority. It was thought better than that for reasons which I shall send to the Clerk's desk to be read, given far more ably than I can give them, against the establishment of such a commission, by the gentleman from Massachusetts, [Mr. BUTLER,] whose name is signed to the minority report recommending just such a bill.

The Clerk read as follows:

> The only antagonism of which your committee is aware to having the distribution of this fund settled by a suit in a single court, with the proper claimants made parties, comes from those who desire that a commission should be established, to sit in Washington, to adjudicate this matter. To this proposition your committee have most decided objections. Here are over $15,000,000 to be divided among certain claimants, who are urging their claims with all the zeal that private interests and large sums at stake can command, and it is well known that all Government claims of this description are generally taken in hand by a class of men known as claim agents, some of whom are admitted to the bar and some not, under no responsibility whatever to the commission, itself temporary, which can have no control over them or the propriety of their action, and if they wrong either the clients or the Government can administer no rebuke or punishment to them who carry on this business of advocating claims upon the Government generally upon contingent fees and large percentages, the average of which is not lower, so far as your committee can learn, than 25 per cent.; and as the possibility of obtaining any reward for their services depends upon success, a quarter of this fund—with the accrued interest nearly five millions—the amount of these fees which may or may not be realized, according as the commission can or cannot be moved in favor of the claimants, stands as a fund ready to be used by corrupt men to carry their purposes.
>
> Your committee do not believe it is wise to expose officers quasi-judicial to such great temptation, and to put it in the power of interested parties to obtain claims against the Government through such great inducements as might be used under these circumstances. The prayer "lead us not into temptation" has been ordained as necessary for the daily use and guidance of all Christian men for more than eighteen hundred years.
>
> Besides, the adjudications of this commission are necessarily final, as it is no part of the judicial system of the United States, so that your committee do not see how any appeal can be taken to the Supreme Court. Further, if this commission once gets itself established there is great danger, by referring claims to it on other subject-matters, that it may be continued indefinitely, to say nothing of the very considerable expenses which would attend it, amounting to some fifty to one hundred thousand dollars, even if the Government could get five men fit to do this work, together with the other expenses, for that sum. Nor does your committee think it wise thus to add to the number of office-holders under the Government if its work can be done by the ordinary judicial machinery, which no one doubts. The record of commissions in matters of claims as against governments has not always been so bright and clear as to make it certain that the interest of the Government will be safe as against individual greed, while the United States can say with pride that the integrity of her highest judicial officers has never been questioned, and that of the lower very rarely, and as yet never proven.
>
> On the contrary, if these claims are brought before a court they must be advocated by members of its bar, who will be held responsible to the court for their action, and every adjudication must be made in open day, publishing to the world the grounds and reasons of it and subject to appeal to the Supreme Court of the United States, as in other cases.

Mr. STENGER. Mr. Speaker, I need not add a word to strengthen the positions assumed in that extract from the report of the gentleman to whom I have referred.

But the Judiciary Committee thought further that it was better that this distribution should not be made by the legislature. I confess I have a very high respect for the intelligence of the gentlemen who compose this body. I think I know the intellectual worth of many of them; and, sir, as I would not trust myself upon this question, if there were any local interests of my constituents involved, so I would not trust any other gentleman upon the floor. I would be afraid that his judgment would be biased in favor of his constituents: I would be afraid his judgment would be prejudiced against certain people whom he did not like. I know that there is a widespread feeling against corporations. For instance, I know men who are such bitter enemies of corporations that they would vote against any measure if they knew it would redound to the benefit of a corporation, and for that reason only. I am not one of those, sir. I am neither for nor against them. I would mete out to them simple, even-handed justice as I would mete it out to any individual, and believing that the best place to have justice meted out to corporations as well as to individuals is in a court I would remove the decision of that question from the legislative halls. I would not have men vote as to the distribution of this fund who are animated by any bias or prejudice or passion or local interest at all. I would remove it from such an arena into a court where men sit above all such passions and prejudices, men who are trained in the law, men who have the time to give to the consideration of questions of this kind; because you, sir, know as well as I, and every member of this House knows, that amid the multitudinous affairs which press upon us for action and decision we have not the time to give in order to make a proper decision of such an important question as this.

But, sir, I have another reason why I do not believe any such question should be decided by a legislative body. This body is of but two years duration. Every two years the members of the House of Representatives change. At the other end of the Capitol one-third of its members go out every two years. It is changing constantly. Here is a great question in which the right of property is involved. It is a question in which the right to a great amount of money is involved, and I appeal to every lawyer who sits before me whether it is not far better when rights of property are to be adjudicated they shall not be passed upon by bodies which shift and change like these, but by courts? What better tribunal can there be to pass upon this question than a court? Why should not this go into "a place where justice is judicially administered?" Why should it not go where the

case can be decided without fear, favor, or affection? Why shall it not go to a tribunal which is constituted for the very purpose of passing upon disputed questions of law and fact? Why shall it not go to a court which will have no local interests pressing upon it, which will have no passions aroused, which will have no prejudices excited, but which can sit calmly and dispassionately and adjudicate these questions in the manner in which this bill proposes they shall be adjudicated?

In order to guard this perfectly, Mr. Speaker, so the rights of all these people shall be protected, we do not propose, as do the minority of this committee, that the action of the first court to which it goes shall be final. We do not propose, as they propose, that three judges, to be appointed by the President of the United States, shall pass upon all these questions and that their decision shall be final. Not at all. But we propose that the suit shall be brought in the Court of Claims, to be decided there in the first instance with the right of appeal to the aggrieved party, whether it be the United States Government or the claimant, to the Supreme Court of the United States.

Ought anything more be asked, can anything fairer be granted, than that the highest judicial tribunal of this land shall pass upon the question of the rights of all these claimants to a portion or the whole of this fund? If there are errors committed by the Court of Claims in any of the cases that are brought before them, they can be corrected by the higher court, and then there can be no just complaint about it. Do I speak beyond the card when I say this? Let me examine the bill itself and draw your attention to its provisions.

Who are sent to this court by this bill? I have heard a charge coming up from the other side of the chamber, and I have been accustomed to it in reading the debates and discussions which have gone on for years before Congress, that a bill of this kind committing this matter to the courts would be framed in the interests of the insurance companies; and parties have sought to excite prejudice on that account against the bill now pending before this body. Let me read its language:

All persons and corporations claiming to be entitled to any portions of the moneys now under control of the United States which were received from the Government of Great Britain in payment of the Geneva award, or as interest thereon, be, and they are hereby, authorized to sue for the same in the United States Court of Claims.

Is there any limitation there? Is there any exclusion of anybody? Can the insurance company say it is shut out? Can the war-premium claimant say he is shut out? Can the loser by an exculpated cruiser say he is shut out? Can the loser by an inculpated cruiser say he is shut out? No. The language is as broad as it can be made:

All persons and corporations claiming.

But I am told and the House is told in the minority report that delay will be occasioned if it goes there. Why? When must these parties sue? I quote the language of the bill:

At any time within one year from the passage of this act, in the same manner in which other claims are sued in said court.

But in order that there shall not be delay the bill provides further that when the claimant or the United States Government feels that he or it has been aggrieved by the decision of the Court of Claims and takes out an appeal to the Supreme Court, that appeal shall take precedence of all other cases in the Supreme Court. This provision is intended to hasten administration of justice to these claimants and to facilitate the payment of any judgment that may be rendered in their favor in the court. It goes farther, and provides for the time of payment, as you will see by looking at the bill, making it, if I mistake not, within ten days after the judgment has been perfected, either in the Court of Claims, when no appeal is taken, or in the Supreme Court after appeal and decision thereon.

Now who shall obtain judgment under this bill? "Each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain." That is the language. Not that the insurance companies shall get a judgment and nobody else, as the gentleman from Maine [Mr. FRYE] insists; not that the war-premium claimants only shall get a judgment, as the gentleman from Maine insists they only should; not that a loser by an inculpated cruiser shall get a judgment, or a loser by an exculpated cruiser, but "each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain." Could we have made it broader? Could we have acted more fairly when we decided to send this matter to the courts? Nobody is excluded. Now for what shall they get a judgment?

For such amount only as, in their opinion—

That is, in the opinion of the court—

he shall be justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations.

Ought anybody to get a judgment unless he can get it under the treaty of Washington, under the award at Geneva, and "according to the principles of justice, equity, and the law of nations." I say no; emphatically, no! I care not who the claimant upon that fund may be. If he cannot bring himself within the language of that sentence he is not entitled, he ought not to be entitled, to receive a judgment in his favor from any court, from any commission, or from any legislative body. Mark you, when we ask that this shall be done we do it in accordance with precedents. We do not ask you to do a novel thing when we ask you to pass this bill, because, as the report of the majority shows, upon the distribution of the fund arising from the treaties made between the United States and Great Britain in 1826, between the United States and Denmark in 1830, between the United States and France in 1831, between the United States and the Kingdom of the Two Sicilies in 1832, between the United States and Spain in 1834, between the United States and Peru in 1841, between the United States and Brazil in 1849, and between the United States and China in 1858, the provision was that the distribution should be made "according to justice, equity, and the law of nations"—the very language which is used in the majority report accompanying the pending bill.

And I need not say to the lawyers of this House that Blackstone tells us "it is an established rule to abide by former precedents where the same points come again in litigation." And where questions of this character come again, as they do here, to be decided as they have been decided in the cases which I have enumerated heretofore, it ought to be the same as where points of litigation arise before the courts; they ought to be binding upon us as the rule of conduct by which we should be guided. But, mark you, it is not only according to "law." The distinguished gentleman from Maine would have you believe that under the technical rules which obtain in a court of law the war-premium claimants might be shut out and that the sufferers by the exculpated cruisers might be shut out. He has no warrant for that, because the majority have gone further and they have not only asked that this distribution shall be made "according to law," which I admit is not always "the perfection of reason," but they ask that it shall be distributed according to equity whose courts are established, according to Blackstone, "to detect latent frauds and concealments which the process of the courts of law is not adapted to reach; to enforce the execution of such matters of trust and confidence as are binding in conscience, though not cognizable in a court of law; to deliver from such dangers as are owing to misfortune or oversight; and to give a more specific relief, and more adapted to the circumstances of the case, than can always be obtained by the generality of the rules of the positive or common law."

They ask that it shall be distributed according to equity, which Grotius defines to be "the correction of that wherein the law (by reason of its universality) is deficient."

Under the bill of the majority, the various claims that may be presented are to be decided according to the law of nations, according to justice, according to equity. Can anybody ask more than that? Yet over and over again we have heard the cry that the majority of the committee favor the insurance companies. Time and again we have had it repeated on this floor that insurance companies have "prevailed upon" a majority of the committee to report this bill. I stand here to-day, Mr. Speaker, to defend this bill and this report, because I believe them to be right, and because I believe it would be anything else than right to say that any set of claimants upon this fund shall be excluded from the distribution, so that the court shall not be able to pass upon the question as to how the whole balance remaining in the Treasury shall be distributed. I would not put any trammels upon that court by saying that none of the fund shall go to the insurance companies; I would not put any restrictions upon that court by saying that no part of the fund shall go to the war-premium claimants or to the losers by the exculpated cruisers, although (as it has been often urged upon this floor) the very tribunal sitting at Geneva excluded them from its consideration in making up the award. No, I would let every man and every insurance company that claims any portion of this fund go before that court untrammeled in every particular; and it is for this reason I support the bill reported by the majority. Hence my opposition to the amendment offered by the gentleman from Maine, which proposes to dictate to and control the court in the matter of the claims of insurance companies. I say here (and I believe it will strike every candid man as being right) that if the insurance companies before a tribunal clothed with all the powers of a court of law and equity can show themselves entitled to recover under the treaty and the award, they ought to recover. So if under the principles of law and equity as administered in that court any of the war-premium claimants or all of them, or any or all of the losers by exculpated cruisers, can show themselves entitled to recover, they ought to recover. But I ask you, looking upon this question calmly and dispassionately, whether you or I or any of us or all together ought to decide this question? Is it not far better, is it not far safer, to let it go to a court of law and equity?

I stand here to-day also to repudiate the idea that this fund ought to lie in the Treasury. I do not believe in any such doctrine. I do not believe that after we proved claims for direct losses to the amount of the award; after we pressed our claims upon the attention of Great Britain for a far larger sum than was allowed us; after we insisted that she ought to pay the indirect losses; after we made such claims as those upon Great Britain, and this award of fifteen and one-half millions of dollars was paid into the Treasury, I do not believe we ought now to say to Great Britain and to the world that we cannot tell to whom Great Britain owed this money, that we are not able to find out to whom this fund belongs, and because we cannot find that out we mean to cover it into the Treasury and hold it there tightly in our grasp. I believe that the honor of the nation is at stake in this particular. I have a high appreciation of the ability of the men who framed the treaty of Washington. It was a grand triumph of American skill in diplomacy. It has secured to us the recognition of a principle as to the duty and liability of a neutral nation in time of war that is of the utmost value to this people. I have the highest

appreciation of the tribunal which sat at Geneva, of the reputation of the gentlemen who composed it for intelligence and learning. I have the highest opinion of the counsel who stood before that tribunal on either side of the question.

I look upon that award, no matter whether the money comes to us as a nation or whether it comes to us in trust for claimants, as an award of money which this Government ought to pay to somebody. I believe we ought to find out who is entitled to it, and that the way to find this out is in a court of justice. I believe it is our duty as representatives of this people, whose honor is at stake, to see to it that the national honor shall not be tarnished, either by keeping this money in the Treasury, or by authorizing its payment hurriedly, without proper examination, without time for examination, to people to whom it ought not to go. In this view of the case, I protest against the amendment of the gentleman from Maine; I protest against the bill presented by the minority here; and I ask the gentlemen of this House to take into serious consideration the question whether the bill which I have sketched—feebly, I know, but sketched as well as my ability will permit—does not present the best plan for disposing of this perplexing controversy, that plan being that the courts, untrammeled, shall pass upon all the points involved and determine them as to them shall seem proper and as to justice and equity doth appertain.

Mr. BURCHARD. I move that the House now adjourn.

Mr. CONGER. Who is recognized as entitled to the floor when this question comes up again?

The SPEAKER. The Chair will recognize the gentleman from Michigan, [Mr. CONGER.]

Mr. CONGER. Then I yield for the motion to adjourn. I desire to inquire whether the whole of the hour of the gentleman from Pennsylvania [Mr. STENGER] has been consumed.

The SPEAKER. It has not. The Chair desires to ask the gentleman from Pennsylvania whether he designs to give away his remaining time—fifteen minutes.

Mr. STENGER. I yield that time to the gentleman from Ohio, [Mr. KEIFER.]

The SPEAKER. The Chair, proceeding according to the list, will recognize the gentleman from Michigan as next entitled to the floor when the subject comes up again.

ELECTORAL VOTES.

On motion of Mr. SOUTHARD, by unanimous consent, the bill (S. No. 1308) to amend sundry provisions of chapter 1, title 3, of the Revised Statutes of the United States, relating to presidential elections, and to provide for and regulate the counting of the votes for President and Vice-President of the United States and the decision of questions arising thereon, was taken from the Speaker's table, read a first and second time, referred to the Committee on the Revision of the Laws Regulating the Counting of the Electoral Votes for President and Vice-President, and ordered to be printed, not to be brought back by a motion to reconsider.

SUBSISTENCE OF THE ARMY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the appropriation for the subsistence of the Army; which was referred to the Committee on Appropriations.

ENLARGEMENT OF THE INTERIOR DEPARTMENT BUILDING.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, relative to the enlargement of the Interior Department building; which was referred to the Committee on Appropriations.

And then, on motion of Mr. BURCHARD, (at three o'clock and forty minutes p. m.,) the House adjourned.

IN SENATE.

MONDAY, *December* 16, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday last was read and approved.

WILLIAM H. BARNUM, a Senator from the State of Connecticut, appeared in his seat to-day.

PERSONAL EXPLANATION.

Mr. WHYTE. Mr. President, I ask permission of the Senate to say that on Friday last I was detained from my seat in consequence of severe and sudden illness. As my views in regard to the power of the two Houses of Congress in counting the electoral votes are well known, it seems hardly necessary to say anything in regard to my vote; yet I desire to make the statement that had I been present when the bill reported by the Senator from Vermont [Mr. EDMUNDS] was on its passage I should have voted against it.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois. The Manufacturers' Association of the Northwest have sent me a certain preamble and resolutions, in the nature of a memorial, which I ask the Secretary to read.

The VICE-PRESIDENT. They will be reported at length.

The resolutions were read, as follows:

THE MANUFACTURERS' ASSOCIATION OF THE NORTHWEST,
Chicago, December 11, 1878.

SIR: I am instructed to transmit to you the following resolutions, which have been adopted by the Manufacturers' Association of the Northwest, with the request that they be presented and acted upon at the earliest possible moment:

Whereas the communication addressed to this association by Hon. J. W. Foster, United States minister to the Republic of Mexico, contains statements that are biased and prejudiced, and are at variance with the official reports of United States consuls at the several ports and stations of that republic, as published under the direction of the State Department of this Government, and in direct contradiction to the experience of well-known and responsible citizens of the United States who have resided in that country for many years; and

Whereas the commercial relations that our merchants and manufacturers are endeavoring to establish between the United States and Mexico require that the true condition of affairs in that country be fully known and thoroughly understood before investing money and time in such enterprises: Be it therefore

Resolved by the Manufacturers' Association of the Northwest, That the Congress of the United States be, and is hereby, respectfully memorialized to send a subcommittee of the Committee on Commerce of each House respectively to accompany an excursion party that purposes leaving this city for Mexico on the 4th day of January next, with instructions to investigate and report upon the practicability of establishing more direct and intimate commercial relations between the United States and the Republic of Mexico, and to make such suggestions as the knowledge thus acquired may, in their opinion, be conducive to that end.

Be it further resolved, That our Senators and Representatives in Congress be requested to present the above resolutions and urge their adoption.

Very respectfully, your obedient servant,

DAVID H. MASON,
Secretary of the Manufacturers' Association of the Northwest.

Hon. DAVID DAVIS,
United States Senator, Illinois, Washington, D. C.

Mr. DAVIS, of Illinois. I am not disposed to urge the Senate to any action upon the resolutions at the present time. I move that they be referred to the Committee on Commerce for its action.

The motion was agreed to.

Mr. WHYTE presented the petition of Messrs. C. Morton Stewart & Co., E. D. Bigelow & Co., Gill & Fisher, and others, merchants and shippers of Baltimore City, praying for the passage of a law making an appropriation for the construction and maintenance of a light-ship on the upper middle ground in Chesapeake Bay; which was referred to the Committee on Commerce.

He also presented the petition of Captain F. K. Grant, John McWhinnie, Edgar Jenkins, and others, masters of vessels sailing out of the port of Baltimore, praying for the passage of a law appropriating a sum of money to construct and maintain a light-ship on the upper middle ground in Chesapeake Bay; which was referred to the Committee on Commerce.

Mr. BUTLER presented the petition of John Randolph Hamilton, of South Carolina, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. KERNAN presented a resolution of the Elmira Academy of Medicine, in favor of an appropriation by Congress to defray the expense of printing a catalogue of medical books in the Surgeon-General's library; which was referred to the Committee on Appropriations.

He also presented the petition of Charles Barber and others, and the petition of J. H. Copp, M. D., and others, of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. MORGAN presented a memorial of the General Assembly of Alabama, praying for the establishment of a board of United States surgeons to act in conjunction with the local boards of health, and containing such other provisions as may be requisite to make a quarantine law thorough, effectual, and impartial in its operations; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

He also presented a joint resolution of the Legislature of Alabama, in favor of the repeal of the law imposing a tax of 10 per cent. on the issues of State banks; which was referred to the Committee on Finance.

Mr. OGLESBY. I present a memorial on the same subject as that presented by my colleague a few moments ago, from the Manufacturers' Association of the Northwest, Chicago, Illinois, and I ask that it may take the same reference with the memorial presented by him.

I will also state that I should be glad if the Committee on Commerce would pay some attention to it before the adjournment for the holidays, as the commission to visit Mexico on this subject will take its departure from Chicago about the 4th of January. This memorial asks Congress to appoint a subcommittee of the Committees on Commerce of both Houses to accompany that delegation to visit the Republic of Mexico. I should be glad if the Committee on Commerce would give the subject some attention within a day or two. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. FERRY presented the petition of Robert Gorthy and Colvin Green, of Victor, Clinton County, Michigan, praying that the Solicitor of the Treasury be authorized to convey to them certain lands in that county; which was referred to the Committee on the Judiciary.

Mr. DAWES presented the petition of O. K. Wood and others, of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WADLEIGH presented the petition of Benjamin Gould and others, of New Hampshire, praying for the passage of the bill (H. R.

No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. MITCHELL presented the petition of John Payne, of Oregon, praying compensation for certain horses stolen and driven away by the Nez Percés Indians from Camas Prairie, Idaho Territory, in June, 1877; which was referred to the Committee on Indian Affairs.

Mr. CONOVER presented the petition of William Fitch, attorney for Samuel Cross and William H. Hoecke, proposing to sell to the Government certain property in Washington City; which was referred to the Committee on Public Buildings and Grounds.

Mr. HOAR presented the petition of James C. Daggett, of Vermont, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MATTHEWS presented the petition of Jerome C. Holloway and others, of Ross County, Ohio, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. PLUMB presented the petition of C. W. Dunaway and others, citizens of Pawnee County, Kansas, praying that the Fort Larned military reservation may be opened to settlement; which was referred to the Committee on Military Affairs.

Mr. WALLACE presented the petition of the Vessel-Owners and Captains' Association of Philadelphia, praying that there may be no change in the navigation laws; which was referred to the Committee on Commerce.

Mr. MORRILL presented a petition signed by the president and secretary of the Medical Society of Kings County, New York, and by a large number of physicians, praying the establishment of a national public health board; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

He also presented a petition signed by the professor of obstetrics, &c., of Jefferson Medical College, Philadelphia, by the professor of skin diseases in the hospital of the University of Pennsylvania, and by various other professors of different colleges throughout the country, praying the passage of a law providing for the establishment of a national public health board; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. CONKLING presented the petition of M. P. Whallon and others and the petition of Ezra Bliss and others, citizens of New York, residing chiefly in Essex County, praying for the passage of the bill (H. R. No. 4234) providing for the payment of arrears of pensions; which were ordered to lie on the table.

Mr. CONKLING. I also present a memorial which inasmuch as it is not technically addressed to Congress I am not sure is quite in order, and yet I venture to present it being among other things a resolution of the Elmira Academy of Medicine urging legislation which it is understood is proposed and now before the Printing Committee for printing an exhaustive catalogue of medical books, journals, pamphlets, and the like in the office or the Surgeon-General, which these memorialists deem very important. It goes I suppose to the Committee on Printing, and I move its reference to that committee.

The motion was agreed to.

Mr. BUTLER presented a memorial of the National Grange, Patrons of Husbandry, praying for the repeal or a reduction in the tax on tobacco; which was referred to the Committee on Finance.

The VICE-PRESIDENT presented resolutions of the Bangor Art Association, of Bangor, Maine, requesting that the Secretary of the Treasury avail himself of the highest degree of artistic and inventive talent so that our coins may be in reality an honor to the genius of the age in which we live; which were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 3124) to amend section 824 of the Revised Statutes of the United States, reported it with an amendment.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes, reported it with amendments.

WALKER'S STATISTICAL ATLAS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to bind the copies of Walker's Statistical Atlas heretofore ordered for the use of the Senate, have instructed me to report it with an amendment in the nature of a substitute and recommend its passage. I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the following resolution:

Resolved, That the copies of Walker's Statistical Atlas heretofore ordered for the use of the Senate be bound by the Public Printer.

The amendment reported by the Committee on Printing was to substitute for the original resolution the following:

Resolved, (the House of Representatives concurring,) That the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress be bound by the Public Printer.

The amendment was agreed to.

The resolution, as amended, was agreed to.

BILLS INTRODUCED.

Mr. BECK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States; which was read twice by its title.

Mr. BECK. I desire to have the bill printed and lie on the table subject to be called up when I call up another bill of which I gave notice.

The VICE-PRESIDENT. The bill will lie on the table subject to the call of the Senator from Kentucky.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1506) for the relief of Robert Gorthy and Calvin Green; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1507) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians proclaimed January 21, 1867; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1508) for the relief of William B. Jones, Maximilian Cook, and S. H. Dunaway, of Arkansas; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Judiciary.

Mr. CONOVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1509) granting a pension to John Willans; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1510) to increase the pension of Edward J. Russell; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1511) granting a pension to Dederick Blanck; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1512) ganting a pension to Peter Gettert; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1513) granting a pension to Charles Reed; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1514) granting a pension to Simeon Ingalls; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1515) granting a pension to James H. Poland; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1516) for the relief of John Payne, of Oregon; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1517) for the construction of a custom-house and bonded warehouse at Portland, Oregon; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1518) for the relief of Anna M., Mary, and Catharine, daughters and surviving heirs of the late Barry Hayes; which was read twice by its title, and referred to the Committee on Claims.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1519) for the erection of a fire-proof building for the National Museum; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1520) for the relief of Laban Heath & Co.; which was read twice by its title, and referred to the Committee on Claims.

Mr. BAILEY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1521) to amend the pension laws; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1522) to regulate the employment of labor on the public works of the United States; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1523) for the relief of William T. Newcomb; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave

to introduce a bill (S. No. 1524) making an appropriation for the improvement of the Missouri River at Sioux City, Iowa; which was read twice by its title, and referred to the Committee on Commerce.

AMENDMENTS TO BILLS.

Mr. OGLESBY submitted two amendments intended to be proposed by him to the bill (H. R. No. 5218) to establish post-roads in the several States herein named; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. PADDOCK submitted an amendment intended to be proposed by him to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

UNITED STATES ATTORNEYS' FEES.

Mr. COKE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to examine into the expediency of repealing all laws providing compensation for United States attorneys by means of fees, and the passage of a law fixing salaries for such officers as their only compensation, and report by bill or otherwise.

SILVER COIN FOR DUTIES.

Mr. BECK. I offer the following resolution:

Resolved, That the Secretary of the Treasury be directed and required to appear before the Senate in person on Wednesday next at one o'clock p. m., to inform the Senate what reason, if any, he has for failing to answer the resolution of the Senate passed on the 3d day of December, 1878, which is in the following words:

"*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what amount of silver coin has been received in payment of customs dues since the beginning of the current fiscal year, and whether or not he has applied the silver coin so received, in whole or in part, to the payment of the interest on the bonds or notes of the United States; if it has not been so applied, to state the reason why; if it has been applied to that purpose in part only, to state what portion has been so used and on what character of obligation. He is directed to inform the Senate the amount of interest he has paid on the bonds and notes of the United States since the current fiscal year began, and the amount of such interest which he has paid in gold and silver coin respectively."

The VICE-PRESIDENT. Will the Senate agree to this resolution?

Mr. MORRILL. If the Senator from Kentucky desires to discuss this question this morning, to make any presentation of his views upon the subject, I have no objection to hearing him; but the time has been so short since the resolution was introduced, if the Senator will reflect for a moment upon the various sources from which this information must be derived, that it is hardly possible that the Secretary of the Treasury should have had time to obtain the information and put it in a form to present it. I have no sort of doubt but that the Secretary is quite willing to answer this as speedily as it is possible for him to present the facts, and I infer from some conversation I had with him that the answer will come in perhaps to-day.

Mr. BECK. My only object in introducing the resolution is to obtain an answer to the resolution of the Senate passed December 3.

Mr. BLAINE. One single moment. I hope an objection is not too late. I do not want to have this matter take possession of the day.

Mr. MORRILL. I rose merely to say——

Mr. BLAINE. I have no objection to hearing the Senator from Kentucky. Of course I do not mean that.

Mr. BECK. Of course upon an objection being made the resolution will lie over. I repeat, the only object I have is to obtain before the holidays an answer from the Secretary of the Treasury relative to matters which he was directed to report upon to the Senate. The time is very short. Perhaps the duties and labors of his office and the force at his command may be of such a character that he is unable to answer as fully as he would like to do, but I presume it would in no way embarrass the Secretary to appear before the Senate on Wednesday next and give his reasons for the delay. Perhaps he could do it better in that way than by making a written report. The Senator from Vermont remembers very well that the Revised Statutes provides for that, and it is understood that the first Secretary of the Treasury, perhaps for his own convenience, had this provision made. Section 248 in part reads as follows:

> The Secretary of the Treasury * * * shall make report, and give information to either branch of the legislature in person or in writing, as may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office; and generally shall perform all such services relative to the finances as he shall be directed to perform.

As I said there can be no embarrassment to the Secretary in appearing, under the provision of the law which was inserted at the request of Mr. Hamilton himself, before the Senate and giving us the reasons he has, if any, for failing to answer a Senate resolution. Among the reasons why I desire an answer before we take a recess is that the Secretary in his report announces the fact that—

> As yet paper money has been depreciated, and silver dollars being receivable for customs dues, have naturally not entered into general circulation, but have returned to the Treasury in payment of such dues, and thus the only effect of the attempt of the Department to circulate them has been to diminish the gold revenue.

That being the fact, the law of the United States provides, by a positive mandate about which there can be no misunderstanding, (see section 3694,) that—

> The coin paid for duties on imported goods shall be set apart as a special fund, and shall be applied as follows:
>
> First. To the payment in coin of the interest on the bonds and notes of the United States.
>
> Second. To the purchase or payment of 1 per cent. of the entire debt of the United States, to be made within each fiscal year, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.
>
> Third. The residue to be paid into the Treasury.

As the Secretary announces to us that a very large amount of interest will fall due on the 1st day of January and that he has on hand a considerable amount—how much I do not know—of silver coin or certificates, which by the statute is coin, received from customs, which is specially dedicated and set apart by law, first, to the payment of interest on the public debt, and as he has in his annual report informed us of a great many things that he desires to do and will do on the 1st of January, unless specially ordered by Congress to do otherwise, I think it extremely important that we should have the information from the Secretary, first, as to the amount of silver coin he has thus received from customs dues; second, whether he has applied it, as the law requires him to apply it, to the payment of interest on the public debt, and if he has not, to tell us why not.

I intend if possible to have the law obeyed by all our officials, high and low. Senators will readily see the object I have in view. Whether the silver bill was a good one or not it is the law of the land, and I shall insist, as long as that law remains on the statute-book, that the Secretary of the Treasury and all other officers shall comply with it. We have high authority for the position that the only way to make a bad law odious and secure its repeal is to enforce the law itself. I think the silver bill was a good law. Senators may differ as to that; all must agree that it is the law. I can perceive no possibility of doubt as to the truth of the fact that the Secretary *cannot*, without being guilty of embezzlement under the embezzlement act, apply the silver coin received from customs to any other purpose than, first, to the payment of interest on the public debt, and I desire to see that he is required to so pay it. I am free to say that it is because of the action that was taken or threatened to be taken by a number of bankers in New York, who determined to discriminate against the silver dollar, and who sought, as far as they were able, to override the laws of Congress or force us to repeal or modify the silver bill for their benefit, that I want the silver dollar received for customs to be paid to them and their fellow-bondholders. They hold $360,000,000 of the bonds of the United States. They have been receiving their interest in gold all the time, and keeping up the premium to increase their profits, and now when the law says that they shall receive their interest in the silver dollar paid for duties at the custom-house, I intend, as far as in me lies, to see to it that they are required to take them, and they will see to it that the silver dollar which they are required to take for their interest is made good and maintained. They will become bulls in the silver market instead of bears. The Secretary of the Treasury is our agent, not theirs, and he should be ordered in no uncertain way to comply with the law as it stands so long as it remains upon the statute-book.

I am not seeking by my resolution for his personal appearance to reflect upon the Secretary, nor do I seek to embarrass him; but the Senate ought to know the facts for the reasons I have given, and because the Secretary in the report from which I have read has assumed that after the 1st day of January he will receive legal-tender notes for customs dues, and do a great many other things which we have tried in vain to pass laws ordering him to do. He says that he will continue to issue interest-bearing bonds if necessary, even after resumption has taken place, to any amount he may think is required to maintain the payment in coin of the debts of the country. He further shows, and the facts are, that in his efforts at resumption, notwithstanding the monthly statements that he is largely and regularly reducing the public debt, that he is largely increasing the interest-bearing obligations. I hold his monthly statements in my hand for the month of November, 1875, November, 1876, November, 1877, and November, 1878, and the fact is shown in these reports that he has increased the bonded debt of the United States which bears interest, in the last three years, $104,499,450. He has increased the principal of the interest-bearing debt of the United States in the last year $76,816,000; and yet while these facts are true we are flattered by professions that the national debt is diminishing. The debt that bears the burden of interest has been increased over $104,000,000, and four millions and a half or five millions of interest has been annually added to the taxes of this people in the last three years in order to bring about this so-called resumption.

In November, 1875, the principal of the interest-bearing debt was $1,694,251,300; in November, 1878, it was $1,798,750,750.

Mr. MERRIMON. How has he done that?

Mr. BECK. He has done it by selling interest-bearing bonds and hoarding gold. You will see by his monthly statement and the report just laid before us that he is buying gold in large quantities for bonds. He says that he sold fifty millions of 4½ bonds in April last to a syndicate in New York and London when the people of the country were taking bonds at 4 per cent. to the amount of $102,000,000 during the last year, paying gold for them. By this operation the principal of the interest-bearing debt of the United States, which alone requires the imposition of tax burdens on the people, has been increased, according to the statement of the Secretary, $104,000,000 in the last three years, which interest adds to the taxation of the country nearly $5,000,000 annually. There may be a reduction in the total debt, but the non-interest-bearing debt, the legal-tender

notes, the other currency that the people need and have to be taxed nothing for, have been diminished, to their detriment and to the contraction of the necessary currency; whereas the bonded debt, which is bearing interest, has been increased, as I have stated, $104,000,000. The Secretary further tells us that he intends to issue notes of large denominations on the 1st day of January next. Whether he means to withdraw small bills, he does not say. There are very many other things, which I will not even allude to, in that very able, but very remarkable, report, which the Senate ought to be fully advised about and ought to act upon before a recess is taken. It is to obtain information at once as to the use made of the silver coin received at the custom-house, so that we may take steps promptly to maintain the law in its integrity, and not allow either bankers or other interested associations to override it or to induce the Secretary to evade it, that I am pressing the resolution now laid before the Senate. I have no other object in view, and I feel assured that our action, if any is necessary, will control the future action of the Secretary in regard to the silver coin, the use of which for the purposes prescribed by law I shall endeavor to have maintained. That is all I desire to say at present.

Mr. MORRILL. Mr. President, I rose merely to say that if the Senator desired to make his explanation I had no objection to that; but I do object to the consideration of the resolution to-day. I have no doubt of the purpose of the Senator from Kentucky, and that purpose I think is to embarrass resumption. I desire to say that although the proposition made by the Senator from Kentucky is to call upon the Secretary of the Treasury to come here and make a personal explanation, I think that the present Secretary would not be embarrassed, even though that is a requirement that has not been demanded on the part of the Senate for eighty years past. I know of no instance where the Secretary of the Treasury has been asked to appear in person to make any explanation for the last eighty years. If the interest-bearing debt has been increased it has been done in strict accordance to law—it has been done solely to obtain coin for resumption purposes.

But it seems to me that it is not a reproach to the present Secretary that by his management there has been a reduction in the rate of interest by which bonds have been issued at 4 per cent. instead of 4½ per cent within the past year. I think that certainly is no reproach to the present Secretary. I am very certain that the Secretary has no objection to answering the Senator's resolution introduced some days ago; but it seems to me that it is asking a little too much that he should within so short a time be expected to make a reply to a resolution so comprehensive as the resolution of the Senator from Kentucky. I object to the consideration of the resolution to-day.

The VICE-PRESIDENT. The resolution will go over, not on the objection of the Senator from Vermont, but in point of time the Senator from Maine [Mr. BLAINE] interposed an objection when the Senator from Kentucky rose. The resolution goes over to-day.

Mr. MORRILL. I objected in the first instance.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the Senate of December 5, 1878, a report of the commissioners of the Freedman's Savings and Trust Company relative to the affairs of that company; which, with the accompanying papers, was referred to the Committee on Finance, and ordered to be printed.

DISTRICT RAILWAY COMPANIES.

The VICE-PRESIDENT also laid before the Senate a communication from the president of the Metropolitan Railway Company, in compliance with a resolution of the Senate of the 31st of May, 1878, transmitting a statement of the secretary and treasurer of that company showing the amount of capital stock, the amount of bonded and floating indebtedness, the gross and net earnings, operating expenses, &c.; which was referred to the Committee on the District of Columbia, and ordered to be printed.

HOLIDAY RECESS.

The VICE-PRESIDENT also laid before the Senate the following concurrent resolution from the House of Representatives; which was read:

Resolved by the House of Representatives, (the Senate concurring,) That when the House adjourns on Friday, the 20th instant, it stand adjourned until Monday, January 6, A. D. 1879.

Mr. BLAINE. I wish that to be laid aside until some other matters are ordered by the Senate, so that we may know just where we stand.

The VICE-PRESIDENT. The resolution will be laid aside, there being objection to its present consideration.

REORGANIZATION OF THE ARMY.

Mr. BURNSIDE. On Thursday next, after the morning hour, I shall ask the indulgence of the Senate to make a few remarks upon the bill (S. No. 1491) to reduce and reorganize the Army of the United States and to make rules for its government and regulation. I will promise not to be longer than three-quarters of an hour and perhaps not so long. I shall ask the Senate to hear me on Thursday morning after the morning hour.

WARREN MITCHELL.

Mr. HARRIS. I wish to give notice that on Wednesday morning, after the morning hour, I shall ask the Senate to consider the bill (S. No. 865) for the relief of Warren Mitchell.

Mr. GARLAND. I understand that notice has been given that the bill (S. No. 910) for the relief of the book agents of the Methodist Episcopal Church South will be called up on that day.

Mr. HARRIS. I am advised that notice is already given that another bill will be called up that morning. Therefore I will change my notice, then, to Tuesday (to-morrow) after the morning hour.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5514) to amend the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872;

A bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia;

A bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point; and

A joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department.

The message also announced that the House had passed the bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

The message further announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

The message also announced that the House had passed a concurrent resolution for the printing of 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories, in quarto form, with the necessary illustrations; in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution for the printing of 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878; in which it requested the concurrence of the Senate.

EXERCISE OF ELECTIVE FRANCHISE.

Mr. BLAINE. I move that the Senate proceed to the consideration of the resolutions which I offered early in the session.

The VICE-PRESIDENT. The Senator from Maine moves that the pending and all prior orders be laid aside and that the Senate now proceed to the consideration of the resolutions, which will be read.

The resolutions submitted by Mr. BLAINE on the 2d instant were read, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire and report to the Senate whether at the recent elections the constitutional rights of American citizens were violated in any of the States of the Union; whether the right of suffrage of citizens of the United States, or of any class of such citizens, was denied or abridged by the action of the election officers of any State in refusing to receive their votes, in failing to count them, or in receiving and counting fraudulent ballots in pursuance of a conspiracy to make the lawful votes of such citizens of noneffect; and whether such citizens were prevented from exercising the elective franchise, or forced to use it against their wishes, by violence or threats, or hostile demonstrations of armed men or other organizations, or by any other unlawful means or practices.

Resolved, That the Committee on the Judiciary be further instructed to inquire and report whether it is within the competency of Congress to provide by additional legislation for the more perfect security of the right of suffrage to citizens of the United States in all the States of the Union.

Resolved, That in prosecuting these inquiries the Committee on the Judiciary shall have the right to send for persons and papers.

Mr. WADLEIGH. I am obliged to insist upon the regular order.

The VICE-PRESIDENT. The special order of the day is the bill of the Senator from New Hampshire. The Senator from Maine moves to lay aside that special order and all prior orders.

Mr. BLAINE. My reason, Mr. President, I will state briefly, for I do not wish to detain the Senate in debating the question. If the resolutions are to have any effect, either those I have offered, or the amendment of the Senator from Ohio, [Mr. THURMAN,] it is quite important that both be adopted before the recess. I have no disposition to detain the Senate one minute upon them. All I desire is that they may be acted upon at a sufficiently early period of the session to give them some weight and effect. To postpone them until after the holidays is to run them until near the end of the session, and is merely to abandon the purpose and object in view.

Mr. GARLAND. I trust the Senator from Maine will not call up his resolutions until the Senator from Ohio who offered the amendment shall be in his seat. I do not know that it is his purpose to be heard upon the amendment, but he is absent from his seat at present. The Senator can call up the subject during the day.

Mr. WALLACE. I will state that the Senator from Ohio is detained from the Senate to-day by illness. He is unable to be here. I have a note from him to that effect.

Mr. BLAINE. The amendment is in and he has been heard upon it.

He loses no right by our proceeding. I should of course be the last one to show the slightest disrespect to the honorable Senator from Ohio, either present or absent.

Mr. GARLAND. I do not know whether he wishes to speak any further upon his amendment or not. The amendment was not printed when he made his speech, nor was the amendment before the Senate properly, but was merely ordered to be printed, and it then went over to a future day. So far as I myself am concerned, I am ready to vote on the resolutions and amendment now.

Mr. BLAINE. I think the Senator from Ohio intimated, if he did not state distinctly, that he had closed his remarks. That was my impression. I do not, however, state it except as a mere impression.

The VICE-PRESIDENT. The proposition of the Senator from Maine is that the pending and all prior orders be laid aside and that the Senate now proceed to the consideration of the resolutions just reported by the Secretary.

Mr. WADLEIGH. Mr. President, from what inquiries I have made I am satisfied there will be very little debate upon Senate bill No. 300, and I entertain no doubt of our being able to dispose of it to-day. At the same time I recognize the force of what my friend the Senator from Maine has said in reference to the necessity of passing his resolutions prior to the adjournment for the holidays, if they are to pass at all. I am willing that the resolutions of the Senator from Maine be taken up subject to my call for the special order, which is Senate bill No. 300, and then if any Senator is prepared to speak upon the resolutions—and I have no doubt some intend to speak—he can go on with his speech, and then I can call up Senate bill No. 300.

Mr. MATTHEWS. Mr. President, I dislike very much to antagonize the Senator from Maine in reference to the matter to which he has called the attention of the Senate, more especially as I think his resolutions ought to pass, and ought to pass before we take our recess. But nevertheless I feel constrained to make a motion to amend his motion, and that is, that all prior orders be laid aside for the purpose of taking up Senate bill No. 942, and I desire in submitting that motion to make one remark.

Prior to the close of the last session of this body, upon my motion, Senate bill No. 942 was postponed until the first Wednesday after the meeting of this body at this session, in order that it might be taken up and disposed of without coming in conflict with any other business that might be considered, of equal or superior importance. On the day designated I called the bill up, and objection was made to its consideration at that time on the ground that being the first week of the session the seats of Senators were not all full and that a measure of that importance ought not to be considered until there was a full attendance. I have delayed presenting the matter again, upon a notice, however, publicly given, that when the vote should be taken upon the bill introduced and supported by the Senator from Vermont, [Mr. EDMUNDS,] in reference to the counting of the electoral vote, I should then urge the Senate to take up the bill to which I have referred and dispose of it. I am charged by a committee of this body with the conduct of this bill, and therefore I feel that I ought to have the sense of the Senate without any further delay whether or not they will consider the bill at all. If they choose to refuse to entertain it, that is perhaps as convenient a way of passing upon its merits as I know of, and I am quite willing to accept the judgment of the Senate upon such a vote, and therefore I submit the motion as an amendment to that offered by the Senator from Maine, to substitute Senate bill No. 942 in his motion to displace all other orders.

The VICE-PRESIDENT. The Senator from Ohio moves to amend the proposition of the Senator from Maine, so that the Senate shall proceed at this time to the consideration of the bill named by him.

Mr. MATTHEWS. On that I demand the yeas and nays.

Mr. MORRILL. Is that in order?

The VICE-PRESIDENT. The Chair holds that it is in order. The Senator from Ohio asks for the yeas and nays.

Mr. MORGAN. I desire to say to the Senator from Ohio that while I am entirely willing to assist him in taking up his bill at any proper moment, I cannot vote for taking it up as against Senate bill No. 300, which is before the Senate as the regular order of business. I hope he will defer the time for calling this matter up on that account.

The yeas and nays were ordered.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Ohio.

The question being taken by yeas and nays, resulted—yeas 26, nays 33; as follows:

YEAS—26.

Armstrong,	Davis of W. Va.,	Johnston,	Patterson,
Bailey,	Eustis,	Lamar,	Randolph,
Beck,	Ferry,	McCreery,	Ransom,
Cameron of Pa.,	Garland,	McPherson,	Wallace,
Cockrell,	Grover,	Matthews,	Withers.
Coke,	Harris,	Maxey,	
Conover,	Hereford,	Merrimon,	

NAYS—33.

Allison,	Conkling,	Kirkwood,	Saulsbury,
Anthony,	Davis of Illinois,	McDonald,	Saunders,
Bayard,	Dawes,	McMillan,	Teller,
Blaine,	Eaton,	Mitchell,	Voorhees,
Booth,	Hamlin,	Morgan,	Wadleigh,
Burnside,	Hoar,	Morrill,	Windom.
Butler,	Howe,	Paddock,	
Cameron of Wis.,	Ingalls,	Plumb,	
Christiancy,	Kernan,	Rollins,	

ABSENT—17.

Barnum,	Edmunds,	Kellogg,	Thurman,
Bruce,	Gordon,	Oglesby,	Whyte.
Chaffee,	Hill,	Sargent,	
Dennis,	Jones of Florida,	Sharon,	
Dorsey,	Jones of Nevada,	Spencer,	

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the motion of the Senator from Maine.

Mr. WADLEIGH. Shall I understand that the Senator from Maine accepted the proposition which I made?

Mr. BLAINE. Will the Senator state the proposition?

Mr. WADLEIGH. That Senate bill No. 300 be laid aside informally subject to call.

Mr. BLAINE. I suppose under the rules of the Senate if these resolutions are taken up now the bill of the Senator from New Hampshire does not lose its place, but comes up as soon as the resolutions are disposed of.

The VICE-PRESIDENT. The rights of the bill attach upon the disposition of the resolutions, the Chair holds.

Mr. BLAINE. If this order is made does it lose its place?

The VICE-PRESIDENT. It does not. It will come up immediately after this order shall have been disposed of.

Mr. BLAINE. That is what I understood.

Mr. WADLEIGH. But it may be that Senators have speeches to make on the resolutions of my friend from Maine which they are not ready to make, and in such a case I should desire to put the bill in.

Mr. BLAINE. Of course if there is any gap I am as willing the Senator should occupy it as anybody else.

Mr. WADLEIGH. With that understanding, I do not object.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maine.

The motion was agreed to; and the Senate resumed the consideration of the resolutions.

Mr. WHYTE. I rise to ask a parliamentary question. Has not any Senator a right to call for the special order now.

The VICE-PRESIDENT. The Senate has already decided to set it aside and all prior orders, and the resolutions of the Senator from Maine are before the Senate.

Mr. WHYTE. Subject to call for the regular order, as I understood. I understood that was part of the contract.

The VICE-PRESIDENT. The Senate has decided that it will set aside the special order and all prior orders and proceed now to the consideration of the resolutions of the Senator from Maine, which are before the Senate.

Mr. WHYTE. Now, how long is that to last? Has not a Senator a right to call for the special order?

The VICE-PRESIDENT. Not until these resolutions be disposed of or otherwise ordered by the Senate. The pending question is upon the amendment proposed as an addition by the Senator from Ohio, [Mr. THURMAN,] which will be read.

The Secretary read the amendment, as follows:

The committee shall also inquire whether any citizen of any State has been dismissed or threatened with dismissal from employment or deprivation of any right or privilege by reason of his vote or intention to vote at the recent elections, or has been otherwise interfered with.

And to inquire whether in the year 1878 money was raised by assessment or otherwise upon Federal office-holders or employés for election purposes, and under what circumstances and by what means; and, if so, what amount was so raised and how the same was expended; and, further, whether such assessments were or not in violation of law.

And shall further inquire into the action and conduct of United States supervisors of elections in the several States; and as to the number of marshals, deputy marshals, and others employed to take part in the conduct of the said elections; in what State or city appointed; the amount of money paid or promised to be paid to them, and how or by whom and under what law authorized.

Mr. WALLACE. Mr. President, I move to lay the resolutions and accompanying amendment on the table, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. The Senator from Pennsylvania desires a test vote on whether the Senate will further entertain the subject.

Mr. WALLACE. I move to lay on the table the resolutions and the amendment.

Mr. BLAINE. I am willing to have it that way.

The question being taken by yeas and nays, resulted—yeas 3, nays 60; as follows:

YEAS—3.

Davis of West Va.,	McCreery,	Wallace.

NAYS—60.

Allison,	Coke,	Howe,	Morgan,
Anthony,	Conkling,	Ingalls,	Morrill,
Armstrong,	Conover,	Johnston,	Oglesby,
Bailey,	Davis of Illinois,	Jones of Florida,	Paddock,
Barnum,	Dawes,	Kellogg,	Patterson,
Bayard,	Dorsey,	Kernan,	Randolph,
Beck,	Eaton,	Kirkwood,	Ransom,
Blaine,	Eustis,	Lamar,	Rollins,
Booth,	Ferry,	McDonald,	Saulsbury,
Burnside,	Garland,	McMillan,	Saunders,
Butler,	Grover,	McPherson,	Teller,
Cameron of Pa.,	Hamlin,	Matthews,	Voorhees,
Cameron of Wis.,	Harris,	Maxey,	Wadleigh,
Christiancy,	Hereford,	Merrimon,	Windom,
Cockrell,	Hoar,	Mitchell,	Withers.

ABSENT—13.

Bruce,	Gordon,	Plumb,	Spencer,
Chaffee,	Hill,	Sargent,	Thurman,
Dennis,	Jones of Nevada,	Sharon,	Whyte.
Edmunds,			

So the motion was not agreed to.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Ohio.

Mr. BLAINE. I have not the slightest objection to the amendment of the Senator from Ohio; but I wish to make this suggestion, that I think there ought to be another committee to take charge of it. There is a very great abundance of labor both in the proposition which I submitted and in the proposition which the honorable Senator from Ohio submits for a committee; and if you have only one committee for both, beginning with the dispute which way they will turn their faces first upon distinct fields of investigation, you will have a conflict which might just as well be avoided. If the Senate is ready now to take a vote on both propositions, both the amendment of the Senator from Ohio and the resolutions I offered, I have no objection, if there are no gentlemen who are going to address the Senate upon the subject. If there is to be delay to accommodate Senators I would ask that this question lie over until to-morrow until it may be adjusted in harmony on both sides. I do not expect there will be any difference of opinion about it. If any gentleman desires to address the Senate on the general subject, I hope it will be before the question is put on the amendment of the Senator from Ohio.

Mr. KERNAN. I trust we shall adopt the amendment to the resolutions and send it to the same committee. It is a good committee. They can easily have subcommittees taking evidence on different points, as they do constantly. I think the inquiries ought to be put together and sent to the same committee. They will have no difficulty in examining into them by subcommittees.

Mr. ALLISON. I desire to vote for the amendment of the Senator from Ohio, but it seems to me there are two words here which ought to be stricken out. There is to be an inquiry as to "whether in the year 1878 money was raised by assessment or otherwise upon Federal office-holders." I do not suppose the Senator from Ohio means to inquire whether a Federal office-holder voluntarily contributed to the election of an officer.

Mr. VOORHEES. I think he does.

Mr. ALLISON. That he means to make a general inquiry as to whether the Senator from Indiana, for instance, made a contribution?

Mr. VOORHEES. And how much was raised in that way, and what was done with it.

Mr. ALLISON. By voluntary contributions?

Mr. VOORHEES. Yes, sir, by voluntary contributions for the purpose of corrupting the ballot-box.

Mr. ALLISON. Then I should like to ask the Senator from Indiana, as he seems to understand the amendment, whether or not this applies to members of the Senate and House?

Mr. VOORHEES. I presume it does. I hope it does at least.

Mr. ALLISON. I withdraw any objection.

The amendment was agreed to.

The VICE-PRESIDENT. Will the Senate agree to the resolutions as amended?

Mr. BAYARD. I propose to amend the first resolution, in line 6, by inserting after "any State" the words "or of the United States;" so as to read:

> Whether the right of suffrage of citizens of the United States, or of any class of such citizens, was denied or abridged by the action of the election officers of any State, or of the United States, in refusing to receive their votes.

This will make the inquiry include both officers of the State and of the United States, who were election officers.

Mr. BLAINE. I have no objection to that. I hope there will be no objection to that amendment.

The VICE-PRESIDENT. The Chair hears no objection to the amendment suggested by the Senator from Delaware. The resolutions are so modified.

Mr. CONKLING. May I inquire what committee is charged with this inquiry?

The VICE-PRESIDENT. If the Chair remembers correctly, the Committee on the Judiciary. [Examining the resolutions.] It is the Committee on the Judiciary.

Mr. CONKLING. I suggest that if either branch of this inquiry is to proceed, a special committee should be charged with it. The chairman of the Committee on the Judiciary [Mr. EDMUNDS] is not here. There are several members of that committee here, and they all know, as I know, that committee is already, I might say, smothered under labor and duties which are put in its charge; and the idea that during this session of Congress either alternative of this inquiry is to be conducted by that committee possibly—my friend before me [Mr. DAVIS, of Illinois] says "properly" but I say possibly—seems to me so improbable that I venture to call the attention of the Senate to it. Believing as I do that this inquiry ought to be made, and believing further that there is great force in the suggestion that any one single committee will be greatly embarrassed, to say the least, by an attempt to hold all the inquisition here directed, it seems to me that the inquiry ought not to be committed to a standing committee, which committee we know in advance is obstructed already by labors making demands upon its time beyond its possibility to comply. And I will venture to add that there are no seven men, whether they be the members of the Judiciary Committee or a court or a commission, who, in the time available between now and the 4th of March to the Judiciary Committee, could by any diligence dispose intelligently, conscientiously, and thoroughly of the matters in charge of that committee without reference to this; and my honorable friend before me [Mr. DAVIS, of Illinois] concurs in and confirms me in that statement.

Now in respect of an inquiry which both sides of the Chamber profess to deem important and urgent because entire unanimity has been found in favor of the amendment of the Senator from Ohio and there was entire unanimity before on this side of the Chamber in favor of the original resolutions, it is proposed that the instrumentality by which that inquiry shall be made, shall be selected, not in view, I think, of its efficiency in the measure of the time it can devote to it, but in the presence at least, if not in view, of the fact that other things will stand in the way so as probably to block the efficient conduct of the inquiry.

Mr. President, though with some hesitation, as the chairman of the Committee on the Judiciary is absent, unless some other Senator will submit an amendment to test the sense of the Senate, I think I ought to ask the judgment of the Senate upon the question whether that inquiry should not go to a special committee. If a special committee were constituted by the Chair, he would no doubt look, as he always does in the selection, to the adaptation of Senators to the purpose, and one of the elements in the case would be the extent to which their time is necessarily required otherwise, and I think a special committee could be composed of men who would not be embarrassed by so many other duties as rest upon members of the Judiciary Committee. So that unless I stand in the way of the purpose of those who more especially have charge of the resolution, I will venture to submit an amendment striking out "the Committee on the Judiciary" and inserting "a select committee consisting of seven," or nine, or any number of Senators. ["Nine!" "Nine!"] Friends on this side suggest nine. I will make it "nine members of the Senate," and I will say "to be appointed by the Chair," or I will leave that without suggestion to the end that some other Senator may make a proposition.

Mr. HEREFORD. Mr. President, it seems to me that the amendment of the Senator from New York [Mr. CONKLING] ought not to prevail, for the reason that one of these resolutions provides for an examination into and report upon a very grave question. Some doubt must have arisen in the mind of the Senator from Maine, the author of the original resolutions, who desired that doubt solved, as to the power of Congress to pass other laws than those we have, or different laws than those we have upon the subjects embraced in the resolutions; and it seems to me very appropriate that such an inquiry should go to the Judiciary Committee. The Senator from Maine has selected that committee, and I think with great propriety. One of the questions submitted by the Senator is a grave one, and it should be passed upon by the legal committee of this body. Whatever they may report upon that question will of course have more influence than a report from any other committee on a kindred subject. The mover of the amendment is also a member of the Judiciary Committee. I hope, Mr. President, that the motion of the Senator from New York will not prevail, but that the original resolutions as proposed by the Senator from Maine and as amended by the Senate will pass.

Mr. MCDONALD. Mr. President, as a member of the Judiciary Committee I deem it my duty to state that if these resolutions go to that committee they will necessarily supersede all other business before that committee for this session. In fact I should myself deem it a special order to give up all other labor to execute this command of the Senate.

Mr. BLAINE. There has been some talk informally on this side of the Chamber heretofore in regard to a select committee, on the ground, as has been suggested by the Senator from Indiana and the Senator from New York, of the overburdened condition of the business before the Judiciary Committee. I am entirely willing to have the change made. I would have moved it myself, but for the fact that I do not desire to be chairman or even a member of the committee, and the person who moves a select committee is under some sort of honorable obligation under certain circumstances to accept the chairmanship. I have no objection to the change. I merely make this suggestion, that the committee be ten, with power to make subcommittees. That will attain the object which I threw out in some previous remarks this morning.

Mr. CONKLING. Mr. President, a suggestion has fallen upon my ear which informs me that I have exposed myself imprudently; and I can only say that following, as I usually do, my distinguished friend before me [Mr. DAVIS, of Illinois] if I have brought myself into difficulty, he and not I is to blame. I am so accustomed to following his suggestions that I naturally fell into that habit on this occasion and interposed in behalf of the Judiciary Committee. I wish now before losing another moment, to say that in moving this amendment I did not intend, however remotely, to implicate myself or to become one of the possibilities of membership of this committee, and I would rather withdraw the amendment than to have the Chair or anybody else understand that by moving it I assumed any position upon the committee, and least of all a willingness to act as chairman of the committee. I suppose nobody would wish that; but owing to my own position upon the Judiciary Committee and upon another, the objec-

tions which are applicable to the other members of the Judiciary Committee would certainly be applicable to me; and therefore, if I let the amendment stand, I beg to do so, nobody failing to know that I shall ask to be excused myself from service upon the committee at either end or in the middle of it.

The VICE-PRESIDENT. The amendment of the Senator from New York is that the subjects-matter of the pending resolutions be committed to a select committee to consist of nine Senators, instead of the Judiciary Committee.

Mr. BLAINE. I hope the number will be ten.

The VICE-PRESIDENT. The Senator from Maine moves to amend by making the number ten. The question is on the amendment of the Senator from Maine to the amendment of the Senator from New York.

The amendment to the amendment was rejected.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New York.

The question having been put, it was declared that the noes appeared to prevail, and a division was called for.

Mr. CONKLING. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. Mr. President, having asked for the yeas and nays I beg to submit one remark, which is that the pending amendment is the best test I can think of of the earnestness and intention of the Senate. Those who want this inquiry made in either or both of its branches must I think want a committee employed in its examination. Those who want it to fail can at this stage of the proceeding most effectually accomplish their object by committing it to a committee so burdened already that it cannot discharge the duty.

The Secretary proceeded to call the roll.

Mr. MORRILL. I desire to say that on all political questions my colleague [Mr. EDMUNDS] is paired with the Senator from Ohio [Mr. THURMAN.] I do not know but that this may be regarded as a political question.

Mr. ALLISON. I desire to say that on all political questions I understand the Senator from California [Mr. SARGENT] is paired with the Senator from South Carolina, [Mr. BUTLER.] I do not know whether this is a political question or not.

Mr. BUTLER. The Senator from Iowa is entirely correct. If this is to be regarded as a political question I am paired with the Senator from California; otherwise I would rather have my vote recorded. I did not so regard it, and therefore voted. If the honorable Senator insists upon it I, of course, shall withdraw my vote.

Mr. ALLISON. I will not insist upon it.

Mr. MAXEY. I voted under the belief and I yet believe, that this is not a political question; otherwise I should regard myself as paired. I deem this a question of sound judgment and nothing else.

Mr. ALLISON. I did not understand the question to be political; but inasmuch as the Senator from Vermont [Mr. MORRILL] made the suggestion he did, I thought it was due to the Senator from California [Mr. SARGENT] that I should call the attention of the Senate to the fact that he is paired on political questions.

Mr. BUTLER. I am quite willing to withdraw my vote if the Senator insists upon it.

Mr. ALLISON. I do not.

The result was announced—yeas 36, nays 27; as follows:

YEAS—36.

Allison,	Conkling,	Kellogg,	Paddock,
Anthony,	Davis of Illinois,	Kirkwood,	Patterson,
Barnum,	Dawes,	McDonald,	Plumb,
Blaine,	Ferry,	McMillan,	Rollins,
Booth,	Garland,	Matthews,	Saunders,
Burnside,	Hamlin,	Maxey,	Teller,
Cameron of Pa.,	Hoar,	Mitchell,	Voorhees,
Cameron of Wis.,	Howe,	Morrill,	Wadleigh,
Christiancy,	Ingalls,	Oglesby,	Windom.

NAYS—27.

Armstrong,	Davis of W. Va.,	Jones of Florida,	Randolph,
Bailey,	Eustis,	Kernan,	Ransom,
Bayard,	Gordon,	Lamar,	Saulsbury,
Beck,	Grover,	McCreery,	Wallace,
Butler,	Harris,	McPherson,	Whyte,
Cockrell,	Hereford,	Merrimon,	Withers.
Coke,	Johnston,	Morgan,	

ABSENT—13.

Bruce,	Dorsey,	Hill,	Sharon,
Chaffee,	Eaton,	Jones of Nevada,	Spencer,
Conover,	Edmunds,	Sargent,	Thurman.
Dennis,			

So the amendment was agreed to.

The VICE-PRESIDENT. As thus amended, will the Senate agree to the resolutions?

Mr. BLAINE. Let the first part of the resolutions be read as amended.

The VICE-PRESIDENT. The resolutions will be read as amended.

The Secretary read as follows:

Resolved, That a select committee, to consist of nine Senators, be appointed to inquire and report to the Senate——

Mr. BLAINE. Let "by the Chair" be put in after "appointed," by general consent.

The VICE-PRESIDENT. Will the Senate agree to the amendment proposed by the Senator from Maine?

The amendment was agreed to.

Mr. BLAINE. Now, two or three little matters are needed to make the resolutions harmonious. The third clause of the original resolutions offered to the Senate should now come at the end, after that portion adopted on the motion of the Senator from Ohio. I refer to that which now reads:

Resolved, That in prosecuting these inquiries the committee shall have the right to send for persons and papers.

There should be added:

To take testimony by subcommittee and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

The VICE-PRESIDENT. First, is there any objection to the transposition proposed by the Senator from Maine?

Mr. BAYARD. Let the amendment be reported from the Chair.

Mr. BLAINE. My colleague suggests that the authority to the subcommittee to take testimony should also include power to administer oaths. I supposed that would be included in the right to take testimony; but to be precise, perhaps it had better be in.

The VICE-PRESIDENT. The Senator from Maine asks first a transposition——

Mr. KERNAN. Is that to transpose the amendment to the end of the original resolutions as offered?

Mr. BLAINE. The Senator from New York will observe that the third clause of the original resolutions, which concludes them, should now be placed after the amendment of the Senator from Ohio, which has been adopted by the Senate.

Mr. KERNAN. As I understand the amendment comes in at the end of the first resolution so that it will stand as a part of the first resolve. Am I right?

Mr. BLAINE. The amendment that has just been adopted?

Mr. KERNAN. The amendment of the Senator from Ohio.

Mr. BLAINE. The amendment will come in after the second clause, I think.

Mr. KERNAN. I think it ought to be part of the first resolution, so as to show at once what authority there is as to both branches of the inquiry.

Mr. BLAINE. I have no objection. Let the portion added by the Senator from Ohio come in after the first resolution.

Mr. KERNAN. All right, then.

Mr. BLAINE. Then the two subsequent clauses follow, and then I move an amendment at the end of the last clause to add these words:

To take testimony and administer oaths by subcommittees, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

Mr. HOAR. I suggest to the Senator from Maine to modify his amendment so as to say that the special committee by itself, or by any subcommittee of their number, shall have the right, so that all the powers conferred upon the committee shall be in the subcommittee.

Mr. BLAINE. If the Senator from Massachusetts will write out his amendment as he has suggested it, I shall be very glad to have it substituted for what I have moved.

Mr. BUTLER. May I ask the Senator from Maine to consent to one additional amendment after his, "that said committ be structed to sit with open doors?"

Mr. BLAINE. Of course——

Mr. BUTLER. Will the honorable Senator include that in his amendment, "that the committee or subcommittee be instructed to sit with open doors?"

Mr. HOAR. That ought to be left to their discretion.

Mr. BLAINE. I think there is a good deal under that suggestion of the Senator from South Carolina. He will pardon me for not inserting it.

Mr. BUTLER. I am perfectly earnest in making the suggestion.

Mr. BLAINE. Will the Senator explain the motive of it?

Mr. BUTLER. My motive is to have a perfectly fair, impartial, and open investigation. That is my object.

Mr. BLAINE. The Senator from South Carolina will observe that this committee will undoubtedly have a fair and full representation of the minority of the Senate, or of the other side—I do not know whether it is a minority or not. [Laughter.] Both political parties and all shades of political opinion that sit on this floor will be represented on the committee. Now, I can conceive a case, I think I can go a little further and say that I have heard of a good many cases, in which the committee would be embarrassed by having witnesses come before them who did not want to testify openly. There certainly could be no partisan advantage gained if so active and vigilant an eye as that of the Senator from South Carolina was on the minority, and so of many other Senators whom I might name; then no harm could come to the inquiry in that respect. But the Senator is not unaware, surely, that one of the alleged, if not actual, troubles in the whole investigation of the southern question has been that the very men who were intimidated at the polls were still more intimidated on the witness stand; and therefore I would leave that matter altogether to the discretion of the committee. I would neither bind them the one way nor the other. Let them be the judges as to what the propriety of the case demands in this respect.

Mr. BUTLER. I understand, then, the Senator to state that he objects to that addition to his amendment upon the ground that there

may be in certain parts of this country some witnesses who would not desire to testify openly, but who would be willing to testify secretly. That I understand to be the position of the Senator. I do not know, Mr. President, for one, any part of this country where that state of things exists. The Senator says that it is alleged. Like a great many other allegations, it is entirely without any proof to sustain it. I respectfully submit to the Senator that he has not one particle of proof, and if he desires (and I have no right to question but that he does desire) a free, full, complete, thorough, public investigation of this question, I cannot see why he should object to my amendment.

So far as I am concerned, as a representative in part of South Carolina, I wish to say to the Senator, to the Senate, and to the country, since he has chosen to select and single out my State as the special object for this investigation, that we desire the most complete and the fullest investigation we can get; and I can say to the Senator that any witness who goes before the committee in South Carolina may do so just as safely and may testify as fully as he can in the State of Maine.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from South Carolina.

Mr. EUSTIS. Mr. President, I desire to state to the Senator from Maine, so far as any investigation in Louisiana is concerned, the past investigations prove that republican witnesses are not intimidated, because republican witnesses not only testify, but a great many testify on both sides. [Laughter.] Therefore I can see no objection to having this investigation a public investigation.

It was not my intention to reply to the remarks made by the Senator from Maine, because whether or not there has been intimidation is a question of fact and not a question of conjecture or guesswork or partisan statement, and therefore it occurred to me as a very extraordinary position for the honorable Senator from Maine to occupy that in advance of the examination of a single witness, in the absence of a single inquiry, as the introducer of the resolution asking for an investigation, which implies that there has been so far no sustained fact upon which to base an accusation, the honorable Senator should take the liberty of stating to the Senate and to the people that the colored citizens of the State of Louisiana had no more rights as suffragans and as voters than the inhabitants of Senegambia. I could very easily demonstrate if this were a proper time that the election in Louisiana, so far as results are concerned, either as to the general State ticket or as to the congressional elections, was a fair and a peaceable election, and that there were a great many reasons why the democratic nominees were elected; and I could also demonstrate that the colored people selected their choice as to congressional candidates and exercised their choice as to legislative candidates, showing that they exercised a discrimination in the matter.

But it is not my purpose, Mr. President, to detain the Senate at this time. After the investigation, which I have no doubt will prove that the allegation of the honorable Senator from Maine against the people of Louisiana is entirely unfounded, I shall have the opportunity of defending my people against this oft-repeated but oft-refuted denunciation.

The VICE-PRESIDENT. Will the Senate agree to the amendment proposed by the Senator from South Carolina?

Mr. BUTLER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. I have no desire to prolong the debate; but the Senator from South Carolina either possesses or affects great ignorance of past events. He certainly ought to know that one of the primal troubles in every investigation South has been the very one on which I have commented. I used the word "alleged" because I wanted to put it in as mild a form as possible. I might have used the word "proved" or "recorded" in congressional reports accessible to him as to every other Senator; but in advance of the investigation which the Senate is to order I do not care to go into particulars. I have had as many as two hundred letters from the South giving details of great outrages upon the right of suffrage; many from the State of the Senator who last spoke. I do not adduce them or parade them here. They at least form the basis, in connection with that which has become matter of public notoriety, of a serious and sober investigation; and if the Senator from Louisiana does not know that a great massacre occurred in one of the parishes of his own State on the last election day, he is probably the only gentleman in the United States who is ignorant of it. It is very well to walk through this world in a vain show, with eyes that see not and ears that hear not; but I say to the honorable Senator from South Carolina and to the honorable Senator from Louisiana that the attention of the whole United States has been aroused by what has transpired in the Southern States; aroused by the fact that the elections in the Southern States this year were without the slightest pretense of interference from the outside, that which the South had complained of as an invasion and an infraction of their rights had, wisely or unwisely, been wholly withdrawn, and assurances had been given as solemn as the word of honor could be passed that the rights of every voter should be respected through the length and breadth of those States; and I say to the Senators from those States that the popular and general belief of this country is to the contrary.

I will not indulge in denunciation; I will not use an epithet; but I say to the honorable Senators on the point immediately to be voted upon by the Senate, that if they desire an investigation free from intimidation, if they desire an investigation before a tribunal with jealous eyes of both political parties, free to hold such sessions as shall protect the witness then and after, they will leave it to the discretion of the committee, and not send forth from Washington on the day the resolutions are passed a proclamation to every timid white man and every timid black man in the South that if he dares appear before the committee he must do it publicly and be branded by those whom he may offend.

Mr. BUTLER. And I say to the Senator that if he desires, as he claims to desire, and as I have no right to deny that he does desire, a fair, full, free, complete investigation, he will vote for the amendment which I have offered.

The Senator from Maine sees fit to get up and repeat, without one particle of proof to sustain the allegation, somewhat of the character of his remarks the other day in presenting his resolutions. He says he has two hundred letters from people in the South giving evidence of intimidation and fraud and wrong and riot and murder. Why, Mr. President, I understood the Senator to say the other day, and if I am mistaken I hope he will correct me, that he based his statements upon the newspapers of the country. Well, now, Mr. President, I submit in all frankness and in all kindness to the Senator that if he based his statements upon the newspaper press alone, he and I should have been hung and quartered long ago. [Laughter.] It is not safe for the Senator to base his opinions and his statements and his allegations upon any such authority; not that I mean to say that the newspapers do not communicate the truth, but I do mean to say that when correspondents are sent into a country, as they have been into my country, to make a case, to write down all that is bad about our people and to suppress all that is meritorious, the accounts they send are unreliable. I say to the honorable Senator that with the same feeling and with the same spirit I could go into his State with a corps of detectives and I could make his State a stench in the nostrils of the civilized world.

Mr. BLAINE. You have the authority under these resolutions to do it.

Mr. BUTLER. I say I could do that; yet when I propose to open the doors of the committee to permit everybody to go in who has the right to go, whom the committee will permit to go, to allow the witnesses to be cross-examined, the Senator attempts to answer that by saying that witnesses white and colored will be notified that they do that at their peril. I say, Mr. President, that that is not true so far as South Carolina is concerned. I say that it is absolutely untrue. I do not mean this in an offensive sense to the honorable Senator, but I submit and assert upon my responsibility here that a witness may testify before a committee with open doors as freely in my State, and I believe in every other Southern State, as he can in the State of Maine or Massachusetts, and I can see no earthly objection to this committee being instructed to sit with open doors in order that the whole world may see and know what is being done; and I do not mean by that to make any reflection upon the committee. It is quite true that both parties will be represented, I have no doubt; but I think it unwise, and I think it wrong in principle for any committee in a free country like this to sit and take testimony with closed doors upon any subject which affects the people.

The VICE-PRESIDENT. Upon the amendment proposed by the Senator from South Carolina he demands the yeas and nays.

The yeas and nays were ordered.

Mr. ALLISON. I ask that the amendment be reported.

The VICE-PRESIDENT. It is that this committee be directed to sit with open doors.

The Secretary proceeded to call the roll.

Mr. MCDONALD, (when his name was called.) I am paired with the Senator from Arkansas [Mr. DORSEY] on political questions, and as this seems to be taking a political direction, I shall not vote. If he were present, I should vote "yea."

Mr. MAXEY, (when his name was called.) I am paired with the Senator from Alabama [Mr. SPENCER] on political questions. I cannot see that this is a political question, but under the circumstances I shall not vote.

Mr. MORRILL, (when Mr. THURMAN'S name was called.) I desire to say that the Senator from Ohio [Mr. THURMAN] and my colleague [Mr. EDMUNDS] are both absent and paired on political questions. I think this has got to be a political question.

The roll-call was concluded.

Mr. BUTLER, (who had voted in the affirmative.) I ought to withdraw my vote. At the moment it did not occur to me that on this question I should have to ask my friend from Iowa [Mr. ALLISON] to decide whether I should vote, as he requested me to pair with the Senator from California, [Mr. SARGENT.] As the honorable Senator from Vermont [Mr. MORRILL] says, it appears that this is assuming a political aspect.

Mr. ALLISON. I dislike very much to decide that question for the Senator from South Carolina. I think I must refer him to the Senator from Indiana [Mr. MCDONALD] and the Senator from Texas, [Mr. MAXEY,] who have both declined to vote.

Mr. BUTLER. I then withdraw my vote.

The VICE-PRESIDENT. The Senator from South Carolina withdraws his vote.

Mr. BARNUM. I am paired on all political questions with the Senator from Colorado, [Mr. CHAFFEE.] If he were here, I should vote "yea."

The result was announced, as follows:

YEAS—30.

Armstrong,	Eaton,	Jones of Florida,	Ransom,
Bailey,	Eustis,	Kernan,	Saulsbury,
Bayard,	Garland,	Lamar,	Voorhees,
Beck,	Gordon,	McCreery,	Wallace,
Cockrell,	Grover,	McPherson,	Whyte,
Coke,	Harris,	Merrimon,	Withers.
Davis of Illinois,	Hereford,	Morgan,	
Davis of West Va.,	Johnston,	Randolph,	

NAYS—30.

Allison,	Conkling,	Kirkwood,	Plumb,
Anthony,	Dawes,	McMillan,	Rollins,
Blaine,	Ferry,	Matthews,	Saunders,
Booth,	Hamlin,	Mitchell,	Teller,
Burnside,	Hoar,	Morrill,	Wadleigh,
Cameron of Pa.,	Howe,	Oglesby,	Windom.
Cameron of Wis.,	Ingalls,	Paddock,	
Christiancy,	Kellogg,	Patterson,	

ABSENT—16.

Barnum,	Conover,	Hill,	Sargent,
Bruce,	Dennis,	Jones of Nevada,	Sharon,
Butler,	Dorsey,	McDonald,	Spencer,
Chaffee,	Edmunds,	Maxey,	Thurman.

The VICE-PRESIDENT. On the amendment proposed by the Senator from South Carolina [Mr. BUTLER] the yeas are 30 and the nays are 30. The amendment is rejected; and the question recurs on the amendment proposed by the Senator from Maine, [Mr. BLAINE.]

Mr. HOAR. The amendment as proposed by the Senator from Maine does not confer upon the subcommittees the whole power——

Mr. BLAINE. I have put these words in, "by itself or by any subcommittee."

The VICE-PRESIDENT. The amendment will be read.

The Secretary read as follows:

Resolved, That in prosecuting these inquiries the Judiciary Committee shall have the right to send for persons and papers, to take testimony by itself or by any subcommittee, and to administer oaths, to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

Mr. HOAR. The words should come in after "have the right."

Mr. McDONALD. "Judiciary Committee" is in the amendment. I move that it be stricken out.

The VICE-PRESIDENT. It will be stricken out and made to correspond with the text without further motion.

Mr. HOAR. The Clerk did not read the amendment correctly.

Mr. KERNAN. I ask that the amendment be read again as amended. We could not hear it here.

Mr. HOAR. The words "by itself or by a subcommittee" should come in after the words "have the right," so that the subcommittee will have all the powers of the original committee delegated to it.

The VICE-PRESIDENT. The amendment will be again reported.

The Secretary read as follows:

That in prosecuting these inquiries the said committee shall have the right, by itself or by any subcommittee, to send for persons and papers, to take testimony, to administer oaths, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

Mr. DAVIS, of West Virginia. I presume it will be in order to amend the amendment of the Senator from Maine with the words "shall sit with open doors if any member of the committee desires."

Mr. BLAINE. "If the committee so determine" would be better.

Mr. DAVIS, of West Virginia. No; if any member of the committee desires it. I make that motion.

Mr. BLAINE. That is exactly the same proposition we have just voted on.

Mr. DAVIS, of West Virginia. Oh, no; it is not the same; it is quite different.

The VICE-PRESIDENT. The Senator from West Virginia proposes an amendment stated by him in his place.

A division was called for.

Mr. CAMERON, of Wisconsin. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TELLER. Let the amendment be reported.

The VICE-PRESIDENT. The amendment of the Senator from West Virginia will be reported; or will he state it again?

Mr. DAVIS, of West Virginia. It is to insert "and shall sit with open doors if any member of the committee or subcommittee desires it." The Clerk can take it down. My friend before me [Mr. WHYTE] suggests that I say "whenever desired by any member of the committee."

The VICE-PRESIDENT. The question is upon the amendment just stated, upon which the yeas and nays have been ordered.

Mr. BAYARD. Have the yeas and nays been asked for upon that amendment?

The VICE-PRESIDENT. They have been ordered.

Mr. BAYARD. The action of the Senate upon the resolutions and all the amendments has had the mark almost of unanimity. Why shall it not be continued in respect of this proposition? The system of taking testimony in courts of justice is invariably open; and if there ever was an inquisition as to fact which ought to be public, it surely is that which touches the affairs of a whole community. Ordinarily in contests as to rights between individuals, issues of fact are created by pleadings, so that some degree of certainty is brought to every mind, and we know the subjects-matter and general character of the testimony to be expected. But here is little else than an indictment of communities as a whole, vague, uncertain, and surely there is the spirit of fair play which dictates that, if you strike, you at least shall hear. There is something un-American in secret inquisition, something in the proposition that is repugnant to a sense of justice. If the charges are true, I hope that exposure will follow, and that punishment may follow exposure. If they be untrue, I hope they may recoil on those who unjustly set them on foot. But the truth is something that no honest man should fear; and believing that this proposition to try whole communities upon vague and general charges calls especially for open and public investigation of the facts, I do hope that the Senate will unanimously agree that no such thing as a secret inquisition shall be held upon such a state of facts as is alleged by those who have moved this proceeding.

I have been by the direction of the Senate assigned to duty upon every committee of this public character of inquisition since 1870. The first was in the State of North Carolina; next there followed a joint committee of the two Houses, twenty-one in number, upon all the Southern States; again followed a special committee in respect to the State of Mississippi. All of that testimony was taken in secret; all of that testimony was taken in short-hand and fully published. There was then the same proposition made that we should sit with open doors that the communities who were to be assailed should hear at least what was said against them that they might reply, but the majority of those who controlled those investigations forbade it, and men came and swore to anything they pleased, assailing men who were absent uninformed of the time, unprepared to meet it, and unable to meet it simply from want of knowledge of what had been said.

Mr. BLAINE. May I ask the Senator a question just there?

Mr. BAYARD. One word further. All this testimony was published, published in full, and I have never heard in the succeeding cases where committees have visited again those States that the publication of the testimony in full ever produced any breach of the peace whatever.

Mr. BLAINE. May I ask the honorable Senator a question?

Mr. BAYARD. Certainly.

Mr. BLAINE. Before any of these committees of which he has been a member did he ever know testimony affecting the character of an individual submitted which that individual, through himself or counsel, did not have some opportunity to review and rebut?

Mr. BAYARD. Yes, sir. I can tell him there was no case except it came through the action of a member of the committee who might choose to summon the man assailed.

Mr. BLAINE. Was he not summoned?

Mr. BAYARD. Sometimes he was and sometimes he was not.

Mr. BLAINE. What I want to get at is this: whenever it was regarded as essential to the protection of the reputation of any man was it not invariably the rule that any one assailed was summoned?

Mr. BAYARD. I cannot say that any such rule prevailed. I mean to say that where a subpœna was asked for I never knew it refused.

Mr. BLAINE. That is what I mean. Now, as the Senator will observe, just as in those committees so in this both political parties will be represented, and they will use their discretion; but if you by a rule beforehand say that under no circumstances shall they hold a closed-door meeting you have taken all proper responsibility from them. You have taken from them any exercise of discretion whatever.

Mr. BAYARD. I do hold that any man, however humble, however poor, has a right to be confronted with the witnesses against him. He has a right to know the charge against him. This proceeding is, as I say, an indictment against a whole people; it is a railing accusation; therefore the more difficult to meet, and therefore the proof in regard to it ought to be open especially. The Senator must see, I submit to his candor, to his sense of fairness, that a man may come in burning with partisan dislike and make false charges against one hundred and fifty men; the Senator or I on that committee have no knowledge of the facts save that which the witness chooses to give us; power of cross-examination we have none, because we have not the knowledge to conduct a cross-examination. There is something in this which strikes my sense of justice and offends it. I would not wish to do by another what I would not have done by me; and I can understand that if my character were to be assailed in secret without the opportunity of cross-examination, I should feel it exceedingly unjust were I not to be fully informed of it all and be there at the time that I might defend myself.

I believe I have already referred to the fact that the most voluminous testimony has been in print for several years, taken at different dates—depositions of witnesses examined and cross-examined in private. They all have been in private; none that I know of, in which there has not been a refusal to allow these matters to be public, although they were subsequently fully published without injury to any one; and yet I believe great injustice was done by that method of taking testimony. There is not, I believe, a State in this Union in which the reputation, or the person, or the property of the humblest man in it could be assailed in a manner to affect either by testimony taken in secret.

I was sorry just now when a vote was taken to hear gentlemen admit or suggest that this was a party question. It ought not to be,

and the votes that I have given have been given with the intent of preventing it from being such. I have not discussed the resolutions or the objections that I would have to them. I have chosen rather to divest the matter of anything of a party character, because it is a question to be tried at the bar of a great and I trust a sound and a just public opinion. And therefore it was that I rose, hoping that the call for the yeas and nays would be withdrawn, that there might be a concurrence all over the Chamber in conducting this investigation upon the principle that justice everywhere lays down for the elucidation of truth.

There is something in secrecy, as I say, unfair and un-American. The suggestion that witnesses would be prevented by their fears from giving testimony is answered fully by the fact that all these affidavits and depositions are published in full and have been published in full immediately after being taken, and copies of them sent back and read and reread and inquired for anxiously by men; and I know from my own experience personally, having discussed with gentlemen of the vicinity whom I never had known before the investigation, whom I could not see or know during the investigation—the facts disclosed and learned from them that if they only had had the opportunity of knowing that such facts had been alleged the means for their contradiction were ready and abundant. Of course, as my friend from New York [Mr. KERNAN] suggests, to draw out the other side of any question—and there are two sides to every question, there must be knowledge and information in the party questioning. Two Senators equally honorable, and equally well-intentioned, go down and hear what? Testimony, I trust not prearranged, but call on a man generally to hear what he knows in respect of such charges as are set forth in this paper. Well, he implicates, for instance, individuals; he makes statements regarding them, he charges them with violations of law and invasion of private rights respecting suffrage; he may not only charge one he may charge a hundred. It would be a matter of impossibility to summon all those men, and when you summon them you summon them too late. The time for the knowledge that could meet and expose the partiality, the perversion or the untruth of the statement is at the time a man makes it. Any man accustomed to the examination of witnesses knows that without a cross-examination testimony is wholly unreliable. It is an old saying that you may prove anything by *ex parte* affidavits. Why? Because the witness is not subject to cross-examination. Constantly, over and over again, testimony wholly destructive to life or property or right melts away under the light of cross-examination disclosing the motives of the witness, the restraint he is under, and so on; and to conduct that, you must have a knowledge at the time he testifies. It will not do to let him go off the stand and then call a man whom he has impeached from a distance and by the vague recollection of a Senator or Representative repeat to him what has been said. It was his right to be there where he was attacked; it was his right to go to some gentleman, the Senator from Maine, or some other who was there, and say, "Ask this question for me, sir, when this man charges me with a wrong, I ask you to put to him this crucial question." With closed doors that cannot be done. In the open American fashion of taking testimony, it can be done; and therefore I submit to honorable Senators on the other side of the Chamber, this is not a question that is fit to be touched by the spirit or feeling of party. The principles of eternal justice are involved in the manner in which this investigation shall be conducted. It is not for parties, it is for the principles of justice; and it cannot be that such an examination as this and such an inquiry as this shall stand as an exception to every other human inquiry for which tribunals of justice all over this land are erected and to the principles of which they are compelled to conform.

There is no fact, however sad, however discreditable, which, if it be true, I should not be willing to see brought to light and join in condemnation and aid so far as law will go with punishment; but let us not forsake the beautiful principle of justice in the pursuit of facts. Let the examination be open, let it be above-board; do not let it be secret.

I say what I have said in the interest of justice and not in the name of party. I was sorry to hear this called a party question. I do not believe it ought to be a party question. So far as I am concerned, I will not let it be a party question.

Mr. HOAR. Mr. President, I wish simply to call the attention of the Senate to the fact that the proposition made by the Senator from South Carolina [Mr. BUTLER] and now renewed by the Senator from West Virginia [Mr. DAVIS] is in opposition to the uniform precedents both of the Senate and the House in all like cases since the foundation of the Government. It is in opposition to the uniform precedents in regard to original investigations wherever criminal or unlawful conduct is charged.

Mr. BAYARD. Will the Senator pardon me?

Mr. HOAR. Certainly.

Mr. BAYARD. I was a member of a committee which sat six weeks in the city of New York investigating the custom-house affairs there. That examination was public and made so by the committee.

Mr. HOAR. I understood the Senator from Delaware himself to say that in all the investigations of this character in which he had borne a part the investigation had been, as proposed by the original resolution, left to the discretion of the committee. I ask the Senator from Delaware whether in regard to the custom-house investigation of which he speaks the question whether the public interest required the session to be secret or open was not left to the discretion of the committee?

Mr. BAYARD. It was decided by the committee to sit with open doors.

Mr. HOAR. Certainly.

Mr. BAYARD. There was nothing said about it in the original resolution.

Mr. HOAR. That is the precise point which I was making.

Mr. BLAINE. That is it exactly.

Mr. HOAR. In every instance the matter has been left to the discretion of the committee, with the single exception of the famous Credit Mobilier investigation, and the experience of the House of Representatives in that particular case induced the House, the democratic House, to return to the old custom, which has never been observed more strictly than during the past two Congresses in the other branch. The reason is obvious. In seeking to discover criminal or unlawful conduct the tribunal making the investigation must avail itself frequently and very largely of hostile sources of information, and the examination of one witness having put them on the trace of a fact, every other witness who knows that fact, but who desires to keep it secret, is put on his guard if the investigation is open, and flies from the summons of the committee. It is utterly impossible to trace to the bottom many of the transactions of the kind contemplated in these resolutions, unless the committee have the discretion to make, in the first instance, as far as they find the interests of justice require it, their investigations secret.

If in the end it turns out that this committee report conclusions of fact affecting injuriously the character of any individual, of any community, or of any State, without giving the fullest opportunity to those concerned to encounter by opposing testimony if they can, to sift by cross-examination at a proper time, the narrative of the witnesses on which the committee rely, the effect of such a report would be to condemn the committee who had made it, and to deprive their conclusions of all authority in the estimation of the Senate or of the country.

I trust, in response to what the honorable Senator from Delaware has suggested, that we shall have a unanimity in the Senate, but that that unanimity will be in following the uniform precedents which the experiences of this body in all like cases from the foundation of the Government have shown to be necessary, that is, that the tribunal charged with the investigation shall have the power to make its investigations secret so far as the interests of justice and of a full and thorough investigation demand, and then to make its investigation open and public when the interests of justice or of fullness and thoroughness of examination shall demand. It is not credible that any committee of the Senate would bring back a report exposed to the criticism which the honorable Senator from Delaware has made; and if it should it is not credible that either Senate or country would attach any weight to a conclusion so reached. We may be quite sure that any committee composed of members of this body will regard the primal rules of justice in giving every party inculpated opportunity to meet the accusation before their final conclusion is reported. We may be quite sure that any committee appointed by this body will regard the universal experience of all such inquiries, whether made by grand juries or by legislative bodies, in sometimes, in the first instance, concealing the progress they have made in the investigation from the knowledge of those concerned to defeat or baffle their inquiries.

Mr. KERNAN. Mr. President, it will be observed, and I supposed that it would satisfy every one on the other side, that this is somewhat different from the proposition we voted upon. I thought we ought to adopt that, and that this investigation should be with open doors; but now the proposition is that if one of the members whom you send from this body on this committee shall request that the investigation be with open doors the doors shall be opened. The object of the present amendment is to prevent a majority from closing the doors and having the investigation in secret; that if one of the number of men whom you send out of this body as the committee thinks it ought to be open and asks that it shall not be secret the investigation shall not be secret. Surely the Senate is not going to place upon the committee any gentleman who for any mischievous purpose would desire to have the investigation open. If one of those sitting as a committee and who must act is of the opinion that for the sake of coming at the truth fully and fairly the witnesses should be examined in open session, then the examination of witnesses should not be in secret. Indeed, I do not think the witnesses should be examined in secret session if all the members of the committee were in favor of doing so. Certainly a majority of the committee should not have power to do so.

This investigation for all practical purposes is to be final. Is there to be any other day in court for the communities accused or the individuals accused practically to cross-examine witnesses or produce testimony than before this committee? We send the committee there that its members may hear evidence, come to a conclusion, and report to us the fact and their opinion as to what legislation, if any, there should be to correct evils if they exist.

Inasmuch as it turns out from the statement of Senators here that heretofore some of the investigating committees who made reports, and whose investigations for all practical purposes were final action, did refuse to take the testimony publicly, did refuse to allow parties

concerned and interested to be present when the witnesses testified and then suggest questions to them by way of cross-examination, I think we should in this resolution direct that if any one of the members of the committee believes it is for the interest of truth and justice that the proceedings be open that they should be open. The Senator from Delaware has well stated the case. I can state my own experience. I served on a committee, and that committee was here, far away from the people whose acts as bodies, whose acts as individuals were challenged by witnesses brought here. That committee sat here with open doors, and I know that it was in the interest of truth and justice that it did so. This enabled me to have present persons having some knowledge of the matters investigated, and they could and did suggest to me information about the transaction spoken of which enabled me, when witnesses on the stand had given statements, to elicit facts on cross-examination that entirely changed the transaction that was under investigation from what it had appeared to be from the testimony given by these witnesses on their direct examination.

The committee go among strangers. If the doors are closed they have no one present while witnesses are testifying who can suggest facts, or questions to be put to the witnesses which may be very important to those who are charged with wrongful acts. I hope, for the sake of our American institutions and character, where there is an investigation which touches large communities, which touches the character of many individuals, that if one of the members of the committee deems it essential for getting at the truth to have the doors open it shall be permitted. It is unheard of in all our judicial investigations that the witnesses should be examined in secret. When parties are interested, when they are charged with misconduct, with what would affect their character if not their rights, it is their right to be present and hear the testimony and suggest questions to the gentleman who is examining the witness, and also that they know what has been testified. The accused may then be able to bring before the committee witnesses that will contradict the evidence which has been given and prove what is the truth.

I am in favor of having a full, fair, thorough investigation. I am one of those who, if it be proved that wrongs are perpetrated against the humblest citizen, will endeavor to prevent them by corrective legislation, if we can do it. But I wish the investigation to be open and fair, so that the people who are accused may have an opportunity to defend themselves against false charges. The power of this committee reaches all the States. It may be that there are transactions in Northern States to be investigated as to which I may have prejudices against those accused; but I do not know my own heart if I would not resist the proposition that a committee of my political friends should examine witnesses against these parties with closed doors, excluding them from hearing the testimony and cross-examining the witnesses against them. Inasmuch as there have been committees who thought it their right to sit with closed doors taking testimony against individuals and communities charged with offenses, I trust we will now disapprove that practice by at least declaring that if one of the Senators on this committee believes the doors should be open while witnesses are being examined, this shall be done. This will be but justice to those charged with misconduct and will give them an opportunity which they should have to cross-examine the witnesses who give testimony against them and to produce witnesses in their vindication if they are able to do so.

Mr. MERRIMON. Mr. President, two years ago I had quite a protracted experience in the taking of testimony by a subcommittee of the Senate, and I must say, judging from my experience as well as the reason of the thing, that I cannot conceive of a plan that could be devised for affording opportunities for perjury more thorough than for a committee to take testimony of this character with closed doors. The subcommittee of which I was a member sat with closed doors. We examined, I believe, between three and four hundred witnesses. My colleagues and myself were entire strangers in the community where we sat. The witnesses were brought, by persons who had more or less political influence in the investigation, from over a territory that embraced hundreds of miles. I do not doubt myself that many of the witnesses were prompted to tell the stories they did tell. Besides, I saw day after day the rankest injustice done scores of men who were utterly helpless to remedy the evil. A witness was very often ignorant, sometimes corrupt. We could not tell whether he was corrupt or not; there was nobody there to tell us. He would be sworn, and his statement was that Mr. John Smith had said so and so to him on one occasion for the purpose of intimidating him and depriving him of the right to vote; that he threatened to turn him off his place; that Mr. James Jones had said a like thing about him, and he had heard so and so, and many other things of an aggravating character were said to him. It is true that I, being on the committee, might send word to the man charged to come and exculpate himself, if he could, but that is an impossible task practically, for you are examining three or four hundred witnesses, and you have no reason to know whether the witness tells the truth or not; you do not know the character of the man he is talking about; he may be one of the best citizens of the State or some trifling person not worth considering. It is an inquisition that is horrible to my mind. It is true, in our country grand juries examine witnesses in the first instance with closed doors, and it is secret; but this is not like an inquisition before a grand jury. The grand jury hears witnesses. Everything that is delivered there is secret—not published afterward. Besides, if a man is accused, and there is a true bill found against him, the trial comes off in court, where he has a right to confront the witnesses, to hear what is sworn to, to produce testimony to exculpate himself. The witness who swears against him is there in the face of open day, and is cross-examined; but that is not the case before a subcommittee of investigation. A witness is introduced; he swears to a state of facts that criminate a good citizen. I speak as a member of the committee. I do not know anything about this witness; he may be a corrupt witness; he may be one utterly unworthy of credit, or he may be a man who has borne a good reputation, and yet he has committed willful perjury. I am not informed of the facts; I do not know how to cross-examine him, however familiar I might be with cross-examinations. I am not familiar with the facts, and there is nobody to instruct me. Perhaps the man accused is a hundred miles off; I do not know whether to send for him or not. It would put the Government to great expense to send a hundred miles for him; and perhaps when he is brought there he is a person not worthy attention. I maintain that this is wrong in principle, and I join in the sentiment expressed by the Senator from Delaware a moment ago, that this is against the principles of eternal justice, and it is disgraceful, in my judgment, to the American people.

Mr. HOWE. Mr. President, I agree with the Senator from New York over the way [Mr. KERNAN] that the question now before the Senate is quite different from the question presented by the Senator from South Carolina, [Mr. BUTLER.] His proposition was to insert in this resolution a command to the committee that their doors should be wide open to everybody to take the possession of the room from the control of the committee absolutely, to give a member of the committee no more right to enter it than anybody else has, and therefore to clothe any mortal with the authority of your command to take possession of the room whenever he saw fit to do it.

Mr. BUTLER. My friend, the honorable Senator, does not desire to misrepresent me about that matter.

Mr. HOWE. I am not talking about the Senator.

Mr. BUTLER. I did not say any such thing, sir.

Mr. HOWE. Certainly not.

Mr. BUTLER. I did not mean anything of the kind.

Mr. HOWE. I am only interpreting, not the Senator but his amendment.

Mr. BUTLER. Ah!

Mr. HOWE. It was the effect of the amendment of which I was speaking. The proposition now before the Senate is to clothe the minority of the committee instead of the majority of the committee with this power to throw open the doors.

The Senator from New York says with a great deal of plausibility that it cannot be supposed that the Senate will put upon this committee any one man who for mischievous purposes would seek to open the doors of the committee-room. I cannot take issue with the Senator upon that statement; but I meet it with another, I think quite as plausible. If it cannot be supposed that the Senate would send one single man upon this inquiry who for mischievous purposes would open the doors of the committee-room, is it to be supposed that the Senate will send the majority of a committee who for mischievous purposes would close the doors of the committee-room? The question before the Senate is not whether this inquiry shall be made in secret or in public. It is whether you will intrust your committee with the power to determine when the doors may be closed and how far they may be closed, who may be present at the examination of witnesses, and who may be excluded; but to put a positive command upon the committee and not leave it to the discretion of the committee, as has been the case I believe always heretofore. It does by no manner of means follow that the investigation will be secret.

The Senator from Massachusetts [Mr. HOAR] said just now, and I think he spoke accurately, that there was no instance to be found in which such an obligation had been imposed by the act of the Senate upon a committee. It has been left, I understood him to say, uniformly within the discretion of the committee. I happen to have been a member of two committees charged by the Senate with rather important inquiries. One was referred to by the Senator from Delaware, an investigation into the affairs of the custom-house in New York. He stated correctly that it was left by the Senate to the committee to open or close the doors of the committee-room, and he stated correctly that in the exercise of that discretion the committee did open the doors and did not close them. Later than that I was a member of a committee charged by the Senate with conducting an investigation in the State of Louisiana. There the committee was left with full discretion as to whether the doors should be open or closed. The doors in fact were open throughout that investigation. The Senator from Louisiana [Mr. EUSTIS] remarked just now that it had already been proven that there was no hesitation on the part of republicans to give testimony in the State of Louisiana, that they were so willing to testify that they not only testified on one side but frequently, if I understood him, on both. I am not prepared to deny but there may have been many such witnesses found in Louisiana. Whether they testified freely on both sides, or having testified freely on one side were compelled to testify on the other, I do not know. I do not know to what cases the Senator alludes, but I feel bound to say here that I conversed with witnesses in the State of Louisiana, not with one, not with black witnesses, but with white witnesses, who protested that they dared

not testify, and who made me believe that if they were placed upon the stand they would be called upon to decide for themselves whether they would tell the truth as they revealed it in secret and take the consequences that might follow upon telling the truth, or whether they would perjure themselves and take such penalties as might be imposed upon them.

I did refuse to compel one witness to testify—a white man, an educated man; he was a carpet-bagger, he came from the other side of the Atlantic. I refused to compel him to testify because he protested that he was afraid to testify, and because he made me believe he was afraid. I remember another witness, not a carpet-bagger, a native Louisianian, a man more than fifty years old, a lawyer by profession, a planter by occupation, whom I understood to be a man of worth. His testimony was believed to be important. If he would swear on the stand to what he told me I should consider it important. I refused to put him on the stand because of his protestations that he dared not go on the stand and repeat there under oath what he had told me. Perhaps it was because it was not true; that supposition is open to anybody. One witness did come upon the stand in Louisiana. He was a white man; he was a lawyer; he testified. I do not think any violence has been offered to him because of his testimony: I have reason to know that none has been. He was from a distant parish in the State. I saw a letter from his wife, addressed to him after his testimony was published, begging him, in terms very touching and very tender, not to come back to his home. He did go back, and no violence, so far as I know, was offered to him.

I understood the Senator from Delaware to say that although all the testimony, whether given in secret or in public, has been made public sooner or later, no instance has occurred where a breach of the peace followed the publication of any such testimony. One witness was examined before the committee of which I have just been speaking, sitting in the city of New Orleans. He was a colored man, not a very black man. He was certainly a very intelligent man, and, meaning no disparagement to anybody else in Louisiana, I really thought he testified with as much candor as any witness we examined there. That witness was killed, so the newspapers say, some months after his testimony was made public. Of course I do not know that he was killed in consequence or because of the testimony he gave. I do not know as a matter of fact that he was killed at all. I refer to James Law; but I do know that the papers say he was killed, and they attribute the cause of his death to the testimony he gave on that hearing.

Mr. President, if any Senator on the other side of the Chamber can point out what single sanction can be afforded to the testimony of any human being by the mere fact of its being given before all the world instead of being given before a committee authorized to contradict it and having all the world to draw upon for the means of contradiction; if they can show any possible security that the cause of justice or truth may have by imperatively demanding that every statement shall be made with all the world to listen, I shall hesitate before voting against the amendment of the Senator from West Virginia; but I have heard no such statement, and, thinking of it as carefully as I can, I can conceive of no such security.

Mr. SAULSBURY. Mr. President, I prefer the amendment proposed by the Senator from South Carolina because I believe that in investigations of this kind the inquiry should be as open as it possibly can be. If the object is simply to procure an indictment against any community, against any individual or any number of persons, then an investigation with closed doors is the proper machinery whereby to secure the indictment. If, however, the purpose is to elicit truth that the committee may report to the Senate fact and not mere fiction, then every precaution should be made that the testimony which they take should be verity itself. As was said by my colleague, there is a principle involved in this question, a principle which is asserted even in the Constitution of the United States itself, that every man shall be confronted by the witnesses against him; that he shall have the privilege of being present and hearing what is alleged against him; but when you propose by an investigation of this kind to have an inquisition conducted in secret, you limit that principle which is involved in the Constitution. The character of individuals may be assailed, their motives may be impugned, their reputations ruined by witnesses who are testifying and making statements in secret that they would not testify to in the face of the world, because they know that they are secure from cross-questioning by any person who may have cognizance of the facts to which they testify.

In reference to the investigations in which I have been engaged, they have usually been conducted with open doors. I was upon the investigation to which the Senator from Wisconsin [Mr. HOWE] has referred. Our investigations were with open doors, but I cannot say, like the Senator from Wisconsin, that I met with any witnesses there who were unwilling to testify openly and frankly before the committee. I know the fact to be that as many witnesses did appear as the committee could examine. They seemed anxious to testify, both colored men and white men; and apparently, so far as I could observe, they testified without the least apprehension of harm. It may have been, but it was strange to me to hear the Senator from Wisconsin say that they would not have been safe in giving their testimony publicly. No such witnesses approached me or said anything to me in reference to their apprehensions in case they testified. On the contrary, throughout the examination witnesses were constantly present; the committee, so far as I know, did not have to wait a single hour for witnesses; there were men present ready to testify on both sides of the question. I apprehend, if this investigation is conducted with open doors, the investigation itself will be more fair, and no witness will from apprehension or otherwise refuse to come before the committee and state all that he knows in reference to the matters under investigation.

Upon the general subject of the inquiry I have nothing to say. I have voted for the inquiry. I shall vote for the resolutions of the Senator from Maine, as I voted for the amendment offered by the Senator from Ohio. I take this occasion to say that while the Senator from Maine says that there is great anxiety in the country, my impression is that the judgment of the people of this country is that such an investigation ought not to be had. Whatever others may think of it, while I vote for the resolutions, being willing that a committee should be raised which reflected upon the people of any section of the country, yet in my judgment the accusation ought never to have been made; and that in my opinion will be the judgment of the country before this investigation is closed. I voted for it, however, and I am ready to vote for it now. I am not sure if the Senator will further amend his resolutions to provide that this committee shall take with them the public Treasury of the country but what I might vote for them, because if there is a full and free investigation of all the subjects embraced in the resolutions I apprehend the labors of this committee will not close on the 4th of March, though the committee itself will be *functus officio*. Yet I say it would not close at that time if a full investigation were made, could a proper limitation be placed upon the expenses to be incurred by the investigation.

I hope the amendment of the Senator from West Virginia will prevail, so that if any member of the committee, whether he belongs to the minority side or the majority side, desires that the doors may be thrown open and the committee may sit before the whole world, then a single member of the committee may have the privilege of having the doors opened.

Mr. BLAINE. One word more. It has been said in this discussion, very prominently said by the Senator from Ohio, [Mr. THURMAN,] who is not now in his seat, that the party which prevailed in the recent southern election represented the property and the intelligence of the South. The idea when a committee is going South to investigate between these two parties, the one that represents, according to the Senator from Ohio, the ignorance, and the other the intelligence, the idea that those on the intelligent side will need the advantage in any shape in getting their testimony before the committee is a great stretch of the imagination. They have the advantage at the outset; they have all the channels of public opinion in the South; they have the representatives in both branches of Congress; they have the State governments; they have the press; they have the property; I admit it. They have a thousand opportunities to influence the judgment of a committee where those who have been wronged have one. In addition to this vast advantage you now ask that they shall have the additional advantage—I do not say that any Senator voting means that—but they shall have the additional advantage of what the country will understand is an intimidation of those who are weak and oppressed because they are ignorant.

Mr. KERNAN. In every case where there is a litigation between the humblest man and the wealthiest, there is no apprehension that the humble man will not have an opportunity of testifying. That is no reason, I think, for having a star-chamber examination. I did not understand the Senator from Ohio, who is not in his seat, to state just what the Senator from Maine does. He said that property and intelligence and education would have influence everywhere, as I understood him. I did not understand him to say that that had prevailed in this particular case.

Mr. BLAINE. I certainly do not desire to misrepresent the Senator from Ohio. I understood him to say that the result of the recent elections showed that property and intelligence had prevailed.

Mr. KERNAN. I did not so understand him.

Mr. BLAINE. The Senator from New York will pardon me; and I do not intend to say anything which will bring anger into the debate; but he is speaking from a point of view which does not attach to the case under investigation, in so far as the Southern States are concerned. For I think I am at liberty to say, without fear of successful contradiction, that a free election in the sense that Connecticut, which my honored democratic friend [Mr. EATON] represents, or New York, or Vermont enjoys never was known in the South. I take it before the war that there never was in that sense a free election. Let me illustrate. There was not a man in Virginia or Georgia or South Carolina who would have dared to go up and vote for Abraham Lincoln in 1860.

Mr. WITHERS. There were votes in Virginia cast for him.

Mr. BLAINE. Where? In what may be now called West Virginia, but not in the slave-holding section of Virginia.

Mr. WITHERS. In the slave-holding section of Virginia.

Mr. BLAINE. Who was it?

Mr. WITHERS. Of course I cannot give the names of the voters.

Mr. BLAINE. I should like to hear the history of such a man. I maintain, I assert it over again; you may find an example here and there, some man very heroic or very reckless who did it; but through-

out the length and breadth of the slave-holding States there was no man who in 1844 would have dared to vote for James G. Birney. Do I exaggerate that?

Mr. WITHERS. That might be beyond my recollection; but I reassert the fact I stated just now.

Mr. BLAINE. When I allude to 1844 I am speaking of a period within the memory of men still living!

Mr. EATON. Perhaps no one there wanted to vote for James G. Birney. [Laughter.]

Mr. BLAINE. Possibly that may be, but from that time down there never was in the Southern States a free election in the sense that a free election has been understood in the North. There never has been a candidate put up for any office in the North within my knowledge, however odious to the majority of public opinion, who has not been as freely voted for as the most popular man at the hustings. When the Senator from New York tells me about the humblest man having his rights he is speaking of a polity that prevails elsewhere entirely different from that which has given rise to this investigation. I do not say that this condition of things was not a necessary outflow from the stand-point the South occupied. I do not say that in their estimate of the institution of slavery and the necessary surroundings of it they were not driven to it; I am not even debating that; I am stating that which is a fact, and I assert it again in conclusion, that within the meaning of a free election as Vermont or Minnesota understands it, there never was, prior to the war, a free election in any Southern State.

Mr. KERNAN. Mr. President, I do not know why the Senator from Maine should allude to me as occupying any position or affirming anything on the subject of whether elections have been free or not in the Southern States. I have said that he brings in these resolutions charging that elections have not been free. I have said that I should vote for the resolutions because I desired to correct any such evil if it existed. I am now, I have ever been and am, in favor of free, fair elections—elections not influenced by intimidation, not influenced by bribery or the corrupt use of money, not influenced by anything except arguments in favor of the one side or the other. I have said nothing about whether the elections were free or not. In this short session, while I was willing to have this investigation to ascertain what the facts are, I was opposed to discussing the question on its merits before the investigation was had and when the discussion must proceed on assumptions, and not evidence. What has this to do with what I said? In this country when any man is charged with anything that would deprive him of property or political rights or that would bring him into reproach, I said he should have an opportunity to appear before the tribunal when the witnesses who testified against him were examined, to the end that he might suggest questions on the cross-examination, for the purpose that he might know then, while the committee was sitting, what was the testimony against him, so that, if he truthfully could, he might bring witnesses to show that he was not guilty of the offense or wrongful acts sought to be proved against him.

That is all that I have urged or said; and I hope that I will ever stand up for this great right and safeguard, so important to the sifting out of the truth and to prevent falsehood and imposition, that the man charged with anything wrong might be present to hear what the witnesses against him said and have them cross-examined, and have called upon the stand such witnesses as he may wish to vindicate himself. That is all I spoke for, and there is no partisan politics in it. I was amazed to hear it said that this amendment raised a party political question. I do not propose to be drawn into any discussion of the question to be investigated by the committee before we get the evidence and learn what the truth is, but I want the committee to give every side a fair chance and have such evidence taken by the committee as will bring out the truth fairly and fully.

Mr. McMILLAN. Mr. President, the inquiry proposed here is one which does not affect individuals. The subject of this inquiry has been brought to the attention of the Congress of the United States and the people through a message of the Executive of the nation. It does not arise from a partisan stand-point. The President of the United States, charged with the execution of the duties of President in preserving the Constitution, has communicated to the United States through its Congress the fact that the Executive has been advised seriously and credibly that the Constitution of the United States has been violated in certain respects; that the provisions of the Constitution which were framed to secure to a portion of the citizens the right of suffrage in the last election which occurred in this country were seriously violated; that citizens have been deprived of the right of suffrage by violence, intimidation, and outrage; and the Senate of the United States is about to inquire into that question. If this abuse and violation has taken place, if there are communities in the South where citizens have been deprived of the right of suffrage through violence, through murder, through the attacks of the intelligent and property-holding portion of the community, then it would seem to be a natural consequence that the same element by the same means might prevent the very same individuals from attempting to protect their rights and to vindicate the Constitution by appearing before a committee of Congress to testify in regard to those very facts. The nature of the inquiry indicates that it should be free from any possible intimidation; that the witnesses called to testify in regard to the outrages which are alleged to have been committed should be withdrawn from the eyes of persons who would stand there and by a very expression, as I believe I have seen on the witness-stand, prevent witnesses from stating what they believed to be true. It has been my privilege to participate in some of the examinations referred to, and the statements made by the Senator from Wisconsin, [Mr. HOWE,] the chairman of the committee in Louisiana, I can corroborate.

In attempting to enforce this rule you violate, as has already been shown, all the precedents. In addition you introduce a new innovation by conferring on the minority of the committee the power which belongs exclusively, under all circumstances in all assemblies or bodies where voting is done, to the majority. If the Senators on the other side of the Chamber are so anxious about the administration of justice they should be equally as careful about the rights of a majority. It seems to me that in permitting this committee to exercise its discretion in all these matters we are pursuing the right course. The committee will not do injustice. They will adopt that course which will secure the results for which they were appointed, that is, to ascertain the truth in regard to the charges which have been presented through the message of the President of the United States, and to which examination is invited by the resolutions of the Senator from Maine.

Mr. RANSOM. Mr. President, I did not intend to have anything to say in this stage of the debate, and I only rise now to address myself to the amendment of the Senator from West Virginia. The Constitution of the United States, in the amended articles, article 6, has provided that—

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

It would be idle for me at this time of our history to say that that was a wise or necessary provision in the organic law of this country. Our forefathers, with some little claim to patriotism and wisdom, inserted it in the Constitution as one of the essential securities of freedom and good government. If that security was necessary to be placed in the Constitution of the United States for the protection of the humblest individual in this land, ought it not to be respected in a proceeding in the nature of an inquiry or prosecution intended by its authors to embrace at least one-third of the people of this great country, and, if I understand the resolutions of the Senator from Maine, that may lead to changes in our laws and perhaps in the Constitution of the country itself? One of the resolutions of the Senator from Maine is:

> *Resolved*, That the select committee be further instructed to inquire and report whether it is within the competency of Congress to provide by additional legislation for the more perfect security of the right of suffrage to citizens of the United States in all the States of this Union.

Mr. President, in the judgment of the Senator from Maine, or in the judgment of the country, can anything be more important than the rights of citizenship, which he charges have been violated; than the right of the citizen to suffrage, which he charges has been taken away? And I ask if an investigation intended to affect those great rights, designed and declared to lead to new legislation upon that greatest of all subjects, the rights of American citizenship, ought not to be conducted with the same prudence and the same forms and have around it the same safeguards of law that attend the prosecution of the humblest individual in this country for the most trifling offense against its criminal laws?

I shake hands with the Senator from Maine when he says that he intends that no anger shall enter this debate. If I thought that what I said would destroy or disturb the harmony of the country I would maintain a prudent and I hope patriotic silence to-day; but I trust the Senator from Maine will pardon me when I tell him that, although declaring these sentiments of peace, he did not use the most pacific argument when, at the very threshold of his last remarks here, he declared in the face of the history of the last hundred years that there never had been until since the war a free election in the Southern States. If I thought proper, Mr. President, I could take up that glove, and I think, feeble as I am, I could persuade any American patriot to retire from the proposition. I hope the day may be long distant when party or sectional faction shall induce any man to believe or to repeat the utterance that the history of one-half of this country for seventy years was a continued violation of the principles of free election. If I thought proper to retort, I might say it was a calumny upon our history. I shall say no such thing. I shall leave it to the considerate and patriotic reflection of the Senator from Maine to correct it at his leisure.

When all the world have uncovered their heads to bow in reverence to the freedom of elections instituted and practiced in this country by Washington, Jefferson, Madison, and their great compatriots of the Northern States, the Adamses and their compeers, it is too late for the Senator from Maine, in this discussion publicly to declare that there never has been a free election in a Southern State. He forgets how often the votes of the Southern States had been cast for great and good men of his own section.

But, sir, I must ask pardon of the Senate for alluding to that matter. I wish I could have found it in my heart not to say one word about it. The Senator from Maine knows that I do not say it in the

spirit of crimination or recrimination, but I assure him that is not the way to secure peaceable relations in this country.

Mr. President, last Wednesday the Senator from Maine, who before that day had introduced his resolutions of investigation, made his speech upon them. Immediately after his argument, the Senator from Ohio [Mr. THURMAN] introduced his amendment, and very brief remarks were made upon this side of the Chamber; this morning the resolutions were again brought up by the Senator from Maine. A motion by a distinguished Senator on the democratic side of the Chamber to lay the resolutions on the table met with no response from his party friends of the Senate. Eminent as the Senator from Pennsylvania [Mr. WALLACE] is, highly esteemed by his associates on our side of this body as he is, occupying a high party position with us, so desirous and so determined were democratic Senators that this investigation should be full and complete and early, that his proposition to lay the resolutions on the table received the smallest possible support—only three votes from his party associates.

We showed then, from the North and from the South, that we were willing that this investigation should proceed, and that we would put no impediments in its path. The Senator from South Carolina, [Mr. BUTLER,] remembering the troubles of the country and what had happened in his own State before a former committee of investigation, offered his amendment to the effect that the proceedings of the committee should take place with open doors, and upon that proposition a debate sprang up. His amendment was lost by a tie vote of the Senate. A proposition almost substantially the same but in different form was renewed by the Senator from West Virginia, [Mr. DAVIS.] Now let us see how it stands.

If I understood the Senator from Maine correctly in reply to the Senator from South Carolina that wrong might be done in consequence of this investigation being conducted with closed doors, the Senator from Maine asserted that both parties, in fact that all parties in this Chamber should be represented upon the committee and that the wishes and views of the minority would be of course respected; and I understood him also to say that when a witness was examined before the committee if in the judgment of any member of the committee it became necessary that other parties should be called to reply to what the witness had said it was in the power of the committee to call the other witnesses or the parties accused. I think I am right. The Senator assents to what I have said. Now, Mr. President, that being so, I appeal to the Senate and I appeal to the Senator from Maine if the opposition to this amendment is not—I mean it respectfully, but I mean it strongly—a mockery. What protection will the Senator from Maine throw around his timid witness if as soon as he makes a statement in secret committee a democratic Senator discloses the fact to the local democrats? Will the circumstance that the testimony was given in secret make it less obnoxious to those who, it is charged, will resent it? Is that protection to the witness? Upon your theory of intimidation you must admit one of two things: that you cannot protect your witness or you cannot permit his evidence to be divulged. If the statements of the witness are to be divulged, then you furnish him no protection; but you do this by your secret commission, you impair the right of cross-examination and all the opportunities for having the whole truth developed. The statements of the witness go out garbled, they go out second-handed, they go out at best but deformed reflections. Days or perhaps weeks pass before the absent party can be heard, the accusers have departed, and the examination breaks down and you never get the truth. Now, we say, "put on the light." As the Senator from New York [Mr. CONKLING] has so often said in this Chamber with more than dramatic effect, "turn on the lights." The Senator from Maine has called for the light. In his speech of last Wednesday he invoked the light on these transactions that the country might know what was wrong and that the wrong might be corrected. Now, when we meet the Senator and say "turn on the lights," oh, no, says the Senator from Maine, put us in a dark chamber, cover us with curtains, draw the veils around us, lock the doors, shut out the light, the light will conceal the truth, the light will suppress the facts.

Mr. President, the Senator from Maine is wrong in that. I am too weak to express the sentiment. I wish I had greater power to present it—this light, this light of heaven, the first creation of the Almighty, this light of day in the face of men is the great protection of all; it is the enemy of fraud; it is the enemy of force; it is the enemy of corruption; it is the light of day that protects our homes, that protects our rights, that protects our courts of justice, that protects every man in this country. That light has been secured by the Constitution. Let it shine in this Chamber and in and through every act of the Government.

Mr. President, I do not intend at this time to say what I intend at a fit season to say in defense of the people of the South. I have sometimes attempted to do that; but I say this, when that evidence comes here let it come with no suspicion upon it; let it come as a ray from the sun; let it come so that there may be no doubt about its truth; let it come so that there may be no room for controversy in this Chamber or elsewhere; let it be so unaccompanied by deception or concealments, let it be so broad, so bright, so clear that my esteemed friend from Illinois on my right [Mr. OGLESBY] and my esteemed friend from Florida on my left [Mr. JONES] will both see it without doubts and without confusion. Unless it is clear, open, free, it can furnish no instruction to the Senate or the country. Do not let it come here clouded, shrouded in mystery with these exceptions to it.

I will say one other word, sir. I trust that it will not be necessary for the Senator from Maine, or any other Senator, to make an assault upon the Southern States. If they feel it to be their duty to do it I shall meet it as best I can. I shall endeavor to tell the truth about that people, and the truth will be their best defense; but I beg leave here once for all—I will not say it to the Senator from Maine, because I will not do him the injustice to say that it is in his heart, but I say to all that if there is any thought anywhere, any expectation anywhere that anything can be said in this Chamber, or in the other end of this Capitol, or elsewhere in this country, that will provoke the South to recrimination against the other sections of this country, the gentlemen are mistaken. I tell the country, speaking for my own State and in part for the South of which I am, that such is not our purpose.

Senators from the North, if you are to have war with us it shall be your fault, not ours. You know that a little over twelve months ago it was in the power of southern men—I will not say to have endangered this Government, I will not harbor or utter the thought; but it was in our power to have given this Administration intense trouble. I think the country has said we acted patriotically in the matter of the installation of the present President of the United States. We could have imperiled the credit of the nation. We could, if we had been disposed as we have been misrepresented, brought on revolution. We could have thrown impediment after impediment in the way of the healthy administration of this Government. We knew it, but we had no dream, no desire of doing it. We will never do it. We desire its peace. We love its Constitution, for our forefathers had a great part in making it. We love its honor, for we claim that we had a chief part in its illustration. We expect to deserve its blessings, for we intend to be patriotic and true to it. We desire no sectional aggrandizement to your injury. We have felt enough of sectional domination to hate it, to shun it; and if we had the power, which we know is impossible, we would not exercise it over you. It is a phantom that you have conjured up and that does not exist with us. All we desire is our rightful equality in the Government, to be let alone, to build up our ruined fortunes, to maintain our honor, and to do and to have justice. We do not menace your rights or the rights of any section or citizen.

But when you propose to investigate us, when you call up and impeach our States, when you indict our people, when you declare here, as the Senator from Minnesota does, that the rights of the colored people are denied, we meet you half way. We say "turn on the light," dispel the clouds, see it all in broad, open day. Will you deny us this?

Mr. President, this Government has had the power to maintain itself against adverse fortune. It has maintained itself with wonderful power and wonderful courage. God forbid that it should go out to mankind and go down the stream of time forever that in this the one hundred and second year of its independence the American Senate, representing the thirty-eight States of the Republic, has declared that the truth cannot be reached by an investigation in open day. I do not and will not believe it.

Mr. BLAINE. Mr. President, I hold in my hand a paper from North Carolina, printed in Raleigh, the capital of the State, a paper devoted to the interests of the democratic party, a paper which does me the honor to publish some remarks I made the other day in the Senate and which accompanies their publication with some editorial comments. Without feeling the necessity of any elaboration of proof of the justice and propriety of all that I said the other day which the honorable Senator now calls in question, I will read from the leading democratic paper of his own State as vindicating the truth of what I spoke. I will not inflict on the Senate the whole of the editorial. Let one paragraph suffice:

The South will resist—

The paragraph I allude to begins—

to the bitter end.

What the South is going to "resist to the bitter end" I do not exactly know, but perhaps the paragraph will show:

The South will resist to the bitter end. This is unquestionably a white man's country, and white men will unquestionably rule it. But for all that we do not intend that the negro race shall be deprived of the right of suffrage. It matters not how they exercise that right. We care little how the negro votes, or whether he votes at all, the State and the South will be democratic with or without his aid. But his right to vote must be maintained, for that right entitles North Carolina to three, and the South to thirty-five Congressmen. Our northern brethren took a stick to beat us with: it has passed into our hands, and we take infinite pleasure in breaking their heads with it.

[Laughter.]

That is the answer which I read to the honorable Senator from North Carolina.

Mr. RANSOM. I had read it before.

Mr. BLAINE. You had not read it to the Senate.

Mr. RANSOM. And I had read the rest of the article, the whole of that editorial.

Mr. BLAINE. That contains all that I said in regard to the South: that as to the negro's right to vote the promise will be held to the ear but broken to his hope; the right nominally to vote will be maintained because it gives the South thirty-five Representatives in Congress, but that with or without his aid those Representatives shall be democratic. Why, sir, this is not merely a question between white men and black men; it is not merely a question between democrats and republicans; it is a question in the South between the democratic party and any form of opposition that chooses to resist it.

Mr. BUTLER. Mr. President——

Mr. BLAINE. One moment. I have on my desk—I was trying to find it but did not at the moment—a letter published by Reuben Davis, of Mississippi, known to all gentlemen who are familiar with the history of the epoch about the opening of the rebellion as a very extreme southern man, a man who was in a persecuting spirit of mind toward everything North. He was among those that stoned the prophets. There was no man who went so far and staid so long in bitterness on this question as he; and yet he publishes over his own signature that when he attempted to run as an independent candidate against the democratic organization in Mississippi at the late election he was hooted and not permitted even to address the public; not pretending to run as a republican, but running as an independent greenback candidate, and they would not permit him to be heard. Why, Mr. President, we had greenback candidates down in Maine [laughter] and we had greenback voters there uncomfortably numerous about election time; but during that whole canvass and during the election it never once occurred to the republican mind of Maine that it would be a good thing to hoot those gentlemen from the stage and not permit them to speak. That would have been a queer experiment for anybody in Maine to have attempted.

And now, sir, if the Senator from South Carolina insists that I am making an indictment, let me say to him that I am indicting the democratic party *eo nomine;* I am indicting it as absolutely the foe of free speech in the South; I am indicting it as absolutely the foe of free suffrage in the South; I am indicting it as the life-long adversary of free election in the South.

The Senator from Ohio the other day spoke of that people as being "almost defenseless." They are here, sir, in this Chamber with sixteen States which in the next Senate they will have solid with two only scattering, with coadjutors from the North that give them an absolute majority of eight or ten in this body, and they hold the other branch of Congress by a grip just as strong, meting out law to us, voting bills up or voting them down just as they please; and yet the Senator from Ohio talks about me alluding to a people "almost defenseless." Nor will the Senator from North Carolina—I beg his attention upon that point, for I have heard it several times—nor will he I say take credit for the forbearance of the South or the forbearance of the North in its democratic party for not having a commotion at the last presidential election. I have heard that a great deal. I have heard it said here and there and everywhere that we owed a great deal to the forbearance of southern men, because we did not have a revolution about the time the question was up whether Mr. Hayes or Mr. Tilden should be placed in the executive chair. Ah, Mr. President, that is a fearful mistake for the Senator from North Carolina or any other gentleman to make. Behind the Congress of the United States if they had not done their duty, and over them, and destroying them if they had done other than their duty, were the same people that had expended life without stint and treasure beyond count that the Union might be preserved. And do you suppose that for the fate or the fortune of a thousand Mr. Hayeses or a thousand Mr. Tildens—and I speak with no disrespect of either—this people would have gone to war, or that you or any other section could have precipitated a war? No, no. Sir,

> Lay not that flattering unction to your soul.

Say simply that as men and as patriots you did as we did what was becoming in the premises and that doing your duty as we did ours the meed of reward shall be its recognition—and no boast made of it by any of us.

Mr. RANSOM. Yes, Mr. President, and when we declare that we did our duty and when the Senator from Maine says and knows we did it, still in the face of that fact the Senator tells the world here today that we deny their rights to our own fellow-citizens, that we are untrue to the Constitution and our obligations, and by his last appeal to me, to which he demanded my attention, more than intimated that when we did that duty we were moved by fear and not by patriotism.

Mr. BLAINE. Not at all, not in the remotest degree. I intimated that you simply did your duty.

Mr. RANSOM. I am glad that I misunderstood the Senator.

Mr. BLAINE. You did your duty, nothing else.

Mr. RANSOM. I am glad the Senator made no such imputation. I shall take his statement. That is all.

Mr. BLAINE. I do not know what the Senator made out of it. I said nothing about fear; but if the gentleman wants to talk of fear, I tell him that if either he——

Mr. RANSOM. Mr. President——

Mr. BLAINE. Wait. I tell him that if either he or I or any other Senator on this floor should fail to do our duty as becomes the representative of so great a people we should both be smitten with the withering condemnation of the constituency that knows how to enforce duty. That is what I say here.

Mr. RANSOM. I might say, Mr. President, that I hope I would be smitten with no such withering blight. I trust the Senator from Maine may not be. But, sir, I did not boast of what we did here in 1877. I submit it to the Senator from Maine if it was quite right in him, after the statement that I had just made on this floor that I did not intend to be goaded, or provoked, or irritated, or driven into anything like sectional crimination, to speak of courage or fear?

Mr. BLAINE. I had no intention——

Mr. RANSOM. I submit it to the Senator if it was quite right for him to speak of fear?

Mr. BLAINE. Why the Senator is drawing on his imagination. I made no such reference whatever.

Mr. RANSOM. I ask the Senator's pardon then. I may be a little particular about those things. I thought that was the drift of his remarks; but the Senator has asked what I made of it. I hope that I have made nothing of it. I hope that neither of us has made anything of it except something for the good of this country, something for its peace, something for its honor, something for the friendly relations of all of us and the common good of the country. Sir, I should despise myself in standing here with the robes of a Senator of a great State around me if I could think of a petty personal triumph in a colloquy on the floor of the Senate.

Mr. BLAINE. The question we are debating, Mr. President, is whether the Senate will direct that one member of this committee shall open its doors when every other member may think it prudent and wise and proper to keep them shut; and the Senator from North Carolina, while he was debating that particular portion of the case, spoke as though we were sending a committee down South to indict somebody. There is no particular individual from the Potomac to the Rio Grande that is aimed at by the resolutions. We are going down to indict no man and to try no man. It is to ascertain a question far beyond and far above the rights or the wrongs of any individual; and that is whether there is a fair and impartial representation in the make-up of the Congress of the United States; and in this connection I beg here to reply to a remark made by the honorable Senator from Mississippi [Mr. LAMAR] on the day when these resolutions were debated before, and that remark implied that even if there might be some advantage for the South in the popular branch of Congress it was an advantage more than compensated by some countervailing advantage which we held in this branch. Sir, whenever that phase is brought to light, knowing that it is held up as a dreadful example, let me tell the honorable Senator from Mississippi and the country that I can name six Southern States that send twelve Senators to this floor with one-half the white population of the six New England States and with less than the aggregate population. So that if the remedy hinted at by the Senator from Mississippi should be resorted to, that scalpel would cut more deeply into the South than it would into the North. Let me tell him, sir, that of the thirty-two Senators who sit here from the Southern States and forty-four from the Northern States, a much larger number of constituents are behind each northern Senator than behind each southern Senator. Then if you take it in classes between the North and South the advantage is overwhelmingly against the South. If you take the frightful example of New England, always held up, I will gather together six States of the South that illustrate in a far more striking manner what the Senator intimated by the injustice of representation in this branch.

Mr. LAMAR. Mr. President, the Senator from Maine misunderstood the position which I took with reference to the representation of States in this Senate, owing entirely no doubt to the want of clearness in my own statement. If I did not misapprehend the Senator from Maine on that occasion his argument was that under the amendments which conferred freedom and citizenship and suffrage upon the black race, the South through certain irregular methods had obtained a representation in the House of Representatives disproportioned, not to her population, but to the actual voters at the polls; and if I did not mistake him he quoted from the Supreme Court reports of the United States a decision that the power of Congress did not extend far enough to remedy that disproportion of representation in the other House. If I understood him he said that that decision which denied the power of Congress to legislate so long as the laws of a State itself did not deny or abridge any of these rights to the negro population—that Congress was powerless to intervene—was indorsed by him as being true to the letter of the Constitution which killeth. I understood him to say that the Constitution as thus construed was a killing Constitution, and that the letter of it stood up as a barrier to the enforcement of the rights conferred upon the colored citizens.

Mr. BLAINE. The Senator misunderstood me.

Mr. LAMAR. Owing to my own obtuseness, no doubt.

Mr. BLAINE. Such might be the ruling of the courts, I said, on the letter which killeth, but I protested against the equity and justice of it. I did not at all admit that that was what in my judgment the Constitution was designed to be.

Mr. LAMAR. Precisely. He did not admit that it was what it was designed to be; but do I understand now the Senator to say that he differs with the court in its construction of the Constitution?

Mr. BLAINE. I do. That may not be a very great shock to the court; but nevertheless I do.

Mr. LAMAR. I differ from the Senator. The court will be greatly shocked, but perhaps will survive the attack. [Laughter.] Then, sir, I thought that it was not amiss to suggest that if there were remedies in the American people to prevent this disproportionate representation, and if we could so legislate as to make, not population but actual voters at the polls to be the limit of the representation of a State; and if Congress or the people by their amending power should thus interpose to reform the Government and to make it a government based entirely upon numbers, not that New England alone, but that the South also might apprehend that you would go further and crumble into ruin our entire system. Sir, when the gentleman tells me that the South is in the same danger that the East is, that the New England States are, he only reiterates a fact that I have attempted to impress upon both sections; and that is

that the inviolability of the Constitution is the only shield and safeguard of New England as well as of the South.

Sir, the menace does not come from the weak and impotent South. When this popular movement, this effort to bring this Government to the pure principle of democratic absolutism, trampling down in its relentless strides the barriers of the Constitution, he will find the power not in the South, but in the mighty West, whose little finger is greater and more potent than the two thighs of South and East united.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from West Virginia, [Mr. DAVIS.]

The Secretary proceeded to call the roll.

Mr. GROVER, (when his name was called.) I am paired with the Senator from Kansas, [Mr. PLUMB.] If he were present, I should vote "yea."

Mr. MATTHEWS, (when his name was called.) On this question I am paired with the Senator from Virginia [Mr. JOHNSTON] who is absent.

Mr. MAXEY, (when his name was called.) On this question I am paired with the Senator from Alabama, [Mr. SPENCER.] If he were here, I should vote "yea."

Mr. SAULSBURY, (when his name was called.) I am paired with the Senator from Florida, [Mr. CONOVER.] If he were here, I should vote "yea;" I do not know how he would vote.

The call of the roll was concluded.

Mr. BUTLER, (who had voted in the affirmative.) I forgot again my pair with the Senator from California, [Mr. SARGENT.] I withdraw my vote.

Mr. KIRKWOOD. Some time ago I had business in the other House and paired with the Senator from Connecticut [Mr. EATON] on this question. I wish to know whether he has been in and voted?

Mr. EATON. I voted, as I saw my friend in his seat.

Mr. KIRKWOOD. All right.

The result was announced—yeas 28, nays 29; as follows:

YEAS—28.

Armstrong,	Davis of W. Va.,	Jones of Florida,	Morgan,
Bailey,	Eaton,	Kernan,	Randolph,
Bayard,	Eustis,	Lamar,	Ransom,
Beck,	Garland,	McCreery,	Voorhees,
Cockrell,	Gordon,	McDonald,	Wallace,
Coke,	Harris,	McPherson,	Whyte,
Davis of Illinois,	Hereford,	Merrimon,	Withers.

NAYS—29.

Allison,	Conkling,	Kellogg,	Rollins,
Anthony,	Dawes,	Kirkwood,	Saunders,
Blaine,	Dorsey,	McMillan,	Teller,
Booth,	Ferry,	Mitchell,	Wadleigh,
Burnside,	Hamlin,	Morrill,	Windom.
Cameron of Pa.,	Hoar,	Oglesby,	
Cameron of Wis.,	Howe,	Paddock,	
Christiancy,	Ingalls,	Patterson	

ABSENT—19.

Barnum,	Dennis,	Jones of Nevada,	Saulsbury,
Bruce,	Edmunds,	Matthews,	Sharon,
Butler,	Grover,	Maxey,	Spencer,
Chaffee,	Hill,	Plumb,	Thurman.
Conover,	Johnston,	Sargent,	

So the amendment was rejected.

Mr. WHYTE. Mr. President, as there are some other Senators who desire to speak on these resolutions, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened, and (at four o'clock and thirty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 16, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday was read and approved.

ADMISSION TO THE FLOOR.

The SPEAKER. The gentleman from Louisiana [Mr. ACKLEN] states that Hon. Chauncey J. Filley, president of the United States Board of Trade, Hon. Ellwood E. Thorne, chairman, and Uriah Welch, esq., W. H. C. Price, and A. B. Minear, members of the executive committee, are now in Washington, and asks that the privilege of the floor be accorded to them for to-day only, as was granted to the officers of the National Board of Trade on Saturday last.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at ten minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

Mr. DUNNELL. I ask by unanimous consent the call be continued till completed.

Mr. MAYHAM. I do not object to the motion of the gentleman from Minnesota, but under the rules at two o'clock to-day the House must proceed to the consideration of the business of the Committee for the District of Columbia.

The SPEAKER. That will not be interfered with.

Mr. DUNNELL's motion was agreed to.

WILLIAM W. MURDOCK.

Mr. JONES, of New Hampshire, introduced a bill (H. R. No. 5538) granting a pension to William W. Murdock, formerly a sailor of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CHARLES H. ORDWAY.

Mr. BRIGGS introduced a bill (H. R. No. 5539) granting an increase of pension to Charles H. Ordway; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OLIVER T. SMITH.

Mr. JOYCE introduced a bill (H. R. No. 5540) granting a pension to Oliver T. Smith, of Poultney, Vermont; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLAIMS FOR HORSES.

Mr. JOYCE also introduced a bill (H. R. No. 5541) amending section 3489 of the Revised Statutes of the United States, extending the time for presenting claims for horses lost in the United States military service to June 30, 1880; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DOROTHY BAKER.

Mr. HENDEE introduced a bill (H. R. No. 5542) for the relief of Dorothy Baker; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MOUNT PLEASANT RAILROAD COMPANY.

Mr. HENDEE also introduced a bill (H. R. No. 5543) to incorporate the Mount Pleasant Railroad Company of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SURGEON EUGENE C. SLEEPER.

Mr. DENISON introduced a bill (H. R. No. 5544) for the relief of Eugene C. Sleeper, of Company H, Second Regiment Vermont Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. H. MERRILL.

Mr. LANDERS (by request) introduced a bill (H. R. No. 5545) for the relief of J. H. Merrill, of Washington, District of Columbia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

He also (by request) introduced a bill (H. R. No. 5546) for the relief of J. H. Merrill, of Washington, District of Columbia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

RAILROAD BONDS.

Mr. MULLER introduced a bill (H. R. No. 5547) authorizing the Secretary of the Treasury to accept indemnity for certain claims growing out of advances made by the United States; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

Some time subsequently,

Mr. THROCKMORTON said: I ask that the bill introduced by the gentleman from New York [Mr. MULLER] may be read, in order that I may raise a question as to its proper reference.

Mr. MULLER. It is immaterial to me to what committee the bill is referred.

Mr. THROCKMORTON. I move that the bill, instead of being referred to the Committee of Ways and Means, be referred to the Committee on the Pacific Railroad.

There was no objection, and it was so ordered.

UNITED STATES NOTES.

Mr. WOOD introduced a bill (H. R. No. 5548) to make United States notes receivable for duties on imports; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CUSTOMS APPEALS.

Mr. WOOD also introduced a bill (H. R. No. 5549) respecting protests or appeals from decisions of collectors of customs; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

LUMAN NUTTING.

Mr. WILLIAMS, of New York, introduced a bill (H. R. No. 5550) granting a pension to Luman Nutting, of Plattsburgh, New York; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to printed.

THOMAS KIRBY.

Mr. WILLIAMS, of New York, also introduced a bill (H. R. No.

5551) granting a pension to Thomas Kirby, of Schuyler Falls, New York; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WALTER JORDAN.

Mr. WILLIAMS, of New York, also introduced a bill (H. R. No. 5552) granting a pension to Walter Jordan, of Ticonderoga, New York; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANCES M. HOBART.

Mr. JAMES introduced a bill (H. R. No. 5553) granting a pension to Frances M. Hobart, widow of George P. Hobart, late a private in Company F, Thirteenth Regiment New York Volunteer Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COMPULSORY PILOTAGE.

Mr. HARDENBERGH introduced a bill (H. R. No. 5554) relative to compulsory pilotage; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

POST-OFFICE DEPARTMENT.

Mr. CUTLER introduced a bill (H. R. No. 5555) to amend section 107 of an act entitled "An act to revise, consolidate, and amend the statutes relating to the Post-Office Department," being section 4032 of the Revised Statutes; which was read a first and second time, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

CHARLES WILLIAMS.

Mr. WRIGHT introduced a bill (H. R. No. No. 5556) for the relief of Charles Williams; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY N. DE HAVEN.

Mr. MACKEY introduced a bill (H. R. No. 5557) granting a pension to Mary N. De Haven, widow of Edwin J. De Haven, late lieutenant commander United States Navy and commander of the United States Arctic expedition of 1850 and 1851; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT R. BITTNER.

Mr. MACKEY also introduced a bill (H. R. No. 5558) granting a pension to Robert R. Bittner, late lieutenant of Company B, Eleventh Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES S. PALMER.

Mr. MITCHELL introduced a bill (H. R. No. 5559) granting a pension to James S. Palmer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM SMITH.

Mr. MITCHELL also introduced a bill (H. R. No. 5560) granting a pension to William Smith, late corporal of Company A, One hundred and thirty-sixth Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NANCY PHILLIS.

Mr. SHALLENBERGER introduced a bill (H. R. No. 5561) granting a pension to Nancy Phillis, widow of James M. Phillis, late a private of Company F, Tenth Pennsylvania Reserves; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL S. SHAFFER.

Mr. CAMPBELL introduced a bill (H. R. No. 5562) granting a pension to Daniel S. Shaffer, late a private of Company G, Twenty-first Regiment Pennsylvania Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RUFUS CRISSEY.

Mr. CAMPBELL also introduced a bill (H. R. No. 5563) granting a pension to Rufus Crissey, late a member of Company D, Fifth Regiment of Pennsylvania Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDGAR B. LAMPHIER.

Mr. WATSON introduced a bill (H. R. No. 5564) granting a pension to Edgar B. Lamphier, of Union City, Erie County, Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN HOLROYD.

Mr. HUNTON introduced a bill (H. R. No. 5565) for the payment of John Holroyd for the use of his patent and inventions by the Government; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

POST-OFFICE RAILWAY EMPLOYÉS.

Mr. WADDELL introduced a bill (H. R. No. 5566) to classify employés of the Post-Office Department on railways, and to adjust their pay; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. HARTRIDGE introduced a bill (H. R. No. 5567) to repeal section 821 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MONEY-ORDER OFFICES.

Mr. BELL introduced a bill (H. R. No. 5568) to define the class of post-offices at which money-order offices shall be established; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ELIAS MURPHY AND JAMES M. COOPER.

Mr. BELL also introduced a bill (H. R. No. 5569) for the relief of Elias Murphy and James M. Cooper, of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

THOMAS A. EMMETT AND JAMES M. COOPER.

Mr. BELL also introduced a bill (H. R. No. 5570) for the relief of Thomas A. Emmett and James M. Cooper, of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FRANCIS C. BELL AND JAMES M. COOPER.

Mr. BELL also introduced a bill (H. R. No. 5571) for the relief of Francis C. Bell and James M. Cooper, of Georgia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MOSES R. RUSSELL.

Mr. HARRIS, of Georgia, introduced a bill (H. R. No. 5572) for the relief of Moses R. Russell, of Carroll County, Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

QUARANTINE REGULATIONS.

Mr. WILLIAMS, of Alabama, presented a memorial from the Legislature of Alabama, in reference to quarantine regulations; which was referred to the Committee on Commerce.

THOMAS H. JOHNSON.

Mr. HEWITT, of Alabama, introduced a bill (H. R. No. 5573) for the relief of Thomas H. Johnson, of Fayette County, Alabama; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

COOSA RIVER.

Mr. FORNEY introduced a bill (H. R. No. 5574) making an appropriation to continue the work on the Coosa River in the States of Georgia and Alabama; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TENNESSEE RIVER.

Mr. FORNEY also introduced a bill (H. R. No. 5575) making an appropriation to continue the improvement of the navigation of the Tennessee River in the States of Alabama and Tennessee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES MARSHALS.

Mr. HERBERT introduced a bill (H. R. No. 5576) to require marshals to carry persons arrested before the nearest United States commissioner; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

STATE BANKS.

Mr. LIGON presented a joint resolution of the State of Alabama, in relation to the Federal tax on the issues of State banks; which was referred to the Committee on Banking and Currency.

MISSISSIPPI RIVER.

Mr. GIBSON introduced a bill (H. R. No. 5577) for the improvement of the Mississippi River and its tributaries, from the head of the passes near its mouth to its headwaters; which was read a first and second time, referred to the Committee on Levees and Improvement of the Mississippi River, and ordered to be printed.

UNITED STATES BOARD OF TRADE, ETC.

Mr. ACKLEN introduced a bill (H. R. No. 5578) to incorporate the United States Board of Trade, Manufactures, Commerce and Agriculture, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JAMES GALBRAITH.

Mr. SOUTHARD introduced a bill (H. R. No. 5579) granting a pension to James Galbraith; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GENERAL JAMES SHIELDS.

Mr. BANNING introduced a bill (H. R. No. 5580) to authorize the President to appoint James Shields, of Missouri, a Brigadier-General in the United States Army on the retired list; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DANIEL M. JONES.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 5581) granting a

pension to Daniel M. Jones, late of Company B, Fifty-first Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JESSE H. BOND.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 5582) for the relief of Jesse H. Bond, late of Company F, Fifty-seventh Regiment Ohio State Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELI H. DAY.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 5583) granting a pension to Eli H. Day, late first lieutenant Company K, One hundred and thirty-second Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REDEMPTION OF THE TRADE-DOLLAR.

Mr. FOSTER introduced a bill (H. R. No. 5584) authorizing the exchange of lawful money for the trade-dollar; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

THOMAS C. BOWEN.

Mr. FOSTER also introduced a bill (H. R. No. 5585) to restore Thomas C. Bowen to the active list of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JOSEPH BROWN.

Mr. MCKINLEY introduced a bill (H. R. No. 5586) granting a pension to Joseph Brown; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JULIA FOLLANSBEE.

Mr. MCKINLEY also introduced a bill (H. R. No. 5587) for the relief of Julia Follansbee, widow of Benjamin R. Follansbee, late of Company F, Eighteenth Regiment Pennsylvania Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLDIERS' REUNION AT CAMBRIDGE, OHIO.

Mr. DANFORD introduced a joint resolution (H. R. No. 207) authorizing the Secretary of War to send artillery and camp equipage to the soldiers' reunion at Cambridge, Ohio; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JESSE RAPIER.

Mr. DURHAM introduced a bill (H. R. No. 5588) granting a pension to Jesse Rapier, late private Company F, Sixteenth Regiment Kentucky Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FANNIE A. GILBERT.

Mr. ATKINS introduced a bill (H. R. No. 5589) granting a pension to Fannie A. Gilbert, widow of William Gilbert, late a private in Company C, Seventh Regiment Tennessee Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH A. REEVES.

Mr. ATKINS also introduced a bill (H. R. No. 5590) granting a pension to Elizabeth A. Reeves and her minor child, representatives of Richard T. Reeves, late a private in Company C, Seventh Regiment Tennessee Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JONAH DUNCAN.

Mr. RIDDLE introduced a bill (H. R. No. 5591) granting a pension to Jonah Duncan, First Tennessee Mounted Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH FULKS.

Mr. RANDOLPH introduced a bill (H. R. No. 5592) for the relief of Elizabeth Fulks, of Greeneville, Greene County, Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SETTLERS ON HOT SPRINGS RESERVATION, ARKANSAS.

Mr. YOUNG (by request) introduced a bill (H. R. No. 5593) for the relief of the settlers on the Hot Springs reservation in the State of Arkansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES R. HOWARD.

Mr. YOUNG also introduced a bill (H. R. No. 5594) for the relief of James R. Howard; which was read a first and second time, referred to the Committee on Expenditures in the Treasury Department, and ordered to be printed.

BOUNTY, PRIZE-MONEY, ETC., OF COLORED SOLDIERS AND SAILORS.

Mr. YOUNG also introduced a bill (H. R. No. 5595) extending the time for closing the bureau having charge of the collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS CRAWFORD.

Mr. BICKNELL introduced a bill (H. R. No. 5596) for the relief of Thomas Crawford, late Company B, Thirteenth Indiana Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COLBY HORNADAY.

Mr. BICKNELL also introduced a bill (H. R. No. 5597) granting a pension to Colby Hornaday: which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ERASTUS VINSON.

Mr. HANNA introduced a bill (H. R. No. 5598) granting a pension to Erastus Vinson, of Indianapolis, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM TASKER.

Mr. BAKER, of Indiana, introduced a bill (H. R. No. 5599) granting a pension to William Tasker, late a private in Company H, Seventy-fourth Regiment Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN DOLAN.

Mr. HENDERSON introduced a bill (H. R. No. 5600) granting a pension to John Dolan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

STEAMBOAT MOLLIE KEATOR.

Mr. HENDERSON also introduced a bill (H. R. No. 5601) to change the name of the steamboat Robert Ross to Mollie Keator of Moline; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

STANDARD SILVER DOLLAR.

Mr. BRENTANO introduced a bill (H. R. No. 5602) to amend an act to authorize the coinage of the standard silver dollar and to restore its legal-tender character, passed February 28, 1878; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

GILBERT KING.

Mr. LATHROP introduced a bill (H. R. No. 5603) granting a pension to Gilbert King, of Udina, Kane County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SILVER COINAGE.

Mr. LATHROP also introduced a bill (H. R. No. 5604) to place the silver coinage of the United States upon the basis of its intrinsic value; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CHRISTOPHER C. FLEENER.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 5605) granting a pension to Christopher C. Fleener, late a private Company A, Third Regiment Indiana Volunteer Infantry in the Mexican war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN HAWKINS.

Mr. CANNON, of Illinois, also introduced a bill (H. R. No. 5606) granting a pension to John Hawkins, late a private in Company E, Seventy-ninth Regiment Infantry Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES G. HELM.

Mr. HARTZELL introduced a bill (H. R. No. 5607) for the relief of James G. Helm, of Illinois; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LEGAL-TENDER QUALITY OF SILVER DOLLARS.

Mr. FORT introduced a bill (H. R. No. 5608) to maintain and enforce the legal-tender quality of silver dollars; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CURRENCY OF THE UNITED STATES.

Mr. FORT also introduced a bill (H. R. No. 5609) relating to the currency of the United States; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ENROLLED MISSOURI MILITIA.

Mr. POLLARD introduced a bill (H. R. No. 5610) to construe section 2304 Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ROBERT D. KIRK.

Mr. POLLARD also introduced a bill (H. R. No. 5611) granting a pension to Robert D. Kirk; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOCKING UP CURRENCY, ETC.

Mr. BUCKNER introduced a bill (H. R. No. 5612) to amend section 5207 of the Revised Statutes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

NANCY HALL.

Mr. CLARK, of Missouri, introduced a bill (H. R. No. 5613) granting a pension to Nancy Hall, widow of Thomas Hall, soldier of war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

HOY COOPER.

Mr. CLARK, of Missouri, also introduced a bill (H. R. No. 5614) granting a pension to Hoy Cooper, of Boonesborough, Missouri; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NOAH H. BADGETT.

Mr. CRAVENS introduced a bill (H. R. No. 5615) for the relief of Noah H. Badgett, of Pulaski County, Arkansas; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM H. VAN TILBURGH.

Mr. DEERING introduced a bill (H. R. No. 5616) granting a pension to William H. Van Tilburgh, late a private in Company G, Ninety-third Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSIAH HASKILL.

Mr. PRICE introduced a bill (H. R. No. 5617) granting a pension to Josiah Haskill, late a private in Company K, Thirty-seventh Regiment Iowa Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DANIEL WHEATON.

Mr. SAMPSON introduced a bill (H. R. No. 5618) granting a pension to Daniel Wheaton, of Ottumwa, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALFRED B. HICKS.

Mr. SAMPSON also introduced a bill (H. R. No. 5619) granting a pension to Alfred B. Hicks; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN W. HUMPHREY.

Mr. BURDICK introduced a bill (H. R. No. 5620) for the relief of John W. Humphrey; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN WILLANS.

Mr. HUMPHREY introduced a bill (H. R. No. 5621) granting a pension to John Willans, formerly a captain and assistant adjutant-general of United States Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN P. M'CLANATHAN.

Mr. HUMPHREY also introduced a bill (H. R. No. 5622) granting a pension to John P. McClanathan, late private Company H, Thirty-second Regiment Wisconsin Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NELSON J. ROSSAVELT.

Mr. HUMPHREY also introduced a bill (H. R. No. 5623) granting a pension to Nelson J. Rossavelt; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTOPHER SCHOLL.

Mr. HAZLETON introduced a bill (H. R. No. 5624) for the relief of Christopher Scholl, of Richland County, Wisconsin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

H. C. WILSON.

Mr. LUTTRELL introduced a bill (H. R. No. 5625) for the relief of H. C. Wilson; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

NAVIGATION OF MISSISSIPPI RIVER.

Mr. STRAIT introduced a bill (H. R. No. 5626) to promote and improve the navigation of the Mississippi River; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. STRAIT also introduced a bill (H. R. No. 5627) to grant additional rights to homestead settlers on public lands within railroad limits; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ZACHEUS FULLER.

Mr. DUNNELL introduced a bill (H. R. No. 5628) granting a pension to Zacheus Fuller; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

AMENDMENT OF PENSION LAWS.

Mr. DUNNELL also introduced a bill (H. R. No. 5629) to amend an act amending the laws granting pensions to the soldiers and sailors of the War of 1812 and their widows, and for other purposes, approved March 9, 1878; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

MERTON STANCLIFF.

Mr. DUNNELL also introduced a bill (H. R. 5630) granting a pension to Merton Stancliff; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

S. D. HOUSTON.

Mr. PHILLIPS introduced a bill (H. R. No. 5631) for the relief of S. D. Houston, late receiver and disbursing agent at Junction City, Kansas; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INDIAN TERRITORY A JUDICIAL DISTRICT.

Mr. PHILLIPS also introduced a bill (H. R. No. 5632) to establish the judicial district of the Indian Territory; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BARGE COCKADE CITY.

Mr. MARTIN introduced a bill (H. R. No. 5633) authorizing the changing the name of the barge Cockade City, of Washington, District of Columbia, to Republic; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MONONGALIA RIVER.

Mr. MARTIN also introduced a bill (H. R. No. 5634) to authorize a further appropriation to continue the improvement of the Monongalia River, in the State of West Virginia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

L. VALDEZ AND F. P. ABREU.

Mr. ROMERO introduced a bill (H. R. No. 5635) for the relief of Lorenzo Valdez and Francisco P. Abreu; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

DONATION CLAIM, IDAHO TERRITORY.

Mr. FENN introduced a bill (H. R. No. 5636) repealing an act approved March 3, 1873, affecting a donation claim in Idaho Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

AMENDMENT OF THE REVISED STATUTES.

Mr. FENN also introduced a bill (H. R. No. 5637) amending section 837 of the Revised Statutes; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

CLEARWATER RIVER.

Mr. FENN also introduced a bill (H. R. No. 5638) making an appropriation for the improvement of the Clearwater River, Idaho Territory; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DESERTIONS.

Mr. CORLETT introduced a bill (H. R. No. 5639) to limit the time within which prosecutions for the offense of desertion from the Army of the United States shall be commenced; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS F. TALBOT.

Mr. CORLETT also introduced a bill (H. R. No. 5640) for the relief of Thomas F. Talbot; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories having been concluded, the Chair will now recognize gentlemen who were not in their seats when their names were called and who desire to introduce bills and joint resolutions for reference only.

MARY E. SIMMONS.

Mr. HARMER introduced a bill (H. R. No. 5641) granting a pension to Mary E. Simmons; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JABEZ BURCHARD.

Mr. HARMER also introduced a bill (H. R. No. 5642) for the relief

of Jabez Burchard, assistant engineer on the retired list of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

JOSIAH FOLSOM.

Mr. CAMPBELL introduced a bill (H. R. No. 5643) for the relief of Josiah Folsom, of Pennsylvania; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ANDREW J. MIFFORD.

Mr. TIPTON introduced a bill (H. R. No. 5644) to reinstate the name of Andrew J. Mifford on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CORNELIUS FITZGERALD.

Mr. TIPTON also introduced a bill (H. R. No. 5645) to reinstate the name of Cornelius Fitzgerald on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES CUTLER.

Mr. VAN VORHES introduced a bill (H. R. No. 5646) granting a pension to Charles Cutler, late private Company E, Thirtieth Regiment Ohio Veteran Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADALINE G. HASKINS.

Mr. VAN VORHES also introduced a bill (H. R. No. 5647) granting a pension to Adaline G. Haskins, widow of A. L. Haskins, late lieutenant-colonel Sixty-third Regiment, Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed

SAMUEL D. STILES.

Mr. VAN VORHES also introduced a bill (H. R. No. 5648) granting a pension to Samuel D. Stiles, late an employed teamster in the Thirty-sixth Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZA P. CONLEY.

Mr. VAN VORHES also introduced a bill (H. R. No. 5649) granting a pension to Eliza P. Conley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CAROLINE LAUFFER.

Mr. KETCHAM introduced a bill (H. R. No. 5650) granting a pension to Caroline Lauffer, widow of Jacob Lauffer, late of Company C, Sixth Regiment Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARIA V. BROWN.

Mr. KETCHAM also introduced a bill (H. R. No. 5651) for the relief of Maria V. Brown, assignee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LUDINGTON, MICHIGAN.

Mr. HUBBELL introduced a bill (H. R. No. 5652) to make Ludington, in the State of Michigan, a port of entry; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOSEPH MYRES.

Mr. HUBBELL also introduced a bill (H. R. No. 5653) to grant a pension to Joseph Myres; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REISSUES OF LEGAL-TENDER NOTES.

Mr. GARDNER introduced a bill (H. R. No. 5654) to regulate the reissue of United States legal-tender notes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

BINDING FOR THE DEPARTMENTS.

Mr. BALLOU introduced a bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

J. J. FERRIS.

Mr. CALKINS introduced a bill (H. R. No. 5656) for the relief of J. J. Ferris; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM KEPLER.

Mr. MONROE introduced a bill (H. R. No. 5657) granting a pension to William Kepler, late member of Company C, Fourth Regiment Ohio Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOWS OF SOLDIERS OF WAR OF 1812.

Mr. HARRIS, of Virginia, introduced a joint resolution (H. R. No. 208) construing the act of Congress approved March 9, 1878, so as to entitle widows of the soldiers of the war of 1812 to a pension notwithstanding a second marriage, provided they were widows at the date of said act or at the time of application; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM H. SCRIBNER.

Mr. BURCHARD introduced a bill (H. R. No. 5658) granting a pension to William H. Scribner; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MINOR CHILDREN OF JOHN SLAUGHTER.

Mr. BURCHARD also introduced a bill (H. R. No. 5659) granting a pension to the minor orphan children of Captain John Slaughter; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF NATIONAL-BANK ACT.

Mr. BURCHARD also introduced a bill (H. R. No. 5660) to further amend the national-bank act; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

NATHANIEL M'KAY.

Mr. O'NEILL (by request) introduced a bill (H. R. No. 5661) for the relief of Nathaniel McKay; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DR. WILLIAM MARTIN.

Mr. ELLIS introduced a bill (H. R. No. 5662) authorizing the President to appoint Dr. William Martin a surgeon in the regular Navy of the United States; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

HEIRS OF BARRY HAYES.

Mr. ELLIS also (by request) introduced a bill (H. R. No. 5663) for the relief of Anna M., Mary, and Catharine, daughters and surviving heirs of the late Barry Hayes; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM H. COMEGYS.

Mr. HENRY introduced a bill (H. R. No. 5664) granting a pension to William H. Comegys, of Caroline County, Maryland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZA TURNER.

Mr. McKENZIE introduced a bill (H. R. No. 5665) granting a pension to Eliza Turner, of Muhlenberg County, Kentucky; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

QUININE FREE OF DUTY.

Mr. McKENZIE also introduced a bill (H. R. No. 5666) to put salts of quinine and sulphate of quinine on the free list; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

LEVICIA A. CARTER.

Mr. SPRINGER introduced a bill (H. R. No. 5667) for the relief of Levicia A. Carter; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. COX, of New York, introduced a bill (H. R. No. 5668) to remove the disabilities imposed by the third section of the fourteenth article of the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

NATIONAL-BANK CIRCULATION.

Mr. PHELPS introduced a bill (H. R. No. 5669) to repeal a part of section 5175 of the Revised Statutes of the United States and to provide for the circulation by national banking associations of notes of a less denomination than $5, after resumption, the same as before; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

IMPROVEMENT OF CONNECTICUT RIVER.

Mr. PHELPS also introduced a bill (H. R. No. 5670) making appropriations to continue improvements in and at the mouth of Connecticut River in the State of Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF NEW HAVEN HARBOR.

Mr. PHELPS also introduced a bill (H. R. No. 5671) making an appropriation of $50,000 to complete the work of widening and deepening the channel in the harbor of New Haven, Connecticut, and the further sum of $100,000 to survey and commence the construction of a suitable breakwater and harbor of refuge at or near mouth of said harbor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

DR. WILLIAM MARTIN.

Mr. GIBSON introduced a joint resolution (H. R. No. 209) authorizing and requesting the President to appoint Dr. William Martin a surgeon

in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CIVIL ENGINEERS, UNITED STATES NAVY.

Mr. MORSE introduced a bill (H. R. No. 5672) fixing the relative rank of civil engineers of the United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CHALMERS. Has not the morning hour expired?

The SPEAKER. It has; but there was an agreement, on motion of the gentleman from Minnesota, [Mr. DUNNELL,] that the call should be continued until it was completed.

Mr. CHALMERS. Have not all the States been called?

The SPEAKER. They have, and the Chair is now receiving bills for reference from those who were not present when their States were called. There are but few left.

Mr. CHALMERS. I do not object if it does not take much time.

ASSISTANT COLLECTOR, BOSTON.

Mr. MORSE also introduced a bill (H. R. No. 5673) to provide for the appointment of an assistant collector in the district of Boston and Charlestown, Massachusetts; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CONSULATE AT MANOOR.

Mr. MORSE also introduced a bill (H. R. No. 5674) to establish a consulate at Manoor, South America; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

MRS. E. L. SPICER.

Mr. MORSE also introduced a bill (H. R. No. 5675) granting a pension to Mrs. E. L. Spicer, widow of the late Commodore William F. Spicer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. POOK.

Mr. MORSE also introduced a bill (H. R. No. 5676) granting a pension to Mrs. Pook, widow of the late Samuel M. Pook; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SECTION 2504 OF REVISED STATUTES.

Mr. GLOVER (by request) introduced a bill (H. R. No. 5677) to correct the text of section 2504 of the Revised Statutes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

HEIRS OF JOSHUA HILL.

Mr. JORGENSEN introduced a bill (H. R. No. 5678) for the relief of the heirs of Joshua Hill, late of the State of Michigan; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

RAILROAD TRACKS IN WASHINGTON.

Mr. JORGENSEN also introduced a bill (H. R. No. 5679) requiring the removal of railroad tracks from certain streets in the city of Washington, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

UNITED STATES OFFICERS AT ELECTIONS.

Mr. SOUTHARD, by unanimous consent, submitted the following resolution: which was read, and referred to the Committee on Appropriations:

Resolved, That the Attorney-General be, and he is hereby, directed to communicate to this House the total number of supervisors and deputy marshals employed throughout the United States in connection with the elections held on the 8th day of October and the 5th day of November last, stating the number so employed in each State and at each voting precinct respectively and the length of time they were so employed, with a full statement of the cause and necessity of such employment, what duties they performed, and the amount of compensation paid to them, and from what fund or item of the appropriations the same was paid.

IMPROVEMENT OF SNAKE RIVER.

Mr. WILLIAMS, of Oregon, by unanimous consent, presented a memorial of the delegates of the constitutional convention for the State of Washington for the improvement of Snake River; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD. It is as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the delegates to the constitutional convention for the State of Washington, respectfully represent: That the vast country drained by Snake River, embracing about ten thousand square miles of rich agricultural and the same amount of valuable timber lands, is rapidly filling up with an industrious and enterprising population, whose settlement was mainly induced by the belief that the Northern Pacific Railroad would be carried to an early completion, and thus afford them means of communication with other parts of the Union; that the failure of the company to construct said road has left them no channel save that afforded by said river through which they can obtain speedy protection from the attacks of the numerous Indian tribes to which they are exposed, or carry on a commerce with the world; that said river is the best and most direct natural highway across one-half of the continent, and in consideration of the present and prospective importance of its commerce, its rapidly increasing population, and the necessities of the people already settled in its valley, of national character and importance.

Your memorialists further represent: That said river during the low stage of water annually occurring in or about the month of August is closed to navigation until the recurrence of high water in the spring, by reason of which they are cut off from all intercourse with the settled portions of the country save by wagon-roads and pack-trails; that by the removal of certain obstructions from its channel, said river can be rendered navigable from its mouth to Lewiston, a distance of about one hundred and fifty miles, up to the time when the navigation of the upper Columbia is discontinued, which is usually in the month of December. For detailed information concerning the nature and extent of these obstructions your memorialists respectfully refer to the annual report of Colonel John M. Wilson, chief of engineers, for 1877, Appendix JJ, page 1039, and following, a copy of which is submitted herewith.

If a sufficient sum is made available at one time, it is believed this improvement can be completed during a single season, and at a great saving to the Government, as a very large percentage of the small appropriations heretofore set apart for the work has necessarily been exhausted in preparations which are nearly, if not quite, as extensive on each occasion as they would be if it were carried on from its commencement to final completion.

Believing that the object is one of great and pressing necessity and of national importance, we respectfully ask that the sum of $100,000 be appropriated for the improvement of Snake River, from its mouth to Lewiston, in the Territory of Idaho—that being the amount estimated by competent engineers to be necessary for the purpose. And your memorialists, as in duty bound, will ever pray, &c.

ALEX. S. ABERNETHY,
President.

S. M. GILMORE.
EDWARD ELDRIDGE.
W. A. GEORGE.
S. M. WAIT.
CHAS. H. LARRABEE.
B. F. DENNISON.
JAMES V. O'DELL.
C. M. BRADSHAW.
D. B. HANNAH.
L. B. ANDREWS.
G. H. STEWARD.
H. B. EMERY.
O. P. LACY.
ALONZO LELAND.
FRANCIS HENRY.

I hereby certify that the above memorial is signed by all the members of the constitutional convention.

W. BYRON DANIELS,
Secretary of the Convention.

TAX ON TOBACCO.

Mr. AIKEN, by unanimous consent, presented a memorial from the National Grange, asking for a repeal or a reduction of the tax on tobacco; which was referred to the Committee of Ways and Means, and ordered to be printed in the RECORD. It is as follows:

To the honorable Senators and members of the House of Representatives in Congress assembled:

At the twelfth annual session of the National Grange, held in November last in Richmond, Virginia, and composed of representatives from twenty-seven States of this Union, the following resolution was unanimously adopted:

"*Resolved*, That this National Grange direct that a respectful but earnest memorial be prepared by the executive committee of the National Grange, and that the same be presented to the Congress of the United States, praying for the repeal of the unjust law levying this onerous and partial tax, or at least a reduction of the same."

Pursuant to this resolution your memorialists respectfully present the following reasons that induce them to urge the reduction, if not the repeal, of the existing tax upon one of our most valuable agricultural staples—tobacco:

First. Never before in the history of our Government has any great agricultural staple been selected to endure such an undue proportion of our national burdens, amounting now annually to more than $40,000,000, and aggregating since the war over $400,000,000.

Second. When this tax was originally imposed upon tobacco, as upon cotton, it was justified upon the ground that it was a war measure, to be removed, as was that upon cotton, as soon after the close of the war as practicable.

Third. The existing tax of twenty-four cents per pound, which is near 400 per cent. upon the value of the planter's leaf-tobacco, is more onerous and oppressive to both producer and consumer to-day than it has ever been before, from the general depression of the trade and the universal shrinkage of values of the country.

Fourth. In France the tobacco trade is a governmental monopoly; in England it is a penal offense to grow the plant; in free America it does not comport with the genius of our Government to oppress its products with onerous taxation.

Fifth. The annual reduction in the price of tobacco, until the medium and lower grades are placed upon the market at less than the cost of production, is evidence that it is not the consumer alone who pays the tax.

Sixth. The excessive tax offers a bounty for growing leaf-tobacco in States where tobacco is not a staple, in small patches for home consumption.

Seventh. To levy a tax upon the staple product of any portion of our country is relieving the other portions from their just share of the burdens of a common Government.

SAM'L E. ADAMS, Minnesota.
S. H. ELLIS, Ohio.
HENLEY JAMES, Indiana.
D. WYATT AIKEN, South Carolina.
Executive Committee.

RELATIONS WITH MEXICO.

Mr. ALDRICH, by unanimous consent, presented a memorial of the Manufacturers' Association of the Northwest, asking Congress to send a subcommittee of the Committee on Commerce of each House to Mexico, with instructions to investigate and report upon the practicability of establishing more direct and intimate commercial relations between the United States and the Republic of Mexico; which was referred to the Committee of Ways and Means.

GENEVA AWARD BILL.

Mr. KNOTT. In compliance with the request of several gentlemen, I move that an additional number of the bill relating to the distribution of the Geneva award be printed.

There was no objection, and it was so ordered.

SECRET SERVICE DIVISION OF TREASURY DEPARTMENT.

Mr. FINLEY. I ask unanimous consent to offer for consideration at this time the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Judiciary Committee be instructed to inquire and report to the House at the earliest period practicable—

First. Whether there is, or ever has been, any law authorizing the creation and maintenance of what is known as the "secret service division of the Treasury Department."

Second. The time and occasion which originated said organization, and by what authority and for what purpose it has been kept up and maintained.

Third. The names of the persons composing that organization; for what purposes employed, and how paid; and also in what manner the various sums heretofore appropriated by Congress for that purpose have been expended by said secret service division; and whether any accountability is or has been imposed on said organization, or the members composing it, for the moneys appropriated to the use of said secret service.

The SPEAKER. Is there objection to the consideration of this resolution?

Mr. HALE. Let it be referred.

Mr. FINLEY. Very well; let it go to the Committee on the Judiciary.

There being no objection, the resolution was referred to the Committee on the Judiciary.

PENSIONS FOR WAR OF 1812.

Mr. WILSON. I desire to introduce for present consideration a joint resolution which I send to the desk. I gave notice on Friday last that I would do so. I think the measure is so manifestly just and right that every member on the floor will vote for it.

The SPEAKER. The joint resolution will be read.

The Clerk read as follows:

Whereas, anticipating war with Great Britain, the Government of the United States received into its military and naval service persons who were discharged from such service less than fourteen days subsequent to June 18, 1812, the date of the formal declaration of war; and

Whereas, owing to the imperfect means of communication which existed at the date of the President's proclamation that peace had been established (February 18, 1815) between the United States and Great Britain, many persons who were received into the military and naval service of the United States to serve in the war of 1812 were retained in such service a considerable time after the establishment of peace: Now,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of claims for pension and bounty lands on account of service in the war of 1812 the Commissioner of Pensions shall compute all the time the soldier served between June 1, 1812, and March 1, 1815.

The SPEAKER. Is there objection to considering at this time the joint resolution which has just been read?

Mr. MACKEY. I object until it has been considered by the Committee on Revolutionary Pensions and War of 1812.

Mr. WILSON. This joint resolution has been examined by the Commissioner of Pensions, and he declares it to be eminently just and proper.

Mr. MACKEY. What objection is there to a reference?

Mr. WILSON. The objection is, that if it is referred it will never get back here again. I hope the gentleman will withdraw his objection.

Mr. MACKEY. I cannot do so.

Mr. WILSON. Then I will withdraw the joint resolution.

BUREAU OF MILITARY JUSTICE.

Mr. MULLER, by unanimous consent, introduced a bill (H. R. No. 5680) to abolish the Bureau of Military Justice and for a more efficient and economical administration of justice in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GOVERNMENT MONEY IN NATIONAL BANKS.

Mr. KELLEY. I ask unanimous consent to submit for consideration and adoption at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be directed to inform this House, at the earliest day practicable after the close of the congressional recess, whether there were any balances in coin standing to the credit of the Treasurer of the United States in any national bank on the 1st day of March, 1876, and on the first of each succeeding month to and including the 1st of January, 1879, and the names and location of the banks which held such balances and the amount held by each at the respective dates indicated.

There being no objection, the resolution was adopted.

Mr. KELLEY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEPOSITORS IN INSOLVENT BANKS.

Mr. BURCHARD, by unanimous consent, introduced a bill (H. R. No. 5681) to amend section 3408 of the Revised Statutes so as to relieve depositors in insolvent banks from taxation on deposits; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CUMMINGS. I desire to offer a bill now for present consideration.

The SPEAKER. Does the gentleman from Mississippi [Mr. CHALMERS] yield for that purpose?

Mr. CHALMERS. I cannot yield for that purpose, and do not yield further for any purpose, and call for the regular order.

CORRUPTION IN ELECTIONS.

The SPEAKER. The regular order is the consideration of the motion of the gentleman from Mississippi [Mr. CHALMERS] coming over from Monday last, to suspend the rules and pass the bill, which the Clerk will now read.

The Clerk read as follows:

Be it enacted, &c., That no officer, agent, or contractor, or other person holding any office or employment of profit or trust under the Constitution and laws of the United States of America, shall, by the contribution of money or other valuable thing, or by the use or abuse of any official privilege or function, or by threat and menaces, or in any other manner, intermeddle with the election of any member or members of either House of Congress or of the President or Vice-President of the United States of America; and every such officer or other person offending therein shall be held guilty of a high misdemeanor, and, on conviction thereof in any court of the United States having jurisdiction thereof, shall be removed from such office or employment and fined in a sum not exceeding $1,000; and that all laws and parts of laws in conflict with this act be, and the same are hereby, repealed.

SEC. 2. That any person who shall, by solicitation or otherwise, attempt to induce any officer or person holding an employment of profit or trust under the United States to contribute money or any valuable thing, to be used for election purposes in any election enumerated in this act, shall be held guilty of a high misdemeanor, and, on conviction thereof in any court of the United States having jurisdiction thereof, shall be fined in a sum not exceeding $1,000.

The SPEAKER. The question is upon suspending the rules and passing the bill which has just been read.

Mr. CHALMERS. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 132, nays 102, not voting 57; as follows:

YEAS—132.

Acklen,	Dibrell,	Ittner,	Robbins,
Aiken,	Dickey,	Jones, Frank	Robertson,
Atkins,	Durham,	Jones, James T.	Sayler,
Banning,	Eden,	Kelley,	Scales,
Beebe,	Elam,	Kenna,	Schleicher,
Bell,	Ellis,	Kimmel,	Shelley,
Benedict,	Finley,	Knott,	Singleton,
Bicknell,	Forney,	Landers,	Slemons,
Blackburn,	Franklin,	Ligon,	Southard,
Bliss,	Fuller,	Lockwood,	Sparks,
Blount,	Garth,	Luttrell,	Springer,
Boone,	Gause,	Lynde,	Steele,
Bouck,	Gibson,	Mackey,	Stenger,
Bright,	Giddings,	Maish,	Stewart,
Brogden,	Glover,	Manning,	Swann,
Buckner,	Goode,	Martin,	Throckmorton,
Cabell,	Gunter,	Mayham,	Townshend, R. W.
Caldwell, John W.	Hamilton,	McKenzie,	Tucker,
Caldwell, W. P.	Hardenbergh,	McMahon,	Turney,
Candler,	Harris, Henry R.	Mills,	Vance,
Carlisle,	Harris, John T.	Money,	Veeder,
Chalmers,	Harrison,	Morgan,	Waddell,
Clark of Missouri,	Hart,	Morrison,	Warner,
Clarke of Kentucky,	Hartridge,	Muller,	Whitthorne,
Clymer,	Hartzell,	Patterson, T. M.	Wigginton,
Cobb,	Hatcher,	Phelps,	Williams, James
Covert,	Henkle,	Potter,	Williams, Jere N.
Cox, Samuel S.	Henry,	Randolph,	Willis, Albert S.
Cravens,	Herbert,	Rea,	Willis, Benj. A.
Culberson,	Hewitt, Abram S.	Reagan,	Wilson,
Cutler,	Hewitt, G. W.	Reilly,	Wood,
Davis, Joseph J.	Hooker,	Rice, Americus V.	Wright,
Dean,	Hunton,	Riddle,	Young.

NAYS—102.

Aldrich,	Davis, Horace	James,	Price,
Bacon,	Deering,	Jones, John S.	Pugh,
Bagley,	Denison,	Jorgensen,	Reed,
Bailey,	Dunnell,	Joyce,	Rice, William W.
Baker, John H.	Eames,	Keifer,	Robinson, G. D.
Baker, William H.	Ellsworth,	Ketcham,	Robinson, M. S.
Ballou,	Errett,	Killinger,	Ryan,
Bayne,	Fort,	Lapham,	Sampson,
Blair,	Foster,	Lathrop,	Shallenberger,
Boyd,	Freeman,	Marsh,	Smalls,
Brewer,	Frye,	McCook,	Smith, A. Herr
Briggs,	Gardner,	McGowan,	Starin,
Browne,	Garfield,	Metcalfe,	Stone, John W.
Bundy,	Hale,	Mitchell,	Strait,
Burchard,	Hanna,	Monroe,	Townsend, Amos
Burdick,	Harmer,	Neal,	Townsend, M. I.
Cain,	Harris, Benj. W.	Norcross,	Van Vorhes,
Calkins,	Haskell,	Oliver,	Wait,
Cannon,	Hayes,	O'Neill,	Ward,
Caswell,	Hazelton,	Overton,	Watson,
Claflin,	Henderson,	Page,	White, Harry,
Clark, Rush	Hiscock,	Patterson, G. W.	Williams, Andrew
Cole,	Hubbell,	Peddie,	Willits,
Conger,	Humphrey,	Phillips,	Wren.
Cummings,	Hungerford,	Pound,	
Danford,	Hunter,	Powers,	

NOT VOTING—57.

Banks,	Crittenden,	Loring,	Stone, Joseph C.
Bisbee,	Davidson,	Majors,	Thompson,
Bland,	Douglas,	McKinley,	Thornburgh,
Bragg,	Dwight,	Morse,	Tipton,
Brentano,	Eickhoff,	Muldrow,	Turner,
Bridges,	Evans, I. Newton	Pollard,	Walker,
Butler,	Evans, James L.	Pridemore,	Walsh,
Camp,	Evins, John H.	Rainey,	White, Michael D.
Campbell,	Ewing,	Roberts,	Williams, A. S.
Chittenden,	Felton,	Ross,	Williams, C. G.
Clark, Alvah A.	Hendee,	Sapp,	Williams, Richard
Collins,	House,	Sexton,	Yeates.
Cook,	Keightley,	Sinnickson,	
Cox, Jacob D.	Knapp,	Smith, William E.	
Crapo,	Lindsey,	Stephens,	

So (two-thirds not voting in favor thereof) the motion to suspend the rules and pass the bill was not agreed to.

During the roll-call the following announcements were made:

Mr. BLAND. I am paired with the gentleman from Massachusetts, Mr. BANKS. If he were present, I should vote "ay."

Mr. PRIDEMORE. I am paired with the gentleman from Pennsylvania, Mr. EVANS.

Mr. ATKINS. My colleague, Mr. HOUSE, is detained from the House by illness in his family.

Mr. BLOUNT. My colleague, Mr. COOK, is absent on account of sickness.

Mr. HAMILTON. My colleague, Mr. SEXTON, is paired with the gentleman from New York, Mr. EICKHOFF. I do not know how these gentlemen would vote.

Mr. MANNING. My colleague, Mr. MULDROW, is paired with the gentleman from New York, Mr. DWIGHT. Mr. MULDROW, if present, would vote "ay."

Mr. PUGH. My colleague, Mr. SINNICKSON, is paired with my colleague, Mr. CLARK. I think if these gentlemen were present, Mr. SINNICKSON would vote "no" and Mr. CLARK "ay."

Mr. DENISON. My colleague, Mr. HENDEE, is detained at home by sickness.

Mr. SAPP. I am paired on all political questions with the gentleman from Georgia, Mr. SMITH. If he were here, I should vote "no."

Mr. RANDOLPH. I am requested to say that the gentleman from Tennessee, Mr. THORNBURGH, is detained from the House by sickness.

Mr. STONE, of Iowa. I am paired with the gentleman from Georgia, Mr. COOK, who is absent on account of sickness. If he were present, he would vote "ay" and I would vote "no."

Mr. DWIGHT. I am paired with the gentleman from Mississippi, Mr. MULDROW. If he were here, I would vote "no."

Mr. DEERING. I desire to announce that the gentleman from Massachusetts, Mr. BANKS, is paired with the gentleman from Missouri, Mr. BLAND. I do not know how Mr. BANKS would vote.

Mr. McGOWAN. My colleague, Mr. KEIGHTLEY, is paired with the gentleman from Kentucky, Mr. TURNER. If Mr. KEIGHTLEY were here, he would vote "no."

The result of the vote was announced as above stated.

TRANSPORTATION OF MAILS BY RAILROAD.

Mr. BLOUNT, from the Committee on Appropriations, reported a bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BLOUNT. I give notice that I shall call up this bill to-morrow morning.

Mr. GARFIELD. I reserve all points of order on the bill.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, his secretary; who also informed the House that the President had approved and signed bills of the following titles:

A bill (H. R. No. 1625) granting a pension to Abram V. Miller, late a lieutenant in Company E, of the One hundred and eighty-fourth regiment, Pennsylvania Volunteers; and

A bill (H. R. No. 5307) to correct an error of enrollment in a bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Wisconsin [Mr. HUMPHREY] is next entitled to the floor for a motion to suspend the rules.

Mr. HUMPHREY. I did not expect that my name would be reached to-day, and I am not prepared to submit a motion.

The SPEAKER. The gentleman from Pennsylvania [Mr. WRIGHT] on the other side of the House is next on the list.

Mr. RYAN. If the gentleman on this side who is now entitled to make a motion to suspend the rules is not ready, would it not be proper to accord the floor to another gentleman on this side, instead of going to the other side?

The SPEAKER. The Chair thinks not; the Chair has departed from the list of last year in order to give each side of the House alternately an opportunity for these motions. If a gentleman on the other side should lose his right, the result would be the same.

AID TO ACTUAL SETTLERS ON THE PUBLIC DOMAIN.

Mr. WRIGHT. I move to suspend the rules and pass the bill (H. R. No. 110) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862.

The Clerk proceeded to read the bill, which is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, any person who is entitled to, and shall comply with, the provisions of the act to which this is supplemental, as well as all the requirements imposed by this act, shall receive from the Treasury of the United States, out of any moneys not otherwise appropriated, the sum of $500 in a loan, to be repaid as hereinafter provided; which money so loaned shall be appropriated solely, by the person who shall receive the same, in improvements upon the land entered and settled upon, under the terms and conditions imposed by the said homestead law, including the erection of buildings, the purchase of seeds, implements of husbandry, and such necessary household articles and means of subsistence as may be necessary in the commencement of a permanent farming residence.

SEC. 2. Every person having thus complied shall, in addition, produce to the register or receiver of the land office of the United States convenient to the homestead selected satisfactory proof to the said register or receiver, by affidavit or otherwise, that he or she does not own goods or effects, money or other property, in excess of $300; that it is his or her intention bonafidely to settle upon and occupy the land entered and selected under the provisions of the said homestead law, and to make the same a permanent abode; that such person shall also make and subscribe an affidavit before the said register or receiver that the money so received under the provisions of this act shall be expended for no other purpose than that named in the first section of this act, which affidavit and all other evidence shall be filed and preserved in the land office of the United States where the proceedings are had.

SEC. 3. Whereupon the said register or receiver shall cause to be prepared a mortgage to the United States, to be duly executed by the applicant, conveying the land so selected and entered, and which he or she contemplates settling upon, conditioned for the payment of $500, with interest at the rate of 3 per cent. per annum, as follows: $100, with the interest thereon, on the fifth year after the date of the mortgage, and $100, with its interest, yearly thereafter, till the whole sum shall be fully paid; when the said mortgage shall be satisfied by the said register or receiver, or by such person as may be designated for that purpose by the Commissioner of the General Land Office. A copy of each mortgage made in pursuance of this act shall, after the original has been duly recorded in the proper office for the recording of deeds most convenient to the land described therein, under the certificate and seal of the register of the land office where executed, be forwarded to the General Land Office at Washington, the original to be retained in the land office where executed. The said registers shall keep a journal of all loans, the names of the persons making them, their places of birth, and their respective ages. The said certified copies are hereby declared to be evidence on the part of the United States, and suits for foreclosure may be instituted upon them as effectually as upon the originals. The said several registers and receivers shall make monthly reports to the General Land Office of the United States of all acts done by them in the premises.

SEC. 4. Upon a full compliance of the terms and conditions hereinbefore stated, as well as those of the law to which this act is supplemental, by the person availing himself or herself of the benefits thereof, the receiver of the land office where the proceedings have taken place shall pay him or her $100, and $100 monthly thereafter till the said sum of $500 shall have been fully disbursed. But before the payment of any one installment of $100 subsequent to the first one, the said receiver shall be satisfied by other testimony than the oath of the applicant that he or she has expended the money loaned, and will expend the money received, in accordance with the true intent and meaning of this act. And if it shall appear that any money has not been so expended, no further payment in the particular case shall be made, and the mortgage given shall be forthwith foreclosed; and all rights and privileges under this act, and the one to which it is supplemental, shall become forfeited, and the title to the land entered shall revert to the United States. The several duties to be performed by the register and the receiver shall be generally under the direction and control of the Commissioner of the General Land Office, and who shall also fix a schedule of fees for each officer in each separate case, but which shall not exceed $10 for them both. And the said Commissioner of the General Land Office, in conjunction with the Secretary of the Treasury, shall make and establish such rules and regulations as to the mode and manner of the transmission and payment of the money appropriated by this act as they may deem proper.

SEC. 5. No patent shall be issued under the act of May 20, 1862, and to which this act is supplemental, where a mortgage has been given under the terms of this act, until such mortgage has been fully paid.

SEC. 6. All such parts and clauses of the said act of May 20, 1862, which prohibit persons from the benefits of the same, "who have borne arms against the United States Government, or given aid and comfort to its enemies," are hereby repealed.

SEC. 7. Whenever the amount of the loan hereby created shall have reached the sum of $10,000,000, this act shall cease and determine, so far as the appropriation of money is concerned. And the certificate of the Secretary of the Treasury, that that sum has been applied as herein stated, shall be evidence of the same.

SEC. 8. All the several penalties imposed in the act to which this is supplemental for false swearing, and other offenses therein named, are herein incorporated and made a part of this act.

ORDER OF BUSINESS.

Before the reading of the foregoing bill had been concluded, the hour of two o'clock arrived, when

Mr. HUNTON said: I call the attention of the Chair to the fact that the hour assigned for the consideration of business from the Committee for the District of Columbia has arrived.

The SPEAKER. The gentleman from Virginia, [Mr. HUNTON,] representing the Committee for the District of Columbia, claims the floor for business of that committee. The bill of the gentleman from Pennsylvania [Mr. WRIGHT] will go over as unfinished business until Monday next.

Mr. WRIGHT. Or the first Monday on which the House is in session.

The SPEAKER. The first Monday on which the House may be in session. Technically, the resolution for the holiday recess is not yet operative, as it has not been concurred in by the Senate.

Mr. BURCHARD. Does this bill necessarily go over until next Monday? Suppose the District Committee should not occupy the whole of to-day?

The SPEAKER. The Chair is advised that the District Committee would like to have the whole of the day.

RATE OF INTEREST ON DISTRICT BONDS.

Mr. HUNTON. In the absence of the chairman of the Committee for the District of Columbia [Mr. HENDEE] I am directed by the committee to report as a substitute for House bill No. 5471 a bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

The bill was read a first and second time. It is as follows:

Be it enacted, &c., That the provision of the act making appropriation for sundry civil expenses, approved June 20, 1878, authorizing the commissioners of the District of Columbia to issue bonds to redeem certain bonds of said District falling due January 1 and March 1, 1879, be, and the same is hereby, amended so that the last clause of the paragraph containing said provision shall read as follows: "Said bonds shall be registered or coupon bonds, and shall be of the denomination of one hundred or five hundred dollars or both, and shall be payable twenty years after

date, and bearing a rate of interest not exceeding 6 per cent., and not to be sold for less than their par value, and to be awarded to the most favorable bidder or bidders after having been advertised by the Treasurer of the United States, as sinking-fund commissioner of said District, for ten successive insertions in two daily papers in Washington and two in New York, the bids to be opened in the presence of the Secretary of the Treasury, and the award to be subject to his approval."

SEC. 2. That the Secretary of the Treasury be, and he is hereby, authorized to advance to the sinking-fund commissioner, upon requisition of the commissioners of the District of Columbia, a sum not exceeding $281,500, to pay the bonds of said District falling due as aforesaid, and the amount so advanced shall be reimbursed to the United States from the sale of the bonds to be issued in accordance with the provisions of this act.

SEC. 3. That the commissioners of the District of Columbia be authorized to expend a sum not exceeding $10,000 to defray the expenses of the reassessment of real property and taking the census in said District, as directed in the act of Congress approved April 3, 1878.

Mr. FINLEY. I make the point of order that that bill, under the rules, must have its first consideration in the Committee of the Whole on the state of the Union.

Mr. HUNTON. Unquestionably the bill is subject to the question of order if the gentleman from Ohio insists on it.

Mr. FINLEY. I do insist on the point of order.

Mr. HUNTON. I move, then, that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up and considering that bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. FINLEY in the chair.

The CHAIRMAN. This day being set apart for the business of the District of Columbia, the first business in order before the committee is the bill (H. R. No. 5471) to amend an act approved June 20, 1878, to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia.

Mr. HUNTON. The bill has already been read. Now, sir, the main object of this bill is to supply an accidental omission in the appropriation bill passed at the last session. In that bill, approved June 20, 1878, there was an effort made on the part of the committee to provide for some bonds of the District of Columbia which are to fall due on the 1st of January, 1879. It was provided that new bonds might be issued and sold, and the committee attempted and, I believe, did provide in that bill the rate of interest which these bonds should bear. By some accident in enrolling the bill, or otherwise, the rate of interest which the bonds were to bear was omitted. The main object is to supply that omission. The provision submitted by the Committee for the District of Columbia as contained in this bill is that the Secretary of the Treasury shall issue new bonds of the District of Columbia, for which the Federal Government will not be in any manner responsible, to take the place of the old bonds; and they are to be issued at a rate of interest not exceeding 6 per cent, and at a price not below par. The entire amount of bonds which will fall due on the 1st of January, 1879, in reference to which this provision will apply, is $281,000.

The bill has another object. It seems a provision was made by previous legislation for taking an assessment of property and a census of the population of this District, but so far no provision has been made for meeting the expenses of that assessment and that census. The pending bill appropriates a sum not exceeding $10,000 to pay the expense of that work. These are the two objects of the bill. If any gentleman desires further explanation I shall be glad to give it.

Mr. EDEN. I should like to ask whether there is any increase in the rate of interest?

Mr. HUNTON. The rate of interest on these new bonds is not to exceed 6 per cent.

Mr. EDEN. What was the interest on the old bonds?

Mr. HUNTON. Six per cent. I now ask by unanimous consent that the bill be laid aside to be reported to the House with the recommendation that it do pass as amended.

Mr. WRIGHT. The gentleman put his nose into my dish, when I wanted to pass the homestead bill, and therefore I must retaliate and object. [Laughter.]

Mr. HUNTON. Why does the gentleman object to this bill?

Mr. WRIGHT. Merely on the principle of retaliation. [Laughter.]

Mr. HUNTON. I move, then, that the question be put on the substitute to it.

The substitute was adopted.

Mr. HUNTON. I now move that the bill as amended be reported to the House with the recommendation that it do pass.

The motion was agreed to.

POTOMAC BRIDGE AT THE THREE SISTERS ISLANDS.

The CHAIRMAN. The next business before the committee is a bill (H. R. No. 942) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands.

The bill, which was read, in its first section provides that the Secretary of War be, and he is hereby, authorized and directed to cause to be constructed across the Potomac River, at or near the Three Sisters Islands, near Georgetown, in the District of Columbia, a substantial iron and masonry bridge and causeway or approach; and the sum of $140,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the construction of said bridge: provided, that the said Secretary shall construct a bridge upon such plan as shall cost no more than the amount herein appropriated, and which cost shall include the construction of a substantial bridge over the canal, and any and all approaches to the said iron bridge; and no part of this appropriation shall be paid out of the Treasury until contracts shall have been entered into with responsible parties, and with good and sufficient sureties, to be approved by the Secretary of War, for the construction and completion of said bridge, including the masonry, iron-work, causeway, and approaches, at a cost not to exceed $140,000: and provided also, that the said bridge shall be so constructed as not to interfere with the usual navigation above the point of location as hereinbefore set forth.

The second section provides that the said bridge shall, in so far as this appropriation will permit, be constructed with a view to its future use for crossing purposes by such railroad or railroads as may desire to enter the District of Columbia upon it: provided, that said use shall be made under such restrictions and regulations as may be imposed by the Secretary of War: and provided further, that said railroad or railroads shall be charged with all repairs of said bridge.

The CHAIRMAN. The pending amendment is to strike out the second section of the bill.

Mr. HUNTON. I am also instructed by the Committee for the District of Columbia to add to the first section the words which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That the appropriation hereby made shall be governed by the provisions of the bill for the permanent government of the District of Columbia, approved June 11, 1878, for the building of bridges across the Potomac.

Mr. FORT. I should like to know whether the United States is to pay the entire cost of the construction of this bridge.

Mr. HENDEE. Half the expense is to be paid by the District and half by the Government.

Mr. HUNTON. If my friend had listened to the amendment just read by the Clerk he would see the expense is equally to be divided.

Mr. FORT. I was about to ask whether this bill provided the United States should pay all the cost of this bridge or whether the District of Columbia was to pay its proportion. The amendment provides that it shall be governed by the law which we have already passed adjusting the expenses between the District and the United States. Does that amendment cover the point which I suggest; that is, will half the expense of the bridge be borne by the District and half by the United States?

Mr. HUNTON. I beg leave to say more distinctly than I was able to state it when my friend asked the question that it was supposed by some in the Committee for the District of Columbia that this bill appropriating $140,000 for the purpose of building a bridge across the Potomac would of necessity come under the provisions of the general law establishing a permanent government for the District, and especially under that provision which says that the expense of the erection or repair of any bridge across the Potomac leading into the District of Columbia should be borne equally by the Government of the United States and the people of the District. But in order to make that more certain, my friend from Wisconsin [Mr. BOUCK] introduced the amendment, which I handed to the Clerk, and which was reported to the committee, bringing this bill within the operation of that law, so as to make it certain that the people of this District should pay one-half of the expense and the Federal Government the other.

Mr. FORT. I desire to make one more inquiry of the gentleman from Virginia. This bridge, if I understand it, is to connect the State of Virginia with the District of Columbia. I would like to know of the gentleman if the committee considered the question as to whether the State of Virginia should not pay some portion of the expense of this bridge as it is unquestionably for the accommodation of the State of Virginia, from which this bridge leads, that it is constructed. It is clearly for the accommodation of the people of the State of Virginia that the bridge is constructed, and it occurs to me that they ought to contribute very largely to the cost of its construction. As the gentleman represents the committee here and also in part represents that State I should be glad to hear him enlighten the House on that question.

Mr. HUNTON. I am very glad to answer the question of the gentleman and any other question that may be propounded on this subject. All these questions were considered in committee-room, and the committee unanimously reported this bill as amended. There was no dissenting voice in the District Committee in regard to the propriety of this bill.

Now, as to the State of Virginia paying a portion of this expense, my friend from Illinois forgets the fact, I think, that the Potomac River is wholly and exclusively within the District of Columbia, and therefore Virginia would have no right to build the bridge if she were able to do it. And, besides that, I desire to call the attention of the gentleman to the fact that all the bridges that span the Potomac, or the Eastern Branch of the Potomac, have been built by the Government of the United States exclusively except one; and they are all now, with that exception, free bridges built originally by the United States Government alone or purchased by the United States Government and now owned by the United States. I desire to call the attention of the committee to some of the acts upon the subject of bridges leading into the District of Columbia. An act was approved June 30, 1834, appropriating $130,000 for the repairs of the Long Bridge, and $20,000 additional for the payment of an outside claim connected with that bridge. The committee is aware that since that

time this Long Bridge has been built by a railroad company, and is used by that railroad company.

Mr. FORT. Still I believe the Long Bridge is open to the free passage of the people of the District.

Mr. HUNTON. I know it is.

Mr. FORT. So that we have already a bridge leading across the Potomac between the State of Virginia and the District of Columbia.

Mr. HUNTON. Yes; but my friend from Illinois will understand that that bridge being used by a railroad company, in fact by two or three railroad companies, the constant passage of trains over it almost destroys its utility for bridge purposes; and between the two free bridges on the Potomac is a distance of eight miles.

Mr. FORT. Then I suggest to my friend from Virginia that he strike out the provision from this bill authorizing railroads to use this bridge, because about the time they would get it constructed railroads would come along and appropriate it, and soon it would be unfit for the public use, and the United States would have to construct another bridge across the Potomac.

Mr. HUNTON. The committee have unanimously decided to strike out the second section, so that that has already been done, and there is no provision in the bill, as amended by the committee, authorizing the use of this bridge by railroad companies.

Mr. EDEN. I would like to ask the gentleman from Virginia one question: if there is any probability that the amount appropriated by this bill will be sufficient to finish the bridge; or will we be called upon to appropriate more?

Mr. HUNTON. I am full-handed on that subject. We have an estimate of the engineers who stated, at the date of their estimates two or three years ago, that $140,000 would construct the bridge fully and completely. We all know such work is much cheaper now, so that $140,000 is quite ample.

Mr. BUCKNER. I desire to ask the gentleman a question.

Mr. HUNTON. I will hear it.

Mr. BUCKNER. Why is not the appropriation in this bill put in the general estimate of expenses of the District of Columbia as required by the act?

Mr. HUNTON. It is because this is a bill which the Committee for the District of Columbia decided last winter to report, and it was upon the Calendar.

Mr. BUCKNER, Mr. BAKER of Indiana, and Mr. BRIDGES rose.

The CHAIRMAN. To whom does the gentleman yield?

Mr. HUNTON. I am willing to answer all the questions that are addressed to me.

The CHAIRMAN. But the gentleman can only hear one question at a time.

Mr. HUNTON. I yield to the gentleman from Indiana, [Mr. BAKER.]

Mr. BAKER, of Indiana. I wish to inquire whether or not the committee have considered the constitutional question involved in the digging up of the soil and making the approaches to this bridge on the Virginia shore; whether it is necessary there should be an act by the Legislature of the sovereign State of Virginia to authorize it, or whether Congress can authorize the invasion of that State for that purpose.

Mr. HUNTON. I suppose if the State of Virginia does not object——

Mr. BAKER, of Indiana. I would inquire of the gentleman whether or not it is exactly right to assume that the State of Virginia might not object at some future time?

Mr. HUNTON. Well, if there is any doubt——

Mr. BAKER, of Indiana. Allow me to say to the gentleman that the question, it seems to me, ought to be investigated by the committee, and if it required the consent of the State of Virginia to authorize the people who shall undertake the construction of this bridge to enter upon her soil without becoming trespassers, if Virginia shall elect so to treat them at any time, provision should have been made to procure the assent in the first place of the Legislature of the State of Virginia if that is essential.

Mr. FORT. They may fence up that end of the bridge.

Mr. HARRIS, of Virginia. Add a proviso to the bill.

Mr. HUNTON. In answer to that question I desire to state that if there is any fear apprehended on that point, the Legislature of the State of Virginia is now in session, and a bill will be passed within a week authorizing this bridge.

Mr. BAKER, of Indiana. If the gentleman from Virginia [Mr. HUNTON] will be kind enough to give me an answer to the question which I first put I wish he would do so. My question is whether or not the committee for which he is now speaking has investigated that constitutional question.

Mr. HUNTON. They have not, so far as I know.

Mr. BAKER, of Indiana. Well, it seems to me highly important, when there is to be an expenditure of so large a sum of money as $140,000 for a bridge, that the question should be determined whether or not the State of Virginia may hereafter direct the stopping of the approaches to that bridge, and the question whether we have the power by this bill to go there and build the bridge should have been settled.

Mr. HUNTON. The difficulty is one very easily met, if there is a difficulty; that is by offering an amendment to the bill, "with the assent of the State of Virginia."

Mr. BAKER, of Indiana. I am very sure of one thing, that if the committee of which the gentleman is now the representative had investigated that constitutional question and would say that there was no doubt about the power of Congress to authorize *in invitum* the abutment of this bridge on the soil of Virginia, I would take that answer as conclusive on the constitutional question. But if that is a matter in doubt, it seems to me that doubt ought to be resolved either by a recomittal of this bill and investigation of the question, or by making provision in the bill for obtaining the assent of the State of Virginia.

Mr. HUNTON. As I said a while ago, this bridge, if erected, will be entirely within the District of Columbia. It is possible, nay probable, that some of the causeways leading to the bridge may be in the State of Virginia. I think they will be.

Mr. BAKER, of Indiana. The entire approaches to that end of the bridge will be within the State of Virginia.

Mr. HUNTON. I presume so; and if the State of Virginia or anybody objects to the making of a causeway or approach to this bridge the assent of the State can be obtained within less than a week. I have no objection to an amendment which will meet that difficulty if the gentleman chooses to offer it.

Mr. BUCKNER. Mr. Chairman——

Mr. HUNTON. I desire to go on and conclude my remarks. In regard to the appropriations which have been made by Congress for the purpose of building bridges across the Potomac and across the Eastern Branch I desire to continue what I was upon when interrupted by these questions.

The Little Falls Bridge was made free by the act of Congress of March 3, 1853, and $30,000 was appropriated for the purpose. On the 20th of July, 1868, $26,000 was appropriated for repairs on that bridge. An act was passed June 30, 1872, appropriating $100,000 to erect an iron bridge upon the piers of the Chain Bridge, so called. An appropriation of $147,000 for repairing the Navy-Yard Bridge was made June 22, 1874. Therefore every bridge that leads into the District of Columbia, with one exception, has been either originally built by means of appropriations made by the Congress of the United States or has been purchased by the Government of the United States and made free.

The people who desire the construction of the bridge now under consideration are the only people trading with the District who are taxed by tolls on a bridge. I am informed by those people who have to pay a tax in the shape of tolls on this bridge across the aqueduct that the tolls they pay per annum when bringing their produce to the District of Columbia exceed the taxes which they have to pay on their real and personal estate. It results in a grievance to the people on the other side of the river as well as to the people of the District of Columbia.

In the progress of the effort made by these people to obtain a free bridge across the Potomac for their use, the question has arisen whether the present bridge could be made free, and efforts have been made in that direction without success. As I am informed, the bridge that charges these enormous tolls is a bridge built upon the piers of the aqueduct of the canal, where the canal crosses the Potomac River, and that the canal and the bridge are in the hands of lessees of the original owners, who are lessees for a term of years, and upon a failure to keep this canal in repair the rights of the lessees will be forfeited.

Thus it seems that the title to this bridge across the aqueduct cannot be obtained in fee-simple; and for this reason as well as others it has been determined that it would be unsafe to expend the money of the Government in the purchase of that bridge.

Another objection is that the lessees of the canal who own this bridge reserve the right to contract with railroad companies to run their cars across the bridge; and I believe I am correct in saying that there is now pending a suit brought by the lessees to recover damages from a railroad company for failure to run cars across the bridge according to contract.

An additional reason is that the lessees of the canal when asked how much would purchase the bridge from them replied that the price would be somewhere between $140,000 and $200,000; so that it would cost the Government more to take the bridge at that point, with this defect in the title, and make it a free bridge than to build a new bridge.

Now, we think that while all the other bridges connecting this District with the surrounding country can be used by the people free of charge, while it has been the policy of the Government to make all bridges leading to the District free and to open all toll-gates on roads within the District of Columbia, the people of this District and the surrounding country who now suffer by being obliged to pay these enormous tolls ought to be relieved.

I beg to state in addition that this bridge leads directly from the District of Columbia to Arlington, and you know, sir, and every gentleman of this committee knows that once a year immense crowds of people go from the District of Columbia to Arlington. We know, too, that the Government has forts on the other side of the river, especially Fort Whipple, where all the enlisted men of the Signal Corps are put for training and discipline. Thus the Government of the United States pays annually hundreds of dollars as toll in order to enjoy access for troops and supplies to these forts. We think that the people of the District of Columbia ought to have the privilege of visiting Arlington and the forts of the Government without paying tolls, just as they have the privilege of going in every other direction without the payment of any tolls whatever.

Mr. WHITE, of Pennsylvania. As I understand the explanation of the gentleman from Virginia, the design of the amendment which he offered was that the Government of the United States should pay only one-half of the expense of constructing this bridge, the other half, under the provision of the act of last June, to be paid by the District of Columbia. Now, I observe in the concluding clause of the first section of this bill a provision that the Secretary "shall construct the bridge upon such a plan as shall cost no more than the amount herein appropriated, which cost shall include," &c. Now, by the provision making the appropriation the entire cost of the bridge is to be $140,000. I fancy that the provision added by the gentleman from Virginia will not meet the difficulty which I suggest, and that our appropriation should be only $70,000 instead of $140,000.

Mr. FORT. I suggest that the gentleman in charge of the bill consent to its recommitment, so that it may be put in proper form.

Mr. HUNTON. I do not think there is any difficulty about this point.

Mr. WHITE, of Pennsylvania. Why, sir, the bill contains a provision that the bridge shall not cost more than $140,000.

Mr. HENDEE. I had an amendment prepared to meet the very point which the gentleman from Pennsylvania has suggested. The bill apparently provides that the entire amount, $140,000, shall be taken from the Treasury of the United States. The amendment which the gentleman from Virginia has offered, providing that this matter shall come under the general law passed at the last session does not, it seems to me, distinctly or fully commit the District to the payment of one-half of the expense of this bridge. Hence, in lieu of the amendment which he has offered under the direction of the committee, I would propose the following:

That one-half of the sum which may be expended under this appropriation shall be credited to the United States upon the 50 per cent. which it is to pay of the expenses of the District of Columbia as provided in the act approved June 11, 1878, &c.

Mr. HUNTON. I have no sort of objection to that amendment.

Mr. HENDEE. The effect of this amendment is that the District of Columbia shall pay one-half of the expense and the United States the other half, which seems to me just.

Mr. HUNTON. The committee was unanimous in the opinion that the District should bear one-half of the expense and the Government of the United States the other half. I am willing the provision should be put in any shape that will best accomplish that object.

Mr. BUCKNER. It seems to me that after our legislation of last session providing a form of government for this District we are setting a very bad precedent by the present bill, which proposes to repudiate that legislation. The bill of last session provided:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing, and the estimated cost thereof; also the cost of constructing, repairing, and maintaining all bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in said District.

Now, it seems to me that under this provision of the law the commissioners of the District should first send an estimate for this appropriation to the Secretary of the Treasury to be approved by him. I can see no necessity for any such legislation as this bill proposes. The gentleman's answer to my inquiry as to why an estimate had not been submitted in the form required by law is not sufficient. It seems that this bill was on the Calendar or had been submitted by the Committee for the District of Columbia before the act providing a permanent form of government for the District of Columbia was passed; yet this is a work the expense of which should be divided equally between the District and the Government. It seems to me the case comes clearly within the terms of the act of last session, and that we are setting a very bad example in now repudiating the provisions of that act.

One of the objections made to that act was that the District of Columbia would come here with other appropriations, although the very object of that permanent form of government was to bind the District of Columbia to the payment of one-half of all these expenditures. For that reason I am not willing to vote for this bill, however important it may be. Let the commissioners first make their estimates, including this as well as everything else, and let provision also be made for levying a tax for paying the consequent expense.

Mr. REED. It seems to me, Mr. Chairman, that both the amendments proposed are open to the objection of ultimately leaving three-fourths of the expense to be paid by the United States, although that is not the intention of the parties moving those amendments. Inasmuch as the Government has already agreed to pay one-half of the expenses of the District, if the Government pay the whole of this bill and then is only credited with one half of the expenses, the effect will be to make the Government pay three-fourths of the bill instead of one-half, which is the intention of gentlemen. It would seem this bridge ought to be built by the District of Columbia, the United States under the general law paying one-half part of the expenses of the District of Columbia. I submit that to the gentlemen as a suggestion in furtherance of their evident design.

Mr. HUNTON. I think the amendment of the gentleman from Vermont makes that so plain there can be no mistake about it.

Mr. REED. My point is this: that the Government of the United States pays the whole of this thing while it is only credited with one-half of it in adjusting the expenses of the District of Columbia.

Mr. HUNTON. I ask the Clerk to read the amendment of the gentleman from Vermont.

The Clerk read as follows:

Provided, That one-half of the sum which may be expended under this appropriation shall be credited to the United States on the 50 per cent. which it is to pay of the expenses of the District of Columbia, as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia."

Mr. HUNTON. I ask the gentleman from Maine if that does not cover his objection?

Mr. REED. It seems to me that it does not.

Mr. HUNTON. Then draw one to suit yourself.

Mr. REED. That I do not undertake to do. I leave it with the suggestion I make to the Committee for the District of Columbia.

Mr. HUNTON. I desire now to answer the suggestion of my friend from Missouri. He objects there has been no estimate made by the District of Columbia commissioners. I beg leave to say to my friend the law did not authorize them to make any such estimate. I will call the attention of the committee to the language of the law:

The said commissioners shall submit to the Secretary of the Treasury for the fiscal year ending June 30, 1879, and annually thereafter, for his examination and approval, a statement showing in detail the work proposed to be undertaken by them during the fiscal year next ensuing and the estimated cost thereof.

It is not embraced there. I read further:

Also the cost of constructing—

I desire the attention of my friend especially to this provision:

Also the cost of constructing, repairing, and maintaining the bridges authorized by law across the Potomac River within the District of Columbia, and also all other streams in the District.

Now, until the bridge is authorized by law, these commissioners have no right to make the estimate; and the object of this bill is to authorize the construction of this bridge, because until it is authorized these commissioners have no more right over it than in reference to any other subject outside of their jurisdiction.

Mr. BUCKNER. You provide that they shall pay $70,000.

Mr. HUNTON. When they come to levy the tax to meet the expense they have to include one-half of the $140,000 under the provisions of the bill we have under consideration, if it should be passed. That is the way it is done.

Mr. BLACKBURN. I desire to ask, Mr. Chairman, the gentleman from Virginia that he will accept an amendment suggested by the gentleman from Indiana, [Mr. BAKER,] which seems to me to reach the only material objection which can be raised to the bill as the committee have endeavored to present it to the House.

I thoroughly concur with the gentleman from Maine that it should be amended so as to make the cost of construction clearly divisible in equal parts between the District and the Government itself, and upon that point I take it there is no difference between us. The gentleman from Indiana, [Mr. BAKER,] raises a point that does seem to me to be a material objection, and I will ask the gentleman from Virginia to accept the amendment I send to the Clerk's desk; and when that is accepted, if it shall be determined the committee has failed to make itself clearly understood in its purpose of dividing the cost of this bridge between the District and the Government of the United States in equal parts, I trust the gentleman from Maine or some other gentleman will make that provision as explicit as language may serve.

The Clerk read as follows:

Provided, however, That the execution of this act shall not be carried out until the Legislature of Virginia shall give its assent to the building of the abutments of the bridge on the territory of that State.

The CHAIRMAN. Does the gentleman from Virginia accept what has now been read as part of his amendment?

Mr. HUNTON. I will say that I have just received a note from outside the Hall addressed to me since this question has been raised, and I will send it to the desk to be read.

The Clerk read as follows:

Gen. HUNTON:

The Legislature of Virginia did pass a joint resolution two years ago granting the right and requesting her members to secure the passage of this bill.

T. H. SYPHER.

I have a copy of the act and will hand it to you to-morrow.

Mr. HANNA. I would like to have the attention of the gentleman from Virginia for a moment. I understand by the legislation of the last session it was agreed that the United States and the District of Columbia should share equally in the expenses of the District. Now, if the Government of the United States proposes to appropriate so much money to the building of this bridge—$140,000—and that that should go as a credit upon the one-half of the expenses of the United States, then the whole of the $140,000 should be applied as such credit. On no other basis can you carry out the letter and the spirit of the legislation of last session. To say one-half, would be depriving the Government of the United States of the half of the other half. You should therefore credit the whole $140,000, as that is taken out of the Treasury of the United States—you should credit that whole sum on account of so much money advanced by the Government of the United States to meet its one-half of the expenses.

Mr. HUNTON. Somebody's arithmetic in this matter is at fault. The design all around is that this bridge shall be built at the joint expense of the District of Columbia and the Federal Government.

That was the unanimous conclusion of the Committee for the District of Columbia, and it is the desire of every member of that committee on this floor to carry out that wish in good faith; and therefore the committee are perfectly willing, if the amendment which they propose does not express it in plain terms, that any gentleman shall express it in his own language. All we desire is that the bill shall be passed as the committee reported it; that this bridge shall be built at the joint equal expense of the Federal Government and the District. Now, I have an amendment here which it seems to me will put the matter in plainer language than any hitherto proposed. It would come in after the main provision of the first section, appropriating $140,000 to build the bridge, and just before the last proviso, and is as follows:

Provided, Fifty per cent. of the cost thereof shall be levied and collected upon the taxable property of the District of Columbia.

Mr. BAKER, of Indiana. Would not this language be better?

Provided, Fifty per cent. shall be paid from taxes levied and collected.

Is it not better to provide for this payment out of taxes already collected rather than out of taxes to be collected in future?

Mr. HUNTON. I accept that amendment if the gentleman will offer it.

Mr. BAKER, of Indiana. My amendment would be as follows:

Provided, That one-half of said sum shall be paid out of the taxes levied and collected from the property of said District.

Mr. HUNTON. I have no objection to that.

Mr. BLOUNT. I wish to ask whether that is not the provision under the operation of the law now? Does not the general law now regulate the *pro rata* shares of the District and the Federal Government?

Mr. HUNTON. In my opinion it unquestionably does: but there were some members of the committee who had doubts about it, and therefore it was agreed an amendment should be offered.

Mr. HENDEE. I wish to withdraw the amendment I have offered and to offer one which has been drawn up after consultation, and which meets the objection made by the gentleman from Maine, [Mr. REED.] I think it covers the ground completely. The amendment that is now proposed is as follows:

Provided, That the sum which may be expended under this act shall be treated and regarded as a part of the general expenses of the District of Columbia, and the United States shall be credited with the amount which it may pay under this act for the erection of said bridge, upon its 50 per cent. of the expenses of the District of Columbia, as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia."

Mr. BOUCK. That is correct.

Mr. HUNTON. I have no objection to that.

Mr. WHITE, of Pennsylvania. What is the effect of that amendment?

Mr. HENDEE. To take one-half of the cost from the District and one-half from the United States.

Mr. FORT. Why does not the gentleman say so in his amendment—that the District of Columbia shall pay one-half and the United States the other half?

Mr. HENDEE. Because we have a general law providing that this shall be the proportion of expenses between the Federal Government and the District.

Mr. CONGER. I ask the gentleman from Virginia to yield to me for a few moments.

Mr. HUNTON. I yield to the gentleman.

Mr. CONGER. The gentleman from Virginia who reports this bill has urged members to vote for it, as I understand, because it will be a great advantage to the people of Virginia living on the other side of the river in their communication with the District.

Mr. HARRIS, of Virginia. He did not say so at all.

Mr. HENDEE. The gentleman from Virginia did not say any such thing.

Mr. CONGER. I never before knew the gentleman from Virginia [Mr. HUNTON] to fail to answer for himself; but if he has got his lieutenants all around the House to reply for him, I hope he will commission them, so that we may know who are authorized to speak for him. I understood the gentleman to say that all those persons on the other side of the river who have business here, as well officers of the Government as private citizens, have to pay toll, and that those who bring their produce here have to pay more toll than their profits. I understood him to say also that the Legislature of Virginia is very anxious to have this bridge built, that they have already authorized the use of their territory for the construction of the piers, and that they have urged the Virginia members of Congress to vote for and sustain the passage of such a law.

I take it, then, that the State of Virginia, and especially that portion of it contiguous to the District of Columbia, has a great interest in the construction of this bridge for the use and benefit of its people; so much so as to call for legislative action from the Legislature of that State. Now this bill provides for the people of Virginia, or attempts to provide for them, a passage across the river into this District. It complies with the demand of the Legislature of Virginia by providing this bridge. But I notice that the gentleman from Virginia, [Mr. HUNTON,] in carrying out the instructions of his Legislature, and those who advocated this measure under these instructions, propose to throw the whole expense of building this bridge, which is built mainly for the benefit of the people of Virginia on the other side of the river, first on all the people of the United States and then on the District of Columbia.

The gentleman says the arithmetic is somewhat at fault. It occurs to me that the arithmetic of the gentleman is at fault in not asking Virginia to pay any portion of the expense of erecting this bridge for the benefit of its citizens. It does seem to me that an amendment should be made here providing that the State of Virginia should pay say one-quarter of the expense of this bridge, the people of the District one-quarter of the expense, and the people of the United States, who live too remote from it ever to derive any benefit from it, should pay not more than one-half of the expense of the bridge. That, it seems to me, would be a good arithmetical and equitable division of the expense.

And I wait now, having made this suggestion, trusting to the well-known ideas of justice and right of the gentleman from Virginia, [Mr. HUNTON,] and knowing his willingness to carry out the views of the Legislature of Virginia to assist in building this bridge, to so amend this bill that that State may pay one-quarter of the expense, this tax-ridden District one-quarter, and the tax-ridden people of the United States only one-half of the expense.

Mr. HUNTON. I am not only always willing to respond to the commands of my State, but I am always ready to answer the questions of the gentleman from Michigan, [Mr. CONGER.] I am aware that whenever a proposition comes before this House which is supposed to benefit Virginia it is not apt to receive the cordial support of the gentleman from Michigan. I recollect that not long since there was a proposition before this House to appropriate a half million of dollars which had to be raised by taxation upon the people of the United States, upon the State of Virginia as well as upon the other States of the Union, and all that half million of dollars was appropriated for the benefit of the State of Michigan.

Mr. SAYLER. I would ask the gentleman from Virginia how much internal-revenue tax that State pays every year? Is it not over seven or eight millions of dollars?

Mr. HUNTON. I was coming to that. Now when that bill appropriating a half million of dollars out of the common Treasury of the whole country, to which the State of Virginia in internal revenue alone contributes some six or eight millions of dollars a year, was under consideration in this House, I heard no word of complaint from the gentleman from Michigan. But when a little bridge is to be built over a river wholly within the District of Columbia, not one square yard of its waters within the jurisdiction of the State of Virginia, because perchance somebody in that old State is to be benefited by the erection of that bridge the gentleman from Michigan rises from his seat and calls upon the State of Virginia to pay a portion of the expense.

Now, I beg leave to call the attention of the gentleman from Michigan to the fact, that wherever a bridge exists leading from this District into any other State, (it can only be into one other State than Virginia, that of Maryland,) the people of Maryland are benefited as much as the people of Virginia will be benefited by the erection of this bridge. Yet the Government of the United States paid not only half of the expenses of those bridges, but every dollar of the expenses incurred in their erection or purchase.

Now, why there should be two rules adopted, one for territory in the one direction and another for territory in another direction, I can see no legitimate reason. I think in regard to the States that pay taxes into the common Treasury (and the State of Virginia pays alone this large sum for internal revenue) there ought to be no discrimination against any State.

I beg leave to call the attention of the gentleman from Michigan to another fact. I wish to know if he ever heard of a city that did not build bridges and erect railroads and do everything in its power in that regard to lead trade and travel into the city? And if it depended upon the people outside of the cities, having nothing to do with the jurisdiction of those cities, I ask the gentleman when those bridges and railroads would ever be made? The expenses fall upon those cities.

The Congress of the United States has already declared by general law that in regard to these expenses of the District of Columbia (and building bridges across the Potomac is expressly provided in that general law to be a portion of the expenses of the District) the cost shall be borne by the District of Columbia and by the Federal Government in equal proportion.

And I am not aware that the State of Virginia has ever instructed me on this subject. I am not aware that the State of Virginia has ever passed any resolution of instruction. The gentleman from Michigan is not aware of it. I was informed during the progress of this debate, and when objection was made that the construction of this bridge might invade the sovereignty of the State of Virginia, that the State of Virginia had yielded the question of its sovereignty so far as permission was concerned to erect this bridge or to construct causeways leading to the bridge upon her territory. But that Virginia has ever asked the passage of this bill, or instructed her Representatives in this House or her Senators in the other to vote for a bill of this sort, I am entirely ignorant. But I do believe that the State of Virginia has passed the resolution referred to in that note, and that the consent of the State for the erection of the causeway leading to this bridge has been given.

Now, while some gentlemen may think that the State of Virginia

ought to bear a portion of the expense of constructing this bridge, I ask any gentleman to show me a case in the history of the legislation for this District upon the subject of bridges where any State coterminous to the District of Columbia has been called upon to pay a portion of the cost of the erection of one of these bridges. I know of no instance of that kind.

Mr. BRIDGES. I would like to ask the gentleman from Virginia [Mr. HUNTON] whether any estimate of the cost of this bridge was submitted for the consideration of the committee before they reported this bill?

Mr. HUNTON. We had the estimate of the engineer of the Washington Aqueduct, stating that he had examined the subject carefully in the interest of the United States and that $140,000 would cover the entire expense. That was some two years ago; and we know that bridges can be built more cheaply now than then, so that $140,000 will be ample.

Mr. BRIDGES. As the gentleman admits that bridges can be built more cheaply now than at the time the estimate was made, I think the committee should have reduced the amount so as to accord with the present state of business.

Mr. CONGER. Mr. Chairman, I ask that the letter to which I referred and which was read at the desk be read again.

The CHAIRMAN. The paper is not now at the Clerk's desk; but it has been sent for.

Mr. CONGER. Mr. Chairman, I do not know to what the gentleman from Virginia alluded when he said that this House had passed a bill making an appropriation of $500,000 for the State of Michigan. I do not know what that bill was.

Mr. HUNTON. The river and harbor bill.

Mr. CONGER. Ah, sir, this Congress passed no such separate appropriation. This Congress passed an appropriation bill embracing $6,000,000——

A MEMBER. Eight million dollars.

Mr. CONGER. Eight million dollars, distributed according to the judgment of the Committee on Commerce among all the States and Territories of this Union to promote the interests of all the people of the United States, without partiality and without favor, I suppose, (I do not know whether the gentleman is on that committee or not,) of which amount a large proportion, as in similar bills for years past, went to the State of Virginia.

Mr. HUNTON. A very small portion.

Mr. CONGER. A large proportion went to the improvement of the James River and a large proportion to the improvement of the Appomattox River, to make a river where there was none before; to make navigation where only the turtle swam in the earlier years of the Republic.

Mr. SAYLER. Will the gentleman allow me to ask how much of the internal-revenue tax collected by the Government is paid by his State?

Mr. CONGER. The gentleman desires to ask a question which is entirely irrelevant to the matter now under dispute.

Mr. SAYLER. I think not.

Mr. CONGER. If we had to answer all questions about which the gentleman is ignorant or in doubt no further legislation could be carried on in this House. [Laughter.]

Mr. SAYLER. I do not lack information, but I am asking the gentleman just now for a little information which he does not seem to be able to give me.

Mr. CONGER. The State of Michigan pays every farthing of internal revenue which the laws of the United States impose upon its people.

Mr. SAYLER. Will the gentleman state how much?

Mr. CONGER. There are no "moonshiners" there, and there are no men who follow the Ohio practice of smuggling away their whisky to escape taxation upon it.

Mr. SAYLER. I resent that imputation. Ohio has no such practice; and the gentleman knows that she has not. He must not make such a statement on the floor of this House. Now will he state how much revenue the State of Michigan pays?

Mr. CONGER. One hundred million dollars.

Mr. SAYLER. Internal revenue?

Mr. CONGER. Yes, sir.

Mr. SAYLER. Are you sure it is not more?

Mr. CONGER. If I had not been forced to make this statement, my modesty would have prevented me from boasting of my State. [Laughter.]

Now, Mr. Chairman, I asked the acting chairman of the District Committee a very proper and pertinent question, founded upon his own statement, undenied and undisputed, which was that the building of this bridge was very desirable for the people of Virginia to enable them to bring their produce to market here and to pass back and forth between the capital and the surrounding country. Another statement of the gentleman was that the Government has its forts and its cemetery on the other side of the river. We admit the force of that fact as a reason why the Government should pay a part of the expense of building the bridge. He stated further that the people of the District of Columbia needed this bridge for purposes of travel and transportation, which was entirely correct; and therefore the District of Columbia should pay its portion of the expense. Now, I ask him whether the State of Virginia should not pay its proportion. He tells me in reply that Michigan has had appropriations. Thank God, Michigan from the beginning of its existence as a State has had in Congress representatives who were able to show that the interests of all the people of the United States, entirely apart from the local interests of Michigan, would be promoted by the improvement of that great chain of navigable waters on which Michigan borders in part, in common with many other of our northern and northwestern States. And all the people of the United States have received benefits, beyond all estimate, from those appropriations for the improvement of the harbors and rivers flowing into the great lakes.

But this Congress has given the same appropriation to all the rivers and all the harbors of the South just so soon as they would throw away their old hide-bound State-rights doctrine and permit this Government to help the people of the South. Sir, during the early years of this Republic southern statesmen held the views of my distinguished friend from Virginia, to the gentleman's left, and denied the right of the General Government to expend one cent within a State for internal improvements. But the time has come now when even the strict constructionist before me, the noted one of this Congress and the South, my friend from Virginia, [Mr. TUCKER,] has yielded his assent to the doctrine of internal improvements by the General Government, and he comes before the Committee on Commerce with all the zeal and all the industry to get appropriations for his State that any man from Michigan ever had in going before that committee. He draws the mantle over his State-rights doctrines until the river and harbor bill has passed, and during the time of its pendency, and my friend from Virginia, and all my southern State-rights friends who oppose appropriations in theory for internal improvements, come modestly and humbly, but zealously, to the Committee on Commerce, as the chairman of that committee and all its members well know, and urge, notwithstanding their theoretical doctrine, notwithstanding their State-rights doctrine, urge that committee and urge Congress, laying aside their theory for the time being, to make those appropriations for the improvement of southern waters.

Now, sir, the country shares that burden alike and distributes it in raising its taxes. It is not raised by internal revenue alone.

Mr. SAYLER. One-half is raised by internal revenue.

Mr. CONGER. But by all the means of taxation, and it distributes it where in the judgment of Congress it is thought right and best.

For more than ten years I have heard my southern friends rise with an alacrity which seemed to indicate delight and inquire why Michigan, that far-off northern State, should have any portion at all, and complain of the river and harbor bill year after year. My friend from Virginia has originality enough generally, but he has fallen into the cry which you can find in every old Congressional Globe and every modern CONGRESSIONAL RECORD, complaining that Michigan has received some small share of the appropriations for rivers and harbors, and that the whole of these prairie States which have not a stream running through them or a drop of water to sail a boat have not received an equal appropriation. I ask my friend from Virginia whether it is right, in obedience to the resolution of the Legislature of Virginia, as contained in a note read at the Clerk's desk urging members of Congress to further this bill——

Mr. HUNTON. There was no such resolution, sir.

Mr. CONGER. Such was my understanding of the note read at the Clerk's desk. Is the note there? If so, let it be again read. If it is not as I have stated it, then I have misunderstood it.

Mr. SAYLER. As the gentleman generally does.

Mr. CONGER. Let the Clerk again read the note.

The note was again read.

Mr. CONGER. That is just what I said—that the Legislature of Virginia had passed a resolution asking or directing its members to vote for the passage of this bill. Yet the gentleman tells me I am mistaken. Shall I have it read again? [Laughter.]

Mr. HUNTON. Just as you choose about it.

Mr. CONGER. I do not need it myself.

Mr. HUNTON. I do not.

Mr. CONGER. If I am disputed again I must have it read again. If it be the duty of every member of Congress from Virginia to secure the erection of that bridge, and if it is advantageous, Virginia should pay one-quarter or one-eighth or one-sixteenth. Let the gentleman say whether it is just or right, and not bring in a resolution to tax the District of Columbia. Taxes here we are told (and I do not know how that is) are now beyond endurance. If it be necessary to bring in a bill to tax the people of the United States one-half of the whole of this $140,000, and there are dozens of men on that side who hardly ever rise to speak here but they din into our ears the burden of taxation on the people, I ask the gentleman whether it would be unjust to let the State of Virginia pay one-quarter or some portion of the cost of building this bridge in Virginia and save the District and people of the United States from additional tax?

Mr. HUNTON. I will answer the gentleman.

Mr. CONGER. One word more and then the gentleman may answer me, as he has the floor. The Government has already built, as I understand, two bridges across the Potomac for the accommodation of the people of Virginia—the Chain Bridge, two or three miles above this one, and the Long Bridge below this point. Those are the only two bridges the Government has built across the Potomac. If the Government has already done all this, and perhaps a little more, and the sovereign State of Virginia wants communication with the capi-

tal, is it improper to ask the chairman of the committee whether there ought not to be a provision in the bill that the State benefited by this bridge equally with the District shall be assessed a little for it? That is the question I wish to have answered.

Mr. HUNTON. I respond to the question of the gentleman without the slightest difficulty. I say it would be eminently unjust to give an outlet from this District to Maryland free of charge and to charge Virginia for an outlet into that State. It would be unjust to make Virginia pay a portion of the expenses of this bridge to the same extent that it would have been unjust to have made the State of Michigan pay her proportion of the half million dollars appropriated to the State of Michigan one year ago. I have no difficulty upon that question at all, and I trust the gentleman is answered so far as that view of the question goes.

Mr. TUCKER. I certainly had no intention to take part in this debate. It is not my bill nor had I any particular interest in it except as it was advocated by my friend who sits behind me, [Mr. HUNTON.] As the gentleman from Michigan has on this occasion, as on a former occasion, with no unfriendliness of spirit I know, singled me out for a comment on what he deems my peculiar views on the much-disputed question of State-rights, I wish to say a word in regard to that. I do not think that this House will charge me with ever drawing back from the assertion of my convictions upon that or any other question. But the gentleman has stated that I was a warm advocate and a beggar almost before the Committee on Commerce in reference to the river and harbor bill. He is as much mistaken in that assertion as he is in his geographical knowledge as to the character of the Appomattox River. If the gentleman would come into Virginia sometimes as he has done and would take pains to learn a little more when he does come there, he would know that the city of Petersburgh is at the head of the waters of the Appomattox River, which is navigable up to that point, and that there is a tide in the Appomattox River even to the city of Petersburgh, a city which was celebrated enough during the four years of civil strife to have attracted the observation even of the gentleman from Michigan.

But not only was I not a warm advocate and beggar before the Committee on Commerce on the river and harbor bill, but I voted against it. The gentleman says my voice was not heard in reference to it. The gentleman ought to know it was upon a suspension of the rules that the bill was passed, and no debate has ever been allowed by that gentleman and the gentlemen who advocate such schemes as this of a half million to the little State of Michigan out of the public Treasury; no debate has ever been allowed by them on this floor as to the propriety of the passage of the river and harbor bill.

Now, I say the gentleman does not deny that he got a half million of dollars for the State of Michigan. And under what power was it? If under any power, it was under the power of the Congress of the United States to regulate commerce among the several States; and it is this power which, if the District of Columbia were now a part as it originally was of the State of Maryland, would justify the Congress of the United States in appropriating money for the erection of a bridge between two or more States. Now, when the Government owns the District of Columbia and the State of Virginia is another State, the question of how the bridge shall be built between the District of Columbia and the State of Virginia is for Congress to determine. Congress has exclusive legislation over the District of Columbia. The gentleman will find that in the Constitution if he will look at it.

Now, sir, I hold that this power to build this bridge across a river, that, as my friend from Virginia [Mr. HUNTON] has stated, is within the exclusive jurisdiction of the General Government, and not at all within the jurisdiction of the State of Virginia—a bridge which gives communication, as the gentleman says, to a few of the people of Virginia into the District of Columbia, but which gives the people of the District communication away into the State of Virginia—authorizes Congress to determine whether it should not appropriate this money in order to give the intercourse with the District of Columbia. I shall vote for this bill, therefore, because I think it is within the power of Congress, exercising exclusive legislation within the District, to pass it. All that is asked is that the State of Virginia shall consent that the southern abutment of the bridge shall be permitted to rest upon the soil of old Virginia.

A remark was made by a distinguished gentleman who took part in this debate—and I thank him for it—which shows that the force of truth in the debates on this floor is not lost even on Indiana. The gentleman from Indiana [Mr. BAKER] two or three years ago, upon my first appearance in this Hall, asked me if I thought this was not a nation? I retort the question. The gentleman talks about not building the bridge, because Virginia has not consented to the abutment resting on her soil. He is very particular about State rights now, in connection with the passage of this bill appropriating $140,000 for the building of this bridge. I ask him if the nation has not power, under the authority to regulate commerce and to exercise exclusive legislation over the District of Columbia, to build this bridge and appropriate this money?

Mr. BAKER, of Indiana. I think it unquestionably has that power, and I wanted to hear an expression of opinion from the gentleman from Virginia in the same direction.

Mr. TUCKER. Then the question of the gentleman from Indiana to my friend from Virginia [Mr. HUNTON] was not a sincere one, in that he asked for a thing which was not a difficulty in his own mind, but merely wanted to poke a difficulty in the way of somebody else.

Mr. BAKER, of Indiana. I wanted to hear a sincere expression of opinion from the gentleman from Virginia——

Mr. TUCKER. You have got mine.

Mr. BAKER, of Indiana. Upon this question of State rights and the power of the nation.

Mr. TUCKER. We will not go into that question now; I have gone into it several times. I will send the gentleman an address of mine upon that subject, delivered in the northern region of this country; it was not done in a corner.

Mr. BAKER, of Indiana. I would be very glad to have the gentleman give us an address here where I can listen to it.

Mr. TUCKER. Well it would take more than an hour, and under the hour rule I could not finish it.

Mr. BAKER, of Indiana. If the gentleman could not finish it in an hour I would try to get him consent to have the residue of it published.

Mr. TUCKER. I will do my whole duty on this matter. I will send the gentleman a copy of that address and I will ask him to read and inwardly digest it, for it will do him much good.

Mr. BAKER, of Indiana. I have no doubt it will do good to——

Mr. TUCKER. To the "upright in heart" it will. But there is no necessity of disputing about that further.

I think it was well to put into this bill an amendment making the abutment of this bridge upon the soil of old Virginia to depend upon her consent. I believe in the eminent domain of the States and in the power of the United States to regulate commerce subject to that eminent domain.

Mr. HUNTON. I now call for a vote on the amendment.

Mr. TUCKER. I will just add one other word. I had occasion some years ago, in a case of a good deal of importance before the court of appeals of Maryland, to touch upon this question of the boundary between the two States.

Mr. TOWNSEND, of New York. Mr. Chairman——

Mr. TUCKER. I am on the floor, if you please.

Mr. TOWNSEND, of New York. The other gentleman from Virginia [Mr. HUNTON] a moment since called for a vote. If the gentleman from Virginia now addressing me [Mr. TUCKER] is on the floor, I certainly do not wish to take him off.

The CHAIRMAN. The Chair understands that the gentleman from Virginia in charge of this bill [Mr. HUNTON] yielded for a moment to his colleague, [Mr. TUCKER.]

Mr. HUNTON. Yes, for a moment.

Mr. TUCKER. The question of that bridge between Maryland and Virginia arose a great many years ago, and it was discussed just before the war in an important case before the court of appeals of Maryland. I had occasion to take part in that argument, and thus became acquainted with the subject. In building a bridge at Shepardstown the State of Maryland, or rather the county of Washington, in the State of Maryland, built it exclusively. The only thing the State of Virginia did was, as provided by this amendment, to give its consent that the abutment of the bridge on the southern side should be permitted by that State, because the whole river was within the jurisdiction of the State of Maryland, and the right of the State of Maryland over the river opposite this District has been transferred to the Government by the cession of the District to the Government of the United States.

Mr. CONGER. And under that precedent, I think, you still justify the State of Virginia in refusing to pay any part of the expense of this bridge.

Mr. TUCKER. I do not say that.

Mr. TOWNSEND, of New York. I move to strike out the last word of the pending amendment. I think that my friends on this side of the House are entirely mistaken in supposing that the question of State rights is at all affected by the proposition now pending before the committee. I do not understand that the stanchest advocate of State rights supposes that there is any constitutional difficulty in the way of expending any amount of money by the General Government for the benefit of his State. [Laughter.] I have never found a strong State-rights man that ever hesitated to vote for anything that was going into his State; although as soon as an amendment was proposed applying perhaps to an adjoining State, and especially if it applied to a State further north, the old trouble of State rights immediately prevented that State-rights man from voting for it. [Renewed laughter.] But where it is for "our State," there is an abiding power in the Constitution that authorizes any appropriation of money that it is possible to conceive of. I say to my friends, do not think of hedging in a thorough State-rights man by any idea of State rights when money is coming home to "our State."

Having said this, I am free to say that I propose to vote for this bill. I do not vote for it on behalf of Virginia. Virginia ought to be able to take care of herself; if not, it is her own fault. I vote for this proposition to help our city, "our city," the nation's city.

Mr. TUCKER. One single word.

Mr. HENDEE. Will the gentleman from New York withdraw his amendment?

Mr. TOWNSEND, of New York. I will withdraw it.

Mr. HENDEE. I renew the amendment. In the Forty-third Congress I reported a bill like this. It came from the committee unanimously. I reported this bill, and I desire to say here that I left a sick-room this afternoon, which, perhaps, I ought not to have done, for the purpose of saying a word in favor of its passage.

I hope the gentlemen on this side of the House will not be misled by any discussion of the last year's river and harbor bill, because, in my judgment, it has very little to do with this bill. On the 3d of February, 1876, the Senate of the United States passed a resolution directing the engineer department of the United States Army to examine the bridge crossing the river from Georgetown to the Virginia shore. An examination was made, and the engineer who made the examination reported that bridge in strong terms as rotten in places and unsafe.

Now, in my judgment it is the duty of Congress not to be higgling here as to who shall pay the money for the building of a bridge, but to adopt measures to protect the life and property of the citizens of the United States and the property of the United States.

Some years ago the same complaint was made in regard to the bridge across the Eastern Branch; that is, that it was unsafe. A bill was offered to build a new one, and there were then found in Congress men fighting the construction of a bridge there, and they did it until there was a disaster which caused the destruction of property and nearly caused the destruction of life. Then they were willing to permit the building of a bridge across the Eastern Branch, and one was built.

Now, the only reasonably accessible bridge open to the people as a means of communication with the State of Virginia is said to be in a condition which has been pronounced by an engineer of the Engineer Corps to be entirely unsafe. Shall we erect across that river a safe bridge, and one that shall be free to the people of the country, more especially the people of this District, who are already heavily taxed and whose burden of taxation is unjustly increased by the enormous tolls upon the Georgetown bridge?

My friend from Michigan has referred to the Long Bridge. Sir, nobody ever passes over that bridge except, perhaps, with loaded teams. Why? Because upon one side is the railroad track and on the other the carriage-way; and these are so close together that no one dare drive across that bridge unless he has horses that are beyond any question as to their safety. It is scarcely safe for any one to pass over that bridge either day or night. Hence it becomes almost absolutely necessary that a new bridge be built for the benefit of the people of this District and of the whole country. Arlington is a place which is visited daily by hundreds of people; and on the 30th of May in each year it is not unusual to notice thousands upon thousands passing over that bridge for the purpose of decorating the graves of our dead soldiers. It seems to me almost criminal, in view of the report of the engineer as to the condition of the existing bridge, for us to wait one single day longer without passing a bill of this kind for the erection of a good and substantial bridge across that river at a point that shall best convene the public.

Now, as to the question who should pay for this bridge. In the act of last session establishing a permanent form of government for the District of Columbia we provided that all expenses of this kind should be borne equally by the United States and the District, each paying 50 per cent. I do not think it necessary to go now into a discussion as to the righteousness of that proposition, because it was fully discussed last session and decided. I simply express the hope that this bill will be passed and that we may erect over that river a bridge worthy of this nation.

Mr. HUNTON. I call for a vote on the amendments.

The question being taken on the first amendment of the committee, to strike out the second section of the bill, it was agreed to.

The CHAIRMAN. The next question is upon the proviso reported by the committee as an amendment. It will be read as now modified.

The Clerk read as follows:

Add to section 1 the following:

Provided also, That the sum which may be expended under this act shall be treated and regarded as a part of the general expenses of the District; and the United States shall be credited with the amount which it may pay under this act for the erection of said bridge upon its own 50 per cent. of the expense of the District of Columbia, as provided in the act of June 11, 1878, entitled "An act providing a permanent form of government for the District of Columbia:" *Provided, however*, That the execution of this act shall not be carried out until the Legislature of Virginia shall give its assent to the building of the abutments of the bridge upon the territory of that State.

The amendment was agreed to.

Mr. HUNTON. I move that the bill be laid aside to be reported to the House.

The motion was agreed to.

The CHAIRMAN. The Clerk will read the title of the next District bill upon the Calendar.

The Clerk read as follows:

A bill (H. R. No. 3847) to authorize the commissioners of the District of Columbia to audit certain claims against the District and for funding the same.

Mr. MAYHAM. I am directed by the Committee for the District of Columbia to call up House bill No. 4810, to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The CHAIRMAN. The bill which the Clerk has read by its title is first in order and must be proceeded with unless laid aside by a vote of the committee.

Mr. MAYHAM. I move that that bill and all other bills which on the Calendar have priority of House bill No. 4810 be laid aside.

Mr. EDEN. I rise to a question of order. That motion, I submit, is not in order. Each bill must be acted upon separately.

Mr. MAYHAM. I move, then, that the bill just read by its title be laid aside.

The motion was agreed to.

Mr. EDEN. I move that the committee rise and report to the House the bills that have been acted on.

Mr. MAYHAM. I move that House bill No. 4810 be taken up.

Mr. EDEN. My motion takes precedence.

The CHAIRMAN. The question is upon the motion of the gentleman from Illinois, [Mr. EDEN,] that the committee rise and report to the House the bills which have been acted on.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FINLEY reported that the Committee of the Whole on the state of the Union, having had under consideration business from the Committee for the District of Columbia, had directed him to report sundry bills with various recommendations.

RATE OF INTEREST ON DISTRICT BONDS.

The first bill reported from the Committee of the Whole was the bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

Mr. HUNTON. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS THE POTOMAC.

The SPEAKER. The next question is on the bill (H. R. No. 942) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands, reported from the Committee of the Whole on the state of the Union, with amendments.

Mr. HUNTON demanded the previous question on the bill and amendments.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments were concurred in. The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. MAYHAM. I am directed by the Committee for the District of Columbia to ask for the consideration of the bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

Mr. EDEN. I move the House do now adjourn.

The House divided; and there were—ayes 111, noes 37.

So the motion was agreed to; and accordingly (at four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of the pastor of the Fifth Baptist (colored) Church, of Washington, District of Columbia, relative to a loan on said church made by the Freedman's Savings Bank—to the Committee on the Judiciary.

By Mr. BANNING: The petition of A. Fulton and 47 other citizens of Northumberland County, Pennsylvania, that Edward H. Lieb, late captain and brevet lieutenant colonel United States Army, may be reinstated to the position he held at the date of his dismissal—to the Committee on Military Affairs.

Also, the petition of the sugar-dealers of Cincinnati, Ohio, that Congress give a uniform specific tariff of two and one-half cents per pound on all sugar and melado—to the Committee of Ways and Means.

By Mr. BELL: The petition of 46 citizens of Georgia, for the establishment of a post-route from Amicalola to Jasper, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. BLISS: A communication from the mayor of Brooklyn, New York, and resolutions of the common council of that city, favoring the passage of a bill granting a pension to Mrs. Ann M. Paulding, widow of the late Rear-Admiral Hiram Paulding, of the United States Navy—to the Committee on Invalid Pensions.

Also, resolution adopted by workingmen engaged in the sugar-refining business in the eastern district of Brooklyn, New York, opposing the change in the tariff as recommended by the Secretary of the Treasury—to the Committee of Ways and Means.

By Mr. BRIDGES: Resolutions of the Vessel-Owners and Captains' Association of Philadelphia, Pennsylvania, approving the present navigation laws of the United States, and asking their continuance without alteration—to the Committee on Commerce.

By Mr. BROWNE: The petition of 69 women of Wilmington, Indiana, for legislation for the suppression of polygamy—to the Committee on the Judiciary.

Also, the petition of 15 grocers of the city of Aurora, Indiana, for a revision of the tariff on sugars—to the Committee of Ways and Means.

Also, the petition of 31 grocers of Richmond, Indiana, of similar import—to the same committee.

By Mr. CALDWELL, of Tennessee: The petition of Volney S. Alston, of Ripley, Tennessee, for compensation for property taken by the United States Army—to the Committee on War Claims.

Also, the petition of John S. Peete, of Mason's Depot, Tennessee, of similar import—to the same committee.

Also, the petition of Gideon B. Wray, of Covington, Tennessee, of similar import—to the same committee.

By Mr. CALKINS: The petition of ex-soldiers, that discharged soldiers be granted one hundred and sixty acres of the public domain, for the equalization of bounties, and for the repeal of the limitation on pension claims—to the Committee on Military Affairs.

By Mr. CAMPBELL: The petition of Daniel S. Schaffer, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Rufus Crissey, of similar import—to the same committee.

Also, the petition of Josiah Folsom, to have refunded to him $300 paid by him to United States officials as commutation money—to the Committee of Claims.

By Mr. CARLISLE: The petition of certain clerks to committees of the House of Representatives, for annual salaries—to the Committee on Reform in the Civil Service.

By Mr. CASWELL: The petition of C. S. Carpenter, Joseph Carpenter, and other citizens of Columbia County, Wisconsin, for the abolition of the manufacture and importation of intoxicating liquors for use as a beverage—to the Committee on the Judiciary.

By Mr. DUNNELL: The petition of Mary Mowbray and 50 others, of Hillsdale, Minnesota, for legislation to prevent polygamy—to the same committee.

By Mr. DURHAM: The petition of William Spragens and others, for compensation for the widow of George D. Ellis, late a United States deputy marshal in Kentucky—to the Committee of Claims.

Also, the petition of Jones, Rayborn & Jones, Elliott Brothers, and L. E. Edwards, for compensation for damages to their coal-boats at Smith's Shoals, on the Cumberland River, in 1878—to the Committee on Commerce.

By Mr. GARFIELD: The petition of Brashear & Co., for an appropriation to pay for certain ship timber—to the Committee on Appropriations.

By Mr. GARTH: The petition of Mrs. Catharine B. Winston, of Colbert County, Alabama, for compensation for cotton taken by the United States Army—to the Committee on War Claims.

By Mr. GIBSON: The petition of J. F. H. Claiborne, that an appropriation of $748.10 may be made to pay a Navy requisition of that amount issued in his favor on an account stated and duly approved—to the Committee on Appropriations.

By Mr. HALE: The petition of William A. Wilson, for relief under a contract for building a wall at the National Cemetery, Chattanooga, Tennessee—to the Committee on Public Buildings and Grounds.

By Mr. HARDENBERGH: The petition of workmen in sugar refineries in New York, against changing the present tariff on sugars—to the Committee of Ways and Means.

Also, resolutions of the Vessel-Owners and Captains' Association of Philadelphia, Pennsylvania, approving the present navigation laws of the United States and asking their continuance without alteration—to the Committee on Commerce.

By Mr. HARMER: Resolutions of the Vessel-Owners and Captains' Association of Philadelphia, of similar import—to the same committee.

By Mr. HARTZELL: Memorial of Stratton & Bird and 7 other firms, of Cairo, Illinois, dealers in sugars, that the duty on sugar be made at so much per pound, without regard to color or quantity—to the Committee of Ways and Means.

By Mr. HENKLE: Memorial of Lewis Jones, of Baltimore, Maryland, for payment for two hundred barrels of apples wrongfully seized by John Cassels, United States provost marshal for the Department of Virginia and North Carolina in January, 1864—to the Committee of Claims.

By Mr. HENRY: The petition of J. R. Uhler, J. M. Holmes, and others, members of the Scientific and Medical Association of Maryland, for the appointment of a permanent commission to investigate the nature, causes, treatment, and prevention of yellow fever and allied epidemic diseases—to the committee on the origin, introduction, and prevention of epidemic diseases in the United States.

Also, the petition of William H. Comegys, for a pension—to the Committee on Invalid Pensions.

By Mr. HOOKER: The petition of John M. Powell, guardian for W. H. Easterlin, for compensation for property taken by the United States Army—to the Committee on War Claims.

By Mr. HUNGERFORD: The petition of the Elmira Academy of Medicine, for the printing of a catalogue of medical books, pamphlets, &c., in the library of the Surgeon-General United States Army—to the Committee on Printing.

By Mr. JONES, of Ohio: Papers relating to the pension claim of Frank Logsden—to the Committee on Invalid Pensions.

Also, papers relating to the pension claim of Daniel O. Smith—to the same committee.

By Mr. KETCHAM: The petition of Mrs. Caroline Lauffer, for a pension—to the same committee.

By Mr. KIDDER: A paper in relation to the timber-culture act, from A. J. Parshall—to the Committee on Public Lands.

By Mr. LAPHAM: Resolutions of the Vessel-Owners and Captains' Association of Philadelphia, approving the present navigation laws and asking their continuance without alteration—to the Committee on Commerce.

By Mr. LUTTRELL: The petition of the common council of Crescent City, California, for the cession of certain lands to said city—to the same committee.

By Mr. MAISH: The petition of Lieutenant-Commander William Gibson, United States Navy, for relief—to the Committee on Naval Affairs.

Also, the petition of Olivia M. Blair, administratrix of Thomas P. Blair, deceased, for the relief of the estate of said decedent—to the Committee of Claims.

By Mr. McMAHON: The petition of Freeman Johnson, for a pension—to the Committee on Invalid Pensions.

By Mr. O'NEILL: Resolutions of the board of directors of the Vessel-Owners and Captains' Association of Philadelphia, opposing any change in the navigation laws of the United States as detrimental to American shipping and as "opening our internal and coastwise trade to foreign hulls"—to the Committee on Commerce.

By Mr. PAGE: Memorial of the constitutional convention of California, opposing any revision of the tariff whereby the import duties upon wines and spirits may be reduced in the treaty or convention between the Government of the United States and that of the Republic of France—to the Committee of Ways and Means.

Also, the petition of William Fitch, attorney for Samuel Cross and William H. Hoecke, that the United States purchase the property known as the Congressional Hotel, in the city of Washington, District of Columbia—to the Committee on Public Buildings and Grounds.

By Mr. POUND: The petition of Mrs. Baird and other ladies of Odanah, Wisconsin, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of Mrs. Margaret Lanagan, for a pension—to the Committee on Invalid Pensions.

By Mr. SAMPSON: The petition of Daniel Wheaton, of similar import—to the same committee.

By Mr. SHELLEY: The petition of Horace J. Gambrill, for his restoration to his former position in the revenue marine—to the Committee on Commerce.

By Mr. STEELE: The petition of Mrs. W. R. Wetmore and 78 other ladies of Lincolnton, North Carolina, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. STEPHENS, of Georgia: The petition of John W. Gass, for the passage of the bill (H. R. No. 5308) with an amendment which will give soldiers totally disabled in their hands or feet a pension of $72 per month—to the Committee on Invalid Pensions.

By Mr. STRAIT: Memorial of citizens of Red Wing, Minnesota, relating to the tariff on sugar—to the Committee of Ways and Means.

By Mr. SWANN: The petition of the Board of Trade of Baltimore, Maryland, for changing the present light on Sandy Point to a position nearer the channel, in order that the fog alarm may be heard to warn mariners—to the Committee on Commerce.

Also, the petition of the Board of Trade of Baltimore, Maryland, that a light-ship be placed on the upper middle ground in the Chesapeake Bay—to the same committee.

By Mr. TOWNSHEND, of Illinois: The petition of soldiers of the Black Hawk war, that a pension be granted Wyatt Parish, a soldier of said war—to the Committee on Invalid Pensions.

Also, the petition of citizens of Illinois, of similar import—to the same committee.

By Mr. VAN VORHES: Papers relating to the pension claim of Samuel D. Stiles—to the same committee.

Also, the petition of Eliza P. Conley, of similar import—to the same committee.

Also, the petition of the Ohio Brigade, for a special act for the relief of Mrs. Adaline G. Haskins, widow of Lieutenant-Colonel A. L. Haskins, late of the Thirty-sixth Regiment Ohio Volunteer Infantry—to the same committee.

By Mr. WAIT: The petition of Hugh H. Osgood and 258 other citizens of Connecticut, for an appropriation to continue improvements at the New London navy-yard—to the Committee on Appropriations.

By Mr. WARNER: The petition of Charles Doulens, for the correction of his military record—to the Committee on Military Affairs.

By Mr. WHITTHORNE: The petition of General Heine, in relation to the management of the Soldiers' Home at Hampton Roads, Virginia, asking inquiry to be made concerning the same—to the same committee.

By Mr. WILLIS, of Kentucky: Papers relating to the claim of John B. Davis for carrying United States mails—to the Committee on the Post-Office and Post-Roads.

Also, the petition of H. C. Murrell and others, of Louisville, Kentucky, for a change in the tariff on sugars—to the Committee of Ways and Means.

By Mr. YEATES: The petition of William E. Bond, of Calhoun County, North Carolina, for relief—to the Committee of Claims.

IN SENATE.

TUESDAY, *December* 17, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with section 4690 of the Revised Statutes, a report by Carlisle P. Patterson, superintendent of the Coast and Geodetic Survey, showing the progress made in the survey of the Atlantic, Gulf, and Pacific coasts during the year ending June 30, 1878; which was ordered to lie upon the table, and be printed.

He also laid before the Senate a communication from the Secretary of War, calling the attention of the Senate to estimates of appropriations required for the subsistence of the Army for the fiscal year ending June 30, 1880, reported on page 70 of the Book of Estimates for 1879–'80; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Quartermaster-General in reference to an appropriation of $25,000 for barracks at Fortress Monroe, Virginia, and suggesting that a further sum of $34,000 be granted to complete the barracks building at that place; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of December 10, 1878, the report of Major John Wilson, of the Corps of Engineers, showing the results of surveys of the ports of Fairweather, Port Orford, Coos Bay, Alsea, and Coquille River, Oregon; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the Senate of June 14, 1878, a statement of the Register of the Treasury showing the amount of money expended by the United States for the various public works in each State and Territory from June 30, 1873, to June 30, 1878; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting the information called for in a resolution of the Senate of the 3d instant, directing him "to inform the Senate what amount and denomination of silver coin has been received in payment of customs dues since the beginning of the current fiscal year, and whether or not he has applied the silver coin so received in whole or in part to the payment of the interest on the bonds or notes of the United States," &c.; which, on motion of Mr. BECK, was ordered to lie on the table and be printed.

JOINT COMMITTEE ON PRINTING.

The VICE-PRESIDENT appointed, under the provisions of the Revised Statutes, Mr. ANTHONY, Mr. SARGENT, and Mr. WHYTE as the members of the Joint Committee on Printing on the part of the Senate.

MILITARY ACADEMY APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. WINDOM, it was—

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was—

Ordered, That the committee on the part of the Senate be appointed by the Vice-President.

The VICE-PRESIDENT appointed Mr. ALLISON, Mr. BLAINE, and Mr. DAVIS of West Virginia as the conferees on the part of the Senate.

TERRITORIAL SURVEYS.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878; 5,000 of which shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 copies for the use of the office of the survey.

The VICE-PRESIDENT also laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed at the Government Printing Office 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Department of the Interior; the illustrations to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 5514) to amend the act entitled "An act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes," approved May 18, 1872—to the Committee on Claims.

The bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point—to the Committee on Military Affairs.

The joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department—to the Committee on Printing.

COURTS IN WEST VIRGINIA.

The bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia was read twice by its title.

Mr. HEREFORD. I ask the Senate to consider the bill at this time. It is purely a local matter.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, and ordered to a third reading.

The VICE-PRESIDENT. The bill will be read at length on its third reading.

The Secretary read the bill, as follows:

Be it enacted, &c., That hereafter the circuit court of the United States for the district of West Virginia shall be held at Parkersburgh on the 10th day of January and of June, and when either of said days shall fall on Sunday the terms shall commence on the following Monday; and all pending cases, process, rules, and proceedings shall be conducted in the same manner and with the same effect as to time as if this act had not been passed.

The VICE-PRESIDENT. Shall the bill pass?

Mr. HOAR. I do not wish to interfere with what is the local interest of West Virginia, but I desire to inquire of the Senators from that State if it is not a very inconvenient arrangement to have a term of a court to begin on a certain day of the month, instead of having it begin on some Monday or Tuesday or Wednesday. The 10th day of the month may fall on Saturday or Friday.

Mr. HEREFORD. I see no trouble about the provisions of the bill.

Mr. MITCHELL. Or the 10th may fall on Sunday, for that matter.

Mr. HOAR. The bill provides for that.

Mr. HEREFORD. I desire simply to say that this bill, as I am informed by my colleague in the House who represents that immediate district, was introduced at the request of Judge Bond, the circuit judge, so as to suit his convenience for the other courts that he has to hold in different parts of the circuit; and the time of meeting cannot fall on Sunday, by the provisions of the bill.

Mr. HOAR. I understand; but I do not think the Senator sees my point. As I understand the arrangements for terms of court, both United States courts and State courts, as a rule in this country, we fix the day as on a certain Monday of the month or a certain Tuesday, or a certain Monday or other day after the first Monday. To require them to begin at a certain day of the month brings the beginning of the term, when jurors, witnesses, parties, the bar, the judge, have to be present, perhaps on a Saturday, perhaps on Friday, the most inconvenient day for the commencement of the term of a court. That for the convenience of the judge alone such great inconvenience should be done to the public seems to me a strange thing. If the Senators from that State insist upon having that inconvenient arrangement made for their people I do not suppose it is the business of anybody else to object.

Mr. HEREFORD. The time fixed is suitable to the members of the bar, the attorneys, and all parties, and the bill relates to West Virginia alone.

The VICE-PRESIDENT. The question is on the passage of the bill.

The bill was passed.

PETITIONS AND MEMORIALS.

Mr. BAYARD presented the petition of Patrick Gunning, of Delaware, praying compensation for losses by flood sustained by him while in the service of the United States Government at Fort Delaware on the 23d of October, 1878; which was referred to the Committee on Military Affairs.

Mr. WHYTE presented the memorial of the Board of Trade of Bal-

timore City, in favor of the passage of a law appropriating a sum of money for the construction and maintenance of a light-ship on the upper middle ground in Chesapeake Bay; which was referred to the Committee on Commerce.

He also presented the petition of Captain Trocks, of the steamship Sarmatium, and other masters of foreign steamships, praying for the passage of a law appropriating a sum of money for the construction and maintenance of a light-ship on the upper middle ground in Chesapeake Bay; which was referred to the Committee on Commerce.

He also presented the petition of Decatur H. Miller, president of the Board of Trade of Baltimore, praying for the passage of an act authorizing the erection of a light upon the shoal making out from Sandy Point on the west side of Chesapeake Bay; which was referred to the Committee on Commerce.

Mr. KERNAN presented the petition of D. R. Baker and others, citizens of New York, praying the prompt passage of the bill (H. R. No. 4234) providing for arrears of pensions; which was ordered to lie on the table.

He also presented certain papers relating to the claim of Flora A. Darling for indemnification for losses and damages alleged to have been sustained to person and property during the late war; which were referred to the Committee on Claims.

Mr. McPHERSON presented the petition of the Vessel-Owners and Captains' Association of Philadelphia, representing the shipping interests of Pennsylvania, New Jersey, and Delaware, praying that the present navigation laws may continue without alteration; which was referred to the Committee on Commerce.

Mr. INGALLS presented the petition of Seth Ingalsbee, late of Company C, Tenth Regiment Illinois Cavalry, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of John Davison, late of Company C, Forty-seventh Illinois Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented a letter from the Commissioner of Pensions, in relation to the claim of Phœbe Parke, widow of Ranny Parke, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MITCHELL presented the petition of John R. McBride, of Salt Lake, Utah Territory, praying compensation for professional services rendered in certain judicial proceedings in Utah; which was referred to the Committee on the Judiciary.

Mr. CAMERON, of Wisconsin, presented the petition of Mrs. O. H. Harris and others, citizens of Oshkosh, Wisconsin, praying for the passage of a law making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

He also presented the petition of Mrs. Martha Allen Lachman, praying compensation for the services rendered by her husband, Henry Lachman, during the late war as a detective; which was referred to the Committee on Claims.

Mr. CAMERON, of Pennsylvania, presented a petition of John E. Dowling, James Mershon, and Stephen Emory, members of the Marine Engineers' Association, No. 13, of Philadelphia, praying that in the consideration of the bill commonly known as the steamboat bill by the Senate the questions of the reduction of license fees, of the alien law, and of making engineers officers of ships may be considered; which was referred to the Committee on Commerce.

He also presented resolutions adopted at a meeting of the board of directors of the Vessel-Owners and Captains' Association, held in Philadelphia December 5, 1878, remonstrating against any change in the navigation laws by which foreign-built and foreign-owned ships shall be admitted to American enrollment and registry; which were referred to the Committee on Commerce.

Mr. VOORHEES presented the petition of the mayor and city council of Elkhart, Indiana, and 80 other citizens of that place, praying for the passage of a law granting arrears of pensions to the soldiers of the war for the preservation of the Union; which was ordered to lie on the table.

Mr. BAILEY presented a memorial of the general conference of the Methodist Episcopal Church South, in favor of the payment of the claim of the book-agents of the Methodist Episcopal Church South for property alleged to have been seized and appropriated by the United States military authorities at Nashville, Tennessee, during the late war; which was ordered to lie on the table.

Mr. GORDON presented a joint resolution of the Legislature of Georgia, in favor of the passage of a law by Congress authorizing the sale of public lands the proceeds of which to be used in aid of popular education; which was referred to the Committee on Education and Labor, and ordered to be printed.

Mr. EATON presented the petition of Herman G. Walter and others, cigar-makers of the town of Danbury, Connecticut, praying for an examination to be made into the "cigar tenement-house system," now in operation in the city of New York, alleging the same to be fraudulent to the Government and ruinous to manufacturers; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. McDONALD. The Committee on Public Lands have had under consideration the bill (S. No. 1330) to quiet title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, recommitted to them on the 13th of the present month, and have directed me to report it back again to the Senate favorably and to recommend its passage. I also ask that it be placed on the Calendar in the order in which it stood at the time of its recommittal.

The VICE-PRESIDENT. To this the Chair hears no objection.

Mr. SPENCER. I am directed by the Committee on Military Affairs, to whom was referred the memorial of Horatio D. Jarves, suggesting defects in the pension laws, and praying the amendment thereof, to report the same back to the Senate, and to say that it was referred to the Committee on Military Affairs through mistake. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1434) to compensate George W. Morse for his labor and expenses in adapting his system of breech-loading fire-arms and ammunition to the arms of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Patents; which was agreed to.

Mr. HAMLIN, from the Committee on Foreign Relations, to whom were referred the following petition, memorials, and message from the President of the United States, asked to be discharged from their further consideration; which was agreed to:

The petition of Austin Packard and others, of New York, praying that a commission be appointed to communicate with other nations, with a view of having a railroad built across the continent of Africa;

The memorial of the yearly meeting of the Society of Friends, held at Putnam County, Illinois, on the subject of international arbitration as a mode of adjusting differences between nations;

The memorial of Theodore D. Woolsey and other citizens of New Haven, Connecticut, praying assistance for the Chinese who are suffering from the existing famine in the northern province of China; and

The message of the President of the United States, communicating, in answer to a Senate resolution of May 27, 1878, a report of the Secretary of State in relation to the selection of M. Maurice Delfosse as a commissioner under the treaty of Washington on the fisheries question.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1441) for the relief of homestead settlers on the public lands, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1009) for the relief of Peter Phillips, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. DORSEY, from the Committee on the District of Columbia, presented certain plans for the improvement of the sewerage and the sanitary condition of the District of Columbia, submitted to the committee under the authority of a resolution adopted by the Senate June 13, 1878; which were recommitted to the Committee on the District of Columbia, and ordered to be printed.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 5484) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, reported it with amendments.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1492) to amend section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, reported it with amendments.

ANDREW MUCKLE.

Mr. PLUMB. I am also instructed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 5485) for the relief of Andrew Muckle, to report it without amendment, and I am also instructed by the committee to ask the immediate consideration of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Adjutant-General of the Army to remove any charge of desertion which may stand on his records against Andrew Muckle, late a private in Compaay F of the Fifteenth Regiment of Michigan Infantry Volunteers, and to forthwith grant him an honorable discharge. And the Commissioner of the General Land Office is directed to extend the time for proving up the homestead entry of Andrew Muckle, No. 4745, made at the United States land office, then at Traverse City, Michigan, on the 2d of January, 1872.

Mr. McDONALD. Is there a report accompanying the bill?

Mr. PLUMB. There is no written report, but I will state to the Senate briefly the facts in the case. This man Muckle is an Irishman unnaturalized, who enlisted in the Federal service in 1862. He served in the campaign that resulted in the battles of Shiloh and Vicksburgh, and re-enlisted as a veteran. He went home with his regiment on furlough in 1864, after a little more than two years continuous and active service. He did not go back with his regiment. About 1870 or 1871 he went into one of the frontier counties of Michigan and went upon a piece of land, designing to take it as a homestead, and in fact made an entry of it as required under the practice of the Land Office. When he came to prove it he ascertained for the first time that it was necessary that he should be naturalized. He sought to be naturalized, but was confronted with the charge of desertion

against him in the military service by reason of his not having gone with his regiment after his furlough expired. He has now been upon the land nearly seven years, and the time will expire on the 2d of January next. In order to perfect his entry he must either have his time extended or he must be naturalized before that time, or at least have his first papers filed. He cannot do that as long as the charge of desertion remains against him. The evidence is complete. The House suspended the rules and passed the bill by a unanimous vote, believing it to be an extraordinary case. The Military Committee of the Senate took the same view of it and authorized me to report the bill favorably and request that it be considered now, for the reason that if it goes over the holidays the whole purpose of the bill will have failed by lapse of time. I think, as the committee thought, that it is a very meritorious case, and one that would establish no precedent.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. I have no objection to this bill on the statement which the Senator from Kansas has made, but does not the beneficiary have a remedy at the War Department? Is not the War Department authorized to remove the charge of desertion?

Mr. PLUMB. No.

Mr. ANTHONY. I am satisfied.

The bill was ordered to a third reading, read the third time, and passed.

PRINTING OF A REPORT.

Mr. MORRILL. I am directed by the select committee to make provision for taking the Tenth Census to ask leave to have printed the report of the remarks of Francis A. Walker made before that committee last evening.

The VICE-PRESIDENT. Is there objection? The Chair hears none, and the order will be entered.

BILLS INTRODUCED.

Mr. GORDON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1525) for the relief of Robert Habersham, George Patten, and John L. Villalonga, or their executors or administrators; which was read twice by its title, and referred to the Committee on Claims.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1526) granting a pension to Phœbe Parke; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1527) for the relief of John J. Key and W. G. M. Davis; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HEREFORD (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1528) for the relief of William W. Morrow; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1529) to authorize the commissioners of the District of Columbia to adjust and fix the water rates within said District; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1530) to grant a pension to John G. McDonald; which was read twice by its title, and referred to the Committee on Pensions.

Mr. EUSTIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 45) authorizing the President to appoint Dr. William Martin a full surgeon in the United States Navy; which was read the first time by its title.

Mr. EUSTIS. As the joint resolution is very short I ask to have it read the second time at length.

The VICE-PRESIDENT. It will be reported at length.

The joint resolution was read the second time at length, and referred to the Committee on Naval Affairs, as follows:

Whereas Dr. William Martin, acting assistant surgeon United States Navy, now on duty on the United States monitor Canonicus, distinguished himself during the late yellow-fever epidemic by attending to the sick of the Grand Army of the Republic in New Orleans by promptly responding to the call made upon him by the Howard and other associations, by tendering his services gratuitously; and

Whereas it is important that there should be in the Navy physicians conversant with the treatment of yellow fever: Therefore,

Resolved by the Senate and House of Representatives in Congress assembled, That the President of the United States is hereby authorized to appoint, by and with the advice and consent of the Senate, Dr. William Martin a full surgeon in the United States Navy, to date from August 1, 1878.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 46) to authorize Lieutenant Francis V. Greene, United States Army, to accept certain decorations from the Emperor of Russia; which was read twice by its title, and referred to the Committee on Foreign Relations.

AMENDMENTS TO BILLS.

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (S. No. 942) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto; which was ordered to lie on the table and be printed.

Mr. SAUNDERS submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-roads in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. WINDOM. I ask the Senate to proceed to the consideration of the naval appropriation bill.

Mr. BLAINE. I believe the order of yesterday holds its position.

The VICE-PRESIDENT. It does. The resolutions of the Senator from Maine are the unfinished business.

Mr. BLAINE. I have to request the chairman of the Committee on Appropriations that he will not call up the naval appropriation bill for a few days. I desire to submit some remarks upon it, and I am not now ready to do so.

Mr. WINDOM. In response to the request of the Senator from Maine I shall not press the naval appropriation bill, but I move that the Senate proceed to the consideration of the consular and diplomatic bill, to which I think there is no objection, and doubtless it can be passed in a very few minutes.

Mr. BLAINE. If the Senator thinks it can be passed between now and the hour of one, I have no objection.

Mr. WINDOM. I think it can, or very soon thereafter.

The VICE-PRESIDENT. Is there objection to the motion of the Senator from Minnesota that the Senate proceed to the consideration of the consular and diplomatic appropriation bill? The Chair hears none, and it is before the Senate as in Committee of the Whole.

Mr. BLAINE. That is subject of course to the regular order. That will not displace the order after the morning hour?

The VICE-PRESIDENT. Not after one o'clock.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

Mr. WINDOM. Before the reading of the bill I will very briefly state the amendments proposed by the Senate committee. The bill as it came to the Senate appropriates $1,045,735. The net additions recommended by the Senate committee amount to $82,100. As reported from the Senate committee the bill is $50,800 less than the estimates for the fiscal year ending June 30, 1880, and it is $40,200 more than the appropriations for the current year. The increase over the appropriations for the current year is composed of items which were in the bill when it came to the Senate, as follows:

For chargés d'affaires *ad interim* and diplomatic officers abroad, $20,000.

Second secretaries to legation of Great Britain, France, and Germany, $6,000.

Clerk to legation at Spain, $1,200.

Exposes of revising and editing consular regulations, $3,000.

For diplomatic and consular service to be expended in the discretion of the President, $20,000.

Maxing a total of $50,200 of items which are in the bill as it came to the Senate, but which are not in the act for the current year.

The $82,100 added by the Senate Committee on Appropriations is composed of items which make the bill correspond I believe exactly, or at least substantially, to the appropriations for the current year, which the committee believe to be the lowest amount that will properly serve the purposes of the Government.

They have restored the salaries to ministers to Great Britain, France, Germany, and Russia, which added, $10,000.

The restoration of salaries for the missions to Spain, Austria, Italy, Brazil, Mexico, Japan, and China, $14,000.

The restoration of salaries of ministers to Chili and Peru, $4,000.

Restoring minister to the Argentine Republic, and chargés d'affaires to Paraguay and Urugnay in lieu of minister plenipotentiary as in House bill, $4,500.

Restoring missions to Belgium and Netherlands, $15,000.

Salary of minister to Hayti, $2,500.

To Liberia, $1,500.

Restoring missions to Denmark and Switzerland, $10,000.

Salary of consul-general at Cairo, $1,000.

Salaries of consuls-general at London, Paris, Havana, and Rio, $4,000.

Salary of consul-general at Melbourne, $500, and at Berlin, $1,000.

Salary of consuls-general at Vienna, Frankfort, Rome, and Constantinople, $2,000.

Restoring classes of consuls, that is, restoring consuls to the classes in which they are this year, $14,600.

All of these additions are simply to restore the salaries named in the bill to the amounts now fixed by law, and appropriated for the current year, and I believe there is nothing else of any importance embraced in the amendments.

The VICE-PRESIDENT. The bill will be read by the Secretary at length.

Mr. WINDOM. I ask that the amendments of the Committee on Appropriations be acted on in their order as they are reached in the reading of the bill.

The VICE-PRESIDENT. That order will be pursued.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Appropriations

was, in line 10, after the word "at," to strike out "fifteen thousand" and insert "seventeen thousand five hundred," and in line 11 to strike out "sixty" and insert "seventy;" so as to make the clause read:

For salaries of envoys extraordinary and ministers plenipotentiary to Great Britain, France, Germany, and Russia, at $17,500 each, $70,000.

The amendment was agreed to.

The next amendment was, in line 14, after the word "at," to strike out "ten" and insert "twelve;" and after the word "each," to strike out "seventy" and insert "eighty-four;" so as to make the item read:

For salaries of envoys extraordinary and ministers plenipotentiary to Spain, Austria, Italy, Brazil, Mexico, Japan, and China, at $12,000 each, $84,000.

The amendment was agreed to.

The next amendment was, in line 17, after the word "at," to strike out "eight" and insert "ten;" and in line 18, after the word "each," to strike out "sixteen" and insert "twenty;" so as to make the item read:

For salaries of envoys extraordinary and ministers plenipotentiary to Chili and Peru, at $10,000 each, $20,000.

The amendment was agreed to.

The next amendment was to strike out lines 19, 20, and 21, as follows:

For salary of envoy extraordinary and minister plenipotentiary to the Argentine Republic and Paraguay and Uruguay, $8,000.

The amendment was agreed to.

The next amendment was, in line 22, after the word "at," to insert "Belgium, Netherlands, Argentine Republic;" and in line 25, after the word "each," to strike out "thirty-seven thousand five hundred" and insert "sixty thousand;" so as to make the clause read:

For ministers resident at Belgium, Netherlands, Argentine Republic, Sweden and Norway, Turkey, Venezuela, Hawaiian Islands, and the United States of Columbia, at $7,500 each, $60,000.

The amendment was agreed to.

The next amendment was, in line 33, after the word "Hayti," to strike out "five thousand" and insert "seven thousand five hundred;" so as to read:

For minister resident and consul-general to Hayti, $7,500.

The amendment was agreed to.

The next amendment was, after "Liberia," in line 35, to strike out "two thousand five hundred" and insert "four thousand;" so as to read:

For minister resident and consul-general to Liberia, $4,000.

The amendment was agreed to.

The next amendment was, in line 38, in the clause appropriating $20,000 for chargés d'affaires *ad interim* and diplomatic officers abroad, to insert:

And so much of the act approved June 4, 1878, as provides that chargés d'affaires *ad interim* shall receive no additional pay beyond that which the law provides for the regular offices which they hold in their respective legations, is hereby repealed.

The amendment was agreed to.

The next amendment was, in line 44, after the word "for," to strike out "salary" and insert "salaries;" after "Portugal" to insert "Denmark, Paraguay and Uruguay, and Switzerland, at;" and in line 46, after the word "dollars," to insert "each, twenty thousand dollars;" so as to make the clause read:

For salaries of chargés d'affaires to Portugal, Denmark, Paraguay and Uruguay, and Switzerland, at $5,000 each, $20,000.

The amendment was agreed to.

The next amendment was, in line 72, after the word "Cairo," to strike out "three" and insert "four;" so as to read:

For the agent and consul-general at Cairo, $4,000.

The amendment was agreed to.

The next amendment was, in line 75, after the word "each," to strike out "five" and insert "six;" and after "twenty" to insert "four;" so as to make the clause read:

For the consuls-general at London, Paris, Havana, and Rio de Janeiro, each $6,000, $24,000.

The amendment was agreed to.

The next amendment was, in line 79, after the word "thousand," to insert "five hundred;" so as to read:

For the consul-general at Melbourne, $4,500.

The amendment was agreed to.

The next amendment was, in line 83, after "Berlin," to strike out "three" and insert "four;" so as to read:

For the consul-general at Berlin, $4,000.

The amendment was agreed to.

The next amendment was, after "Rome," in line 85, to strike out "Athens;" after the word "each," in line 86, to strike out "two thousand five hundred" and insert "three thousand;" and in line 87, after "thousand," to strike out "five hundred;" so as to make the clause read:

For the consuls-general at Vienna, Frankfort, Rome, and Constantinople, each $3,000, $12,000.

The amendment was agreed to.

The next amendment was, in line 92, after the word "clerks," to strike out "two hundred and ninety thousand" and insert "three hundred and four thousand six hundred;" so as to make the clause read:

For salaries of consuls, vice-consuls, commercial agents, and thirteen consular clerks, $304,600, namely:

The amendment was agreed to.

The next amendment was, after line 94, to insert:

CLASS I.—At $4,000 per annum.

GREAT BRITAIN.

Hong-Kong.

HAWAIIAN ISLANDS.

Honolulu.

CLASS II.—At $3,500 per annum.

CHINA.

Foochow; Hankow; Canton; Amoy; Tien-Tsin; Chin-Kiang; Ningpo.

PERU.

Callao.

The amendment was agreed to.

The next amendment was to strike out lines 107 to 111, as follows:

CHINA.

Foochow; Hankow; Canton; Amoy; Tien-Tsin; Chin-Kiang; Ningpo.

PERU.

Callao.

The amendment was agreed to.

The VICE-PRESIDENT. The morning hour has expired.

Mr. WINDOM. I ask consent of the Senate to proceed a few moments with this bill without displacing the order of business. I think there will be no trouble in concluding it in a very few moments.

The VICE-PRESIDENT. Is there objection? The Chair hears none. The reading of the bill will proceed.

The next amendment reported by the Committee on Appropriations was, in line 113, after "Demerara," to strike out "Hong-Kong."

The amendment was agreed to.

The next amendment was to strike out lines 115 and 116, as follows:

HAWAIIAN ISLANDS.

Honolulu.

The amendment was agreed to.

The next amendment was, after line 126, to insert:

BARBARY STATES.

Tripoli; Tunis; Tangier.

JAPAN.

Nagasaki; Osaka and Hiogo.

SIAM.

Bangkok.

CHILI.

Valparaiso.

The amendment was agreed to.

The next amendment was, after line 147, to strike out:

BARBARY STATES.

Tripoli; Tunis; Tangier.

JAPAN.

Nagasaki; Osaka and Hiogo.

SIAM.

Bangkok.

CHILI.

Valparaiso.

The amendment was agreed to.

The next amendment was, in line 226, after "basin," to insert "Southampton;" so as to read:

CLASS VII.—At $1,000 per annum.

GREAT BRITAIN.

Ceylon; Gaspe Basin; Southampton; Windsor, (Nova Scotia.)

The amendment was agreed to.

The next amendment was, after line 227, to insert:

GERMANY.

Stettin.

FRENCH DOMINIONS.

Nantes.

ITALY.

Venice.

The amendment was agreed to.

The next amendment was, in line 272, after "Manchester," to insert "Hong-Kong;" in line 273, after "Marseilles," to strike out "Fayal" and insert "Rio de Janeiro;" so as to read:

For the consul-general at Havana and the consul at Liverpool, each a sum not exceeding the rate of $3,000 for any one year; and to the consuls-general at London, Paris, and Shanghai, each a sum not exceeding the rate of $2,000 for any one year; to the consuls-general at Berlin, Vienna, Frankfort, and Montreal, and to the consuls at Hamburg, Bremen, Leipsic, Lyons, Manchester, Hong-Kong, Belfast, Birmingham, Bradford, Chemnitz, Sheffield, Sonneberg, Dresden, Havre, Marseilles, Rio de Janeiro, Nuremberg, Leith, Singapore, Stuttgart, Mannheim, and Tunstall, each a sum not exceeding $1,500 for any one year: *Provided*, That the total sum expended in any one year shall not exceed the amount herein appropriated.

The amendment was agreed to.

The Secretary concluded the reading of the bill.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. PADDOCK. I have an amendment, which the members of the committee have agreed to, I believe.

The VICE-PRESIDENT. It can be admitted now by unanimous consent.

Mr. PADDOCK. I was conferring with the chairman of the committee while the question was being put. I desire after the word "Dresden," in line 147, to insert "Chemnitz."

The VICE-PRESIDENT. Is there unanimous consent that this amendment be made? The Chair hears no objection, and it is made.

Mr. PADDOCK. One more. In line 171, where the word "Chemnitz" occurs I move to strike it out.

Mr. BLAINE. That makes it conform to the other.

Mr. PADDOCK. Yes, sir.

Mr. WINDOM. There is no objection to it.

The VICE-PRESIDENT. The Chair hears no objection to the amendment.

Mr. DAVIS, of West Virginia. I understand there was a single amendment made.

Mr. PADDOCK. That is all.

Mr. DAVIS, of West Virginia. Which adds a clerk. Is that it?

Mr. PADDOCK. No; but changes the classification.

Mr. WINDOM. Adds something to the compensation of the consul of Chemnitz, where the fees are large and the compensation very small. I think the proposition is meritorious, though it has not all the formalities.

The VICE-PRESIDENT. The amendment is made.

The bill was read the third time, and passed.

EXERCISE OF ELECTIVE FRANCHISE.

The VICE-PRESIDENT. The Senate now proceeds to the consideration of its unfinished business, being the resolutions introduced by the Senator from Maine, [Mr. BLAINE,] the pending question being on the amendment offered by the Senator from Maine, which will be reported.

The SECRETARY. In the third resolve, after the word "right," it is proposed to insert the words "by itself or by any subcommittee," and after the word "paper," at the end of the resolution, to insert "to take testimony, to administer oaths, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry;" so as to make the resolution read:

That in prosecuting these inquiries the committee shall have the right, by itself or by any subcommittee, to send for persons and papers, to take testimony, to administer oaths, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

Mr. BLAINE. I thought that was agreed to *nem. con.*

The VICE-PRESIDENT. It was not.

Mr. MERRIMON. I suggest to the Senator from Maine that the amendment ought to be amended so as to provide what member of the committee shall administer the oath. It should provide that the chairman or presiding officer of the subcommittee should administer oaths.

Mr. BLAINE. The object was to give the authority to such subcommittees as might be designated.

Mr. MERRIMON. I remember that on a former occasion on looking at the subject we had difficulty about that very point, and it was provided that the chairman of the committee, or the chairman of any subcommittee should administer oaths.

Mr. BLAINE. I have no objection to the Senator from North Carolina making that point more definite. That can be arranged afterward; I will not interrupt the Senator if he wants the floor now.

Mr. HILL. If the Senator from North Carolina will be kind enough to allow an explanation he will very much oblige me. I felt compelled to leave the Senate yesterday because I was suffering under indisposition, having the severest cold that I believe I ever felt. I had no disposition for business, and no disposition for company. Before leaving, however, I understood the regular order, the bill in relation to patents, would be taken up after the morning hour and would consume the day. However, if I had not known that, I doubt whether I should have remained during the day.

I will simply add that I had no purpose of taking any part in the discussion of these resolutions, especially in the present stage of them. Whether I shall do so hereafter, after the report shall have been made, I am not now able to say.

I desired simply to state that if I had been present yesterday I should have taken very great pleasure in voting for the amendment of the Senator from South Carolina, [Mr. BUTLER,] and which was lost by a tie vote. While as a general rule I think committees of investigation ought to be allowed to determine for themselves whether they will have open or secret sessions, while as a general rule I think it is better to leave it to them, in this particular case I should have voted for the amendment to require open doors.

Mr. MERRIMON. Mr. President, it is not my purpose to advert to anything that transpired in the debate on the pending resolutions yesterday. For one, I am willing that that discussion shall stand as it is recorded. I shall refer to remarks that were made on these resolutions last week.

Mr. President, I listened with feelings of mingled surprise and indignation at the fierce and unprovoked assault upon the white people of the South made by the Senator from Maine [Mr. BLAINE] in his speech delivered on Wednesday last. I was surprised at hearing one so able and filling so dignified and important a station speak so loosely and illogically, and indignant at the grave charges he made against and the gross aspersions he cast upon a whole people without specifying a single fact other than the sheerest partisan newspaper scandal to sustain what he said. I cannot deny the physical power of that Senator to thus abuse the dignity and patience of this body; but he cannot make it right to do so, he cannot escape just criticism nor the adverse judgment of all men, wherever they may be, who love justice, truth, and honor. Whatever may have been the purpose of this extraordinary speech—it seems to me, however, that this is manifest—it certainly can serve only to create sensation, engender groundless discontents, revive sectional hate, bitterness, and distrust, and rearray the colored people against the white people of the South, and by this means continue to impair the much-needed unity of feeling among the American people, injure their industries, and retard their business intercourse, their trade, and commerce. Such a speech may adorn the splendid abilities, illustrate the high patriotic spirit, and gratify the noble ambition of some men; but I cannot suppose for one moment that there can be found many who think so, or who will envy the author of it because of the laurels it affords him, or take delight in sharing the fruits of such a triumph. I give the Senator high praise for the boldness and courtly polish of his assertions, while I express my profound gratification that they are neither founded in fact nor justice toward millions of intelligent freemen living in the southern section of the Union. I take notice of his fiery wrath, but I beg to say that I neither tremble at his empty threats nor dread the scrutiny of any committee that may be charged to inquire into the truth of his allegations.

Mr. President, the nature of society and all experience go to show that peace, good order, mutual confidence, respect, and forbearance among the people are essential to the preservation and perpetuity of states and nations. These things are likewise necessary to the individual and collective prosperity, happiness, and unity of every people. It is just as true that persecution, oppression, public discord, sectional strife, bitterness, and dislike, destroy national unity, subvert liberty, pervert the moral sense of communities, degrade human nature, impede industries, strike down all prosperity, stimulate open violence, light up the flames of civil war, and establish the bloody despotism of mobs and factions. The ample page of history records in fearful array the downfall of empires, kingdoms, and republics, attributable wholly to one or more of the causes just mentioned. History likewise records the names of the authors of such mischiefs—their rise, their temporary triumphs, the evils they did, the crimes they perpetrated against society and humanity, their fall, and in many instances, perpetuates their infamy.

These general truths apply with peculiar emphasis to our own country. We have a great republic, founded upon the great doctrines of rational liberty, freedom of conscience, freedom of thought and expression, and the right of the people to rule themselves. We have a government of public sentiment as contradistinguished from a government of force—a government that rests upon the virtue, intelligence, patriotism, and unity of the people. These are the essential elements of its life; without them, it cannot live. To the end that our country may have the fullest measure of national blessing, we want and must have peace, harmony of sections, mutual respect and forbearance, reconciliation one section with another. Sectional jealousies and feuds must be broken down and exterminated, misrepresentation and detraction must cease, and love of country must be greater than love of party. The peace and good order of society ought always to be above all party considerations.

The greatest dangers this country has encountered in the whole course of its existence have arisen from sectional controversies and sectional intolerance. These controversies, on repeated occasions, seriously threatened the peace of the people and the safety of the Government, until in 1860 they resulted in bringing on our late civil war, which cost the American people myriads of precious lives, unutterable suffering and agony, and many billions of treasure. There was no natural or reasonable cause for those strifes. They were fomented, lashed into fury and war by ambitious, seditious, and dangerous men seeking notoriety and their own personal advantage and aggrandizement. Will the American people—the people of the North and the South, of the East and the West—not take warning and profit by the awful experience of the past? Will the people of the North and the South not pause and calmly consider, like enlightened freemen, whether there is any reasonable cause for difference and strife? Will the people continue to allow ambitious men, whether from one section or the other, to excite their prejudices and enrage their passions without a cause? Will the people of any section in the future, as has been too often done in the past, follow in the lead of men who are only fitted by their talents and tastes to stir up strife and foster discord? Mr. President, I trust not; I trust that reason, truth, and justice—and not passion and prejudice—will sway the minds and control the judgments of the northern people and the southern people; that they will see and realize in their thoughts and conduct that their truest, best, and highest interests can only be subserved by the earnest cultivation of the arts of peace and good-will toward each other.

Mr. President, the whole speech of the Senator from Maine goes on the single false assumption that the colored people of the South are practically despoiled of their right to vote by the white people there by the employment of force and fraud. This assumption underlies and permeates all he said. And putting aside the right of the colored people and the supposed injury done them, he says that while they are a factor in fixing the ratio of representation in Congress and give the South thirty-five additional members in the House of Representatives, they do not in fact vote, and hence a white man in North Carolina in voting is equal to two white men in Maine. If his assumption is unfounded, then all he has said goes for nothing.

The Senator does not cite a single fact nor any verified statement in support of this grave allegation. I undertake to say he cannot do

so, and challenge him to the proof. I believe it to be true that in some instances in more than one State colored voters have been interfered with by force and perhaps by fraud in the exercise of their right to vote, just as white men have been interfered with in other States in the exercise of their similar right; but that this has been generally done, or to such an extent as to materially affect the colored vote, I utterly deny. This has not been and cannot be shown, according to my observation, information, and firm belief; and in the course of my remarks I propose to advert to public facts, circumstances, and records that go strongly to show the contrary.

The suggestion that there is a general conspiracy or concerted purpose throughout the South to deprive the colored people of the right to vote is so improbable and so monstrous as to carry with it its own refutation. There is neither motive nor opportunity for so wicked and foolish a movement. I cannot suppose that there is a single intelligent being who believes it.

The Senator complains bitterly that the democrats in the South seized seventy-three districts, and by such means, out of one hundred and six Representatives, elected one hundred and one or two of them. He says that in two or three States the colored voters were in the majority, and with this state of facts he infers that the colored voters were prevented by force and fraud from voting. This inference is unwarranted and unjust, as I will now endeavor to show, and more at length in the general course of what I have further to say.

The public statistical election reports show that large colored votes were generally cast at the late and former elections for the republican party, but these seldom of late made a majority. It is certain that the colored vote was generally cast. I present a table showing the vote in the States named for President at the elections in 1868, 1872, and 1876. I have not been able to get later data. It is as follows:

Vote in sundry States.

	1868.		1872.		1876.	
	Grant.	*Seymour.*	*Grant.*	*Greeley.*	*Hayes.*	*Tilden.*
South Carolina	62,301	45,237	72,290	22,703	91,870	90,906
North Carolina	96,769	84,601	94,769	70,094	108,417	125,427
Mississippi	.....	.....	82,175	47,288	52,605	112,173
Alabama	76,366	7,288	90,272	79,444	68,230	102,002
Georgia	57,134	102,722	62,550	76,356	50,446	130,088
Louisiana	33,263	80,225	71,663	57,029	75,135	70,508
Texas	.....	.....	47,406	66,500	44,800	104,755
Arkansas	22,112	19,078	41,373	37,927	38,669	58,071
Tennessee	56,628	26,129	85,655	94,391	89,566	133,166
Florida	.....	.....	17,763	15,427	23,849	22,923
Virginia	.....	.....	93,468	91,654	95,538	139,670

This shows that the vote was cast, and generally with some increase. If it is asked how the white vote came to be so increased at late elections, the answer is that until within the last few years thousands and tens of thousands of white people would not vote at all. Some were stubborn; others were hopeless, and believed it idle to vote. This feeling has given way almost entirely. The people have recovered spirit and hope and confidence, and earnestly start anew.

It is a noteworthy and important fact, that thousands of colored men through the South have abandoned the republican party and voluntarily joined the democratic party, regarding their interests as leading them to do so. This is more generally so in some localities than in others, and the number that do so, increases at every succeeding election and as the colored voters increase in intelligence and the acquisition of property. Then, there are other thousands who have grown indifferent about voting—the novelty of it has worn out with them; oftentimes they have been deceived and misled by unscrupulous white leaders and they have grown disgusted with misrule which they have seen and felt; they do not want to vote with the republican party, nor yet with the democratic party, but their tendency is to go with the latter in the future. This is my observation to some extent. The evidence taken before a subcommittee of the Senate of which I was a member two years ago showed this to be true to a large extent in South Carolina. It is in fact to the decided interest of the colored voters to vote with the white people, and they will do so more and more as they shall be left to follow their own judgments and learn by the logic of events, which they understand best, their true interests. The statistics show that in North Carolina the colored vote—it is there mainly republican—was at the late election as large in proportion as the white vote. There can be no pretense that there was intimidation there.

I remember well that it was alleged in 1876 that the election in South Carolina was carried by force and intimidation, and the colored people were then practically deprived of their right to vote. But the returns showed that the republican party received at that election nearly ten thousand more votes than at any former election, and the evidence taken before our subcommittee showed that intimidation did not materially affect the vote. At that time there was a greater outcry made by republican politicians about fraud and force in that State than there is now. It is a notable fact that the outcry about intimidation of the colored voters in the South comes on periodically just before the presidential election, and this circumstance points strongly to the motive for it.

It is complained, and with much bitterness, of the democrats of the South, that by reason of the enfranchisement of the colored people the late slave-holding States have thirty-five additional members of the House of Representatives, and yet the republican party do not get the benefit of these additional Representatives or a large part of them. With all due respect to every one who so complains, I must say that this is caviling, trifling, and puerile. The colored vote does not belong to the republican party of right; it does not belong to the democratic party of right; it does not belong to any party of right; the colored voters are just as free to vote with one party as another; they are freemen, at perfect liberty to vote for any party they may see fit, to vote without regard to any party, or to abstain from voting altogether. It does not follow because the republican party failed to elect more Congressmen that the colored people were forced to vote the democratic ticket or to abstain from voting. As is seen, a great variety of considerations may have led and may yet lead them to vote against the republican party or not to vote at all.

But I submit, in all candor, that it is unjust to complain of the white people of the South because of the increased representation of that section of the Union by reason of the operation of the fourteenth and fifteenth amendments to the Constitution. They did not ask for it; they made no effort to obtain it. At the time the amendments were adopted the southern people were prostrate and helpless under the sword. They were not consulted about it. They experienced grave apprehension of danger, of evil to spring from enfranchising the freedmen, and many of them uttered a feeble, fruitless protest against it; but the republican party, under circumstances of oppression, humiliation, and outrage, literally forced it upon them by the sword, and sought practically to place eight millions of intelligent white people under the dominion of four millions of colored people, who had just then been liberated, having been the slaves of the white people, and at a time when the colored people had scarcely the feeblest knowledge of government.

In the whole history of mankind there cannot be found a precedent for a measure so severe, so humiliating to the whole people, and so extraordinary in the great number of possibilities it afforded for direful consequences and the small number for salutary ones. The history of the times shows that in the early period of reconstruction the elections in the South were sheer mockeries. They were held under military orders and the sword. Every male colored man over twenty-one years of age was allowed to vote and thousands under that age voted, while thousands among the wisest and best white men were not allowed to vote. While the sword was held over the white people, the colored people ruled. I do not care here to advert to the terrible fruits of the misrule that then prevailed. These have in good degree passed by; peace, order, good-will between the races, stable, wholesome government and slowly increasing prosperity have been restored; and I confidently believe and trust that a glorious future lies before the southern people as a whole. When I consider the temperature of their climate, the richness of their soil, the great variety of their productions, their vast forests, their mineral resources, their mighty rivers, their capacious harbors, and their outlets to the ocean highways of the world—when I consider their capabilities, their spirit as a people, their love of liberty, and their relations to this great and free Republic, I cannot doubt that the "sunny South" is destined in the near future to be the home of ever-increasing millions of prosperous and happy people and the richest section of the Union

Let the shrieks of the agitator and the political alarmist be hushed; let sectional criminations and recriminations cease; let business confidence be restored; let industry and all the arts of peace be encouraged and labor dignified and rewarded; let peace, blessed peace, do its office in restoring confidence and good-will between the white man and the black man, between the North and the South and the East and the West, and soon, very soon, even the slenderest pretext for such agitations as that which now engages our attention will utterly disappear.

Why, sir, as going to show that this is true and that this exciting debate is unnecessary, I call special attention to the fact that the democratic party rules in every Southern State to-day, and has for several years in most of the States. As a result, peace, order, the due administration of law, and reviving prosperity prevail everywhere. Is this not a striking fact? Are not good men everywhere glad of it? Is it not infinitely better that this should be so than that the whole country should be cursed with disgraceful and ruinous contentions and outbreaks that lately prevailed there under other rule? Let no one say that the colored man has no protection. Go and see him in his home and his daily pursuits, and his condition, like that of the white man, is slowly and surely improving. He is cheerful and hopeful.

And there is this other striking fact that cannot fail to impress every one seeking for the truth: that the white people of the South, having the political power, have by their organic laws and their legislation provided for protecting the lives, the liberties, the property, and the education of the colored people by the same means and in the same measure that they have for their own like interests. The constitutions of the Southern States, their public laws, and the records of the courts, their public charities and systems of public education show beyond question that what I have stated is true in all material respects. Is any man so steeped in prejudice as that he believes all this a sheer pretense, a hollow mockery? I cannot think so.

There is naturally no hostility between the colored people and the white people of the South. The colored people are poor; unhappily

most of them are ignorant and dependent; they need the aid and the protection of the white people, and the white people need their aid more or less. Each race has an interest in the other, and my observation teaches me that the colored man never appeals without success to the intelligent white man to aid him in enforcing his rights. But it is said the white man controls the colored man, and this is unnatural, and therefore he must do this by force or fraud. This is a grave mistake. Generally, in the natural order of things, the white man will control the colored man, not necessarily by force or fraud—far from it—but by showing the latter that his interests properly lead him to do or to abstain from doing certain things and to pursue a particular line of action. The white man is generally the more intelligent. Intelligence, superior wisdom, will assert itself over ignorance, no matter whether the ignorance be that of a white man or a colored man. This is natural and orderly. The white man is better qualified in most instances in the present condition of the colored people, by opportunity, experience, and intelligence to judge of what ought or ought not to be done. This is so in business transactions, and no one complains at that. Why should it not be so in political matters? I have a perfect right to convince a colored man that he ought to vote as I do, to vote with the party with which I vote. I may convince him by argument, by persuasion, or I may induce him to do so by pointing him to the good results of placing democrats or good men without regard to parties, in office. Colored men learn more rapidly by the logic of events than in any other way. When he sees that the white people, the democrats, rule, and that wholesome results follow; that he has schools provided for him; that law is regularly enforced; that peace and order prevail; that he can appeal with confidence to the courts; that he is safe from violence and outrage, how naturally he falls into the support of the men who secure these fruits! And it seems to me that every good man ought to be glad and rejoice that this is so, no matter where he may live. Wholesome government for the white man and the black man is of infinitely more importance than the temporary success or fortunes of any political party. If the best interests of the colored people lead them under their circumstances to vote with the democratic party, let them do so, and no one has any right to complain. And when new issues and new parties spring up in the South and the whole people divide politically, as they will sooner or later, it may be expected that the colored people will do likewise, some going one way and some another.

The Senator intimates, it seems to me, very plainly that an effort will be made, if the republican party cannot get as many votes in the South as it may deem necessary, that the increased representation of that section by reason of the enfranchisement of the colored people will be taken away. I tell that Senator that this is easier said than done. The South will never consent to this, and in opposing any movement of that kind he will certainly find the white men and the colored men standing solidly together. The white men of the South will never see the colored men despoiled of their rights in that respect. Never! never!

The Senator with an air of lofty menace tells the men of the South in and beyond this Chamber that they can never permanently make a white man's vote in the South doubly as powerful in the administration of the government as a white man's vote in the North. Sir, there has been no occasion for this boasting threat. No one here or elsewhere, so far as I have ever heard, has asked for it or anything like it. Southern men do not ask it; they would scorn to have it. They neither ask nor want any the slightest advantage over their fellow-countrymen of the North. All they ask, all they want, whether white or black men, is to have their rights here and elsewhere under the Constitution of their common country in the same measure and on the same footing of equality with their northern fellow-citizens. They cheerfully recognize the right of their northern countrymen to have and enjoy all this in the largest measure; as freemen knowing their rights, they will be content with nothing less for themselves. While they recognize the rights of others and will uphold them, they will firmly insist upon their own here and elsewhere. They neither fear nor regard the empty threats of malice or revenge.

I deplore and deprecate the tone, the spirit and the manner of the speech of the Senator from Maine. It is not for me to assign motives to him, but I must say that in my judgment the only effect it can have is that I have already indicated. I believe that it had been better for the whole country if he had not made it. I regret his language of menace and that he saw fit to overleap the proprieties of this Chamber and refer to the Senators here representing the Southern States as "men of the South," and not as Senators. His speech is the more to be deplored because, as we saw, it was prepared and delivered with great care and deliberation, showing that he spoke not from the impulse of the occasion, but of studied purpose and determination.

Now, sir, I can assure the Senate and the country that the people of North Carolina, and I believe I can say so of the people of the whole South, do not desire any controversy with the people of the North; on the contrary, they desire perfect peace and reconciliation on terms of respectful, mutual good-will. I trust, I believe, a like spirit animates the great body of the northern people. The whole country needs peace and quiet—the people demand this, and whoever supposes that the people in the North or the South are ready to revive bitter controversies fruitful of evil only is very much mistaken. But in order to have peace and harmony, the people must smite with the withering blast of their condemnation those seditious agitators who stir up strife and foment discord. If the American people in all sections will demand and insist upon national unity, good will and concord, they may have these blessings, and prosperity will come as a natural consequence. Only by such means can our noble free institutions be made perpetual.

Mr. WALLACE. Mr. President, my views upon this resolution are well understood upon this side of the Chamber, and the motion I made yesterday to lay the whole subject upon the table was prompted by those opinions. The country is sick of political agitation and sectional turmoil. This resolution initiates a renewal of the bitterness of party and partisan investigation that has cursed the country for years. Every business interest in the State I represent prays for rest from political agitation and for time to recuperate its wasted energy. This cannot be while the country is aroused and shaken up by investigations based upon rumor and party rancor is stirred to its depths in every section. I would, if I could, have arrayed every one on this side of the Chamber in decided and open antagonism to this reopening of the flood-gates of party strife. But by a nearly unanimous vote the Senate has decided otherwise, and all that is left for us to do is to proceed with the investigation in an honest spirit of seeking for truth. No practical result can come from this inquiry. The Constitution and laws as declared by the Supreme Court settle that. The second section of the fourteenth article of amendments to the Constitution is:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

In the case of the United States *vs.* Cruikshank, 2 Otto, 542, and kindred cases, the Supreme Court, commenting on this article and construing it, say:

> The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, and from denying to any person within its jurisdiction the equal protection of the laws; but it adds nothing to the rights of one citizen as against another. It simply furnishes an additional guarantee against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society. The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the National Government is limited to the enforcement of this guarantee.

This is the decision of a court unanimous with a single exception, and he a democrat. If this be the law, how can we take representation from a State for what is done by individuals? The investigation, even if the facts be proved, is useless. The remedy is by a contest for the seat, and not by sectional agitation. The purposes of this resolution, stated by its author, are to record frauds and outrages on recent elections in the Southern States and to find a method to prevent them. The newspaper press is given as the authority for their existence. The laws provide a remedy for the wrongs alleged, if they exist, by a contest for the seat held through such processes, and that peaceful mode of adjustment is, I believe, in the judgment of the country infinitely better than sweeping allegations based upon newspaper rumors and passionate partisan appeals which must embitter the sections. Peace and law are the methods now to be sought. Passion and partisanship have ceased to inflame the minds of business men. Business and its cares, the restoration of a market for our products and the means for material growth and development in every locality, are the ends our people seek. I should not enter this arena now, thinking as I do, save to correct error and to vindicate so far as I can, from my stand-point as a northern Senator, the truth of recent political history.

It is stated as a fact, based upon newspaper rumor, that elections in the Southern States have been controlled by violence, threats, and intimidations; that they have been manipulated by fraud, and that in one State "there was no election at all in any sense of the term." If these statements be true it is surprising that out of the whole number of Congressmen elected from that section, 106 in number, not more than six members have been notified of a contest for the seats they hold, and the thirty days allowed by law for that purpose have expired. This in itself is a complete and perfect answer to these broad charges of fraud and violence as applied to the whole section. The laws provide the remedy. It is largely unsought. The wrong, if it exists, is local, and cannot affect general results. Why raise investigating committees? Why arouse sectional bitterness? Why refuse to seek the remedy the law provides? The practical sense of our business people will have no more of this useless and senseless agitation. Their answer will be, let the laws rule, give us rest from political turmoil. It is conceded that practical results cannot come from it unless we can overthrow the constitutional amendment and the decisions of the Supreme Court, and this ought to be sufficient to end the strife.

It is not correct that thirty-five of the Representatives allotted to the Southern States were given them since the war by reason of the negro population. Under the Constitution as originally framed three-

fifths thereof were represented, and this representation of the then slave population was attacked with vigor in the heated contest that preceded the war. After the war, and when reconstruction came, the policy of the republican party was reversed, and "manhood suffrage" became the shibboleth of party with them. Under this doctrine the republican Congress of 1872 added not thirty-five but twenty members to the representation of the Southern States in the House of Representatives. The right, the power, and the expediency to do this and to fix unalterably the equality of the black voter of the South and the North with the white voter everywhere was the leading feature of the reconstruction policy of the Senator from Maine and those with whom he acted. The fatal error into which they fell was in failing to qualify the right to the enfranchised slave by fastening upon it an educational test. This would not serve their political ends, and reconstruction as they constructed it has proved their own political destruction. The absolute equality in fitness for self-government of the uneducated negro of the South with the trained and educated white man everywhere was the basis of the plan. It was unsound and false, and has returned to plague its authors. The Senator from Maine impales himself by his arguments. Negro suffrage as a political policy is a failure in the South, and he helped to create it. His arguments are logically an arraignment of the vicious methods of those who acted with him in placing political power in the hands of an unfit agent. The work has been done by you, and its results do not please you. What is your remedy? To overthrow the amendments, nullify the decisions of the courts, and agitate until you succeed? Ours is to obey the amendments in their letter, to sustain the decisions of the Supreme Court, and to protect by law, encourage by fair treatment, educate and elevate the black man until his capacity is fully tested. Yours is to take from him representation, disfranchise and degrade him. Such, at least, is the logical result of your efforts and your arguments. The issue is not whether the white voter of the North shall be the equal of the white voter of the South in shaping the policy of the country. They have always been and are now the equals and peers of each other. The legitimate and lawful influence that each can wield is as much his right as is his life. Whether North or South, the brave, intelligent, and upright man is justly powerful, and he who seeks to lessen his power or weaken his influence stabs his country.

It is not correct in point of fact that the white voter of the South wields a greater influence than the white voter of the North. The Senator from Maine gathers together whole masses of population in the North and argues from population and not from voters. I quote his words:

> Take the States of South Carolina, Mississippi, and Louisiana. They send seventeen Representatives to Congress. Their aggregate population is composed of ten hundred and thirty-five thousand whites and and twelve hundred and twenty-four thousand colored; the colored being nearly two hundred thousand in excess of the whites. Of the seventeen Representatives, then, it is evident that nine were apportioned to these States by reason of their colored population, and only eight by reason of their white population; and yet in the choice of the entire seventeen Representatives the colored voters had no more voice or power than their remote kindred on the shores of Senegambia or on the Gold Coast. The ten hundred and thirty-five thousand white people had the sole and absolute choice of the entire seventeen Representatives. In contrast, take two States in the North, Iowa and Wisconsin, with seventeen Representatives. They have a white population of two million two hundred and forty-seven thousand—considerably more than double the entire white population of the three Southern States I have named. In Iowa and Wisconsin, therefore, it takes one hundred and thirty-two thousand white population to send a Representative to Congress, but in South Carolina, Mississippi, and Louisiana every sixty thousand white people send a Representative.

The first fallacy in this proposition is the bold assumption that the colored voters had no voice or power in the recent elections. Who gives any one authority to say this? Is it true that the republican party possesses an indefeasible estate in every colored voter in those States? Have they no liberty of thought or right of independent action? Are their votes not to be counted unless they vote the republican ticket? Such a statement as this is utterly unwarranted by facts, for we all know that in very many instances the colored voter is independent in action. Upon the presidential vote of 1876 in those States the seventeen democratic members elected had a total of 272,805 votes and their opponents had a total of 219,610 votes. The minority were just as much represented as they are in any congressional district in the North. They voted and they were outvoted. How unfairly the contrast is put. Iowa and Wisconsin had in 1876 a voting population of 540,108. Of these, 296,595, representing about twelve hundred thousand people, were republicans, and 243,503, representing about one million people, were democrats. If the negroes who voted for the republican candidates in the Southern States named are not to be counted, the democrats who voted for their own candidates in Iowa and Wisconsin ought not to be counted. The democrats elected in the South represent the minority there just as much as the republicans elected in the North represent the minority there.

The Senator from Maine says:

> The eleven States that formed the Confederate Government had by the last census a population of nine and a half millions, of which in round numbers five and a half millions were white and four millions colored. On this aggregate population seventy-three Representatives in Congress were apportioned to those States—forty-two or three of which were by reason of the white population, and thirty or thirty-one by reason of the colored population. At the recent election the white democracy of the South seized seventy of the seventy-three districts, and thus secured a democratic majority in the next House of Representatives. Thus it appears that throughout the States that formed the late Confederate Government sixty-five thousand whites—the very people that rebelled against the Union—are enabled to elect a Representative in Congress, while in the loyal States it requires one hundred and thirty-two thousand of the white people that fought for the Union to elect a Representative.

This is a reassertion of that already shown to be incorrect. It ignores democratic votes and population North and omits the pregnant fact that the colored voters South both voted and were counted in making up results. If negroes are voters and entitled to representation, (and the republican party has made them so,) then they are as much entitled to be counted as are the minorities in any district in the Union. In every close contest since 1872 their votes have given the State of Pennsylvania to the republicans. They hold the balance of power there and invariably cast it against the democrats. If the Senator from Maine will have one result he must accept the other. The Senator says:

> The political power thus appropriated by southern democrats by reason of the negro population amounts to thirty-five Representatives in Congress. It is massed almost solidly and offsets the great State of New York; or Pennsylvania and New Jersey together; or the whole of New England; or Ohio and Indiana united; or the combined strength of Illinois, Minnesota, Kansas, California, Nevada, Nebraska, Colorado, and Oregon. The seizure of this power is wanton usurpation; it is flagrant outrage; it is violent perversion of the whole theory of republican government. It inures solely to the present advantage and yet, I believe, to the permanent dishonor of the democratic party. It is by reason of this trampling down of human rights, this ruthless seizure of unlawful power that the democratic party holds the popular branch of Congress to-day and will in less than ninety days have control of this body also, thus grasping the entire legislative department of the Government through the unlawful capture of the Southern States.

If it be "wanton usurpation and violent perversion of the whole theory of republican government," what shall we call the wholesale disfranchisement of the democratic masses north by skillful manipulation of political power? Indiana, with a democratic plurality of over 5,000 in 1876, sent to this Congress 9 republicans and but 4 democrats; 23,120 votes or 115,000 population could choose a republican to Congress, while it required 53,291 votes or 265,000 people to elect a democrat. The home of the Senator—New England with its six States—sends to this Congress 22 republicans and 6 democrats; 16,691 votes or 80,000 people can elect a republican member of Congress there, while it requires 49,321 votes or about 250,000 people to elect a democrat. To the Senate, New England sends 10 republican and 2 democratic Senators. Upon the basis of the vote of 1876 it requires 36,721 votes or 185,000 people to choose a republican Senator from New England, while 147,963 votes or 740,000 people are required to elect a democrat. The six great Middle States—New York, Pennsylvania, Ohio, Indiana, Illinois, and Iowa—contain 3,650,000 voters or about 16,000,000 of people, yet they have but 12 Senators as against an equal number in New England for 663,000 voters and about 3,300,000 people. These are the results of our political system, and there is just as much reason to find fault with it in New England as in the South. We must abide its inequalities and imperfections for the much greater good it contains. Sweeping charges or partisan comparisons can do no good and must do harm. The only important question is, have elections, North or South, been carried by fraud or violence? If they have, the incumbent holding by such a title should be ejected. The remedy is by contest under the statute. Orderly methods, sworn testimony, judicial inquiry, non-partisan judgment. These are the processes the people approve.

The invective hurled at the seizure of power by a solid South may be fitly answered by grouping the six great Middle States I have named and examining political results there. In this Congress, (and it is worse in the next) these States, upon a total vote of 1,842,212 republicans in 1876, have "seized" 75 Congressmen, while on a total vote of 1,804,341 the democracy get but 46. Upon a voting majority of 37,871 the republicans have "seized" 29 Congressmen. If we add to these States, New England, we find that 2,209,431 republican voters get 97 Congressmen, while 2,100,268 democratic voters get 52. In these twelve States 109,163 republican majority enables that party to seize 45 Congressmen. If we call a democratic white voter North the equal of a republican white or negro voter North, and as such entitled to equal political power, it appears that each 2,425 black or white republicans North have chosen one of these 45 republicans to Congress. Or, upon the same basis of equality, each 12,000 people who are represented by these voters have "seized" a republican Congressman. Or, if we generalize the whole we find that in these twelve States 22,777 black and white republican voters representing 113,885 people "seize" a Congressman, while it requires 46,672 democratic voters representing 233,360 people to elect one.

The fourteenth and fifteenth amendments were the crystallization of ultra-republican thought as to reconstruction. They did not seek to operate on individuals but upon States. There was no thought then of punishing organized communities for the misdeeds of a single locality, and the safeguard invoked was the only one that could be used without the destruction of our form of government. The plain terms of these amendments and the decisions of a republican Supreme Court thereon are now attacked because under them reconstruction proves to be the deadest kind of a dead failure. They will not reach and cover, and they never were intended to reach and cover, sporadic cases of fraud or violence. Such cases can only be met by the specific remedies given by law, and States cannot be punished by loss of representation because of alleged violence in one district in Louisiana and alleged frauds in two in South Carolina. It would be monstrous to punish a State either north or south by depriving it of representation because negroes failed to register themselves or to pay taxes, or because of irregularities in the election boards. Such is not

the remedy for evils of this sort. If it were, we of Pennsylvania might be fearfully punished. In the recent election there fraud and bribery ran riot and thousands were disfranchised for non-payment of taxes. At least two contests are already inaugurated for seats in the House of Representatives, one of which is based upon the corrupt use of money, fraudulent and illegal votes, and the use of forged tax-receipts, while the other rests upon the charge of wholesale bribery and corruption and intimidation of white workingmen. The republicans, polling 289,000 votes upon the congressional issue against 288,000 democratic and 111,000 national votes, have "seized" eighteen out of the twenty-seven Congressmen returned to the new Congress. With an actual majority against them of 110,000 they grasp two-thirds of the congressional delegation. This is partly the result of an infamous apportionment, but it is much more the result of skillful manipulation of the political situation, of the unscrupulous use of enormous sums of money, and of the disfranchisement of masses of democrats for non-payment of taxes. No such political domination has ever existed anywhere as now dominates and controls the republican organization, and through it the political power of that great State. Bold, daring, and defiant, they tolerate no independent thought. They wield their organization as one man, and the end with them justifies the means. Sixteen thousand white and black republican voters in Pennsylvania are sufficient to elect a Congressman, but it requires 44,000 of their opponents to do so. If we carry it still further and look to the inner machinery of State politics it is worse. Forty-six senators and representatives in the Legislature are given to the city of Philadelphia. Upon the vote of 1876 there were 77,000 republicans and 62,000 democrats, yet in the recent election the republicans "seize" thirty-seven senators and members and the democrats get nine. It requires 6,888 democrats to elect a member of the Legislature in Philadelphia while 2,081 republicans are enough to elect one. This, too, is under the forms of law. But a much graver wrong was perpetrated at the same election there under the forms of law and through the use of money. There were in that city at least 20,000 voters of both political parties who had paid no taxes for two years. By our constitution no man can vote unless he has paid a tax within two years, and such payment must be made at least one month before the election. The republicans through their organization paid for thousands of these tax-receipts in bulk for distribution among their people, and when election day came they equipped every republican voter, white or black, who had not paid his taxes with one of them, which, by the law, was *prima facie* proof of payment. The democrats had no money for this purpose save in one congressional district, and by reason of their inability to do what the republicans had done it is believed that at least 8,000 white democratic voters were unable to vote. The republican managers gave the most stringent orders to their election officers to reject every vote not fully equipped with tax-receipts, and they placed at every poll deputy marshals of the United States, many of them of the most disreputable character, who were ordered to arrest every one who could not fully come up to their standard. So desperate is this management and so obedient to its orders is the Legislature of the State that the common-law right of the sheriff to appoint deputies was taken from him by express statute lest he, being a democrat, should aid in protecting the rights of white democrats.

Are not these denials and abridgment of the right to vote, so fully guaranteed by the fourteenth amendment, if the interpretation contended for by the Senator from Maine is correct? The negro voter was provided with a tax receipt paid for by the men who claim to own him North and South, and the white man, too poor to pay his taxes, was driven from the polls. Federal authority intrenched itself on the election ground in the room of the official whom common right and ancient custom places there, and the democratic party polled at that election but 53,000 votes against more than 62,000 polled in 1876. Would it be just to deprive Pennsylvania of her fair share of representation in Congress by reason of these deeds of unscrupulous political managers? The remedy for these wrongs must come through the wrath of an outraged people. It may come tardily, but it will come surely. Our wrongs come upon us in the full blaze of an intelligent northern sentiment. Their authors have enjoyed immunity so long that they think the people will always submit. Party rule and sectional hate are invoked to maintain and perpetuate the disgrace of an intellectual and proud people. This is the tocsin that is sounded by the terms of this resolution. This is the feast to which the northern people are invited. The condition of the South is infinitely better than it was five years ago. Fewer outrages, less of violence, more of normal and less of abnormal condition come to it year by year. The wrongs complained of by this resolution are located in the States in which carpet-bag rule lingered last, and we hear of none in the States longest under control of the white man. We must be content with our progress, until we can fully test the capacity of the negro for self-government. It will be time enough when he shall have utterly failed to come up to the standard of capacity to initiate the process foreshadowed by these resolutions.

The people North and South want rest from political and sectional agitation. Business relations, business interests, and business success can grow only when such rest is given them. Would you divide a solid South? Would you reconstruct your party there? Cease to persecute and begin to help them; appeal to administrative questions. Arouse the cupidity of their leaders by aiding them in material progress and internal development. Make it the interest of their people to act with you. Loose the bands of sectional prejudice that bind you, and aid by every constitutional power in reconstructing their highways and opening to your own people a market for their manufactures. May we not recognize the fact that political reconstruction has failed of its primary purpose, but that business reconstruction and material progress are the aims of the South and the interest of the North and that those whose principles and practice follow the path that leads to these will be esteemed the best friends of their whole country.

Mr. BLAINE. Before the Senator sits down I should like to ask him a single question; I did not want to interrupt him during his speech. If there is this great tyranny that has held Pennsylvania in its ruthless grasp and ruled that State so mercilessly in the interest of the republican party, how does the Senator, a leading democrat, happen to be on this floor?

Mr. WALLACE. Mr. President, there always comes an earthquake when the elements become convulsed. An earthquake sent me here; nothing else could in that State. [Laughter.]

Mr. BLAINE. And the Senator is still in a state of eruption. [Laughter.]

Mr. WALLACE. The Senator from Maine with his incisive questions and magnetic bearing prevails upon the Senate to sympathize with him; but I beg him to understand that while in that great State there may be two hundred thousand "stalwarts" who look to him for leadership, who sympathize with him, there are one hundred and fifty thousand men of his party who do not sympathize with the attacks upon the section with whom their business interests are connected, but who will follow him if he will point a path to restoration of business interests to a people suffering from deprivation of employment, starving for the means of livelihood, seeking a market for their manufactures; and just such men as the Senator from Maine these people look to for leadership in that path.

Mr. BLAINE. The only comment I desire to make on the extraordinary presentation the Senator from Pennsylvania made of his own State is that in the brief period I have been in Congress two democratic Senators have been sent from that State. The Senator himself is the second that has been here within the last eight or ten years, showing at all events that these earthquakes occur with some periodical regularity, and that the Pennsylvania democrats have at least had the opportunity to assert themselves in that respect. I rose for another topic. The Senator goes through long arrays of figures to show that taking the total democratic vote in Pennsylvania and the total republican vote, if one happens to get a few more Congressmen than the other that presents the same case I have shown respecting the South. Why, this Government in its organization in the House of Representatives is a Government of single districts, and the majority must control there.

The point I made against the South was not that anybody was outvoted; the natural issue and the inevitable result of republican contests is that one side must be outvoted. The point I made was that the minority were not permitted to vote. Does the Senator meet that point when he tells me there are twenty-two republican Representatives from New England and only six democratic? Does he mean to say that the twenty-two republican Representatives secure their election by depriving any man of his vote in those districts? When two men ride on horseback, we learn from Sancho Panza that one must sit behind; when two men run a race the faster will get ahead; when two men run for Congress one of the competitors will be chosen and the other left out; and the gentleman's logic might just as well point us to poor Mr. Tilden, all solitary and alone, when nine million of votes were very nearly divided between him and Mr. Hayes, and Mr. Hayes went off with the Presidency and Mr. Tilden did not have anything. That is the logic. You might apply it in infinite illustrations, and to infinite ridicule it would come in the end. It is sought to evade the point that I presented in that light. It is paltering in a double sense with a great truth and a great grievance to tell me that a minority of democrats under the single-district system in a State do not get as many Congressmen as a majority being republicans. It does not touch the case at all, Mr. President.

The Senator from Pennsylvania has simply ended in what he will pardon me for saying is a libel upon the good name of his own State in attempting to put her between myself and the accusations which I leveled against the southern elections. He can find no parallel there, and Pennsylvanians have greatly changed since I more intimately knew them, if white men in that State can be disfranchised and defrauded of their votes. More than that, I think the very system which the Senator arraigns, I think the very tax and registry laws of which he complains were the products of the constitutional convention which he was active in getting up, and which produced a constitution, not certainly under republican auspices, but now the organic law of that State. Under the operation of that constitution, under registry laws passed in pursuance of its provisions, the Senator has tried his fate, and while I will excuse his lamentations over a defeat, I certainly will not excuse his inculpations of those republicans of Pennsylvania who have as good records as any men in the country.

Mr. WALLACE. The Senator from Maine evaded the question utterly and absolutely in regard to the South when he massed the population of the North in the case of Iowa and Wisconsin and contrasted them with southern voters of the democratic side exclusively.

He did not count there the minority, while he did count the minorities in the North. In answer to his argument, I grouped voters and population, and I asserted what I reassert, that if the negroes are not to be counted in those districts South as having voted and been outvoted, then the democrats North are not to be counted as having voted and been out-voted when he comes to make comparisons with reference to the South.

Mr. BLAINE. Without any regard, I suppose, to the fact whether all the legal votes were cast and every man voted just exactly according to his desire! The Senator places that as a parallel; but the arraignment which I made—whether it be true or not is to be determined by the investigation—what I hold the Senator to in logic is that when I make this allegation and on that ask an investigation, he comes up and says, "Why, the democrats were defeated in Pennsylvania, and that is a parallel case! We have four hundred thousand democrats there, and the republicans have only four hundred and fifty thousand, and they have run off with three-fourths of the representation in Congress," not alleging at all but that the vote was honestly cast and that every man had the right to vote. Taking groups of States in the North, he says, "Why, in New England the representation is twenty-two to six." The Senator certainly will not expect the Senate to understand that he is serious in this, that he presents it as an answer to the arraignment I made. He cannot be serious, Mr. President, I am sure.

Mr. WALLACE. Mr. President, I am about as serious as a Senator who deliberately on this floor attacks the fourteenth amendment of the Constitution and the decisions of the Supreme Court—a republican Supreme Court—made thereunder, which in their very terms deny the right to take representation from a State for the causes alleged in this resolution, and undertakes to initiate an investigation, which investigation must inevitably be fruitless and powerless to bring any such result. I am about as serious in my charges, surely, as he is in the initiation of such an investigation as this.

We of Pennsylvania have initiated contests alleging intimidation and fraud and bribery, and they will be settled before the tribunal created by law in the other House. The Senator, on the contrary, alleges intimidation and violence and fraud, and he uses a power that has no right, that can in no way apply a remedy, that is not given the authority in any form to correct the wrong. It is a *brutum fulmen* if it be done. We, on the contrary, whose voters were intimidated—I reassert what I have said—whose voters were bribed—and I reassert what I have said—whose voters were deprived of the right of suffrage by being driven away from the polls in masses because they had not paid their taxes when the republican organization had paid taxes for masses of black and white voters——

Mr. BLAINE. But did not the law require the tax to be paid?

Mr. WALLACE. Certainly. I am not complaining of the law; it is a safeguard. I am simply complaining of the use of money in the way in which it was used, the purchase of tax receipts in bulk to equip a black voter and to drive away a white voter from the polls in the city of Philadelphia. That is what I complain of, a denial and an abridgement of the right of suffrage, if you please, but not such a denial or such an abridgement of the right of suffrage as under either the Constitution or the laws can deprive the State of Pennsylvania of any single member in her representation in the other House.

And here I come back to the point to which I direct attention, that this proceeding is utterly fruitless; that it can result in no good; that the law as declared on the statute-book, in the Constitution, and by the Supreme Court, demonstrates that if all this were proven no result can come save political agitation, sectional turmoil, deprivation of employment in business; while if the other line, the line of appeal to law, to a contest under the power of the House, be taken, all the wrongs can be shown, everything can be made patent, and right and law can prevail. That is what this people want: orderly methods, appeals to law, sworn testimony, non-partisan judgment.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment proposed by the Senator from Maine, [Mr. BLAINE,] which will be read for the information of the Senate.

The SECRETARY. If amended as proposed the last resolution will read:

That in prosecuting these inquiries the committee shall have the right, by itself or by any subcommittee, to send for persons and papers, to take testimony, to administer oaths, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the passage of the resolutions as amended.

Mr. BLAINE called for the yeas and nays; and they were ordered.

Mr. WITHERS. I ask that the resolutions as amended be reported before the roll is called.

The PRESIDING OFFICER. The resolutions will be read as they now stand.

The Secretary read as follows:

Resolved, That a select committee, to consist of nine Senators, be appointed by the Chair to inquire and report to the Senate whether at the recent elections the constitutional rights of American citizens were violated in any of the States of the Union; whether the right of suffrage of citizens of the United States, or of any class of such citizens, was denied or abridged by the action of the election officers of any State or of the United States, in refusing to receive their votes, in failing to count them, or in receiving and counting fraudulent ballots in pursuance of a conspiracy to make the lawful votes of such citizens of none effect; and whether such citizens were prevented from exercising the elective franchise, or forced to use it against their wishes, by violence or threats, or hostile demonstrations of armed men or other organizations, or by any other unlawful means or practices. The committee shall also inquire whether any citizen of any State has been dismissed or threatened with dismissal from employment or deprivation of any right or privilege by reason of his vote or intention to vote at the recent elections, or has been otherwise interfered with.

And to inquire whether, in the year 1878, money was raised, by assessment or otherwise, upon Federal office-holders or employés for election purposes, and under what circumstances and by what means; and, if so, what amount was so raised and how the same was expended; and, further, whether such assessments were or not in violation of law.

And shall inquire into the action and conduct of United States supervisors of elections in the several States; and as to the number of marshals, deputy marshals, and others employed to take part in the conduct of the said elections; in what State or city appointed; the amount of money paid or promised to be paid to them, and how or by whom, and under what law authorized.

Resolved, That the committee be further instructed to inquire and report whether it is within the competency of Congress to provide by additional legislation for the more perfect security of the right of suffrage to citizens of the United States in all the States of the Union.

Resolved, That in prosecuting these inquiries the committee shall have the right, by itself or by any subcommittee, to send for persons and papers, to take testimony, to administer oaths, and to visit any portion of the country when such visit may in their judgment facilitate the object of the inquiry.

Mr. WHYTE. Mr. President, I do not rise for the purpose of making any speech, but inasmuch as I intend to vote against the passage of these resolutions I desire in a very few words to give my reasons for that course.

In the first place, I am unalterably opposed to these roving commissions. I am opposed to the system which has grown up since the war of appointing committees upon almost every conceivable subject and sending them at the expense of the country upon roving excursions to see what they can find out. I am opposed to the expense which has been entailed upon the country by the useless commissions that have been ordered by either the one or the other House of Congress within the last few years. We had committees to South Carolina, we had committees to Louisiana, we had committees to Florida anterior to the last presidential count, and when the evidence gathered by the gentlemen who had gone on these foraging excursions was printed at the public expense and was ready for examination by the parties who were supposed to have charge of the electoral count, we were informed that all of that testimony was *aliunde*. We had a committee sent to Mississippi, and after taking testimony for many days and weeks and gathering together two volumes as large as this [holding up a book] of Munchausen statements, they made their report to Congress, and I venture to affirm, that not ten men in or out of Congress have ever read fifty pages of those volumes. We have had our Potter committee and our Matthews committees, and various other committees. They have all been at work and the result is absolutely nothing but a large amount of expenditures to be paid out of the public Treasury. I am opposed to it, and I think the time has come when we should set our face against these wandering committees, some of whom I believe either singly or in twos have wandered with half a dozen stenographers over the Rocky Mountains during the last summer.

I am opposed to the expenditure of money for this purpose because I see no practical good to result from any report that the committee may make. This committee cannot report until near the close of the present session of Congress, and then the organization of the Senate will undergo such a change as that no partisan report will make a very strong and lasting impression upon a majority of the body. But I am opposed to it upon a higher ground than this, Mr. President. I am opposed to *ex parte* investigation in regard to those congressional elections held for members of the House in the Forty-sixth Congress. I am opposed to secret examinations which afterward are to see the light to reflect upon the characters either of contestants or of gentlemen who may hold credentials for the next House, throwing a cloud it may be over one side or the other in regard to their own contests, and in regard to the formation of that co-ordinate branch of the National Legislature. I am opposed to it because it is unfair and unjust in the Forty-fifth Congress to send a committee to gather *ex parte* testimony that will reflect upon a case which is to be judicially decided by the other House. Is it just to do so? Is it fair? Is it in the interest of a judicial determination of those questions when they arise in the Forty-sixth Congress in the other branch? I think not, Mr. President.

I, for one, therefore will not lend my aid to produce such an unjust result as that. I care not what may be thought of my judgment in voting against the resolutions. My friends from the South may object to my voting against them because it looks as if we shirked examination. I never shirk from any examination that is for the good of the country; but the waste of public money in an investigation that can produce no practical legislation I do oppose, no matter what may be the suspicions as to my motives.

Mr. President, I have heard of violence and intimidations, and the driving of men away from the polls before this charge coming from the Senator from Maine. Where was he in the old days when the know-nothings drove from the polls by thousands the citizens of foreign birth? Where was he?

Mr. BLAINE. Always against them.

Mr. WHYTE. Where was his voice against them? Point to his record against them. Let the Senator show me a speech delivered by him in the North against the know-nothings in 1845 in Pennsylvania, or in 1855 in my own State, when his own Representative from

the State of Maine voted against turning a man out of Congress who was elected by the baldest and the basest frauds and intimidation that ever disgraced a free country. Where was he then? Why did he not stand up for the rights of the white men at that day? Oh, it was convenient to be silent in those days. No, Mr. President, I am opposed to this measure, because it will accomplish no good, and because it is unfair and unjust to those persons who will have contests in the next House of Representatives.

Mr. BLAINE. I want to answer the Senator from Maryland when he asks me where I was and why I did not lift my voice up when the know-nothings were ravaging Philadelphia in 1845 and in Baltimore afterward. I do not know the venerable years of my distinguished friend from Maryland, but at the time of the know-nothing excitement in Philadelphia, in 1844 and 1845, I was in a Pennsylvania college and rather a small boy. I do not remember that I did raise my voice very loudly at that time upon the subject at all, and I am afraid if I had it would not have reached the ears of the Senator from Maryland.

Mr. WHYTE. I will ask the Senator from Maine if he raised it afterward, or was he in an academy ten years later, when he was twenty-five years old?

Mr. BLAINE. I desire to say to the honorable Senator that I never was a member of the know-nothing party; I never had anything to do with it; I never voted its ticket; I never had the remotest connection with it, and that is a great deal more than many leading democrats who are now pandering for the Irish Catholic vote in this country can say.

When the Senator tells me that on the question of expense he opposes these resolutions and that no good can come of them, I tell him that great good will come of them. If there is a misapprehension in the North on this question great good will result from removing it. If the offenses charged have been committed against free suffrage in the South, whether there be any legal or constitutional remedy or not, there will be that great remedy of public opinion and public exposure which neither the North nor the South nor any other community can long resist in the eye and the gaze of the world.

Senators who have spoken more directly for the South than the honorable Senator from Maryland have asked us to believe miracles. They have asked us to believe that in a night, in the twinkling of an eye, more quickly than Saul was converted on his way to Damascus, vast bodies of colored voters were turned right from the republican into the democratic fold. In what is called the "whip-lash" district in Mississippi, where they placed in those cotton counties in the delta all the negro population that they could crowd into one district, and four to one, I do not believe I overstate it, as compared with the white men, represented at the time by one of their own race, who, I do not hesitate to say, is a man of commanding ability considering his advantages and his birth, John R. Lynch, fitted to represent a constituency of white men, naturally and inevitably a favorite of his own color, at the very first election under this miraculous conversion, when the democracy got hold of the State, he was beaten overwhelmingly by General CHALMERS. Of course the negroes saw it in a moment; they had no doubt the moment General CHALMERS was put up that it was their duty to support him and to vote against Lynch. The honorable Senator from Mississippi, [Mr. LAMAR,] speaking for his State the other day, said that suffrage was absolutely free in that State and that it had never been interfered with from any quarter since the democratic party came into control. I am sure that Senator would not make an intentional misrepresentation, but I am equally sure that he cannot intend to convey to the Senate and to the people of the United States the impression that the republican portion of Mississippi admit the correctness of his statement. He surely does not mean to say that he speaks for the unanimous judgment of Mississippi when he makes the statement I have quoted. Is the Senator in his seat?

Mr. HAMLIN. He has his opinion and they have theirs.

Mr. BLAINE. Opposed to that assertion of the Senator from Mississippi, which he made of course in the utmost good faith, I read from an address of the republican State committee of Mississippi. It begins thus:

> In a State where civil government has been overthrown and whose power has been usurped by force and fraud and intimidation, where the usual means for canvassing for votes by arguments and appeal addressed to the judgment and patriotism of men have been abandoned, and where mob violence, unfair registration, and fraudulent counting of votes are notoriously relied upon to effectuate the unlawful rule of the political party now in power.

I am not responsible for that assertion; I do not know that it states the facts with accuracy; I do not know but that it may be an overstatement; but I quote it here to show that when the honorable Senator from Mississippi asserts that suffrage is as unobstructed and as free in Mississippi as elsewhere, his statement is not in harmony with the statements made by the opposing political party.

Now, if this debate is to close, I will add only a word. The Senator from Pennsylvania [Mr. WALLACE] was greatly disturbed in his dreams apparently last night by the terrible results to flow from some sectional agitation. He wanted peace. I know a man always feels like having peace just after a pretty sound thrashing politically. I felt a little that way myself in September. The Senator from Pennsylvania feels that way to-day. He aches from a more recent and more intense experience than I had. But the Senator certainly does not speak the sentiments of his own State when, with all its mighty interests intrusted in part to his care, he confesses himself willing here to have an overrepresentation from a section that has always been hostile to the interests of Pennsylvania. He certainly is not expressing the feeling and the sentiment and the interest of his State by the position which he avows.

And a word to the South. Why is there no immigration South? Why is Texas, largely now in the control of white men from the North, alone of the Southern States filling up with immigration—alone, I say, of all the Southern States, if you except the invalid emigration to Florida? Why is this general feeling? Do not southern Senators themselves, holding the interests of their section in their keeping, see that something serious is the matter? Virginia is a far more inviting field for settlement than those remote northwest regions to which immigration is flocking by the million. The Senator from North Carolina [Mr. MERRIMON] has given a vivid description of the great resources and attractions of his own State. He doubtless paints them truly. Why does it not fill up? The feeling among immigrants from the North coming into the Southern country is that they are not welcome and not invited to equality in those States. I think the statistical fact will bear me out in the assertion that in the past five years there have more Northern men come out of the South than have gone into it, excepting the States of Florida and Texas. There have more northern men, I say, come out of the South than have gone into it. I am no enemy of the South. I wish its prosperity. I have never given an illiberal vote respecting it; I have never given one stingy or ungenerous vote affecting its interests; but it is southern men themselves who build a wall of fire around that country and dedicate it to a lack of prosperity, if I may use a mild and somewhat awkward phrase. Think of these things! The idea that the northern people, interlaced and interbound as they are with every interest of the whole country, can look with unconcern upon the prosperity or lack of prosperity of the South is to challenge their sagacity as business men and their interests as American citizens. There is no such thing as an antagonism based on anything else than what is universally understood to be an injustice to the northern man and to the colored man who wants to vote with him.

There is much I might say in reply to the honorable Senator from North Carolina, but I will not detain the Senate. I remember that in his own State many years ago there occurred an incident that has given us a word familiar in our American vocabulary. A representative was making a loud harangue in the house of delegates, but was not disturbed by the impatience or inattention of his fellow members, because he was talking for "Buncombe." I think the Senator from North Carolina was probably addressing an assemblage soon to meet at Raleigh rather than the Senate that is before him to-day.

Mr. WHYTE. Mr. President, I really admire the manner in which the distinguished Senator from Maine preaches; but I am very much afraid that he is like the direction-post—he points the way but rarely goes himself. While he is teaching our southern brethren how to behave themselves and to make their homes happy and their States prosperous, why does he not get up a grand colonization society of the colored people and take them, like they took the Swedish colonists, to Maine, and try to build up a John Lynch to come here from Maine to represent one of his districts in Congress? Are there no John Lynches north of Mason and Dixon's line? Is it the case that the colored man at the South only is brilliant, but when he gets to the North the cold of that region freezes his brain? Have all these three or four hundred thousand negroes lived in the Northern States so long with their lights hid under a bushel that the benevolent character of the Senator from Maine could not find one of them to be sent here to Congress to represent a northern district? Ah! no, Mr. President, I am afraid there is a lack of sincerity in that preaching. I never had much faith in these political Moodys. I would rather believe in their practices than in their professions.

We know perfectly well, no intelligent man does not know it, that the negro man has voted wherever his interest carries him to vote. After the war, when the Freedman's Bureau and their emissaries were scattered through the South, the negroes, willing or unwilling, after being collected in lodges at night, were led up to the polls to vote a ballot for the republican party, without even knowing what they were casting their ballots for. I have not forgotten Captain Hunnicutt. That was the euphonious name that the leader of the negroes had in Virginia just after the war. He carried them up in platoons and voted them. I well remember a circumstance that occurred on one of the plantations when a boy named John returned from an election. He was asked, "John, have you voted?" "Voted; I–I think I have." "Well, whom did you vote for?" He said, "No matter who I voted for, I voted the right ticket." "Well, John, if you do not know whom you voted for, how do you know you voted the right ticket?" "Oh, I know I voted the right ticket; why, you couldn't vote no other ticket; I seen it tried." [Laughter.] If it has turned out in the South that in some districts there are Captain Hunnicutts on the other side, it is only what happens too often, like curses, and curses are said to be like chickens, they come home to roost. Captain Hunnicutt, the emissary of the republican party at the South, for all I know, because I know nothing about it, has probably found that he has taught other men to play the Hunnicutt game down there which he had learned in his home in the North.

My friend from Maine said that he was a boy in 1845. I doubt it. I doubt whether he ever was a boy in any political sense of the word. If he was, certainly in politics he is the *old boy* now. [Laughter.] The fact is, Mr. President, we had peace and good order in this body before he was transplanted from the other side of the Capitol, [laughter;] no place is big enough for him and anybody else, and now he reminds me of the story of a colored man who belonged to a prominent old gentleman, whose son, Mr. President, was a foreign minister for many years and a very distinguished gentleman, and who was a good deal in politics as a whig like my friend from Maine upon the other side. He had a very exemplary colored man who waited upon him, and he had a habit at a dinner party of asking that man what he thought of things. Upon one occasion he said, "Jake, what have you got to say to-day?" "Well," said he, "Massa Kit, I had a dream last night." "What was it?" "Well," said he, "I dreamed I was in the lower regions, and I had got asleep for about two minutes, and I heard a tremendous hullabulloo. I thought I would look around and see what it was, and directly I saw Satan coming out of the place with a pitchfork in his hands and hollering. I asked him what was the matter. 'Well,' said he, 'the fact is this place isn't big enough for Kit Hughes and me.'" [Laughter.] I do not think my friend from Maine ought to throw these fire-brands here in the Senate Chamber. This is a conservative body. We have been in the habit of dealing with the errings and the vagaries of the other House in a serious and conservative way, and we do not want to have these shindies in the Senate which my friend from Maine is eternally getting up. I hope he will stop it; and if he desires to keep the country in a ferment that he will return to the other branch of Congress, which a former Senator has recently described as a sort of bear garden. Of course I do not say anything of that sort; it would be unparliamentary.

Mr. President, I wish to add only that another reason why I shall not vote for these resolutions is that I want peace and quietude. I want to see Congress pass the appropriation bills that are now pending and those to come before us, and dispose of any legislation that is absolutely essential to the prosperity and happiness of the country; and let us postpone these political quarrels until the next presidential election, when we shall have a chance at the Senator from Maine himself. I hope for the sake of peace and good order that we shall dismiss political bickerings for the rest of this session of Congress.

Mr. MERRIMON. Mr. President, I want to reply to simply one remark made by the Senator from Maine a moment ago. What I wish to say is that of all the curses that have beset the southern people in the Southern States since the war, I believe that agitations like that now going on in the Senate Chamber are the greatest. I believe the South would be happy, would be filled up with capital and immigration but for the fact that capital and immigration have been frightened away by slanders like those that are proclaimed not only from this point but from a thousand other points against the southern people. Notwithstanding these misrepresentations and slanders, in many of the Southern States immense amounts of capital are there profitably invested. I know many northern citizens who have gone into my own State, and many of them are among the best there. They are hopeful; they are prosperous; they encourage others to go there. I wish this agitation would cease, that the vast volume of immigration that goes to the West would go South; and the day is not distant when it will do so. But I must say that I trust the Senate will vote down the resolution, and frown on everybody who engages in agitation.

Mr. BLAINE. Before the Senator sits down will he answer me how many northern men there are in North Carolina now as compared with ten years ago?

Mr. MERRIMON. That I cannot undertake to state.

Mr. RANSOM. Will my colleague pardon me for one second. I cannot state to the Senator from Maine specifically or exactly how many there are but I can assure him of the fact that the number of northern men who have settled in North Carolina in the last ten years is very large, and I think I can very truly, I know I can most sincerely say that as a general rule they are doing very well.

Let me be a little more particular. There is a large settlement, rather what we in North Carolina would call a large settlement, at Elizabeth City. I think a friend of the Senator from Maine is there, the chief, if I may say so, of that settlement. They are doing uncommonly well. They are engaged in manufactures, slightly in commerce, and in agriculture. On the Roanoke River, at a place known as Jamestown, nearer to myself than to my colleague, there is another large settlement engaged in taking timber from the swamps. They have built a handsome village and are projecting a railroad out into one of the timber regions of North Carolina. At Henderson, in Granville County, half way between my colleague and myself, on the Raleigh and Gaston Railroad, and near Ridgeway, there is another large settlement of Northern people doing very well. At Greensborough, in North Carolina, and in the neighborhood of Guilford, there is another large settlement of northern people. I see from the papers that a large colony have recently purchased land in the mountains of North Carolina and propose to make that their home. It is so all over the State. They had been following the lines of the rivers and along the lines of the railroads, and now they are going out into the mountain region of North Carolina off the lines of railroads.

I beg leave to say furthermore to the Senator from Maine and to the country that those people are satisfied with their own homes, and invariably, when they have come as good men, regardless of political associations or what we may consider partisan prejudices, they have been taken by us by the hand. We regard them as our friends and fellow-citizens, and they regard us as theirs. Marriages have taken place between them and natives of the State; partnerships have occurred between them. The face of the Senator from New York [Mr. CONKLING] now reminds me that I introduced but a few days ago to his colleague a distinguished gentleman from his own State with whom I had the honor to be a partner in a small transaction, with a great deal of hope, I fear not too much reality, in North Carolina. I regret that I cannot state the exact number of such cases, but that would be impossible to arrive at. I wish the Senator from Maine could see them. If I had it in my power to-day I do not know any argument that I could present to the country that would be so strong as what I believe would be the unanimous statement of the northern settlers in North Carolina in favor of our institutions there, if I may call them so, of our habits, of the law-abiding disposition of our people, and of our truth and fidelity to the nation.

Mr. MORGAN. Mr. President, my convictions have changed in regard to my duty in voting for these resolutions since they were introduced into the Senate and since they have been amended on the motion of the Senator from Ohio, and I believe also of the Senator from Maine. When the resolutions were brought into the Senate they were based upon the predicate that there was some necessity for additional legislation in order to improve the laws of the United States so as more effectually to protect the ballot in many of the States of the Union. The framer of the resolutions addressed them to the Judiciary Committee, and in the sequel of the resolutions he provided that a certain investigation should be made, which would result ultimately in the preparation of such additional laws as the Judiciary Committee might see proper to frame with a view of securing fair elections in the United States. That proposition addressed itself to the judgment of the Senate as one worthy in itself of consideration. Although it was believed on this side of the Chamber and by the country at large that that proposition was merely a piece of the machinery of a political adventure, still Senators on this side of the Chamber did not consider that they would be justified in the eyes of the country, particularly those Senators who are from the Southern States, in refusing to have any investigation made which might lead to the establishment of the proposition that there was needed any additional law or laws for the protection of the ballot in this country. But after that proposition had been discussed a question arose as to the striking out of "the Committee on the Judiciary" and inserting in place of it "a select committee of nine Senators." The obvious purpose of this change was to relieve the Judiciary Committee of an investigation which every one saw apparent upon the face of the entire debate was utterly unnecessary, that there was in fact no demand in this country for additional legislation upon this subject, and so far was the Judiciary Committee itself impressed with this want of necessity that an eminent gentleman who belongs to that committee rose and begged the Senate to excuse that committee from the discharge of this great and important duty, urging as the ground for it that that committee was already smothered with labors and that there was apparently no necessity for imposing upon that committee this additional burden of work.

If it was obvious to the members of the Judiciary Committee, including I believe the honorable Senator from Illinois, [Mr. DAVIS,] that there is nothing to result from these resolutions in the shape of legislation that is worthy of the consideration of the country, why is there any further necessity of pressing this demand upon the attention of the Senate and of the whole country? Has it not become obvious that the whole pretended purpose of these resolutions when they were originally introduced has failed, has been exploded, has gone into thin air? What we are doing now is simply the prosecution of some political adventure here for the purpose of aiding the one side or the other in the future political controversies in this land. Not only has the resolution been thus changed so as to take from it every quality and every pretense of its being an honest investigation to improve the law of the land, but the friends of the resolution have imposed upon it a very peculiar complexion in the fact that they have denied to the minority of the Senate the right to have the investigation of this question made openly before the world. We have the singular phenomenon presented to the country that the statutes are to be improved; that they are to be amended so that honest elections can be had throughout the United States, and that that amendment must come through the sanction or at least under the investigation of the Judiciary Committee; and yet after we have progressed to that extent, gentlemen turn around and strike out "the Judiciary Committee," thus proving by their motion that there was no honest intent to improve the laws, but that the purpose of the movement was simply to aggravate political acrimony in this land.

When the honorable Senator from New York arose for the purpose of offering an amendment whereby a select committee should be employed for this purpose instead of the Judiciary Committee, he declined the chairmanship of that committee, and I suppose now, as a matter of courtesy, as a matter of parliamentary order, the honorable Senator from Maine who offered the resolutions will necessarily be the chairman of the select committee to conduct this investigation.

Mr. BLAINE. He has already declined that publicly.

Mr. MORGAN. But perhaps the Senate will not excuse the Sena-

tor from Maine. I shall not vote to excuse him, for I want to hold him up to his work. I want to see him work out this exploit that he has brought before the country, and to father that which belongs to nobody else.

If we should choose to put the honorable Senator from Maine there notwithstanding his declination, and if it is a duty to the country so very important as he seems to think it is, why does he decline so important a duty? If he has become so much more impressed than all the rest of the world with the necessity of this investigation, this scouring of the country for the purpose of hunting up elements of wrath to throw into the political caldron, why does he decline to step forward and take the management of the committee? No, sir, he ought to be the chairman of this committee, and no Senator here, it seems to me, with proper self-respect would usurp the dignities of the high position which belongs so eminently to the Senator from Maine. When he gets his committee organized, and is prepared to fulminate upon the next presidential election, he will close the doors for convenience, and subcommittees of the minority working under him will have no opportunity to compel the majority to open the doors and disclose to the world what is going on inside of their secret chambers.

When, therefore, the whole nature of the resolutions was changed and when it was changed by the transfer of this judicial question to a mere political committee selected as it doubtless will be with reference to the recent rule of seven to eight, I felt myself absolved from the necessity of voting for them and even from that stress of situation which seemed at the moment of time to compel me to yield my judgment, which is in opposition to the resolutions, to the unfortunate fact that I did not feel that I had actual liberty of action, being a southern man and from the land that was denounced. But when you add to this the fact that those who are conducting this adventure choose to close the doors of the committee against the light, except that part of it which they might prefer to throw upon the world, then I feel that I am not only exonerated from this pressure but that it is my duty to vote, as I shall do, against the entire resolutions. In doing that I doubt not that I shall separate myself from many of my southern friends.

The great question upon which we are now about to institute an investigation is, how has the South become solid? That seems to be the trouble on the part of the Senator from Maine. He seems to be incapable of appreciating the fact that the South may have become solid, as he calls it, in other words, democratic, through honest changes of political affiliation and by means of honest influences. It is useless for me to volunteer testimony in advance of an investigation. I do not choose to assume the *rôle* of the Senator from Maine and to undertake to force my statements on the country as the very truth, but I prefer to wait, inasmuch as we will have an investigation and will see how it turns out, if the facts shall ever come to light, as to what was the real cause of this loss of republican power in the Southern States. I believe that I understand the subject; and while I will not venture to cover the whole ground of debate by personal statements of my own experiences or of the facts that have come within the range of my own observation, I think I can state certain principles which will be recognized the world over by whoever understands anything about the negro population as furnishing the true key for the solution of this question that has been so vehemently urged upon the country.

First of all, the republican party asserted the capacity of negroes to become intelligent voting citizens of the United States of America, and conferred upon them this power against the opinion not only of the South but against the opinion of such men as Senator Morton and others that the period had not arrived in the progress of their condition when it was prudent to confer upon them these powers. In the face of the convictions of thousands upon thousands of the most enlightened men in the United States and of the greatest statesmen who have lived in this country during many years this measure was forced upon the country, and the negro was taken and almost by compulsion was made an American citizen having the right to vote.

It is not to be denied that at the time that was done there was great question and serious apprehension that this thing would result in evil to the country, but the South did not set itself to work out an unfavorable result. The South, on the contrary, set itself to work in a spirit of duty to the American Government and to the American people, and tried to furnish to the negroes through their educational establishments and in every way that they could an honest and a fair opportunity to qualify themselves for these high duties of citizenship.

I deny that we have obstructed the negro in reference to his education, moral or religious or political. I deny that we have imposed upon him through any of our laws any burden which repressed his labor or took from him the advantages of his honest toil. I deny—and these proofs abound through the statute-books of the South and in its constitutions—that in any respect we have either legislated against or worked against the progress of the negro in trying to qualify himself for the high duties of American citizenship. On the contrary, he, remembering the affection, the feeling of kindness and of love even that oftentimes prevailed between him and his former master, sought his protection, sought his encouragement and his support, and scarcely ever did he fail to receive it.

It was the duty of the republican party after they had made these provisions of law for the enfranchisement of the negro, and it was by the way a contemporaneous act with the disfranchisement of the white man, to have sent their very best men into the South, such men as the Senator from Maine and others, for the purpose of going upon the hustings and in the lecture-room and elsewhere in that country to improve the negroes in regard to their education and especially in regard to their duty toward the American Government. But who came down there? Have we ever had the honor of seeing the Senator from Maine in the South? Has any other of these gentlemen who concern themselves so deeply now, who feel such a wonderful interest in the condition of the negro, come down there for the purpose of lecturing to them or discussing with us before them the principles of American government and the duties and the rights of American citizenship? No, sir, they have carefully abstained from going to that country. They were not afraid to go; by no means were they afraid to go. They have carefully abstained from going to that country, and in the place of these missionary efforts of their own they have permitted to be cast upon the South the most disreputable, dishonest, and unworthy class of men that ever were spewed out from the northern or any other communities. These men whom they sent to the South, backed by armies, to take charge of us and to compel obedience to their will in reference to all things that pertained to political action have gone there and maintained themselves as long as the negroes would tolerate them in the absolute control and mastery of the conscience of every negro in that land; but their crimes blackened the whole history of this country. The dockets of the United States courts and the State courts, the records of Congress, the traditional remembrances of thousands and tens of thousands of men, have brought to the attention of the country the dark and dismal record of their crimes, and it has become so conspicuous that the whole people have revolted at it, and the northern republicans have in this Senate and elsewhere withdrawn all moral support from this gang of carpet-baggers. After you withdrew your moral support, after you were forced to do it for the very sake of decency itself, now you complain that the next power that stands by the side of the negro, the men with whom the negro had some kind of reconciliation if not entire reconciliation, asserts itself over the minds of these affectionate and good-hearted people. Sir, the man who does not understand the negro supposes that he is always in antagonism to the democratic party and the men who comprise that party, while the truth is that every natural instinct, every emotion of his heart and all his education bind him closer to the bosom of the man with whom he was raised and whose slave he had formerly been than to any stranger.

That is the situation exactly. When, therefore, you withdrew your support from the carpet-baggers, the carpet-baggers having nothing in themselves that commended them to the approbation or acceptance of any people in the world, then, of course, the next power intervened, and instead of attacking the negro with force and violence and bloodshed, it exerted over him the persuasive influences of affection and of convincing argument. The truth is, however gentlemen may be indisposed to believe it, that these men vote with us because they are convinced that we are honest men, and desire to protect them in their rights. But the Senator from Maine, as I understand the theory of his subject, the gravamen of his complaint, is disappointed in this fact, and would now undertake by some congressional regulation to control that which always has been beyond the reach of law. For when you made the negro an American citizen you gave to him the same right of independence of thought and action that you possess; and when you have conferred these upon him you must assume, in justice to us, that they have been freely exercised, until you can show that his inclinations to think and act for himself have been obstructed by actual violence which he has not been able to overcome. Then, as the argument stands, can the Senate say that any changes in their views in regard to who are their proper representatives in the Congress of the United States are not the result of the operation of the weight of argument and conviction upon the minds of these people? Are they insensible to argument and have they no intelligent ideas of duty? People in this country vote sometimes very extraordinarily and they undergo very rapid changes, something like that which the Senator from Maine feels so much surprised at when he characterizes it as a conversion during a single night. I can cite the Senator to very many instances of the same kind that have occurred in the United States, and perhaps one of the most conspicuous instances is a recent event in his own State. Who converted the people of Maine in a single night to the fiat money greenback candidate, who was elected over an honest republican and a very distinguished gentleman of the State of Maine? What influences were brought to bear? None other than those that are brought to bear upon the negro in the South, a conviction impressed on his mind as it was impressed on the minds of the people of Maine, that that was his course of duty in order to best subserve his own interests and to protect his own rights. Similar changes to this have taken place in other States also, and I will refer to just a few of them.

In the State of Illinois the last majority for General Grant was 53,948, and the last majority for the republicans when Mr. Hayes was a candidate for the Presidency was 1,971. What influence was it that changed 50,000 votes in that brief period of time? And yet, there was almost as miraculous a change in the intervening period of the congressional elections. In the State of Pennsylvania the last majority for General Grant was 135,918 standing against the majority for Mr. Hayes of 9,375. These are but samples of what took place throughout the whole Northwest. Are we to impute to the entire

people of the Northern States *en masse* that they are coerced, or that they are corrupt, and not law-abiding because they choose to change their views in regard to political men and measures very suddenly, as they often have done? Why do we not impute fraud against these people in the Northern States when they make these sudden changes? With equal justice we might resort to that argument against the people of the North except that the Senator is impressed with the conviction that having freed the negro, and having made him an enfranchised American citizen, he has a property in his right to vote, and that he requires some new and peculiar guardianship that does not belong to the balance of mankind to enable him to vote the proper ticket.

Now, when you have decided that he shall be equal before the law of all other citizens, we expect that the law shall apply by the same rule of equality to him and to everybody else; and there is no necessity, nor is there any constitutional authority, for the enactment of a new and different species of statutes for the preservation of his rights from those that obtain and have obtained heretofore and have reasonably secured honest elections throughout the United States. When you make a freeman of a negro, let him be a freeman. You have freed his body; now free his conscience. You have given him liberty of action and liberty to work for himself without the constraint of a master. Now, let him have the liberty also to think for himself and vote for himself without the compulsion of some foreign agency introduced into the laws by an act of Congress. You have got your United States marshals; you have got your supervisors of elections; you have got all this new and costly system against which there is no demur and no obstruction in the South. Yet all this coercive power and all of these agencies, it seems, are insufficient to keep the negro from enjoying the rights of a freeman and cannot prevent him from voting according to his own judgment and his own conscience. You want something more effectual.

Mr. President, it is not my duty here, nor is it my disposition, nor is it in my judgment the disposition of any Senator from the South or indeed of any man from the South to interfere with the local affairs of the people in other parts of the United States. Whatever else may be said of us, it can truly be said of us in the light of history that we have not attempted to interfere with the management of the affairs of the American States so as to control them contrary to their own views and their own judgment. The State of Massachusetts, for instance, has a law, as I understand, which prohibits a man from voting until he has paid his poll-tax. It has two other requirements as I believe in its statutes, one that a man shall be able to read a designated passage in a book, and the other that he shall be able to write, before he can be permitted to register his name as a voter. The democratic voters of the South consider such doctrine as this altogether at variance with the theories of their great party and of the Constitution, as they have been handed down to us traditionally for a great many years; but because these doctrines and these practices in that State seem to be undemocratic and are not gratifying to us when we compare them with our principles of government, yet we have never thought it right for us to intrude into these matters. We have thought it would be an act of mere impertinence to make such an intrusion as that.

So in regard to the neighboring State of New Hampshire which I believe still has in its constitution, in some measure at least, that restriction which has been always considered odious because it stood opposed to the freedom of conscience in religious matters, which excluded Catholics from holding office. We have never thought it was necessary in the South that we should wage a crusade against New Hampshire to get her to change her institutions in this particular. We have thought she was quite able to take care of herself. The men of renown and greatness whom she has sent to the Senate and has elsewhere contributed to the service of the United States, many of whom have been welcomed in the Southern States as if they had been born on the soil—these great men we thought were quite competent to take care of these matters and quite honest enough to be intrusted with their disposal.

We will not object, however, to congressional committees coming to our midst. We see northern people in the South every day of the year; and while we are here debating on this proposition as to whether certain classes of people in the South are secure in the enjoyment of their constitutional rights, tens of thousands, yes hundreds of thousands of men daily issue forth from the large cities of the North, the Northeast, and the Northwest who visit every city, every village, every hamlet throughout our entire country trading their wares, their goods, and their merchandise with our people. Do not these men freely visit the South? Do they go there with arms to protect their persons and property against violence or outrage? Are they not received in every house in the South with hospitality? Are they not regarded as the friends of the country? Yes, sir, and they drive such immense traffic with our people as that if we chose to close our doors against their access for even six months to come we could bankrupt the chief commercial and manufacturing establishments in the North that deal with the South. But, sir, we are glad to see these heralds of peace, these missionaries of commerce and justice. We welcome them to our midst day by day; and while Senators on this floor are complaining of the southern people there are men from the northern and northwestern cities traversing the entire length and breadth of the land collecting all the spare money we have to spend in exchange for goods. I desire to see this thing go on and be encouraged. I desire that nothing shall occur which will obstruct this system of traffic between the South and the North, this continually increasing intercourse which brings with itself hearty good-will and prosperity to both the great sections of this land, and I so deeply regret that I cannot express it that anything has been attempted here that has a tendency to obstruct or prevent a further growth of this kindly feeling between these sections.

The Senator from Maine asked a question which grated upon my ear. He asked a question which I think had better been pretermitted for this moment, to say the least. He asked the question why there was no emigration to the South. Ah, Mr. President! a great deal hangs upon that question, and more hangs upon the mistaken view that the Senator from Maine has of it perhaps than he now supposes. There is emigration to the South, a large emigration to the South from the Northwest, if not from the Northeast. Texas is filling up with population now to such an extent that whereas she has but six members on the floor of the House of Representatives to-day, she claims eighteen under the next apportionment, and the power will be transferred from his little neck of land, running up to the Saint Lawrence down into the great dominion of Texas, for he will lose strength while Texas gains strength under the operation of the laws of the United States and its Constitution. There is vast emigration to the South, and there would be vastly more if the gentlemen who have the charge of politics in the Northern States would speak of us and act toward us as if we were really citizens of the United States entitled to the respect that that honored name brings to men and to communities.

But, sir, emigration has gone to Alabama. There is one county which was created by the Legislature at the last biennial session called the county of Cullman, named after a distinguished German who visited the plains which lie on the top of the Sand Mountain, as we call it, and seeing there a land that the native people of the country had not inhabited he became possessed with the idea that it had a good foundation of soil, and was capable of large improvement. Thereupon he got a very large concession of land amounting to more than one hundred thousand acres, and he organized in 1872 a little colony upon it, starting out with about fifty families, and now they have risen to that extent that they are entitled to representation in the Legislature of Alabama. They have a separate county to themselves called Cullman; they have some of the most flourishing communities, not merely one but several locations of colonies, to be found anywhere in the Southern States. And so it is in other parts of the State, in the great iron and coal regions of the South millions of capital are going from Pennsylvania and other places farther East seeking investment in these large properties and building up an immense production of iron very much to our gratification. We are delighted with it.

But there is one region of country to which no man emigrates, and that is what is called the "black belt," that is where the negro population is very dense. Why do they not go there? We try to persuade them to go there. Lands that in that belt sold from sixty to one hundred dollars an acre in gold before the war can now be bought for from six to ten dollars an acre. We invite them to go. We use every manner of persuasion and argumentation and inducement that we know how to use, in order to get people to go there. This vast number of people who seem to have a disposition to migrate from the North and Northwest are invited, but they do not go, and why do they not go? It is because they are afraid of the negro. They will not associate with him; they will not harmonize with him; they will not live in the neighborhood with him. You cannot induce them to go there and establish plantations at all. No doubt if they remain in the Northern States, and especially if they are politicians, they would not at that distance spurn the negro, they would be entirely willing to use the negro for their own advantage; but like the Senator from Maine they will not go down there to talk to the negro or to look at him, much less to live with him and vote with him.

Now, Mr. President, whatever the cause may be, a man who has not been raised in a negro community, who from his childhood has not been taught to value the real excellence of some of the qualities possessed by that race of men, can never be persuaded to take up his habitation among them. He always turns from them. He goes away from them instead of to them. You have placed this legacy of burdensome tutorship in our hands, and you will not come there to associate with us in our efforts to provide for these people. You will not come there to occupy this country that holds out such great inducements to emigration and to investment. You are afraid of the negro. You will do nothing but send political speeches among us. You will not come there to speak to them; and yet you quarrel with us because after you have given us the control of them we will not teach them to vote the republican ticket. That is the whole of it. If you make us their educators in politics, as we have been their educators in everything, we inform you that we shall educate them according to our own political faith and try to get them to support the democratic ticket if we can do so. There is no doubt about that; and as long as you stay away and make speeches at us and speeches at them and send your investigating committees about to harrow the country you may expect that the democrats of the South will use all persuasive and honest influences for the purpose of getting the negroes to vote with them.

Mr. President, I regret, in my heart I regret, that the necessity has

ever existed in this country for what is termed "a solid South." The solidification of the South took place like the solidification that occurs when a bar of steel heated in the furnace is put under the hammer of the blacksmith. Heat and friction continually applied to us from the outside forced us to be solid, and, thank God, when you forced solidity on us you put an edge to us and spring to us beside. I regret, however, that the circumstances ever existed which have led to this condition of affairs, not because we have done any injustice in reference to the negro, but because it is a continual subject of harassment and debate between the different former divisions of the United States into North and South. That is my cause of regret; and if Senators from the Northern States would withhold their abuse of us, if they would withhold their denunciation, if they would permit us to work out the problem of our civilization according to the Constitution and laws of the United States, then should you see the day when opinion in the South would be, as it is to-day indeed, as free as it is in any other part of the United States on every question concerning the welfare of the people.

And that, Mr. President, is the real course to take with us, and I regret that Senators on that side cannot see it, because, if I know what is in my nature and my heart, I wish to join with them in every effort to blot out forever the lines of division that have heretofore existed between us. Gentlemen proclaim that they will have a solid North to meet a solid South. We are met with that threat continually, and yet we have done nothing to solidify the Northern States that I know of. But let me admonish gentlemen who thus clamor against us that their demand for a solid North, that being now the majority section, means a demand for conquest and supremacy in the North, and it equally means vassalage in the South. And if the issue comes to that, the one section of this country to be dominant and the other to be vassal, then we must look to ourselves to see how far we can avoid or prevent the evil consequences of a result like that. I expect, sir, that we shall have to submit to it as long as the North shall solidify itself in antagonism to southern interests, until the scepter of power changes hands. I expect that we shall have quietly to work and war against it, not with arms, but by persuasion, and perhaps even by supplication, until we can get those of the North who intend thus to dominate us to relax their strong and tyrannical purposes. But I will admonish Senators that the permanent vassalage of the South is a physical impossibility under the Constitution of the United States and the laws thereof, for you must remember that we have the privilege, even without the consent of Congress enacted into a law—a privilege secured to us by a treaty with the United States Government—to put at least eight more Senators into this body from the single Commonwealth of Texas.

I call the attention of statesmen to this for the purpose of convincing them that this vassalage which they propose to inflict upon us and this domination that they think they can secure through this means will prove to be visionary, an *ignis fatuus*. When such a policy is once established it is a question within our control who shall be the vassal. Whatever compulsion may be charged against us as having been employed against the negro of the South in reference to his political action, there is one thing I have never yet heard charged against the South, and that is that we compel the negro to labor more hours of the day than he ought to labor or wants to labor or compel him to work for A when he prefers to work for B, or that we compel him to relinquish the ownership of land in order to become a tenant, or that we by any sort of compulsion, moral or physical, have controlled his material destiny in any respect whatever. And yet, in the face of all that is charged against us in regard to the negro, we see that he is left so free to work the land, to improve his own condition, to exercise all the privileges of American citizenship, that he produces this year more than five million bales of cotton and adds more to the wealth of this country and to its commerce than twice the number of men in any other part of the United States of America engaged in agricultural pursuits. When this fact is contrasted with the complaints that are brought here against the condition of the negro and the whites in the South, as to the alleged disorganization of that country and its want of respect for the law, the present crop of more than five million bales of cotton is an answer that at least will strike the mind of every practical and sensible man in the United States as being entirely overwhelming against the accusations that are made against us.

Mr. President, a great deal has been said, and very much more I suppose has been thought, upon the idea that the people of the South hold themselves in really personal antagonism to the negro. Sir, that is not true. The fact to which I have just adverted proves that it is not the truth. It shows that the people of the South work in harmony in the great duties of life. When the negro came to this country from his African home he spoke his African gibberish and worshiped the most obscene idols; and if you were to import negroes from there to-day you would find men of just such condition and quality. The explorations which have been recently made in Africa by the great American and English travelers have revealed the fact that the negro in his native home is in the same state he was when your fathers brought him to this country and sold him to ours, and in just the same condition. Who, then, has been his educator? Who made him the peer of the greatest citizen of the Northern States? Who fitted him for American citizenship? Who built him up in his moral character, in his manhood, in his education, in his æsthetic tastes, and in every other respect, so that he has become, all of a sudden, not only a factor in our political government and the equal of the best in the land, but the pet of all the distinguished Senators on the other side of the House who are there now and who have been there heretofore for many years? Who were the educators of the negroes of the South? Did your missionaries go there to educate them? No. You said it would be labor thrown away. We have given the negro a vast amount of education, and you admit that by the very demand you make now that he shall have an exalted position in society as well as in politics. But I notice that these demands are made on one section of the country only, while they are neglected elsewhere. There is a large number of negroes throughout the North, intelligent men. Some of them escaped by the underground railroad years ago and received the benefits of northern education while their brethren were still held in slavery. And yet, if I am informed correctly, there is not one of them upon the bench, perhaps there is not one of them in a State Legislature; I know there are none of them in Congress; and upon a notable occasion when I rose here to vote for confirming the nomination of one for a distinguished office under the Government of the United States, I felt that I was frowned upon by the other side.

Now, Mr. President, I will vote against these resolutions for the reason I have stated, because I believe a vote to sustain them would now commit me to a proposition to lend the power of the Senate to a mere political investigation, whereas when they were first offered they at least conveyed the idea that we could fairly make a judicial inquiry in regard to the laws of the land, and if any defect was found in them that we should be able to supply that defect. The political agencies of the Government of the United States have been actively intermeddling in my own State, and there the result has been that the democrats have been repressed to the number of six thousand in one congressional district alone, and doubtless many have been kept from going to the ballot-box by the threats of the Attorney-General of the United States, issued in the form of a proclamation. The President of the United States and his Cabinet, coinciding with a large portion of the republican party in the Northern States in their advocacy of what is called sound money, in which advocacy very many of the southern democrats honestly sympathized, made an extensive canvass in the North; and while they were doing that, the Attorney-General was endeavoring by proclamations sent out in advance of the election to hinder the people from going to the polls. He was endeavoring to threaten them to such a degree as that they would be afraid to go to the ballot-box, and the result was that a gentleman was elected who was a greenback democrat, by the united support of the republicans of that district, and I believe he is now here to claim his reward in some little appointments to office, which are paid as cash on the spot. When you attempt congressional interference by the passage of these resolutions, and when you come to investigate the question of interference either by the people or the Government, I desire to give notice to the gentlemen who may compose the committee that the investigation is not going to stop just where the gentleman who framed and offered the resolutions may desire it to stop. No, sir; I give notice now that when the investigation is opened it shall, so far as I am able to have any influence in it at all, be a full and fair investigation, extending throughout the United States wherever there is any real cause to be investigated. It must go to Pennsylvania and investigate what has been done there. It must go also to Massachusetts and investigate what is charged to have been done there. Equally it must go to New York, and equally it must go to Colorado and Nevada, where just as flagrant frauds as ever were perpetrated against the ballot in the world were perpetrated during the last election.

I beg pardon, Mr. President, of the Senate for having indulged so long in these remarks, and I assure Senators on the other side that in what I have said I have not been controlled by anything but an honest desire to have this measure put upon its true merits and to give the reasons why I shall not be able to support it.

Mr. TELLER. Mr. President, I desire to say in reply to the Senator from Alabama, [Mr. MORGAN,] with reference to frauds in Colorado, that no democrat, high or low in Colorado, dares to charge frauds upon the republican party in that State. It is well understood in that country that we have had a fair election. The republican party put forth their candidate; the democrats nominated the most influential man in that State, a man whom they nominated with the declaration that he could put up and would put up more money to carry the election than any republican or all the republicans could put up in the State. He did do that. More money was expended by the democratic party in Colorado during the last election than has ever been spent by any or all the political parties in fifteen years before; and if the Senator from Alabama or Senators from any other portion of the country would like to include Colorado in this investigation, I should be most happy to have it put in and I will prove my statement before any respectable committee.

Mr. BLAINE. It is in there.

Mr. TELLER. If it is in there, the gentleman shall have every opportunity so far as we are concerned to prove whether there were frauds in Colorado or not, and if I do not make good what I say, that the democratic party put up and expended their money more liberally, more extensively than it had ever been expended by all political parties, then I am greatly mistaken.

I am asked by a Senator whose money they expended. I do not know. It is charged publicly in that country that they seized one railroad corporation and depleted its treasury in behalf of the democratic candidate for governor. We are prepared for any investigation if anybody sees fit to charge frauds in Colorado upon the republican party here or anywhere else.

The VICE-PRESIDENT. Is the Senate ready for the question on the resolution, upon which the yeas and nays have been ordered?

The Secretary proceeded to call the roll.

Mr. WITHERS. I wish to announce that my colleage [Mr. JOHNSTON] is detained from his seat by indisposition. If present he would vote "yea."

Mr. MORRILL. My colleague [Mr. EDMUNDS] is paired with the Senator from Ohio [Mr. THURMAN] on all political questions. They are both absent.

Mr. CHRISTIANCY. I am paired with the Senator from Mississippi, [Mr. LAMAR,] but I understand the pair only to extend to the question whether the committee should be required to hold public examinations or whether they should be left to the discretion of the committee. That question having been disposed of, as I understood the Senator, he was in favor of the resolutions. I therefore consider myself at liberty to vote "yea," unless the Senator from Georgia, [Mr. GORDON,] who was the referee in the matter, shall otherwise explain.

Mr. GORDON. I think the Senator can vote without any difficulty.

Mr. CHRISTIANCY. I then vote "yea."

Mr. DAVIS, of Illinois. The Senator from Vermont stated that his colleague and the Senator from Ohio were paired upon political questions. Mr. THURMAN, if he were here, would vote "yea," as well as the Senator from Vermont, [Mr. EDMUNDS.]

Mr. WITHERS. I wish to state that my colleague [Mr. JOHNSTON] was paired on political questions with the Senator from Arkansas, [Mr. DORSEY,] but I did not announce the pair because I did not regard this question as political, and consequently excused him from indisposition.

Mr. SAULSBURY. I was paired yesterday with the Senator from Florida, [Mr. CONOVER.] I have not seen him in the Chamber to-day, and I do not know but that he may think the pair extends to to-day. I therefore shall not vote.

Mr. GROVER, (who had voted in the affirmative.) I forgot that I was paired with the Senator from Kansas, [Mr. PLUMB.] I withdraw my vote.

Mr. BUTLER. I am paired with the Senator from California, [Mr. SARGENT,] but his friend from Iowa [Mr. ALLISON] has absolved me from that pair, and therefore I think I shall let my vote remain.

Mr. ALLISON. The Senator from California and the Senator from South Carolina would undoubtedly vote on the same side if the Senator from California were here.

The result of the roll-call was announced—yeas 56, nays 6; as follows:

YEAS—56.

Allison,	Cockrell,	Hoar,	Morrill,
Anthony,	Coke,	Howe,	Oglesby,
Armstrong,	Conkling,	Ingalls,	Paddock,
Bailey,	Davis of Illinois,	Jones of Florida,	Patterson,
Barnum,	Davis of W. Va.,	Kellogg,	Randolph,
Bayard,	Dawes,	Kernan,	Ransom,
Beck,	Dennis,	Kirkwood,	Rollins,
Blaine,	Eustis,	McDonald,	Saunders,
Booth,	Ferry,	McMillan,	Spencer,
Burnside,	Garland,	McPherson,	Teller,
Butler,	Gordon,	Matthews,	Voorhees,
Cameron of Pa.,	Hamlin,	Maxey,	Wadleigh,
Cameron of Wis.,	Harris,	Merrimon,	Windom,
Christiancy,	Hereford,	Mitchell,	Withers.
4-			

NAYS—6.

Eaton,	McCreery,	Wallace,	Whyte.
Hill,	Morgan,		

ABSENT—14.

Bruce,	Edmunds,	Lamar,	Sharon,
Chaffee,	Grover,	Plumb,	Thurman.
Conover,	Johnston,	Sargent,	
Dorsey,	Jones of Nevada,	Saulsbury,	

So the resolutions were agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 942) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands; and

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution; and

A bill (H. R. No. 5485) for the relief of Andrew Muckle.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States, communicating, in answer to a Senate resolution of December 5, 1878, information concerning postal and commercial intercourse between the United States and South American countries; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOLIDAY RECESS.

Mr. MORRILL. I call up the resolution for adjournment over the holidays. I think it ought to be acted on.

The VICE-PRESIDENT. The Senator from Vermont calls up the resolution from the House of Representatives which is a privileged question. The resolution will be read.

The Secretary read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That when the House adjourns on Friday, the 20th instant, it stand adjourned until Monday, January 6, A. D. 1879.

Mr. MORRILL. I yield for a moment to the Senator from Louisiana.

JURORS' OATH.

Mr. EUSTIS. Mr. President, I rise to a parliamentary inquiry, and I request the attention of the Senator from Michigan, chairman of the Committee on the Revision of the Laws, [Mr. CHRISTIANCY.] Quite a number of citizens of the State of Louisiana have been arrested for an alleged violation of the laws of the United States at the last election. There was a bill passed by the House of Representatives repealing the test oath which was required to be taken by petit and grand jurors in the United States courts. That bill was referred to the Committee on the Revision of the Laws on December 6, 1877. That test-oath law under which these parties in Louisiana are now to be tried is a law which was repealed in 1872; these parties are to be tried under a law of the United States which has been in fact repealed, but which was inserted in the Revised Statutes without any authority whatsoever and is now technically, though improperly, a statute of the United States. The provision of that law is that whereas a citizen of Louisiana is a fit person to be a United States Senator, is a fit person to be even a judge of the Supreme Court of the United States, or even the President of the United States, yet that person in law is an infamous person and cannot sit upon a jury in a United States court——

Mr. CHRISTIANCY. Mr. President——

Mr. EUSTIS. The Senator does not understand me as making the slightest reflection on the committee.

Mr. CHRISTIANCY. I wish to make an inquiry. When was that bill to which the Senator alludes referred to the Committee on the Revision of the Laws? On what day?

Mr. EUSTIS. It was referred on the 6th of December, 1877.

Mr. CHRISTIANCY. My impression is, so far as relates to that particular bill, that it was afterward—I cannot now give the history of it—referred to the Judiciary Committee and has been before the Judiciary Committee. I cannot at this moment state what has been the result.

Mr. EUSTIS. I understand that that is an error. I call the attention of the Senator from Michigan to the fact that the records show that the bill is before his committee. I do not intend in the slightest degree of course to reflect upon any member of that committee, still less upon its distinguished chairman. I merely want to call the attention of the Senator, as chairman, and of the members of that committee, to the very urgent importance of an immediate passage, if possible, of the bill, as I do not think there can be any objection in this body to the repeal of that statute.

Mr. CHRISTIANCY. If the statute be repealed it is undoubtedly true, as the Senator has remarked, that the revision ought to be so amended as to show it; but I wish to state here that I do not think that, according to my recollection, such a bill ever came into that committee since I have been chairman of the committee, and I think I was chairman of it at that time. I do not think the bill ever reached the committee.

Mr. EUSTIS. I am merely guided by the record, which says: "In the Senate of the United States, December 6, 1877. Bill H. R. 1890, read twice, and referred to the Committee on Revision of the Laws."

Mr. BECK. Will the Senator from Louisiana allow me to make a suggestion to him? I have introduced a bill to correct the evils which he complains of and to repeal those sections of the Revised Statutes relative to jurors. It is now on the table of the Senate, subject to be called up, and I hope to be able to call it up to-morrow morning and ask the Senate to pass it. If that can be done it will relieve the difficulty. I give notice now that I will to-morrow morning call up that bill.

Mr. EUSTIS. I suggest to the Senator from Kentucky if it would not be better for the Senate to take up the House bill and pass it.

Mr. BECK. It would, and I have no idea that will be done, and I fear it will remain without action. The House will concur in the bill to which I have alluded, if we pass it.

Mr. MORRILL. I supposed the Senator from Louisiana wanted only a minute's explanation. I think the adjournment ought to be acted on while the Senate is full.

HOLIDAY RECESS.

The VICE-PRESIDENT. Will the Senate agree to the House concurrent resolution in reference to adjournment?

Mr. MORRILL. I offer the following amendment——

The VICE-PRESIDENT. The resolution will first be read.

The Secretary read the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That when the House adjourns on Friday, the 20th instant, it stand adjourned until Monday, January 6, A. D. 1879.

Mr. MORRILL. It will be observed that the resolution that comes from the House merely provides for the adjournment of that branch of Congress, making no provision for any adjournment on the part of the Senate. It is also proposed that the House shall adjourn for an unusually long period. Heretofore, in years past it was only customary to adjourn for the day or at most for a little more than a week, but we have reached the habit of adjourning for about a fortnight, and now this resolution comes with a proposition to adjourn for seventeen days. I have thought, therefore, it was better that we should diminish the number of days for adjournment to a fortnight and that we include the Senate; and my amendment is to include the Senate as well as the House in the adjournment, and to make the adjournment for a fortnight instead of seventeen days.

The VICE-PRESIDENT. The amendment will be reported.

Mr. ALLISON. I ask the Senator from Vermont to withdraw his amendment so that we can take the sense of the Senate upon the two questions separately.

Mr. MORRILL. The Senator can move to amend the amendment and insert the proposition of the House if he chooses.

Mr. ANTHONY. The Senator from Iowa can ask for a division of the question.

Mr. DAWES. I suggest to the Senator from Iowa that he can make a motion to amend the original proposition which would take precedence of the motion of the Senator from Vermont.

Mr. MORRILL. My motion is to amend the original proposition.

Mr. HOAR. I move to perfect the House resolution by inserting instead of the words "the House" the words "two Houses;" and instead of "it," later in the resolution, the word "they." I suppose that will take precedence of the amendment of the Senator from Vermont, as it affects the original proposition.

The VICE-PRESIDENT. It will, and the question is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

The amendment was agreed to.

Mr. WITHERS. Let it be reported now.

The VICE-PRESIDENT. The resolution will be read as amended.

The Secretary read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That when the two Houses adjourn on Friday, the 20th instant, they stand adjourned until Monday, January 6, A. D. 1879.

The VICE-PRESIDENT. The Senator from Vermont [Mr. MORRILL] proposes an amendment which will now be read.

The SECRETARY. It is proposed to strike out all after the word "that" and insert:

When the Senate and House adjourn on Monday the 23d instant, they shall stand adjourned until Friday, January 4, A. D. 1879.

Mr. HAMLIN. Mr. President——

The VICE-PRESIDENT. The question is not debatable.

Mr. HAMLIN. Not debatable!

The VICE-PRESIDENT. Not debatable.

Mr. HAMLIN. Why not?

The VICE-PRESIDENT. Simply because the rules preclude debate upon it.

Mr. HAMLIN. Will the Chair be kind enough to state the rule?

The VICE-PRESIDENT. The Chair will have the rule read. The Secretary will report the forty-third rule.

The Secretary read as follows:

43. When a question is pending, no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged; and *the motions relating to adjournment*, to take a recess, to proceed to executive business, and to lay on the table, shall be *decided without debate*.

Mr. HAMLIN. Mr. President, I think in regard to a concurrent resolution of the two branches of Congress, it has never been held that under the rule which has just been read it is not a matter to be amended and debated like other legislation.

The VICE-PRESIDENT. The Chair rules that it may be amended on motion.

Mr. HAMLIN. And debated? That does not come, in my judgment, within the rule.

The VICE-PRESIDENT. The Chair has no doubt of the construction of the rule.

Mr. HAMLIN. If the Chair so rules I shall not appeal, but I am quite confident——

The VICE-PRESIDENT. The Chair is quite sure that the Senate will listen to the Senator from Maine. He construes the rule, however, as he understands it. The Senate will listen to the Senator from Maine. [A pause.] Will the Senate agree to the amendment proposed by the Senator from Vermont?

The amendment was rejected.

The VICE-PRESIDENT. Will the Senate agree to the resolution of the House as it has been amended?

Mr. McCREERY. I move to amend by striking out "Friday the 20th instant" and the words "Monday, January 6," and inserting "Thursday the 19th instant" and "Tuesday, the 7th of January."

The VICE-PRESIDENT. The question is on the amendment of the Senator from Kentucky.

The amendment was rejected.

The VICE-PRESIDENT. Will the Senate agree to the resolution as amended?

Mr. BLAINE. I think the last motion ought to have been divided. Monday is not a good day for the reassembling of Congress. It ought to be Tuesday. Monday is the worse day in the week for the reassembling of Congress after a recess.

The VICE-PRESIDENT. Does the Senator move to amend in that respect?

Mr. BLAINE. I move to amend by substituting Tuesday, the 7th of January, for Monday, the 6th.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Maine.

The question being put, there were on a division—ayes 28, noes 28.

The VICE-PRESIDENT. The vote of the Senate being equally divided, the Chair votes in the affirmative. As thus amended, will the Senate agree to the resolution of the House of Representatives?

The resolution, as amended, was concurred in.

EXECUTIVE SESSION.

Mr. HAMLIN. Mr. President, I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After sixteen minutes spent in executive session the doors were reopened, and (at four o'clock and forty-four minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 17, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ADMISSION TO THE FLOOR.

The SPEAKER. Hon. John D. Long, the lieutenant-governer-elect of the State of Massachusetts, is present, and the Chair desires to invite him to the privileges of the floor. Is there objection?

There was no objection, and it was ordered accordingly.

IMPROVEMENT OF THAMES RIVER, CONNECTICUT.

Mr. WAIT, by unanimous consent, introduced a bill (H. R. No. 5684) for continuing the improvements on the river Thames, Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF STONINGTON HARBOR, CONNECTICUT.

Mr. WAIT also, by unanimous consent, introduced a bill (H. R. No. 5685) for continuing the improvement of Stonington Harbor, Connecticut; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

RICHARD F. LOPER.

Mr. WAIT also, by unanimous consent, introduced a bill (H. R. No. 5686) for the relief of Richard F. Loper; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

LEAVE TO PRINT.

Mr. ROMERO, by unanimous consent, was granted leave to print in the RECORD as part of the debates some remarks which he had prepared on Senate bill No. 376, to provide for ascertaining and settling private land claims in certain States and Territories. [See Appendix.]

JULIUS BAUMER.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States in answer to resolution of the House of the 5th instant, transmitting report from the Secretary of State, with accompanying papers, in reference to the expulsion from the whole territory of the German Empire of Julius Baumer, a naturalized citizen of the United States and a resident of the city of Chicago, in the State of Illinois, while on a visit to his aged parents at Münster, Westphalia, in the kingdom of Prussia, by the Prussian government, in violation of the treaty of May 1, 1828; which were referred to the Committee on Foreign Affairs with permission to that committee to order the printing if they found it necessary.

ORDER OF BUSINESS.

Mr. HALE. I demand the regular order of business.

Mr. WOOD. I hope the gentleman will yield to allow me to make a request from the Committee of Ways and Means.

Mr. HALE. I yield for that purpose.

Mr. WOOD. I am directed by the Committee of Ways and Means to ask that a portion of Thursday next be set apart for the purpose of acting on some bills of importance already reported to the House, and others which will be reported if we shall get the opportunity to do so. Some of those measures are of great public interest, and will be unanimously adopted no doubt when brought before the House. All we want is the opportunity of two or three hours on Thursday next to present this business for the consideration of the House.

Mr. HALE. Is that Thursday of this week? If so, I do not think the gentleman should press it, when there are pending two or three appropriation bills, which must be put through this week, and also when the Geneva award distribution bill is pending before the House and must be first disposed of.

The SPEAKER. The Geneva award, the Chair is informed, will occupy to-day after the disposal of the post-office deficiency appropriation bill, and to-morrow the Indian appropriation bill will be taken up, and how long that will take it is impossible now to tell.

Mr. HALE. The remark of the Chair bears out what I have already stated, that the business for this week is already too crowded to permit the granting of the request made by the chairman of the Committee of Ways and Means.

The SPEAKER. The Chair is informed that Thursday will be occupied in part by action on the Geneva-award bill. The gentleman from Kentucky [Mr. KNOTT] having that bill in charge proposes to call the previous question, so as to bring the House to a vote in the early part of Thursday. The gentleman from New York may have an opportunity after the disposition of the Geneva-award bill.

Mr. WOOD. I ask, then, that the Committee of Ways and Means be granted the opportunity I seek after the disposition of the Geneva-award bill on Thursday next.

Mr. HALE. That I will not object to.

Mr. WOOD. I hope there will be no objection, because of the great importance of the subjects to be considered.

Mr. ATKINS. If it interferes with the appropriation bills I certainly must object.

The SPEAKER. It will not.

Mr. HEWITT, of Alabama. I object.

The SPEAKER. The gentleman from Maine demands the regular order.

Mr. BRIGHT. The gentleman from Maine yields to me to introduce a bill for reference.

The SPEAKER. The Chair will advise the gentleman from Maine that he cannot at the same time demand the regular order and yield, because that interferes with the committals of the Chair for recognition.

Mr. HALE. I would be glad to yield to the gentleman from Tennessee if I could, but under the statement of the Chair I cannot do so.

Mr. GARFIELD. I insist on the regular order.

The SPEAKER. The regular order being demanded, the Chair recognizes the gentleman from Georgia, [Mr. BLOUNT,] who moves that the House resolve itself into the Committee of the Whole on the state of the Union to consider the deficiency post-office appropriation bill. But the Chair is just this instant advised that the bill has not come back from the Printing Office.

Mr. BLOUNT. I ask that by unanimous consent we proceed to the consideration of the measure, although the printed bill is not here.

The SPEAKER. The original bill is not here. The Chair will recognize the gentleman from Georgia later in the day when the bill has come up. The regular order now is the consideration of the Geneva-award bill; and the gentleman from Ohio [Mr. KEIFER] is recognized for the fifteen minutes remaining of the hour of the gentleman from Pennsylvania, [Mr. STENGER.]

GENEVA AWARD.

The House resumed the consideration of the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award.

Mr. KEIFER. Mr. Speaker, I can hardly hope to say, in the very few moments I am permitted by the favor of the member from Pennsylvania [Mr. STENGER] to occupy the attention of the House, anything new on this momentous question. The millions of dollars—about $10,000,000—involved in the issue of this bill demands of each member his best judgment. The wide difference among the distinguished members of the Judiciary Committee at least warns those of us who are not able to say we have spent years in investigating the questions involved that there is room for honest differences of opinion. Principles, however, do not change on account of the importance or insignificance of cases. As to the details of the bills of the majority and minority of the Committee on the Judiciary I am forbidden for want of time to speak. The bill of the majority of the committee proposes to have the claims to the fund of all parties adjudicated by the Court of Claims, with a right of appeal to the Supreme Court of the United States; the bill of the minority proposes to revive the court of commissioners of Alabama claims, and submit the claims of some of the claimants to the fund to it, to the exclusion of other of the claimants, and to make the decision of such commissioners final. Stripped of all details and circumlocution, the two propositions coming from the Judiciary Committee may be fairly stated thus:

A majority of the committee, as set forth in the bill reported by the chairman, [Mr. KNOTT,] favors the granting to all claimants to any portion of the Geneva-award fund or the interest thereon remaining undistributed a day in court, with a limitation of one year in which to file the claims, with the right of appeal given to each claimant or the United States to the Supreme Court of the United States, these claims to be, in the same manner, prosecuted as other claims in the Court of Claims. All persons are to be deemed claimants and have judgments rendered in their favor who were actual sufferers "by the violation of the laws of neutrality by Great Britain" for such amount as in the opinion of the court they shall severally be "justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations, without regard to any rule or principle of allowance, exclusion, inclusion, or distribution heretofore adopted by Congress," or by the Alabama claims commissioners; all payments hitherto made to be deducted from the judgments to be rendered by said court. The judgments so rendered are to be paid ratably if in the aggregate they exceed the total amount of the said fund and the interest thereon still under the control of the United States; all expenses incident to the hearing of said claims to be first paid out of said moneys; and if any part of the same shall still remain it shall be subject to the further action of Congress.

A minority of the committee (as set forth in the bill reported by the member from Ohio, [Mr. MCMAHON,] favors the recreation of a court of commissioners of three persons, whose judgments shall be final, before whom certain designated claimants shall be granted the right to go, within six months from the organization of such court, and prove their claims, without regard to the "principles of justice, equity, and the law of nations," as the court might find and apply them. In its consideration of the designated claims referred to in the bill of the minority of the committee, the court will have no power in its rule of allowance to exclude or include any claim save as the proposed law directs.

No general principle is to be given to such court to guide it. The fiat of the law, arbitrarily applied, is to be the only guide of the court in making its final decrees. There is to be an utter disregard of the rights of all claimants whose claims were adjudged to be valid within the three rules laid down in article 6 of the treaty of Washington, (May 8, 1871,) as interpreted by the distinguished members of the tribunal of arbitration at Geneva. By section 4 of the bill of the minority the claims suffered to be presented to such court of commissioners are divided into three classes, namely:

First. Claims described in section 11 of the act of 1874 relating to the distribution of this fund so far as they are not adjudicated, and, to quote from the bill—

> Claims directly resulting from damage done on the high seas by confederate cruisers during the late rebellion, including vessels and cargoes attacked and taken on the high seas or pursued by them therefrom, although the loss or damage occurred within four miles of the shore.
>
> Also:
>
> In cases of the loss of a whaling-vessel and outfit the court shall allow, in addition to the compensation provided for in the said original act, the sum of 10 per cent. in lieu of freight upon the value of said vessel and outfit as found by said court.
>
> And upon all judgments heretofore rendered under said act for the loss of a whaling-vessel and outfit there shall be allowed the said sum of 10 per cent. upon the awards as made by the court, with 6 per cent. interest thereon from the day from which said original award bore interest until the date of payment.

Second. Claims for additional interest upon judgments of the court of Alabama claims awarded under the act named, on which the new court is to award 2 per cent. additional interest from the time interest was allowed to the time of payment.

Third—

> The third class shall be for claims for the payment of premiums for war risks, whether paid to the corporations, agents, or individuals after the sailing of any confederate cruiser, in determining which it shall be the duty of the court to deduct any sum in any way received by or paid to the claimant in diminution of the amount paid for any such premium, so that the actual loss only shall be allowed.

Judgments on claims of the first class are to be first paid out of the fund; judgments on claims of the second class are next to be paid in full, or *pro rata* if the remaining fund is insufficient; and so of the claims of the third class.

Let us analyze these classes of claims a little.

The first class includes claims and pretended claims resting on various grounds.

Section 11 of the original act provided for the adjustment of claims for direct losses caused by the inculpated cruisers Alabama and Florida and their tenders, and all claims admissible under that act directly resulting from damage caused by the inculpated cruiser Shenandoah after her departure from Melbourne, (February 18, 1865.) These claims all ought to agree should be paid, but they are to be coupled in the same class with all claims for direct losses on the high seas during the rebellion caused by exculpated confederate cruisers, of which there were a large number, and without regard to time or circumstances of the loss. The bill under the first classification directs the court to award 10 per cent. upon the value of whaling-vessels and outfit, as found by the old court, in lieu of freights; and the further sum of 10 per cent. upon prior awards for value of whaling-vessels and outfits, with 6 per cent. interest from the date the original award bore interest until payment. The second classification seems to be only for the purpose of fixing 6 per cent. as the uniform rate of interest to be allowed.

The third is for "premiums for war risks," or rather indirect losses,

excluded from consideration wholly by the Geneva tribunal, and withdrawn by the United States without reservation from the "case" before that tribunal.

Nothing illustrates more sharply the absolute inequity and injustice of this classification for payment than the fact that nothing is to be included for national losses, damages, or injuries caused by a prolongation of the war, by a transfer of commerce to the British flag on account of the action of the confederate cruisers, and for expenses in the pursuit of such cruisers, &c.; also excluded and withdrawn from the case of the United States before the Geneva tribunal. These national claims, and all private claims for indirect losses, including war premiums, were unanimously rejected by the judgment of that tribunal before the final submission of the case. They should all stand or fall together.

The tribunal, through its president, Count Sclopis, (June 19, 1872,) in deciding against such claims, said:

The arbitrators think it right to state that, after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that the claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations, and should upon such principles be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the governments as to the competency of the tribunal to decide thereon.

The arbitrators being governed by the three rules provided for their guidance in article 6 of said treaty, and as also set forth in said article, "by such principles of international law not inconsistent therewith as the arbitrators shall determine to have been applicable to the case," in their final award also found as follows:

So far as it relates to the particulars of indemnity claimed by the United States, the costs of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States. The tribunal is therefore of the opinion, by a majority of 3 to 2 votes, that there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies.

The tribunal is unanimously of opinion that there is no ground for awarding to the United States any sum by way of indemnity under this head. And whereas, in order to arrive at an equitable compensation for the damages which have been sustained, it is necessary to set aside all double claims for the same losses, and all claims for "gross freights" so far as they exceed "net freights;" and whereas it is just and reasonable to allow interest at a reasonable rate; and whereas, in accordance with the spirit and letter of the treaty of Washington, it is preferable to adopt the form of adjudication of a sum in gross, rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors, as provided by article 10 of the said treaty.

The tribunal, making use of the authority conferred upon it by article 7 of the said treaty, by a majority of 4 voices to 1, awards to the United States the sum of $15,500,000 in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all the claims referred to the consideration of the tribunal, conformably to the provisions contained in article 7 of the aforesaid treaty; and in accordance with the terms of article 11 of the said treaty, the tribunal declares that all the claims referred to in the treaty as submitted to the tribunal are hereby fully, perfectly, and finally settled.

Furthermore, it is declared that each and every one of the said claims, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal, shall henceforth be considered and treated as finally settled, barred, and inadmissible.

The finding and award of the august tribunal is thus set forth at length to enable members to comprehend the completeness with which the arbitrators disposed of possible questions coming within the scope of the treaty of Washington.

On what principles of law and justice the private claims rejected by the tribunal are to be admitted and the claim for national losses (also rejected) is to be excluded we are not advised. In the designation of "claims on the part of the United States" national and individual claims were confounded and were all comprehended together, without making separate mention of individual claims. The General Government, for itself and its citizens, as it was bound by usage and national honor, pressed a general claim for all injuries, damages, and losses against Great Britain. The result was an award in gross of a large sum of money, based on valid claims, found to be such by the rules and principles of international law which a great and wise tribunal found should govern it.

It is wholly immaterial whether it was, as is claimed by some members, the paramount purpose of the United States to have certain great principles of international law settled authoritatively or not by the treaty of Washington and the tribunal that met thereunder at Geneva. It is unquestionably true that so far as the proper disposition of the money award goes it should at least be first applied to the payment of the claims of parties for such losses as were, under the rules which governed the arbitrators, considered in making the award.

There are those who pretend to believe that the award made of $15,500,000 was made to the United States on account of all claims presented by the United States of every kind, name, and nature, and that the arbitrators, in assuming, as they had a right to do under article 7 of the treaty, to make an award in gross to the United States, utterly disregarded the rules which they held applied to claims and included damages for all losses sustained by the United States and all its citizens by reason of exculpated and inculpated cruisers during the whole war.

This is so violent a conclusion that it is hard to conceive how it can be calmly entertained. To reach such a conclusion is to impeach the integrity of all the distinguished arbitrators save Sir Alexander Cockburn, the arbitrator on the part of Great Britain. It is, in the absence of conclusive proof, a most violent assumption to say that these arbitrators laid down with great care rules for the exclusion and inclusion of claims presented, and then in making up an award in gross willfully violated and disregarded them. Had the rules established been allowed to be applied by a board of assessors under article 10 of said treaty, it is conceded that only such claims as would have been valid under them would have been allowed. In a certain sense it is undoubtedly true, as shown by the award already quoted and as required by article 11 of said treaty, that all claims against Great Britain were finally settled by the award. That article is as follows:

The high contracting parties engage to consider the result of the proceedings of the tribunal of arbitration of the board of assessors, should such board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, perfected, or laid before the tribunal or board, shall, from and after the conclusion of the proceedings of the tribunal or board, be considered and treated as finally settled, barred, and henceforth inadmissible.

It will be observed that if the tribunal had left to a board of assessors to make up an award on each valid claim in detail, all other claims would still have been finally settled. But it does not follow that an award in gross was to be held to be paid on account of invalid and unpresented claims, as well as on account of recognized and valid ones. The reasoning in favor of such a view may possibly be called specious, yet it may lead to absurdity, injustice, and wrong. If only one valid claim had been presented and considered in making up the award together with a hundred wholly groundless ones, the holder of the valid claim, if this view is to prevail, would have to share the sum awarded with the holders of such other claims, even though they were grossly fraudulent. The statement of such a proposition is its own refutation.

The bill, Mr. Speaker, of the minority of the committee has no better or broader foundation than can rest upon such an inequitable view. The proposition is captivating, that those who lost their vessels and cargoes on the high seas by all the confederate cruisers, and all those who had to pay war premiums by reason of such cruisers, should be reimbursed, whether the loss resulted or payments were made by reason of exculpated or inculpated confederate cruisers. But it is unsound. It is only because Great Britain was held liable according to international law for the payment of certain private claims for direct losses that any of the claims can be paid at all. It follows irresistably that only such claims as formed the basis of the award against Great Britain should be paid.

Losses of any kind occasioned on the high seas by confederate cruisers put afloat through no fault of Great Britain stand on the same footing as all other losses or damages by the enemy whether on sea or on land. Untold millions of dollars' worth of property have been destroyed by the enemy on land belonging to loyal parties North and South that have as much right in law and equity to the Geneva award fund as the holders of rejected or unpresented "Alabama claims." No person, or party, I believe, has yet proposed to pay claims for losses occasioned by the acts of the enemy on land. They are included under the head of "ravages of war," the payment of which is always refused. There were also billions upon billions of dollars' worth of property destroyed by the Union Army which it is not pretended can be paid even where the parties are of undoubted loyalty and resided in the North. The sympathetic argument is not broad enough. The cloth will not cover all who are naked. It is specially pressed that those who paid war premiums to insurance companies should be reimbursed. It may be that many of them were reimbursed and more too by the war freights collected of the shipper, and hence suffered no loss.

The bill of the minority of the committee is on its face a confession of the inequity of many of the claims included in its provisions. All the claimants to this fund either stand abreast in point of right, or they have no proper standing at all. If the fund was awarded for all the claimants regardless of the merits of their claims, then all should be paid in full or suffer a reduction ratably. The bill itself discriminates not only against the second and third classes named but may operate, yes, its friends admit it will operate, to exclude certain claimants who would be "justly entitled to recover under said treaty and award according to the principles of justice, equity, and the law of nations." By the bill of the majority, all persons and corporations claiming on account of losses during the late war a share in the Geneva award fund, no matter how or when such losses occurred, are permitted to have their claims tested finally by the highest judicial tribunal in our Republic, and by the principles of justice, equity, and the law of nations. This privilege the bill of the minority denies them. It has been said on this floor that to permit this to be done would give to certain insurance companies a portion, if not all, of the fund. This, as a member of this House, I need not decide; nor have I decided it. The highest court in the land is eminently qualified to determine, judicially, who is in equity and justice entitled to receive the fund.

If those who argue so strenuously that the award was made to reimburse all claimants for losses, whether their claims were considered by the tribunal good, bad, or fraudulent, then the court may under the bill of the majority of the committee be bound to include and pay them.

If the award was made to pay all claims, why not use the fund to pay all of them? The bill of the minority refuses to do this, and ex-

cludes absolutely the claims of parties known to have been regarded by the tribunal as valid.

It is a suspicious circumstance that great confidence is expressed in certain things connected with this grave question, and yet there is such bitter opposition made to permitting the highest judicial tribunal in the land to determine them.

Legislative adjudication is almost invariably unwise where great principles of law and equity are to be applied among a large number of parties, and it is always a doubtful expedient. The insurance companies, who it is said may have some claims in equity and justice, are so reviled and abused as to put some men in awe and cause them to hesitate to do their duty even here.

It has been vehemently asserted that these companies will, under the bill of the majority, get the fund "under the doctrine of subrogation by technical rules of the law," or that by invoking the application of such doctrine they will be admitted to receive a portion of the fund. Is the invocation of the doctrine of subrogation (or substitution) an appeal to the law's technicalities? If so, then the terms of the bill of the majority will rule out these companies. Technical rules are set aside by such bill. But subrogation, if not a head in equity, is a rule of equity, and it has no connection with the law's arbitrary and technical rules. Equity may be invoked where the law fails to do justice; it commences where the law leaves off. Subrogation as a rule in equity, where only it has application, had its origin in and was transferred from the Roman or civil law, and was founded, as says Judge Story, "in principles of natural justice." Thus it is made clear that the bill of the minority of the committee proposes to override the principles of natural justice in the distribution of this large sum of money.

The assaults upon the insurance companies must not be mistaken for sound logic or argument in favor of a vicious proposition sought to be applied in support of pretended claims of parties who may have no higher rights, though sufferers, than thousands of others who were crushed under the car of Juggernaut, drawn along by the cruelty and fanaticism of war. The eagerness and zeal of a lawyer, sometimes, on account of the extreme exigency of his case, leads him to assail the real or supposed faults of his adversary in person, in lieu of the ability to successfully assail the grounds of his adversary's case. Though some of us may be lawyers, we are called on to do our duty as legislators. Let us try to perform that duty impartially. I am led to the conclusion I have arrived at by my conviction of what is right in the light of what I deem to be the natural justice and equity of the whole question.

In conclusion, let me say again that the distribution of this fund, it being the fruits of a treaty between this and a foreign government, comes strictly within the judicial power of the United States, vested under the Constitution in the Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. (Constitution, section 1, article 3.) This judicial power extends to all cases in law and equity arising under the Constitution, the laws of the United States and all treaties made under their authority. (Constitution, section 2, article 3.) Shall Congress, as is intended by the proposition of the minority of the Judiciary Committee of this House, usurp to itself that power, or shall we relegate the whole question from Congress and send it for decision where under the Constitution it appropriately belongs, laying down no principles for the guidance of the court save those founded on the broad and comprehensive basis—justice, equity, and the law of nations?

Mr. CONGER was recognized, and yielded to Mr. HUMPHREY.

Mr. HUMPHREY. Mr. Speaker, in considering this question briefly, I desire to call the attention of the House to the point out of which this case has arisen. Under the first administration of President Washington the government of England called upon this Government to provide against foreign enlistments. This Government promptly provided that no armed vessels should be equipped on our shores and be sent forth to prey upon the property of a nation which we were at peace with. The act was promptly passed. It was amended by an act of 1818, first session, chapter 88. The English government, as a matter of comity and in fulfillment of its promise, passed an act, an exact transcript of the act passed by our Government before the close of the last century.

Now, sir, we had our foreign-enlistment act in the wars of 1792 and 1798. We had it in the war of 1857. In the war of England with Brazil we enforced it promptly; and in the Crimean war when the English government gave notice to this Government that a merchantman was being fitted out as a vessel of war for Russia in New York, this Government on that notice alone arrested that vessel: and when soon after it was notified by the English minister that they were mistaken, this Government paid the owners of that ship $25,000 as damages. And when the war opened in the late rebellion and we called upon the English government to give to us the benefits of her foreign-enlistment act, she turned round and said to America, "We have framed and passed this foreign-enlistment act for our benefit and not for the benefit of another nation." We gave them notice, we gave them proof in the case of the Alabama, in the case of the Florida, in the cases of the Alexandria and the Pampero, and in the case of the two French vessels ostensibly fitting out for the Viceroy of Egypt. We gave them notice when the Sumter was at Gibraltar. We gave them notice before the Shenandoah left Melbourne. We furnished notice to the British government, and Earl Russell admitted, when the Florida escaped, it was a disgrace to English law. We gave them that notice in the case of eighteen vessels. We did this, and when the war had closed and when the Geneva tribunal had decided, after the discussion as to indirect damages, that this Government was not entitled to recover indirect damages, the tribunal then passed on to the question of direct damages and agreed we could not recover for the expenses of the pursuit of these cruisers and that the only direct damages we could recover were those which resulted from the losses to the owners of vessels and cargoes and insurers from inculpated cruisers.

Now, Mr. Speaker, when they had come to this decision what was the instruction of our Government to our counsel at Geneva? It was this:

> The President desires to have the subject discussed as one between the two governments; and he directs me to urge upon you strongly to secure, if possible, the award of a sum in gross. In the discussion of this question, and in the treatment of the entire case, you will be careful not to commit the Government as to the disposition of what may be awarded, or what may be recovered in the event of the appointment of the board of assessors, mentioned in the tenth article of the treaty. It is possible that there may be duplicate claims for some of the property alleged to have been captured and destroyed, as in the cases of insurers and insured. The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution. It is expected that all such committals will be avoided.—*Geneva Award Papers*, volume 2, page 416.

And now, sir, we come to the real question. By the majority report, if it passes, the moral obligations of the Government are by this Congress transformed into legal obligations. If there is not enough moral perception in Congress to pass upon this question, then let it go to a court with the legal right only to be passed upon, and shut out moral obligations of every character; because this majority report, I say, transforms the moral obligations of this Government into legal ones.

Nothing but legal rights can be pursued in the court to which it is sent; nothing but legal rights can there be considered; no moral rights can be considered in that court. That court will say to these gentlemen when they go there with their claims, "Your Government has a moral claim resting on it to hear your petitions and redress your grievances, but while your Government has that moral right she has sent the matter to this court, which is not a court of conscience, which cannot deal in moral obligations, which must consider the cases on strictly legal rules, and you are therefore by an act of Congress stripped of your moral right to recover." The claimants who claim to be subrogated have a legal standing in court, but any person who has a moral claim on the Government has been cut off from every vestige of such claim.

I say that that is the effect of the majority report. I ask if it is not in the power of this House and its duty to hold this matter where it can discharge every moral obligation of the Government instead of removing it to a tribunal which, although it may have stronger moral perceptions than Congress, cannot bring one of those moral perceptions to bear on the claim except when disposing of the legal rights of the parties concerned. It would be morally bound as a court of law in the discharge of its functions to pass upon a naked legal right of the claimant and could not lend its ear to one who would claim the Government was morally bound to pay his loss. The clause in the bill of the majority report to dispose of the money as it should in justice, equity, and under the law of nations, simply amounts to this: the insurers will claim the arbitrators decided the case under the law of nations; therefore the Court of Claims is bound under the act to pay to them and no others, as their claims were so recognized by the arbitrators in shutting out claims against exculpated cruisers. The law of nations seeks no place here in this discussion. This Government has the full right unchallenged to do with this fund what seemeth good in its sight.

Mr. Speaker, I desire to call attention to the third section of the foreign-enlistment act, because I desire to have it incorporated in what I have to say. It is as follows:

> SEC. 3. *And be it further enacted*, That if any person shall within the limits of the United States fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince, or state, or of any colony, district, or people, with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than $10,000, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited, one-half to the use of the informer, and the other half to the use of the United States.

As I said a short time since, under an act precisely like this passed by the English government, together with the law of international rule in cases of piracy which she reciprocated to this nation, this Government had to go to Europe to furnish proof to prosecute the pirates in her courts of justice under her laws against piracy. England furnished us not an iota or scintilla of aid either in those cases or any of the cases of vessels claimed by us as being out as confederate war-vessels. We gave them notice that the Tuscaloosa had been eight days in an English port and had transformed prizes of war into war-tenders, because the confederates had no prize court or court of admiralty; so

the Tuscaloosa, after burning what she could not take care of, carried the rest to an English port. Under the rules of neutrality she would only have had time to coal up and leave, whereas after remaining eight days she left her captured prize, transformed into a war-tender, and preyed upon our commerce, and soon this war-tender, full fledged as a war-vessel, sailed the seas destroying our commerce. Thus by that act of the English government our property was destroyed. This Government never yielded the point that there was any such thing as inculpating or exculpating cruisers in the case, and the Government instructed its counsel at Geneva to see to it that the sum awarded should be in gross. What damages were recovered she desired to control so she could give to her children equitably, and would not be constrained by legal rights alone, and would not allow the legal rights of parties to be set up as a barrier against the claim of those who had a moral claim against the Government.

Now, Mr. Speaker, I say that these claims did not grow up strictly under the law of nations, they grew out of the foreign enlistment act; and when she gave notice of this fact, Earl Russell, Her Majesty's secretary for foreign affairs, turned around and said to Mr. Charles Francis Adams, "we have a foreign-enlistment act for our own benefit; we enacted it for our benefit and not for yours." Afterward when the Florida had escaped he said in a speech at Manchester, that the escape of the Florida was a disgrace to British law. Sir Roundell Palmer, now lord chancellor and then attorney-general of the British government, stood up in Parliament and said that it was one of the triumphs of British justice that British law did not proceed on suspicion, after we had proceeded on suspicion during the Crimean war and after the Government had acted with equal promptness in the case of the Fenians on the Canadian border.

This Government, sir, has never yielded the point that every vessel that left Great Britain equipped in British waters and manned by British seamen was an act of war on the part of that government, just as much an act of war as any act that any government could perform against another nation. Due notice had been given to the British government; and I say again that if you transfer this case to a court of equity or tribunal of equity or to a court of law, you deprive every man who has a moral claim of any benefit it could confer. Suppose that I, when I found that I could avoid the payment to my children of what I was under a moral obligation to them to pay, by saying to them, I will submit the case to a court of law, thus transferred to a court of law, where no moral obligations can prevail, where even equity can have no place, I thereby shirk from and avoid my moral obligations, thus disgracing myself, wronging my family, and setting at naught that principle of domestic relations dictated by the laws of conscience and by natural affection.

Mr. Speaker, we might have disposed of the question at issue between this Government and Great Britain as a question of international law without having required her to pay one cent of money. The principle involved and the damages to be paid was a question existing entirely between the two governments. Consequently when this Government received the damages awarded, it became as much her duty to consider the claims of one class of persons who suffered as another. The Government can stand upon no legal right. A moral obligation is as much binding upon her as any other. Her subjects who have a moral claim are as fully entitled to have that claim satisfied as those having a legal claim. They suffered damage; it was direct damage—as much the necessary and proximate or natural result of the wrongful act complained of as any legal claim, and if this Congress shall adopt the majority report and send this matter to the Court of Claims, it avoids the performance of its moral obligations and sends it to a tribunal which cannot consider a moral obligation, and creates legal rights that do not now exist, and destroys moral obligations that its sovereignty should shield and protect.

Mr. CONGER. I now yield ten minutes to the gentleman from Illinois, [Mr. BURCHARD.]

Mr. BLOUNT. If agreeable to the House, I would like now to proceed with the consideration of the post-office deficiency appropriation bill.

Mr. CONGER. Let these gentlemen speak who are now ready in my time.

The SPEAKER. At the end of the hour of the gentleman from Michigan [Mr. CONGER] the Chair will recognize the gentleman from Georgia, [Mr. BLOUNT.]

Mr. BLOUNT. Very well; I will not press it now.

Mr. BURCHARD. It has been contended, Mr. Speaker, by those who favor the bill reported by the majority of the Judiciary Committee, that distribution of the sum awarded by the arbitrators at Geneva should be made by this Congress only to the sufferers by cruisers for whose acts Great Britain was decided by the award to be responsible. It has been claimed that the nation accepted this money as trustee for the parties who preferred their claims before that tribunal; that under the law of nations the Government acted as trustee, and as such trustee is bound to make the distribution of this fund to those sufferers whose damages formed the basis upon which the arbitrators determined the amount to be paid to the United States. Now, I do not find that the authorities on international law sustain any such position. I find that, as cited in the minority report, the courts themselves have repudiated the doctrine. Sir Alexander Cockburn in his opinion accompanying this very award says that the two nations were treating with each other as nations in regard to national obligations and national rights.

In its negotiations and treaty with Great Britain in regard to the Alabama claims the United States acted for itself as a nation, and not as agent for claimants. The award was made to it as a nation, and the proofs in regard to particular losses were necessary only to ascertain what damage the acts of Great Britain as a nation had occasioned. Neither the award nor the treaty limited the disposition of the fund awarded. The United States was left wholly free to dispose of the money according to the equities of the parties who suffered from the claims which were satisfied and finally disposed of and barred by the adjudication. The award barred the United States from asserting thereafter any claims generally known as the Alabama claims; that is, injuries done by confederate cruisers built, equipped in, or sailing from the ports of Great Britain. But the proofs submitted by the United States before the arbitrators to ascertain what sum or measure of indemnity should be awarded to be paid by Great Britain to the United States gave claimants whose injuries were then proved no vested nor exclusive interest in the award. Their rights, equities, and claims were open for examination, allowance, or rejection by the United States when it should distribute the fund awarded.

The claims which the United States made upon Great Britain were for damages inflicted and losses occasioned by all the confederate cruisers. There was awarded, and the United States accepted, a sum in gross in satisfaction and final settlement of all claims the United States had upon Great Britain for their acts.

In distributing this award so as to apply the money in reimbursing actual sufferers from the depredations of these cruisers the Government violates no legal right or moral duty. It accomplishes the highest equity.

I object to the bill reported here by the majority of the committee, because under its provisions this case is not submitted to any tribunal upon its whole merits. It restricts the judgment to be rendered by the court to each claimant who was the actual sufferer by a violation of the laws of neutrality by Great Britain for such an amount as he shall be entitled to recover under the treaty and award. The tribunal is to be governed by the award in determining who is a sufferer. The award fixed the liability of Great Britain, ruling out certain cruisers; and in computing the measure of damages to be assessed against Great Britain, excluded a portion of the claims presented under the treaty of Washington.

Hence it appears upon the very face of the bill that jurisdiction is denied the court to a class of claims which some members of the committee, explaining this bill, say the court ought to have equitable jurisdiction to hear and determine there. There is danger that such will be the construction of the law if the majority bill should pass; for under the award Great Britain was exculpated as to certain cruisers, and for those depredations claimants, if restricted by the decision of the award, would be absolutely ruled out.

As to the proofs which were submitted before that tribunal, they were merely presented for the purpose of ascertaining the amount of damages that the nation had suffered, not to establish the rights of claimants. That tribunal in passing upon the question of indirect claims, as they are called, the question of enhanced rates of insurance, did not rule that those claims should not be taken into account in the distribution of the award. But the question for them to determine was in regard to the payment of damages, what was the actual destruction of property; what property was destroyed belonging to the United States, or the citizens of the United States for the destruction of which Great Britain was responsible. The amount of property thus destroyed was doubtless the measure of damages. As to the equities of the parties, the question to whom this distribution should be made was left perfectly free and open, so far as anything in the treaty is concerned. If there had been a provision in the treaty that restricted the American nation in the distribution of this award, then it would be incumbent upon us to distribute the award according to the terms of the treaty. But the treaty itself, the negotiations, all that was done, leave that question open to be determined according to the equities of the case.

There may be a moral obligation which the Government itself ought to respect, but there is nothing in the law of nations and nothing in the treaty to restrict our action. We are here perfectly free, representing the American people, to make this distribution according to the principles of equity, according to the highest equity, as it appears to us. And we shall not have discharged our duty if we refer this question to some tribunal to act upon it without regard to the equities that appear in the case.

Now, who have the highest equities in this fund, accepted by the United States in satisfaction of the claims described in the treaty? Those who really suffered by the injuries of which the United States made complaint and which were referred to the tribunal. Injuries to citizens of the United States who really suffered should be compensated. It appears from the evidence presented before the former commission, and which is now before us, that in the first place is to be considered those who were owners of property and who were injured when that property was destroyed. Some whose property was destroyed were reimbursed by the insurance companies, and under the doctrine of subrogation those companies would be substituted, in so far as the owners were recompensed, and receive the amount contributed by them.

But there is a further equity. Of whom did the insurance companies receive the money which they paid to the parties whose property was destroyed by the cruisers? They collected it from the men

who paid the enhanced war premiums. The latter have just as high an equity to be substituted and subrogated for the insurance companies to the extent of their payments as the insurance companies have to the amount which they advanced to the owners of the property. But there is danger, if not certainty, that under the bill of the majority this equity will be disregarded. The bill refers this question to the Court of Claims. How is the judgment to be rendered, and upon what principles determined? According to "justice, equity, and the law of nations." The law of nations does not apply to this case: there is nothing in the treaty so limiting it. How is the court to interpret that direction? It is a court of limited jurisdiction, so decided in 9 Wallace, in the case of Benson *vs.* United States, which held that the Court of Claims had jurisdiction to render judgment upon contracts, but no equitable jurisdiction. You refer these questions to a law court, giving it no equitable jurisdiction, no chancery powers—only requiring it to do what? To render a judgment according to justice, equity, and the law of nations, a common-law proceeding. Under the authority to decide questions according to justice and equity will this court assume chancery jurisdiction? If it does, will it take the broad view that it is not to confine its interpretation of equity to cases already adjudicated and recognized under that which insurance companies are subrogated to the rights of the insured, or will it go still further and admit that those who suffered loss by the payment of war premiums shall be subrogated to the rights of such insurance companies as have sustained no loss? We ask that in the distribution of this sum we shall ourselves instruct the court to be governed by this highest equity, the substance of which is embodied in the substitute offered by the minority.

Mr. CONGER. I now yield to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Speaker, there is one inquiry which is fundamental in this discussion and from which have arisen most of the differences of opinion which have been expressed. That inquiry is, ought the United States, in distributing the Geneva award, to be subject to the same limitations and governed by the same considerations as those which determined the action of the Geneva tribunal?

In trying to arrive at an answer to this inquiry, it may be convenient to consider the duties of a nation as coming under two classes, those which it owes to other nations and those which it owes to its own citizens.

To other nations each government owes all the offices of a good neighbor. It is not only bound to abstain from inflicting injury upon others, but it must use all vigilance and put forth its best endeavors, that it may not be made the occasion of injury. It may not always be in its power to accomplish this object perfectly. In that case, responsibility is limited by ability; but no excuse can avail it, if it falls short of doing the best that it can for this end.

To its own citizens every nation owes protection—protection to life, liberty, and property. This, indeed, is what it principally owes. It must afford such protection to its people that they will be left at liberty to follow all honest and useful avocations without fear of interruption by violence or fraud. It must secure equal protection, and protection both by land and sea. Everything which a nation owes may perhaps be included under the head of protection. In saying this, I only repeat what is familiar to us all as one of the most elementary principles of government. There are, of course, natural limitations to what a nation can do in protecting its citizens. Some of their interests lie outside of its jurisdiction, and are beyond the reach of its power to protect. But the best that it can do in this direction, is plainly its duty.

The destruction inflicted upon our commerce during the late war was the result of failure on the par of two great nations to discharge their duties—the failure of England to be a good neighbor and the failure of the United States to be the protector of its citizens; the failure of England to prevent her harbors, her resources, her military stores from being used to destroy our ships, and the failure of the United States to secure that ordinary degree of safety for its merchant marine which is expected of civilized and well-governed nations even in time of war.

England's failure in duty was the ground of the Geneva award. It was decided that she had not used proper vigilance. In determining the amount of the indemnity which she should pay to the United States, the tribunal, first of all, took into account the natural limitations of her responsibility. They absolved her, very properly, no doubt, from all obligations to pay indirect losses. They were also under the necessity of considering what award would be consistent with the general welfare of nations. They must establish a safe precedent. They not only took into account what was fair between England and the United States, but also what would be permissible and practicable among the nations of Europe. Their award must be heavy enough to deter other nations from such negligence and yet not so heavy as to be impracticable or to tempt governments to try to escape payment by resorting to war. The members of the tribunal were acting from an international stand-point. In part they were controlled by, and in part they were making, international law. They had to consider, not only what was abstract justice, but also what the public sentiment of the civilized world would sustain. They could not avoid asking what would be a wise and beneficent precedent among nations. We have all read the standard writers of English history, Hume and Clarendon, Froude and Macaulay. Any one who will refresh his memory for a moment in regard to those portions of the works of these authors which set forth the relations of England to the powers of the continent, will remember many instances in which negotiations between Great Britain and other nations were affected and modified by the influence of a third party. All history teaches that no difficulty between two nations ever was settled by arbitrators chosen from abroad precisely as if those two nations were the only ones in the world. In all cases of joint arbitration by representatives of several powers, a broader view is taken than the mere matter in dispute—broader than the interests of the nations which are parties to it. It is not possible that such an arbitration should be conducted without some reference to what the great family of nations would approve and what would harmonize with the common prosperity. These, then, are the grounds upon which the Geneva award was made.

But the ground on which the United States should distribute the money it has received, is evidently quite different. Our citizens lost their commerce through the failure of the Government to protect them, and it must so distribute the money at its disposal as to make good, so far as possible, the injuries resulting from this failure. When the war broke out our Government was taken unprepared. It had to consider how the limited force which it had could be most effectively employed to preserve the Union. It decided upon a policy which was no doubt a wise one but which left our commerce mostly to perish. Thus while the war sustained agriculture and greatly stimulated manufactures, it swept our commerce from the ocean. No true patriot complained of this most unequal distribution of burdens. There was no great interest at the North which would not cheerfully have consented to be sacrificed had the preservation of the national life demanded it. But certainly it was the duty of the Government, when the war was over, to do something to compensate the robbed and impoverished class for the ruin of their industries. It often happens in the hard exigencies of war that different classes suffer very unequally, but no great and generous nation ever came out of such a war without attempting some rough approximation toward placing all portions of the people upon equal terms. The propriety of this is recognized whenever a war claim is paid. It is recognized in this House in the very fact that we have a committee to receive and consider such claims. We pay about thirty millions of dollars per annum in pensions to soldiers and those dependent upon them. What is this but a rude attempt to place those who voluntarily accepted the privations and dangers of war upon a plane of something like equal advantage with those who remained at home.

The stand-point of our Government, then, in distributing this award, is not international, but domestic. It would be absurd for the United States to be governed in the work of distribution by the diplomatic influences which made themselves felt at Geneva. England paid the award to make good her failure as a neighbor. This nation distributes it to make good its failure as a protector of its citizens.

Since, then, the stand-point of the Geneva tribunal was different from that now occupied by this country, it is evident that the fields of investigation in the two cases might not entirely coincide. The field which the tribunal would cover might at some points be broader and at others narrower than ours. Few, I think, will contend that we, in meeting the needs of our citizens, can give weight only to the considerations which prevailed at an international conference, especially as we are only imperfectly informed as to what they were. The two ends in view, that of Geneva and that of the United States, may cover in large degree the same ground, but still they are distinct ends. Some of the most grievous losses suffered by our citizens were those of vessels destroyed by the Shenandoah before she entered Melbourne. In this case England was acquitted of responsibility. There was, indeed, much that in equity made England responsible for the ravages of the Shenandoah from the very beginning. The general policy, however, of the great family of nations forbade that she should be held responsible, and we cheerfully submit. But the claim to protection from us of vessels which were destroyed by the Shenandoah before she entered the harbor of Melbourne, is just as perfect as that of vessels which were destroyed afterward. The claim of our citizens to be protected from losses by the exculpated steamers is just as valid as their claim to protection from losses by the inculpated steamers.

I repeat, then, that the end to be achieved by our Government in distributing the indemnity received is to make good the losses resulting from our failure to protect our citizens. This makes it our duty to pay for the class of vessels already named—those that were destroyed by the Shenandoah before Melbourne. So, too, we should make compensation for losses growing out of increased war premiums. Here also protection was due from us, but was not afforded, and burdensome losses occurred. As regards the insurance companies, I cannot discover that they had any exposed interest during the war or any interest that suffered. They had no interest which the Government could protect or could fail to protect. An intelligent secretary was all the protection they needed. They had only to put their premiums high enough and all their interests were safe. They were glad to take large risks, and they continued to do this with profit to the end of the war. The risks of marine insurance, like those of life insurance, have been reduced to a science. In time of war the officers of an insurance company have only to read the papers and look at their tables, and if a case of doubt should arise, they can

give the company the benefit of the doubt, and put the premium high enough to meet all emergencies. The very large net profit which the insurance companies made during the war furnishes evidence that they did not forget to avail themselves of these principles of their business.

Let us not, then, attempt to act the part of an international tribunal, seeking to adjust difficulties between nations, but the part of a just and beneficent nation, seeking to compensate its own citizens. Let us help those who need help—those who have suffered heavy losses through our failure to secure to them legitimate and efficient protection.

Mr. CONGER. I now yield seven minutes to the gentleman from New York, [Mr. CHITTENDEN.]

Mr CHITTENDEN. Mr. Speaker, I am less fortunate than the gentleman from Pennsylvania, who felicitated himself on Saturday that the local interests of his constituents were not involved in this discussion, and who was frank enough to say he would not trust the judgment of himself or any gentleman otherwise situated.

My immediate constituents are concerned in the business now before the House, and I myself have a personal interest in it. I hope, nevertheless, in the few remarks I have to make, to show that I am not disqualified to judge the case fairly.

Since 1843 I have been a part of the Atlantic Mutual Insurance Company, of New York, than which no better insurance company ever existed.

However inconsequential my interest may be, I suppose my right to share its fortunes, past and present, is as genuine and incontrovertible as the right of any member of the association. The foreign business of my firm during the war was mainly with England and France, and our goods were necessarily brought to us in foreign ships. We paid no war premiums, or if any very rarely, but our profits and dividends from the company were made upon its general business, and such profits and dividends have never been for a period of years more rewarding than during the war period.

The majority report under consideration, while in terms referring the whole subject of distributing the money in hand in the last resort to the highest court, is yet in effect a bill to pay insurance companies and nobody else. Under the bounds and limitations of the Geneva tribunal this conclusion in the end is unavoidable. I frankly admit, Mr. Speaker, that in listening to my colleague [Mr. POTTER] on Friday I felt that his argument was conclusive in the case, if we are to be governed by clear, cold, pitiless technicalities without regard to equity and eternal justice. But on reflection I think the majority report ought not to be adopted until two important questions have been settled.

First. How will the United States remunerate its suffering citizens whose property was destroyed by the exculpated British cruisers? None are more deserving. Their chance if the majority report is adopted is nil. Every lawyer knows it. Why mock them with any pretext to the contrary?

Secondly. What is to be the final disposition of three or four millions of this fund, more or less, which may in the end prove to be in excess of the claims admitted and adjudicated by the Geneva tribunal?

As a member of the Atlantic Mutual Insurance Company I will never, by any act of mine, consent to touch one cent of this money until these questions are disposed of. Let us not forget for one moment that our country is about to assert her rightful supremacy in the commerce of the whole world. We must keep our honor bright. We cannot afford to sully it for nine, or ninety, or nine hundred millions. Let us not hesitate to send all the award we now have in possession, or any part of it, where the fishery award has gone, if we got it by mistake. An example of the highest type of national honor is in order now for us. This case furnishes a rare and grand opportunity for its exercise. I trust we shall utilize it for the honor and advancement of our own fifty millions of people, and for the instruction of mankind. It will pay us, as a people, richly, to be scrupulously upright and just in disposing of what remains of the Geneva award, and so much the more so because we were euchred at Halifax.

Mr. CONGER. I now yield three minutes to the gentleman from California, [Mr. LUTTRELL.]

Mr. LUTTRELL. Mr. Speaker, in the early part of the first session of this Congress I introduced a bill providing for the proper distribution of the Geneva award among the several equitable claimants who were actual losers by the Alabama and other confederate cruisers. The substitute or bill reported by Mr. MCMAHON from the Judiciary Committee, and now under consideration by the House, embodies all that was contemplated by my bill and makes full and equitable provisions for the distribution to actual losers, and is, in my judgment, strictly in harmony with the award of the arbitrators at Geneva, and if enacted by Congress will carry out fully to all intents and purposes the conditions of said award, meeting out justice to all losers equitably. The intention of the arbitrators was to fully indemnify the United States Government and the citizens thereof for all actual, but not for prospective losses, as alleged by grasping insurance companies. The Geneva award, with accumulated interest, amounts to upward of $20,000,000. Four years ago Congress authorized the payment out of the fund of what were regarded as the most meritorious claims, but when all these are settled there will still remain a balance of some ten millions in the custody of the Government. The question as to what is to be done with this surplus is one of the highest importance. It is a question that concerns the national honor, if not indeed the peace of the world.

The settlement of international controversies by arbitration may depend upon a proper disposition of this money. The opinion is general that it ought to be paid out to parties who sustained loss by the act or negligence of Great Britain, if such parties can be found, and, in any event, that it ought to be paid out to the extent of such claims. If, however, meritorious claims cannot be found to cover the whole of it, the fact will show that Great Britain was overreached in the arbitration, and the money remaining might in all fairness be returned to her exchequer. We should not, under the peculiar circumstances of this case, take advantage of or profit by a misapprehension or possible misrepresentation at Geneva. No part of the money was intended to replenish the Treasury of the United States, and if not distributed to private parties, as intended, it had better swell the conscience fund of Great Britain than remain an incubus upon the conscience of this country. In the Government Treasury it will be a subject of contention as long as it remains there, and in the end prove to be a burden rather than a gain to the nation.

But there are demands against the fund aside from those already recognized about which there should be little controversy. The direct claimants have been cut short in various ways, and that should be made up so far as it can be by allowing to them 6 per cent. upon their judgments instead of 4 per cent. The allowance at Geneva was undoubtedly 6 per cent., and that too in gold, while the judgments are payable, principal and interest, in currency, the interest being computed at 4 per cent. a year only. Besides, the judgments are, as a rule, for much less sums than were presented by citizens to the Department of State, and they were presented there upon the invitation of that Department and in accordance with its prescribed rules, and they were by it in turn urged before the tribunal at Geneva and unquestionably allowed.

In addition to this, claimants have been compelled to incur heavy expenses in order to properly present and maintain their several demands. In some cases the claim, though indisputable, has been exceeded by the disbursements, and in every case it has been much reduced by them. It would seem, in view of these facts, that the additional 2 per cent. ought to be allowed without hesitation on the part of Congress.

The next class of claims in the order of merit are those for damage by British-built cruisers other than the Alabama, Florida, and the Shenandoah. These claims are for direct losses, and are hardly distinguishable from those which have already been allowed. But all of the above unrecognized claims would not consume more than three or four millions of the surplus, and would still remain in the fund undisposed of, a balance of at least six or seven million dollars. To this large surplus the insurance companies are laying claim; and those who paid what are called war premiums upon sea-borne property, whether ships or cargoes, are likewise making claim to this same balance. This latter class are actually out of pocket the amounts so paid by them, and they put their claims upon strictly equitable grounds, as indeed all claims upon the fund must be put, since no one has a legal right to share in the money until Congress confers that right. It was the money of these claimants so paid in as war premiums that went to reimburse a portion of the losses that did actually occur. As a matter of fact, while these individual property-holders are out the amounts so severally paid by them, the individual stockholders of the insurance companies lost nothing whatever. On the contrary, each shareholder in an insurance company made money by the operations of his company; for the insurance companies, through their officers, always charge a rate of insurance sufficiently high to cover all probable losses, and with rare exceptions they come out gainers in the business, as the following telegram of rates of charges will show:

NEW YORK, *June* 24, 1863.

To THOMAS DAY, *San Francisco*:

Have insured the Tell, Donati, and Crockett, at 19½ per cent. and the America at 30 per cent.

MITCHELL, VANCE & CO.

Thirty thousand dollars war premium paid on one hundred thousand dollars' worth of goods by Mr. Day. So much for the grasping greed of the insurance corporations of whom the gentleman from New York speaks in such glowing terms: liberal gentlemen; liberal managers; liberal corporations; liberality that crushes the merchant, the ship-builder, and poor sailor, and enriches corporations. But there was no way by which the war-premium-payer or the poor hard-worked and unfortunate American sailor could get his money back, and he or they never did and never will get it back, unless Congress authorizes its payment out of the "Geneva award." The following synopsis or report of the business of the several marine insurance companies for the years as stated, made generally from their own official returns, namely, for the five years 1861 to 1865 inclusive, which take in all the period of war premiums and war losses, and second for the five years 1866 to 1870, immediately succeeding the war, will show the reasons why these companies did not (could not) present to the court any claims for losses under the law of June 23, 1874, simply

because their war business had been an immensely profitable, not a losing business to them:

1861–'65.	Premiums.	Losses and expenses.	Net profits.
Atlantic Mutual	$30,966,601 54	$19,920,895 66	$11,045,705 88
Sun Mutual	9,723,417 54	8,274,860 04	1,448,557 50
Commercial Mutual	2,313,776 48	1,659,266 04	654,510 44
New York Mutual	2,864,397 51	2,133,315 64	731,081 87
Mercantile Mutual	5,232,523 45	4,658,853 18	593,670 27
Great Western	11,093,288 88	8,080,256 03	3,013,032 85
Pacific Mutual	3,411,944 69	2,222,628 46	1,189,316 23
Union Mutual	2,525,266 23	1,604,141 27	921,124 96
	68,151,216 32	48,554,216 32	19,597,000 00
Columbia Insurance Company, November 1, 1860, to January 1, 1865	9,003,440 75	5,301,540 08	3,701,900 67
Washington Marine, 1861–'65	1,766,842 00	1,492,603 30	274,238 70
Total	78,921,499 07	55,348,359 70	23,573,139 37

The eight companies first above named are footed separately from the other two, which failed and discontinued business at an early period, and therefore are not taken in the account of the five years (1866–'70) following:

1866–'70.	Premiums.	Losses and expenses.	Net profits.
Atlantic Mutual	$33,902,974 71	$23,729,339 83	$10,173,634 88
Sun Mutual	4,940,769 84	5,316,525 13	
Commercial Mutual	2,079,402 59	1,308,657 08	770,745 51
New York Mutual	1,603,637 27	1,035,912 05	567,725 22
Mercantile Mutual	5,588,985 64	4,214,070 56	1,374,915 08
Great Western	10,434,276 50	8,223,139 08	2,211,137 42
Pacific Mutual	3,470,581 02	2,571,254 71	899,326 31
Union Mutual for 1866, 1868, 1869, 1870, (4 years)	941,549 36	603,553 55	422,494 76
For 1867, estimated	235,387 34	150,888 39	
	63,197,564 27	47,153,340 38	16,419,979 18
Take from profits the loss of the Sun Mutual			375,755 29
Leaves net profits for the five years			16,044,223 89

The net profits of the ten New York companies for the years 1861–'65, on the total amount of premiums received, amounted to 29.869 per cent. And for the eight companies (leaving out the Columbian and the Washington) the net profits were 28.755 per cent. For the same eight companies the net profits for the years 1866–'70 amounted to 25.387 per cent. Thus the years of the war were more favorable to these eight companies by 3.368 per cent., or $2,295,332.96, after paying all losses, war and otherwise, than the five years of peace (1866–'70) which followed.

The returns of these companies do not separate the war premiums from those on ordinary risks, therefore the profits of the war business do not appear by themselves.

These New York insurance companies claim to have lost by war risks in the years 1861–'65, as appears in the "Revised list of claims filed with the Department of State," as follows, to wit:

The Atlantic Mutual Insurance Company		$1,791,616 00
The Sun Mutual Insurance Company		265,158 09
The Commercial Mutual Insurance Company		89,962 00
The New York Mutual Insurance Company		94,342 00
The Mercantile Mutual Insurance Company		95,435 00
The Great Western Insurance Company		334,810 00
The Pacific Mutual Insurance Company		131,953 00
The Union Mutual Insurance Company		68,428 26
Eight companies		2,871,724 35
The Columbia Insurance Company	$780,713 68	
The Washington Marine Insurance Company	36,170 89	
		816,884 57
Claimed for losses by ten New York companies		3,688,608 92

After paying which, and all other losses and expenses for the five years, (1861–'65,) which included the whole period of the civil war, they had left a clear profit of $23,573,139.37.

It shows conclusively that the insurance companies made millions, while they that paid exorbitant special war premiums lost all. Can we as the sworn representatives of the people stand here and ignore the rights of the actual losers? Can we rightfully take this fund and give it to the insurance companies who made their millions, and leave the actual loser, who paid exorbitant war premiums, without compensation for his losses? Can we do this and at the same time say that we are carrying out the objects of the Geneva arbitration? I think not!

But it is sometimes said that the merchant added the amount of the premium to the price of his goods, and thus made himself whole; but that could not be, for his goods were in competition with merchandise not insured or which was imported in neutral vessels, and there was clearly no possibility of recovering money so paid for insuring vessels which were not sold at all. While it would be entirely practicable to pay out this money to war-premium claimants, all of whom are American citizens, there would be insuperable difficulties in the way of distributing it among insurance companies the stockholders in which are in many instances foreigners and not unfrequently British subjects. Upward of forty companies were engaged in the business of insuring against capture during the war, and some of them were at the same time insuring against fire and ordinary marine disaster. A large proportion of those companies are not now in existence, having wound up their business, or have been broken up by the Chicago and Boston fires. The books and assets of a number of them are in the hands of receivers or assignees in bankruptcy, and are in various stages of legal proceedings. Their claims against the Alabama fund have in some instances been disposed of at forced sale and bought for less than a song.

Inevitably great complications and injustice would result from an attempt to pay over the balance of this money to the insurance companies, while there would be no difficulty in distributing it among the loyal war-premium claimants and the gallant sailors in sums exactly covering the loss of each. And this would be an equitable and just solution of the whole difficulty. The claimant would have to state and prove his account, as well as his individual right to recover. And there would be no possibility of the money going in the wrong direction or to unworthy parties.

Let the majority amend the bill so as to include all—each and every one who has sustained loss, whether as merchants, shippers, ship-owners, sailors, or war-premium payers; include all—each and every one who has sustained loss by confederate cruisers at any time between and including the years 1861 and 1865, permitting each to present his or their claim to the courts; exhibiting both pages of their ledgers, the loss and the profit, presenting his or their claim with all the facts. Do this, and the insurance companies will show a net profit of nearly $25,000,000 received from war-premium payers alone. While Metcalf and others will show losses for which they demand at your hands such legislation as will enable them to recover their just dues, which are and will be excluded under the bill proposed by the majority of committee, unless amended. The bill proposed by the majority of the committee is so ingeniously worded that, if passed, it will enable the insurance companies to defeat all honest claimants through legal quibbles and technicalities. I will cheerfully vote for any bill that will open the doors of the courts to all actual losers, paying to each his or their actual loss, to the extent of the fund. I care not when nor where property was destroyed by confederate cruisers; it should make no difference in the distribution and payment under the award. We should not keep these poor men waiting for years, subject to the legal quibbles of grasping corporations, but hear and determine the actual loss of each, taking into consideration the loss and profit, that justice may be done to the poor man as well as to soulless corporations who have grown rich over the misfortunes of the gallant sailors, the merchant, ship-builder, and war-premium payer of the late war. Let us once more legislate for the people, and not for the especial interest and benefit of insurance companies and corporations.

Mr. Speaker, this is a square contest between the insurance companies on the one side and the people on the other, represented by E. W. Metcalf, owner of the ship Delphine, which was destroyed by the Shenandoah just before reaching Melbourne. The insurance companies have made a special fight against Mr. Metcalf for the reason that the claims of many others depend upon Metcalf's success; yes, many other actual losers who are too poor to come here or fee attorneys and are watching with eager eye the result of this contest. Hence the strong opposition on the part of the insurance companies to the passage of any bill that provides for the payment of Metcalf's claim. The Metcalf claim is the claim of the people; it is a representative claim of the actual loser. He stands here single-handed and alone, upon merit, opposed by all of the legal talent the wealth of corporations can command, opposed by sleek and oily-tongued lobbyists, opposed by all the powers and machinations that money can invent. Shall we espouse the cause of moneyed corporations or that of the poor, weak, and helpless sailors who have but one claim, that of justice and equity? I see but one road open to me, and that is to do my duty and espouse the cause of the weak, the side of justice and equity.

Unless we pursue this course we, the democrats of this Congress, will fall into the same groove through which former Congresses have traveled for the last fifteen years, the result of which has been to build up aggregated capital and corporations at the expense of honest toil; that has given to corporations hundreds of millions of acres of the people's lands, hundreds of millions of the people's money and bonds; that has exempted the bonds held by rich corporations from taxation while all the products of labor are taxed; that has degraded labor by inviting to our shores, for the benefit of corporations and cheap-labor advocates, hordes of cooly slaves, thereby impoverishing the poor and creating distrust and discontent in the hearts of laboring-men all over our broad land. Let us avoid this by protecting the people, the actual losers, against the unjust claims of greedy and grasping insurance corporations. Look around this House, look along the corridors, look in any direction you please, and you will see the sleek lobbyist button-holing members to vote for the bill advocated by the insurance companies. Very few, if any, of the actual losers are here. The poor men and sailors who paid war premiums are not here. They were ruined by the war and the high war premiums charged by these rich and aristocratic insurance corporations. They are too poor to come here. They have no money to fee attorneys to

advocate their claims, while the insurance companies are represented by the best legal talent in the land to press their bill.

The corporations or insurance companies have two objects in view, as follows: first, to pass their bill excluding all others but themselves from sharing in the award; second, in case of failure, to defeat the people's bill for the benefit of the actual loser and war-premium payer. They purpose to defeat all legislation that has for its object the distribution of the award among the actual losers, as was intended or contemplated by the arbitration at Geneva. They reason in this wise: that corporations never die; that men do; that but a few short years will elapse before Metcalf and Johnston, Rosenstock, and others will have been summoned to that final sleep that knows no waking, and then there will be no one here to contest the passage of a bill for the benefit of these soulless corporations to enable them to secure the balance of the Geneva award.

Mr. Speaker, we as the Representatives of the people should heed the prayer and petition of the poor men and brave sailors who demand at our hands the payment of the losses which they have sustained and for the payment of which Great Britain has paid into the Treasury of the United States Government a sum ample and sufficient to meet the demands of all just claims of actual losers. In every instance insurance companies have had made up to them by the court of Alabama claims all that they have lost. That is, in cases where they have failed to recover back for losses the court made it up to them. The insurance companies received in advance from those who paid war premiums more than they lost, except in four cases; and in those they had it made up to them by the court of Alabama claims. Place Metcalf, Johnston, and others who have lost ships and goods, upon the same equal footing or standing financially that the insurance companies occupied at the close of the war, or now occupy, and they will ask nothing more at the hands of Congress. Place these actual losers upon the same equal footing of the insurance corporations, and they will be content. Justice will have been meted out to all alike, and the objects of the arbitration at Geneva will have been a national success.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] now has eighteen minutes remaining.

Mr. CONGER. I will reserve that time for the present.

PAY OF HOUSE EMPLOYÉS FOR DECEMBER.

Mr. SPRINGER. I desire to offer a resolution pertaining to the organization of the House. It is necessary in order to enable the Clerk to prepare his pay-rolls for the present month in view of the coming vacation. I ask unanimous consent, therefore, to offer the resolution which I send to the Clerk.

The Clerk read as follows:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and instructed to pay the officers and employés of the House their respective salaries for the month of December, 1878, on the 20th day of said month, or as soon thereafter as practicable.

There being no objection the resolution was considered and adopted.

Mr. SPRINGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had adopted a resolution (in which the concurrence of the House was requested) providing that copies of Walker's Statistical Atlas, heretofore ordered for the use of the two Houses of Congress, be bound by the Public Printer.

The message also announced that the Senate had passed, without amendment, House bills of the following titles:

A bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia; and

A bill (H. R. No. 5485) for the relief of Andrew Muckle.

The message further announced that the Senate insisted on its amendments, disagreed to by the House of Representatives, to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed as conferees on the part of the Senate, Mr. ALLISON, Mr. BLAINE, and Mr. DAVIS of West Virginia.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

TRANSPORTATION OF MAILS BY RAILROADS.

Mr. BLOUNT. I move that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of considering House bill No. 5682, providing for a deficiency in the Post-Office Department.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CARLISLE in the chair,) and proceeded to the consideration of the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879. The bill was read a first time.

Mr. BLOUNT. Mr. Chairman, as the House will see, this is a proposition to add to the appropriations for the present fiscal year the sum of $450,000 for railway mail service, accompanied with a provision that the postal-car service shall not be increased beyond what it was on the 1st day of December, 1878. The Secretary of the Treasury in his report calls attention now, as he did during the last Congress, to the falling off of our revenues from the principal services, customs and internal revenue. In his report of last session he suggested that there should be a lopping off of expenditures in the matter of public buildings. He now goes further and does what the Committee on Appropriations have thought all the time might have been done; that is, he suggests that there may be economical legislation with reference to the postal service.

Mr. Chairman, it appears from the report of the Postmaster-General that there is not only a call for an addition of $450,000 to the appropriations for the current fiscal year, but a statement of a deficiency of about $300,000 chargeable to the fiscal year last expired. Sir, it sometimes happens that the Department itself may make mistakes in its estimates. It sometimes happens that purposely the expenses of the Department are estimated high with a view of compromising with the two Houses in reference to expenditures. At other times it happens, as it has in this case, that where there is an inability to get the sums of money required from Congress the Department sees fit to go forward and spend according to its original estimate without reference to the will of Congress. In the present case, as well as in the deficiencies of the last fiscal year, we have an illustration of the latter proposition.

The Committee on Appropriations, it will be remembered, reported at the last session of Congress, with the assent of every member of the committee, without regard to party, a bill in reference to the postal service—a bill framed after an examination and discussion of the railway service especially. The report of that committee was acceptable to this House and was unquestioned. Was that report right as the House then understood it? The committee at that time found that, owing to the great depression in public business following the panic of 1873, the increase of the service in 1875 over 1874 did not exceed 1 per cent. In 1876, as examination shows, the increase amounted to 3.54 per cent. From the official information of the Department as to its revenues and in view of the general paralysis of business we felt that we could safely assume, as we did assume, that there was no reason why the ratio of increase should be beyond that rate. The Committee on Appropriations were informed at that time that the cost of the service for the first and second quarters of the last fiscal year amounted to $4,536,856.76.

This would give the sum of $9,138,445.85. The committee then allowing for increase of service, added for safety the sum of $250,000, nearly $100,000 nearer the actual facts as have been ascertained by the Sixth Auditor's report than the Department itself estimated for. We added the increase of $250,000 for the next year, making $9,388,595.51. We deducted the estimate of the Department of 5 per cent. on eight million, leaving us after that deduction $9,317,041.52. We deducted 10 per cent. decrease on account of expiration of the contract term of certain railroads to which this did not before apply, making a sum of $9,161,883.52. Now, sir, the actual fact is, that from that cost there was a decrease of $155,157.90; yet this brought us to the sum of $9,151,883.52. Now deduct $60,000 saved from fines and we have less than the amount appropriated.

Again, sir, look at the figures addressed to the committee April 8, 1878. There the Department estimated the cost of the service on the 3d of last March at $9,138,445.85. They estimated the increase there only at $250,000. The increase for 1879, the current fiscal year, at 3½ per cent. would have been $328,595.57. The cost of 1877 and 1878 would then have been $9,388,445.85 for the last fiscal year. The cost for 1879 would then be $9,717,041.42. Now deduct $400,000, the 5 per cent. reduction, and we have $9,317,041. Then deducting $155,157.90, the 10 per cent. reduction certified to by the Department, and you have left $9,151,883.52. Allowing $60,000 for fines you have $9,091,883.52.

Mr. HALE. Let me ask the gentleman from Georgia a question. I followed him in his figures until he arrived at the estimated increase for 1879, which he put at 3½ per cent. I have a copy, as I suppose, in which I find the estimated increase was 7 per cent., the customary increase which long practice and service have taught the Department will occur yearly. Why does the gentleman from Georgia estimate the increase at only 3½ per cent. when the Department estimates at 7 per cent.? Or is there a mistake in my copy of the letter?

Mr. BLOUNT. The gentleman's letter is correct. I have not stated the letter from the Department made the estimate at 3½ per cent.

Mr. HALE. I think the impression was that you were speaking of a letter of the Department and were giving their estimate. It would not be fair to let it go that the Department only estimated for an increase of 3½ per cent.

Mr. BLOUNT. The gentleman need not be uneasy about any unfairness to the Department or anybody else.

Mr. HALE. Would it be fair to let it go at 3½ per cent.?

Mr. BLOUNT. The proposition answers for itself. It is always unfair to be unfair.

Mr. HALE. Does the Department estimate an increase of 7 or 3½ per cent.?

Mr. BLOUNT. If the gentleman will allow me to proceed with what I have to say, the Department will be vindicated so far as he seeks to vindicate it.

Mr. HALE. Will not the gentleman answer that question—does the Department estimate 3½ or 7 per cent.?

Mr. BLOUNT. I have stated to the gentleman the Department did not.

Mr. HALE. Did not what?

Mr. BLOUNT. Did not estimate the increase at 3½ per cent.

Mr. HALE. But did at 7 per cent.?

Mr. BLOUNT. But did at 7 per cent.

Mr. HALE. That is enough.

Mr. BLOUNT. I hope the gentleman is satisfied.

Mr. HALE. Certainly. I have now got an answer to my question.

Mr. BLOUNT. If the gentleman had not been so eager he would have been satisfied before I concluded what I had to say.

Now, Mr. Chairman, the gentleman from Maine, in asking the question here, determined to inject an assertion which is incorrect. He asked whether the Department did not estimate it at 7 per cent. I stated that my estimate was 3½ per cent., and that 3½ per cent. was based on previous years. The gentleman states what is incorrect when he says that the Department has learned from previous experience that the increased cost of railway service was at the rate of 7½ per cent. per annum. I have just stated that in 1875, as compared with 1874, it was a little beyond 1 per cent. The increase in the cost of 1876 over 1875 was 3½ per cent. If the House will refer to the report of the Sixth Auditor of the Treasury, gentlemen will find that the increase of expense of the postal service for the past fiscal year is at the rate of over $600,000, while the increase of 1875 over 1874 was $100,000, and 1876 over 1875 less than $300,000.

How comes this increase? Sir, the increase in the service has grown up, not from an increase in the weight of mails, not from an increase in the multiplication of the miles of railway service, but is largely owing to an indirect increase in the postal-car service. The increase in the postal-car service, if the information from the Department is correct, has been at the rate of more than 3½ per cent.—not on the postal-car service itself but on the whole railway service of the country. Since January, 1878, this increase, as far as we can gather, has been about 45 per cent. on the postal-car service itself. It will therefore be seen that this service being increased about $300,000 since January of the present year, this deficiency for the past year, 1878, comes from the determination of the Department against the will of the two Houses of Congress, after a contest between the Department, the Senate, and the House, that that service shall be increased even if the communities not reached by it, scattered abroad over this continent, shall be denied service; that even if the smaller, feebler corporations who are poorly paid shall have their pay suspended, this shall be increased until the postal-railway service shall have reached, in these times of hard pressure, a magnitude and a grandeur which challenge comparison with the magnificent mail services of any country in Europe.

The increased cost of the railway service properly used and the fines would have prevented any deficiency for the past fiscal year, and so if there had been the usual increase for postal-car service the Department would not be here now asking for the $450,000.

But, sir, not only is this true, but there is another fact connected with it. During the last session of this Congress there was a contest and a demand on the part of the Senate at the instance of the Department for an increase in the service. The Department was then aware of it. It was a warm struggle. The Senate yielded it. The legislation of the country pointed the Postmaster-General to the fact that he had so much money to spend, and he must accommodate himself to it.

Now, sir, let it be right or wrong, let it be subjected to criticism, if gentlemen see fit to do so, it lay not in the mouth of that officer to make this statement. He had had his day before Congress; he had had his contest before the Houses, and the agreement was reached that there should be only this sum. Had the Committee on Appropriations of the House known, or had this House known that there had been growing up in silence, while we were seeking to restrain expenditures, this magnificent postal-car service; had there been candor there would have been some justification. But, sir, there is not in any communication to these Houses any calculation of this great increase. The only thing we had during the last session, gentlemen will bear in mind, was a request for an increase of postal-car clerks and a description of the great strain on their physical powers.

I suspected that there had been some increase, and that this had occurred in this way. But there was nothing to give the information; and now this House is told, for the first time, that we have gone up from $700,000 to $1,017,000 without even the courtesy having been extended to us of allowing us to know what was going on.

While the service, sir, has been at the rate of $9,000,000, the postal-car service, involving these clerks and involving this increase of postal expenditure, has gone on secretly until we are told that we have got the grandest postal-car service in the world.

There is information, so far as we could gather in the present report, that the postal-car service for 1878 was but a slight increase in miles; that the postal-car service for the current fiscal year, 1879, has been decreased in miles of service. There has been some decrease in distances. But there is a failure, of which this House has a right to complain, to state the increase of the cost of the service; a failure to put this House upon its guard. And, sir, the only way it came out was by a re-examination of the increase in reference to this service assented to by every republican member of the House Committee on Appropriations at the time to see whether those figures were correct. Then we get the mystery of the 7 per cent. increase.

Mr. Chairman, while I am on this subject I desire to call attention to another fact. Prior to March, 1873, it will be remembered, it was not possible for any railroad company to get exceeding $300 per mile per annum, no matter what the weight of the mails might be. By the act of March 3, 1873, there was a change in relation to payments for the carriage of the mail; there was a provision to pay by weight:

> On routes carrying their whole length an average weight of mails per day of two hundred pounds, $50; five hundred pounds, $75, &c.

I will not read it at greater length because the House is familiar with it. There was also in that act a provision that—

> In case any railroad company now furnishing railway post-office cars shall refuse to provide such cars, such company shall not be entitled to any increase of compensation under any provision of this act.

Then there is a provision in reference to the pay for postal cars.

Now it will be observed, Mr. Chairman, that this proviso intended that the railway companies might get at the rate of $1,000 or at the rate of $1,200 per mile per annum. If the Government desired the postal-car service and they refused to give it, the penalty was that they were remitted back to the old law, which restricted them to the maximum of $300 per mile per annum.

But, sir, while this act was passed in March, 1873, a short time afterward, in the revision of the statutes, in sections 4003 and 4004, the construction was put upon it or it was made to read that the only penalty was that they should not be paid for their postal cars. How absurd that construction that the company required to furnish postal cars should ask for payment for postal cars which they never furnished and that the Government should be so untrue to the interests of the Department that they would pay them! The construction is absurd; so that either by design or by a most unfortunate accident there was taken from the Post-Office Department this only power of compelling the railway companies to furnish postal cars by this reduction of the rate in many cases of two-thirds of their pay for carrying the mails.

Again, sir, in 1876 the Forty-fourth Congress, impressed with the necessity of reducing the expenditures, passed a bill providing for a decrease of 10 per cent. in the payments for weight of mails on the cars; the increase of the postal-car service had not been very great just before that in any sense. We had been told that there was difficulty in getting the service and that the railway companies were about to throw off the cars they had. In 1877–'78 there was a great increase in the postal-car service, and therefore an increase in the pay of railroads; there was a decrease in the number of miles on which the postal cars were run, but a large increase in the sum of money paid to the railroads. And when you come to the great trunk lines that have been making their complaints, they find it easy and find themselves so fortunate as to have this restraint of the Revised Statutes repealed; they find themselves so fortunate as to have the postal cars taken from other lines and put upon theirs; they find themselves so fortunate that when the Department has succeeded in doing that, in taking the postal cars from elsewhere and refusing mail service to insignificant routes, it stands and apostrophises the grandeur of the work it has done in increasing the service.

Now, Mr. Chairman, I have occupied more time of the House than I intended.

Mr. DUNNELL. I desire to ask the gentleman a question before he closes.

Mr. BLOUNT. I will yield to him presently.

It is clear, sir, to my mind from these figures, which I deem correct, that the deficiency growing out of the appropriations of last year is chargeable upon the Department. It is clear that the action of the Department during this fiscal year has created the necessity for this increased appropriation. Not only that, sir, but the Department, having had its day in the last Congress on this question, allowed one-half of the year to go on, expended magnificently on the postal-car service, and when we assemble here gives us the information that it will not do what it did in 1878, punish the small lines; that they intend to utterly destroy the postal-car service, that in that way they may come within the appropriation, instead of commencing at the beginning of the fiscal year. Why, sir, if we can trust the report, the Second Assistant Postmaster-General himself has been interviewed by a reporter of the Post, and in that interview informed him of a triumph over Congress on this question; and that we are obliged to give him what he asks; that the press will be against us; that complaints over the land will grow up against us, and that the outcry will be loud. The superintendent of railway mail transportation utters this same language, and it goes forth over the country. I am not one of those so charitable as to think it is not done without design. The Representatives of the people are put in this attitude and are told "I could have conformed to your will six months ago,

but I did not do it; I conformed to my own, and by doing that I will destroy the postal railway service of this country if you do not comply with my will."

Well, sir, the Committee on Appropriations determined not only to vote the sum asked for, the $400,000, but to add to it in accordance with a subsequent letter $450,000, so that there should be no excuse that the money had not been furnished; that there should be no occasion for the destruction of the postal-car system; that that service, while it was not to be destroyed because we had no time to examine it, shall not pass beyond what it was on the 1st day of December, 1878.

This, sir, leaves everything harmless; it leaves the committee in a condition where they can investigate hereafter with better light with reference to the service.

I have been unable to obtain anything like detailed information as to the postal-car service for the first six months of the last fiscal year and for the first six months of the current year. We have gross sums given us, but no information upon which we can legislate intelligently. Therefore we thought it best to allow this to stand as it now is, looking to the time near at hand when we shall prepare the post-office appropriation bill for the next fiscal year, and when we will, perhaps, be able to give this House such information as will enable it to act intelligently upon the subject. For the present, I will not say more.

Mr. HALE. If the gentleman from Georgia [Mr. BLOUNT] is through I ask him to yield to me.

Mr. DUNNELL. I desire to ask the gentleman a question before he takes his seat.

Mr. BLOUNT. Certainly.

Mr. DUNNELL. I want to ask the gentleman from Georgia who has charge of this bill [Mr. BLOUNT] whether the amount specified in it covers the amount needed by the Post-Office Department to put service upon those railroads which have been constructed during the year?

Mr. BLOUNT. We have given every dollar that the Department estimated for.

Mr. DUNNELL. In my own State during the past year there have been constructed over 200 miles of railroad, most of it through the older portions of the State. The post-offices were adjusted to the railroad lines and the stage-routes were abandoned with the expectation that service would be ordered over the new routes of railroad. Much inconvenience was apprehended when it was announced by the Post-Office Department that no service would be put upon those new roads because of a lack of money. I would inquire if these new roads have been provided for?

Mr. BLOUNT. I understand that the estimate of the Department covers the new roads not only in the gentleman's State, not only throughout the West, but throughout the country.

Mr. DUNNELL. I have no controversy with the committee; I ask only for information.

Mr. PHILLIPS. I desire to ask the gentleman a question. Why is it that the gentleman puts in this bill a proviso, applying to the remaining seven months of the present fiscal year, directing that there shall be no increase in the postal service? New roads are being constructed all the time, and the public interest requires that postal service shall be established upon them. Why, then, is this limitation made?

Mr. BLOUNT. It is for the reason which I have already stated, that estimating upon the cost of 1876 the increase of the postal-car service has been at the rate of 45 per cent. It has not been upon the smaller lines; the service has rather been withdrawn from them and given to the great trunk lines.

Mr. PHILLIPS. Will not the proviso in this bill prevent any postal-car service on any roads completed during that time?

Mr. BLOUNT. By no means.

Mr. PHILLIPS. That is the plain meaning of the proviso.

Mr. BLOUNT. The committee have found that there has been a very great increase in the postal-car service, and we believe, many of us, that on some of the lines there has been an increase far beyond what the public necessities require. Now, if the Department shall see fit to withdraw a part of that service from the lines on which it is now established in order to give it elsewhere, reversing the rule it has adopted during the last fiscal year, there will be no difficulty about it. But as a member of the Committee on Appropriations I can never give my assent to an increase at this time of the postal-car service after the strides it has been making of late.

Mr. PHILLIPS. Will the gentleman have the proviso read? I think it means more than he states to the House.

Mr. BLOUNT. I have no objection.

Mr. PHILLIPS. I ask that the proviso be read.

The Clerk read as follows:

Provided, That no increase in the postal-car service beyond what existed on the 1st of December, 1878, shall be made during the fiscal year ending June 30, 1879.

Mr. PHILLIPS. According to that proviso there can be no increase during the seven months, even if the public interest shall demand it.

Mr. BLOUNT. I understand that language to mean that there shall be no increase in the cost of the postal-car service. I have no objection to changing the proviso so that it shall provide that there shall be no increase in the cost of the postal-car service.

Mr. PHILLIPS. Very well; that will do.

Mr. COX, of Ohio. You had better make it read "no increase in the total cost."

Mr. BLOUNT. Then I will ask consent to amend the proviso by inserting the words "total cost of;" so that it will read:

Provided, That no increase in the total cost of postal-car service beyond what existed on the 1st of December, 1878, shall be made during the fiscal year ending June 30, 1879.

Mr. HALE. That will not do, because "the total cost" is what the cost amounted to up to December 1; and everybody understands that we are going to add to that total cost every day.

Mr. BLOUNT. I think that suggestion is correct.

Mr. HALE. It would be better to let the matter go until we come to the debate under the five-minute rule. The gentleman from Kansas [Mr. PHILLIPS] will defeat his own object if that language is put in.

Mr. BLOUNT. Very well; let it stand for the present.

The CHAIRMAN. To whom does the gentleman from Georgia [Mr. BLOUNT] now yield?

Mr. BLOUNT. I yield to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. What the gentleman from Georgia [Mr. BLOUNT] has been saying to the House amounts to this, that the money must be given; but he is going to exercise his high privilege of grumbling at the heads of the Departments. Now, I do not object to that very much. The heads of the Departments can commonly take care of themselves very well. But I know something about this subject, from having studied it in the Committee on Appropriations and at the Post-Office Department; and I do not want to see the Postmaster-General, who has been faithfully trying to do his duty, blamed when he should not be blamed.

The gentleman complains, first, that, going on needlessly and recklessly in the expenditure of money, the Postmaster-General has created a deficiency. Now, everybody who has been here for any length of time knows that during the last few years we have heard a great deal about the creation of deficiencies. Departments have been charged with expending all their money and then knocking at the doors of this House empty-handed and declaring that they must have money. Now, the Postmaster-General has done nothing of this kind. He was allowed by our appropriations a certain sum of money—something over $9,000,000—for the fiscal year. He has not spent all that money or most of it; he has a large share of it remaining. He has simply done this: taking the postal service as it existed on the 1st day of July, 1878, ramifying through all parts of this great country, he has simply kept up that rate of expenditure to the 1st of December with very little increase. It is not claimed that since last July the Postmaster-General has been putting on great additions. He has simply maintained that rate of expenditure until Congress should assemble. Then he comes to us in a letter which I have here and which I will ask to have printed as a part of my remarks.

Mr. BLOUNT. What is the date of the letter?

Mr. HALE. December 7, 1878.

POST-OFFICE DEPARTMENT,
Washington, D. C., December 7, 1878.

SIR: In the annual report for 1877, the amount necessary to be appropriated for the transportation of mails by railroads for the fiscal year ending June 30, 1879, was estimated at $10,140,126. The act of June 17, 1878, reduces the compensation fixed for weight of mails by previous laws 5 per cent., from July 1, 1878, and appropriates $9,100,000 to cover the cost of such service for the year 1879. It also provides that $125,000 of the sum appropriated may be used to obtain proper facilities from the great trunk lines of railroads for the railway post-office service.

In the annual report for 1878, I had the honor to submit for the consideration of Congress a statement showing the $9,100,000 appropriated, notwithstanding the reduction of 5 per cent., to be insufficient to cover the cost of transportation of mails by railroad for the current fiscal year. The cost of this service on the 30th of November, 1878, so far as the rates have been fixed, was at the rate of $9,440,000 per annum. Add to this the service established on newly constructed roads from July 1, 1878, to November 14, 1878, which, if taken at the rate of construction of last year, will be about one thousand miles; this at an average of but $50 per mile will swell the present cost to $9,490,000.

Since November 15, 1878, applications have been received for the establishment of service on twenty-five newly constructed roads. If service is to be established on new lines, and the usual readjustments made on other routes, the cost will be further increased.

It is thus definitely ascertained that in the ordinary and usual course of business, about $450,000 will be required to cover the cost of the service for the current year; nor can all of the service now in operation be continued without the additional appropriation.

Section 3679 Revised Statutes provides that "no Department of the Government shall expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations."

If no steps be taken by Congress to provide the appropriation necessary to cover the cost of the railroad service, I shall be constrained to regard such inaction as indicating that it is the will of Congress that the railroad service be reduced sufficiently to bring the cost thereof within the $9,100,000 appropriated for the current fiscal year.

It is made my duty by law to provide for the transportation of all mailable matter; and the law prescribes the rates to be paid for the mails carried by railroads according to the average weight carried per day. I have explained in my annual report that this Department can only exercise discretion in the expenditure for two items of railroad transportation, namely, the establishment of service on newly constructed roads, and the use of railway post-office cars.

I will therefore, in obedience to the section of law alluded to, cause the use of railway post-office cars and the allowance for the same to be discontinued on and after January 1, 1879.

In my opinion the discontinuance of the use of railway post-office cars would occasion great inconvenience to the public generally, as well as serious loss to the business interests of the country. It would also be a most disastrous blow to the postal system of the United States, and would in the end prove expensive to the Government, for it would require more to restore the postal-car service than would be saved by its discontinuance.

In view of the great importance of the postal service to the people, and to this Department, I have deemed it my duty, before taking conclusive action with regard to the matter, to again invite the attention of Congress to the subject.

Very respectfully, your obedient servant,

D. M. KEY,
Postmaster-General.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

The Postmaster-General has simply said to Congress through this letter now before us and which was before the Committee on Appropriations: "I have gone on and expended the money at the old rate with very small additions; and now, on the 1st day of December, I am confronted with this fact which I lay before you, that if you want me to go on giving all the people of this country the same postal facilities they have enjoyed since last July, you must give me $400,000 or $450,000 additional." But he puts no obligation on Congress to do this if it does not so choose. He says: "If you do not make this additional appropriation I shall take the balance of this fund which you gave me and shall make it run through to July 1, 1879; but in doing this I shall be obliged to pare down somewhat by withdrawing or limiting the postal-car service, so that in this respect the people of the United States will not have as great facilities of this kind as they now have."

There he leaves the question. Now, there is nothing minatory in that. He simply lays before us the situation and tells us what he will do if we do not make this appropriation. That is a fair statement of the situation.

Now, the gentleman reporting this bill says that the Postmaster-General ought not to have done this; that he ought to have notified Congress beforehand through the Committee on Appropriations that this appropriation would not be enough, and that he ought to have more. Sir, I do not know any better form of information for us or for my friends on the other side, or for the gentleman in charge of this bill, than for the head of a Department, after a careful study of its operations, to make up his figures of what he will need for the coming fiscal year. This is just what the Postmaster-General did last April when the gentleman from Georgia was laying the keel of the post-office appropriation bill for the present fiscal year.

In that statement the Postmaster-General makes his estimates in detail. Here they are; and I was interested and rather amused when the gentleman from Georgia came to read them to see how he took off more than $300,000 of those estimates by reducing a 7 per cent. increase to 3½ per cent., which existed only in his own mind.

Now, how does the Postmaster-General notify all of us what would be wanted for the present year? He estimates the cost of the service on the 31st of March, 1878, as $9,138,445.85. Then he gives the estimated increased weight on the great lines, a thing which must be paid under the law. Whenever there is an increase of even ten pounds a certain amount additional must be paid. The Postmaster-General has no discretion about this; $250,000 is the estimated increase for 1879, at 7 per cent. This is a part of the estimated increase which the Postmaster-General believed must be taken into account in appropriating for the postal service.

The total amount estimated by the Postmaster-General as necessary for the fiscal year was $9,635,269.20. The committee gave him for this service $9,100,000, so that we gave him $535,269.20 less than what he notified us he would need. Now he comes here and says that he will get along and keep this service going without reduction if we will give him $400,000 or $450,000, $100,000 or $150,000 less than what he before thought he would need.

Now, with that before us upon the record as the judgment of the Postmaster-General of what would be needed, I say it cannot be claimed here with justice or proper force that we had no monition of what the Department would need. We had ample warning upon this subject. Gentlemen may say (as I have heard them urge) that it was not stated what the money would be needed for, that it was not stated what would be the Postmaster-General's course.

Sir, I am informed in the Department (and I think the gentleman himself will not dispute this) that at the time when this bill was passed, in a conversation between the head of one of the bureaus of one of the Departments and the gentleman from Georgia, it was stated by the head of the bureau that if the Department went on at the then rate it would have to call for a deficiency; and it was plainly indicated in reply that the Department might go on at that rate, and that when Congress met it would be called upon to remedy the deficiency.

Mr. BLOUNT. I desire to say that the gentleman makes a statement which is untrue.

Mr. HALE. The statement which I have received from the Department?

Mr. BLOUNT. Yes, sir.

Mr. HALE. That of course is not an issue between the gentleman and myself. I dislike to raise any issue of this kind. I simply alluded to this matter, not thinking the gentleman would raise any question upon it. I hold here a letter from the Second Assistant Postmaster-General, in which he says:

I deem it to be due to this Department to state that a few days after the adjournment of the last session of Congress Hon. J. H. BLOUNT called at my office, and in a conversation of considerable length that ensued, respecting the $9,100,000 appropriated for the railroad service for the current year, I stated that the said appropriation was certainly insufficient. Mr. BLOUNT replied——

I do not care about reading this further unless the gentleman from Georgia desires it.

Mr. BLOUNT. The gentleman had better read the whole.

Mr. HALE. The letter continues:

Mr. BLOUNT replied that it was the intention to provide sufficient money to cover the cost of the railroad service, and that he would advise that the usual course of business be continued, and that no service be dispensed with or reduced because of the insufficiency of the appropriation, and that the matter be presented to Congress upon its reassembling.

Very respectfully, &c.,

THOMAS J. BRADY,
Second Assistant Postmaster-General.

I do not raise that issue. I do not care whether it happened or not. I only want the Department to stand right so it may be seen they were going on in the common course of business. That is what I have done, and that is what we are confronted with here now in this bill.

Now, Mr. Chairman, there is a disposition to complain of the magnitude of this postal-car service. I have not been a special friend of that service, but I do realize we are improving as we live, and that the American people will not go back to the old postal facilities or postal accommodation. We will never dispense or curtail the postal railway system. It stands to all the business of the Department and operates as a running stream of water operates as compared to a stagnant pool. It is a floating stream or streams all through the country, and facilitates post-office business and the delivering of the mails. You go back to the old stagnant stream (following my metaphor) and things will be done in the post-office, after the mails are delivered, slowly, and all the time of transportation will be lost. But we will never go back to that. Neither will we go back to any curtailment of this system. While the people have indicated already by the increase they will inevitably and always hold on to it, the Postmaster-General finds himself also confronted by a greater pressure upon this than perhaps any other branch of the service whatever. He is under pressure from business from the city, from the country, from the large and small, from the well-settled and sparsely settled community. He is under tremendous pressure from the newspapers, and we all know how natural it is to yield to that, and when the thing is going on he cannot stop. It is not given to any Postmaster-General to stop. All he can do is to keep on, as this letter I have read shows they continued in the usual course and then notified Congress. That is all we could expect them to do.

Now, this increase which has been put on the last year or two has not been put on out of any favoritism to railroad companies as I understand. So far as I can learn they care very little about this matter. The local superintendents, who want to run faster trains on the great trunk lines, would be glad to have it all taken off and thus they would make better time. There has always been more or less of that disposition, and the railroad interest is divided, but the people are interested on this question for large and constantly increasing mail facilities. In reference to this, of which so much complaint is made in a letter found on file directed to the gentleman from Georgia, [Mr. BLOUNT,] chairman of the subcommittee, the Second Assistant Postmaster-General, in a letter dated December 12, 1878, which I now bring forward and will publish with my remarks, explains that out of this sum $100,337.27 were expended on the great trunk lines out of New York for increase of weight of mail-service. There was no responsibility in the Postmaster-General about that. When it increased he had to pay it. There were no new lines, no new railroads opened, but the wants of the country were growing.

The letter is as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., December 12, 1878.

SIR: I have the honor to submit the following in response to your verbal inquiries of recent date:

The amount paid for the use of railway post-office cars on the 1st of July, 1876, was (in round numbers) $700,000.

The cost of the same items on the 1st of December, 1878, was $1,017,000.

This increase is over $300,000 for the two years and five months from July 1, 1876, to December 1, 1878, and the greater portion thereof went into operation about the first of January, 1878, and was obtained from the companies through the use of the $150,000 appropriated by Congress to obtain proper facilities from the great trunk lines of railroads.

Statements have not been made of the cost of this service on the 1st of July, 1877, and the 1st of July, 1878, but the figures given will probably furnish the information you desire.

The amount deducted from July 1, 1876, under the first section of the act of July 12, 1876, as given in the annual report for 1876 at $726,187, is believed to be approximately correct. The abatement under the thirteenth section, (on land grant roads,) therein given at $260,714, is not correct, as a great many roads to which it was applied were afterward shown to be exempt from such reductions.

The Postmaster-General issued an order authorizing the Auditor of the Treasury for the Post-Office Department to make the deductions required by act of July 12, 1876, and an accurate statement of the amount deducted can only be obtained through that office.

It is found that in order to arrive at the amount deducted under said act since that time, it would be necessary to make an analysis of the whole railroad adjustment since July 1, 1876. This of course is possible, but would require much time and labor.

The amount deducted under the act of June 17, 1878, from July 1, 1878, is about $400,000.

By deducting the cost of the railway post-office service, July 1, 1876, $700,000 (in round numbers) from the $2,495,296 not subject to abatement, the service under contract on that date is found to have been $1,795,676.

In the letter addressed to you April 8, 1878, the cost of the service under contract at that date is accurately stated at $838,280.05. Of this, $94,539.75 expired June 30, 1878, leaving under contract from July 1, 1878, $743,740.30; and all of this will expire on the 30th June, 1879, except $4,950.22.

Taking the $838,280.05 under contract April 8, 1878, from the $1,795,676 in operation on the 1st July, 1876, leaves a balance of $957,395.95, which represents the contract service which expired on the 30th June, 1877.

These amounts are correct, with the exception of a few cases, say five or six, in which the contracts were annulled for special reasons.

In the States in which the contract term commenced July 1, 1878, namely, Kansas, Nebraska, California, Colorado, Nevada, the Territories, Arkansas, Louisiana, and Texas, the aggregate pay from July 1, 1878, is $1,413,094.48, which is $224,978.95 less than would have been paid had it not been for the reduction of July 12, 1876, and June 17, 1878. Of the last named sum, $155,157.90 is attributable to the act of June 17, 1878.

The cost of the railroad service as shown by adjustments made to 31st July, 1878, $9,451,159; as shown by adjustments to 31st August, 1878, $9,242,823; as shown by adjustments to 30th September, 1878, $9,250,756; as shown by adjustments to 31st October, 1878, $9,278,321; as shown by adjustments to 30th November, 1878, $9,402,602. Amount which will be due 31st December out of special appropriation is the sum of $38,000.

These statements of the cost of the service, at the close of each month, show the amount authorized to be paid by orders issued, without reference to the period covered by the order. For instance, the increase for October and November goes back to the 1st July, 1878; likewise the decrease in August. Of increase reported in October, $4,087.50 takes effect from November 1, 1875; $15,144.62 May 5, 1877, to June 30, 1877; $41,998.96 is from July 1, 1877.

Very respectfully,

THOS. J. BRADY,
Second Assistant Postmaster-General.

Hon. J. H. BLOUNT,
House of Representatives.

It is a singular thing at the time the gentleman refers to as a general paralysis of business—and it is an interesting fact, Mr. Chairman, to be looked at when we are studying, as we are, all the laws and rules and operations of business—at the present time it is an interesting thing to find all this time the mails were increasing, that the business of the country in certain directions was increasing, that the weight all the time was telling up by tens and hundreds of tons; but the law was pitiless and the Postmaster-General must pay out of the fund which he received from Congress. And that is another reason or one of the great reasons why he is here.

The system, the gentleman says, is a magnificent one. So it is in many respects. This is a magnificent country, having a population of forty-five millions, a postal business which is immense. Forty-seven millions of population, my friend from Indiana says. Perhaps the next census will show that. But there is nothing about the system which is luxurious, nothing overexpensive. The cars are neat and well arranged and well adapted. The men upon them do not get overpay; they do not have short hours or short days of labor. They are, as any man will have seen who has ever been in a postal car and noticed what was going on, wonderfully adapted to their line of business. It is perhaps a magnificent system, but it is not a uselessly expending money system. It is what the people have got used to and what they cannot go back from.

My throat is troubling me so much, Mr. Chairman, that I will conclude by saying that I believe what the Postmaster-General has done is right, and that it is our duty to follow in the direction of his estimate. He simply says that if you do not authorize him to do so he will not continue the service for the balance of the fiscal year as it has gone on for the six months already past; and that is certainly not a heinous offense.

Mr. FOSTER. I desire to add but very little to the remarks made by my friend from Maine. The gentleman from Georgia undertakes to blame—I will use a mild word—the Department for not giving Congress and the committee sufficient information at the time these appropriations were made. I affirm, Mr. Chairman, that if the gentleman did not know he ought to have known, and our committee ought to have known, that the postal-car service existed substantially as it exists to-day at the time we made the appropriation. The Department estimated the total cost of maintaining the railway mail service, less the 5 per cent. of deduction on their pay, at $9,729,000. We gave them $9,225,000. I include in that the $125,000 for extra mail service. This shows that the appropriation we then made was $504,000 less than the Department estimated that they would need. It seems that my friend from Georgia [Mr. BLOUNT] was seeking information during this time, and on the 8th of April the letter to which my friend from Maine has referred makes an elaborate statement to him as to the exact cost of this service which he now complains that he knew nothing of. In this they revised their estimates in the interest of economy, and they put the total needs of the service at $9,635,000. Had we given it, this appropriation, which we are making to-day would not have been needed.

I submit, Mr. Chairman, that all the information that a Department could give was given to our committee and to the gentleman from Georgia at the time this appropriation was made.

Mr. BLOUNT. Now I wish to say, if the gentleman will allow me to interrupt him——

Mr. FOSTER. I am willing to be interrupted.

Mr. BLOUNT. I wish to say that the "estimated increase on the great lines, now weighing, for increased weight and railroad post-office cars" was $250,000. That is all the increase there is.

Mr. FOSTER. I referred to the letter dated April 8, 1878.

Mr. BLOUNT. It is from that I read.

Mr. FOSTER. Now let me refer to another point. The gentleman said he did not know the railway postal-car service existed at the time this appropriation was made. I cannot say whether he knew or not, but I affirm again that the postal-car service existed substantially as it exists to-day when this appropriation was made, and for three or four months prior thereto, namely, on the 1st day of January, 1878. The gentleman claims that he is unable to find what the increase of cost has been—I mean the increase of cost of the postal-car service. Here it is. In a letter to him it is stated that in July, 1876 it cost $700,000, and on the 1st day of December, 1878 it cost $1,000,000; an increase not of 45 per cent. per annum, but 18 per cent. per annum.

Mr. BLOUNT. Does the gentleman not know that it is not a correct calculation to put it at two years when most of the increase has been put on since the 1st of January, 1878?

Mr. FOSTER. The letter goes on then further to explain exactly how it occurred and when it occurred. Now it seems to me if there has been any dereliction of duty anywhere that dereliction rests upon this House, and especially on our Committee on Appropriations; and I take my share of the blame because, as the gentleman says, the republican members of the committee agreed to the bill. But I confess this was a matter I did not investigate at the time. But on the other hand, instead of my friend from Georgia censuring the Department, I think we ought to give them a vote of thanks for maintaining throughout the country the splendid mail facilities they are now giving us.

I can only account for this thing on one single theory, and that is the theory of "economy" which has controlled my friend from Georgia and the Committee on Appropriations for the last three or four years. We ought to have known that we would have to make this deficiency; we ought to have known it then. If I am not mistaken I predicted it; I am not quite sure about that.

Mr. BLOUNT. The gentleman is mistaken; he was delighted with the bill.

Mr. FOSTER. I am not sure but I predicted it; I predicted it in many other cases I know. And this is only of a piece with the general habit of this committee upon appropriations in the "interest of economy" to reduce these appropriations to such an extent that they will require in the following year to make them up by a deficiency. They hoped in some way or other the Post-Office Department might get along; but they could not; and here we are to-day confronted with this deficiency, which I say if the Committee on Appropriations had done their duty we would not have been confronted with.

Mr. HALE. I yield five minutes to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON, of Illinois. Mr. Chairman, I do not know but this discussion, practically, is a vain one. The gentleman from Georgia who has charge of the bill I understand is in favor of its passage; gentlemen who report bills usually are in favor of them; but to hear the gentleman's speech one would suppose he was against the passage of this bill. Now, if it be true that this postal mail service is improper, then this deficiency bill ought not to pass. If it is too large, then it ought to be cut down here and now.

The time has come when it can be cut down and must be cut down unless we furnish the money to carry it on.

Now, then, it may be that wise legislation could be had by which smaller compensation would be given to the railways for this service. I do not say that it could be had. I say it may be so. But, for one, I am satisfied that the postal service cannot be curtailed without inflicting great injury upon the country, and I think the gentleman from Georgia himself is so satisfied, otherwise he would recommend the withholding of the money.

Now, the gentleman speaks of this service as a magnificent service: so it is magnificent in its efficiency and in its promptness; and after all, every kind of business that is done efficiently and promptly everywhere is ordinarily done profitably to everybody connected with it; you may take the history of the Post-Office Department for twenty years and you will find that at least since 1859 and 1860 it has been constantly improving in efficiency and promptness, and that the revenues from the Department have been constantly increasing as compared with the service that has been performed and the expenditures.

Mr. HEWITT, of New York. How about the deficiencies?

Mr. CANNON, of Illinois. The deficiency also has been constantly decreasing. I recollect calling the attention of the House a year or two ago to this fact, that in 1860 the revenues of the Department were, in bound numbers, $8,000,000 and the expenditures of the Department were, say, $19,000,000, a deficiency of $11,000,000 for that year, and for the years 1859 and 1860 of $15,000,000. In 1861, 1862, and 1863 the revenues increased as compared with the expenditures. In 1864 and 1865, if I recollect properly, or in one of those years, the revenues were absolutely more than the expenditures by nearly a million of dollars, arising no doubt from the fact that the mail-service was restricted to the more thickly-settled portions of the country, North and West. With the close of the war came the extension of mail facilities South as well as more generally over the West. The expenditures increased and there grew gradually a difference between the expenditures and the revenue, the deficiency slightly increasing, and substantially there has been a slight increase in that respect from that time to the present, arising from the increase of the non-paying mail service, especially in the South.

Now, then, this postal-car service in its greatest efficiency is to be found North and West more than South. I have no doubt that it ought to be extended South as fast as the country demands it, and also farther West as fast as it is demanded.

With this great expenditure for postal-car service, this fact is true: that where it is most perfect you there get a surplus revenue to the Department. In New England, New York, and Pennsylvania you get it. In Ohio, Indiana, and Illinois the revenues are substantially

equal to the expenditures. And I am satisfied the true policy is to give every dollar that is required to keep this service as efficient as it is, and to increase that efficiency just so far as it is profitable and the wants of the people require; for convenience and profit go together.

This being the fact, I do not think this appropriation ought to be made grudgingly. This being a good and efficient service, I for one feel like saying so and voting this money cheerfully and heartily, and giving credit to the Department where credit is due.

Mr. HALE. I now yield for a moment to the gentleman from Kansas, [Mr. PHILLIPS.]

Mr. PHILLIPS. I shall at the proper time move to strike out the proviso to this deficiency bill. It is a deficiency bill for this current fiscal year for the transportation of mails by railroad. As the gentleman from Georgia has stated, the increase amounts to a certain percentage per annum. I think he said the increase of the postal service was 45 per cent. per annum. We all know that there has been a great and valuable increase in this service, and I cannot see why the gentleman from Georgia should couple with this appropriation a provision that there shall be no increase in the service in the seven remaining months of this year, for which this bill provides.

I hope that the House will strike out this proviso and leave the Postmaster-General to use the fund for the increase of service if the public interests require it. I shall make that motion when we come to consider the bill by sections.

Mr. HALE. I now yield the floor, as I do not desire to occupy further time.

Mr. BLOUNT. Mr. Chairman, the gentleman from Maine says that we have voted the money the Department wants, and he cannot see why the Postmaster-General is assailed except to indulge in the privilege of grumbling. The same idea was presented in another form by the gentleman from Ohio [Mr. FOSTER] when he talked of these continuing deficiencies that we hear of.

The remarks of the gentleman are always general, because an attempt to particularize would disclose their weakness and show that so far from his being a great prophet he did not understand the bill before the House, at least this particular bill. The gentleman also fails to state that in this very matter of postal railway service there was a reduction, assented to by himself as reasonable, of 10 per cent., and another of 5 per cent., making in all a reduction of 15 per cent. in the cost of the postal railway service, which neither the gentleman nor any of his political friends ever saw any occasion for until it was suggested by somebody else. I might take up the various appropriation bills with their details and disclose the very same fact, that reductions have occurred and always occurred in this way.

The gentleman from Maine [Mr. HALE] says that we were informed in a letter of April 8, 1878, that 7 per cent. increase was what they wanted. We were likewise informed two years ago by the Postmaster-General that they wanted 10 per cent. increase in the postal railway service. The then Postmaster-General, now the First Assistant Postmaster-General, and the Second Assistant Postmaster-General, upon examination before our committee, admitted that the estimate sent in here by them was wrong; but they never admitted it until the calculation was made, and then a reduction of $1,000,000 was agreed to by the parties. The Committee on Appropriations in considering this question in this way have done what they did two years ago, and correctly on both occasions.

Mr. FOSTER. And had a deficiency both times.

Mr. BLOUNT. The gentleman is mistaken as to the cost of the railway service; and when the gentleman comes to talk about deficiencies he does not tell all. The largest item of increase in the deficiency bill of last year was a deficiency in appropriations made before the democratic party had control of this House. It is idle to talk about these deficiencies, and it is unfair to present them in the way in which the gentleman sees fit to present them.

I say, therefore, that in making this estimate of 3½ per cent. we had due regard to the service as it was in the past. The postal-car service has been increased without any information being given to this House. There is not a gentleman on the Committee on Appropriations who will undertake to say that he had any idea of this postal-car service.

The gentleman from Ohio [Mr. FOSTER] now reads from a letter in which the Department refers to the cost of the railway service in 1876 as $700,000, and gives it now as $1,017,000. They can give the exact cost of the postal railway service for every month and every quarter in the year. Why could they not have ascertained the cost of the service at any given time? It is to enable the gentleman to do what he does, to state that this is an increase over the past two and a half years, when their own private statements show it nearly all commenced after the 1st of January, 1878.

Mr. SPARKS. Do I understand the gentleman from Georgia [Mr. BLOUNT] to say that there has been an increase of this postal railway service since the appropriation for the present fiscal year was made, or an increase beyond that contemplated by the appropriation?

Mr. BLOUNT. I say there has been a large increase in the postal railway service for the last year, of which this House has not been informed, thereby creating a deficiency for the year. While we made calculations on the idea that the service was year by year being carried on upon the basis of 1873, we find upon investigation that there has been an increase at the rate of 45 per cent.

Mr. SPARKS. The gentleman will pardon me. The understanding I had of it (perhaps I am incorrect) was that an appropriation was made for this postal railway service as now run; that appropriation was not sufficient to run the same sort of service through the year, and they now ask this appropriation as a deficiency to carry the service through the year. I understand the gentleman from Georgia [Mr. BLOUNT] to say that that construction of it is not correct.

Mr. BLOUNT. I do not mean to say that. Before I get through I will explain what I mean. A witness is brought forward here in the person of the Second Assistant Postmaster-General. A letter is read in which he says:

> I deem it to be due to this Department to state that a few days after the adjournment of the last session of Congress Hon. J. H. BLOUNT called at my office, and in a conversation of considerable length that ensued respecting the $9,000,000 appropriated for the railroad service for the current year, I stated that the said appropriation was certainly insufficient. Mr. BLOUNT replied that it was the intention to provide sufficient money to cover the cost of the railroad service, and that he would advise that the usual course of business be continued and that no service be dispensed with or reduced because of the insufficiency of the appropriation.

Now, I regret very much that the Second Assistant Postmaster-General should attempt to state a conversation which occurred between us at the adjournment or just about the time of the adjournment of the last session of Congress. The actual fact is that he and I had very little to say in reference to the postal railway service. With the understanding of that service which I received growing out of that interview, I said to him, if you have not money enough I would not stop the railway service.

Now, in the first place there is just semblance enough of truth in the statement to enable him to say that it is true at all. I stepped into the Post-Office just before going home and asked for some star service to be put on in my State. I had had a previous conversation with the Second Assistant Postmaster-General in which he had said to me that he would get along with the amount appropriated. Afterward he thought he could hardly do so. Our appropriation being something over $9,000,000, he thought he might run over that amount somewhat. I said to him that if he did so it could not be helped. The only idea I had in my mind and the only one I supposed he could take from my remark was that the service, as I understood it, as gathered from his report and all the other avenues of information open to us, had simply experienced an increase in accordance with the increase of prior years; and not until I came back here did I understand that the service had been increased in this way.

Now, sir, the attempt to take up a careless conversation, not extending over two minutes, an unpremeditated conversation following a simple request for an increase of star service—to take up such a conversation and bring it in here in the form of an official paper to sustain the conduct of the Department in this respect is, to say the least, indelicate.

Mr. FOSTER. They rather took you at a disadvantage when you were asking an increase of service.

Mr. BLOUNT. Well, sir, I have seen this House taken advantage of in that way. Gentlemen have told me that their star service had been stricken off mile after mile just as Congress assembled. I have thus seen pressure brought to bear on members here to make them vote away hundreds of thousands of dollars for this service. In 1876, after this had been done, it turned out to be a fact that while the railway service had been increased the star service had been decreased in the very quarters that gentlemen had been complaining of.

Why, sir, in an interview with the Second Assistant Postmaster-General, as published the other day in the Post, the intimation is thrown out that if the Department should be obstructed in the exercise of its inclination in reference to the railway service, the star service should have another blow.

Mr. FOSTER. Does the gentleman pretend to say that he was "bulldozed" by that statement?

Mr. BLOUNT. Not at all. I trust that I correctly understand the allusion as being mere jesting. The gentleman I presume does not suppose me capable of agreeing to a thing of this sort for any such reason. I think, if the gentleman is serious, it is about time he should stop those intimations. He has indulged largely in that business in this House with very little effect.

Now, Mr. Chairman, the gentleman from Maine refers to this letter of April 8 to say that we were notified there was to be an increase. Why, sir, of course we were. The increase is at the rate of hundreds of thousands a year; our bill was based on that increase. But there was a failure to disclose this large increase of the postal-car service.

The gentleman from Illinois [Mr. CANNON] says he is surprised that I could agree to report this bill and then make a speech indicating my opposition to it. Sir, the gentleman misunderstands me. However unacceptable it may be to the Department and its friends in this House, I shall not hesitate, whenever I think there has been an improper administration of this Government in any one of its Departments, to communicate that information to this House.

The gentleman from Maine [Mr. HALE] says that the money has not all been spent. Why, sir, who undertook to say that it had been? But there has been such an amount of money spent that the Department says to us to-day, "Give us a deficiency appropriation or the postal-car service must be not merely reduced but almost destroyed." The Postmaster-General tells us this appropriation must be made right away. He has delayed communicating this information until now, and he cannot wait until January. The appropria-

tion must be pressed at this hour. It is for this reason we have been disposed to yield in this regard and to allow the service to be increased.

Mr. CLYMER. Mr. Chairman, I feel that in justice to myself and the other gentlemen who composed the subcommittee of the Committee on Appropriations having charge of the post-office appropriation bill, I should make the statement that no bill before the committee at the last session of Congress was more carefully and patiently considered, not only by the gentleman from Georgia, who had it especially in charge, but also by the gentleman from Indiana [Mr. BAKER] and myself. We endeavored to get all possible light upon the subject; and one of the items of appropriation which most engaged our attention was this one for the railway mail service of the country. Now I say here (and in this statement I shall be corroborated not only by the gentleman who was chairman of the subcommittee, but also by the gentleman from Indiana to whom I appeal) that never during our long deliberations had we any data which seemed to require us to make the appropriation for a larger sum than that provided by the bill. The only data we had to guide us in determining the amount were: first, the general estimates of the Department, and next, a statement of the cost of that service for the first two quarters of the then current fiscal year. Basing our proposed appropriation upon the cost of the service for those two quarters, we considered the amount named amply sufficient. We had no account of the last two quarters, commencing on the 1st of January and ending on the 30th of June, 1878; but we had a right to suppose that during them there would be no more than the natural increase, and that we might safely base our expenditures upon what the service had cost us for the first two quarters. We did that. We made deductions of the 10 and the 5 per cent. We did not allow the full increase asked for by the Department, which was 7 per cent. We adopted 3½ per cent. as our basis, which was the amount of the average increase from year to year during a long series of years; and I know that it was the unanimous judgment and thorough conviction of the subcommittee that what we appropriated would not only be just but ample in amount. I am compelled to conclude that there was concealment on the part of the Department. We never were told that there had been an enormous increase in the cost of this service subsequent to the 1st of January, 1878.

For what reason? Why were we not told this large increase of cost was made subsequently to this period? I do not understand, and I assert that, having due regard for the public service and for the public convenience, had we been so informed—speaking for myself and I believe for the other members of the subcommittee—we would have made an appropriation to meet that increased service. We were not informed of it, and I appeal to my friend from Indiana, [Mr. BAKER,] if he is in his seat, whether what I say is not exactly the truth. Therefore, not having been informed of the increase, we had as good a right to judge of the needs of the service, the information being based on its former cost, as had the Department itself.

Sir, it is not a pleasant thing for me to receive a sort of indirect lecture from the head of this Department as to our duties. The House will bear me witness I have always endeavored to deal justly and even generously with the Departments in making appropriations, being always willing to appropriate what the necessities of the case demand. But as we were not informed of the large increase made subsequently to January, 1878, my friend from Ohio [Mr. FOSTER] agreeing it was increased 18 per cent., the gentleman from Georgia [Mr. BLOUNT] alleging it was 45 per cent, no matter which is correct, it was an abnormal increase of which we were not informed, of which we could have no knowledge. Hence, sir, I hold either the Postmaster-General himself or his assistants derelict in duty for not informing this House through the subcommittee of the Committee on Appropriations what were the absolute needs of the service.

Now, it may be, the cost having been increased so abnormally, they shrank from giving the information which might have caused us then and there to put a stop to any further increase at a time when it might have been done without any great inconvenience to the Department or the service generally.

My friend from Ohio [Mr. FOSTER] charges this insufficient appropriation as one of our "pretended" economies. Ay, sir, if it had not been for these pretended economies, but really these successful economies, on the part of the democratic party as represented upon the floor of this House there would be to-day a deficiency in the Treasury of the United States which would have to be made up by increase of taxation or the negotiation of a new loan. And it is only because from year to year we have not only attempted economy but enforced economy that the Treasury to-day is able to meet all the demands upon it.

The gentleman from Ohio [Mr. FOSTER] has not failed on this occasion, as he has not failed on many other former occasions, to sneer at any economy enforced by the majority on this floor. Mr. Chairman, in the Thirty-ninth Congress there were appropriated for the purposes of this Government, outside of the permanent appropriations, the sum of $312,000,000. In the Fortieth Congress there were appropriated $322,000,000, an increase of $10,000,000 in the Fortieth over the Thirty-ninth Congress. In the Forty-first Congress there were appropriated $336,000,000, an increase of $14,000,000 in the Forty-first over the Fortieth Congress.

In the Forty-second Congress, when the gentleman from Ohio [Mr. GARFIELD] was first chairman of the Committee on Appropriations, the amount appropriated, in the great appropriation bills and for deficiencies and all the miscellaneous items going to the support of the Government, was $369,000,000, an increase of $33,000,000 over the amount appropriated in the Forty-first Congress.

Now, again, in the Forty-third Congress, embracing 1875–'76, the whole amount appropriated for the support of the Government was $361,000,000, being but $9,000,000 less than was appropriated in the Forty-second Congress. The decrease was made at the second session of that Congress. In October, 1874, a political whirlwind had passed over this land, sweeping the republican party from power in this House. It was the warning contained in that great political verdict which induced a reduction of $7,000,000 in the appropriations for the fiscal year of 1876. But even in that Congress the total appropriations were $361,000,000.

Now, sir, mark the change when these "pretended" attempts at economy were inaugurated. In the Forty-fourth Congress, the first time since the war that the democratic party regulated and legislated for the expenditures of this Government, the total appropriations for that Congress amounted to but $307,000,000, or more than $60,000,000 less as compared with those made by the republican party in the Forty-second Congress and more than $50,000,000 less than those made by the same party in the Forty-third Congress. And on this side of the House at the last session we made appropriations for the running fiscal year amounting to $158,000,000; but as is well known there were extraordinary expenses included—the fishery award, $5,500,000; the deficiencies in the Navy Department, amounting to between three and four million dollars; some eight and one-half millions of dollars necessary to pay the pensions due to soldiers of the war of 1812, which had not been paid for years; and besides there were other items amounting to nearly $12,000,000, which in justice should be deducted from the gross sum appropriated for the running fiscal year—but assuming it to be $158,000,000, and multiplying that by two so as to get the aggregate appropriations for the Forty-fifth Congress, you have $317,546,000. I ask you to compare that amount with the sums appropriated for the Forty-second and Forty-third Congresses and you have the result of the "pretended" economies, if you choose to style them so, but economies which this side of the House have carried through and which have proved to be not "pretended" but actual and resulting in that amount of saving to the people of the United States.

These figures I have drawn from undoubted sources, from the appropriation bills themselves; and as no cent of money may be expended in this Government without warrant of law, it is to them you go to know what is the cost of this Government outside of the permanent appropriations. And thus it is, sir, that there has been an average saving to this Government and to its people by these "pretended" economies of hard on to thirty millions of dollars a year, without which, sir, the Treasury of the Government would have been bankrupt.

Mr. PRICE. I wish to ask the gentleman a question before he sits down. In making up the estimate of the expenses of the Government for the years he has named, I know he intends to be exactly correct and fair, and I want him to take into that account the fact that we are now paying between fifty and sixty millions of dollars less a year for interest than in some of the years to which he has referred.

Mr. CLYMER. In my estimates, I will state to my friend, the question of interest on the public debt does not enter. It is one of the permanent appropriations. It is once estimated for and enters into no calculation on this subject.

Mr. PRICE. It is part of the expenses of the Government.

Mr. CLYMER. No, sir; not in the sense in which I have made the comparison. The interest paid by the Government does not come into my figures because I have only taken the appropriations made by regular appropriation bills and for the ordinary expenses of the Government. My friend from Iowa knows that the interest on the public debt is not appropriated. It is a permanent appropriation paid out by warrant of law.

Mr. PRICE. But it is a part of the expenses of the Government.

Mr. CLYMER. Unquestionably.

Mr. PRICE. And you will agree with me, the interest on the public debt has been reduced by the republican administration nearly sixty millions of dollars.

Mr. CLYMER. I do not know that that is much to its credit. I know that that reduction has been made by means of heavy taxation on the people. But the interest on the public debt does not enter into this calculation at all.

Mr. PRICE. That may be true as far as the figures of the gentleman are concerned, but it is a fact nevertheless.

Mr. HUMPHREY. I call for the regular order.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to the floor.

Mr. CLYMER. I yield to the gentleman from Ohio, [Mr. FOSTER.]

Mr. BLOUNT. If the gentleman from Ohio will allow me, I will move that the committee rise for the purpose of closing debate.

Mr. FOSTER. I would rather go on now. I will not occupy more than five minutes.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having taken the

chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 3312) making appropriation for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 5485) for the relief of Andrew Muckle.

POST-OFFICE DEFICIENCY BILL.

The Committee of the Whole resumed its session.

Mr. FOSTER. I do not see exactly how the gentleman from Pennsylvania got into this debate in the way he has. But he is generally very fair, and when the gentleman from Pennsylvania states that the democratic party has reduced the expenses of the Government $30,000,000 annually, I am amazed. I hold in my hand a report of the Secretary of the Treasury which shows that the reduction of the expenses of the Government after the books were posted and the year closed for the year 1876–'77 was a little over $19,000,000. The first year, then, of democratic economy resulted in a showing of a reduction over the previous year of $19,000,000. The second year shows a reduction over the preceding year of $1,695,000. The present year, the current fiscal year, will show at its close an increase again probably of from two to four millions of dollars. Now my friend gets into a confusion in regard to these appropriation bills.

Mr. ATKINS. If the gentleman will allow me I will ask him a question.

Mr. FOSTER. I yield to the gentleman.

Mr. ATKINS. Is the gentleman referring to expenditures or appropriations?

Mr. FOSTER. To expenditures, and I maintain that is the place to look in order to see where your decrease of expenses is.

Mr. ATKINS. Congress has nothing to do with expenditures at all.

Mr. FOSTER. In the Forty-fifth Congress what was the action of the Committee on Appropriations and of this House usually on appropriation bills? We ransacked all the Departments, and wherever we found an unexpended balance we appropriated the unexpended balance without giving any figures whatever; and that, of course, did not appear and does not appear in my friend's quotings at all. There were several millions of that. But it was an appropriation of money actually. That, however, I will say to my friend from Pennsylvania, does not appear at all in the appropriation bills.

Then, again, under republican administrations the appropriations were made liberally, so that all the Departments had sufficient money to run them, so to speak.

Mr. HEWITT, of New York. They had!

Mr. FOSTER. At the close of each year there was a large sum of money to be turned back into the Treasury—several million dollars. On the other hand, when our democratic friends came in they appropriated too little, and then they bring here deficiency bills to the extent of $18,000,000 in two years, while my friend from Ohio [Mr. GARFIELD] in four years brought in deficiency bills of only about $10,000,000. The actual fact, as contained in the report of the Secretary of the Treasury, is that in the two years which have elapsed the actual reduction of the expenses of this Government for the two years is a little over $20,000,000. Two years preceding this, under a republican administration, we reduced from former years $26,000,000, and it is unfair in my friend to say that the republican party would not have continued the reduction which they had commenced before the Democratic party came into power.

Now, I say that there are no figures on earth except in the head of some democrat who has been on this Committee on Appropriations that will justify any such assertion as the gentleman from Pennsylvania makes.

Mr. CLYMER. Will the gentleman say that the party to which he belongs attempted to make reductions?

Mr. FOSTER. They made reductions every year except one.

Mr. CLYMER. In 1869 the appropriations were one hundred and sixty-seven millions.

Mr. FOSTER. That is not a fair way to get at it. Take the actual expenses.

Mr. CLYMER. All the money appropriated by law.

Mr. FOSTER. No; take the actual expenses.

Mr. CLYMER. You have not decreased the appropriations one year since 1869.

Mr. FOSTER. There was a decrease in the expenditures in every year from 1867, save one, down to the time you came in, and the books of the Treasury Department will show it, and I maintain that the basis on which my friend goes is not a correct one. It is the actual expenditures when the books are posted at the close of the year that show whether there has been a reduction or an increase.

Mr. CLYMER. Can there be a dollar expended in this Government save by appropriations? Will the gentleman answer me that question?

Mr. FOSTER. Money can be appropriated and not expended.

Mr. CLYMER. But you cannot expend it without an appropriation, and I have shown that you never decreased an appropriation bill save in 1876 since 1869, and that on the contrary you have increased the appropriations by millions each Congress since.

Mr. FOSTER. I maintain that the expenses of carrying on the Government have decreased each year since 1867, save one. Does the gentleman deny that?

Mr. HEWITT, of New York. I deny it, and I will give the gentleman figures to prove it. Will he have them now?

Mr. FOSTER. I will take them now.

Mr. HEWITT, of New York. I hold in my hand the finance report, which is the official publication of the Treasury Department. You have all seen it, and I take the gentleman at his word, that the expenditures are the true test of economy, and not the appropriations.

Mr. FOSTER. Certainly.

Mr. HEWITT, of New York. In the year 1871 the expenditures, omitting odd thousands, were $157,000,000; in 1872 they were $153,000,000.

Mr. FOSTER. The gentleman must be reading wrong.

Mr. HEWITT, of New York. I am reading from the report of the Secretary of the Treasury for 1877, on page 17 of the Appendix.

Mr. FOSTER. The expenditures were more than that.

Mr. HEWITT, of New York. In 1872 the net expenditures, excluding interest as before, were $153,000,000; in 1873 the republican Congress raised them to $180,000,000, and in 1874 they raised them to $194,000,000——

Mr. FOSTER. And now they are $236,000,000.

Mr. HEWITT, of New York. No, not exclusive of interest on the debt, which is an item not subject to discretion; but the gentleman will allow me to go on. He must be patient. In 1875 the expenditures were $171,000,000; in 1876, the last republican Congress, they were nearly $165,000,000. Then came the democratic era of economy, and next year, 1877, the expenditures were $144,000,000, being a reduction of over $20,000,000 in one year, and that reduction is still going on.

The appropriation bills of this session will fall below $140,000,000, and the expenditures ought to be considerably below that amount. Comparing the average rate of expenditures under the Forty-second and Forty-third Congresses with that under the Forty-fourth and Forty-fifth Congresses, I think I am quite within bounds in saying that we have reduced the net ordinary expenditures of the Government fully 20 per cent., and have done this in spite of the accumulated deficiencies arising out of the lawless manner in which the public money was recklessly squandered under the late administration, inherited deficiencies for which we have had to provide, and which are extinguished forever.

I fully understand and appreciate the remark of the gentleman from Ohio that his party when in power gave the Departments plenty of money, and they had so much that they paid some of it back into the Treasury. Did the Navy Department pay back anything into the Treasury? He admits that his colleague, [Mr. GARFIELD,] when chairman of the Committee on Appropriations, brought in deficiency bills for $12,000,000.

Mr. FOSTER. In four years.

Mr. HEWITT, of New York. And he says that this side of the House has had to bring in deficiency appropriation bills for $18,000,000. Let me tell the gentleman that if the Committee on Appropriations on his side of the House had brought in all the deficiencies which the republican administration created in defiance of law, then our side of the House might greatly have reduced our deficiency bills, for the chief items in them have been due to the necessity of making up deficiencies incurred by a republican Congress. Now, does the gentleman from Ohio deny the truth of these figures?

Mr. FOSTER. You have just proven what I stated by reading the figures.

Mr. HEWITT, of New York. I have shown a steady increase in the ordinary expenditures from 1873 to 1875.

Mr. FOSTER. I do not wish to consume the time of the House any longer. I maintain to-day what I have always maintained. I trust my friend from Pennsylvania, [Mr. CLYMER,] who is usually so fair, will examine into the question upon the test that I gave. I claim that the test is expenditures and not appropriations.

Mr. HEWITT, of New York. Let me give the gentleman from Ohio [Mr. FOSTER] one or two more figures. I find that the deficiency bill passed by the Forty-third Congress, a republican body, was for the fiscal year ending June 30, 1873, in round numbers, $1,700,000, and for the year ending June 30, 1874, $11,278,000, making about $13,000,000 directly appropriated by that Congress to cover the deficiencies in the appropriations made by the Forty-second, when there was an apparent decrease of expenditures.

Mr. FOSTER. I emphatically and distinctly deny the correctness of the gentleman's statement.

Mr. ATKINS. The gentleman need not deny it; here it is in the book.

Mr. FOSTER. I deny the correctness of the statements the gentleman has made.

Mr. HEWITT, of New York. They were for deficiencies in the appropriations made by those Congresses.

Mr. FOSTER. Not for former Congresses; but they were such as you and your friends made up and charged to the republican party; and they are not true.

Mr. ATKINS, (holding up a book.) This is made up by the Clerk of the House.

Mr. FOSTER. He is a full-blooded democrat. [Laughter.]

Mr. ATKINS. And by the Secretary of the Senate. Is he a democrat? [Laughter.]

Mr. FOSTER. I can show the incorrectness of the statements by the gentleman from New York himself, if he would look at them.

Mr. ATKINS. The gentleman has got cornered and he is begging the question.

Mr. WHITE, of Pennsylvania. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. WHITE, of Pennsylvania. It is not fair for more than one man to attack the gentleman from Ohio at the same time.

The CHAIRMAN. The committee will come to order.

Mr. FOSTER. I have stirred up such a hornets' nest on the other side that perhaps debate had better be closed.

Mr. DURHAM. I think the gentleman has himself got worse stung than we have.

Mr. FOSTER. There have been more of you stung, at any rate, than on this side of the House.

I want to conclude by this simple statement: that in my judgment, and I do not want to impugn my friend from Pennsylvania [Mr. CLYMER] who is usually so fair by anything I am going to say, there never was a greater fraud perpetrated and maintained by any party in this country than the fraudulent democratic claim that that party reduced the expenditures of this Government $30,000,000 a year.

Mr. CLYMER. I am surprised to hear my friend from Ohio [Mr. FOSTER] use language that would be scarcely reputable on the stump, accusing gentlemen upon this side of the House of fraud, in making a statement based upon figures which he is not able to deny, and which will stand against his simple negation. This is not language which I think should characterize the intercourse here of one gentleman with another. I have certainly intended to say nothing here which would justify the gentleman in using any such language. If he chooses on the stump to make assertions of that kind he can do it. He should not do it, however, among his peers, where the question can be examined and investigated. And there I am willing to rest it. I move now that the committee rise.

Mr. BURCHARD. I ask the gentleman to withdraw that motion for a moment.

Mr. FOSTER. I want to reply to the lecture which I have received.

Mr. CLYMER. I will withdraw it for the lecture.

Mr. FOSTER. I certainly did not intend to be discourteous to my friend from Pennsylvania [Mr. CLYMER] or to the democratic party, and if I have said anything inoffensive I withdraw it. [Great laughter.] Offensive, I mean.

Mr. CLYMER. It was innocuous.

Mr. FOSTER. I want to assure my friend that when I made such a statement as I did the provocation was very great, and I used the language which he refers to.

Mr. BLOUNT. I move that the committee now rise to close debate.

Mr. BURCHARD. A moment. If the gentleman from New York [Mr. HEWITT] had gone back two or three years instead of beginning where he did——

Mr. HEWITT, of New York. Yes; back to the war.

Mr. BURCHARD. He would have found that there had been a decrease of expenditures as stated by the gentleman from Ohio, [Mr. FOSTER.] If he had read the statement of expenditures for 1867 and 1868 he would have found that there was a larger expenditure for those years, after the close of the war, than for any year since that time, and that after that time there was a diminution until the expenditures were brought down to $153,000,000. Then there was an increase, as the gentleman states; but he commenced at a time when there was an increase. I think that if he had made a fair statement he would have begun at the time to which the gentleman from Ohio has referred.

Mr. HEWITT, of New York. If the gentleman from Illinois [Mr. BURCHARD] will listen a moment, and if he will allow the stenographer to state the year with which I began, he will find that I began with the year 1871, recording an expenditure of $157,000,000; and then I referred to 1872, recording an expenditure of $153,000,000. I did this in order to show that the gentleman's friends having in charge the administration of the Government started out with most excellent intentions, being admonished by the state of public opinion that they must reduce expenditures. They had, in fact, a sudden spasm of economy. But they very soon forgot their good intentions, and the very next year the expenditures went up from $153,000,000 to $180,000,000, and I believe the gentleman from Illinois was one of the members of this House who voted in favor of these increased appropriations.

Mr. FOSTER. I would like to tell the gentleman how this increase arose.

Mr. BLOUNT. I move that the committee rise for the purpose of closing all general debate. There was an agreement with the gentleman having charge of the Geneva award bill that we should make this debate as short as possible.

The motion of Mr. BLOUNT was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for the transportation of mails by railroads for the fiscal year ending June 30, 1879, and had come to no resolution thereon.

Mr. BLOUNT. I move that all general debate in the Committee of the Whole on the postal deficiency appropriation bill be closed in one minute after the Committee of the Whole shall resume its session.

The motion was agreed to.

Mr. BLOUNT. I move that the House again resolve itself into Committee of the Whole to resume the consideration of the pending bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. CARLISLE in the chair) and resumed the consideration of the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for the transportation of mails by railroads for the fiscal year ending June 30, 1879.

Mr. BLOUNT. I ask that the bill be now read for amendment.

The Clerk read the bill, as follows:

Be it enacted, &c., That the sum of $450,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated to meet the deficiency in the appropriation for the transportation of mails by railroads for the fiscal year ending June 30, 1879: *Provided*, that no increase in the postal-car service beyond what existed on the 1st of December, 1878, shall be made during the fiscal year ending June 30, 1879.

Mr. PHILLIPS. I move to amend by striking out the proviso, which is of no use and may be mischievous.

Mr. BLOUNT. I hope this amendment will not prevail. It is not necessary for me to take up time in stating again the reasons for inserting the proviso. It was adopted with the unanimous assent of the Committee on Appropriations, and I hope it will not be stricken out.

Mr. PHILLIPS. Does the gentleman think the proviso as it now stands may not work some mischief to the service?

Mr. BLOUNT. I cannot see where the mischief will come.

Mr. MITCHELL. Mr. Chairman, upon the amendment proposed by the gentleman from Kansas [Mr. PHILLIPS] I desire to say a word. In the first place, the proviso seems to me an improper limitation to be imposed in a bill of this kind upon the authority of the postal department of this Government. I feel satisfied that many gentlemen of this House are, in respect to this matter, in a situation somewhat similar to my own. I have the honor to represent a portion of the oil region of Pennsylvania, in which, as gentlemen here are aware, there has been a very large increase of business and population within the last few years. In one county of my State the population has more than doubled within three years past. Within that time a "four corners" has come to be a city of ten thousand inhabitants; and upon every by-way, where but a few years ago if men were seen at all they were drawing saw-logs or cleaning fields, you will find to-day a teeming population interested in this great question.

Yet I find that the Post-Office Department has no authority to give that people the relief they require. To an application made last summer there came a reply that there was a deficiency; that the postal-car service of the country was so extensive that the amount of the appropriation was insufficient to keep it in operation. My application in behalf of the people of that county to have postal cars placed upon two railroads which have been built within the last year, and which are now doing so much business that I am told they will pay the cost of their construction within one year—that application was refused, and those people are deprived of that service on account of this policy which is called "economy," I suppose, by our friends on the other side. Sir, from that kind of economy deliver me.

This matter has met me in more than one direction, as the representative of the people of my district. I am not in accord with the gentleman from Georgia in his recollection with reference to the matter of the postal service of the country. Sir, that gentleman and this House had notice of a deficiency in this regard long before the adjournment of the last session. A proposition was made early in the session to increase the appropriation for this purpose, and it was refused. I voted for that increase as did many other gentlemen who had been embarrassed like myself in this respect. Yet it is claimed, as I understand, that the gentleman was not aware of this deficiency.

Sir, we are a progressive people; and this proviso proceeds upon the idea that there is no progress in this country. Notwithstanding the great financial crash of 1873, we are to-day building railroads at the rate of two thousand miles and more per annum; yet this proviso says that there shall be no increase of the postal-car service. Do gentlemen of this House desire to be placed on the record in that attitude? Do they desire to deprive the people of any increase in that direction? Why, sir, read the proviso. It is as follows:

Provided, That no increase in the postal-car service beyond what existed on the 1st day of December, 1878, shall be made during the fiscal year ending June 30, 1879.

The two railroads to which I have referred traverse a territory of nearly fifty miles. They are narrow-gauge railroads. Upon them are numerous cities, as they are called, which have grown up in that oil region, of some three or four thousand people each.

The CHAIRMAN. The gentleman's time has expired.

Mr. REED. I will take the floor and yield my time to the gentleman from Pennsylvania.

Mr. MITCHELL. I thank the gentleman from Maine, but I presume I have said enough to be understood. I have no desire to make any speech on the subject, but I have been greatly embarrassed in my relation with that people by the denial by Congress to the Post-Office Department of the appropriations asked for to carry on that service.

I think the principle embodied in that proviso is incorrect, and that we ought not to place ourselves upon record in its favor. I trust, on the contrary, the House will strike it out.

Why refuse to trust the amiable head of the Post-Office Department of the United States? It appears to me gentleman ought to be in a happy situation in that regard. Certainly he ought to be acceptable to the other side; he was not to me, personally, Mr. Chairman, but I now hope there will be no further attempt to limit the Department in this regard.

Mr. ATKINS. Mr. Chairman, I wish to say a single word in regard to this proviso. I hope it will remain in the bill, as I think there ought to be some restraint upon the Postmaster-General. He has already exceeded the appropriation by over $400,000 if he continues the expense for the postal-car service during the fiscal year at the same rate he has for the first two quarters. If we do not put this proviso on, of course there will be no restraint upon him. We do not know where he will end. We do not know how much he will require. Neither the Committee on Appropriations nor this House can tell what amount the Postmaster-General will expend upon this postal-car service if no restraint is put upon him. We made an appropriation for this fiscal year for the postal-car service, and he has taken that amount and spread it out for the first two quarters, necessitating retrenchment for the balance of the fiscal year or additional appropriation. It seems to me he should have made a judicious distribution of the sum and applied it to the whole fiscal year, and not put on an increase exhausting the entire amount for the first two quarters of the year, leaving the other two quarters to have diminished service. I trust, therefore, that the proviso will prevail.

Mr. PHILLIPS. Will the gentleman allow me to ask him a question?

Mr. ATKINS. Yes, sir.

Mr. PHILLIPS. Has the committee of which he is a member put in this deficiency bill an appropriation for the service which he forbids for the rest of the year?

Mr. HEWITT, of New York. No, sir.

Mr. PHILLIPS. You bring it in on account of the increase.

Mr. ATKINS. I desire to state, Mr. Chairman, that the only objection and the only comment I have to make in regard to this whole transaction is to the Postmaster-General saying he will not produce a deficiency by continning the same amount of postal-car service he now has. The comment I have to make is to know why he did not so feel at the beginning of the year. If the Postmaster-General had been as desirous and as anxious to keep himself within the bill, to keep himself within the law, to keep himself within the appropriation, he would not have been compelled to come forward now and say he will have to take off the postal-car service for the balance of the year unless you increase the appropriation $450,000. That is the comment I have to make, and it is a just one. The Postmaster-General ought to have been as careful at the beginning of the fiscal year as he now seems to be not to violate the intentions of Congress or to exceed the appropriation made by it.

Now, on this appropriation bill, I do not desire to enter into any discussion of the general expenditures of the Government, but I do want to make one or two remarks in reply to my friend from Ohio, [Mr. FOSTER.] When he speaks about large deficiencies we have incurred I want to remind him that at the last session of Congress this House cleared the deck. We paid up old scores. We paid over $14,000,000 of deficiencies. Nearly six and a half millions of dollars of that $14,000,000 were justly attributable to the years the republican party ran this Government. They came down from years preceding and before the democratic party took possession of the House of Representatives—nearly one-half of the $14,000,000.

The CHAIRMAN. Debate is exhausted.

Mr. PAGE. Is not another amendment in order?

The CHAIRMAN. Not at the present time.

Mr. MITCHELL. I withdraw my amendment to the amendment.

Mr. CONGER. I renew it.

Now, Mr. Chairman, whenever the post-office bill is before this House the Committee on Appropriations have uniformly for years past made it less than the judgment of many if not a majority of the members thought it should be. It has been amended by being increased frequently. But whenever there is any attempt to amend it we hear the same tirade against the expenditure of the republican party, and we hear the same glorification from the gentleman from Tennessee and his colleagues about the retrenchment of the democratic party. And when the people of the United States demand mail service the gentleman from Tennessee says: "We are retrenching; we cannot give you your letters; we cannot give you your papers; we cannot send you your mails into the new frontier settlements; we cannot send your mails by the railroads as has hitherto been done." Now, the country has got tired of that. You cannot ride through a county of the northwestern part of the United States without somebody inquiring of you, "When will the gentleman from Tennessee give us mail service and stop going back four, six, eight, or ten years to tell how much the republicans expended by giving it to us?" The country is tired of all that talk. They want mail service. We protested against the small amount appropriated in the bill for this year. The gentleman from Georgia said it was enough.

Mr. BLOUNT. When did the gentleman protest, or any man on that side of the House?

Mr. CONGER. On this side of the House we protested continually.

Mr. BLOUNT. Not a syllable.

Mr. CONGER. We protested continually against his bill.

Mr. BLOUNT. Not a syllable; you voted for it.

Mr. CONGER. The gentleman has forgotten the struggle we had here to get the appropriation for the star service.

Mr. BLOUNT. That was a different thing, and it was on a different occasion.

Mr. CONGER. And now the gentleman comes here, he is compelled to come here, and the Appropriations Committee, under the lead of the gentleman from Tennessee and the gentleman from Georgia, are compelled to come here and put in their bill that they have deceived the people of the United States in their pretended appropriations, and they acknowledge by law, in the bill, that a deficiency was necessary. How do they excuse themselves for that deficiency? By attacking the republican party. How do they excuse themselves for any of the delinquencies of the democracy? By attacking the republican party. How do they excuse themselves in reference to the cipher dispatches? By attacking the republican party and crying "fraud" on the republican candidate for the Presidency. I beg pardon; they do not defend themselves that way. They defend themselves against the attack based on the cipher dispatches by a silence that is profound as that of the grave. No living soul of the democracy is permitted—the distinguished gentleman from Gramercy Park, the head of the investigating committee, does not permit any honest democrat to allude to that, lest he should be called upon to investigate as the country does call upon him to investigate.

Mr. SPARKS. The gentleman from Michigan knows that the gentleman to whom he now alludes is not in his seat.

Mr. CONGER. The gentleman was in his seat a minute ago.

Mr. SPARKS. He is not there now.

Mr. CONGER. He started out, then, when he saw me rise. [Laughter.]

Mr. TUCKER rose.

Mr. CONGER. I observe the gentleman from Virginia [Mr. TUCKER] is in his seat. Why in Heaven's name has he not called up the cipher dispatches? [Laughter.] Is nobody honest enough, nobody bold enough, even if the gentleman from New York [Mr. POTTER] is not in his seat, to speak of these things when we are talking about the profligacy of parties? But, Mr. Chairman, I cannot blame any democrat for never alluding to the cipher dispatches for weeks in this House, for there is no man bold enough to defend them; there is no committee which will dare to examine them. Those dispatches stand there arrayed and backing up each other.

Several gentlemen have risen to attack the gentleman from Ohio. Even my long friend from Kentucky [laughter] rises here before he retires from the arena of his greatness to make an attack on the gentleman from Ohio, who accompanies him in his exit. Why could they not leave these questions for discussion among the scenes of domestic happiness to which they are about to return? [Laughter.]

Mr. DURHAM rose.

Mr. CONGER. Mr. Chairman——

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. RANDOLPH. If the Chair will recognize me, I will yield my time to the gentleman from Michigan.

Mr. DURHAM. I understood I was recognized.

Mr. CONGER. I did not know that I had lost the floor; but if the gentleman from Kentucky or any other gentleman on that side of the House will speak on that subject, I will gladly yield to him.

Mr. DURHAM. I have ever since I became a member of this House directed my attention to the matter in hand. I have rarely gone beyond the subject under consideration for the purpose of making merriment on this floor, and consequently I disregard everything my friend from Michigan has said of a jovial character, and will discuss the bill under consideration. The cipher dispatches will take care of themselves; and so far as that matter is concerned, I suppose the whole country understands the present administration now in power was put there through fraudulent returns, and it makes no difference whether dispatches, cipher dispatches or other things, show or do not show that fact.

Mr. CONGER. Is that the explanation of the cipher dispatches?

Mr. DURHAM. No, sir; I leave the matter of the cipher dispatches to work itself out. The proper committee will attend to all that.

I wish to say to my friend from Pennsylvania [Mr. MITCHELL] that it is not the object of this proviso to restrict the postal service in this country. That is not the case by any means. Its object is to restrict the postal-car service. That has been distinctly and explicitly explained by my colleague on the committee and it has been shown that the increase in the last year has been over 40 per cent. Now, I will not say as has been said by some of these gentlemen that we can leave this whole matter to the Postmaster-General. I am willing to trust him upon all proper occasions; but, Mr. Chairman, permit me to say to you that if the Postmaster-General will violate the law at one time he may violate it in a dozen instances. Do you ask me if he has violated the law? I say that the Postmaster-General has violated the spirit of the law. Congress at its last session limited him to a certain amount for the postal-car service, and what has he done. Do you ask me if he has done it intentionally? I must say, sir, that he ought to have known his duty and to have observed

the law. He has expended an undue proportion of the amount this House and the Senate put at his disposal for the purpose of maintaining the postal service of the country for this fiscal year, knowing very well that he had Congress by the throat, because he knew that this is a tender subject upon which Congress in all probability would vote almost any amount for the deficiency that he might create; but having expended this undue proportion appropriated by the last House, he comes and brings in this deficiency.

Mr. PHILLIPS. I desire to ask the gentleman a question.

Mr DURHAM. Well.

Mr. PHILLIPS. Is this appropriation made to meet a just expenditure?

Mr. DURHAM. It is proposed to appropriate $450,000 to meet a deficiency which the Postmaster-General brings about by violating the spirit of the law.

Mr. PHILLIPS. Is it a just expenditure of public money?

Mr. DURHAM. It is the expenditure of more money than was appropriated; he had no right to exceed the appropriations of Congress.

Mr. PHILLIPS. That is not my question; my question is, is this a judicious and just expenditure of public money?

Mr. DURHAM. That does not excuse him at all. I say the Constitution and the laws invest Congress with the sole power to appropriate money, and the Postmaster-General, or the Executive, or any other Department has no right to exceed the appropriations made and thus create deficiencies. In so doing they violate the spirit of the law.

Mr. PHILLIPS. Will you answer another question?

Mr. DURHAM. It was the duty of this officer to cut his garment according to the cloth that Congress gave him. Now, I will say this much: that I am for ample post-office communication everywhere.

I was amazed to hear the gentleman from Michigan, [Mr. CONGER,] who has scarcely a town of respectable size in his district, talking of postal cars. I wonder if any one ever heard of a postal car out there. Talk about postal cars! Why, sir, it would scare his country for one of them to run into his district. [Laughter.] If he wants to do something; if he really means to be candid, let him join me and be honest about it, and ask for star service. I want star service in my country, and I am very glad if we can get it twice a week in some portions of the country. Why does he talk of postal cars? It is just for the purpose of making fun upon the floor.

Confine yourself to the wants of your own section of country and do not be putting on your airs here. [Great laughter.]

Mr. CONGER. I withdraw the amendment and renew it. I have been told by the gentleman himself and partly by his neighbors that in his whole district there is not one manufacturing establishment of any kind whatever, not even a shoe-peg manufactory, except it be, either in public places or private places, the manufactory of alcoholic liquors. [Laughter.] I have been told that there is one newspaper published in the gentleman's district, and that there are three public school-houses in that district remote, very remote in that long district, from the residence of the gentleman who represents it here. [Laughter.] I have been told that the gentleman, traveling in Michigan, as he passed over our railroads, seeing these splendid edifices of which every village in Michigan can boast, and which we call our Union school-houses, turned to one of his southern colleagues, as they came by that roundabout way, and said, "We cannot wonder that the Treasury of the United States is depleted when every village which we go through has a grand Government building in it." [Great laughter.] He traveled on our railroads through Michigan and saw in every village, to say nothing of our cities, these splendid buildings for the education of all the children, and you could not convince him that the republican party had not stolen from the Treasury of the United States the money with which to build these "grand Government buildings." And he came here very angry about it. I talked with him every alternate day as I had opportunity, pausing in the labor of our committee of which he and I were members, and tried to convince him that our own people built the school-houses. [Laughter.] But I had to send to our State capital and get a statement from there of the cost of these buildings and of the appropriations made for them, showing that the intelligent, educated people of Michigan constructed their own school-houses. [Renewed laughter.]

The gentleman has referred to the "little unheard-of village" where I reside. To be sure it is a village of only twelve thousand inhabitants; to be sure it has only five great railways centering there. To be sure the Saint Clair River, connecting that great chain of lakes, those immense arteries of commerce, runs past my door. The gentleman himself has been upon that river where forty thousand passages of vessels in each year make the river and the foot of Lake Huron alive with their beautiful sails and the emblems of their commerce. But what does the gentleman care for that?

From my door he can start on one of these vessels and go to the extreme northern portion of our lakes. He can take the Grand Trunk Railroad and go to Montreal, Quebec, Portland, and Boston. He can go from there by railroad to Detroit and Lansing and Chicago and to the Falls of Niagara. He can go from there on any one of the five or six great railroads that center there.

Oh, that the gentleman had had a school-house [laughter] where he could have studied geography; where he could have devoted an hour or two from the excessive labors which have borne upon him in his efforts to attack the republican party and to make wicked and unnecessary retrenchments; where he should have learned something about his own native beloved country! What a wise man he might have become, and how happy he might be in the knowledge he could thus acquire.

Mr. DURHAM. May I ask the gentleman——

Mr. CONGER. As to his district, I do not wonder that the star service is all the service he has there.

Mr. DURHAM. May I ask the gentleman a question?

Mr. CONGER. I do not know whether the Mammoth Cave is in his district. [Laughter.] But if it is not, then I should say that the gentleman's district above ground was the dark Mammoth Cave of the United States.

Mr. DURHAM. May I ask you a question?

Mr. CONGER. Certainly.

Mr. DURHAM. Now, honor bright, did your people ever see a postal car? [Laughter.]

Mr. CONGER. Why, sir, they have them on every one of the five railroads. I myself have the appointment of seven or eight route-agents upon those postal cars. [Great laughter.] The gentleman does not know what a route-agent means. He knows that on the cars that run along the border of his district—not through it—there is a little cubby-house that the drovers of cattle occupy as they go with their droves to the East, and he thinks those are postal cars. [Great laughter.]

Mr. DURHAM. How does the gentleman get authority to appoint so many route-agents on postal cars?

Mr. CONGER. By the laws of the United States of America.

Mr. DURHAM. I did not know how the gentleman came by so much power.

Mr. CONGER. If the gentleman will go up into the enlightened land of Michigan, if he will sojourn in that State that sleeps among the lakes and is threaded by railroads in every direction, and see our postal cars——

Mr. DURHAM. And listen to the music of the bull-frogs. [Laughter.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLOUNT. I move that the committee now rise for the purpose of closing debate on this bill.

Mr. CONGER. I hope not, until we can hear about the cipher dispatches.

The question was taken upon the motion of Mr. BLOUNT; and it was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that, in pursuance of the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879, and had come to no conclusion thereon.

Mr. BLOUNT. I move that when the House again resolves itself into Committee of the Whole on the postal deficiency appropriation bill all debate on the bill and amendments be limited to one minute.

The motion was agreed to.

Mr. BLOUNT. I move that the House again resolve itself into Committee of the Whole on the pending bill.

Mr. HANNA. I move that the House adjourn.

The motion was not agreed to.

The motion of Mr. BLOUNT, that the House resolve itself into Committee of the Whole, was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union (Mr. CARLISLE in the chair) and resumed the consideration of the postal deficiency appropriation bill.

The CHAIRMAN. The pending question is upon the amendment of the gentleman from Kansas, [Mr. PHILLIPS,] to strike out the proviso.

The question being taken, there were—ayes 99, noes 93.

Mr. PHILLIPS called for tellers.

Tellers were ordered; and Mr. PHILLIPS and Mr. BLOUNT were appointed.

The committee divided; and the tellers reported—ayes 76, noes 92.

So the amendment of Mr. PHILLIPS was not agreed to.

Mr. OLIVER. I move to amend the proviso by striking out the words "in the postal-car service" and inserting "of additional pay for postal cars;" so as to make the proviso read:

Provided, That no increase of additional pay for postal cars beyond what existed on the 1st day of December, 1878, shall be made during the fiscal year ending June 30, 1879.

Mr. ATKINS. I suggest that the gentleman should insert the word "service" after the word "postal cars."

Mr. OLIVER. I believe I have one minute for debate.

The CHAIRMAN. All debate has been exhausted by order of the House; but the gentleman will proceed for one minute if there be no objection.

Mr. OLIVER. I find that the pay for postal cars is separate from the pay for railway mail service. Now in my district two railroads have been constructed, one of which is over one hundred miles in length——

Mr. BLOUNT. Is debate in order?

The CHAIRMAN. As the Chair understands, debate is not in order.

[Cries of "Vote!" "Vote!"]

Mr. OLIVER. I understood that I was to be allowed to proceed by consent. At any rate there is one minute allowed for debate under the order of the House.

The CHAIRMAN. The gentleman will remember that this amendment was not pending when the House made the order limiting debate.

Mr. OLIVER. But debate was limited to one minute on the bill and amendments.

The CHAIRMAN. The debate of one minute allowed under the order of the House applied to the bill and the amendment then pending, and by the universal construction of such orders it precludes debate upon all subsequent amendments, though it does not prevent the offering of amendments.

Mr. WAIT. I trust the amendment will prevail——

The CHAIRMAN. Debate is not in order.

The question being taken upon agreeing to the amendment of Mr. OLIVER, it was not agreed to, there being ayes 19, noes not counted.

Mr. PAGE. I move to amend by striking out all after the word "provided" and inserting "that no increase in the postal-car service in excess of this appropriation shall be allowed."

Mr. BLOUNT. I hope this amendment will not be adopted.

The amendment was not agreed to.

Mr. PHILLIPS. I move to amend by adding "$50,000 for clerical allowances in offices when the increase of business requires it."

I wish the gentleman from Georgia would allow me to state my reasons for offering this amendment.

Mr. BLOUNT. I cannot consent to further debate, but will simply say to the gentleman that at the proper time we shall have a bill with reference to this subject.

The amendment was not agreed to.

Mr. BLOUNT moved that the committee rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for the transportation of mails by railroads for the fiscal year ending June 30, 1879, and had directed him to report the same with the recommendation that it pass.

Mr. BLOUNT. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading, was accordingly read a third time, and passed.

Mr. BLOUNT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. FOSTER. I desired to move an amendment to the title of the bill.

The SPEAKER. It is too late.

Mr. FOSTER. I shouted pretty loudly in trying to get the attention of the Chair. I wished to amend the title so as to read "A bill to correct an error of the democratic House at the last session."

DIPLOMATIC APPROPRIATION BILL.

On motion of Mr. SINGLETON, by unanimous consent, the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, were taken from the Speaker's table, ordered to be printed, and referred to the Committee on Appropriations.

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. ROBERTSON. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 4318) to provide for the organization of the "Mississippi River Improvement Commission" and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River, and the protection of its alluvial lands, and that the same be made a special order for the 14th of January next and from time to time until disposed of.

Mr. ATKINS. Not to interfere with appropriation bills.

Mr. TOWNSEND, of New York. I object to discharging the Committee of the Whole. I want the bill where we can debate it.

The SPEAKER. The gentleman from Louisiana does not ask to cut off debate.

Mr. TOWNSEND, of New York. If it be brought up in the House I shall not be heard. I want to be heard in Committee of the Whole.

Mr. ROBERTSON. I will modify my motion so as to make the bill a special order in Committee of the Whole.

The SPEAKER. If there be no objection the bill will be made a special order in Committee of the Whole for the 14th of January next, to the exclusion of all prior orders.

There being no objection, it was ordered accordingly.

Mr. ROBERTSON moved to reconsider the vote by which the order was made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted—

To Mr. WILLIAMS, of New York, until the 20th instant, on account of important business;

To Mr. WILLIAMS, of Alabama, for two days, from Thursday morning next;

To Mr. OVERTON, for three days, on account of important business; and

To Mr. WARNER, for three days, on account of important business.

FOG-SIGNAL AT EXECUTION ROCKS, LONG ISLAND.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, asking an appropriation of $15,000 for the establishment of an efficient fog-signal at the light-station at Execution Rocks, Long Island, New York; which was referred to the Committee on Appropriations.

J. B. DAVIS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, recommending reimbursement to J. B. Davis, superintendent of the National Cemetery, at Alexandria, Virginia, for losses sustained by fire; which was referred to the Committee on Military Affairs.

REPAIR OF LIGHT-HOUSE STATIONS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, recommending a special appropriation for the repair of light-house stations injured by the storm of October 23, 1873; which was referred to the Committee on Appropriations.

BARRACKS AT FORTRESS MONROE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, recommending an appropriation of $34,000 to complete the barracks building at Fortress Monroe, Virginia; which was referred to the Committee on Appropriations, and ordered to be printed.

COAST SURVEY REPORT.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1878; which was referred to the Committee on Commerce, with power to order its printing if that be found necessary.

INTERCOURSE BETWEEN THE UNITED STATES AND SOUTH AMERICA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting a report by Mr. J. W. Fralick in relation to the commercial and postal intercourse between the United States and the states of South America; which, on motion of Mr. DUNNELL, was referred to the Committee on Commerce.

Then, on motion of Mr. ATKINS, (at five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAGLEY: The petition of women of Herkimer, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BAYNE: The petition of Rebecca Rankin and 54 other women of Allegheny County, Pennsylvania, of similar import—to the same committee.

By Mr. BUCKNER: Memorial of citizens of Saint Louis and Saint Charles Counties, Missouri, for an appropriation to prevent the change of the channel of the Missouri River opposite the city of Saint Charles, Missouri—to the Committee on Commerce.

By Mr. BUNDY: The petition of Mrs. M. R. Baldwin, and others, of Oxford, New York, to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. COBB: The petition of women of the town of Loogootee, Indiana, of similar import—to the same committee.

By Mr. McMAHON: The petition of Harrison P. Hayes, for a pension—to the Committee on Invalid Pensions.

Also, the petition of James Saunders, for an increase of pension—to the same committee.

By Mr. PHELPS: The petition of Mrs. E. Deck and 35 other ladies of New Haven, Connecticut, for such legislation as will render effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. REED: The petition of John Hanna, for a pension—to the Committee on Invalid Pensions.

By Mr. THROCKMORTON: The petition of citizens of Denison, Texas, for the establishment of a United States court at that city, having jurisdiction of causes and offenses arising in the Indian Territory—to the Committee on the Judiciary.

Also, resolution of the Legislature of the Chickasaw Nation, for the establishment of a Federal court at Denison, Texas, to try causes and offenses of which the United States courts have jurisdiction in said nation—to the same committee.

By Mr. WARNER: The petition of Herman G. Walter and 27 others, of Danbury, Connecticut, for legislation relative to the manufacture of cigars in tenement-houses—to the Committee of Ways and Means.

By Mr. WHITTHORNE: The petition of John M. Sanford, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. WILLIS, of Kentucky: Resolutions of the common council of Louisville, Kentucky, asking that the Howgate exploring expedition be directed to take the vessel making the exploration, after the colony leaves the same, out into the open Polar Sea and test the truth of the Symmes theory, and that Americus Symmes, a son of the author of said theory, be permitted to go on said vessel—to the Committee on Naval Affairs.

IN SENATE.

WEDNESDAY, *December* 18, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. No. 942) to authorize the Secretary of War to construct a bridge across the Potomac River at or near the Three Sisters Islands; and

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the act of Congress of June 20, 1878, a letter from the Chief of Ordnance, and a report of Major D. W. Flagler, showing upon what terms the Moline Water-Power Company will undertake to complete the Rock Island water-power at their own cost; which was referred to the Committee on Appropriations, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MERRIMON presented the petition of Henry Williams, residing at the National Military Home, at Hampton, Virginia, praying for a pension; which was referred to the Committee on Pensions.

Mr. VOORHEES presented the petition of Charles C. Smith, late captain in the Tenth Regiment Indiana Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the bill (H. R. No. 2139) making an appropriation for the payment to Richard Heater, executor of John Heater, deceased, late of London County, Virginia, of the sum therein named, for value of the stores and supplies taken and used by the United States Army, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sarah T. Jefferies, widow and administratrix of Evan S. Jefferies, deceased, praying compensation for property taken and appropriated by United States troops during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the petition of Theophilus P. Chandler, late assistant treasurer of the United States at Boston, praying to be relieved from all liability for the acts of his disbursing clerk in loaning or advancing the moneys or funds of the United States to certain parties, submitted a report thereon, accompanied by a bill (S. No. 1531) for the relief of Theophilus P. Chandler.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Louisa Kearney, widow of the late Colonel James Kearney, United States Army, praying compensation for property alleged to have been taken and appropriated by United States military forces during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. HOAR, from the Committee on Claims, to whom was referred the petition of Thomas P. Blair, of Cumberland County, Pennsylvania, praying compensation for grain purchased by him for the United States and captured by the rebel forces under General Lee in 1863, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. TELLER, from the Committee on Claims, to whom was referred the bill (S. No. 1370) for the relief of James M. Bacon, asked to be discharged from its further consideration and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (S. No. 1287) for the relief of Burr S. Craft, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the petition of Mary J. Padgett, praying compensation for property taken and appropriated by United States military forces during the late war, submitted an adverse report, namely, that the prayer of the petitioner thereon be not granted and that the claim be not allowed; which was agreed to, and ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the bill (H. R. No. 3734) for the relief of Thomas Strider, of Winchester, Virginia, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

DISTRIBUTION OF REVISED STATUTES.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department, have had the same under consideration, and instructed me to report it back without amendment. As it is a matter that concerns the convenience of the Post-Office Department, I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of State to furnish to the Post-Office Department, not exceeding two hundred and fifty copies out of the fifteen thousand copies of the new edition of the first volume of the Revised Statutes of the United States, for the use of the officers and special agents of the Department and of postmasters at offices of free delivery; no provision having been made for the Post-Office Department in the joint resolution providing for the distribution and sale of the new edition of the Revised Statutes of the United States, approved May 22, 1878.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1532) making an appropriation for continuing the improvement of the Monongahela River, in the States of West Virginia and Pennsylvania; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1533) creating a commission to examine and report the expenses of the State of Oregon and the Territories of Idaho and Washington, or the citizens thereof, necessarily incurred in suppressing Indian hostilities in the year 1878; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CONKLING. I ask leave to introduce a bill, not drawn by me, but handed to me, with a request that I introduce it.

By unanimous consent, leave was granted to introduce a bill (S. No. 1534) to provide for the appointment of official stenographers for the courts of the United States; which was read twice by its title.

Mr. CONKLING. Before the bill is referred I beg to say that here is a petition on which the bill is founded, which I should like to have go with it, and also a letter addressed to me and which I should like to go with the bill to the committee.

The VICE-PRESIDENT. The bill and accompanying papers will be referred to the Committee on the Judiciary.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1535) for the relief of George Heard; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1536) to regulate the tariff of charges on through and local freights and for passage over lines of railway in the Territories of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1537) for the relief of Richard F. Loper; which was read twice by its title, and referred to the Committee on Patents.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1538) authorizing the Secretary of War to lease to John B. Sarson part of the Fort Stevens military reservation; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1539) granting a pension to John Boulward; which was read twice by its title and referred to the Committee on Pensions.

PRINTING OF A MEMORIAL.

On motion of Mr. COCKRELL, it was

Ordered, That the memorial of Samuel C. Reid, in behalf of the heirs of the owners of the late United States private-armed brig General Armstrong, for compensation for the destruction of said brig by the British fleet at Fayal, during the war of 1812, be printed for the use of the Committee on Claims.

AMENDMENT TO A BILL.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado; which was referred to the Committee on the Judiciary, and ordered to be printed.

JURORS' OATH.

Mr. BECK. I desire now to call up the bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States, of which I gave notice yesterday and which is now on the table.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. McMILLAN. I object to that.

The VICE-PRESIDENT. Objection is made.

Mr. BECK. Then I move to take up the bill.

The VICE-PRESIDENT. The Senator from Kentucky moves that the pending and all prior orders be laid aside and that the Senate proceed to the consideration of the bill he has named.

Mr. BECK. May I be allowed to say a word? If it leads to any debate I will not press it now.

Mr. MORRILL. Has the bill been acted upon by any committee?

Mr. BECK. Allow me to make a statement. All the provisions of section 820 of the Revised Statutes were repealed by the fifth section of the act passed April 20, 1871, known as the enforcement act, which repealed section 1 of the act of June 17, 1862, and they were inadvertently restored in the Revised Statutes. If I am not able to show that by simply reading the statute I will not ask for the consideration of the bill.

Mr. MORRILL. I ask the Senator from Kentucky whether he does not think it is a bill of sufficient importance to have received the attention of some committee?

Mr. BECK. It was referred to the Committee on the Revision of the Laws in a House bill, so far as that section is concerned, the 8th day of December last, and no action has yet been taken upon the bill of the House and the necessity for immediate action is urgent. It is apparent upon the face of the statutes that section 820 is wrongfully inserted in the Revised Statutes. I have all the statutes before me. They show conclusively the repeal of the first section of the act of 1862, and show that it was wrongfully inserted in the Revised Statutes; of course, I assume, by mistake. I have also before me the decision of Judge Wood, of the circuit court of Louisiana, setting forth the facts and the effect of them, and the importance of having the obvious mistake corrected. Surely that ought to be done.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill.

Mr. MORRILL. In the absence of my colleague, [Mr. EDMUNDS,] the chairman of the Committee on the Judiciary, and in the absence of most other members of the Judiciary Committee, I shall object to its consideration until at least the chairman returns. I expect him here now within an hour or two.

Mr. CONKLING. What is the bill?

The VICE-PRESIDENT. It will be reported in order that the Senate may understand it.

The Secretary read the bill, as follows:

Be it enacted, &c., That section 820 of the Revised Statutes of the United States, prescribing additional causes of disqualification and challenge of grand and petit jurors in the courts of the United States, and section 821 of said Revised Statutes, which prescribes an additional oath for grand and petit jurors in said courts, be, and the same are hereby, repealed.

Mr. CONKLING. What is the present state of that bill?

The VICE-PRESIDENT. The question before the Senate is on the motion that the pending and all prior orders be laid aside in order that this bill may now be considered.

Mr. CONKLING. But I inquire what is the state of the bill? Is it before a committee or before the Senate?

Mr. BECK. I can answer the Senator from New York.

The VICE-PRESIDENT. The bill is on the Calendar, the Chair understands from the Secretary, having been read the first and second time.

Mr. BECK. I introduced the bill the other day and asked that it should lie on the table subject to be called up. I have now called it up because there are cases now pending in Louisiana and elsewhere in which there are serious troubles growing out of the existence of this section 820, which section 820 was, as I said before, in fact repealed in 1871, and was inserted wrongfully, by accident or otherwise, in the Revised Statutes. It is not a part of the law in truth and in fact, and is only operative so far as the Revised Statutes make it so, as it stands positively repealed on the statutes-book prior to the revision which declared that the existing laws were not interfered with. The importance of early action is my reason for calling it up.

Mr. CONKLING. Will the Senator allow me to inquire, is there not the same bill or an equivalent bill before the Judiciary Committee, referred to it at the last session?

Mr. BECK. I had the honor to introduce a bill and have it referred to the Judiciary Committee which embraced that and a great many other things than that; but believing that this single section and section 821 ought to be repealed and that there would be no objection to it, and on account of the pressing necessity for its passage, I introduced this bill with these provisions alone in it, leaving out a good many other provisions that were in the bill which I introduced last session and which was referred to the Judiciary Committee.

Mr. CONKLING. If the Senator will hear me, I think I shall be right in fact in informing him—I observe two of my colleagues on the committee present who will correct my recollection if it is erroneous—that the very point he now presents to the Senate has been and is before the Judiciary Committee, has been a topic of consideration not only but of discussion, upon which opinions in the committee differ; so that it is a matter, perhaps I ought not to say of controversy but of divided judgment as to the proposed legislative action. If I am right—and a moment's reflection in stating it confirms me in my recollection—I submit to the Senator and to the Senate that upon a matter so important as this—because it is a very grave matter—the Senate in the first place ought not to proceed without an examination by the appropriate committee.

But again, and more urgently, I venture to say that a committee having been charged with the examination of this very question, and not having been derelict, I think I may say, or guilty of neglect in regard to it, it would be unusual practice for the Senate, and in the absence too of the chairman of the committee, to take up in a mode so summary a question so important, once and now committed to a committee and awaiting its action, and proceed to make final disposition of that question in the morning hour upon such a statement, an intelligent one of course and a conscientious one of course, as may come from the Senator moving the bill. I think, with respect to that Senator, he will agree with me that as a rule it would be dangerous practice, and I think a practice not customary in this body, if indeed in any legislative body. I heard the Senator from Vermont say that his colleague, the chairman of the committee, was expected here to-day. Am I right?

Mr. MORRILL. I understand so.

Mr. CONKLING. So the Senator says he understands; and therefore I hope the Senator from Kentucky, unless his personal convenience will be in some way incommoded, will allow this at least to lie until the chairman of the committee, who is bound more than I am to know the condition of affairs before the committee, is in his seat and able to give the Senator and the Senate such information as there may be.

Mr. BECK. Mr. President, only one word. The Senator from New York is right in saying that a bill containing this provision is before the Committee on the Judiciary, but the bill before that committee embraces a great many other things about which that committee, it seems, has differed. For example, it embraces all the matters connected with the oath for young men who may have served in the confederate service and desire to go into the Federal Army.

Mr. CONKLING. Will the Senator allow me a moment there? I did not mean to challenge the statement of the Senator in that regard; he may be right; but I am right also in the statement I now make to him, namely, that this very point, separated from others, standing by itself, has been a topic of discussion in the committee and a subject on which the committee thus far has not come to a conclusion.

Mr. BECK. I desire only to add this: the bill containing this special provision relating to section 820 was referred not to the Committee on the Judiciary but to the Committee on the Revision of the Laws, of which the Senator from Michigan [Mr. CHRISTIANCY] is chairman. Last evening when the Senator from Louisiana [Mr. EUSTIS] called attention to the bill, in the presence of the Senator from Michigan, I gave notice that the bill I had offered which was on the table would be called up by me this morning, believing that either this bill or the House bill which has been passed there nearly a year or perhaps over a year might be substituted for mine, though mine perfects what the House bill intended, and the statutes of the United States be corrected in that regard, because the statutes show that as to the particular section 820, it was repealed in 1871, and by intendment section 821 also and was put into the Revised Statutes when it ought not to be there. Section 820 was repealed in express terms, as the law shows, and Judge Wood of the circuit court of Louisiana who had the question before him, carefully sets forth all the facts in a very elaborate opinion, which I have not time to read. We only desire now that that section of the Revised Statutes be repealed, because it never ought to have been there, and is in truth and in fact no part of the law of the land. The revisers having no power and disavowing any intention to change existing law have re-enacted by their revision a statute of the United States which was positively repealed, and have done it in such a way that it is difficult to see how it could escape their attention. That is all I desire or have time to say, as the Senator from Arkansas asks to be heard.

Mr. VOORHEES. Mr. President, this matter, in my judgment, ought to arrest the immediate attention of every Senator in this body. The facts, as admitted on all hands, are as follows: that seven years ago a law prescribing severe test oaths for the qualifications of jurors was repealed by the Congress of the United States. Since that time, a revision of our statutes, authorized by law, has taken place, and into that revision has crept this repealed and proscriptive law, and it is standing there now unjustly, improperly, and unlawfully; and it ought to be stricken out the very first moment attention is called to it. I do not seek to reflect upon the revisers of our statutes, but this is not the first time accidents of this kind have happened. I will content myself, however, on this occasion with saying that accidents of this kind render the labors of such revisers valueless. Who can rely with any confidence upon the statutes as revised when we employ men who do not know what to put in that revision as law or what to keep out of it as having been repealed?

I repeat, Mr. President, this question ought to arrest the immediate attention of the Senate. There stands now upon your statute books a law prescribing test oaths for the service of jurors, that which is

not law, which has been stricken down and repealed as a relic of the passions, if not the barbarisms, that immediately succeeded the war, in the legislation of this country.

Sir, a word in regard to the statement made by the Senator from New York. It is true that this question has been before a committee. It is true, according to the statement made by the Senator from Louisiana in his place here yesterday evening, that more than a year ago the House of Representatives sent a bill here correcting the error in the revision of the statutes, and again repealing this odious provision. It was referred to the proper committee, the Committee on the Revision of the Laws, the committee that is charged with that subject. This House bill has slept in that committee for more than one year. I did not know until the Senator from New York so stated, that it had been before the Judiciary Committee likewise. If it has, I can only express my profound amazement that any committee, whether the Committee on the Revision of the Laws or the Judiciary Committee, would allow a bill like this to slumber more than a year on its files, thus allowing the laws of the country to be defaced and to appear a deception and a snare, and especially upon a subject of this kind.

I understood the Senator from Michigan, and as a matter of course I accept his statement entirely, to state that he was not aware that this bill had been before the Committee on the Revision of the Laws. All I know is what the record shows. The record shows that in the Senate of the United States, on the 6th day of December, 1877, an act to repeal section 820 of the Revised Statutes of the United States was read twice and referred to the Committee on the Revision of the Laws, and that is the last that we have heard of it. I am not particular as to the mode in which this wrong and outrage shall be remedied. If it is best to do it by the bill offered by the Senator from Kentucky, I am ready for that; but I do think that it is incumbent upon the Committee on the Revision of the Laws or upon the Judiciary Committee, or upon both, to act, and to act promptly.

Mr. BECK. Before the Senator from Indiana sits down I wish to say to him that the bill I present also seeks the repeal of section 821 as well as section 820.

Mr. CONKLING. Mr. President, the honorable Senator from Indiana, following a fashion which to be sure he has not set because there are precedents for it in the Senate, with somewhat of severity of stricture, has seen fit to comment upon the work of those who revised the statutes. He employs the word "outrage," and he does not forget to use the word "ignorance" in respect to this matter. It is not for me to challenge the propriety of such observations. It is, I think, however, something approaching a duty to remind the Senate of who it is on whom the Senator from Indiana thus passes such summary and sweeping judgment.

These statutes were revised by some six or seven or eight commissioners succeeding each other. Several of them came from the State of Ohio, supposed by one Senator, not now in his seat, to be especially the land of the law and of erudition. Among these commissioners were men conspicuous in the profession to which they belong. They were selected, some of them, by Mr. Lincoln, and some of them were selected by his successors in office. They were confirmed by the Senate. They proceeded with their duties; they made report of their work; and their report was examined,—examined by the appropriate committees of both Houses. I remember that when this work underwent examination in the House of Representatives a conspicuous member of the committee having it in charge had recently been Attorney-General of the United States. In this body it was examined by a committee composed of those, some of whom are not here; I remember one who formerly sat behind me a Senator from Wisconsin, gifted as I may say unusually in the respects needed for this work.

On the report of these committees the work of the commissioners, with such trifling emendations as were proposed, received the sanction, first of one House, then of the other House, and thus of both Houses of Congress, and the signature of the Executive, with whom under the Constitution is deposited one-sixth of the law-making power.

Now the Senator from Indiana speaking of all these authorities in the aggregate denounces as an outrage and criticises as an ignorance, not merely the particular instance which he thinks he has found, but other instances which he generalizes or bunches with this as the appropriate occasion for such observation.

Mr. VOORHEES. May I ask the Senator from New York a question?

Mr. CONKLING. Certainly.

Mr. VOORHEES. I ask him whether he does or does not regard it an outrage to embrace in the laws of this country that which is not law on a subject so vital to the cause of liberty and justice as the qualifications of jurors and send it forth to the country as law? Is that an outrage, or is it not?

Mr. CONKLING. Mr. President——

Mr. VOORHEES. And further, so as not to interrupt the Senator again, I ask if the revisers, whether they lived in Ohio or any place else—and I am not seeking to make any personal issue or personal assault—are not guilty of ignorance in doing that thing?

Mr. CONKLING. Mr. President, as to Ohio, I mentioned that State, I thought not inappropriately, merely to pay tribute to the sufficiency of that State, as we all know, in furnishing public agents consummately adapted to every public function, whether for the revision of statutes or the higher ministrations of public office. I hope the Senator from Indiana, being the immediate neighbor of the great Commonwealth of Ohio, will not resent a passing and innocent compliment paid to that State.

Mr. President, it requires not one-half the ingenuity of the honorable Senator from Indiana to propose a question or a conundrum which must be answered in only one way. So he says suppose a case of an interpolation into the statutes professing to revive as law what is not law, is not that a wrong, or is not that an outrage? Very likely; but as in most cases of controversy and casuistry the difficulty is not with the principle, it is with the application of it; the difficulty is not with the conclusion but it is with the premise: in a given case such as the Senator states, everybody would answer one way. But I submit to the honorable Senator from Indiana, when it turns out that lawyers, a large number of lawyers *seriatim* having addressed their attention to a particular point have upon that point come to a conclusion exactly opposite to that which the Senator has reached, if it does not afford a presumption which at least makes some headway in rebutting a presumption that an outrage, a case of craft, ignorance, and neglect, has been found.

Now, if it be true that all these revisers and examiners and reviewers and legislators have fallen into a blunder, certainly it should be corrected notwithstanding the fact that so many have fallen into it; but on the threshold, at the point at which we now stand, namely the point of inquiring whether such be the fact or not, and if it be to what extent it is a fact, whether to the whole extent or only in part, I respectfully submit to the honorable Senator that it is not only decorous but convenient, orderly, economical of consequences, to have a committee sit down and look and look before we are asked to leap comparatively in the dark. And as I see the Senator rising I venture to re-enforce my suggestion by reminding him that it has already been stated that on this very point, after looking at it the Law Committee of this body has not been able up to this time to report, as the Senator affirms, but on the contrary divided opinions, conclusions not concurring have been reached. So I think the Senator will see that instead of this being an unreasonable opposition it is a very provident and suitable opposition.

And now I beg to ask the Chair whether the Senator from Vermont [Mr. MORRILL] interposed an objection to the consideration of this bill in the morning hour?

The VICE-PRESIDENT. He did; but the business of the morning hour having been declared closed, the Senator from Kentucky submitted a motion that the pending and all prior orders be laid aside.

Mr. CONKLING. And was that motion, despite an objection, in order?

The VICE-PRESIDENT. The objection made by the Senator from Vermont was to the request for unanimous consent to the consideration of this bill.

Mr. CONKLING. By the Senator from Kentucky?

The VICE-PRESIDENT. The Senator from Kentucky first asked unanimous consent that this bill might now be considered to which the Senator from Vermont objected. He then made a motion that the pending and all prior orders be laid aside.

Mr. CONKLING. And will the Chair be kind enough to inform me—I did not follow the run of the business—whether that motion was in order at that moment?

The VICE-PRESIDENT. The Chair thought it was, as he had called for further business of the morning hour and there was none.

Mr. CONKLING. I beg pardon; I did not observe that there was no further morning business.

Mr. VOORHEES. I think the Senator from New York is laboring under an error, and I only desire to get at exact statements of fact in this matter. I understand this question has been before the Judiciary Committee in the shape of a bill to repeal the test-oath act, not in the shape of an inquiry as to whether it has been repealed.

Mr. CONKLING. Now, if the honorable Senator will pardon me there,—I judge he will, for probably he wants my understanding on that point——

Mr. VOORHEES. Certainly.

Mr. CONKLING. I did not so understand. On the contrary, this question has been before the committee not only, as the Senator from Kentucky doubtless correctly says, in a bill containing also other provisions, but this particular topic in its length and breadth, in all its aspects comprehended by the Judiciary Committee has been before that committee and has been considered, and, speaking theoretically, I may say is being now considered, although the committee at this moment is not in session, and perhaps if it was this subject would not be before it; but it is a matter pending in the committee and pending in all the respects pertinent to it.

Mr. BECK. Mr. President——

Mr. DAVIS, of Illinois. Will the Senator from Kentucky allow me one moment?

Mr. BECK. Certainly.

Mr. DAVIS, of Illinois. As I understand it, during the last session of Congress one bill, and perhaps more than one bill, came from the House of Representatives and was before the Judiciary Committee to repeal both these sections, 820 and 821, and a subcommittee was appointed, if I may be allowed to speak of what was done by the Judiciary Committee, upon that subject, and no conclusion has been reached upon it. Whether the eight hundred and twentieth section had really been repealed or not was an inquiry to be made by the Com-

mittee on the Revision of the Laws. I was a member of that committee, but I really never heard until yesterday that such a bill was referred to it. The Judiciary Committee simply have had before them the inquiry whether it was proper and right that those two sections should be repealed. That was the inquiry they had before them, and upon that inquiry final action has not been taken. That is the status of it, as I understand.

The chairman of the Committee on the Revision of the Laws, the honorable Senator from Michigan, [Mr. CHRISTIANCY,] asked me yesterday if I had ever heard of any bill or any inquiry being addressed to that committee on this subject, and I replied to him yesterday that I had not. I was not aware until the Senator from Indiana this morning read the records of the Senate that any such bill had been referred there.

Mr. BECK. Now, Mr. President, I desire to say an additional word to make my position plain, and I shall occupy only a moment to repeat that. The history of this matter is this: A bill passed the House a year ago and was referred to the Committee on the Revision of the Laws, the chairman of which yesterday afternoon said they had not looked at it. I had introduced a bill a long time ago for the repeal of the test oath as to everybody and everything, and had argued it as well as I could in a brief, and, I thought, argued it pretty well, before the Committee on the Judiciary. That bill has not been considered so far as I am advised.

Knowing the trouble as to the provisions about jurors I introduced a bill the other day to repeal these two sections, and knowing that one section belonged to the Revision of the Laws Committee and the other to the Judiciary Committee, I had not determined where it was proper to go, when the Senator from Louisiana [Mr. EUSTIS] yesterday afternoon made the case so apparent on account of the great trouble occurring there, and as I am advised by many lawyers from my section of similar troubles elsewhere, I gave notice that I would call up this bill lying on the table to-day and then the House bill could, if mine was objected to seriously, be substituted for it. The House bill repeals only section 820 in terms. I desired, if nothing more could be done, to get action on that about which I supposed there would be no dispute because the facts show there can be no dispute about it. The fifth section of the act of April 20, 1871, provides:

And the first section of the act entitled "An act defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States courts," approved June 17, 1862, be, and the same is hereby, repealed.

The first section of that act of June 17, 1862, is almost word for word embodied in section 820 of the Revised Statutes, and as the revisers were not seeking to change in law the re-enactment of the act of 1862, restored, according to the decision of the courts in Louisiana and elsewhere, that provision which had been repealed. Believing that it was only necessary to call attention to the fact, as was done in the House, that they had restored the law which had been repealed and that it was working great inconvenience and injustice now, and was not the law of the land in any proper sense, I supposed there would be no difficulty in the Senate in correcting the record so as to make the laws show the truth.

I will now yield to the Senator from Arkansas, and ask pardon for not doing it sooner.

Mr. GARLAND. Mr. President, it is not my purpose to cast reflection on either of the committees that have had this matter in hand, or upon the revisers of the statutes; but we are confronted at this time, on the statement made by the Senator from Louisiana [Mr. EUSTIS] yesterday, with the necessity of immediate action upon this subject, or have the United States court in Louisiana, soon to sit, to flounder again as it has heretofore on this very subject.

Now I think the way out of this difficulty is perfectly clear and perfectly easy. This section 820, as a matter of fact before us as plainly and as positively as any fact can be shown, was repealed by the act of 20th April, 1871. Outside of that fact, which we know by the records of Congress, it has been judicially ascertained that the statute was repealed, but afterward by mistake found its way again into the Revised Statutes. The United States court that sits in the State of Arkansas after the repealing statute of April 20, 1871, ignored the test oath, and ceased to give it in charge any more or to recognize it at all. I believe I state a fact which every gentleman of the profession will recognize at once when I say that the profession believed that the statute of 1862 was at an end, had ceased to exist, and was gone forever. But in the case of The United States *vs.* Hammond, before Judge Woods, in the second of Woods's Reports, the question was fairly and squarely presented upon a plea in abatement and a demurrer to the plea. The judge finds as follows upon that:

Since the argument of the demurrer it has been suggested that section 820 of the Revised Statutes was improperly included by the compilers in their revision of the statutes, that section not having been in force on the 1st day of December, 1873. This appears to be true.

The court must have been satisfied by competent testimony that that was true, or it would never have uttered that expression.

The section referred to was section 1 of the act approved June 17, 1862, entitled "An act defining additional causes of challenge, and prescribing an additional oath for grand and petit jurors in the United States courts." (12 Statutes, 430.) This section was repealed by the fifth section of the act approved April 20, 1871, "to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes." (17 Statutes, 15.)

But the conclusion which the prosecutor seeks to draw from these facts, namely, that section 820 of the Revised Statutes is not now a part of the statute law, does not, in my opinion, follow. The work of the compilers, including section 820, was submitted to Congress and the whole re-enacted by the adoption of the Revised Statutes. The compilers may have exceeded their authority, Congress may not have designed to re-enact section 820, but it has done so, and we cannot go behind the law and cure the mistakes and inaccuracies of Congress.

There is the fact ascertained that the statute of 1862 was repealed, but by mistake it found its way into the compilation of the Revised Statutes. Judge Woods holds that this law being in existence was not a matter to be enforced or not as the court in its discretion saw proper, although my own impression, as I believe that of the legal profession generally, was contrary to this view. And this makes it important for Congress to act upon the matter without delay.

The revisers had no legislative power, as a matter of course, and under the Constitution legislative power could not be delegated to them by the Congress of the United States; but by a general act adopting their compilation mistakes and errors in their work went to the country as genuine. Now shall Congress adhere to the repeal under the act of 20th April, 1871, or shall it adhere to the compilation? That is the plain and practical question presented to Congress, and its settlement does not involve necessarily any reflection upon the compilers or any reflection upon either of the committees that had some charge of their work.

Mr. President, as a matter of fact it seems to me the question is a very plain one as to what the duty of Congress is. The necessity for immediate action was shown by the statement made by the Senator from Louisiana yesterday at the close of our session. The test-oath law as to jurors being by the adoption of the revision by Congress now in force, it can be got rid of only by repeal, as the adoption of the revision was, as Judge Woods holds, an enactment of the law prescribing the oath.

Mr. EUSTIS. Mr. President, the only question to be decided now is, I think, whether or not this particular bill shall be acted upon by the Senate without being referred to a committee. Now, the fact is that this question has not only already been referred to a committee but it has been referred to two committees, to one of them as long ago as December 6, 1877. The Senator from New York says that this has been in question, under consideration, on repeated occasions by the Judiciary Committee. If that be so, considering the very peculiar condition of this question and its very great importance and the necessity for immediate action, it occurs to me as very singular that that committee has not made a report upon the subject.

I stated yesterday that it was possible that jurors might be impaneled in the State of Louisiana under a law which has been repealed, and I wish now to state to the Senate that this question can have no political significance whatever. I have seen in the city of New Orleans going into the United States court-room hundreds of the best citizens of that city summoned to serve as jurors in the United States court, merchants, mechanics, and the very best portion of that population as regards intelligence, responsibility, fitness, and qualification to act as jurors, not only with reference to criminal but with reference to civil cases; and yet I have seen every one of those persons leave that court-room upon a motion made by the district-attorney declaring them to be unfit associates to serve on juries with ignorant and incompetent colored men. It is a question——

The VICE-PRESIDENT. The morning hour has now expired. The Chair must recognize the Senator from New Hampshire [Mr. WADLEIGH] on the special order.

Mr. WADLEIGH rose.

CANNON FOR CUSTER MONUMENT.

Mr. SPENCER. Before the Senator from New Hampshire proceeds I ask consent to make a report. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point, to report the same back favorably and recommend its passage. As it cannot occupy a moment's time, I ask for its present consideration.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just reported by the Committee on Military Affairs?

Mr. WADLEIGH. I object.

The VICE-PRESIDENT. The bill goes to the Calendar.

Mr. SPENCER. The Senator withdraws his objection. This will not take a second. It is a very short bill.

Mr. WADLEIGH. I will not object if it can be disposed of at once.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879; and

A joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States.

The message further announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

The message further announced that the House had concurred in the amendments of the Senate to the resolution of the House providing for the adjournment of the two Houses on the 20th instant.

REVISION OF THE PATENT LAWS.

Mr. BECK. Is it in order now to make the motion I made before to postpone the present and all prior orders?

The VICE-PRESIDENT. It is if the Senator from New Hampshire [Mr. WADLEIGH] yields the floor for that purpose. The Senator from New Hampshire has been recognized on the special order, which is the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. This bill is still in Committee of the Whole and amendable.

Mr. DAVIS, of Illinois. I have some amendments to offer after the Senator from New Hampshire is through with his opening speech.

Mr. WADLEIGH. I will make this motion, Mr. President: the bill as amended in Committee of the Whole has been printed, and I move that the bill as thus amended be reported to the Senate and considered as an original bill open to all amendments.

The VICE-PRESIDENT. Is there objection to the suggestion?

Mr. WINDOM. This is a very important bill, and I think it ought to be considered in Committee of the Whole.

The VICE-PRESIDENT. The Chair understands the Senator from New Hampshire to proffer the widest liberty of amending.

Mr. WADLEIGH. Certainly; any amendment may be offered.

The VICE-PRESIDENT. That would be so independently of the offer.

Mr. WINDOM. Then I have no objection.

The VICE-PRESIDENT. The bill, then, is reported to the Senate.

Mr. ALLISON. Will it be in order, then, to strike out anything that has been inserted?

Mr. WINDOM. I understand any amendment is in order in the Senate as it would be in committee.

The VICE-PRESIDENT. It is. The bill having been reported to the Senate, the first question is, Will the Senate agree to the amendments made as in Committee of the Whole.

Mr. CONKLING. Mr. President, having been compelled to be absent at the moment when I might have learned by an answer to the question I put that which I seek to know, I ask now the attention of the chairman of the committee to section 7 of the bill, and I inquire of him whether it still stands as printed on page 7?

The Senator from Oregon [Mr. MITCHELL] is kind enough to tell me that I have another print from that on which the Senate is acting and that the section that I referred to is on page 10 of the present print.

Mr. WADLEIGH. That is so, and I propose to offer to that section an amendment which I am satisfied will meet the objection of my friend the Senator from New York. I will show it to him.

Mr. CONKLING. The Senator from New Hampshire shows me an amendment which I think meets the point that I had in mind, and therefore I make no objection.

Mr. WADLEIGH. I move, Mr. President——

The VICE-PRESIDENT. The Chair thinks the better way would be to proceed under the rule; it is the more correct and the safer mode; and the question now is upon the amendments made as in Committee of the Whole. Is a separate vote demanded upon any one of the several amendments made as in Committee of the Whole to this bill? [A pause.] If not, will the Senate agree to the amendments in gross?

Mr. WINDOM. There are one or two that I desire to have a separate vote on.

The VICE-PRESIDENT. The Chair desires that the Senate shall understand the question. Is a separate vote demanded on any one of the several amendments made to this bill as in Committee of the Whole?

Mr. WINDOM. I do demand a separate vote on some of them, and I am waiting to point them out.

Mr. DAVIS, of Illinois. After we hear from the Senator from New Hampshire, in his opening speech, I shall have some amendments which I wish to propose. Will it be in order to propose them then, or should they be presented now?

The VICE-PRESIDENT. The first question, of course, is on the amendments already made as in Committee of the Whole.

Mr. DAVIS, of Illinois. Then the other amendments afterward. The Senator from New Hampshire wishes to address the Senate on the subject, I believe, and can I move amendments after he has spoken, or must I do it now?

The VICE-PRESIDENT. The Senator can move amendments at any moment up to the time the bill is ordered to a third reading.

Mr. MITCHELL. I submit that if the Senator from Illinois has an amendment he desires to make to any amendment made as in Committee of the Whole he will be barred after those amendments shall have been acted on.

Mr. DAVIS, of Illinois. My amendments reach the second section and all the sections that have been adopted.

Mr. MITCHELL. Then the Senator's amendments relate to amendments made in Committee of the Whole.

Mr. WINDOM. I have amendments to offer to several of the amendments made in committee, and I therefore ask for a separate vote on each of the amendments.

The VICE-PRESIDENT. The amendments will then be reported *seriatim*. The amendments will be reported in the order in which they were made in Committee of the Whole.

Mr. DAVIS, of Illinois. I did not intend to say anything upon this bill until the Senator from New Hampshire had presented his views of it; but as I am opposed to some of the amendments adopted in the Committee of the Whole, and really wish to amend them as they have been adopted, I shall be glad to say what I have to say upon them before he speaks, if he has no objection.

Mr. WADLEIGH. Certainly I have no objection.

Mr. BOOTH. One moment. Do I understand the Chair to rule that this bill as amended cannot be considered under any parliamentary law as a substitute for the original bill?

The VICE-PRESIDENT. The Chair has ruled nothing of the kind.

Mr. BOOTH. Then I make the motion that the bill as amended in the Committee of the Whole be considered as a substitute for the original bill. That, I understand, will leave the amended bill open to any amendment, whether it be by the restoration of matter formerly stricken out, or the restoration of the committee's amendment that has been amended by the amendments which I had the honor to offer, or by any new suggestion. It gives us this simple text. I think it will be very much better to follow that course.

Mr. HOAR. Allow me to suggest in that connection that it facilitates amendments, because it admits amendments in one further degree.

Mr. BOOTH. It admits every amendment; it throws the whole field open.

The VICE-PRESIDENT. As the whole field is now open.

Mr. BOOTH. But it is said we have to consider every amendment separately.

Mr. DAVIS, of Illinois. I would say to the Senator from California that I prepared my amendment with a view to the second section as adopted.

Mr. BOOTH. It is understood that this bill as amended in Committee of the Whole represents the views of its friends. I should be very glad if this amended bill could be considered as a substitute for the original bill and considered in Committee of the Whole, so that its text can be perfected.

The VICE-PRESIDENT. The Chair understands there are two prints of this bill. The one before him and before the Secretary is the print ordered by the Senate——

Mr. MITCHELL. December 11.

The VICE-PRESIDENT. December 11. The Chair thinks the regular order is that the amendments made in Committee of the Whole should be reported. Any Senator has the right to demand a separate vote upon any one of these amendments. The Senator from Minnesota [Mr. WINDOM] has demanded a separate vote upon each and every amendment.

Mr. BOOTH. Does the Chair rule my motion out of order?

The VICE-PRESIDENT. Not at all.

Mr. BOOTH. Then I make the motion.

Mr. CONKLING. Will the Chair allow me one moment?

The VICE-PRESIDENT. Certainly.

Mr. CONKLING. I submit to the Chair and to the Senator from California, although I know it is his view that if his motion prevails we shall have as an original bill before us the product of the Senate in Committee of the Whole, that then it will be in order, as the Senator from Massachusetts has observed, not only to move an amendment, but to move an amendment in the second degree; whereas, if we deal with the amendments made in Committee of the Whole we are restricted to amendments in one single degree. That would be the second, but still it is only one. The purpose being to perfect the bill, I quite agree with the Senator from California that it will facilitate proceedings if we may by general consent or by motion take the amended bill as a substitute so as to make it a primary bill open to all the amendments which were originally in order.

The VICE-PRESIDENT. Is there objection to the proposition? The Chair hears none. Is it understood that the bill remains in Committee of the Whole?

Mr. BOOTH. Yes, sir.

The VICE-PRESIDENT. That will be the understanding. The bill will be read as amended. Senators understand now, of course, that if they have amendments to suggest they will be made in the course of the reading if that is desired by them, this being considered now as the reading of the bill for amendments.

The Secretary read the first section of the bill as amended.

Mr. WINDOM. Are amendments in order at this moment?

The VICE-PRESIDENT. They are.

Mr. WINDOM. I submit the following to come in at the end of the section, after line 20:

No recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent by the use of any patented device,

process, invention, or discovery, if it shall appear that the defendant purchased the same for his own use from the manufacturer thereof or from a dealer engaged in the open sale of the same, unless it shall also appear that the defendant at the time of such purchase had actual notice of the existence of such patent.

Mr. DAVIS, of Illinois. Is it necessary to propose amendments to each section?

The VICE-PRESIDENT. It is unless the Senator proposes to amend the amendment of the Senator from Minnesota.

Mr. CONKLING. That is a very important amendment. I do not mean to intimate an objection to it, but I should like to hear it read once more.

The VICE-PRESIDENT. The amendment will be read.

The Secretary read the amendment.

Mr. WINDOM. I will modify the amendment by inserting the word "private" before "use;" so as to read, "for his own private use."

Mr. CONKLING. And I ask the Senator to insert another word, "knowledge;" so as to read, "unless it appear that he had knowledge or actual notice."

Mr. WINDOM. I am entirely willing to accept that amendment.

The VICE-PRESIDENT. The amendment will be so modified.

Mr. WINDOM. Mr. President, the object of this amendment will be very apparent, and I will not take the time of the Senate to discuss it at any length. It is intended to remedy very great wrongs which are being perpetrated under the cover of our patent law.

The law now gives to the patentee or to the purchaser of a patent a sweeping right of action against everybody. The proposed amendment takes away such right of action in the courts of the United States against innocent parties who use the invention without knowledge of its existence and who purchase the article patented in the open market from a dealer who is engaged in the sale of such articles or from the manufacturer thereof. The remedy still remains against the manufacturer and the seller. I think I am safe in saying that there are a hundred thousand patents to-day in the Patent Office of the United States for little insignificant inventions, covering every conceivable thing used in your kitchen, upon your farm, in your workshop, of which the persons buying have no means of knowledge. Now, the object of this amendment is to prevent the oppression and the great injustice that is being perpetrated upon hundreds of thousands of innocent people by means of the patent law. A common coal-stove, I am informed, is covered by at least twenty patents, almost every part of it; and your laws encourage the issue of the largest possible number of patents. If, for instance, an applicant thinks he has devised a new and useful kind of stove, and that device includes a dozen different contrivances, instead of taking out a single patent for the whole and getting a patent for that kind of stove, your laws and this bill, I believe, expressly provide that he may divide his application into different patents, giving him the opportunity after they are thus subdivided to assign one to A, another to B, another to C, and then for a single coal-stove which the poor man uses upon the prairies to keep his family from freezing a dozen men may sue him for a dozen different royalties.

I want to free him from such harassing and vexatious suits. Give the patentee his full redress against the vender, against the manufacturer, or against the man who has knowledge of the patent, but do not send him into every farm-house and cottage in this country to harass the people with vexatious suits about that of which they never could by any possibility have had knowledge. That is the object of this amendment.

Mr. WADLEIGH. Mr. President, the amendment proposed by my friend, the Senator from Minnesota, would completely abolish the patent laws. It would enable any man who desired to purchase a patented steam-engine or anything of the kind to go into Canada and purchase it, and bring it here and use it at his will, without remedy to the owner of the patent; and it would enable any manufacturer who was insolvent and against whom no remedy could be possibly had to flood the country with infringements of patented inventions.

Mr. President, there is no real practical evil such as my friend, the Senator from Minnesota, supposes. There never has been any case in this country where a patent on a cook-stove or anything of that kind was divided up in the way he suggests it may be. There never has been any case where any poor man's cabin has been entered and he sued in half a dozen suits on account of any pair of tongs or any little thing of that kind that he had which was patented. In such cases the manufacturer is always sought, because the remedy against the individual who may by the use of the article have infringed the patent would be no remedy at all; it would not be worth anything to the patentee. The fears that my friend has in that respect are entirely without foundation.

As I said before, an amendment of that kind, compelling the patentee to prove that the infringer had notice of the patent, entirely abolishes and repeals his rights. It can never in any case be done. In what manner can notice be given to forty-seven millions of people? Actual notice cannot be proved. It is, in the nature of things, impossible; and this is simply, in my judgment, an amendment which would entirely prostrate the patent system to which the country owes so much, and through which this country is enabled to contest with foreign countries in the markets of the world.

Mr. COCKRELL. Let the amendment be read.

The VICE-PRESIDENT. It will be again reported as modified.

The Secretary read the amendment of Mr. WINDOM, as modified, as follows:

No recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent by the use of any patented device, process, invention, or discovery, if it shall appear that the defendant purchased the same for his own private use from the manufacturer thereof or from a dealer engaged in the open sale of the same, unless it shall also appear that the defendant at the time of such purchase had knowledge or actual notice of the existence of such patent.

Mr. COCKRELL. At what point is that to be inserted?

The VICE-PRESIDENT. At the end of line 20 of section 1.

Mr. HOAR. I move to amend the amendment by inserting at the end of it "or has continued to use the same after such notice."

The VICE-PRESIDENT. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. HOAR. My amendment will test the desire of the mover of the original amendment. Without it any railroad corporation or wealthy manufacturer, having got possession of the invention without notice of the patent, may continue to use it in spite of the most plain and emphatic notice.

Mr. WINDOM. I certainly do not wish to accomplish that end.

Mr. HOAR. That end is accomplished by the amendment as originally proposed.

Mr. WINDOM. The only objection I see to the Senator's amendment is this: that it would reopen to some extent the evils which now exist in the great mass of cases to which I referred. Still it would be very much modified by the amendment even as proposed by the Senator from Massachusetts; and if it meets the approval of the Senate I shall not object to it.

Mr. HOAR. It is very easy in proposing to change any existing law to suppose, as the Senator from Minnesota supposes, the case of some very poor or simple man on one side, and the case of some very rich man or rich corporation on the other side and to call the attention of the legislative body to a case arising between such parties as testing his principle. Now, the Senator from Minnesota proposes an amendment which strikes down the patent law of this country substantially. There is nothing of it worth having left when the amendment of the Senator from Minnesota shall be adopted, if it shall be; and he proposes to do it by supposing the case of farmers on the prairies or poor women in their kitchens with invented articles in use, and some speculator who has purchased a patent right or divided up an invention into half a dozen patents undertaking for speculative purposes to wring money out of such persons.

Well, now, that is not the case to which the patent laws of this country apply. This country has owed its prosperity to inventors more than to any other class of citizens; it has owed its fame and place among the nations of the world, it has owed its power in war and its power in peace to the inventive genius of its people. Other nations have excelled in literature; other nations have excelled in art; other nations have excelled in military capacity and in courage; but this one thing is the characteristic of the American people—the power above and beyond any other nation or any other race that ever lived on the face of the earth of calling into the service of mankind in the useful arts of life the forces of nature by inventive genius. And it is a remarkable fact that the great inventions to which the prosperity in manufactures and in the mechanic arts of this country are due have not been made by the men of science; they have not been made by the men of wealth; they have not been made by the men of education; they have not been made in the service of capitalists; but they have been made by the poor workingmen desiring to reduce the hardship of their own toil and to shorten the hours of their own labor, and in that way the great inventions have come.

At the place of my own residence, within ten miles of where I now live, was born an inventor who by a single invention doubled, by the confession of one of the great jurists of the South, the value of every acre of cotton-producing land in this country, Eli Whitney.

Mr. WINDOM. How much benefit did Whitney himself get from his invention? Did he make any money out of it?

Mr. HOAR. He got very little benefit from that particular invention, though he did from another, an invention by which he was enabled to establish the manufacture which his family have owned in the State of Connecticut. But the reason that Eli Whitney failed to reap personally was that the courts in the Southern States encountered claims for justice in the same spirit with which this amendment now encounters the just claims of every inventor in the country, and juries refused, when the sound of the cotton-gin was audible through the open windows of the court-house where they were trying the cases, to find that any of Eli Whitney's inventions were in use in any of the neighborhoods where the courts were held.

Now, Mr. President, if we wish to abolish the patent laws let us say so. If we wish to strike out from the future resources of this country, from the future resources of the agriculture of the West and of the South, from the resources of the new manufactures which are being rapidly transferred from the East to the West and to the South, the inventive genius of this people, let us do it openly by a repeal of the patent laws, but not by an amendment of this character.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Minnesota.

Mr. KIRKWOOD. Mr. President, I have a very few words to say on this subject. I certainly am not disposed to repeal the patent law.

I certainly agree with the Senator from Massachusetts that invention has done a great deal for this country. I do not think it follows from either or both those propositions that the patent laws may not be properly amended and that abuses existing in them, if such do exist, should not be removed.

As I understand the amendment now under consideration, it proposes to leave to the inventor all his remedies against the man who manufactures without his consent a patented article, and all his remedies against an individual who shall sell without his consent a patented article, but it seeks to protect only those who, without knowing of the existence of his patent or that the article manufactured or sold trenches upon his patented rights, in good faith buy an article from the manufacturer or seller for their own use. It protects such purchasers against a suit for damages. The Senator from New York suggests as an amendment to the amendment the insertion of the word "knowledge."

Mr. HOAR. Will the Senator from Iowa permit me to make a suggestion at that point?

Mr. KIRKWOOD. Certainly.

Mr. HOAR. I understand that it is proposed to enact that the inventor of the air-brake cannot stop a railroad company in this country from its perpetual use unless he can show that the company had knowledge or actual notice of his patent before they purchase the article from a man that manufactured it. That is the proposition.

Mr. KIRKWOOD. I am not opposing the amendment offered by the Senator from Massachusetts; I am explaining what I understand to be the general purpose of the original amendment of the Senator from Minnesota. If a person after being notified that he is using a patented article and by the use of it infringing another man's rights, continues to use it, I can see reason why he should be liable to damages. I will say further to the Senator from Massachusetts that if he will insert something here that will leave the railroad men and the patentees to fight their battles out, and let the large body of our people who are neither railroad men nor patentees have the benefit of exemption from litigation, I shall not object.

But I wish the attention of the Senator from New York for a moment. At his suggestion the word "knowledge" has been inserted, so that the defendant will be liable unless at the time of the purchase he had knowledge or actual notice. I should be glad to know from the Senator from New York whether with that word inserted every man would be charged in law with a knowledge of the patent the same as he is with knowledge of the law?

Mr. CONKLING. Not at all, as I understand it. Every man is supposed to know the law. No man is supposed to know a fact of that sort. For legal purposes notice, as I understand it, may be of three kinds—actual, constructive, or presumptive; and they differ very much in their qualities. The mover of this amendment chose to select the term "actual notice." All lawyers know what that means. I proposed to change it, and to change it only in this respect: should the amendment become law, when it operates upon a man who knew in point of fact all about it, it would not be necessary to prove that actual notice had been given to that man. For example, suppose the person in question had been himself a spectator in the Patent Office when the patent was issued. Suppose he had been intimately acquainted with the patentee and had seen day after day going on before his face the manufacture of this invention. It would seem, if I may say so without offense, to be almost childish to require the law or the patentee to go and notify this man personally over again of a thing which he knew beforehand just as well as the man knew who sent somebody to notify him. In other words, my purpose was merely, taking my friend from Iowa as an illustration, where it appears to the tribunal that he knew personally all about the thing, it should not be held necessary that, in spite of that knowledge, the other party should go and give him actual notice. That is all.

Mr. KIRKWOOD. Mr. President, I am not familiar with the patent law and never expect to be, and I merely suggested the doubt that arose in my own mind whether or not the insertion of this word might not require every man to be construed to have knowledge by the recording of the patent in the Patent Office.

As I before said, the purpose of this amendment, as I understand it, and certainly my own purpose in supporting it, is, as I have indicated, to give to the person who in good faith buys from a party engaged in manufacturing an article or a party engaged in selling it in open market, without any knowledge that he is infringing the rights of any one, exemption from prosecution for damages, leaving the inventor to prosecute the manufacturer or the dealer. I understood the Senator from New Hampshire to say that it left the inventor without any remedy at all. Does he not have the power to enjoin the manufacturer who is engaged in manufacturing articles in violation of his patent?

Mr. WADLEIGH. Only after it has been proved by a trial, by a lawsuit, that the patent is valid and that it is infringed.

Mr. KIRKWOOD. If Senators understood as those living where the Senator from Minnesota and I live understand the effect of the existing law, it seems to me they would be diligent to help us in some way to some remedy. Take the so-called barb-wire, being extensively used now in the State where I live for fences. I do not know how many different kinds are made, each one I suppose covered by a patent. Those wires are sold by all our dealers in the county in which I live and throughout our State. Our farmers are in a measure compelled to use them for fencing their fields. They cannot know whether one man's patent is good or another man's patent is good. They cannot tell about it. They must either buy the wire and fence their fields, or leave them unfenced where lumber cannot be had. Now, is it right that the matter should run by year after year until perhaps nine-tenths of the farmers in that county shall each have their mile or two miles of barb-wire fence, and at the end of that time a patentee shall come along and say to each, "Sir, pay me so much a mile or so much a rod for the wire that you have used in violation of my patent, or you must go to Des Moines, the capital of the State, and defend a suit to be brought against you, the costs of which and the fees in which will in themselves be more than I demand of you." The thing is being done in the State of Iowa now in regard to these barb-wire fences, is being done in the State of Iowa now in regard to what is called the dry well, and our people are paying day by day $10, $15, $20, when they do not know a particle more whether they owe the man a dollar or a cent than they know what is going on in the moon, but paying the money just because it is cheaper to do it than to defend a suit under your patent law. Should they not have some protection?

I am willing to protect the inventor, but is it necessary to his prosperity that the great body of our people shall be exposed to results of this kind? Is there no common ground on which the inventor can stand, and yet the man who buys an article for his own use can also stand with some degree of safety? Is it necessary to the success of invention that the great body of our people shall be exposed to exactions of this kind and find it cheaper to pay than to defend themselves? That is the practical question. There is no hostility to inventors on the part of the people among whom I live. They derive benefit from them. Our fields are plowed with patented plows. Our fields are planted with patented planters. Our fields are reaped and mowed with patented machines. One great trouble with our people is that they buy far too many of these articles; but in doing it they are wholly unaware that they are violating any man's rights. They do not wish to violate any man's rights; and the result must be either that they will have to cease buying patented articles entirely or we must have some such remedy as this. That is the condition of affairs.

I have no desire to interfere in any contest going on between railroad companies and patentees. Railroad companies are able to take care of themselves. They are generally corporations of wealth. Many of them have attorneys in their service receiving higher salaries than the judges on the bench of the Supreme Court of the United States. They are able and willing to look into these matters and care for themselves. But it is for the individual citizen, who going into a place where an article is offered in open market for public sale, buys it, and takes it for his own use, not knowing or suspecting that he is violating the rights of any other man—it is for his sake and his only that I think an amendment embodying this idea should be adopted.

Mr. CHRISTIANCY. Mr. President, if the amendment proposed by the Senator from Minnesota should be adopted at all, I think it ought to be amended as proposed by the Senator from Massachusetts; but I have not seen my way clear to vote for the amendment even as proposed to be amended. It will be seen that this is proposed to be attached to a limitation law applying to existing causes of action. The natural construction of the amendment, even as amended, would be that that also would apply to existing causes of action. Now, this is not the case of changing a remedy for an existing cause of action, which we have power to do, but it is the case of taking away all remedy as against parties now legally liable, which can only be had by the adjudication of a court. This is all I wish to say on the amendment.

Mr. WINDOM. Only a single word. I am not in favor of abolishing the patent system, but I want to improve it. The Senator from Massachusetts suggests that some of the great corporations that are using patented articles may under this amendment avoid payment for them. I am willing to accept any proper amendment that he may suggest upon that point; but when the Senator says that if this amendment prevails it amounts to an entire destruction of the patent system of this country, I must say that either he is mistaken or I have always misunderstood what the intent and meaning of the system is. If it means that patents bought up by speculators for a mere nominal sum may be used to plunder and oppress innocent people, who without notice of the existence of such patent have purchased articles in open market that may happen to be covered by it, and if the system itself cannot stand without the support of such intolerable abuses, I say let the system be abolished. If the Senator from Massachusetts is correct in saying that the attempt by this amendment to remedy its wrongs is an abolition of the patent system itself, I reply that it has already outlived its usefulness. I do not, however, believe that abuses of which the people so justly complain are so incorporated into the very life of the system that they cannot be removed without fatal consequences. I believe that the patent system can exist in perfection, can be as efficient for the encouragement of honest and meritorious inventors when shorn of the abuses which now exist as it can with all its present intolerable imitations and robberies clinging about it. It is to remove some of the abuses and not to injure the patentee that this amendment is proposed.

I believe I should not be overstating the case if I were to say that I could go into the Patent Office and find old patents to-day which

may be bought for a song, that would enable me to bring at least a dozen well-founded suits against the Senator from Massachusetts himself. I suspect I could, and for a sixpence, buy up some old patent that under his proposition would compel him either to pay me a royalty or to strip his boots off on Pennsylvania avenue. And I suspect that if I were to examine his suspenders I could find they infringe a half dozen patents, and that under his amendment he must take them off and run the risk of walking down the street without them, or else pay several royalties. I think I could obtain enough old patents to disrobe the Senator from Massachusetts entirely, or else compel him to pay a royalty for something that is actually worthless.

I believe it is true that there is not a farmer in this country to-day who is not liable to a score of suits or more for the infringement of patents on his farming implements. There is something about his plow, his harrow, his thrasher, or his reaper, some little insignificant thing that nobody ever ought to have had a patent for, and never would upon a properly administered patent system, but which under the amendment proposed by the Senator from Massachusetts would compel him to stop using such implements and to lose all he has paid for them, or pay the exorbitant demands of some patent speculator. So with everything else. There are a dozen things in your kitchen, in your library, your dining-room, your workshop, that you have innocently imagined were paid for, but which are covered by some unsatisfied patent which may at any moment form the basis of a demand which you must pay or be subjected to harassing suits in the circuit or district courts of the United States.

Now, sir, I am willing to join with the Senator from Massachusetts in any amendment he may suggest to protect the inventor against the abuse that he speaks of; but I cannot consent, so far as my vote goes, to an amendment that will compel the people of this country, the millions who are using these things innocently, to either lose their investments or pay damages and costs in the circuit courts of the United States.

Mr. HOAR. Does the Senator mean in his explanation, which, if not extraordinary, is a very novel one——

Mr. WINDOM. Perhaps I should get a patent for it at the Patent Office on that ground. [Laughter.]

Mr. HOAR. Does he mean that men are liable to such damages in well-founded or merely pretended suits?

Mr. WINDOM. I say this, that in many cases they would be subject to well-founded suits. By that I mean that a suit could be maintained for a technical violation of some worthless patent issued by the Government of the United States.

Mr. HOAR. Do I understand the Senator to affirm that a man clothed in the ordinary dress, such as members of this body and other citizens wear, is liable to a well-founded suit for infringement of existing patents? Does he mean to make that statement?

Mr. WINDOM. Unless upon the instruments by which they were made, the processes by which they were manufactured, or some of the devices by which the boots were made, or something of that kind, the purchaser or the manufacturer has paid the patentee's royalty you would be liable.

Mr. HOAR. That is not an answer to the question. The Senator based his argument in reply to what I said on the assumption that if my amendment were to prevail and the law so amended only were to remain unchanged a man clad in the ordinary dress could be stripped of every article of clothing he had on upon Pennsylvania avenue.

Mr. WINDOM. That is a little figurative.

Mr. HOAR. I think it was. Does the Senator mean to say that he knows or has any reason to believe that there is an existing valid patent which is infringed by the use of any article that any member of this body is supposed to have on?

Mr. WINDOM. Let me answer that question.

Mr. HOAR. I should like to hear it now.

Mr. WINDOM. I am very glad the Senator has put that question, for it enables me to illustrate this thing a little more clearly than I otherwise could. There have been several patents on the manufacture of shoes. If the manufacturer has not settled with the patentee or the assignee of that patent before he made the shoes worn by the Senator from Massachusetts, a suit may be brought against him for an infringement of the patent, and the Senator says by his amendment that the party shall be liable after notice has been given. Now, suppose I am one of the patentees of the patent for pegging his boots. The manufacturer of those boots had no right to make them. I have ascertained that fact. I meet the Senator on Pennsylvania avenue. I tell him "Take off those boots. I am the patentee of the machine by which they were made, and if you do not stop using them you are liable to a suit." And under the Senator's amendment he would be liable to suit if he did not obey then and there.

Mr. HOAR. I do not understand that the Senator now has the slightest knowledge or reason to believe that any such case in fact exists. He supposes that if there were a patentee who had under those circumstances a patent which the manufacturers had not paid for the use of——

Mr. WINDOM. Does the Senator think it is reasonably certain even in the case I have assumed that all the manufacturers who use these inventions have settled with the patentees? If they have not, then any one who uses them sends out into the community a manufactured article which renders every man who buys it liable precisely as I have stated.

Mr. HOAR. That supposition is what is left of the Senator's original statement.

Mr. WINDOM. I will guarantee that I can take the Senator into the Patent Office and find hundreds of patents of precisely the kind that I have named.

Mr. HOAR. The Senator will allow me to remark—I did not intend to invite a colloquy or undertake the defense of this bill; it is not in my charge—that the bill remedies very thoroughly that general suggestion in a later section.

Mr. WINDOM. I should be most happy if the Senator would point it out.

Mr. HOAR. I do not wish to take the explanation of the bill out of the hands of the gentleman who has charge of it; but one provision which may be mentioned is the introduction of the English system which requires frequent repayment during the life of the patent by the owner, so that these old and worthless multitudes of patents will all be abolished by the operation of this bill. It is only the valuable and vital patent which will remain. That is one feature. There are other provisions in the bill also which are practical protections against that evil.

Mr. WINDOM. All there is of what the Senator now suggests in the way of protection in this bill is that after four years, if I am not mistaken, the patentee must pay an additional $50 or his patent will die, and then it may run five years longer, I think it is, and he must pay $100 more. Hence by the payment of $50 any of these patents may be kept in life nine years.

Mr. HOAR. That will sweep them all practically out of existence.

Mr. McMILLAN. Is a further amendment to the section in order?

The VICE-PRESIDENT. Not at this stage. Two amendments are already pending. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment of the Senator from Minnesota, [Mr. WINDOM.]

Mr. WADLEIGH. I desire to say that in my belief the fears of my friend, the Senator from Minnesota, [Mr. WINDOM,] are almost entirely imaginary. A singular illustration of that was given the other day. The Senator was told that under the law of the United States the constituents of the Senator from Minnesota could be dragged to a distant State for trial. There is no such provision of law. By the laws of this country suits against his constituents must be brought in the State of Minnesota. We were told that they were liable, all of them, to pay triple damages, and that was branded as an outrage. The law giving the courts the right, in their discretion, to impose triple damages has existed since 1856. There are only some seven or eight cases in all in the books in which such damages have been imposed, and these have been imposed only where the conduct of the party against whom they were imposed really deserved that they should be held liable; but this bill abolishes them entirely. The patent to which he refers is probably invalid. If it is valid, it is worth all that is asked for it to any of those men who enjoy it. If that patent is valid, there is not one of them but would be willing to give the $10 asked for the right to have a well of that kind put down. Suppose that suits are brought against them, if those suits are brought in a court of equity that court has full and plenary power to punish anything like oppression or vexation by the refusal to allow costs and by the imposition of terms. If they are brought in a court of law, I apprehend that my friend from Minnesota and his constituents have nothing to fear from the verdict of a Minnesota jury upon the facts that are notorious in those cases.

It seems to me that my friend the Senator from Minnesota, in getting up these imaginary cases to confuse the Senate, goes far beyond what anybody's experience ever has taught or ever will teach as to the evils of the patent system. How absurd to suppose that in practice any patentee will sue anybody for one pair of boots! No such case ever did occur, and no such case ever will occur in the nature of things. If any man shakes his fist in another's face in the heat of an argument, political or otherwise, a prosecution for assault and battery lies; and if every assault of that kind was punished by prosecution, the whole land would groan under the burden of such litigation. Does anybody propose, therefore, to abolish the law against assault and battery? The answer to that statement is that in practice no such evils follow, and that no change in the law is necessary. Just so with reference to this proposed law. Unless the matter is of sufficient importance to warrant any one in supposing that profit can be made by asking parties who are using the invention to pay for it, then there will be no evils of that kind. The amendment proposed by my friend the Senator from Minnesota, if adopted, would leave the law in such a way that the manufacture of patented articles would pass into the hands of insolvents.

Mr. WINDOM. Right at that point may I ask the Senator a question?

Mr. WADLEIGH. Certainly.

Mr. WINDOM. What becomes of the injunction to prevent insolvent manufacturers from going on with business?

Mr. WADLEIGH. No injunction ever can be granted until after a long course of litigation, and during that time the manufacturer may be manufacturing and flooding the country with the patented articles.

Mr. WINDOM. Does not the court grant an injunction at the beginning of the litigation?

Mr. WADLEIGH. Not at all.

Mr. WINDOM. In some cases I think they do.

Mr. WADLEIGH. It is only after the validity of the patent and its infringements have been proved in a suit at law that an injunction is granted.

There is another point, Mr. President. A man goes into Canada; he there manufactures articles which are patented in this country; those articles are sent into our markets and they are sold in open market, according to the language of the amendment proposed by my friend; they are bought everywhere; and where is the remedy of the poor patentee who may have devoted years to making and perfecting that invention? It would be utterly taken away from him by the amendment which the Senator proposes. The effect of that amendment would be to give to insolvents who are not responsible for the goodness of their wares and to give to foreign parties the manufacture of patented inventions in this country; and my friend the Senator from Minnesota has said that almost everything is patented, which is true. It is also true that because of that in this country we are to-day enabled to make headway against foreign manufacturers and are to-day obtaining for this country the monopoly of manufactures in the world.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The pending question is on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment of the Senator from Minnesota, [Mr. WINDOM.]

The question being put, a division was called for; and the ayes were 7 and the noes 25; no quorum voting.

Mr. WINDOM. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KERNAN. I simply want to say that I propose to vote, as I did just now vote, against the amendment to the amendment, because I am opposed to the original amendment itself.

The Secretary called the roll.

Mr. ROLLINS, (who had voted in the affirmative.) I desire to withdraw my vote, as I am paired with the Senator from West Virginia, [Mr. DAVIS.]

The result was announced—yeas 21, nays 31; as follows:

YEAS—21.

Anthony,	Dawes,	McMillan	Plumb,
Booth,	Eaton,	McPherson,	Ransom,
Burnside,	Ferry,	Merrimon,	Spencer.
Cameron of Pa.,	Hamlin,	Morrill,	
Christiancy,	Hoar,	Oglesby,	
Davis of Illinois,	Kirkwood,	Paddock,	

NAYS—31.

Allison,	Coke,	Kellogg,	Saunders,
Bailey,	Dennis,	Kernan,	Teller,
Barnum,	Eustis,	McCreery,	Voorhees,
Bayard,	Garland,	McDonald,	Wadleigh,
Beck,	Gordon,	Maxey,	Wallace,
Butler,	Grover,	Mitchell,	Windom,
Cameron of Wis.,	Hereford,	Morgan,	Withers.
Cockrell,	Howe,	Randolph,	

ABSENT—24.

Armstrong,	Davis of W. Va.,	Johnston,	Rollins,
Blaine,	Dorsey,	Jones of Florida,	Sargent,
Bruce,	Edmunds,	Jones of Nevada,	Saulsbury,
Chaffee,	Harris,	Lamar,	Sharon,
Conkling,	Hill,	Matthews,	Thurman,
Conover,	Ingalls,	Patterson,	Whyte.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Minnesota, [Mr. WINDOM.]

Mr. McMILLAN. I move to insert, after the closing word of the amendment of my colleague, the words "and that such purchase is an infringement of the rights of the plaintiff."

This is intended to cover and protect purchasers of patented articles in ordinary use from dealers or from manufacturers who may not have any rights under the patent of course; but unless the ordinary purchaser has some notice that in purchasing he is purchasing from a person who has no right to sell, and that it is an infringement of a patent, of course it would not be sufficient protection. This merely perfects the amendment of my colleague.

Mr. KERNAN. Mr. President, I am not a great advocate of patents, but my judgment is that we might as well repeal the entire patent law as to adopt the original amendment and the amendment to it, because men would be able certainly to use all the inventions without the user being liable. The articles could be manufactured and sold by insolvent parties. As was said by the Senator in charge of the bill, they could be manufactured in Canada, and they would destroy all our manufactures because they could sell without any royalty on paying the duty. My experience is (and I may say that the little experience I have had has been in defending people who were sued for the infringement of patents, and never in the world in prosecuting at the suit of the patentee for infringement) that there is no abuse in suing individuals who simply buy an article honestly and use it; but if you amend the bill as proposed the makers will either plead insolvency, or, being out of the country, a man will send articles in and sell them, and it would destroy not only our own manufacturers who are willing to pay a fair royalty, but it would destroy all the rights of the patentee. Therefore, while I have desired that this proposed law should be made so that it could not be used oppressively, I hope the amendment will not be adopted, for I think it would destroy all property in patents substantially.

Mr. DAWES. The rejection of the amendment to the amendment offered by my colleague and the adoption of the amendment in its present shape will put us in the attitude of authorizing one man to use for his own benefit and to control the property of another man with full knowledge of that fact. I do not think the Senate mean to do that. I am aware of the instances of hardship suggested by the Senator from Minnesota; but when a man has purchased an article which is just as much the property of an inventor as his horse or his cow or his ox, and as much more his property as the result of his mental labor is of more value to him and to the world than his physical labor, and when in purchasing it he has notice that it is the property of his neighbor, and yet insists upon continuing to appropriate that to his own use, it seems to me not to be a line of conduct that squares with honesty and fair dealing. If there can be one thing more valuable to a man than another which he has acquired it must be that which is the result of long and patient and expensive and wearing mental labor. It may be so under the complication of the patent laws that a purchaser of a product in open market may part with his property innocently, and there may be instances of hardship. The purchaser has the right, however, under the laws of the land to recover back from the man who has sold him that which is not his whatever he has paid for it. He has, in the theory of the law and in the actual practical application of it in the main, protection, not always. Instances like that which the Senator from Minnesota has related come within my own knowledge. But when an individual has notice that the horse he uses belongs to his neighbor and not to him, when he has notice that anything he uses belongs to another and not to him, it seems to me irreconcilable with any principle of honor and fair dealing that he should be permitted to continue to deprive the rightful owner of that property and of all remedy for the use of it; and that is the attitude of this amendment.

Mr. HAMLIN. Mr. President, I voted for the amendment submitted by the Senator from Massachusetts [Mr. HOAR] in a belief that it would improve the amendment submitted by the Senator from Minnesota, [Mr. WINDOM.] Had the amendment to the amendment, however, been adopted, I should still have voted against the amendment as amended. I voted upon that principle which always controls my vote here, I believe. I will perfect an amendment to which I do not agree, making it as acceptable as possible, making it conform to my own judgment as nearly as I can, and if I fail to accomplish an amendment which makes it so acceptable that I feel justified in voting for it, I then vote against it. I say that I would have voted against the amendment if amended. Of course I shall vote against it if not amended. I shall do so in the belief that it is a virtual abolition of all your patent system. I would not regard the existing system as worth a pound to any inventor with that provision upon it. It might be in cases, but not as a system. There are hard cases, there are cases of extreme hardship, I am fully aware, under the administration of the existing law; the Senator from Minnesota has alluded to some of them; but that hardship is hardly a sufficient justification, in my judgment, for abolishing that system of patents which has accomplishd so much in this country. Very many things that are frivolous in their nature are patented; many things that are important may look to a person who is not fully cognizant with them as frivolous which are not so in fact. A very little thing, indeed, is of great importance at times. The evils, however, which are suffered are all upon the one side. The honest patentee is driven to your courts to maintain his rights under the existing law by a class of men who systematically deprecate, who make it a studied business and profession to violate the patent law and to avail themselves of existing patents. How many cases have we had in this body where we have been asked to extend a patent because the patentee has been compelled to expend not only more than he has ever received from his patent, but an additional sum in protecting himself in that which was really his right, but which was only decided by the courts when he became an impoverished man?

It seems to me that there may be a very substantial remedy which would meet this case. We know that that department of the Government, if I may call it so, the Patent Office, is one which yields from the inventions, I think for the past few years, in round numbers, $100,000 or more annually beyond its expenses. I think the Commissioner told me within a few days that the probable surplus this year would be at least $120,000 beyond the expenditures of the office. There is a fund which has been contributed by the patentees themselves. We may wisely, we may equitably, we may justly and appropriately, I think, use that fund in protecting honest citizens from all such liability if we can, as has been suggested by the Senator from Minnesota. It seems to me that it may be substantially done by requiring that department, first, to prepare carefully a catalogue of every existing patent to-day and publish it in the Official Gazette. I am not apprised now, I do not recollect, the number of copies that each Senator and Representative is allowed to distribute, or the libraries which he is allowed to name to which that Gazette shall be distributed. My impression is that it is eight. If that Official Gazette should go into every State to the number of eight to each of its Senators and each of its Representatives, the copies would be reasonably accessible to the citizens of each State. You would find them certainly at the county seat of every county in any State; you would find them in all your large libraries. You would therefore impose no very severe tax upon the purchaser of any patented article if you ask him to observe the simple rules that all observe.

Buyer, look out for yourself. It is a maxim of law, I think, *caveat emptor*. I think I once learned it, but I had pretty nearly forgotten it. If we were to do that I would be happy to join in it. Let that catalogue be disseminated, scattered through every part of the country, through the Official Gazette, with the additional provision that every patent subsequently issued should also be there recorded and thus distributed, and I believe that we should thus remove almost entirely the great difficulty to which the Senate's attention has been called; but to such a sweeping amendment as that submitted by the Senator from Minnesota I cannot give my assent, and I must vote against it.

Mr. HOWE. Mr. President, I am inclined to think every Senator wants to accomplish precisely what the Senator from Minnesota [Mr. WINDOM] as I understand is aiming at; and on the other hand I think no Senator wants to effect that which the Senator from Massachusetts [Mr. DAWES] and the Senator from Maine [Mr. HAMLIN] seem to fear will be effected by the amendment moved by the Senator from Minnesota. Nobody here, I suspect, wants to invalidate a man's title to a method which he has invented, to a discovery which he has made. Your patent laws have undertaken to protect all such property. The business of making machinery, tools, and implements, is one business; the business of discovering methods of making them is another business. It is not always that the machine itself is covered by a patent on it, but some principle applied in the making of it may be the only subject of a patent. What the Senator from Minnesota aims at, it seems to me, is the protection of that man, be he poor or rich, who pursuing the rights of the law enacted under the powers of Congress goes to an open manufacturer or an open dealer and buys a thing, a made thing. He buys it and takes it home and applies that thing to his use, no matter what it is, whether it is a sewing-machine, or a cotton-gin, or a plow, or a drag. He finds it on the market for sale; it has a known place of manufacture, and here is a known house which has been engaged in selling it. If there is a patented principle employed in the manufacture of that thing, the man who stole the principle and incorporated it into the main made thing infringed the patent. He is the real infringer; but I believe the law holds that the man who purchases the main thing and uses it is also an infringer, and it allows the patentee to pursue each and all these parties, the man who made, the wholesale dealer or the retail dealer who sold, and the man who uses.

Mr. BOOTH. No, no.

Mr. HOWE. If allows him the alternative; it does not compel him to sue all. He takes his choice; and probably if he cannot get damages he gets costs. That would be a little hard. Both the Senators from Massachusetts say if he buys innocently he ought not to be made liable; but if the patentee after he has bought goes and tells him "this is an infringement; I have a patent on a discovery employed in the making of this thing," then his liability commences to the patentee. That forfeits the thing. That thing which he has purchased in open market and paid for becomes by the speaking of those words liable to damages.

Mr. DAWES rose.

Mr. HOWE. I will hear the Senator's suggestion.

Mr. DAWES. My suggestion is this, that he has his remedy back upon the man who sold it to him without right, precisely as the man has who obtains in open market any article of commercial property, aside from bank bills, which the man who sold to him had no right to sell to him, and which when the true owner comes along and notifies him of, all the law of the land requires him to not only stop using it, but to give it up and look to the man from whom he purchased it. He would have that remedy.

Mr. HOWE. It may be that the purchaser would have recourse over to the vendor; that may be so. I should have some hesitation in saying that it was so.

Mr. WADLEIGH. There is no doubt about that.

Mr. HOWE. I am not controverting it. But that makes the purchaser, when he has only made a fair purchase in open market, pursue his remedy against the man of whom he purchased. The Senator from Massachusetts [Mr. DAWES] has already alluded to one interest, the interest of commerce. If a bond payable to bearer is stolen, a United States bond, or a bank-note, or a bill of exchange indorsed "payable to bearer," and the property of the Senator from Massachusetts, is purchased from the man who stole it, and purchased innocently, without notice, the man who makes the purchase, I believe, gets a good title and can convey a good title; and it is no use to tell that man, after he has purchased it and paid for it, "this is stolen property; this really belongs to the Senator from Massachusetts." He does not become liable to the Senator from Massachusetts. Now, the Senator from Minnesota wants in the interest of commerce and of trade to secure to the purchaser of these patented articles just the same immunity. I think every Senator wants to afford the same protection. There is a difficulty in drawing the precise amendment which will effect that.

The Senator from Michigan [Mr. CHRISTIANCY] has suggested an objection to the amendment as it now stands which makes a strong impression upon me, that this is not a provision to limit the effect of patents to be granted hereafter, but is an attempt to abstract something from the value or effect of patents already issued, if I understood the Senator from Michigan. The Senator from New Hampshire [Mr. WADLEIGH] suggested another difficulty which perhaps ought to be guarded against, and that is that if we by some provision like this give absolute protection to the man who is simply using a patented article which he had bought innocently, he may buy those articles foreign-made. The Senator from Minnesota has had his attention drawn to that subject, and I only want to call his attention to it again. I want myself to vote to confer what I understand the Senator from Minnesota aims at, and I want the measure to be so guarded as that it shall not strike down the value of patented property.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota [Mr. MCMILLAN] to the amendment of his colleague, [Mr. WINDOM,] to add the words:

> And that such purchase is an infringement of the rights of the plaintiff.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Minnesota, [Mr. WINDOM.]

Mr. WINDOM. An amendment is in order I believe now to the amendment?

The PRESIDING OFFICER. It is.

Mr. WINDOM. I suggest the addition of these words:

> But this provision shall not apply to purchasers from foreign manufacturers or dealers.

Have I the right to modify my own amendment at this point?

Mr. CONKLING. Certainly.

Mr. WINDOM. I modify my amendment in that way.

Mr. CONKLING. What is the object of that?

Mr. WINDOM. The Senator from New York asks what is the object of the modification. I think there may be something in what was stated by the Senator from New Hampshire, that the original amendment might enable foreign manufacturers and sellers to take advantage of our own manufacturers and dealers, and I do not wish to accomplish that.

Mr. CONKLING. What, if I may inquire, does the honorable Senator from Minnesota do with the other objection? Here are vested rights in patents. A vested right in such a thing is property; it is private property. The Senator proposes to impair it. I suggest to him in the same connection the courts have said that a grant is a contract. Letters-patent are grants from the crown or from the government. The Constitution says no State shall pass any law impairing the obligation of a contract. It does not say in those words or at that place in the Constitution that the United States may not do it; but other provisions of the Constitution do point out the impropriety of sacrificing private property, and one of them says that private property shall not be taken for public use, without just compensation. Here is a man, Mr. Edison, for example, who has filled the world with amazement by one of his inventions. It is useful; it is wonderful; it is praiseworthy. Operating upon a patent already issued to him, the Senator proposes a section which strikes down in part, if not in whole, his right, which annihilates the very essence of his property. How does the honorable Senator dispose of that difficulty?

Mr. WINDOM. I am not sure whether there is anything in that point or not. I am quite willing to submit it to the courts if there is anything in that point.

Mr. CONKLING. To the courts?

Mr. WINDOM. I will submit it to the courts.

Mr. CONKLING. The Senate is the court, and the Senator should now submit it.

Mr. WINDOM. I do not desire anything in this amendment that is not right and in the interest both of the patentee and the public. I certainly do not wish to take from any man any vested rights, but I do desire to protect the public against the patent-knaves who are infesting this country. I am quite willing if any Senator will submit an amendment upon that point to take a vote upon it. I am not clear that it is a violation. I shall not offer the amendment myself, but if any other Senator chooses to offer it I shall not oppose it.

Mr. CHRISTIANCY. Will the Senator from Minnesota allow me to suggest to him that he may remove the constitutional objection by making the amendment applicable to future patents only?

Mr. WINDOM. As the Senator from New York and the Senator from Michigan, in whose legal judgment and knowledge I have the greatest confidence, believe that this would be a violation of private rights, if the Senator from Michigan will offer such an amendment as will guard against that I will not oppose it. I will offer another amendment following that which I think will not be subject to the objection that this is, and will accomplish the same object to some extent.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota [Mr. WINDOM] as modified by himself.

Mr. WINDOM. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WADLEIGH. I object to the amendment of the Senator from Minnesota upon constitutional ground. The Constitution gives to Congress the right to grant to inventors for a limited time an exclusive right to the use of their inventions. That is all that can be given, and that must be given or nothing. My friend, the Senator from Minnesota, proposes that they shall have what? That their grant shall be what? Does it purport to be the grant of the right to an exclusive use of their invention? Not at all: but that anybody who purchases their invention under certain circumstances shall have the right to use it. It proposes to take away from inventors a large share

of what is granted to them under the Constitution, and what alone the Constitution allows them to have.

In my judgment the modification made by the Senator from Minnesota to his amendment does not meet the difficulty at all. It is almost impossible to meet that difficulty. Let me tell the Senator why. This excepts only from the operation of his amendment a purchase made from a foreign dealer or manufacturer. What will be the obvious course of business for foreign manufacturers or for manufacturers who may remove their business to Canada for the purpose of taking advantage of patents in which they have no interest? They make their wares; they sell them to some person who is in league with them in this country. That person conveys them by sale to the hands of large dealers in the cities, not foreign dealers at all nor foreign manufacturers, but the wares are foreign and the person who procured those wares in that way, which would be inevitable if this should become the law, would have the right to sell those foreign manufactured goods, to make use of patented inventions to which he had no right in this country, and to drive our own manufacturers from the market. If there is an ingenious way to kill American manufactures, if there is an ingenious way to put this country behind others in the race of progress in manufactures and in the invention of manufacturing machinery, that proposed by my friend, it seems to me, would be exactly the course. For these reasons I am opposed to the amendment.

There is another remark which I wish to make as to the rights of purchasers who have bought articles in the open market, in dealing, and in perfect innocence. The person who has sold them those articles is guilty of appropriating to himself what does not belong to him. For that he is liable. He is liable to the patentee whose rights he has infringed or he is liable to that individual to whom he has sold a patented invention, having no right. Upon which of these two parties should we place the burden of seeking the remedy against the man who has thus acted? Shall we put it upon the patentee who knows not that man at all, who has no part in the transaction, who has no way of preventing it, who cannot abstain from it, who was an entirely innocent victim, and who in nine hundred and ninety-nine cases out of a thousand could not obtain the necessary proof against the individual who sold, or upon the individual who picks out the man of whom he buys, who knows or has an opportunity to know his responsibility, who has at hand the proof to present against him who can abstain from buying if he chooses, and who has within his own hands entirely and for all purposes the opportunity to obtain that redress which such a law would practically deny to the inventor?

Mr. HOWE. An amendment is now in order to the amendment?

The PRESIDING OFFICER. It is.

Mr. HOWE. I move to amend the amendment by inserting in line 3, after the word "patent," the words "hereafter issued;" so as to read:

> No recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent hereafter issued by the use of any patented device, process, invention, or discovery, &c.

Mr. WADLEIGH. There is another point of view in which it seems to me that the burden should not be placed upon the innocent patentee who has no means of knowing who sells. My friend the Senator from Minnesota expresses the wish, in which I join, to prevent the oppressions of patent-knaves. If he will turn to the fourteenth section of this very bill he will find a provision which punishes those men criminally with severe punishment. The man who purchases an article knows of whom he buys. He has in his own hands the sword with which to mete out punishment if these knaves trespass upon his right; but the patentee can have no knowledge of that; he has no proof of it; he cannot take advantage of this section, and it furnishes to him not one tithe of the protection that it affords to the man who purchases the infringement.

Mr. SAULSBURY. I may not understand the force of the amendment. If I understand the amendment of the Senator from Minnesota it is designed to protect purchasers of articles for which there is a patent, though the purchase may be made in open market or of some person who had no right to manufacture the article. If I understand the purport of the Senator's amendment it is that. I should like to be informed if that is its purport.

Mr. WINDOM. I beg the Senator's pardon; I did not distinctly understand him.

Mr. SAULSBURY. I say I understand the purport of the amendment of the Senator from Minnesota to be that it is designed to protect the purchasers of any article in open market or from a manufacturer if the article has been manufactured in violation of a patent.

Mr. WINDOM. That is its purport.

Mr. SAULSBURY. Then I am in favor of that amendment, and I am opposed to the amendment to it offered by the Senator from Wisconsin, [Mr. HOWE,] which proposes to limit that protection to the infringement of patents hereafter to be issued. It does seem to me, and it has always seemed to me, to be a hardship when any man went into open market to purchase an article, not knowing whether it had been manufactured by an infringement of somebody's patent or not, that the purchaser should be punished. I shall vote, therefore, for the amendment of the Senator from Minnesota and against the amendment proposed to it by the Senator from Wisconsin. I would not do injustice to any patentee, but let him have his remedy against the man who violates his patent, not a remedy against the innocent man who has purchased in the open market an article which has been manufactured under an infringement of the patentee's right.

Mr. MORGAN. Mr. President, the question which is presented by the amendment of the Senator from Minnesota attracted my attention when this bill was undergoing revision in the Committee on Patents. I made the point before the committee very much in the same manner that the Senator from Minnesota has made it here. The committee took it under careful consideration, and compared that proposition with all the rest of the frame of this bill, and they have gone as far as they could see their way under the Constitution in trying to give relief against the cases which are covered by the amendment of the Senator from Minnesota.

It is true that it strikes one at the first impression as being a very great hardship that a man who buys in the open market an article which is the subject of a patent granted for a useful invention, it may be something that is almost concealed in its nature, and who should buy in good faith and without any intention of infringement of the rights of any person whatever, should be made to pay damages or penalties for having unwittingly bought and used such a patented article. He has, however, a remedy against the vendor who has sold to him a patented article without giving him notice, or who has sold it under an infringement of an existing patent. His remedy under the law is for compensation against his vendor. But there is more than one element in the right covered by a patent. There is an element of property there which I understand to be protected by the Constitution of the United States. When the patent has issued, and so long as it remains unrevoked, it is the authority of the Government of the United States that the patentee shall enjoy the exclusive right to the use of the patented invention. When the Constitution gives a man this right, how are we going to take it away from him by law? When another person enjoys the use of that invention, whether he does it innocently or whether he does it, you may say, in fraud or in actual infringement of the rights of the patentee, it is none the less true that the patentee suffers in the loss of his property—he suffers in the loss of that which the Constitution of the United States has made property and protects by its own guarantee.

If Senators will recur to the second section of this bill, which is an elaborate section, and which has been worked out after the most laborious and painful investigation, they will find that a great deal of relief is given in that section against the very difficulty which is spoken of by the Senator from Minnesota.

Mr. WINDOM. I ask the Senator to state again what section it is he refers to as covering the point suggested by my amendment.

Mr. MORGAN. Section 2. By looking at part of that section, commencing in line 30, on page 5, of the print I have before me, it will be seen that we have made a provision which was intended to prevent vexatious litigation and also vexatious and trivial defenses:

> And whenever the court shall be of opinion that the suit of the plaintiff, or the defense of the defendant, was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

That provision of course is intended to prevent vexatious litigation on the part of either of the persons engaged in this matter of the infringement of patents or in the matter of bringing vexatious suits against persons who have innocently used patented inventions.

By recurring to the preceding parts of that section it will be seen that compensation is given to a patentee upon the principle that a license fee is the true measure of damages for the infringement of any patented invention, and a license fee is to be ascertained first by the user of the patent, by the plaintiff in the action, he who is suing for the infringement of the patent. If there is what is termed here a reasonable number of cases, that is, a number of cases that would establish a use on the part of the plaintiff in the action that a certain license fee has been established, then that is the measure of his damages against any defendant. If no such license fee or no such usage has occurred as will establish a license fee in that way, then it is for the court and the jury, or rather I may say more strictly for the jury, to say what under all the circumstances of the case would be a reasonable fee or license for the use of the patented invention. I believe that the committee have gone just as far in the direction of the protection of the persons who innocently use patented inventions as the Constitution of the United States will warrant us in going.

There was an earnest effort on the part of many members of the committee, indeed I may say of all the committee, to go as far in this direction as we could go, at the same time saving the patentees all their rights under the protection of the Constitution of the United States. We could not feel authorized or warranted in going to any extent to deprive the patentee of the value of the proper use of his invention for sale or for any other disposition that he saw proper to make of it. It is because I consider that the second and subsequent sections of this bill do provide as far as we are able to provide a protection for those who unwittingly or innocently use patented inventions that I now find myself compelled to vote against the amendment proposed by the Senator from Minnesota.

Mr. DAVIS, of Illinois. This is a very important bill, and every amendment to it is very important. I think that the Senate is hardly paying sufficient attention to this matter. They would be probably to-morrow morning better able to dispose of it, and I therefore move to go into executive session.

Mr. WINDOM. I believe that motion is not debatable; but if this bill is to be laid aside there is an appropriation bill ready, and there is also an appropriation bill from the House on the table which I desire to have referred to the Committee on Appropriations.

Mr. CONKLING. This is not in order. The bill does not lose its place by our going into executive session. What is the question before the Senate?

The PRESIDING OFFICER. The Senator from Minnesota was proceeding by unanimous consent to make some observations on appropriation bills.

Mr. WINDOM. I have stated all I desire.

Mr. CONKLING. What is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is on the motion to proceed to the consideration of executive business.

The motion was agreed to.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After thirty minutes spent in executive session the doors were reopened.

ANNA M. CLIPPINGER.

On motion of Mr. WALLACE, it was

Ordered, That the vote by which the bill (H. R. No. 1304) granting a pension to Anna M. Clippinger was postponed indefinitely be reconsidered, and that the bill be recommitted to the Committee on Pensions.

PETITION.

Mr. VOORHEES presented a memorial of John J. Key and W. G. M. Davis, praying the passage of a law referring their claim for compensation for services rendered the United States as attorneys at law to the Court of Claims for adjudication; which was referred to the Committee on the Judiciary, and ordered to be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879, was read twice by its title, and referred to the Committee on Appropriations.

THOMAS STRIDER.

Mr. McMILLAN. This morning I made an adverse report from the Committee on Claims upon the bill (H. R. No. 3734) for the relief of Thomas Strider, and it was indefinitely postponed. I ask that the motion indefinitely postponing the bill be reconsidered and the bill placed on the Calendar.

The PRESIDING OFFICER, (Mr. INGALLS.) It is so ordered in the absence of objection.

BILLS INTRODUCED.

Mr. OGLESBY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1540) for the relief of Emanuel Klauser; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1541) to provide for additional maps of the battle of Gettysburgh; which was read twice by its title, and referred to the Committee on Printing.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1542) to provide for the erection at Montgomery, Alabama, of a post-office, United States court-room, land office, and other offices; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the Vice-President.

FORTIFICATION APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the Vice-President.

PREVENTION OF EPIDEMIC DISEASES.

Mr. HARRIS. Mr. President, I ask the Senate to proceed to the consideration of House joint resolution No. 210, providing for the expenses of the investigation ordered by the Senate and the House of Representatives as to the prevention of the introduction and spread of epidemic diseases in the United States.

The PRESIDING OFFICER, (Mr. INGALLS.) The joint resolution being on the table, the Chair will lay it before the Senate.

The joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States was read twice by its title.

The PRESIDING OFFICER. The Senator from Tennessee asks the Senate now to proceed to the consideration of the joint resolution.

Mr. WADLEIGH. I suppose Senate bill No. 300 will be laid aside informally.

The PRESIDING OFFICER. That is the understanding of the Chair. Is there objection? The Chair hears none, and the joint resolution is before the Senate as in Committee of the Whole.

The joint resolution appropriates $50,000 for the purpose of paying the necessary expenses that may be incurred in investigating the origin and causes of epidemic diseases, especially yellow fever and cholera, and the best methods of preventing their introduction and spread in the United States, as provided for by resolution of the Senate and House of Representatives, the same, or so much thereof as may be necessary, to be expended, one-half by the Sergeant-at-Arms of the Senate and one-half by the Sergeant-at-Arms of the House of Representatives, under the direction of the Senate and House committees on epidemic diseases acting concurrently.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

USE OF TROOPS.

Mr. PADDOCK. I ask the Senate to proceed to the consideration of Senate bill No. 1492.

Mr. WINDOM. As the Senator has the floor, I will simply say that when he concludes the business he now has I shall ask the Senate to take up the pension appropriation bill, which involves no additional appropriations by way of amendment, and I am sure it will not require ten minutes' time of the Senate.

The PRESIDING OFFICER. The Senator from Nebraska moves the consideration of Senate bill No. 1492. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1492) to amend section 15 of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878.

The bill declares that the provisions of the fifteenth section of "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878, shall not be construed as applying to, nor be enforced against, the Army of the United States, or any part thereof, employed in the protection of life and property in the States and Territories subject to Indian incursions.

Mr. COCKRELL. There are some amendments reported by the committee.

The PRESIDING OFFICER. The Chair was about to have the amendment of the committee reported.

The amendment reported by the Committee on Military Affairs was, in line 10, after the word "States," to insert the words "of Nebraska, Kansas, and Colorado."

Mr. MITCHELL. I move to amend by adding the word "Oregon" after "Colorado."

The PRESIDING OFFICER. Is there objection to the amendment of the Senator from Oregon?

Mr. PADDOCK. I hope the Senator will also include Nevada and Minnesota.

Mr. MITCHELL. I also include Nevada and Minnesota if the Senator wishes.

The PRESIDING OFFICER. Those are included by unanimous consent.

Mr. MITCHELL. Senators can move their own amendments. I simply confine my amendment to Oregon and Nevada.

The PRESIDING OFFICER. The question is on the amendment of the committee as amended.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. PADDOCK. Mr. President, the necessity for this bill will be better stated by the letters I send to the desk to be read than by any speech on my part.

The Secretary read the following letters:

OMAHA, *December* 2, 1878.

DEAR SIR: We beg to call your attention to the present condition of Indian affairs in the northern and western portions of our State. Within the last ten or fifteen days the agency Indians from Spotted Tail, and possibly from Red Cloud, camp have commenced depredations on the stock interests, and are stealing and running off the horses from the cattle ranges, and they have already taken quite a large number of horses from various parties, and have also in some instances killed cattle, and several herders have been wounded. We are, as we believe reliably, informed that demands have been made at the agency for stolen stock held by Indians, but they refused to surrender same, and unless this state of things is remedied at an early date it must lead to serious complications and ultimately to very great loss if not total destruction to our stock-raising interest, which is fast

becoming one of the most important interests of this State as well as of the West generally. We would therefore suggest that it would be greatly to the interest of all this western country if the law prohibiting the military authorities from interfering with civil cases could be suspended, as we have a large district of very sparsely settled country occupied mainly by cattle interests, and throughout this portion of the country are scattered very many desperate characters who prey on both whites and Indians and cause much disturbance, and the civil authorities are too weak or too remote to cope with them; hence the necessity of giving the military authorities power to deal with them where civil authorities are not at hand, and we hope you will make an effort to have the law modified as indicated.

Very truly, yours,

W. A. SHARP.
W. A. PAXTON.
B. A. SHEIDLEY & BROS.
JAMES CREIGHTON.
JOHN A. CREIGHTON.
COE & CARTER.
KOUNTZE, YATES & CO.

Hon. A. S. PADDOCK.

HEADQUARTERS ARMY OF THE UNITED STATES,
Washington, D. C., December 12, 1878.

MY DEAR SIR: I beg to acknowledge receipt from you of what amounts to a petition to Congress to repeal the fifteenth section of the act of Congress approved June 18, 1878. I recognize the great importance of protecting and encouraging the growing and most valuable cattle interest in Nebraska; but with the most profound respect for yourself and for Congress, do not see how soldiers can do impossibilities with both hands and feet tied. Should Indians or white desperadoes come into Nebraska from the Indian country north, you make it a fine of $10,000 and imprisonment for two years if the soldiers help your sheriff. Now our officers do not usually have $10,000 handy about them, nor do I feel disposed to advise them to spend a couple of years in your penitentiary by trying to help your sheriff to arrest and punish these horse and cattle thieves. On the other hand, in the Indian country the soldiers can only act on the application of the Indian agents, and these Indian agents think that your constituents steal the ponies and cattle of their Indians; so we soldiers occupy a most unpleasant position and I prefer to sign my name to the petition itself, for I sympathize sincerely and deeply with Messrs. Sharp, Creighton, and others who desire to add to the wealth and prosperity of our nation; but must frankly say that the law takes away from the Army the only legitimate way of helping them, by supplying the sheriffs of the border counties the necessary *posse comitatus* to make arrests. It would be a waste of money to establish any new posts, because the Indians and cattle thieves know the law as well as we do, and laugh at the soldiers who are forbidden to help the peace officers of your State.

With great respect,

W. T. SHERMAN, *General.*

Hon. A. S. PADDOCK,
United States Senate, Washington, D. C.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JURORS' OATH.

Mr. BECK. I move that the bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States, which we had under discussion this morning, be referred to the Committee on the Revision of the Laws.

The motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. WINDOM. I move that the Senate proceed to the consideration of the bill known as the invalid and other pensions bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880.

Mr. WINDOM. Mr. President, let me say a single word. The committee have added nothing in money to this bill. The amendments proposed by the Committee on Appropriations merely transpose certain clauses of the bill in order to make it more convenient for bookkeeping purposes in the Department, and in order to classify better, as they believe, some of the expenditures under it. I ask that the bill be read.

The PRESIDING OFFICER. The bill will be read at length.

Mr. WINDOM. And let the amendments be acted upon in the bill as they are reached.

The PRESIDING OFFICER. It is so ordered.

The Secretary proceeded to read the bill. The first amendment reported by the Committee on Appropriations was, in line 10, before the word "widows," to insert "and;" in line 11, after "1812," to strike out "and for fees of examining surgeons, as provided by the several acts of Congress;" and in line 12, after the word "million," to strike out "six" and insert "four;" so as to make the item read:

For pensions for Army invalids, widows, minors, and dependent relatives, survivors of the war of 1812, and widows of the war of 1812, $28,400,000.

The amendment was agreed to.

The next amendment was, in line 13, after the word "provided," to strike out:

That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner, as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid: *And provided further,*

So as to make the proviso read:

Provided, That the amount expended for each of the above items shall be accounted for separately.

The amendment was agreed to.

The next amendment was, in line 23, after the word "twenty," to strike out "five thousand" and insert "seven thousand five hundred;" so as to make the clause read:

For pay and allowances for salary, fees for preparing vouchers, rent, fuel, light, and postage on official matter directed to the Departments and bureaus at Washington, $227,500.

The amendment was agreed to.

The next amendment was, in line 26, after the word "relatives," to strike out "and for fees of examining surgeons, as provided by the several acts of Congress;" and in line 27, after the word "thirty," to strike out "eight thousand five hundred" and insert "four thousand;" so as to make the item read:

For Navy pensions to invalids, widows, and dependent relatives, $534,000.

The amendment was agreed to.

The next amendment was, in line 29, after the word "pensions," to strike out "and other expenditures under that head;" so as to read:

Provided, That the appropriations aforesaid for Navy pensions shall be paid from the income of the Navy pension fund, so far as the same may be sufficient for that purpose.

The amendment was agreed to.

The next amendment was to strike out from lines 35 to 38, as follows:

For pay and allowances for salary, fees for preparing vouchers, rent, fuel, light, and postage on official matter directed to the Departments and bureaus at Washington, $2,500.

The amendment was agreed to.

The next amendment was, after line 38, to insert:

For fees of examining surgeons, as provided by the several acts of Congress, $204,500: *Provided,* That a fee of $1, and no more, shall be paid to the examining surgeon for each examination of a pensioner, as provided by law, except when the examination is made by a board of surgeons, in which case the fees now allowed by law shall be paid.

The amendment was agreed to.

The reading of the bill was concluded.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

DISTRICT BONDS.

Mr. DORSEY. I ask the Senate to proceed to the consideration of House bill No. 5683.

The Secretary read the title of the bill, as follows:

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

Mr. WHYTE. Has that been referred to any committee?

The PRESIDING OFFICER. The Chair is informed by the Secretary that the bill has been twice read and referred to the Committee on the District of Columbia, from which it is now reported. Is there objection to its present consideration?

Mr. SAULSBURY. I think that had better go over; it is an important bill, and we have a thin Senate now.

Mr. DORSEY. At the last session of Congress provision was made in the sundry civil appropriation bill for the payment of $281,000 of the bonds of the District of Columbia which fall due on the 1st of January and 1st of March next. By an omission in the enrollment of that bill at another place, the rate of interest on the new bonds was left out. This has prevented arrangements for their issue. Some of the outstanding bonds will be due now within two weeks, and no provision whatever has been made for their payment. This bill simply corrects that error, and provides for the issuance of other bonds to redeem those which fall due on the 1st of January and on the 1st of March; and it is very important that it should be passed at once, so that the commissioners may be able to issue the new bonds and redeem the old ones.

Mr. KERNAN. What is the rate of interest on the old bonds?

Mr. DORSEY. The rate of interest on the old bonds, I understand, is 7 per cent. The rate of interest provided for in this bill is 6 per cent. if the commissioners find it necessary to pay 6 per cent. in order to sell the bonds at par.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ALLISON. I reserve the right to object after hearing the bill read. I should like to hear it read.

The PRESIDING OFFICER. The bill will be read at length for information, subject to objection.

The Secretary read the bill.

Mr. KERNAN. It is impossible for any one to vote understandingly on this bill without examining the laws. As I understand the bill was only referred this morning and is reported back to-day, I think it will have to lie over until to-morrow.

The PRESIDING OFFICER. Does the Senator from New York object to the consideration of the bill?

Mr. KERNAN. Yes, sir. Let it be printed.

Mr. ANTHONY. I move that the Senate adjourn.

The motion was agreed to; and (at three o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 18, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced concurrence in the resolution of the House for adjournment over the holidays, with amendments in which concurrence was requested.

CHERRY ISLAND FLATS, DELAWARE RIVER.

Mr. O'NEILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish the House of Representatives a copy of the report made by Colonels Macomb and Ludlow, United States Army, which was submitted by them to the Chief of Engineers of the Army, in reference to the improvement of the channel of the Delaware River in the vicinity of Cherry Island Flats, accompanied by a chart or charts and estimate of cost, &c.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. WOOD. I move by unanimous consent to take from the Speaker's table the concurrent resolution of the House in reference to the adjournment over the holidays, returned from the Senate with amendments.

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
December 17, 1878.

Resolved, That the Senate agree to the foregoing resolution of the House of Representatives with following amendments:

Line 2 strike out "House" and insert "two Houses."
Line 2 strike out "adjourns" and insert "adjourn."
Line 3 strike out "it" and insert "they."
Lines 3 and 4 strike out "Monday, January 6" and insert "Tuesday, January 7."

Mr. WOOD. Read the resolution as it will be when amended.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That when the two Houses adjourn on Friday, the 20th instant, they stand adjourned until Tuesday, January 7, A. D. 1879.

Mr. WOOD. I move concurrence in the amendments of the Senate.

The amendments of the Senate were concurred in.

Mr. WOOD moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORTIFICATION APPROPRIATION BILL.

Mr. BAKER, of Indiana, by unanimous consent, from the Committee on Appropriations, reported back the amendments of the Senate to the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, with the recommendation that they be non-concurred in.

The amendments of the Senate were non-concurred in.

Mr. BAKER, of Indiana, moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON, by unanimous consent, from the Committee on Appropriations, reported back the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, and with the recommendation that they be non-concurred in.

The amendments of the Senate were non-concurred in.

Mr. SINGLETON moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRINT OF BILLS.

Mr. THROCKMORTON. I am instructed by the Committee on the Pacific Railroad to ask that bills H. R. No. 4158, H. R. No. 4307, H. R. No. 4398, and H. R. No. 4399 be reprinted for the use of the committee.

There was no objection, and it was so ordered.

Mr. PAGE. I demand the regular order.

EPIDEMIC DISEASES.

Mr. YOUNG. I rise to make a privileged report. I am directed by the House committee appointed to investigate epidemic diseases to offer the resolution which I send to the desk, and ask that it be put upon its passage.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the sum of $50,000 be appropriated out of any money now in the Treasury, not otherwise appropriated, for the purpose of paying the necessary expenses that may be incurred in investigating the origin and causes of epidemic diseases, especially yellow fever and cholera, and the best method of preventing their introduction and spread in the United States as provided for by resolutions of the Senate and House of Representatives; this sum, or so much thereof as may be necessary, to be expended, one-half by the Sergeant-at-Arms of the Senate and one-half by the Sergeant-at-Arms of the House of Representatives, under the direction of the Senate and House committees on epidemic diseases acting concurrently.

Mr. ATKINS. I desire to offer an amendment to that resolution.

The SPEAKER. Does the gentleman from Tennessee yield for an amendment by his colleague?

Mr. YOUNG. I will allow my colleague to offer the amendment, but may probably have a word or two to say about it.

The amendment offered by Mr. ATKINS was read, as follows:

Add to the resolution these words:
Provided, That no part of this sum hereby appropriated shall be used in the employment of more than seven experts.

Mr. ATKINS. I think there should be some limit in the employment of these experts; otherwise we will have another call for another appropriation, in my opinion. It seems to me that already the sum is very large. Of course I would not object to twice the sum, or ten times the sum, if it were necessary to accomplish the object; but it does seem to me the sum already indicated in that resolution is extraordinarily large, and if the committee is to be at liberty to employ as many experts as it chooses we will be certain to have another application.

Mr. YOUNG. I am not authorized by the committee to accept any amendment, though I have no great objection to the one offered.

The SPEAKER. The gentleman did not demand the previous question.

Mr. YOUNG. I am willing to have the amendment considered by the House and shall be content with its action.

The SPEAKER. Then the Chair will submit the amendment.

Mr. YOUNG. It may be proper for me to say that the committees of the Senate and House have had this matter under advisement for several days, and have calculated the expense on the facts given them by officers of the House who are familiar with the character of the business they will have to transact, and the probable expense that will be incurred.

Mr. BURCHARD. If the gentleman will permit me, I wish to say that I think an appropriation ought to be made as is provided for by this resolution, but I desire to suggest to the chairmen of the respective committees who are taking charge of the matters that the form ought to be a bill, an act, instead of a concurrent resolution.

The SPEAKER. This is a joint resolution, which is equivalent to a bill, and requires the signature of the President, of course, before any money is taken out of the Treasury.

Mr. BURCHARD. The resolution is in this form:

Resolved by the House of Representatives, (the Senate concurring.)

The SPEAKER. The form of the resolution has been changed, so that it is now a joint resolution.

Mr. YOUNG. The committee, after a very careful examination of all the facts before them which would enable them to form a judgment as to the probable amount that would be necessary, have concluded that $50,000 is not too great an appropriation to be made, not that the whole amount will necessarily be expended, but to guard against the possibility of being stopped in the midst of the work and have to ask another appropriation. We have therefore deemed it better to ask for $50,000 at once. In reference to the amendment offered by my colleague from Tennessee, I have only this to say: by the terms of the two resolutions, that of the Senate and that of the House, each one of the committees is authorized to employ seven experts. I was of opinion myself that it was not contemplated by either the House or the Senate when those resolutions were adopted that more than seven should be employed between the two committees; and in a joint meeting of the committees I took that view. I was of opinion that seven would be sufficient, but the committee differed from me, and have agreed to employ thirteen. It is for the House to say now whether the amendment shall be adopted or not.

Mr. BLOUNT. I understand the gentleman to say that in his opinion seven are sufficient.

Mr. YOUNG. That is my opinion; but as I have already said a large majority of the committee differed with me, and I shall not urge the House to adopt my view of the matter. In presenting the resolution I am only the agent of the committee, and act under its instructions. I am anxious that the investigation shall be conducted in the most thorough manner, but without incurring any unnecessary expense, and I think it can be done by seven experts as easily and as well as by a larger number. I have some fear that we will find it a more difficult undertaking to secure harmony among thirteen doctors than to endure yellow fever and cholera both. I now yield to my colleague on the committee, the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I wish to say if the committees on the yellow-fever epidemic are to do any efficient work which will be of any value, they will require to reach some conclusion that will enable them to bring in something here for legislative action before many weeks; and if we have so large a number of experts as thirteen to assist the subcommittees that are to go down to the infected districts we will simply be overwhelmed with the multitude of counselors. I believe seven would be sufficient to put the committees in readiness for work much better than if they were incumbered with so many. With the multitude of counselors which thirteen would give I think we would find more confusion than safety. I hope the amendment will prevail. If that should prevail, I think the whole appropriation would not be used.

The SPEAKER. The question is on the amendment offered by the gentleman from Tennessee, [Mr. ATKINS.]

Mr. YOUNG. Some other members of the committee want to say something, and I now yield to my colleague on the committee, the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. Mr. Speaker, as a member of the committee which reports the resolution, I desire to say to the House that the inclination of my mind was to concur with the view entertained by the chairman of the House committee, namely: that the number of seven experts was sufficient for the purpose of enabling the committee intelligently to determine the character and scope of the legislation which should be adopted to effect the ends contemplated in the creation of this committee.

It will be remembered by the House that while the Senate refused to concur in the resolution which was passed in this House that proposed to limit the number of experts to seven, the Senate went on subsequently and created its own committee, creating also seven experts, and that forced the necessity for this House to create a committee of its own; and it will be found by reference to the terms of the resolution adopted in the House that the committee appointed by the House was authorized to employ seven experts. When the two committees met, as they did meet by the invitation of the Senate committee, for the purpose of conferring together upon the subject-matter intrusted to them, as to what should be the scope and extent of their authority, a committee was appointed on the part of the Senate committee and another on the part of the House committee, which met on two successive nights, to shape out, first, the programme of proceedings of the two committees; secondly, the number of experts that it might be necessary to employ to aid them in reference to the legislation they had in view.

When these committees met I say the inclination of my own mind was to concur with the chairman of the committee of the House in regard to seven experts as sufficient, but we took into consideration that the subject of inquiry must necessarily be at the very threshold of this investigation, first as to whether or not this disease is an exotic, or whether it is indigenous to our own country and liable to production here.

We found that this great question upon which medical men in this country, and especially in the city of New Orleans, where their experience on this question had been greater than elsewhere and their investigations had extended over a greater number of years than in any other portion of our country—we found the first question was to ascertain what the medical sentiment of the country was upon the question as to whether or not it is a transportable disease, subject to be brought in in the holds of vessels or by the shipment of goods or passengers from those regions of the world which, like Vera Cruz and Havana, may be said to be the native home of yellow fever; and therefore it was the gentlemen of the committee, acting together, thought that it was all-important that they should have the opinion of scientists and men all over our country who had given study and thought to this subject; and hence we thought it was important that we should have a physician from Boston, one from Philadelphia, and one from New York and other points on the Atlantic coast, where the extraordinary phenomenon was presented this last season of the prevalence of the fever along the line of the Mississippi River and the great railroad that spans the continent north and south from New Orleans to New York, while on the Atlantic coast from the capes of Florida to the capes of North Carolina not a single case of yellow fever was found, although in former years it had prevailed in Savannah, Charleston, and Pensacola, and in other Atlantic cities to an alarming extent, and at times even at Norfolk, Virginia.

We thought it important, therefore, that we should have a sufficient number of experts, embracing the whole country, who should pass upon this first great question of investigation; and then it is important that we should have the concurrent sentiment of the intelligence of the medical profession of this country in order that we might say we are authorized by the concentrated opinion of these people to say that a quarantine established from Boston to Galveston might be able to exclude this terrible epidemic which at stated periods has devastated our country and in the last season extended so far in the Northwest.

We believe, therefore, that it would be a judicious expenditure of the money of the country to employ a sufficient number of these experts intelligently to advise the committee so that it may arrive at just and proper conclusions. It was thought by some gentlemen of the committees, both of the Senate and of the House, that there ought to be a national board of health which should be permanent in its character and should not exist simply for a season. These experts it is simply contemplated shall render services to the committees and subcommittees that visit the localities recently afflicted and render such assistance to the committees as they can. But while it was thought by some that there ought to be a permanent board of health the necessity of legislation now at this session of Congress, the necessity of prompt action during the short session of Congress, in order that we may shut out this fever in the coming season made it impossible to adopt a plan by which a permanent board could be provided for; and in order that we might be intelligently guided by experts and the question whether the disease is exotic or indigenous to the country might be settled, we thought it well enough to embrace a large number of the profession extending all over the country, for intelligence in reference to this subject is not confined to those who had practical experience of it but is largely possessed by scientists throughout the country who have made it a matter of study.

There are men of very great eminence in Boston, there are men of very great eminence in Vermont, who have made this character of diseases a subject of especial study. It was thought proper, therefore, that we should have medical men from every portion of the country acting as experts, because these resolutions creating these committees and assigning their duties to them contemplated a measure of relief which looked in some degree to an interference with that commerce which stretches along the Atlantic coast from the docks of New York to the docks of Galveston. Hence it was deemed important to so extend this inquiry as to obtain the best information and intelligence on the subject. The expenditure of a few dollars was not to be considered in comparison with the great national objects had in view.

Therefore it was that the two committees, in joint meeting this morning, the committee of the Senate and the committee of the House, recommended these additional experts beyond what was originally recommended by the House. It will be remembered that the resolution of the Senate of itself, not a concurrent or a joint resolution, but the simple resolution of the Senate, contemplated the appointment of seven experts for that committee, as also did the resolution of the House. The resolution now before the House provides for even a smaller number than the two resolutions of the Senate and House together provided for.

The resolution adopted by the Senate is as follows:

Be it resolved by the Senate, That a select committee of seven Senators be appointed by the President of the Senate to investigate and report the best means of preventing the introduction and spread of epidemic diseases, especially yellow fever and cholera, within the limits of the United States; that said committee be allowed a clerk and, if in the course of its investigations it is found necessary, a stenographer; and that said committee have power to send for persons and papers, to employ experts and scientists, not to exceed seven in number, and send them to, and by subcommittee visit, recently infected localities, for the purpose of obtaining the fullest and most accurate information; and that said committee may report by bill or otherwise.

And that said committee have power to sit and act in concurrence with any similar committee of the House of Representatives.

The following is the resolution adopted by the the House:

Resolved by the House of Representatives, (the Senate concurring.) That a commission is hereby authorized and constituted, to consist of four (4) Senators, to be appointed by the Senate; five (5) members of the House of Representatives, to be appointed by the Speaker; and experts not exceeding seven (7) in number, to be selected by and associated with them, with authority to determine the time and place of meeting, to employ stenographers and clerks, to take testimony, and by subcommittees to visit the recently infected localities and other places, whose duty it shall be to inquire into the recent history and the means of prevention and arrest of yellow fever and other epidemic diseases, and to report the facts and their opinions and recommendations by bill or otherwise, at any time.

Mr. ATKINS. I certainly have no objection to a sufficient appropriation for an examination into the causes and proper treatment of this dreadful scourge; but I desire to be practical, and I desire the House to be practical on this question. In the original resolution by the House, providing that only seven experts should be employed, it was not intended or expected that the Senate would also act upon the subject and appoint a committee of its own. It seems, however, that the Senate has done the same as the House has done.

In my judgment the concurrent action of the Senate committee and the House committee dispenses with the necessity of more than seven experts. The resolution for the House committee contemplated only seven, and the resolution of the Senate committee contemplated only seven, and that was when they did not expect to act concurrently. Now that they expect to act concurrently I do not see why seven experts would not serve the concurrent committee as well as they would serve a separate committee of the Senate or a separate committee of the House. For that reason I have offered the amendment, and I trust the House will adopt it, as I believe seven experts will be a sufficient number to perform this service.

Mr. ITTNER. I am disposed to concur with the gentleman from Mississippi, [Mr. HOOKER,] a member of this committee, and a gentleman who has taken a very deep interest in this subject from its inception. I cannot see why it is proper, right, or judicious to circumscribe this committee in its action.

A spirit of economy is quite commendable in its place. But in dealing with a question of this kind it seems to me that the question of economy should not enter into its consideration. Some of the members of the committee are of the opinion that seven experts are quite sufficient for the purpose of this investigation. Others of the committee, equally well informed upon the subject, are of the opinion that seven may not prove to be sufficient. Now I, as a member of this House, am disposed to vote for the largest latitude to be given to this committee in their investigation of this important subject.

I do not think that this House should be confined in its action or have its action based upon a fear that this appropriation may be exhausted in the end. As a member of this House I am willing, if an appropriation of $50,000 is not enough, to give this committee sufficient means to enable them to get at the bottom of this subject and to fully investigate into the cause and effect of this great scourge which has so devastated the southern portion of our country, where it prevailed during the last few months. If $50,000 is not sufficient, then I am in favor of voting an additional $50,000 for the purpose. I hope this committee will not be circumscribed in its action, and I

trust that the amendment offered by the gentleman from Tennessee [Mr. ATKINS] will not be adopted.

Mr. TOWNSEND, of New York. If science had fully mastered the causes of this terrible scourge that now stands prominently in the minds of members of this House and of the country, then one scientific expert would be sufficient and his opinion and his detailing to the committee all the results which the scientific world have obtained would be sufficient. But the world is not satisfied as to what is the cause of this terrible scourge; it is not agreed as to the mode by which the scourge may be avoided.

For that reason I am in favor of leaving in the hands of the committee the power to call scientific men from more than one locality. I would have men from New Orleans to say what has been their observation and their experience in that city. I would have men from Memphis, from Charleston, from Wilmington, from Philadelphia, New York, and Saint Louis, to the end that combining the observations from a large extent of country under a great variety of circumstances in different climes and during different years they might bring together a mass of facts from which we can judge as well as the scientific men themselves. If they are not to do this, then the committee is utterly unnecessary. If the committee is not to bring back here more than we now know or than any one of these scientific men knows, then there is no occasion to raise such a committee.

Having raised the committee, I would give to it the power to collect every intelligent observation upon the subject of this terrible scourge that has been made in the country for the last fifty years.

Mr. SINGLETON. I hope the amendment will not be adopted. To insert such an amendment in this resolution would present quite an anomaly. We are annually spending thousands of dollars upon investigations into the causes of the hog cholera, the cattle disease, the cotton-worm, the locust of the Northwest; and surely the adoption of any measure looking to the preservation of human life is much more valuable than obtaining information on any of these topics. To cripple the committee by such an amendment would, it seems to me, be going but half way in this work. In addition to the loss of human life, we are losing hundreds of millions of dollars of capital by the continued prevalence of this disease. Unless something can be done, and that very soon, to protect the southern country against the renewed ravages of this plague, the whole South will be of very little value to this country. The truth is, if the yellow fever should be permitted to prevail there continuously for two or three years, as it has within the last year, that section of country will be abandoned except perhaps by the colored race. I know gentlemen having large capital invested at Memphis and other points of the South who declare that it will be impossible for them to remain there if subjected to annual visits of yellow fever; that they have at best but three or four months in the year in which their capital can be profitably employed; and if the yellow fever is permitted to prevail during these months they must remove with that capital to other points. It is important, therefore, on the ground of health as well as in a pecuniary point of view, that all the resources of science and medical skill should be brought to bear for the purpose of investigating the causes of this disease.

Mr. GARFIELD. If the gentleman from Mississippi [Mr. SINGLETON] will permit me, I want to say at once that if gentlemen who live in that part of the country where the yellow fever has been prevailing are of opinion that it will be wiser to allow the employment of thirteen experts, I shall cheerfully defer to their wishes. In naming seven I merely expressed my own opinion; I would not by any means go against the opinion of the committee. If it appears in the course of this debate that gentlemen from the South, more familiar with this subject than we are, think that a larger number will be necessary, I shall ask all my friends to vote with them, although my own judgment suggested that seven would be enough.

Mr. ATKINS. The gentleman will allow me to supplement his statement with a single remark. If ten thousand experts should be necessary to preserve the health of the people, I should not object to their employment. I think, however, that seven will do as well as thirteen.

Mr. SINGLETON. Just one word more and I shall be through. This scourge assumes different forms and types in different localities; and hence it is absolutely important that men representing every section where the disease has prevailed should compare notes and interchange opinions in order to arrive at the true character of the disease. This comparison of views will, I have no doubt, tend greatly to prevent a recurrence of the disease.

Mr. GOODE. I hope that the amendment offered by the chairman of the Committee on Appropriations [Mr. ATKINS] will be voted down. He says (and I have no doubt that this remark truly represents his feelings) that if the employment of ten thousand experts were necessary, he, as chairman of the Committee on Appropriations, would vote for the employment of that number.

Now, allow me to suggest to him that these two committees, representing the House and the Senate respectively, to whom this matter has been referred, have given the subject the fullest consideration; they have been in session daily and nightly ever since their appointment; and after full conference and a free interchange of opinion these two committees have jointly come to the conclusion that the number of experts suggested by the chairman of the Committee on Appropriations would not be sufficient. I take it that the House will be disposed to defer to the committee having this matter in charge. It is not to be supposed that the Committee on Appropriations are as well advised on this subject as the particular committee who have already been investigating it.

Coming from a section of country which was terribly ravaged by the yellow fever in 1855, having lost in the short space of three months about one-fourth of its population, I will say that there is no subject which can claim the attention of this Congress in which the people whom I represent take a livelier and deeper interest. In their judgment, as in the judgment of the committee on this subject, the preservation of the public health and the safety of the lives of the people override all mere monetary considerations. What is an expenditure of $50,000 in comparison with the valuable information which may be gathered by selecting experts from Boston and Philadelphia and New York and Norfolk and Savannah and Charleston and New Orleans and Memphis and Galveston, and every section of this broad land which has been heretofore ravaged or may be liable to be ravaged in the future by this disease? I repeat, it is to be presumed that this committee know more about the matter than the Committee on Appropriations; and I hope the amendment will be voted down.

Mr. BURCHARD. Mr. Speaker, the chief value of the report which is to be made on this subject will not depend upon the opinions of the members of the committee, but upon the facts, scientific or medical, which may be embraced in their report. In my judgment the conclusions of the experts and the facts which they may have collected as in their opinion important will be more valuable to the medical world and more conducive to the object for which this committee is appointed than anything else that may be embraced in the report. Hence I think that the number of experts should be as large as the importance of the subject may warrant. I therefore favor the proposition which has received the sanction of the committee.

Mr. WILSON. I concur in the view of the gentleman from Tennessee to limit this number of experts to seven. If, however, it shall be found necessary in their opinion to an intelligent conclusion of the subjects submitted to their charge, I favor the idea of giving them the discretionary power to increase the number of experts to thirteen. As has been properly said, you should have some regard to the opinion of gentlemen called to investigate this question. They have investigated it, and recommend according to their best opinion that thirteen experts are necessary. With a view of getting before the House the view I express I offer an amendment to the amendment, so as to make it acceptable to every one, by adding the following words:

Unless in the opinion of the joint committee a larger number of experts shall be necessary to intelligent action on the subjects referred to therein, in which event said committee shall be authorized to increase said number of experts, so that such increase shall not exceed thirteen experts in all.

Mr. GOODE. Let me suggest to my friend that the joint committee of the Senate and House have already formed an opinion on that subject, and it is not presumable from anything which has occurred that opinion will be changed. They have already formed an opinion and recommend seven are not sufficient.

Mr. WILSON. I offer that amendment in order to get the views of the gentlemen before the House, so that if seven are not enough and the amendment of the gentleman from Tennessee shall prevail I desire to give to the joint commission the discretionary power to increase the number to thirteen.

Mr. YOUNG. It may be proper to say, Mr. Speaker, that matter has been considered by the committee, and they were unanimously of the opinion thirteen should be employed, and they have already signified their purpose to employ that number.

Mr. ATKINS. I ask the gentleman if it is not necessary to increase the appropriation if thirteen are employed?

Mr. YOUNG. I think not; we made the calculation on that basis.

Mr. STONE, of Iowa. I should like to ask the gentleman from Tennessee a question.

Mr. YOUNG. I will yield to my colleague on the committee with pleasure.

Mr. STONE, of Iowa. I should like to ask the gentleman from Tennessee whether it would not be proper to state in his place how they propose to select these experts?

Mr. YOUNG. They are selected so far from every section of the country—North, East, and West.

Mr. STONE, of Iowa. By whom?

Mr. YOUNG. By the committee. They were authorized by the resolutions of the House and Senate to select these experts.

Mr. STONE, of Iowa. Mr. Speaker, if it be not considered impertinent on my part, I should like to suggest that in the selection of experts to be employed by the committee reference shall be had to local medical societies in the different cities. These experts should be selected from those societies. I make this suggestion knowing full well that they will be better informed in reference to the qualifications of the men to be selected than any other men possibly can be. For, sir, you not only want expert testimony, but you want expert testimony which the judgment of the House and country may rely upon with perfect confidence. I make the suggestion with the full belief that it is the only way you can get experts to accompany this commission whose testimony will be of any value whatever when this report shall come in.

Mr. YOUNG. The gentleman from Iowa is no doubt correct as to the method which should be taken in the selection of these experts.

So far as the committee has gone already in making the selection, they have consulted the Representatives in Congress from the districts whence they propose to take these gentlemen and all who have been spoken of at all and will be selected by this committee come to us with the highest recommendation for professional acquirements from the Representatives of the districts where they reside. We have in some instances made inquiries of medical men and taken their judgment in reference to the experts we propose to employ. So far as I am concerned, and I believe that will be the action of the whole committee, I shall endeavor to select from the medical profession such men as will be indorsed by the medical faculty of the country.

Mr. WAIT. Mr. Speaker, there will be a very great embarrassment, as gentlemen will see at once, in accepting the suggestion of the gentleman from Iowa. From what school of medical men are you to select these experts? One party will cry out you must take them from the homœopathic school, another party that you must take them from the allopathic school, another from the botanic practitioners, and still another that they shall be selected from those who heal in the scriptural manner, by the laying on of hands. Hence it will be seen you bring up at last by getting into a troublesome controversy with the doctors of every medical school that exists in the country. We ought not to adopt any such plan or proceeding unless we want "confusion worse confounded."

Now, sir, there are public bodies in all the cities, boards of health composed of responsible and intelligent men possessed of valuable statistical information, capable of forming an opinion on a subject of vital importance to the entire people of this country and to shed light upon this very important and deeply interesting subject; so, instead of referring this matter to physicians selected from the different medical schools, choosing here and there a man from one school and a man from another, let the matter be referred, if to any particular class or classes, to those who from long experience and their public positions are cognizant of the facts and possessed of information in the different sections of the country which the inquiry demands and who will be able to enlighten the members who are to report to this body for its action on the subject referred to them.

Now, with regard to the number of the commission to be appointed under the resolution, I feel, sir, that the larger you make this number the less attention will be paid to the duties which they are to discharge. I entirely agree with the gentleman from Tennessee, the chairman of the committee, that if you limit the number to seven you fasten the responsibility on that limited number, and they will be intelligent and experienced men, who will be selected with great care and will feel that it is their duty to give the fullest consideration to this matter. They will not feel that the number is so large that they can shift the responsibility from their own hands and shoulders to the hands and shoulders of others. I certainly trust the amendment increasing the number to thirteen will not prevail.

Mr. WILSON. Why not give to the committee the power, after they get into session, to make the number larger than seven if they think it necessary to do so?

Mr. WAIT. I will answer my friend from West Virginia, whose opinion I generally respect very much. The nine gentlemen comprising this committee will be beset by applications from parties all over the country to employ as experts particular friends who will desire to figure as members of the commission. I do not think there is any necessity for it, and I would not open the door for any increase of expenditure when I do not think it is necessary.

Mr. ATKINS. Knowing it to be the opinion of some members of the joint committee that seven experts were sufficient I offered that amendment. But as it has met so much opposition, and the idea being suggested that there will be greater safety in having a greater number, and not feeling any desire to interpose any obstacle at all in the way of the investigation, I withdraw the amendment.

Mr. YOUNG. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States was read three times, and passed.

Mr. YOUNG moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from California [Mr. PAGE] has demanded the regular order.

Mr. WILSON. I hope the gentleman will withdraw the demand for a moment.

Mr. PAGE. There has been so much pressure brought to bear by gentlemen who desire to be recognized by the Chair that I withdraw the demand for the regular order.

ASSIGNMENT OF LAND SCRIP.

Mr. GUNTER. I ask unanimous consent that the bill (S. No. 109) defining the manner in which certain land scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representative, be taken from the table for present consideration. I think it will take but a moment.

Mr. WILSON. That bill ought to pass. It is full of merit.

Mr. WHITE, of Pennsylvania. Let it be read.

The SPEAKER. The bill will be read for information, after which objections, if any, will be in order.

The bill was read.

Mr. GUNTER. I now ask that the report be read.

Mr. DUNNELL. I desire to know whether this bill comes from a committee to which it had been referred.

Mr. GUNTER. I will state to the gentleman that this is a Senate bill. It was unanimously reported by the Senate committee. It has also been considered by the Committee on Private Land Claims of the House and has been unanimously reported by that committee.

Mr. DUNNELL. I desire respectfully to say that the bill is not such a bill as I think should have gone to the Committee on Private Land Claims. It attaches to the whole public domain of the United States, and it ought to have gone to the Committee on Public Lands. I think the bill ought to go to that committee to be reported back to the House from that committee.

Mr. GUNTER. The main feature of the bill is to permit individuals to utilize scrip in payment of pre-emption claims or in commutation of homestead claims.

Mr. TOWNSHEND, of Illinois. In reply to the gentleman from Minnesota, [Mr. DUNNELL,] I will say this: I do not consider that this is a bill of a nature which properly brings it before the Public Lands Committee. It is confined solely to private land claims. It was carefully considered in the last session, as well as again during the present session. There is not any difference of opinion among the members of the Committee on Private Land Claims in regard to it. It makes no new grant of land. It simply declares what is the character of the scrip that should be issued.

I will say further that nearly one-third of the lands involved in this bill—certainly more than one-fourth—belongs to a school in Baltimore. These lands, that were granted to that school by one of the parties entitled, form, I believe, fully one-fourth of the land involved in the bill. No injury can result to any person or any interest from its passage. It simply defines the character of the scrip to be issued. I will say further that this question has been adjudicated by the courts, and it has been declared that the scrip shall issue. It is only a question as to the kind of scrip which shall be issued.

Mr. DUNNELL. The more I hear about this bill the more I object to its passage at this time, if it is proper for me to do so.

The SPEAKER. The Chair reserved the right of objection.

Mr. TOWNSHEND, of Illinois. If the bill is now sent to the Public Lands Committee, it is effectually defeated; but there is no sane reason for defeating it; there is no justice in defeating it. Justice and right can only be promoted by the passage of this bill. If there were any reason why it should not pass, that reason would have been discovered by the committee which considered it. It has unanimously passed the Senate, and the Committee on Private Land Claims of this House has unanimously asked the gentleman from Arkansas to move that the bill be taken from the Speaker's table and put upon its passage.

Mr. WILSON. Has there been a single dissenting voice as to the merits of this bill in the Senate or in the House committee?

Mr. TOWNSHEND, of Illinois. Not one that I am aware of.

Mr. DUNNELL. It is not an unanswerable argument that this bill has unanimously passed the Senate. We have to pass the bill ourselves. As I understand it, scrip which cannot now be located upon the unsettled public lands of the United States may be located or laid upon those public lands. I shall object to the passage of a bill that shall allow this scrip which was not intended for location upon public lands opened for homestead and pre-emption to be now entered upon lands of that description.

Mr. GUNTER. I would state that the gentleman misapprehends the scope of the bill. The bill carefully provides against the objection that he urges. It provides only for the utilizing or using of this scrip in commutation of homestead and pre-emption, and is subject to be used only on land subject to private entry at $1.25 an acre, and hence this objection is not valid.

The SPEAKER. The right to object was reserved. Does the Chair understand the gentleman from Minnesota to insist on his objection?

Mr. DUNNELL. I do.

BOARD OF PHYSICIANS AT ERIE, PENNSYLVANIA.

Mr. LOCKWOOD. I ask unanimous consent to offer the following resolution:

Whereas charges of a grave character have been filed with the Committee on Expenditures in the Interior Department against the examining board of physicians at Erie, Pennsylvania, and other officers connected with the Pension Bureau; and

Whereas sufficient information has been brought before said committee to warrant an examination of the same:

Resolved, That the subcommittee having charge of investigation of the Patent and Pension Bureaus be, and they are hereby, authorized to examine the same during the recess, and for that purpose may hold sessions at said city of Erie, and that said subcommittee have power to subpœna witnesses, administer oaths, take testimony, and employ a stenographer, and be attended by a deputy sergeant-at-arms, and that the sum of $300, or so much thereof as may be necessary, be appropriated out of the contingent fund to meet the expenses of said examination.

Mr. WHITE, of Pennsylvania. I object.

Mr. LOCKWOOD. I do not think the gentleman would object if he understood it.

Mr. WHITE, of Pennsylvania. I object, without knowing more about it.

FEDERAL OFFICERS AT ELECTIONS.

Mr. ATKINS. I am directed by the Committee on Appropriations to report the resolution which I send to the Clerk's desk, and I ask unanimous consent that it be considered at this time.

The Clerk read the resolution, as follows:

Resolved, That the Attorney-General be, and he is hereby, directed to communicate to this House the total number of supervisors and deputy marshals employed throughout the United States in connection with the elections held on the 8th day of October and the 5th day of November last, stating the number so employed in each State and at each voting precinct respectively, and the length of time they were so employed, with a full statement of the causes and necessity of such employment, what duties they performed, and the amount of compensation paid to them and from what fund or item of the appropriations the same was paid.

Mr. GARFIELD. I do not think we had better go into that. We have so many investigations already and all going in one direction.

Mr. FINLEY. It is not an investigation.

The SPEAKER. The Chair understands the gentleman from Ohio to object.

Mr. GARFIELD. Let it be printed.

Mr. ATKINS. I will then ask that the resolution be referred to the Committee on Expenditures in the Department of Justice.

Mr. O'NEILL. I object.

Mr. HALE. Let us have the regular order.

INDIAN APPROPRIATION BILL.

Mr. SPARKS. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the Indian appropriation bill; and pending that motion I move that all general debate thereon be limited to two minutes.

The question was taken upon the motion to limit debate; and it was agreed to.

The question was then taken upon the motion to go into Committee of the Whole; and it was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. LIGON in the chair,) and proceeded to the consideration of the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes.

The CHAIRMAN. All general debate upon this bill is limited to two minutes.

Mr. SPARKS. In submitting the Indian appropriation bill, Mr. Chairman, I merely desire to state that it is substantially the appropriation of the last law. It is within last year's appropriation. There are some changes in some branches of the service where there are reductions and others where there are additions, but it is substantially in all respects the appropriation of last year as to amount and as to the various branches of the service. It is the unanimous report of the Committee on Appropriations and meets the approval of the Indian Office. I believe I am warranted in saying that it meets the approval of the Indian Office, as it is certainly the unanimous report of the Committee on Appropriations.

Mr. ATKINS. Before my colleague takes his seat I desire to call his attention to one feature of the bill in which there is an increase of the appropriation for the police force; perhaps he might desire to make some explanations in relation to that point.

Mr. SPARKS. I incidentally alluded to that. There is an increase in that service. Last year we appropriated $30,600 for an Indian police, and this year the appropriation is increased to $60,000, being an increase of $29,400 in that particular branch of the service. There are other parts of the bill in which there are increases, and some where there are reductions, altogether bringing the bill within and under the appropriations of last year.

[Here the hammer fell.]

The CHAIRMAN. The time allowed by the House for general debate is exhausted.

Mr. SPARKS. I now ask that the first and formal reading of the bill be dispensed with, and that it now be read by paragraphs for amendment.

There was no objection, and it was so ordered.

The Clerk began the reading of the bill, and read the following:

That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with the various Indian tribes, namely:

For pay of seventy-four agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

* * * * * * * *

At the Round Valley agency, at $1,500.

Mr. LUTTRELL. I move to amend the last paragraph read by striking out "$1,500" and inserting "$1,000." My reasons for that motion are these: last year there was appropriated for this reservation some $20,000, and nearly $10,000 of it was used for the payment of employés on that reservation. The testimony before the commission which recently visited California shows that these Indians are as well qualified to manage their own business as are the citizens of the country. They are good farmers, good millers, and it is a great outrage to pay these enormous salaries to men who simply stay there and do nothing. I think $1,000 is sufficient. If this amendment is agreed to, at the proper time I will move to strike out the appropriations for other employés, because the Indians there are good farmers and are working in the country far and near and receiving as good wages as other white men.

Mr. SPARKS. The proposition of the gentleman from California [Mr. LUTTRELL] is in my direction generally, because it is a reduction of expenditures. Of course I cannot be supposed to know the precise service demanded of this agent. I will state to the Committee of the Whole that the appropriation for the service of that agent is the same that has been given in previous appropriation bills.

Mr. LUTTRELL. I would like to say to the gentleman that the testimony of witnesses who reside in the vicinity, for instance, Hon. George W. Henry, an eminent citizen and a member of the Legislature, (my friend from Mississippi, Mr. HOOKER, was present when the testimony was given,) is to the effect that there are only two hundred and odd Indians at the agency at this time; all the others are off employed on farms.

Mr. SPARKS. I was proceeding to state that the Indian Office estimated for this appropriation. From them I have no information that would lead me to suppose that the pay of this employé of the Government should be reduced.

There are some nine hundred Indians pertaining to this agency, as I can show by reference to a communication from the Indian Office. During the discussion of the Indian appropriation bill last session we made an effort to grade these agencies. Prior to that time they were all fixed at $1,500 per annum each. We then graded them, made some higher and some lower. I am under the impression that it would not be wise to reduce this one; and that is about all I desire to say to the committee on the subject.

The question was taken upon the amendment of Mr. LUTTRELL; and upon a division there were—ayes 18, noes 63.

There being no further count called for, the amendment was not agreed to.

The Clerk resumed the reading of the bill and read the following:

At the Los Pinos agency, at $1,600.

Mr. SPARKS. I move to amend the paragraph just read by striking out "$1,600" and inserting "$1,500."

Mr. PATTERSON, of Colorado. I would ask the gentleman why he proposes to make this change?

Mr. SPARKS. In answer to the gentleman I would state that we are grading the three agencies there. It is the desire of the Indian Office to have the compensation of this agent made $100 less than here given, of the next agent $200 more, and of the other agent $100 less. It makes them amount in the aggregate to the same, and grades them better and pays them more equally, as the Indian Office informs me.

Mr. PATTERSON, of Colorado. I cannot understand upon what data the Indian Office makes any such discrimination. The truth is that the agent at the Los Pinos agency has more Indians under his charge and has a greater extent of territory to watch than has either of the other two agents. Hence I cannot see why you should strike down the salary of one and add to the salary of another. I know that to be the fact, both from traversing a portion of the country myself, from a personal acquaintance with the agent, and from a general knowledge of the number of Indians at the agency.

Mr. SPARKS. If the gentleman will examine the matter he will see that the agent at the Los Pinos agency gets more than either of the others.

Mr. PATTERSON, of Colorado. And he is entitled to more.

Mr. SPARKS. Well, he gets more.

Mr. PATTERSON, of Colorado. Because he has four times as many Indians under his charge as either of the other two agents. The great bulk of the Ute Indians are at the Los Pinos agency. In my judgment the great responsibility of the Indians in the State of Colorado rests upon the agent at Los Pinos. I hope there will be no diminution in the salary that agent has been receiving.

Mr. BAKER, of Indiana. The salaries of these three agents, as reported in the text of the bill, are those they have received since the commencement of the present fiscal year. Under the operation of the existing law, and on a survey of the whole question, the Indian department of the Government has reached the conclusion that justice requires the revision and redistribution of the amount of these salaries. The information communicated by that department to the subcommittee of the Committee on Appropriations is to the effect that changes have recently taken place in reference to the number of Indians and the responsibility of the service, and in order that these agents, for the services rendered, may receive substantially equal compensation, the amendment offered by my colleague on the committee [Mr. SPARKS] should be adopted.

I submit that it will hardly do for the Committee of the Whole to take the judgment of a single member of the House without any official data as its foundation in preference to the deliberate judgment expressed by the department of the Government having this subject-matter in charge. I hope, therefore, that the amendment offered by my colleague on the committee, in pursuance of the recommendation of the Department, may be adopted.

Mr. PATTERSON, of Colorado. I admit as a general proposition that a judgment expressed by the head of a department should have greater weight ordinarily than the judgment of any single unofficial individual; yet it is possible in many cases that a single individual, on account of the locality from which he comes, may have a better

knowledge of a particular subject than the head of a Department. Now, I know as a fact that no changes whatever have taken place in the jurisdiction of the agent at the Los Pinos agency. There are altogether in Colorado 4,000 Ute Indians, of whom at least 3,200 or 3,300 are under the charge of the agent at Los Pinos. His territory has not been cut down; not a single Indian has been taken from his jurisdiction. The truth is, that if the amount of labor to be performed, the judgment, experience, and other qualifications of the Indian agent at Los Pinos as compared with those of other agents are to form any criterion as to the salary to be paid, the agent at Los Pinos should receive twice as much as other agents. I am personally acquainted with this agent; and I know that a more conscientious and deserving man never entered into the Indian service. Because it is within my knowledge that no reason exists for this change, I hope no change will be made in the salary he has been receiving up to the present time. It is a beggarly salary at most. He left a comfortable home to go down to live among those Indians at the Los Pinos agency; and certainly a salary of $1,600 is not too much for a competent person to receive for the services which this agent renders.

[Here the hammer fell.]

Mr. HOOKER. There is one question I would like to put to the gentleman from Illinois, [Mr. SPARKS,] in reference not only to the measure now under consideration but in regard to all these agencies. What is the principle upon which the committee proceed in fixing the rate of compensation at every agency, and at whose instance is it fixed at the rate indicated in the bill?

Mr. SPARKS. Mr. Chairman, the reorganization of these agencies is a work of much labor; and we fixed the basis on the number of Indians, the locality of the agency, (of course in some localities living is much cheaper than at others,) the character of the Indians, and the amounts of money or supplies to be dispensed by the agents. All of these enter into this arrangement. I will add that I believe the first suggestion of this reorganization of the agents was made by myself to the Indian Office during the last session. According to my recollection the original proposition came from me; and the Indian Office agreed that it was a good suggestion.

Mr. HOOKER. These Indian agents are entitled under the law, as I understand, to $1,500 apiece; and this provision changes that?

Mr. SPARKS. Under the law as made annually in our appropriation acts these agents were all of them paid $1,500 apiece.

Mr. HOOKER. Without reference to the number of Indians under their care?

Mr. SPARKS. At the last session of Congress we graded these agencies so that at a smaller agency a smaller salary should be paid, and at a larger agency a larger salary. The proposition here is simply to reduce the salary of this agent to the extent of $100. It is stated by the Indian Office to be in keeping with fairness—relatively right as to the other agents.

Mr. PATTERSON, of Colorado. The gentleman states that in grading these agencies the number of Indians under each agent and other matters of similar character are taken into consideration.

Mr. SPARKS. The number of the Indians is one element.

Mr. PATTERSON, of Colorado. Does the gentleman know the number of Indians embraced within each of these three agencies? If he does not, I can tell him as a fact that the agent at Los Pinos has four times as many Indians under his control as either of the other two agencies; and these Indians roam over an expanse of territory ten times greater than the territory occupied by the Indians of the other agencies.

Mr. SPARKS. In reply to the gentleman, I will say that while the number of Indians is one element to be taken into consideration, yet in many cases a particular agent is entitled to a greater amount of pay than another agent having under his care three times as many Indians. The amount of salary must be influenced by other circumstances, such as the amounts of money or supplies to be dispensed by the particular agent.

So far as this particular agency is concerned, to be frank, Mr. Chairman, I will state that I know no special reason why it should be reduced, except from the information I get from the Indian Office.

The committee divided; and there were—ayes 13, noes 20; no quorum voting.

Mr. SPARKS. No quorum has voted, and I therefore demand tellers.

Mr. PATTERSON, of Colorado. I trust that the gentleman from Illinois will not haggle over a quart of peanuts. [Laughter.]

Mr. SPARKS. I trust the gentleman will not delay the action of the committee on so small a sum.

Mr. BAKER, of Indiana. I think the wish of the Department should be carried out, even against the wishes of the constituents of the gentleman from Colorado.

Mr. PATTERSON, of Colorado. Does the gentleman's committee carry out the wishes of the Department in all cases? I think not.

Mr. BAKER, of Indiana. When the committee are agreed and no reason is suggested why the information of the Department should not be carried out I hope the amendment will be adopted.

Mr. SPARKS. I demand tellers.

Tellers were ordered; and Mr. SPARKS, and Mr. PATTERSON of Colorado, were appointed.

The committee again divided; and the tellers reported—ayes 47, noes 28.

So (no further count being demanded) the amendment was agreed to.

The Clerk read as follows:

At the White River agency, at $1,200.

Mr. SPARKS. I move to strike out "two," in line 87, and insert "four;" so it will read "$1,400."

The amendment was agreed to.

The Clerk read as follows:

At the Southern Ute agency, at $1,500.

Mr. SPARKS. I move to strike out "five," in line 89, and insert "four;" so it will read, "$1,400."

The amendment was agreed to.

The Clerk read as follows:

At the Omaha and Winnebago agency, at $1,600.

Mr. BOONE. In line 93, I move to strike out "six" and insert "four."

The committee divided; and there were—ayes 21, noes 24.

So (no further count being demanded) the amendment was rejected.

The Clerk read as follows:

For pay of seventy-seven interpreters, as follows, namely:

Mr. SPARKS. I move to strike out on page 7, line 137, "seven," and insert "six;" so it will read: "for pay of seventy-six interpreters, as follows, namely."

The object of that amendment, Mr. Chairman, is to correct an error which crept into the bill as it was reported from the Committee on Appropriations. Seventy-seven interpreters cover an agency which has been stricken out. This makes it conform to the arrangement of the agencies.

The amendment was adopted.

The Clerk read as follows:

Five for the tribes in New Mexico, namely, two for the Navajo, and one each for the Mascalero Apache, Pueblo, and Abiquiu agencies, at $300 per annum each, $1,500.

Mr. SPARKS. To make this clause agree with the last amendment adopted in committee I move the following:

In line 165, strike out "five" and insert "four;" in line 166, transpose the word "and" where it occurs the last time to precede the word "Pueblo" in the same line; in line 167, strike out the word "Abiquin;" in line 168, strike out "five" and insert "two;" so it will read:

Four for the tribes in New Mexico, namely, two for the Navajo, and one each for the Mascalero Apache and Pueblo agencies, at $300 per annum each, $1,200.

The amendments were agreed to.

The Clerk read as follows:

For additional payment of the said interpreters, to be distributed in the discretion of the Secretary of the Interior, $4,000; in all, $27,100.

Mr. SCALES. Mr. Chairman, I should like to ask the gentleman who reports this bill what is the necessity for the appropriation contained in line 195 to line 198. These interpreters have already been provided for, and I suppose at good salaries. After they have been provided for, then there is another section giving $4,000 additional in the discretion of the Secretary of the Interior. What extra duties will they have to perform? Why should it not be stricken out?

Mr. SPARKS. I will state, Mr. Chairman, that this is the usual contingent fund appropriated every year, so far back as I have examined.

Mr. SCALES. I should like to ask the gentleman further. Does he know or can he state to the House what these contingencies are? I cannot conceive what contingencies there can be which will require this additional pay. Nothing, surely, to stimulate them to do their duty. The pay already provided is sufficient, it seems to me. Therefore, unless the gentleman can give me more information in regard to it, I will move to strike it out.

Mr. SPARKS. I give the gentleman all the information I can on the subject. Now I can conceive where an Indian interpreter getting $300 per annum for specified services may be required, under the direction of the Secretary of the Interior, to perform additional services and be entitled to receive a few dollars additional. I am informed it has been the custom to pay them an additional sum for extra services, and this provision is intended to cover that extra service. The gentleman perceives it allows, taking the aggregate number of interpreters, something less than $50 to each. An interpreter is confined to his agency, but he may be required to go elsewhere, and $300 a year would not be sufficient to cover his expenses at the agency and also when he is compelled to go elsewhere. Where he performs extra service provision is made for its payment. I think it is eminently just.

Mr. BOONE. In line 137 provision is made for seventy-six interpreters, then going on to name the several interpreters for the different tribes. The paragraph under consideration makes an additional appropriation of $4,000 to those interpreters, and it is placed under the Secretary of the Interior, to be disposed of in his discretion.

I ask the gentleman who has this bill in charge, of the Committee on Appropriations, and who has investigated the subject, and who states it has been the custom to make this allowance, what disposition has been annually made of that $4,000; whether any report has been made upon it; whether in fact it has been paid to these interpreters?

Even if this has been done hitherto, my opinion, humble as it may be, is that this discretionary power in the different Departments of the Government is rather a dangerous thing. It is at least placing at the discretion of one of the heads of Departments money that ought

by law to be directed into the channel in which it ought to go. I am opposed, therefore, even if it only amounts to a few dollars to each interpreter, to placing it at the discretion of anybody. If they do not get pay enough let us provide the pay they ought to have; and when they undertake to perform the duties of interpreter for that amount we will know what we are paying for the service and to whom we are paying it. I think the paragraph ought to be stricken out.

Mr. BAKER, of Indiana. I hope this paragragh will not be stricken out. The compensation provided by law for the payment of these interpreters is very small, $300 per annum. In the exigencies of the Indian service it frequently becomes necessary that these interpreters should be taken from the place where they ordinarily perform their duties to other and distant localities. They are oftentimes required to perform additional service. And let me say that in the Forty-fourth Congress the Committee on Appropriations, presided over by I believe the honorable Speaker of this House, and of which Mr. Holman, of Indiana, was a member, appropriated for the fiscal year ending 30th of June, 1878, the sum of $6,000 for this purpose, to be expended in the discretion of the Department.

Instead, Mr. Chairman, of the striking out of this discretionary clause for contingent expenses, working in the interest of economy, it would work directly in the opposite direction, for the reason that competent men could not be obtained for $300 a year to perform this service unless they knew they might receive additional compensation for such additional and contingent service as they might be called upon to perform during the year. I hope that the clause will be allowed to stand.

Mr. HOOKER. I think the motion of the gentleman from North Carolina to strike out this clause is a very proper one. In a recent visit which some of the Indian Committee paid to the Indian region of country we found that the functions to be performed by these interpreters were very simple and had only rarely to be exercised. They are simply required, when any council of the nation is held with those who do not understand their language, to be the medium of communication between the Indians and the Government or its committees or others transacting business for it. The specific appropriations in the bill for the interpreters of the various agencies, it seems to me, are ample and sufficient. If any increase is needed it should be made specifically by appropriation, and no such general power should be invested in any officer to make payments increasing the salaries. There can be very few and very rare occasions when it would be necessary to exercise this power, and certainly the amount contemplated to be added is larger than there can be any possible occasion for.

Mr. SPARKS. Without possessing the experience of my friend from Mississippi [Mr. HOOKER] who has been visiting these agencies, I would suppose that the service of an interpreter was quite an important one. These interpreters must communicate with the employés of the agency and communicate to the Indians in the Indian language that which is communicated to them in English by the agents and employés. As it strikes me, there is an immense deal of service to be performed by these interpreters at the agencies, and for this service at the respective agencies they are paid but $300 per annum. Now, it has been a rule of the Department which has been sanctioned by Congress to allow an additional sum in the nature of a contingent fund of $4,000 per annum to be paid for extra services, if you please. I think that that is a very proper thing to be done. An interpreter who gets but $300 per annum is perhaps required to do service elsewhere than at his agency, and as he gets but a very small salary there, in my judgment he ought to be paid something extra for this extra service and it ought to be left discretionary with the Secretary of the Interior whether or not this ought to be done.

Mr. SCALES. Will the gentleman permit me to ask him a question?

Mr. SPARKS. If the gentleman will allow me to make one other suggestion I will hear his question in a moment. This sum has been allowed in all of the preceding bills that I have before me, for the year before last, for the last year, for this year. There is no increase. We simply stand on this subject upon preceding law. The gentleman speaks of an increase. That is not the fact and I never knew an objection to be raised upon this point before. I will now hear the gentleman from North Carolina and answer him if I can.

Mr. SCALES. I wanted to ask the gentleman this question: The salaries I believe in this bill of the agents are specifically fixed.

Mr. SPARKS. They always have been.

Mr. SCALES. And yet it very frequently is the case that agents are called here to perform duties. Why does not the gentleman have a discretionary fund in the hands of the Secretary of the Interior to pay them?

Mr. BAKER, of Indiana. Will the gentleman yield for an answer to that question?

Mr. SCALES. Yes, sir.

Mr. BAKER, of Indiana. There is a contingent fund of $15,000 provided out of which, in the event of any extra expenses incurred in any such way as the gentleman suggested, if the Indian commissioner thinks it right, the expenses would be paid.

Mr. SCALES. Do I understand the gentleman to say that there is a discretionary fund to increase the pay of the agents?

Mr. BAKER, of Indiana. Not specially for that. I stated that there was a provision in this bill, as there has been in every bill, which places a general contingent fund at the discretion of the Department, to be used as it thinks proper.

Mr. SCALES. My friend from Indiana does not answer my question. I ask my friend from Illinois to do it. The salaries of agents are specified here, and why is there not a contingent discretionary fund set apart for them in the hands of the Secretary of the Interior?

Mr. SPARKS. For whom?

Mr. SCALES. For the agents. There is a specific salary for each interpreter for every tribe, and in addition thereto here is an appropriation of $4,000 set apart for a contingent fund in the hands of the Secretary of the Interior to pay for interpreters.

Mr. SPARKS. I will try to answer the gentleman why we make this extra provision for interpreters. Provision is made for extra agents, as he will discover when we get on further in the bill. I remember making the point in the Indian Office that I did not like this provision for extra agents, but the necessity for it was so clearly explained that I yielded. For instance, an agency becomes vacant and they must have some experienced person to put in it for the time being. Hence, so far as the agencies are concerned, provision is made and discretionary power is left to the Secretary of the Interior to fill them.

As to the interpreters, we make provision for seventy-three, one for each agency; but then there are some extra services which they may be called upon to do, and this provision is for payment for those services.

Mr. SCALES. I move to strike out the last word for the purpose of saying one thing more, and then I will not detain the committee any longer. My friend from Illinois says that it has been the custom to make this appropriation for years past. If it is a bad custom we cannot discontinue it too soon; if it is a good custom the gentleman who reports it should be able to show that it is.

It is not sufficient for the House to say that we have done it in times past; the matter should be looked into. Now, is any gentleman prepared to tell the House how the money has been disposed of heretofore? Whether it has all been spent, and if spent, how, or whether there is a surplus?

My friend says it is a small amount. It is a small amount but we want to cut off drops like this, and in a while we might save a bucketfull. I withdraw my formal amendment.

The question was then taken on Mr. SCALES's original amendment; and there were—ayes 14, noes not counted.

So the amendment was not agreed to.

Mr. SPARKS. In order to make the total correspond with the amended items, I move upon page 9, line 197, to strike out "7" and insert "6;" strike out "1" and insert "8;" so as to change the amount to $26,800.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For buildings at agencies, and repairs of the same, $15,000.

Mr. HOOKER. I move to strike out that clause. It appropriates generally for repairs of Indian agencies without any indication where the agencies are which are to be repaired. It seems to me a character of appropriation that ought not to be made, and I hope it will be stricken out.

Mr. SPARKS. I hardly know how this system could be run without an appropriation of this kind. The sum of $15,000 is proposed to be appropriated here to keep in repair the agency buildings, and if one burns down that another may be built. It is merely to keep the agency buildings in repair, and to renew those that may be destroyed by the casualties of the elements.

Mr. HOOKER. The argument made by the gentleman reporting the bill would seem to imply that this appropriation is a sort of insurance appropriation, but it does not so indicate itself to be. It is simply an appropriation of $15,000 for repairs of agencies, to be expended anywhere and not confined to any particular localities.

The question was taken upon Mr. HOOKER's amendment; and it was not agreed to.

Mr. THROCKMORTON. I desire to move that the committee rise, and I wish to state to the member of the Committee on Appropriations having the bill in charge my object in making that motion. It is well known that there have been two committees, one of the House and one of the Senate, traveling all over the Indian Territory looking into the Indian question. There are some important amendments which, perhaps, might be suggested to this bill, but those committees have not yet had an opportunity to report, and I hope the gentleman having charge of the bill will let it lie over until after the holidays, so as to give gentlemen who desire to offer amendments an opportunity to do so, or at least give those committees which have investigated the subject an opportunity to report. For that reason, I move that the committee rise.

Mr. SPARKS. I hope the committee will not rise. I do not understand the drive made to prevent the passage of the Indian appropriation bill. I am astonished at it. This bill is put up as all former bills have been put up. It has been put up upon the basis of economy and is within the appropriations of last year. Now, there was no commission appointed to examine into this service. A commission was appointed to consider the question of a transfer of the Indian service from one Department to another Department. That question does not belong to the appropriation bill. Let it come up as an independent proposition. Once, as a member of the Committee on Indian Affairs, I proposed that measure in this House and it passed the House, but

it is not germane to appropriation bills, and in my judgment there ought to be no delay in the passage of this bill; there is nothing to warrant it. Why not get through with the bill? Gentlemen certainly feel that this appropriation bill is right in the main. We may have made some mistakes of course, but the bill has been printed for several days and gentlemen who desire to offer amendments could have consulted with me in regard to them at any time. They all knew that I had charge of it.

Now, I do not understand this proposition, unless it is made with a view of bringing into this bill some matter that ought not to be put into an appropriation bill. Let these matters stand upon their own bottoms. Are there claims which gentlemen want to bring in here? I object; let the claims come in as they should come. Is there a transfer question to be brought up? I think it should come from somewhere else, and be considered in the House as an independent proposition.

The Committee on Appropriations is charged with the appropriation of moneys to carry on this branch of the public service. To the best of our ability we have discharged that duty and have reported this bill to the House as the result of our action. I think the House should now go on and complete the consideration of the bill.

Mr. THROCKMORTON. With some slight exceptions I have no objections at all to this bill. It is in the usual form, and I believe in the line of retrenchment, and I shall be glad to help the Committee on Appropriations in that direction. There are one or two important amendments to this bill in the line of retrenchment that I should like to see adopted, and at the proper time I will offer them if some other member does not do so.

But there are questions of vast interest to the country, to the Indian Department, and to the Indians themselves that should have due and fair consideration. There have been committees appointed to investigate this subject. All that I ask is that this bill may lie over until after the holidays, so that the committees may report the result of their investigations and we may be enabled to know how to act. If the transfer proposition is to be considered as an amendment to any bill it may be as proper to offer it to this as to any other. But I do not say that I desire to postpone this bill for that purpose.

Mr. SPARKS. May I ask the gentleman a question?

Mr. THROCKMORTON. Certainly.

Mr. SPARKS. I would inquire of the gentleman if he is not in favor of early action on the appropriation bills?

Mr. THROCKMORTON. Certainly I am.

Mr. SPARKS. It has been the object of the Committee on Appropriations at this short session to put through these appropriation bills as speedily as possible. I would ask if the effect of his motion is not to delay action upon this bill?

Mr. THROCKMORTON. In answer to the gentleman I would say that the public service will not be injured by a postponement of this bill until after the holidays. The appropriations for the Indian service are not exhausted and are not likely to be exhausted during the time which I ask this bill to be postponed.

Mr. ATKINS. Will the gentleman favor the House with a statement of the important propositions or amendments which he desires to offer to this bill?

Mr. THROCKMORTON. I have frankly stated the object I had in making this motion. It was that the House might have time to consider, and if it was deemed to be proper by those who were disposed to offer important amendments to this bill, give them the opportunity to do so. And it was for the further purpose of having reports from committees that have been traveling all over the country examining into these Indian affairs.

Mr. ATKINS. I desire simply that the gentleman would mention some of these important amendments. If he would do so it might control the action of the House. One other question. Could not the suggestions or propositions which he refers to be put into some other bill, or into a separate bill, where they would be more appropriate perhaps than in this Indian appropriation bill?

Mr. THORCKMORTON. In answer to the gentleman I would say that if this were a long session of Congress it might be possible that the amendments which I desire to offer or which may be proposed by others could be put into a separate bill and be separately considered and acted upon. But as there can be no detriment to the public service or to the Indians themselves by the postponement which I suggest, I cannot see why gentlemen now undertake to hasten this bill through when hardly a member of this body has had time to examine it.

Mr. SCALES. Allow me to interrupt the gentleman a moment.

Mr. THROCKMORTON. Certainly.

Mr. SCALES. I would ask the gentleman if there is any probability that this bill can be passed by the Senate before the holidays?

Mr. THROCKMORTON. None whatever.

Mr. SCALES. Then how can there be any delay by postponing it until after the holidays?

Mr. THROCKMORTON. None that I can see.

Mr. SPARKS. I would like to answer my friend from North Carolina, [Mr. SCALES,] the chairman of the Committee on Indian Affairs, by stating that the earlier these bills are passed by the House the earlier they will get into the Senate. One great complaint on the part of the Senate heretofore has been that we never have sent the appropriation bills to them until at the heel of the session. I thought that there was a great deal of point in that.

Now, are not gentlemen mistaken in regard to this bill? Last Saturday I reported it to the House and gave notice that I would call it up on Wednesday, to-day. Is not that timely notice? It is more notice than has been given on any of the other appropriation bills.

There has been no commission appointed to look into this matter of appropriation for the Indian service. The gentleman is simply mistaken about that. If the gentleman from Texas [Mr. THROCKMORTON] has amendments to offer to this bill it is his province to offer them. And if the Committee of the Whole feel that they should be incorporated into the bill then they will so act. But in the midst of action upon an appropriation bill the proposition to postpone it until after the holidays is in the direction of delay, as it seems to me, and for nothing else.

Mr. HOOKER. In support of the motion which has been made by my friend from Texas, I beg to say that there are several provisions of this bill to which we intend to offer amendments; and I do not see any reason why the bill should be hurried through this House, inasmuch as its immediate passage is not required by the interests of the public service or by considerations of justice to the Indians. If the immediate adoption of these appropriations were necessary in order that the Government might carry out its treaty stipulations in the payment of annuities to the Indians, I should favor no delay; but there is no special necessity for urging the bill at the present time.

It will be found, by referring to the conclusion of the bill, that it proposes to appropriate something like $4,700,000; and surely, however well the provisions of the bill may have been considered by the committee whose duty it is to submit these bills to the House, it is apparent that many members have not had opportunity to investigate all these provisions. As one member, I am sure I have not done so; and I have heard other members say the same thing. Inasmuch, therefore, as the bill cannot possibly pass the Senate before the holidays, and as we have already passed at the present session a great number of appropriation bills—more than have usually gone through at so early a stage in the session—I do not see any necessity for urging the passage of this bill at the present time.

If we are to inaugurate a system of economy in the administration of Indian affairs we can only do so by departing from the line of precedents referred to by the gentleman from Illinois [Mr. SPARKS] and correcting these appropriations which are generally not specific in their character. I do not believe that Congress ought ever to appropriate a single dollar without indicating specifically where it is to go. I am in favor of taking from the heads of the Departments and bureaus this extraordinary discretionary power which it has been the policy of the Government in past appropriation bills to confer upon them. I believe in indicating the legislative will as to where appropriations should go. When a bill proposing so large an appropriation as this is presented, no matter whether it refers to the Indian service or any other, the specific object to which the money is to be applied ought to be discussed and well considered by the House before making the proposed appropriations.

In view of the fact that by the 1st of January we shall have the report of the joint committee of the two Houses upon the subject of the transfer of the Indian Bureau from the Department which now has control of it to another, and as the question will thus be presented upon that report whether the management of Indian affairs should be transferred or should remain where it is, it seems to me no harm can ensue from the postponement of the further consideration of this bill until after the holidays.

Mr. SPARKS. I believe this subject is not debatable.

The CHAIRMAN. It is not.

The question being taken on the motion of Mr. THROCKMORTON, it was not agreed to, there being—ayes 22, noes 76.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed without amendment House joint resolution and bill of the following titles:

A joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department; and

A bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer at the Military Academy at West Point.

INDIAN APPROPRIATION BILL.

The Committee of the Whole on the state of the Union resumed its session.

The Clerk read as follows:

Mixed Shoshones, Bannocks, and Sheepeaters:

For such goods, provisions, and other articles as the President may, from time to time, determine, in instructing in agricultural and mechanical pursuits, in providing employés, educating children, procuring medicine and medical attendance, care for and support of the aged, sick, and infirm, for the helpless orphans of said Indians, and in any other respect to promote their civilization, comfort, and improvement, $25,000.

Mr. LUTTRELL. I rise to make a parliamentary inquiry. The statute of 1802 provides that Indians who leave their reservation and destroy the property of white citizens shall be held responsible and that the President may retain from any annuity or fund intended for such Indians such sum as may be sufficient for the payment of the damages they have done. Now, I desire to ask whether I shall be permitted to offer to this bill an amendment providing that the money

appropriated for the benefit of the Bannocks and the Nez Percés, who have destroyed the property of our white citizens, shall be retained to meet the claims of those citizens for the loss of property thus destroyed?

Mr. SPARKS. Has the gentleman made any motion?

Mr. LUTTRELL. I have made a parliamentary inquiry; but I will make a motion.

Mr. SPARKS. What is your motion?

Mr. LUTTRELL. My motion is to amend by adding a provision that no part of this appropriation for the use of the Bannock Indians shall be paid to them until all claims of citizens for the destruction of property by those Indians shall have been adjudicated.

The CHAIRMAN. The gentleman will reduce his amendment to writing.

Mr. LUTTRELL, (after a pause.) I do not wish to delay the committee, but I give notice that I will offer an amendment of this kind at the end of the bill.

The Clerk read as follows:

Osages:

For interest on $69,120, at 5 per cent. per annum, being value of fifty-four sections of land set apart by treaty of June 2, 1825, for educational purposes, per Senate resolution of January 9, 1838, $3,456.

For interest on $300,000, at 5 per cent. per annum, to be paid semi-annually, in money or such articles as the Secretary of the Interior may direct, as per first article of treaty of September 29, 1865, $15,000; in all, $18,456.

Mr. HOOKER. I desire to offer an amendment in the same terms as one that was offered at the last session by my colleague on the Committee on Indian Affairs, the gentleman from Minnesota, [Mr. STEWART,] whom I do not now see in his seat. This matter was considered by the Committee on Indian Affairs and favorably passed upon. It has for its object the payment of a certain amount agreed by the council of the Osages to be due from that nation, and which they agreed should be deducted from the interest annually payable upon their annuity. I send up the amendment to be read.

The Clerk read as follows:

After line 728 insert the following:

Provided, That the proper officers of the Government are hereby authorized and directed to pay the expenses incident to the execution of the trust agreed upon by the treaty of 1865, as set forth in the petition of the Osage Indians to the President in May, 1877; and said payment shall be charged against the interest-bearing credit of said Indians on the books of the Treasury of the United States.

Mr. SPARKS. I make the point of order on that amendment. It would evidently change existing law and does not reduce expenditure.

Mr. HOOKER. On that point of order I desire to be heard.

It will be remembered, Mr. Chairman, by those of the House who were present at the last session of Congress when a similar proposition was introduced, that some discussion arose on the subject as to whether or not this amendment was in contravention of the rules—that it was not in the line of economy, and not in accordance with existing law. This same amendment was offered at that time. I took the position then that this was a provision existing under treaty stipulation, referring to the second and sixteenth sections of the treaty with these Indians on that subject.

The sixteenth section of the treaty made the following provision:

It is also agreed by said contracting parties that if said Indians should agree to remove from the State of Kansas and settle on lands to be provided for them by the United States in the Indian Territory on such terms as may be agreed on between the United States and the Indian tribes now residing in said Territory, or any of them, then the diminished reservation shall be disposed of by the United States in the same manner and for the same purposes as hereinbefore provided in relation to said trust lands, except that 50 per cent. of the proceeds of the sale of said diminished reserve may be used by the United States in the purchase of lands for a suitable home for said Indians in said Indian Territory.

Reference was also made to the second section.

Mr. BAKER, of Indiana. Mr. Chairman, the gentleman is not discussing the point of order.

Mr. HOOKER. I am speaking to the point of order and nothing else.

Mr. BAKER, of Indiana. The gentleman's remarks seem to be very remote from it.

Mr. HOOKER. That is the opinion of the gentleman and will go for what it is worth. But I will proceed. I take the position, Mr. Chairman, that so far from this provision which I propose to append to the bill in the shape of the amendment offered being in violation of existing law, it is simply carrying out existing law. I believe, on reflection, the distinguished gentleman from Kentucky who occupied the position of chairman of the committee at that time will say himself that this point of order was not well taken—I mean the gentleman who occupied the chair when the point of order was made by my friend from Tennessee [Mr. ATKINS] last year. I believe on reflection he will say the point of order was not well taken, but on the contrary, the amendment is germane to the subject-matter of the bill and is not in violation of existing law, but pertains to it. I find the following in reference to the motion which was then made, and I refer to the RECORD of last session:

Mr. STEWART. I move to amend by inserting the following:

To defray the expenses incurred by the Osage Nation of Indians in the final sale of their lands in the State of Kansas the proper accounting and executive officers of the United States are hereby authorized and directed to carry into effect the resolution of the national council of the Osage Indians, passed and approved on the 26th day of June, 1873, by the payment out of the proceeds of the sales of the Osage lands in Kansas, now in the custody of the United States, of so much as remains unpaid of the debt of said Indians, as fixed and acknowledged by said resolution.

Mr. ATKINS. I make the point of order that this is new legislation and does not retrench expenditures.

Mr. HOOKER. Upon that point of order I desire to say a word.

Mr. ATKINS. I think, besides, that this amendment is merely a provision of a bill already pending in the House, and is not out of order for that reason.

Mr. HOOKER. Even if it be true that there is no legislation on this subject, there is a treaty stipulation with the tribes to which the amendment refers, and a treaty stands upon the footing of the very highest law that can be enacted by this Government. Hence the point that there is no existing law authorizing this amendment is not well taken. By the stipulation of a treaty and by the action of the council of Osages it has been agreed that this amount is due, and it is proper it should be appropriated, not from the general funds in the Treasury, but from the annual stipend which is paid by the Government under the stipulation of the treaty with those tribes. The objection that there is no law for the appropriation might be made with as much reason against any appropriation to carry out the stipulation of a treaty of the United States. I submit that this point of order is not well taken.

Mr. EDEN. Will the gentleman let me ask him a question?

Mr. HOOKER. Yes, sir.

Mr. EDEN. Does the gentleman claim this resolution passed by those Osage Indians is part of the law of the United States?

Mr. HOOKER. I say that the treaty stipulations which were to go into effect at the time when they should by their council declare they gave their assent to them, and these stipulations do from that moment of their assent become a portion of the laws of the United States.

Mr. EDEN. The treaty stipulations do not provide for that, but merely the resolution of the Osage Indians.

Mr. HOOKER. The stipulation does provide for it in the sixteenth and second sections. It required the assent of the Osages to make it the law. There is no dispute they have assented to it, and therefore there can be no doubt but what it is a part of the law, and the very highest law of the land, and which ought to be enforced. It is proper this payment should be made because the assent given by these Indians made it a part of the solemn treaty itself. It is common for treaties to stipulate they shall not go into effect until they shall receive the assent of the Indians to be made in some form. We passed such a law in reference to the Southern Utes of Colorado, in which it was stipulated certain portions of their territory should be taken, and they were to give their assent to it by proceedings in council to be signified at the ensuing session of Congress, and then Congress was to ratify it, when it should become the law. If the Osages have complied with this part of the treaty, and agreed to it, then it becomes part of the law of the land, and the amendment I have offered therefore is germane to the pending matter and is not in opposition to the existing law.

Mr. SCALES. Mr. Chairman, one moment on the point of order. I regret to have to differ from my friend from Mississippi. A knowledge of this transaction will show the point of order ought to be sustained. It seems to me the point aimed at is so covered up in the amendment, I will not say intentionally, that perhaps there are not ten men in the House who understand what is meant by it.

When the Osage Indians by treaty ceded their lands to the Government they afterward became dissatisfied, and it is alleged they employed counsel for the purpose of having the whole thing rescinded. A contract was then made by which the counsel employed were to receive one-half of all that was gained by the Indians by a recession of the treaty over and above what was given them by the Government. The treaty was withdrawn and the Indians gained thereby about twelve or fourteen millions of dollars. One-half would have been from six to seven millions. It was thought that six or seven millions for a counsel fee would be regarded as excessive, and they therefore agreed with the Indians in council the amount should be reduced first to $300,000 and afterward to $230,000. That was a contract made contrary to law. It was in violation of an express statute which said that the Indians should not make any such contract except under the approval of the Secretary of the Interior.

Then the contract stands not only without law, but absolutely in violation of law. That being so, when an amendment is introduced here for the purpose of paying that which could not otherwise be paid and which has no standing under the existing law, then it changes the existing law and must be out of order.

Mr. BLOUNT. I would like to ask the gentleman from North Carolina a question before he takes his seat. It is whether this claim has not been already paid, or such amount of it as the Secretary of the Interior saw fit should be paid?

Mr. SCALES. It was submitted to the Secretary of the Interior, and he paid $50,000 and decided that this was ample consideration for the services performed and refused to pay another dollar.

Mr. GUNTER. I wish to ask the gentleman from North Carolina one question. Was not the service for the payment of which this amendment is offered rendered before the passage of the law to which he refers prohibiting the payment of any claim except under the advice or direction of the Secretary of the Interior?

Mr. SCALES. That may be so as to the original agreement. I do not distinctly remember how that was; but the resolution under which they now claim I know is subsequent to the law, and it is therefore certain that the Indians had no authority to bind themselves by it. If the gentleman will look at the report made by the subcommittee, who favored this transaction, as well as the written application made by claimants, he will find that the counsel do not claim it under the original contract. They say it is for services performed and that the Indians have passed a resolution in council that it shall be paid. This resolution was passed since the law to which I referred, and is worth nothing without the approval of the Secretary. The contract

is therefore worth nothing. There is no law authorizing the payment of this claim, and to make one of course changes existing law.

Mr. GUNTER. My recollection is this in regard to it: that this contract was made by these parties with the Indians before there was any law prohibiting them from making contracts. Not only that, but that the services that are charged for and recommended to be paid by the Osage Indians were absolutely rendered before the law to which the gentleman has referred was passed.

Mr. EDEN. Was there ever any law under which these Indians had any right to make a contract with counsel?

Mr. SPARKS. There never was.

Mr. EDEN. If there never was any law authorizing it the contract would be of no value.

Mr. SPARKS. Mr. Chairman, I understand the proposition of the gentleman from Mississippi to be this, (the gentleman will correct me if I am mistaken:) He proposes to add to this appropriation bill "a provision for the payment of a claim that some parties hold against this tribe of Indians." He may cover it perhaps in the language of the amendment as "the carrying out of a treaty," but in reality the substance of his proposition is the payment of an unadjusted claim. Whether it be just or unjust I know not. This claim, as I am advised, has been brought before the Committee on Indian Affairs frequently, and the chairman of that committee, who has just addressed the House, is well aware of it. The question is and has always been before that committee whether or not it is a just claim and ought to be paid. There is certainly no law now existing authorizing its payment, and to add it to this appropriation bill would be doing that for which there is no warrant or authority of law; and I object to its being brought here in that way. The proper place for it, in my judgment, is the Committee of Claims; or at all events some committee of this House other than the Committee on Appropriations should have charge of it. Then if the committee before which it is brought find it to be just, let a bill be prepared, introduced, and passed through Congress ordering its payment. If this should be done it would then be competent for us to put it on the appropriation bill, but not otherwise under the rule.

Mr. ATKINS. I ask the gentleman how much is involved in this claim and what was the character of the service rendered?

Mr. PAGE. The amount is $180,000.

Mr. SPARKS. The gentleman is correct; the amount is $180,000.

Mr. SCALES. The amount was $230,000 in all, including what has been paid.

Mr. ATKINS. And what was the character of the service rendered?

Mr. SPARKS. Some arrangement had been made by this tribe of Indians by which their lands were to be ceded to a railroad company by the stipulations of a treaty entered into with them by the Government. That treaty had been transmitted by the President to the Senate for ratification. These claimants, being attorneys at law, very correctly advised the tribe that they were getting entirely too little for their lands and entered into an agreement with them to prevent the consummation of that arrangement, which was easily done by getting the President to withdraw the treaty from the Senate. The attorneys then assisted in getting these lands into the market for the benefit of the tribe. This was done by a new treaty with the Government, which was duly ratified and by which many millions of dollars were saved to the Indians. Therefore, as the result of the intelligent action of these gentlemen, they perhaps prevented the consummation of a great fraud upon this tribe of Indians, and afterward assisted them in the consummation of a treaty with the Government by which they saved a good deal of money. All this was as I understand it fairly and well done. They afterward made a settlement with the Indians by the terms of which they were to be paid $230,000 for their services in the premises, of which it seems $50,000 were paid. The Secretary of the Interior, in passing upon the matter, ruled that the tribe had no power to make such agreement, insisted that the tribe had been overreached by the attorneys, sanctioned the $50,000 payment, but refused to allow the remaining $180,000; and it is for this balance of $180,000 that these gentlemen are now besieging Congress. And it is this that the gentleman from Mississippi proposes here to tack on to this appropriation bill.

Mr. BLOUNT. I desire to ask the gentleman whether the Secretary of the Interior, in the exercise of his authority under the Revised Statutes, did not think the $50,000 was ample payment?

Mr. SPARKS. Yes; and not only ample, but I think he insisted that it was entirely too much. But as it had already been paid, he approved it. It is, Mr. Chairman, at all events simply a claim against this tribe of Indians on the part of two attorneys. It is a matter that ought to be adjudicated in a proper way. If there was a law warranting the appropriation, of course the Committee on Appropriations would meet it, but there is none. It is an unsettled, unadjudicated claim, the parties claiming $180,000 and the Interior Department denying their right to it, and that is all there is of it.

Mr. PAGE. I desire to say one word in corroboration of the statement made by the gentleman from Illinois who has just taken his seat. As a member of the Committee on Indian Affairs, I have had occasion to look into this matter considerably. It has been discussed for the last four years before the Committee on Indian Affairs. The status of the claim is something like what the gentleman from Illinois has stated. Fifty thousand dollars of the $230,000 claimed by these gentlemen have been paid, and the Secretary of the Interior has refused to pay any more.

The Attorney-General, to whom the whole matter was referred, has decided that the $50,000 before paid was in settlement of the whole claim that these attorneys had against the Osage Indians. I regard it, therefore, as a settled claim, and that any amendment of this nature to this Indian appropriation bill would be new legislation and not in the interest of economy.

When the bill for the payment of this claim shall be properly reported from the Committee on Indian Affairs, I shall take pleasure in stating to the House what I believe to be an outrage which is attempted to be committed upon this Indian tribe, by extorting from them $180,000, when these gentlemen, in my judgment, are not entitled to a single dollar of it. I hope, therefore, that the Chairman of the committee will rule the amendment out of order.

Mr. TOWNSEND, of New York. Mr. Chairman, I have the honor of holding a place on the Committeee on Indian Affairs, and as a member of that committee I have had occasion to look into this question, and it illustrates that high sense of honor and right that frequently characterizes the legislation of this country.

This Indian tribe was under treaty with the Government of the United States, and their lands were put into the hands of the United States, and the United States thus having their lands in their hands proposed to grant them all away to certain railroad companies, all under this high sense of honor that prevents fraud and jobs. The Indians were helpless, and in that condition they employed two lawyers, one of whom is more than half Indian, Colonel Adair, to come to Washington and if possible prevent the consummation of the outrage that would have robbed them of from six to ten million dollars, and they entered into an agreement with these men at a time when there was no law preventing their entering into such an agreement. This tribe through their council entered into an agreement with Van and Adair to give them half of all they could save out of the wreck that would occur from the action of the United States Government. They came here and hung about the National Congress for two years and finally succeeded in saving to the nation millions and millions of dollars. Had the contract been carried out it would have given to Van and Adair instead of $230,000 millions of dollars.

Mr. SPARKS. How did they save it?

Mr. TOWNSEND, of New York. They did it by coming here and looking after the matter. They beat the treaty and defeated the action of the two Houses.

Mr. SPARKS. How did they beat the treaty?

Mr. TOWNSEND, of New York. They did it by such services as any man has got to do about the lobbies. No legislation affecting money can be carried through the National Congress where private interests are concerned without the necessary labor of intelligent men. It cannot be done.

Mr. SPARKS. Will the gentleman allow me to correct him in his statement?

Mr. TOWNSEND, of New York. Allow me to go through and make my statement. It was felt by Van and Adair themselves that the amount to which they would be entitled under the contract was more than they ought to take from the tribe. The amount saved was much larger than was expected, and finally a new council of the Indians was called in which the whole matter was considered, and their claim, instead of being fixed at several millions of dollars was reduced to $230,000, and when this claim was presented to the Interior Department without rhyme and without reason the Secretary of the Interior said that he would pay them but $50,000.

I have no hesitation in saying, as I believe, I was discharging my duty in agreeing with the majority of the Committee on Indian Affairs to a report in favor of paying these men the amount which it was contracted they should receive, and I say now that having acted in regard to that matter as I believed it was my duty to do I am not to have my views stigmatized as favoring jobs. It was my honest judgment, and if I erred, I erred as I felt I had a right to err as an honest man.

Mr. HAZELTON. Why should the Government pay them?

Mr. TOWNSEND, of New York. It is not the Government that is to pay it: it is to be paid out of the money of the Indians, and the Indians themselves ask that it shall be paid.

Mr. BAKER, of Indiana. If this wrong was done by the Government why should the Indians be obliged to pay it? Why should it not be paid out of the Treasury of the United States?

Mr. TOWNSEND, of New York. The Indians do not ask the United States to pay it, and the United States stand here of their own accord refusing to allow the Indians to pay it.

Mr. BAKER, of Indiana. The Indians certainly ought not to pay for a wrong which was done by the National Government.

Mr. SPARKS. I have listened attentively to the gentleman from New York, [Mr. TOWNSEND,] and he has very clearly stated this matter except in this respect: all that these attorneys had to do originally was to go to the President of the United States and ask him to withdraw that treaty from the Senate, and that is all they did. I wanted to say that much in regard to this matter at the time the gentleman was speaking.

This is certainly a claim. I am told that it is now pending before the Committee on Indian Affairs, where it ought to pend. If it is proper to be allowed, then they will report a bill in favor of allowing it and it can be passed and become a law, and thus a basis established for its payment. It certainly should not be tacked on to this appropriation bill. The point of order must therefore, in my judgment, be held to be good against it.

Mr. TOWNSEND, of New York. Will the gentleman allow me to correct him as to the status of this matter?

Mr. SPARKS. Oh, yes.

Mr. TOWNSEND, of New York. It is not pending before the Committee on Indian Affairs; it is pending before this House upon a report of the majority of that committee.

Mr. SPARKS. I am informed that it is still pending before the committee.

Mr. TOWNSEND, of New York. The gentleman is mistaken.

Mr. SPARKS. It is ordered to be reported to the House, but the gentleman from California [Mr. PAGE] informs me that it has not yet been reported.

Mr. PAGE. The bill has passed the committee, but it has not to my knowledge been reported to this House. Our committee has not been called since then.

Mr. TOWNSEND, of New York. I understood that Mr. GUNTER had reported it.

Mr. PAGE. Not yet. One word in answer to the gentleman from New York. If these attorneys were entitled to get pay for any purpose it was for preventing the President of the United States and the Senate of the United States from taking undue advantage of these Indians.

Mr. SCALES. Allow me one moment. I ask the gentleman if this whole thing was not prevented simply by the President withdrawing the treaty from the Senate?

Mr. PAGE. That is so.

Mr. SPARKS. This discussion is not pertinent to the question before the committee, and I insist upon the point of order being decided.

The CHAIRMAN. The Chair will hear a little further discussion.

Mr. GUNTER. The gentleman from Illinois [Mr. EDEN] states that at the time of the original contract between these attorneys and the Indians there was no law authorizing such a contract. I will state that the Indians were themselves free agents to act for themselves in all contracts similar to this. In other words, there was no law existing at the time prohibiting the Indians from making such a contract as they made with these attorneys.

Again, it is alleged that there was no service rendered here by these attorneys further than to come here and make an appeal to the President to withdraw the treaty.

Mr. BAKER, of Indiana. I rise to a point of order. Debate is not in order after a decision has been rendered by the Chair.

Mr. GUNTER. Just one word.

The CHAIRMAN. The Chair will allow a brief debate.

Mr. GUNTER. These attorneys were engaged in this matter for more than two years, and they took pains to go backward and forward to the Indian nation for the purpose of taking depositions and proof showing that there had been a fraud practiced upon these Indians.

Mr. SPARKS. This debate is certainly not directed to the point of order, but is proceeding upon the merits of the claim.

The CHAIRMAN. The merits of the question are not to be discussed upon the point of order.

Mr. HOOKER. A single word upon the point of order. There is no sort of question but what a treaty existed between these Indians and the Government out of which this claim grew. There is no sort of question but what the action was had as stated by the gentleman from New York, [Mr. TOWNSEND.] Had this claim been presented according to the original contract, according to the admissions of the Osage Indians themselves, these parties would have been entitled to $5,000,000 as their compensation under the contract.

Now, what did these parties do? They came forward voluntarily and said to the Indians: according to the agreement between us we would get more money than we choose to take. We agree of our own accord to vacate that contract, and will agree that your council shall determine what we shall receive. The council of the Indians admitted that the attorneys had saved for them by their action $10,000,000; that the attorneys had given back to them their contract for pay, and had agreed that they should be paid a much less sum. Now, if this claim grew up under a treaty it certainly cannot be said that there is no law under which this amendment can be offered.

Mr. BAKER, of Indiana. I had understood the Chair to announce his decision upon the question of order some time ago.

The CHAIRMAN. That is an error, caused perhaps by the confusion which existed here.

Mr. HOOKER. On the point of order I desire further to state, as I stated before, that the resolution—I now read from the Journal of the last session of Congress, when this same measure was up and this same point of order was made—the resolution of the Osage council recognized the claim proposed to be paid by this amendment. I would call the attention of the Chair especially to a provision of the treaty.

Under the treaty this fund was to be paid into the Treasury of the United States, to be credited to the account of the Osages, and if they recognized in council, as I understand they have done by resolution, the propriety of this claim, it cannot be said that there is no existing law authorizing this provision.

Mr. SPARKS. Now I hope we shall have a decision on the point of order.

The CHAIRMAN. The present occupant of the chair is satisfied that the point of order is well taken. In the first place it is well taken because the amendment does not show upon its face that it is in the line of retrenchment. It is well taken, in the opinion of the Chair, upon the additional ground that it contravenes the forty-eighth rule of the House, which provides that—

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith any other bill or resolution pending before the House.

Without giving any other reasons the Chair sustains the point of order.

The Clerk resumed the reading of the bill and read as follows, under the head "Sacs and Foxes of the Mississippi:"

> For interest on $800,000, at 5 per cent., per second article of treaty of October 11, 1842, $40,000: *Provided*, That the sum of $1,500 of this amount shall be used for the pay of a physician and for purchase of medicine; in all, $51,000.

Mr. CLARK, of Iowa. I offer the following amendment, to which I think the gentleman in charge of the bill will have no objection:

> Insert after the paragraph just read the following:
> *And provided*, That of the sum appropriated there be expended $1,000 for the support of the school and of a farmer for the Sacs and Foxes of the Mississippi at the agency in Iowa.

It will be observed that this amendment does not propose to increase the amount of the appropriation at all; it simply distributes a portion of it. The same amendment was inserted on my suggestion in the bill on this subject passed at the last session.

Mr. SPARKS. If I understand the amendment correctly, I have no objection to it whatever.

Mr. CLARK, of Iowa. The same amendment has been continued in the appropriation bills from year to year. It merely provides how a part of the money belonging to these Indians shall be spent for their benefit.

Mr. BAKER, of Indiana. I see that a provision in the same terms is in the bill passed at the last session.

Mr. SPARKS. The amendment is identical with a provision in the bill of last session, and I have no objection to it whatever.

Mr. CLARK, of Iowa. I hope it will be adopted.

The amendment was agreed to.

The Clerk read as follows:

> Winnebagoes:
> For interest on $804,909.17, at 5 per cent. per annum, per fourth article of treaty of November 1, 1837, and joint resolution of July 17, 1862, and the Secretary of the Interior is hereby directed to expend said interest for the support, education, and civilization of said Indians, $40,245.45.

Mr. HOOKER. I desire to ask the gentleman having charge of the bill whether the clause just read with reference to the Winnebago Indians was inserted in accordance with statements presented to the committee by the Commissioner of Indian Affairs or the Secretary of the Interior, or whether it is based upon the provisions of the treaty.

Mr. SPARKS. In answer to the gentleman I will say that as I understand, this provision is warranted by the treaty; that the Secretary of the Interior has the power to expend this interest in this way.

Mr. HOOKER. Mr. Chairman, I desire to say that by the treaties with the Winnebagoes there was originally a fund the principal of which amounted to over a million of dollars. By an act of Congress of 1872 or 1873, appropriating about $200,000 of this principal for the purpose of erecting residences for the Winnebagoes upon their reservation in the State of Nebraska, the principal of the fund was reduced to something over $900,000, as appears from a statement made by the Department a few days ago.

The paragraph of the bill now under consideration proposes to give a very large discretion to the Secretary of the Interior with reference to the disposition of this fund. It was stated by my colleague on the committee [Mr. BOONE] a few moments ago, when advocating a proposition to reduce the salary of these agents that the Winnebagoes needed none. Now, sir, the interest upon the fund of the Winnebagoes amounts to something like $45,000 per annum. These Indians are very largely self-sustaining, as has been testified before the Committee on Indian Affairs. They are large producers of the necessaries of life. We found when visiting them during the last summer that according to the testimony of their agent and their chiefs they had not received any *per capita* of the funds due to them by the Government for three years, and that the whole amount of the accrued interest at 5 per cent. per annum upon the capital of their fund was absolutely expended in the maintenance of the agricultural interests of the agency and of the schools. A school building has been erected at a cost of some $20,000, and over a hundred houses have also been erected and paid for out of the principal of their money, at the rate of $696 for each house.

Now, I insist that this large discretion should not be given to the Secretary of the Interior or the Commissioner of Indian Affairs. We made inquiry how this money was paid to these Indians and we found that within the last three years it has been used solely for the purpose of maintaining their schools, paying the employés of the agency, and furnishing the Indians with agricultural implements of the modern standard. These Indians are but fourteen hundred in number. They ought to be the wealthiest population of that number on the continent of America, if there were an honest and proper appropriation of this fund for their benefit. I mean to say that they ought to have this money in such a form as would add to their material prosperity. They have upon the agency a full-blooded Indian as engineer conducting their business; they have also a full-blooded Indian

at the head of their shoe establishment as well as their blacksmith establishment. They are to a very large extent self-sustaining. So far from this fund being appropriated in the manner which the bill proposes, it ought to be paid to these Indians, or to their authorized agents or chiefs, to be appropriated by them as they might deem proper.

I move, therefore, to amend by striking out that portion of the pending paragraph which proposes to give a discretion to the Commissioner of Indian Affairs or the Secretary of the Interior with reference to this matter, and by providing that this interest shall be paid to the authorized chiefs (of whom I believe there are twelve, elected by the tribe) to be receipted for by them.

Mr. SPARKS. Mr. Chairman, the argument of my friend from Mississippi is against what is known as the "peace policy" or civil management of Indian affairs, that is so far as this tribe is concerned. These Indians have, through their treaties with the Government, obtained a fund of nearly $900,000, upon which the Government is by treaty bound to pay 5 per cent. per annum interest. These treaties and this joint resolution alluded to in the bill give the power to control this fund on behalf of the Indians in the way indicated in the bill. The question is submitted to this committee whether or not the Government of the United States shall take charge of this fund and use it for the education and civilization of this tribe of Indians or give it to them and let them play "Big Indian" for themselves. That is about what it is. If we dispense with this system of management of Indians, who is to civilize, and Christianize, and educate them? If we dispense with that and treat with the Indians as with equals and give them what is due to them from the Government of the United States in money, then I would agree with the gentleman. But so long as the Government conceives it to be its duty to hold in trust the funds of these Indians and apply the interest arising from them for their education, civilization, and enlightenment according to the lawfully established policy inaugurated many years ago we should appropriate funds to sustain it. And we cannot do so by tacking on amendments like this in any case, for the same policy prevails here that prevails in all the agencies. The Government simply uses this money due to these Indians, it is to be supposed, wisely and honestly for their interest. If it has been dishonestly used it is the fault of the Government officials. I have read a great deal of the bad management of that department. In times past I am convinced that charge was correct, but my conviction now is that an effort is being made to do better.

Sir, a question arises, is it wise to pursue this guardian "peace policy?" And then the question of transfer comes up. Now, sir, I do not discuss nor pass upon these questions, but so long as it is left to the Interior Department to manage Indian affairs under the policy now lawfully established we should live up to it and use this fund under some wise management and not pay it over, and, if you please, allow the Indians to throw it away.

Mr. LUTTRELL. I find, sir, this treaty with these Indians was made over forty years ago. If we are to judge of the future by the past, then when will the Commissioner of Indian Affairs under his management bring these Indians up to a standard where they will be able to take care of their own affairs? More than forty years have elapsed, and yet he comes in here and says these Indians are not fit to take care of their own funds, but must have them expended through the rings and combinations which results only in robbing the Indians. I think it is high time we ought to put a stop to it. I believe the gentleman from Mississippi is right in his proposition, and I shall therefore vote for it.

From my knowledge of Indian affairs, and I have resided on the frontier for more than thirty years, I have never yet known this policy to result in any advantage to the Indian. What we want is that whenever the Indians are qualified to receive their funds they shall be allowed to do so.

A commission recently visited these Indians and its members speak knowingly on the subject. They tell you these Indians are qualified to manage their own affairs.

I know from the management of this man Hayt he knows no more about Indian affairs than a hog does about a holiday. [Laughter.] If he had taken the advice of my friend the Delegate from Montana [Mr. MAGINNIS] and other gentlemen upon this floor, we would have had no Indian war. I told him unless he pursued a different course the blood of hundreds of people would be upon his head. In less than sixty days my prophecy came true. The Indians broke out into war, which if he had taken the advice of the Members and Delegates who represent the Indian country upon this floor would have been prevented. He knows nothing about the subject. He tells you that General Crook and General Sheridan know nothing about it. I want to see the whole system changed. I wish to see Indian affairs managed by such men as Sherman, Sheridan, and Crook, so we may get rid of the infernal scoundrels who have been plundering the Indians and forcing them to commit depredations upon the frontier settlers.

Mr. SPARKS. Is not that speech an argument in favor of the transfer of the Indian Bureau to the War Department, and not pertinent to the subject now before us?

Mr. LUTTRELL. Yes; and I should like to have the gentleman answer it if he can. After forty years, when we are told that these Indians are able to take care of their own affairs, I should like to know why they should not be permitted to spend their own funds in their own way?

Mr. SPARKS. This treaty with the Indians makes provision for the use of the fund precisely as is proposed in this bill, and as has been done year after year. I have the treaty and joint resolution before me making provision for the use of this fund, and now send the joint resolution to the Clerk to read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives, That the Secretary of the Interior be, and is hereby, authorized to expend from the fund in the Treasury of the United States belonging to the Winnebago Indians the sum of $50,000 or so much thereof as may be necessary, to make such improvements on their land and purchase such stock and agricultural implements as their interests may require; and that the amount so expended shall be replaced from the proceeds of the sales of the lands belonging to said Indians which the Government is now authorized to sell by virtue of the existing treaty with said Indians.

Mr. HOOKER. What is the date of that treaty?

Mr. SPARKS. July 17, 1862.

Mr. BAKER, of Indiana. Mr. Chairman, I have had also the pleasure of living upon the Indian frontier and in the Indian country, and I have this to say, that I never knew a man who made his living by robbing and plundering the Indians in that country who was not bitterly opposed to any system of supervision of the Indians which rested in the hands of responsible parties at the central seat of authority. They are always desirous of having large sums of money disbursed directly to the Indians in order that that class of men may make profit by the plunder of those unable to protect themselves.

Mr. LUTTRELL. I ask the gentleman to what class of men he refers?

Mr. BAKER, of Indiana. I refer to a class of men altogether too numerous on the frontier who are bringing the Indians into conflict with the national authority and shedding innocent blood——

Mr. LUTTRELL. Your contractors.

Mr. BAKER, of Indiana. In order that they may put into their pockets the money that belongs to these Indians. Now I undertake to say there is not an honest man on the frontier who will not recognize the fact that it is infinitely better that these Indians should have purchased for them at the great centers of business in this country the articles necessary for their comfort and support, and that they should be distributed to them directly by the Indian Office, than that this money should be doled directly to the Indians to be plundered from them by the hungry hordes that hang around every Indian reservation. And I want to say this, that the gentleman from California may entertain the opinion of the officer he has referred to, and which he has expressed in such elegant and classic language, that he knows no more about his business than a hog does about holiday——

Mr. LUTTRELL. I believe it.

Mr. BAKER, of Indiana. I know there are gentlemen, equally competent with the gentleman from California to form an opinion, who have an entirely different opinion on that subject. It is a matter of taste. If he sees fit in such coarse and vulgar terms as that to assail a gentleman who cannot defend himself, he has all the honor and glory to be derived from such a proceeding.

Now, Mr. Chairman, this appropriation is made in accordance with the treaties and the law. It is for the interest of the Indians, and I undertake to say there is nobody will regret to see this bill stand as it comes from the committee except those who expect to get the forty or fifty thousand dollars in the event of its being paid to these Indians in cash.

Mr. LUTTRELL. I move to strike out the last word. When the gentleman from Indiana speaks of the dishonest motives of frontiersmen, I hurl the imputation back to him; and I will give him some illustrations of the way in which the Indians are robbed on the frontiers by rings of contractors. In one reservation in my district the agent purchased five hundred head of cattle for $8 a head and turned round and sold forty head to the Government for the same figure, and made as net profits the value of the four hundred and sixty head. In another instance, $5,000 was appropriated in the Forty-third Congress to build a hospital in Round Valley reservation; I made the motion myself; yet no hospital has ever been built.

Mr. BAKER, of Indiana. If such frauds have been committed, why do you not prosecute such men?

Mr. LUTTRELL. Under your republican administration we have been prevented from doing so. And not only that, but if you go to the Klamath reservation you will find that your political tricksters have taken Indian blankets worth $2.50 a pair and cutting them into three or four pieces have charged the Government with three or four pairs. Deny that if you dare. The proof is here. And yet you talk to us of our robbing the Indian. What occurred in Eastern Oregon? A man who went on a reservation with a cart-load of vegetables had them taken from him; he left the reservation to rob the frontiersmen. Why? Because your agent and the ring had robbed him.

The gentleman from Indiana talks about vulgar language. These things call for language more forcible than elegant, and I can only make men like the gentleman from Indiana understand it by speaking plain English. Go and ask Senator SAUNDERS, and ask the gentleman from Montana, [Mr. MAGINNIS,] and they will tell you that had this man followed our instructions and our advice we would have had no Indian troubles.

[Here the hammer fell.]

Mr. HOOKER. I desire to say a word or two.

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. HOOKER. Then I move to strike out the last word.

A joint resolution has been sent to the desk by the gentleman from

Illinois, [Mr. SPARKS,] who had it read for the purpose of explaining the treaty with the Winnebagoes. I desire to say that the treaty under which this fund originally existed was the treaty of 1838. The Indians were careful in the making of this treaty to give the discretionary power to use this money to the authorities of the United States only to a limited extent. I make no charge, Mr. Chairman, against the agent at this agency; I simply say that it is unwise to pay the whole amount of interest which is annually due to these Indians by the Government in simply an expenditure for school purposes and agricultural implements; and that I understand is the way in which it has been expended for the last three years. The provisions of the treaty of 1838 to which I referred are as follows:

Fifth. To deliver to them provisions to the amount of $10,000, and horses to the same amount.

Ninth. To invest the balance of the proceeds of the lands ceded in the first article of this treaty, amounting to $1,100,000, and to guarantee to them an interest of not less than 5 per cent.

Of this interest, amounting to $55,000, it is agreed the following disposition shall be made:

For purposes of education, $2,800.

For the support of an interpreter for the school, $500.

For the support of a miller, $600.

For the supply of agricultural implements and assistance, $500.

For medical services and medicines, $600.

The foregoing sums to be expended for the objects specified for the term of twenty-two years, and longer at the discretion of the President. If at the expiration of that period, or any time thereafter, he shall think it expedient to discontinue either or all of the above allowances, the amount so discontinued shall be paid to said Winnebago Nation. The residne of the interest, amounting to $50,000, shall be paid to said nation in the following manner: $10,000 in provisions, $20,000 in goods, and $20,000 in money.

I say, then, that it is not in the interest of the Indians that the amount coming to them should be expended for agricultural implements alone at the discretion of the officers of the United States Government.

It is contended by their agent that they are now self-sustaining; and if it be true that they have native Indians in many of the places formerly filled by white men, then I say they have advanced sufficiently to be allowed to take care of their own affairs to the extent at least of having the annuities paid in money and not in goods, at the discretion of officers of the Government.

I was startled when I discovered by the evidence of the chiefs of the tribe, and of the agent himself, that out of the whole of this money not a dollar ever reached the pocket of a single Winnebago. It was all expended for the purchase of agricultural implements.

I withdraw my formal amendment and offer in lieu of it the following:

Strike out all the words after "sixty-two," in line 1160, and insert:

And said sum shall be paid to an agent duly authorized by said tribe to receive the same; and the same shall be divided and paid to heads of families, or *per capita*, as said tribe shall in council determine.

The question was upon Mr. HOOKER'S amendment.

Mr. FINLEY. I call for tellers.

Tellers were not ordered, only 16 members voting therefor.

The question was taken; and on a division there were ayes 43, noes not counted.

So the amendment was not agreed to.

Mr. SPARKS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LIGON reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled the bill and joint resolution of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer, at the Military Academy at West Point; and

A joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department.

Mr. RAINEY, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia.

GEORGE W. CRAWFORD.

Mr. FORNEY, by unanimous consent, introduced a bill (H. R. No. 5687) authorizing the President to appoint George W. Crawford, of Alabama, a second lieutenant in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOINT COMMITTEE ON INDIAN AFFAIRS.

Mr. BOONE, by unanimous consent, introduced a joint resolution (H. R. No. 211) to extend the time within which the Joint Committee on Indian Affairs may report; which was read a first and second time.

Mr. BOONE. I ask for the present consideration of that joint resolution.

The joint resolution was read. It provides that the time in which the joint committee appointed by the Senate and House of Representatives to consider the transfer of the management of Indian affairs from the Interior to the War Department may report be extended to the 1st day of February, 1879.

There was no objection; and the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOONE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORTS FROM COMMITTEE OF WAYS AND MEANS.

Mr. WOOD. I ask unanimous consent that Wednesday, the 15th of January, be set apart for the consideration of reports from the Committee of Ways and Means of a public nature.

Mr. MILLS. What bill?

Mr. WOOD. Any bills we may have to report, or that have been reported.

Mr. BANNING. There are other committees who have reports to make, and I object.

The SPEAKER. The Chair would state that this is in the interest of public legislation.

Mr. WOOD. The bills are of great importance, and they should be acted on early.

Mr. HALE. What is the proposition?

The SPEAKER. That the 15th day of January, after the reading of the Journal, be devoted, so far as may be required, to the consideration of reports from the Committee of Ways and Means of a public character.

Mr. WHITE, of Pennsylvania. To report them only?

The SPEAKER. For consideration.

Mr. WHITE, of Pennsylvania. What are the bills?

Mr. WOOD. I will say to the gentleman from Pennsylvania that there is no tariff bill.

Mr. CONGER. I object to the gentleman from New York reporting any more tariff bills.

Mr. WOOD. We do not propose to report anything but necessary legislation.

The SPEAKER. That is a conditional objection on the part of the gentleman from Michigan, and is not good.

There being no objection, it was so ordered.

Mr. WOOD moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSIONS TO SOLDIERS OF THE MEXICAN WAR.

Mr. HEWITT, of Alabama. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and that it be made a special order for January 9.

The SPEAKER. The Chair desires to say to the gentleman that January the 9th has been fixed for the consideration of the Army bill.

Mr. HEWITT, of Alabama. Then I will say Tuesday next after that.

Mr. WHITE, of Pennsylvania. I object to that.

The SPEAKER. There is a special order for that day already.

Mr. HEWITT, of Alabama. Then I will say the following Thursday, which will be the 16th.

Mr. WHITE, of Pennsylvania. I object.

Mr. HEWITT, of Alabama. I desire, then, to give notice that on Thursday, the 9th day of January next, I shall move to go into Committee of the Whole to take up that bill, and I propose to do it every time that I can get the floor until it is considered.

J. M. MICOW.

Mr. CABELL, from the Committee on War Claims, by unanimous consent, reported back, with a favorable recommendation, the bill (S. No. 32) for the relief of the estate of J. M. Micow, deceased; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

INDIAN TERRITORY.

Mr. RYAN, by unanimous consent, introduced a bill (H. R. No. 5688) to give concurrent jurisdiction over the Indian Territory to the United States district and circuit courts of Kansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ADDITIONAL LAND DISTRICT IN KANSAS.

Mr. RYAN also, by unanimous consent, introduced a bill (H. R. No. 5689) to establish an additional land district in the State of Kansas; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

LIGHT-HOUSE IN FLORIDA.

Mr. DAVIDSON, by unanimous consent, introduced a bill (H. R. No. 5690) providing for the erection of a light-house at Anclote Key, in Hernando County, Florida; which was read the first and second

time, referred to the Committee on Commerce, and ordered to be printed.

POWELL SURVEY.

Mr. BALLOU, from the Committee on Printing, reported the following resolution:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the Geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives; 500 for the use of the Senate; 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

Mr. CANNON, of Illinois. I desire to ask the gentleman from Rhode Island a question. A portion of these reports have ordinarily been given to the Interior Department, and that Department has been in the habit of sending them to libraries in the States. Why not give these reports to that Department?

Mr. BALLOU. I think that none of these reports have ever been given to the Interior Department. None of them have been printed for the last four years.

Mr. WHITE, of Pennsylvania. Whose report is it? Powell's?

Mr. BALLOU. Powell's. This is his final report. I think that none of his reports have been printed for the last four years. This resolution is unanimously recommended by the Committee on Printing.

The resolution was adopted.

NORTH AMERICAN ETHNOLOGY.

Mr. BALLOU, from the same committee, also reported the following concurrent resolution; which was read, considered, and adopted:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the reports of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

NAVAL INVESTIGATION.

Mr. WHITTHORNE. I am instructed by the Committee on Naval Affairs to ask leave for that committee to sit during the holiday recess for the purpose of taking certain testimony in relation to the investigation of the naval service. I will state that it is the unanimous request of the committee.

There was no objection, and it was so ordered.

FORT BRIDGER, WYOMING.

Mr. CORLETT, by unanimous consent, introduced a bill (H. R. No. 5691) authorizing the appraisement and sale of the abandoned military reservation of Fort Bridger, in the Territory of Wyoming; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PENITENTIARY IN WYOMING TERRITORY.

Mr. CORLETT also, by unanimous consent, introduced a bill (H. R. No. 5692) making an appropriation for the completion of the penitentiary in Wyoming Territory belonging to the United States; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

YELLOWSTONE NATIONAL PARK.

Mr. CORLETT also, by unanimous consent, introduced a bill (H. R. No. 5693) making an appropriation to enable the Secretary of the Interior to protect, preserve, and improve the Yellowstone National Park, in compliance with section 2475 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

W. R. BUTLER.

Mr. BRIGHT, by unanimous consent, introduced a bill (H. R. No. 5694) for the relief of W. R. Butler, administrator of the estate of W. S. Butler, deceased, late of Rutherford County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LUTHER M'CLEARY.

Mr. DANFORD, by unanimous consent, introduced a bill (H. R. No. 5695) granting a pension to Luther McCleary, private Company B, Thirtieth Regiment Ohio Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALFRED H. LOWE.

Mr. MORRISON, by unanimous consent, introduced a bill (H. R. No. 5696) for the relief of Alfred H. Lowe, late first lieutenant Company F, Twenty-seventh Illinois Volunteers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

COINAGE.

Mr. DWIGHT, by unanimous consent, from the Committee on Coinage, Weights, and Measures, submitted a report; which was ordered to be printed, and recommitted.

DANIEL LEWIS.

Mr. VANCE, by unanimous consent, submitted the following resolution; which was referred to the Committee on Civil Service Reform:

Resolved, That Daniel Lewis be paid out of the contingent fund of the House the sum of $128, the same being the remainder of his salary for services rendered in the Doorkeeper's department in the last session of the Forty-fourth Congress for the months of March, April, May, and June.

JOHN WILEY.

Mr. SMITH, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 5697) to remove the charge of desertion from the military record of John Wiley, late of Company G, Second Regiment Maryland Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CATHARINE YODER.

Mr. RICE, of Ohio, by unanimous consent, introduced a bill (H. R. No. 5698) granting a pension to Catharine Yoder, widow of N. W. Yoder, late second lieutenant Fifty-first Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT S. MURPHY.

Mr. RICE, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 5699) for the relief of Robert S. Murphy, of Antwerp, Ohio, late of Company H, First Mounted Infantry Regiment Mississippi Marine Brigade; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ELIZABETH LAMBERT.

Mr. RICE, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 5700) granting a pension to Elizabeth Lambert, widow of Captain Aaron V. Lambert, late captain Fifth Colored Heavy Artillery, United States Army; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARTHA BLEDSOE.

Mr. HENDERSON, by unanimous consent, introduced a bill (H. R. No. 5701) granting a pension to Martha Bledsoe, widow of William J. Bledsoe; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FORT SMITH MILITARY RESERVATION.

Mr. CRAVENS, by unanimous consent, introduced a bill (H. R. No. 5702) to provide for the reappraisement and sale of the abandoned military reservation at Fort Smith, Arkansas; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

THOMAS LATHAM.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 5703) granting a pension to Thomas Latham, of Washington County, Arkansas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JUSTICES OF THE PEACE IN THE DISTRICT OF COLUMBIA.

Mr. CAIN, by unanimous consent, introduced a bill (H. R. No. 5704) extending the jurisdiction of justices of the peace in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HUMPHREY. I ask unanimous consent that Tuesday, the 21st day of January, be fixed for the consideration of a report from the Committee on Public Buildings and Grounds upon House bill No. 1006. I will state that early in the last session this committee was called when it had completed no business, and that it has not been called since. This is a matter that interests many members from different States.

Mr. EDEN. I think I must object. The committees ought all to have an equal chance.

Mr. HUMPHREY. We ask but one day. I did not suppose the gentleman would object under the circumstances.

THOMAS DOAK.

Mr. REA, by unanimous consent, introduced a bill (H. R. No. 5705) for the relief of Thomas Doak, postmaster at Cameron, Clinton County, Missouri; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

COUNTING OF ELECTORAL VOTES.

Mr. SOUTHARD. As there is a mistake of one date in the printed form of House bill No. 5046, in relation to counting the electoral votes, and as there are several amendments in the phraseology which have been agreed upon by the committee, I ask consent that the bill which the committee may agree to report to the House on this subject be printed.

There being no objection, it was ordered accordingly.

AMENDMENT OF RULES.

Mr. TOWNSHEND, of Illinois, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That the Committee on Rules is hereby instructed to report to this House an amendment to its rules providing that in all calls of the States for presentation of bills and for other purposes the Clerk shall call the States in their alphabetical order, beginning with the letter A.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. STEWART for two days.

INTERCOURSE WITH SOUTH AMERICA.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of State, in response to a resolution of the House of the 4th instant asking information in relation to the commerce and postal intercourse between the United States and the countries of South America; which was referred to the Committee on Commerce.

LIEUTENANT FRANK BAKER.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending relief from accountability in the case of Lieutenant Frank Baker; which was referred to the Committee on Military Affairs.

POSTAL-CAR DEFICIENCY APPROPRIATION BILL.

Mr. HEWITT, of New York. I rise to a question of privilege which concerns the action of the House yesterday. I find in the New York papers of to-day a statement that the postal-car deficiency bill, which was passed by this House last evening, restricts the service to what it was on the 1st day of December, 1877; and thereupon there are many comments as to the injury which will be done to the public by this restriction. I call attention to the fact that the date named in the restrictive clause was the 1st day of December, 1878.

Mr. DAVIS, of California. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BOYD: The petition of S. H. Thompson and others, of Peoria, Illinois, that the duty on sugar be made at so much per pound regardless of color or quantity—to the Committee of Ways and Means.

By Mr. CARLISLE: The petition of Jacob Kyle, for the payment of $4,950 for the use and destruction of property by the United States Army—to the Committee on War Claims.

By Mr. COBB: The petition of dealers in sugars in Vincennes, Indiana, that the tariff on sugars be made at so much per pound without regard to color or quantity—to the Committee of Ways and Means.

By Mr. COVERT: The petition of Sarah C. Gibson and 24 others, of Oyster Bay, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. FREEMAN: Resolutions of the board of directors of the Vessel-Owners and Captains' Association of Philadelphia, opposing any change in the navigation laws of the United States as detrimental to American shipping, and as "opening our internal and coast-wise trade to foreign hulls," &c.—to the Committee on Commerce.

By Mr. HAYES: The petition of E. Saidee Hughes and other women of Leland, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Territories.

By Mr. HERBERT: The petition of Phœbe Warren Tayloe, of Washington, District of Columbia, for compensation for corn furnished the United States Army—to the Committee on War Claims.

By Mr. HOUSE: The petition of grocers and dealers in sugar in Clarksville, Tennessee, that the duty on sugar be made so much per pound regardless of color or quality—to the Committe of Ways and Means.

By Mr. JAMES: The petition of Mrs. A. B. Guile and other ladies of Malone, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. JOYCE: The petition of the National Association for the Relief of Destitute Colored Women and Children, for an appropriation of $10,000 to aid them in their work—to the Committee on Appropriations.

By Mr. LINDSEY: Papers relating to the petition of Joseph Brown, postmaster at Newcastle, Maine, to be relieved from accounting for $590, being for stamps stolen from him by burglars July 30, 1876—to the Committee of Claims.

Also, the petition of William A. Courtenay, agent of the Clyde line of steamers, that the Secretary of the Treasury may be authorized to hear and determine the question of refunding certain entrance fees alleged to have been illegally exacted from said line—to the Committee of Ways and Means.

By Mr. LUTTRELL: Papers relating to the claim of Henry C. De Ahna, late collector for the district of Alaska—to the Committee of Ways and Means.

By Mr. McKINLEY: The petition of Hon. J. P. Cowan and 175 other citizens of Ashland, Ohio, against the extension of the Birdsell clover-huller patents—to the Committee on Patents.

Also, the petition of Milton Hannan and 33 others, of Mohecanville, Ohio, of similar import—to the same committee.

Also, the petition of 5 citizens of Hillsdale County, Michigan, of similar import—to the same committee.

Also, the petition of E. Quinby and 35 others, of Wayne County, Ohio, of similar import—to the same committee.

Also, the petition of Peter Wilder and 19 other citizens of Saint Genevieve, Missouri, of similar import—to the same committee.

Also, the petition of John H. Kanke and 80 citizens of Wooster, Ohio, of similar import—to the same committee.

Also, the petition of R. M. Winbigler and 52 citizens of Jeromeville, Ohio, of similar import—to the same committee.

Also, the petition of J. B. Croft and 164 citizens of Mansfield, Ohio, of similar import—to the same committee.

Also, the petition of O. M. Richards and 21 other citizens of Grant County, Wisconsin, of similar import—to the same committee.

Also, the petition of W. H. Moore and 145 other citizens of Dexter, Michigan, of similar import—to the same committee.

Also, the petition of 18 citizens of Wayne County, Ohio, of similar import—to the same committee.

Also, the petition of James Matheny and 67 others, of Marshall County, Indiana, of similar import—to the same committee.

By Mr. McMAHON: The petition of George Glardon, for a pension—to the Committee on Invalid Pensions.

Also, the petition of William H. Morrow, of similar import—to the same committee.

Also, the petition of John G. Warbury, of similar import—to the same committee.

By Mr. MORRISON: Memorial of laborers employed in sugar refineries at Brooklyn, New York, relative to the duties on sugar—to the Committee of Ways and Means.

By Mr. PHILLIPS: The petition of Margaret Wiggins, for a pension—to the Committee on Invalid Pensions.

By Mr. PUGH: The petition of Agnes A. Dickenson, of similar import—to the same committee.

Also, the petition of Annie Arbuthnot, of similar import—to the same committee.

Also, the petition of William Lee, of similar import—to the same committee.

Also, the petition of John Naphey, of similar import—to the same committee.

By Mr. REA: The petition of Thomas Doak, J. S. Rogers, and others, for the relief of Thomas Doak, postmaster at Cameron, Christian County, Missouri—to the Committee of Claims.

By Mr. SPRINGER: The petition of Chambers & Brother and 16 other firms of grocers of Jacksonville, Illinois, for a revision of the tariff on sugar so as to make the duty at so much per pound without regard to color or quantity—to the Committee of Ways and Means.

By Mr. VANCE: A paper relating to the establishment of post-routes from Aquone to Tillaqua via Briartown; from Ashville to Riceville via Beaver Dam Creek; and from Hendersonville, via Edneyville, to Old Fort, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WAIT: The petition of Wood Brothers and others, carriage and wheel makers, against the extension of the patent of J. D. Sarven for an improved carriage-wheel—to the Committee on Patents.

Also, the petition of the Naugatuck Wheel Company and others, of similar import—to the same committee.

By Mr. WATSON: The petition of 71 ladies of Girard, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on Education and Labor.

IN SENATE.

THURSDAY, *December* 19, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

FORTIFICATION APPROPRIATION BILL.

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. DORSEY, and Mr. WALLACE as the conferees on the part of the Senate upon the disagreeing votes of the two Houses on the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS as the conferees on the part of the Senate upon the disagreeing votes of the two Houses on the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a communication from the Quartermaster-General containing a petition from Superintendent James Burke, praying for the passage of an act to reimburse him for the costs of a suit entered against him by W. H. Logan for alleged trespass; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 11th instant, a report of the Chief of Ordnance upon the subject of the issues of arms, &c., for use under the direction of the Department of the Interior, the Department of the Treasury, and the Department of Justice since January 1, 1872; which was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from John I. Daven-

port, clerk of the circuit court for the southern district of New York, transmitting, in obedience to an order of that court, a presentment of the grand jury made at a recent term of the court on account of frauds in issuing election certificates to aliens not entitled thereto in 1868, and suggesting certain amendments to the naturalization laws; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a letter from the Public Printer, submitting his annual report for the fiscal year ending June 30, 1878; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. COCKRELL. I present the petition of Henry S. King, formerly second sergeant Company B, Second Regiment Missouri Mounted Riflemen, serving under Colonel Pierce in Mexico, praying for a pension. His age is seventy-two. I move the reference of the petition to the Committee on Pensions, and trust that the committee will give it early consideration.

The motion was agreed to.

Mr. BAILEY presented the petition of Lansford P. Yandell and wife, and others, citizens of Kentucky, and Norman Farrell and wife, and others, citizens of Tennessee, praying the passage of a law relieving the bondsmen for H. L. Norvell, late collector of United States revenue for the second district of Tennessee, from liability; which was referred to the Committee on Finance.

Mr. KERNAN presented the petition of Thomas McGeehan, a discharged soldier, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Silas A. Doty and others, citizens of New York, and the petition of A. K. Dudley and others, citizens of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. WITHERS. I have here the petition of 1,047 farmers of Lonisa County, Virginia, praying for the repeal of the tobacco tax. I will state that this petition is the action of the farmers of that county, and corroborates a statement which I have had the honor heretofore to make, that the producing interests in that line are vitally interested in the prompt and immediate settlement of the question. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. JONES, of Florida, presented a petition of citizens of Florida, praying an appropriation for the improvement of the navigation of the Saint John's River in that State; which was referred to the Committee on Commerce.

Mr. GROVER presented the petition of Elizabeth F. Daly, Eliza Church, Lavinia Whalley, and others, of Portland, Oregon, praying Congress to pass a law making effective the anti-polygamy act of 1862; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present the petition of Seth Driggs, praying to be remunerated for losses sustained by the captain of the American ship Good Return on the high seas, and referring to memorials heretofore presented. I think this petition probably goes properly to the Committee on the Judiciary, as it relates to a matter before that committee.

The VICE-PRESIDENT. The petition will be referred to the Committee on the Judiciary.

Mr. CONKLING presented the petition of William M. Young, of Elizabethtown, New York, and the petition of Abial Hathaway, of Schuyler Falls, New York, praying for the passage of the bill of the House of Representatives providing that all pensions shall commence at the date of the discharge or death of the soldiers for whom they are granted; which were ordered to lie on the table.

He also presented the petition of John M. Thompson and others, citizens of New York; the petition of J. W. Dayo and others, citizens of New York; the petition of J. M. Corkins and others, citizens of New York; the petition of B. J. Holt and others, citizens of New York; the petition of Noah E. Downs and others, citizens of New York; the petition of W. J. Gibbardt and others, citizens of New York, and the petition of J. S. McNaught and others, citizens of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. WALLACE presented the petition of Hannah S. Mackey, guardian of Margaret J. Yourison, minor child of John M. Yourison, (alias Sloan,) late private Company G, Fifty-sixth Regiment New York Volunteers, praying for the passage of a law for the restoration of a pension to said minor child; which was referred to the Committee on Pensions.

Mr. MORRILL presented the petition of the National Association for the Relief of Destitute Colored Women and Children, submitting the fifteenth annual report of that association for the year ending January 8, 1878, and praying for an appropriation by Congress in aid of the work of the association; which was referred to the Committee on Appropriations.

Mr. INGALLS. I present certain evidence in support of the claim of S. D. Houston, late receiver and disbursing agent of public moneys at the United States land office at Junction City, Kansas, praying to be reimbursed for money lost by the use of a defective Government safe. I introduced a bill for his relief the other day, which is now before the Committee on Claims, and I move the reference of these papers to that committee.

The motion was agreed to.

Mr. KIRKWOOD presented additional papers relating to the claim of James M. Bacon, late lieutenant of the First Regiment Dakota Cavalry Volunteers, praying that he may be credited with the sum of $5,950 in the settlement of his accounts with the United States as assistant quartermaster in the Northwest Indian expedition in 1864; which were referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 3855) for the relief of William A. Mann, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John S. Cunningham, a pay director in the Navy, praying to be reimbursed for the amount of certain funds alleged to have been misapplied by a clerk in his office at San Francisco, California, in March, 1878, submitted a report thereon, accompanied by a bill (S. No. 1543) for the relief of John S. Cunningham. The bill was read twice by its title, and the report was ordered to be printed.

Mr. DORSEY. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879, to report it without amendment. I ask that it be placed on the Calendar, and I give notice that at a later hour in the day I shall call it up and ask for its consideration.

Mr. DAVIS, of West Virginia. I inquire of the Senator who reports that bill, as it is necessary to have it immediately go into effect, why he does not ask for its consideration now? There will be no objection to it.

Mr. DORSEY. Since the Committee on Appropriations adjourned I have been informed that Senators from some of the New England States have been telegraphed to that this bill will remove the postal cars from the railroads in their States. I think it is an error, but we have telegraphed the Post-Office Department to ascertain if any postal cars in New England would have to be taken off under this bill, and I am waiting now for an answer. As soon as that comes I will call up the bill.

Mr. DAVIS, of West Virginia. I submit to the Senator that the Second Assistant Postmaster-General, who ought to know of everything connected with the postal service, and also the special agent in charge of that service were before the committee this morning, and nothing of that kind appears to be the result. However, if the Senator wishes a delay, of course I will not object. He has charge of the bill.

Mr. DORSEY. I fully concur in what the Senator from West Virginia has said, and I believe with the Second Assistant Postmaster-General that this bill will not affect in any way the present postal-car system except to prevent any additional postal-car service being put on. But the chairman of the Committee on Post-Offices and Post-Roads has some information on the subject, and he requests that I let the bill lie on the table for an hour or two.

Mr. ANTHONY. I have received a dispatch from the postmaster at Providence saying that the bill as reported cuts off the postal car from New York to Providence, the morning car.

Mr. DORSEY. I am quite sure the postmaster is in error in that respect. Unless the car has been put on since the 1st of December this bill cannot cut it off. If it has been put on since then it is a new service.

Mr. ANTHONY. It was put on before then. It has been on for years.

Mr. DORSEY. It has been on for years and this will not affect it.

The VICE-PRESIDENT. The bill will lie on the table subject to the call of the Senator from Arkansas.

Mr. CHRISTIANCY. The Committee on the Revision of the Laws, to whom was referred the bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States, have had the same under consideration, and have directed me to report it with an amendment in the nature of a substitute and recommend the passage of the substitute. The substitute is entitled "A bill to repeal section 820, Revised Statutes of the United States, in relation to jurors in criminal cases."

Mr. CONKLING. Is it printed?

Mr. CHRISTIANCY. It is not printed.

Mr. CONKLING. Then I ask that it be printed.

The VICE-PRESIDENT. It will be printed under the rule.

Mr. BECK. I desire to give notice that to-morrow at the close of the morning hour I shall endeavor to call up the bill just reported by the Committee on the Revision of the Laws, and shall ask the Senate to take action upon it at that time.

TERRITORIAL SURVEYS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution of the House of Representatives to print 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878, have instructed me to report it back without amendment and to ask its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878; 5,000 of which shall be for

the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 copies for the use of the office of the survey.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution of the House of Representatives to print 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Surveys in quarto form, with the necessary illustrations, have instructed me to report it with amendments and to recommend its passage as amended. I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution; which was read, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Department of the Interior; the illustrations to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

The resolution was reported from the Committee on Printing, with amendments, so as to make it read:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 750 for the use of the Senate, 375 for the use of the survey, and 375 for the use of the Department of the Interior, the illustrations to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

The amendments were agreed to.

The resolution as amended was concurred in.

DIGEST OF APPROPRIATIONS.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution:

Resolved by the Senate, That 500 copies of the Digest of Appropriations made by the first and second sessions of the Forty-fifth Congress be bound for the use of the Secretary of the Treasury.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. ANTHONY. I have a letter from the Secretary of the Treasury which states that under the restrictions—if it was not disrespectful I would say the absurd restrictions—put upon the Government Printing Office in the appropriation bill of the last session he is unable to bind these digests which are necessary to be distributed to the disbursing officers and executive officers of the Treasury, and therefore this resolution is necessary.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1544) to reimburse the several States for interest paid on war loans, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORRILL (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1545) to correct an appointment in the pay department of the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1546) to establish certain post-routes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1547) making an appropriation to improve the Little Kanawha River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1548) for the relief of Herman Biggs; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1549) granting a pension to Mrs. Matilda M. McCreery; which was read twice by its title, and, with the accompanying petition and papers, referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1550) for the relief of Cyrus K. Lord; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. COKE, it was

Ordered, That leave be granted to withdraw the petition and accompanying papers in the case of Videl Hernandez, of Texas.

AMENDMENT TO POST-ROUTE BILL.

Mr. COCKRELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-roads in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

IMPROVEMENT OF COOS BAY, OREGON.

Mr. MITCHELL. Some three or four days ago the honorable Senator from Rhode Island [Mr. BURNSIDE] gave notice that this morning after the morning hour he proposed to submit some remarks on the bill for the reorganization of the Army. I, on the 9th of December, introduced a bill authorizing an appropriation to improve the entrance to Coos Bay, Oregon, which was laid on the table, and I stated at the time that I would call it up at a subsequent day and submit some remarks upon it, which I think I can do before the morning hour expires. I now move that the Senate proceed to the consideration of the bill (S. No. 1452) making an appropriation to improve the entrance to Coos Bay and harbor, Oregon.

The VICE-PRESIDENT. Is there objection to the present consideration of this bill?

Mr. COCKRELL. Has the bill come from a committee?

The VICE-PRESIDENT. It has not.

Mr. MITCHELL. It has not. It was introduced by myself, and at my instance laid upon the table until I should submit some remarks before asking a reference. I shall be very brief.

Mr. COCKRELL. If the Senator only wishes to submit remarks upon the bill, I have no objection to its consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $100,000 for the improvement of Coos Bay Harbor and the entrance thereto, in accordance with the plan of the engineer department.

Mr. MITCHELL. Mr. President, the pending bill proposes an appropriation of $100,000 toward the improvement of the entrance to Coos Bay and harbor, on the coast of Oregon, and it is my purpose, briefly as I can, to attract the attention of the Senate to the general characteristics of this port, the amount and value of its commerce, and the importance in a national as well as local sense of the proposed improvement.

Coos Bay is situated a short distance north of Cape Arago, on the Pacific coast, in latitude about forty-three and one-half degrees north, and so far from being an obscure port, without commerce and unfrequented by ships, it has been for years and is to-day second in importance in the value and extent of its imports and first in shipbuilding on the Oregon coast, annually visited by hundreds of vessels, and annually exporting many hundreds of thousands of dollars in value of lumber, coal, masts, ship-knees, staves, pickets, laths, broom-handles, match-wood, hides, fruit, fish, &c., while ship-building is now carried on here as a regular business and in an extensive manner. From the report of a committee appointed by a meeting of the citizens of Coos Bay and vicinity, held at Marshfield, Oregon, August 17, 1878, and which was composed of citizens of integrity and high character and whose statements are entitled to full confidence, I glean the following facts and statistics bearing upon this subject:

Statement of the value of exports from Coos Bay each year for the past six years.

Year.	Value of coal and lumber exported.	Value of other exports.	Total value.
1871	$367,697 50	$17,517 50	$385,214 00
1872	315,167 75	22,640 00	337,870 75
1873	385,230 00	21,179 00	406,409 00
1874	351,137 00	19,253 00	370,390 00
1875	379,110 00	23,751 00	403,861 00
1876	471,116 50	24,070 00	495,867 00
1877	445,270 00	23,000 00	468,170 00
1878, for eight months	208,389 00	16,000 00	224,389 00
Total	2,924,108 75	167,410 50	3,192,161 75

Again, it may seem a surprise to Senators who have given no attention to this important center of commerce on the Pacific coast, and who may perhaps have regarded Coos Bay as a place of commerce merely in name, to be assured on unquestionable authority that during the past eight years an average of nearly two hundred ocean vessels have arrived at and departed from this port annually. To be entirely accurate as well as specific, the arrivals and departures have been as follows:

Number and carrying capacity of vessels arriving and clearing at Coos Bay for the past eight years.

Year.	No. of vessels.	Carrying capacity.
1871	180	63,200
1872	161	56,350
1873	190	76,000
1874	171	68,400
1875	186	74,400
1876	204	91,800
1877	189	89,100
1878, for eight months	107	46,300
Total	1,388	565,550

The resources of this portion of Oregon, whose natural outlet to the sea is through the port of Coos Bay, and I may say necessarily so from its geographical location, are even at this early day of immense im-

portance, and when fully developed, as they very soon would be were the entrance to this harbor properly improved, would be almost incalculable. Contiguous and conveniently accessible to this harbor are the most extensive and finest coal mines west of the Rocky Mountains, while almost boundless forests of fir, pine, cedar, maple, and ash, among the most magnificent and valuable for lumber and ship-building on the continent, are within easy transport to its waters. It is stated in the report to which I have called attention that within an area of ten miles of Coos Bay there are not less than seventy-five thousand acres of good coal land which will produce from the strata generally worked four hundred and fifty million tons of coal. This is an estimate, moreover, of but one seam or vein, while in many parts of this vast coal field there are as many as six workable veins. It is further stated that the area of lands known to contain coal but not fully prospected lying in the vicinity of Coos Bay contains not less than two hundred and fifty thousand acres. Some of these veins are as much as eleven feet in thickness. There are now five extensive coal mines opened on Coos Bay, and capable of producing nearly two thousand tons of coal daily. To-day hundreds of thousands of tons of coal are being imported annually into the Pacific States and Territories from Australia and British America, while with the proper improvement of the entrance of this harbor we could cut off importations and supply our wants from our own mines; and if indeed not quite this, at all events we could compete successfully with any other country and add millions to our material wealth.

LUMBER TRADE.

The timber in the vicinity of Coos Bay is unsurpassed in quality by any of the forests of this continent, and in quantity extending to and including densly-covered hundreds of thousands of acres, yielding, as they do, from 100,000 to 200,000 feet to the acre of the best quality of lumber, which finds a ready market in the Sandwich Islands, South America, Australia, Japan, China, as well as in San Francisco and other California ports. There are now in operation on Coos Bay four large steam saw mills, which aggregate a capacity of about 115,000 feet per day, or if run to their full capacity, 141,975,000 feet per annum. To say, therefore, that the lumber interests of Coos Bay would, in the event of the reasonable improvement of the harbor so as to permit the entrance of ships of larger draught constitute a worthy rival in this important branch of commerce to the world-renowned lumber ports of Puget Sound, would be no exaggeration.

COOS BAY AS A SHIP-BUILDING PORT.

Again, this port has acquired at this early day an enviable reputation for ship-building. It has been demonstrated that vessels can be built cheaper here than can vessels of the same size and capacity in the ship-yards of the Atlantic seaboard. This results in a great measure from the inexhaustible quantities of all kinds of the very best ship-building timber standing at the very door of the ship-yards. Over forty vessels in all, ranging from 50 to 2,000 tons burden, and aggregating a capacity of 16,350 tons, have been constructed at the four ship-yards of North Bend, Marshfield, Empire City, and Coos River of this ship-building port. Indeed, the largest merchant-vessel—the ship Western Shore, 2,000 tons burden—ever built on the Pacific coast was built and successfully launched from the North Bend ship-yard, on Coos Bay. All vessels built here are, for all purposes of insurance or otherwise, rated as A 1, and, as said by the committee in their report:

> It is safe to assert that there are no better vessels of their class afloat than those which compose the fleet of schooners now plying in the coal and lumber business in this bay, the best of which were built here. Some of these vessels are over twenty years old, and are still doing good service and apparently as sound as ever.

I submit the following table, which I take from the report to which I have directed attention, which gives the name and capacity of the different vessels built on Coos Bay:

Name of vessel.	Where built.	Tons.
Brig Arago	North Bend	325
Schooner Florence E. Walton	do	100
Brig Blanco	do	400
Schooner Mendocino	do	175
Brig Advance	do	350
Schooner Enterprise	do	400
Schooner Isabella	do	275
Schooner Hannah Louisa	do	175
Schooner Juventa	do	280
Barkantine Occident	do	475
Barkantine Melanchton	do	500
Schooner Bunkalation	do	150
Barkantine Webfoot	do	600
Schooner Gotama	do	400
Schooner Oregonian	do	450
Barkantine Portland	do	800
Barkantine Tam O'Shanter	do	1,000
Ship Western Shore	do	2,000
Barkantine North Bend	do	600
Schooner on stocks	do	500
Schooner Staghound	Marshfield	300
Schooner Louisa Morrison	do	350
Schooner Ivanhoe	do	300
Schooner Annie Stauffer	do	325
Barkantine Amelia	do	800
Schooner Panonia	do	350
Schooner Sunshine	do	650
Schooner Frithioff	do	500
Schooner Laura May	do	550
Schooner Jennie Stella	do	600

Name and capacity of vessels built on Coos Bay—Continued.

Name of vessel.	Where built.	Tons.
Schooner Charles H. Merchant	Marshfield	575
Steam-tug Escort	do	130
Steamer Messenger	do	130
Schooner Rebecca	Empire City	270
Schooner Kate Piper	do	200
Brig R. Emmett	do	100
Steamer Alpha	do	75
Steamer Satellite	do	100
Steamer Coos	do	50
Steamer Juno	Coos River	50

RECAPITULATION.

Number vessels built at North Bend	20	
Total capacity, tons		9,955
Number vessels built at Marshfield	13	
Total capacity		5,550
Number vessels built at Empire City	6	
Total capacity		795
Number vessels built at Coos River	1	
Capacity		50
Whole number vessels	40	
Total capacity		16,350

I have said enough, I apprehend, to demonstrate the vast importance of this port in respect of its coal, lumbering, and ship-building interests, all of which have been developed to the extent to which they have without any aid whatever from the National Government. While Congress in the years that have passed has with a lavish hand appropriated hundreds of thousands of dollars annually for the improvement of streams that are not entitled to be dignified with any other or greater names than "Trout Creek" or "Mistletoe Run," and which are without present commerce or the slightest hope of it in the future, this and ports of like and some of them of greater and others of less importance, such as Port Orford, Yaquima, Foulweather, Alsea, Tillamook, and others on the Pacific coast have been left to struggle into merited importance single-handed, unaided, and alone.

But what is the improvement demanded and what the estimate of its cost; and will the end in a national point of view justify the means required? The great difficulty in reference to this matter is not so much in the harbor as in the entrance to the harbor. Vessels of 13 feet draught can enter and depart with cargoes in safety except at certain perilous times of stormy seas. Such vessels, however, cannot compete in the matter of freights with vessels of larger draught engaged in the coal and lumbering trade of Puget Sound and British America. Congress at its last session, in view of the commercial importance of Coos Bay, inserted in the river and harbor bill a clause authorizing a survey and estimate for the improvement to the entrance of this port. That survey and estimate have been made under the direction of Major John M. Wilson, of the United States Engineer Corps. His report was submitted to the Chief of Engineers on the 23d of September last, and in pursuance of a resolution of the Senate passed at the present session was laid before us by the Secretary of War on the 17th of the present month, ordered printed, and referred to the Committee on Commerce.

This report, careful, complete, painstaking as it is, shows conclusively not only the imperative necessity of the proposed improvement but its entire feasibility likewise, and I ask to have it appended to my remarks.

That this improvement should be inaugurated at once there can be no room for doubt; that it would, when completed, add annually hundreds of thousands of dollars and at no distant day millions to the nation's wealth in a commercial sense, there can be no doubt. No principle, therefore, of false economy; no "penny-wise and pound-foolish" policy, I trust, will stand in the way of doing this act of justice to our nation's commerce, as well also to a most worthy and enterprising pioneer people on our western frontiers, while at the same time by the very act the nation will in the end reap an abundant recompense in the development of its natural resources and the extension of its commerce. Trusting, therefore, that the Committee on Commerce may at the proper time give to this subject their earnest consideration and favorable action, thus for the future vindicating the well-earned character of that committee for just discrimination and prompt, judicious, and intelligent legislative action, I shall occupy the attention of the Senate no longer at present. I move the reference of the pending bill to the Committee on Commerce.

The motion was agreed to.

The report referred to in the preceding remarks is as follows:

SURVEY OF ENTRANCE TO COOS BAY, OREGON.

UNITED STATES ENGINEER OFFICE.
Portland, Oregon, September 30, 1878.

GENERAL: I have the honor to transmit herewith a chart of the entrance to Coos Bay, Oregon, together with the report of Mr. C. M. Bolton, assistant engineer, and to submit the following report of a survey made under my direction in August, 1878, in accordance with the act of Congress approved June 18, 1878.

OBJECT OF THE SURVEY.

The law of June 18, 1878, required a survey of "the entrance to Coos Bay" and an estimate of the cost of improvements "proper to be made."

COOS BAY.

Coos Bay empties into the Pacific Ocean about 2½ miles east northeast of Cape Arago; on the north side of the mouth the ground is low and sandy with shifting sand-dunes, and on the south side it is high and bold.

The bay is completely landlocked, presenting a fine harbor after getting inside. From its entrance it extends in a northeasterly direction a distance of about 7 miles to North Bend, with an average width of ½ a mile and a channel of not less than 22 feet depth at low water, with the exception of one bar about ¼ of a mile long, upon which there is a depth of 15 feet.

At North Bend another bar extends across the bay with a depth of 11 feet at low water, although by careful sounding a narrow intricate channel of 22 feet has been found.

From North Bend the bay extends in a southerly direction to Marshfield, a distance of about 5 miles, with a depth of about 16 feet at low water.

Coal Bank Slough, which enters the bay at Marshfield, carries a depth of 10 feet at low water to the Newport and Eastport Mining Companies' landings, about 2 miles from the bay. Isthmus Slough has a depth of about 20 feet at low water for a distance of about 6 miles.

THE ENTRANCE TO COOS BAY.

The great difficulty at the entrance to Coos Bay arises from the shifting character of the sand and the peculiarities of the tides. During the summer the heavy northwest winds, sweeping down the coast, drive the sand thrown up on the shore by the currents along the north spit, emptying it into the bay and into the channel at its entrance, thus prolonging the spit. The movement of this spit is said to be very regular, the channel breaking through to the north of its present position about once in five years; soon after the new channel opens, the north sands again commence to move southerly, the ebb-tide not being strong enough, for reasons hereafter to be given, to carry them off; this continues, the spit lengthening until it occupies about the position now indicated on the chart, forcing the channel close under Coos Head on the south side; while this is in progress the sand-bar outside of Coos Head and north of "Lone Rock" makes northerly, caused by the fact that Cape Arago, jutting out abruptly about 2 miles to the westward, prevents to a great extent the escape of the drift sand, and the convergence of the shore-line between the mouth of Umpqua and the entrance to Coos Bay (the main shore-line running nearly north and south, while that of Cape Arago runs nearly east and west) concentrates the force of the northwest seas into this pocket; moreover, as the channel inside of the north spit makes down and the current strikes Coos Head, it is forced to the northward along the western side of the spit.

When this condition of affairs is reached the water again breaks through the north spit to the north of its present exit, and presents for a short time a good and straight channel out to deep water.

The condition of affairs to-day is ripe for the opening of a new channel. The line of deepest water has been forced down toward Coos Head; the spit has worked down; the outer sand-bar has grown toward the north; there is a depth of only about 9 feet at low water on the outer bar, although 14 feet can be carried up along the west face of the north sand spit and thence to deep water beyond.

TIDES AND CURRENTS.

The mean rise and fall of tides is 5.1 feet, of spring-tides 6.8, and of neap-tides 3.7 feet.

I remarked in the description of the entrance to Coos Bay that the ebb-tide was not sufficiently strong to prevent the growth of the north spit.

An examination of the chart will show that after crossing the bar, entering, the waters divide, forming Coos Bay proper to the north and the south slough to the south. It has been observed that the incoming tide runs up the south slough nearly an hour before it commences to ascend the bay proper, and that the ebb-tide runs out from the slough about the same length of time before it begins to run from the bay; we therefore find the apparent anomaly of a flooding and ebbing tide in the same body of water; moreover, as the ebb comes down the bay proper it meets that coming down the slough, the two running in opposite directions causing an eddy and greatly diminishing the velocity and scouring force at the entrance, where it is so necessary in order to carry out the sands coming down the coast from the north.

PROPOSED IMPROVEMENT.

In any improvement of the entrance to this bay three objects must be kept in view: first, the tidal flow in the bay proper must not be decreased, but must be made as great as possible; second, the flow of the ebb from the bay must be so directed as to prevent it from meeting directly that coming from the south slough; and, third, steps must be taken if possible to prevent the drift sands from moving down the north sand-spit into the channel.

To overcome the difficulties arising from the meeting of the ebb-tides it is proposed to run a training-wall, starting from the east side of the bay about 1½ miles from Coos Head, and carrying it across the spit out to deep water near the line through which the channel is generally cut; parallel to it and at a distance about equal to the present width of the entrance will be another wall, and it is hoped and expected that the increase of velocity gained by the ebb-tide passing between these walls will be sufficient to keep a good channel open out to deep water.

To prevent the sand coming down the spit, it is thought that several strong fences across it at certain intervals will answer present purposes, these fences to be removed as soon as the sand reaches their tops.

The tops of the training-walls should be built to a height of at least 3 feet above low water in order to gain the scouring force due to the ebb-tide; the outer ends should be carried up to high-water mark, and upon them should be placed a cement-masonry superstructure about 15 feet high and 20 feet square. The lower wall should have a harbor-light at the outer end. The walls should be built entirely of stone, as the "teredo" and "limnoria" rapidly destroy wood-work of any character used in constructing wharves, &c., in the bay.

Within the limits of the bay they could be built of ordinary rubble-stone, the sides and top to be of large pieces from one to four tons in weight; where the violent action of the sea is felt outside the immediate limits of the bay, they could be constructed of ordinary rubble to a height of 10 feet below low water, and of rubble in pieces from 5 to 20 tons from that height to the top, the sides to be well protected by blocks of the same size. It is possible that the upper wall may not be required. Of course it would be highly advantageous to use mattresses of twigs in these constructions were it possible, but as there is no fresh water, they would be rapidly destroyed.

The estimated cost of the work, in order to obtain a channel with a depth of 22 feet at low water, is approximately as follows:

Southern training-wall, 8,000 feet long, at $70	$560,000
Northern training-wall, 5,000 feet long, at $70	350,000
Two masonry abutments, at $8,000 each	16,000
Contingencies, 5 per cent	46,000
Total	972,000

It is possible that the northern training-wall will not be required, in which case the estimated cost of the work would be about $600,000.

It is proposed to so regulate the direction of these walls that vessels seeking shelter from southwest gales, which are the severest and most dangerous on the coast, can enter without coming broadside to the wind, as is now necessary in navigating the present entrance; this would place the walls nearly at right angles to the northwest seas, and prevent the silting up from sand driven along by them. Stone for the construction of this work can be obtained near at hand in Coos Bay.

COMMERCIAL STATISTICS.

I transmit herewith a statement of the statistics of Coos Bay, prepared by a committee of citizens.

The export value of lumber, coal, and other products from January 1, 1871, to August 31, 1878, was $3,192,161.75; during the same period 1,388 vessels, with a carrying capacity of 565,550 tons, entered and cleared. The ship-building interest is second to none on the coast; 40 vessels, including the Western Shore, a ship of 2,000 tons capacity, have been built in the bay. Fourteen saw-mills are in operation, with an aggregate capacity of about 115,000 feet, board measure, per day.

There are 5 coal-mines already opened on the bay, with a total capacity of about 1,800 tons daily.

Two steam-tugs are employed towing on the bar, and four small steamers carry passengers and freight on the bay and its tributaries.

Coos Bay is in the collection district of Southern Oregon. Empire City on the bay is a port of entry.

There were no foreign imports, and consequently no revenue collected therefrom, during the last fiscal year.

Only one vessel cleared for a foreign port during the year; her cargo was 160,000 feet of lumber, valued at $16,000.

The number of coasting vessels entering and clearing during the year 1877 was 189, with a carrying capacity of 89,100 tons.

The estimated value of the coal, lumber, and other exports shipped from the bay in 1877 was $468,170. The nearest light-house is at Cape Arago; the nearest works of defense are at the mouth of the Columbia River, about 180 miles distant.

The report of Mr. C. M. Bolton, assistant engineer, and a copy of the statistics of Coos Bay are transmitted herewith. In making this survey and that of Coquille River Mr. Bolton was subjected to numerous minor difficulties, and he deserves credit for the faithful and energetic manner in which he has performed the duties assigned to him.

The sum of $200,000 can be profitably expended upon this work during the next fiscal year.

I am, general, very respectfully, your obedient servant,

JOHN M. WILSON,
Major Engineers, Brevet Colonel, United States Army.

Brigadier-General A. A. HUMPHREYS,
Chief of Engineers, United States Army.

REPORT OF MR. CHANNING M. BOLTON, ASSISTANT ENGINEER.

UNITED STATES ENGINEER OFFICE,
Portland, Oregon, September 23, 1878.

COLONEL: In compliance with instructions from you I started from Portland on the 10th day of August for Coos Bay to make a survey of its entrance. On arrival at Empire City, August 13, I at once proceeded to organize a party and make the necessary examinations. From the amount of money allotted for this purpose and the limited time allowed a thorough survey of the bay could not be made. The field-work was therefore confined to the entrance of the bay, extending only about one mile inland, but by the courtesy of Messrs. Merchant, Bailey, and others I am enabled to give the following additional data: The bay extends from its entrance in a northeasterly direction a distance of about 7 miles to North Bend, with an average width of one-half a mile, with a channel depth to that point of not less than 22 feet at low water, with the exception of a short sand-bar, "Lone Tree," of one-fourth of a mile in length, with a depth of about 15 feet. At North Bend another sand-bar extends nearly across the bay from the northwest side, giving a depth of 11 feet at low water, with a very narrow and crooked channel-way of 22 feet depth. From North Bend the bay extends in a southwardly direction to Mansfield or mouth of Coal Bank Slough, a distance of about 5 miles, and has a depth of about 16 feet at low water. Coal Bank Slough carries 10 feet depth of water at low water to Newport and Eastport Coal Mining Company's landings, about 2 miles from the bay. Isthmus Slough has a depth of about 20 feet at low water from its mouth to Utter City and Henryville, a distance of about 6 miles. Coos River and Hayes Slough are navigable for river steamers, the former about 7 miles the latter 4 miles from the bay. The resources of the country tributary will be seen by reference to paper forwarded herewith, "Statistics of Coos Bay," compiled and published by a committee of the citizens of Coos County.

By the courtesy of Mr. Merchant, the tug-boat Escort, Captain Magee, was placed at my disposal without charge, enabling me to get very good lines of soundings at small cost. I visited the Eastport coal mines and found them of great extent and in good working order. The stratification of the coal is such that it is worked very economically, having a natural drainage and requiring no propping.

The chief difficulty at the entrance of the bay seems to be the shifting sands and crooked channel, the tidal flow not being regulated so as to get the full scouring force of the currents in suitable directions. During ebb-tide the water from the bay and that from South Slough, flowing in opposite directions, meet near the entrance of the bay, causing an eddy where the most scouring effect is needed. A peculiar feature of this tidal flow is that the incoming tide runs up South Slough nearly an hour before it begins to flow up the bay proper. The ebbing tide also runs out from South Slough about the same length of time before the bay appears to be affected, apparently making the anomaly of a flooding and ebbing tide in one body of water at the same time.

I was informed by Mr. Merchant, Captain Magee, Coos Bay pilot, and others, that the movements of the sand-bars have been very regular in their changes. The channel, when best for navigation, lies near the line of the proposed training-wall. The northern sand-spit then begins to form in a southwardly direction, making gradually until it gets to about the position it now occupies, forcing the channel close on to Coos Heads, just opposite. While this is taking place, the sand-bar north of "Lone Rock" makes northwardly, forcing the channel at that point toward the western side of northern sand-spit. When in about the position the channel now occupies, the water breaks over the northern sand-spit, and again forms a new channel on the site of the first. This, I am informed, has occurred three times in the past fifteen years, making each entire change in about five years.

To obviate these difficulties a training-wall, as shown on the chart, is proposed which will regulate the flow to and from the bay, at the same time separate the bay from the slough, forcing the tidal currents to have full effect in opening and maintaining the channel in a desirable position. After finishing the southern training-wall it may be found necessary to build an additional one, as indicated by the broken lines on chart, so as further to regulate the flow and keep the new channel free from drifting sands that may be brought in by the northwest winds. The tops of these walls should be built to 3 feet above low water, with abutments at their sea ends carried up to above high-water level.

The prevailing winter winds, which are the most boisterous, are those from the southwest, and make the entrance, as it is now, very dangerous. Vessels are forced to run through a narrow channel with their broadsides to the wind; but if the channel be regulated by the training-wall, as proposed, the danger would be greatly decreased, and the entrance made comparatively safe. In the construction of the training-walls stone or other material will have to be used which are proof against sea insects, as they are very destructive in the bay. The wharf-piles at Empire City, four miles from its entrance, are badly cut by them.

The following is an approximate estimate of the cost of proposed improvement:

Southern training-wall, 8,000 feet, at $70 per foot	$560,000 00
Northern training-wall, 5,000 feet, at $70 per foot	350,000 00
Two abutments, at $8,000 each	16,000 00
Contingencies, 5 per cent	46,000 00
Total	972,000 00

Respectfully submitted.

CHANNING M. BOLTON,
Assistant Engineer.

Colonel JOHN M. WILSON,
Corps of Engineers.

REVISION OF THE PATENT LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes; the pending question being on the amendment of Mr. HOWE to the amendment of Mr. WINDOM.

The amendment of Mr. WINDOM was, to insert at the end of line 20, section 1:

No recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent by the use of any patented device, process, invention, or discovery, if it shall appear that the defendant purchased the same for his own private use from the manufacturer thereof or from a dealer engaged in the open sale of the same, unless it shall also appear that the defendant at the time of such purchase had knowledge or actual notice of the existence of such patent, but this provision shall not apply to purchasers from foreign manufacturers or dealers.

The amendment to the amendment was, to insert in line 3 of the amendment, after the word "patent," the words "hereafter issued;" so as to read:

No recovery of damages or costs shall be had against the defendant in any suit brought for the alleged infringement of a patent hereafter issued by the use of any patented device, process, invention, or discovery, &c.

The VICE-PRESIDENT put the question on the amendment to the amendment and declared that the noes appeared to prevail.

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 33; as follows:

YEAS—16.

Anthony,	Conkling,	Howe,	Rollins,
Burnside,	Eaton,	Ingalls,	Saunders,
Cameron of Wis.,	Hamlin,	McDonald,	Spencer,
Christiancy,	Hoar,	Paddock,	Wallace.

NAYS—33.

Allison,	Garland,	Maxey,	Teller,
Armstrong,	Grover,	Merrimon,	Voorhees,
Bailey,	Harris,	Mitchell,	Wadleigh,
Barnum,	Hereford,	Morgan,	Whyte,
Beck,	Hill,	Patterson,	Windom,
Cockrell,	Jones of Florida,	Plumb,	Withers.
Coke,	Kernan,	Randolph,	
Davis of Illinois,	Kirkwood,	Ransom,	
Dorsey,	McMillan,	Saulsbury,	

ABSENT—27.

Bayard,	Conover,	Gordon,	Matthews,
Blaine,	Davis of W. Va.,	Johnston,	Morrill,
Booth,	Dawes,	Jones of Nevada,	Oglesby,
Bruce,	Dennis,	Kellogg,	Sargent,
Butler,	Edmunds,	Lamar,	Sharon,
Cameron of Pa.,	Eustis,	McCreery,	Thurman.
Chaffee,	Ferry,	McPherson,	

So the amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment of the Senator from Minnesota, [Mr. WINDOM.]

Mr. BOOTH. Mr. President, there seems to be a general agreement among all Senators upon two propositions: first, that the integrity of the patent law should be preserved, so that every inventor *bona fide* shall be entitled to the exclusive use of the thing he invents for the term prescribed by law; second, that the public shall be protected from imposition and innocent purchasers from harassing litigation and extortion. The committee have had both these objects steadily in view, and they have endeavored, so far as lay within their power, to frame the provisions of this bill to accomplish this double result.

It is perhaps unfortunate that this discussion has sprung up upon a single section before the subsequent provisions of the bill have been considered, which have been prepared expressly to remove as far as possible and to ameliorate where they could not be absolutely removed the hardships of which the Senator from Minnesota [Mr. WINDOM] so eloquently complains.

The constitutional provision on the subject is as follows:

The Congress shall have power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The language clearly implies that the primary object was to promote the progress of science and the useful arts, and that that was of far more value to the public, to society, than the rewards which were secured to authors and inventors. Of course it is possible for Congress to decline to exercise this power at all, but if it does exercise it it must exercise it within the limits of the Constitution itself, as was so clearly and forcibly shown by the Senator from Alabama [Mr. MORGAN] yesterday. If any right is granted to the inventor, it must be an exclusive right for the term prescribed.

Now, how can that be an exclusive right if Congress says by law that a person other than the inventor may use the invention and not be liable in damages? A patent is as much property in the hands of its owner as a horse or an ox. From its incorporeal nature it is impossible to punish its piracy by criminal law as you do the larceny of personal property. The committee were unanimously of opinion that the inventor would be stripped of all his security if he were not allowed to follow the patented thing wherever he could find it, not that he might bring vexatious and annoying suits against every one who might innocently use a device, but in order that he might cut off the market against a piratical manufacturer.

Examine for one moment, Mr. President, the nature of the contract between the Government and the patentee. A is the author of a valuable invention of the electric light, of a new motive power, of a magnetic telegraph, of a telephone. It is in his power to lock his secret in his brain, to carry it with him to the grave, or to practice it in secret for his own emolument. The Government says to him, "Make your invention public, declare it to the world so that all men may know what it is, and you shall have the exclusive right to its enjoyment for a limited number of years, and then it shall become absolutely free." Now, this is a contract to the advantage of both parties, to the advantage of the public and of the inventor; but the public is largely the gainer by the contract. Even in the life of the patent of every valuable invention four-fifths of the savings inure to the public; and who can estimate the money value arising from patents or inventions upon which the patent has expired, or who can calculate the far greater value that belongs to them as they enter into the elements of our advancing civilization?

I sympathize with the Senator from Minnesota in his denunciation of the men—the shysters, if that is a parliamentary term—who raid through the land disgracing the profession which he adorns, but nine times in ten these men succeed not because their claims, if adjudicated, would abide the touch-stone of the law but because their victims believe it cheaper to pay us a compromise than to contest. The patent that so moves his ire seems to have been gotten out of the Patent Office through the back door, through an excresence of the law which never ought to have been there; and there is a provision in this bill by which patents of that character, if it is of the character which he represents, can be annulled.

The amendment offered by the Senator from Minnesota says that an infringer in certain cases shall not be liable to damages unless he had actual notice of the existence of the patent. Of course that destroys the remedy in all those cases, for it is absolutely impossible that the patentee should know who is going to use his patent or that he should give notice to everybody. In the case of great manufacturing companies and railroad corporations, to whom is notice to be given? Then as to the word "knowledge" in the amendment, we know how hard it is to bring knowledge home to an individual, especially where "ignorance is bliss." But how can you bring knowledge home to a corporation that has no soul to receive it? Inventions, as has been said before, are nearly all the work of laboring-men, men who toil with their hands. In that field they seek the prizes of life and receive their patent of nobility. Under the amendment of the Senator from Minnesota these achievements of these toiling men may be absorbed by manufacturing companies and railroad corporations who simply choose to close their doors to the truth and shut their eyes to the light. Under this theory the best patent adviser of a corporation or a manufacturing company would be the lawyer who knew the least law and would always advise his clients that there was no existing patent.

But the loss does not fall, as I have indicated, chiefly upon inventors, great as that is, but by removing the incentive to invention you dry up the very spring at its source.

I trust, Mr. President, that the iniquity of the owners of the drive-well and the barbed wire, great as they are said to be, will not result in such an amazing fruition of evil.

Why, sir, great as our achievements have been in mechanical improvements there are others to come mightier than they. For hundreds of years the steam-engine was regarded as a mere mechanical toy. A power will yet be discovered so cheap and so pliant that it will unite productive capacity with individual independence. The Senator from Massachusetts [Mr. HOAR] yesterday eloquently said that other nations excelled us in the arts, perhaps in arms, certainly in literature and science, but in the domain of mechanical invention we are easily first. It is true also that this kind of intellectual effort prominently distinguishes the age in which we live. We turn to the past for models of excellence in the fine arts and are content if we can but approach them, scarcely hoping to equal them. If we can trust to human experience the world will never know a literature richer in all the attributes of genius than that which is enshrined in the language of the Greeks; the Olympian gods will never be uncrowned; but invention has a domain wide as the secrets of nature, and day by day and year by year she is subjecting these powers to the dominion of man.

I trust, Mr. President, that no feeling will be excited, no temporary anger which will lead us to adopt a policy that will destroy the integrity of the patent system to which we owe so much.

Mr. KIRKWOOD. Mr. President, I desire to say a very few words further upon this point. It seems to be considered by gentlemen who oppose the amendment that its adoption will destroy our patent system, and perhaps it is thought by some that it is intended to have that result. It seems to me that this is a mistake; that if the amendment be adopted it leaves to the inventor his remedy against the man who by manufacturing infringes upon his patent; it leaves to him his remedy against the seller who by sale infringes upon his patent. It curtails him from the privilege he now has of bringing suit against the innocent purchaser, either from the manufacturer or the seller, and that only.

Now, why should that be equivalent to a destruction of the patentee's rights? How can it be? A copyright to an author is substantially as to him a patent right. The copyright is intended to secure to the author what the patent secures to the inventor; and yet the author has not the right to follow into the hands of a purchaser a book that he may have bought, published contrary to the

copyright law, as I understand the law to be. If I go into a bookstore here and purchase from the bookseller a book that has been copyrighted and has been published in violation of that copyright, the author cannot follow me and bring me into the courts and compel me to pay damages. I may continue to use the book year after year and upon every additional perusal of it derive additional benefit from it, and I cannot be punished under the law. But if I buy a sausage-stuffer from a manufacturer or a vendor that has been made or sold in violation of the patentee's rights, he can pursue not only the manufacturer and the seller but myself.

Mr. HOAR. You may eat the sausages, however. [Laughter.]

Mr. KIRKWOOD. Yes. I was about to ask whether or not the invention of a sausage-stuffer is of more public benefit than the authorship of a book? Now, the question I desire to submit to gentlemen is this: If it be found not to be necessary to the protection of authors that this right which has been so much abused by following into the hands of innocent purchasers the article produced in violation of the patent should be extended to them; if it is sufficient to guard the rights of the author to allow him a remedy against the publisher or seller, why may we not try to see whether that would not be sufficient to guard as well the rights of the inventor? That an enormous abuse does exist under the existing law, I have heard no man deny. Are we not competent to deal with that abuse and remove it? It is not very complimentary to us to say so.

I think no Senator will deny that there is an enormous abuse under our present patent law. Patents are issued from your department here that the courts determine conflict with each other; one is an infringement upon the other. A man goes abroad through the land with a patent issued by your department here showing that he is the inventor of a certain article, that he has the exclusive right to manufacture and sell and use it, or to sell to others to be used, and a man buys it and uses it. Another man comes along bearing another patent from the same office precisely, and he claims that the invention that has been bought under the patent exhibited to the buyer is an infringement of another patent, and when that is proven then the man who has bought the article has to pay damages.

I do think that this thing is accumulating against our whole patent law a degree of prejudice and wrong that I am sorry to see exist, and that I am afraid will become so strong, unless something be done, as to work permanent injury to our patent law. You cannot to-day pass through the Congress of the United States a bill, however meritorious it may be, authorizing the extension of a patent; that ought not to be so; and it is so because of the prejudice against the whole system created by the abuse of which I speak.

Mr. SAULSBURY. Mr. President, I am not sufficiently acquainted with the subject of patents to express any very clear opinion as to the general merits of the various provisions of this bill; but it seems to me that the amendment of the Senator from Minnesota is just and proper, and I stated yesterday that I should give my support to it. I understand that amendment simply to protect an innocent person who has gone to the open market and purchased an article that has been manufactured by some person who had no right to manufacture it, because it was protected by a patent.

It is, I believe, claimed by the patentees that they have now a remedy not only against the man who may infringe their patent by manufacturing the article, but that they may follow the article manufactured into the hands of an innocent purchaser and prosecute him because he is using an article which has been improperly manufactured by somebody else. No matter how innocently he may have purchased, how openly he may have purchased it in the market, they now claim the right to follow the article manufactured into the hands of the innocent purchaser and prosecute him for the use of an article which ought not to have been manufactured by somebody else. It has always seemed to me that that was very unreasonable. I suppose that every lawyer in this body has in the course of his practice had gentlemen come to him and consult him, saying they were threatened with suit because they were using an article which the patentee said they had no right to use because they had not purchased it from him. I have had in my practice, I know, frequent cases of this kind. I have invariably instructed the parties to disregard the claims of the patentees and to throw themselves upon the equitable consideration of a jury of the country in case they were innocent purchasers of the article. I believe it is right that we should protect them, and the amendment of the Senator from Minnesota does protect innocent purchasers of that character, and it is for that reason that I stated yesterday very hurriedly that I would support the amendment of the Senator from Minnesota.

These patentees claim the right not only to deprive every man who is using an article which he may have purchased in open market of the article, but they claim the right to constitute him a vigilance committee for the benefit of the patentee. They would require every man in the country before he goes to purchase an article to inquire into the right of the man who manufactured it to do so. How can this be? Why, sir, suppose a man's harvest was on hand, and his reaping-machine gave way, must he go and inquire and ascertain definitely before he purchases another whether it has been manufactured by an infringer of somebody's patent? Or suppose a man is sick and goes to the druggist's and some patent nostrum is recommended as a specific for his disease, must he stop to inquire whether the man who has manufactured that preparation has not infringed somebody's patent? Why, sir, if a man buys innocently in the open market that which is for sale he has a *prima facie* right to it, and I would give no man by any legislation of mine a remedy against him for doing so.

The amendment of the Senator from Minnesota seeks to protect only such persons as have purchased innocently, fairly, and in open market, not by any collusion with persons who have infringed a patent; and I think, therefore, his amendment is eminently proper. The patentee has his remedy against the man who infringes his patent, against the man who goes in violation of law and manufactures what he has no right to manufacture. But the argument is urged that very frequently he has no remedy because it may be that the person who has infringed the patent is insolvent, and if you take away his remedy against the person who uses the article, however innocent he may be, then he is without remedy. That may be his misfortune. In this life we are all subject to misfortunes, and I know of no reason why a patentee has any greater claim upon Congress to guard and protect his interests than any other persons have. We give him laws enabling him to prosecute any man who infringes his patent; and when we have done that we hand him over to his remedies under the law; but do not propose to give him a remedy against every man who has innocently used an article which has been manufactured in violation of some patent.

I shall vote for the amendment of the Senator from Minnesota.

Mr. ANTHONY. Mr. President, I believe my colleague [Mr. BURNSIDE] gave notice that at one o'clock to-day he would ask permission of the Senate to make some remarks upon the military bill. I suggest that the pending business be laid aside informally if my colleague is ready to proceed.

The VICE-PRESIDENT. To this the Chair hears no objection. The Senator from Rhode Island [Mr. BURNSIDE] calls up the bill on which he desires to speak.

REORGANIZATION OF THE ARMY.

By unanimous consent, the Senate proceeded to consider the bill (S No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

Mr. BURNSIDE. Mr. President, the bill reported by the joint committee on the reorganization of the Army is voluminous, not because an entire change has been made in all the laws relative to the Army and its government, but because it is a combination of all the new sections proposed by the committee, the unchanged sections, and certain regulations and customs of service which it is now proposed to make law.

The committee deemed it wise to report a condensed code made up of all laws relating to the Army and arranged in proper order. Officers of the Army as a body are law-abiding men. They will often question the wisdom and propriety of regulations made by their superiors in authority, but they rarely question the law. Nearly all the troubles between the staff and the line—and they have been numerous—have arisen from uncertainty as to the meaning and authority of regulations and customs of service. For this reason many of the regulations and customs of service have been ingrafted upon this bill, and if it meets with favorable action from Congress they will become law, and cease to be subjects of discussion and discord.

In preparing the part of the bill which relates to reorganization the committee tried to keep in view both the efficiency and economy of the service. The action of the last session of Congress in reference to the size of the Army was taken as a guide by the committee, and they at once settled upon twenty-five thousand soldiers as the basis of organization. It was then decided that the number of general officers designated in the bill was the minimum number required for a force of this size, and I believe no one will contend that the bill provides for too many general officers.

It was decided after much discussion that the small battalion organization, which means three or more battalions to a regiment, is better adapted to modern arms and modern warfare than our old regimental or large battalion organization, which is one battalion to a regiment, and that system was ingrafted upon the bill. It was then decided that the staff department should be so reorganized as to give to the officers of the line education and experience as staff officers and staff officers education and experience as line officers.

To accomplish this it was necessary to make parts of the corps of the line skeleton organizations and to make large reductions in the number of officers in the staff departments.

It was also decided to make the organization an elastic one; so that the Army in a sudden emergency can be rapidly increased in rank and file and company officers, without necessarily increasing the number of general, field, or staff officers.

The bill proposes that the regiments be composed of four battalions, three of which are to be officered permanently. It also proposes that in the infantry and artillery regiments but two of the battalions shall be manned, but in the cavalry regiments three battalions shall be manned for the present; and the company officers not on duty with battalions shall be detailable for duty in the staff departments, and shall be changed from time to time as provided for in the bill.

The proportion of the different arms to each other was decided upon as follows, namely: Five regiments of artillery, eight regiments of cavalry, and eighteen regiments of infantry. It is most likely that a few years hence some of the cavalry regiments can be changed to infantry and thus diminish the expense of the Army. The elasticity is pro-

vided for by giving to the President the authority to increase the number of soldiers in each company to one hundred in the cavalry and to one hundred and twenty-five in the infantry and artillery, to transfer soldiers from one company or battalion to another, and to man the unmanned third battalions, provided that until otherwise ordered by Congress the number of soldiers shall not exceed twenty-five thousand: but in case an emergency should arise to require Congress to authorize a large increase of force, the President can at once officer and man the fourth battalions, and thus place the regiments upon a war footing, which will give the cavalry regiments sixteen hundred men each and the infantry two thousand men each, making if necessary an aggregate force, including engineer soldiers, of about sixty thousand men, without increasing the number of regimental organizations.

The interchangeability between the line and the staff is established by making all the officers of the staff department below the rank of major detailable from the line of the Army, as heretofore indicated, and reducing the number of field officers of the staff departments to the number absolutely required for the present service. Promotion among the field officers in these staff departments is to be made by seniority, except as to the chiefs, who can be selected from the field officers of any corps in the Army. As vacancies in the lowest grade occur they are to be filled by officers of the line who have shown merit and efficiency in their service in said departments. The result of this reorganization will be to diminish the number of officers on the active list by three hundred and thirty-three.

The bill explains itself fully as to the method of taking care of the officers on the retired and reserved lists, and the committee feel that its provisions on this subject are liberal. None of the general officers are to be thrown out of service at once, but no promotions are to be made uptil they have been reduced to five, and thereafter the number shall not exceed six.

The question of consolidation of ordnance and artillery was freely discussed, and while it was the unanimous opinion of the committee that artillery officers should have opportunity to become experts in all the duties pertaining to the ordnance department, it was thought best not to merge the two corps, but to reduce the Ordnance Corps to the number of officers designated in the bill, all of whom are to be field officers, and to detail for duty in that department captains and first lieutenants of the artillery, and to supply the field officers as vacancies occur from the artillery officers who have shown efficiency in the department.

It was decided by the committee to provide in the bill that no more arms be manufactured by the ordnance department, but that they should be purchased either by contract or in the open market. It must be manifest to every one that action of this kind will stimulate the invention and manufacture of arms throughout the country, and that under this system the Government can more readily supply itself with efficient arms in case of an emergency than it could under the present system. To say that the arms procured by the Government in this way will not be as serviceable as if manufactured by the Government is to say that ordnance officers will become less expert as inspectors under the new system than under the old, which I cannot believe. No badly manufactured arms will be received by the Government of the United States, except by the neglect, incapacity, or dishonesty of the inspecting officers.

The Engineer Corps is not changed in this organization, because it was thought that their duties are such as to render the system of interchangeability in their case unadvisable.

It has been said by the opponents of this bill that it curtails the powers of the Secretary of War. Now, Mr. President, I will explain in a hurried way the sections in the bill which refer to the Secretary of War, from which it will be seen that in no way is the attempt made to abridge his powers, but that they are as full and distinct as they can be made under the Constitution and larger than they are now made by statute law.

There are but two sections in that part of the bill relating to the organization which in any way change the powers or duties of the Secretary of War, the seventh and thirty-seventh. Section 7 provides:

That an officer assigned to duty or command, according to his brevet as a general officer, may, under special sanction of the President, have the aids-de-camp allotted to the grade in which he is assigned to duty.

The only change in this section is that "the President" is inserted instead of "the Secretary of War;" and as the Secretary of War is the regular constitutional organ of the President for "the administration of the military establishment of the nation," no harm can result to his authority by the change.

The change in section 37 is similar to that in section 7. The words "the President" are inserted instead of "the Secretary of War." In that part of the bill referring to the Military Academy there are three sections relating to the powers of the Secretary, sections 44, 46, and 53. In the two first named the President is substituted for the Secretary of War, and by section 53 a new power (to organize a board of officers) is given to the Secretary. In that part of the bill relating to the War Department, the headquarters of the Army, &c., the first section which relates to the Secretary of War is the seventy-fifth; and to this I desire to call special attention. It reads as follows:

That the Secretary of War, under the direction of the President, shall exercise supervision and control over all branches of the military service, not only in those cases where his supervision and control are specially required by law, but in all cases embraced within the functions of the President as Commander-in-Chief of the land forces; and such supervision and control may be exercised by the Secretary of War as circumstances may require, either directly or through the Commanding General of the Army, and other officers of the Army, or through such agents as the Secretary may appoint in accordance with law.

Powers more ample than these cannot, in my opinion, be given under the Constitution. Section 77 reads as follows:

That the Adjutant-General, the Chief of Engineers, the Quartermaster-General, the Commissary-General of Subsistence, the Chief of Ordnance, the Surgeon-General, the Paymaster-General, the Chief Signal-Officer, and the Judge-Advocate-General, shall, for the administrative service of their several departments and bureaus, be chiefs of bureau in the War Department, and with their assistants shall be stationed at the seat of Government.

Section 79 reads as follows:

That the chiefs of bureaus shall act under the immediate direction and control of the Secretary of War, in all matters of accountability and administration not connected with military operations; and they shall act also as chiefs of staff to the commanding general of the Army, and as such they shall report directly to him, and act under his immediate orders in all matters appertaining to the command of the Army.

These two sections place the bureaus, and all matters of their administration not connected with military operations, under the exclusive control of the Secretary of War.

Section 82 provides:

That all orders relating to military operations, stations, or movements of troops, or to the discipline of the Army, and all orders or regulations for its general information or government, whether originating with the commanding general of the Army or directed by the President or Secretary of War, shall be issued from the headquarters of the Army.

This takes no power from the Secretary, but provides that the commanding general may be all the time in possession of proper information.

Section 83 reads as follows:

That the chiefs of bureau may issue orders to, and correspond directly with, the subordinate officers of their respective corps, departments, or bureaus, in respect to the manner of transacting business, to accounts, returns, and other details; but all official correspondence upon subjects of which commanding officers should have knowledge, and of this the commanding general of the Army shall be the judge, shall be transmitted through the headquarters of the Army, and through the subordinate commanders.

This section takes no power from the Secretary and makes the departments independent in all matters pertaining to administrative details of their offices. Section 120 reads as follows:

That details for duty in the general staff, other than aids-de-camp, and in the several staff departments and bureaus, except as provided in sections 28 and 46 of this act, shall be made by the President by selections from nominations submitted by the commanding general of the Army: *Provided*, That except in cases of emergency no officer shall be thus detailed against his will, nor in any case till he has served at least six years with his regiment, and that no such details shall be for a longer period than three years, or, except at the Military Academy, for two successive terms, in the same department of the staff; and that as far as may be these details, except for ordnance duty, shall be equalized between the corps of artillery, cavalry, and infantry.

This is one of the sections which it has been contended takes power from the Secretary of War. He has never had this power, and he is not supposed to be as well acquainted with the qualification of officers of the Army as the commanding general. The general-in-chief, by this section, has not the power to appoint these officers, but he is simply required to recommend them to the President for appointment. I know of no one who is better qualified to recommend than he. This section is new and pertains to the new organization. The committee deemed it wise to lodge this new power of reorganization where it will be wielded with efficiency. It can scarcely be called a new power, for after the recommendation is made the President need not act upon it, but may call for a new nomination.

Some of the sections of the bill have in them the following language:

Under the direction of the Secretary of War and the orders of the commanding general.

This language is used because the duties contemplated by this section are of a mixed nature, partly administrative, pertaining to the duties of the Secretary of War, and partly of a military nature, and as the commanding general is always subordinate to the Secretary, no assumption of power by him can occur.

Then, there are five classes of sections in the bill which pertain to the power of the Secretary:

First. Those in which it is proposed to substitute the President for the Secretary.

Second. Those in which the Secretary's power is unchanged.

Third. Those in which the Secretary and commanding general of the Army are jointly named.

Fourth. Those in which new authority or duty is placed upon the Secretary.

Fifth. Those in which authority is transferred from the Secretary to the commanding general.

In the first class are the following sections: Nos. 7, 37, 44, and 568.

In the second class are the following: Nos. 46, 75, 77, 79, 402, 403, 406, 442, 449, 459, 461, 467, 470, 472, 492, 495, 500, 562, 563, 564, 565, 566, 567, 586, 604, 605, 608, 617, 622, and 634.

In the third class are the following: Nos. 519, 570, 591, and 628.

In the fourth class are the following: Nos. 262 and 404.

In the fifth class are the following: Nos. 83, 120, 153, 206, 571, and 707.

Some of the sections of the first class have already been referred to, so that no further discussion on that class is necessary. There can surely be no wrong in substituting the President for the Secretary. Neither is it necessary to make further discussion upon the sections in the second class, as they leave the power of the Secretary unchanged.

The sections in the third class have been referred to incidentally, but as there are but four of them it may not be amiss to treat them more in detail. Section 519 places the subsistence department of the Army "under the direction of the Secretary of War, and the orders of the commanding general of the Army." Truly this is a proper provision. It is under the direction of the Secretary of War in all matters relating to the purchase of supplies and the accountability for moneys, but in all matters relating to the movements and subsistence of troops it is under the orders of the commanding general.

Section 570 places the Chief of Engineers "under the direction of the Secretary of War and the orders of the commanding general," and this is also very proper. Foregoing sections give the Secretary of War full control and supervision of all the administrative duties of that bureau, but it is subject to the orders of the commanding general of the Army in all matters of a military character.

Section 591 relates to the inspection of arsenals, armories and ordnance depots, and simply gives authority to both the Secretary of War and the commanding general to order such inspections as they may deem necessary.

Section 628 authorizes both the Secretary of War and the commanding general of the Army to assign medical directors to duty. There is great propriety in the arrangement of duties made by these sections.

Of the fourth class, which gives new power to the Secretary of War, I need say nothing. An examination of these sections will show that the new powers given to him are very proper.

It remains now to speak of those sections included in the fifth class. Section 83 provides that correspondence between the heads of bureaus and their subordinates of a military nature shall pass through the military commanders. It needs no argument to sustain the propriety of this section.

Section 120 relates to the detail for staff duty by the President upon the recommendation of the commanding general. It will be remembered that this section has been discussed in my preceding remarks, and needs no further notice here.

Section 153 provides that the general staff shall be "under the direction of the Secretary of War and the orders of the commanding general and subordinate commanders." An examination of this section will show that the Secretary of War has entire control and supervision of this department in all administrative affairs, but in affairs purely military it is very properly subject to the orders of military commanders.

Section 206 transfers the direction of the recruiting service from the Secretary of War to the commanding general. This duty has from time to time devolved upon the general in command of the Army, and should be there now. Who better than he should know how to direct it?

Section 571 gives to the commanding general the power to assign engineer officers or soldiers to such duties as the service may require. It is proper that this power should vest in him, and if he wields it against the best interests of the service the Secretary of War has the authority to correct him.

Section 707 relates to the Signal Bureau, and places it under the orders of the commanding general in all military affairs, but leaves it under the direction of the Secretary of War in all matters relating to the meteorological observations and reports required by law. Thus it will be seen that all the civil duties of this department are under the direction of the Secretary of War, and all the military duties are under the orders of the commanding general, which, I submit, is a very proper arrangement.

It now remains to discuss the sections in the bill which relate to the commanding general of the Army, which may be classed as follows:

1. Those in which his authority is unchanged.
2. Those in which new authority is given to him.

The sections in which he holds joint authority with the Secretary of War have already been discussed.

In the first class are the following sections: 86, 127, 129, 171, 196, 253, 254, 271, 410.

In the second class are the following sections: 30, 81, 121, 124, 284, 435.

Of the first class I need not speak, as they confer no new authority.

Of the second class, section 30 authorizes the commanding general to station artillery companies as guards at the arsenals, which is a change incident to the new organization.

Section 81 gives authority to the commanding general to designate to the President a general officer to perform his duties at the seat of Government when his presence is required with the armies in the field, which is a very proper authority for the commanding general to exercise.

Section 121 gives him authority to maintain a due proportion of officers with each regiment and the staff departments by necessary transfers.

Section 124 gives him authority to assign staff, bureau, and engineer officers, but leaves the power of supervision with the President and Secretary of War.

Section 284 gives him the entire control of the transfers of enlisted men. I submit that the powers conferred by these sections are very proper ones to be left in his hands.

Section 435 requires the chiefs of bureaus to make annual reports to the commanding general of the operations of their departments. To this there can surely be no objection.

I have now treated of all the sections in the bill relating to the authority conferred upon the Secretary of War and the commanding general.

And now I wish to say that even in the earliest days of our Government the Secretary or War was not considered a part of the Army, and was not considered the proper person to perform the military duties appertaining to the Army. On January 25, 1821, when some question arose as to this matter, William Wirt, then Attorney-General, gave this opinion of the Secretary of War:

He does not compose a part of the Army and has no duties to perform in the field.—1 *Opinions Attorney-General*, 457.

I could cite numerous decisions of the same kind by the courts and different Attorneys-General all tending the same way.

He is a civil officer and all his duties are civil duties.—4 *Nott & Huntington*, 125.

Yet he is—

The regular constitutional organ of the President for the administration of the military establishment of the nation, and rules and orders publicly promulgated through him must be received as the acts of the Executive and as such to be binding upon all within the sphere of his legal and constitutional authority. (See United States *vs.* Eliason, 16 Peters, 291; and Wilcox *vs.* Jackson, 13 Ibid., 498.)

The President of the United States has the right to place in command of the Army any one of the general officers. If he at any time finds that the general officer who is detailed for the performance of the duties of Commanding General of the Army is at all disinclined to acquiesce in orders issued by him, or is at all disinclined to co-operate with him in his directions with reference to the Army, he can at once be relieved and a new officer detailed in his stead. So that he is all the time under the control of the President of the United States and the Secretary of War.

Another objection that I have heard to this bill is that it is too long for consideration at this session. As I have before said, Mr. President, the bill is intended for a military code, and is made up of existing laws, regulations, and customs of the service which it is proposed to make law, and sections entirely new.

I will now give a list of every section in this bill containing new matter of importance so that they can be readily referred to, and Senators will discover that no new power has been given to any military officer and no new section has been added which has not been added with a view to making the new organization complete.

The following are the sections containing new matter that may be deemed important, not already discussed:

Organization, sections 1–43; Military Academy, sections 44–47, 50, 52, 53, 55, 59, 62, 68, 70, 73, 74; War Department, &c., sections 76, 78, 81; rank and precedence, sections 87, 92, 93; appointments, sections 94, 95, 96, 97, 100, 101, 102, 104; promotions, sections 107, 110, 111; brevets, &c., sections 112–118; staff details and assignments, sections 122, 123; command, sections 128, 132, 133, 134, 135, 136, 137, 143; the general staff, sections 166, 168, 186, 190; the inspection service; the recruiting service, sections 207, 210, 221; regiments and companies, sections 222, 223, 224, 233, 234; military posts, section 249; instruction of the troops, sections 250, 251, 256, 257, 259; military instruction at colleges, sections 261–265; exchanges and transfers, sections 282, 289; discharges, sections 297, 298, 299; retired officers, sections 300–317; Soldier's Home, sections 319, 320; the roster, &c., section 341; extra and fatigue duty, sections 344, 346; Army administration, sections 405, 414, 415, 421, 429, 430, 431, 443, 446; Quartermaster's Department, sections 451, 453, 454, 457, 460, 462, 469, 488, 490, 494, 501, 505, 506; subsistence department, sections 520, 521, 551, 552, 554, 555, 556; fortification and armament, &c., sections 562, 567; the Corps of Engineers, sections 572, 581, 582; the ordnance department, sections 589, 594, 595, 610, 620; the medical department, section 628; the pay department, sections 669, 686, 699, 700, 705, 706; Bureau of Military Justice, sections 715, 717, 718, 720; articles of war, section 721; articles 1, 3, 5, 9, 13, 14, 15, 18, 25, 29, 32, 33, 38, 40, 41, 46, 47, 61, 63, 71, 72, 73, 74, 76, 77, 78, 86, 89, 92, 93, 102, 105, 106, 107, 108, 112, 113, 114, 120, 122, 125, 126, 128, 139, 140, 141, 142, 143, 144, 145—sections 723, 724.

The details of the bill relating to forage, fuel, quarters, &c., I have not touched upon, but I will be glad to give when the bill comes up for consideration such explanations as may be called for. The task of framing a bill to reduce the Army has not been a pleasant one to the committee, and could I feel that the best interests of the country and of the Army would be served by the failure of this bill, I would gladly oppose its passage, and would be delighted to know that none of my old friends in the Army were to be disturbed in their positions. But, Mr. President, I am satisfied that reorganization and reform is necessary, and unless it is accomplished under some systematic and considerate plan, reduction will be very soon made under a hasty and inconsiderate plan. It seems to me, therefore, very unwise in officers of the Army, and particularly in the officers of the staff departments, to resist proper legislation touching this subject.

Mr. MATTHEWS. Mr. President, before the Senator from Rhode Island concludes his remarks in support of the bill, I desire to call his attention to one matter that struck me in listening to him. He has defended the bill against the charge of having reduced the existing power of the Secretary of War. But I observe that in his re-

marks, and in his extracts from the bill itself, he quotes passages which he says confer a new power upon the commanding general. If I understood them rightly, they limit the power of the Commander-in-Chief, the President of the United States, in making appointments in the Army by way of promotion and by way of special detail; and I should like the Senator from Rhode Island to answer, if he is prepared to do so to-day, whether or not the bill is not in its present shape open to an objection of that kind?

Mr. BURNSIDE. Mr. President, the right of the General-in-Chief to make recommendations to the President of the United States and to the Secretary of War touching promotions in the Army has always existed. This simply indicates the way and manner of appointment by the President—that certain officers shall be appointed by the President upon the recommendation of the commanding general. If the President chooses to decline to appoint on the recommendation of the commanding general, he can do so, and he can call for a new recommendation.

Mr. MATTHEWS. But can he appoint under the bill, if it becomes a law, any one who is not recommended by the commanding general?

Mr. BURNSIDE. He cannot. It is the intention of the committee to provide against just that very evil in the service.

Mr. MATTHEWS. Then I repeat the inquiry whether or not the committee have considered the question in its constitutional bearings as a limitation upon what the Constitution does not limit as to the power of the President to nominate and the power of the President as Commander-in-Chief of the Army?

Mr. BURNSIDE. I will answer the Senator by saying that it limits him no more in this respect than he is now limited as to other appointments. The President appoints a cadet to West Point, but he cannot appoint him under the present law or custom unless he is recommended by the member of Congress from the district from which that cadet is to be appointed. There are a great many other things in which he is limited. He can appoint officers from certain classes. Under this bill he cannot appoint an officer in the staff departments unless he is in the Army. If you can say he cannot appoint an officer in the staff departments unless he is in the Army, you can say that he cannot appoint him unless by competitive examination, which the bill provides for, he has shown himself capable for the office and unless he is recommended by the commanding general of the Army, who is the man best suited to judge of the capacity of officers.

This section, as I said before, is entirely new and is put in as a feature of this organization. The junior officers in the staff departments are from time to time to be promoted to vacancies in the departments, vacancies of field officers; and so there must be some method by which the appointments can be made. Otherwise they will be left entirely to the will of the President, and the President can make them from any part of the Army without reference to their service in the department—can make them, in other words, at the solicitation of friends outside of the Army, and friends who know nothing about the subject. This section is put in to insure efficiency in the staff departments; in other words to provide that none but qualified officers shall go into those departments. It is a power that has never existed with the Secretary of War, because no such section was in the statutes.

The VICE-PRESIDENT. The bill will now be returned to its place on the Calendar, and the consideration of the special order will be resumed.

MAIL TRANSPORTATION DEFICIENCY.

Mr. DORSEY. With the consent of the Senator from New Hampshire, [Mr. WADLEIGH,] I ask the Senate now to proceed to the consideration of the House bill No. 5682, a bill to make an appropriation for a deficiency in the Post-Office Department.

The VICE-PRESIDENT. The Senator from Arkansas moves that the pending order be informally laid aside for the purpose of considering at this time House bill No. 5682.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879. It appropriates $450,000 to meet the deficiency in the appropriation for the transportation of mails by railroads for the fiscal year ending June 30, 1879; but no increase in the postal-car service beyond what existed on the 1st of December, 1878, is to be made during the fiscal year ending June 30, 1879.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISTRICT BONDS.

Mr. DORSEY. Now, with the consent of the Senator in charge of the pending measure, I ask the Senate to proceed to the consideration of the bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes. This is the bill which I reported from the Committee on the District of Columbia last evening, and which was laid over under objection. It is a very important measure and should be passed, so as to go into effect before the 1st of January.

The VICE-PRESIDENT. Is there objection?

Mr. COCKRELL. Let the bill be read.

Mr. WHYTE. For information.

Mr. DORSEY. If the Senator from New Hampshire does not object——

Mr. WADLEIGH. I do not object because I understand it will not lead to discussion. If it is likely to lead to discussion I shall object. I reserve the right at any time to call for the regular order.

Mr. DAVIS, of West Virginia. There is no doubt that there will be discussion on the bill. I say that to the Senator before he proceeds.

Mr. DORSEY. I think if the Senate understands the bill there will be no objection to taking it up now. The District of Columbia has on the 1st day of January $281,000 of its funded debt falling due. Provision was made at the last session of Congress to pay this debt, and the District commissioners were authorized to issue bonds to redeem the bonds maturing at the time named; but that provision, or a portion of it, was omitted in the enrollment of the sundry civil appropriation bill, and we find now that within two weeks of the time this debt is due these people have no authority to redeem it and no means to redeem it with. This bill simply provides that the Secretary of the Treasury shall issue new bonds and take up the old as they fall due. If the Senate want to allow the District of Columbia to default upon its obligations, I have no more interest in it than the rest of the Senate.

Mr. DAVIS, of West Virginia. I have not read the bill; I do not know its provisions, and do not know but that it may be all right. I have no objection to its being taken up; but beyond doubt it will lead to discussion.

Mr. DORSEY. I think not.

Mr. DAVIS, of West Virginia. I know what I am talking about, the Senator will allow me to say.

The VICE-PRESIDENT. The bill will be read for information.

The Secretary read the bill, as follows:

Be it enacted, &c., That the provision of the act making appropriation for sundry civil expenses, approved June 20, 1878, authorizing the commissioners of the District of Columbia to issue bonds to redeem certain bonds of said District falling due January 1 and March 1, 1879, be, and the same is hereby, amended so that the last clause of the paragraph containing said provision shall read as follows: "Said bonds shall be registered or coupon bonds, and shall be of the denomination of $100 or $500, or both, and shall be payable twenty years after date, and bearing a rate of interest not exceeding 6 per cent., and not to be sold for less than their par value, and to be awarded to the most favorable bidder or bidders, after having been advertised by the Treasurer of the United States, as sinking-fund commissioner of said District, for ten successive insertions in two daily papers in Washington and two in New York, the bids to be opened in the presence of the Secretary of the Treasury, and the award to be subject to his approval."

SEC. 2. That the Secretary of the Treasury be, and he is hereby, authorized to advance to the sinking-fund commissioner, upon requisition of the commissioners of the District of Columbia, a sum not exceeding $281,500 to pay the bonds of said District falling due as aforesaid; and the amount so advanced shall be reimbursed to the United States from the sale of the bonds to be issued in accordance with the provisions of this act.

SEC. 3. That the commissioners of the District of Columbia be authorized to expend a sum not exceeding $10,000 to defray the expenses of the reassessment of real property and taking the census in said District, as directed in the act of Congress approved April 3, 1878.

Mr. KERNAN. I do not rise to object to this bill, but I desire some explanation, and to enable the chairman to give it I ask that an extract from the report of the Treasurer of the United States, who is *ex officio* commissioner of the District sinking fund, be read, and then let there be an explanation of the bill, and especially of the appropriation of $10,000 in the last section.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The paper will be read.

Mr. KERNAN. It was stated yesterday that these old bonds were 7 per cent. bonds. I think they are 6 per cent., the same as this bill provides for. I ask the Secretary to read what is marked in the report of the Treasurer.

The Secretary read as follows:

On the 1st of January next $279,000 of the 6 per cent. ten-year bonds of the corporation of Washington become due and payable, and on the 1st of next March $2,500 of the 7.30 steam-force-pump bonds of the corporation of Georgetown become due and payable. To provide for the redemption of these loans at maturity Congress at its last session provided for the issue of $281,750 thirty-year —— per cent. bonds to take their place. On November 29 the commissioner of the sinking fund made the following offer to the commissioners of the District:

"As commissioner of the sinking fund of the District of Columbia, I have the honor to make the following proposition, subject to whatever action by Congress is necessary to sanction the transaction. For the benefit of the sinking fund I will subscribe at par for so many of the thirty-year bonds authorized by the act of June 20, 1878, as can be paid for from the amount to be appropriated for the sinking fund for the current fiscal year, and will take the remainder on July 1, 1879, to be paid for from the appropriation for the sinking fund for the fiscal year 1880.

"I need not say that this proposition, if accepted, will avoid the expense of preparing and issuing the bonds, and will give the sinking fund the benefit of the interest thereon, and avoid future payment of premium and other expense of retiring them ultimately."

Mr. DORSEY. If the commissioner of the District sinking fund, who is the Treasurer of the United States, proposed to take up all these bonds now, it would enable the commissioners to pay off this maturing debt; but he proposes no such thing. He proposes to take only a portion of them on the 1st of January and the larger portion on the 1st of next July, six months after the debt is due and payable.

Now, Mr. President, I send to the Secretary a letter from the District commissioners on this subject.

Mr. KERNAN. The point I desire the Senator to observe is that the commissioner of the sinking fund says:

I need not say that this proposition, if accepted, will avoid the expense of pre-

paring and issuing the bonds, and will give the sinking fund the benefit of the interest thereon, and avoid future payment of premium and other expense of retiring them ultimately.

He seems to think this proposition of his will avoid expense. I do not understand why the law should be changed as this bill proposes. The other law authorized the issuing of the bonds. This is not a transcript of the other, but changes it in some respects.

Mr. DORSEY. Yes, sir.

Mr. KERNAN. I want to understand why that is, and why his proposition is not a good one.

Mr. DORSEY. The Senator from New York will see that his proposition is not good because he does not propose to take up all these bonds when due. Two hundred and seventy-nine thousand dollars 6 per cent. bonds are due on the 1st of January, and $2,500 of 7.30 percents are due on the 1st of March. The commissioner of the sinking fund proposes to take up only a small portion in January and the balance next July, and the result would be a default of six months from the time the whole amount is due by the District.

In regard to the last item to which the Senator from New York alluded—an appropriation of $10,000—that is for an entirely distinct matter. The District commissioners made their estimates last December, and revised them again in April, for the expenses of the District government. After these estimates were made and the appropriations were based upon them by the House, we passed a bill reorganizing the government of the District. In that bill we required the District commissioners to reassess the property of the District and take a census. They had not estimated for any money for that purpose, and we did not appropriate any. Now they find themselves under the law required to make this reassessment and this census without the money to do it. That work ought to be done at once.

Mr. KERNAN. This does not appropriate any money to that; at least that was not what I alluded to.

Mr. DORSEY. Yes, sir; section 3 appropriates $10,000 for that purpose.

The PRESIDING OFFICER. The letter sent to the desk by the Senator from Arkansas [Mr. DORSEY] will be read for information.

The Secretary read as follows:

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, December 9, 1878.

SIR: The commissioners of the District have prepared amendments to the act authorizing them to issue bonds to redeem those falling due January 1 and March 1 next, and respectfully submit them for consideration of your committee. The omission of a rate of interest in engrossing the sundry civil bill of last session renders that part of the act respecting the issue of those bonds defective. There are some changes in the provisions of the law besides the correction of that error which we think it desirable to introduce with a view to improving the chances of a favorable sale of the securities.

A month ago when call loans were made at 7 per cent. there was not much probability of selling a 5 per cent. bond of the District at par. With the present cheaper rate for money the chance is improved.

The second section confers authority to pay the expenses of a reassessment of real estate and taking the census in the District. The law passed in April, while the estimates to which the commissioners are confined in their expenditures were submitted to Congress in January. These estimates were hastily amended in June, but the additional expense created by the assessment and census was overlooked. An extended resurvey was found necessary in Georgetown, where the system of tax levy in former years was different from that followed in Washington, and a numerical book is now prepared for the first time for that city.

By order of the board.

S. L. PHELPS, *President.*

Hon. A. S. WILLIAMS,
Chairman Committee on District of Columbia, House of Representatives.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole.

Mr. DAVIS, of West Virginia. I should like an explanation from the chairman of the committee. Let me ask what interest do the bonds now existing bear?

Mr. DORSEY. Two hundred and seventy-nine thousand dollars that we propose to redeem bear 6 per cent. interest, and $2,500 bear 7.3 per cent. interest.

Mr. DAVIS, of West Virginia. Then I understand that the bonds now in existence bear 6 and 7.3 per cent. interest. Now, will the Senator be kind enough to inform us why it is that he wants the Treasury of the United States to advance the money called for in the second section?

Mr. DORSEY. It seems to me very clear that it is impossible under this bill for the District commissioners to prepare these bonds and sell them and raise the money on them between this and the 1st of January in order to redeem the bonds then maturing. That of course is a physical impossibility; they cannot do it. If the bill had become a law when it should have become a law, at the last session of Congress, then they would have had time to issue and sell these new bonds and take up the maturing bonds. Now it is proposed that the Secretary of the Treasury shall advance the money needed for this purpose, and reimburse himself out of the sale of the bonds as soon as it can be done.

Mr. DAVIS, of West Virginia. If the credit of the District is what we think it ought to be and what we suppose it is, it appears to me that a 5 per cent. bond ought to take the place of the 6 per cent. bond provided for in this bill. I see no reason why a bond of this District or one with which the Government of the United States has anything to do in the remotest degree should be issued at 6 per cent., why a 5 per cent. bond is not sufficient. We are selling bonds of the Government daily at 4 per cent., perhaps a million a day on an average. This bill provides, as I see, for a 6 per cent. bond. I would ask the chairman of the District Committee whether or not he has information that would lead us to believe that a 6 per cent. bond ought to be provided for here when a 5 per cent. bond probably is sufficiently high?

Mr. DORSEY. These bonds are not in any legal sense Government bonds.

Mr. DAVIS, of West Virginia. I hope the chairman will not misunderstand me. I said that a bond which the Government in the most remote way might have anything to do with ought not to be issued with a higher rate of interest than 5 per cent.

Mr. CONKLING. Are these bonds exempt from taxation?

Mr. DORSEY. I was about to come to that point. Inasmuch as these are not Government bonds, they are subject to the same taxation that other personal property is in this District, and will be hereafter; and for that reason, if for no other—and there are many others I could give—these bonds cannot be sold in New York or elsewhere at the same rate that Government bonds are sold for. The commissioners believe that they will not be able to sell the bonds proposed to be issued under this bill for par at a lower rate of interest than 6 per cent., and they have been investigating the matter carefully.

Mr. DAVIS, of West Virginia. Do I understand the Senator to say that these bonds will be subject to taxation, and that the bonds for which these are to be substituted are taxable also?

Mr. DORSEY. I presume they are, the same as other personal property.

Mr. DAVIS, of West Virginia. Has the Senator information upon that question?

Mr. DORSEY. I have none except the general impression I have in regard to taxable property.

Mr. DAVIS, of West Virginia. My information is the reverse, that they are not taxable.

Mr. ALLISON. These bonds?

Mr. DAVIS, of West Virginia. These bonds.

Mr. ALLISON. They are taxable.

Mr. DAVIS, of West Virginia. I do not speak with knowledge. I asked the question and I say that my information is different.

Mr. DORSEY. I think the Senator's information is in error in that respect. These bonds are taxable in the District the same as other personal property.

The bill was reported to the Senate without amendment.

On the question of ordering the bill to a third reading, a division was called for, and the ayes were 19.

Mr. DORSEY. Let us have the yeas and nays on this question.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. I believe it is in order now to move to strike out "six," in line 14 of section 1, and insert "five." I dislike to do it, for I have no wish to embarrass the bill, especially as the Senator says it must be passed to-day or to-morrow or else it must go over till after the recess and then the time will pass within which these bonds should be provided for. That hesitation has prevented me from making the motion previously; but as the yeas and nays are to be called I wish it understood that I shall vote against the bill on account of the rate of interest. I think 5 per cent. ought to be sufficient.

Mr. WITHERS. I wish to ask for information of the Senator who has charge of the bill, whether I correctly understand him as saying that this bill was substantially passed last year making this provision, and that owing to an accidental error in the enrollment it was left out of the bill where it was designed to be, and hence the necessity for this bill.

Mr. DORSEY. The Senator from Virginia did understand me to say that, but I should have added that when the bill of last session came from the other House it provided for 6 per cent. interest and the Committee on Appropriations of this body changed it to 5 per cent., and the result was that between the two Houses they left out in the enrollment any rate of interest at all. That is the fact. I am not very strenuous in regard to the rate of interest myself.

Mr. KERNAN. Allow me to ask another question. I have before me the law of June last. The rate of interest is left blank. It provides for issuing bonds with blank interest. Now, why is the law changed as it was matured then, except to fill the blank? What is the difficulty with the old law? It authorizes the issue of bonds running for twenty years. They have had since last June a law authorizing their issue. The bonds are therein defined. The only difficulty is that the rate of interest is not specified.

Mr. DORSEY. The authorities of this District did not think they had sufficient authority of law. A portion of that law was omitted in the enrollment, and they did not assume the responsibility of issuing bonds with any interest, because the law did not say what the interest should be. I believe myself 5 per cent. ought to be sufficient, and perhaps no more will be paid under this bill.

Mr. MORRILL. I do not understand that this bill proposes to enlarge the responsibility of the United States in the least. It is merely a District transaction. This bill allows them to renew an existing debt. Under these circumstances the Senator from West Virginia proposes that the rate of interest shall be limited to 5 per cent. Now I desire to say that I do not know of a city in the entire Union whose credit is sufficient to obtain a loan at 5 per cent.

So far as the taxation of these bonds is concerned, let me say that there are no bonds but those of the United States which are not subject to taxation. The taxation in most cities is more than 1½ or 2 per cent. Now it seems to me that the exigency of the case rather requires that we shall act upon this bill as it comes to us from the

House of Representatives. I cannot see anything hidden under it to which any Senator need object. It neither increases the power nor decreases the obligation of the District in the least.

Mr. DORSEY. If the Senator from West Virginia will be good enough to look at the bill he will see that the commissioners are not required to issue these bonds at 6 per cent., unless they find it necessary to do so in order to sell them at par. If they can sell at par bonds bearing 5 per cent. interest they will do it, but if they cannot, then they are permitted to go to 6 per cent., and no further. By reading the clause beginning at line 13, the Senator will see the clear intent of the bill. While I believe 5 per cent. bonds ought to sell at par, I doubt very much whether they can be sold at that rate.

Mr. DAVIS, of West Virginia. I have no wish to prolong the discussion, but I understood the Senator from Vermont to say that no city bonds whatever were free from taxation. I beg that Senator's pardon. I know a great many cities that exempt their bonds from taxation.

Mr. MORRILL. I did not say that. I said I knew of no city that was able to negotiate its bonds at par at so low a rate as 5 per cent. interest.

Mr. DAVIS, of West Virginia. That is another question. I do not know about that either. I will say to the Senator that it now occurs to me that the city of Baltimore a very short time ago asked for bids for a million dollars of bonds at 5 per cent., and my recollection is that they sold at 103 or 104. I appeal to the Senator from Maryland to know whether I am right or not. He says yes, I am right, that the neighboring city of Baltimore a few days ago issued 5 per cent. bonds at a premium.

Mr. MORRILL. Then they were exempt from taxation.

Mr. DAVIS, of West Virginia. I take it so; but I understood the Senator to say a moment ago that no bonds were exempt from taxation.

Mr. MORRILL. I did not say so.

Mr. DAVIS, of West Virginia. Then I misunderstood the Senator.

Mr. DAWES. The radical difference between those bonds and these is this: when the city of Boston issues her bonds every particle of the real estate, whether owned by an individual or otherwise, is liable for the payment of them. If a suit be brought against the city of Boston for such a debt, a judgment recovered against the city of Boston may be levied upon the personal or real estate within its limits, no matter whether it is owned by the city or owned by a citizen of the city. That is not true of this city, and I think it is hardly true of any city outside of New England.

Mr. DAVIS, of West Virginia. I think the Senator is mistaken; for in the very instance we have just talked of, the city of Baltimore, its 5 per cent. bonds sold, my recollection is, for about 4 per cent. premium.

Mr. DAWES. I beg the Senator's pardon. I understood him to refer to the city of Boston.

Mr. DAVIS, of West Virginia. Oh, no; Baltimore. "The neighboring city of Baltimore," I said. Mr. President, I have no wish to defeat this bill. I believe that any amendment would carry it over; and as the District Committee has thoroughly examined it and is pretty nearly unanimous upon it, I presume that it ought to pass, and I withdraw my amendment unless some Senator thinks proper to renew it. I believe these bonds ought to be negotiated at 5 per cent. Inasmuch as I see its interest is not to exceed 6 per cent. I hope that the commissioners, when they come to advertise this loan, will give the public an opportunity to take it at 5 per cent. if they wish.

The PRESIDING OFFICER. The amendment of the Senator from West Virginia is withdrawn. The question is on ordering the bill to a third reading, upon which the yeas and nays have been ordered.

Mr. DORSEY. I withdraw the call for the yeas and nays.

Mr. COCKRELL. I desire the yeas and nays. I desire to express my sentiments by voting against the bill.

Mr. DORSEY. Very well.

The PRESIDING OFFICER. The yeas and nays have been ordered and will be taken.

The question being taken by yeas and nays, resulted—yeas 28, nays 16; as follows:

YEAS—28.

Allison,	Conover,	Harris,	Rollins,
Barnum,	Davis of Illinois,	Hoar,	Saunders,
Blaine,	Dawes,	Howe,	Teller,
Burnside,	Dorsey,	McMillan,	Wadleigh,
Cameron of Wis.,	Ferry,	Matthews,	Whyte,
Christiancy,	Garland,	Mitchell,	Windom,
Conkling,	Hamlin,	Morrill,	Withers.

NAYS—16.

Bailey,	Eustis,	McCreery,	Randolph,
Cockrell,	Gordon,	Maxey,	Ransom,
Coke,	Grover,	Merrimon,	Saulsbury,
Davis of West Va.,	Kernan,	Morgan,	Voorhees.

ABSENT—32.

Anthony,	Chaffee,	Jones of Florida,	Paddock,
Armstrong,	Dennis,	Jones of Nevada,	Patterson,
Bayard,	Eaton,	Kellogg,	Plumb,
Beck,	Edmunds,	Kirkwood,	Sargent,
Booth,	Hereford,	Lamar,	Sharon,
Bruce,	Hill,	McDonald,	Spencer,
Butler,	Ingalls,	McPherson,	Thurman,
Cameron of Pa.,	Johnston,	Oglesby,	Wallace.

So the bill was ordered to a third reading.

The bill was read the third time, and passed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 1460) to authorize the issue of certain duplicate registered bonds for the benefit of the Manhattan Savings Institution.

REVISION OF THE PATENT LAWS.

The PRESIDING OFFICER. The Senate, as in Committee of the Whole, resumes the consideration of its special order, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, the question being on the amendment offered by the Senator from Minnesota, [Mr. WINDOM,] upon which the yeas and nays have been ordered.

Mr. WHYTE. Mr. President, I must confess to some surprise that the brief suggestion of the Senator from New Hampshire [Mr. WADLEIGH] in regard to the constitutionality of this proposed amendment has not evoked some discussion upon that branch of the objection to the amendment of the Senator from Minnesota. Apart from the inconsistency of such an amendment with the general scope of the patent law, it strikes me that the very proposition is in the teeth of the constitutional provision on this subject. The Constitution says that—

> The Congress shall have power * * * to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

How can that be an "exclusive right" to an inventor in his discovery which allows anybody to infringe it? How can Congress exercise the power of exclusiveness in granting to an applicant for a patent under the Constitution if Congress in the very patent law excludes certain persons who are not prevented from infringing? It strikes me that there is an Irishism about the proposition that in carrying out a constitutional power to give exclusive property in the invention of a man's own brain Congress at the same time excepts certain other people who have the privilege of using it. I cannot understand that principle. Unless the grant is exclusive in its character and operates against everybody it is not a constitutional exercise of the power of Congress. It cannot be according to my understanding of the use of these words. The very word "exclusive" was put in to prevent just such a case.

Mr. MITCHELL. May I ask the Senator a question?

Mr. WHYTE. Certainly.

Mr. MITCHELL. That of course is the full extent of the power to which Congress is authorized to go by the Constitution. But is it absolutely necessary, in order to promote the progress of science and the useful arts that Congress should go to the extent of making the right exclusive?

Mr. WHYTE. Yes; I think it is.

Mr. MITCHELL. I do not say exactly that it is not necessary to go to the full extent, but I think it is a very serious question.

Mr. WHYTE. Either Congress must not grant the right at all, or if it exercises the constitutional power it must exercise it in the manner prescribed by the Constitution and in no other manner.

Mr. MITCHELL. There are a great many grants of power in the Constitution, and Congress has exercised those grants in a great many ways without going to the full extent of the power. It has been a serious question in my mind since this discussion came up. I do not say but what the Senator is precisely right, but it has bothered me considerably.

Mr. WHYTE. That is the very point which I make. If it was a grant of a general power to Congress to be exercised in the discretion of Congress to promote the arts and sciences, no doubt there could be limits in such cases; but the language of the Constitution is express. It is different in regard to this power from the other powers granted to Congress, because here while giving a power that power is limited. If you grant any security to an inventor it must be a security which gives him the exclusive right to the products of his own labor and invention. That is the very point in this case. Where the framers of the Constitution expressed their intention to be that such security shall be an exclusive one in favor of the inventor, the framers of the Constitution meant to say that that was an express clause put in purposely to limit the power of Congress, and not to allow Congress to grant a partial protection to any inventor. It must be exclusive in its character, not to operate against A and B, but against everybody who may infringe the man's patent; I cannot understand any such principle as to say that because a man goes into a store and there buys a patented article, simply because he does not know that it is patented, he is to use it and infringe the right of the patentee. I cannot understand any such principle as that, when you look at the object and scope of the patent law. Who doubts that the exclusive right granted by Congress under the Constitution to inventors gives a right of property to the inventor in the product of his labor and his skill? That device, that invention, is just as much his property as the horse he has purchased that stands in his stable.

Mr. MITCHELL. But, after all, he has no right of property in it, and cannot possibly have, unless the statutes of the United States give it to him. The Constitution gives him no right.

Mr. WHYTE. Certainly not; but I am speaking of his right after he has letters-patent granted by the Government of the United States. That gives him the right of property and an exclusive right against

any person within the United States who infringes it, as the law now stands. Where is the difference between this case and that of a man who steals my horse and goes into the market-place and sells it to an unsuspicious buyer, and the buyer pays the horse-thief the money for the horse, its full value? The horse-thief goes on his way rejoicing, and if I come forward and find my property in the hands of the buyer of that horse, is he not bound either to return to me my property or to pay me the value of it?

Mr. SAULSBURY. Will the Senator allow me to ask him a question?

Mr. WHYTE. Certainly.

Mr. SAULSBURY. It is very true that the Senator may recover his horse; but I ask him this: If a party had manufactured an article by the infringement of a patent, say a wheat-machine, could the patentee go and replevy the machine which had been manufactured by the infringer? Has the patentee a right of property in that and has not the man who has purchased it of the infringer a perfect right of property in it?

Mr. WHYTE. Certainly. That is a different case because that is a mixed property. I have no right to take the man's wood; I have no right to take his nails; I have no right to take the wire which may be used in the machine; I have no right to take anything but that which belongs to me, and that is my patent which I have gotten through the action of the Congress of the United States from its Department. I cannot get that by a replevin, of course, but in lieu of that, because of the nature of the machine, I can get under the law the value of my patent which is incorporated in that machine, and I am just as much entitled to get the value of my patent incorporated in that machine as I am entitled to get my horse if I find it in my neighbor's stable. I can see no distinction. That is the practical part of the case, it is the legal branch of the case, to which I invite the constitutional lawyers of the Senate. Can that be a compliance with the Constitution of the United States which authorizes Congress only to grant letters-patent which will secure to an inventor the exclusive right to his property, when by an act of Congress you say it shall only be partially exclusive, only operate in a certain class of cases, but here is another class of cases in which it shall not be exclusive? I think, Mr. President, with great respect, the argument which goes to make this a constitutional provision is a *reductio ad absurdum*.

Mr. WINDOM. Mr. President, if I may have the unanimous consent of the Senate to withdraw the pending amendment I will submit another, which I think will better accomplish the end proposed and will avoid many of the objections that have been urged against my original proposition. My only purpose is to protect the general public from legalized blackmailing and robbery, and at the same time to deprive no man of his just power to enforce any legal rights he may possess. Before asking to withdraw the amendment under discussion I will ask the Secretary to read for information the one that I shall propose in lieu of it, if unanimous consent shall be granted to withdraw the former.

The PRESIDING OFFICER. The proposed amendment will be reported by the Secretary.

The SECRETARY. It is proposed to insert as an additional section the following:

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit, and if the plaintiff shall not recover the sum of $50 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant at the time of such purchase, manufacture, or practical application, had knowledge or actual notice of the existence of such patent, and that such purchase, manufacture, or practical application was an infringement of the rights of the plaintiff.

Mr. WINDOM. It will be observed that the amendment just read proposes to withhold from the use of patent-owners the circuit and district courts of the United States for the collection of mere frivolous claims unless the claimants pay their own costs. It will I think do much to cure the evils which are complained of in many portions of the Union. Take my own State as an illustration. There are to-day, as I am informed, five hundred suits for $10 each pending in the United States district court at Saint Paul. The assignees of a patent have formed a partnership with certain agents and lawyers at the capital of the State, who send the United States marshal all over it, commanding the people, in the name of the United States, to appear at Saint Paul and answer their demand for $10, thus compelling them to submit to their blackmailing extortions, or travel several hundred miles to put in an answer to the complaint. The amendment I propose will put an end to that kind of legalized villainy at once. Compel these men to give security for costs and then inform them that such suits must be conducted at their own expense, and we shall hear no more of wholesale raiding upon innocent people.

If the owner of the patent fails to recover more than nominal damages, I submit to the Senate that he ought to pay all the costs of the suit. If he does not recover more than $50 ought he not at least to pay his own costs? You open the circuit courts of the United States only to important cases. The circuit court has no jurisdiction in ordinary cases unless the sum sued for amounts to $500, and usually, if not always, the parties must be residents of different States.

Mr. DAVIS, of Illinois. Patent cases are an exception.

Mr. WINDOM. I was going to say with the exception of patent cases this is true; but if a man is armed, as I said the other day, with that sacred thing called a patent he can have the services of the United States courts for the enforcement of his demand for any sum, however small. I do not believe that is right. I do not believe that any member of the Senate thinks it is right.

The amendment to be proposed also obviates the objection made by the Senator from Massachusetts and others yesterday, that large corporations and others who use patents out of which they make great profits would be relieved. This amendment does not touch that class of cases at all, but it goes directly to the great mass of the people, and protects them from vexatious and oppressive litigation about little matters in regard to which it is far cheaper for them to pay the demand, however unjust, than to defend in the courts of the United States.

The honorable Senator from Massachusetts on my left [Mr. DAWES] yesterday suggested that there was no very great mischief done, because the person using the patent, if he was compelled to pay his $5 or $10, could have recourse upon the seller and recover it. That is certainly a very valuable remedy to the person who is sued, as I have stated, in a State like Nebraska, for instance, where the marshal may be sent out two or three hundred miles with a summons against a defendant for $10. Doubtless if the patent claim be invalid the defendant may successfully defend against it by paying several hundred dollars attorney's fees and expenses; and if it be valid, and judgment be entered against him for $10, he may, by paying as much more, recover a judgment against the vendor; but I submit that such a remedy does not commend itself to the discretion of most men.

Mr. DAWES. What would be the difference between that and buying my neighbor's wagon of me, I should like to know. When my neighbor came for the wagon that I sold to the Senator from Minnesota he could have his choice either to give up my wagon or to stand a lawsuit and determine the question; and when he stood the lawsuit he would have the poor satisfaction of coming back on me for his pay. It is precisely the same except the difference in the court to which the gentleman would appeal for his remedy. The hardship of that difference in the court arises from living in such a magnificent State that it is four hundred miles across. Take the little State I live in. We are subjected to no such hardship as that. The city of Boston is within a stone's-throw of my house, and yet I live on the other side of the State. I can go to Boston and enjoy the pleasure of appearing as a defendant in a United States court at Boston just as easily as in the court of the county where I live. That grows out of physical difficulties over which I do not have any control. The real question is this, and I beg the Senator's pardon: for illustrating by him, my friend has got possession of something that does not belong to him, and he got possession of it innocently. I do not claim that he is to blame in getting possession of it, but either he or the true owner must suffer some inconvenience in consequence of that. If the true owner is not in fault, I submit to the Senator from Minnesota whether every principle of justice does not require that the individual who has possession of it, if he declines to yield to the right of the true owner, should suffer the inconvenience. I will go as far with the Senator from Minnesota as he desires me to go consistently with justice and the proper enforcement of the rights of parties in court to cheapen the process and to make speedy the method of determining the rights of individuals; but because individual cases of hardship and oppression are found under the law, I do not think it is my duty to clothe the wrong-doer with the power of depriving a man of his rights.

Mr. WINDOM. I wish the Senator from Massachusetts would come out into my State. I think it would enlarge his ideas of the rights of the people as against monopolists and patentees. It is not because of individual cases of hardship that I complain and seek to amend the law, but it is because the law itself is framed to work injustice. There is nothing else that I know of in the United States involving rights of private property except a patent which authorizes a suit to be brought in the United States circuit courts for less than $500. In all other cases the jurisdiction of that court is limited to matters of importance, involving contests between citizens of different States or of different nations, or for the adjudication of important issues bearing upon human rights, the constitutionality of certain laws, or the construction of statutes relative to revenue, &c. But if you are armed with that highly-favored prerogative known as a patent you may sue for any sum you please. If you would vindicate the criminal laws of your country, you must in most cases commence before a justice of the peace, or at most before a county court. If you would bring a suit in any of our State courts for the vindication of a private right of property, you must present a demand large enough to correspond somewhat with the dignity and respectability of the court. Not so for the vindication of your claims under a patent. In such case the royal character of the prerogative alleged to be violated seems to be enough to open any court for your redress, and in the name and by the authority of the United States you may go to the capital of a State and for a claim of $5 each you may send the United States marshal to a thousand men, or ten thousand, if so many have bought and used some trivial invention, and compel them to travel hundreds of miles to defend against your claim, or, as more frequently occurs, to pay an unjust demand as the cheapest way of meeting it.

I am willing to give the patentee all the rights that can be given to him consistently with the rights of the public; but if it has come to this, that the rights of the people cannot be defended, and that they must be insulted and plundered in order to maintain the efficiency of our patent laws, the sooner those laws are all repealed the better for the country. I have said several times in this debate that I do not think this is necessary; but I assure the Senator from Massachusetts that some remedy must be found for the wrongs which are practiced under cover of this system, or, unless I greatly mistake the temper of the people, they will demand that the system itself shall be uprooted.

Without detaining the Senate, for I am very anxious to have this bill acted upon, I shall ask unanimous consent to withdraw the pending amendment for the purpose of offering as a separate section the one which I have suggested. I think it will accomplish all the good the pending amendment was intended to accomplish, without encountering the constitutional objections which have been suggested to that proposition. I am not at all sure that those constitutional objections are well founded, but they come from very able lawyers, for whose judgment I have profound respect, and as I desire something that will certainly afford practical relief, even as against existing patents, I prefer the proposed substitute to my original proposition.

The PRESIDING OFFICER. The Senator from Minnesota asks that he have unanimous consent to withdraw the amendment offered by him which is now pending. Is there objection? The Chair hears none.

Mr. WINDOM. I will reserve the amendment which I propose in lieu of it until the bill is considered further, and then offer it as a separate section.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DAVIS, of Illinois. The first section is open to amendment, as I understand. I have prepared a few amendments to this bill, not in an unfriendly spirit to it, and I should be glad to say a few words about each of them if it suits the pleasure of the Senate. The amendments I have prepared can be read at the end of my remarks.

Mr. COCKRELL. Have the amendments of the Senator from Illinois been printed?

Mr. DAVIS, of Illinois. I have them here.

The PRESIDING OFFICER. They have not been offered as yet.

Mr. DAVIS, of Illinois. The bill is being considered by sections, and I have prepared one amendment, to which I do not think there is any objection, to the first section. When I have said what I have to say about the bill I will then hand these amendments to the Secretary and he can read the amendment to the first section that is under consideration. I understand the Senator from Minnesota has withdrawn his amendment, and that it is to be presented as a separate section to come in at the end of the bill.

Mr. President, this bill is calculated in many respects to effect a great improvement in the present patent laws, and the report in support of it is very able, and presents many just views on the general subject.

I would like to suggest a few modifications, with the reasons for them. Before doing so, however, I beg leave to observe that there is something to be said on each side of the question between the parties—the patentees on the one side and the public on the other. The grasping spirit of monopoly, the great bane of our social fabric, manifests itself in both. On one side patents have been discovered to be a rich mine in which capitalists can find enormous returns by laying heavy contributions on the community, and combinations are formed for the purpose in which the meritorious inventor has little if any interest. When it affects the community at large, in which each individual has not sufficient interest or power to oppose its schemes, it may be worked successfully for a long series of years, to the great injury of the public.

This lies at the bottom of that system of reissues which has been so greatly abused, and the rule of allowing profits in equity has doubtless been the means of encouraging such combinations.

On the other hand, where patents affect large interests which can easily combine, their concentrated power is sufficient to ruin any patentee who attempts to bring them to account. In each case the strong are enabled unjustly to crush the weak. The general purport of the bill is well calculated to counteract, as far as they can be counteracted, the evils to which I refer.

I will state what I have to say about the particular provisions of the bill by taking up a few of its first sections in the order they are numbered.

Section 1. The first section confines the power of staying proceedings to the court in which the active suit is pending. This power should not be thus limited. The United States is but one jurisdiction; State lines and district lines should not interfere with substantial interests or the general convenience in patent cases. If a suit is fairly litigated in New York the circuit court of Missouri, as well as that of New York, should have the power to stay proceedings on the same patent or claim.

Mr. WADLEIGH. My friend the Senator from Illinois will pardon me, but do I understand him to say that the first section confines the right to stay proceedings to the court in which the causes are pending?

Mr. DAVIS, of Illinois. No, to the court in which the active suit is pending. There must be an active suit pending. My amendment to the first section is to insert as an additional proviso the following:

Provided, however, That if in any suit instituted in any one circuit court of the United States the validity of a patent shall be determined upon final hearing, any other circuit court may recognize said decision, and in its discretion grant injunctions based thereon to continue pending an appeal to the Supreme Court in the first suit; and if the validity of any such patent has been decreed against in a suit instituted in any one circuit court, any other circuit court may in its discretion grant a stay of proceedings in any other suit brought under said patent, pending an appeal to the Supreme Court of the United States in said first suit.

That is, where there has been a decision anywhere in the United States, when a suit has been commenced on the same patent or claim anywhere else, there need not be any investigation about it at all if the court please. That is the way I read the section.

Mr. WADLEIGH. If my friend will pardon me, the proviso is this:

That where a party, in order to preserve his right of recovery, finds it necessary to institute a number of suits involving the same issues, and he is proceeding with good faith and with reasonable diligence to bring one of them to final judgment, any court in which any of them are pending may, in its discretion, grant a stay of proceedings from time to time in any such other cases pending before it.

Mr. DAVIS, of Illinois. That is true, but that is where the party is proceeding to bring them to final judgment. But I wish something further, that is, after there has been a judgment and there has been a decision. I do not interfere with that provision.

EXERCISE OF ELECTIVE FRANCHISE.

The PRESIDING OFFICER. The Chair will interrupt the Senator from Illinois, with his permission, to make an announcement. The Vice-President has appointed as the select committee in relation to the violation of the rights of American citizens at the recent elections, under the resolution of the Senator from Maine, [Mr. BLAINE,] Mr. TELLER, Mr. CAMERON of Wisconsin, Mr. KIRKWOOD, Mr. MITCHELL, Mr. PLUMB, Mr. BAYARD, Mr. WALLACE, Mr. BAILEY, and Mr. GARLAND.

Mr. MITCHELL. Mr. President, I am very reluctant to decline, but I am compelled to ask the Senate to excuse me from serving on that committee. I dislike very much to refuse to perform any service that may be imposed upon me by the Senate, but the state of the business that I am compelled to look after during the short time I shall remain in the Senate makes it absolutely necessary in justice to myself and in justice to my constituents that I should ask the Senate to excuse me.

In addition to this, there are other reasons, as sickness in my family, which make it improper for me to leave the city at this time. I would not interrupt the proceedings at this time, especially the able speech of the Senator from Illinois, but for the fact that I know it is important that the committee should be made up at an early day; and while I dislike, as I say, very much to do so, I respectfully ask the Senate to excuse me from service on the select committee.

Mr. PLUMB. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DAVIS, of Illinois. I thought the proper course would be to put the request of the Senator from Oregon to the Senate. That is the reason why I am waiting.

Mr. MITCHELL. This is the first time in the five years I have been here that I have ever asked to be relieved from any duty assigned me by the Senate or any of its committees, and I certainly would not do so now but for the reasons assigned. I am in full sympathy, as a matter of course, with the resolutions of the Senator from Maine and with the investigation, and would be very glad, if it were not for the matters to which I have attracted attention, to give what little aid I might be able to afford to the investigation; but I am compelled to ask the Senate to excuse me, and I hope I shall be excused.

The PRESIDING OFFICER. The Senator from Oregon asks to be excused from serving on the select committee appointed under the resolutions introduced by the Senator from Maine, [Mr. BLAINE.] Will the Senate excuse him? The Chair hears no objection.

Mr. MITCHELL. I am much obliged.

Mr. PLUMB. It will be quite impossible that I should serve on the special committee for reasons which I need not here detail, but which are of very great weight to me and my constituents. I therefore ask the Senate to excuse me also.

The PRESIDING OFFICER. The Senator from Kansas asks to be excused from serving on the committee. Will the Senate excuse him? The Chair hears no objection, and he is excused.

The VICE-PRESIDENT subsequently appointed Mr. HOAR in place of Mr. MITCHELL, and Mr. MCMILLAN in place of Mr. PLUMB upon the select committee.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a joint resolution (H. R. No. 211) extending time for joint committee on transfer of Indian Bureau to report; in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution for the printing of 3,000 copies of the reports of Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution for the printing of 3,000 copies of the report of the

Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer, at the Military Academy at West Point;

A bill (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia; and

A joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department.

REVISION OF THE PATENT LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

Mr. DAVIS, of Illinois. Mr. President, I cannot concede the justice of the second section of the bill as it stands. As it now reads, it would work a complete revolution in the law of profits, and would abrogate entirely any account of profits in a large class of cases which I can hardly think the committee intend to be excluded from such a mode of relief.

First. It abolishes all account of profits, unless the infringer who used an invention realizes a profit from the business he carries on, in which the invention is used. Thus a paper manufacturer may wrongfully use a patented device in his Fourdrinier machine, on which the pulp is distributed and converted into a sheet, which may save him $100 per day; and yet he may manage his business so badly, either in his general manufacture, or in making his sales through commission merchants, or in making injudicious purchases of stocks, or in paying enormous rents for water-power, that at the end of the year he may make no profit at all. To allow the patentee no account of profits for the use of the invention in such a case, because the manufacturer does not on the whole make a profit, is unjust. In the first place it is none of his concern whether the manufacturer's business is profitable or not. He ought not to be compelled, nor ought he to have it in his power to call the latter to an account of his whole business transactions. This is one great evil that was demonstrated in cases where the courts, before the decision in Mowry *vs.* Whitney, assumed that the whole business should be gone into. I have been told of a case where the entire business of a large sugar refinery, amounting to more than a million of dollars a year, was overhauled for a long series of years, in order to see how much they made in their general business, when the only thing they did in the way of infringement was to use some little contrivance in running off their sugar in the last process. This was unjust, and involved great expense and inquisition into their affairs, which was positively oppressive and tyrannical. And yet in this case, as well as in the case of the paper-mill, which I have supposed, the profit made in using the device infringed was the only criterion of compensation which could be resorted to.

Nothing is more common than cases like this: a manufacturer, say of iron or of cotton or wood, runs his manufactory consciously at a loss or without actual profit for a considerable time. His object is to keep his hands together and his machinery from depreciation until better times shall come. By appropriating the invention of another he runs his works more cheaply though he makes no actual gain. He makes a saving, the only object of most industries, and thus preserves his capital. It is impossible for me to see why this is not just as beneficial to him as would be the use of the invention when business is more prosperous and results in positive additions to the capital invested.

It is only in equity where the infringer is necessarily treated as a trustee, *ex maleficio* of the property of the complainant, a wrongful appropriator of the patentee's right, that profits are recoverable. Now, why are not savings profits in every sense of the term? The Supreme Court decided that they were in Mowry *vs.* Whitney, 14 Wallace, 620.

Certainly they are an advantage derived from an unlawful use of another's property when they are the results of the use of another's invention without license. What matters it that the business in which the invention is used has been carried on without actual gain? Is not the infringer better off than he would have been if he had carried on the business without the aid of the property of the patentee? Is he not richer in consequence of his wrongful use of that of which he has unlawfully made himself a trustee? Ought he to be permitted to shift the losses of his business from himself to the person whose right he has invaded? No invention is patentable unless it is useful, unless it can be profitably employed. If profit does not result from its use, the result is due to the fault of him who uses it, to his want of judgment or some cause for which the inventor is not responsible. Ordinarily the world recognizes the justice of holding a trustee *ex maleficio* liable to account for what he should have made. Is it any answer for a man who has wrapped his talent in a napkin and buried it in the ground when called to account to say, I made no profits? And this, though not a trustee by virtue of his own wrong. If a disseizor takes possession of my house and leases it, can he escape from paying me the rent, though he has failed to collect it or lost it after its collection? In fine, is a trustee in his own wrong ever allowed to retain for himself any advantage he has derived from his wrongful act?

It may be true that the saving effected should not be regarded as an absolute measure of the profit to which the patentee should be entitled. Justice might require that he should recover more or less of the amount. But he ought not to be deprived of all accounts of profits simply because the manufacturer or carrier did not pursue a successful business. The committee is probably correct in saying that the remuneration generally realized by patentees is only from 5 to 10 per cent. of the advantage derived from the use of their invention, a great portion of it being absorbed in the general reduction of price at which the articles produced are afforded to the community. And therefore it may well be that the saving effected by the use of an invention is not in all cases a fair measure of the profits which the inventor ought to receive.

Courts have felt the influence of this when asked to decree against infringers the enormous sums which in some cases have been reported by masters in chancery as profits. But it is equally unjust to deny all account of profits when the infringer makes none in his general business. I am frank to concede that the whole subject of making an infringer account for profits is surrounded with difficulty. No invariable rule of measurement of profits can do justice in all cases any more than an invariable fine or term of imprisonment for crime.

Something like this, applicable to all cases, would, I think, meet the difficulty:

In taking an account of profits for the use of an invention secured by a patent where the patentee or his assignee shall elect to demand profits, the whole, or such portion of the actual profit or saving derived from such use, shall be allowed to the patentee or his assignee, as the court may deem just in order to secure a fair compensation for such use, having regard to what would be a fair royalty therefor in view of the skill exhibited in making such invention and the value thereof to the parties using the same and to all the circumstances of the case; and the master in taking and stating such account, after stating the amount of profit or saving actually made by such use, shall give and state what portion thereof would, in his judgment, be such fair compensation as aforesaid, to be subject, however, to the modification and judgment of the court; but when a patentee or his assignee shall elect to demand an account of profits against any person for an infringement of his patent, he shall not be entitled to recover damages for the same infringement.

I have added the last clause because I never could see any good reason why a complainant electing to go for profits should have damages also.

2. If, however, the Senate should adhere to the principle of disallowing profits where the business of the infringer turns out to be unprofitable, then I would suggest that an account of profits ought not to be confined, as the section now seems to confine it, to cases where the thing patented or the product thereof are manufactured for sale. This would exclude such an account in all cases where the object of the business is to perform service, however profitable. It would exempt from such account all railroad companies, express companies, all construction of houses, and other buildings, bridges, railroads, canals, steamboats, and vessels; all working of mines, mills for custom work, and a thousand other things. Why should not these industries account for profits of an invention used as well as those which are carried on for manufacturing for sale?

Section 3. In order to prevent unreasonable delays, where an appeal is taken from an interlocutory decree establishing the validity of a patent or its infringement, the complainant should be permitted to go on and take his account at his peril, subject to payment of costs and counsel fees, if the decree is reversed, and on giving security therefor.

Section 5. This section, it seems to me, will give a patentee substantially an appeal from one Commissioner to another at any time during the life of the patent. As the law is now, if the Patent Office refuses to allow the applicant any claim which he makes, or to issue the patent in the form which he applies for, he may appeal then and there. It cannot be pretended that there is any inadvertence when he has made a claim which the Commissioner refuses. If he takes the patent without appealing, then he ought to be concluded. But where there has been a real inadvertence, accident, or mistake, he ought to be entitled to reissue to correct it. Never otherwise. This section will open a wide door to get a different patent after witnesses are dead or an examiner has left the office.

I propose now my amendments. The first one in order will be the amendment to the first section which I will have read first.

The PRESIDING OFFICER, (Mr. CAMERON of Wisconsin.) The amendments will be reported by the Secretary in their order.

The SECRETARY. In the first section, after the words "before it," in the thirteenth line, it is proposed to insert:

Provided, however, That if in any suit instituted in any one circuit court of the United States the validity of a patent shall be determined upon final hearing, any other circuit court may recognize said decision, and in its discretion grant injunctions based thereon to continue pending an appeal to the Supreme Court in the first suit; and if the validity of any such patent has been decreed against in a suit instituted in any one circuit court, any other circuit court may in its discretion grant

a stay of proceedings in any other suit brought under said patent, pending an appeal to the Supreme Court of the United States in said first suit.

In lines 11 and 12 of section 2, it is proposed to strike out the words "for sale or;" and in line 12 insert after the word "selling" the words "or using."

In line 14 of the same section, it is proposed to strike out the words "for sale or," and insert after the word "selling" the words "or using."

It is also proposed to strike out lines 36, 37, 38, 39, and 40 to the word "aforesaid" inclusive, and in lieu thereof to insert the following:

In taking an account of profits for the use of an invention secured by a patent, where the patentee or his assignee shall elect to demand profits, the whole or such portion of the actual profit or saving derived from such use shall be allowed to the patentee or his assignee, as the court may deem just in order to secure a fair compensation for such use, having regard to what would be a fair royalty therefor in view of the skill exhibited in making such invention, and the value thereof to the parties using the same and to all the circumstances of the case; and the master in taking and stating such account, after stating the amount of profit or saving actually made by such use, shall give and state what portion thereof would, in his judgment, be such fair compensation as aforesaid, to be subject, however, to the modification and judgment of the court; but when a patentee or his assignee shall elect to demand an account of profits against any person for an infringement of his patent, he shall not be entitled to recover damages for the same infringement.

At the end of section 3 it is proposed to add the following words:

Provided however, Where an appeal is allowed from an interlocutory decree establishing the validity of a patent or its infringement, the complainant shall be permitted to go on and take his account, subject to payment of costs and counsel fees if the decree is reversed and on giving security therefor.

It is further proposed to amend section 5 by striking out in line 31 the words "application or its amendments" and insert in lieu thereof the word "patent."

Mr. CHRISTIANCY. Mr. President, I have some remarks to submit upon some of the questions alluded to in the amendments proposed by the Senator from Illinois, but I shall confine myself, so far as they are concerned, mainly to those offered to the second section on the subject of profits. Before coming to that, however, I have some general views upon the present patent system as a whole, which I wish to submit to the Senate, and in doing so I shall touch many of the points that have already been alluded to.

Mr. President, I have examined the bill presented by the Committee on Patents, and now under consideration with the various amendments proposed by the committee; and though I do not claim to be an expert in the administration of what may properly be called our system of patent laws, I have paid some attention to that system of laws and formed some opinions and arrived at some conclusions upon it; some of which opinions and conclusions are not entirely favorable to all parts of that system as now established by our statutes, nor entirely in harmony with all the expositions and interpretations of those statutes adopted by the courts. And, as these opinions and conclusions relate largely, though by no means exclusively, to matters covered by the provisions of the present bill and amendments, I shall, on the present occasion, discuss the bill only as its provisions may happen to relate to those prominent features of the general system which I propose to consider, except as relates to the second section to which I shall give some special attention.

The Constitution provides that—

Congress shall have power to promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

This being merely a grant of power, it does not impose upon Congress the duty to exercise the power, unless, and only so far as, its exercise would, in their judgment, promote the public interest. The provision is intended for the benefit of authors and inventors only so far as the securing to them the exclusive right to their writings and discoveries may operate as an encouragement to them to employ their time and their faculties in these fields of mental labor. The public good is the end or object sought to be promoted; the benefit or reward secured to the author or inventor is but the incidental means to that end. And it is only the conviction, that this end or object will be secured or promoted, that can justify Congress in making use of these means. The fact, that a new invention or discovery has been made, should not of itself require a patent to be issued for it, unless such a patent would tend to promote the public good or general welfare; and whether it will have this tendency may depend, not only upon the nature of the invention, but the circumstances and condition of the country and the people, and upon thousands of other facts besides that of the invention or discovery. And if the patent would tend to check and discourage the inventive genius of our people, it would tend to retard, rather than to "promote, the progress of science and the useful arts." And in such a case, unless the invention should be of such magnitude, importance, and utility that its use would clearly contribute to the general good, after paying the inventor for the right to use it more than the injury likely to arise from depriving all the rest of our citizens during the life of the patent, from the right to make and use a similar invention or discovery, which but for the patent they would have had, or to avail themselves of a like principle, then it is, upon the whole, an injury to the public to grant the patent.

Now, I freely admit that, as to the more important inventions and discoveries—those relating, for instance, to steam-power and steam-engines; to the modes and devices for utilizing electricity, such as the electric telegraph; and the more important inventions in the various kinds of machinery used in the leading manufactures, by which the product has been vastly increased and at less expense than by the old methods, thereby opening markets for, and giving value to various kinds of the raw materials produced in our country—I freely admit that, as to all such inventions and discoveries, and many others which I need not enumerate, our patent laws have operated to stimulate the inventive faculties of our people, and by the encouragement they have held out of an adequate reward for the years of patient labor, investigation, and experiment necessary to effect and perfect such inventions and discoveries, have, in these fields of mental labor, placed us in the front rank of nations, if not in advance of all. And to all such inventors and discoverers the nation owes a debt of gratitude; and none should grudge them the compensation, however ample, which the patent laws give them in all they can make from the right to the exclusive use of their inventions for seventeen years. The people, the nation, are greatly benefited and their wealth increased after allowing them the proper compensation for such use. Such inventors and discoverers are the great benefactors, not only of our own people, but of mankind. Their inventions and discoveries have revolutionized the world and advanced the progress of the human race. Their achievements have been the result of patient labor and investigation, prosecuted often under the greatest discouragements and amid alternations of hope and despair, and after the failure of many abortive experiments and disappointments which made the heart sick; but cheered up and beckoned onward by the prospect of bettering the condition of the world as well as their own, they finally triumphed.

For all such inventors and discoverers my admiration, my veneration, and my gratitude are not only voluntary but irrepressible.

But, on the other hand, I am compelled to say, that not even an injunction from a court of equity, nor the more affirmative and forward impulse of a mandamus from a court of law, nor any other process known to gods or men, can make me feel or express a like admiration, or any admiration, veneration, or gratitude, for those men, however numerous and otherwise respectable, whose inventive genius and expansive patriotism have exhausted themselves in the invention of a corn-popper, an improved rolling-pin, a clothes-pin, a wardrobe-hook, a cigar-holder, an improved clasp for a lady's back hair, or for her stocking-supporter or artificial palpitators, nor even of a toy popgun, or a baby-whistle, nor for that more lofty flight of genius which has secured a patent for a mustache guard for keeping a gentleman's mustache out of his tea or coffee, and which could as well be accomplished by shortening the mustache just a little, still leaving it in good working order; nor for the equally beneficent genius who, to save the hens the labor of hatching their eggs, has contrived an incubator to hatch them for her.

Nor is my admiration nor my sympathy greatly excited over the vast amount of brain-power expended by the man who, sitting by a kitchen cook-stove or a dining-room table perhaps, with a piece of wire in his hand, and noticing that a hot plate will burn the naked fingers, happens to think of bending the wire into such form as to lift the plate without burning the fingers, and then straightway applies for and obtains a patent for the invention, to be followed, perhaps, by other patents for improved methods or forms of bending the wire or attaching a handle; nor for the swarm of other equally important patented inventions with which the kitchen of every family is infested and lumbered up, unless they set their faces against all the venders of such patents, as they would against the traveling insurance agents, lightning-rod venders, and organ-grinders who undertake to prowl around their premises.

Many of these insignificant inventions may be convenient enough, if they could be kept always in the convenient spot to be used just when they may each be wanted. But those contrived for the use of the kitchen are so numerous that no ordinary kitchen has room for all of them, and more time and trouble would be spent in selecting each as it is wanted, than would be taken in doing the particular item of work in the old unpatented method.

Mr. President, what I have been saying upon the insignificance of some of the patents which have been granted may seem to be beneath the dignity of the Senate—like mere trifling and a waste of time—but when the Patent Office of the United States will condescend to the granting of patents giving exclusive privileges for such trifles, each of which may become the prolific mother of a brood of lawsuits, I do not think I can justly be charged with trifling when I bring these matters to the attention of the Senate and the country, and ask that some measures should be adopted to get rid of this kind of trifling.

I have no hostility against the Patent Office; I think it has been a useful institution. It is self-supporting also, which cannot be said of any other Government bureau. It has always been administered by faithful, studious, and laborious men, and few idlers have been found there. But much time and labor, I insist, have of late years been spent in the investigation of applications for patents for these trifling matters, which ought to have been promptly rejected, as not, upon the whole, sufficiently useful and important to justify the issuing of patents.

Here, for instance, is a list selected from only a few pages, a small part of the list of patents granted in the year 1876. It does not include one tithe of the equally insignificant, if not ludicrous, patents issued in that year alone:

For a croquet apparatus; mustache-guard for cups; incubator for hatching eggs; protector for studs or sleeve-buttons; weaning-bit for calves; clothes-sprinkler; lamp-wick trimmers; plate-lifter; bustle; corsets, (several patents;) skates, (several patents;) spring-bed-bottoms, (several patents;) corset with pad; croquet-mallet; spring-pillow; stilts; music-leaf turner, (several patents,) all useless, and worse than useless, as there is always a crowd of the opposite sex who are pressing to perform that agreeable labor for the player; toy pop-gun; corn-popper; fly-trap,(several patents;) shawl-bag; candy; pen-holders; wash-basin; suspender end; bell-toy; fire-kindler; tobacco-pipe; playing-cards; lamp-chimney holder; clasp for pocket-book; rolling-pin; step-ladder; machine for forming pop-corn balls; dice-box; cigar-pouch; egg-beater; fastening for sleeve-buttons; suspender loops; support for nursing-bottle; mop-wringers, (several patents;) scissors-sharpener; stud and button; baby-jumper; clasp for bird-cages; book-support; wardrobe-hook; rein-holder; game-counter; game-table; bottle-stopper, (which would be valuable if it always stopped the bottle at the right moment;) toy-pistol; pencil-sharpener; carpet-fastener; stove-lid lifter; tape for hoop-skirts; ironing-board; skirt-supporter; dish-drainer; fence-post; suspender-fastener; tooth-pick; clothes-pounder; eye-glass holder; bow and arrow, (very essential in the present stage of human progress;) pot-cover; shirt-bosom; cork screw; hair-pin; hat and coat hook; toy cap-exploder; coffee-pot; halter; ironing-stand; mop-holder; gate-latch; sad-iron; corset-spring; shirt-protector; shoe-fastener; shirt; gate-hinge; hair-crimper; rolling toy; milk-can cover; toy blow-horn; umbrella-support; corset-steel; carpet-stretcher and tack-driver; glove-fastener; thimble; perch for bird-cage; ladle; lamp-extinguisher; bust-supporter; underwaist; nutmeg-grater; milk-cooler; device for removing wires from bottle-corks; lamp-chimney cleaner; buttonhole-attachment; holder for tumblers; machine for paring, slicing, and coring apples; pantaloons; bottle-washing machine, &c.

I have omitted several which I could not properly mention in the hearing of the galleries, and I have gone over but a few pages of the list granted in a single year. It is safe to say that, in that year alone from one thousand to fifteen hundred patents were granted, as insignificant and useless as those I have given; not one of which, in my opinion, ought ever to have been granted; and to have refused them all would have given to the applicants no just ground to complain of the ingratitude of republics, nor would the progress of civilization have been seriously retarded. It is quite obvious, I think, that if there had been no Patent Office in existence, and the discretion of Congress had been appealed to upon the merits of each case, not one of them would have been granted. I go much further than this, and say that of all the patents for the last ten years, at least three-fourths are utterly worthless, and never would have been granted had they depended upon the judgment and discretion of Congress. But Congress has confided the power of deciding upon such matters to the Patent Office, and such appellate tribunals as they found practicable: and as no human intellect could define in advance all the particular cases or classes of cases in which patents should be granted or refused, they have been compelled to describe by very general language the grounds upon which they might be granted.

The provisions of statute now in force upon this point are as follows, (Revised Statutes, sec. 4886:)

> Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

It will be seen by this that the only discretion left to the Commissioner, if the other requirements of the law are met by the applicant, is the right to decide as to the usefulness of the invention. And by section 4893 the Commissioner, though all the other requisites are shown by the applicant, may refuse it on the ground that it is not "sufficiently useful or important."

It is to be regretted that the Commissioners and examiners have not more liberally exercised this power. The abuses I have mentioned, by the issuing of trivial and unimportant patents, are not more to be attributed to the law than to the mode of its administration. It seems to have been taken for granted that, if the invention or discovery could be rendered useful in any way, a patent ought to be granted. This clearly is not the meaning of the law. There is scarcely anything in nature, patented or unpatented, which may not, on some occasion or in some way, be rendered of some use. Nor should the fact, that an invention may perform some small operation better than it could be performed without it. No patent should be issued, unless the invention contains some new and important principle, not only of some use but of great and general use, and likely to be productive of more benefit to the public, after paying the inventor for its use, than injury to the public by depriving every other citizen of the right to avail himself of his own inventive powers in the same way. This is an age of great activity of thought, and in the light of the public welfare as well as individual rights, it requires or should require a pretty strong case to authorize me to forestall every other citizen of the United States, and put every man's inventive powers in a strait-jacket, as to any part of the field, however small, in which I may happen to have made the first discovery. I ought to be required to show that my invention or discovery is of some magnitude and importance, before I can properly demand that no other person, for the next seventeen years shall have the right of stumbling upon, or by investigation making or availing himself of, a like discovery or invention.

One would naturally suppose, on looking at section 4893 of the present patent laws—giving the Commissioner the right to refuse the issue of a patent, if, in his opinion, it is not "sufficiently useful and important"—that the Commissioner must have been in fault for not liberally using the power. But practically this is not so, or, at least, to the extent that would be supposed. Some of the Commissioners have themselves lamented the abuse. But the practical fact is, that if the decision of the examiner, or (on appeal from him) that of the board of examiners in chief, has been in favor of the patent, the nature and character of the patent is never brought to the attention of the Commissioner, and he never considers, it at all. It is only in the cases where the patent has been refused by his subordinates and an appeal is taken to the Commissioner that the nature of the patent is brought to his attention. In all other cases the practice has been, (and considering the multiplicity of other duties he has to perform, and the immense number of patents issued,) this practice under the present system seems almost, if not quite, unavoidable, that the seventeen thousand or eighteen thousand patents now issued per year are brought to the Commissioner in batches of two hundred, three hundred, or more at a time for his signature.

If he were to stop to look into the nature and propriety of each patent, he would have little or no time to perform any other duties. Thus the very frequency of the abuse takes away the Commissioner's power of correcting it, and the greater the necessity for the correction becomes, the less is his power of correction; and everything is left to clerks and subordinates. And this shows just how much and how little ground there is for the decision of the Supreme Court in the Corn-Planter case, 23 Wall., 181, holding that any question of fraud in obtaining a reissue of a patent is to be regarded as settled by the act of the Commissioner of Patents in granting it. This may be in accordance with the theory of the law which may treat all the acts of his subordinates as his acts; yet the law does recognize the fact, that the examiners and the board of chief examiners have the power to decide, to allow, or disallow an application for a patent, and that the Commissioner can only decide when they may have refused it, and it is brought before him upon appeal. If they allow it, he can refuse it only on the ground that it is not "sufficiently important or useful." As pointed out by the Senator from Minnesota the other day, (in most of whose remarks I fully concur, and to save repetition I adopt,) much of the difficulty arises from the fact that everything in the present system seems to have been contrived for the benefit of the patentee, so as to secure the issue of the patent without reference to the public interest. No one is heard on the part of the Government or the public before these exclusive privileges are granted, while the applicant may be heard almost any number of times; and, though many of these patents may be void, the only remedy of the people is, that each may have the luxury of a lawsuit, which is vastly worse to him than the evil to be remedied. To most men of moderate means, total ruin or quiet submission to the wrong is the only alternative. The whole country, every branch of business, every conceivable thing, is infested with these nuisances, as numerous and annoying as the frogs or the lice of Egypt. No man can do anything or exert his own ingenuity in any direction without danger of running against somebody's patent. If a farmer should break a handle of his plow and go to the forest and cut a natural crook to supply its place, the chances are that he would violate some man's patent, and would be promptly invited into some Federal court to respond in damages, and not only damages but profits.

The increase in the number of patents for the last few years is absolutely astounding. Thus the Commissioner, in his report for 1876, says:

> During the past seven years a larger number of applications for patents were filed and patents granted than during the entire seventy-eight years preceding, reaching back to the enactment of the first patent law.

And the number for that year was seventeen thousand and twenty-six, including, however, one thousand and eighty-one trade-marks. And though most of these patents have served no useful end, like others previously granted, they have lain dormant in the Patent Office, were never introduced into actual use, and have been or will be abandoned by the patentees. Yet it sometimes happens that, among such a host of dormant patents, some will be found which contain some new principle or new mode of applying power which the inventor, however, had failed to render of any use in his own invention. And some other inventor, ignorant that such a principle had been discovered or such mode invented, has made the same invention or discovery, and has had the genius to render it of great practical value, and, as has often happened, got a patent for it, which proves to be valuable: or he may be using his own invention without a patent: when, lo! the patent-sharks among the legal profession, always on the watch for such cases, go to the first patentee and, for a song, procure an assignment of his useless patent, and at once proceed to levy black-mail upon the inventor of the valuable patent, and not only upon him, but upon any man who has ever manufactured or sold, or even used, the later and valuable invention; and hundreds, at least,

among the innocent users, choose to compromise rather than run the risk of ruin from lawsuits; and against those who refuse a fertile crop of lawsuits follows, and millions are thus filched and extorted from the people every year.

I am glad to see that the eleventh section of the present bill has provided something in the nature of a remedy against the evils arising from these dormant and unused patents, by requiring a payment into the Patent Office of $50 at the end of four years from the issuing of the patent, and $100 at the end of nine years, in default of which the patent shall be held to have expired. I think these sums ought to be doubled. But as they now are they will help to put an end to most of the useless and dormant patents which have been granted, and to the evils which result from their resuscitation by the Cossacks who follow the army of inventors. I am strongly inclined to the opinion—I will go further, I am convinced by years of observation and reflection—that the granting of patents, in at least three-fourths of the cases in which they have been granted, has tended to suppress rather than to stimulate useful invention in this country.

Take, for instance, those which relate to dress and articles of adornment of both sexes. Every lady is enveloped in patents, from the crown of her head to the soles of her feet, each of which is of as much importance in itself as the patent for a tooth-pick, or a toy popgun; and, though the number with which the dress of our own sex is incumbered is less, their importance is about the same according to their numbers. And as the users of patented articles, as well as the venders and manufacturers, are liable to an action for infringement if the manufacturers of the articles have not obtained the right to use the patent, and neither sex when purchasing thinks of inquiring into the validity of the patents, we are both at all times and constantly walking, incarnate causes of action, and susceptibilities to lawsuits, and, under the modern decisions, trustees, with nothing to protect us from accounting for all the profits, except the fact that it would be hard to show by anything, except expert witnesses, that we have made any: which, however, would not save us from damages, and perhaps treble damages. And we are indebted for our protection from such suits mainly to the fact that public opinion would not tolerate suits for such insignificant trifles. The fact that these various trifles have been, or claimed to be, patented, furnishes a pretext for adding to the price of every article; and millions, and tens of millions of dollars, are paid yearly by the people of the United States in consequence of these trivial, and often ludicrous, patents; when the interest of the manufacturers, tailors and milliners, if their ingenuity were not cramped and confined by these patents, would secure equal and greater improvements. And such is also the fact with respect to the numerous, or rather the innumerable host of patents for trivial inventions in kitchen utensils and those used in dwelling-houses in the ordinary course of domestic uses and economy, as well as in many trifling improvements in farming implements, in gates, gate-hinges and latches, and a thousand other things of like trivial nature. In all these the interest of manufacturers and dealers and open and free competition are better stimulants to invention than our patent laws granting exclusive privileges. And the same is true of many other trivial patents.

I would therefore amend the patent laws so as to take away entirely from the Patent Office and all appellate tribunals, the right to issue any patent for improvements in dress, or articles used with or attached to any part of dress, or for toys of any kind, or any kind of gaming apparatus, or any part or portion thereof. As to the other classes of inventions just mentioned, there is more difficulty, I fear an insuperable difficulty, in defining with sufficient certainty what are too trivial inventions for a patent. But I would require the Commissioner or some other responsible officer, to be appointed for the purpose, in all cases of doubt as to its importance or usefulness to such a degree as to warrant a patent, to refuse such a patent, and to report the case to Congress to be submitted to their judgment and discretion. This would furnish adequate, and I fear the only adequate, security.

I would also limit the power of issuing patents for "new compositions of matter," so as to cut off the right to any patents for medicines or medical compositions or preparations, for use by any human being. In short, I would extinguish all patent medicines. Most of these medicines are got up by quacks, who have no knowledge, or very little knowledge, either of the nature of diseases or of medicines. Some of them may be, and doubtless are, valuable for some particular disease or in some stage of such disease or ailment, and, if taken only under the advice of a physician who has examined the patient and made a diagnosis of his disease, they might prove useful on particular occasions. But they are generally, I may say almost universally, advertised as cures for a great variety of diseases or complaints, for most of which they are generally worse than useless, and often dangerous; and they are mostly taken by those who do not consult a physician, but use the patent medicine, or its advertisement, as a substitute for a physician, until their health is permanently injured, and they are compelled to call the physician at last. And I must declare my conviction, from a long course of observation, that there are yearly nearly half as many deaths in the United States directly or indirectly resulting from the use of patent medicines, as have occurred the present year from the yellow fever. Scientific physicians generally scorn the idea of obtaining patents for medical discoveries; and the emulation among them and their ardor in the pursuit of new discoveries in this line are much safer stimulants to such discoveries than the granting of patents.

There is still a further limitation which I would impose upon the granting of patents for a new composition of matter. I refer to poisons for destroying insects which prey upon and destroy the crops in certain portions of the country, such as the cotton-worm, for example, (and I understand a patent has been granted for a composition of Paris green and some other ingredient for this purpose.) A discovery of this kind would be very deserving of a bounty to be given by the States, or perhaps by the United States. But under the rule of damages, giving all profits which can be shown to have been made by the use of the poisonous composition, and the rule in equity for accounting for such profits, such a patent may be made as great a curse at least, as the worms it was intended to destroy. If it can be shown, for instance—and a corps of experts, who always attend a plaintiff in a patent cause, must have fallen below their ordinary achievements, if they fail to show—that the use of the compound has saved one-third or one-half of the cotton crop of each individual who used it, as probably every planter did; then each may be compelled to pay to the patentee or owner of the patent the one-third or one-half of the value of his cotton crop. This rule of profits this bill, it is true, proposes to restrict; and I am glad it does. But even when this rule shall be restricted as proposed, as applied to most cases, and to such a case as this, I still think no patent should be granted for a composition like this, which, if valuable, is to be used by so many persons, and the cost of which is so insignificant, without fixing by law a rule of recovery measured by a certain percentage on the cost of the materials of the compound. I would say, for instance, 100 or 200 per cent. above its cost. Certainly if Congress were appealed to for a patent in such a special case they would be likely to provide some such restriction as the condition upon which alone they would grant it. And why should they authorize the Patent Office to grant what they would themselves refuse, if their own judgment and discretion were appealed to?

There is still another class of cases in which, for patents hereafter to be issued, to prevent extortion, some rate of compensation should be fixed by the statute, or some more definite means than now exist at law or in equity of determining the amount of compensation for such infringement, when the infringement consists in using the thing patented. They are all that class of cases in which parties engaged in certain occupations or kinds of business, are by law virtually compelled to use the patented invention under most ruinous penalties for neglecting to use it, and in which at the same time, the inventor cannot either at all, or to any considerable extent, get the benefit of his patent by any use he can make of it himself, but must look for his profits to the use of it by others. For example, all who are engaged in manufacturing by machinery propelled by steam, in cities and other localities where conflagrations are peculiarly liable to take place from sparks from their smoke-stacks, are compelled by law by the decisions of the courts everywhere, to avail themselves of the latest and most improved and safest known methods, such as spark-catchers, to prevent the escape of sparks from their smoke-stacks. And if they fail to do so, and a fire takes place from the sparks from their chimney, the neglect to use such spark-catchers or other most improved methods, is held clear, and, in most cases, conclusive evidence of negligence. The same may be said of locomotive smoke-stacks and spark-catchers, and of those on steam-vessels. And the owners of steam-vessels and all railroad companies are also held to the like rule of diligence, and bound to avail themselves of the latest improvements, whether patented or not, for the safety of lives and property intrusted to their care; and if they do not, and life or property is destroyed which might have been saved by the use of any invention or patented improvement, they are held liable.

Now, the inventions and patents applicable to all these cases, for securing the safety of life and property, are very numerous, and if each is not valuable for such purposes it ought never to have been patented. In all these classes of occupations, in all the cases I have mentioned, the proprietor must watch the issue of all the patents, and must resort to the use of the best, which, as a general thing, are the latest, and they dare not neglect their use. The law virtually compels them to use them. They stand between Scylla and Charybdis. On the one hand, stand the owners of these patents in full command of the situation; and, as the law now stands, able to command whatever exorbitant price they may demand for the use of their inventions; on the other hand, the courts compelling them to use these very inventions without regard to cost. The result is that the patentee does not neglect to use the power thus thrown into his hands, and demand the most exorbitant and outrageous price for the privilege of using his inventions. Some submit and pay three, four, five, or even ten times what any just-minded man, or what Congress, if appealed to for the particular patents, would ever hold to be reasonable. Others, feeling compelled to make use of the inventions, and finding they cannot procure the right from the patentee without submitting to such extortions, choose to use the inventions and trust to the justice of courts and juries. Now, in all this class of cases the patent law, as to future patents at least, ought to provide some maximum of compensation for infringement for use. This might be done in various ways, as to manufacturers for using spark-catchers, for example, two, three, four, or five times the cost of material and manufacturing the same; and so for those used on steamers or locomotives. And for those inventions used only on railroads, such as steam-brakes, &c., the above plan might, if necessary, be combined with a ratio of miles of road. There may be many better methods of carrying out the idea of a maximum charge; but that justice

and sound policy require some plan to accomplish the object I have mentioned, seems to me quite evident.

Mr. President, I have finished what I have to say of the system in general, and it will be convenient for me, if it will suit the convenience of the Senate, to close whatever remarks I have yet to make to-morrow rather than to-day, as I feel considerably exhausted.

Mr. INGALLS. I move that the Senate proceed to the consideration of executive business.

Mr. HOAR. Will the Senator withdraw that motion for a moment, as I desire to make a suggestion?

Mr. INGALLS. Certainly.

Mr. HOAR. Mr. President, I am quite sure that there will not be a quorum of the Senate present to-morrow; at least, that is possible; and it will be desirable for the Senators to know to-night whether a quorum of the Senate expect to proceed with business to-morrow. I move the following resolution:

Ordered, That at twelve o'clock to-morrow the presiding officer adjourn the Senate until Tuesday, January 7, at twelve o'clock meridian.

Mr. BECK. I desire to ask if an objection will prevent the consideration of the resolution now?

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) One objection carries it over to to-morrow under the rules.

Mr. BECK. I do not desire to object unconditionally; but the bill of which I gave notice and which was reported unanimously from the Committee on the Revision of the Laws to-day comes up to-morrow morning and I wish to have it considered before we adjourn for the holidays, for the reasons given by the Senator from Louisiana, [Mr. EUSTIS,] which show the importance of having it acted upon before the 1st of January when the meetings of the courts occur, who will be embarrassed for the want of jurors.

Mr. HOAR. I suppose that perhaps the Senate will be willing to take up the Senator's bill to-night as nothing will be gained by postponing it until to-morrow.

Mr. BECK. If that can be done, I shall be very glad. I would like to proceed with it now.

Mr. DORSEY. To-day the Senate passed a bill making an appropriation for a deficiency in the Post-Office Department. It is of the highest importance that that bill should become a law before the recess is taken by Congress; and if the resolution of the Senator from Massachusetts is adopted declaring an adjournment at twelve o'clock to-morrow, it will be impossible to have that bill signed. I hope, therefore, that the Senator from Massachusetts will withdraw his proposition.

Mr. HOAR. Mr. President, I certainly have no desire to prevent the transaction of legislative business to-morrow if there is to be a quorum of the Senate present so that legislative business can be transacted. I will, with the leave of the Senate, withdraw my resolution informally for the present if the Senate is going into the consideration of executive business.

The PRESIDING OFFICER. The resolution of the Senator from Massachusetts is temporarily withdrawn.

Mr. WADLEIGH. I move that the further consideration of Senate bill No. 300, to amend the statutes in relation to patents, and for other purposes, be postponed until one o'clock on the 7th day of January next.

Mr. WITHERS. Before that motion is put I beg to offer an amendment to the bill which I ask may be printed.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment to the bill, which will be received informally, and ordered to be printed. What is the motion of the Senator from New Hampshire?

Mr. WADLEIGH. My motion is that the further consideration of Senate bill No. 300 be postponed until the 7th day of January next at one o'clock.

The PRESIDING OFFICER. The Chair will remind the Senator that the Army bill is fixed for the 8th.

Mr. WADLEIGH. My motion is that this bill to revise the patent laws be made the special order at one o'clock on the 7th of January.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire, that the pending bill be made the special order for Tuesday, January 7, 1879.

The motion was agreed to.

Mr. DAVIS, of Illinois. I move that the amendment which I submitted to the bill be printed.

The motion was agreed to.

Mr. WINDOM. I move that the amendment proposed by myself be printed also.

The motion was agreed to.

BEN HOLLADAY.

Mr. CAMERON, of Wisconsin. I desire to give notice that on the 9th day of January, after the morning business has been gone through with, I will move the consideration of the bill (S. No. 1398) for the relief of Ben Holladay.

WITHDRAWAL OF PAPERS.

On motion of Mr. WITHERS, it was

Ordered, That leave be granted to withdraw from the files the petition and papers relating to the endowment of the Reneau Female University of Mississippi.

EXERCISE OF ELECTIVE FRANCHISE COMMITTEE.

Mr. TELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the committee appointed to investigate the recent elections is hereby authorized to employ such clerks and stenographers as may be necessary.

CENSUS OF INDIAN TERRITORY.

Mr. VOORHEES submitted the following resolution:

Resolved, That the Select Committee on the taking of the Tenth Census of the United States be instructed to inquire into the advisability of incorporating in such census the following statistics:

First. The total number of persons of Indian blood in the Indian Territory in each tribe.

Second. The number of persons of mixed blood.

Third. The number of persons of full blood.

Fourth. The number of whites who are members of the tribes by marriage or adoption.

Fifth. The number of whites in the Territory who are not members of any of the tribes by marriage or adoption.

Sixth. The number of freedmen in the several nations who are members of the several nations by treaty stipulation or otherwise.

Seventh. The number of freedmen in the several nations who are not members of any of the tribes.

Eighth. The amount of property owned by these several classes of residents in the Indian Territory, and the character of the same.

Ninth. The amount of agricultural products raised in said Territory, and by whom produced.

Tenth. The number of schools, children attending, and cost of the same.

Eleventh. The number and classification of such children, full bloods, mixed bloods, whites, and negroes.

Mr. VOORHEES. I presume there will be no objection to the resolution, merely instructing the Census Committee to make this inquiry.

Mr. MORRILL. I suppose it simply refers to the expediency of this, and is not an absolute instruction.

Mr. VOORHEES. That is all.

The resolution was considered by unanimous consent, and it was agreed to.

PETITIONS AND MEMORIALS.

Mr. RANDOLPH. I ask leave to present a petition from the Washington Art Club; and as it is short I desire that it be read, as I propose to introduce a bill in connection with it.

The VICE-PRESIDENT. The petition will be read at length.

The Secretary read as follows:

To the Senate and House of Representatives in Congress assembled:

The members of the Washington Art Club respectfully represent: It having come to the knowledge of this association through the public prints that in the Bureau of Engraving and Printing of the Treasury Department great numbers of plates used in the engraving of notes, bills, drafts, bonds, &c., for the Government are being destroyed after having served their purpose, and it being well known that many of these works are of a high degree of merit, and fearing lest these valuable specimens of the engraver's art may become extinct and lost to the world, therefore your petitioners humbly pray that the Secretary of the Treasury be instructed to convey or cause to be conveyed to the officers of the Washington Art Club one proof-sheet of each and every such specimen that the Secretary of the Treasury may deem of sufficient merit for preservation among its archives, or that an arrangement be made similar to that existing at the Government Printing Office, by which such engravings, &c., may be lawfully purchased.

THOMAS WILSON,
Vice-President W. A. C.

HENRY L. HILLYER,
Secretary W. A. C.

The petition was referred to the Committee on Finance.

Mr. VOORHEES presented the petition of John C. Landreau for himself and on behalf of his brother Jean Théophile Landreau, praying the interposition of the United States Government to enable him to secure a just settlement of his claim against the Government of Peru for the seizure of large deposits of guano alleged to have been discovered by Jean Théophile Landreau; which was referred to the Committee on Foreign Relations.

Mr. KERNAN presented the petition of Stephen A. McCarty, of Pulaski, Oswego County, New York, praying for the passage of a law authorizing the President to restore him to his position of lieutenant-commander in the Navy; which was referred to the Committee on Naval Affairs.

He also presented the petition of John Forbes and others, of Wilmington, New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

DATE OF PENSIONS.

Mr. INGALLS. The frequency and great number of the petitions which have been offered like that just presented by the Senator from New York [Mr. KERNAN] in regard to the passage of the bill granting arrears of pensions renders it necessary for me to give notice that at the conclusion of the bill that is in charge of the Senator from New Hampshire, Senate bill No. 300, I shall move the consideration of House bill No. 4234, now upon the table, which is a bill to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payment of arrears of pensions, and other purposes.

BILLS INTRODUCED.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1551) to authorize the payment of certain moneys heretofore appropriated for the construction of locks in the

Great Kanawha River, West Virginia; which was read twice by its title, and referred to the Committee on Claims.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1552) granting a pension to Captain Michael McGrayel; which was read twice by its title, and referred to the Committee on Pensions.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1553) granting a pension to Leonard Scarbrough; which was read twice by its title, and referred to the Committee on Pensions.

Mr. RANDOLPH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1554) relative to printing impressions from portraits and vignettes; which was read twice by its title, and referred to the Committee on Finance.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 211) extending time for Joint Committee on Transfer of Indian Bureau to report was read twice by its title, and referred to the Committee on Indian Affairs.

ROCKY MOUNTAIN SURVEYS.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the reports of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

The VICE-PRESIDENT also laid before the Senate the following concurrent resolution from the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives; 500 for the use of the Senate; 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

INDIAN BUREAU TRANSFER COMMITTEE.

The VICE-PRESIDENT. What is the pleasure of the Senate?

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. SAUNDERS. Will the Senator withdraw that for a moment?

Mr. ANTHONY. Certainly.

Mr. SAUNDERS. I wish to call up the resolution that just now came from the House in relation to extending the time for the report of the Committee on the transfer of the Indian Bureau.

The VICE-PRESIDENT. That joint resolution has been referred to the Committee on Indian Affairs.

Mr. SAUNDERS. I move a reconsideration of the vote by which it was referred.

The motion was agreed to.

Mr. SAUNDERS. I ask now that the resolution be taken up and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 211) extending time for Joint Committee on Transfer of Indian Bureau to report. It extends the time in which the joint committee appointed by the Senate and House of Representatives to consider the transfer of the management of Indian affairs from the Interior to the War Department may report to the 1st day of February, 1879.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

The VICE-PRESIDENT. The Sergeant-at-Arms will close the doors and clear the galleries.

Mr. CONKLING. While the Sergeant-at-Arms is doing that, I move that the Senate do now adjourn.

The motion was not agreed to.

The Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at four o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 19, 1878.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MEMBER SWORN IN.

Mr. ACKLEN. I rise to a question of privilege, and present the credentials of John S. Young, member of Congress elect from the fifth congressional district of the State of Louisiana, to the Forty-fifth Congress, in place of John E. Leonard, deceased. If there be no objection I move the reading of the credentials be waived and the gentleman be now sworn in.

There was no objection, and it was ordered accordingly.

Mr. YOUNG presented himself in front of the Speaker's desk and was sworn in by taking the modified oath.

ORDER OF BUSINESS.

Mr. ACKLEN. I demand the regular order of business, which is the morning hour.

Mr. BRIGHT. I hope the gentleman will withdraw that demand for the regular order until some little business we have here has been gone through with.

Mr. CABELL. It will not take long.

Mr. ACKLEN. I withdraw the demand.

INVESTIGATION OF JUDGE RIVES.

Mr. CABELL. I ask unanimous consent to submit for consideration at this time the following preamble and resolution:

Whereas it has been represented that Hon. Alexander Rives, judge of the district court of the United States for the western district of Virginia, has awarded a writ of *habeas corpus cum causa* for the purpose of bringing before him two prisoners, to wit: Burwell Reynolds and Lee Reynolds, in the custody of the officers of the State of Virginia, in Patrick County, one of whom is held under the charge of and for trial upon indictment for murder committed in said county, and the other of whom has been convicted and sentenced for said crime; and

Whereas the said judge has directed the trial of said prisoners to be had before the circuit court of the United States for the western district of Virginia: Therefore,

Be it resolved, That the Committee on the Judiciary be instructed to inquire into the facts connected with said action by said Judge Rives in the cases referred to, and report to this House under what law or authority such action was taken by said judge, and what course, if any, should be taken by this House relative thereto. And said committee, in conducting its investigations, is hereby authorized to call for persons and papers.

Mr. WHITE, of Pennsylvania, and Mr. GARFIELD objected.

Mr. CABELL. I hope it will be noted who objected to this resolution.

Mr. TOWNSEND, of New York. I rise to a question of privilege. I want to know whether a member of this House is to be menaced in the discharge of his official duty. I understand that the gentleman from Virginia called out in a menacing manner to notice who objected. I claim it is a breach of the House.

Mr. CABELL. I am astonished the gentleman from New York should take any exception to it.

The SPEAKER. The Chair desires to say to the gentleman from New York that the reporters are bound to note the objection.

Mr. TOWNSEND, of New York. Yes.

Mr. WHITE, of Pennsylvania. It did not alarm anybody.

Mr. CABELL. I neither menaced anybody nor did I intend to menace them. When I intend to menace I will make a demonstration which the gentleman will not mistake.

Mr. TOWNSEND, of New York. What a terrific fellow he is!

Mr. WHITE, of Pennsylvania. What did the gentleman mean by that remark?

Mr. CABELL. I wish it put upon the record what gentlemen objected to the resolution, a mere resolution of inquiry.

The SPEAKER. It is a usual proceeding.

Mr. CABELL. I wish it noted who objected to the introduction of a mere resolution of inquiry which I had respectfully presented to the House.

Mr. HALE. There is some little right of objection on this side of the House.

The SPEAKER. The Chair endeavors to protect the rights both of the minority and majority.

Mr. TOWNSEND, of New York. We do not object to the Chair.

Mr. HALE. We do not question the fairness of the Chair at all, but we are not to be frightened by the gentleman from Virginia.

Mr. WHITE, of Pennsylvania. We do not object to the gentleman knowing who did object. It is our right to object.

The SPEAKER. The Chair feels he is here to protect the minority as well as the majority.

Mr. SPARKS. There is no question that the minority has the right to object, and they avail themselves of it very often.

Mr. CABELL. Yes; they have a perfect right to object.

Mr. SPARKS. And they avail themselves of it very freely.

Mr. ACKLEN. I move that the riot act be read. [Laughter.]

Mr. TOWNSEND, of New York. If my friend had read it in Louisiana during the last election it would have been better for this side of the House. [Laughter.]

WIDOW OF SEATON GALES.

Mr. DAVIS, of North Carolina, by unanimous consent, presented the following resolution; which was read, considered, and agreed to:

Resolved, That there be paid out of the contingent fund of the House to the widow of Seaton Gales, late an employé of this House, a sum equal to his pay for three months and his proper funeral expenses.

WAR CLAIMS.

Mr. SHELLEY, by unanimous consent, from the Committee on War Claims, reported back the following cases; which were severally re-

ferred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 5706) for the relief of Samuel I. Gustin, of Georgia;

A bill (H. R. No. 5707) for the relief of Joseph H. Maddox and others;

A bill (H. R. No. 3041) for the relief of Dr. C. E. Tucker, of Putnam County, Ohio;

A bill (H. R. No. 5712) for the relief of Lucinda McGuire, of Memphis, Tennessee;

A bill (H. R. No. 5708) for the relief of James G. Williams; and

A bill (H. R. No. 5709) granting relief to Agnes and Maria de Leon, heirs of Rebecca L. de Leon, for rent of house by United States troops.

PENSIONS TO TEAMSTERS, ETC.

Mr. JONES, of Ohio, by unanimous consent, introduced a bill (H. R. No. 5710) granting pensions to certain teamsters and expressmen of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

DANIEL SPEAR.

Mr. JONES, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 5711) granting a pension to Daniel Spear; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BRIGHT. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 1244) for the relief of George Williams. I would state to the House that this bill is identical with House bill No. 4412, which was referred to the Committee of Claims, and which that committee has agreed unanimously to report back to the House with a favorable recommendation.

The SPEAKER. The bill will be read, after which objections, if any, will be in order.

The bill was read.

Mr. WHITE, of Pennsylvania. Is there a report accompanying the bill?

Mr. BRIGHT. Yes; there is a report from the Committee of Claims of the House.

Mr. BREWER. I object, and demand the regular order.

Mr. BRIGHT. The bill makes no appropriation. It provides for a commission to ascertain certain facts and to report to the Secretary of War.

Mr. HALE. I would suggest that several gentlemen desire to have a morning hour, and perhaps the gentleman from Illinois [Mr. SPARKS] will let the Indian appropriation bill stand for the present, as we have had no morning hour hitherto for public bills.

Mr. SPARKS. I must insist on the regular order.

The SPEAKER. The gentleman from Illinois has advised the Chair that he will not yield for anything, as his object is to have the Indian appropriation bill passed before the holidays.

Mr. BRIGHT. The bill on which I desire to have the action of the House will take but a few moments.

Mr. WHITE, of Pennsylvania. If the bill is pressed, I call for the reading of the report.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] objects and demands the regular order, and the Chair has no volition.

INDIAN APPROPRIATION BILL.

Mr. SPARKS. I move that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming the consideration of the Indian appropriation bill.

The question being taken, there were—ayes 104, noes 21.

So (further count not being called for) the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. LIGON in the chair,) and resumed the consideration of the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes.

The Clerk resumed the reading of the bill, and read the following paragraph:

Collecting and subsisting Apaches and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

Mr. THROCKMORTON. I offer the following amendment:

After line 1268 add the following:

Provided, That no Indians now living in Arizona or New Mexico or elsewhere outside of the Indian Territory shall be moved into said Territory unless authorized by act of Congress hereafter to be enacted.

Mr. SPARKS. I make the point of order on that amendment. As I understand the amendment it provides for new legislation. In my judgment, Mr. Chairman, it is in conflict with Rule 120.

Mr. THROCKMORTON. Mr. Chairman, the point of order, I submit, is not well taken. When the Indian appropriation bill in the last session of the last Congress was in Committee of the Whole my colleague from Texas [Mr. MILLS] offered an amendment similar to this to prevent the Sioux Indians from being removed to the Indian Territory. That amendment was adopted.

Mr. BLOUNT. Was the point of order made on it and discussed?

Mr. THROCKMORTON. I find by reference to the RECORD that the amendment was not discussed. On January 27, 1877, my colleague offered this amendment:

And the President of the United States is hereby directed to prohibit the removal of any portion of said Sioux Indians to the Indian Territory unless the same shall be hereafter authorized by act of Congress.

That amendment was adopted by the Committee of the Whole. This, then, is not new legislation, and I submit that the point of order does not obtain. After the Chair has ruled upon it I will beg leave to give my reasons to the House in support of the amendment.

Mr. MILLS. The amendment offered by my colleague does not conflict with the rule. It is germane to the proposition that we are now considering. It does not propose any new legislation, and it does not propose to change existing law.

The Indian Bureau has been constantly attempting to remove the wild Indians from all parts into the Indian Territory, and does so without any authority of law at all, and in violation of treaties which are existing law. Now, then, we offer this amendment to the appropriation bill prohibiting the Indian Bureau from continuing to violate the law by removing Indians into the Indian Territory until it shall be authorized by law. That is all there is about it.

A similar amendment, as my colleague states, was put upon the Indian appropriation bill on my motion in the last Congress without any sort of objection. The Committee on Appropriations agreed to it. There was no point of order made upon it. And, at any rate, I can easily make this amendment in order by simply moving to reduce the appropriation one dollar. In this way that rule of the House has been evaded repeatedly. By moving to cut down the appropriation one dollar we will bring the amendment before the House, and the Committee on Appropriations cannot prevent its consideration. So I think we may as well take this up on its merits at once and consider it.

Mr. THROCKMORTON. It will have been observed that the pending paragraph provides for "collecting and subsisting Apaches and other Indians of Arizona and New Mexico," and for their removal to reservations. Now, sir, we want to prevent these Indians from being moved on to the Indian Territory. We do not object to the appropriation made in this paragraph, but we desire to limit it so that the Indians shall not be removed on to the Indian Territory. We desire this for the reason that already eighteen thousand Indians belonging to the wild tribes have been collected in the Indian Territory on the border of Texas, and we think there are enough of those wild tribes already there to give us trouble; and there is an abundance of territory far removed from the white settlements where Indians can subsist and be collected and taken care of by the Government as well as on this Territory. For that reason we offer the amendment. We think it is germane to the bill. It only seeks to limit the application of the appropriation made, so that the Indians shall not be placed upon the Indian Territory contiguous to Texas.

Mr. SPARKS. Mr. Chairman, the bill does not make provision for settling these Indians upon the Indian Territory, but does make provision in this clause for collecting them upon reservations in New Mexico and Arizona. But these gentlemen desire now to put into this bill a prohibitory clause against the settlement of Indians upon the Indian Territory generally and as an independent proposition. I am not proposing here to settle these Indians nor any others upon the Indian Territory. There is nothing of that sort in the bill; but these gentlemen are so fearful that in future such a thing may occur that they propose to put in a prohibition against it.

Now, I would ask what right anybody has to prohibit the removal and settlement of Indians upon the Indian Territory as an abstract proposition? It is a reservation for Indians, and would seem under ordinary circumstances to be a proper place to settle Indian tribes, but we are not proposing to touch that question here. It would be competent for my friend from Texas, [Mr. THROCKMORTON,] who is on the Committee on Indian Affairs, to bring in a bill prohibiting the settlement of Indians in that Territory, and then the question could be fully discussed, but not here. Sir, this is new legislation attempted to be incorporated upon an appropriation bill, which is in no sense the proper place for it.

The other gentleman from Texas [Mr. MILLS] proposes to reduce the appropriation one dollar with a view of covering the point of Rule 120, making it appear that it reduces expenditures and is therefore within the rule; but the Chair will perceive that this is new legislation and of a grave character attempted to be incorporated into this bill. The time is inopportune and the place improper. I object to it, and as I understand the rules it is not allowable, notwithstanding the amendment interposed by the gentleman from Texas [Mr. MILLS] to the original amendment.

Mr. THROCKMORTON. One word in answer. I think, sir, that when the gentleman from Illinois takes this section and goes back to page 51 and reads where it says "removal, settlement, subsistence, and support of Indians," and then reads the clause under consideration, he will find that these Indians could be removed from Arizona or New Mexico to the Indian Territory. The clause is as follows:

Collecting and subsisting Apaches and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

Now, if they have been collected there or if they may hereafter be

collected there this sum of money is appropriated for their support and subsistence, and also for their removal to wherever the Indian authorities may specify they shall go. The clause in it says that the Indians shall be collected. It does not say that they shall be confined to Arizona or New Mexico, but merely be collected there.

Mr. BAKER, of Indiana. I desire to say a word upon the question of order. That the proposed amendment is new legislation it seems to me no one can doubt. It proposes affirmatively to put upon the statute-book an inhibition against the Indian department removing any Indians from Arizona or New Mexico into the Indian Territory; nor is it germane, and that is a further objection, to the subject-matter of the paragraph sought to be amended. If the Chair will look at the paragraph he will see that this appropriation cannot be expended except, in the first place, upon the Apaches and other Indians who at the time this law comes into force are in the Territories of Arizona and New Mexico. It will be seen further that it can only be used for the purpose of subsisting and properly caring for the Apaches and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico and Arizona.

It follows, therefore, that this appropriation being by the terms of the paragraph sought to be amended expressly limited by the language employed to the support and care of Indians in the Territories of New Mexico and Arizona, the amendment is not germane, and if it were it is not in order.

The question as to whether or not the Government should pursue the policy of locating the Indians in the Indian Territory is one about which people may differ, but it is not proper that it should be discussed upon this question of order.

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title; in which he was directed to ask the concurrence of the House:

A bill (S. No. 1492) to amend section 15 of an act entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes," approved June 18, 1878.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 5501) making appropriation for the payment of invalid and other pensions of the United States for the year ending June 30, 1880 and

A joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States.

The message further announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, and asked a conference upon the disagreeing votes of the two Houses thereon, and had appointed Mr. WINDOM, Mr. DORSEY, and Mr. WALLACE conferees on the part of the Senate.

The message further announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 5312) making appropriation for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, and asked a conference upon the disagreeing votes of the two Houses thereon, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS conferees on the part of the Senate.

INDIAN APPROPRIATION BILL.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. MILLS. I ask my colleague to accept a modification of his amendment which will obviate the point of order. It is to amend the clause by striking out "$320,000," and inserting in lieu thereof "$319,990," and add his proviso.

Mr. THROCKMORTON. I accept that amendment.

The CHAIRMAN. It is the opinion of the Chair that the amendment is not subject to the point of order.

Mr. MILLS. Now I desire to address the committee for a few moments. It has been the policy of the Indian Bureau for a number of years to gather up all the wild Indians in the United States and Territories and put them inside of the Indian Territory.

I will not now discuss the great wrong that would be done to the civilized Indians residing in that Territory under treaty stipulations with the United States, by putting all these wild savage uncivilized and almost uncivilizable Indians in contact with them.

I know from conversations that I have had with some of the Cherokees and Chickasaws that they were utterly opposed to bringing these wild Indians in contact with them and the white people surrounding that Territory. It has been asked why will you oppose this thing when there is no law authorizing the Indian Bureau to do it, and they cannot do it without law. We simply know that the Indian Bureau have been constantly doing it in defiance of law and there is only one way of preventing it, and that is by interdicting it. They do it now without law. They do not ask for any authority of law. They take Indians from the reservations in the northern and northwestern Territories and bring them down into a climate to which they are not accustomed in the Indian Territory, and they do it in violation of treaty stipulations and to the detriment of the Indians removed as well as to that of the Indians who reside in the Territory. They brought the Modoc Indians there without authority of law and a great number of them died. They brought the Nez Percés there and some of them, I am told, have already fled and gone back.

Two years ago the Indian Bureau was fatally bent upon gathering the hostile Sioux from along the British border and locating them upon the Indian Territory. They took there a delegation of Sioux chiefs, and if they had consented to remain there in conjunction with the Kiowas, Comanches, and other Indians in that Territory they would have given us war upon all our borders, on the east, north, and south of the Indian Territory. That, however, was prevented by a provision exactly like this which was introduced and supported by myself and colleagues and other representatives of the country near the Indian Territory. We obtained the incorporation in the Indian appropriation bill of an amendment which prevented the Indian Bureau from bringing these hostile Indians down there.

The Indian Bureau is now discussing the feasibility of gathering the Apaches and other Indians in Arizona and New Mexico, those wild dare-devils of the western border, the worst of all the Indians in the United States—of gathering them up and putting them in the Indian Territory. I want the solemn interdiction of Congress, the supreme law-making power of this Government, that the Indian Bureau shall not do this thing until authorized by Congress so to do. They have been doing it heretofore without law, and I want Congress now to prohibit it.

Mr. SPARKS. The trouble with the gentlemen from Texas seems to be that a good part of their State is on the border. It seems that there are some Indians in the neighborhood of their State borders. Now, sir, I cannot help that.

Now, with respect to this proposed amendment, it is well that we should direct attention to the subject-matter before us. The pending paragraph of the bill is a proposition to collect and subsist certain Indians upon their reservations in New Mexico and Arizona, not in the Indian Territory. These gentlemen seem to be anxious to insert some prohibitory legislation against Indians being brought into the Indian Territory, and therefore they have introduced this amendment.

In support of this amendment they refer to the action of two years ago. We then had under consideration the Sioux clause of the Indian appropriation bill, and this is the provision that was then inserted as an amendment, as it seems, by consent of the committee, namely:

> And the President of the United States is directed to prohibit the removal of any portion of the said Sioux Indians to the Indian Territory, unless the same shall be hereafter authorized by act of Congress.

Now, I am willing in this case, and have so stated to the gentleman who offered this amendment, that the same prohibitory clause against the removal of the Apaches to the Indian Territory may be added to this bill. But the gentleman is not satisfied with that. He wants to tie up that Indian Territory against all Indians. His proposition, therefore, is that sort of important new legislation that I object to it here. The proposition of the gentleman may be correct; but the subject is so important that it should be thoroughly considered some time by itself and not here upon an appropriation bill.

Mr. THROCKMORTON. We propose by this amendment that whenever Congress by an act authorizes the removal of Indians into the Indian Territory it shall be done. We do not want the bureau to do it now without authority of Congress.

Mr. SPARKS. The gentleman says they are willing that the Indians shall be removed to the Indian Territory when there is a law of Congress authorizing it. If there is no such law now, then why is this amendment offered?

Mr. THROCKMORTON. To prevent the Indians from being carried there now.

Mr. SPARKS. The argument of the gentleman from Texas [Mr. THROCKMORTON] is that the Government officials do things now without authority of law and in violation of law. Why, then, pass a new law? Will they not violate a new law just as well as an old one?

Here is this Indian Territory. Indians are upon it—a great many Indians. Some persons insist that it would be well to locate all the Indian tribes upon this Territory. The gentleman from Texas and others in his locality insist otherwise. Sir, this is a very grave question, and one which should be considered in an independent bill, and not tacked on to an appropriation bill.

I have already stated that so far as these Apaches are concerned I am willing, so far as I am individually concerned, to grant these gentlemen the same prohibitory clause that was granted in regard to the Sioux in the bill referred to. But they are not satisfied with that, and they insist that a prohibitory clause shall now be inserted against the removal of any tribes of Indians in the Indian Territory.

Mr. REAGAN. I think that the question raised by this amendment is one that deserves serious consideration by the House. I shall direct the few remarks that I make to the question of the policy of taking Indians from other portions of the United States and locating them on the Indian Territory, west of Arkansas, south of Kansas, and north of Texas.

These Indians occupy a peculiar position. They have their tribal relations and tribal rights. They have their local jurisdiction, but they are not recognized as citizens of the United States. We know that situated as they are they stand as a barrier in the way of the

most interesting portions of territory of the whole United States to the advancement of civilization, arresting progress and interrupting the convenience of at least three important States immediately contiguous to that Territory.

The Indians to be located there are wild, roving, nomadic bands of Indians. They do not wish to occupy the soil for cultivation, and they are not likely to reach a condition of civilization at an early period. Now, should it be the policy of the Government to further interrupt the advance in civilization and prosperity of that interesting portion of the country by locating there additional bands of the wildest tribes of Indians?

We appeal to this Congress to enable us to protect at least the States of Kansas, Arkansas, Missouri, and Texas against the location upon our border of additional wild tribes of Indians who could be much better situated with reference to their own convenience, their own hopes and interests, by being located farther out upon the plains where their wild habits would not be interrupted; where they could pursue their vocation of hunting, and of stealing, if you please, (which is an important part of it,) without being brought so immediately in contact with civilized people.

A great number of questions connect themselves with this. We happen to be in a portion of country where large numbers of people recently enfranchised and clothed with all the rights of citizenship have to be educated for the proper performance of the duties of citizenship. We have also to some extent a Mexican population, a little superior to the Indians but not equal to the white men of the United States. These also have to be educated in the knowledge of our system of government. We trust, therefore, that the Government will not permit to be thrown upon us still more of these elements incapable of exercising the political rights of American citizens and not likely to be made capable for a long time, thus creating an additional obstruction to the advancement of civilization in one of the most fertile and inviting portions of the whole country.

Infinitely better would it be for us to shape our policy so that at as early a day as possible, consistently with the rights of the Indians and by their consent, we may bring that Indian Territory into the condition of a Territory of this Union, and prepare it for ultimate admission as a State so soon as its people are sufficiently advanced in civilization, in the knowledge of agriculture and the mechanical arts.

What we want is to arrest the unlawful action of officers of the Government in taking the wild Indians from other portions of the country and placing them upon us as an additional barrier to the prosperity and growth of our country.

[Here the hammer fell.]

Mr. BOONE. I move to amend the amendment by striking out the last word. The amendment offered by the gentleman from Texas is an important one, important not only to the civilized Indians who live in this Territory and to the citizens of the States bordering upon the Territory, but infinitely more important to the wild Indians themselves. Without stopping to discuss in my five minutes the question how this measure may affect the civilized Indians and the citizens of the States bordering upon the Indian Territory, I have a word to say in reference to the Indians who are taken from other localities and removed to this Territory.

If gentlemen here did but know the history of the Modocs who were brought from a northern climate down to this Territory, beautiful as the Territory is; if they had seen the havoc which the relentless hand of death has wrought upon that once powerful tribe, I think they would well consider the propriety of absolutely prohibiting the removal of northern Indians at least to a southern climate.

Let me mention another circumstance. During the last summer I believe about two hundred and seventy of the Nez Percé tribe of Indians were brought down and settled in that Territory, professedly for the purpose of preventing Joseph and a number of his band who, as alleged, had been guilty of murder from being hanged, to enable them to escape the vengeance of the law. What was the result upon the Indians thus brought there? Why, sir, it would have been infinitely more merciful to that tribe to have suffered the hangman's rope to strangle Joseph and all alleged to be inculpated in that murder than to suffer the women and children of that tribe to be prostrated, as I have seen them, upon their backs by sickness, finally to die.

Mr. SPARKS. Will the gentleman allow me to ask him a question?

Mr. BOONE. Yes, sir.

Mr. SPARKS. Is it not a fact that the greater portion of this tribe of Indians died at Fort Leavenworth, or in the Missouri River bottom adjacent thereto?

Mr. BOONE. I am not advised how many died at Fort Leavenworth or thereabouts.

Mr. SPARKS. One other question. Is it not a fact that the diseases from which they are now suffering were contracted there?

Mr. BOONE. I am not so advised.

Mr. SPARKS. I am informed that such is the fact.

Mr. BOONE. I was informed while there that they were the subjects of malarial fever contracted in that Territory and incident to a residence there—a disease which is likely to attack and destroy Indians brought there from a northern climate. I will not undertake to say that the Indians of the north ought not to be quartered upon a territory of their own somewhere in the north, and the Indians of the south upon a territory of their own in the south. That is a question for future consideration. But this I do say—that it is absolute cruelty to the Indian race, wild and savage as they may be, to bring them from the north and put them in that climate.

Talk about exterminating the Indian race! Why, sir, it would be better to put them all to the bayonet and let them die at once rather than subject them to the slow torture of being destroyed by the fevers which infest that Territory. Out of two hundred and seventy, if I am correct in the number, I am informed some seventy or eighty have already died in the short period they have been stationed there. A gentleman near me says the number is eighty-five. If that be true it requires no prophetic pen to see that within the course of a few years that proud man and all his band—I refer to Joseph—will become the victims of disease and death if compelled to remain there. The Indian Bureau or the Interior Department, therefore, ought to be prohibited from removing Indians from a northern to a southern or from a southern to a northern climate at their mere will; and whenever it shall become necessary to settle Indians in any place different from that they previously occupied, it should only be done under an act of Congress.

[Here the hammer fell.]

Mr. TOWNSEND, of New York. Mr. Chairman, I come of a stock that was transplanted to the eastern border of the State of Massachusetts. They arrived there in December, and by the 1st of April one-third of the entire body of colonists were in their graves. But we are not dead yet. [Laughter.] We are not exterminated. God's blessing followed the settlement. Therefore I do not draw any particular inference from the fact that some dirty, miserable tribes of Indians sickened and some of them have died in the Indian Territory.

I have been in this House three years, now in the fourth year, and until to-day I have heard but one song from a certain neighborhood as to the beauty, healthfulness, salubrity, and richness of the Indian Territory; that it was too good for the Indians; that the people of the surrounding States ought to be permitted to go into that paradise and enjoy it; that the sooner the Indians died out of it the better. I have learned for the first time this morning it is a great malarial fever bed, and not like the glorious country down in Texas across the line where my friend who makes this motion lives, or the delightful region of Arkansas, or the rich and healthy lands of Missouri, or the lovely country of Kansas, where my friend who stands before me has been able to live, although he comes from the Balkans of Vermont, and must have got a little higher in Kansas than when he started. Now this Indian Territory, we are told, is a great fever bed!

No, Mr. Chairman, the difficulty with this Indian question is that we have never had any settled policy about it. The wise men of the olden time set apart this Territory as a place where the Indians might settle in peace in their progress toward a state of civilization. Their views have been carried out until now. We have a solution of the Indian question in the condition of things in that Territory, and I say unhesitatingly, from my observation as a member of the Indian Committee and the information I have obtained there, when the entire Indian race is in that Territory, under the guns if need be, and I do think it is, of your Army, then five thousand men constantly stationed there will be a sufficient protection for every locality surrounding that Territory. Now, when twenty Indians break out to commit murders we have to send five hundred men, perhaps two thousand, three thousand, four thousand, almost five thousand miles, to fight them.

And let me, say, Mr. Chairman, that the transportation of the Army from one place to another is what costs. Talk to us about the Army! It is because of the expense of transportation it costs so much.

Let me say another thing. They talk about this being a hardship to the surrounding country. Our Texan friends were constantly at war with the Comanches, who raided over the plains, and millions and millions of dollars have been expended to protect Texas against those Comanches when they were wanderers. But we have taken them into the Indian Territory. We have dismounted them. We have disarmed the Comanches, and now a Comanche is no more trouble to Texas than a white man; not the least. Every Indian ought to be taken to that Territory; every Indian ought to be dismounted; every Indian ought to be put under the guns of your Army; and then five thousand men would be adequate to the protection of the country from all danger from this source.

I am not here to blame or to praise the Interior Department for its management of the Indians. My friends in this House know I have believed there ought to be but one head to this matter; that the care of the Indian should be in the War Department. We have got to make an Indian behave himself, and then we will have no trouble with him. I am for making all savages in all parts of the country obey the law. [Laughter.] Yes, that is my feeling about it.

[Here the hammer fell.]

Mr. HASKELL. I desire to say one word, Mr. Chairman, in regard to the pending amendment which prohibits the location of any more of the wild tribes in the Indian Territory. It is all well enough for the eminent gentleman from New York to tell my people upon the border of that Territory we ought to protect them by five thousand bayonets, but we have stood on the floor of this House begging for an increase of the Army so we might be protected, and while we have stood here begging for it three different forays have been made by these same Indians, thrusting themselves up through our State and marking their way by blood and the burning timbers of the cabins of the settlers on our frontier.

Now, then, the Committee on Appropriations comes in here with a

bill providing all the ways and means for gathering these wild tribes from their homes and locating them upon the borders of our State, that when they may become homesick, as the northern Cheyennes did only last summer, they may start northward or westward on a burning, marauding, and murdering trip to their old home. Now we of Kansas, of Texas, and of Arkansas insist that the Indian department, wherever it has located those Indians, shall keep them on the reservations where they now are. It is no part of the heritage of Kansas that she is to be made to border on a cess-pool of Indian outrages, unprotected by any adequate military force, and that our citizens should be allowed to suffer and die by the hand of those red assassins.

Mr. SPARKS. We do no such thing.

Mr. HASKELL. Your bill, whatever may be the pretension of the committee, bars the action of the Indian Bureau in no particular.

Mr. SPARKS. It provides for collecting them in New Mexico.

Mr. HASKELL. It does not provide for collecting them in New Mexico. It simply provides that the Indians now collected shall have so much money. There is not a line in the bill that prevents the Indian Commissioner from removing any Indians from their present locations and locating them anywhere that he chooses.

Mr. SPARKS. Will you allow the language of the bill to be read?

Mr. HASKELL. Yes, sir.

Mr. SPARKS. It reads thus:

> Collecting and subsisting Apaches and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

Mr. HASKELL. That is merely a description of the Indians, stating where they now are, and if you do not want them moved you can have no objection to the pending amendment, which simply bars the removal in specific terms. Only six months ago a band of these Indians broke away from restraint and murdered our people in our State, and you propose to allow the Indian Bureau to bring there upon those borders the very worst tribe there is on God's footstool and locate them there, and you will allow them to break away and duplicate what has already been done.

[Here the hammer fell.]

Mr. FRANKLIN. Mr. Chairman, this amendment meets with my warm approval, and I trust that it will be adopted without delay. The commercial interests of the great States adjoining the Indian Territory as well as justice to the Indian demand its adoption.

The gentleman from Illinois [Mr. SPARKS] remarked in the commencement of his speech that the difficulty with the gentleman from Texas was that his State happened to be a border State. I apprehend the difficulty with the gentleman from Illinois upon this very question is that his State happens not to be a border State. It is not improbable that if the Indian Territory bordered on Illinois and tended to shut out her commerce from the Gulf or the Atlantic coast he would not be here opposing this measure.

It seems from the remarks of the gentleman from New York [Mr. TOWNSEND] that he would have us believe that when Indians are placed in the confines of the Indian Territory they are peaceable and quit their warlike habits. I have only time in refutation of this to cite you to the history the Cheyennes made less than twelve months ago in their raid through Kansas, which was marked by blood and rapine and murder? I know it is the object of some gentlemen upon this floor—it seems also to be the object of that portion of this Government which has control particularly of Indian affairs—that this Indian Territory shall be made the abode of all the Indian tribes in the United States. To that, I as the representative of a people who feel a great interest in the future of that country most earnestly demur. Such action would be a serious thrust at the prosperity of the great State I have the honor in part to represent on this floor. We want no more barriers between us and the Gulf, and do not intend to weary in our efforts to tear down those that already exist.

I trust there is a higher future before that country. I hope that the day is not far distant when that Territory will be blessed with the same laws and the same civilization that the rest of the States and the Territories of this country are blessed with. Why do these gentlemen object to this amendment? They say it is unlawful for these Indians to be transferred there; but yet scarcely a year passes but warlike tribes are placed within the limits of that Territory. The Modocs have been placed there; the Nez Percés have been placed there within the last six months. But I suppose gentlemen will rise here and tell us that the Nez Percés are peaceable Indians, friendly Indians. Go ask the settlers of Eastern Oregon and Western Idaho if Chief Joseph and his band are friendly Indians.

Let the Indian Bureau distinctly understand that the Congress of this country is determined that it shall not place any more of these tribes there. The Nez Percés have been placed in the northeastern portion of the Indian Territory.

Article 15 of the treaty of 1868, with the Cherokees, says:

> The United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country on unoccupied lands east of 96° on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States.

The legislation contained in that article has been violated in many instances.

I can corroborate everything that the gentleman from Kentucky [Mr. BOONE] has said in regard to Chief Joseph's band. I heard his speech before the Senate commission. I have been in his camp within the last two months, and he says he has lost eighty-five of his band since they were settled there. I heard him ask the commission, and he was not answered, "Why does not your Government live up to the agreement it made with me? That agreement," said he, "is constantly before my eyes." He does not desire to remain in the Indian Territory, and claims that the Government in compelling him to stay there is violating a sacred compact.

Why, sir, our dealing with the Indians has been marred by a series of violated agreements and violated treaties. We are told, I forget now by whom or where it is related, that the noted Sioux warrior Red Cloud expressed his want of faith in them during the sitting of the council convened for the purpose of preventing the Powder River war. He refused to sign the treaty, and retiring from the council placed his hand upon his rifle and said, "Upon this and the Great Spirit I trust." This amendment should go further, and if the Indian Bureau has gone contrary to law in placing the Nez Percés in the Indian Territory they should be sent back to some reservation in the same latitude in which they were raised. The country where they now are is not at all suited to their condition and habits of life.

Mr. CRITTENDEN. As one of the Representatives of Missouri, I enter a solemn protest against the admission of any more Indians to this Territory. I see there is a disposition in the minds of some of the Representatives on this floor to have the Indians removed from their States and Territories to other States and Territories. They are acting upon the principle of self-defense. Now, we from the States of Kansas, Texas, Arkansas, Missouri, and other adjoining States, say that we will act upon the same principle and protest against the removal of another Indian to the Indian Territory. Our desire is to have that Territory open to the march of civilization from all the States.

Mr. TOWNSEND, of New York. That is what is the matter.

Mr. CRITTENDEN. Why not so open that Territory? The gentleman from New York would not have such a dangerous element as wild Indians located in the limits of his State. Have we not the same right to complain? We want no such neighbors now or hereafter. We prefer their room. I am in favor of opening up that Territory so that all classes of men can go into it and civilize it and make it a resting place and home for white men as well as for Indians.

Mr. SPARKS. Was it not set aside as an Indian Territory?

Mr. CRITTENDEN. This whole country was set aside for the Indians at one time by God, but we have driven them out, and I say let us keep driving them if they stand in the way of the civilization of the country.

Mr. SPARKS. But would you not thereby divert it from the original intention?

Mr. CRITTENDEN. Have you not done that with the whole country, from time to time, in years gone by?

Mr. SPARKS. Never mind about that, but answer my question as to this Territory.

Mr. CRITTENDEN. I say that it is the intention of this bill to locate the Indians of this country in that Territory, and it will make Kansas, Texas, Missouri, and Arkansas smoking States from one end to the other. We therefore raise our voices against it, and protest against the removal of another Indian to that Territory. It is no idle matter with us.

The people of Missouri, Kansas, Texas, and Arkansas are greatly interested in the subject now under discussion. My constituents are especially interested in it. They want no more wild or semi-civilized Indians encamped within that Territory; no, not one. When there, Mr. Chairman, they stand not only a perpetual menace to the quietude of those surrounding States, to the lives and social happiness of our people, but, sir, they, under the sanction of treaties and law, stand as a Chinese wall around the most fertile and beautiful body of land in our whole country. I am for breaking down that wall. I am for opening up that Territory for the onward march of a greater and more progressive race, that race that now sits before me as the representatives of a free American people.

Congress, on the 26th January, 1877, recognized its power to exclude wild and barbarous Indians from this Territory by the passage of this amendment to the Indian appropriation bill offered by Hon. Mr. MILLS, of Texas:

> And the President of the United States is hereby directed to prohibit the removal of any portion of the Sioux Indians to the Indian Territory unless the same shall be hereafter authorized by Congress.

I am for enlarging this prohibitory power so as to inhibit the removal of any more Indians from any quarter to that Territory. Let us make that Territory what God designed it should be, the home and abiding place of the American citizen. It is now a toll-gate between empire States taxing and oppressing one of the greatest line of railways that enter and pass through Missouri. This should not be the case, and as a Missourian I protest solemnly against it. Ah, some gentlemen on this floor become horrified when I proclaim that I am in favor of removing all barriers to emigration into that Territory. They say you violate a solemn treaty. Too late, now, to assume such honesty after the progenitors of these same gentlemen in years gone by drove the Indians over solemn and broken treaties from Plymouth Rock to the Alleghanies. Let us open that Territory to all races and classes of our citizenship, and this Congress will do its duty to the age in which we live.

Mr. CRAVENS. Before the vote is taken I desire to know where

the gentleman from New York [Mr. TOWNSEND] gets his pronunciation of the name of my State.

Mr. TOWNSEND, of New York. From the "Arkansas Traveler." [Laughter.]

Mr. CRAVENS. I presume he has a bad opinion of the people of Arkansas and thinks that they have no rights.

Mr. TOWNSEND, of New York. Oh, no; they are all clever fellows.

Mr. CRAVENS. Now, in addition to what the gentleman from Missouri has said in behalf of the civilized tribes, I protest against locating the wild tribes within this Territory. These civilized tribes border immediately upon Arkansas and they have no Representative upon this floor. In their name I protest as well as in the name of the people of Arkansas, Texas, Missouri, and Kansas.

Now, sir, there is a manifest disposition upon the part of the officials of this Government as well as the people of the Territories to transfer the Indians from their borders to the Indian Territory and devolve upon Arkansas, Texas, and other adjoining States their civilization in the future. Sir, let each State and Territory take care of its own Indians.

The Commissioner of Indian Affairs informs us in his last report that the white men of Arizona have driven the Pima Indians from their possessions and they propose to transplant them to the Indian Territory. They propose to transplant the Indians from every portion of the country to this Territory.

Now, we are not willing to take upon ourselves this burden. As the gentleman says, we have a Territory there that is inviting to industry, to commerce, and to general progress, and we have advanced the Indians originally located there in civilization until they are prepared now, as I think, to take upon themselves the responsibility of citizenship. And the thing that should be done by this Congress is to territorialize that country, and let each and every State and Territory take care of its own Indians.

Mr. PHILLIPS. This debate on this amendment has taken a very wide range, as it is apt to do when the Indian bill is pending, and most of the remarks have been far from applicable to the subject-matter before us. I wish to call the attention of the gentleman from Illinois [Mr. SPARKS] to one circumstance which concerns the whole proposition, the section of the bill reported by him and this amendment proposed to it. I think I understood the gentleman to state or imply that there was existing law for locating these wild Indian tribes in the Indian Territory, as the Executive Departments of the Government have been continually doing.

Now, Mr. Chairman, the fact is that the custom has grown up of locating, in the discretion of the Department, Indian tribes of different characters, wild, nomadic tribes, and some civilized and semi-civilized tribes, in the Indian Territory, but it is done without color of law. The importance of such action to the Indians who are thus removed, to the tribes among whom they are placed and the settlements in the adjoining States, can hardly be estimated.

The proposition in the bill submitted by the committee is to furnish the Department money to carry on this system; a system never authorized by law, which may have some advantages but which has many drawbacks, and which has been attended very recently by terrible crimes and disasters. It is a system which has never been sufficiently digested, which has never been carried on in the proper way to make it safe, useful, and effective, and which may, here and now, well challenge the attention of this House.

As has been stated upon this floor, there are tribes which have subsisted almost entirely by fishing all their lives, which have been taken away from their homes and placed a hundred miles from water, where they are required to begin a new mode of life, under changed conditions, in a climate fatal to them, cooped up on a reservation where they can find neither game nor fish. That they could be expected to thrive and improve under such conditions is out of the question. That they would peaceably remain when too often there is no adequate provision to maintain them is impossible.

The five nations mentioned in the amendment just pending, the Comanches, the Apaches, and other tribes, have been confederated in one nation or have acted as allies in peace and war with the white settlements for more than a century. They have raided upon Texas and the frontier together as one people, a hardy, warlike, restless class of nomads who have never chained themselves to any locality. Like the children of Esau, their hand has been against every man and every man's hand against them, and they have had no abiding-place or home upon the earth. I remember but a few years ago when they used to stop every train on the Santa Fé road in my State and demand the surrender of every Texan. This was after Texas was in the Union. They said they were not at war with the United States, but were at war with Texas. Oh, the bitter border wars carried on by these five nations on the Texas border! It is a long string of bloody raids, a chapter of border horrors I have no desire to drag up. But I do not wonder at Representatives from Texas rising in their seats to protest against such neighbors.

The civilization of the white man was at last too much for them. These tribes fled to Arizona, to the mountains of New Mexico, to the Pacific coast. They have been ranging on that great *terra incognita*, the valley of the Colorado of the West, and have flitted backward and forward across the borders of our weak neighbor, Mexico, sometimes within the limits of our jurisdiction, sometimes in the other, but never under the jurisdiction of either, and it is now proposed without color of law to bring back those nomadic tribes. Some of them have been settled on reservations where they are, some have been brought to and settled on the Indian Territory proper, near their old roaming ground on the northwestern frontier of Texas. One section of this provides for keeping those brought there where they now are, and this amendment would merely prevent the Secretary or the commissioners from repeating the performance until he was authorized to do so by law. I think, sir, it is high time before such experiments are repeated that we should inquire into its expediency; that we should see that proper steps were taken to protect the settlers against such incursions, and to make these locations, if they are to be made at all, something more than mere crude, unsuccessful, imbecile experiments.

Last season the Sioux, fresh from a bloody war, were brought down into the Indian Territory. It is not for us to inquire how they were treated or what steps the Commissioner took to secure the safety of his unauthorized experiment. The result is before us. They escaped from the charge of the Commissioner of Indian Affairs, went through my State, in one day in one county murdered thirty people—men, women, and children; in another day in another county they murdered nearly as many more. I need not harass your feelings with a recital of their fearful crimes. American men and women seeking to make homes in the far West, suffering all the privations and hardships of frontier settlers, seeking by their toil to make the wilderness bud and blossom like the rose, and to make of the wilderness the homes of happy men and women, who were entitled to the protection of the Government; and yet they are left without protection, exposed to these fearful outrages and calamities that the Commissioner may repeat an experiment that has almost always failed and that was never authorized.

I think the amendment of the gentleman from Texas [Mr. THROCKMORTON] while perhaps attempting to cover too much is a just provision. I think the Commissioner of Indian Affairs has no right without legislation to take a step so fraught with danger. I think the amendment to compel him to have law in order to authorize his proceeding before he does this thing is a just provision and one worthy the support of this House. This is the place to make it and surely it is time.

Mr. HOOKER. I desire to call the attention of the House to the clause of the bill which it is proposed to amend, first to the magnitude of the appropriation contained in it, and secondly to the indefiniteness of the appropriation. The clause is as follows:

> Collecting and subsisting Apaches and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

There is nothing specific in this provision. It is like a great many other provisions of this bill, clothing the Secretary of the Interior with authority to expend at his own discretion a large sum of money. What I say has not the slightest reference to the present incumbent of that office. On the contrary I take great pleasure in saying that I am not aware that any one can make any accusation against him of misappropriating any trust fund placed in his hands as the head of the Department. I speak not of the present incumbent of the office. I say that the whole principle of this bill is wrong; that we ought not to make appropriations except for specific purposes. They should be so well defined and so distinctly declared that there can be no mistake about them.

In regard to the amendment offered by my friend from Texas, [Mr. THROCKMORTON,] I desire to say to this committee that I think there are higher considerations than any with reference to economy merely which ought to guide the minds of this House in determining the propriety of the adoption of such an amendment. I say so because I had occasion last summer to ascertain something about the condition of some of the northern tribes that had been settled in the Indian Territory. I believe the impression upon the mind of every member of that commission, without regard to his preconceived notions upon this question, was that the true policy of the Government, the policy of humanity and justice to the Indians, requires that a northern territory be set aside for occupancy and settlement by those tribes of Indians who were accustomed to northern localities and latitudes.

I know the facts in regard to the tribes referred to by the gentleman from Kentucky, [Mr. BOONE,] the Nez Percés and Modocs. They have lost one-half of their number since they were forced into the Territory against their will. Of all the men we saw and with whom we conversed in this investigation, none made so great an impression upon the commission, although he came forward dressed in the blankets and the paints of the Indians, as Chief Joseph. He impressed the commission as a man who understood more thoroughly and perfectly the rights and interests of the Indian race than any other man with whom we came in contact; a man who proved himself with a handful of men a successful opposer upon the field of battle of all the forces of the United States brought against them.

Though we had to take his speech through an interpreter, it showed great breadth of thought and strength of mind. It was analogous to the speech of that great chief of the Sioux, great in all his contact with our people, whether with the military on the field or with our agents in the council chamber. I allude to Spotted Tail. He said very significantly to the Commissioner of Indian Affairs last summer, who told him that he could not, according to the promise of

the Government, remove him and his people back, for no money had been appropriated for the purpose—he said to the Commissioner, "Give me the money you would give the white man for the purpose and I will remove myself." And he did so.

There is another question to be considered, the rights and interests of the civilized tribes who already occupy this Indian Territory. You talk about taking their territory as if it belonged to the United States, as if it had not been pledged to the Indians by the most solemn act of the Government. Whenever you undertake to remove a savage tribe of Indians and settle them in the Indian Territory you should first obtain the assent of the Indians already there.

[Here the hammer fell.]

Mr. BLOUNT. The portion of the bill now under consideration does not refer to the removal of tribes of Indians to the Indian Territory. The title of this portion of the bill is "Removal, settlement, subsistence, and support of Indians." Whenever in the succeeding paragraphs a removal is designed, it is specifically stated. It is so estimated for and generally so incorporated in the bill itself. Therefore there is no removal of Indians to the Indian Territory contemplated by this paragraph.

The pending amendment proposes to prevent hereafter the removal of any Indians to the Indian Territory. Why? Gentlemen in one part of the House give as a reason that it is improper to bring northern tribes into this Territory where they are exposed to disease, death, and annihilation. On the other hand, another gentleman from that same section of the country announces that he desires that the Indians shall be kept out of the Territory in order that room may be made for white men. I guess that is very nearly the truth in relation to this whole matter. If these Indians were removed from the Territory, I think my friend from New York [Mr. TOWNSEND] would be down there directly.

Mr. TOWNSEND, of New York. Yes, if there was any money to be made there.

Mr. BLOUNT. No doubt of it. But in the interest of the white race, and of my friend especially, I want to keep the whites out of there and preserve their lives. You find here all these conflicting views in regard to this Indian Territory. The truth is that the finest lands in this country are there, and they are a temptation to the enterprise and the intelligence of the country which is seeking to make its way there.

This Territory was set apart for this particular purpose years ago. Why should we abandon it? It is true that the occupation of this Territory by the Indians may be inconvenient to adjacent communities; but the nearness of these Indians would be inconvenient to communities elsewhere, and I know of no proposition to take these Indians to a place where the land is better, where they may hope to become civilized, where they may cultivate the arts of peace. This Territory seems to be the last refuge for them; and the gentleman from Missouri [Mr. CRITTENDEN] indicates much of the spirit of the opposition to locating the Indians there when he declares, "I desire their removal to make way for the white man." This has been the rule in reference to the Indians from the very beginning to the present time. After what we have taken from them, it is but meet that we should pause to consider something of their rights.

Mr. Chairman, I trust that in this way this change will not be made. I assume that the executive department of the Government has better opportunities than we have to reach mature and just conclusions as to the interests of the Government and the people of this country. I assume that the Government in setting apart this Territory hitherto has considered the matter carefully. It has now been set aside for years; and I trust that the policy in reference to the Indian Territory and the Indians is not to be changed here upon an appropriation bill in the midst of conflicting views, none of which can with confidence be asserted to be entirely correct.

[Here the hammer fell.]

Mr. REED. Mr. Chairman, although this debate hardly seems to be apropos to anything in the bill, yet for my part I am very glad that it has arisen and I am especially glad that it has produced the open declaration on the part of gentlemen from Missouri and Arkansas as to their purposes in regard to this Indian Territory. I am very thankful that one gentleman from Missouri has brought up to our minds one instance of the bad faith of the United States in matters of treaty. Yet under the guise of "the march of civilization" another gentleman from Missouri proposes to violate at least thirty solemn treaties of the United States with the parties who are now in possession and occupancy of the Indian Territory.

It is well for the country to know that under these terms "march of civilization" there is now proposed and being pressed before committees and before this House a proposition to violate all these treaties—a proposition that the United States with the consideration of the treaty in its coffers—a consideration which it will not and cannot return—shall violate those treaties and open that Territory to the "march" of a "civilization" which signalizes itself by violating all the principles of equity and of honor.

I am glad at least to see that there is grace enough left in this matter to sugar it over with pleasant phraseology. I am glad to see that no member of this House makes a proposition to take land away from people who own it unless he can convince his mind that the handsome phrase, "the march of civilization" will cover the occasion as well as the country in question. I hope that this Congress will take notice of the proceedings which are going on in this direction, and will not allow itself under any guise to further and assist them in any fashion.

Mr. RYAN. Mr. Chairman, I am in favor of the proposed amendment—not because I desire the Indian Territory thrown open to white settlement. So far as I know no feeling of that kind exists in my own State. Neither do I favor the amendment because the transfer of northern Indians to the Indian Territory will result in the death of many of them.

The best wild Indian I ever saw was a dead one. I am in favor of the proposition because it is essential to the protection of the white people in adjoining States, especially my own State. Those Indians cannot be transferred from their homes in that northern climate into the Indian Territory and be satisfied and contented. They will break away whenever they can; and it would take an army of ten thousand or twenty thousand men to make the white settlers in adjoining States absolutely secure in their homes.

The Indians are liable to break away at a time when there is the least apprehension of danger, as in the case last summer when a band of Cheyenne Indians, dissatisfied with their new homes in the Territory, broke away and crossed my own State, marking their path with the blood of men, women and children. The Indian character is not well understood——

Mr. BAKER, of Indiana. Will the gentleman allow one to ask him a question?

Mr. RYAN. I have not much time, and I think the gentleman ought not to interrupt me.

Mr. BAKER, of Indiana. Is not the gentleman informed that the reason those Indians broke away was because the northern Cheyenne and Arapahoes had not a dollar of money appropriated for their subsistence by the last Congress?

Mr. RYAN. I understand that the band to which I refer broke away without any provocation under heaven except that they were dissatisfied with their new home. There was no other provocation than that they wanted to get back to their former habitation; and on their way they gave vent to that feeling toward the white people which characterizes the wild Indians. I have said that the Indian character is not well understood. That is a fact. That Indian, in his savage state, is the greatest idol of his tribe who can dash out the brains of the most children; ravish the most women, and then murder them; kill, by the most cruel torture, the most men, and then adorn his belt with the scalps of all.

[Here the hammer fell.]

Mr. WRIGHT. Mr. Chairman, I notice in looking over this bill that the appropriation falls a fraction short of $5,000,000. I am told the Indian population of this country is about two hundred and fifty thousand; it may be two hundred and sixty thousand or two hundred and seventy thousand. According to this state of facts you appropriate, then, about $20 a head to every man, woman, and child of the Indian population in North America.

A MEMBER. And the white Indian gets nothing.

Mr. WRIGHT. Yes, sir; the white Indian does not get anything. I propose, however, that something should be done for the white as well as for the red Indian. [Laughter.]

It may be answered there should be $5,000,000 appropriated; so much as applies to treaties is well enough, but that for the support of the Indian population is another matter. It may, I say, possibly be answered, but how much of that $20 a head does the Indian man, woman, or child receive? A friend near me suggests it may be ten cents; another eleven cents. [Laughter.] I will venture to say, Mr. Chairman, that out of that $20 *per capita* when you have deducted the pay of agents, interpreters, squaw-men, and other expenses, there will be but a small balance left. I venture to say out of the $20 *per capita* not $3 a head go to the Indian man, woman, or child.

Mr. FINLEY. How much goes to the thieves?

Mr. WRIGHT. If I enumerated the stealings there would be nothing left for the Indians. "Lo" would not have enough left to buy himself a pair of moccasins or a belt of wampum.

Mr. HASKELL. Will the gentleman permit me to interrupt him?

Mr. WRIGHT. Certainly, you may.

Mr. HASKELL. Does the gentleman from Pennsylvania wish to bring the "Mollie Maguires" down to the Indian Territory? [Laughter.]

Mr. WRIGHT. I propose to have honest government; and I would not let your agents and interpreters and squaw-men go on as they have gone. I would have these fellows outside and those inside and those in sympathy with them treated as we have treated the "Mollie Maguires," and that is hang them by the neck. That is the way I would dispose of that subject. I do not think the time has come in this country to appropriate $5,000,000 for this subject, notwithstanding it is recommended by my honorable friend from the State of Illinois [Mr. SPARKS] who always does what he thinks is right, but he has committed an error of judgment if he thinks in recommending $5,000,000 to be appropriated as it is here he is doing what is right.

Mr. SPARKS. We do not appropriate $5,000,000.

Mr. WRIGHT. It lacks only a little of it. It is four million nine hundred odd-thousand dollars.

Mr. SPARKS. Only $4,700,000.

Mr. WRIGHT. It does not fall much short of $5,000 000, as I have already stated.

I do not stand here, Mr. Chairman, to-day to encourage the persecution of the Indian tribes. God knows, coming from the section of country I represent, I would, if I followed the inclinations of the men who lived there before me, be in favor of pursuing the line of persecution. That day, however, has gone by. I am willing to do what is right between the red man and the white man. The white man has many rights in this Government which we pass by with indifference and neglect. Let us look to the comforts of the poor white man, as well as the red; adjust your rule to one of universal rights. We vote $5,000,000 to the Indian; when shall it be recorded upon the Journal of this House that $5,000,000 has been appropriated to relieve the sufferings of our poor white people.

But, sir, when we appropriate vast sums of money to the red man I do not want the white man, the official white man, to steal three-fourths of it. [Laughter.] That is the difficulty in regard to this whole matter. There is an army of interpreters, traveling agents, squaw-men, speculators, and——

A MEMBER. Teamsters.

Mr. WRIGHT. I understand the gentleman to say seamstresses. What else?

Mr. SPARKS. You want seamstresses, do you not?

Mr. WRIGHT. Yes; if they would only sew up your mouth to prevent advocating this wild expenditure they would do the State some service and help the Treasury from a serious draft upon it. [Laughter.]

Mr. SPARKS. Go on, I apologize. [Laughter.]

Mr. WRIGHT. Apologize for what? I have not examined whether this appropriation is an increase over the appropriation of last year or not.

Mr. CLYMER. It is a decrease.

Mr. WRIGHT. How much?

Mr. CLYMER. Some $400.

Mr. WRIGHT. Four hundred dollars decrease over last year! Astonishing! I would make the decrease in the appropriation as four to one, and instead of making $5,000,000 I would make it $1,000,000. I would fulfill treaty stipulations strictly, but I would not pay interpreters, agents, and squaw-men, who eat out the substance of these poor fellows and become rich at the further degradation of the Indian race.

[Here the hammer fell.]

Mr. BAKER, of Indiana. Mr. Chairman, when the historian comes to write an impartial history of the conduct of this great Government and its people toward the Indians, it will be a history of perfidy and wrong which ought to bring the blush to the face of every honest citizen of this Republic. The Indians of this country less than three hundred years ago were the owners of more than three millions of square miles, and there are now only seventy thousand square miles of land in the Indian Territory, which, by treaties almost without number, have been dedicated to them as their home for all future time. And yet we are told that the march of civilization must roll its wheels over this small remnant of territory and crush the Indians forever out of existence. Let gentlemen be manly; if they want to play the thief, let them play it openly and in a manly way.

For my part I undertake to say, Mr. Chairman, that the very reason why we are compelled to spend $4,700,000 for the support of these Indians is largely in consequence of the fact that they are permitted to be scattered over one-half of the territory we possess. Settle these Indians in this Indian Territory, put the guns of the soldier over them to keep the peace, and you will be able to reduce the expenses for the Indians one-half, and in addition reduce the expenditures for the transportation of the Army and supplies more than one-half.

We pay, Mr. Chairman, this year for supporting and clothing two hundred and fifty thousand Indians $4,710,000. We pay this very same year for transporting army supplies, provisions, and clothing for twenty-five thousand privates and twenty-two hundred officers $4,000,000. And yet when it costs to carry the provisions and clothing for twenty-seven thousand of the Army $4,000,000, men talk about the want of economy in managing the Indian Bureau. You will save one-half or two-thirds of this sum if you will comply with solemn treaty stipulations, put the Indians on the reservation, and keep them there, where they will be under the control of the Army and under the influence of civilization.

Mr. PATTERSON, of Colorado. I cannot concur in the opposition which is made to the gathering together of the Indian tribes within the Indian Territory or within other portions of the Government domain that may be set apart for that purpose. While the State I represent, like Missouri and Kansas and other States, borders upon the Indian Territory, yet I am convinced that the policy which will gather together the Indians from off the great number of great and small reservations which they inhabit and place them upon a few is the only practical and safe and honest solution of the Indian problem. In the State which I represent we have some four thousand Indians occupying a territory comprising twelve millions of acres of land. We feel, as does every other Representative within whose State or Territory Indians may be colonized, that they must be removed to the different reservations and placed somewhere else. Where are they to be placed? The Indian Territory, while it borders upon various States, is not within the limits of any of those States. It does not interfere with their government or with their civil polity. It may to a certain extent threaten or menace the property or the persons of their citizens; but wherever we place the Indians, wherever they are found, there you will find the property and the persons of the white people of the country threatened.

There must be a policy for the control of the Indians. It is a problem to which the minds of the best and the greatest men of this country have been turned; and I think the conclusion that is rapidly being reached is that if you would civilize the Indian, if you would make him partially harmless, if you would elevate his condition and at the same time protect the property and the persons of the white people, this policy of scattering them all over the western and northern portions of the continent upon small patches of ground, requiring the Army to be divided into innumerable bands for the purpose of giving even a semblance of protection, must be abandoned and the Indians must be gathered together upon three or four or five reservations in some parts of the country where they may be protected, and where good conduct on their part can also be enforced.

Why, Mr. Chairman, what is to become of the Indian? I do not indorse the sentiment that the best Indian is the dead Indian. He must have a foothold and receive protection. And unless reservations are set apart for him speedily what will be the result? As we go forward in the march of civilization Indians upon their reservations meet us in every Territory and in every State. The cry arises, they must get out of the way, they must abandon the land that they own; and once more the Army or the treaty is brought into requisition for the purpose of pushing them to the west or the north or the south to make room for the white people of the land. There must be some policy, and I suppose the policy of placing them upon a few reservations is the only true and Christian and humane policy that can ever be inaugurated or enforced.

[Here the hammer fell.]

Mr. ATKINS. I think the House is ready to vote. I offer what I send to the desk as a substitute for the amendment offered by the gentleman from Texas, [Mr. THROCKMORTON.]

The Clerk read as follows:

And the President of the United States is hereby directed to prohibit the removal of any portion of said tribes of Indians to the Indian Territory unless the same shall be hereafter authorized by act of Congress.

Mr. ATKINS. I think there will be no objection to that amendment on any side.

Mr. PAGE. Let the original amendment be read.

The Clerk read as follows:

Strike out "$320,000" and insert "$319,990," and add these words:

Provided, That no Indians now living in Arizona or New Mexico, or elsewhere outside of the Indian Territory, shall be moved into said Territory unless authorized by act of Congress hereafter to be enacted.

Mr. PAGE. I do not see any difference between the substitute and the original amendment.

Mr. THROCKMORTON. I rise to say that I am willing to accept the substitute, and before I sit down I desire to answer a remark made by the gentleman from New York [Mr. TOWNSEND] simply to set myself right as the mover of this amendment. I for one, as my friend from New York well knows, have opposed all the time the opening up of the Indian Territory for the settlement of white men. I have had no such motive in view; nor has the delegation from Texas had any such view; nor has the delegation from Kansas, as I am informed, had any such view. But I desire to say for the information of the House that this Indian Territory bounds Texas one hundred and twenty miles on the south, and one hundred and fifty miles on the west. It lies in that position to our State and to that portion of our State which is most rapidly settling; and there are but two United States posts anywhere in that region of country. They are two hundred miles apart on that border, and it is three hundred miles from the northern post at Fort Elliot to the nearest post in the southern portion of Texas, so that for all this long distance of our border they can at any time make forays upon our people.

Mr. TOWNSEND, of New York. I am happy to bear witness to the truly kindly spirit with which my friend who has just taken his seat has always approached the Indian question. The feelings he has manifested on that subject do honor to his head and to his heart. I do not in the least, in intimating that there are those who want to have the march of civilization run over the Indian Territory, include my friend from Texas. I think he feels on that subject as I do.

I want to say one thing further. I have been informed by the chairman of the Committee on Indian Affairs—I have not made the computation, but I know it must be so—that of the enormous sums to which the gentleman from Pennsylvania [Mr. WRIGHT] referred contained in the Indian appropriation bill largely more than half are simply for paying the interest on the purchase-money on lands which we have bought from time to time from the Indians. We are simply paying the annuities by way of interest on the debt we owe the Indians, so that appropriations for the Indians do not come in the shape intimated by the gentleman from Pennsylvania.

I want to say one word to the gentlemen from Kansas because they know very well why I sympathize with the State of Kansas. If the Government could have the Indians within the sweep of a moderate-sized army there would be no outbreaks from the Indian Territory, but when our Army is scattered over a territory half as large as the continent of Europe, while you have to bring five hundred men to fight one hundred Indians, the Army will be ineffective, and it is found utterly impossible to keep the Indians in check. I say in the

interest of the people of Kansas that if they are to be protected from Indians you have got to bring the Indians within such a compass that the Army can control them and then set the Army to control them. I do not agree with the gentleman from Kansas that the best Indian is a dead Indian. We have Indians in the State of New York, whole tribes of them, that are as peaceable as any citizens we have.

My own property in the State of Kansas lies right upon an Indian reservation, and I know that the Indians do as little injury and make as little trouble as white men, and are just as inoffensive. Sir, an Indian is like anybody else; if he is left alone in a savage state as a savage he is a most disagreeable animal; but if he is civilized, taken from his pony and set to work, he is as good as any one.

Mr. RYAN. But these Indians are in a savage state.

Mr. TOWNSEND, of New York. Then use the Army to make them behave themselves.

Mr. SPARKS. The substitute of the gentleman from Tennessee [Mr. ATKINS] is satisfactory to me so far as I am individually concerned, and it has been known to these gentlemen for an hour at least that it was satisfactory, and that is all I have to say. I hope the committee will now vote on the proposition.

Mr. BLOUNT. Before the gentleman takes his seat will he allow me to ask him a question?

Mr. SPARKS. Very well.

Mr. BLOUNT. I understand that this direction to the President relates simply to the Apaches and other Indians in Arizona and New Mexico.

Mr. SPARKS. Only.

Mr. BLOUNT. Other gentlemen differed with me and I wanted that understood.

Mr. MILLS. I do not see how they could have understood it otherwise.

Mr. BLOUNT. But they did.

Mr. SPARKS. I suggested to the gentleman who moved the original amendment that if he would confine it to those tribes of Indians I was satisfied; and I understand he has done it.

The question was taken on the substitute offered by Mr. ATKINS; and on a division there were—ayes 71, noes 60.

Mr. TOWNSEND, of New York. I call for tellers.

Tellers were ordered; and Mr. TOWNSEND, of New York, and Mr. ATKINS were appointed.

The committee divided; and the tellers reported—ayes 77, noes 61.

No further count being called for, the amendment offered by Mr. ATKINS was agreed to.

Mr. TOWNSEND, of New York. I give notice that I shall ask for a vote upon that amendment in the House.

Mr. SPARKS. Of course the gentleman will have a right to a vote on it in the House.

The Clerk resumed the reading of the bill and read as follows:

For the support of the Tonkawa Indians, at Fort Griffin, Texas, $2,000.

Mr. THROCKMORTON. I have an amendment to offer, to come in after that clause, which I think the committee will agree to:

Provided, That the same shall be expended under the direction of the commanding officer at Fort Griffin.

Mr. SPARKS. I discover that that is the law of the last Congress, and I have no objection to the amendment at all.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read as follows:

Transportation of Indian supplies:

For this amount, for necessary expenses of transportation of such goods, provisions, and other articles, for the various tribes of Indians provided for by this act, $225,000.

Mr. LUTTRELL. I offer the following amendment to come in at the close of that paragraph:

Provided, however, That in the payment of any installment of any annuity to any tribe of Indians named in this bill, it shall be the duty of the Commissioner of Indian Affairs to retain from said installment any and all amounts that may be found to be due, as ascertained under the act of May 29, 1872, in pursuance of the rules and regulations adopted by the Secretary of the Interior, to any person or persons on account of the wrong act of the tribe committing said wrong act; and said amount so retained shall be paid to the person or persons who may have suffered loss by said wrong-doing.

Mr. SPARKS. I make the point of order on that amendment. If I understand the proposition, it is a change of existing law and moreover is not germane to this clause.

Mr. LUTTRELL. In reply to the gentleman from Illinois who has charge of the bill, I wish to say this much: the law provides that if any white man shall go upon any Indian reservation and commit any depredation he is not only subject to civil process, but criminal prosecution. It also provides that Indians or tribes shall be held responsible for depredations committed outside of their reservations.

I ask the Clerk to read section 14 of the act of 1802.

The Clerk read as follows:

SEC. 14. *And be it further enacted*, That if any Indian or Indians belonging to any tribe in amity with the United States shall come over or cross the said boundary line into any State or Territory inhabited by citizens of the United States and there take, steal, or destroy, any horse, horses, or other property belonging to any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, or shall commit any murder, violence, or outrage upon any such citizen or inhabitant, it shall be the duty of such citizen or inhabitant, his representative, attorney, or agent, to make application to the superintendent or such other person as the President of the United States shall authorize for that purpose, who upon being furnished with the necessary documents and proofs shall, under the direction or instruction of the President of the United States, make application to the nation or tribe to which such Indian or Indians shall belong for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction in a reasonable time, not exceeding twelve months, then it shall be the duty of such superintendent or other person authorized as aforesaid to make return of his doings to the President of the United States and forward to him all the documents and proofs in the case, that such further steps may be taken as shall be proper to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party injured an eventual indemnification: *Provided always*, That if such injured party, his representative, attorney, or agent shall, in any way, violate any of the provisions of this act by seeking or attempting to obtain private satisfaction or revenge by crossing over the line on any of the Indian lands he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That nothing herein contained shall prevent the legal apprehension or arresting within the limits of any State or district, or of any Indian having so offended: *And provided further*, That it shall be lawful for the President of the United States to deduct such sum or sums as shall be paid for the property taken, stolen, or destroyed by any such Indian out of the annual stipend which the United States are bound to pay to the tribe to which such Indian shall belong.

Mr. LUTTRELL. The law of 1834 and the law of 1872 also agree with that just read, that the parties who have had property destroyed by the Indians shall be indemnified. I believe it to be justice that the Indians shall be protected; and it is but justice that the white man shall be protected as well as the Indian. I have offered my amendment in good faith.

Mr. SPARKS. I hope the Chair will rule upon the point of order.

Mr. THROCKMORTON. One word on the point of order.

Mr. SPARKS. I do not think the gentleman from California seriously thinks——

Mr. LUTTRELL. The gentleman from Illinois has no right to think for the "gentleman from California."

Mr. SPARKS. I do not want to think for the gentleman from California; but I want to complete my sentence. I hardly think the gentleman from California thinks that his amendment is in order.

Mr. THROCKMORTON. What is the gentleman's point of order?

Mr. SPARKS. That the amendment offered is not germane to the bill and is in violation of existing law.

Mr. THROCKMORTON. I wish to address myself to that point of order. The gentleman from California [Mr. LUTTRELL] has had read the law of 1802. That law has been changed several times. The law of 1802 provided that where Indians in treaty with the United States committed depredations such spoliations, after being ascertained, should be deducted from their annuities. Afterward the law was changed and the Government of the United States was made liable to pay out of the Treasury of the United States for the depredations committed by the Indians. That law was again changed in 1872.

The law specified that claims for depredations should not be paid until authorized by an act of Congress. The act of 1872 went still further and provided that it should be the duty of the Secretary of the Interior to prescribe rules and regulations for the ascertainment of all damages that Indians in treaty with the Government might have inflicted upon the property of white people; and *vice versa* if white people had depredated upon the Indians that should also be ascertained; and when ascertained under the rules and regulations prescribed by the Interior Department it was to be reported to Congress, and no claim for such depredation could be paid until an appropriation for the purpose was made by Congress. The amendment of the gentleman from California [Mr. LUTTRELL] does not seek to change any existing law. If I understood it aright it proposes that when a claim for depredations has been ascertained as prescribed by law and by the regulations adopted by the Interior Department, the same shall be deducted from the annuities due the Indian tribe or tribes that may have committed the depredation.

One word further. This is not an increase of expenditure; it does not add one dollar to the appropriation, and only provides that where these claims have been ascertained as provided by law——

Mr. SPARKS. It is not sufficient that it shall not increase the appropriation; it must reduce the appropriation to be in order.

Mr. THROCKMORTON. There are now pending before the Committee of Claims and the Committee on Indian Affairs claims to the amount of over $4,000,000 for depredations committed by Indians in treaty with the Government of the United States. The amount of the claims has been ascertained, but there is no remedy unless Congress will make an appropriation to pay them. I see no better way to make such an appropriation than to provide, as this amendment proposes, that the amount shall be deducted from the annuities due to the tribes that committed the depredations.

Mr. PATTERSON, of Colorado. I desire to be heard upon the point of order.

Mr. ATKINS. I rise to a point of order.

The CHAIRMAN. One point of order is already pending.

Mr. ATKINS. I make the point of order that more than two speeches on a point of order is out of order.

Mr. SPARKS. I ask a decision of the Chair on my point of order.

Mr. PATTERSON, of Colorado. Where so strange a point of order is made as that just made by the gentleman from Tennessee, [Mr. ATKINS,] as a matter of course he will give his authority for it. His *ipse dixit* is hardly sufficient to set aside a well-settled practice of the House.

Mr. ATKINS. I have offered no *ipse dixit*. The gentleman is very gratuitous in his remarks; he had better be more careful.

Mr. PATTERSON, of Colorado. I did not mean it in any offensive sense at all.

Mr. ATKINS. It is offensive.

Mr. TOWNSEND, of New York. I insist that "*ipse dixit*" is not offensive. [Laughter.]

Mr. ATKINS. I insist that not more than two speeches can be made upon a point of order. Two speeches have already been made upon the pending point of order, and I insist upon my point of order.

Mr. PATTERSON, of Colorado. I want to answer the gentleman from Tennessee, [Mr. ATKINS.]

The CHAIRMAN. The present occupant of the chair does not propose to establish any new practice in the House. The Chair has noticed that on several occasions the presiding officer has allowed debate upon points of order.

Mr. ATKINS. I know it has been done. But this bill is being delayed by discussions on points of order and that sort of thing until there is danger we will not get it through to-day.

Mr. SPARKS. I insist upon a ruling upon my point of order.

Mr. PATTERSON, of Colorado. I ask to be heard before the ruling is made. In any event, I have a right to speak upon the new point of order made by the gentleman from Tennessee, [Mr. ATKINS.]

The CHAIRMAN. The recollection of the Chair is that there is no but eoal right upon the part of the gentleman to continue the discussion upon the point of order; it has rather been in the discretion of the Chair that discussion is allowed upon points of order. If the matter is pressed upon the present occupant of the chair, he will have to hold that debate upon the pending point of order is closed.

Mr. SPARKS. I insist that debate shall be closed upon the point of order.

The CHAIRMAN. The opinion of the Chair is that the point of order is well taken by the gentleman from Tennessee, [Mr. ATKINS.]

Mr. CANNON, of Illinois. I rise to a parliamentary inquiry. I have no interest in this point of order one way or the other, but during my five or six years' service here I have never known the Chairman of the Committee of the Whole or the Speaker to fail to hear any member upon a point of order; and in view of my own interests and the rights of all members, I want to know whether that practice is in accordance with the rules. If not, then it is within the power of any member now and then to cut off other members absolutely from exercising this right which is certainly sanctioned by long usage. I never knew the Chairman of the Committee of the Whole or the Speaker to refuse to hear any member upon a point of order and to hear him fully.

Mr. PATTERSON, of Colorado. I would like to make one suggestion.

Mr. SPARKS. I ask that the Clerk proceed to read.

Mr. PATTERSON, of Colorado. I simply ask for my right on this floor, and in doing so I ask for the right of every other member, not interfering at all with any right which the gentleman from Illinois [Mr. SPARKS] may possess. I do not think that it lies within the province of a gentleman representing the Committee on Appropriations to apply the gag law to any member of this House.

Mr. SPARKS. I insist that the Clerk shall read.

Mr. PATTERSON, of Colorado. And I respectfully ask the Chair to be heard.

The CHAIRMAN. The Chair has stated that, according to his understanding of the practice of the House, it is discretionary with the Chair to hear or not hear discussion upon a point of order. Of course the present occupant of the chair does not wish to adopt any new ruling; nor does he mean any disrespect toward any gentleman who may want to discuss this question further; but the Chair being pressed for a decision, two speeches having been made upon the subject, would like to hear from gentlemen who have been in the House a longer time what has been the custom—whether this discretion is lodged with the Chair or not.

Mr. GARFIELD. As I understand it this is a matter usually allowed to be regulated by the discretion of the presiding officer. Whenever he wants to hear further discussion on a point of order it is usually allowed. But as a strict matter of rule the proceedings on a point of order are summary; and, beyond the right of a member to state his point of order, there can be no debate except by unanimous consent.

Mr. ATKINS. If the Chair desires to hear further discussion on the point of order, I make no objection.

Mr. CLYMER. The Chair has decided the point of order.

Mr. SPARKS. I understand that the Chair has passed upon the point of order.

Mr. PATTERSON, of Colorado. Will the Chair permit me to make a suggestion before he finally passes upon the point?

The CHAIRMAN. The Chair has already passed upon the point of order.

Mr. PATTERSON, of Colorado. I do not wish to discuss the point of order, but to make a suggestion to the Chair in connection with the suggestion of the gentleman from Ohio, [Mr. GARFIELD.] As a matter of course we all recognize that discussion upon a point of order may be stopped at any time by the Chair—that is, whenever the Chair feels that he has been sufficiently enlightened on the point of order to make a decision, then he may say "I want to hear nothing more upon the question." If the Chair in this case has arrived at a frame of mind which satisfies him absolutely beyond a doubt that he knows all about this point of order and every question connected with it, then he may rightfully exercise his prerogative and say "Discussion must cease." If this is not the frame of mind of the Chair, then I insist that gentlemen have a right to be heard further upon the question.

The CHAIRMAN. The Clerk will resume the reading of the bill.

The Clerk read as follows:

Incidental expenses of Indian service in California: For general incidental expenses of the Indian service, support and civilization of Indians at the Round Valley, Hoopa Valley, Tule River, and Mission agencies, and pay of employés at same agencies, $35,000.

Mr. LUTTRELL. I move to amend by inserting after the paragraph just read the following:

Provided, That no part of said sum shall be used for any other payment to employés at Round Valley reservation than that of salaries of physicians and surgeons, the salaries of teachers, and for school purposes: and no more than $3,000 of this appropriation shall be used for this purpose.

I want to say that last year——

Mr. BAKER, of Indiana. I reserve a point of order on the amendment.

Mr. LUTTRELL. Will the Chair hear me? I propose in this case to limit the expenditure on that reservation——.

Mr. BAKER, of Indiana. I make the point of order that this amendment embraces new legislation and is not in the line of retrenchment.

Mr. BLOUNT. I ask that the amendment be again read.

The Clerk again read the amendment.

Mr. LUTTRELL. Now, if the gentleman from Indiana [Mr. BAKER] will listen to a statement which I make from sworn testimony that I have here, I think he will not object to the amendment. Last year an appropriation of $15,000, I believe, was made——

Mr. BAKER, of Indiana. If the gentleman is going into the discussion of that testimony on this point of order I must object.

The CHAIRMAN. The gentleman from California will confine himself to the point of order.

Mr. LUTTRELL. I am prepared to prove that of the money appropriated for Indians upon the Round Valley reservation last year more than two-thirds were stolen from the Indians and went into the pockets of employés. In proof of this statement I have here the testimony of Hon. G. W. Henly and others, taken before the Indian commission.

Now, this amendment is in the line of economy; it is in the line of equity, justice, and honesty; and if the gentleman from Indiana means to be honest, or means that his party shall be honest, let him not oppose this proposition for the protection of the Indians, and I appeal to democratic members to stand by the Indians.

Mr. BAKER, of Indiana. If the gentleman charges fraud, let him go before the Committee on Expenditures in the Interior Department and prove it.

Mr. LUTTRELL. The gentleman having charge of this bill [Mr. SPARKS] proposes a modification of my amendment. The object of the amendment is to prevent men in charge of that reservation from robbing the Indians.

Mr. SPARKS. That is what I want.

Mr. LUTTRELL. In reply to the gentleman from Indiana [Mr. BAKER] as regards fraud, we expect nothing from the Committee on Indian Affairs. These facts, the frauds, are before him and still he heeds them not.

If the gentleman will allow the Clerk to read what I send up, it will satisfy every member in the House that the proposition I make is the correct one—made in the interest of the Government and for the benefit of the Indian.

Mr. BAKER, of Indiana. I say the evidence should not be read; it is not on the point of order.

Mr. LUTTRELL. I offer it on the point of order.

Mr. BAKER, of Indiana. Let the gentleman go before the Committee on Expenditures in the Interior Department and make his charge, and let it be investigated, instead of standing up here and howling about fraud. [Laughter.]

Mr. LUTTRELL. I am not howling about fraud, but the gentlemen on the other side of the House have stood up here and allowed, from one end of the land to the other, the hard earnings of honest men to go to corporations and monopolies while they would shield the rings that plundered the poor Indian. Talk about howling; you are the last man that should speak of howling. I charge on the testimony here that this amendment offered is strictly in the line of economy.

Mr. BAKER, of Indiana. I insist this discussion shall stop.

The CHAIRMAN. The Chair decides that the point of order is well taken.

The Clerk read as follows:

Incidental expenses of Indian service in Colorado: For general incidental expenses of the Indian service and pay of employés, $4,000.

Mr. LUTTRELL. I move to strike out the last word. I do so for the purpose of getting in the testimony.

Now, Mr. Chairman, I am opposed to appropriating one dollar unless that money shall go in good faith, as it is intended, to the Indian and not to the speculator. To show you how the money is expended at Round Valley Indian reservation annually under the present management, I ask to have read an extract from the testimony taken before the commission.

Mr. BAKER, of Indiana. I make the point of order; it is not germane to the last word and therefore not in order.

The CHAIRMAN. The gentleman has a right to have read what he sends up as part of his remarks.

Mr. LUTTRELL. Of course I have. The gentleman is very sensitive—very thin-skinned.

The Clerk read as follows:

List of employés at Round Valley Indian reservation, with their salaries, from July 1, 1877, to July 1, 1878.

Agent	$1,500 00
Physician	1,200 00
Farmer	1,000 00
Blacksmith	1,000 00
Clerk	1,000 00
Miller (grist)	1,000 00
Sawyer (saw-mill)	900 00
Hop-raiser	900 00
Teacher	800 00
Herdsman	800 00
Assistant teacher	700 00
Hospital steward	700 00
Total	11,500 00

Amount of appropriation		$16,500 00
Amount paid to employés	$11,500 00	
Amount paid for provisions and clothing for Indians, agricultural implements, &c.	5,000 00	
	16,500 00	

Mr. LUTTRELL. You find of $16,000 appropriated for the Round Valley reservation $11,000 went to employés, hop-raiser, farmer, and others, while the Indians did not get $5,000 all told. But that is in keeping with the general policy of the administration. There is no necessity for such expenditures for employés. This man, Mr. Hayt, has that report in his office, and he knows full well, if he is fit for anything, that it ought not to be so. I propose that this appropriation shall conform to what is necessary to carry on the reservation. Still further to show what they have allowed this year and how money is being spent there, I will have another extract read from the testimony. But the gentleman objects to this. He stands up as a republican and objects to economy, objects to honest government for the poor Indian, and says frontiersmen are not the friends of the Indian. Now, sir, we are better friends than the gentleman or any of his kind. I ask that the extract be read; and I will here add that this expenditure and management is only in keeping with the management of other reservations.

The Clerk read as follows:

List of employés at the Round Valley Indian reservation, with their salaries, from July 1, 1878.

H. B. Sheldon, agent	$1,500 00
S. J. Reid, physician	1,000 00
I. W. Adams, clerk	900 00
Philo Handy, farmer	840 00
G. B. Hopper, blacksmith	840 00
C. M. Brown, sawyer	840 00
N. S. Fanning, miller, (temporarily)	720 00
D. B. Cummings, teacher	720 00
J. G. Short, hop-raiser	720 00
J. W. Vann, herdsman	600 00
Bowman, (at saw-mill)	840 00
	9,520 00

Mr. LUTTRELL. That is in keeping with the whole management of these Indian reservations. After the payment of employés there is nothing left for the Indian. When I come to ask that the Indians shall have the money appropriated for their support, gentlemen on the other side object, and they say we shall not go on with retrenchment and reform. Oh, yes, the gentleman from Indiana says he is in favor of these poor Indians, but at the same time he stands up in defense of the policy which plunders the Indians. He stands up in defense of it and objects to any amendment excluding unnecessary employés. I am a friend of the Indian; and I tell you to-day he is being robbed and plundered throughout this broad land, and when he is driven from his reservation by hunger, because he is being robbed by thieving rings, he goes out and makes war upon the frontier settler. And yet we have no relief, and the gentleman defends the policy which will continue this plunder of the poor Indian.

Now, Mr. Chairman, in conclusion, all I ask is this: that whatever money is appropriated by Congress shall go for the benefit of the Indian. And I further state that the Indians on the Round Valley reservation are as good farm-hands and teamsters as you will find anywhere. They have fine tracts of land; they have all the natural advantages that mortal man can desire upon this earth; and the only thing they have to contend with is this horde of employés who are eating them out of house and home.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. SYMPSON, one of its clerks, announcing concurrence in a resolution to print 10,000 copies of Professor Hayden's twelfth annual report of the Geological and Geographical Survey of the Territories for 1878.

It further announced concurrence in a resolution to print 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories, in quarto form, with the necessary illustrations, with amendments in which concurrence was requested.

It further announced the passage of the following bills without amendment:

A bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of the mails by railroads for the fiscal year ending June 30, 1879; and

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

INDIAN APPROPRIATION BILL.

The Committee of the Whole resumed its session.

Mr. SPARKS. I hope the committee will now vote on the amendment unless the gentleman from California withdraws it.

Mr. LUTTRELL. I withdraw it.

The Clerk resumed the reading of the bill and read the following paragraph:

Incidental expenses of Indian service in New Mexico:

For general incidental expenses of the Indian service, support, and civilization of Indians at Abiquiu, Pueblo, and Mescalero agencies, and pay of employés at same agencies, $20,000.

Mr. SPARKS. I offer the following amendment:

Strike out the word "Abiquiu."

This is an agency which has already been dispensed with.

The amendment was agreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

Incidental expenses of Indian service in Wyoming:

For general incidental expenses of the Indian service and pay of employés, $2,000.

Mr. LUTTRELL. I move to strike out the last word. I do so for the purpose of saying that for the truth of every word I have uttered in the last few minutes in relation to the management of Indians in my district, for the truth of every word I have uttered on this subject, I refer to the gentleman from Mississippi, [Mr. HOOKER,] to the gentleman from Kentucky, [Mr. BOONE,] to Senator SAUNDERS, and other gentlemen who were there and took this testimony and know every word of it to be true. And I now say that I never again can or will cast my vote for an appropriation for Indian supplies until there is honest government and honest management in that department. Never, under any circumstances, will I vote another appropriation for Indians until their management is taken out of the hands of the Interior Department and placed in the hands of the War Department where it justly belongs. The blood of thousands cries out from the very earth all over this broad land for justice. Those Indians talk just as Captain Jack did, before he was executed, when he left the lava beds, "rather than stay on that reservation and starve, I would choose a speedy death," and therefore he went to war. The Indians have been driven from their reservations by the land sharks and rings who have been plundering the Indians all over the West. I never will vote a dollar for the Indians until I know that it will be properly applied for their support and education. I never will vote a dollar for the Indians unless they are held responsible for the depredations committed on frontier settlers, as provided by the law of 1802 and subsequent acts.

We on the frontier feel this keenly. Our brothers, our neighbors, our families, are murdered in cold blood by those Indians who are driven from the reservations by starvation; and I for one will never vote another dollar until justice shall be meted out to the poor Indian. Nor will I vote for another dollar for the support of the present Indian policy until the Government protects the frontier settlers against Indian raids and indemnifies them for property destroyed.

Mr. SPARKS. I hope we will now have a vote on the amendment.

Mr. LUTTRELL. I withdraw it.

The Clerk read the following paragraph:

Expenses of Indian commissioners: For the expenses of the commission of citizens serving without compensation, appointed by the President under the provisions of the fourth section of the act of April 10, 1869, $15,000.

Mr. SCALES. I move that the paragraph just read be stricken out. In order that the House may know what the merits of this amendment are, I ask the Clerk to read the law by which the commission was appointed, and I will then show some of the duties they have to perform.

The Clerk read as follows:

And for the purpose of enabling the President to execute the powers conferred by this act he is hereby authorized, at his discretion, to organize a board of commissioners, to consist of not more than ten persons, to be selected by him from men eminent for their intelligence and philanthropy, to serve without pecuniary compensation, who may, under his direction, exercise joint control with the Secretary of the Interior over the disbursement of the appropriations made by this act or any part thereof that the President may designate; and to pay the necessary expenses of transportation, subsistence, and clerk hire of said commissioners while actually engaged in said service, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $25,000, or so much thereof as may be necessary.

Mr. SCALES. Now, Mr. Chairman, I understand the object of that law was to appoint ten gentlemen noted for their philanthropy and intelligence who should have equal power with the Secretary of the Interior in disbursing the Indian fund. It seems to me that there is no necessity for that any longer, if what the Indian Bureau claims for itself is now true. They claim in their opposition to the transfer of this bureau to the War Department that the Indian Bureau of itself is sufficient to carry out all the purposes of the law and to perform all the duties devolving upon this department honestly and successfully without calling to its aid this outside force at an ex-

pense of $15,000 per annum. These gentlemen are appointed for the purpose, as the law says, of aiding the Secretary of the Interior in doing what he says himself he can do. It is said that they have no compensation. Fifteen thousand dollars are appropriated annually for the expenses of this commission, and yet they do nothing, they supervise nothing that cannot now already be done, and well done, if the present officers will do their duty. I turn to the report of the Commissioner of Indian Affairs and I find that he sums up the duties of these commissioners to be as follows: the contracts shall be advertised and the bids when received shall be deposited, publicly, in a box, locked and sealed, made especially for the purpose, and—

At the proper time said box is opened in the presence of the Commissioner of Indian Affairs, the purchasing committee of the board of Indian commissioners, representatives of the Interior Department, (these latter being designated by the honorable Secretary of the Interior,) and the usual large assemblage of interested persons who attend the annual letting of contracts for the Indian service.

Now, sir, is there any propriety in paying them and their clerks $15,000 for this service? The opening is done, as we are told, in the presence of the Indian Commissioner, in the presence of persons appointed by the Secretary of the Interior, and in the presence usually of a very large assemblage who are interested in these matters. Why, then, are these men superadded to do what can be done, and ought to be done, and as well done by other officers? Then, again, we do not need them as inspectors, because gentlemen by referring to the bill will see that a sufficient number of inspectors is provided for. They are men I hope of intelligence and philanthropy, and I hope men of integrity and skill, whose business it is to inspect all the goods purchased for the Indians before and after the purchase. These men can be made to do their duty thoroughly and well, and if they fail put in others. We need not then pay this $15,000 annually to these commissioners for this purpose. It is true now and then they charter a palace car and make an excursion over the Indian country, visit the agents, and talk a little with the Indians, and as a general thing are pleased with their progress and civilization. Their expenses are all paid, they have a good time, and they return in good humor with everybody and everything.

Sir, all this can be done by the inspectors who are sworn and sent out for the purpose, and can be done much better and to a better purpose. I invite the attention of the House to the proposition. I say let us cut down this machinery; let us simplify it; let the Secretary of the Interior take this work and be responsible for it; let the Commissioner of Indian Affairs do his whole duty and the inspectors do their duty, and if they are honest and skillful men it cannot be necessary to get outsiders to help them—men who take no oath, who give no bonds, and who have no responsibility; men who are only bound to duty in the language of the law by their intelligence and philanthropy. I hope the clause will be stricken out.

Mr. CONGER. I think the country understands that one of the greatest improvements in the Indian service, one that promotes not only honesty in purchase but economy to the Government and value of purchase to the Indians, has been effected by the appointment of this board of Indian commissioners, and more good has been done in that direction since their appointment than perhaps could have been done by any other process. That is the general opinion of the people of the United States who have examined into this subject and of the press throughout the country.

Now, I know that those who sell goods for the Indians, the traders, do not desire this commission to remain in existence any longer. It has been a wonderful check upon the swindling both of the United States and of the Indians. This board give their services voluntarily. They are selected from known, reputable, and honorable gentlemen in different parts of the United States. They are selected with special reference to the duties they have to discharge: one of them and another of them with reference to their knowledge of the kinds of goods to be purchased for the Indians; one is familiar with clothing, another with hardware, another with another branch of the purchases of supplies for the Indians. I have the honor of being well acquainted with one member of this board from my own State, and I have met and conversed with other members of the board.

I find they perform this duty because they may be useful to the Government and useful to the Indian service at a great disadvantage to themselves and at a sacrifice of their time and business, but they do it as other patriotic citizens perform duties to their Government and country. I have no doubt from the examination I have given the subject that there has been a saving to the Government of the United States of hundreds of thousands of dollars in the purchase of Indian goods and supplies, and not only that but the goods and supplies purchased under this arrangement have been sent to the Indians, and these commissioners have put such checks upon those who furnish the goods that they must send the kind and quality of goods purchased to the Indians themselves.

We might, sir, if this last, best, most beneficial check upon fraud in the purchase of supplies for the Indians is removed, give up the system entirely. It has prevented the frauds of which a few years ago such complaints were made, and justly made, in regard to the swindling both of the United States and the Indians. I think any gentleman acquainted with the different members of the board of Indian commissioners will be well aware, as I believe I am, that their services, rendered gratuitously to the United States, have been of very great value both to the Government and the Indians themselves.

I read the names of these commissioners and their distribution throughout the United States, and I ask any gentleman here to say if any one of them is unworthy the confidence of the House and of the country: General Clinton B. Fisk, New York; William Stickney, District of Columbia; A. C. Barstow, Rhode Island; David H. Jerome, Michigan.

A more honorable, a more trustworthy and faithful man than Mr. Jerome, I know of my own personal knowledge, does not exist in this country.

Mr. SCALES. Nobody disputes the question as to the character of these gentlemen.

Mr. CONGER. Ay, but the charge is against these gentlemen, against their integrity, their usefulness, or else the board should not be removed.

Mr. SCALES. Against their usefulness their utility only.

Mr. CONGER. E. M. Kingsley, New York; John D. Lang, Maine; B. Bush Roberts, Maryland; W. H. Lyon, New York City; E. N. Stebbins, New Jersey.

Now, that is the list of these gentlemen. I have the honor of being acquainted with three or four of these gentlemen somewhat intimately, and although the gentleman now admits their integrity, admits their usefulness, admits the great value of their services both to the Government and to the Indians, yet for the sake of saving $15,000 he proposes to dispense with their services.

Mr. SCALES. I did no such thing, and the gentleman ought not to misrepresent me. I admitted that they were men of good character, but that was as far as I went.

Mr. CONGER. Nobody denies that, and it was a gratuitous admission. The very motion which the gentleman made assails their usefulness, assails their character, because if they be good men, if they be useful as we claim, they save to the Government at an expense of only $15,000, hundreds and thousands of dollars in the purchase of goods for the Indians, and save at least half the value of the purchases to the Indians.

Mr. PHILLIPS. I move to strike out the last word. I am glad the chairman of the Committee on Indian Affairs [Mr. SCALES] has brought this amendment to the attention of the Committee of the Whole. I do not wish in the remarks I shall make to reflect for one moment on the character of the eminent gentlemen comprising this peace commission. I think the original purpose of employing them and placing them as a sort of balance-wheel on this particular Department of the Government was a good one; that is it was a very well-meant experiment. But I also say that it was an experiment unheard of in government. I hold in the first place that one head is better than half a dozen for executive business. I also hold that none but responsible officials, men who are appointed, who can be paid and removed, ought to be intrusted with its responsibilities. I say that practically it has done nothing but work mischief and destroy all power to fix responsibility or insure the performance of systematic duty from those to whom we assign duties so important. I say to gentlemen here what the gentleman from Illinois in charge of this bill [Mr. SPARKS] must admit, that the only way to secure efficiency in any government is to give due power to the executive officers and then fix upon them responsibility for the proper exercise of those powers. I am not yet prepared to admit that no honest and capable officials can be had, and if I was driven to such conviction I would be loath to fall back on such a cumbrous experiment.

I wish to say that it is an experiment which we could never for one moment introduce into any other Department of the Government. Suppose there should be fraud, or weakness, or mismanagement in the Post-Office Department, or in the War Office, or in the Navy Department, would we undertake to hedge about the executive officers of those Departments by means of boards of eminent merchants and gentlemen who are not responsible, who receive no pay, who perform duty when they please or neglect to perform it when they please, who are here to-day and away to-morrow? No, sir; the true way is to place the responsibility of Government upon the executive officers of the Government. If you place the responsibility in the hands of such boards you will have an end of all responsibility. It was a crude, well-meaning idea, originally obtruded in a theoretical and philanthropic spirit, but diametrically opposed to the genius of our institutions and which should never have been adopted and ought now to end.

Let me give a single instance. Some years ago when certain supplies were to be purchased a dispatch was sent to one of the members of this board who was in a western city. He had no opportunity to examine the estimates; he had no opportunity to examine the supplies; but he affixed his signature to a paper authorizing a purchase which he did not and could not understand.

I say that however well-meaning this experiment is it is a most unheard-of expedient in Government. It is an experiment which never should have been tried, and I thank the gentleman from North Carolina, the chairman of the Committee on Indian Affairs, for bringing the proposition for the repeal of this commission before this Committee of the Whole. His amendment I understand has the sanction of the Indian Committee, which ought to know more of these matters than the Committee of Appropriations. I understand they have had a laborious investigation into the whole system of Indian management and that one of their conclusions is that the interests of the public service require us to sweep away this highly respectable con-

vocation of barnacles. It is true they get no salary and we merely spend $15,000 a year in paying their expenses traveling around. With all due respect to them, I think we can properly economize that amount. If the Commissioner of Indian Affairs is incompetent or untrustworthy, or should ever prove so, we possibly might induce another one to take it. If he needs eight or ten respectable gentlemen to watch him, who is to watch the eight or ten respectable gentlemen? And so we might go on multiplying these checks and balances until Government was like "the wheel within a wheel, and the wheel within a wheel" spoken of by the rapt prophet. I think it high time that there should be an end of this well-meaning but worse than useless expedient.

Mr. BOONE. I suppose that no gentleman on this floor or elsewhere would seek to attack the reputation or standing of either of the gentlemen spoken of by the gentleman from Michigan, [Mr. CONGER.] But because they are high-toned, honorable gentlemen, I do not see that that of itself furnishes a reason why the Government of the United States should expend $15,000 a year in order to tack them on as a sort of fifth wheel to the Interior Department or the Indian Bureau for the purpose of securing a just administration of affairs in that Department or bureau.

Now, as very properly remarked by the gentleman from Kansas, [Mr. PHILLIPS,] if the Interior Department is capable of managing the Indian question, if the interests of the Government and of the Indians are subserved in that Department, then we have in it all the machinery necessary to perform every duty that pertains to that management. Then why is it necessary to take on an outside party, without bonds, not under oath, responsible to nobody, to assist the Interior Department in purchasing and judging of the qualities of the goods purchased for the Indian service.

As has been remarked, this is a curious machine; it is an anomaly in government. Here is a Department charged with the management of Indian affairs. We have three inspectors provided for by law, who are paid annual salaries and whose duty it is to inspect the quality of goods purchased. But we are gravely told now that they are incompetent to discharge that duty, and it is necessary that eight or ten gentlemen, without connection with the Interior Department, shall be employed to discharge that duty for them. If that be true, then abolish your three inspectors to whom you pay I believe about $3,000 a year each.

If your inspectors are competent to perform their duty, then remove this outside wheel which is an incumbrance upon that which is already a cumbrous machine. I am told that they receive nothing whatever for their services. That is true; but it seems to be necessary that we shall expend $15,000 a year for their expenses in order that they may have the privilege of making little trips and taking excursions. It amounts to nothing more than that, because, as I before remarked, if these inspectors do their duty this board is simply an incumbrance on the machine.

Mr. SPARKS. Does the gentleman say that the Indian inspectors under the law inspect the goods that are purchased?

Mr. BOONE. I suppose so.

Mr. SPARKS. They do not inspect goods; they inspect agencies.

Mr. BOONE. Then I am misinformed upon the subject.

Mr. SPARKS. The gentleman is.

Mr. BOONE. I think the gentleman from Illinois [Mr. SPARKS] is laboring under a mistake when he makes that statement.

Mr. SPARKS. I am not in error at all.

Mr. BOONE. I do not yield any further. I will read what the Commissioner of Indian Affairs says upon that subject:

> The bids are then taken from said boxes, one at a time, and read publicly by the Commissioner or members of the board of Indian commissioners; thence they are passed to clerks to be numbered, recorded, and abstracted, after which the officers named, with the abstracts of bids and the samples before them, (said samples being divested of all marks that could reveal ownership, and having already been subjected to the scrutiny and examination of reputable and competent inspectors, experts selected for their technical knowledge of the various kinds of goods offered, appointed for the purpose after the bids are opened,) make the awards of contract.

Mr. SPARKS. "Examination of reputable and competent inspectors." They are not the three inspectors of which the gentleman is speaking.

Mr. BOONE. Who are they?

Mr. SPARKS. They are Army officers and others.

Mr. BOONE. Very well. I understand that Army officers are sometimes called upon to discharge the duty of the Interior Department in inspecting these goods, and I very well understand the necessity for it. But whether they be Army officers or Indian inspectors, the fact remains the same, that after undergoing the scrutiny of the inspectors appointed by law, this other outside party, responsible to nobody, must take supervision and pass a second judgment on these goods. I object; and I protest in the name of the people of this country who pay the taxes that they ought not to be subjected to the payment of such an unnecessary tax as this, small as the amount may seem.

[Here the hammer fell.]

Mr. SPARKS. I regret that these gentlemen representing the Committee on Indian Affairs should feel called upon to make such a war upon the annual Indian appropriation bill.

Mr. BOONE. If the gentleman will allow me a moment——

Mr. SPARKS. I do not yield to the gentleman; he had not the courtesy to yield to me; and I want to show him that I have as many rights on this floor as he has.

Mr. BOONE. I have equally as many rights as the gentleman. And I did yield.

Mr. SPARKS. As I was saying, I regret that the members of this committee should feel called upon to make attacks now upon clauses of this bill, similar ones to these having been before this House year after year for four years to my knowledge. The gentlemen attack the Indian commissioners. I once tried to displace all of these officers by transferring the management of Indian affairs from the Interior Department to the War Department, and I stand ready to vote for that proposition to-day. But so long as we pursue the present policy of intrusting the control of Indian affairs to the Interior Department, in God's name let us appropriate money to carry out that policy. The gentlemen with some seeming vindictiveness strike at the provision for the payment of the expenses of the Indian commissioners—ten gentlemen whom they certify here to be gentlemen of the highest character. Not only is this the fact, but under the law they are serving without one cent of pay. The gentleman from Kentucky, who has lately served upon a committee investigating Indian affairs, wants to remove these ten gentlemen who are serving without pay. Is that in keeping with good economic policy? Let my friend from Kentucky strike at somebody who is receiving pay. Let him strike, for instance, at men such as the gentleman from California [Mr. LUTTRELL] has spoken of; men who are charged with doing wrong; men of bad character, as he is pleased to designate them. But pray spare these gentlemen whose characters are so fully certified to, even by the gentleman himself.

Mr. Chairman, I have not been upon a committee of investigation going through the country for the purpose of examining into the propriety of changing the system of managing Indian affairs; but in my humble way I have devoted some attention to this subject. In my judgment these commissioners who visit the agencies throughout the Indian country, making examinations into them, who make and assist in making purchases and in inspections, and who look after the interests of the Indians and the Government generally in the control and management of Indian affairs, have in my judgment contributed largely to the efficiency of that service; and they do all this work without one dollar of pay, all that they receive under this bill, as under all preceding bills that I know anything about, being the mere pittance allowed for the payment of their expenses.

We sent out to the Indian country last summer a commission of able gentlemen, of whom the gentleman from Kentucky was one—I believe he was the chairman. I have no doubt that their expenses were more than those of the whole board of Indian commissioners, and I hope it will be found when the report of that commission is made that their investigations will be found to have been of such a character as to benefit the country much beyond the expense incurred. And, sir, I object to striking out the provision in this bill for the payment of the expenses of this board. In my judgment, to strike down this board of commissioners is almost to destroy the whole service. I would not exchange these commissioners for hardly any other equal number of officers of the service who are receiving pay. And it seems to me, sir, that this war upon the Indian commissioners is not in the direction of economy or the efficiency of the Indian service under its present organization, but directly the opposite, tending to cripple and disable it.

[Here the hammer fell.]

Mr. SCALES. Mr. Chairman, I regret very much that the gentleman from Illinois who has this bill in charge cannot receive criticisms upon his bill without charging upon those who make them a desire to delay and attack the measure. I supposed that our reason for considering measures in Committee of the Whole was that there might be the fullest latitude for the discussion of their merits. I admit that the gentleman has done his work well; but we are all fallible; we are all liable to err, and I think the gentlemen from Illinois is certainly as much liable to err as the rest of us. When I think proper to offer amendments——

Mr. SPARKS. I did not make the charge which the gentleman states.

Mr. SCALES. I so understood.

Mr. SPARKS. If I did, I withdraw it. I never intended to intimate anything of the kind.

Mr. SCALES. I am glad the gentleman has made this disavowal; for I assure him that in commenting on this bill I have no hostility toward it. I am anxious that a proper bill should be passed; I am anxious to do something for the benefit of the Indians as well as for the Government. But, sir, if the gentleman believes that the whole Indian service would fall without this Indian commission, why does not his committee, in reporting the Army appropriation bill, go outside of the regular Army officers and provide that ten philanthropic gentlemen shall be taken from different parts of the Union at an expense of $15,000 in order that they may assist the Secretary of War in supervising the administration of the War Department? Why does not the Committee on Appropriations apply the same principle to the Navy Department? Why not to the Treasury Department, where, if reports are true, it is much needed? Nothing of the kind is proposed in reference to these other Departments; the measure is reserved exclusively for the Indian Department. I apprehend that this provision was adopted originally with the view of finding places

for gentlemen who have such wealth that they do not need any salary but are glad to take a position which affords much recreation and pleasure at the expense of the Government.

Now, Mr. Chairman, I undertake to say (and I defy contradiction) that every single duty imposed upon these commissioners ought to be performed by officers of the Government already appointed and receiving salary, and will be performed by these officers, if they do their duty, just as well as by these commissioners.

Now, sir, if the Secretary of the Interior does his duty, and I take pleasure in saying I believe he will attempt it, I believe he is making an honest effort for reform in that branch of the service; if the Commissioner of Indian Affairs will do his duty, and I believe he is trying to do it, and will make an honest effort in that direction; I believe, if they will look to it that proper agents and proper inspectors are charged with the duty of preventing frauds upon these Indians; I say if they are honest, then there is no occasion or necessity for $15,000 to pay gentlemen outside. The statute has established the fact that they were philanthropic and intelligent gentlemen. It will so go down to all generations. Let this suffice. This is some compensation for their trouble. Let us hold our officers to a rigid responsibility. Let us require them to do their duty, their whole duty, and not go outside to get men to join the Secretary of the Interior in order to aid him in doing what he claims he can do. To divide the responsibility and put his Department under supervision of this commission and keep it there, notwithstanding his efforts to reform, is a reflection upon his administration. I hope the House will understand this matter fully. I hope they will give it the necessary attention, and not vote as partisans, for this is not a party question, but as men who have at heart the interest of the Indians as well as the interests of the Government.

Mr. ATKINS. Mr. Chairman, this bill proposes to appropriate between four and five million dollars for the Indians of this country. As everybody knows the Indians are not civilized, or at least but very few of them. Many of them are wild savages, very few of them having any education. Congress has endeavored to throw as many safeguards around the rights of these Indians, under the appropriations of money which have been made for their benefit, as possible. Out of this abundant caution on the part of the Government this commission has arisen. It is true we have inspectors, it is true we have an Indian Commissioner, it is true we have Indian agents and all these salaried officers; but this commission has been deemed in the wisdom of Congress and out of abundant caution to be necessary so they might have a supervisory control over this whole question. The statute creating this commission gives authority to it to examine contracts, to look into the books and inspect everything connected with the appropriation of money and its expenditure so far as these Indians are concerned. They are also authorized to examine the goods and provisions purchased for the Indians. As has been said, and what is known by the House, these men are of the highest respectability. They draw no salary. The pitiable and contemptible sum of $15,000 only is appropriated for the purpose of paying their expenses. All the labors which they undertake are performed without any compensation. It seems to me gentlemen who are so anxious to protect the rights of the Indian, and we have heard that on every side of the House to-day—we have heard gentlemen declaiming eloquently in behalf of the poor Indians—it seems to me it is a small outlay if we can thereby engage the services of ten gentlemen of high respectability and integrity whose moral character has not been impugned by a single insinuation on the part of any one on the floor to-day—I say it is a very small outlay if thereby we can engage the services of ten gentlemen in the discharge of such a Christian duty as guarding and protecting the rights of these Indians. It is the smallest possible sum for such large and important services.

Now, the gentleman complains this supervisory commission has not been raised with regard to the Army or the Navy. Does the gentleman intend to say our soldiers are as ignorant as the Indians? Certainly not. And yet his argument would lead to that. Does he intend to say our sailors are not capable of protecting their rights? Yet his argument would lead to that. I know the gentleman means no such thing. He means to make no such insinuation, for there is no gentleman upon this floor who has a higher regard for the honor of the Army and the reputation of our soldiers and sailors of the country than my honorable friend from North Carolina. And yet his argument leads to that conclusion and no other.

[Here the hammer fell.]

Mr. MILLS. Let me ask the gentleman from Tennessee to remember that in the War Department a few years ago there did seem to be a necessity for the establishment there of a commission like this.

[Cries of "Vote!" "Vote!"]

Mr. SPARKS. I hope this debate will now close.

Mr. EAMES. Mr. Chairman, the committee will indulge me in a word before the vote is taken upon the motion of the gentleman from North Carolina. I am personally acquainted with one of the gentlemen of this board, who has served for about four years and who is now president of it. I will say to the gentleman from North Carolina that gentleman has served the Government faithfully and efficiently in this duty without other compensation than the payment of the simple expense incurred. In the discharge of this duty he has been from the State of Rhode Island, where he resides, three times across the country to San Francisco, once to Oregon, and often to other portions of the country. I speak of my own personal knowledge of one of his visits to San Francisco because I was with him when he was on this mission. I know he gave his personal attention to the contracts for supplies and the inspection of them. And I vouch for him as the gentleman from Michigan vouches for another member of the board from his State, that he is a gentleman of the highest character and integrity, of great intelligence and large practical business experience.

And I am informed also that this commissioner and some others have been before the gentleman's committee, the Committee on Indian Affairs; and before we act upon this matter, I, for one, hope we shall have before this House the evidence which has been presented to the committee that we may know whether this board of commissioners have been efficient in the duties which have been assigned to them, and whether their services have not saved to the Government a much larger amount than is appropriated by this bill. I hope the amendment proposed by the gentleman from North Carolina will not prevail.

The question being taken on the motion of Mr. SCALES to strike out the paragraph, there were—ayes 33, noes 90.

So (further count not being called for) the amendment was not agreed to.

The Clerk resumed the reading of the bill and read the following paragraph:

Pay of Indian police: For the services of not exceeding eight hundred privates, at $5 per month each, and not exceeding one hundred officers, at $8 per month each, of Indian police, and for equipments, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations, $60,000: *Provided*, That Indians employed at agencies in any capacity shall not be construed as part of agency employés named in section 5 of the act making appropriations for the Indian service for the fiscal year ending June 30, 1876, approved March 3, 1875.

Mr. SCALES. I raise the point of order on that appropriation. Under the present law there is provision made for a little over four hundred of these police. This section increases the number to eight hundred. It puts this force under the Commissioner of Indian Affairs, and I suppose they must report to him and he must have the control of them. To that extent it is an increase of the Army force maintained by the Government. In addition to that he wants three thousand cavalry. Put the two together and we have a force of four thousand men. I raise the point of order that this is contrary to existing law.

Mr. SPARKS. The law of last Congress makes provision for the employment of four hundred privates and fifty officers. The service this year is just double, eight hundred privates and one hundred officers. We are simply in this section proposing to increase the service from four hundred and fifty to nine hundred. There is no new legislation. I think the point of order cannot be sustained.

Mr. SCALES. I submit that the point of order is well taken. There are now authorized by law only four hundred of these police. The gentleman now asks us to make a law providing for eight hundred. Is there any law to-day for eight hundred police in that Indian Territory? Not a particle. Is there a law for four hundred? There is. There being, then, a law for four hundred and not for eight hundred, this changes existing law. It is therefore out of order, and certainly it is not in the interest of economy.

The CHAIRMAN. In the opinion of the Chair the point is well taken.

Mr. SPARKS. As I understand, the ruling of the Chair on the point of order has reference only to the increase.

Mr. SCALES. If the increase is stricken out I am satisfied.

Mr. SPARKS. The point of order of the gentleman applied only to the increase from four hundred privates to eight hundred privates and from fifty officers to one hundred officers.

Mr. SCALES. The gentleman can move an amendment reducing the number.

Mr. PHILLIPS. And the total should also be reduced.

Mr. SPARKS. I offer the following amendment:

Strike out "eight hundred" and insert "four hundred;" strike out "one hundred" and insert "fifty;" strike out "$60,000" and insert "$30,600;" so that it will read:

Pay of Indian police: For the services of not exceeding four hundred privates at $5 per month each, and not exceeding fifty officers at $8 per month each, of Indian police, and for equipments, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations, $30,600.

The amendment was agreed to.

Mr. THROCKMORTON. I offer the amendment I send to the desk.

The Clerk read as follows:

Add the following paragraph:

And the Secretary of the Interior is hereby authorized and directed to pay, or cause to be paid, in equal portions, to Susanna Marble, Millie Frances Lee, and John Abel Lee, heirs of Abel S. Lee, or their legal representatives, the sum of $2,915, with interest thereon at the rate of 7 per cent. per annum from the 9th day of June, 1872, out of any money appropriated by this act for the benefit of the Kiowa tribe of Indians; the said payment to be in full of all claims of the said heirs of said Abel S. Lee and of the amount allowed them by the Indian Bureau for property belonging to said Abel S. Lee taken and destroyed by the said Kiowa Indians in the year 1872.

Mr. SPARKS. I make the point of order on that amendment.

Mr. THROCKMORTON. What is the gentleman's point of order?

Mr. SPARKS. It is special legislation and increases the expenditure.

Mr. BLOUNT. I make the further point of order that it is not ger-

mane to this bill, and is liable to the same ruling we had yesterday in reference to one of these claims under Rule 48.

Mr. THROCKMORTON. In relation to the point of order I have this to say, that when the appropriation bill was up last year, and the year before, a member of the Committee on Indian Affairs offered a precisely similar amendment to this in reference to the persons known as the Germon girls, and that amendment was agreed to. This amendment is germane to this bill because this bill makes an appropriation for the benefit of the Kiowa Indians, and the amendment provides there shall be deducted from the amount of money to be paid to the Kiowas $2,915, to be applied for the benefit of these captive girls. It does not increase expenditure and is in pursuance of existing law, because the law prescribes these claims shall be examined by the Commissioner of Indian Affairs and that the Secretary of the Interior shall report upon them to Congress for appropriation. This has been done; and the Committee on Indian Affairs, having examined the case, have unanimously reported a bill containing the substance of this amendment.

Mr. BLOUNT. Has that bill been reported?

Mr. THROCKMORTON. Yes; it was a unanimous report.

Mr. BLOUNT. Then the amendment is clearly objectionable to the point of order.

Mr. ATKINS. I will ask the gentleman a question, and it is, if the case he refers to was not allowed as a matter of mere sympathy and kindness on the part of the House; if the point of order was not made at the time that it was not germane, and if it was not admitted as a matter of sympathy and kindness?

Mr. THROCKMORTON. I do not really remember.

Mr. ATKINS. I think the gentleman will find that that was the fact.

Mr. THROCKMORTON. Then I would appeal to the gentleman from Illinois to extend that same sympathy to these girls. I ask to have the report of the committee read.

The Clerk read the report as follows:

In 1872, and for some time previous thereto, Abel S. Lee, with his family, a wife and four children, resided in Buchanan County, Texas, on a pre-emption claim of 160 acres of land, duly made under the laws of Texas. On Sunday, June 9, 1872, while the family were engaged in devotional exercises in their own house, they were attacked by a band of Kiowa Indians. The father, who was sitting in the door of his house, was shot and instantly killed. The savages, eight or nine in number, then rushed into the dwelling and killed the mother and Rebecca, one of the daughters, aged thirteen years. The house was plundered, and such articles as could not be conveniently carried away were destroyed. A portion of the stock was taken, part was killed, and the rest, which was left to run wild, was wholly lost to the heirs, the present claimants. The three children named in the bill were carried into captivity, and so held for a number of months, when, by the intervention of an Indian agent, they were released. During their captivity they suffered almost indescribable cruelties and indignities. The foregoing facts, with others too horrible for recital, are fully proven by the evidence submitted, and the value of the property taken and destroyed is conclusively established. The outrage was entirely without provocation, the home of the Lees being many miles from the reservation, and they having been always a peaceful and law-abiding family. As originally submitted, this claim embraced a demand for $25,000 for the loss to the children of the care and support of the parents and as indemnity for the sufferings sustained during their captivity; but this has been abandoned, and the claimants now only ask to be reimbursed, out of the annuities or other funds paid by the Government to this tribe, for actual losses. By treaty stipulations with this tribe the payment of such claims is expressly provided for, and we are clearly of the opinion that the present is a case emphatically calling for the enforcement of the provision. The claim was duly examined, and its allowance, except as to interest, recommended by the honorable Commissioner of Indian Affairs, on the 6th of March, 1875. The bill should, we think, be so amended as to specify that the sum awarded be paid out of funds due or to become due to the tribe by members of which the depredation was committed, instead of from the general Treasury, and also so as to give the names of all of the heirs or claimants. We therefore submit the accompanying amendment and recommend its adoption, and that the bill, as so amended, be passed.

Mr. HOOKER. I desire to say a word upon the point of order made by the gentleman from Illinois [Mr. SPARKS] and the gentleman from Georgia, [Mr. BLOUNT.] I think it is very important that this matter should be settled definitively, and settled correctly according to the precedents and the history which are concurrent with the adoption of this rule. The rule which is referred to by the gentleman is Rule 48, and is as follows:

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Then follows the clause which is specially referred to by the gentleman from Georgia:

No bill or resolution shall at any time be amended by annexing thereto or incorporating therewith any other bill or resolution pending before the House.

Now, when this same question was under discussion at a former session of Congress the honorable gentleman from Kentucky [Mr. CARLISLE] was in the chair and the same point was made in reference to an amendment which was offered. The objection was made by the gentleman from Tennessee, [Mr. ATKINS.] The Chair ruled upon the point not that it was a violation of that portion of the rule which prevented its being applied because there was no law for it and it was not in the line of economy, but that it was obnoxious to that portion of the rule which the gentleman from Georgia [Mr. BLOUNT] now invokes in opposition to the amendment of the gentleman from Texas.

Now the rule upon the subject was adopted under these circumstances, and the circumstances under which the rule was adopted show what the House meant by it. This is the interpretation put upon it. I read from Barclay's Digest, page 172:

The latter clause of this rule was adopted at the first session of the Twenty-fifth Congress, and as originally reported by the committee the following words were contained at the end of it: "Nor by any proposition containing the substance, in whole or in part, of any other bill or resolution pending before the House." These words were stricken out by the House before it would agree to the rule; by which it would seem to be decided that a bill or resolution might be amended by incorporating therein the substance of any other bill or resolution before the House. Such has been the general practice of the House.

When the rule came up for consideration and adoption by the House the words I have just read, namely, that you could not embody the substance of a bill pending, were stricken out by the House before it would agree to the rule, by which it would seem to have been decided that an amendment containing the substance of another bill or resolution may be entertained as amendment, and the commentator says that such has been the practice of the House ever since.

It would appear, therefore, that upon the adoption of the rule which was referred to by the gentleman from Georgia [Mr. BLOUNT] the Committee on Rules, in reporting this forty-eighth rule, went so far in proposing to limit the power of amendment as to interdict an amendment being offered which contained the substance or part of any measure pending before the House, but the action of the House was such as to show that it did not intend by the adoption of the forty-eighth rule to limit the power and ability to legislate upon a measure which might in part be cognate to the subject-matter under discussion. They did not mean, in other words, to limit their own power, and hence they did not adopt the rule as reported; but they adopted that part of it which said that you shall not offer as an amendment to one bill a pending measure *in totidem verbis*. That was proper, and the action of the House in excluding the words reported by the committee shows what was the purpose of the House in adopting the rule. It modified the rule as reported by the committee, and as it now stands it does not apply to the amendment offered by the gentleman from Texas, [Mr. THROCKMORTON.]

I cite a case when this question was presented in the House. It was a case where the objection was made that a certain amendment offered was equivalent to the bill pending. I refer to page 1333 of the Journal of the House of Representatives, first session of the Thirty-first Congress, where will be found an emphatic ruling on the precise point involved here.

The pending proposition was as follows:

"SEC. 33. *And be it further enacted*, That the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same or any provision thereof may be applicable."

Mr. Meade made the point of order that the said amendment was not germane to the measure under consideration, and that it contained provisions similar to bills already before the House, and that consequently under the fifty-fifth rule it was out of order.

The Speaker stated that he was of opinion that the bill from the Senate under consideration brings before the House the question of the territory acquired by us from Mexico, and that all propositions affecting that territory—proposing to dispose of it or to provide for it—are germane to the bill, and are in order as amendments. With regard to the second ground taken by the gentleman from Virginia [Mr. Meade] the Chair had understood that the amendment was not the same in all its provisions as the bills which have come before the Senate. That being the case, though it includes the same provisions to a very great extent, it does not come within the rule, but is in order. He therefore overruled the point of order.

From this decision of the Chair Mr. Schenck appealed, and the decision of the Chair was sustained by a yea-and-nay vote of 122 to 84.

Mr. BLOUNT. The remarks of the gentleman who has just taken his seat are only as to Rule 48. So far as the first objection made both by myself and the gentleman from Illinois [Mr. SPARKS] is concerned, that this proposition is not germane to this bill, it does seem to me that it is entirely incontrovertible. What is the bill? Simply a bill appropriating money for the Indian service; just that and nothing more. What is the proposition here? It is to pay a claim to some one outside of that service. It is simply a claim, and is not, in my judgment, germane to any appropriation bill, but if germane to any, certainly only to a deficiency bill or the sundry civil bill.

I have never known it held that any claim against the Indians was germane to a bill appropriating money for the Indian service. Therefore, it seems to me clear that on this ground alone the amendment should not be entertained by the committee, and also upon Rule 48, "that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

This bill is to provide for the Indian service, and the amendment is an attempt to inject the claim against certain tribes of Indians.

The rule further says "that no bill or resolution shall at any time be amended by annexing thereto or incorporating therewith any other bill or resolution pending before the House."

Now, I have not had time to go into the history of this portion of the rule, but its language is plain and clear.

There is another bill before the House for the payment of this very claim, and it is proposed now to insert that bill in this appropriation bill.

The point of order made is in conformity with the practice of the House in every instance where the question has been raised.

Mr. SPARKS. I hope now that we shall have a ruling of the Chair on the point of order.

Mr. HOOKER. A single word further. The argument of the gentleman from Georgia [Mr. BLOUNT] falls to the ground when he says that the measure or amendment is not germane to the subject-matter of the bill. This bill is one making appropriations for the Indian service, and therefore the amendment is germane to the bill. The gentleman has made no answer, and I undertake to say that he can make none, to the argument which I made that the exclusion by the House from the rule of the proposition to interdict a portion of a bill

or the substance of it by way of amendment was equivalent to allowing such an amendment to be offered.

Mr. MILLS. One remark in addition to what my friend from Mississippi [Mr. HOOKER] has said. This appropriation is made by Congress to satisfy claims due to Indians under a treaty. The proposition of my colleague [Mr. THROCKMORTON] is to satisfy a claim of the same kind under a treaty, and they are both on the same basis.

Mr. SPARKS. At all events it is a claim.

Mr. THROCKMORTON. The Kiowa Indians in their treaty consented that deductions should be made from the moneys paid to them where they had committed depredations upon property of white citizens. This amendment, therefore, is in pursuance of treaty and of law.

Mr. SPARKS. I ask for a ruling on my point of order.

The CHAIRMAN. It is the opinion of the Chair that the point of order is well taken, and that the amendment is not in order.

The Clerk resumed and concluded the reading of the bill.

Mr. SPARKS. I move that the committee now rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. LIGON reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes, and had directed him to report the same to the House with sundry amendments.

Mr. SPARKS. I call for the previous question upon the bill and amendments.

The previous question was seconded and the main question ordered.

The SPEAKER. Is a separate vote asked upon any of the amendments?

Mr. TOWNSEND, of New York. I call for a separate vote upon the amendment in relation to transporting Indians to the Indian Territory.

The SPEAKER. The question will be taken upon that amendment first; and if a separate vote is not called for upon any other amendment they will be voted upon together.

Mr. GARFIELD. I suggest that by unanimous consent the session of the House to-morrow be for debate only; there will hardly be a quorum present.

Many MEMBERS. That is right.

Mr. ATKINS. I object.

Mr. GARFIELD. I merely make the suggestion.

Mr. WHITE, of Pennsylvania. Will there be a quorom here to-morrow?

The SPEAKER. The Chair cannot answer that until the time arrives. Should there be no quorum present, it will be in the power of any gentleman to prevent business being transacted.

The amendment upon which Mr. TOWNSEND, of New York, called for a separate vote was to the following paragraph:

Collecting and subsisting Apaches and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

The amendment was to add the following:

And the President of the United States is hereby directed to prohibit the removal of any portion of said tribes of Indians to the Indian Territory, unless the same shall be hereafter authorized by act of Congress.

Mr. TOWNSEND, of New York. On that amendment I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 25, noes 78.

So (the affirmative being more than one-fifth) the yeas and nays were ordered.

The question was taken; and there were—yeas 98, nays 94, not voting 100; as follows:

YEAS—98.

Acklen,	Finley,	Landers,	Ross,
Aiken,	Forney,	Ligon,	Ryan,
Atkins,	Franklin,	Lynde,	Scales,
Bell,	Fuller,	Mackey,	Schleicher,
Blackburn,	Garth,	Maish,	Shelley,
Boone,	Giddings,	Manning,	Singleton,
Bouck,	Glover,	Martin,	Slemons,
Cabell,	Goode,	Mayham,	Southard,
Candler,	Gunter,	McKenzie,	Sparks,
Chalmers,	Hamilton,	McMahon,	Springer,
Clark of Missouri,	Harris, Henry R.	Mills,	Steele,
Clarke of Kentucky,	Hartridge,	Money,	Stenger,
Clymer,	Hartzell,	Morrison,	Throckmorton,
Cobb,	Haskell,	Morse,	Townshend, R. W.
Covert,	Hatcher,	Muldrow,	Tucker,
Cravens,	Henkle,	Muller,	Turney,
Crittenden,	Henry,	Phillips,	Whitthorne,
Culberson,	Herbert,	Potter,	Wigginton,
Davis, Joseph J.	Hewitt, Abram S.	Pridemore,	Williams, James
Dean,	Hewitt, G. W.	Rea,	Willis, Albert S.
Dickey,	Hooker,	Reagan,	Wilson,
Durham,	House,	Reilly,	Wright.
Elam,	Hunton,	Rice, Americus V.	Young, Casey.
Evins, John H.	Kenna,	Robbins,	
Felton,	Knott,	Robertson,	

NAYS—94.

Aldrich,	Cox, Jacob D.	James,	Rice, William W.
Bagley,	Cummings,	Jorgensen,	Robinson, G. D.
Baker, John H.	Cutler,	Keifer,	Robinson, M. S.
Ballou,	Davis, Horace	Ketcham,	Sapp,
Bayne,	Deering,	Lapham,	Shallenberger,
Bicknell,	Denison,	Lathrop,	Smith, A. Herr
Blair,	Dunnell,	Marsh,	Stone, John W.
Boyd,	Dwight,	McCook,	Thompson,
Brentano,	Eames,	McGowan,	Tipton,
Brewer,	Errett,	McKinley,	Townsend, Amos
Briggs,	Fort,	Metcalfe,	Townsend, M. I.
Brogden,	Foster,	Mitchell,	Van Vorhes,
Browne,	Freeman,	Monroe,	Wait,
Bundy,	Frye,	Neal,	Ward,
Burchard,	Garfield,	Norcross,	Watson,
Burdick,	Hanna,	Oliver,	White, Harry
Calkins,	Harmer,	Page,	White, Michael D.
Campbell,	Harris, Benj. W.	Patterson, G. W.	Williams, C. G.
Cannon,	Harrison,	Patterson, T. M.	Williams, Richard
Chittenden,	Henderson,	Peddie,	Willits,
Claflin,	Hubbell,	Pollard,	Wren,
Clark, Rush	Humphrey,	Price,	Young, John S.
Cole,	Hungerford,	Pugh,	
Conger,	Ittner,	Reed,	

NOT VOTING—100.

Bacon,	Cox, Samuel S.	Jones, Frank	Sayler,
Bailey,	Crapo,	Jones, John S.	Sexton,
Baker, William H.	Danford,	Jones, James T.	Sinnickson,
Banks,	Davidson,	Joyce,	Smalls,
Banning,	Dibrell,	Keightley,	Smith, William E.
Beebe,	Douglas,	Kelley,	Starin,
Benedict,	Eden,	Killinger,	Stephens,
Bisbee,	Eickhoff,	Kimmel,	Stewart,
Bland,	Ellis,	Knapp,	Stone, Joseph C.
Bliss,	Ellsworth,	Lindsey,	Strait,
Blount,	Evans, I. Newton	Lockwood,	Swann,
Bragg,	Evans, James L.	Loring,	Thornburgh,
Bridges,	Ewing,	Luttrell,	Turner,
Bright,	Gardner,	Majors,	Vance,
Buckner,	Gause,	Morgan,	Veeder,
Butler,	Gibson,	O'Neill,	Waddell,
Cain,	Hale,	Overton,	Walker,
Caldwell, John W.	Hardenbergh,	Phelps,	Walsh,
Caldwell, W. P.	Harris, John T.	Pound,	Warner,
Camp,	Hart,	Powers,	Williams, Andrew
Carlisle,	Hayes,	Rainey,	Williams, A. S.
Caswell,	Hazelton,	Randolph,	Williams, Jere N.
Clark, Alvah A.	Hendee,	Riddle,	Willis, Benj. A.
Collins,	Hiscock,	Roberts,	Wood,
Cook,	Hunter,	Sampson,	Yeates.

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. My colleague, Mr. VANCE, has been called away from the House by indisposition.

Mr. MULLER. My colleague from New York, Mr. COX, is paired with the gentleman from Pennsylvania, Mr. EVANS.

Mr. DAVIDSON. I am paired with the gentleman from Minnesota, Mr. STEWART. If he were present, I should vote "ay."

Mr. PUGH. My colleague, Mr. SINNICKSON, is paired with my colleague, Mr. CLARK.

Mr. BAKER, of New York. I am paired upon all political questions with my colleague, Mr. BEEBE. As this seems to be made such a question, I decline to vote.

Mr. BROWNE. My colleague, Mr. HUNTER, is paired with the gentleman from New York, Mr. WILLIS.

Mr. DUNNELL. My colleague, Mr. STRAIT, is paired with the gentleman from Tennessee, Mr. DIBRELL.

The result of the vote was announced as above stated.

The remaining amendments reported from the Committee of the Whole were then concurred in.

The bill, as amended, was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. SPARKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALLEGED CORRUPTION OF MEMBERS.

Mr. HARRISON. I rise to make a privileged report, which I send to the Clerk's desk.

The Clerk read as follows:

The Committee on Reform in the Civil Service, to which was referred the following resolution of Mr. BRENTANO, of Illinois:

"Whereas the Washington Post, a daily newspaper published in the city of Washington, District of Columbia, did, in its issue of July 24, 1878, contain in its editorial columns an article headed '*Those special assessments—Who are the principal debtors—How the 3.65 clause was passed,*' and which article, charging corruption against members of Congress in reference to the bill providing a permanent form of government for the District of Columbia, concludes as follows:

"'There are some ugly rumors afloat as to the manner in which the corruption fund to secure the passage of the bill was disposed of, and who received it. An indignant property-owner avers that a Vermont Representative got away with $25,000, and a Chicago member and a Maryland member with $12,250 apiece, and that the balance of the fund went to the Senate committee.'

"Whereas the facts alleged in said article and the averment of 'an indignant property-owner' published in said article constitute the charge of the crime of accepting a bribe by members of Congress, the punishment for which is provided for in section 5500 of the Revised Statutes; and

"Whereas the substance of said article and the charges contained therein have been telegraphed by special dispatches and by the Associated Press all over the country and otherwise copied and spread out by many newspapers: Therefore,

"*Resolved*, That the Committee on Reform in the Civil Service be, and it is hereby,

directed to inquire into the said charges against certain members of this House, and to report at any time to this House whether any member, especially any member from Vermont, Chicago, or Maryland, is guilty of any act as charged in said article of the Washington Post; and the committee is authorized to send for persons and papers"—

Having had the same under consideration, most respectfully submit the following report:

That it brought before it Mr. Stilson Hutchins, editor and publisher of the Washington Post; Mr. Barton, the writer of the article named in said resolution; Mr. Baker, president of the First National Bank of New York; and Messrs. BRENTANO, HENDEE, and HENKLE, members of this House, and several other witnesses; in fact, all persons suggested to it as being able to give it any information on the subject; that all witnesses were sworn and testified under oath.

Your committee was earnest in its endeavor to bring out the bottom facts, but could not elicit a particle of testimony tending to show that any money was used or any corrupt influences brought to bear to further the passage of the District bill as alleged in the article named in said resolution.

Mr. Hutchins testified that he heard about the time of the publication of said article rumors of corruption in connection with said bill, but that they made but little impression upon him; that he received several communications on the subject, some of them anonymous, others with fictitious names, and a few with real names signed to them, but that none of them named any particular member of the District Committee or of this House as having been corruptly influenced; that he handed all such communications over to Mr. Barton, one of his staff, with instructions to look into the matter and write an article thereon; that he did not remember and could not recall the name of a single person signed to any of the communications or circulating such rumors; that had he seen the article before publication he would have suppressed the last part, which seemed to locate members suspected of corruption.

Mr. Barton testified that he did look into the matter, but could find no real foundation for the charges; that he could recall but one name signed to any of the communications appearing in the directory; that a paper signed "Indignant property-owner" was also signed by one Johnson, and said Johnson's name was in the directory. He could not remember the first name. We handed him the directory with the request that he refresh his memory. He was unable to do so. The remarkable discovery was then made that there are seventeen columns of Johnsons and only fifteen of Smiths, only one or two other names occupying as much as ten columns. He stated that the charge that the First National Bank of New York had raised a pool for corrupt purposes in connection with the District bill was simply a street rumor, which he did not believe even at the time; that such rumors were started in connection with all District legislation; that as his article did not specifically touch any particular member there was no danger of a libel suit, and therefore all of the communications went to the waste-basket; that he had not heard anything implicating any particular member of this House.

Mr. Baker, president of the First National Bank of New York, testified that his bank held about a half million of the 3.65 District bonds; held them as an investment, and not as speculation; that they considered the same, at the ruling rate of money for the past year, as worth to them about ninety-three dollars on the hundred; that they were higher before the passage of the bill than after; that they had gone to 85 before the passage of the bill, but had since fallen to about 76 and 78; that another concern, the Mutual Life of New York, held about a million—held them as an investment and not as a speculation; that no money had been used by his bank, or by the Mutual Life, or by any one for them, directly or indirectly, to further the passage of the bill in question or any other bill connected with the District; that neither he, his bank, nor any one connected with it, or the Mutual Life, had ever been approached to raise any money or pool in connection with the matter, and that he had no reason to believe any money had been so raised or expended; that he did not consider that the passage of this bill made his bonds more valuable, and that they had not disposed of them; that they always considered the Government bound for the 3.65 bonds, and that this bill did not increase the liability of the Government.

Messrs. BRENTANO, HENDEE, and HENKLE severally testified that they had not, nor had either one of them, ever heard any intimation that any money was being or had been used to influence legislation in connection with this bill; that neither one of them had ever been approached with any corrupt proposition in connection with it, and they did not believe any money had been so used; that the clause in the bill in reference to the 3.65 bonds had been passed by a unanimous vote of the committee, and its propriety was not questioned; that it had come down as a legacy from as far back as the Forty-third Congress.

The other witnesses, Messrs. Alexander, Offley, Curtis, and MacBride, had heard rumors, but nothing further, and could give us no names or facts connected therewith.

Your committee is therefore of the opinion that the publication in the Washington Post of the article referred to in Mr. BRENTANO's resolution was a wanton and wholly unjustifiable attack upon the integrity of members of this House, calculated to degrade them in the estimation of the public, which is too ready to give credence to what it sees in print, and that it was used to do great injury and injustice to the gentlemen alluded to.

Your committee believe that an enlightened and unfettered press is a very bulwark of liberty and a prop to morality in a free country, but that when it steps from its high calling wantonly to belittle and to calumniate public men directly, or by innuendo and insinuation, it becomes a powerful engine of wrong, and is a far-reaching enemy to good morals. A newspaper which boldly exposes wrong-doing among officials, and fearlessly tears away the mask which hides a corrupt officer, is a true friend of the people; but one which for the sake of creating a sensation, or to make its columns spicy, attacks the good as well as the bad, or attacks any without warrant of truth or facts, puts itself on a par with the traducer and slanderer—feeds the lowest tastes of the vicious, destroys its influence for good, and by constantly crying "Wolf!" "Wolf!" is unheeded when it calls attention to the real wolf which is preying upon the public.

At the request of the gentlemen who had reason from their locality to think themselves attacked, we recommend that the report and testimony be printed, and that your committee be discharged from further consideration of the subject.

CARTER H. HARRISON,
Chairman.

Mr. HARRISON. I call for the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted unanimously.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. DURHAM. I ask unanimous consent that the Military Academy appropriation bill, (H. R. No. 5230,) now on the Speaker's table, be taken up, and that the request of the Senate for a conference be granted.

There being no objection, it was ordered accordingly; and the Speaker announced the appointment of Mr. DURHAM, Mr. CLYMER, and Mr. SMITH of Pennsylvania as the conferees on the part of the House.

FORTIFICATION APPROPRIATION BILL.

Mr. BAKER, of Indiana. I ask unanimous consent that the fortification appropriation bill (H. R. No. 5231) be taken from the Speaker's table and that the request of the Senate for a conference be granted.

There being no objection, it was ordered accordingly; and the Speaker announced the appointment of Mr. BAKER of Indiana, Mr. CLYMER, and Mr. SINGLETON as the conferees on the part of the House.

PUBLIC PROPERTY AT HARPER'S FERRY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Solicitor of the Treasury, relative to the sale of certain public property at Harper's Ferry, West Virginia; which was referred to the Committee on Public Buildings and Grounds.

GEORGE WAY.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting estimate of an appropriation for the payment of George Way for services in connection with the survey of part of the southern Apache reservation in New Mexico; which was referred to the Committee on Appropriations.

FRAUDULENT NATURALIZATION.

The SPEAKER also laid before the House a letter from the clerk of the United States circuit court at New York City, transmitting presentment of the grand jury made at a recent term of the court in reference to fraudulent naturalization of aliens; which was referred to the Committee on the Judiciary.

GOVERNMENT EMPLOYÉS AT DES MOINES RAPIDS.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the passage of a bill for the relief of Government employés at Des Moines Rapids; which was referred to the Committee on Commerce.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:
To Mr. HUMPHREY, for one day;
To Mr. POLLARD, for one day, on account of important business;
To Mr. BAKER, of New York, for three days; and
To Mr. MARTIN, for one day, on account of important business.

ORDER OF BUSINESS.

Mr. MACKEY. I ask consent to introduce——

Mr. CONGER. I would like to know the present position of the Geneva award bill.

The SPEAKER. That bill is the regular order; and the gentleman from Michigan [Mr. CONGER] has eighteen minutes of his hour remaining.

Mr. WHITE, of Pennsylvania. I suggest that the session of to-morrow be devoted to the consideration of bills to which there is no objection.

Mr. PAGE. I move that the House adjourn.

Mr. WHITE, of Pennsylvania. I hope that the gentleman from California [Mr. PAGE] will withdraw that motion in view of the proposition I submit.

The SPEAKER. The Chair desires to state to the gentleman from California that Monday, the 6th of January, having been included by the Senate amendment in the resolution for a holiday recess, unless opportunity be given to gentlemen now to introduce bills for reference, they will lose an entire week in getting their propositions before the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced concurrence in House joint resolution No. 211, extending the time for the Joint Committee on the Transfer of the Indian Bureau to submit its report.

Mr. PAGE. I insist on my motion to adjourn.

The House divided; and there were—ayes 59, noes 38.

So the motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BREWER: The petition of Mrs. L. E. Eleason, Mrs. Ellen Ashley, and 52 other ladies of Davison, Genesee County, Michigan, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BRIDGES: Resolutions of the Americus Club of Philadelphia, Pennsylvania, opposing the interference of United States marshals at elections, and also opposing the appropriation of any money for the payment of their services—to the Committee on Appropriations.

By Mr. CASWELL: The petition of Mrs. Hattie E. Knott and others of Lodi, Wisconsin, for such legislation as shall give effect to the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CORLETT: A paper relating to the establishment of a post-route from Centennial to La Plata, in Wyoming Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. COX, of Ohio: Memorial of citizens of Ottawa County, Ohio,

asking for the full appropriation, as recommended by engineers, to complete the improvement of the harbor of Port Clinton—to the Committee on Commerce.

By Mr. DAVIS, of North Carolina: The petition of H. A. Loudon, jr., T. B. Womack and others, for the establishment of a post-route from Pittsborough to Chapel Hill, via Bynum's Factory, Belle Voir, and Hackney's Store, North Carolina—to the Committee on the Post-Office and Post-Roads.

Also, the petition of W. E. Gholston, John W. Perry, and others, for the establishment of a post-route from Graham to Ore Hill, North Carolina—to the same committee.

By Mr. EAMES: Memorial of C. J. E. Thompson, asking for an extension of letters-patent upon a chain-link—to the Committee on Patents.

By Mr. FRYE: A paper relating to the establishment of a post-route from Rangeley to Lake Kennebago, Maine—to the Committee on the Post-Office and Post-Roads.

By Mr. HARTZELL: The petition of O. H. Rhodes, of Randolph County, Illinois, for the pay and emoluments of an assistant surgeon United States Army from the 30th day of June, 1862, to January 29, 1863—to the Committee on War Claims.

By Mr. McMAHON: The petition of Charles Daugherty, for a pension—to the Committee on Invalid Pensions.

By Mr. REAGAN: Memorial of citizens of Orange County, Texas, asking for the improvement of the Sabine River, Texas—to the Committee on Commerce.

By Mr. RICE, of Massachusetts: The petition of Theophilus P. Chandler, of Boston, Massachusetts, late assistant treasurer of the United States at said city, to be relieved and discharged from all liability arising from illegal loans and misappropriations made by J. F. Hartwell, who was a clerk in the subtreasury at Boston—to the Committee of Claims.

By Mr. RICE, of Ohio: The petition of John B. Jackman and others, of Henry County, Ohio, against the extension of the Birdsell patent on clover-hullers—to the Committee on Patents.

By Mr. ROBBINS: Resolutions adopted at the fifth annual meeting of the North Carolina State Grange, favoring the repeal of the resumption act and the remonetization of silver, and indorsing the course of the Senators and Representatives from that State on financial questions—to the Committee on Banking and Currency.

By Mr. STENGER: The petition of Benjamin F. Clark, for a pension—to the Committee on Invalid Pensions.

By Mr. WAIT: The petition of William H. Smith, of similar import—to the same committee.

By Mr. WILLIS, of Kentucky: A paper from James Carpenter, of Louisville, Kentucky, calling attention to the means of preventing explosions of steam-boilers—to the Committee on Commerce.

IN SENATE.

FRIDAY, *December* 20, 1878.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a memorial from the association of manufacturers of arms, ammunition, and equipments, and a report of the commanding officer at Springfield, Massachusetts, in relation to the manufacture of arms, ammunition, and equipments for supplying the Army and militia; which, on motion of Mr. DAWES, was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois. On the 12th of December I presented a petition of citizens of Chicago, Illinois, praying for an appropriation for the construction of a canal from the southwest branch of the Chicago River to the mouth of the Calumet River, in that State. I beg leave to present now a petition on the same subject, signed by the president and board of trustees of the village of Hyde Park, Cook County, Illinois, which is a village adjoining the city of Chicago; and I move the reference of this petition to the Committee on Commerce.

The motion was agreed to.

Mr. KERNAN presented the petition of Charles P. Stetson and others, citizens of Clinton County, New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. MERRIMON. I present a petition signed by numerous citizens of Caswell County, North Carolina, praying for a reduction of the tax on tobacco. The petition is very brief and states their grievances so cogently that I ask to have it read.

The VICE-PRESIDENT. It will be reported.

The petition was referred to the Committee on Finance, and was read, as follows:

To the honorable members of the Senate of the United States:

We the undersigned, your petitioners, would respectfully represent to your honorable body that the present tax of twenty four cents per pound on tobacco is not only onerous but is damaging to our business as growers of tobacco; and we believe that a continuation of the tax at the present rate will eventually curtail to a vast extent the production of this staple, and throw out of employment thousands of hands who are dependents upon their labor for support.

We would respectfully state that in this county (Caswell County, North Carolina) there were, before the tax was levied on manufactured tobacco, thirty-odd factories actively engaged in the manufacture of tobacco, and that now all of them have been closed and without any prospect of their resuming work so long as the present high rate of tax is imposed.

We would further state that so long as the tax remains unsettled, we will suffer from the evil consequences, as it damages the trade and unsettles prices.

Therefore we would respectfully pray for a speedy settlement of the question by reducing the same. And this we will ever in duty bound to pray, &c.

Mr. INGALLS presented the petition of Matthew O. Regan, late of Company E, Third United States Artillery, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. SAUNDERS. I present the petition of eight hundred of our most respectable ladies of Nebraska, praying for a prohibitory law on the subject of intoxicating liquors in the District of Columbia. It is very short, and I should be glad to have it read and then referred.

The VICE-PRESIDENT. The petition will be read if there be no objection.

The Secretary read as follows:

To the honorable the Senate and House of Representatives in Congress assembled:

The mothers, wives, daughters, and sisters, of this great Republic, yours and those of your constituents, pray your honorable bodies to pass a law in the District of Columbia, over which you have jurisdiction, which, if copied in all our States and Territories, would save to them their fathers, husbands, sons, and brothers from the bondage of strong drink. They pray you to prohibit the sale of intoxicating liquors in the District of Columbia, except for medicinal, mechanical, and scientific purposes.

And they will continue to pray.

Mr. SAUNDERS. The Committee on Finance is the proper committee, I suppose.

The VICE-PRESIDENT. Being limited as it is, the Chair thinks the proper reference of the petition would be to the Committee on the District of Columbia.

Mr. SAUNDERS. Very well; let it take that course.

The petition was referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. MORRILL. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 1554) relating to printing impressions from portraits and vignettes, to ask to be discharged from its further consideration and that it be referred to the Committee on Printing, where it evidently ought to go. I submit that motion.

The motion was agreed to.

Mr. CHRISTIANCY. I am directed by the Committee on Private Land Claims, to whom was referred the bill (S. No. 838) for the relief of settlers on certain lands in the State of California, to report it adversely. The report is in writing and very brief, and I ask that it may be read.

The VICE-PRESIDENT. The report will be read.

The Secretary read as follows:

The Committee on Private Land Claims, to which was referred Senate bill No. 838, for the relief of settlers on certain lands in the State of California, have had the same under consideration, and respectfully report:

That the same bill was referred to this committee as Senate bill No. 623 at the first session of the Forty-fourth Congress, and then considered by said committee, who, on the 21st of June, 1876, through Senator Bogy, made an adverse report (No. 413) thereon, and that in accordance with the recommendation of said report the said bill was on the same day (June 21, 1876) indefinitely postponed by the Senate. And as no new case has been presented nor any new evidence submitted to your committee since this action of the Senate, a due respect for the Senate, as well as a conviction that it would be unwise under such circumstances to review the action of both the committee and the Senate, induce your committee to decline the reconsideration of the case; and your committee are also of the opinion that the case falls within the spirit of Senate Rule 58, forbidding further consideration of the case without a memorial stating newly discovered evidence. The committee therefore recommend that the bill be again indefinitely postponed.

The VICE-PRESIDENT. The adverse report will be printed and an order for the indefinite postponement of the bill entered.

Mr. DORSEY, from the Committee on the District of Columbia, presented a plan submitted to that committee by Benjamin Severson for the improvement of the sewerage and the sanitary condition of the city of Washington; which was ordered to be printed, and recommitted to the Committee on the District of Columbia.

ROCKY MOUNTAIN SURVEYS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution from the House of Representatives to print three thousand copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the high plateaus of Utah, have instructed me to report the same back with amendments and to ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution; which was read, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

The resolution was reported from the Committee on Printing with amendments, so as to make it read:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 750 for the use of the Senate, 375 for the use of the survey, and 375 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer, under the direction of the Joint Committee on Public Printing.

The amendments were agreed to.

The resolution, as amended, was concurred in.

Mr. ANTHONY. I am also instructed by the Committee on Printing, to whom was referred a resolution of the House of Representatives to print 3,000 copies of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form, to report it back with amendments and to ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution; which was read, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

The resolution was reported from the Committee on Printing with amendments, so as to make it read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 750 for the use of the Senate, 375 for the use of the survey, and 375 for the use of the Smithsonian Institution.

The amendments were agreed to.

The resolution, as amended, was concurred in.

BILLS INTRODUCED.

Mr. HOWE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1555) granting a pension to Fannie Lull; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1556) granting a pension to Mark J. Bunnell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1557) to provide for the reappraisement and sale of the abandoned military reservation at Fort Smith, Arkansas; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1558) for the relief of W. J. Cowan; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. CONOVER submitted an amendment intended to be proposed by him to the bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

WARREN MITCHELL.

Mr. McCREERY. Mr. President, I give notice that on Thursday, the 9th day of January, 1879, I shall make a motion to proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell, of Kentucky. He has waited long, and if he is entitled to anything I think he ought to have it, and if he is entitled to nothing he ought to know it. I ask that the consideration of this subject be made the special order for that day.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Kentucky?

Mr. INGALLS and Mr. MITCHELL objected.

Mr. MITCHELL. I object for several reasons.

Mr. McCREERY. I give notice, then, that on that day I shall make the motion to proceed to the consideration of the bill.

Mr. MITCHELL. I desire to state to my friend from Kentucky that the principal reason why I make the objection at this time to making the bill a special order arises from the fact that the Senator from Wisconsin [Mr. CAMERON] gave notice yesterday that on that day he would move to take up the bill for the relief of Mr. Holladay.

Mr. McCREERY. I move, then, that the bill for the relief of Warren Mitchell be made the special order for the next day, Friday, the 10th of January.

Mr. McMILLAN. I am not willing at this time to consent that that bill shall be made the special order for any particular day, not because I am unwilling that the bill should be considered as soon as it reasonably can be, but there may be circumstances which will prevent its consideration at that time.

The VICE-PRESIDENT. The Senator from Kentucky moves that the bill the title of which he has named be made the special order for Friday, the 10th of January.

Mr. CONKLING. What is the bill?

The VICE-PRESIDENT. A bill for the relief of Warren Mitchell.

Mr. CONKLING. A private bill?

The VICE-PRESIDENT. The Chair so understands, but he knows nothing of its character.

Mr. McMILLAN. I can answer the question of the Senator from New York. It is a private bill, Mr. President.

Mr. CONKLING. I was only going to make this observation: were this a public bill, unless a bill of very commanding importance, I should not like to consent now to make it a special order. Special orders during the short session of Congress particularly, made by guess-work two or three weeks in advance, I have observed are apt to be very embarrassing matters. If the honorable Senator from Kentucky wishes at any time to address the Senate upon this bill, he knows from his experience how glad the Senate will be to hear him and to consult his convenience as to the time and the occasion; but if his purpose is to take up this bill, involving, as I presume it does, questions of much controversy, and to have the Senate this morning make an order by which it shall have a lodgment on a particular day, to keep its place, that kind of place which only two-thirds of the Senate can give it, I object; because, although when the time comes there may be no objection it is also true that when the time comes there may be great objection, and without being able to foresee, as we cannot now foresee, looking over this recess, what the position of the Senate and the situation of its business will be at that time, I hope this bill will not be made a special order. If the honorable Senator will give notice that at that time he will ask to have the bill taken up, no doubt it will be taken up unless at that time there is some serious objection to it, and there can be no objection which would prevail with the Senate in standing in the way of the Senator's wish to submit any remarks or do anything that he chooses which concerns his own convenience.

Mr. McCREERY. I am not ambitious, Mr. President, to submit remarks on this or any other subject. This matter, however, has been before the Senate about four years. The claim has been outstanding for about eleven or twelve years. I think it is time for this reason that the Senate should proceed to the consideration of the matter. If, as I remarked awhile ago, the claimant is entitled to this money, give it to him; if not, say so. I hope the Senate therefore will make this bill the special order for the 10th day of January.

Mr. INGALLS. Mr. President, there is already one special order before the Senate. Senate bill No. 300, amending the statutes in relation to patents, and for other purposes, has been assigned for Tuesday the 7th of January, at one o'clock. I have already given notice that at the conclusion of the consideration of that bill I shall ask the Senate to proceed to the consideration of a public measure of very great importance, that is to say, the bill granting arrears of pensions to the soldiers and sailors who are now upon the pension list, involving the interests of two hundred thousand of the soldiers and sailors of the Republic.

Mr. CONKLING. Whose claims are older in time than this.

Mr. INGALLS. Whose claims are older, as the Senator from New York well suggests, than the claim even of Warren Mitchell. But I have a still further objection to the consideration of this bill as a special order. It is true that it is an old claim, but it is a claim that has been adjudicated by the courts of the United States and decided adversely to the claimant here by the Supreme Court after a full and exhaustive examination. It involves the consideration of questions that I conceive the Senate are not ready upon short notice to deliberate upon, and I hope the Senate, or at least two-thirds of the Senate, will not be willing at this time to give their consent to the consideration of a claim of this description in opposition to the measures to which I have asked the attention of the Senate in regard to the arrears of pension.

Mr. McMILLAN. So far as I am concerned, and the Committee on Claims who have had charge of this question, there will be no opposition to the consideration of this matter at any time that it may reasonably be taken up; but to fix a day and make this bill the special order for that day is a step which I consider would be very ill-advised. The claim involves an amount exceeding $100,000. There is a divided report of the committee upon the subject, the majority report being adverse to this claim.

Mr. McCREERY. I withdraw the motion to make the bill a special order.

The VICE-PRESIDENT. The Senator from Kentucky withdraws the motion.

Mr. McCREERY. I give notice that on that day, Friday, the 10th of January next, I shall move that the Senate proceed to the consideration of the bill.

Mr. McMILLAN. That is all right.

SEWERAGE OF THE DISTRICT OF COLUMBIA.

Mr. DORSEY. I offer the following order:

Ordered, That the Public Printer be authorized to stitch in a single volume, for the use of the Committee on the District of Columbia, 200 copies of the several plans submitted to that committee under the authority of the Senate for the improvement of the sewerage and sanitary condition of the District of Columbia.

The VICE-PRESIDENT. Under the rule the order will go to the Committee on Printing.

Mr. DORSEY. I should be glad if it did not take that reference. There is a large number of these plans, which have been submitted

by different engineers, and they have been printed separately in small pamphlets. This order is simply to have them stitched together.

Mr. DAWES. They are printed?

Mr. DORSEY. They are printed.

The VICE-PRESIDENT. The Chair did not understand the Senator from Arkansas.

Mr. DORSEY. I say I prefer not to have the reference made.

The VICE-PRESIDENT. It requires unanimous consent to grant the order without a reference to the appropriate committee.

Mr. DORSEY. I ask unanimous consent for that purpose.

The VICE-PRESIDENT. Is there unanimous consent that this order be granted? The Chair hears no objection, and it is granted.

OFFICIAL PAPER OF COUNT DE ROCHAMBEAU.

Mr. ANTHONY. I offer the following resolution:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of purchasing the official papers of General the Count de Rochambeau when in command of the French forces in America.

Upon this resolution I desire very briefly to address the Senate.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. ANTHONY. It is the duty of every people to preserve the materials of their history. It is a duty which they owe to themselves, to the passing generation, and to posterity, which will be stimulated by the successes and warned by the errors of the past. Especially is this the duty of a free people, whose liberties have been snatched, as all liberty has been, from the grasp of domestic tyrants or of external oppressors. The most precious possession of a nation is the fame of its children who have illustrated its annals with the examples of patriotism and valor, or have dignified them with statesmanship, eloquence, and scholarship. And when these examples are afforded by men who did not owe allegiance to it, citizens of another country, gratitude pleads with duty for the preservation of their memory. So long as the American people hold in just reverence the names of Washington and Greene, and Jefferson and Franklin, they can never be indifferent to those of La Fayette, of Rochambeau, of Kosciusko, of Pulaski. That they, without the claim of patriotism, but impelled by the bonds of the great brotherhood of liberty, gave their swords to a foreign people struggling for their independence, strengthens their claim upon the grateful consideration of that people, and imposes a higher obligation to render justice to their fame. The renown which they won upon our soil is a part of our national inheritance; it takes a place in the imperishable records of our history. Their glory is a portion of our glory; and America divides with the countries of their birth the honor of their fame. Among those who came to our aid from foreign countries in the war of the Revolution, but one name is more illustrious than that of Rochambeau; but one has a higher title to the gratitude of the American people, and that the name of his compatriot.

How much we were indebted to the alliance with France for the consummation of our independence is a matter of history, and from that alliance and the important assistance rendered to our country by reason of it, has sprung between the two nations a firm and lasting friendship which it is alike the disposition and the interest of each to strengthen. Whatever illustrates the joint operations and services of the forces of the two governments serves this end, besides contributing to general history.

The Count de Rochambeau was born on the 1st of July, 1725. Descended from a noble and distinguished family, and in a military age, he was destined, from his youth, to the profession of arms, on which he entered in his seventeenth year. He served under Broglie; and at the age of twenty he became aid-de-camp to Philip, Duke of Orleans. He afterwards commanded a regiment, and was distinguished at Lofeldt, where he was wounded, and at other places. He pursued his military career till he rose to the rank of lieutenant-general, and was sent at the head of the French corps to the aid of the Americans in the war of the Revolution.

Bancroft says:

For the command Count de Rochambeau was selected, not by court favor, but from the consideration in which he was held by the troops.

What eminent and distinguished services Count de Rochambeau rendered to our struggling nationality, from his landing at Newport to the surrender of Lord Cornwallis at Yorktown, I need not recall to the Senate. He won a name illustrious in American and in French history, and adorned the annals of both with brilliant achievements.

The official papers and correspondence of Count de Rochambeau, while in command in America, were carefully preserved, and have descended to his grandson, the Marquis de Rochambeau, himself a distinguished scholar and antiquarian. It has been his desire to prepare them for the press and to edit their publication. But his means, greatly diminished from those that anciently supported the dignity of his house, were insufficient for this purpose, and he offers the papers to the Government whose history they illustrate. From an article on the subject in the Philadelphia Librarian, written by a distinguished student of history, I take the following account of these papers:

The Rochambeau papers is the collection of official documents made by the Count de Rochambeau in his important position as commander-in-chief of the French forces. It consists of nearly fifteen hundred pieces, a large number of autograph letters of Washington, many of Samuel Adams, Benjamin Talmadge, Sir Guy Carleton, Nathaniel Green, the Prince de Leontbarey, Count de Ségur, Sir Henry Clinton, Luzerne, Vaudreuil, de Choisy, de Damas—a great many letters in cipher, with the key and translations, the secret instructions of the French ministry, the official reports of the general and staff officers, abstracts of all official correspondence between France and the American Executive and Army, numerous maps and plans, manuscript and engraved, giving all the topography of the marches and operations of the army, and of the plans proposed and discussed between the several commanders. It contains the official and personal correspondence of the French commander with Washington and La Fayette, with Clinton and Cornwallis, with Necker and the French war department, and these furnish the most detailed and minute particulars of all the operations in which the French forces took part. The instructions of the French government, prescribing the relations of the chief of their forces to Washington and the American Congress, are given in great detail, and so are all the particulars of the money expenditures of the French forces, the daily journal of all their military movements, a minute account of their siege operations, a full roster of their officers and of all details for duty, the reports of each staff department, the complete correspondence with the allied forces and with those of the enemy, as well as with their own home authorities, thus furnishing a vivid picture of the times and scenes in which they moved.

The Rochambeau papers are especially valuable for the unknown and unpublished reports of the subordinate French officers to their commander-in-chief, and Chotteau lays special stress on a private account given by the Duke de Lauzun of the attempted revolt of the colonial militia at Morristown. The records of the councils of war held by the French are very full and furnish many details and particulars of the operations in which, although the forces were combined, the leaders were practically independent. The good sense of Washington and the perfect tact of Rochambeau, older man and older soldier, too, for he was born in 1725, and had gained wounds and honors in the wars in the low countries, at Maestrich and Closstercamp—these characteristic virtues of the two men, rather than any strict military subordination or legal regulation of their respective rank, overcame any difficulties. The Rochambeau papers give a perfect panorama of the siege and surrender of Yorktown, with the minute details of the orderly-books and journals, the daily service of the troops, the reports of all operations of the engineers, the text of the capitulation as it was first proposed, and the final modification on which it was at length surrendered. Rochambeau's correspondence with the authorities in France gives his mature judgment, and it was always favorable to the patriotism and purity of the American leaders with whom he was so intimately associated. The "papers" close chronologically with the particulars of his return to France and the safe arrival of his troops there, and his final report and the distribution of honors on his recommendation. It is sad to see among the names of those who were active and distinguished in behalf of American liberty those who were soon to fall victims to the awful tragedies committed in the name of liberty in France.

I commend this subject to the attention of the Committee on the Library, and hope it will take the preliminary steps to place this precious collection of official papers within the custody of the American Government and within the reach of American students.

The resolution was agreed to.

HARBOR OF REFUGE ON PACIFIC COAST.

Mr. MITCHELL. I give notice that on the 7th of January, after the morning business, I shall ask the Senate to proceed to the consideration of the bill (S. No. 1451) authorizing the construction of a breakwater and harbor of refuge on the Pacific coast, for the purpose of addressing the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MILTON J. DURHAM of Kentucky, Mr. HIESTER CLYMER of Pennsylvania, and Mr. A. HERR SMITH of Pennsylvania managers at the conference on the part of the House.

The message further announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 5231) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1880, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN H. BAKER of Indiana, Mr. HIESTER CLYMER of Pennsylvania, and Mr. OTHO R. SINGLETON of Mississippi managers at the conference on the part of the House.

The message also announced that the House had passed a concurrent resolution for the printing of 8,000 copies of the eulogies delivered in the House of Representatives and to be delivered in the Senate upon J. E. Leonard, deceased, late a member of the House from the fifth district of Louisiana; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879;

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes;

A joint resolution (H. R. No. 210) making an appropriation for the

purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States; and

A joint resolution (H. R. No. 211) extending time for joint committee on transfer of Indian Bureau to report.

JURORS' OATH.

Mr. BECK. I ask for the consideration of the bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States.

The VICE-PRESIDENT. Is there objection to the present consideration of this bill?

Mr. McMILLAN. I object.

The VICE-PRESIDENT. The Senator from Minnesota objects.

Mr. BECK. I move, then, to suspend the pending and all prior orders and that the Senate proceed to the consideration of the bill.

The VICE-PRESIDENT. The Senator from Kentucky moves that the pending and all prior orders be suspended and that the Senate proceed to the consideration of the bill named by him. The question is on that motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

An amendment was reported by the Committee on the Revision of the Laws to strike out all after the enacting clause of the bill and in lieu thereof to insert:

That section 820 of the Revised Statutes of the United States be, and the same is hereby, repealed, saving the application of the same to all offenses committed prior to April 20, 1871, and all proceedings for prosecution of offenses pending on the said 20th day of April, 1871.

Mr. CONKLING. Mr. President, having interposed once to prevent what seemed to me to be a hasty consideration of this bill, I do not feel called upon to persist in contending with it. I rise, however, to suggest to the Senator from Kentucky, if it be he who more especially than any other Senator has it in charge, that there should be made, and I hope he will make, a statement showing either that the act became by inadvertence a section in the Revised Statutes, or that for some other reason it should be stricken out.

Mr. BECK. Mr. President, the other day when I urged the immediate consideration of this bill I did it upon the ground that section 820 of the Revised Statutes was incorporated by inadvertence into the Revised Statutes, and was not in fact the law of the land; that all its provisions had been repealed by the act of April 20, 1871, in express terms; that is, that the first section of the act of June 17, 1862, which is in substance and almost verbatim identical with the language of section 820 of the Revised Statutes, had been repealed by the act of April 20, 1871, and therefore was improperly incorporated into the Revised Statutes. In order to secure for the examination into the truth of that statement full consideration I consented to the reference of the bill to the Committee on the Revision of the Laws. They considered the question and yesterday reported the bill back unanimously, or rather reported the substitute now offered for the bill that I introduced; this substitute is the proposition now pending. I understand that the committee were unanimously of the opinion that section 820 was repealed by the law of 1871 and was inadvertently placed in the Revised Statutes, and they so reported yesterday morning. For that reason I call up the bill now.

The VICE-PRESIDENT. The question is on the amendment proposed by the Committee on the Revision of the Laws.

The amendment was agreed to.

Mr. BECK. I offer the following additional section:

SEC. 2. That section 821 of the Revised Statutes of the United States be, and the same is hereby, repealed.

Mr. CONKLING. What is that section?

Mr. BECK. I will read section 820 and then section 821, as I believe that it is simply a portion of section 820, and that the repeal of section 820 necessitates the repeal of section 821, because the oath authorized by section 821 to be required of jurors cannot possibly apply to any other persons than those who, before the repeal of section 820, were not eligible as jurors, and is only a means of testing their eligibility, and of punishing them for falsely assuming that they were not excluded by section 820, when they cannot be excluded even if they have done all that section 820 excluded them for; the oath prescribed by section 821 is simply an absurdity, because they cannot be excluded from the jury even if they cannot take the oath when section 820 is repealed. To make this clear I propose to read the section. Section 820 reads as follows:

The following shall be causes of disqualification and challenge of grand and petit jurors in the courts of the United States, in addition to the causes existing by virtue of section 812, namely: without duress and coercion to have taken up arms or to have joined any insurrection or rebellion against the United States; to have adhered to any insurrection or rebellion, giving it aid and comfort; to have given, directly or indirectly, any assistance in money, arms, horses, clothes, or anything whatever, to or for the use or benefit of any person whom the giver of such assistance knew to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States, or whom he had good ground to believe to have joined, or to be about to join, any insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; or to have counseled or advised any person to join any insurrection or rebellion, or to resist with force of arms the laws of the United States.

That is the section which the Committee of the Whole have agreed to repeal as it was repealed in 1871. Section 821, which I now propose by my amendment to have repealed, reads thus:

SEC. 821. At every term of any court of the United States the district attorney, or other person acting on behalf of the United States in said court, may move, and the court, in their discretion, may require the clerk to tender to every person summoned to serve as a grand or petit juror, or veniremen, or talesman, in said court, the following oath or affirmation, namely: "You do solemnly swear (or affirm) that you will support the Constitution of the United States of America; that you have not, without duress and constraint, taken up arms or joined any insurrection or rebellion against the United States; that you have not adhered to any insurrection or rebellion, giving it aid and comfort; that you have not, directly or indirectly, given any assistance in money, or any other thing, to any person or persons whom you knew, or had good ground to believe, to have joined, or to be about to join, said insurrection or rebellion, or to have resisted, or to be about to resist, with force of arms, the execution of the laws of the United States; and that you have not counseled or advised any person to join any insurrection or rebellion against, or to resist with force of arms, the laws of the United States." Any person declining to take said oath shall be discharged by the court from serving on the grand or petit jury, or venire, to which he may have been summoned.

Regarding the last section simply as being a means of testing the standing of the jurors as prescribed in section 820, I think its repeal necessarily follows, and that its repeal ought to be a part of the law repealing the first section. It seems to me that the statement of the case exhausts the argument.

Mr. CONKLING. Mr. President, I see the honorable Senator from Michigan is present—I mean the chairman of the committee from which this report, said to be unanimous, came—and therefore when I see that his attention is attracted to the subject, I will give place to him. Meanwhile, however, I venture to call the attention of the Senate to the fact that the report of the committee being unanimous was to the effect, not that this section ought to be repealed, but that the other section upon which a vote has been taken should be repealed. I have, of course, no mode of knowing, until we hear, why the committee unanimously selected, not this section but another section to be repealed and this section to stand unrepealed. I observe, however, from the reading of the Senator, and now from the book, that this section reposes in the court a power wholly discretionary. It is to the effect that at every term of any court of the United States the district attorney or other person acting on behalf of the United States in said court, may move and the court in their discretion may require this oath to be administered. It is therefore a section clothing the court with jurisdiction to entertain such a motion which motion must arise in the discretion of the prosecuting officer, and upon the motion, sifting the particular case, the court in its discretion may direct or refuse to direct as the motion proposes.

Now, I can readily see not one reason merely but various reasons why the Committee on the Revision of the Laws held, if it did hold, first that this section was not to be treated *in pari materia* with the other, why this section was not to fall necessarily though the other should fall, and why this section maintaining a discretion should not be stricken out. I can understand how without going counter to the policy which the Senator from Kentucky would advocate in this regard, the discretion might well be applicable to a case in which the Senator himself would hold that the ground was a good one on which to discharge a juror. For example, suppose the particular issue to be tried, as far as the word "trial" applies to a grand jury, suppose the question to be considered in the secret cloisters of a grand jury were a question addressed especially to the acts, the standing, the history of a man in respect of these very matters recited in the section. I can readily see that the court in its discretion might say, "although this juror objected to ought to sit in an ordinary case and there would be no objection to him, he should not sit in this case." It was long a rule in England that members of certain trades, no matter who they were, should not be allowed to sit in capital causes. I do not name them; every lawyer will remember them. It was not an arbitrary provision; it was founded deep in philosophy in the philosophy of human nature. It is the law now that any man who has formed and expressed an opinion is to be excluded; any man who has upon his mind a bias which in the language of the law it would require evidence to remove, is disqualified as a juror. It is the law, the number varying in States, that peremptorily, without any ground being assigned at all, without a challenge for cause or a challenge for favor or a challenge to the array, merely because he please a party may say, not that one juror only but that a considerable number of jurors—the number is larger in some States and smaller in others—shall not sit merely because he chooses that they shall not sit.

Now, possibly, without this section a challenge to a petit juror to the favor or for cause, to be determined by the court or by triers, might set aside a juror intended by this section; I do not know how that is; but when you come to the case of a grand juror, who is to challenge a grand juror under the practice of most, if not all the States? A challenge to the array, a challenge on the ground that the *venire* was defective may set aside an entire panel; but who is to challenge a particular grand juror at a particular term of the court? I do not know. I do not understand the convenient process by which that might be reached. Here is a section which confers upon the district attorney the power to present to the court, and upon the court the power to determine, the point whether a particular juror having sustained certain relations, having been surrounded by certain influences, having avowed certain proclivities, should or should not sit in what may be called the star-chamber *ex parte* proceeding of a grand jury to adjudge a man who may have held antagonistic relations in the same regard.

Mr. President, the honorable Senator from Michigan has learned from me at this moment for the first time, he having been for a while out of the Chamber, that the pending motion before the Senate is to

add to this bill another section repealing a different provision of the Revised Statutes, and but for my rising the Senate was about to vote on that question; and to that question I hope some attention will be addressed, if I am right in a cursory view as to the merits of this amendment.

The Senator from Michigan tells me also that a proposition to repeal section 821 is now pending, and pending separately, before the Judiciary Committee, is not before the Committee on the Revision of the Laws, and was not before that committee. So it seems that as to this section we are about to proceed without any report from any committee. The honorable Senator corrects me now by saying that it was before them by a bill, but by their determination it was not before them, and because they thought it did not fall within the idea of revising the laws; it brought up a broader question than that, and did not pertain to their jurisdiction, and therefore they refrained from dealing with it and refused to include it in the bill which they reported, and also for the reason that it was before the Judiciary Committee. For all these reasons now presented it is proposed that this morning in the Senate, without the report of any committee, the Senate shall expunge this section.

I do not wish to repeat some remarks I made before the chairman of the Judiciary Committee came in; I see he is now in his seat; but I will so far repeat as to endeavor to invite his attention to the fact that the section of the Revised Statutes now in question is one which excludes no juror, which requires no oath, which is mandatory and exacting in no sense, but which simply invests the district attorney or prosecuting officer with the power to address to the discretion of the court a motion aimed at a particular juror, and enables the court in deciding that motion to say whether that juror in respect of the reasons here referred to should or should not sit as a member of the grand jury in the investigations of that particular term, or should or should not sit as a member of the trial jury to determine issues there pending. I do not think it falls within the reason assigned against the other section, nor do I think that if repealed it should be repealed for parallel reasons or that in any sense it should necessarily share the fate of the other section.

If the preceding section is repealed the oath is dispensed with, except that by this section as it stands it will still be in the power of the court in a given case presented to its discretion to direct that a juror, unless he can take this oath, shall not sit at the particular term, or in the particular case in which, if I may so say, that juror is challenged. That is all. I doubt whether any Senator is prepared to say, I am not, how the repeal of this section would leave the law or the practice of the courts. It might still be true that it would be a good challenge for cause or to the favor in the case of a petit juror that the things here specified had been true of him; because the court or the triers passing upon that challenge might hold that bias or prejudice or disqualification of some sort as to that particular case might be inferred from the facts. I do not know how that would be. I know how it would be in my own State; I do not know how it would be under the practice in the other States. Here is a section which makes it certain in all the States, and certain, as it seems to me, only to an extent consistent with the safety and the rights of all parties. Certainly if a man were to be tried on an issue which gave rise sharply and distinctly to the very prejudice indicated here, there should be some mode of saying that he ought not to be tried by a man whose history and position and the state of whose mind was such as to lead him to be violent in that regard. But, as I have said, I have no disposition to occupy the time of the Senate.

Mr. HOAR. Mr. President, I voted to take up this bill understanding that it was a bill concerning which the committee to whom it had been referred were unanimous, and understanding that it was required simply to correct a clear and admitted mistake in the revision of the statutes. I should not have voted to take it up if I had supposed that when it came up an amendment relating to matters in dispute would be proposed, though of course it was entirely in order to make that proposition. It is quite clear that the bill cannot be passed to-day, at present. The morning hour has now expired, and at the expiration of the morning hour the Senator from Michigan [Mr. CHRISTIANCY] is on the floor to conclude his remarks on the patent laws.

The VICE-PRESIDENT. The Chair does not so understand.

Mr. CHRISTIANCY. That subject is fixed by special order for the 7th of January.

Mr. HOAR. On that point, then, I was misinformed; but at any rate it is not possible that any disputed matter of legislation in relation to this bill would pass the House before the holidays; so that the ultimate passage of the bill will not be hastened by an attempt to deal with it in the Senate to-day. The Senate is quite thin, and will be thinner before long. I therefore move that the Senate do now adjourn.

The VICE-PRESIDENT. The Senator from Massachusetts moves that the Senate do now adjourn.

Mr. EDMUNDS. I ask the Senator to withdraw that to allow us to have a short executive session.

Mr. HOAR. I have no objection to that. I withdraw the motion to adjourn.

EULOGIES ON THE LATE REPRESENTATIVE LEONARD.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That 8,000 copies of the eulogies delivered in the House of Representatives and to be delivered in the Senate upon the late J. E. Leonard, late member of this House from the fifth district of Louisiana, be printed; 6,000 for the use of the House, and 2,000 for the use of the Senate.

HOUSE BILL REFERRED.

The bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

AMENDMENT TO POST-ROUTE BILL.

Mr. TELLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 5281) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

PAPERS WITHDRAWN AND REFERRED.

Mr. WINDOM. By request, and without knowing anything whatever of the claim, I ask for the following order:

Ordered, That the papers relating to the claim of Willis N. Arnold, of Tennessee, be taken from the files of the Senate and referred to the Committee on Claims.

The VICE-PRESIDENT. The order will be granted upon the condition imposed by the rules.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

Mr. BECK. I desire the yeas and nays on that motion.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired on political questions with the Senator from Ohio, [Mr. MATTHEWS.] As this vote seems to be taking a political direction I shall decline to vote. If he were here, I should vote "nay."

Mr. McMILLAN, (when his name was called.) I am paired with the Senator from Tennessee [Mr. HARRIS] on all political questions. As his colleague thinks this is a political question, I shall withhold my vote on the subject. He would vote "nay" and I should vote "yea," if he were here.

Mr. MITCHELL, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. HEREFORD.] If he were here, I presume he would vote "nay." I should vote "yea."

The roll-call was concluded.

Mr. ARMSTRONG, (after having voted in the negative.) I had promised to pair with the Senator from Illinois, [Mr. OGLESBY.] I find he left town last night. I wish, therefore, to withdraw my vote.

The VICE-PRESIDENT. The Senator from Missouri withdraws his vote.

Mr. DORSEY, (after having voted in the affirmative.) I paired with the Senator from Virginia [Mr. JOHNSTON] on all political questions. I did not suppose when I voted that this was such a question, but I find it is so considered and I ask to withdraw my vote.

The VICE-PRESIDENT. The Senator from Arkansas withdraws his vote.

The result was announced, as follows:

YEAS—25.

Allison,	Cameron of Wis.,	Hoar,	Rollins,
Anthony,	Christiancy,	Howe,	Saunders,
Blaine,	Conkling,	Ingalls,	Teller,
Booth,	Dawes,	Kellogg,	Windom.
Bruce,	Edmunds,	Kirkwood,	
Burnside,	Ferry,	Morrill,	
Cameron of Pa.,	Hamlin,	Paddock,	

NAYS—25.

Bailey,	Davis of W. Va.,	Jones of Florida,	Randolph,
Bayard,	Eaton,	Kernan,	Ransom,
Beck,	Eustis,	Lamar,	Saulsbury,
Butler,	Garland,	McCreery,	Thurman.
Cockrell,	Gordon,	Maxey,	
Coke,	Grover,	Merrimon,	
Davis of Ill.,	Hill,	Morgan,	

ABSENT—26.

Armstrong,	Hereford,	Mitchell,	Voorhees,
Barnum,	Johnston,	Oglesby,	Wadleigh,
Chaffee,	Jones of Nevada,	Patterson,	Wallace,
Conover,	McDonald,	Plumb,	Whyte,
Dennis,	McMillan,	Sargent,	Withers.
Dorsey,	McPherson,	Sharon,	
Harris,	Matthews,	Spencer,	

The VICE-PRESIDENT. Upon the motion of the Senator from Vermont the yeas are 25 and the nays are 25. Upon this question, the vote of the Senate being equally divided, the Chair votes in the affirmative, and the Senate decides to go into executive session. The Sergeant-at-Arms will close the doors and clear the galleries of the Senate.

Mr. ALLISON. I desire to state that on this particular question the Senator from California [Mr. SARGENT] is paired with the Senator from Connecticut, [Mr. BARNUM.]

The Senate proceeded to the consideration of executive business. After forty minutes spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills:

A bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama;

A bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri;

A bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado; and

A bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia; the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia.

The message also announced that the House had passed the bill (S. No. 1244) for the relief of George Williams with amendments in which it requested the concurrence of the Senate.

GEORGE WILLIAMS.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. No. 1244) for the relief of George Williams.

Mr. MORGAN. I hope the Senate will concur in the amendments of the House.

The VICE-PRESIDENT. The amendments will be reported.

The SECRETARY. In line 8 of the bill strike out the words "said Williams" and insert the words "the legal representatives of said George Williams, deceased," and amend the title so as to read: "An act for the relief of the legal representatives of George Williams, deceased."

Mr. McMILLAN. I should like to have the bill read at length.

Mr. MORGAN. It is a bill that passed the Senate at the last session. Since the passage of the bill by the Senate the party for whose benefit the bill was enacted has died. The only change made by the House is to substitute the legal representatives for himself.

The VICE-PRESIDENT. Does the Senator from Minnesota desire to have the bill read at length?

Mr. McMILLAN. I withdraw my request.

The amendments of the House of Representatives were concurred in.

JURORS' OATH.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1505) to repeal sections 820 and 821 of the Revised Statutes of the United States.

Mr. BECK. I desire to withdraw the amendment which I offered to the substitute reported from the Committee on the Revision of the Laws.

The VICE-PRESIDENT. The Senator from Kentucky withdraws the amendment.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to repeal section 820 of the Revised Statutes of the United States, in relation to jurors in criminal cases."

Mr. CONKLING, (at two o'clock p. m.) I move that the Senate do now adjourn.

The motion was agreed to.

The VICE-PRESIDENT. The Senate stands adjourned until Tuesday, January 7th next, at twelve o'clock noon.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 20, 1878.

The House met at twelve o'clock m.

Prayer by the Rev. A. F. MASON, pastor Calvary Baptist church, Washington, District of Columbia.

The Journal of yesterday was read and approved.

EULOGIES ON THE LATE JUDGE LEONARD.

Mr. ACKLEN. Mr. Speaker, I ask unanimous consent to submit a resolution for the printing of the eulogies on the late Judge Leonard, of Louisiana. I wish to say that unless this resolution is adopted before the holiday recess members who are not elected to the Forty-sixth Congress will not receive their quota of these eulogies, and that is the reason why I wish to have the resolution offered and adopted now.

Mr. DUNNELL. I should like to say that I understand the eulogies on the late Judge Leonard have not yet been pronounced in the Senate and the presumption is they will be, and therefore I think this resolution is premature.

Mr. ACKLEN. I ask that the resolution be read:

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring.) That 8,000 copies of the eulogies delivered in the House of Representatives on the late J. E. Leonard, member of Congress from the fifth district of Louisiana, be printed; 6,000 for the use of the House and 2,000 for the use of the Senate.

Mr. ACKLEN. I move to amend the resolution by inserting the words "and to be delivered in the Senate," which will cover the gentleman's objection.

The resolution, as modified, was adopted.

ORDER OF BUSINESS.

Mr. GARFIELD. I desire to suggest, Mr. Speaker, that bills be presented for reference as of Monday morning. I think it will be simplified if, by unanimous consent, the Speaker be allowed to recognize gentlemen for the introduction of bills for reference as of Monday morning.

Mr. BRIGHT. I hope it will not be restricted to that alone.

Mr. GARFIELD. Let that be done first of all.

The SPEAKER. Is there objection to the proposition of the gentleman from Ohio? When the House, after the recess, resumes its session it will be on January 7th, so that on Monday the 6th there will be no session of the House and no opportunity during that week under the rules to introduce bills for reference.

Mr. WILSON. Let unanimous consent also embrace the introduction of resolutions to be considered by consent.

Mr. WHITTHORNE. I object to that enlargement.

Mr. BLOUNT. My colleague objects to reports of committees.

The SPEAKER. Is there any objection to the proposition of the gentleman from Ohio that bills and joint resolutions be introduced for reference?

Mr. WILSON. I desire to have the order large enough to embrace reports.

The SPEAKER. It does not embrace reports.

Mr. WILSON. Then I object.

Mr. HOOKER. I hope it will embrace resolutions to be offered for reference.

Mr. TOWNSEND, of New York. I object.

The SPEAKER. The Chair will again submit the proposition. Is there objection to granting unanimous consent to the recognition of members for the introduction of bills and joint resolutions for reference?

Mr. FINLEY. I suggest that the States be called.

Mr. HOOKER. I ask the unanimous consent be so enlarged as to embrace resolutions.

The SPEAKER. There has been objection to the enlargement of the order.

Mr. HOOKER. Then I object to the whole proposition.

CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON. I move by unanimous consent to take from the Speaker's table a message from the Senate of the United States, and also move agreement in the request of the Senate for a conference on the disagreeing votes of the two Houses on the bill (H. R. No. 5312) making appropriations for the consular and diplomatic services for the year ending June 30, 1880, and for other purposes.

Mr. DUNNELL. Have the amendments of the Senate been acted upon by the House? Have they been before the House?

Mr. SINGLETON. They have been, and the gentleman will find them in print.

There was no objection, and Mr. SINGLETON's motion was agreed to.

INVALID PENSION BILL.

Mr. SMITH, of Pennsylvania, by unanimous consent, moved to take from the Speaker's table the amendments of the Senate to the bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, and moved their reference to the Committee on Appropriations.

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. LUTTRELL. I demand the regular order of business.

The SPEAKER. The morning hour begins at twenty minutes past twelve o'clock.

Mr. WHITE. I suggest this day's session be devoted to the consideration of private bills to which there are no objections.

Mr. TOWNSEND, of New York. I demand the regular order of business.

Mr. WHITE, of Pennsylvania. I will renew the suggestion after the morning hour.

Mr. CHALMERS. I desire to make a report from the Committee of Accounts for the payment of a clerk who cannot get his money otherwise. He should get his money before Christmas, and I hope there will be no objection.

Mr. LUTTRELL. I withdraw the demand for the regular order for that purpose.

Mr. PAGE. I insist on the regular order.

The SPEAKER. The regular order being demanded, the morning hour begins at twenty-one minutes past twelve o'clock, and reports from committees of a private nature are in order. The call rests with the Committee of Claims.

GEORGE WILLIAMS.

Mr. BRIGHT. The Committee of Claims have had under consideration the bill (H. R. No. 4412) for the relief of George Williams, and

have directed me to report the same with a favorable recommendation. I ask at the same time the unanimous consent of the House to take from the Speaker's table Senate bill No. 1244, which is identical with the House bill and upon which there is a favorable report, that it may be considered by the House as a substitute for the House bill, the House bill being laid on the table.

The SPEAKER. The bill will be read.

The bill (S. No. 1244) was read, as follows:

Be it enacted, &c., That the Secretary of War be, and is hereby, authorized to adjust and settle, upon just and equitable terms, the claim of George Williams for balance due for building locks 2, 3, and 4 of Muscle Shoals Canal on Tennessee River, and on a contract for section-work, done under power of attorney from Matthew G. Kennedy: *Provided*, That in making said settlement the said Secretary of War shall not allow the said Williams more than his actual expenditures, with reasonable compensation for the use of tools, and for money advanced in the prosecution of said work: *And provided further*, That no allowance or payment shall be made under this act except in pursuance of a recommendation of a board of not less than three engineers, to be appointed by the Secretary of War to inquire into and report upon the character and value of the work done and the merits of the claim.

The SPEAKER. The Chair hears no objection to the substitution of the Senate bill which the gentleman from Tennessee states is a literal copy of what the House committee has reported favorably. The Senate bill is before the House, and will be considered as having been read a first and second time.

Mr. BRIGHT. I offer the following amendment:

In line 10 strike out the words "said Williams" and insert "legal representatives of said George Williams, deceased."

The SPEAKER. The Chair understands that since the passage of the Senate bill the George Williams mentioned therein has died.

Mr. WHITTHORNE. I would like to hear the report read.

The report was read, as follows:

The Committee of Claims, to whom was referred House bill No. 4412 for the relief of George Williams, have had the same under consideration and would respectfully report:

This claim for relief arises out of work done on the Muscle Shoals Canal, Tennessee River, in the State of Alabama, in building certain locks and certain section work under contracts with the United States.

Without going into details, it is sufficient for the committee to state that the claim is based upon the following facts alleged by the claimant and well sustained by the proof he submits:

First. That the claimant in making bids for work upon said canal and section work was, without any fault upon his part, misled as to the real character of the work to be done; no detailed plans had been prepared by the engineer in charge at the time of the letting, and the claimant was shown the plan of a lock at Des Moines Rapids Canal at Keokuk, Iowa, and was informed that these locks would be similar in many respects, whereas, when said plans were furnished, they proved in nearly every respect different from the plan of the Des Moines locks and very much more expensive.

Second. That after the contracts were entered into, the work was materially and radically changed by order of the engineer in charge, whereby the contractor was put to great additional expense and suffered serious loss.

Third. That claimant was not permitted to commence work at the time specified in the contract for lock work, whereby he suffered loss. The contract required the work to be commenced on May 1, 1876, and the contractor was on the ground and ready to commence work on May 4, 1876, but was not furnished any plans until September, 1876, and the final plan until April, 1877.

Fourth. That certain expensive masonry work not required by the specifications was made necessary by the alterations of plans, as was also a material change in the foundations and an increase of the height of the chamber walls of the locks; all of which the contractor did under order of the engineer and at great additional expense. The contract provides that no extra work or material shall be paid for unless such extra work on materials shall have been expressly required in writing by the Government officers in charge of the work. When certain extra work and materials were discovered to be necessary, the claimant called the attention of the United States engineer in charge of the work to the fact, and asked for a modification of the contract so as to cover the extra expense found necessary. No change in the contract was made, but in lieu of such proposed change the engineer in charge suggested a submission of the whole question to disinterested experts or arbitrators, and to this the claimant acceded. While this cannot be taken in law as a change of the contract, yet as it was so considered by the claimant and the engineer in charge, and as it is understood by the committee that the Secretary of War is satisfied with a settlement of this claim upon a basis similar to the one agreed upon by the claimant and the engineer in charge, your committee have, by the bill reported, provided for such settlement.

Fifth. By reason of the facts above stated the claimant, who has done his work faithfully, has actually paid out in its prosecution largely more money than he has received as compensation.

Your committee have not undertaken to determine what sum the claimant should receive in full compensation for his damages, but it is submitted that the Secretary of War may with great propriety be authorized to settle the claim, upon just and equitable terms, by allowing the claimant not more than his actual expenditures, with a reasonable compensation for the use of his tools and for money advanced in the prosecution of the work, no allowance to be made except in pursuance of the recommendation of a board of engineers, to be appointed by said Secretary, to inquire into and report upon the character and value of the work and the merits of the claim. More than this the claimant might perhaps with justice ask, but less the Government cannot afford to compel him to accept.

The committee recommend the passage of the accompanying bill as a substitute for the original bill.

The amendment was agreed to.

The bill as amended was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. BRIGHT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BRIGHT. I ask that the title of the bill be amended so that it shall read: "A bill for the relief of the legal representatives of George Williams, deceased."

There was no objection, and it was so ordered.

RICHARD T. BRYAN.

Mr. CUMMINGS, from the Committee of Claims, reported, as a substitute for House bill No. 2882, a bill (H. R. No. 5713) granting $2,000 to Richard T. Bryan, as compensation; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

G. E. W. SHARRETTS.

Mr. CUMMINGS also, from the same committee, reported, as a substitute for House bill No. 3159, a bill (H. R. No. 5714) granting $2,000 to G. E. W. Sharretts, as compensation; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

THOMAS A. M'LAUGHLIN.

Mr. HENDERSON, from the Committee of Claims, reported back with amendments the bill (H. R. No. 939) for the relief of Thomas A. McLaughlin; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CHARLES B. ROBERTS.

Mr. HENDERSON also, from the same committee, reported a bill (H. R. No. 5715) for the relief of Charles B. Roberts; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES W. RICHARD AND OTHERS.

Mr. HENDERSON. I also report back from the Committee of Claims, with a favorable recommendation, the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado, and ask for its present consideration.

The bill was read, as follows:

Be it enacted, &c., That there be appropriated the sum of $5,004, to be paid out of any money in the Treasury of the United States not otherwise appropriated, to pay James W. Richard and J. S. Brown & Brother, of the city of Denver, county of Arapahoe, in the State of Colorado, for flour delivered by said last-named parties to the Los Pinos Indian agency in Colorado during the year 1875; that the same be paid under the direction of the Secretary of the Interior.

Mr. CLYMER. I make the point of order that that bill makes an appropriation and should go to the Committee of the Whole on the Private Calendar.

Mr. PATTERSON, of Colorado. I ask the gentleman from Pennsylvania to let the report be read before he insists on the point of order.

The SPEAKER. The report will be read, the Chair reserving the right of the gentleman from Pennsylvania.

The report was read, as follows:

The Committee of Claims, to whom was referred the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado, having had the same under consideration, beg leave to report:

That the committee find the facts as to the claim of the said James W. Richard and J. S. Brown & Brother correctly stated in the Senate report from the Committee on Indian Affairs, No. 242, which said report is hereto annexed and made part of this report; and is in the words and figures following, to wit:

"The Committee on Indian Affairs, to whom was referred the bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado, report:

"That the testimony in the case shows that H. F. Bond, United States Indian agent for the Los Pinos agency in Colorado, entered into a contract with the firm of J. W. Richard & Co., of Denver, Colorado, for the purchase from said Richard & Co. of 100,000 pounds of flour, to be delivered by said firm to the new agency located in the Uncompahgre Valley, on or before the 25th of December, 1875, at the price of $11.95 per one hundred pounds; that prior to said agreement with said firm the said Indian agent had advertised for bids for furnishing said flour, according to the regulations of the Indian Bureau, and received under such notice two bids—one to furnish said quantity of flour at $9.50 per hundred pounds and the other to furnish it at $8.50 per hundred pounds, but that subsequently both of said offers of contract were forfeited by the parties making the same. Thereupon said agent claims that he was forced to go into the market at Denver and offer to purchase the flour, and that said Richard & Co. made the lowest bid to furnish the same at the point first stated in this report. The evidence further shows that Richard & Co. delivered all of said flour at what is known as the "old agency," about ninety miles nearer the city of Denver than the Los Pinos agency, the point at which the flour was to have been delivered under the contract. Notice of this contract with Richard & Co. having been furnished to the Indian Department, the Commissioner refused to confirm the same, and notified the Indian agent and Richard & Co. of the fact.

"In the mean time, however, the agent had issued to the Indians of the Los Pinos agency 62,800 pounds of said flour. The remaining 37,200, or 372 sacks, were, by the agent, returned to and accepted by the said J. W. Richard & Co. Afterward said firm of Richard & Co. agreed to accept from the Indian department, in payment in discharge of said 62,800 pounds distributed to the Indians as aforesaid, eight cents per pound. The Commissioner of Indian Affairs accepted these terms, and agreed that the amount should be recognized by the Department as a just claim for the amount of flour furnished in quantity and quality as set out in the contract.

"The committee herewith inclose communication from the Commissioner of Indian Affairs upon this subject, dated February 15, 1877, addressed to Hon. WILLIAM B. ALLISON, United States Senate; and a further communication, dated February 22, 1878, from B. A. Hayt, Commissioner of Indian Affairs, addressed to Hon. H. M. TELLER, of the Senate, upon this subject, in which communication the Indian Bureau recognizes the justness of the claim and recommends its payment.

"But as said contract was not made in accordance with the regulations of the Indian Bureau, the amount cannot be paid out of the regular appropriation for such purpose; a special act of Congress is deemed necessary in order to furnish the same.

"The bill provides for an appropriation of $5,004; the sum admitted to be due by the Indian Bureau is $5,024.

"The Committee on Indian Affairs have amended the bill accordingly, and, as amended, recommend its passage."

The committee therefore adopt said Senate report as the report of this committee and make it their own, and the committee are of the opinion that said claim is just, and should be paid, and they therefore report back said Senate bill and recommend its passage.

Mr. CLYMER. I do not insist on the point of order.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HENDERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879;

A bill (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act, to be issued by the commissioners of the District of Columbia, and for other purposes;

Joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States; and

Joint resolution (H. R. No. 211) extending time for Joint Committee on Transfer of Indian Bureau to report.

W. S. MORRIS AND OTHERS.

Mr. HENDERSON, from the Committee of Claims, reported back, with a recommendation that it do pass, the bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia.

The bill was read.

Mr. THOMPSON. I make the point of order on that bill that it must have its first consideration in the Committee of the Whole. I do it because it is unfair to other committees who desire to make reports with a view to putting them on the Private Calendar that the time should be occupied in the consideration of bills as soon as reported.

Mr. HENDERSON. Will the gentleman allow the report to be read?

Mr. THOMPSON. It will only be consuming time unnecessarily, for I shall not withdraw the objection.

The bill was referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

CLAIM OF THE STATE OF TENNESSEE.

Mr. HENDERSON, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 882) authorizing the proper accounting officers of the Treasury to audit and pay the claim of the State of Tennessee for keeping United States military prisoners.

The bill was read. It authorizes the proper accounting officers of the Treasury to audit, and when audited to pay, the amount due the State of Tennessee, if any amount is found due, for the keeping and maintaining of United States military prisoners.

The report was read; from which it appears that the State of Tennessee has a claim against the United States for keeping military prisoners from July 1, 1863, to December 31, 1871, amounting to $30,006.81; that if the claim had been presented from time to time as it accrued, it would have been payable from the appropriation for contingencies of the Army, except a small portion which accrued since July 1, 1871, but that there is now no appropriation available for its payment, and that the office of the Second Auditor of the Treasury Department can take no further action in the case until Congress has made some provision for its payment.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HENDERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed the following concurrent resolutions of the House, with amendments in which he was directed to ask the concurrence of the House:

Resolution to print 3,000 copies of the Geographical and Geological Surveys of the Rocky Mountain Region, in quarto form; and

Resolution to print 3,000 copies of the report of the Geological and Geographical Surveys of the Rocky Mountain Region relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and chart.

DOUGHTY & CARD.

Mr. HENDERSON, from the Committee of Claims, reported back, with a favorable recommendation, the bill (S. No. 1066) for the relief of Doughty & Card; which was referred to the Committee of the Whole on the Private Calandar, and ordered to be printed.

L. MADISON DAY.

Mr. REILLY, from the same committee, reported a bill (H. R. No. 5716) for the relief of L. Madison Day; which was read a first and second time, referred to the Committee of the Whole, and ordered to be printed.

COLONEL ALFRED B. MEACHAM.

Mr. REILLY, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3357) for the relief of Colonel Alfred B. Meacham; which was referred to the Committee of the Whole, and, with the accompanying report, ordered to be printed.

W. S. MORRIS AND OTHERS.

Mr. HENDERSON. In regard to the Senate bill No. 986, to which the gentleman from Pennsylvania [Mr. THOMPSON] objected, I wish to say that it simply provides that the Commissioner of Internal Revenue shall reopen and investigate certain claims for taxes alleged to have been illegally assessed and collected.

The committee have carefully considered the bill, and the report fully states all the facts. I therefore ask the gentleman from Pennsylvania to withdraw his objection on the point of order and let it be considered now.

Mr. THOMPSON. I do not antagonize the bill. I know nothing about its merits, but I make the point of order in justice to the rest of the committee, who are deprived of their rights under the rule by this courtesy which has become nearly unbearable.

Mr. HENDERSON. It is the only time I have asked anything of the sort.

Mr. THOMPSON. That may be all true, but we must begin somewhere; and therefore I stand by my objection.

Subsequently,

Mr. THOMPSON withdrew his objection, and the bill was read, as follows:

That the Commissioner of Internal Revenue be, and he is hereby, authorized and directed to reopen and reconsider the following claims for the refunding of certain taxes, alleged to have been improperly and illegally assessed and collected, namely: William S. Morris, for the amount of $3,690.22; William S. Mann, for the amount of $572.66; Charles A. Oakman, for the amount of $1,453.20; George W. Hillman, for the amount of $200; the Union Transfer Company of Philadelphia, for the amount of $5,055.50; the Union Transfer Company of Baltimore, Maryland, for the amount of $974.07, and John R. Graham, for the amount of $1,744.68, as claimed by them, respectively, in the papers now on file in the Treasury Department. And if, upon reopening and reconsidering said claims, said Commissioner shall find said taxes, or any part of the same, to have been illegally or improperly assessed and collected from said claimants, it is hereby made his duty to audit and ascertain the amount of taxes so illegally and improperly collected from each of said claimants, deducting, however, any legal unpaid taxes which claimants should have paid, and did not, if any there shall be, under section 103 of the act of June 30, 1864, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes." And the Secretary of the Treasury is hereby authorized and required to pay, out of any money in the Treasury not otherwise appropriated, the several amounts of taxes so found by said Commissioner of Internal Revenue, as aforesaid, to have been illegally and improperly assessed and collected, to the persons and companies hereinbefore named, respectively.

Mr. HENDERSON. This bill has passed the Senate and the House at one time or another for several years.

There being no further objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HENDERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLUMBUS F. PERRY AND ELIZABETH GILMER.

Mr. REILLY. I ask to take from the Speaker's table Senate bill No. 992, for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama.

The SPEAKER. Does the gentleman make the request under instruction from the committee?

Mr. REILLY. No, sir; I am not instructed by the committee.

The SPEAKER. This is the hour for reports from committees.

Mr. REILLY. Well, the Committee of Claims have already reported a bill of the same character.

The SPEAKER. The Chair thinks the gentleman had better report that bill, and then substitute the Senate bill for it, in the same manner as was done this morning in another case.

Mr. REILLY. That is what I want to do. I move that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 3624) for the relief of Columbus F. Perry and Elizabeth Gilmer, and that the Senate bill be taken from the Speaker's table and substituted therefor.

The Senate bill was read, as follows:

Be it enacted, &c., That the said Columbus F. Perry and Elizabeth H. Gilmer be, and they are hereby, authorized to refile their claim before the Commissioner of Internal Revenue for refunding the tax known as succession tax, which was erroneously and illegally assessed and collected of them by John C. Hendrix, assistant assessor, and Fr. Widmer, collector for the second district of Alabama, under section 132 of the act of 1864, the amount being the sum of $4,440; and said Commissioner is hereby required to hear and determine said claim, notwithstanding the bar of the statute of limitations in such cases: *Provided*, Said claim shall be propounded within three months from the approval of this act.

Mr. REILLY. I desire to state that the Senate bill is precisely the same as the House bill.

Mr. WHITE, of Pennsylvania. Is there a report in this case?

Mr. REILLY. There is a brief report to accompany the House bill, and I ask that the same be read.

The report was read, as follows:

The Committee of Claims, to whom was referred the bill H. R. No. 3624, have had the same under consideration, and submit the following report:

On the 18th day of June, A. D. 1866, Elizabeth H. Gilmer, one of the petitioners, executed to Columbus F. Perry, the other petitioner, a deed of gift of certain real estate situated in Montgomery County, Alabama, which deed was filed in the probate court of said county on the same day. The conveyance of said property in this manner gave rise to dissatisfaction and created some contention among the relatives of said Elizabeth H. Gilmer, and to quiet the same the said Columbus F. Perry, on the 2d day of October, A. D. 1866, executed a deed of release of said property to said Elizabeth H. Gilmer. In neither case was there any money consideration. Said conveyances were, however, assessed with the tax imposed by the act of 1864, known as the internal-revenue tax. The tax was assessed under the provisions of said act regulating succession to real estate. The amount on each conveyance was $2,220, which amount was paid by each of said parties to the United States under duress, as alleged by them. Petitioners subsequently applied for relief to the Commissioner of Internal Revenue, but their application was rejected because the time for making it had expired by limitation, namely, on the 6th June, 1863. The bill under consideration provides that said parties be allowed to refile their claim before the Commissioner of Internal Revenue, and authorizes that officer to hear and determine the same. It does not appear that said parties are guilty of any laches, and without expressing any opinion as to the merits of said application, the committee regard the said bill as a proper one under the facts of the case, and therefore recommend its passage, with an amendment, as follows: In line 6, strike out the word "was," and insert after the word "which," in said line, the words "is alleged to have been."

Mr. WHITE, of Pennsylvania. I think this Senate bill had better go to the Committee of the Whole.

Mr. REILLY. I hope my colleague [Mr. WHITE] will not insist upon that. The bill makes no appropriation, simply authorizes the Commissioner of Internal Revenue to consider this case, and if he decides that under the law these parties have no right to any money they can recover none. The bill passed the Senate and is unanimously recommended by the Committee of Claims of the House.

Mr. WHITE, of Pennsylvania. I will withdraw my objection.

No further objection being made, the bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama, was taken from the Speaker's table, read three several times, and passed.

Mr. REILLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

By unanimous consent, the Committee of the Whole on the Private Calendar was discharged from the further consideration of House bill No. 3524, for the relief of Columbus F. Perry and Elizabeth H. Gilmore; and the same was laid on the table.

SCHOONER-YACHT ZINGA.

Mr. DUNNELL, from the Committee on Commerce, reported back, with a favorable recommendation, House bill No. 3878, to provide for the change of name of the American built and owned schooner-yacht Zinga.

The bill authorizes the Secretary of the Treasury to allow the owner of the schooner-yacht Zinga to change her name to Jennie L. Currie.

Mr. DUNNELL. I will state merely that this yacht has been entirely remodeled and refitted, and is now in first-class condition.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. DUNNELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PORTSMOUTH, OHIO.

Mr. KENNA, from the Committee on Commerce, reported back, with a favorable recommendation, House bill No. 2292, to constitute the city of Portsmouth, in the State of Ohio, a port of delivery.

The bill was read, as follows:

Be it enacted, &c., That the city of Portsmouth, in the State of Ohio, shall be, and is hereby, constituted a port of delivery within the collection district of New Orleans, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and all the privileges and facilities afforded by the act of Congress of the 2d of March, A. D. 1831, entitled "An act allowing the duties on foreign merchandise imported into Pittsburgh, Wheeling, Cincinnati, Louisville, Saint Louis, Nashville, and Natchez, to be secured and paid at those places," shall be extended to said port. A surveyor of customs shall be appointed to reside at said port, and perform the duties prescribed by law, who shall receive such compensation now provided or which may hereafter be provided by law for surveyors of the same grade.

Mr. KENNA. There are many reasons why this bill should pass, and the Committee on Commerce have unanimously directed me to ask for its consideration at this time. It is indorsed by the Treasury Department as necessary.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. KENNA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF POLITICAL DISABILITIES.

Mr. KNOTT. I am directed by the Committee on the Judiciary to report back, with a favorable recommendation, sundry bills for the removal of political disabilities. I will state that in each case there is the usual petition.

The SPEAKER. The bills will be read, and if there be no objection they will be considered at this time.

JOHN M'INTOSH KELL.

Mr. KNOTT accordingly, from the Committee on the Judiciary, reported back a bill (H. R. No. 5333) for the removal of the political disabilities of John McIntosh Kell, of Georgia; which was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed, two-thirds voting in the affirmative.

WILLIAM H. WARD.

Mr. KNOTT also, from the same committee, reported back, with a favorable recommendation, a bill (H. R. No. 5373) to remove the political disabilities of William H. Ward, of Norfolk, Virginia; which was ordered to be engrossed and read a third time; and it was accordingly read the third time and passed, two-thirds voting in the affirmative.

MANNING M. KIMMELL.

Mr. KNOTT also, from the same committee, reported back, with a favorable recommendation, a bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri; which was ordered to a third reading, read the third time, and passed, two-thirds voting in favor thereof.

LOUISA M. MANSFIELD.

Mr. KNOTT. I am directed by the Committee on the Judiciary to report back, with a favorable consideration, House bill No. 5507, for the relief of Louisa M. Mansfield, and to ask for its present consideration.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That Louisa M. Mansfield, widow and executrix of the will of General Joseph K. F. Mansfield, who was killed at the battle of Antietam, September, 1862, be, and she is hereby, released and discharged from all claim or liability on, or on account of, a bond of Joseph M. Wade, as acting paymaster in the Navy, dated June 3, 1861, which bond was signed by her husband, the said General J. K. F. Mansfield, as one of the sureties, the other surety named on the face of said bond never having executed or signed the same; and the suit brought against said Louisa M. Mansfield, as executrix aforesaid, in February, 1876, about fourteen years after her husband's death, in the United States district court for the district of Connecticut, and the claim or judgment therein, for about $2,000, is hereby directed to be discharged and canceled by the proper officer, and the said Louisa M. Mansfield, as executrix, released and discharged from all claim or liability thereon.

Mr. WHITE, of Pennsylvania. Is there a report accompanying the bill?

Mr. KNOTT. There is no written report. The petition accompanying the bill sets forth all the facts, and I can state them briefly if there is no objection.

The SPEAKER. The gentleman is entitled to the floor.

Mr. KNOTT. In 1861 General Mansfield, of the United States Army, signed his name as one of the sureties to a bond the principal in which was a man of the name of Wade, acting paymaster in the United States Navy. The face of the bond and other facts show that it was also to be signed by another surety of the name of Brown; but Brown never signed it. The bond was left in the Treasury of the United States. General Mansfield was killed at Antietam. Nothing was done in regard to the matter until fourteen years had elapsed. His widow, who is the executrix of his estate, is, I am informed, in limited circumstances.

Mr. WHITE, of Pennsylvania. Is there any default or forfeiture upon the bond?

Mr. KNOTT. Yes, sir; a suit has been instituted on the bond on account of the defalcation of the principal, Mr. Wade.

Mr. WHITE, of Pennsylvania. What is the amount of the claim?

Mr. KNOTT. It will amount to something near $2,000. I hope there will be no objection to granting this relief to the widow of a gallant general of our Army who lost his life upon the battle-field. The committee were unanimously of opinion that in view of the great lapse of time since the bond was executed, as well as the circumstance that the bond is shown by its face to have been incomplete, this lady is equitably entitled to relief.

Mr. WHITE, of Pennsylvania. As this is the case of the widow of a Union soldier, I make no objection.

The bill was ordered to be engrossed for a third reading; was accordingly read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

JOHN HENDERSON.

Mr. BRIGHT. The bill (S. No. 796) for the relief of John Henderson was erroneously referred to the Committee of Claims. I ask unanimous consent that the committee be discharged from its further consideration, and that it be restored to its place on the Speaker's table.

There being no objection, it was ordered accordingly.

ORDER OF BUSINESS.

Mr. CONGER. I ask that the House go to business on the Speaker's table for the reference of bills, to which there is no objection.

The SPEAKER. There are very few bills on the Speaker's table. A large number were referred the other day.

Mr. CONGER. I thought it desirable that these references be

made before the adjournment, so that the committees could get to work on these bills.

ACCOUNTS OF THE CLERK OF THE HOUSE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Clerk of the House of Representatives, transmitting a list of employés in the Clerk's office, and a report of contingent expenses of the House of Representatives from July 1, 1877 to June 30, 1878; which was referred to the Committee of Accounts, and ordered to be printed.

The SPEAKER also laid before the House a letter of the Clerk of the House of Representatives, transmitting an inventory of property belonging to the United States in his possession, December 2, 1878; which was referred to the Committee of Accounts, and ordered to be printed.

TREASURY LOANS TO NATIONAL BANKS.

The SPEAKER. The Chair also lays before the House a letter from the Secretary of the Treasury in response to a resolution of the House of the 16th instant, asking whether there were any balances on loan account standing to the credit of the Treasury of the United States in any national banks on the 1st day of March, 1876, and on the first day of each succeeding month to and including the 1st day of January, 1879; and the names and locations of banks which held such balances with the amounts held by each on the respective dates indicated. If there be no objection this communication will be referred to the Committee of Ways and Means, and ordered to be printed.

Mr. HEWITT, of New York. Would it be in order to ask for the reading of this communication?

The SPEAKER. It would be.

The Clerk proceeded to read the document.

Mr. HEWITT, of New York. In order to avoid reading the schedule annexed to the letter, I request that the Clerk be instructed to read the amount of the deposits in the First National Bank of New York City.

Mr. TOWNSEND, of New York. Let us have it all.

Mr. HEWITT, of New York. All right; my suggestion was only designed to save time.

Mr. SPRINGER. Is it proposed to read the long table of figures accompanying this communication?

Mr. WILSON. Let it be printed.

Mr. HEWITT, of New York. We want to hear it all unless my colleague [Mr. TOWNSEND] will consent that the list relating to the First National Bank be read separately.

Mr. WHITE, of Pennsylvania. Let us have it all.

Mr. TOWNSEND, of New York. If any part is read, all had better be read; or let it all be printed in the RECORD. I do not ask that time be taken up in this way.

Mr. BRIGHT. I ask that the further reading be dispensed with and that the document be printed.

Mr. GARFIELD. Let it be printed in the RECORD.

Mr. HEWITT, of New York. Will my colleague permit me to name the amount on deposit in the First National Bank of New York?

Mr. TOWNSEND, of New York. It is not necessary to discuss this question now.

Mr. HEWITT, of New York. Can I have the floor for a few moments upon the report? Am I not entitled to the floor?

The SPEAKER. It is not usual to discuss executive communications upon their presentation in this way.

Mr. HEWITT, of New York. All I want is that the country shall know that during the last six months there has been upon deposit in one single bank in the city of New York an average of over $30,000,000, upon which the Government has had no interest whatever. [Cries of "Order!"]

The SPEAKER. If there be no objection, the communication and the accompanying papers will be referred to the Committee of Ways and Means, and printed; and will also be printed in the RECORD.

There was no objection, and it was ordered accordingly.

The document is as follows:

TREASURY DEPARTMENT, *December* 19, 1878.

SIR: I have the honor to acknowledge the receipt of resolution of House of Representatives dated the 16th instant, as follows:

"*Resolved*, That the Secretary of the Treasury be directed to inform this House, at the earliest day practicable after the close of the coming congressional recess, whether there were any balances on loan account in cover standing to the credit of the Treasurer of the United States in any national banks on the 1st day of March, 1876, and on the first of each succeeding month to and including the 1st of January, 1879, and the names and locations of the banks which held such balances and the amount held by each at the respective dates indicated."

And in reply to state that there were no balances on loan account standing to the credit of the Treasurer of the United States in any national bank from March, 1876, to January, 1878.

A complete list of national-bank depositories, with balances on loan account to the credit of the Treasurer of the United States held by each February 1, 1878, and on the first of each succeeding month to and including December 1, 1878, is herewith inclosed. The House will be duly advised in another communication of the balances on January 1, 1879, as soon as the returns from the respective banks shall have been received at the Department.

These banks have been designated from time to time under the provisions of the Department's circulars inviting all national banks of the United States to become financial agents of the Government and depositories of public money for the special purpose of receiving deposits on account of subscriptions to the funded loan, and they were permitted, upon proper security, to hold the amount of any subscriptions made or obtained by them, subject to the drafts or orders of the Department as occasion required for payment of called bonds matured.

Copies of Department's circulars on this subject, dated January 16, 1878, January 21, 1878, June 20, 1878, and August 1, 1878, respectively, are herewith inclosed.

No coin has been deposited with these banks or any of them by the Treasurer of the United States. These balances represent exclusively coin received for subscriptions made or obtained by the respective banks and left on deposit during the running of the ninety days required by law to be given for the payment of called bonds, partly to prevent the withdrawal of so large an amount from the channels of business and partly as an inducement to these banks to act efficiently in procuring subscriptions.

The very large balances reported as held by the First National Bank of New York were caused by the temporary deposits of the proceeds of the 4½ per cent. bonds sold through the syndicate, of which the bank was a member, and also by the very large subscriptions of that bank to the 4 per cent. loan.

The balances reported as due from the banks on loan account are, however, to some extent, nominal, the bonds furnished as security being largely made up of called bonds, which to all intents are a payment to their amount of the balance due, but cannot be credited to the bank until the bonds are carefully examined, the precise amount due on them ascertained, and certificate for the amount issued by the Treasurer.

It is proposed to continue the same mode of deposit in aid of the sale of the 4 per cent. bonds during the next year, and attention is called to the recommendation in the annual report for a discretionary shortening of the period now required for calls.

Very respectfully, JOHN SHERMAN, *Secretary.*

Hon. SAMUEL J. RANDALL, *Speaker of the House of Representatives.*

Statement of balances on loan account, in coin, standing to the credit of the Treasurer of the United States in national banks on the 1st day of February, 1878, and on the first of each succeeding month, including December 1, 1878; there were no such balances on any dates mentioned in the House resolution of the 16th instant, other than those given below.

[The actual balances as shown by the Treasurer's books are given instead of the balances reported by the banks, which will explain differences between this and the former report, if any exist.]

		Feb. 1, 1878.	March 1, 1878.	April 1, 1878.	May 1, 1878.	June 1, 1878.	July 1, 1878.
Granite National Bank	Augusta, Me						
Montpelier National Bank	Montpelier, Vt						
First National Bank	Concord, N. H						
First National Bank	Portsmouth, N. H		$27,826 86	$41,296 98	$55,920 54	$92,879 06	$98,216 84
First National Bank	Manchester, N. H		3,016 80	3,016 80	3,016 80	3,016 80	3,016 80
Second National Bank	New Haven, Conn						
Thames National Bank	Norwich, Conn		10,000 00	10,000 00	2,500 00	15,073 33	15,073 33
Central National Bank	Boston, Mass						
Maverick National Bank	Boston, Mass		50,153 43	100,600 01	351,082 21	1,004,369 91	940,071 31
Pacific National Bank	Boston, Mass		2,363 91	2,422 54			
Everett National Bank	Boston, Mass				4,502 00	7,815 93	7,815 93
National Security Bank	Boston, Mass				100,175 00	1,230,790 25	1,230,790 25
Monument National Bank	Boston, Mass					180,684 45	231,062 45
National Bank of the Commonwealth	Boston, Mass						
First Ward National Bank	Boston, Mass						
Merchants' National Bank	Boston, Mass						
Merchandise National Bank	Boston, Mass						
Manufacturers' National Bank	Boston, Mass						
Appleton National Bank	Lowell, Mass						
First National Bank	Salem, Mass		13,713 82		4,461 38	4,621 11	10,436 07
Lancaster National Bank	Lancaster, Mass				3,206 48	5,216 98	5,216 78
First National Bank	Chelsea, Mass						4,303 31
Wachusett National Bank	Fitchburgh, Mass						100,767 10
Rollstone National Bank	Fitchburgh, Mass						
Adams National Bank	North Adams, Mass						
First National Bank	Gloucester, Mass						
First National Bank	Newburyport, Mass						
National Bank of Commerce in	New York, N. Y		125,867 25	249,562 36	279,938 93	2,052,481 82	3,931,852 16
First National Bank	New York, N. Y			2,511,638 40	19,566,652 35	15,865,082 85	32,655,493 85
Chase National Bank	New York, N. Y			19,610 75	104,822 07	175,960 72	304,921 56
Bank of New York National Banking Ass'n	New York, N. Y						

Statement of balances on loan account, in coin, standing to the credit of the Treasurer of the United States in national banks on the 1st day of February, 1878, and on the first of each succeeding month, including December 1, 1878, &c.—Continued.

		Feb. 1, 1878.	March 1, 1878.	April 1, 1878.	May 1, 1878.	June 1, 1878.	July 1, 1878.
East River National Bank	New York, N. Y.						
Saint Nicholas National Bank	New York, N. Y.						
National Bank of the State of New York	New York, N. Y.						
Second National Bank	New York, N. Y.						
Fallkill National Bank	Poughkeepsie, N. Y.		$3,010 85	$1,004 93	$30,000 00	$30,000 00	$30,000 00
National Albany Exchange Bank	Albany, N. Y.						
First National Bank	Syracuse, N. Y.						
First National Bank	Olean, N. Y.						
National Ulster County Bank	Kingston, N. Y.						
First National Bank	Erie, N. Y.		11,050 19				
Centennial National Bank	Philadelphia, Pa						
Tradesmen's National Bank	Pittsburgh, Pa						
Honesdale National Bank	Honesdale, Pa						
First National Bank	Connellsville, Pa						
National Bank of New Jersey	New Brunswick, N. J.						
Farmers' National Bank	Ripley, Ohio		754 52	1,321 89	1,123 70	612 16	763 38
First National Bank	Cincinnati, Ohio					35,201 10	70,512 35
First National Bank	Sandusky, Ohio						
Lagonda National Bank	Springfield, Ohio						
First National Bank	Rock Island, Ill.		2,009 77				
Second National Bank	Peoria, Ill.						
First National Bank	Springfield, Ill						
City National Bank	Grand Rapids, Mich.		2,011 66				
First National Bank	Holly, Mich						
First National Bank	Milwaukee, Wis	$28,078 19	28,078 19	28,078 19	44,456 34	48,090 48	48,090 48
National Exchange Bank	Milwaukee, Wis				10,032 22	10,032 46	10,032 46
First National Bank	Saint Paul, Minn		502 03	502 03	502 03	502 03	
Merchants' National Bank	Saint Paul, Minn			5,014 80	7,019 10	7,026 86	5,014 80
Davenport National Bank	Davenport, Iowa		1,000 78				
First National Bank	Omaha, Nebr		3,012 50	3,012 50	54,056 04	54,046 04	54,046 04
Omaha National Bank	Omaha, Nebr		3,066 71		2,004 88		
Merchants' National Bank	Little Rock, Ark			1,000 00	1,000 00	1,000 00	
Third National Bank	Nashville, Tenn		10,056 67	37,375 46	62,389 70	198,085 60	199,598 86
Exchange National Bank	Norfolk, Va						
City National Bank	Griffin, Ga		2,000 00	7,611 67	5,000 00	5,000 00	5,000 00
New Orleans National Bank	New Orleans, La				24,847 58	23,095 84	44,897 13
First National Bank	Galveston, Texas				10,015 78	15,039 33	11,131 69
National Bank of Texas	Galveston, Texas				3,302 81	7,190 95	
People's National Bank	Charleston, S. C.						
City National Bank	Selma, Ala.						
First National Bank	Portland, Oregon					31,253 09	23,742 98
First National Bank	Walla Walla, W. T.						
Total		28,078 19	239,495 94	3,023,069 31	20,732,025 94	21,104,168 95	40,041,930 91

		Aug. 1, 1878.	Sept. 1, 1878.	Oct. 1, 1878.	Nov. 1, 1878.	Dec. 1, 1878.
Granite National Bank	Augusta, Me.	$3,009 20	$4,717 05	$4,918 59	$104,918 83	$119,208 91
Montpelier National Bank	Montpelier, Vt.				101,600 00	101,600 00
First National Bank	Concord, N. H.				12,001 02	11,011 47
First National Bank	Portsmouth, N. H.	150,441 51	184,346 97	159,219 43	91,767 70	114,790 59
First National Bank	Manchester, N. H.	3,016 80		10,071 23	10,071 23	10,071 23
Second National Bank	New Haven, Conn.		2,516 44			
Thames National Bank	Norwich, Conn.	10,000 00	10,000 00	10,000 00		
Central National Bank	Boston, Mass.			476,733 24	437,991 03	426,397 77
Maverick National Bank	Boston, Mass.	2,427,910 01	3,393,049 27	3,302,212 50	2,392,204 10	2,958,423 04
Pacific National Bank	Boston, Mass.	3,609 25		503,451 60	503,451 60	503,451 60
Everett National Bank	Boston, Mass.	7,815 93	7,815 33	7,815 93	10,001 10	10,001 10
National Security Bank	Boston, Mass.	1,230,790 25	1,105,790 25	1,105,790 25	605,878 25	400,088 00
Monument National Bank	Boston, Mass.	261,157 79	352,111 19	569,661 91	549,677 25	643,920 46
National Bank of the Commonwealth	Boston, Mass.	100,723 30	201,150 70	201,150 70	100,427 40	201,117 80
First Ward National Bank	Boston, Mass.		20,867 21	21,169 57	2,808 97	2,608 07
Merchants' National Bank	Boston, Mass.		201,096 00	201,096 00	201,096 00	
Merchandise National Bank	Boston, Mass.		100,569 34	100,569 34	100,569 34	
Manufacturers' National Bank	Boston, Mass.					50,268 50
Appleton National Bank	Lowell, Mass.		6,225 35	21,484 82	30,485 14	19,863 30
First National Bank	Salem, Mass.	62,716 41	50,093 15	109,536 12	70,115 46	62,239 77
Lancaster National Bank	Lancaster, Mass.	5,216 78	5,216 78	5,216 78		
First National Bank	Chelsea, Mass.	34,846 14	31,306 05	26,395 90	3,566 19	20,218 66
Wachusett National Bank	Fitchburgh, Mass.	100,767 10	201,380 80	453,517 80	552,838 30	854,197 20
Rollstone National Bank	Fitchburgh, Mass.	40,088 77	100,352 78	101,863 63	79,201 73	46,588 27
Adams National Bank	North Adams, Mass.	40,102 21	41,210 27		100,000 00	
First National Bank	Gloucester, Mass.		15,027 95	15,027 95	5,027 95	20,081 10
First National Bank	Newburyport, Mass.					101,642 19
National Bank of Commerce in	New York, N. Y.	4,850,434 66	6,006,446 02	6,107,675 63	3,596,745 04	1,973,187 84
First National Bank	New York, N. Y.	36,875,220 35	41,914,945 85	45,097,061 95	28,892,882 91	15,404,242 16
Chase National Bank	New York, N. Y.	1,237,537 97	1,292,894 69	1,348,353 87	173,016 36	419,033 29
Bank of New York National Banking Association	New York, N. Y.	1,442,679 14	3,314,164 52	2,342,164 52	2,323,609 64	1,768,531 66
East River National Bank	New York, N. Y.	50,131 50	50,257 54			
Saint Nicholas National Bank	New York, N. Y.	200,482 20	200,482 20	200,482 20		
National Bank of the State of New York	New York, N. Y.		103,405 89	303,405 89	1,633,885 66	4,695,928 66
Second National Bank	New York, N. Y.					359,071 30
Fallkill National Bank	Poughkeepsie, N. Y.	30,000 00	30,000 00	30,000 00	7,732 90	2,502 11
National Albany Exchange Bank	Albany, N. Y.	150,275 48	301,069 89	497,696 74	397,459 61	784,385 15
First National Bank	Syracuse, N. Y.			25,172 60	22,213 71	18,498 64
First National Bank	Olean, N. Y.			9,284 71	10,264 97	11,673 99
National Ulster County Bank	Kingston, N. Y.				7,551 52	8,095 71
First National Bank	Erie, Pa.					
Centennial National Bank	Philadelphia, Pa.	19,867 96	424 41			
Tradesmen's National Bank	Pittsburgh, Pa.	32,866 12	99,460 66	104,134 60	94,143 36	104,252 59
Honesdale National Bank	Honesdale, Pa.		14,071 12	15,835 31	17,035 63	2,964 51
First National Bank	Connellsville, Pa.		3,018 00	3,018 00	3,018 00	201 12
National Bank of New Jersey	New Brunswick, N. J.	20,056 98	102,264 45	102,264 45	92,731 63	13,638 12
Farmers' National Bank	Ripley, Ohio	2,288 59	1,317 68	41 13	1,393 92	2,399 74
First National Bank	Cincinnati, Ohio	160,639 46	85,851 50	83,675 16	64,248 30	30,234 55
First National Bank	Sandusky, Ohio	1,001 75				
Lagonda National Bank	Springfield, Ohio					3,722 46
First National Bank	Rock Island, Ill.					
Second National Bank	Peoria, Ill.		14,086 36			
First National Bank	Springfield, Ill.		5,030 68	5,030 68	5,030 68	
City National Bank	Grand Rapids, Mich.					
First National Bank	Holly, Mich		5,022 22	5,022 22	5,022 22	

Statement of balances on loan account, in coin, standing to the credit of the Treasurer of the United States in national banks on the 1st day of February, 1878, and on the first of each succeeding month, including December 1, 1878, &c.—Continued.

		Aug. 1, 1878.	Sept. 1, 1878.	Oct. 1, 1878.	Nov. 1, 1878.	Dec. 1, 1878.
First National Bank	Milwaukee, Wis	$49,803 16	$49,680 36	$49,680 36		
National Exchange Bank	Milwaukee, Wis	25,045 06	25,108 62	10,021 05	$10,021 05	
First National Bank	Saint Paul, Minn					
Merchants' National Bank	Saint Paul, Minn	5,014 80	5,014 80	5,014 80		
Davenport National Bank	Davenport, Iowa					
First National Bank	Omaha, Nebr	54,046 04	76,240 02	76,240 02	30,193 98	
Omaha National Bank	Omaha, Nebr					
Merchants' National Bank	Little Rock, Ark	4,209 07	1,004 38			
Third National Bank	Nashville, Tenn	329,989 53	288,091 34	288,091 34	192,593 93	
Exchange National Bank	Norfolk, Va		20,232 32			
City National Bank	Griffin, Ga	5,000 00	5,000 00	5,000 00		
New Orleans National Bank	New Orleans, La	24,648 40	24,827 10	24,950 66	24,950 66	$21,389 72
First National Bank	Galveston, Texas	12,332 88	12,433 48	151 23	351 39	1,361 11
National Bank of Texas	Galveston, Texas					
People's National Bank	Charleston, S. C		2,008 12			
City National Bank	Selma, Ala		50,244 45	50,244 45	50,244 45	100,388 90
First National Bank	Portland, Oregon	20,954 81	22,088 88	23,197 77	15,065 10	
First National Bank	Walla Walla, W. T.				50,123 29	50,093 15
Total		50,095,737 36	60,161,031 03	64,207,814 63	43,787,228 50	32,446,483 91

OFFICE TREASURER UNITED STATES, *December* 19, 1878.

TREASURY DEPARTMENT,
Washington, D. C., January 16, 1878.

The Secretary of the Treasury hereby gives notice that, from the 26th instant, and until further notice, he will receive subscriptions for the 4 per cent. funded loan of the United States, in denominations as stated below, at par and accrued interest, in coin.

The bonds are redeemable July 1, 1907, and bear interest, payable quarterly, on the 1st day of January, April, July, and October of each year, and are exempt from the payment of taxes or duties to the United States, as well as from taxation in any form by or under State, municipal, or local authority.

The subscriptions may be made for coupon bonds of $50, $100, $500, and $1,000, and for registered bonds of $50, $100, $500, $1,000, $5,000, and $10,000.

Two per cent. of the purchase money must accompany the subscription; the remainder may be paid at the pleasure of the purchaser, either at time of subscription or within thirty days thereafter, with interest on the amount of the subscription, at the rate of 4 per cent. per annum, to date of payment.

Upon the receipt of full payment, the bonds will be transmitted, free of charge, to the subscribers, and a commission of ¼ of 1 per cent. will be allowed upon the amount of subscriptions, but no commission will be paid upon any single subscription less than $1,000.

Forms of application will be furnished by the Treasurer at Washington, the assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, Saint Louis, and San Francisco, and by the national banks and bankers generally. The applications must specify the amount and denominations required, and, for registered bonds, the full name and post-office address of the person to whom the bonds shall be made payable.

The interest on the registered bonds will be paid by check, issued by the Treasurer of the United States, to the order of the holder, and mailed to his address. The check is payable on presentation, properly indorsed, at the offices of the Treasurer and assistant treasurers of the United States.

Payments for the bonds may be made in coin to the Treasurer of the United States at Washington, or assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, Saint Louis, and San Francisco.

To promote the convenience of subscribers, the Department will also receive, in lieu of coin, called bonds of the United States, coupons past due or maturing within thirty days, or gold certificates issued under the act of March 3, 1863, and national banks will be designated as depositories under the provisions of section 5153, Revised Statutes of the United States, to receive deposits on account of this loan, under regulations to be hereafter prescribed.

JOHN SHERMAN,
Secretary of the Treasury.

CIRCULARS TO NATIONAL BANKS.

TREASURY DEPARTMENT,
Washington, D. C., January 21, 1878.

By virtue of the authority conferred by section 5153, Revised Statutes of the United States, the Secretary of the Treasury will designate as a depository of public moneys any national bank that will comply with the terms and conditions of this circular-letter.

Under such designation the bank will be entitled to receive only deposits in coin on account of the 4 per cent. bonds sold under the popular subscription invited by the circular of this Department of date of the 16th instant.

The bonds subscribed for will be issued upon the receipt of a proper certificate from the bank stating that the coin has been deposited to the credit of the Treasurer of the United States, but they will be held by the Department as security until other United States bonds of an equal amount are substituted in their stead or the coin deposited has been paid upon Treasury drafts.

The proper blank certificates will be furnished to the banks from time to time, as needed.

Banks desiring the authority conferred by this circular in advance of subscriptions may deposit United States bonds with the Treasury of the United States as security for deposits to be afterward made, and certificates of deposit in proper form and for the amount of bonds so deposited will be furnished to the bank for execution.

The regular transcript blanks for the Treasurer's general account will be used in reporting deposits made on account of this loan, and will be furnished on demand to any national bank becoming a depository under this order.

JOHN SHERMAN, *Secretary.*

TREASURY DEPARTMENT,
Washington, D. C., June 20, 1878.

The Secretary of the Treasury calls attention to the 4 per cent. funded loan of the United States now offered by this Department in denominations, namely, for coupon bonds of $50, $100, $500, and $1,000, and for registered bonds of $50, $100, $500, $1,000, $5,000, and $10,000, at par and accrued interest to date of subscription, in coin.

The bonds are redeemable July 1, 1907, and bear interest, payable quarterly, on the 1st day of January, April, July, and October of each year, and are exempt from the payment of taxes or duties to the United States, as well as from taxation in any form by or under State, municipal, or local authority.

Upon the receipt of full payment, the bonds will be transmitted, free of charge, to the subscribers, and a commission of ¼ of 1 per cent. will be allowed upon the amount of subscriptions. Commissions will be paid by check only, and will not be applied in payment of subscriptions.

All national banks are now invited to become financial agents of the Government and depositories of public moneys received on the sale of these bonds, upon complying with section 5153, Revised Statutes of the United States. All banks, bankers, and persons are invited to aid in placing these bonds, and can make their arrangements through national banks for the deposit of the purchase money of the bonds.

The proceeds of the sale of these bonds will, until further notice, be only used in the redemption of 5-20 6 per cent. bonds of the United States, under the refunding act.

As soon as the 4 per cent. bonds are paid for by certificates of deposit of such public depositories, or otherwise, a call will issue, maturing within ninety days, for the redemption of 6 per cent. bonds, and the money received for 4 per cent. bonds will remain on deposit until such call matures.

Payment for the bonds may be made in coin, coin certificates, certificates of deposit of Government depositories, called bonds, coupons maturing within thirty days, or in currency drafts on New York, in my favor, which will be received at the coin value thereof at the National Bank of Commerce, New York. Any payment in excess will be returned with the commission.

All coin and currency drafts on New York should be forwarded directly to this Department by subscribers, or their agents.

The favorable state of the money market induces the Secretary to press upon the people this loan by which they can obtain direct from the Government a national bond of the highest credit and sanction, exempt from taxes, and payable, principal and interest, in coin. Every citizen of the United States is interested in the success of this loan, as every sale of these bonds enables the Government to save one-third of the interest on an equal amount of outstanding debt to be redeemed. These bonds should be the storehouse for the savings of the people. No facility or advantage will be given to large subscribers. It is the interest of the public that the bonds be distributed in small sums among the largest number of our fellow-citizens.

Subscriptions to an amount equal to the bonds now redeemable would make an annual saving of $8,961,632, and such subscriptions can now be made without withdrawing from circulation any of the money of the people.

All blanks, or forms, or information needed, will be furnished by the Department without cost.

JOHN SHERMAN, *Secretary.*

TREASURY DEPARTMENT,
Washington, D. C., August 1, 1878.

The Secretary of the Treasury calls attention to the 4 per cent. funded loan of the United States now offered by this Department in denominations, namely, for coupon bonds of $50, $100, $500, and $1,000, and for registered bonds of $50, $100, $500, $1,000, $5,000, and $10,000, at par and accrued interest to date of subscription, in coin.

The bonds are redeemable July 1, 1907, and bear interest, payable quarterly, on the 1st day of January, April, July, and October of each year, and are exempt from the payment of taxes or duties to the United States, as well as from taxation in any form by or under State, municipal, or local authority.

Upon the receipt of full payment, the bonds will be transmitted, free of charge, to the subscribers, and a commission of ¼ of 1 per cent. will be allowed upon the amount of subscriptions, to be paid by check only, to parties subscribing or sending subscriptions.

All national banks are now invited to become financial agents of the Government and depositories of public moneys received on the sale of these bonds, upon complying with section 5153, Revised Statutes of the United States. All banks, bankers, postmasters, and other public officers, and all other persons, are invited to aid in placing these bonds. They can make their arrangements through national banks for the deposit of the purchase money of the bonds.

The proceeds of the sale of these bonds will, until further notice, be only used in the redemption of the 5-20 6 per cent. bonds of the United States, under the refunding act.

As soon as the 4 per cent. bonds are paid for by certificates of deposit of such public depositories or otherwise, a call will issue, maturing within ninety days, for the redemption of 6 per cent. bonds, and the money received for 4 per cent. bonds will remain on deposit until such call matures.

Payment for the bonds may be made in coin, coin certificates, certificates of deposit of Government depositories, called bonds, coupons maturing within thirty days, or in coin and currency drafts on New York, in favor of the Treasurer of the United States, which will be received at the coin value thereof at the National Bank of Commerce, New York. Any payment in excess will be returned by check.

All coin and currency drafts on New York should be forwarded directly to the Treasurer of the United States by subscribers or their agents.

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Subscriptions to an amount equal to the bonds now redeemable would make an annual saving of $8,961,632, and such subscriptions can now be made without withdrawing from circulation any of the money of the people.

All blanks, or forms, or information needed, will be furnished by the Department without cost.

JOHN SHERMAN, *Secretary.*

INVESTIGATION OF PUBLIC PRINTING.

The SPEAKER. The gentleman from Ohio, [Mr. FINLEY,] on behalf of the subcommittee of the Committee on Public Expenditures examining witnesses in regard to public printing, asks leave that the subcommittee have leave to sit during the recess.

Mr. GARFIELD. I object.

WITHDRAWAL OF PAPERS.

Mr. CHALMERS asked and obtained leave for withdrawal from the files of the House of papers relating to the claims of Mrs. Emily Miller.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that he had, December 18, 1878, approved and signed a bill (H. R. No. 5485) for the relief of Andrew Muckle.

IMPROVEMENT OF ELK RIVER.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting report relative to the expenditure of appropriations for the improvement of Elk River, West Virginia; which was referred to the Committee on Commerce.

ORDER OF BUSINESS.

The SPEAKER. There are gentlemen here who desire to refer bills. Does the gentleman from Tennessee yield for that purpose?

Mr. BRIGHT. Yes, sir; I will yield for that purpose.

Several members called for the regular order.

Mr. BRIGHT. The regular order being demanded, I move the House resolve itself into the Committee of the Whole on the Private Calendar, this being objection day.

Mr. TOWNSEND, of New York. I move the House adjourn.

The House divided; and there were—ayes 77, noes 61.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 81, not voting 117; as follows:

YEAS—94.

Acklen,	Culberson,	Jones, James T.	Reilly,
Atkins,	Cutler,	Jorgensen,	Robbins,
Baker, John H.	Davidson,	Joyce,	Sampson,
Bell,	Dean,	Keifer,	Sapp,
Bicknell,	Evins, John H.	Ketcham,	Singleton,
Bland,	Forney,	Kimmel,	Smalls,
Bouck,	Franklin,	Knott,	Smith, A. Herr
Boyd,	Gardner,	Ligon,	Southard,
Browne,	Garfield,	Lynde,	Stenger,
Burchard,	Gause,	Maish,	Thompson,
Burdick,	Goode,	Manning,	Townsend, Ames
Cabell,	Hale,	Marsh,	Townsend, M. I.
Cain,	Hamilton,	McCook,	Townshend, R. W.
Caldwell, John W.	Hanna,	McKenzie,	Tucker,
Caldwell, W. P.	Hardenbergh,	Money,	Waddell,
Calkins,	Hartridge,	Morrison,	Ward,
Cannon,	Hazelton,	Muldrow,	White, Harry
Carlisle,	Hendee,	Neal,	White, Michael D.
Clark of Missouri,	Henderson,	Page,	Wigginton,
Clark, Rush	Herbert,	Peddie,	Williams, C. G.
Clymer,	Hooker,	Pound,	Wood,
Cobb,	House,	Rea,	Wright.
Cook,	Hungerford,	Reagan,	
Collins,	Jones, John S.	Reed,	

NAYS—81.

Aldrich,	Davis, Horace	Hatcher,	Robinson, M. S.
Atkins,	Davis, Joseph	Hewitt, Abram S.	Scales,
Bacon,	Deering,	Hubbell,	Schleicher,
Banning,	Dickey,	Kenna,	Shallenberger,
Bayne,	Dunnell,	Lapham,	Slemons,
Bliss,	Durham,	Luttrell,	Springer,
Blount,	Dwight,	Mackey,	Stone, Joseph C.
Boone,	Eames,	Mayham,	Throckmorton,
Brewer,	Errett,	McKinley,	Tipton,
Briggs,	Evans, James L.	Monroe,	Turney,
Bright,	Ewing,	Muller,	Van Vorhes,
Brogden,	Felton,	Oliver,	Watson,
Campbell,	Finley,	Patterson, G. W.	Whitthorne,
Caswell,	Foster,	Patterson, T. M.	Williams, Richard
Chalmers,	Giddings,	Phillips,	Willits,
Clarke of Kentucky,	Gunter,	Price,	Wilson,
Cole,	Harris, Benj. W.	Pridemore,	Wren,
Conger,	Harris, Henry R.	Rainey,	Young, Casey.
Covert,	Harrison,	Rice, Americus V.	
Cravens,	Hartzell,	Robertson,	
Cummings,	Haskell,	Robinson, G. D.	

NOT VOTING—117.

Bagley,	Beebe,	Bragg,	Butler,
Bailey,	Benedict,	Brentano,	Camp,
Baker, William H.	Bisbee,	Bridges,	Candler,
Ballou,	Blackburn,	Buckner,	Chittenden,
Banks,	Blair	Bundy,	Claflin,
Clark, Alvah A.	Hayes,	Mills,	Steele,
Cox, Jacob D.	Henkle,	Mitchell,	Stephens,
Cox, Samuel S.	Henry,	Morgan,	Stewart,
Crapo,	Hewitt, G. W.	Morse,	Stone, John W.
Crittenden,	Hiscock,	Norcross,	Strait,
Danford,	Hunter,	O'Neill,	Swann,
Denison,	Hunton,	Overton,	Thornburgh,
Dibrell,	Humphrey,	Phelps,	Turner,
Douglas,	Ittner,	Pollard,	Vance,
Eden,	James,	Potter,	Veeder,
Eickhoff,	Jones, Frank	Powers,	Wait,
Elam,	Keightley,	Pugh,	Walker,
Ellis,	Kelley,	Randolph,	Walsh,
Ellsworth,	Killinger,	Rice, William W.	Warner,
Evans, I. Newton	Knapp,	Riddle,	Williams, A. S.
Fort,	Landers,	Roberts,	Williams, Andrew
Freeman,	Lathrop,	Ross,	Williams, James
Frye,	Lindsey,	Ryan,	Williams, Jere N.
Fuller,	Lockwood,	Sayler,	Willis, Albert S.
Garth,	Loring,	Sexton,	Willis, Benj. A.
Gibson,	Majors,	Shelley,	Yeates,
Glover,	Martin,	Sinnickson,	Young, John S.
Harmer,	McGowan,	Smith, William E.	
Harris, John T.	McMahon,	Sparks,	
Hart,	Metcalfe,	Starin,	

So the motion was agreed to.

During the vote,

Mr. ROBBINS said: Mr. Speaker, my colleague, Mr. VANCE, is detained from the House by illness.

Mr. PRIDEMORE. My colleague, Mr. HARRIS, is paired with Mr. WAIT, of Connecticut.

Mr. BLOUNT. My colleague, Mr. CANDLER, is paired with Mr. COX, of Ohio.

Mr. SHELLEY. I am paired with Mr. STONE, of Michigan. If he were here, I would vote "yea."

Mr. WILSON. My colleague, Mr. MARTIN, is paired with some gentleman from Pennsylvania.

Mr. ACKLEN. My colleague, Mr. YOUNG, has been called away from the House by important business.

Mr. HUNGERFORD. My colleague, Mr. BAGLEY, is paired with Mr. JONES, of New Hampshire.

Mr. ROBINSON, of Massachusetts. My colleague, Mr. NORCROSS, is paired with Mr. STEELE, of North Carolina.

Mr. BREWER. My colleague, Mr. MCGOWAN, is paired with Mr. TURNER.

Mr. WILLITS. My colleague, Mr. KEIGHTLEY, is absent because of illness in his family. My colleague, Mr. STONE, is paired with Mr. SHELLEY, of Alabama.

Mr. HENDERSON. My colleague, Mr. HAYES, is paired with Mr. GLOVER, of Missouri, on all questions except the Geneva award.

Mr. DUNNELL. My colleague, Mr. STRAIT, is paired with Mr. DIBRELL, of Tennessee.

Mr. MILLS. I have been requested to announce that Mr. DIBRELL is paired with Mr. STRAIT. I am myself paired with my neighbor from Kansas, Mr. RYAN. If he were here, I would vote "no." If Mr. STRAIT were here, Mr. DIBRELL would, in my opinion, also vote "no."

Mr. HARDENBERGH. I am directed to announce that Mr. SINNICKSON is paired with his colleague, Mr. CLARK, and Mr. PUGH with Mr. ROSS.

Mr. HUNTON. I am paired with Mr. CLAFLIN, of Massachusetts.

On motion of Mr. FRANKLIN, by unanimous consent, the reading of the names was dispensed with.

INDEX TO HOUSE JOURNALS.

The SPEAKER. Before announcing the result, the Chair, at the request of the gentleman from Georgia, Mr. STEPHENS, asks by unanimous consent that the report of the Committee on Rules prepared by himself touching the index to the Journals of the House be ordered to be printed and recommitted.

There was no objection; and it was ordered accordingly.

MRS. GILLIS.

On motion of Mr. HARTRIDGE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Mrs. Gillis, no adverse report having been made.

Mr. WILSON. I ask by unanimous consent to withdraw some papers at the request of the Committee on Foreign Affairs.

Objection was made.

The vote was then announced as above recorded.

Accordingly, at two o'clock p. m., the Speaker announced in obedience to the concurrent resolution of the two Houses the House stood adjourned until Tuesday the 7th day of January, 1879, at noon.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BANNING: The petition of Captain Edward H. Leib, to be reinstated in the Army—to the Committee on Military Affairs.

By Mr. CRAVENS: Memorial of citizens of Fort Smith, Arkansas, for the reappraisement and sale of the military reservation near that place—to the Committee on Public Lands.

By Mr. ERRETT: The petition of citizens of Allegheny County, Pennsylvania, for reimbursement of expenditures to prevent the damaging effects of the Parkersburgh bridge upon the navigation of the Ohio River—to the Committee on Commerce.

By Mr. HANNA: The petition of M. C. Bridges and others, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. JONES, of Ohio: The petition of citizens of Cardington, Ohio, that a pension be granted Daniel Spear—to the Committee on Invalid Pensions.

By Mr. KEIFER: The petition of Charles H. Bacon and 30 others, including all the grocers and sugar dealers in the city of Springfield, Ohio, for a uniform rate of duty on sugar, making no discrimination on account of color or quality—to the Committee of Ways and Means.

By Mr. LUTTRELL: Papers relating to the claim of Riley, Harden & Taylor for property destroyed by Indians—to the Committee of Claims.

Also, the petition of Hon. H. C. Wilson, for compensation for property destroyed by Indians in 1878—to the same committee.

By Mr. LYNDE: The petition of Helen F. Manville and Gordon McKay, for an extension of a patent on a machine for uniting the soles of boots and shoes to their vamps or uppers—to the Committee on Patents.

By Mr. MAISH: The petition of William Harvey, for relief—to the same committee.

By Mr. O'NEILL: Resolutions of the Board of Trade of Philadelphia, favoring the improvement of the Delaware River so that first-class steamships may navigate it at all times without delay—to the Committee on Commerce.

By Mr. PEDDIE: A paper relating to the pension claim of Dr. Mary E. Walker—to the Committee on Invalid Pensions.

By Mr. SAMPSON: The petition of Wright & Spencer, and other grocers of Oskaloosa, Iowa, for a specific and uniform duty on sugar—to the Committee of Ways and Means.

By Mr. TOWNSHEND, of Illinois: The petition of citizens of Jefferson County, Illinois, that a pension be granted James D. K. Brown—to the Committee on Invalid Pensions.

By Mr. VANCE: A paper relating to the establishment of a post-route from the city of Washington, District of Columbia, to Marlborough, Maryland, via Seat Pleasant and North Hampton, Maryland—to the Committee on the Post-Office and Post-Roads.

IN SENATE.

TUESDAY, *January* 7, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday, December 20, 1878, was read and approved.

AARON A. SARGENT, a Senator from the State of California, and WILLIAM SHARON, a Senator from the State of Nevada, appeared in their seats to-day.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Pensions relative to a deficiency of $3,500 in the appropriation for contingent expenses of the Interior Department for the fiscal year ending June 30, 1879; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the Committee on Military Affairs, in response to a letter from the chairman of that committee dated June 5, 1878, a report from the Chief of Ordnance, and accompanying papers, respecting the cost of manufacture at the national armory, Springfield, Massachusetts; which, on motion of Mr. ALLISON, was referred to the Committee on Military Affairs.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a joint resolution of the Legislature of the Chickasaw Nation, in favor of the establishment of a United States court having jurisdiction of causes of that nation at Denison, in the State of Texas; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Legislature of Oregon, in favor of the passage of a law for the establishment of a permanent military post at or near Baker City, Oregon; which was referred to the Committee on Military Affairs.

He also presented a memorial of the Legislature of Oregon, in favor of the passage of a law extinguishing the title to lands of the Indians at the Umatilla Indian reservation, and for their removal to some suitable place in the Indian Territory; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Legislature of Oregon, in favor of the passage of a law creating a commission, to be appointed by the President of the United States, to audit and allow claims for property destroyed by the Indians in the war of 1878 in Oregon and Idaho Territory; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Legislature of Oregon, in favor of an appropriation by Congress for the improvement of the entrance to the harbor of Coos Bay, Oregon; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Oregon, in favor of the passage of a law modifying the treaty between the United States and the Empire of China so as to prohibit the importation or immigration of Chinese and other Asiatic laborers to this country; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Legislature of Oregon, in favor of an appropriation by Congress for the creation of a port of refuge at Ewing Harbor or Port Orford; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Oregon, in favor of an appropriation by Congress for the improvement of the Lower Willamette and Lower Columbia Rivers; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Oregon, in favor of an appropriation by Congress for the improvement of the Coquille River; which was referred to the Committee on Commerce.

He also presented a memorial of a committee of the Workingmen's Protective Union of Oregon, remonstrating against an appropriation for the building of the locks at the Cascades in that State; which was referred to the Committee on Commerce.

He also presented the petition of Mrs. F. T. Brown and others, citizens of Ann Arbor, Michigan, praying for such legislation as will make effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. WINDOM presented the petition of L. C. Torry and others, citizens of Belgrade and Providence, Nicolet County and Blue Earth County, Minnesota, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. MORRILL presented the petition of Jonathan Robie and others, citizens of Corinth, Orange County, Vermont, and the petition of C. M. Fisher and others, citizens of Cabot, Vermont, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. CHRISTIANCY presented the petition of John L. Near and 204 others, citizens of Wayne and Monroe Counties, Michigan, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. MATTHEWS presented the petition of Robert G. Cook and others, citizens of Cardington, Ohio, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the memorial of S. F. Corrington and 57 others, citizens of Ohio, remonstrating against the passage of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes; which was ordered to lie on the table.

Mr. MATTHEWS. I also present the memorial of J. A. Fay & Co. and 106 others, citizens of Ohio, on the same subject.

The VICE-PRESIDENT. The memorial will lie on the table, the bill being before the Senate.

Mr. MATTHEWS. As the bill is under consideration and the memorial is very short, I should be glad to have it read for the information of the Senate.

The VICE-PRESIDENT. It will be read, in the absence of objection.

The memorial was read, as follows:

To the honorable Senators and Representatives of the United States in Congress assembled:

Your memorialists, recognizing man's right of property in that which he himself creates, and believing those creations of the intellect which conduce to the benefit of mankind to be property of at least equal importance with the products of mere manual labor, and entitled to equal protection under the law; and believing also that the substantial prosperity of our country is largely, if not chiefly, due to the genius of her inventors and the fostering influence of her patent system, do most earnestly protest against legislation tending to deprive the inventor of that encouragement which lies in his constitutional guarantee of protection in the right of property existing in his invention, or which tends to impose upon him burdens and limitations not shared by holders of other property.

We do in particular respectfully protest against the passage of Senate bill No. 300, popularly known as the "Wadleigh bill," fully believing that its general object would be little better than to legalize gross injustice against a class to whom we owe much of our greatness as a government and prosperity as a people, and tend to discourage and repress that creative mechanical genius that has at length enabled the American manufacturer, and for the first time in our history as a people, to compete in the markets of the world with the skilled artisans of older nations.

Mr. SAUNDERS. I present the petition of Fire, chief, and 108 others, members of the Omaha tribe of Indians, praying for legal protection in all their rights to lands and property, and also protesting against the transfer of the management of their affairs to the War Department. There are two important questions embraced in this paper, one of which it would seem ought to go to the Committee on Indian Affairs and the other to the Judiciary Committee. I think I ought to have it referred to the Committee on the Judiciary at present, and I move its reference to that committee.

The motion was agreed to.

Mr. BUTLER presented the petition of Isaac Vansant, of Lexington County, South Carolina, praying for an increase of pension for services rendered and injury received in the war of 1812; which was referred to the Committee on Pensions.

He also presented the petition of Gabriel J. Rains, of South Carolina, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. MITCHELL presented the petition of Mrs. William Ballard

and 115 other women, of Boisé City, Idaho Territory; the petition of Mary E. Barry and 61 other women of Idaho Territory, and the petition of Mrs. W. A. Smick and 16 other women of Roseburgh, Oregon, praying for the passage of an act making effective the anti-polygamy law of 1862; which were referred to the Committee on the Judiciary.

He also presented the petition of William W. Ross, of Sparta, Oregon, praying to be relieved from liability for moneys, stamps, and envelopes that were in his possession as postmaster and destroyed by fire July 13, 1874; which was referred to the Committee on Claims.

Mr. MITCHELL. I also hold in my hand some seven memorials from the Legislature of the State of Oregon, but as copies have been presented this morning by the Vice-President I shall not now offer them.

Mr. INGALLS presented the petition of Frank Kitzmiller, of Doniphan County, Kansas, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WITHERS. I present the proceedings of a public meeting of citizens of Cumberland County, Virginia, without distinction of color, favoring a repeal of the tobacco tax. I move the reference of the memorial to the Committee on Finance.

The motion was agreed to.

Mr. WITHERS. I also present the petition of nearly one thousand citizens of Southside, Virginia, praying for the repeal or reduction of the tax on tobacco. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. WITHERS. I will call the attention of the Committee on Finance to the fact that these petitions come from those who pay the tax on tobacco, the tax-payers. I see that the Commissioner of Internal Revenue states that no tax-payer has yet asked for a reduction of the tax. Virginia pays the second largest amount of tax on tobacco of any State of the Union, and these petitions are from citizens of Virginia who pay the tax and pray for its reduction.

Mr. KERNAN presented the petition of Thomas A. Howell and others, of Brooklyn, New York; the petition of J. B. Vaughan and others, of Clinton County, New York, and the petition of Levi Walton and others, of Clinton County, New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. GORDON presented the memorial of Henry C. Wayne, of Georgia, in relation to a ship-canal through the Isthmus of Tehauntepec; which was referred to the Committee on Foreign Relations.

Mr. HARRIS presented the petition of John Harris, late private in Company B, Sixth Tennessee Volunteer Infantry, praying for the correction of his military record, and to be allowed back pay and bounty; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. CHRISTIANCY, from the Committee on the Judiciary, to whom was referred the bill (S. No. 782) to authorize bondholders and other creditors of railroad corporations to elect receivers in suits in equity pending in the courts of the United States, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1651) to validate and confirm certain acknowledgments of deeds and other instruments of writing, under seal made in a foreign country, for lands lying in the District of Columbia, and the records thereof, reported it with amendments.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to which was referred the bill (S. No. 778) for the relief of Samuel B. McLin, late associate justice of the Territory of New Mexico, to report the bill with the expression of opinion that it ought to pass.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. EDMUNDS. I am directed by the same committee, to which was referred the bill (S. No. 805) supplemental to the several acts relative to the Union Pacific Railroad and its branches, and which provides for the eligibility of certain persons to the office of director, &c., to report that the committee ask to be discharged from its further consideration, and that the bill be referred to the Committee on Railroads, to which we think the subject appropriately belongs, as there is no matter of law involved in it.

The VICE-PRESIDENT. That order will be entered. The Committee on the Judiciary will be discharged from the further consideration of the subject and the bill referred to the Committee on Railroads.

Mr. EDMUNDS. I am directed by the Committee on the Judiciary, to which was referred the petition of the Alaska Gold and Silver Mining Company, praying that such protection be afforded citizens of the United States as will enable them to prosecute business enterprises and that Alaska be attached to the district of Oregon for all judicial purposes, to report that in our opinion no present legislation of the character proposed by this petition is expedient, and we ask to be discharged from its further consideration.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the petition.

Mr. EDMUNDS. I am instructed by the same committee, to which were referred the bill (S. No. 810) to provide for short-hand reporters in the circuit and district courts of the United States, the bill (S. No. 1107) to authorize the appointment of stenographers to the United States circuit and district courts, and the bill (S. No. 1384) to authorize the appointment of stenographers in the United States circuit and district courts, to report adversely upon all these bills, the committee being of the opinion that in the present condition of business and of the country it is unnecessary to provide a specific code on this subject. I move that the bills be indefinitely postponed.

The motion was agreed to.

Mr. DAVIS, of Illinois. Some time last session I introduced a bill (S. No. 828) to amend section 856 of the Revised Statutes so as to allow an appeal from the accounting officers of the Treasury to the Attorney-General in relation to the accounts of district attorneys, marshals, and other persons. That bill was referred at my instance to the Committee on the Judiciary, and they have agreed to report unanimously against it, including myself. I report it back and move that it be indefinitely postponed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1559) for the more efficient collection of the postal revenues; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1560) authorizing the Windham (Connecticut) National Bank to change its location; which was read twice by its title, and referred to the Committee on Finance.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1561) for the interchange of subsidiary silver coins and United States notes; which was read twice by its title, and referred to the Committee on Finance.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1562) for the relief of Jacob and Elizabeth Sener; which was read twice by its title, and referred to the Committee on Claims.

Mr. INGALLS. I have been requested to introduce a bill for the relief of the Creek orphans under the treaty of March 24, 1832. The bill is accompanied by certain papers which I have not read; and, without committing myself to the provisions of the bill, I ask that it may be received and referred to the Committee on Indian Affairs.

By unanimous consent leave was granted to introduce a bill (S. No. 1563) for the relief of the Creek orphans under the treaty of March 24, 1832; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. INGALLS also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1564) to extend the time to pre-emptors on the public lands; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1565) to authorize the sale of a portion of the Fort Dodge military reservation in the State of Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1566) authorizing the settlement of the claims of certain citizens of Kansas named therein; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1567) to create two additional land districts in the State of Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1568) to authorize the local taxation of the legal-tender Treasury notes of the United States; which was read twice by its title.

Mr. McDONALD. I desire to have the bill referred to the Committee on the Judiciary, and I wish to state in brief my reasons.

In introducing the bill I was at some loss to determine its proper reference. In some aspects of the question involved in it the Committee on Finance would seem to be the proper one to consider it, but as the main question, in my judgment, is one of constitutional power, I have thought best to ask its reference to the Committee on the Judiciary.

It was decided by the Supreme Court at an early day that the right to tax Government securities was not one of the reserved rights of the States, as it would be a tax upon the credit of the Federal Government and tend to embarrass it in the exercise of its granted right to borrow money. In the case of The Bank *vs.* The Supervisors, reported in 7 Wallace, 26, the direct question of the right of a State to tax the present issue of legal-tender notes was presented. In an opinion rendered by Chief-Justice Chase the right was denied, but the denial was placed upon the ground that the acts of Congress then in force expressly exempted from taxation by State authority "all United States bonds and other securities of the United States held by individuals," and that legal-tender notes were to be deemed securities of the United States. The law as carried into the Revised Statutes uses the words "or other obligations." It was urged that as these notes passed into general circulation and were used as money in private dealings, the necessity to preserve them from the power of local taxation did not exist as in the case of bonds or obligations that were used as mere instruments of credit. While admitting the force of the argument, the chief-justice in his opinion said that the question was one for Congress to decide and not for the courts.

Since then a material change has taken place in regard to these

notes. By the act of May 31, 1878, they became a fixed part of the circulating medium of the country, as after that date the Secretary of the Treasury is forbidden to cancel or retire any more of them. And now that specie payments have been resumed and the holder of these notes has the right to have them converted into coin, by a Treasury order they are receivable for all Government dues, so that for all money purposes they are the equivalents of gold and silver coin. The volume, as shown by the last Treasury statement, now outstanding is $346,681,016. To permit this vast amount of property to remain untaxed would be grossly unjust if we have it in our power to prevent it, and I believe we have. The purpose of this bill is to bring the subject before the Senate for its full and mature consideration. When it comes up in a more regular form, I shall ask the indulgence of the Senate to present my views more at length.

The VICE-PRESIDENT. The bill will be referred to the Committee on the Judiciary.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1569) authorizing the Secretary of War to establish a permanent military post at or near Baker City, in the State of Oregon, and making an appropriation therefor; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1570) to aid in opening the Columbia River to free navigation; which was read twice by its title, and referred to the Committee on Railroads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1571) for the relief of William W. Ross; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduced a bill (S. No. 1572) for the relief of Frank Rinquet; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1573) for the relief of James Hunt; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1574) for the erection of a fire-proof building for the national museum; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2292) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery;

A bill (H. R. No. 3878) to provide for the change of name of the American built and owned schooner-yacht Zinga;

A bill (H. R. No. 5333) for the removal of the political disabilities of John McIntosh Kell, of Georgia;

A bill (H. R. No. 5373) to remove the political disabilities of William H. Ward, of Norfolk, Virginia; and

A bill (H. R. No. 5507) for the relief of Louisa M. Mansfield.

The message also announced that the House had passed the bill (S. No. 882) to authorize the proper accounting officer of the Treasury to audit and pay the claim of the State of Tennessee for keeping United States military prisoners.

AMENDMENTS TO BILLS.

Mr. HAMLIN submitted an amendment intended to be proposed by him to the bill making an appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. MITCHELL and Mr. SAUNDERS submitted amendments intended to be proposed by them to the bill (H. R. No. 5218) to establish post-roads herein named; which were referred to the Committee on Post-Offices and Post-Roads.

COIN FOR DUTIES AND INTEREST.

Mr. BECK. I offer the following resolution:

Resolved, That the communication from the Secretary of the Treasury, being Executive Document No. 8, of the present session, in answer to the resolution of the Senate passed December 3, 1878, relative to the amount of silver coin received in payment of customs dues during the current fiscal year and the disposition which has been made of it, be referred to the Committee on Finance, and said committee is authorized and directed to make such investigations as it may deem necessary to ascertain whether the laws relative to the payment of customs dues, and the payment of interest on the public debt with the coin received therefrom, have been and are being complied with, and report by bill or otherwise.

The VICE-PRESIDENT. Is there objection to this resolution?

Mr. EDMUNDS. I think we had better see it in print, Mr. President.

The VICE-PRESIDENT. It will lie over under the rule.

Mr. BECK. I send to the desk the executive document referred to in the resolution, and I give notice that I shall call up the resolution to-morrow morning.

INVESTIGATION OF TREASURY ACCOUNTS.

Mr. DAVIS, of West Virginia, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the select committee to investigate the accounts, statements, and books of the Treasury Department be authorized to have printed at the Government Printing Office, from time to time, the testimony taken by the committee, and such statements and tables as the committee may order.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

Mr. EDMUNDS. Mr. President, this glad morning of the new year, when there are peace and joy and hope everywhere, I think is the best time possible to offer resolutions that I hold in my hand, which I trust will have a tendency, if they be unanimously adopted, as I hope they will after they are printed, to cement more perfectly the good-will and concord and unity of sentiment that are supposed to exist all over the country. I ask that the resolutions be read, printed, and laid on the table.

The resolutions were read, as follows:

Resolved as the judgment of the Senate, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified, and are as valid and of the same paramount authority as any other part of the Constitution; that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union, and that it is alike the right and duty of Congress to enforce said amendments and to protect every citizen in the exercise of all the rights thereby secured, by laws of the general character already passed for that purpose, and by further appropriate legislation so far as such enforcement and protection are not secured by existing laws; and that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution, and of Congress to appropriate all moneys needful to that end.

Resolved further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States legally qualified in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report as soon as may be a bill for the protection of such rights and the punishment of infractions thereof.

The VICE-PRESIDENT. The resolutions will be printed, and lie on the table subject to the call of the Senator from Vermont.

ALASKA TERRITORY.

Mr. MITCHELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and is hereby, directed to communicate to the Senate, if not incompatible with the public service, the report of William Governeur Morris, special agent of the Treasury Department, recently submitted to that Department on the condition of the public service, resources, &c., of Alaska Territory.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 2292) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery; and

A bill (H. R. No. 3878) to provide for the change of name of the American built and owned schooner-yacht Zinga.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 5333) for the removal of the political disabilities of John McIntosh Kell, of Georgia;

A bill (H. R. No. 5373) to remove the political disabilities of William H. Ward, of Norfolk, Virginia; and

A bill (H. R. No. 5507) for the relief of Louisa M. Mansfield.

THE TRADE-DOLLAR.

Mr. VOORHEES. Mr. President, on the first day of the present session I had the honor to introduce a resolution in regard to the trade-dollar, which I ask may now be taken up for the purpose of submitting a few remarks upon it.

The Senate, by unanimous consent, proceeded to consider the following resolution submitted by Mr. VOORHEES, December 2, 1878:

Resolved, That the Committee on Finance be, and is hereby, instructed to inquire into the expediency of making the trade-dollar authorized by section 15 of the act of Congress approved February, 1873, a legal tender for all debts, public and private, and providing for its recoinage into the standard dollar of 412½ grains.

Mr. VOORHEES. Mr. President, among the many evils brought upon the industrial classes of this country by the bad financial legislation of the party in power the silver coin, known as the trade-dollar, is at this time peculiarly conspicuous and will long be remembered. Its functions as money are fraudulent, and the people have a right to protection from its further abuses. It has not a single element to recommend its retention as a part of our system of finance. It has no constitutional sanction whatever. The power of Congress to coin money gives it no support, for it is not money. It is simply an article of trade manufactured at the United States mints by an unconstitutional law of Congress. The Government has exactly the same power to engage in the manufacture of woolen fabrics or any other species of merchandise for trade that it has to set its mints running in the manufacture of silver bullion, not money, for barter and exchange as a commodity. Will any one undertake to dispute this proposition?

Its origin, however, is disreputable in other respects. It is a part of that conspiracy which demonetized the standard silver dollar of American history. The same act of Congress—the act of February 12, 1873—which deprived the American people of lawful silver money provided for the coinage of this well-executed counterfeit. The people were not consulted, nor indeed did they know of the existence of such a coin for years after it was authorized. The pretext for calling it into existence was that our own citizens did not need silver money, but that we needed silver coin with the appearance of money in our trade with China and other Asiatic countries. It is alleged in excuse by its authors that it was not intended to circulate in this country, and that therefore the legal-tender quality, which alone makes lawful

money, was, by a sort of speculative fraud on outside barbarians, left out.

It has, however, failed in its mission abroad, and is now at home in large amounts, and still returning, to cheat and defraud the plain farmer out of his produce and the honest mechanic out of his labor. The inhabitants of the other side of the world quickly discovered that this coin had never received the essential quality of money at the hands of its own government, and hence they are shoving it back upon us with every returning ship from their shores to ours. The amount of trade-dollars in existence is much greater than the popular impression. Thirty-five millions have been coined and sent forth into the channels of trade and commerce, a large proportion of this amount being now in this country, and all of it tending rapidly in this direction. Can we afford to leave the people exposed to the dangers of such an amount of such currency? What a spectacle this Government now presents, putting into circulation a species of currency in the exact likeness and similitude of lawful money, and which yet is not lawful money, and every piece of which is the ready and easy instrument of fraud in the hands of corrupt and designing men!

In my recent association with the generous people of my own great State I met thousands of farmers, as well as other laboring people, who had suffered loss by reason of the deception practiced on them through the trade-dollar. As the time approached, soon after harvest, when farmers were anxious to realize on their wheat to meet pressing necessities, the trade-dollar in large sums appeared at different points in the State and was used in the purchase of grain at its face value. Very soon afterward the hard-working farmer discovered that he had received but ninety where he thought he had received a hundred cents; but ninety dollars where he had counted to himself a hundred. These incensed victims of a dishonest financial policy cannot stand here in person and demand redress of their Government which is engaged in cheating them; but, as one of their representatives on this floor, I shall faithfully perform that task in their place and stead. After full consideration, the best method for the cure of the trade-dollar blunder, as it appears to me, is to incorporate it into our lawful currency, making it a legal tender for all debts, public and private, and providing for its recoinage into the standard silver dollar as fast as it comes into the Treasury in the course of business.

It is objected to this that brokers, speculators, and financial gamblers now hold considerable sums of this illegitimate currency, and that a profit will accrue to them by making it lawful money. To some extent this is true, but such a minor evil as that ought not to be urged as a reason for continuing to rob and defraud our own citizens. No great wrong, like the huge imposture of thirty-five millions of trade-dollars, was ever corrected without some lawless gains to unscrupulous operators; but shall the wrong therefore remain to prey on innocent people—the laboring men and women of the whole country? If the brokers will profit by the necessary absorption of the trade-dollar into our legalized circulation, who is responsible for that disgraceful fact? Those, and those alone, who placed section 3513 in the act of February 12, 1873, thereby creating and throwing upon the people this coin without a fixed legal value, are responsible alike for the broker's speculations, and the laborer's losses. Not those who are seeking to remove a grievance, but those who brought it on, should bear the odium of all the consequences.

Another objection is made that there would be a lack of uniformity between the trade-dollar and our present standard dollar, the trade-dollar containing 420 grains of silver and the standard dollar containing 412½ grains. I can see no serious difficulty arising from this point. If the trade-dollar is made a legal tender it will simply be a somewhat better silver currency than that which we now have; and to this, it seems to me, there can be no rational objection on the part of those who profess so much devotion to what they term honest money. During the last session of Congress we heard an endless clamor for more silver in the dollar which we were seeking to restore to coinage and circulation. There were many labored efforts made here and elsewhere to show that the fathers in 1792 did not know how to make a good honest silver dollar. I was of a different opinion then and am now. I thought then, and still think, that the silver dollar of 412½ grains, devised by Jefferson as the unit of values, and put into coinage and circulation by the combined wisdom of Washington and Hamilton, is as acceptable to the American people and as useful in their affairs now as ever before in American history. But I am now appealing to those who entertained a different view, and I am commending to them thirty-five millions of dollars, in each one of which there are 7½ grains more of silver than there is in the dollar to which they were so bitterly opposed.

The want of uniformity, however, in our silver currency need only be temporary. A provision for the recoinage of the trade-dollar as fast as received at the Treasury into the standard dollar of 412½ grains would speedily bring about the desired result.

But the real and vital objection to making the trade-dollar a legal tender and to recoining it into the lawful money of the country comes from that class which is interested in diminishing rather than increasing the volume of our currency. The money monopolists care not so much about the kind of money which is circulated: it is the amount which principally concerns them. The proposition, therefore, to add thirty-five millions to our lawful currency alarms their avarice and excites their envenomed hostility. Such an increase would make money plentier, the rate of interest lower; it would augment the value of property and labor, afford some relief to struggling debtors, and stimulate the prostrate business of the country. All this, however, is adverse to the interests of capital which is withdrawn from the channels of trade and is watching for investments at usurious rates of interest or in property at bankrupt prices.

From the holders of this kind of capital the toiling millions of the world need expect nothing but oppression. Hungry avarice never sleeps, and its stony heart never relents. The laboring masses of every description, and also all the merchants and traders engaged in active business, demand an amount of currency in circulation, whether it be of gold, silver, or paper, which will measure the value of labor and property at fair and healthy rates, and not according to the standard of want and bankruptcy now prevailing. Money is the standard by which the value of every exchangeable commodity is measured. When the standard is shortened and contracted all values shrink in proportion, and the power of money over labor and the products of labor is correspondingly increased. A scarcity of money in circulation cheapens every acquisition of human toil, whether lands, or houses, or the growth of the fields. It has at the present time reduced the price of the western farmer's corn to from eighteen to twenty-five cents per bushel, hauled and delivered; and the price of his hogs to from two to two and a half cents per pound. On the other hand the scarcity of money multiplies tenfold the burden of every debt, tightens the ligatures of every mortgage, and hastens the harvest of bankruptcy for speculators in ruined estates to reap.

The opposition, therefore, to legalizing the trade-dollar, coming from the source it does, is not a matter of surprise. In fact, there is a deep-seated hostility to silver money of every kind coming from the same source and springing from the same motives. It is perfectly obvious that silver, as money, is not receiving fair play at the hands of the present Administration and those who draw their inspiration from it. It will not be forgotten how faithfully the Secretary of the Treasury obeyed the behests and served the cause of those adhering to the gold basis. When the bill remonetizing silver was approved by the Representatives of the people in both branches of Congress Mr. Sherman staked his judgment against the measure by inducing the President to interpose his veto. Under these circumstances he cannot complain if he is suspected of aiming to vindicate the wisdom of the veto rather than of striving in good faith to make the law a success.

It is unfortunate that the execution of this great and popular law is in the hands of its most conspicuous and pronounced enemy, one who embodies in his policy all the fears and hostilities of the money monopolists against what they are pleased to term a silver inflation. It happens, under a benign Providence, that the products of the silver mines of the United States are greater than all other countries in the world put together. It was the fear that the people would obtain too much currency from this source which inspired the furious opposition to silver money a year ago and which is now engaged in a conspiracy to practically demonetize it in defiance of law. Immediately upon the passage of the act restoring silver to coinage and circulation a systematic effort was commenced by which to prepare the public mind for its failure. The leading newspaper organs in the great money centers have from that day to this teemed in all their issues with dismal predictions, sneers, and abuse aimed at the lawful silver currency of the Government. The hard specie dollar of the fathers has been denounced as a dishonest dollar and scandalized and slandered in the same terms and by the same tongues and pens which have labored so long to load the greenback dollar with disgrace.

That the Secretary of the Treasury has lent the influence of his great office to this flagitious conspiracy is proven by his answer to the resolution of the Senator from Kentucky [Mr. BECK] at the present session. He admits that he allowed the bondholder to dictate which kind of coin he would receive in payment of interest on his bonds, thus ignoring the right of the people to pay their coin obligations as well in silver as in gold. By this bad faith the Secretary has made himself a party to the unlawful scheme of driving silver away from the higher uses of money and of dishonoring it in the face of the world. It is in his option, not the creditors' option, whether he will pay our coin debts in gold or in silver, and as the servant and agent of the American people it is his plain duty to use both for that purpose in proportion to the amount of each which he has under his control.

Encouraged, however, by his policy and believing that public opinion was prepared for more open and aggressive hostilities, the associated national banks of New York, in the fore part of November last, proclaimed their rebellion against the constituted authorities of the Government and avowed their purpose to nullify its laws. In this lawless and insolent movement I believe the national banks of Boston concurred, and that the rebellion has spread no further than that point for the present. Sir, it is difficult to determine which is the more astounding in this action of the banks, their brazen audacity or their dense ignorance of the true temper of the American people on this subject. I have their proclamation at hand. It is addressed to the Secretary of the Treasury himself, and received by him without rebuke, if not with secret commendation. It is an elaborate argument against silver as money and an assertion of the right and duty of the banks to refuse to receive it as such. The following statements occur:

Upon the banks greatly depend the introduction of these coins into commercial

use. * * * They are at liberty to accept or to decline these deficient coins when offered them upon deposit, to refuse them as money in their commercial exchanges with each other, and to withhold their influence in fastening them upon the community; and it is their most obvious interest and duty to do so.

Among the rules laid down for the government of the banks of New York City after January 1, 1879, are the following:

4. Decline silver dollars on deposit, as money, but only receive them under special contract to withdraw the same in kind.

5. Prohibit payment of balances on the clearing-house in silver certificates or in silver dollars, excepting as subsidiary coins in small sums, say, under $10.

6. Banks will hold the same attitude in respect to silver dollars that California banks have done respecting legal-tender notes; that is, accept them only when legally compelled, and decline further commercial relations with the compelling party.

These are the details of the proposed nullification. A law of Congress, enacted by a two-third majority of both branches, is found by the associated banks of the cities of New York and of Boston to be obnoxious to their interests and prejudices, and they proceed at once to abrogate and defy its execution. The nullifiers of South Carolina failed in a somewhat similar undertaking in 1832, and upon a question of financial policy; but the money power of New York and Boston appears to have learned nothing from their fate.

In the rebellious proclamation to which I am calling attention the existence of Congress is graciously recognized in the following terms:

It is confidently hoped that Congress, in view of the unexpected fluctuations of silver bullion since the law was passed, will reconsider and repeal it at an early day.

If, however, Congress should fail to be promptly overawed by the associated banks of New York, and their New England allies, and should refuse to register their haughty edict, they proceed to point out to the Secretary of the Treasury certain hostile measures for him to pursue against silver, in co-operation with their own conspiracy, by which they are entirely certain that within a year, at the most, the gold standard will be permanently restored, and the duty of Congress to again destroy silver money be made clear and unquestionable. But their overweening presumption does not stop at even this high pitch. Their scheme of nullification contemplates the control of the Legislature of New York, and the absolute demonetization of silver by that great State. I hold in my hand a bill already prepared and printed, which I am assured, on the highest authority, will be urged upon the approaching session of the New York Legislature by the associated banks. Its provisions are as follows:

An act to define what are gold contracts and to define the standard of gold in which they are payable, and to amend chapter 73 of the laws of 1875, entitled "An act to establish specie payment on all contracts or obligations payable in this State in dollars, and made after January 1, 1879."

The people of the State of New York, represented in senate and assembly, do enact as follows:

SECTION 1. Sections 1 and 2 of chapter 73 of the laws of 1875, entitled "An act to establish specie payments on all contracts or obligations payable in this State in dollars, and made after January 1, 1879," are hereby amended so as to read as follows:

SECTION 1. All canal tolls imposed and all taxes levied and confirmed after the passage of this act shall be collected in United States gold coin and in United States notes so long as said United States notes are promptly redeemed in gold coin and no longer, and also shall be collected in national-bank notes which are redeemable in gold or which are redeemable in United States notes, provided the United States notes are promptly redeemed in United States gold coin; but tax-collectors and tax-receivers may receive in any one payment twenty-five cents or less of United States minor coins, or $5 or less in any one payment of United States subsidiary silver coins, at the market value of said minor and subsidiary silver coins in exchange for United States gold coin at the time the tax is paid.

SEC. 2. Every contract or obligation made or implied and payable in this State, and made or implied after this act shall take effect, and payable in dollars, but not made specifically payable in United States silver coin or in United States legal-tender notes, shall mean to be and shall be payable in United States gold coin, and, if not otherwise provided in the contract or obligation, shall be payable in United States gold coin of the standard of weight and fineness established by the laws of the United States at the time the contract or obligation shall have been made or implied, and such contract or obligation shall also be deemed to mean that the debtor may pay and that the creditor shall receive, in any one payment, twenty-five cents or less of United States minor coins, or $5 or less in any one payment of United States subsidiary silver coins, at the market value of said subsidiary silver and minor coins in exchange for United States gold coin at the time the payment is made.

If the Legislature of New York should join the associated banks in their conspiracy and rebellion, and should enact this bill into a law, it will present the question of a State attempting to nullify the authority of the Federal Government by interposing her own legislation on a subject of the deepest concern to the whole people. The Constitution of the United States provides that Congress shall have power to coin money, and to regulate the value thereof; and Congress has exercised that power by declaring that the silver dollar of 412½ grains shall be a part of the lawful money of the Government, and that its legal-tender value shall be the same as a dollar of gold. Section 10 of article 1 of the Constitution also declares that—

No State shall coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts.

It is very plain, from these provisions, that neither the State of New York nor any other State has the power to prevent silver coin from circulating as money among its citizens on equal terms with gold.

But even the attempt to do so is full of danger to the rights of the people, proves the wide-spread and deep-seated conspiracy against silver currency, and is a bold threat of defiance to the Federal authority which will not be patiently borne by an already sensitive public opinion.

It is not my purpose, however, to detain the Senate at length on the present occasion. I desired to point out the evils of the trade-dollar currency and the propriety of making it lawful money; and in that connection also to disclose to the country the bad faith and the determined hostility which the standard legal-tender silver dollar is encountering at the hands of this Administration and its supporters. If silver money is quoted as inferior in value to gold or to greenbacks, it is because its enemies are powerful and active and have combined to dishonor it. If it has failed to reach the hands of the people as extensively as was expected, it must be remembered that its coinage and circulation depend very largely on the action of a Secretary of the Treasury who does not believe it ought to be coined or circulated at all.

In spite of all these adverse influences, however, I predict the ultimate triumph of the standard silver dollar. We are essentially a silver-producing country, and the intelligent American people will not consent to be deprived of the aid of this great agent of wealth in their struggles to regain commercial and business prosperity. We have just entered upon the cruel experiment of a forced resumption of specie payments. We have just passed the 1st of January, 1879, leaving behind us five years of such bankruptcy and business ruin as never before darkened the lives of the American people. An appalling penalty has been paid in order to be able to proclaim even the theory of specie resumption. Nothing has ever appeared to my mind a greater crime against the welfare and happiness of the people than the law enforcing a resumption of specie payments.

I think I may say without presumption that I have labored as hard for its repeal as any other Senator, but the protracted struggles of the last session and the repeated test votes on that subject have demonstrated beyond question that a majority of this body as at present constituted is inflexibly determined that the harsh and destructive experiment of coercive resumption shall be tried. The advocates of this policy feel a still further security, for the present at least, in the fact that the Executive stands ready with his veto against the repeal of the resumption act, and that a two-third majority of both Houses of Congress cannot be obtained to pass a bill for that purpose over his objections. I earnestly hope and fondly believe that at no distant day the will of the people will be more faithfully reflected both in this body and in the executive department of the Government.

Sir, in my judgment, the results to flow from the so-called specie resumption provided for in the act of January, 1875, will be full of disasters and hardships to the business and labor of the country. In making preparation for it too much evil has been done for any good to follow. Our coin interest-bearing debt has been largely increased from year to year, and our non-interest-bearing currency, the staunch and reliable greenback, so much needed in the hands of the people, has been contracted and destroyed.

The policy of resumption has been to increase the burdens of debt to the present and future generations, while depriving them of the means of saving themselves from general bankruptcy. More than $2,000,000,000 of private, individual debts based upon the highest considerations of value and of honor have been wiped out by the bankrupt sponge, and thus repudiated under the pressure of this destructive policy during the last five years. I submit that the stigma of repudiation ought to be affixed to those who have caused widespread and general repudiation rather than to those who have at all times insisted on the strict fulfillment of every contract and obligation entered into by the Government with its own citizens as well as with all others.

In the mean time, however, the people whom I have the honor in part to represent, in order to enable them to meet the evils which are at present inevitable with as little distress as possible, demand that resumption, whether a success or a failure, shall not rest on gold alone. They demand that all the resources of both the precious metals shall be brought to their assistance at this hard and trying period, and that if we are forced to have what is styled a specie basis, it shall be as broad, as comprehensive, and as strong as the unlimited coinage of silver, as well as of gold, can make it. They make these demands in order that the volume of currency, supposed to rest on this basis, may be a full and ample one, equal to the wants of an active business throughout the country.

Nor is this in any sense a mere party issue. The producing classes of all parties and those engaged in the pursuits of trade think substantially alike upon it. It is in their behalf, whatever their party ties, that I have plead heretofore and plead now for financial reform, justice, relief, and honesty; and in their behalf I shall continue to struggle for these great ends as long as I take part in public affairs. Our whole financial system is the work of the republican party, the result of nearly seventeen years of strictly partisan legislation, and to the leaders of that party, not to me, belongs its defense, if indeed any defense can ever be made for so much injustice and oppression inflicted on a long-suffering people.

REVISION OF THE PATENT LAWS.

The VICE-PRESIDENT. The morning hour has expired. The Senate, as in Committee of the Whole, resumes the consideration of its special order, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, the pending question being on the amendment proposed by the Senator from Illinois, [Mr. DAVIS,] which will be reported.

The SECRETARY. In the first section of the bill, after the words "before it," in the thirteenth line, it is proposed to insert:

Provided, however, That if in any suit instituted in any one circuit court of the United States the validity of a patent shall be determined upon final hearing, any other circuit court may recognize said decision, and in its discretion grant injunctions based thereon to continue pending an appeal to the Supreme Court in the first suit; and if the validity of any such patent has been decreed against in a suit instituted in any one circuit court, any other circuit court may in its discretion grant a stay of proceedings in any other suit brought under said patent, pending an appeal to the Supreme Court of the United States in said first suit.

The amendment was agreed to.

Mr. CHRISTIANCY. Mr. President, having completed what I had to say the other day upon the general system of our patent laws, I now proceed to consider some of the provisions of the pending bill. And I will say that so far as I have been able to examine the bill, I approve generally of its object and, with some exceptions, the object of its several provisions. It is possible some of them may be improved by amendment; but if so, such improvement will probably be suggested in the course of the discussion.

My purpose on the present occasion is to confine myself mainly to the provisions of the second section as amended by the committee.

The first proposition asserted in this section is that the measure of the plaintiff's recovery shall be the same both at law and in equity. I shall not stop at this moment to consider the question of power to make this provision applicable to pending suits and existing causes of action, as this section does; but shall postpone this question till we see just what the question is and what it really involves and just how the question of profits, or gains and profits, has grown up, and how the rule in reference thereto differs in an action at law from what it has finally become in a suit in equity.

Now, in the nature of things and as a logical principle stripped of all mere fictions, and as a question of right and justice or sound public policy, where a complainant has a right to bring his action in the same court in either of two forms, there never has been and there never can be any sound reason for allowing a greater amount of compensation or recovery in the one form of action than in the other, for precisely the same thing or grievance created by, or growing out of, precisely the same state of facts. That state of facts creating the injury complained of or the cause of action ought, upon all sound principle, in either or both forms of action, to entitle the claimant to just and adequate compensation, and no more. There may be good reason for bringing the action in one form rather than the other on account of the different process which may be issued or the mode of procedure adopted in the one form and not in the other, as in the case of an injunction which may be issued when the action is brought by bill in equity, and could not be issued in *the same suit* if the action were brought in the form of a suit at law, &c., though in the last case an injunction might be obtained by applying to a court of equity.

But the question of compensation, of the amount of recovery for the same injury, is and must be the same in both courts, while justice shall continue to be even one of the objects of a suit in either or both forms. And any rule which should make the amount of compensation for the same injury, arising from the same state of facts, different in the one court from what it is in the other, must, however technically logical it may seem, involve a lurking fallacy somewhere. That such a difference has grown up from the decisions of the Federal courts I will, before I get through, endeavor to show: and that it ought to be corrected and both forms of action put upon the same footing as to the amount of recovery for the same injury, I trust to the common sense and the sense of justice of every Senator. But before proceeding to this I will notice the next proposition proposed to be enacted by this section.

This second proposition is that, "if a license fee has already been established by a reasonable number of transactions applicable to the case, such license fee or a portion thereof according to the extent or duration of the infringement proved, shall be the measure of the plaintiff's recovery in all cases, except in cases where the defendant has made an actual profit from making for sale or selling the thing patented, or the product thereof." And in these excepted cases it provides that "the proportion of the actual profit of such making for sale or selling due to said infringement, shall be determined, and that proportion of such actual profit shall be the measure of the plaintiff's recovery; and in an action at law the court may appoint an auditor to ascertain the same, and his report shall be *prima facie* evidence; but if such proportion shall not be equal to the amount of a license fee established or to be determined in the manner hereinafter provided, (that is from all the evidence in the cause,) the plaintiff shall be entitled to recover such amount or so much thereof as shall be in excess of the profits so awarded."

Now, the first part of the provison above quoted, making the license fee the measure of damages, when such license fee has already been established by a "reasonable number of transactions applicable to the case," is a simple affirmance of the decisions of the Supreme Court in actions at law. (See Seymour *vs.* McCormick, 16 Howard, 480; Suffolk Company *vs.* Hayden, 3 Wallace, 315; Philip *et al. vs.* Nock, 17 Wallace, 460; Packet Company *vs.* Sickles, 19 Wallace, 611.) This last case declares:

> The rule of damages in an action at law for an infringement of the rights of the patentee has long been established in this court to be the customary price at which the patentee has licensed the use of his invention, where a sufficient number of sales or licenses have been made to establish a market value.

And this rule was applied not only as to mere users, but to manufacturers (Suffolk Company *vs.* Hayden, 3 Wallace, 315) and to vendors of patented articles, (Philip *vs.* Nock, 17 Wallace, 460.) And, in such cases at law, profits are not given nor do they constitute the measure of damages now, except in the single case where the patentee has found it for his interest to refuse to sell rights, or to receive a license fee, and has chosen to retain the entire monopoly himself. (See Seymour *vs.* McCormick, 16 Howard, 480.) But the court in cases at law, seeing that no one iron rule as to damages can be adopted in all cases, have very properly decided, that when the use has been limited, and for a short period only, this rule of giving the amount of a license fee is to be so restricted as not to do injustice, and the amount should be reduced below even the license fee, when it is evident the plaintiff has not suffered the amount of injury equivalent to a license fee. (See 93 U. S. R., p. 68 to 71.) There are cases at law where no license fee has been established, and where no certain measure of damages can be laid down, or any definite amount shown by the evidence, where general evidence may be resorted to for the purpose of showing the utility and advantage of the invention over old methods and devices: and for this purpose, and not as a measure of damages, evidence of profits may be given. (See Suffolk Company *vs.* Hayden, 3 Wallace, *ub. sup.*: also Burdette *et al. vs.* Denig *et al.*, 2 Otto, 716.)

And this section permits the like evidence in such cases. And it was well said by the court in Seymour *vs.* McCormick, just cited, "there is no legal presumption binding on the jury, that third persons would have purchased of the patentee what they bought of the infringer, if the latter had not made and sold the thing patented." Now, Mr. President, I ask why should there be any better ground for the same or a similar presumption from the same state of facts in a court of equity? And yet, without this presumption or one not so well founded and, in most cases, far less likely to be true, it would be difficult to find any sound and just basis for the doctrine in equity which gives the profits the defendant has made, without any reference to the question whether the owner of the patent, but for the acts of the defendant, would have made the same profits, and equally without reference to the idea of mere compensation for the injury sustained by the complainant, which compensation (and neither more nor less) should be the amount of recovery equally in all cases and in all courts, except in the one class of cases, (not including one in five hundred,) where from the nature of the invention, it is for the interest of the inventor to retain the entire monopoly of the patent himself, and perhaps when the defendant may have acted maliciously or in bad faith.

It is quite clear, Mr. President, from the cases I have cited upon the question of allowing profits in a suit at law, that the exception I have quoted above from a part of the second section of the bill, and which allows profits to be recovered in an action at law, where the defendant has made for sale or sold "the thing patented or the product thereof," extends the right to recover profits in courts of law considerably beyond what is now recognized as the rule in those courts. In fact, I think it extends that power too far. I think no profits should be allowed, as such, in either court, except in cases where the infringement has been willful or in bad faith, or where the inventor has chosen to retain the entire monopoly of his invention.

This section then proceeds to provide that, in an action at law, the court may appoint an auditor to ascertain such profits, (in the excepted cases,) and that his report shall be *prima facie* evidence: thus giving to the court of law substantially the same facilities for ascertaining profits that they have in equity through a master, the want of which, in a court of law, has been assigned as the main reason for allowing profits in equity and not at law, and taking away all the substantial ground there ever was for the distinction in this respect, as to allowing profits, between a case in equity and one at law.

The section then further provides that, if the portion of the profits for the period of the infringement proved shall not be equal to the amount of a license fee established or to be determined from all the evidence in the case, as subsequently provided, the plaintiff shall be entitled to recover such amount, or so much thereof as shall be in excess of the profits so awarded. These provisions seem to me to be just and fair to both parties.

This section then proceeds to provide for that class of cases where a license fee has not been established by a reasonable number of transactions applicable to the case, and declares that a license fee for the use actually made shall be determined from all the evidence in the case: and that if the case shall not fall within the exception previously mentioned, (that is, where the defendant has made an actual profit from making for sale or selling the thing patented or the product thereof,) the license fee so determined shall be adopted as the measure of the plaintiff's recovery.

Now, as under this provision, the license fee to be determined is the amount to be recovered, it is but another name for the damages in an action at law. And being so, the rule here fixed for the damages is precisely the same as that now recognized in every action at law for all the cases included in the class here provided for, with the single exception of that class of cases where the patentee has found it for his interest, or from the nature of the patent it would manifestly be for his interest, to refuse to sell rights or grant licenses, and to use the invention himself and supply the market with the machine or product to be manufactured; as this is now the only class of cases at law in which profits are recognized as the *measure* of damages.

And I confess that, for this latter class of cases, I should prefer a provision which would allow profits in actions both at law and in

equity, at least where the defendant has knowingly and willfully violated the patent by manufacture or sale. But if the committee do not see fit to offer or accept an amendment of this kind, I shall vote for the bill as it is. I am fully aware of the difficulty of framing any bill which shall meet all objections; and as I know the committee have fully and faithfully considered the whole subject, I shall vote for the provision as it is, which I believe affords a remedy for the greatest and most oppressive evils of the system as it now is; and I would therefore do nothing to obstruct the passage of the bill lest we should get no wholesome legislation upon the subject at this session. Amendments may be made hereafter as experience shall show to be necessary.

This section next provides that—

> Whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

This is intended to take the place of the provision in the existing law, allowing the court to treble the actual damages found by the jury, and I suppose of that provision in the act of 1870, (Revised Statutes, sec. 4921,) which, besides this power given in actions at law, enables the complainant in equity "to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby," which, understood according to the ordinary and natural meaning of the language, is a provision so shocking to common sense and the sense of justice of the court that the Supreme Court (Birdsall *vs.* Coolidge, 93 U. S. R., 70) has in effect held it not to be imperative, but to give a discretion to allow damages enough, in addition to profits, to make together a just compensation where the profits alone do not give a fair compensation, or perhaps an election to take the one or the other, but not both; a decision which (though this particular point was not involved) does equal credit to the high sense of justice of that court, and their ingenuity in the construction of the language of the statute, to effect so just a result.

Before proceeding to consider the rule in equity allowing profits, I will say that the whole subject of compensation for injury by infringement, relating as it does to a mere right and not to tangible property, is a very difficult one: and the questions arising in the course of administering the patent laws depend so much upon the particular circumstances of each case—circumstances almost infinite in their variety—that few if any universal rules can be laid down which will be just to both parties in all cases. In cases at law the courts have fully recognized the truth of this statement, and have at last so molded and qualified the various rules of damages as to get rid of all mere theories and technicalities and to work out justice and equity between the parties according to the circumstances of the particular case.

Thus, though they had laid down a general rule that, when a license fee had been established by a sufficient number of transactions to establish a market value of such license fee, that should constitute the measure of damages, yet in the case last cited, when the use by the defendant had been limited and of short duration, and the established license fee would therefore be manifestly more than the damages the plaintiff had sustained, the amount was required to be cut down so as not to exceed a just and fair compensation.

I see, therefore, nothing to complain of in the principle adopted in reference to compensation in cases at law. And if a like flexibility of the rules adopted in equity, a like freedom from technicalities, and a like determination so to mold, qualify, and limit such rules, so as to work out justice between the parties upon the great principle of just compensation, now prevailed in patent causes in equity, I should spare myself the task of discussing and the Senate that of listening to a discussion of the rule by which profits are allowed in patent causes in equity. That rule, as I understand it, assumes that in all cases of infringement, whether by manufacture and sale of the patented invention or its product, or by the mere use of the invention by one who has purchased a patented machine, all the gains and profits, above what the defendant would have made by the use of any machine or process open to the public to use, belong to the owner of the patent; that they are his profits.

Now, this assumption is true only in those cases where it is at least probable that the complainant would have made the same profits, if the defendant had not been guilty of the infringement; because there can be no sound reason founded upon any principle of justice, equity, or practical common sense, without reference to mere fictions which can entitle the complainant to recover more than a just compensation for the violation of his rights. There is therefore no real and substantial ground upon which it can be held that the complainant would, but for the infringement, have made the same profits the defendant has made, and therefore that they belong to the complainant, except in that class of cases where such profits now constitute a proper measure of damages in an action at law, and that is where the invention is such that it is from its nature for the interest of the patentee to retain the entire monopoly himself, and to supply the market with the machine, &c., invented, or the manufactured product thereof.

As, for instance, Mr. Edison might find it for his interest to retain the entire right to manufacture the telephone; Pullman to retain that of his sleeping cars. Or the inventor of a pin-machine which would make pins three times as fast, or for one-half the cost they can now be made, might supply the whole market, and it would be for his interest to retain the entire monopoly and refuse to grant licenses. In all such cases, at least, if the owner of the patent has elected so to retain the monopoly, there is a real, a sound and just ground to hold that the profits made by an infringer belong to the owner of the patent, because here is a strong probability that, but for the act of the defendant, the complainant would have made the same profits; or, at least, that he has been prevented from making them by the act of the defendant: and such profits would constitute a just compensation.

There is also in the case of other kinds of inventions, where it is clearly for the interest of the inventor that his invention should be used by others, some slight ground for holding a wrongful manufacturer of the invention or its product, who makes it for sale and sells it to others, liable to profits, as is done in the second section of this bill; though the ground for this is not so clearly right as in the first class of cases; and, as I have already intimated, I think the right to profits in this second class of cases should be limited to cases where the defendant has acted in bad faith.

But in all that numerous class of cases where the infringement is merely in the use of the patented machine by a person who has purchased it of a manufacturer in the ordinary course of business, and without actual notice—as the purchase of a mower for cutting hay—the assumption that the complainant would have made the same gains or profits, if the defendant had not, or that such profits therefore belong to the complainant, is not only without any foundation in fact, but palpably in defiance of all the facts, resting solely upon a fiction as contrary to the facts as it is unjust in its application.

In all this class of cases, and many others, the profits or gains made by the use of a patented machine bear no definite or necessary relation to the compensation which, upon any sound principle of justice or equity, the complainant ought to recover for the injury inflicted by the defendant. And yet, in all these cases, the assumption, or conclusive presumption, that all the profits belong to the complainant, though a bald, naked fiction, seems to be as firmly established by the courts as in those cases where the assumption rests upon facts or probabilities, and accords more or less with the just rights of the parties. And, while in courts of law they have got rid of all these mere fictions, and molded and modified their rules with reference to the facts of each case so as to secure the just rights of parties, yet in cases in equity, where it is generally supposed there is more flexibility of rules to meet the real justice of cases, this fiction seems, so far as I have been able to discover, to have become a fixed iron rule, applicable to all cases, incapable of modification by the facts of the case, and regardless of the question of just or fair compensation.

In this class of cases, therefore, it is just as fallacious to hold that the profits measure or tend to measure a just compensation for the injury to the complainant, as it would be to assert that a thermometer in which the mercury is forced up by artificial means correctly indicates the temperature, or that it regulates and controls the weather. In fact it does not seem to be now claimed that the allowance of profits rests upon the idea of compensation at all. (See Birdsall *vs.* Coolidge, 93 U. S. Rep., 70.)

The rules of damages in courts of law may be limited or qualified to cut down the amount of damages, so as not to exceed a just compensation. But this iron rule or fiction of equity gives all the profits—now all the gains and profits—at all events, and without the slightest reference to the real justice or equity of the case, and these profits cannot be cut down, as damages at law can be, for the sake of justice, as this would tend to discredit the fiction.

This fiction, this iron rule, resting upon the theory of an assumed trust, seems to me in most cases, like a foreign substance thrust into the living organism of our patent laws; irritating and distorting all the surrounding organs, and likely to continue to rankle until removed by legislation. I say this without the slightest disrespect to our courts, and with no intention to indulge in criticism; knowing how much easier it is to criticise than to avoid all cause of criticism; but knowing, at the same time, how seductive and plausible is this theory of trusts; how impossible it is for courts, as well as legislators, to foresee all the consequences to flow from a principle which, at first view, seems logically correct, but which will often prove to be unjust in its application. And I know, too, how very difficult it is for a court, having by its decisions, once adopted a principle which turns out to be unsound, to get rid of it without the aid of legislation.

Mr. President, I propose now to take a cursory view of the decisions of the courts upon this subject of profits, touching only the "vestigia," the leading decisions, from which it will, I think, sufficiently appear that I am justified in what I have said.

The first we hear of allowing profits is in some early cases at law at the circuit. In Lowell *vs.* Lewis, 1 Mason, 184, which was an action on the case for infringement by making and selling patented machines in 1817, Judge Story seems to have assumed that the proper rule of damages was the amount of profits actually received by the defendant in consequence of his using the plaintiff's invention. This was merely a circuit decision. And for some time after this we continue to hear in the circuit of profits as either strictly a measure of damages or as one of the most important elements in the estimation of damages.

I have not the time here to trace out all its course. But this doctrine of making profits the measure of damages in an action at law, seems never to have found a solid lodgment in the Supreme Court, and was completely repudiated in Seymour *vs.* McCormick, 16 How., 480, except in the single case where the patentee found it his interest to

retain the entire monopoly of the patent himself. That court saw, what it is somewhat strange that any lawyer should have failed to see, that, in an action for damages to the plaintiff, the question is not what the *defendant* may have *made* by the tort, but the *amount* of *injury suffered* by the *plaintiff;* and that to reverse this was to reverse the theory and all the principles of any action for damages. The notion of allowing profits of the defendant for the plaintiff's damages must have been founded upon some vague notion of waiving a tort and suing for the proceeds, or upon the notion of a trust. This glimmering idea of a trust seems to have gradually and slowly developed itself, until it finally found a lodgment in the court.

I say here it was of slow growth, since, though the act of February, 1819, (volume 3, page 481,) gave to the circuit courts original jurisdiction in patent causes, as well in equity as at law, this idea of making a defendant a trustee for profits, and sustaining a bill upon that ground, does not seem to have become established in practice for many years after, and the action for infringement continued to be an action on the case at law for damages. And even after this theory of making the defendant a trustee for all the profits he had made had become firmly settled, it had very different proportions from those it has assumed since. Thus it was held in Livingston *et al. vs.* Woodworth *et al.*, 15 Howard, 546, that in a suit in equity for an injunction and account of profits of a patented machine the defendant is accountable *only* for what profits *he has actually made.*

Precisely the same principle was reiterated in the decision in Dean *vs.* Mason, 20 Howard, 198, where the point was prominently made, as the master had allowed what the defendant might, by proper diligence, have made, and his report in this particular was overruled. (See also Rubber Company *vs.* Goodyear, 9 Wallace, 788, to same effect.) I need not notice all the cases in the progress of the court on its passage from the rule of profits actually made to the rule in its present shape, which goes far beyond actual profits and includes gains as profits, though the defendant lost in using the invention. But in Mowry *vs.* Whitney, 14 Wallace, 620, the court say that in accounting for profits "the question to be determined is, what advantage the infringer derived from the use of the invention over what he had in using other processes open to the public, *and adequate* to *enable* him to obtain an equally *beneficial result.*"

(I confess that, to me, there is some obscurity in this; for if the other processes open to the public produce an *equally* beneficial result, I cannot discover what advantage or profit the defendant could derive from the use of the patent. But the court probably meant an equally beneficial result at a greater expense of material, as I judge from the case.) But the court proceeds to say, "the fruits of that advantage are his profits, and that advantage is the measure of his profits to be accounted for." Granting that profits ought to have been allowed at all in this case, the principle here laid down was correct enough as applied to the particular case. But unfortunately, as it seems to me, the court, assuming this to be a universal rule, applicable to all cases, has been carried far beyond its former decisions into allowing mere gains for profits, and that in cases where not even profits should have been allowed. I shall not stop to criticise this case.

But the case proceeds to announce a principle which is worthy of notice. The court say "the profits recoverable from an infringer are the measure of the patentee's damages, and though called profits, are really damages and unliquidated until a final decree is made," &c.

But, to show the progress of this theory of profits, from what are real profits, as at first established by the decisions, down to the present aspect of what are called profits, but are in fact losses or gains independent of all idea of profits, and in some cases acknowledged losses, I refer to the decision in the Cawood patent case, 4 Otto, 695, an equity case. The defendant had used the swedge blocks patented by plaintiff for repairing the crushed ends of their railroad rails.

In accounting, the defendants claimed that, notwithstanding the use of their blocks, it would have been cheaper for them to have cut off the ends of the rails than to have repaired them, and, therefore, that they had made no profits, but had lost by the operation. This argument is pronounced by the court plausible but not sound. "Assuming," say the court, "that experience has demonstrated what is claimed, the defendants undertook to repair the injured rails. They had the choice of repairing them on the common anvil or with the complainant's machine; but selecting the latter they saved a large part of what they must have expended in the use of the former, so that they had the advantage growing out of the invasion of complainant's patent." And they were held to account accordingly for all which it had cost them less than to repair upon the anvil. I am not now attacking the logic of the court, though it may be incidentally noticed that the reasoning assumes—and the conclusion seems to me to rest upon the assumption—that defendants would have repaired instead of cutting off the end of their rails though they had not thought of plaintiff's blocks, and that they would have done this upon the anvil at the greater cost, instead of cutting off the ends, which would have been cheaper, and this though they had not concluded to use the complainant's machine.

The last case which I shall notice upon this point is that of Nevs or Mevs *vs.* Conover, decided at October term, 1876, not reported in the regular series of Otto's reports, but to be found in the Official Gazette of the Patent Office, (January to June, 1877,) page 1111. This was a case in equity. The patented invention infringed by defendant was an improved machine for splitting kindling-wood, the principal feature of which was a device for the automatic feeding of the machine. The defendant used this in another machine called the Green machine. The evidence tended to show that with this device seventy-five cents per cord was saved over splitting it by hand. It was urged that the Green machine, in which defendant used plaintiff's invention, was old and defective, and that no profits were actually received from the use. But the court say "if the defendant was a loser by splitting wood with the Green machine, his loss was less to the extent of seventy-five cents on each cord than it would have been had he not used the patented invention;" and he was held accountable for this as profits, though he lost in splitting wood even *with* this invention and would have lost though he should have to pay nothing for its use.

I do not propose to stop here to criticise the rule of profits here laid down, though it is evident it is something else than profits which is here allowed. I only wish to suggest in passing, whether the conclusion of the court is not based upon the assumption, adopted as a conclusive presumption, that the defendant, had there been no such invention as that of the plaintiff's, would still have not only engaged in, but kept on, splitting wood by hand or by the Green machine alone until he had split the same amount as he did with its use, although he would have been losing seventy-five cents per cord more than he did lose with the aid of plaintiff's invention, and though he lost by splitting, even with the aid of that invention, without paying anything for its use.

Now, I must be allowed to doubt the validity of this assumption, as a presumption of law. It may be that those who engage in splitting kindling wood might do this; but if we are conclusively to assume it as a presumption of law, then the law ought to presume, at the same time, that wood-splitters are *non compos* and should be put under guardianship at once. It may be that the rule adopted may rest upon some other ground entirely sound in logic and in law. I suppose I ought to presume that it does. But when I see results from a course of legal reasoning which seem to me to operate harshly and unjustly in their application, I never can avoid the suspicion that there must be some fallacy either in the premises or the conclusion, or somewhere between the two. And the results in this case, I confess, do not seem to me to be exactly just. And it is quite manifest that what the complainant was allowed to recover in this case was not measured, or in the remotest degree affected by, any idea of just compensation for the injury he had suffered by the use of the machine. But this is equally true of all the cases where profits are allowed in equity for an infringement by mere use of a patented machine, except in the single class of cases where the patentee has chosen to retain the entire monopoly of his invention. And, in this connection, I will say that I heartily approve that provision in the second section of this bill prohibiting the recovery or account of mere savings, which are not profits, and confining the recovery to actual profits. I only wish the provision had been broader, prohibiting the allowance of profits in all cases except in the classes of cases I have already indicated, in which profits may be properly allowed.

I have said, Mr. President, that this rule of recovery of profits, in equity, for the same transaction, for the same identical injury for which damages would be recovered in a suit at law, and not profits except in very rare cases, is based upon the theory of a trust; that the infringer is treated as a trustee for all the profits he may have made by the infringement. I now proceed to consider this, and to show that the main ground of adopting the profits made by defendant as the measure of compensation and recovery in equity, instead of the damages the plaintiff is shown to have suffered, as in an action at law, not only rests upon the theory of a trust, but that this theory is adopted in equity, and not at law, mainly because in a case in equity the court, through a reference to a master and a report from him, has greater facilities in ascertaining and adjusting the profits than a court of law.

In Packet Company *vs.* Sickles, (19 Wallace, 611,) which was a case at law in which the right to profits was insisted upon, Mr. Justice Miller, giving the decision of the court denying that profits ought to be recovered in that case, proceeds to say:

> The rule in suits in equity of ascertaining by a reference to a master the profits which the defendant has made by the use of the plaintiff's invention, stands upon a different principle. It is that of converting the infringer into a trustee for the patentee, as regards the profits thus made; and the adjustment of these profits is subject to all the equitable considerations which are necessary to do complete justice between the parties, many of which would be inappropriate in a trial by jury. With these corrective powers in the hands of the chancellor, the rule of assuming profits as the ground-work for estimating the compensation due from the infringer to the patentee has produced results calculated to suggest distrust of its universal application even in courts of equity.

Mr. Justice Miller was well justified in this remark, and if he had said further that there have been very few cases where it has been applied in equity in which it has not worked injustice, I should have agreed with him in that also. If he had said also that the greater facility of ascertaining profits in equity is no sound reason for allowing them in cases where, as matter of principle and justice, they do not constitute a just measure of compensation when ascertained—a proposition which, judging from the cases, has hardly been fully appreciated—I should also have agreed in that.

But just here, Mr. President, I wish to call the attention of Senators to the fact that the real ground upon which the Supreme Court here base the rule of giving profits in equity and not at law, is the greater

facility of ascertaining them by reference to, and the report of, a master; and the power the court have over the report in giving effect to the real equities of the parties. And in connection with this, to say that the present bill, in providing for the appointment of an auditor to take proof and report, has removed all substantial grounds for this distinction in those cases where profits may be allowed, and has thus carried out and removed all objection to, the principle that the measure of the plaintiff's recovery shall be the same both at law and in equity, as it always should have been.

In short, it is evident that all the difference upon this subject as to the mode of recovery, which sometimes might result in a difference of the amount of recovery, depended upon the different modes of procedure upon the same cause of action in the two different forms. It is also evident that this section—2 of the present bill—while it has narrowed somewhat the rule now existing in equity for the recovery of damages under the form and name of profits, by cutting off what are not profits in fact, has, at the same time, enlarged the right to recover damages under the name of profits in a court of law, and extended it to cases to which, by the present course of decisions, it did not extend. And since, by the decisions of the court, the amount recovered, under whatever name, is really or is intended to be the damages, and the mode and form of procedure adopted by this section affords an adequate remedy, we are now in a condition to consider the question of power arising upon that provision of this section which applies the section to causes of action now existing and to actions now pending in which no verdict or decree has been rendered, as well as to cases hereafter arising.

As a question of power merely, I do not see any difference between causes of action already accrued upon which no suit has yet been brought, and those already in suit; as a question of policy there may be. The question of power, then, in the present case is simply this: Has the Legislature, has Congress the power where under the present law (under which rights of action have accrued) an election of two different remedies is given for the same injury or upon the same cause of action for what, in its nature, is a tort, either of which remedies or forms of action is reasonably adequate for securing compensation—has Congress the power to change the form of the remedy or mode of proceeding in existence when the cause of action accrued? And that, too, when the recovery in either form is for the same identical thing under different names, and when it is but matter of accident which form would result in giving the greater amount in particular cases? This is the question of power and all there is of it.

There is no contract between the parties in the case, nor any question of impairing the obligation of a contract, as in the case of Bronson *vs.* Kinzie and the other cases following in that line. The right to sustain any action for this particular injury does not exist by the common law; the right to any remedy depends wholly upon the statute which the Legislature has seen fit to enact. Now, if there is anything settled in this country by judicial decisions, it is that no man has a vested right in any mere form of remedy or form of proceeding for enforcing even a vested cause of action. The principle upon this point is briefly but clearly stated by Judge Cooley, in his work on Constitutional Limitations, fourth edition, pages 448, 449:

> As a general rule, every State has complete control over the remedies which it offers to suitors in its courts. It may abolish one class of courts and create another. It may give a new and additional remedy for a right or equity in existence. And it may abolish old remedies and substitute new, or even without substituting any, if a reasonable remedy still remains.

Such, I may add, is the result of the authorities upon this point, and these are as applicable to the legislative powers of Congress as to those of State Legislatures.

Let us test this question by a few familiar instances. Many, if not most, of the States still have the old common-law forms of actions; some of them more or less modified by statute; and in many cases the plaintiff would have an election to bring either trover or assumpsit, and by bringing trover he might prevent a set-off. Does any one doubt that, as to existing causes of action, the Legislature would have the right to abolish the action of trespass, and make trover applicable to all the cases now covered by both? or the power to do the very reverse? or even to abolish both trespass and trover, and to provide that assumpsit should be brought in all such cases, as well as in the cases to which it is now applicable? But I will go further. In all the States there is, I think, an action of replevin, or other equivalent proceeding *in rem*, for the recovery of the specific property of the plaintiff. Would it not be entirely competent to provide that, in an action of that kind, damages only should be recovered, as in trespass or trover, by which the plaintiff would recover only such damages as a jury, under the charge of the court, might give? I am inclined to think even such an act would be valid.

For myself, Mr. President, I am inclined to believe there is no want of power in Congress to make the provisions of this section applicable to causes of action accrued; and even those in suit where no verdict or decree has yet been rendered.

But I have not yet done with this theory of trusts, and the practice of allowing the recovery of profits, on that theory, in courts of equity. I propose now to give some further reasons why I think it wrong in principle, and unjust in its application to the mere users of patented articles, who have acted with that degree of prudence exercised by the average of our people, and in good faith. When it applies only to the willful and deliberate infringer, who makes and sells the patented article or its product for profit, in defiance of the patentee's rights, I shall not complain of its operation. In such a case the benefit of every doubt should be given to the patentee, and against the willful violator of his rights. And I am ready to admit that any man should, before entering upon the manufacture of the patented article for general sale and use, whether he has a patent or is manufacturing without one, be bound to make inquiry whether the article has been patented; and to take notice of the patentee's rights, as far as they may be ascertained at the Patent Office.

But, as to the great masses of the people who purchase a machine or article from a general manufacturer, without actual notice that the manufacturer is infringing a patent, and under circumstances not calculated to excite any suspicion of such a wrong—as in the case of a farmer purchasing a mowing or threshing machine, or a miller a water-wheel or a steam-engine, or a planter the compound of Paris green with flour or some other substance, and in each case only for his own use—as applied to all such and many other cases, the idea of making this accidental infringer a trustee and holding him accountable for all the gains and profits he may be shown by professional experts to have made by the use, however just it may seem to the judge on the bench, or however tempting from its facility of application, or however beautiful it may be in theory, is in *practice* and in its *practical operation upon the people* ruinously unjust.

The theory in the abstract and on paper may seem beautifully consistent and self-evident, as it doubtless would have been, if the average man, together with all his environments and all the circumstances of his daily life, had been got up on the same theory. But unfortunately, the great masses of mankind, with many of the circumstances existing around them, were got up upon quite a different plan, and with a sublime indifference to the theory: probably because the laws which control human affairs and conduct, and which are so infinitely various and infinitely modified in their actions, counteractions, and interactions, were established some time before the invention of the theory and without the aid of its guidance. This may be unfortunate for everything but the theory: for the result of those natural laws established so long before, has been that human conduct and human actions have never conformed to mathematical rules, straight lines, or true curves, nor the great mass of human affairs to any set formula or single model, but are as infinitely various as the circumstances under which they occur. And the consequence has been that the attempt to apply any single and inflexible theory to such masses of various and discordant circumstances, however attractive the theory may seem, results in a vast amount of injustice.

The theory may be all right in the abstract, but it is destructive in its operation. My idea may perhaps be illustrated by the anecdote of Sir Astley Cooper, the greatest of English surgeons, who had succeeded in performing, in a considerable number of cases, a surgical operation which, until his time had been deemed impossible without destroying life; and he had saved many of his patients. The surgeon of the French king, hearing of these, had also undertaken and performed several operations for the same purpose, but in a different way. Sir Astley, being in Paris for a few days, paid a friendly visit to this most eminent of French surgeons; and the conversation turning upon those particular operations, Sir Astley explained his mode of operation, which the Frenchman insisted did not conform to the rules of the science, and explaining his own mode, demonstrated that it was much more scientific. Sir Astley, without denying this, asked the Frenchman what proportion of his patients survived. "Oh," replied the Frenchman, "the patients all died; but the operation was beautifully scientific."

And so it is with this theory of trusteeship and of gains and profits when applied to any user of a patented machine or article who has acted in good faith and with the average prudence of men in his sphere of life. The theory may be very scientific, but the patients who are subjected to the operation nearly all die, financially at least.

And this must naturally be so for several reasons, some few only of which I shall have time to enumerate—reasons which, as affecting the actions of honest men of average prudence, the theory fails to take into account.

The theory as applied to all infringers alike, whether the manufacturer, the vendor, or the mere user of the thing patented, assumes that every man has notice or is bound to take notice of the existence of every patent issued from the Patent Office; and this is founded upon the fact that the issuing of the patent is a public act, of which all are bound to take notice.

A few practical instances occurring every day will show the gross injustice of holding all men equally bound to notice the existence of every patent, or rather making those who in fact have no such notice liable to the same amount of recovery, even of gains and profits, as those who in fact have such notice and purposely infringe the patent for the purpose of gain. The notice perhaps must be presumed far enough to hold all liable to some damage for an infringement; but in estimating the amount to be recovered, a difference should be recognized between those acting honestly and those acting dishonestly. This difference is quite generally recognized in courts of law in other than patent cases, and even in patent cases at law, (see Bryce *vs.* Dorr, 3 McLean, 582,) and even to some extent in a court of equity. Why it should not be carried far enough to relieve such parties acting in good faith from accounting for profits I do not see, or why compensation should not, in such cases, be enough.

A farmer, finding his grass or his wheat nearly ready to be cut, seeks to purchase a mower or reaper. He knows they are manufactured, and perhaps have been for some years, by certain parties, and generally sold. He has seen them in use. Agents have them for sale, in quantities, in the nearest town. He has every reason to believe that the manufacturer has the right to make and sell them, and has heard of no question of that right. Perhaps he sees upon the machine a stamp that it was patented at a certain time. He takes it for granted that all is right and makes the purchase. Practically he is compelled to take this for granted: for if he should stop to make a thorough inquiry into all the facts, as he knows nothing of the patent laws and has neither the knowledge nor the leisure necessary to make the investigation, if it is to be made at all, he must employ a patent lawyer or an expert to look into the case. The records of the Patent Office are to be examined, and often even then, when questions arise of interference with some other patent, it may take months in the Patent Office itself to settle the question; and often it could only be settled at the end of a lawsuit. And if all took this thorough course of inquiry before purchasing a machine the force in the Patent Office would have to be doubled to answer the inquiries.

If, therefore, the farmer must stop to make all these inquiries before he purchases, his crop would rot upon the ground, and perhaps two or three other crops before he can make the purchase. He must resort to the old method of the scythe or the sickle, and forego the use of the coveted machine; and as all other farmers must do the same a less number of the machines, under such a state of things, would be sold or used. Now practically it must be seen and felt that it is impossible, for the mass of farmers to make use of any greater vigilance or inquiry than in the case I have put. Not only the average farmer, but the great mass of the industrial classes, when they purchase any machine or implement for their own use act, and *must* act, in the same way. And while it may be necessary to hold each, in case of an infringement, to the payment of a reasonable license fee, it would be grossly and cruelly unjust to hold them liable for all the savings and profits which, by the testimony of experts, it might be shown that they have made.

No, Mr. President, the average degree of vigilance, that measure of diligence which the average of the industrial classes find practicable in the ordinary affairs of life, ought, at least, to shield them from any recovery in such cases beyond a reasonable license fee for the machines which they have honestly purchased for their own use. The case of the farmer is but a single instance; not, by any means, so strong as many others which might be put. The case of a miller in want of a water-wheel or steam-engine is still stronger, where the purchaser's main business depends upon the machinery, and where it often turns out that the wheel or engine, though it appears to be patented, and the purchaser supposes the maker to have a patent for the entire wheel, that the wheel or engine includes several other patents of different parts, some of less and perhaps some of more importance than that owned by the maker; and even his patent, whatever it is, may be found to be void, and an infringement upon some other and valid patent.

Take the case of a stave-machine. Some man perhaps, having a few hundred dollars capital, but mainly dependent upon his industry, has seen one and perhaps many of these machines, and thinks well of them; concludes to put all his means into the business of making staves; and perhaps, as most of our enterprising men do, incurs a considerable debt beyond his present means, relying upon the profits of the business and his own industry to carry him through. He purchases one of these machines, using the average degree of diligence I have already described, honestly believing that the manufacturer had the right to sell it to him. He goes into the business, is prosperous, makes considerable profits, extends the business, purchases more timber and perhaps timbered land in connection with it, builds houses and other buildings, and apportions his expenses and style of living to his apparent prosperity and rate of profits. He incurs debts in reliance upon a continuance of like profits for the future; and, as most enterprising business men do, he increases and extends the amount of his business by the large credits he obtains, and all this *in reliance* upon the *continuation* of such gains and *profits*, without a suspicion that all of these gains and profits belong to another.

But after some five, six, eight, or ten years, the holder of some patent, of which he has never before heard, and who has lain quiet while these gains and profits were being made without any effort of his, and who was therefore not interested to be in haste, now comes forward, shows his patent, and demands all the gains and profits he has thus made. Thus called upon, he inquires into the case, employs counsel, and at last finds the manufacturer of whom he purchased, if he pretended to have a patent or if any was supposed to exist, had one which he in good faith thought to be good; yet that it does not in fact cover the machine in question, while this patent newly brought to light does cover it. He must either settle with the new-comer upon his own terms, or he must litigate. But in either event all his gains, profits, and all he has made in the business beyond what he could have made without the machine, which constitutes all his property, perhaps, is at once swept away like chaff before the wind. He is left as poor as when he began, and worse. He finds himself in hopeless bankruptcy, and perhaps his creditors go down with him. And yet he has been all this time an honest, industrious, and useful citizen. He at least, Mr. President, would realize the cruelty of this injustice perpetrated under the name and guise of law, and, though by a court of equity, he would see and feel that it was but iniquity and oppression, pure and simple.

Mr. MORGAN. Mr. President, the policy of our law has tended so strongly in the direction of giving to patentees exceptional and dangerous powers that some serious abuses have arisen which should be corrected if we would do equal justice to all classes, and if we would preserve our patent system against a strong and growing purpose to repeal it. To understand the true meaning of our Constitution on the subject of patents we must examine the state of the law in this country at the time it was adopted. In this examination we find that to Congress is given the power to create a system of monopolies where none would otherwise exist by law. By the Constitution it is provided that when the system should be created it should be so framed as to promote the progress of science and useful arts, that such monopolies should only be created for a limited time, and that this should be done by securing to inventors the exclusive right to their respective discoveries. The power to give this security to inventors carries with it the right to judge of the nature of the security to be provided, so as to give to the inventor the full benefit and advantage of his right to his discovery, to the exclusion of all others who may attempt to share in or usurp the same right.

With reference to the welfare of the people, as it is connected with the progress of science and useful arts, it would be unwise and unjust to provide that no man shall under any circumstances use an inventor's discovery who has not his actual permission to do so. The variety of patents existing and to exist is so great (each one being granted because it promotes, moves forward, the progress of science and the useful arts) that a rule of law which would punish the use of a patented invention without a license from the patentee as a crime, or as being necessarily or by legal intendment a wrong to be redressed with penalties, would impede the public policy announced in this constitutional provision rather than carry it into effect. The opposite view of this subject is more rational, and is in accordance with the purpose of this wise constitutional provision, namely, that all patented inventions are designed for general use and the public advantage, and those only should be treated as trespassers and held liable to penalties or the imposition of heavy amercements, at the election of the patentee, who usurp the right of the patentee to his discovery; and those who use it in the way it was intended to be used, without making the thing patented for sale, or selling it, or any product thereof, should be required to make just compensation to the patentee for the value of such use of his discovery.

Our statute laws should be framed with reference to the proper distinction between those classes of infringements which usurp the right of the patentee and those that do not question his right or attempt to deprive him of it, but only use his discovery in the manner it was designed to be used, without any intention to speculate upon its use.

The right to a patent or copyright is entirely exceptional in our Constitution. No other such grant of an exclusive privilege is to be found in that instrument. It was put there rather for the public good than for the emolument of inventors, and in construing this right the rules should be liberal toward the public as to the use of the invention, while they should be strict in favor of the inventor with reference to the protection of his right to his discovery. The common law of England as modified by the statutes of the British Parliament was recognized as being in force in the colonies except so far as it conflicted with valid local statutes or with the new institutions of government that had their origin in our Revolution and consequent independence.

In England, during the reign of Queen Elizabeth, the monopolies in many branches of trade which had grown up under licenses from the Crown and by prescription had become so general and were so much complained of that the Parliament, in the twenty-first of James I, declared such monopolies to be contrary to law and void, except as to patents not exceeding fourteen years to the authors of new inventions, and except also patents concerning printing, saltpeter, gunpowder, great ordnance, and shot.

The English patent system was therefore a system of monopolies of ancient origin, and was protected by statute only to the extent of saving new inventions, when nearly all other monopolies were swept away. It was in an important sense a common-law right, but not such an one as survived the authority of the British Crown in this country. Monopolies were not in harmony with the equality of right which was a characteristic of our new republican form of government, and it was considered to be essential in order to create such a right to confer upon Congress the power to provide by law for the protection of the exclusive right to discoveries of a certain character, as had been done in Great Britain by letters-patent from the Crown.

The statute of James I was of no effect here, because we had no crowned head whose prerogative it was to grant such licenses, and there was nothing for the British statutes to protect. Our patent system, therefore, originated with the Constitution, and has its whole existence in that instrument and in the laws enacted in pursuance thereof.

Congress has the power to modify the system at any time for the purpose of better securing the inventor in the exclusive use of his discovery, and the country also against a burdensome and extortionate use of the license. And it is proper here to say that this right, however sacred it may be in its character as property, is still a right

that has its origin in the license of the Government given according to law, and it never becomes so great a right as to be free from the incidents which attend all powers and privileges that depend for their origin and for their continuous support upon the license or permission of the Government.

The patentee does not become a party to a contract with the Government when a patent issues to him, yet he has as full right to protection as if he were a party to a contract; but the protection he can lawfully claim is such as consists with the nature of his discovery, the wants of society, and the public policy of the Government. If, for instance, his discovery furnishes a remedy for a pestilential disease, he could not claim the right to prohibit the sick from using it. If it provided a cheap and useful article of food in a time of dearth or famine, he could not stay the people from its enjoyment. If it provided the Government a means of destroying hostile fleets ravaging our coasts, he could not prevent the Government from using it. In these and many such cases that may be reasonably conjectured the Government, if it had been granting to the patentee an exclusive right by contract, would have made its separate contract with each inventor, and would have reserved such privileges as those to which I have adverted for the benefit of the people.

In the construction of all privileges and licenses granted by Congress, and especially with reference to exclusive privileges, it must be held that they are, in some sense, subordinate to the public good and public welfare and to the policy of the Government unless the nature of the grant otherwise clearly indicates, or the terms of the grant are otherwise clearly expressed.

In providing by law for carrying into effect this power of Congress to grant an exclusive privilege to a patentee—which power is not self-executing—Congress does not yield its control over the subject and leave the people bound in powerless subserviency to the caprice or cupidity of an inventor. The extent of the grant, so far as it affects the power of future legislation, is that good faith must be observed by the Government in securing to the inventor the exclusive right to his discovery, which includes all the benefits and advantages that justly flow from the discovery and its introduction into use; not such as might result from the concealment of it, or in the sole use of its advantages to himself or to a select few, unless such use was essential to its value, but from its use by all who may be benefited by it, freely and openly and at large, upon paying for it a just compensation. Could the unknown discoverer of nitrous ether, to whose fame the people of Boston have erected a monument almost as significant of a feeling of worship as that erected by the Greeks to the unknown god, have been permitted to confine the ministrations of that merciful agent to only a few of the many who would have died for the want of it during the life of a patent? He could never have gotten an injunction from a court of equity to prevent any sufferer from using his discovery. And yet if he, through whose intellect this blessing was received, could not have obtained such an injunction, when by the terms of the statute he is entitled to that writ to protect his exclusive right, on what ground would it have been denied him? Plainly because it would have been an obstruction to "the progress of science and the useful arts," instead of the promotion of them, to have allowed him to monopolize in this odious and inhumane way the entire advantages of his discovery.

The progress of science and the useful arts in their ameliorating and enriching effects among the people, in disseminating knowledge, in saving labor, in cheapening the necessities of life, in bringing every luxury and enjoyment worthy to be called such within reach of the great masses of mankind, is the great purpose intended to be secured by this constitutional provision, and the correlative exclusive right of the inventor to the discovery must be enjoyed by him, not in its secret and separate use, but in the way of just compensation to be paid him exclusively by all who may use his discovery.

An application for a patent accompanied with full specifications of the discovery or invention and a working model to teach others how to make the same thing or to apply the same principle is a dedication of that discovery or invention to public use and certainly to the benefit of mankind, subject to a condition that it shall remain his exclusive property for a limited time; and it has always seemed to me that it is a more reasonable interpretation of the Constitution thus to consider this provision than it is to place the exclusive right of the patentee upon the ground of giving him a right to the exclusive use of his discovery, with the power to prohibit its use by all other persons. But it is altogether indisputable that he must have just compensation for the use of his invention from those who use it and just and ample protection against those who would prevent him from the full and reasonable enjoyment of its benefits. I think a plain distinction exists between the exclusive right of an inventor to his discovery and the exclusive right to the use or enjoyment of his discovery after he has made it public. The right to the discovery includes the right of compensation for its use, which is implied in the word "exclusive," and it is not otherwise indicated in the text of the Constitution, but the right to the use of the discovery by the people when such compensation is given is clearly conferred in the express purpose and object of the provision "to promote the progress of science and useful arts."

To determine whether the words "exclusive right" in the text of the Constitution refer to the right of compensation for the use of the patent by the public, or to the exclusive use of it by the inventor so as to shut out the public, let us refer to some other parts of the Constitution. Those who argue for the latter proposition assume broadly that a patent granted by law under this section of the Constitution is property. This is certainly the strongest ground on which the exclusive nature of the right can be placed, since all property is protected by law as being in the separate and exclusive ownership of the person entitled to it. But, as property, it is subject to condemnation, and the owner is subject to be deprived of it for public use, if just compensation is made for it under the fifth amendment of the Constitution. In such cases the exclusive use of the owner is interrupted and supplemented by the necessary public use; but the right of property remains subject to that use, and survives the use, if it is not perpetual. In such cases, if Congress should deprive a patentee of the "exclusive" use of a remedy for yellow fever, and should make him just compensation for that use, would it be held that it had violated section 8 of article 1 of the Constitution? It seems to my mind very clear that such an act of Congress would be constitutional, because it would leave to the inventor the exclusive right to his discovery, which right would be realized in its only essential value—the exclusive right to compensation for its use.

If we treat a patent right as personal property, intangible, but distinct and actual, and give to it every quality that belongs to other personal property, yet it is not necessary to the full enjoyment of its value that the right to the exclusive use of it should remain with the patentee. On the contrary, it may be justly said that no man is an inventor within the meaning of the Constitution who invents solely for his own use. Such an inventor is not included in the provisions of the eighth section of article 1 of the Constitution, for he would not need its protection, and he would contribute nothing by his invention to the progress of science and useful arts. The value of all such inventions depends on the fact that the use is not exclusive, while the right to compensation for the use is exclusive. Scarcely a case has existed where the invention has not been patented with direct reference to its general public use. In all our statutes relating to patent rights, and in the results of the rulings of our Supreme Court, as I understand them, these propositions are sustained. There are opinions and *dicta* that seem to refute them, but in fact do not.

In granting injunctions against the use of a patented invention by an infringer or pirate, the courts do not act solely upon the idea that the unlicensed use of the thing patented is a sufficient ground for injunction, but they inquire whether the unauthorized use of it will inflict damage upon the patentee for which he can have no other adequate remedy. The decree of the court upon a bill for injunction has specific reference in almost every case to the question of the inability of the plaintiff otherwise to secure adequate compensation. The injunction is granted to prevent irreparable injury and not to gratify a capricious preference of the patentee that no one but himself should have the use or enjoyment of his discovery. No court would enjoin a man from saving his cotton crop by the use of a patented admixture of Paris green and flour because the patentee would say that he preferred to allow all the cotton in a region infested with cotton-worms to be destroyed except that growing in his own fields or in those of his customers, so that he might get a better price for it. The court would give him compensation if the patent held good, and would give him damages, and treble damages if he deserved it, as compensation, but would not stop the progress of science and useful arts in saving a cotton crop to the country to vindicate merely the right of a patentee to the exclusive enjoyment of the benefits of his discovery in a narrow and selfish way.

I have attempted, perhaps at the expense of too great a tax on the patience of the Senate, to present this view of the nature and quality of the inventor's exclusive right to his discovery, for the reason that I believe that much of the difficulty that has grown up in our statutory patent system and in the construction of its provisions has had its origin in a neglect of the distinctions I have been endeavoring to present and to establish.

I hold that just compensation to the patentee is the true legal and constitutional equivalent of any injury that an inventor can sustain at the hands of an infringer. Where the circumstances are such that the injury or danger of injury cannot be adequately compensated by the infringer, then the preventive powers of the court, to be exerted through writs of injunction, are the appropriate remedies; and when these are not necessary to be exerted, then the words "adequate compensation to the patentee" cover and include every right that the Constitution was intended to give him to protect his exclusive right to his discovery as against any infringer.

If the courts go further than this and impose punitive damages upon the infringer, it is done and should be done to repress wanton, vexatious, and illegal conduct on the part of the infringer, rather than as a measure of justice to the inventor.

Damages, penalties, profits, savings, costs, and every other classification of the measure of redress and of the rules of admeasurement that may be adopted to make out the redress to the patentee, whether at law or in equity, are all resolvable at last into this one idea which is fully expressed in the phrase I have just stated—adequate compensation to the patentee. I do not see how he can justly claim more than this, and I am sure that the law cannot give him more without adding to his monopoly a sort of sanctity in its quality of property or privilege that belongs to no other description of property. To go further is to place this right on a footing with the rights of charac-

ter, of personal liberty and security, that are protected by rules of damages in the law which give compensation for injured reputation, suffering nature, wounded honor, and lacerated feelings. Patent rights are not rights that rank with these in dignity as they are estimated in the common law, and yet the statutes now seem to give to them the advantage. Every right of a patentee as against an infringer that is carried into a money judgment, whether at law or in equity, is a right to damages as compensation for a tort.

Our earliest enactments on this subject gave to the patentee an action on the case, in a court of law, to recover actual damages, and also exemplary damages not to exceed three times the amount of the actual damages found by the jury in favor of the plaintiff.

Up to 1840 the remedy in equity was limited to injunctions to prevent the violation of the rights of any inventor. The courts of equity, however, finding themselves in possession of this statutory jurisdiction, extended it, in virtue of their supposed inherent power to do full and complete justice between the parties, to all matters of account in cases where a trust was alleged by the complainant upon the idea of his right to waive the tort and to treat the infringer as a trustee. Afterward, in 1840, Congress in effect confirmed this jurisdiction and greatly enlarged it by enacting that—

> Upon a decree being rendered in any such case for an infringement the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the plaintiff has sustained thereby; and the court shall assess the same, or cause the same to be assessed under its direction. And the court shall have the same power to increase the damages, in its discretion, as is given to increase the damages found by verdict in actions in the nature of actions of trespass upon the case.

Thus in virtue of the enlargement by courts of equity of the jurisdiction given them by statute to grant injunctions in patent cases, so as to make it cover the whole field of their ordinary powers to administer trusts and to hold trustees to account; and in virtue of the statute to which I have just referred, the Federal courts of equity have encompassed the whole subject of remedial authority over infringers of patents. It is still true, however, that all the powers that courts of equity can exert in such cases are derived from the statutes, and it is within the power of Congress to change or modify their powers, and also their practice in reference to such cases. This graft, which was incorporated into the powers of the courts of equity by giving them permission to issue writs of injunction in patent causes, has not yet outgrown the powers of Congress to control the courts, though it promises soon to do this. The right of the plaintiff in an infringement suit, whether at law or in equity, although it has assumed the importance of a trust through the indulgence of the equity courts, is still only a right to recover damages as for a tort. It is still true that the right of the patentee to recover such damages is a right that springs from the acts of Congress; that it is not a contract right, and that it may be modified by the further legislation of Congress so that the use of an invention shall be made to promote the progress of science and the useful arts, and shall conform to a just public policy.

The introduction into our statutes of the right of a patentee to recover profits from an infringer and to recover damages in addition to profits is certainly a new departure in legal science, and obliterates all the rules and lines of demarkation that formerly separated the powers and jurisdiction of the law courts from those of the equity courts. From this effort to place the rights of patentees upon higher grounds than any other class of property-holders has been permitted to occupy, by giving them the contradictory right to claim damages and profits as the fruit of the same tort, confusion and litigation and serious injustice has resulted.

I give to the courts full credit for their efforts to disenthrall themselves from this difficult situation to which Congress has largely contributed, but I am satisfied that they will never be able to do it until we have so modified our statutes as to make the way somewhat smoother. The courts are required by the statutes to give a patentee the profits which shall accrue from an infringement, and also the damages sustained by the patentee in consequence of an infringement, and they have discretionary power to increase the damages threefold the amount of the injury that the patentee has sustained.

These three measures of damages, for they are nothing else, in their cumulative burden, in addition to costs, are imposed upon a person who commits a tort with reference to this species of property, and all this is simply the outgrowth of these statutes too favorably construed for the protection of patentees, and too strictly construed against the public. If the right to this patented monopoly had existed as a right of property merely at common law, we would search in vain through the precedents to find any such measures of compensation for any tort relating to it. But it is a monopoly granted by statute law, or rather by positive law in the United States, and those remarkable incidents are given to it only by statutes.

These strenuous provisions of the statutes doubtless had their origin in the effort to supply, through civil remedies, the absence of authority to punish criminally the infringements of patents. This has been a serious difficulty and it deserves to be carefully provided for, but I think there can be no doubt that Congress has gone too far in this direction. It has given the patentee in the increase of damages the remedy which belongs more properly to the people, as a measure of redress for an abuse of the law.

The patent laws were intended to be as beneficial to the country as to the patentee, and penalties, whether enforced through criminal or civil proceedings, should be imposed with reference to the general usefulness of this system and the public necessity for its protection. It is, however, in the fact that unintentional infringers are made subject to the heavy amercements of our present system that one dangerous evil is to be found. I need not enlarge upon this topic; it has been fully discussed in the course of this debate. One who infringes a patent without intending to do so should not be exposed to an account for profits or savings, or any punitive or exemplary damages that exceed the full measure of the right of the patentee to just compensation for the use of his discovery. Yet it rests in the mere discretion of the judge whether he will not decree against such innocent person profits and savings and damages, and then add to these threefold the actual damages and the costs, in order to get before the country a shining example of the power of the law to destroy one man for the better security of the rights which it has conferred upon another.

It is not surprising that such rules of law which have no recognition in the principles of natural justice, but are only prescribed by the arbitrary power of the statutes, should have encountered a stern and vigorous opposition.

If such laws are longer maintained they will seriously endanger the whole patent system of the country. In some cases, as in the railroad cases that are becoming so celebrated, and in the cases of the saving of cotton crops by the use of Paris green in combination with various glutinous substances, those who infringe the patents sometimes do it knowingly and openly, but without evil intent. They do it to save life and property, and in executing these purposes they should not be regarded as doing a moral wrong or as committing a malicious trespass upon the patentee. They are compelled, often, to use the patent to save themselves from great censure, and even from criminal responsibility. But the harsh statutory rule of profits, savings, damages, and threefold damages and costs is imposed upon them through the positive mandate of Congress, and the courts must obey, having no discretion except as to the exemplary damages.

In other cases patented inventions and processes are pirated and the patentee is wantonly deprived of the benefits of his invention. We have no criminal code to punish this great wrong, but in order to meet it we have provided our present system—a system intended to be applicable really to those classes of cases which are characterized by extreme wrong on the part of the infringers, but in practice it is sometimes applied to an extent that is cruel injustice to other classes of cases where there is no such evil purpose on the part of the infringer.

The second section of this bill is designed to take in all these cases and others that I have not named, and rising from the class where the infringer is innocent of any evil intent, through every intervening grade, to the highest degree of wrongful intention and unjust conduct on the part of the infringer, it endeavors to furnish a just rule by which the compensation of the patentee shall be admeasured according to his just deserts and the wrongful conduct of the infringer shall be punished according to its degree.

The committee may not have succeeded in this effort, even to their own entire satisfaction, but I feel assured that they have made essential progress in the right direction. The committee had the advantage of the ability and researches of the bar to an extent that is extraordinary. They have been assisted by many able and experienced counselors, representing every class of society interested in the administration of the patent laws, who appeared before them and entered into full discussion of every thought and every word in this entire bill. This bill has been under examination by conventions of men learned in the patent laws and by inventors of great reputation, and it has been so nearly agreed upon by them that it seems to have received, with more or less reluctance, the substantial concurrence of all these numerous and highly respectable persons.

I have sometimes thought that the language of the section could be improved so as to make it more clear and simple, or at least more in harmony with the methods of expression common to lawyers and judges in defining rights and providing remedies in analogous matters, but in this I have found I was perhaps mistaken. Patent law has its own terminology, settled by long practice, and it is much the safest to use such language in statutes as has a fixed legal signification. This section is thus carefully framed, and I doubt if any other words would more accurately express the precise modification the committee designed to make in the existing statutes. This section is framed upon the principle of awarding to the patentee just compensation for the use of his discovery, and it furnishes rules by which that compensation may be admeasured. Congress has always provided rules for this purpose, but the trouble has been that these rules were not framed with a proper regard to the rights of all concerned. Hitherto Congress has acted on the assumption that its chief duty was to protect the patentee, and that a patentee could do no wrong to individuals or to communities in the manner of his dealing with his monopoly.

The rules here presented have respect to all the rights of all persons interested in patented inventions. By these rules the patentee is held bound (1) to accept as an admission that is conclusive upon him the price he has set upon his discovery in his dealings, in a reasonable number of cases, as being a fair price for the use of the same. (2.) If no such price has been established by the dealings of the patentee, all the evidence in the case shall be considered by the court or

jury in determining what is a fair price for the use actually made of the invention by the defendant. On the other hand, (3,) if the infringer has made an actual profit in making for sale or selling the thing patented or the product thereof, he is liable to account, either in a law court or in a court of equity, for the proportion of the actual profit for such making for sale, or selling, as is due to such infringement.

(4.) If such proportion of actual profits so made is not equal to the amount of a license fee established by the patentee or a just compensation for the use of his invention, to be determined from all the evidence in the case, he is entitled to at least the value of such license fee, or, in other words, to just compensation for the use of his invention by the infringer.

(5.) Accounts of savings are excluded, and the courts in ascertaining profits are confined to the inquiry as to actual profits resulting from making for sale or selling the thing patented or the product thereof.

(6.) Any evidence as to the advantage and utility of the invention is admissible as an element to aid in determining the value of a license fee where none has been established by the dealings of the patentee.

(7.) The court may protect either party against vexatious or malicious litigation or willful infringements by awarding against the other party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable. I will offer an amendment as a substitute for the amendment adopted in Committee of the Whole before this bill was reconsidered in committee, which, I think, will make that part included in lines 30 to 35 of the print before me more certain, and will remove what I consider a verbal inaccuracy. From this analysis of the second section of the bill, which adds nothing to its clearness, but is better suited to my own method of its interpretation as to its more important provisions, I understand that it gives to the patentee in all cases a fair compensation for the use of his invention by any person who uses the same for his own legitimate purposes or convenience. If it is used to make profits by the manufacture or the sale of the thing patented, or any product thereof, the patentee is entitled to an account of the actual profit so made.

In these two aspects this bill seems to cover the entire ground of legal and equitable right justly to be considered as being included in a license for a patented monopoly, and protects fully every element of property embraced in the exclusive right to a discovery. It permits the use of the patented invention by any person not using it for speculative purposes upon making to the owner just compensation for the use; and it gives to the patentee, at his option, all the profits made by an infringer who uses the discovery for speculative purposes. It also gives him a just measure of compensation for the expenses of any litigation he may incur against a willful infringer, whether he is only using the invention for his own purposes or is speculating upon it. It prevents the patentee from lying in wait to entrap infringers who are not willfully such, and to intimidate them with lawsuits into compliance with unjust exactions upon them. It prevents to a great extent the extraordinary and enormous expenses that have been rendered necessary in cases of accounting for savings and profits, and it saves defendants from much of that prying espionage into all the private history of their business which is so odious and so dangerous to commercial prosperity.

I am impressed with the belief that the provisions of the second section of the bill go as far as possible toward affording a just protection to the classes of unintentional infringers who are sought to be protected by the proposed amendments offered by the Senator from Minnesota, [Mr. WINDOM.] My sympathies are fully with him in his efforts to save innocent people from vexatious suits and from blackmailing on the part of those persons who seek to use the powers of our present harsh system for illicit gain. This bill puts a stop to vexatious litigation in patent causes, and in that way, as well as by confining a patentee to the compensation justly due him from one who does not speculate in the patent, but uses it for his own legitimate purposes, it seems to meet fully the evil provided against in the amendment of the honorable Senator.

The amendment proposed by the Senator from Illinois [Mr. DAVIS] to the second section of the bill seems to leave everything to the discretion of the courts that pertains to the measure of the plaintiff's damages. I would not leave everything to the courts, even where they are presided over by such able and just men as the Senator from Illinois. And surely if we would deny absolute judicial power or discretion to him, we would not be justified in conferring it upon the entire body of the judiciary. Congress has not heretofore given such power to the courts, and it now seems to be necessary, to preserve our great and most useful patent system from overthrow, that we should enter upon definitions of the rights of patentees, and prescribe rules for their administration by which the judges must be bound. It was the courts, and not Congress, that invented the system of compensation for infringements of patents, upon the idea of administering trusts in courts of equity.

These courts have an ancient and well-earned reputation for enlarging their jurisdiction, and that disposition has caused them to supply by rules and orders certain features of patent law that Congress never saw fit to enact, such as an account of savings where there were no profits. Much of our present difficulty comes from this cause.

It is true that the courts are now trying to get back to safe ground, and I would aid them as far as possible by this bill. I would rate every compensation to a patentee for an infringement as damages due him as a recompense for a wrong, if I could frame a law according to my own views. This bill goes further, and gives him an account in certain cases, and this is the extreme limit to which I would go in that direction, because there is not, in fact, any relation of a fiduciary nature between a patentee and an infringer. It is forced upon him by the election of the patentee, and the laws should not permit him to be put in such relations except in those cases that are clearly defined in the statutes.

The statutes have not defined the sort of trustee an infringer is to make of himself by his tortious act. The courts sometimes treat him as a trustee *ex maleficio*, and at others as a trustee *in invitum*, or without an intent of evil-doing. In the first case they hold him liable as a trustee for all savings and for all profits made and for all profits he could have made with reasonable diligence and prudence and skill in the use of the patented invention. In the latter case they excuse him with an account of actual profits realized by him in the use of the invention.

Until the act of 1840 gave to the patentee a right to profits I do not believe there was any such right in any infringement suit. But that right now exists by statute, and to make that statute conform to justice and equity in its application to cases of infringement, I think it is wise that we should confine the profits to such as are mentioned in the second section of this bill. It seems to me that this is much safer than it is to allow this ill-defined statutory right to stand as provoking cause of interminable litigation. And I respectfully submit that any provision of law that guides the courts in administering this peculiar and very important right, and that gives to all concerned full information of the penalties incurred by an infringement of this right, is better than to leave the whole subject to be settled by a series of precedents that may not themselves be settled in a hundred years.

I now present my amendment to the Senate. I move to strike out lines 30 to 35, inclusive, of the second section, in the following words:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

And insert as a substitute therefor the following:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious, or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct, or of such infringement, such sum by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The amendment will be printed.

Mr. WADLEIGH obtained the floor.

Mr. DAVIS, of Illinois. With the consent of the Senator from New Hampshire, I move that we go into executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at three o'clock and seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 7, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of Friday, December 20, 1878, was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the amendment of the House of Representatives to the bill (S. No. 1244) for the relief of George Williams.

The message further announced that the Senate had passed a bill (S. No. 1505) to repeal section 820 of the Revised Statutes of the United States in relation to jurors in criminal cases; in which the concurrence of the House was requested.

CHARGES AGAINST HON. J. H. ACKLEN.

The SPEAKER. The gentleman from Louisiana [Mr. ACKLEN] rises to a question of privilege.

Mr. ACKLEN. Mr. Speaker, I had trusted to have been spared the painful necessity of bringing before this House a matter that has been in almost every journal of the United States. I had trusted that it would have been buried like other slanders against every man who enters public life and to which he is so often and frequently subjected. Particularly did I hope that this would be the case when a committee composed of nine members of this House and one Senator had passed upon the charges against me and declared that they were maliciously made and without any foundation in fact. But, unfortunately, a late publication, which purports to be a synopsis of the testimony in that case upon which this committee acted, has been published, and I therefore feel compelled, not only in justice to myself but in justice to the gentlemen who composed this committee, to demand that these charges shall be subjected to the fullest investigation. They were infamously

conceived and infamously made, and they were prepared with the devilish ingenuity that characterized the man who originated them.

Early in the month of October, when I had returned to the State of Louisiana, the charges were published. I demanded at that time that a committee composed of prominent politicians in the State of Louisiana should pass upon the case. They regarded it solely as a political question; and, viewing it only in that light, they rendered this decision which I ask the Clerk to read.

The Clerk read as follows:

NEW ORLEANS, *October* 9, 1878.

After a careful consideration of the evidence, documentary and oral, which has been submitted to us, we are of the opinion that Mr. J. H. ACKLEN should withdraw from the canvass as a candidate for Congress in the third congressional district, and that no further action should be taken by us in the matter now under investigation.

Mr. ACKLEN. I declined to accept the decision of that committee in reference to a *political* question which I had not submitted to them, and I desired them by letter to pass upon the only question which affected me, and in which I was interested. I ask that the letter which I addressed to that committee, when the decision which the Clerk has just read had been handed to me, may now be read.

The Clerk read as follows:

NEW ORLEANS, *October* 9, 1878.

Gentlemen of the committee:

Several days ago I addressed you a letter requesting a few days to collect additional evidence to show that I was not guilty of the charge of seduction, alleged in the affidavit made by Mrs. Wright. This time was granted me. I have desired from the beginning of this investigation that the committee decide the sole question at issue: whether I was guilty of the alleged seduction. If there are any members of this committee who have misunderstood me in this regard they are certainly at liberty to decline serving further, and as earnest of my good faith I shall beg the other members to supply their places by such parties as they choose. I do not wish a question of such paramount social moment to me to be in any wise hampered by politics. I beg at the hands of any member of the committee who is unwilling to pass upon the question of my being guilty or not guilty a written reply.

I have the honor to be your obedient servant,

J. H. ACKLEN.

Mr. ACKLEN. Thus it will be seen, Mr. Speaker, that I in fact appealed to the gentlemen of this committee to pass upon the social question, but they refused to do so, and declined to act any further in the matter. I felt under those circumstances that I was at liberty to present that same question to another committee in Louisiana, a committee composed of prominent politicians who were politically opposed to me. They subjected the evidence to the most careful scrutiny and rendered the decision which I ask the Clerk to read.

The Clerk read as follows:

NEW ORLEANS, *October* 10, 1878.

We have carefully examined the documents and affidavits submitted to us by Mr. ACKLEN in the alleged seduction case, and it is our conclusion that he is innocent of the charge; and we are also convinced that the party who lately stirred up this matter did it for blackmailing purposes.

MICHAEL HAHN.
GEO. L. SMITH.
HENRY C. DIBBLE.
A. J. SYPHER.

We concur in the above except that part charging blackmailing, as we are of the opinion that H. L. Smith's motives were revenge.

MORRIS MARKS.
JACK WHARTON.

Mr. ACKLEN. I continued my canvass; my constituents sustained me, and I was re-elected by a majority tenfold that of 1876. Before leaving the State of Louisiana for Washington, fearing that a misapprehension of the nature of the decision of the Louisiana democratic committee might have gone abroad, I addressed to several members of that committee the letter which I now send to the desk.

The Clerk read as follows:

NEW ORLEANS, *November* 9, 1878.

DEAR SIRS: As a misapprehension of the nature of the decision of the committee in the case lately examined, and of which you were members, has gone abroad, I desire to know whether or not you deemed the committee's letter to me a decision of the social question or if that letter did not solely refer to my political candidacy which the committee deemed endangered by the scandal.

Your obedient servant,

J. H. ACKLEN.

To Messrs. H. J. HEARSEY, J. R. ALCÉE GAUTHREAUX, and PAUL E. THÉARD, *of the committee.*

Mr. ACKLEN. Here is their reply.

The Clerk read as follows:

NEW ORLEANS, LOUISIANA, *November* 20, 1878.

DEAR SIR: Your note of recent date requesting an understanding of the letter addressed you by the committee selected relative to charges contained in an article in the New York Times of September 29 is received.

Without discussing the extent to which the committee deemed themselves authorized by you to go, it was held by them that should they deem it advisable for you in the interest of the party and the election of a member of Congress from your district to withdraw, they would declare that opinion, and it was understood that you should abide by it.

The committee were convinced that if the republicans made a canvass in your district, the affidavit against you or other documents would be printed and used in an attempt to destroy your chances of election and ruin your character. Hence, as your friends, and as democrats, in the interest of yourself and of the party, they advised you to withdraw from the canvass as a candidate for Congress. They, as a committee, ignored what you term the social question entirely, and were guided solely by what they considered to be the interests of the democracy of the State. They examined the question from a political stand-point only and from no other.

Subsequently you called the committee together, and raised the point that they had transcended their authority. You declared that you had never authorized them to consider the political phase of the question, but had limited them strictly to the question of your innocence or guilt. The difference of opinion between yourself on this issue and the committee was so great that it could not be reconciled and the committee declined to act further in the matter.

Very respectfully,

J. R. ALCÉE GAUTHREAUX.
H. J. HEARSEY.
PAUL E. THÉARD.

Hon. J. H. ACKLEN.

Mr. ACKLEN. Thus it will be seen, Mr. Speaker, to use the exact language of that committee, that they had "ignored the social question," and had regarded the matter only as a political question; and they had requested me to withdraw from the canvass solely in the interest of the democracy of the State of Louisiana. Such being the case, I was advised by my friends upon my arrival in Washington to submit the social question to a committee composed of the most eminent members of this House. That committee examined the social question thoroughly and fully, and they rendered the following decision.

The Clerk read as follows:

WASHINGTON, D. C., *December* 12, 1878.

To the public:

Some time ago serious charges were made against the social character of Hon. J. H. ACKLEN by an affidavit in the possession of H. L. Smith, and a committee of prominent democrats of Louisiana, after viewing the same from a political standpoint, deemed that ACKLEN'S re-election might be jeopardized by the publicity given the slander, and, as but a short time intervened between the publication and the election, advised him, on party grounds, to withdraw from the canvass. We quote the following from a letter addressed to Mr. ACKLEN by several members of that committee:

"It was held by them (the committee) that should they deem it advisable for you, in the interest of the party and the election of a member of Congress from your district, to withdraw, they would declare that opinion. The committee were convinced that if the republicans made a canvass in your district the affidavit against you would be printed and used in an attempt to destroy your chance of election. They, as a committee, ignored what you term the social question entirely, and were guided solely by what they considered to be the interests of the democracy of the State. They examined the question from a political stand-point only, and from no other."

Mr. ACKLEN declined to withdraw from the canvass, but was advised to submit the charges to a republican committee, in order to stop the use of the slander against him by his political opponents. This he did, and this committee pronounced him innocent of the charges, and the attempt one of blackmail. He was re-elected by a majority tenfold that of 1876.

We have felt it our duty toward Mr. ACKLEN and the State of Louisiana to carefully examine into these charges, strictly from a social stand-point, and have done so. After an examination of the whole case, of letters and documents from the most reputable people of the parish where the alleged wrong is said to have occurred, and other papers bearing on the case, which leaves no doubt whatever in our minds, we pronounce most emphatically that the charge against Mr. ACKLEN is entirely without foundation and a base attack upon his character.

J. B. EUSTIS, *United States Senator, Louisiana.*
J. B. ELAM, *M. C., Louisiana.*
E. W. ROBERTSON, *M. C., Louisiana.*
E. JOHN ELLIS, *M. C., Louisiana.*

By request we have carefully examined and considered the evidence submitted to us touching the charge of seduction against Mr. ACKLEN, and referred to in the above statement. The conclusion is inevitable that this charge was maliciously made and had no foundation in fact.

CHARLES FOSTER, *M. C., Ohio.*
W. P. FRYE, *M. C., Maine.*
W. H. CALKINS, *M. C., Indiana.*
THOMAS R. COBB, *M. C., Indiana.*
H. D. MONEY, *M. C., Mississippi.*
JESSE J. YEATES, *M. C., North Carolina.*

Mr. ACKLEN. Now, Mr. Speaker, on my return to the State of Louisiana I was confronted in the public press by what purported to have been a synopsis of the testimony of this case, and the question was raised as to whether the New Orleans committee had made a righteous decision or whether the Washington committee had not been misinformed. It was even insinuated that some of the documents which had been submitted to the Washington committee were forgeries. I waited one day, and submitted through the press to the New Orleans committee the following card which I ask the Clerk to read.

The Clerk read as follows:

To the public and my constituents and the New Orleans democratic committee:

The New Orleans committee which in October requested me to retire from the canvass as a candidate for Congress on party grounds did so, as they state, after an examination of charges against me from a political stand-point only. I declined to retire and my constituents sustained me; I was re-elected by a majority tenfold that of 1876.

As this committee did not pass upon the only question about which I care, and which affects me socially, namely, the charge of seduction, I felt quite at liberty to submit that social question to a committee in Washington, whose finding in the case I print below. This latter committee had before them a mass of evidence which the New Orleans committee never saw. I could readily print this to sustain their decision and entirely disprove the charge of seduction, but it is of such a character that a just sense of modesty induces me to withhold it from the public prints.

As the New Orleans committee did not pass upon the social question and the Washington committee did, and declared me innocent of the charge, now if they or any of them hold that the finding of the Washington committee was incorrect in fact then I demand that the New Orleans committee shall also examine the social question—the charge of seduction, have summoned all the witnesses they or I desire, apply all the forms of a judicial inquiry to the case, and render their decision as to whether I am guilty or innocent of this charge of seduction. They formerly ignored the social question entirely, and as it is now revived I am prepared to prove my innocence socially as I did my strength politically.

Governor Penn evidently misconstrued my motive in submitting the case to the Washington committee, which was a social and not a political one, or he would not have done me the injustice of publishing such statement as he had in his hands without first giving me the opportunity of furnishing further testimony on the social question. This has a tendency to affect me socially, and hereafter I desire the committee to publish testimony in full and let the branding-iron rest where it properly belongs.

If any responsible person will make the charge I am willing and ready to meet it legally, socially, or personally.

As my time is limited, I hope this committee will meet at an early date in order to allow me to furnish the evidence which will exonerate me with them, as it did with the Washington committee.

J. H. ACKLEN.

NEW ORLEANS, *December* 26, 1878.

Mr. ACKLEN. Thus it will be seen that I exhausted every means within my power to secure a decision of the social question by the New Orleans committee. That committee first passed upon it politically, and the answer given to me by that committee was that they declined to touch the social question further. Under these circumstances I have felt compelled to let the bright sunlight of truth shine upon the case by an investigation by this House, and let the people of the country see where the branding-iron properly belongs.

I ask the adoption of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Whereas J. H. ACKLEN, a member of this House, has been charged by affidavit with having seduced Mattie Palfrey Wright, now deceased, in April, 1877, said affidavit having been drawn up by one H. L. Smith, also deceased, and sworn to by said Mattie Wright: Therefore,

Be it resolved, That the Speaker of this House be, and he is hereby, authorized to appoint a committee of three members of this House, whose duty it shall be to investigate the truth or falsity of said charge, and report back to this House at as early a date as possible. Said committee shall have power to send for persons and papers, employ one stenographer and deputy sergeant-at-arms, and if necessary visit by subcommittee such place as the nature of the case demands.

Mr. ACKLEN. I ask that the resolution be put upon its passage, and I trust that no objection will be raised to it. This question involves my honor, which is as dear to me as the honor of any member in this Hall.

Mr. REAGAN. With every respect to the member from Louisiana and with no disposition to withhold from him anything that he has a right to claim, I must object to this resolution. This is not a question of which this House can take cognizance. It is not anything involving the privilege of a member, and it would be an unusual and a very awkward thing to enter into such an investigation.

Mr. ACKLEN. If the gentleman from Texas will allow me a moment, I will say that this charge is not alone the charge which has been read here, but a charge of crime is made against me. I am charged with a crime, and it affects me not only socially but politically. If that charge be true, if I have been guilty of this crime, I have no right to sit here. I claim my right as a member of Congress to have the matter investigated to the very utmost, and then it will be seen that my record in this case is as pure as snow. I differ with the gentleman from Texas [Mr. REAGAN] when he says that the House cannot take cognizance in this case. I am charged with a crime. The statutes of Louisiana make that with which I am charged a crime, and I trust that the gentleman from Texas will not urge his objection, and that the House will sustain me in this investigation, because it is a matter dear to my heart; dear to me as respects my family relations; dear to every man of probity and honor. I therefore sincerely trust that the gentleman from Texas will withdraw his objection.

Mr. REAGAN. I felt, sir, when I rose, the delicacy of interposing an objection in this case, and I should have wished that some one else had done it rather than myself. I dislike to oppose the request of the gentleman from Louisiana, but certainly the charge as I understand it is one over which this House has no earthly control. Sir, it does not come within our jurisdiction. I would do all I could to vindicate the character of an associate upon this floor, but we have no jurisdiction of this matter.

It seems to me that we should place ourselves in an unfortunate position, to say the least of it, before the country if we assume to take jurisdiction of a question which requires us to investigate matters over which we have no jurisdiction.

A charge of crime may be made against any and every member of this House, but until a conviction is had upon the charge such member is not disqualified, and this House is not justified in assuming jurisdiction over the matter. A charge of crime gives this House no jurisdiction; a charge affecting the social standing of a member gives this House no jurisdiction.

I would do everything that would place the gentleman from Louisiana [Mr. ACKLEN] in his proper position, but I think we would be assuming a jurisdiction that does not belong to us should this resolution be adopted. I have thus discharged an unpleasant duty, and will leave the matter for the action of the House.

Mr. ACKLEN. If the gentleman from Texas [Mr. REAGAN] will allow me, he certainly will not deny the fact that this House is the judge not only of the election but of the qualifications of its members; and if this charge is true against me I am not qualified to sit upon this floor.

The SPEAKER. The gentleman from Louisiana [Mr. ACKLEN] rose to a question of personal privilege. The Chair has been reluctant to interrupt him, and is reluctant now to decide in a matter affecting the character of a member of this House. The gentleman from Texas [Mr. REAGAN] raises the objection that this does not embrace a question of personal privilege.

Since this discussion has been going on, the Chair, so far as his memory enables him to recollect, fails to remember a single instance during his own term of service in this House wherein charges of this character, which do not directly affect the representative character of a member of this House, have been made subjects of inquiry by the House. The Chair finds in one instance a decision made by one of his predecessors, Mr. Speaker Linn Boyd, which he desires to have read to the House.

The Clerk read as follows:

Mr. Thomas H. Bayly submitted, as a question of privilege, the following resolution, namely:

Resolved, That the special committee of which Hon. Mr. Letcher is chairman be instructed to communicate to this House any communication made to that committee reflecting upon the representative character of T. H. Bayly, a member of this House, by B. E. Green or others, with a view that the House may take such action as to it may seem proper, the said committee having decided that it was not within their jurisdiction.

The SPEAKER. The decision in that case by Mr. Speaker Boyd was that it was not a subject of investigation unless it did actually affect the official character of the Representative. In a case like this the Chair is quite willing to submit the question to the House with this preliminary statement on his part.

Mr. ACKLEN. I want this House to know, and I want the country at large to know, that the courts have been closed against me in this case by the death of all the parties connected with this slander. I have no opportunity to vindicate myself outside of this House and outside of an investigation ordered by this House. I have made this demand, and I appeal to the House to sustain it. I have been as innocent of this individual charge as any man in this House, and I want this House to know it. I appeal again to members of this House to sustain me by adopting the resolution which I have submitted.

The SPEAKER. The Chair will submit the question to the House and the House can determine it. It is a question of very great importance to settle the principle and ought to have passed upon it the judgment of the House rather than the judgment of a single individual who may happen for the time being to occupy the Speaker's chair. As many, therefore, as are of opinion that this embraces a question of personal privilege will say "ay."

Mr. GARFIELD. I was in hopes the Chair would have put the question in a little different form. If by "personal privilege" is meant the ordinary rights which the House grants to a man to make a personal explanation, I certainly should vote "ay."

The SPEAKER. That has already been accorded to the gentleman from Louisiana.

Mr. GARFIELD. And therefore I want it understood that my vote, which in this case will be "no," means that I do not conceive that this is a case about which the House has any jurisdiction to investigate, and in that sense I vote against it.

The SPEAKER. The Chair desires to say in answer to the gentleman from Ohio [Mr. GARFIELD] that the distinction he has drawn is a very proper one. The Chair himself has allowed the personal explanation to be made. The question whether it embraces a privilege affecting the character of a member of the House the Chair prefers to submit to the House.

The question having been submitted, the Speaker decided that the "noes" had it, and that the resolution was not before the House.

CHARGES AGAINST JUDGE BLODGETT.

Mr. HARRISON. I rise to a question of privilege. I hold in my hand a petition signed by respectable lawyers of the city of Chicago.

Mr. PAGE. Is it in order to call for the regular order at this time?

The SPEAKER. This is the regular order. The gentleman from Illinois [Mr. HARRISON] rises, as he states, to a question of privilege.

Mr. HARRISON. I hold in my hand a petition signed by respectable lawyers of the city of Chicago charging upon a high official in the State of Illinois, the district judge of the northern district of that State, gross misconduct and corruption as an officer. I have also here a petition signed on last Friday and Saturday by eighteen hundred citizens of Chicago, asking that a special committee be appointed to investigate this matter. I have also a dispatch received last night from one of the first citizens of Chicago, stating that on yesterday thirty-eight hundred more signatures were attached to the same petition, making nearly six thousand in all. With this explanation I present the resolution which I send to the Clerk, and ask for its adoption.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Whereas it is charged that Henry W. Blodgett, district judge of the northern district of Illinois, has been guilty of gross misconduct and corruption in his official conduct as such judge: Therefore,

Resolved, That a special committee of five members of this House be appointed to examine such charges and to inquire into the official conduct of said judge, Henry W. Blodgett, and to report what action, if any, this House should take in the premises; that said committee shall have the power to send for persons and papers, appoint a clerk and stenographer and such other employés as it may deem necessary, and, in its discretion, to visit and sit in the city of Chicago for the purpose of examining witnesses and court records; and that it have power to report at any time.

Mr. GARFIELD. I hope that this resolution will be referred to the Committee on the Judiciary.

Mr. HARRISON. I ask that the petition accompanying the resolution be read.

Mr. GARFIELD. I object to the adoption of the resolution. Let

it be referred to the Judiciary Committee, and let them report it if they think proper.

The SPEAKER. The gentleman from Illinois rises in his place and, as a question of privilege, submits the resolution.

Mr. GARFIELD. Well, I raise the question as to its being a question of privilege.

The SPEAKER. That the gentleman has the entire right to do.

Mr. GARFIELD. The provision giving the right to report at any time, as well as several other points of the resolution, cannot be adopted except by unanimous consent or under a suspension of the rules. I know nothing about this matter. I only say that so grave a proposition ought to go to our law committee.

Mr. HARRISON. I hope the gentleman will withdraw his objection.

Mr. GARFIELD. I will not.

Mr. HARRISON. A judge occupying a high official position and in the past honored, in my district, is charged with misconduct as such judge. In the petition which I present a large number of my constituents pray that a committee be appointed, so that his official conduct can be examined and reported on at once. We owe this to the judge himself, who wants an investigation, and desires that the investigation proceed at once.

There may be some who would say, "Send this question to the Committee on the Judiciary." But, sir, six of that committee are already employed on special matters—three on the Potter committee, three on an investigation in the city of New York. The Judiciary Committee has large business before it. Besides, this is such an examination that men should be appointed specially to look into the matter, so that this gentleman's character, if maligned, may be promptly vindicated, and the country informed that he deserves to stand well before his countrymen. If, on the other hand, the charges are not false, then my constituents have the right to be informed of the grounds on which those charges are made. This question is one of the highest privilege, one which, in the interest of the judge himself, my own personal friend, should be passed upon as quickly as possible.

If the gentleman from Ohio [Mr. GARFIELD] objects to the right to report at any time, I will strike out that portion of the resolution; but let him take the consequence of endeavoring to stifle the report before this House. I believe that as a question of privilege this matter ought to be reported upon at the earliest time when a conclusion may be reached. I ask that the question be put to the House and decided by it at once.

I yield for a moment to my colleague, [Mr. BURCHARD.]

Mr. BURCHARD. Mr. Speaker, I do not object to the resolution introduced by my colleague, but to the appointment of a special committee, and I move to amend the resolution so as to provide that, instead of appointing a special committee of five, this matter be investigated by the Judiciary Committee.

Mr. HARRISON. If the gentleman pleases, I did not yield for any amendment. I yield for his remarks, not for the offering of an amendment.

Mr. BURCHARD. Very well. Although my colleague does not yield for an amendment, this matter will have to be submitted to the House.

The SPEAKER. The subject is before the House, and before it as a question of privilege. That being the position of the resolution, it is certainly open to amendment.

Mr. HARRISON. When I yield the floor for amendment, but not before.

Mr. HALE. I suppose that the previous question, if called, can be voted down, and then the resolution can be referred to the Committee on the Judiciary.

Mr. BURCHARD. If my colleague yields for remarks only, I will confine myself at present to a brief statement of my views in regard to the proposed investigation.

Mr. HARRISON. I only yielded to my colleague for remarks and not for amendment.

Mr. BURCHARD. This matter was brought up at the closing hours of the session just preceding the holiday recess. It was rumored there were gentlemen here who were whispering charges against a judge who stood so high in the estimation of the legal fraternity of Chicago and of the northern district of Illinois, as well as in the estimation of all the members of the House from the State of Illinois, that not one of those members solicited to do so was ready to indorse their petition and put it in the petition-box for reference to the Committee on the Judiciary. But just on the eve of adjournment, as the Speaker was about to raise his gavel to say this House stood adjourned under the concurrent resolution of the two Houses until the 7th of January following, I did object to such a paper being presented as from the Speaker's table, because it seemed unfair to send out such charges without any opportunity for denial and immediate investigation. We then returned home, and my colleague now deems it his duty to do what he did not do then, and that is, indorse and present this petition.

Now, Mr. Speaker, Judge Blodgett himself, as well as the friends of Judge Blodgett, does not object, and the members of the delegation upon this floor from the State of Illinois do not object, to this investigation; and the petition to which my colleague has referred is signed by men, who, hearing these rumors and believing the reputation of this judge is unstained, have joined in asking that there may be an investigation. But such investigation should be made by the usual committee, by the Committee on the Judiciary, made up of lawyers, of men selected by the Speaker from the body of the House because of their legal standing and attainments, of men who have the confidence of the House and whose unbiased conclusions would command the respect of the community. Let them take charge of the proceeding, and Judge Blodgett will not only be content but court the most thorough examination of his official conduct. I presume a fair committee would be appointed by the Speaker under the resolution, but a special committee would not have such appearance of impartiality and such weight would not be given to its conclusions as would be given if the charges were examined, as I believe in every other case (at least within my recollection) they have been, by the Law Committee of this House.

The friends of Judge Blodgett and Judge Blodgett himself desire investigation should be had, and he has sent to me to present to the House a letter addressed to you, Mr. Speaker, which I desire to have read. I send it up to the Clerk's desk for that purpose.

Mr. BRIGHT. Mr. Speaker, would it be in order to have the petition read embodying the facts, so we may know whether it should be referred to the Committee on the Judiciary or not?

The SPEAKER. The petition will be read if the gentleman so desires.

Mr. BURCHARD. What does the gentleman ask?

Mr. BRIGHT. I wish to have the petition read to see the facts which it embodies.

The SPEAKER. The reading of the petition would not be taken out of the time of any member. Does the gentleman desire to have it read?

Mr. BRIGHT. I do.

Mr. HARRISON. I yielded to my colleague for a moment, and I think he has taken it. I do not object to the letter being read.

The Clerk read as follows:

DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF ILLINOIS.
(Hon. H. W. BLODGETT, *Judge.*)

CHICAGO, *January* 4, 1879.

SIR: It has been widely stated through the public press that certain citizens of Chicago, namely, Messrs. John I. Cooper, Henry I. Sheldon, and John J. Knickerbocker, intend to apply to the honorable the House of Representatives to order an examination into alleged charges touching my official conduct as judge of the United States district court. The nature of such charges has been carefully concealed from me, and I have no knowledge of the specific grounds upon which such application is sought to be made. I am well aware of the doubtful propriety of a judge, subjected to groundless, malicious, and secret attacks, deeming it necessary to ask for an investigation, and the danger of establishing a questionable precedent in that regard; yet such has been the persistency with which vague assertions have been made that I have been guilty of offenses justifying impeachment, and so important is it that the character of judicial officers should be without suspicion, that, leaving out of view the pain inflicted on me by allowing the circulation of such rumors unanswered, I feel it my duty to address the House of Representatives through you, as its presiding officer, on the subject, and to solicit the most thorough and searching inquiry in the premises; and I earnestly urge that the House of Representatives take such order as will enable any charges supposed to exist to be brought forward by these or any other persons and rigorously investigate the same.

Respectfully, your obedient servant,

H. W. BLODGETT.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives,
Washington, D. C.

Mr. BURCHARD. A word more, Mr. Speaker, and I will not then further trespass upon the time of my colleague. I hope my colleague will not object to the House voting upon the question which almost if not invariably is allowed to be voted upon, as to what committee shall take charge of a subject presented for consideration. Let the House vote. And I insist that the House ought to have the opportunity to vote whether it will send this to a special committee or to the usual standing committee of the House—the Committee on the Judiciary. If my colleague insists that I shall not offer the amendment now, I hope the House by refusing to sustain the previous question will permit a vote to be taken whether this subject shall be referred to a standing or to a special committee.

Mr. HARRISON. Mr. Speaker, my colleague who has just taken his seat has referred to the presentation through the Speaker of a petition on the last day before the holiday recess. I, recognizing the right of petition, consented to present this petition, but at the same time claimed the discretion as to when it should be presented, and I therefore refused to present it on the heel of the session. I let it be known that I would go home, examine into this question, and see if doing my duty as a Representative I should present the petition and offer the resolution. There is now before the House a petition that in three days was signed by nearly six thousand of my constituents. Among them are leading wholesale merchants, great manufacturers, leading lumbermen, and real-estate men, asking that a special committee be appointed to go to Chicago and there satisfy my constituents that this man stands upright before the community, or if he has done wrong that this House would take the proper action in the matter.

Now, sir, in all of the past, preliminary examinations of this kind have not been made by the Judiciary Committee. The committee of investigation into the affairs of the War Department introduced resolutions here for the impeachment of Mr. Belknap. It has been almost universally the case that through such committees, other than the Judiciary Committee, the facts have been brought to the notice of this House.

Now, sir, the Committee on the Judiciary is composed of learned and honorable men. No man here holds it in higher honor than I; but, sir, three members of that committee are already on investigating committees; three members I believe have been sent to New York to investigate the Davenport matter; and another gentleman on that committee, I regret to say, because he is one of my nearest and dearest friends, is this day ill and in danger of a long-continued illness. Thus there are six or seven members of that committee consisting of eleven who cannot act at once.

My constituents want a committee sent to Chicago where the witnesses are, where the records are, and where this Government will be subjected to a vast deal less expense than if witnesses were sent for to be brought to the city of Washington. I do think that no man, if he be a true friend of Judge Blodgett, will object to the course I have proposed. Lyman Trumbull, last week, in a speech before the bar association of my city, said that were he in the position of Judge Blodgett the sun should not go down before he would ask for an investigation. Let not men here, endeavoring, not possibly to screen Judge Blodgett, but to hide other facts, try to impede an investigation so as to leave that high judge charged with malfeasance and the scrutiny of that malfeasance wholly impossible probably for weeks, possibly until the end of this session. There are able lawyers in this House, men who, with all due respect to the Judiciary Committee, are their peers. The Speaker can select such men; not partisans. There is no partisanship in this question. The mass of the men who signed that petition charging misconduct are republicans, not democrats. There is no party in it. The gentlemen who prefer the charges are republicans. Many of the leading names on the large petition are republicans. That army of nearly six thousand names is composed of citizens of both parties.

It is simply that the people of my city, second to none in this Union for its vast business before the district courts, come before this House asking that it shall be ascertained, and ascertained as quickly as possible, whether this man is corrupt or not. I hope this House will vote a special committee, and that the Speaker will put upon it men whose character and the value of whose opinion will be such that no man will say, when their opinion is given, that there has been whitewashing or anything else than an honest report.

Before moving the previous question I ask that both the petitions be read; and as regards the second petition, that the petition only be read, and not the names attached.

Mr. BRIGHT. After the petitions are read, I hope the gentleman from Illinois will yield to me for a remark in relation to them before he calls the previous question.

The Clerk read the petitions, as follows:

To the honorable the Speaker and members of the House of Representatives of the United States of America in Congress assembled:

Your petitioners, John S. Cooper, Henry I. Sheldon, and John J. Knickerbocker, most respectfully represent and show that they are citizens of the United States, and reside in the city of Chicago, in the northern district of Illinois, where they have resided for a period of more than twelve years, and have been engaged in the practice of the law for more than ten years, respectively.

Your petitioners further show that Henry W. Blodgett, the district judge of the United States for said northern district of Illinois, has, for the past six years and upwards, so used and employed his judicial office as presiding judge in the district and circuit courts for said district as to bring reproach and scandal upon the administration of justice therein. He has been guilty as such judge of gross favoritism toward his friends and severe judicial oppression against his enemies. He has been unmindful of the rules of law in his judicial judgments. He has allowed parties and their counsel to make to him out of court *ex parte* statements of their respective causes before the same should be heard before him as such judge, by means of which he has become so prejudiced against the opposite party that his judicial judgments have been contrary to the facts established by the evidence proven before him and the law applicable thereto. Having been attorney for railroads and a manager thereof for many years prior to his elevation to the bench, his rulings, orders, and judgments in causes where railway corporations have been parties thereto have been grossly and unjustly in favor of such railway corporations.

He has so employed his judicial office as by gross partiality toward the older and more influential lawyers practicing in his court to endeavor to make them his friends and defenders, while at the same time he has toward the younger and less influential attorneys practicing in his court borne himself in a harsh, severe, and arbitrary manner and has so administered his high office as to impede and obstruct the administration of justice in said courts and prevent the conviction and punishment of those charged with, and guilty of, crimes against the Government of the United States; and lastly, he has been guilty of corruption in his office as such district judge.

Wherefore your petitioners humbly pray your honorable body to investigate the official conduct of said Henry W. Blodgett, as such district judge, by your committee and to take such further action as may seem wise and necessary, to the end that the administration of justice may be kept pure in said judicial district.

And your petitioners, as they are in duty bound, will ever pray, &c.

JOHN S. COOPER.
HENRY I. SHELDON
JOHN J. KNICKERBOCKER.

To the honorable the Speaker and members of the House of Representatives of the United States of America in Congress assembled:

Whereas certain grave rumors have been widely circulated in the city of Chicago and elsewhere affecting the honor and dignity of the judge of the United States district court for the northern district of Illinois; and

Whereas your petitioners believe it to be for the true interest both of the Hon. Henry W. Blodgett, judge of said court, and this community that the official conduct of his honor, Judge Blodgett, should be inquired into by your honorable body:

Therefore your petitioners, citizens of the United States and residents of Chicago, do most respectfully petition your honorable body to appoint a special committee, with power to send for persons and papers, to visit Chicago, and investigate the official conduct of said district judge.

Mr. HARRISON. There is a petition, signed, as I state, by six thousand of my constituents, asking for a special committee to visit Chicago. If the House refuses to send it to a special committee, and decides to send it to the Judiciary Committee, I cannot help it. I will yield to a vote on the amendment. I will ask, however, that the petition be sent to a special committee. I care not whether I am on that committee or not. I want a committee framed with special reference to this question. Therefore I yield for the amendment, and ask for a vote at once. The petitioners pray for speedy action. They think that can be had only through a special committee. They lack not confidence in the Judiciary Committee, but they fear its duties will prevent prompt action. They know how that committee is now employed, and let me assure gentlemen that if you refuse the prayer of these petitioners they will regard it as evidence of indisposition on the part of some to have an inquiry and report this session. The friends of Judge Blodgett who object to a special committee may thus stifle an investigation, but they leave him resting under the suspicion of not really wishing a fair scrutiny. I therefore hope the amendment will not be adopted.

Mr. TUCKER rose.

The SPEAKER. Will the gentleman yield to the gentleman from Virginia?

Mr. HARRISON. Yes, sir.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 5682) to provide for a deficiency in the appropriation for transportation of mails by railroad for the fiscal year ending June 30, 1879;

An act (H. R. No. 5535) changing the time of holding the terms of the United States circuit court for the district of West Virginia;

A joint resolution (H. R. No. 210) making an appropriation for the purpose of paying the necessary expenses incurred in investigating the origin and causes of epidemic diseases in the United States;

An act (H. R. No. 5532) authorizing the donation of twenty condemned bronze cannon to aid in the erection of a monument to the memory of General George A. Custer, at the Military Academy at West Point;

A joint resolution (H. R. No. 211) extending time for Joint Committee on Transfer of Indian Bureau to report;

A joint resolution (H. R. No. 206) providing for the distribution of the Revised Statutes of the United States to the Post-Office Department; and

An act (H. R. No. 5683) to amend an act approved June 20, 1878, and to fix the rate of interest on bonds authorized by said act to be issued by the commissioners of the District of Columbia, and for other purposes.

CHARGES AGAINST JUDGE BLODGETT.

Mr. TUCKER. I agree with my friend from Illinois that there ought to be an investigation of these charges. A judge ought to be above suspicion. If, therefore, six thousand citizens of Illinois have petitioned for an investigation of the charges which they make against him and which seriously affect his judicial character, I suppose there can be no doubt upon either side of the House that it is due to him as well as to the people that the House shall make an investigation, and the only question is what would be the proper tribunal to investigate. It seems to me that if the result of the investigation should be the presentation of articles of impeachment, it is proper that the Judiciary Committee of the House, charged with that class of questions, should make the investigation. I can see no reason for a special committee. I suppose that the Speaker of the House in forming the Committee on the Judiciary selected the best lawyers in the House, or at least those who are the peers of any lawyers here. I can see no reason why a select committee should be appointed.

As to who shall be chairman of the committee investigating this matter, I suppose that is a matter of no importance; but it seems to me that if we have special committees for these investigations when we have standing committees which can carry them on, it will be a violation of the rules and practice of the House and might lead to great inconveniences. I shall therefore vote for an amendment, if such a one be offered, to refer this matter to the standing committee of the House.

The SPEAKER. The rules of the House give privilege to the House to determine whether a matter shall be considered by a standing committee of the House or by a committee specially appointed.

Mr. HANNA. I would like to say a word upon this question. Although I am not a Representative from Illinois, yet Judge Blodgett holds court for us in the State of Indiana, for it becomes necessary for Judge Gresham and Judge Blodgett to exchange. In this way the bar of Indiana, so far as they practice in the United States courts, have become acquainted with Judge Blodgett, and I am frank to say, from my personal acquaintance with him, that he would desire an investigation. I care not what committee makes the investigation, but it seems to me that it would be better to have the investigation made by the Committee on the Judiciary, because their decision of the case would not be subject to the criticism that might be applied to the decision of a special committee. If one were appointed, it might be said that it was organized at the instance of those who are here for the time being as prosecutors. That is no part of the business of the House. I want to see the case fairly, impartially, and fully investi-

gated; and for one, I prefer that that investigation shall be made by the Committee on the Judiciary.

The SPEAKER. The question is first upon the amendment offered by the gentleman from Illinois, [Mr. BURCHARD,] to strike out all that part of the resolution which relates to the appointment of a special committee of five and refer the matter to the Committee on the Judiciary.

The question was taken on the amendment of Mr. BURCHARD, and it was agreed to.

The question was then taken upon the resolution as amended, and it was agreed to.

Mr. HARRISON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPRINGER. I would like to hear the resolution read as it stands amended.

The SPEAKER. The resolution was only amended in one particular, which was by striking out "special committee" and inserting "Committee on the Judiciary."

Mr. SPRINGER. Was it so amended as to authorize the committee to appoint a subcommittee to carry on this investigation?

The SPEAKER. It has been always usual for committees to appoint subcommittees, and the Chair supposed it would be done in this case.

ORDER OF BUSINESS.

Mr. PAGE. I insist upon the regular order now.

The SPEAKER. The regular order is the further consideration of the bill known as the Geneva award bill. If the gentleman from California [Mr. PAGE] desires to have a morning hour, he may reach his object by raising the question of consideration.

Mr. PAGE. I will do so. Then, I will inquire of the Chair, should the Geneva award bill be set aside will the regular order then be the call of committees for reports?

The SPEAKER. The Chair will assume, if the House shall refuse at this time to proceed with the consideration of the regular order, (fixed for this day after the reading of the Journal, and interrupted only by questions of higher privilege,) that the House wishes to have a morning hour for the purpose of receiving reports from committees.

Mr. SPRINGER. Would it be in order to ask unanimous consent to have a morning hour as of Monday for the call of States and Territories for the introduction of bills and joint resolutions?

The SPEAKER. It would be in order to make that request. Does the gentleman from California [Mr. PAGE] yield for that purpose?

Mr. PAGE. I do not.

The SPEAKER. That is equivalent to an objection.

The question was then taken upon proceeding with the consideration of the Geneva award bill; and upon a division, there were—ayes 97, noes 23.

Mr. WHITE, of Pennsylvania. No quorum has voted.

Tellers were ordered; and Mr. KNOTT, and Mr. WHITE of Pennsylvania, were appointed.

The House again divided; and the tellers reported that there were—ayes 115, noes 23.

Mr. WHITE, of Pennsylvania, (one of the tellers.) That does not make a quorum.

The SPEAKER. If that point is insisted upon, the tellers will resume their places and continue the count.

Mr. WHITE, of Pennsylvania. I do not insist upon that point.

No further count being insisted upon, the question was decided in the affirmative.

DISTRIBUTION OF GENEVA AWARD.

The House accordingly resumed the consideration of the bill (H. R. No. 4553) to provide for the further distribution of the moneys received under the Geneva award.

The SPEAKER. Upon this question the gentleman from Mississippi [Mr. MANNING] is recognized by the Chair.

Mr. KNOTT. I understood that seventeen minutes of the time of the gentleman from Michigan [Mr. CONGER] was still left.

The SPEAKER. Eighteen minutes.

Mr. KNOTT. And I understood that it was to be occupied by the gentleman from Maine, [Mr. HALE.]

The SPEAKER. The Chair has caused search to be made for the gentleman from Michigan, [Mr. CONGER,] but he has not been found.

Mr. HALE. Allow me to say to the gentleman from Kentucky, [Mr. KNOTT,] that I would hardly like to occupy the remaining time of the gentleman from Michigan [Mr. CONGER] without further consultation with him. I know that he has had some intention to speak in his own time, and I have made arrangements to have some time from the gentleman from Virginia, [Mr. HUNTON.]

Mr. KNOTT. I have nothing further to say.

The SPEAKER. These are matters that should be regulated by the members of the committee. The gentleman from Mississippi [Mr. MANNING] will proceed.

Mr. MANNING. Mr. Speaker, I have listened attentively, and with much interest, to all the arguments that have been submitted both for and against the bill reported by the chairman of the Judiciary Committee, for the further distribution of the Geneva-award fund, and have observed with some surprise the range the discussion has taken.

Not regarding it as important or even germane to recount the long and thrilling story of the achievements upon the high seas during the late war of either class of confederate cruisers, or to give the names, or the value of the vessels, or the value of their respective cargoes, that were destroyed, or the date and localities of such destruction, or to refer to the inimical conduct of Great Britain during this period, and the consequent transfer of our commerce from American to foreign bottoms, or to the demand on the part of this Government for indemnity for such conduct, or to the voluminous correspondence, and profound diplomacy that followed such demand, I come at once to the material facts, as the result of all these matters, namely, that the treaty of Washington was concluded on the 18th day of May, 1871; that the tribunal of arbitration therein provided for awarded this Government the sum $15,500,000 in gross for the benefit of our injured citizens, and in satisfaction of all demands against Great Britain; that about $10,000,000 of that fund yet remains undistributed; and that several classes of claimants have bitterly contested each other's demands upon this money from the time it came into our hands up to this moment.

Now, the absorbing inquiry is, what is the proper step to be taken by Congress in reference to this balance? Shall we organize this House into a tribunal, each member taking upon himself the duties of juror and judge, to consider all the testimony and the law touching the rights of each claimant, and then pronounce final judgment thereon, or shall we say, what in my opinion a proper regard for precedent, public business, and our own dignity and integrity demands we should declare, that such matters should be determined by the judicial branch of this Government?

We are informed by the majority and minority reports that upon the chief point in the disposition of this matter, that a court of justice should distribute the amount yet remaining of this fund, there was perfect agreement on the part of the Judiciary Committee, and I venture to believe that when there was concurrence upon this overshadowing question, there remained no substantial or valid grounds for disagreement as to the next and only step to be taken. The reasons are abundant, and they have been aptly stated in one of the reports, why this whole subject should be transferred from the arena of legislation to a court of justice. In this House the time is too limited, and the examination, on the part of many of us at least, unavoidably too hasty and superficial to reach mature conclusions in regard to such matters. And it is not only right in principle, but it is in perfect harmony with a long line of precedents in our own history, commencing over fifty years ago, and since then reaffirmed every few years, as will be seen by reference to the cases involving the distribution of the moneys realized under the treaties with Great Britain, Denmark, France, the Two Sicilies, Spain, Peru, Brazil, and China respectively, to transfer such matters from the halls of legislation—where extraneous considerations too often become so crystallized as to inspire, and finally assert, a controlling influence, and where improper lenses are, with the dexterity so characteristic of the lobbyist, too frequently placed in our spectacles, through which important and intricate subjects are to be seen—to a court, whose inquiries will be more thorough and searching, whose mature and dispassionate judgment alone will control, whose difficulties in ascertaining what is right and equitable between all litigants will not be so formidable as ours, and whose conclusions will be more satisfactory to all fair-minded men, and will afford a fuller vindication of our wisdom, dignity, and integrity.

Precedents when exactly in point with the case under consideration are usually held to have a binding authority, as well to keep the scales of justice even and steady as because the question to be decided has been solemnly considered and determined. And it is therefore a time-honored maxim that when a point has been settled by decision it forms a precedent which it is not wise to depart from, unless, in the language of Mr. Blackstone, "it is manifestly absurd and unjust." It is to be hoped that no step will be taken by the Congress of the United States to lessen the value of that great doctrine of *stare decisis* which has been so cordially approbated and observed through many generations by the good and wise men of the world.

Upon examination of the acts passed for the distribution of moneys which this Government received from the nations already named by me it will be seen that the learned gentlemen who submitted the majority report, and pending bill, have followed in the footsteps of our predecessors in similar cases. The most important parts of the present bill is in the precise language employed in the acts referred to, and their recommendation to this House to put itself in harmony with precedents, that have so many strong reasons to support them, should receive our heartiest commendation and concurrence.

When the gentlemen who signed the minority report assented to the propriety of sending claimants of the fund in question from Congress to a tribunal of justice—and in this conclusion no member who has thus far spoken has dissented, and no member, so far as I know, will object to this course—then I submit that the only remaining duty to be performed was to report a bill conferring the fullest discretion and the amplest power upon such court, with right of appeal, to hear and determine, without delay, the rights of all persons who desire to assert their claims upon the undistributed fund. If I am correct in this view of the subject the inquiry now to be made is whether the bill reported by a majority of the Judiciary Committee is so framed as to authorize "*all persons and corporations*" to go, *with* equal rights, abreast into court, with their lawyers and testimony, and demand adjudication upon their respective cases. It is insisted that the bill will per-

mit only one class of claimants to recover judgments, when that class is the least worthy, but I submit that a careful examination of it will warrant the conclusion that the Judiciary Committee, in preparing and presenting it, wisely and impartially performed its duty, jealously protecting the rights of all, and casting unequal or improper burdens on none.

In the first section of the bill it is provided—

That *all* persons or corporations claiming to be entitled to any portions of the moneys now under the control of the United States, which were received from the government of Great Britain, are hereby authorized to sue for the same in the United States Court of Claims, at any time within one year from the passage of this act, in the same manner in which other claims are sued in said court; and the said court shall render judgment for each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain, for such amounts only as in their opinion he shall be justly entitled to recover, under said treaty and award according to the principles of justice, equity, and the law of nations, without regard to any rule or principle of allowance, exclusion, inclusion, or distribution heretofore adopted by Congress in chapter 459 of the laws of the Forty-third Congress, or otherwise, or by the tribunal created by said law; but all payments heretofore made on any claims by the United States shall be deducted from the judgment to be rendered therein.

Here, it will be observed, is authority for "all persons and corporations" claiming any portions of the moneys in dispute, to sue for the same, "at any time within one year from the passage of this act," and the court can only render judgment for each claimant who was an "actual sufferer by the violation of the laws of neutrality by Great Britain;" and having decided that the claimant is an "actual sufferer," he is then entitled only to recover such sum as in the opinion of the court he should receive "under the treaty and award, according to the principles of justice, equity, and the laws of nations." What objection can there be, either on the part of the United States or by the "actual sufferers," to the distribution of this fund pursuant to the standard thus established? The language employed in the section just read is, it seems to me, manifestly too broad and comprehensive to be tortured into any further discrimination between claimants, either when they enter court or during the progress of their causes, than justice and equity may make necessary, in the judgment of the court, even though the merest tyro occupied the bench. No man has cause to complain if the guide-star of law-makers be "justice and equity." The losses by the exculpated and inculpated cruisers, the insurance companies, and the war premium claimants, all enter the same court, at the same time, and stand upon an equal footing before judges whose well-stored minds and integrity of character can be confidently relied upon, to observe with scrupulous care the injunction laid upon them in the bill, namely, to promptly hear and determine the cases of all "actual sufferers" according to the principles of justice and equity. It is difficult to understand upon what ground objection can be urged, especially by the lawyers of this House, to such a basis of adjudication as this.

What sympathy would a defeated litigant be entitled to if he failed because "justice and equity" were against him? But it has been argued that as claimants are only "entitled to recover under said treaty and award according to the principles of justice," &c., that the Court of Claims will be forced by the words "under said treaty and award" to discriminate against certain classes of claimants whose demands were unfavorably considered by the Geneva board of arbitration. In reply to this I submit that the bill would not, I think, have its scope either broadened or narrowed if the objectionable words were stricken out. It would be unaffected by such amendment, because the court, in determining cases under this bill "according to the principles of justice and equity," could not disregard "the treaty and award." Speaking for myself alone, I do not hesitate to declare my entire willingness for the court to give all due weight to that treaty and the proceedings thereunder. Both the treaty and award resulted from our demands upon Great Britain, and if their observance entitle only one class of claimants to judgment let the court so decide. I opine that disinterested people will readily indorse such judgments, even though they have taken the trouble to become well acquainted with the facts, and have opinions of their own touching the merits of these respective classes. *Fiat justitia, ruat calum.*

Again, it has been argued that the bill should not require the court to consider "the laws of nations." But I submit that this objection is not well founded. Law-writers inform us that the law of nations is divided usually into two branches, natural and positive, the former applying to all men and all nations, and the latter consisting of those rules and obligations which result from compacts, treaties or agreements. Hence, "the law of nations" to be considered by the court is that positive law which has been established between this Government and Great Britain touching the matter in question. I hope that we will content ourselves with the pending bill, which we have seen provides for the prompt adjudication both by the Court of Claims, and then by the highest tribunal in the Government, of all classes of cases connected with this matter.

To go further in this discussion, as all gentlemen who have thus far addressed this House have done, except Mr. STENGER, of Pennsylvania, is, in my judgment at least, supererogatory, and I venture to apprehend will result in embarrassment to the courts, if not in positive injury to litigants therein. Gentlemen have delivered long and exhaustive arguments, but they have addressed themselves almost wholly to the merits of different claimants, which I insist is beyond the proper scope of this debate. If we knew less of the contest over this fund we would perhaps more quickly and wisely agree upon a bill that would do ample justice to all. I do not personally know a human being who is interested in any part of the millions yet in our hands, and I have only troubled myself to go far enough in my examination to determine my duty in regard to the proposed transfer, and the provisions of the bill pursuant to that conclusion, wholly ignoring the merits of the dispute over the money.

As the contest has grown greater and greater in bitterness among claimants, I have become more and more fixed in the purpose to support this bill. When I reached the conclusion that Congress should not undertake to adjust the conflicting demands about which we have heard so much, being wholly free from any inclination to settle in my own mind the rights of different parties, I then addressed myself to the examination of the pending bill, and the substitute therefor, without even a shade of bias either for or against any one. If I believed that this bill did not secure equal rights to all "actual sufferers" by prompt trials in the Court of Claims, and then by the court of last resort, if desired by litigants, I certainly would not favor it; and I will remark here that I was shaken rather than strengthened in my support after the argument a few weeks ago of the distinguished gentleman from New York [Mr. POTTER] in behalf of the bill. He informed us that he spoke at the request of the gentleman from Kentucky [Mr. KNOTT] who reported the bill, and I presumed that he reflected that gentleman's views thereof. As he argued throughout his remarks that one class of claimants alone should receive this fund, I had to look again to the bill, and more critically than ever examine its provisions, to be reassured of the correctness of my former conclusion that all classes would stand alike in court.

Mr. KNOTT. The gentleman from Mississippi will allow me to interrupt him for a moment. When I requested or suggested to the gentleman from New York [Mr. POTTER] that it would be proper for him to take part in this discussion it was because he had himself in a very able report in a former Congress advocated precisely what the majority of the Committee on the Judiciary had reported to the House in the present instance. I did not know, I had no reason to suppose, he would take any different ground from that occupied by him in his former report.

Mr. MANNING. I did not object, Mr. Speaker, to the conclusion to which the gentleman from New York arrived. I only objected to the arguments adduced, and the grounds relied upon by him in reaching that conclusion.

The speech of the learned gentleman was indeed cogent and possibly unanswerable upon the side of certain claimants; and while I was much interested in the close, compact, and logical presentation of his views, I beg pardon for saying that I was not much aided by him in reaching a conclusion as to the scope and meaning of the bill under discussion. I doubt not that much of his argument, in the event of the passage of this bill, will be often quoted and vigorously pressed upon the Court of Claims, and also upon the Supreme Court, in the interest of a certain class of claimants, to show the true purpose of the bill. I am sure that the utterances of so distinguished a lawyer and statesman will not fail to be highly persuasive both here and elsewhere; and therefore I hope before this discussion has terminated that those gentlemen of the Judiciary Committee who originated and matured the bill, will inform this House whether or not it was their aim to give "all persons and corporations" claiming an interest in the fund equal rights in court, and whether they now think the pending bill accomplishes that object.

The objections to the substitute are, first, that it transfers these claimants to a commission, from whose judgment no appeal can be taken; second, it trammels the tribunal in its consideration of causes submitted to it, thereby, I think, placing this Government in a questionable attitude in reference to this undistributed balance; and third, it would probably result in the permanent establishment of a court, at present unknown to our judicial system, thus swelling the offices of this Government, now amounting to about one hundred thousand. For the arguments to support these objections I beg leave to refer to the views expressed in a former Congress by the gentleman from Massachusetts, [Mr. BUTLER,] but who, it seems, has receded from those views, and is now on the other side of this question. As attention has been called to these arguments, and elaborated and made, if possible, stronger and more conclusive by Mr. STENGER, I shall not consume time to have them read again by the Clerk. I hope they will have the effect to, at least, convince their author [Mr. BUTLER] that his original conclusion was right, and that the pending bill should be passed.

In conclusion I desire to say that it is high time that this Government should discharge its duty in regard to this money, by ascertaining whether its citizens have just claims thereon; whether it shall be covered into our Treasury, or returned to Great Britain. Justice to the Government and to claimants alike demand an early disposition of this matter, and I hope that if the fund in question cannot be distributed "under the treaty and award, according to the principles of justice, equity, and the laws of nations," that it will be promptly returned to Great Britain.

Mr. PHILLIPS. Mr. Speaker, the pending measure comes to us in a different way from the usual course of legislation. For the time being this body assumes some of the functions of a judicial tribunal, before which certain individual interests are to be determined, and with this semi-judicial function comes all the responsibility that justly attaches to it. We cannot absolve ourselves from the respon-

sibility we thus assume by settling it as a mere question of popular opinion or as a mere question of equity untrammeled by law. The money was given to meet certain losses incurred in a certain way, and belongs to certain individuals.

The men who lost the vessels may have died; the firms may have broken up; every right inuring under it may have passed by bargain or assignment; the vessels may have been insured by American citizens for American citizens, and both the premiums and the policy been paid; but since neither of these accidents or local circumstances absolved Great Britain from paying for these losses, it is difficult to see on what ground of equity we are justified in setting either of them aside. This subject comes before us with all the sanction and sacredness of treaty stipulation, which we cannot assume this body will change or ruthlessly violate. It comes to us with all the dignity of international arbitration; and while it is true we have reserved the power of determining the manner of dividing the award among the claimants, it is equally true that the award was to be paid for losses of a certain specified character, and that vested rights obtain therein only to a certain class of losers. We cannot afford to divert one cent of it from its legitimate objects. We cannot afford that a single nation represented at Geneva should have the license to say that we obtained money on false pretenses, or that we obtained it for one purpose and used it for another. The dignity of the Government and the honor of this House alike forbid it. This is not, therefore, a vested discretion in us, but a mere inquiry to whom does this money legally and legitimately belong. It is a question of evidence and law, and I need not add that we cannot properly or safely hear and determine the individual cases in this House.

I am aware of the embarrassments that present themselves to the minds of many members of this body. There is among our people an instinctive love of fair play, a desire for simple, sensible equity untrammeled by technicalities, and we therefore ask, why should an insurance company that has received the great war premiums have a bonus given them from this salvage? If their business was conducted on proper principles they have already received a profit over and above what they paid. Again we ask, if a man has insured and has received his insurance, why should he be paid for his property again? And still another query, if a man has not insured, on what principle of equity shall he claim the whole of the award to the exclusion of those who conducted their affairs on safer business principles? Again we ask, because a man has suffered from depredations not included or causes not admitted, shall we take the money in which other parties have legal rights and pay it to reimburse him? Will this claim be strengthened because he may be poor and they may be rich? Shall we imitate Robin Hood, who

> Robbed the rich and did bestow
> Upon such as were poor and low.

Great Britain did not assume to inquire who were the proper claimants. She paid fifteen millions and a half, which it was estimated would meet all claims of a certain class, and I cannot see that we are warranted in setting aside any of them.

It is true that corporations and companies are not popular. This prejudice has been used on this floor in discussing this question as an argument for their exclusion. The American citizen who studies the genius and spirit of American institutions is waking to the consciousness that these great creations of modern times have grown into proportions that were never contemplated, and exercise their power after a fashion injurious to the individual interests and dangerous to the public safety. He is like the fisherman in the old Arabian tale, who dragged a small vessel from the sea in his net, and when he opened it a small cloud of smoke issued therefrom, which ascended toward the sky and spread out until it had darkened all the heavens, and finally assumed the shape of a monstrous tyrannical genie, and used the first moment of its liberty to kick the small vessel from which it came into the sea. We stand amazed at the aggregated wealth and power of these concerns which so overshadow us. A business man may grow to be a millionaire. His shrewd, enterprising fingers are like magnets, which irresistibly draw wealth from the most remote and intricate channels of society, until it has swelled to millions on millions, and the laboring man who earns and eats his daily bread is awed and enchained as he looks at it. But the millionaire dies. Under our admirable social and political system his wealth breaks into fragments. It melts like snow under the sunshine of American institutions and floats back to the people from whom it was taken, and well-hoarded estates, which are preserved carefully by idle generations, are, under our institutions, the only real public calamities.

A corporation never dies. Its highest aspiration is to triumph over death and the sheriff. Like Melchisedec, it is without beginning of days or end of life. The American people to-day are only emerging from the vestibule into the condition of society which is to be governed by these modern creations. They watch their rapid and colossal growth, their unscrupulous exercise of power, and the almost illimitable future that seems to be before them, and as they gaze they regard them with mingled feelings of hatred and distrust.

Insurance companies are not so odious as railroad and some other companies, but the different kinds of them are far from popular. So many of them are organized on an unsafe and dishonest basis, or are conducted in violation of every safe business maxim, that all have fallen to some extent into disrepute. There is a widespread suspicion that they spend the money intrusted to them in exorbitant salaries or interested and bad investments, and that they break whenever it is more profitable to break than to pay. And thus it happens that, while many honorable men may be engaged in them, when they approach a representative body they are treated as if they were common swindlers and public enemies, and had no rights a legislature were bound to respect. Still they have certain legal rights we cannot justly ignore. They undoubtedly have some kind of an interest in this Geneva award. That they may be required to pay the excessive war risk to those who paid it is at least a reasonable subject of inquiry; but no one will deny that if the sunken vessels could by some hitherto undiscovered process be raised from the bottom of the ocean the insurance companies would be entitled to repay themselves from such salvage, whether they had made a profit or not.

I cannot but regret, Mr. Speaker, that the question should not have been submitted to us by a unanimous report from the Judiciary Committee. I have great confidence in its learning and fairness; but these gentlemen appear before us with several different propositions, and they must not wonder if this House is affected by some of the embarrassments which seem to have affected them. I am inclined to support the report of the majority, not that it covers all I could wish or that it may not work some hardship, but I do not see as fair a proposition in any of the other reports. It refers the individual claims to an organized tribunal where, under international and common law and the equities on which these rest, the cases can be heard and adjudicated. It does not fear a legal scrutiny or a legal verdict.

For my part, I desire to see every legal claim properly covered by the award faithfully paid, and, sir, if there be any surplus, instead of appropriating that to any purpose not contemplated, I am in favor of sending it back to them. American statesmen first introduced arbitration and honest, peaceful, Christian statesmanship among the nations, and cannot afford to be lost in the mazes of a tricky diplomacy. If England obtained more than was her due on the fishery award by the wiles of diplomacy, it is better that she should do it than that we should imitate her. If there is an honorable Englishman who so contemplates their apparent gain on the fishery award, I am sure he must think that the sum obtained was not worth what it cost. Let us elevate diplomacy to the just and Christian standard that honor unsullied and justice maintained are the noblest and best safeguards for national peace and the peace of the race, and that while Brother Jonathan may be the most enterprising of the nations he also shall stand first in vindicating the good name of his country.

The SPEAKER. The gentleman from Mississippi [Mr. MANNING] has eighteen minutes of his hour remaining.

Mr. MANNING. I yield the remainder of my time to the gentleman from Tennessee, [Mr. BRIGHT.]

Mr. BRIGHT. Mr. Speaker, I do not rise for the purpose of going into the details of this question; they have already been elaborately discussed. Indeed, I do not think the question is one of details, but a question of jurisdiction; whether the Congress of the United States or the judiciary of the United States shall determine the rights of the respective claimants under the Geneva award. I think, Mr. Speaker, the question is all in a nutshell. I think I shall have but little difficulty in digging the heart out of the question without elaborating to any great extent; and, if I can have the attention of this House, I propose briefly to make a suggestive rather than an elaborative argument.

What is the main fact in the case? The Government of the United States, as the *prochain ami* or next friend of certain citizens who claim to have been injured by reason of the violation of our neutrality laws, recovered indemnity from the British government. Having recovered it, it holds that indemnity now as trustee. I presume that there is no controversy on that subject, because the Government has already entered upon the distribution of the fund, and by so doing has admitted the fact that it holds it only as trustee and for the benefit of proper claimants.

Then the next question that presents itself to us is this: Who are the proper participants in this fund? The Government has no claim to it. There are certain persons who claim to have been injured by what are called inculpated cruisers; others that say they have been injured by reason of exculpated cruisers; others say they are entitled by right of substitution growing out of their insurance policies; others say they are entitled by reason of the payment of war premiums. With these varied claims presented to the United States, I submit that not a single member of this Congress is now prepared to decide and determine judicially as to the right of a single claimant under this award; not one. I know that I am not prepared. Perhaps others have been more diligent and have given the subject more thorough investigation than I have. But while that is so, I apprehend that no member is prepared as a judge to decide between these different claimants.

Then, Mr. Speaker, the question comes back upon us, Who is to decide in relation to these claims and what is the nature of the claim to be decided? I maintain that is purely a judicial question; that it is not an executive question, not a legislative question. The executive has no power to determine it. Congress has said it has no power to determine it. Then the question comes back, Who is to determine it? This bill proposed by the majority answers the question—that it ought to be referred to a judicial tribunal clothed with sufficient power to hear and determine the complaints and all the rights of all the different claimants who may present their claims for adjudication.

Now, am I correct in that? I propose, Mr. Speaker, to call the attention of the House to article 3, section 2, of the Constitution of the

United States; and I invite the attention of Representatives especially to this constitutional question, because it is one that should control the action of this body. Here is the provision of the Constitution:

The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority.

Now, Mr. Speaker, we find that the term "shall," the imperative, is used, and the extent and range of the judicial power is defined. After the Government of the United States had enforced what might be called a political right in favor of the citizen, that is, requiring the payment of the indemnity upon the part of Great Britain, then the question ceased to be a political question; it ceased to be a national or an international question. It then became absolutely an individual question, and the point I make is this: that no authority can be found in any law-book, nor in the Constitution of the United States, to sustain the legislative power in determining judicial rights between citizens of the United States.

Now, if there were a political element involved in the question the jurisdiction of Congress might properly attach to that question; but there is no political obligation upon the part of this body to determine any undetermined question which remains in the case. The only political question that was involved in it was the obligation to enforce the right of the citizen against a foreign nation, simply because the citizen could not have a hearing individually before the nations of the earth. The Government has exhausted that power, has fully discharged its duty to the citizen, has recovered the indemnity and now holds it, so that the question simply comes back upon us, what further supplemental duty is necessary upon the part of Congress? It is simply to obey the Constitution, to refer these rights of individuals to the judiciary, which alone has power to determine such rights.

This, sir, is not a controversy between the Government and the individual. It is a controversy between individuals as to rights already acquired, and Congress has no power to destroy existing rights, nor to create new rights which do not already exist under the award. Therefore, if we here were to make the award payable to either one or the other of these parties it would not settle the question, because it would be an illegal and unwarranted distribution of the fund, and the true claimant would come back from Congress to Congress until his right was fully vindicated.

Then, we have no power to create a right. Rights have already been created. We have only power to provide the machinery or the court through which the rights are to be enforced. I maintain that this position is well supported by authority and verified by the commentary on the Constitution to which I will call the attention of the House for one moment. I read from a note of Judge Paschal in his annotated edition of the Constitution:

Judicial power, as contradistinguished from legislative power and executive power, is the power to hear and determine all the cases of law and fact which arise between the Government and parties or between parties under the Constitution, the law of nations and the laws and treaties of the United States which shall be legally brought within the cognizance and jurisdiction of the courts or judicial tribunals established under the Constitution. It was intended to be a separate department of the Government, possessing all the judicial power of the National Government except upon the single jurisdiction of impeachment—not a power to control other departments of the Government in their official action, but to act independently of them under the Constitution and laws.

Then he draws the distinction between a purely judicial question and a question of a compound character involving the judicial and the political. And here is his comment on this subject:

But the judicial power does not extend to all questions which arise under the Constitution, laws, and treaties, because many of these are political and have to be solved by other departments of the Government.

There is the distinction fairly drawn. I have shown this question is entirely denuded of any political ingredient, and has nothing but judicial ingredients connected with it, and the Constitution is imperative and compels adjudication of such questions by an independent and co-ordinate branch of the Government, to wit, the judiciary.

There is no other power known which can decide this question except the judicial power. Here are these different claimants; they present their case; it is composed of law and it is composed of fact. Who is to administer the law which has been already made? Who is to determine the facts which are submitted and laid before the judicial tribunals of the country? Why, surely Congress has no power to determine purely judicial questions. The question comes home to the tribunal which has been created properly for its adjudication, to wit, the judiciary established under the laws of the United States.

As a mere test of the application of this principle and to show how far short this body would fall of investigation and proper judgment upon these matters, let me ask where is the judicial evidence which has been submitted to this body as to the right of a single individual? There is not a single claim presented here supported by testimony. It is simply an application to Congress to provide for the distribution of a fund among certain claimants. "Wheresoever the body is, thither will the eagles be gathered together." Here are a thousand claimants to what remains of this Geneva award. Who is to determine it? Send them to the courts. All the facts and circumstances are purely judicial in their character, which ought to be determined by the courts.

Now, Mr. Speaker, if I am correct in this presentation of argument that is the end of it; and I think I may safely challenge any individual to show there is any error in it. I present to him the Constitution of the United States and tell him before he can erect any other tribunal that will settle the question he must strike down that instrument, and all other attempts to settle it will be nothing but mere usurpation on the part of the Congress. We do not sit in judgment upon the rights of individuals, as I have already stated. Wherever there is a political consideration, as I have shown, there jurisdiction is acquired by Congress. Otherwise we are only exercising a legislative function to provide the means or machinery by which the judiciary shall act.

Now, Mr. Speaker, unless this body shall refer these different claims to the Judiciary Committee for final adjudication with the right of appeal, then, from my knowledge of the past history of claims presented before this body, they will revive and return until they are gray with the age of a century. I have heard the dull thunder of such claims against the doors of Congress and the doors of the Treasury since I have been here, and why is it? Simply because Congress had failed to send them to a judicial tribunal with ample powers for final and conclusive adjudication.

I verily believe unless Congress shall wash its hands of these different claims, put them before the different tribunals of the country with ample jurisdiction to determine every question of law and equity and make that judgment conclusive upon all parties, we will hear those claimants beating at the doors of Congress for the next half a century.

Having said this much, Mr. Speaker, I will now yield the floor, and hope the bill reported by the Committee on the Judiciary will be passed.

Mr. MANNING. I yield the remainder of my time to Mr. BACON.

Mr. BACON. Mr. Speaker, I have only asked for a few moments in order that I may express in the briefest possible manner the ground upon which I shall found the vote I expect to give on this question. It seems to me, sir, some things may be well deemed to be settled, that we may take for granted in this discussion; and in the first place it appears to me entirely clear that the fund in question is not in the Treasury of the United States as a fund which we can distribute at our will and pleasure; that we do not hold it either to give it away or to cover it into the Treasury, or to lay our hands upon it by way of reprisal as a sort of remuneration for certain wrongs we may have fancied we have suffered or that we have sustained. Rather than to accede to such a mode of disposing of the balance of this fund, which would in effect constitute a confiscation of the entire amount remaining in our hands, I think I would consent to its restoration to Great Britain as so much more than we have been able to show on any principle of indemnity we were fairly entitled to retain. Such a method of reprisal as has been suggested in this debate, injurious and unjust as many, if not most, of us believe the Halifax award to have been, does not commend itself to my idea of what is in itself right and proper, nor is it in accord with that high sense of comity which should obtain between nations that have given to the principle of arbitration the commanding position it now occupies.

I do not deem that this fund is in any such position as the one thus suggested; that we are at liberty to deal with it in any such fashion, either to give it away or to appropriate it without rhyme or reason, as either our caprice, our avarice, or perhaps some even less worthy motive may prompt.

In the second place, sir, I consider that we hold this fund as a trustee. It is in the nature of a trust in our hands, and we hold it as trustees for those who can rightfully and justly claim it. There are those who assert claims upon this fund who insist that they have the right to appropriate it, and it is our business, as it seems to me, holding it thus in trust, to appropriate it as the laws of justice and equity demand at our hands.

Now, sir, who are these claimants? First, all those who suffered injuries at the hands of what are denominated and have been actually designated as the exculpated cruisers are by the award, in my judgment, set aside.

Those who paid extra war premiums, upon the same principle and proceeding upon the doctrines upon which the award is founded must be equally set aside. It would seem, therefore, to result as a necessary proposition that this fund belongs to those who suffered injuries at the hands of the inculpated cruisers who are specifically enumerated and designated in the Geneva award, and the injuries perpetrated by which cruisers thus designated, the tribunal examined and awarded a sum which in their judgment should cover the injuries which were suffered at their hands.

Now, if all this be so the result would seem to be pretty clear that those who suffered at the hands of those specific inculpated cruisers are the ones to be indemnified, and the only question that remains is to determine who they are and what they shall respectively receive. Now, sir, that is a question which we should find it very difficult to determine here, and therefore it would seem to me, and the proposition commends itself to my judgment, that the mode proposed in the report of the majority is the one most consonant to justice and equity. They do not propose to hand over this fund to any specific set of claimants, but they do propose to put the whole matter of the disposition of this fund into the hands of a judicial body to ascertain by proofs, by investigation, by inquiry in any and every quarter, and by all proper and legitimate methods, who are the proper parties to re-

ceive this fund. Can there be any tribunal better adapted to secure that end, any that can be less objectionable? The judicial body is the very body, it seems to me, that should deal with a question of this character; and therefore it is that in the attention I have given and the thought I have bestowed upon this matter I have come very clearly to the conclusion that the report of the majority should be sustained, and that we should hand over this whole subject to the disposal of the Court of Claims, and in that way we shall accomplish the ends of justice more satisfactorily than in any other mode. Let all that have or deem they have just claims upon this fund present them there, and there let them be heard and passed upon, and the country, if not the claimants, will I think be satisfied.

I cannot but admire the high, the almost chivalrous sense of honor that prompted the declarations of my esteemed colleague, [Mr. CHITTENDEN;] that, deeply interested as he was in certain insurance corporations, he would not consent to touch one farthing of this surplus fund until the individual sufferers by the exculpated rebel cruisers had been fully indemnified. But this is not a question that can be settled by impulses, however generous, or abnegation, however much we may admire the spirit from which it springs. It is a pure question of right, and the application of judicial principles to the ascertainment of the right and the enforcement of the appropriate remedy. As such, and in that aspect only, I am disposed to consider it, and the considerations I have thus hastily and imperfectly presented will be controlling in the vote I propose to give.

The SPEAKER *pro tempore*, (Mr. FINLEY.) The gentleman from Mississippi [Mr. MANNING] has five minutes of his time remaining.

Mr. MANNING. I yield to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I am hardly entitled to the courtesy which the gentleman from Mississippi [Mr. MANNING] has granted me, having had my five minutes on this subject already. I desire to say but a single word to the constitutional argument made by the gentleman from Tennessee, [Mr. BRIGHT.] In order to develop the practical point in this question, I stated here the other day that I was an interested party, as one of the Atlantic Mutual Insurance Company, and that the majority bill would certainly put hundreds if not thousands of dollars into my pocket. My objection to it is this: the gentleman from Tennessee read the Constitution to prove that this matter should be settled by the courts according to the treaty. Now, sir, I say, not being a lawyer, that under the treaty nobody will have a place in the courts but the insurance companies; nobody, sir; and the claims of the insurance companies do not absorb the money. There is more money than the insurance companies claim.

The bill of the majority, in plausible but misleading phraseology, proposes that this question shall be settled according to equity and the law of nations. Ay, sir, it is equity that I am for; and if we cannot have equity I am for sending the surplus money back to Great Britain. I do not deny the insurance claims, but I deny that this bill gives anybody else any chance whatever, either in the Court of Claims or before the Supreme Court of the United States. I have never been so impressed with the correctness of my position as when the gentleman read the Constitution. He claims that the division shall be made under the Constitution according to the treaty. That is the point, sir; and having an interest in the insurance companies and claiming equity and justice for all, I venture to predict that, if that bill shall pass, not one claim shall ever have any standing in court except the claims of the insurance companies, unless it may come of some miserable poor man who was chained to the deck of a ship and so lost the use of his arms or legs for life. There are such cases. They indeed can make their appeal to the court, and perhaps receive some compensation under the bill of the majority.

[Here the hammer fell.]

The SPEAKER *pro tempore*. The gentleman from Maine [Mr. HALE] is entitled to the eighteen minutes remaining of the hour of the gentleman from Michigan, [Mr. CONGER.]

Mr. HALE. I would like the attention of the gentleman from Kentucky [Mr. KNOTT] for a moment. I know he is very anxious to have this matter brought to a close. I understand that with the exception of what time I take there is to be no further debate except on the part of the gentleman from Kentucky [Mr. KNOTT] and the gentleman from Ohio, [Mr. MCMAHON,] who represent the two reports. Is that so?

Mr. KNOTT. That is the understanding.

Mr. HALE. And that the understanding is that the vote be taken to-morrow. I did not expect this would have come up to-day. I had not expected that there would be a quorum, and the memoranda I had are at my house. But I do not wish to delay the matter. What I now propose to the gentleman from Kentucky is that if this measure can go over till to-morrow, I will then occupy much less time than I should occupy if I were to speak to-night—I think not over fifteen minutes—and then the previous question can be called. I would prefer that, because I have not my memoranda with me, and I understand that there are other matters of detail business that can come up to-night.

The SPEAKER. The Chair then understands that the further consideration of the bill is to be postponed till to-morrow.

Mr. KNOTT. I have no objection to that.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House a message from the President, in answer to the resolution of the House of Representatives of the 4th of December last, in regard to the commercial relations between the United States and Mexico, with accompanying papers; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

Leave of absence was granted in the following cases:

To Mr. CLYMER, until the 14th instant, on account of important business;

To Mr. PATTERSON, of New York, for ten days;

To Mr. HENDERSON, indefinitely; and

To Mr. RIDDLE, indefinitely, on account of sickness.

HON. A. S. WILLIAMS.

The SPEAKER, by unanimous consent, laid before the House a letter from the secretary of the District of Columbia, transmitting a copy of the order adopted by the commissioners of the District of Columbia respecting the late Hon. A. S. Williams; which was laid on the table, and ordered to be printed.

SERGEANT JOHN MURPHY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the petition of Sergeant John Murphy, for retention of his wife as laundress, which was referred to the Committee on Military Affairs.

WILLIAM H. WINTERS AND FRANCIS M. ST. CLAIR.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the claims of William H. Winters and Francis M. St. Clair for value of clothing destroyed by fire; which was referred to the Committee on Appropriations.

LIEUTENANT-COLONEL JOHN R. BROOKE.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from Lieutenant-Colonel John R. Brooke, Third Infantry, relative to the present status of laundresses in the Army; which was referred to the Committee on Military Affairs.

SPRINGFIELD NATIONAL ARMORY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement showing the expenditures at the Springfield national armory; which was referred to the Committee on Appropriations.

FORTS ABERCROMBIE AND SEWARD.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the relinquishment of Forts Abercrombie and Seward, Dakota Territory; which was referred to the Committee on Military Affairs.

REBELLION WAR RECORDS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Captain Robert N. Scott relative to the manner and cost of publishing the Rebellion War Records; which was referred to the Committee on Military Affairs.

PORT OF REFUGE.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State for the establishment of a port of refuge on the coast of said State; which was referred to the Committee on Commerce.

IMPROVEMENT OF HARBOR AT COOS BAY, OREGON.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State for the improvement of the harbor at Coos Bay, in said State; which was referred to the Committee on Commerce.

CHINESE IMMIGRATION.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of said State relative to Chinese immigration; which was referred to the Committee on Education and Labor.

Mr. WILLIAMS, of Oregon. I ask unanimous consent that the memorial just referred be printed in the RECORD.

There was no objection, and it was so ordered.

The memorial is as follows:

To the Honorable Senate of the United States:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that the continued immigration, or rather importation, of cooly slaves or Chinese laborers to this State is a violation of treaty stipulations, which provide that such immigration shall be voluntary, and is a very serious injury to the laboring classes, not only of our State, but of the entire Pacific coast, by the reduction of wages to starvation prices; that such importation of said Chinese and other Asiatic slave labor tends to drive white and all other free labor out of our country and ultimately compel all who subsist by manual labor to the alternative of choosing between starvation and crime; that at least 75 per cent. of all the earnings of said Chinese or cooly slave labor, instead of being in our midst, and thus contributing to our prosperity, is sent to China never to return, thus withdrawing the coin from our country and rapidly decreasing our circulating medium, to the great injury of the best interest of this State, and of the entire Pacific coast; that such Chinese laborers do not contribute to the wealth and prosperity of the country by the acquisition of property and the payment of taxes, but by pauperism and crime are a continual source of expense to the country and municipalities of this State; that the treaty of 1868 between the United States and China, known as the Burlingame treaty, has never been maintained on the part of China in accordance with

its intent and meaning; the right of free migration and immigration which it recognizes was to be entirely voluntary, and to be exercised in view of expatriation. The Chinese have no right to be admitted under the circumstances in which they come here; they are usually brought in hordes in a condition of semi-slavery, and obligated to perform a term of servitude. The privilege accorded to contracting parties was upon condition that the immigration to either country by the citizens or subjects of the other should be a voluntary individual act; China has wholly failed to have that consideration observed, and the United States ought to revoke the privilege; therefore, we, your said memorialists, pray your honorable body to modify the treaty between the United States and the Empire of China so as to stop and prohibit the importation or immigration of Chinese and other Asiatic laborers to this coast.

Adopted by the senate October 12, 1878.

JOHN WHITEAKER,
President of the Senate.

Adopted by the house October 18, 1878.

J. M. THOMPSON,
Speaker of the House.

IMPROVEMENT OF COQUILLE RIVER.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State for the improvement of the Coquille River in said State; which was referred to the Committee on Commerce.

MILITARY POST, OREGON.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State for the establishment of a military post at or near Baker City, Oregon; which was referred to the Committee on Military Affairs.

UMATILLA RESERVATION.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of said State relative to the Umatilla Indian reservation; which was referred to the Committee on Indian Affairs.

COLUMBIA AND WILLAMETTE RIVERS.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State relative to the improvement of the Columbia and Willamette Rivers in that State; which was referred to the Committee on Commerce.

PROPERTY DESTROYED BY INDIANS IN OREGON.

The SPEAKER also laid before the House a letter from the secretary of state of the State of Oregon, transmitting a memorial of the Legislature of that State for the appointment of a commission to audit and allow claims for property destroyed in the Indian war of 1878; which was referred to the Committee on Indian Affairs.

TEMPORARY MAIL CONTRACTS.

The SPEAKER also laid before the House a letter from the Postmaster-General, transmitting a list of temporary contracts for carrying the United States mails, made by authority of an act of Congress approved August 11, 1876; which was referred to the Committee on the Post-Office and Post-Roads.

SCUPPERNONG RIVER, NORTH CAROLINA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report and map of Charles B. Phillips relative to the Scuppernong River, North Carolina; which was referred to the Committee on Commerce.

ONE HUNDRED AND FOURTH ARTICLE OF WAR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from Major-General Irvin McDowell relative to a change in the one hundred and fourth article of war; which was referred to the Committee on Military Affairs.

EMPLOYÉS OF STATE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of State, transmitting a list of the names of the clerks and persons employed in the State Department during the year 1878, and length of service and the amount of salary paid to each; which was referred to the Committee on Expenditures in the State Department.

UNITED STATES COURT, DENISON, TEXAS.

The SPEAKER also laid before the House a letter from the secretary of the Chickasaw Nation, in regard to the establishment of a United States court at Denison, Texas; which was referred to the Committee on Indian Affairs.

INDIAN APPROPRIATIONS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting an estimate of appropriations to provide for certain Indians therein named; which was referred to the Committee on Appropriations.

CONTINGENT FUND OF INTERIOR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, recommending an appropriation of $3,500 to meet a deficiency in the contingent fund of that Department; which was referred to the Committee on Appropriations.

DUCK CREEK AND MISPILLION CREEK, DELAWARE.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of Colonel J. N. Macomb, Corps of Engineers, of the examination of Duck Creek and Mispillion Creek, Delaware; which was referred to the Committee on Commerce.

CONTINGENT FUND, STATE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of State, transmitting a detailed statement of the manner in which has been expended the contingent fund of the Department of State for the year ending June 30, 1878; which was referred to the Committee on Expenditures in the State Department.

PURCHASE OF CONFEDERATE RECORDS.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending an appropriation for the purchase of confederate records; which was referred to the Committee on Appropriations.

CLOTHING LOST AT FORT TRUMBULL.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from Lieutenant Allyn Capron, First Artillery, recommending an issue of clothing to enlisted men in lieu of that lost at Fort Trumbull; which was referred to the Committee on Military Affairs.

DELAWARE RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of Colonels Macomb and Ludlow, Corps of Engineers, in reference to the improvement of the channel of the Delaware River in the vicinity of Cherry Island Flats; which was referred to the Committee on Commerce.

Mr. O'NEILL. Will that report be printed in the RECORD?

The SPEAKER. It will not, unless ordered by the House.

Mr. O'NEILL. I ask that that order be made.

There was no objection, and it was so ordered.

The report is as follows:

WAR DEPARTMENT,
Washington City, January 4, 1879.

The Secretary of War has the honor to transmit to the House of Representatives, in compliance with House resolution of the 18th ultimo, copy of the report made by Colonels' Macomb and Ludlow, Corps of Engineers, in reference to the improvement of the channel of the Delaware River in the vicinity of Cherry Island Flats, with charts and estimates of the cost of said improvement.

Respectfully submitted.

GEORGE W. McCRARY,
Secretary of War.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., January 2, 1879.

SIR: I beg leave to return herewith the resolution of the House of Representatives of December 18, 1878, "that the Secretary of War be requested to furnish the House of Representatives a copy of the report made by Colonels Macomb and Ludlow, United States Army, which was submitted by them to the Chief of Engineers of the Army, in reference to the improvement of the channel of the Delaware River in the vicinity of Cherry Island Flats, accompanied by a chart or charts and estimates of cost, &c.," which was referred to this office on the 19th ultimo, and, in obedience to its requirement, to transmit herewith a copy of the report and map called for.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers.

Hon. GEORGE W. McCRARY,
Secretary of War.

DELAWARE RIVER, NEAR CHERRY ISLAND FLATS.
UNITED STATES ENGINEER OFFICE,
Philadelphia, Pa., December 2, 1878.

GENERAL: After careful examination of the Delaware River in the vicinity of Cherry Island Flats, considered in connection with the legitimate requirements of the navigation interests involved, I have the honor to submit the following report on and project for the improvement of this locality:

The Cherry Island Flats begin just below Old Man's Point, 25 miles from Philadelphia. At this point the river is 1¼ miles wide. At Deep Water Point, 5 miles below, it is 1 mile wide. Between the two the width increases to nearly 2 miles, and the flats lie in midstream, dividing the river into two channels.

In 1842, as shown by the general chart of the river, these flats were covered with from 8 to 12 feet of water. They have since risen until, over a considerable area, there are now but 1½ feet. The 18-foot curve, however, occupies about the same position as formerly.

The eastern channel was in 1842 much the better of the two, affording a practical draught of 20 feet, and a width between the 18-foot curves of from 300 to 600 yards. At present the draught is from 19 to 19½ feet, and the average width about 600 yards, decreasing to 480 yards at the narrowest place.

The distance between the 24-foot curves above and below the shoals has remained about the same, namely, 400 yards.

In 1842 the western channel had 19½ feet of water, but by a notable projection of the 18-foot curve from the western shore was narrowed to 150 yards for a considerable distance, and curved through an angle of 90°. It was therefore not used by heavy vessels, which have continued ever since to run the eastern channel.

This projection, however, has since disappeared, and the western channel consequently exhibits a marked improvement. It is now over 500 yards wide at the narrowest place, with an average width of over 800 yards, and a draught of 18½ feet to 19 feet. The distance between the 24-foot curves above and below the shoals is about 3,500 yards.

This enlargement of the western channel is a significant and important change when it is considered that the increased capacity is entirely due to the action of natural causes, while all the benefit of the passage of large steamers with deep screws has been given to the eastern one. Notwithstanding this advantage the pilots represent that the eastern channel is again decreasing both in width and depth.

It is probable that these complaints are due rather to the vessels which travel the river than to any rapid diminution in the capacity of the channel, but in any case the fact remains that the interruption to navigation caused by these shoals is yearly becoming more and more serious and the demands for its improvement constantly increasing in urgency.

A survey of this locality was therefore begun early in the season, but discontinued when it was learned that the Light-House Board had perfected arrangements for having one made over precisely the same ground with the view of determining the proper position for a new set of range-lights for the guidance of vessels past the flats.

The results of this survey are given on the accompanying chart, copied from that furnished the Light-House Board, with the addition of the 24-foot curve and the lines within which it is proposed to make the necessary improvements.

The western channel is strongly indicated as the proper one to improve by the following considerations:

First. It is already much wider than the eastern, with but slightly less draught. It has gained this width from natural causes alone, and the use of the channel by heavy vessels will increase its depth. The eastern channel, being abandoned, will decrease to its former dimensions and continue to deteriorate from disuse, and additional preponderance of natural scour will be gained for the western channel.

Second. During the months in which ice runs in the river the prevailing winds are from the north and west, and the ice is therefore driven upon the eastern shore, leaving the western side comparatively free.

Third. The main channel above the flats being on the western shore, vessels must in any case come to that side. The 24-foot curve at present forms a narrow loop in mid-stream connecting the head of Cherry Island Flats with the lower end of Marcus Hook Bar, within which is a probably decreasing depth of but 22 feet to 23½ feet, over which vessels must cross. There is therefore an additional obstruction on this route, and its improvement would ultimately involve maintaining a channel across the tide.

Fourth. The actual amount of dredging that would be required to secure a channel of the desired width and depth would probably be about the same in either case, with the chances of permanence largely in favor of the western channel.

The question of lighting the channel being one closely connected with that of improving it, and the utility of a range that vessels can closely follow being very great in maintaining a channel of limited width, the particular line drawn on the chart was selected for common recommendation after consultation between this office and that of the Light-House Board in this city for the following reasons:

First. It passes the lower end of the flats nearly where the old channel existed, and where, therefore, a certain stability and permanence of improvement are to be looked for.

Second. It makes the least angle with the normal currents of the river consistent with obtaining a site for the range-lights within any practicable distance, and is in fact on the whole coincident with them. Their natural and daily action will therefore aid both in constructing and maintaining a channel on this line.

Third. It avoids probable disturbance from the outflow of Christiana Creek, especially during freshets, by passing at a considerable distance from its mouth.

Fourth. It meets the range line below (that of the Deep Water Point Lights) in mid-channel, consequently vessels can alter their course in good water, and with a wide margin of safety and after turning will be guided up the middle of the river past the flats and left on the western shore with good water to Chester.

The project, therefore, for the improvement of the Delaware River in the vicinity of Cherry Island Flats is as follows, namely:

To connect the 24-foot curve in the channel west of the flats with the corresponding curve below the light by a straight cut 900 feet in width and 24 feet deep at mean low water, having for its axis the line shown on the accompanying tracing.

This line is 3,620 yards long and the least water upon it is 17 feet, but it crosses the 18-foot curve 100 yards either side this sounding.

Its average depth for the whole length is 19 feet 8 inches.

The average depth on the east side of the proposed cut is 19 feet 1 inch and on the west side 20 feet 5 inches. The entire amount of material to be removed is 1,750,000 cubic yards, and at twenty cents per yard the total cost of the improvement will be $304,000.

In this estimate, however, no account is taken of the certain auxiliary action of the natural flow when the cut shall have once been opened, nor of the additional assistance to be derived from the churning of the deep screws of heavy steamers. The material being principally a soft mud it is probable that the total cost of securing the desired channel will be reduced through these agencies by from 10 to 15 per cent.

Should funds be appropriated for this improvement, it is proposed to effect it gradually, making at first a cut 100 yards wide completely through the shoal to the full depth. This would cost $100,000, which could be profitably expended in one season.

The second season's operations would double the width of this channel by increasing it 50 yards on either side, and the total saving due to other agencies would be gained for the third season's operations, so that the total expense would be reduced to $200,000 or less.

Very respectfully, your obedient servant,

J. N. MACOMB,
Colonel of Engineers.

Brigadier-General A. A. HUMPHREYS,
Chief of Engineers, United States Army.

LEAVE OF ABSENCE.

Leave of absence was granted by unanimous consent as follows:
To Mr. HUBBELL, for two days, on account of important business;
To Mr. GLOVER, for ten days; and
To Mr. OLIVER, for ten days.

DANIEL PARKER.

Mr. BRIGHT, by unanimous consent, introduced a bill (H. R. No. 5717) for the relief of Daniel Parker, of Bedford County, Tennessee; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

FANNY P. MURFREE.

Mr. BRIGHT also, by unanimous consent, introduced a bill (H. R. No. 5718) for the relief of Fanny Priscilla Murfree, of Rutherford County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

PATENTS.

Mr. DEERING, by unanimous consent, introduced a bill (H. R. No. 5719) to amend the statutes in relation to patents, and for other purposes; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

INCREASE OF PENSIONS.

Mr. DEERING also, by unanimous consent, introduced a bill (H. R. No. 5720) to amend the act approved June 14, 1878, to increase the pension of certain pensioned soldiers and sailors; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HUMBOLDT BAY, CALIFORNIA.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R. No. 5721) to appropriate money for the improvement of the harbor at Humboldt Bay, California; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CRESCENT CITY, CALIFORNIA.

Mr. LUTTRELL also, by unanimous consent, introduced a bill (H. R. No. 5722) to appropriate money for the improvement of the harbor at Crescent City, California; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

INCREASE OF PENSIONS.

Mr. LUTTRELL also, by unanimous consent, introduced a bill (H. R. No. 5723) to amend an act entitled "An act to increase pensions in certain cases," approved June 18, 1874; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARE ISLAND NAVY-YARD.

Mr. LUTTRELL also, by unanimous consent, introduced a bill (H. R. No. 5724) to appropriate $764,800 for necessary improvements at Mare Island navy-yard, California; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

WRITS OF EXECUTION IN DISTRICT OF COLUMBIA.

Mr. ROBINSON, of Indiana, by unanimous consent, introduced a bill (H. R. No. 5725) relating to writs of execution in the District of Columbia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN C. LANDREAU.

Mr. WILSON, by unanimous consent, reported from the Committee on Foreign Affairs the following resolution; which was read, considered, and adopted:

Resolved, That the President of the United States be, and he is hereby, requested (if not incompatible with the public interest) to furnish this House an abstract of such correspondence and other papers as may be on file in the State Department touching the claim of John C. Landreau against the government of Peru.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELISHA DRESSER.

Mr. PHILLIPS, by unanimous consent, introduced a bill (H. R. No. 5726) granting a pension to Elisha Dresser; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHRISTIAN H. STIENMEIER.

Mr. PHILLIPS also, by unanimous consent, introduced a bill (H. R. No. 5727) granting a pension to Christian H. Stienmeier, of Seneca, Nemaha County, Kansas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM HEYWOOD.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. No. 5728) granting a pension to William Heywood; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM M. J. PATTERSON.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 5729) granting a pension to William M. J. Patterson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALEXANDER WHITLOCK.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 5730) granting a pension to Alexander Whitlock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY CLINE.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 5731) granting a pension to Henry Cline; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY VOELTER.

Mr. SPRINGER also, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of the Interior be, and he is hereby, requested to furnish the House of Representatives a copy of the application of Henry Voelter for a second extension of his patent for making wood paper pulp, and all the papers connected with said case, including the final action of the Commissioner of Patents thereupon.

WILLIAM E. PRINCE.

Mr. CUMMINGS, by unanimous consent, introduced a bill (H. R. No. 5732) for the relief of William E. Prince, late private of Company I, Twenty-third Missouri Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE BAILEY.

Mr. CUMMINGS also, by unanimous consent, introduced a bill (H. R. No. 5733) for the relief of George Bailey, late private of Company H, Thirty-ninth Iowa Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES COURT AT WILMINGTON, NORTH CAROLINA.

Mr. WADDELL, by unanimous consent, introduced a bill (H. R. No. 5734) to provide for holding a term of the United States circuit court at Wilmington, North Carolina; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CLASSIFICATION OF MAIL MATTER.

Mr. WADDELL, by unanimous consent, reported from the Committee on the Post-Office and Post-Roads a bill (H. R. No. 5735) relating to the classification of mail matter and rates of postage thereon; which was ordered to be printed and recommitted, not to be brought back on a motion to reconsider.

FORT DODGE MILITARY RESERVATION.

Mr. RYAN, by unanimous consent, introduced a bill (H. R. No. 5736) to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation in Kansas to actual settlers under the provisions of the homestead laws; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PRE-EMPTORS ON PUBLIC LANDS.

Mr. RYAN also, by unanimous consent, introduced a bill (H. R. No. 5737) to extend the time to pre-emptors on the public lands who have suffered damage from prairie fires; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

IMPROVEMENT OF MISSOURI RIVER.

Mr. KIDDER, by unanimous consent, introduced a bill (H. R. No. 5738) to appropriate money for the improvement of the Missouri River between Yankton and Sioux City, in the Territory of Dakota; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

JUDGE OF SUPREME COURT, DAKOTA TERRITORY.

Mr. KIDDER also, by unanimous consent, introduced a bill (H. R. No. 5739) providing for an additional associate justice of the supreme court of the Territory of Dakota; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

ADMISSION OF DAKOTA AS A STATE.

Mr. KIDDER also, by unanimous consent, introduced a bill (H. R. No. 5740) to enable the people of Dakota to form a constitution and State government and for the admission of the said State into the Union on an equal footing with the original States; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

LAND DISTRICT IN DAKOTA.

Mr. KIDDER also, by unanimous consent, introduced a bill (H. R. No. 5741) to establish a land district in Kampeska, in the Territory of Dakota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

REPORT OF ENTOMOLOGICAL COMMISSION.

Mr. CORLETT, by unanimous consent, submitted the following resolution; which was referred under the law to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 10,000 copies of the second report of the United States entomological commission, 5,000 of which shall be for the use of the House of Representatives, 2,000 for the use of the Senate, 2,000 for the use of the Department of the Interior, and 1,000 for the use of the commission.

SURVEY OF THE TERRITORIES.

Mr. CORLETT also submitted the following resolution; which was referred under the law to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed and bound at the Government Printing Office, for the use of the Department of the Interior, 2,000 copies of Professor Hayden's tenth annual Report of the Geological and Geographical Survey of the Territories for 1876, uniform with the edition ordered by Congress.

LUCINDA WILLIAMS.

Mr. BUCKNER, by unanimous consent, introduced a bill (H. R. No. 5742) for the relief of Lucinda Williams, of Truxton, Missouri; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COLLECTION DISTRICT OF BEAUFORT, SOUTH CAROLINA.

Mr. SMALLS, by unanimous consent, introduced a bill (H. R. No. 5743) to extend the customs collection district of Beaufort, South Carolina; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NEWSPAPER AND PERIODICAL MANUSCRIPT.

Mr. CARLISLE, by unanimous consent, introduced a bill (H. R. No. 5744) to include newspaper and periodical manuscript and the proof-sheets and corrected proof-sheets thereof, in mailable matter of the third class, and to establish the rates of postage thereon; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

SALARIES OF POSTMASTERS.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 5745) directing the salaries of certain postmasters to be readjusted in accordance with section 8, act of June 12, 1866; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

DISTRICT OF COLUMBIA LAWS, ORDINANCES, ETC.

Mr. BLACKBURN, by unanimous consent, from the Committee for the District of Columbia, reported a bill (H. R. No. 5746) to revise, consolidate, and amend certain acts of the late corporations of Washington, of Georgetown, of the levy court of the county of Washington, and of the Legislative Assembly; the ordinances of the late board of health of the District of Columbia; certain regulations of the commissioners of the District of Columbia made in pursuance of the provisions of the act of Congress approved June 11, 1878, and certain acts of Congress having relation to municipal affairs in the District of Columbia; which was read a first and second time, ordered to be printed, and recommitted, not to be brought back on a motion to reconsider.

EDMOND PITT STERRY.

Mr. BOYD, by unanimous consent, introduced a bill (H. R. No. 5747) granting a pension to Edmond Pitt Sterry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF GREAT KANAWHA RIVER, WEST VIRGINIA.

Mr. MACKEY, by unanimous consent, introduced a bill (H. R. No. 5748) to authorize the payment of certain moneys heretofore appropriated for the construction of locks in the Great Kanawha River, West Virginia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PENSIONS TO SOLDIERS AND SEAMEN, WAR OF 1812.

Mr. MACKEY. Mr. Speaker, a few days before the holiday recess I objected to the consideration of a joint resolution presented by the gentleman from West Virginia [Mr. WILSON] proposing to construe the act of Congress of March 9, 1878, granting pensions to soldiers and seamen of the war of 1812. My reason for objecting was that I desired the reference of the measure to the Committee on Revolutionary Pensions and War of 1812. I have since consulted with several members of that committee, and I now withdraw my objection and hope that the resolution presented by the gentleman from West Virginia will be passed.

The SPEAKER. The gentleman's withdrawal of the objection comes too late.

ALBERT H. THOMPSON.

Mr. KEIGHTLEY, by unanimous consent, introduced a bill (H. R. No. 5749) granting a pension to Albert H. Thompson, of Lawton, Van Buren County, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SARAH P. BROWN.

Mr. KEIGHTLEY also, by unanimous consent, introduced a bill (H. R. No. 5750) granting a pension to Sarah P. Brown, of Galesburgh, Kalamazoo County, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADA L. HARRISON.

Mr. KEIGHTLEY also, by unanimous consent, introduced a bill (H. R. No. 5751) for the relief of Ada L. Harrison, minor child of Samuel Harrison; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. W. NEWMAN.

Mr. DIBRELL, by unanimous consent, introduced a bill (H. R. No. 5752) for the relief of J. W. Newman, administrator of Jacob Newman, deceased, of Tennessee; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

NAVAL BOARD OE ASSISTANTS.

Mr. HARRIS, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 5753) providing for the establishment of a board of assistants for the Navy of the United States, and for other purposes; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

SUITS AGAINST CORPORATIONS.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 5754) to amend the judiciary act as to suits against certain corporations; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

W. M. BEEBE, JR.

Mr. MONROE, by unanimous consent, introduced a bill (H. R. No. 5755) to restore W. M. Beebe, jr., to his former rank in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JACOB GELWICKS.

Mr. STENGER, by unanimous consent, introduced a bill (H. R. No. 5756) granting a pension to Jacob Gelwicks; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM M. WRIGHT.

Mr. STENGER also, by unanimous consent, introduced a bill (H. R. No. 5757) to restore the name of William M. Wright, of Chambersburgh, Pennsylvania, to the pension-rolls; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL A. TOPLEY.

Mr. STENGER also, by unanimous consent, introduced a bill (H. R. No. 5758) granting a pension to Samuel A. Topley; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADAM SHOLLY.

Mr. STENGER also, by unanimous consent, introduced a bill (H. R. No. 5759) granting a pension to Adam Sholly; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RICHARD DOYLE.

Mr. STENGER also, by unanimous consent, introduced a bill (H. R. No. 5760) granting a pension to Richard Doyle; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BENJAMIN F. CLARK.

Mr. STENGER also, by unanimous consent, introduced a bill (H. R. No. 5761) granting a pension to Benjamin F. Clark; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN SHARPE.

Mr. CAMPBELL, by unanimous consent, introduced a bill (H. R. No. 5762) for the relief of John Sharpe, of Pennsylvania; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WILLIAM H. DAVIS.

Mr. CALDWELL, of Kentucky, by unanimous consent, reported from the Committee on War Claims a bill (H. R. No. 5763) to ascertain the amount of the claim of William H. Davis, of California; which was read a first and second time, ordered to be printed, and recommitted, not to be brought back on a motion to reconsider.

WILLIAM TURNER AND OTHERS.

Mr. McCOOK, by unanimous consent, introduced a bill (H. R. No. 5764) for William Turner, William Menzies, and William Menzies, jr., to file with the Commissioner of Patents model, &c., to take the place of one destroyed by fire, September 24, 1877; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

CENSUS.

Mr. COX, of New York, by unanimous consent, introduced a bill (H. R. No. 5765) to provide for taking the Federal census; which was read a first and second time, referred to the Select Committee on the Census, and ordered to be printed.

Mr. COX, of New York. I ask unanimous consent that the Committee on the Census have leave to report at any time. This privilege was accorded to the similar committee ten years ago, and I hope it will not be refused now.

Mr. WOOD. That will not interfere with special orders already made?

Mr. COX, of New York. I do not desire this order to interfere with business of the Committee of Ways and Means or the Committee on Appropriations.

The SPEAKER. It will interfere unless the reservation be made. Still the Chair thinks the matter can be adjusted by an understanding among members.

Mr. COX, of New York. I have no objection to incorporating in the order the qualification suggested by my colleague.

The SPEAKER. Any member would at any rate have the right to raise the question of consideration. The Chair hears no objection to the order, with the reservation suggested.

PRISONS IN THE STATES.

Mr. COX, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of War be directed to transmit to this House the report of Colonel Brown, United States Army, on the prisons of the several States.

ENOCH DAVIS.

Mr. CLARK, of Iowa, by unanimous consent, introduced a bill (H. R. No. 5766) for the relief of Enoch Davis, of Iowa; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARY CANFIELD.

Mr. MAYHAM, by unanimous consent, introduced a bill (H. R. No. 5767) for the relief of Mary Canfield; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOW OF JOSEPH M. DALTON.

Mr. COLE, by unanimous consent, introduced a bill (H. R. No. 5768) granting a pension to the widow of Joseph M. Dalton, deceased, late watchman on the relief-boat John M. Chambers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HIRAM GRAVES.

Mr. HARRISON, by unanimous consent, introduced a bill (H. R. No. 5769) for the relief of Hiram Graves, Eleventh Regiment Wisconsin Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PATRICK QUINN.

Mr. BREWER, by unanimous consent, introduced a bill (H. R. No. 5770) granting a pension to Patrick Quinn; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

METRIC SYSTEM.

Mr. MAISH, by unanimous consent, presented from the Committee on Coinage, Weights, and Measures a report on the adoption of the metric system of weights and measures; which, together with the accompanying documents, was ordered to be printed and recommitted, not to be brought back on a motion to reconsider.

WITHDRAWAL OF PAPERS.

Mr. KIMMEL, by unanimous consent, obtained leave to withdraw from the files of the House papers in the case of Mary A. Miller, no adverse report having been presented.

AMENDMENT OF REVISED STATUTES.

Mr. ELAM, by unanimous consent, introduced a bill (H. R. No. 5771) to amend and re-enact section 2023 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

DAVID D. DIVINE.

Mr. BICKNELL, by unanimous consent, introduced a bill (H. R. No. 5772) granting a pension to David D. Divine; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PENSIONS OF SOLDIERS AND SEAMEN OF WAR OF 1812.

Mr. WILSON. I ask unanimous consent to introduce for present consideration the joint resolution which I send to the desk.

The Clerk read as follows:

Joint resolution to construe the act of Congress passed March 9, 1878, granting pensions to soldiers and seamen of the war of 1812.

Whereas, anticipating war with Great Britain, the Government of the United States received into its military and naval service persons who were discharged from such service less than fourteen days subsequent to June 18, 1812, the date of the formal declaration of war; and

Whereas, owing to the imperfect means of communication which existed at the date of the President's proclamation that peace had been established (February 18, 1815) between the United States and Great Britain, many persons who were received into the military and naval service of the United States to serve in the war of 1812 were retained in such service a considerable time after the establishment of peace: Now,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of claims for pension and bounty lands on account of service in the war of 1812 the Commissioner of Pensions shall compute all the time the soldier served between June 1, 1812, and March 4, 1815, including the day of discharge.

Mr. RAINEY. I object to the present consideration of this resolution. It should be referred to the Committee on Invalid Pensions.

Mr. WILSON. The Committee on Revolutionary Pensions and the War of 1812 have already considered the subject. This resolution was prepared by the Commissioner of Patents at my request.

Mr. RAINEY. Let the resolution be referred to the Committee on Invalid Pensions. It will be considered and reported upon promptly.

Mr. SPRINGER. If referred it should go to the Committee on Revolutionary Pensions and War of 1812.

The SPEAKER. Objection is made to the consideration of the resolution, and it is not before the House.

DEATH OF HON. B. B. DOUGLAS AND HON. A. S. WILLIAMS.

Mr. HUNTON. In the discharge of a melancholy duty I rise to announce the death of my friend and colleague, the late Hon. B. B. DOUGLAS, of Virginia, which took place in this city after a short illness on the 22d of December last. I give notice that on the 22d of January I shall submit for the action of the House appropriate resolutions. I now offer for adoption the following:

Resolved, That this House has heard with deep regret of the death of Hon. B. B. DOUGLAS, a Representative from the State of Virginia.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

Mr. HUBBELL. Mr. Speaker, I rise to perform one of the most melancholy duties which has fallen to my lot since my entrance into public life. It is to announce the death of my late colleague, Hon. ALPHEUS S. WILLIAMS, of Michigan. At some future time I shall

give notice when appropriate resolutions of eulogy will be submitted for the action of the House. I offer now the following:

Resolved, That this House has heard with deep regret of the death of Hon ALPHEUS S. WILLIAMS, a Representative from the State of Michigan.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

The SPEAKER. The Chair will submit the question on these resolutions together.

The resolutions were unanimously adopted; and in accordance therewith the House (at three o'clock p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BACON: The petition of Comstock Brothers and 13 others, against any change in the tariff on sugars—to the Committee of Ways and Means.

Also, the petition of Julia C. Robb and 66 others, for the enforcement of the laws against polygamy—to the Committee on the Judiciary.

By Mr. BELL: A paper relating to the establishment of post-routes from Walhalla, via Clayton, Georgia, to Murphy, North Carolina, and from Mount Airy, via Clayton, to Franklin, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. BREWER: The petition of Hattie Scrives, Hannah Frost, and 35 other ladies, of Goodrich, Genesee County, Michigan, that the anti-polygamy law of 1862 may be made effective—to the Committee on the Judiciary.

By Mr. BRIGHT: Papers relating to the claim of Fanny Priscilla Murfree, of Rutherford County, Tennessee, for compensation for property taken and used by United States forces during the late war—to the Committee on War Claims.

By Mr. CALDWELL, of Kentucky: Papers relating to the war claim of the Cumberland Presbyterian church of Russellville, Kentucky—to the same committee.

By Mr. CALKINS: The petition of Mrs. S. M. Paramore and others, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Territories.

Also, the petition of Mrs. J. F. Kendall and others, of similar import—to the same committee.

Also, the petition of Mrs. M. J. Deaver and others, of similar import—to the same committee.

By Mr. CANNON, of Illinois: The petition of Bella Ray and others, of Catlin, Illinois, of similar import—to the Committee on the Judiciary.

By Mr. CLAFLIN: The petition of female citizens of Oakdale, Massachusetts, of similar import—to the same committee.

By Mr. COOK: The petition of George W. Williams, Joel A. Munn, and other laborers, asking an increase of pay—to the Committee of Ways and Means.

Also, the petition of citizens of Georgia, for a post-route from Eastman to Abbeville, Georgia—to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Georgia, for a post-route from Smith's Store to Mount Vernon, Georgia—to the same committee.

By Mr. CUMMINGS: The petition of women of Des Moines, Iowa, to make effective the anti-polygamy law—to the Committee on the Judiciary.

Also, the petition of citizens of Winterset, Iowa, for action on Senate bill relating to a commission concerning the alcoholic liquor traffic—to the same committee.

By Mr. DEERING: The petition of citizens of Clarion, Iowa, for the enforcement of the anti-polygamy law—to the same committee.

By Mr. DENISON: Joint resolution of the General Assembly of Vermont, in relation to the claims of the Plattsburgh volunteers for pensions for services in the war of 1812—to the Committee on Revolutionary Pensions.

Also, joint resolution of the General Assembly of Vermont, opposing the repeal of the resumption act—to the Committee of Ways and Means.

Also, joint resolution of the General Assembly of Vermont, providing for the treatment of animals in transit—to the Committee on Agriculture.

Also, joint resolution of the General Assembly of Vermont, relating to the establishment of a national diplomatic school—to the Committee on Education and Labor.

Also, joint resolution of the General Assembly of Vermont, favoring the correction of the military record of Lieutenant-Colonel Charles G. Chandler, and for a pension to his family—to the Committee on Invalid Pensions.

Also, joint resolution of the General Assembly of Vermont, relating to the remonetization of silver—to the Committee on Banking and Currency.

By Mr. DUNNELL: The petition of Benjamin F. Wade and others, for a post-route from Cedarville to Lone Cedar, Minnesota—to the Committee on the Post-Office and Post-Roads.

By Mr. EAMES: The petition of Mrs. D. H. Greer and others, of Grace church, Providence, Rhode Island, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, memorial of Whitford, Aldrich & Co. and others, of the city of Providence, Rhode Island, dealers in and importers of sugars, asking that the tariff on sugars be arranged so as to bear upon all classes of sugar in proportion to their value—to the Committee of Ways and Means.

By Mr. ELLSWORTH: The petition of 28 women of Bay City, Michigan, for the enactment of a more stringent law against polygamy—to the Committee on the Judiciary.

By Mr. FENN: Papers relating to public buildings at Boisé City, Idaho Territory—to the Committee on Public Buildings and Grounds.

By Mr. FOSTER: The petition of Wehrle, Werk & Son, for abatement of tax—to the Committee of Ways and Means.

By Mr. FRYE: The petition of Rufus Waterhouse and others, for a change of the law regulating the naturalization of foreigners—to the Committee on the Judiciary.

By Mr. GARFIELD: The petition of Mrs. M. S. Price and 38 other women, members of the Presbyterian church of Hubbard, Ohio, for the enforcement of the anti-polygamy law of 1862—to the same committee.

By Mr. GOODE: Papers relating to the war claim of William Levery, of Norfolk, Virginia—to the Committee on War Claims.

By Mr. HARDENBERGH: Memorial of the city of Bayonne, New Jersey, to be included in the port of entry with Jersey City, New Jersey—to the Committee on Commerce.

By Mr. HENKLE: The petition of Dr. Mary E. Walker, to be placed on the pension-roll for an amount equal to the pension of Mrs. Dahlgren and other women, who, it is alleged, did nothing personally in the service of the General Government—to the Committee on Invalid Pensions.

By Mr. HUBBELL: The petition of Mrs. W. A. Lewis and 33 other ladies, of Evart, Michigan, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KETCHAM: The petition of Mrs. Henry B. Warring and 10 others, of Mahopere Falls, New York, of similar import—to the same committee.

By Mr. KIDDER: The petition of A. T. Weston and others, for a land office near Lake Kampeska, Dakota Territory—to the Committee on Public Lands.

Also, the petition of James S. Slack and others, that the lands of the military reservation of Fort Abercrombie and Fort Ransom be now surveyed and made subject to entry as other public lands in Dakota Territory—to the same committee.

Also, the petition of H. L. Halverson and others, for a post-route from Gary, via Brown Earth and Osceola, to the Sisseton agency, Dakota Territory—to the Committee on the Post-Office and Post-Roads.

Also, a paper relating to the establishment of post-routes from Kemp to Union; from Dell Rapids to Ramsey via Lookout; from Fort Randall to New Spotted Tail Agency; from Keya Paha to New Red Cloud Agency, Dakota Territory—to the same committee.

By Mr. LORING: The petition of Esther Stevens and others, of the East Gloucester Women's Temperance Union, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Territories.

Also, the petition of Mrs. B. H. Paddock and others, of Boston, Massachusetts, of similar import—to the same committee.

By Mr. MAISH: A paper relating to the pension claim of Alonzo H. Jenks—to the Committee on Invalid Pensions.

Also, the petition of Elizabeth Welsh, of York, Pennsylvania, for a pension—to the same committee.

By Mr. McCOOK: The petition of Francis Freyer and 210 others, of the city of New York, for the enactment of some law for the suppression of alleged illegal adulteration and sale of sugar—to the Committee of Ways and Means.

By Mr. MONROE: The petition of Charlotte Buck, for the reconsideration of her pension claim—to the Committee on Invalid Pensions.

Also, the petition of Mrs. Jane Stouffer and 18 other women, of Westfield, Ohio, for such legislation as will make effective the law against polygamy—to the Committee on the Judiciary.

Also, the petition of Mrs. Mary Myers and 48 other women of the Methodist congregation in Orrville, Ohio, of similar import—to the same committee.

By Mr. POUND: The petition of Mrs. Anna Rose and 62 other ladies of the Oxford (Wisconsin) Presbyterian congregation, of similar import—to the same committee.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, of Burlington, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of the Women's Christian Temperance Union, of the State of Iowa, of similar import—to the same committee.

Also, the petition of Thomas F. Butterfield and Davis & Collins, for the extension of the patent of John C. Birdsell for combined clover thresher and huller—to the Committee on Patents.

Also, the petition of citizens of Jackson and other counties of Iowa, against the extension of the patent of John C. Birdsell for combined clover thresher and huller—to the same committee.

By Mr. REA: The petition of John Thompson, for a pension—to the Committee on Invalid Pensions.

By Mr. SLEMONS: The petition of Dr. Mary E. Walker, that her claim for compensation for services rendered the United States be

allowed at once without the bill providing for its payment being placed upon the Private Calendar—to the Committee on War Claims.

By Mr. SPRINGER: The petition of women of Springfield, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, papers relating to the claim of Dr. C. W. Brink for fees and mileage as a witness before a committee of the House of Representatives—to the Committee of Claims.

By Mr. STENGER: The petition of Franklin Weirich, for the removal of the duty on type—to the Committee of Ways and Means.

Also, the petition of certain women of Port Royal, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. TOWNSEND, of New York: The petition of 75 ladies of Lakeville, New York, of similar import—to the same committee.

Also, the petition of ladies of Woodside church, Troy, New York, of similar import—to the same committee.

By Mr. TUCKER: The petition of citizens of Virginia, of similar import—to the same committee.

By Mr. WADDELL: The petition of citizens of Wilmington, North Carolina, for the enactment of laws to prevent the adulteration of sweets—to the Committee of Ways and Means.

By Mr. WILLIAMS, of Oregon: The petition of citizens of Milwaukee, Oregon, for the rendering effective the law in relation to polygamy—to the Committee on the Judiciary.

Also, memorial of the General Assembly of Oregon, asking a modification of the treaty between the United States and the Empire of China prohibiting the importation or migration of Chinese and other Asiatic laborers to the Pacific coast—to the Committee on Education and Labor.

Also, memorial of the Legislative Assembly of Oregon, asking the establishment of a military post at Baker City, Oregon—to the Committee on Military Affairs.

Also, memorial of the Legislative Assembly of Oregon, for the removal of the Indians from the Umatilla reservation, Oregon—to the Committee on Indian Affairs.

Also, memorial of the Legislative Assembly of Oregon, for the appointment of a commission by the President of the United States to audit and allow claims for property destroyed by Indians under treaty during the year 1878 in the State of Oregon—to the same committee.

Also, memorial of the Legislative Assembly of Oregon, for the improvement of the Coquille River—to the Committee on Commerce.

Also, memorial of the Legislative Assembly of Oregon, for the improvement of Coos Bay—to the same committee.

Also, memorial of the Legislative Assembly of Oregon, for the construction of a harbor of refuge at Port Orford, on the Pacific coast—to the same committee.

Also, memorial of the Legislative Assembly of Oregon, for the permanent improvement of the Lower Willamette and Columbia Rivers—to the same committee.

IN SENATE.

WEDNESDAY, *January* 8, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in compliance with section 1665 of the Revised Statutes, a statement showing the expenditure at the Springfield national armory and the arms, components of arms, and appendages fabricated, altered, and repaired thereat during the fiscal year ending June 30, 1878; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, reporting that the military reservations of Forts Abercrombie and Seward, Dakota Territory, are no longer needed for military purposes, and recommending that he be authorized by law to relinquish them to the custody and control of the Department of the Interior; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from Major-General Irvin McDowell, United States Army, suggesting a change in the one hundred and fourth article of war; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of War, transmitting a report from Robert N. Scott, captain Third United States Artillery, relative to the manner and cost of publishing the Rebellion War Records; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from W. W. Corcoran, chairman of the joint commission for the completion of the Washington Monument, transmitting a resolution adopted by the commission at a meeting held the 21st December, 1878, asking instructions of Congress, and an extract from the proceedings of the Washington National Monument Society at a meeting held on the 13th December, 1878, in reference to the proposed modification in the plan of the monument as prepared by W. W. Story; which were referred to the Committee on Public Buildings and Grounds.

PETITIONS AND MEMORIALS.

Mr. EDMUNDS. I present five petitions of sundry citizens of Vermont, and I believe some other States as well, on the subject of arrears of pensions. I move that these petitions lie upon the table.

The motion was agreed to.

Mr. MITCHELL. Yesterday a number of joint memorials from the Legislature of the State of Oregon were presented by the Vice-President, and they were not incorporated in the RECORD or read, with one exception, and I believe the reading was dispensed with at my instance at the time. I hold in my hand one, however, of so much importance to the Pacific coast generally that I desire to have it read this morning. It is senate joint resolution No. 1, passed by the Legislative Assembly, tenth regular session, 1878, State of Oregon, and relates to the Chinese question.

The VICE-PRESIDENT. The memorial will be reported, as the Chair hears no objection.

The memorial was read, as follows:

To the Honorable Senate of the United States:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that the continued immigration, or rather importation, of cooly slaves or Chinese laborers to this State is a violation of treaty stipulations, which provide that such immigration shall be voluntary, and is a very serious injury to the laboring classes, not only of our State, but of the entire Pacific coast, by the reduction of wages to starvation prices; that such importation of said Chinese and other Asiatic slave labor tends to drive white and all other free labor out of our country, and ultimately compel all who subsist by manual labor to the alternative of choosing between starvation and crime; that at least 75 per cent. of all the earnings of said Chinese or cooly slave labor, instead of being in our midst, and thus contributing to our prosperity, is sent to China, never to return, thus withdrawing the coin from our country and rapidly decreasing our circulating medium, to the great injury of the best interest of this State and of the entire Pacific coast; that such Chinese laborers do not contribute to the wealth and prosperity of the country by the acquisition of property and the payment of taxes, but by pauperism and crime are a continual source of expense to the country and municipalities of this State; that the treaty of 1868 between the United States and China, known as the Burlingame treaty, has never been maintained on the part of China in accordance with its intent and meaning; the right of free migration and immigration which it recognizes was to be entirely voluntary, and to be exercised in view of expatriation. The Chinese have no right to be admitted under the circumstances in which they come here; they are usually brought in hordes in a condition of semi-slavery, and obligated to perform a term of servitude. The privilege, according to contracting parties, was upon condition that the immigration to either country by the citizens or subjects of the other should be a voluntary individual act; China has wholly failed to have that consideration observed, and the United States ought to revoke the privilege; therefore, we, your said memorialists, pray your honorable body to modify the treaty between the United States and the Empire of China so as to stop and prohibit the importation or immigration of Chinese and other Asiatic laborers to this coast.

Adopted by the senate October 12, 1878.

JOHN WHITEAKER,
President of the Senate.

Adopted by the house October 18, 1878.

J. M. THOMPSON,
Speaker of the House.

Mr. MITCHELL. I suggest the reference of the memorial to the Committee on Foreign Relations.

The VICE-PRESIDENT. This is a duplicate.

Mr. MITCHELL. It is a certified copy, however.

The VICE-PRESIDENT. It was yesterday referred to the Committee on Foreign Relations.

Mr. MITCHELL presented a petition of the Oregon Portage Railroad Company, praying an appropriation to aid in constructing a portage railroad around The Dalles of the Columbia River; which was referred to the Committee on Railroads.

Mr. BUTLER presented the petition of Richard H. Anderson, of South Carolina, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. HARRIS presented the petition of Lansford P. Yandell and others, sureties of H. C. Norvell, late collector of internal revenue for the second district of Tennessee, praying to be relieved from liability as such sureties; which was referred to the Committee on Claims.

Mr. WALLACE presented the memorial of the Chamber of Commerce of Pittsburgh, Pennsylvania, in favor of the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discrimination by common carriers; which was referred to the Committee on Commerce.

He also presented the petition of Wellington E. Pratt and others, citizens of Roaring Branch, Lycoming County, Pennsylvania, and the petition of John Munday and others, citizens of Pottsville, Schuylkill County, Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. DAVIS, of West Virginia, presented the petition of David S. Davis and over a hundred others, citizens of West Virginia, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WHYTE presented the petition of W. H. Luckett, Lewis Cradford, and others, citizens of Maryland, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. McMILLAN. On the 18th of December last a convention was held at the city of Saint Paul to take into consideration the improve-

ment of the waters of the great lakes, and the subject of commerce upon the lakes was considered by them. They have prepared for presentation to the Senate of the United States a memorial on the subject, which I have now the honor to submit. It contains very much useful and important information of a general character. I ask that it be printed in the RECORD.

The VICE-PRESIDENT. To this the Chair hears no objection.

Mr. McMILLAN. I move that it be referred to the Committee on Commerce.

The motion was agreed to; and the memorial was referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

To the honorable Senators and Representatives of the Congress of the United States:

The committee appointed by the lake improvement convention, held at Saint Paul, December 18, 1878, composed of delegates from the different trade centers of the country interested in the commerce of the great lakes, present to your honorable bodies this memorial, and beg leave to refer to the following resolutions and extract from the report adopted by the convention:

The most prominent feature of our inland water system is the great lakes which pour, through natural and artificial openings, their waters to the sea. These lakes extend from near the northern boundary of Minnesota, a distance of one thousand four hundred miles, to the Atlantic Ocean, nearly one-half the distance across the continent from ocean to ocean. Between the head of Lake Superior and the Pacific Ocean, a distance of seventeen hundred miles, and inside of the limits that will mainly seek this water outlet—we speak of American territory alone—is a large portion of Minnesota, Wisconsin, all of Oregon, and the Territories of Wyoming, Dakota, Montana, Washington, and Idaho, making an area of over six hundred thousand square miles, and more than three times in extent the great States of New York, Pennsylvania, New Jersey, Massachusetts, Maryland, and Connecticut. This region of country is capable of sustaining, at the present rate of population in the Eastern States, over twenty millions of people. It may be further and safely said that this vast region, as developed, will, in the production of the cereals, stock, capabilities of sustaining population, wealth of minerals, and salubrious climate, fully equal and favorably compare with any like extent of territory on the American continent. As this region develops and becomes the homes of millions of people, the bulk of its exports will move for distribution to the cities of the East, and via the Atlantic Ocean to the markets of Europe, while its imports must mainly come from the eastern centers and from Europe through the same channels for distribution.

That these limitless productions which will greatly contribute to supply the wants of many millions of people shall be carried from the producer to the consumer at the lowest cost of handling and transportation will not be disputed. That this commerce will find its most direct and cheapest passage through the great lakes is equally plain to all. This important result, however, will not be reached till the people of the country fully realize the deep interest they have in the question and the Government responds with the help required. This work is easily accomplished and at a cost that, commensurate with its importance, is merely nominal. What is imperatively demanded is the right improvement of the harbors, especially the harbor at the head of Lake Superior, and the water-ways, straits, or canals connecting the lakes with each other and with the ocean. This done, unbroken navigation is furnished to full-sized vessels through the lakes, and fourteen hundred miles of water navigation is extended toward and reaching into one of the most fertile sections of the country.

Wheat can then be carried from Duluth or Superior to the eastern cities at less than 6 cents per bushel; flour at 25 cents per barrel; wheat and flour respectively to Liverpool, 18 cents per bushel and 90 cents per barrel, and other tonnage in like proportion. Thus will the consumer and producer receive like benefits from the reduced cost of transportation.

The Northern Pacific Railway has opened to settlement the country west to the Missouri River; a section of the same road is completed at the western end, and six hundred miles of the line is now in operation. Thus, if the lake improvement asked for were completed, more than two-thirds of this great continental highway by rail and water would to-day be open to the profitable uses of commerce, while the extension of the line is steadily progressing to the Pacific Ocean. The Saint Paul and Sioux City, the Sioux City and Saint Paul, the Saint Paul and Duluth, the Saint Paul and Pacific, Minneapolis and Saint Louis, and Saint Paul, Stillwater and Taylor's Falls Railways are now reaching to and traversing the country we are describing, yet, whatever may come by way of business or usefulness to these lines, the benefits to the people from their construction can be but partly realized till they can carry their tonnage to Lake Superior, their natural and cheap outlet to the markets of the world.

The country referred to and tributary to these roads is being rapidly settled by hardy and industrious populations, while its present productions and future promise are awakening the surprise and commanding the admiration of the country.

Emigration from the crowded cities and agricultural sections of the East, as well as from Europe, is moving in to occupy the section we have described with unprecedented rapidity. It is not possible that our Government will much longer permit the few impediments in the lake connections to fatally hinder and obstruct the movement of its present and future production to the markets of the world.

The distance from head of Lake Superior to Montreal via the lakes, the Welland and Saint Lawrence Canals, is twelve hundred and sixty miles, while from Chicago or Duluth to New York via the lakes, Buffalo, Erie Canal, and Hudson River, it is fourteen hundred miles, a distance of one hundred and thirty-nine miles in favor of the Saint Lawrence route. The distance from Montreal to Liverpool via Belle Isle Straits is twenty-seven hundred and ninety miles, and twenty-nine hundred via Cape Race, against three thousand and forty miles from New York to Liverpool. The distance from Chicago to Liverpool via Montreal and Straits of Belle Isle is four thousand and fifty-one miles, and via Montreal and Cape Race forty-two hundred and fifty-nine miles, against forty-four hundred and fifty-nine miles via New York.

The rates of freight from Chicago to Kingston in 1876 were from six to seven and a half cents a bushel, with additional charges of three to three and a half cents for the barge transportation thence to Montreal, an aggregate of nine to eleven cents a bushel, equal to $3 to $3.67 per ton from Chicago to Montreal. The rate in 1877, including freight from Chicago to Kingston and barge charges of three to three and a half cents a bushel from the latter place to Montreal, was $3.62 on wheat and $3.39 a ton on corn, including all expenses.

The reduction in the cost of transportion on the lakes, by the use of a large class of vessels, in place of the small crafts employed in 1845, is much more marked than the reduction on the canals, as the lake vessels of the largest class have fifteen times the capacity of the largest vessels in 1845. The cost now from Chicago to Buffalo per ton on the largest vessels is about half a mill on a ton a mile, or forty-five cents a ton for a distance of nine hundred miles.

The vessels now navigating the lakes and passing through the Canadian canals carry from seventeen to twenty thousand bushels of grain; but on the completion of the enlargement of the canals vessels carrying sixty thousand bushels will load at the head of Lake Superior for Kingston or Montreal direct at about one-third of the present cost by small vessels.

Thus it will be seen that the water-routes, reaching to the East and Europe, are the vehicles furnished by nature to carry to market the productions of the country referred to when they reach the point of transshipment from the land carriage that brings them to the water. When these routes are rightly improved we may safely predict that the policy and interest of the railways in the West will be to carry their tonnage to and not around and away from Lake Superior from three to four hundred miles by expensive lines out of the way to market.

RESOLUTIONS.

Whereas the rapid settlement and fertile character of the vast region of country north and west of the head of Lake Superior, and its inexhaustible mineral and timber resources, call for such improvement of our northern water-way as will give the largest-sized vessels free and uninterrupted navigation through the great lakes, and thus secure to the producer the cheapest and most direct route and to the consumer the products of this region at the smallest cost; and

Whereas the greatest obstruction to this water-way is in the Saint Mary's River, between Lake Superior and Lake Huron, the present condition of which permits vessels of but twelve feet draught to pass; and although the Government has made large expenditures in the construction of a ship-canal for vessels drawing sixteen feet of water, it cannot be available for the purposes designed until such further improvements are made to the river below as will give the required depth of water, and thus save the present loss of 30 per cent. in the carrying capacity of modern lake vessels and the annually recurring loss of so much of the public wealth: Therefore,

Resolved, That we respectfully urge upon Congress the immediate acceptance by the United States of the Saint Mary's Canal, in accordance with the offer of the State of Michigan of April 3, 1869, its establishment as a free canal, and the speedy completion of the new lock and its approaches.

Resolved, That we ask of Congress an appropriation for the further survey of the channels between Lake Superior and Lake Huron, and so much for the improvement of the present channel and the Saint Clair Flats and Detroit River as, in the opinion of the War Department, can be judiciously expended the coming season.

Resolved, That we further petition Congress for an appropriation to complete the survey of the harbor at the head of Lake Superior, and its early improvement, so as to meet the present increasing demands of commerce.

Resolved, That it is of the utmost importance that the necessary harbors on the northern water-way be suitably improved.

Should your honorable bodies grant the prayer of your memorialists, and make such appropriations as will assure the prompt completion of the works demanded, all sections of the country will receive measureless benefits in the guarantees thus given to millions in the East, South, and Middle States for the increase in the necessaries of life at a greatly reduced cost.

Further than this, the opening of this great water-way will enable the producers of the West to place their agricultural productions in foreign markets at such reduced cost as will bring them in direct competition with like products of Russia or any portion of Europe or British India.

Our exports of these productions have already assumed such proportions as to demonstrate that a further reasonable and readily attainable reduction in the cost of transportation from points of production to the ocean will so lower the export cost of breadstuff and meats from the West as to enable this country largely to supply the Old World with food. Reaching this result, we will have secured that balance of trade in our favor, that certain supply of coin, which will aid in sustaining the good credit, progress, and prosperity of the country.

More than 60 per cent. of the population of Great Britain are dependent on foreign food supplies, while her steadily growing population is increasing this dependence. Wise statesmanship now demands that we shall place ourselves in a position to increase our power to supply this deficiency by the expenditure of the small amount demanded to secure such sure and valuable returns. The United States, during the year ending June 20, 1877, exported to England in grain, flour, live sheep, cattle, pigs, dead meat, pork, bacon, and hams, butter, cheese, eggs, and potatoes, amounting in value to $150,000,000.

Returns of British grain imports from the various countries for a period of nine months ending October 31 of the current year show:

From—	Cwts.
Russia	7,432,441
Germany	4,112,184
France	11,004
Turkey, Wallachia, and Moldavia	290,857
Egypt	193,194
United States, on Atlantic	20,963,397
United States, on Pacific	4,208,942
Chili	49,904
British India	1,577,302
Australia	1,309,559
British North America	1,908,244
Other countries	214,925
Total	42,182,102

The quantity received from the United States ports was 25,112,939 cwts. Thus, of the total importations of wheat into the United Kingdom during the six months ended June 30, 1878, nearly 63½ per cent. was from the United States.

American competition in breadstuffs and the cheap grazing lands of this country are telling more upon English farm production from year to year.

The United Kingdom imported of live animals in 1877 about 300,000 cattle, 1,000,000 sheep, from 40,000 to 50,000 swine, and 30,524 horses. Since the 1st of last May and up to the 1st of September, there have been an average of 3,000 cattle a week shipped to Great Britain from Montreal, Boston, New York, Philadelphia, and Baltimore. The shipping of live stock and dead meat to Great Britain, now in its infancy, bids fair in a no distant future to assume enormous proportions.

Of the one billion five hundred and ninety-five million dollars' worth of British imports for the year 1876, $795,000,000 were for food; $595,000,000 for raw materials; $205,000,000 for manufactured and miscellaneous articles.

With the improvement of the northern water-way, as urged by the convention, the exportation of products from the West to Europe must rapidly increase and largely contribute to supply the seven hundred and ninety-five million dollars worth of food now annually imported by Great Britain.

The great valley of the Red River is peculiarly adapted to the production of the cereals as well as the raising of stock. It is capable of producing one hundred million bushels of wheat annually, and is destined to become, with contiguous areas, the food-producing region of the American continent, and largely the source of the food supply of the world. The opening and cheapening of the lake route, via Lake Superior to the Atlantic, is speedily to develop this now comparatively unused source of the nation's wealth, as well as to cheapen to millions at home and abroad the necessaries of life.

With the hope that your honorable bodies will grant the reasonable request of your petitioners, they will ever pray.

GEO. H. ELY, Cleveland.
H. M. RICE, Saint Paul.
E. W. DURANT, Stillwater.
H. A. TAYLOR, Hudson.
C. H. GRAVES, Duluth.
R. CHUTE, Minneapolis.
E. S. TYLER, Fargo.
S. F. SHERMAN, Buffalo.
B. HAGAMAN, Oswego.

Mr. McMILLAN presented the petition of J. H. Wendell and others, citizens of Wright County, Minnesota, and the petition of John N. Morrell and others, citizens of Wright County, Minnesota, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. KELLOGG presented the petition of George Williams, late private Company C, One hundred and sixteenth Regiment United States Colored Troops, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of George F. Brott, assignee of Brott, Davis & Shons, of New Orleans, Louisiana, praying compensation for certain cotton alleged to have been seized and appropriated by United States military authorities at New Orleans during the late war; which was referred to the Committee on Claims.

Mr. CONKLING. I present a number of petitions, each one of them signed by citizens of the State of New York, praying for the passage of the bill for the payment of arrears of pensions. I move that they lie on the table.

The motion was agreed to.

Mr. HOAR presented the petition of Walter Davison and others, citizens of Hinsdale, Massachusetts, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. BOOTH presented resolutions of the constitutional convention of California, in favor of the passage of a law providing for a reduction in the price of public lands within the limits of railroad grants, to enable *bona fide* settlers thereon to homestead one hundred and sixty acres thereof, and also to restore to pre-emption and homestead all lands within the limits of forfeited railroad grants; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. THURMAN. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes, have instructed me to report it with one amendment and recommend the adoption of the amendment and the passage of the bill as thus amended.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. THURMAN. I was going to ask the Senate to consider it at this time, as the committee are unanimous, and I believe the House was substantially so, upon the propriety of passing the bill, and I think there can be no doubt about it. It merely provides for dividing the western district of Missouri into two divisions and holding a court in Kansas City, and there is no opposition to it I believe from any quarter.

Mr. DAVIS, of Illinois. It creates no new offices.

Mr. THURMAN. There are no new offices required. I ask the Senate to consider the bill at this time.

Mr. EDMUNDS. It is very ungracious in me, but I think the amendment had better be printed and go over to be sure that we have not made any mistake in the adjustments of it.

Mr. THURMAN. Very well; I shall not insist upon the consideration of the bill to-day.

Mr. EDMUNDS. I am constantly in the habit of making objection to the consideration of a bill when it is reported and therefore I feel at liberty to make this objection to my friend, a member of the same committee of which I am a member.

The VICE-PRESIDENT. The bill will take its place on the Calendar.

Mr. CONKLING, from the Committee on the Judiciary, to whom were referred the following bills, reported adversely thereon; and they were postponed indefinitely:

A bill (S. No. 1148) to amend section 619 of the Revised Statutes of the United States;

A bill (H. R. No. 3181) limiting the compensation of clerks of the district and circuit courts when one person holds both offices;

A bill (H. R. No. 3972) fixing the fees of clerks of United States district and circuit courts;

A bill (S. No. 510) to authorize the payment of fees to counsel for the defense of poor persons in the courts of the United States, and for other purposes; and

A bill (H. R. No. 5214) providing for a judicial ascertainment of claims against the United States.

BILLS INTRODUCED.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1575) granting a pension to Jonathan G. Bigelow; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1576) granting a pension to Chambers C. Mullin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1577) for the relief of Lucinda McGuire; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL. I desire without previous notice to introduce a bill, which I do by request of reputable citizens. I know nothing of the merits of the bill, and am not committed for or against it by its introduction.

By unanimous consent, leave was granted to introduce a bill (S. No. 1578) for the relief of the messengers of the Supreme Court of the United States; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MITCHELL (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1579) to continue the survey and to make improvements at the bar of the mouth of the Columbia River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1580) to reduce the price of public lands within railroad limits; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1581) for the relief of John M. McClintock; which was read twice by its title, and referred to the Committee on Finance.

SEWERAGE OF THE DISTRICT OF COLUMBIA.

Mr. DORSEY, from the Committee on the District of Columbia, presented sundry maps illustrating the various plans heretofore submitted for improving the sewerage of the District of Columbia; and it was

Ordered, That 200 copies of the maps be printed and stitched with the plans ordered to be printed by the resolution of the Senate of December 20, 1878.

INSECTS AFFECTING COTTON.

Mr. MORGAN submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring.) That there be printed 30,000 copies of the special report from the Department of Agriculture on the insects affecting the cotton-plant, with the necessary illustrations, to be made by the Public Printer under the direction of the Joint Committee on Public Printing; 15,000 of which shall be for the use of the House of Representatives, 10,000 for the use of the Senate, and 5,000 for the use of the Department of Agriculture.

HAYDEN'S TENTH ANNUAL REPORT.

Mr. INGALLS submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House concurring,) That there be printed and bound at the Government Printing Office, for the use of the Department of the Interior, 2,000 copies of Professor Hayden's tenth annual report of the Geological and Geographical Survey of the Territories for 1876, uniform with the edition ordered by Congress.

REPORT OF ENTOMOLOGICAL COMMISSION.

Mr. INGALLS submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 10,000 copies of the second report of the United States entomological commission; 5,000 copies of which shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 for the use of the commission.

ASSESSMENT OF CHURCH AND SCHOOL PROPERTY.

Mr. WINDOM. I submit the following resolution, to which I am confident there will be no objection, and I ask for its present consideration:

Resolved, That the commissioners of the District of Columbia be directed to inform the Senate what churches, colleges, school-houses, and educational institutions have been subjected to assessment and the payment of taxes for general or special improvements since June 17, 1870; and what sums of money, if any, have been received in respect of general and special taxes assessed on churches, colleges, school-houses, and educational institutions since June 17, 1870; and what taxes, if any, have been remitted or refunded in respect of colleges, school-houses, and educational institutions, the amounts so remitted, and the authority under which such remission and repayments have been made.

The resolution was considered by unanimous consent, and agreed to.

PROPOSED JOINT RULE.

Mr. EDMUNDS. Mr. President, I rise to offer concurrent resolutions, which I shall ask to have printed, and I think go to the Committee on Rules. I suppose every Senator is aware that we have no joint rules in force between the two Houses at this time, and have not had any for some years. What I wish to accomplish by these resolutions is to declare that on the last three days of this session no bill which shall have passed one House shall be sent to the other for its concurrence, and that on the last day of the session, no bill shall be sent to the President of the United States. These two propositions were embodied in the sixteenth and seventeenth old joint rules of the two Houses. They were adopted as many as fifty or sixty years ago. Even with the small amount of business comparatively which Congress then had, it was found necessary by the gentlemen who had charge of affairs, in order to prevent error and confusion and mistake and mischief, if I may be allowed to use such a word, to have rules of that character; and they were accordingly adopted. They have been the rules ever since until the joint rules fell two or three years ago. Unfortunately, however, in every instance that I remember, when the day came that these most wholesome and beneficent rules were to operate, then they were suspended and did no good. I wish to invite the judgment of the Senate on a report of the Committee on Rules (which is perhaps hardly necessary, but still that is the best way probably) upon the question whether now we are willing at this length of time beforehand, so that it can be done just as well as not, to devote the last three days of the session to bills that are pending between the two Houses on amendments, &c., and the passage of bills that have already passed one House, and the last day

of the session to the proper enrollment and comparison of the bills that have passed, and to the proper examination of them by the Chief Magistrate of the United States. With this invitation to Senators to consider the subject, I offer the resolutions and ask that they may be read, printed, and sent to the Committee on Rules.

The resolutions were read, and referred to the Committee on Rules, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That no bill that shall have passed one House shall be sent to the other for concurrence after twelve o'clock midnight of the 1st day of March in the present session.

Resolved further, That no bill or resolution that shall have passed the Senate and House of Representatives shall be presented to the President of the United States for his approval after twelve o'clock midnight of the 2d day of March of the present session.

Resolved further, That the foregoing orders shall not be repealed or suspended, except on one day's notice and by a vote of three-fourths of the members of each House present.

INDIAN CHILDREN AT LAWRENCE UNIVERSITY.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to the Senate all information furnished by the records or files of the Department respecting an arrangement made between the Commissioner of Indian Affairs and the Lawrence University of Appleton, Wisconsin, for the education of Indian children, together with copies of such unpaid accounts as have been presented to the Indian Bureau, on behalf of said university, for the instruction of such children; and copies of all correspondence between the Commissioner and the officers of said university, or other persons writing on behalf of said university; and further, that the Secretary be directed to inform the Senate what reason exists for not paying such accounts, and whether the officers of said university have been notified at any time whether such account will or will not be paid.

ADMISSION TO THE FLOOR.

Mr. THURMAN. I offer the following resolution:

Resolved, That the Committee on Rules are hereby instructed to inquire whether the rules should not be so amended as to admit to the privileges of the floor the ex-cabinet-minister whose appointment was earliest in date of those now living.

I wish to say one word on the resolution to the Senate. I will not disguise the fact that the motive which impels me to offer the resolution is that a gentleman known not only to every member of the Senate, but to almost every American, and to almost every European of letters, who was Secretary of the Navy in Mr. Polk's administration, and is the oldest in appointment of the ex-cabinet-ministers, has not the privilege of this floor. Venerable in years, distinguished by his learning, and also by his patriotism, he cannot come upon this floor to see the workings of that Government whose history he has illustrated in so memorable a manner by his works. I hope that that privilege will be accorded to him. Of course Senators must understand that I refer to Mr. Bancroft.

The VICE-PRESIDENT. Is there objection to the resolution submitted by the Senator from Ohio [Mr. THURMAN]? The Chair hears none, and it is agreed to.

PERSONAL EXPLANATION.

Mr. GROVER. Mr. President, the following telegram relating to myself appeared in the New York Herald on the thirty-first day of last month, and has been copied into many journals throughout the United States:

UNITED STATES SENATOR GROVER—SERIOUS CHARGES OF FRAUD BROUGHT AGAINST HIM.

SAN FRANCISCO, CALIFORNIA, *December* 30, 1878.

A dispatch received from Portland, Oregon, says:

"For about two months the commission appointed by the Legislature of Oregon has been investigating books and papers connected with the state department. Its report now submitted shows that funds to the amount of $97,000 have either been unaccounted for or paid out without authority of law. Among these amounts are the following items: Swamp-land fund unaccounted for, $27,875; illegal fees paid for conveying convicts and insane persons to places of confinement, $37,382; quartermaster stores in the Modoc war unaccounted for, $13,200; overpaid to Secretary of State Chadwick, $3,600, and to his assistant, T. H. Cann, $1,800; school and school-land funds, about $9,000 deficiency. Since the close of the late State administration T. H. Cann has paid to the Treasurer $5,200 belonging to the various State funds, and declares his ability and willingness to pay all that is due the State from official transactions that came within his supervision. The report is very severe in its condemnation of Ex-Governor Grover. It lays on him a large part of the blame for his loose, extravagant, and corrupt administration. The report is particularly severe in relation to the conduct of the school-land and school-fund commissioners, of which Grover was the head. It charges that the State's educational fund has been squandered until it is not worth fifty cents on the dollar, and it is alleged by the commission that Grover himself took large sums from the fund on very trifling and inadequate security and used money for his own purposes; also that he loaned large sums out of the fund to others in such ways that the money came back to his own pocket, taking for the money, in the name of the State, almost worthless securities, in consequence of which there is a great loss to the fund."

It is a duty which I owe to this honorable body as well as to myself to meet these charges as specifically as they are made, and I will proceed to do it *seriatim*.

THE TWENTY-SEVEN THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE DOLLARS.

This sum was paid out by order of the board of school-land commissioners, of which, as governor, I was president, covering a period of nearly seven years, as expenses in segregating the public lands inuring to the State under various acts of Congress, but chiefly on account of surveying and locating the swamp lands in 1871-'72-'73. The swamp-land grant of 1860 had been left a dead letter for ten years, and the grant was being absorbed and lost. Many of the swamps had been meandered and thrown out of the public surveys of the United States, so that they could not be recognized in the General Land Office and segregated to the State. Not an acre of the university lands nor of the indemnity common-school lands, granted in lieu of the sixteenth and thirty-sixth sections occupied by settlers before survey, had been listed to the State, though these grants were twenty years old. The agricultural-college and salt-springs grants had been lost by neglect.

Specific authority of statute enacted in 1870 required the board to appoint agents in the field, whose duty it should be to employ surveyors and assistants who should actually survey and locate the swamp lands and connect them with the surveys of the United States, so as to be segregated to the State under the grant. The act provided for the sale of these lands at $1 per acre, subject to reclamation by the purchaser, who should on becoming claimant pay 20 per cent. of the purchase money to the board. This 20 per cent. was intended as a fund out of which to defray the expenses of segregation. The rates of pay to agents and surveyors were fixed by the act. The board performed its duty. The agents appointed to execute this work were and are prominent citizens, and responsible both morally and pecuniarily. Their receipts and vouchers, specifically accounting for all the money paid them, with the maps and detailed reports of their work, are on file in the public papers of the State. No member of the board was interested to the amount of one cent in these payments nor in the land surveyed, either directly or indirectly. Many of these surveys have been proven in the United States Surveyor-General's office and adopted by the United States as a part of the public surveys, and thousands of acres of the swamp lands have been segregated to the State by means of this work. And it has not cost the State treasury one dollar. You ask, Where is the wrong? I answer, there is no wrong.

The law was specific and absolute in requiring the work to be done, and it provided the 20 per cent. fund to enable the work to proceed without taxing the people. There never was any other provision made to carry the act into effect. The board ruled that the act carried its own appropriation, and must be executed in a special manner. And from the fund provided they paid the agents, surveyors, chainmen, axmen, and assistants. The State has received the full benefit of this work, as it laid the foundation of securing the entire swamp-land grant, which will probably reach a million of acres. The Legislatures of 1872 and 1874, the former a republican and the latter an independent reform body, to whom these accounts and surveys were reported, appointed special committees to examine the same, and they were passed without any objection of any kind as to the mode of payment, and they were passed without reduction. But this committee, appointed by a Legislature to whom these accounts had never been reported, and to whom under the law they never could be reported, proceeded to re-examine accounts six and seven years old which had already been examined and passed by former Legislatures, and declared the whole sum of these payments "unaccounted for," and for the sole reason, as I learn by a late letter, that this amount was not specifically named in the general appropriation bills; as though a service could not be specially authorized and paid out of the subject-matter of the service without the interposition of the treasury.

It is done every day both in State and National Governments. The quibble of law here raised is a matter of the sheerest technicality. But I will add here, as significant facts, that there was no lawyer on the committee, that this question was not discussed at the time of their appointment, nor was it raised by any member of any former Legislature which had the special duty to receive and pass upon these accounts. This sum was honestly expended for the highest benefit to the State, and honestly and fully accounted for.

THE THIRTY-SEVEN THOUSAND THREE HUNDRED AND EIGHTY-TWO DOLLARS.

This sum is stated to be "illegal fees paid for conveying convicts and insane persons to places of confinement." The only knowledge which I have of this subject has been gained from a newspaper recently received from Oregon. The statement is that the committee reported all the mileage paid to sheriffs of the several counties in the State for the past eight years as moneys "unaccounted for." These payments have been made by warrants regularly drawn on the State treasurer out of moneys specifically appropriated for that purpose, and on sworn accounts and vouchers presented by the sheriffs, showing their mileage and services. The provisions of the State statutes on this subject are particular and have been executed according to the letter of the law.

The sheriffs' mileage act was passed in 1864, and has been upon the statute-book ever since. But a subsequent act, providing for a per diem and compensation of certain expenses to sheriffs, was held by the committee to cover all allowances. It appears that the subsequent act does not repeal the mileage act, nor specially conflict with it. The secretary of state, who is auditor of public accounts, on the claim of the sheriffs supported by their sworn statements, ruled that both statutes were in force, and paid the mileage. The secretary's accounts have been biennially laid before the Legislature and approved. I hear no pretense of fraud or collusion. The question raised is a technicality of law, and the sheriffs, if it should be determined that they have received too much, can refund the overpayment. The animus with which this item is scheduled against me will be observed when I state that the constitution of Oregon provides for the election of the secretary of state by the people, makes him auditor of public accounts, requires him to give bond to the State, and to report

biennially to the Legislative Assembly, and not to the governor. And there is no provision in that instrument which gives the executive any authority or influence with the secretary of state. The secretary is an independent officer, and is authorized to give advice to the Legislature on fiscal affairs. Whether right or wrong in this matter, I never was consulted in the premises by the secretary, and have had nothing whatever to do with it. I never heard in Oregon that there was a question about the sheriffs' mileage.

THE THIRTEEN THOUSAND TWO HUNDRED DOLLARS.

This sum is stated as "quartermaster stores in the Modoc war unaccounted for." That this statement is false, and false without excuse, I will proceed to demonstrate. In the nature of the service no large quantity of quartermaster stores could accumulate or be disposed of, so as to remain unaccounted for. For no stores were purchased except on requisition for immediate use, and when delivered were receipted for, and an account was required of their expenditure or return. To show that all this property was accounted for, I will produce a record which cannot be gainsaid. I refer to the report of the late Inspector-General James A. Hardie, of the United States Army, now deceased.

The Modoc hostilities occurred in 1872 and 1873.

By order of the Secretary of War, under act of Congress approved June 8, 1874, General Hardie was directed to proceed to Oregon to examine and report upon this very Modoc service. He promptly proceeded and executed the duty. His report is contained in House of Representatives Executive Document No. 45, Forty-third Congress, second session, and touching the exact subject of this charge reads as follows:

Having finished the investigation with which I have been charged, I report in the premises as follows:

Immediately upon the receipt of my orders, I proceeded to Oregon and California. Arriving at Salem, in Oregon, I called upon Governor GROVER, who promptly and cheerfully put the records of his office at my disposition, and furnished me every other facility for my investigation. The secretary of state, the adjutant-general, the governor's secretary, the commanding and staff officers of the troops, and other State officials, all rendered me every assistance in their power. The assistant adjutant-general of the Department of Columbia, Major H. Clay Wood, also afforded me important aid.

I visited the different places in the States named, where the more important purchases were made and expenses were incurred. I examined all persons that I could reach connected in any way with the accounts in question, generally under oath requiring in most cases sworn statements of the correctness of their accounts as presented to the State. *I ascertained the nature of the transactions of the administrative officers connected with the expedition, and every other important fact, it is believed, relating to the acquisition and disposition of the property concerned; the raising, service, and disbandment of the troops.*

Having been at the lava beds during the Modoc operations last year, and having traveled over most of the routes used by the troops, I was in a position to become readily acquainted, through a second visit, with the leading features of the region in which the expenditures originated, and, besides, to become well acquainted with men and things concerned.

Thus prepared for an intelligent study of these accounts, *laborious care has been expended in their examination*, with a view to a report thereon satisfactory to the War Department, and furnishing a safe basis of action thereupon by Congress.

On page 3 of this report I read:

On the 24th of March, 1874, General Schofield forwarded to the War Department a communication from Governor La Fayette Grover, of Oregon, dated February 13, 1874, being a full report of the history of the Modoc troubles, of the connection of the State authorities with the military operations resorted to for the suppression of the Modoc disturbances and for the protection of the frontier, *and embodying also abstracts of expenditures involved, returns of property, rolls of troops and citizens employed, and giving, in short, a full and explicit account of every branch of the subject in hand*, from his own point of view. General Schofield's action was had in obedience to a call from the War Department for information upon the topics in question, anticipatory of the investigation subsequently directed by Congress.

Again, on page 5:

The purchases of quartermaster and subsistence property were made principally in Roseburgh, Jacksonville, and Portland. The purchasing officers were (for supplies pertaining to the quartermaster's department) Quartermaster-General Jesse N. Barker and Major W. A. Owen. Major Quincy A. Brooks had principal charge of books and accounts.

The subsistence supplies were purchased under the direction of Colonel J. N. T. Miller. *Returns were carefully made, at the close of the second service, of all the transactions pertaining to the quartermaster and subsistence departments*; copies of them accompany this report.

Again, on page 7:

For all issues of stores of any kind consumed by the troops, or used by them in service, except clothing, requisitions and receipts were prepared at the time of final adjustment covering all the transactions of the whole period. These papers were presented to the company officers and others concerned for their signatures, and *form the vouchers by which the quartermasters and commissaries acquitted themselves of their responsibility to the State for the property acquired by them.* These returns are prepared in similar shape to that in use in the Army.

The clothing referred to as excepted out of the vouchers was charged to the men on the rolls and formed part of their pay. After a most thorough and critical examination the Inspector-General did not reject a single claim, and but a few were suspended. On page 12 he says: "The claims actually suspended for want of proof amount to $2,369.75."

In fact, the volunteer service of Oregon in the Modoc hostilities of 1872-'73, and the integrity of its management, were so well considered by the people of that State that the Legislature of 1874, the controlling majority of which was elected on an independent platform of "retrenchment and reform," after a searching examination of its accounts by a special committee, aided by skilled assistants, approved the same, and assumed and paid the expenses of the entire service. A bill is now pending before this body for the reimbursement of the State.

So that the integrity of these Modoc war accounts have been twice established by commanding authority, once by the Legislature of Oregon and once by the Inspector-General of the United States Army, approved by the Secretary of War, acting by authority of Congress.

The Inspector-General cut down the rates of pay allowed by the State to volunteers, and their horses and transportation, &c., but his action in no way affected the integrity of the accounts. This charge against me therefore vanishes.

THE THIRTY-SIX HUNDRED DOLLARS AND THE EIGHTEEN HUNDRED DOLLARS.

As to these sums, stated as "overpaid" to the secretary of state and his assistant, I know nothing except that I have heard that they were paid under specific appropriation for that purpose, and attacked by the committee on technical grounds. But in no manner do they affect me, as I had no more authority, as executive, over this subject than the President of the United States has over the employment and pay of clerks in this body.

THE NINE THOUSAND DOLLARS

is stated to be a "deficiency" in school-funds in the hands of Thomas H. Cann, who was clerk of the board of school-land commissioners. His accounts were all duly settled before the Legislature every two years while I was governor, and found correct. He writes me that his accounts are correct now.

THE SCHOOL FUNDS.

The school funds of Oregon are in the hands of the State treasurer and of the several county treasurers, and are under the general supervision of the board of school-land commissioners. Those officers negotiate the public loans with as much care and under as strict provisions of law as real-estate loans are made in any other State, and there has been no greater depression of real-estate values in that State than in any other. It is the merest demagogism to attempt to cast upon any set of public officers in any State the fault of depreciated securities which rest mainly for their support upon the general prosperity. Yet the statement that school-mortgage securities in Oregon are not worth fifty cents on the dollar is grossly and utterly untrue.

I have myself had one of these loans, but it was based on the soundest security, and has been fully repaid, with interest. I have been interested in two other loans of this kind as a stockholder in corporations connected with them, but all the loans which I had any connection with were duly made and fully secured according to law, and were duly reported to the Legislature of 1876, which elected me a member of this body. Had there been anything wrong in any of these matters I could not have been elected.

Mr. President, this committee, though composed of persons of known hostility to myself, are not chiefly responsible for this report. They were selected as persons capable of being manipulated by men who for years have been my personal enemies; who, having failed to defeat me in open field and fair contest, seek now my destruction by discharging this missile of their venom from secure ambush in the distance. But their work is overstrained and it will fail.

The State of Oregon, sir, is in as good financial and economic condition as any State in the Union, and in far better condition than a great majority of States.

Its current expenses are paid by a tax of four mills on the dollar of taxable property. It has no bonded debt of any kind, either State, county, or city, while its outstanding warrants on the treasury do not exceed $200,000, with $100,000 usually carried in the treasury as a margin on various accounts. This treasury statement is not exact, but it is approximate. The State is virtually out of debt, except limited liabilities which were contracted to be paid out of internal-improvement and swamp-land sales, which are in course of liquidation in that way.

The State capital and penitentiary are erected. These buildings are of ample size and permanent and enduring structure. We have schools and churches everywhere. The people are vigorous, industrious, enterprising, frugal, and happy, and they look forward to a pleasing and flattering future of a great State, and I repel this slander upon them and me.

ORDER OF BUSINESS.

The VICE-PRESIDENT. Five minutes remain of the morning hour.

Mr. BURNSIDE. The bill reported from the joint committee on the reorganization of the Army was made the special order for this day, and I now move to take it up.

Mr. MITCHELL. I appeal to the Senator from Rhode Island, and in that connection state that on the last day of the session before the holidays I gave notice that I desired to call up yesterday a certain bill simply for the purpose of submitting some remarks upon it. I gave way yesterday to certain Senators who desired to speak on other matters, and I should like to have the privilege this morning of being heard. I simply wish to have the bill taken up in order to submit some remarks upon it, and it will not interfere with the consideration of the Senator's bill to-day.

Mr. BURNSIDE. If the bill of which I have charge can be taken up to-day of course I am quite willing to yield to the Senator from Oregon.

The VICE-PRESIDENT. Such an arrangement must be made with the assent of the Senator from New Hampshire, [Mr. WADLEIGH,]

the unfinished business being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, on which the Senator from New Hampshire is entitled to the floor.

Mr. WADLEIGH. I feel compelled to ask the body to consider Senate bill No. 300, for certain reasons which will be satisfactory to my friend the Senator from Rhode Island.

Mr. BURNSIDE. I shall consent to yield precedence to that bill if the bill which was made the special order for to-day can then be taken up.

Mr. WADLEIGH. I should be glad to yield to the Senator from Rhode Island as a matter of courtesy; but for reasons which I can state to him at another time it is impossible for me to do so now.

The VICE-PRESIDENT. The morning hour has expired, and the unfinished business of the Senate is the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, on which the Senator from New Hampshire is entitled to the floor.

Mr. MITCHELL. Will the Senator from New Hampshire yield to me?

Mr. WADLEIGH. I cannot, for certain reasons.

Mr. MITCHELL. Very well.

DEATH OF REPRESENTATIVE HARTRIDGE.

GEORGE M. ADAMS, Clerk of the House of Representatives, appeared below the bar of the Senate and said:

Mr. President, I am directed by the House of Representatives to transmit to the Senate a copy of resolutions passed by the House upon the announcement in that body of the death of Hon. JULIAN HARTRIDGE, late a Representative from the State of Georgia. The House of Representatives have passed a concurrent resolution providing for the appointment of a special joint committee of seven Members and three Senators to take order for superintending the funeral and to escort the remains of the deceased to his late residence in Georgia, and the Speaker has appointed as such committee on the part of the House Mr. PHILIP COOK, of Georgia; Mr. SAMUEL S. COX, of New York; Mr. G. C. CABELL, of Virginia; Mr. JOSEPH C. STONE, of Iowa; Mr. R. H. M. DAVIDSON, of Florida; Mr. JOHN HANNA, of Indiana, and Mr. J. I. MITCHELL, of Pennsylvania.

Mr. GORDON. Mr. President, I ask that the House resolutions be laid before the Senate and read.

The VICE-PRESIDENT. The resolutions of the House of Representatives will be reported to the Senate.

The Secretary read as follows:

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
January 8, 1879.

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. JULIAN HARTRIDGE, late a Representative from the State of Georgia.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of seven Members and three Senators be appointed to take order for superintending the funeral and to escort the remains of the deceased to his late residence in Georgia, and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

Mr. GORDON. I move that the Senate concur in the concurrent resolution of the House of Representatives, and that a committee of three Senators be appointed on the part of the Senate by the Vice-President.

The motion was unanimously agreed to; and the Vice-President appointed as the committee on the part of the Senate Mr. GORDON, Mr. BOOTH, and Mr. BECK.

Mr. EDMUNDS. Mr. President, as a mark of respect to the deceased, and out of sympathy with the House of Representatives, I move that the Senate do now adjourn.

The motion was agreed to; and (at one o'clock and seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 8, 1879.

The House met at twelve o'clock m.

The Chaplain, Rev. W. P. HARRISON, offered the following prayer:

O Lord our heavenly Father: From everlasting to everlasting thou art God. We are the creatures of a day; and as the flower of the field we are passing away. All our blessings come from Thee; and we recognize Thy hand in all Thy gifts. In Thy providence, mysterious to us, it has pleased Thee to call from our midst still another member of this House of Representatives. O God, teach us the brevity of our life. Impress us with the solemn duties of the present hour that we owe to Thee. And grant, O Divine Spirit, that whilst in submission we bow to Thy will we may be taught by this afflicting providence so to number our days that we may apply our hearts unto wisdom.

Almighty God, bless the Presiding Officer and all the members of this House. Guide them in public and private duty, that fidelity to every trust may distinguish and characterize every member. Upon the Government, in all its departments, and upon the people of our land we implore the Divine blessing, in the name of Jesus Christ our Redeemer. Amen.

CORRECTION.

The Journal of yesterday was read.

Mr. ELAM. The bill introduced by me yesterday was to amend and re-enact section 2023 of the Revised Statutes, not sections 20 and 23, as it appears in the RECORD, and I believe in the Journal also.

The SPEAKER. The correction will be made, and the Journal as corrected will be approved.

DEATH OF HON. JULIAN HARTRIDGE.

Mr. COOK. Mr. Speaker, it is my painful duty to announce the death of my colleague, Hon. JULIAN HARTRIDGE, which took place at his room in this city at six and a half o'clock this morning. At some future time I shall ask that a day be set for the consideration of appropriate obituary resolutions. I offer now the resolutions which I send to the desk.

The Clerk read as follows:

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. JULIAN HARTRIDGE, late a Representative from the State of Georgia.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of seven Members and three Senators be appointed to take order for superintending the funeral and to escort the remains of the deceased to his late residence in Georgia; and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

The resolutions were unanimously adopted.

The SPEAKER announced the appointment of the following named members as the committee on the part of the House under the second resolution: Mr. PHILIP COOK, of Georgia; Mr. SAMUEL S. COX, of New York; Mr. GEORGE C. CABELL, of Virginia; Mr. JOSEPH C. STONE, of Iowa; Mr. ROBERT H. M. DAVIDSON, of Florida; Mr. JOHN HANNA, of Indiana; and Mr. JOHN I. MITCHELL, of Pennsylvania.

In accordance with the last resolution the House (at twelve o'clock and twenty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAKER, of Indiana: The petition of Mrs. D. W. Miller and 23 other women, of Marshall County, Indiana, for the enactment of such laws as will prevent the practice of polygamy in the Territory of Utah—to the Committee on the Judiciary.

By Mr. BOYD: The petition of William M. Kellogg and others, of Illinois, for the enactment of a law for the suppression of adulteration of sugar—to the Committee of Ways and Means.

By Mr. CLARK, of Iowa: Papers relating to the petition of Enoch Davis, for the correction of his military record—to the Committee on Military Affairs.

By Mr. CUTLER: The petition of Mrs. Anna E. Cochran and others, of Mendham, New Jersey, to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. H. L. Huntting and others, of Mendham, New Jersey, Second Presbyterian church, of similar import—to the same committee.

By Mr. HARRISON: The petition of Wahl Brothers, Leopold & Austrian, J. H. Clough, Jacob Beidler, R. H. Floss, Robert Law, V. C. Turner, S. W. Allerton, E. Buckingham, Hayden & Co., C. D. Larabee, A. G. Throop, and 3,800 other citizens of Chicago, for the appointment of a special committee to investigate the official conduct of H. W. Blodgett, district judge of the northern district of Illinois—to the same committee.

By Mr. NEAL: The petition of Mrs. Nellie W. Adams and 13 other ladies, of Waverly, Ohio, for the passage of laws prohibiting polygamy—to the same committee.

Also, the petition of Damarin & Co. and other wholesale grocers, of Portsmouth, Ohio, for a change in the tariff on sugars—to the Committee of Ways and Means.

By Mr. PATTERSON, of Colorado: The petition of women of Colorado Springs, Colorado, to make effective the anti-polygamy law of 1862—to the Committee on the Territories.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and citizens of Newton, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. ROBINSON, of Massachusetts: The petition of Mrs. L. Pennell and others, of West Stockbridge, Centre, and Alford, Massachusetts, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. SOUTHARD: The petition of C. T. Hunt and 150 other persons, of Coshocton, Ohio, of similar import—to the same committee.

Also, the petition of Mrs. J. Brown and 200 others, citizens of Coshocton, Ohio, of similar import—to the same committee.

Also, the petition of Miss M. M. Elder and 60 others, citizens of Coshocton, Ohio, of similar import—to the same committee.

IN SENATE.

THURSDAY, *January* 9, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Mrs. Eliza Livingston, widow of Dr. Joseph W. Livingston, deceased, praying such redress as may be deemed proper by Congress for the arbitrary arrest and imprisonment of her late husband at Leon, Nicaragua, by an armed force, by order of the government of Nicaragua, and asking that the papers on file in the United States legation at Guatemala and the Department of State, Washington, relative to the matter, be sent for; which was referred to the Committee on Foreign Relations.

Mr. MATTHEWS presented the petition of Smith Rattingale and others, citizens of Wheelersburgh, Scioto County, Ohio, praying for the prompt passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. MATTHEWS. I also present a petition on the same subject from the executive committee of the Pensioners' Association, signed by John C. S. Burger, W. L. Trembly, Horace H. Brower, George Sadler, M. D., and F. H. Knight. As the petition is quite brief and presents some statistics in reference to the number of persons to be benefited by the passage of the bill and the amount probably necessary for that purpose, and in conformity with the request of these gentlemen who represent the great body of the pensioners throughout the country, I ask the unanimous consent of the Senate that it may be read at the Clerk's desk and incorporated in the RECORD.

The VICE-PRESIDENT. It will be reported at length.

The petition was ordered to lie on the table, and was read, as follows:

PENSIONERS' MEMORIAL.

To the honorable the Senate of the United States:

Your memorialists respectfully represent that the House of Representatives by exceeding unanimity has recognized the unconstitutionality of the pension limitation law in its application to those who entered the service before it was created a statute, while the equity of the arrears of pension bill has never been questioned.

No measure since the war has been passed by our National Legislature so fraught with extreme interest to a suffering class as the bill referred to, and which would mitigate an immense amount of human suffering and be the means of prolonging many precious lives.

Your memorialists respectfully refer to the fact that six State Legislatures have almost unanimously recommended the passage of the bill, while numerous organizations have made similar recommendations, and petitions of over two hundred thousand citizens to the same effect have been filed in Congress.

Your memorialists also feel it a duty to present a careful detailed statement made by the Pension Office on call by the House Committee on Invalid Pensions embracing the number interested and the amount it would require to meet the provisions of the bill up to January 1, 1876.

The following statement was duly rendered:

Invalids.				Widows and dependent relatives.				Total amount required under the bill.
Cases admitted.		Number in which limitation applied.	Amount of arrears to which entitled under the bill.	Cases admitted.		Number in which limitation applied.	Amount of arrears to which entitled under the bill.	
Year.	Number.			Year.	Number.			
1868.....	9,460	270	$238,140 00	1868....	16,584	825	$365,000 00	$601,140 00
1869.....	7,292	275	156,475 00	1869....	15,005	450	259,200 00	415,675 00
1870.....	5,721	472	346,448 00	1870....	9,132	821	592,560 00	939,008 00
1871.....	8,061	2,220	1,037,850 00	1871....	8,088	970	743,642 00	1,781,492 00
1872.....	6,468	2,545	852,575 00	1872....	5,395	431	344,276 00	1,196,851 00
1873.....	6,551	3,226	2,630,803 00	1873....	2,900	464	455,300 00	3,086,103 00
1874.....	5,710	3,584	2,013,312 00	1874....	3,417	444	423,612 00	2,435,924 00
1875.....	5,760	3,862	2,254,172 16	1875....	4,627	740	706,744 00	2,960,916 16
Total	.....	16,454	9,529,775 16	Total	.....	5,145	3,887,334 00	13,417,109 16

INTERIOR DEPARTMENT, PENSION OFFICE, *March* 8, 1876.

But the chairman of the House Committee on Invalid Pensions properly deducts one-third from the estimated amount on account of deaths, suspensions, &c., leaving the sum of near $9,000,000 as the total amount due to January 1, 1876, and at the same increased ratio up to the present time the amount would not exceed over fifteen millions required to pay this just debt, which should have a preference of consideration over all obligations which have ever been assumed by Government.

In behalf of honesty, equity, justice, and morality, and in upholding and maintaining the national faith which has been pledged to the payment of this just debt, we pray your honorable body for a prompt passage of House bill No. 4234, which requires only your sanction in answer to our prayers to become a law.

Respectfully submitted in behalf of afflicted pensioners,

JOHN C. S. BURGER,
W. L. TREMBLY,
HORACE H. BROWER,
GEORGE SADLER, M. D.,
F. H. KNIGHT,
Executive Committee of Pensioners' Association.

Mr. McMILLAN presented the petition of Mrs. B. A. Froiseth and other women, of Saint Paul, Minnesota, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. WINDOM presented the petition of John McCloskey and others, citizens of Monroe County, Minnesota, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. DAWES presented the memorial of Willard Comly and a large number of others, citizens of Massachusetts, remonstrating against the extension of McKay & Mathie's patent for sewing boots and shoes; which was referred to the Committee on Patents.

Mr. HAMLIN. I present sundry memorials from merchants, shipowners, and others doing business in the cities of Bath and Portland and the towns of Searsport, Freeport, Richmond, and Thomaston, in the State of Maine, favoring a bill to regulate interstate commerce and to prohibit unjust discrimination by common carriers, which has passed the House of Representatives. The memorials are all similar, and the memorialists state at length the reasons why they favor the passage of that bill. I move that they be referred to the Committee on Commerce.

The motion was agreed to.

Mr. ROLLINS presented the petition of Charles H. Garrett and others, merchants and ship-owners of the United States, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. DORSEY presented the petition of William A. Shannon and 34 others, cooks, laborers, and nurses of the Freedmen's Hospital, Washington, District of Columbia, praying for an increase of compensation; which was referred to the Committee on Appropriations.

Mr. PLUMB presented the petition of Samuel B. Brightman, late private Company B, Fourteenth Regiment Missouri Volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Thomas P. Rumbly, late private Company D, Ninth Regiment Kansas Volunteers, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of Sarah O. Booth and other women, of Osage County, Kansas, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. SAUNDERS presented the petition of A. A. Higgins and others, citizens of Nebraska, praying for the establishment of a mail-route from Kearney, Buffalo County, to Douglas Grove, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. COCKRELL presented the petition of James J. Wilson, John L. Thomas, R. W. McMullin, W. R. Donnell, H. Stilbrints, J. Edward Walker, and other leading and influential citizens of Jefferson County, Missouri, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the petition of Isaac Cathwright, George Osburn, J. Ewing, Benjamin Jacobs, and others, citizens of De Kalb County, Missouri, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. SAULSBURY. I present the petition of Joseph A. Boyer, of Butler, Bates County, Missouri, praying compensation for property taken by United States troops during the late war. I present this petition by request, without knowing anything about the merits of the claim. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. HOWE presented the petition of H. D. Bullard and others, citizens of Delavan, Wisconsin, praying for the prompt passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. HOWE. I wish to ask the chairman of the Committee on Pensions if he proposes to bring up that bill for the consideration of the Senate?

Mr. INGALLS. I have on several occasions heretofore given notice that it is my intention to call the bill up for action whenever the pending business shall have been concluded, and that is the bill under the charge of the Senator from New Hampshire [Mr. WADLEIGH] in regard to the amendment of the patent laws.

Mr. ALLISON presented the petition of Charles H. Mallory and others, citizens of Marshalltown, Iowa, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the petition of Philip Branstater, late private in Company D, First United States Mounted Rifle Volunteers, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of James H. Poland, late private in Company L, Seventh Iowa Cavalry, praying for a pension; which was referred to the Committee on Pensions.

Mr. INGALLS. I present the petition of the central branch of the Union Pacific Railroad Company, praying "that Congress may, either by joint resolution or otherwise, request the executive department of the Government to take all such measures as may be lawful under the Pacific Railroad acts of 1862 and 1864, for the completion of the Central Branch Union Pacific Railroad to a connection with the Union Pacific Railroad, according to the true intent and meaning of the said acts, or to give such other relief in the premises as justice and the interest of the Government may demand." I move the reference of the petition to the Committee on Railroads.

The motion was agreed to.

Mr. INGALLS presented the petition of M. D. Ellis, of Logansport,

Indiana, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. EDMUNDS. I present a petition, in the usual printed form, of sundry citizens of the State of Vermont, in favor of the arrears of pension bill. I move that it lie on the table.

The motion was agreed to.

Mr. BURNSIDE presented the petition of C. J. E. Thompson, of Providence, Rhode Island, praying for an extension of his letters-patent for reuniting broken chains; which was referred to the Committee on Patents.

Mr. CONKLING presented a copy of the proceedings and resolutions of the Chamber of Commerce of the State of New York, in favor of establishing a signal station on Block Island; which was referred to the Committee on Commerce.

Mr. CONKLING. I present also a petition signed very numerously by citizens of the State of New York, merchants and others, touching the interstate freight bill, as it is sometimes called, which came to the Senate from the House of Representatives some time ago. This petition recommends its passage, and I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. ARMSTRONG presented the petition of Sarah Ann Shepperd, widow of John B. Shepperd, deceased, praying for a pension from July 16, 1854, to June 14, 1878, for services rendered by her late husband in the Mexican war; which was referred to the Committee on Pensions.

Mr. BUTLER presented the petition of the Mother Superior of the Community of Ursuline Nuns, located near Columbia, South Carolina, and signed by the State officers, Senators, and Representatives of that State, praying to be indemnified for losses alleged to have been sustained by the destruction by fire of the convent and academy located at Columbia, by United States military forces in February, 1865; which was referred to the Committee on Claims.

LIBRARIAN'S REPORT.

Mr. HOWE presented the annual report of the Librarian of Congress for the calendar year 1878, and submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the annual report of the Librarian of Congress on the Library and the copyright department for the calendar year 1878 be printed, and that 500 extra copies, with paper covers, be printed for distribution by the Librarian.

REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am authorized by the Committee on the Judiciary, to which was referred the bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina, to report the same favorably. The petition of this gentleman may bear a construction which would not make it meet the approval of the committee, but we have received a communication from one of the honorable Senators from that State which explains the attitude of this gentleman as well intentioned and disposed toward the present Government of the United States, and we have concluded to report the bill.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. MORGAN, from the Committee on Patents, to whom was referred the bill (S. No. 521) for the relief of James D. Sarven, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 522) for the relief of Ira Gill, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WINDOM. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, to report it with amendments; and I give notice that I will ask the Senate to consider the bill to-morrow.

Mr. MORRILL. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1574) for the erection of a fire-proof building for the National Museum, to report it with amendments. I ask that the bill lie on the table, as I shall call it up in the course of the day if I can get an opportunity to do so.

BILLS INTRODUCED.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1582) providing for an additional associate justice of the supreme court of the Territory of Dakota; which was read twice by its title, and referred to the Committee on Territories.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1583) for the relief of William H. Everett; which was read twice by its title, and, with the accompanying memorial, referred to the Committee on Naval Affairs.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1584) for the relief of James L. Williams; which was read twice by its title, and referred to the Committee on Finance.

AMENDMENTS TO POST-ROUTE BILL.

Mr. GORDON, Mr. MITCHELL, and Mr. PLUMB submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MORGAN, it was

Ordered, That the papers on the files of the Senate relating to the claim of Dr. J. J. Gibson be referred to the Committee on Claims.

STOCKBRIDGE INDIANS.

Mr. HOWE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, instructed to communicate to the Senate the names of all persons on the roll of the Stockbridge tribe of Indians who have been denied their share in any payments of money made to said tribe, together with the reasons of such denial, and a detailed statement of the sums withheld therefrom and the disposition made of such sums; also, that he communicate to the Senate the names of all persons who have been prosecuted for going upon either of the Indian reservations in the eastern part of Wisconsin, with the results of such prosecutions; also, that he communicate to the Senate copies of all correspondence between the Commissioner of Indian Affairs and the subagent for the Green Bay agency touching the punishment of Indians for leaving their reservations; also, that he inform the Senate what suits have been commenced against persons for purchasing timber cut and hauled by Indians of the Green Bay agency from their reservations, with the date and amount of recovery in such suit, the sums collected, and the disposition made of the moneys collected.

ADVANCEMENT OF AGRICULTURAL INTERESTS.

Mr. DAVIS, of West Virginia. Mr. President, I give notice that to-morrow morning, if the Senate is in session, I shall ask the Senate to indulge me in being allowed to make a few remarks on the resolution introduced by myself on the 4th of December last relating to the advancement of the agricultural interests of the country.

BURR S. CRAFT.

Mr. HOWE. I ask the Senate to proceed to the consideration of Senate bill No. 1287. Twelve years ago Mr. Craft, for whose relief this bill is reported, lost a coin certificate. The purpose of the bill is to authorize the issue of another one. The interest——

The VICE-PRESIDENT. The bill will be reported by its title and objections asked for.

The Secretary read the bill (S. No. 1287) for the relief of Burr S. Craft, and by unanimous consent the Senate, as in Committee of the Whole, proceeded to consider it. It directs the Secretary of the Treasury to pay to Burr S. Craft $5,000 in gold coin of the United States, in lieu of certificate of deposit numbered 25378, issued under act of Congress approved March 3, 1863, by the assistant treasurer of the United States at New York, on the 14th of November, 1866, for the sum of $5,000, payable in the gold coin of the United States, to the order of E. H. Birdsall, and by him indorsed, payable to the order of Burr S. Craft; which certificate, it is claimed, was lost or stolen on or about the 18th of December, 1873. Before the payment authorized Craft is first to file in the Treasury a bond in a penal sum equal to the amount of the missing certificate, with sufficient sureties, with condition to indemnify and save harmless the United States from any claim because of the lost or missing certificate; which bond shall be executed in the same manner and form as required under section 3705 of the Revised Statutes for the issue of duplicate registered interest-bearing bonds of the United States.

Mr. EDMUNDS. Let us hear the report read.

Mr. HILL. I should like to hear something about that case.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. HEREFORD on the 18th of December, 1878:

The Committee on Claims, to whom was referred the bill (S. No. 1287) for the relief of Burr S. Craft, report as follows:

That on November 14, 1866, a gold certificate for $5,000 was issued by the assistant treasurer of the United States at the city of New York, payable to the order of E. H. Birdsall. In reply to a letter addressed to the Secretary of the Treasury on the subject, he says:

"At that time Birdsall was a clerk in the office of the assistant treasurer at New York, to whom the certificates were really made payable before issue, and whose duty it was to indorse each certificate in blank before paying it over the counter.

"It was then and still is customary for holders of these certificates to render them payable to order by placing an indorsement over the clerk's name, and it is not unlikely that the certificate in question, which is still outstanding and unpaid, was in that manner made payable to the order of Burr S. Craft."

Said Craft, on March 7, 1867, had this and seven other certificates, and deposited them for safe-keeping with the assistant treasurer at the city of New York, as shown by testimony of Henry C. Smith, teller in the City National Bank of Poughkeepsie.

That afterward, namely, March 29, 1869, this certificate and eleven others of like amount were in the possession of said Craft, and by him on said day withdrawn from the Chemical National Bank of New York, as shown by the testimony of George G. Williams, cashier of said bank.

On the 9th day of January, 1869, said certificates were in the possession of said Craft. On the 18th day of December, 1873, said certificate No. 25378 and two others were stolen from said Craft. Said certificate had been made payable to order of said Craft in the manner set out in the letter of the Secretary of the Treasury before referred to. Your committee further report that said certificate is still unpaid and has not been presented for payment; that the other two which were stolen from said Craft have been by him recovered and paid, and that said certificate No. 25378 is the only one unpaid.

Your committee recommend the passage of the bill as amended, namely, in line 18, after the word "to," insert the word "double," so as to make the bond double the amount of the missing certificate.

The bill was reported from the Committee on Claims, with an amendment, in line 18, after the words "equal to," to insert the word "double;" so as to read:

That before the payment hereinbefore authorized the said Burr S. Craft shall first file in the Treasury a bond in a penal sum equal to double the amount of the said missing certificate, with sufficient sureties, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROPOSED ADJOURNMENT TO MONDAY.

Mr. BAYARD. I move that when the Senate adjourns to-day, it adjourn to meet on Monday next.

Mr. EDMUNDS and others. Oh, no.

The VICE-PRESIDENT. The question is on the motion of the Senator from Delaware.

Mr. WINDOM. If a word is in order, I should like to say that an appropriation bill——

Mr. EDMUNDS. Debate is not in order.

The VICE-PRESIDENT. Debate is not in order unless by unanimous consent.

Mr. WINDOM. Then I ask unanimous consent to make a brief statement.

Mr. EDMUNDS and others. No, no.

The VICE-PRESIDENT. Is there unanimous consent?

Mr. EDMUNDS. It is a bad practice.

The VICE-PRESIDENT. Unanimous consent is not granted. The question is on the motion of the Senator from Delaware.

The motion was not agreed to; there being on a division—ayes 13, noes 27.

COIN FOR DUTIES AND INTEREST.

Mr. BECK. Mr. President, I desire to call up the resolution which I offered a day or two ago, and of which I gave notice, in order that I may make a few remarks in regard to it this morning and let final action be had upon it. I move to take up the resolution for consideration.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. BECK January 7:

Resolved, That the communication from the Secretary of the Treasury, being Executive Document No. 8 of the present session, in answer to the resolution of the Senate passed December 3, 1878, relative to the amount of silver coin received in payment of customs dues during the current fiscal year and the disposition which has been made of it, be referred to the Committee on Finance, and said committee is authorized and directed to make such investigations as it may deem necessary to ascertain whether the laws relative to the payment of customs dues, and the payment of interest on the public debt with the coin received therefrom, have been and are being complied with, and report by bill or otherwise.

Mr. BECK. Mr. President, desiring to be as brief as possible, I shall, unless the Senate orders otherwise, ask the Reporter, without reading it in detail, to insert in the RECORD Executive Document No. 8, being the answer of the Secretary of the Treasury to the resolution I had the honor to offer, which the Senate passed December 3, 1878. It is as follows:

TREASURY DEPARTMENT, *December* 16, 1878.

SIR: I have the honor to acknowledge the receipt of Senate resolution dated December 3, 1878, as follows:

"*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what amount and denomination of silver coin has been received in payment of customs dues since the beginning of the current fiscal year, and whether or not he has applied the silver coin so received in whole or in part to the payment of the interest on the bonds or notes of the United States. If it has not been so applied, to state the reason why; if it has been applied to that purpose in part only, to state what portion has been so used, and on what character of obligations. He is directed to inform the Senate the amount of interest he has paid on the bonds and notes of the United States since the current fiscal year began, and the amount of such interest which he has paid in gold and silver coin respectively."

And in reply to inclose herewith copy of report, dated 9th instant, from the Treasurer of the United States, to whom the resolution had been referred, which gives the information called for.

Under existing law either gold coin or standard silver dollars may be used in payment of the interest of the public debt. The law does not direct which shall be paid, but leaves this to the discretion of the Department, to be exercised upon considerations of public policy; and the practice, as stated by the Treasurer, of allowing the public creditor the option of the form and denomination of money in which he shall be paid has thus far been observed.

The manifest object of the act to authorize the coinage of the silver dollar and restore its legal-tender character, when construed in connection with the resumption act, is that gold coins and the standard silver dollar shall be maintained at par with each other, and this object can best be attained by paying out such coin as may subserve the convenience of the person to be paid, and not to force upon him either form of money.

Any other course would discriminate against the standard silver dollar and tend to its depreciation.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. WM. A. WHEELER,
President United States Senate.

TREASURY OF THE UNITED STATES,
Washington, December 9, 1878.

SIR: I have the honor to return herewith, in compliance with your request, Senate resolution of the 3d instant, referred to this office by you under date of the 4th instant for information. The scope of the resolution seems to be comprehended in the following inquiries:

First. What are the amount and denomination of silver coins received in payment of customs dues since July 1, 1878?

Second. Whether the silver coins so received have been applied to the payment of interest on the bonds or notes of the United States; and, if not, the reason why?

Third. What amount of coin interest has been paid since the above date in gold and silver coins, respectively?

In answer to the first inquiry, it may be said that no distinction has ever been made between gold and silver money in the Treasurer's general account coin, to which account all coin receipts of the Government are carried by warrant of the Secretary of the Treasury, under section 305 Revised Statutes; no record is kept of the denominations of either the gold or silver coins received for customs, and no information can be given from the records of this office showing what amount of the general receipts from customs for the current fiscal year was in silver coins; the receipts of subsidiary silver on account of customs are necessarily small, for the reason that such coins are not receivable except for fractions of a dollar, when the payment to be made exceeds $5. The total receipts of standard silver dollars at this office and at the subtreasury offices, for the period from July 1, 1878, to November 30, 1878, were $5,178,345, from all sources except coinage, including customs, the 4 per cent. loan, and silver certificates; deducting from this sum receipts of silver dollars from other sources than customs, and $1,500,000 is a very liberal estimate of the amount of silver dollars received on account of customs for the period above mentioned.

The above figures do not, however, cover silver certificates received on account of customs, principally at the New York office, which amounted during the current fiscal year to $11,260,000. This amount exceeds the total of silver certificates issued, which is accounted for by the fact that when received for public dues silver certificates have been again paid out. The greater portion of the above $11,260,000 is represented by only $6,717,000 in San Francisco silver certificates received for customs in New York, all or a portion being again paid out by that office and again received for customs. Silver certificates cannot be paid for interest, their issue being authorized only upon the deposit of standard silver dollars.

In response to the second inquiry contained in the Senate resolution, it may be stated that the silver coins received during the current fiscal year have not been specifically applied to the payment of interest upon bonds and notes of the United States, except so far as the fractional silver so received has been used in disbursements for coin interest in making payments of fractional parts of a dollar. No instructions have been given by the Department directing the payment of interest upon bonds and notes of the United States in silver. In making coin payments, however, payees are permitted to elect which currency they shall receive, whether gold, silver, coin certificates, or United States notes. The Treasury has also exchanged standard silver dollars with the public for gold coin, to the amount of $1,534,785. The receipts of silver coin for customs duties during the current fiscal year have not been sufficient to enable the Department to make payment exclusively in silver coin. No general demand for it, in lieu of gold, was manifested by those entitled to coin interest from the Government. While reserving the legal option of the Government to pay either gold or silver coin, it has been the general practice to comply with the request of the holder of a demand against the United States as to the form or denomination of money desired by him, and this practice has been observed in the payment of interest of the public debt.

In the disposition of the coin paid for duties on imported goods, though the requirements of section 3694 Revised Statutes have not been disregarded in respect to the application of coin so received, first, to the payment of coin interest; second, to the sinking fund; third, to the payment of the residue into the Treasury, attention is directed to the fact that nearly the entire receipts of standard silver dollars from all sources, including coinage, have been expended in the purchase of silver bullion under the appropriation made in the first section of the act of February 28, 1878, entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character."

To the third inquiry it is replied, that the coin interest paid during the current fiscal year amounts to $39,345,224.37, and no fuller information can be given than that contained in the reply to the second inquiry as to the amount of such interest which was paid in gold and silver coin respectively.

Very respectfully,

JAS. GILFILLAN,
Treasurer United States.

Hon. JOHN SHERMAN *Secretary of the Treasury.*

Mr. President, I think it probable that I would have allowed the Senate to refer the communication of the Secretary to the Committee on Finance when it was received, without saying a word, but for a very remarkable statement which the chairman of that committee [Mr. MORRILL] saw fit to make on the 16th of December last in reply to my explanation of the reasons why I desired a prompt answer to the resolution passed by the Senate on the 3d day of December. He said, as the RECORD shows:

Mr. President, I rose merely to say that if the Senator desired to make his explanation, I had no objection to that; but I do object to the consideration of the resolution to-day. *I have no doubt of the purpose of the Senator from Kentucky, and that purpose, I think, is to embarrass resumption.*

The Senator has a right to his opinions, but he has no right to attribute motives to me other than what the resolution I offered or the reasons I assigned indicated. I opposed and voted against the resumption act in 1875, as unwise and impolitic when such enormous debts, Federal, State, municipal, corporate, and individual, oppressed the people; when all industries were prostrated and labor sought employment in vain. It has been reached by the ruin of hundreds of thousands of the best men in the country, by the destruction of values amounting to confiscation of one-third at least of the property of the people in the interest of the bondholders and money-changers. All that I am now seeking to do is to require the Secretary, *as the law requires him*, to use the silver coin as he uses gold coin, and to prohibit him from further increasing the bonded debt of the country.

I do not propose to anticipate the report of the Committee on Finance in regard to the answer which the Secretary of the Treasury has seen fit to make to the resolution of December 3, 1878, further than to express the opinion that he has evaded the plain, direct questions put to him, in a manner wholly unbecoming a high public officer when responding to a resolution of this body. He knows, and should have said frankly, that he has not paid a dollar of the silver coin received from customs on the interest on the public debt, and the pretense that he allows the public creditor to say in all cases what character and denomination of coin he would like to have, because any other course would be a discrimination against and might tend to depreciate the silver dollar, will not be believed by intelligent men anywhere, while the claim that silver certificates received on account of customs, as the Secretary says they have been, to the amount of over $11,000,000 since July, 1878, are anything but symbols and evidences that the coin they represent is in the hands of the Government and subject to its control, is simply absurd. The act of February 28, 1878, which makes silver dollars a legal tender for all demands public and private, by the third section thereof authorizes any holder of not less than ten dollars to deposit it with the Treasurer or any assistant treasurer of the United States and receive a certificate,

upon the presentation of which the holder is entitled to the amount of coin deposited, and custom-house officers are ordered to receive these certificates precisely as they would coin, the amount they represent being already in the Treasury. The customs dues are paid in coin, not in certificates; these merely attest the fact that the coin is in the Treasury, and it becomes the property of the United States, being paid for customs dues precisely as if it was counted dollar by dollar into the hands of the revenue collector, who is charged with that amount of money as soon as the transaction is closed. The merchant who pays, say $1,000, to pass his goods through the custom-house, may pay it in one hundred certificates of $10 each, which he may have obtained from one hundred different people: the coin they represent becomes the absolute property of the United States, and is at once subject to the uses to which coin received for customs dues is by law appropriated, and cannot be otherwise legally used. Yet, in the face of these facts, the Secretary adopts and sends to the Senate as his answer the following nonsense signed by the Treasurer. After stating that $1,500,000 would be a liberal estimate of the coin actually paid at the custom-houses since July, 1878, he says:

> The above figures do not, however, cover silver certificates received on account of customs, principally at the New York office, which amounted during the current fiscal year to $11,260,000. This amount exceeds the total of silver certificates issued, which is accounted for by the fact that when received for public dues silver certificates have been again paid out; the greater portion of the above $11,260,000 is represented by only $6,717,000, in San Francisco silver certificates received for customs in New York, all, or a portion, being again paid out by that office and again received for customs. Silver certificates cannot be paid for interest, their issue being authorized only upon the deposit of standard silver dollars.

There is as much absurdity in that paragraph as could be well crowded into as many words. He says "*silver certificates cannot be paid for interest.*" Admit it; they are not a legal tender to any private person for anything, but the $11,260,000 in silver coin which these certificates showed had become the absolute property of the United States, and already deposited in the Treasury, not only could be paid for interest, but was by law and specific permanent appropriation set apart and dedicated first of all to be applied for that purpose, and is a legal tender for all purposes. Again he says, and that is true, "These certificates could only be issued upon the deposit (in the Treasury) of standard silver dollars." Yet he says the $11,260,000 "*exceeds the total of silver certificates issued*" by nearly $5,000,000. I hope the Finance Committee will cause careful inquiry to be made, and advise the Senate by what authority and under what law that state of things is brought about. The Treasurer says the silver certificates received for customs in New York are again "paid out *by that office* and again received for customs." How they are paid out except on the deposit of an equal amount of silver coin, and how $11,260,000 of them have reached the custom-house unless that amount of coin has reached the Treasury, is something the Senate ought to know.

But I will not at present criticise further the very remarkable answer we have received from the Treasury Department upon that point. I assert, without fear of successful contradiction, that the true intent and meaning of the provisions of the act of February 28, 1878, authorizing silver certificates to be received for customs dues, was to place them precisely on the same footing on which gold certificates are placed by sections 254, 3009, 3473, and 3474 of the Revised Statutes. No certificate was ever made a legal tender which the creditor of the Government is bound to accept. He may accept it, but his bond calls for payment of interest in gold or silver coin of the standard value on July 14, 1870, and nothing else will, without his consent, discharge the obligation to so pay the interest. All the evasions of the Treasurer as to the silver certificates not being legal tenders for interest show, as was said by the Senator from Ohio [Mr. THURMAN] on a memorable occasion, "scant respect for the Senate and none for the law." The position taken by the Secretary that the public creditor should be allowed to determine what character of coin he prefers to be paid in when the United States have the right to pay in either, cannot be maintained. The Secretary is the trustee and agent of the people, not of the creditor. The option is for the benefit of the people, and the right is absolute in their agent to pay silver coin without consulting the creditor, if the interest of his *cestui que trusts* requires payment to be so made. Not to pay in the manner most advantageous to the tax-payers of the country is a plain violation of the known duty of the Secretary. It seems to me to be an obvious fact that it is the interest of the people to utilize the silver dollar by requiring the Secretary to pay the interest they owe with it. There has been a constant struggle, or a bold pretense of an earnest effort, ever since the war closed to reduce the burdens of taxation by the reduction of the interest-bearing debt of the United States. Sinking funds have been maintained, even by large increase of taxation, to make it certain that the bonded debt should be annually reduced. The refunding act of July 14, 1870, which authorized the issue of $200,000,000 of 5 per cent., $300,000,000 of 4½ per cent., and $1,000,000,000 of 4 per cent. bonds, making principal and interest payable in gold or silver coin of the then standard value and exempting them from all taxation, Federal, State, and municipal, added this provision:

> But nothing in this act, or in any law now in force, shall be construed to authorize any increase whatever of the bonded debt of the United States.

The republican party have constantly insisted that the reduction of the bonded debt and consequent relief from the taxation necessary to provide for the annual interest thereon, was their chief merit and their strongest claim for a continuance in power; yet in the face of all these things the Secretary of the Treasury shows by his reports that in order to enforce resumption of specie payments he had from the 1st day of November, 1875, to the 1st day of November, 1878, increased the principal of the interest-bearing bonded debt of the country $104,499,450, and in his last monthly report, issued on the 1st day of January, 1879, he shows that he has increased the principal of our bonds still further, from $1,798,750,750 to $1,809,812,850, being a further increase of $11,062,100 in the last two months, making an increase of the bonded debt in the last three years and two months of $115,561,550, which, at 5 per cent. per annum, adds to the taxation of the people annually $5,778,077, or at 4½ per cent. interest $5,200,269. The Secretary shows by his reports that the annual interest has been increased very largely in the last two years. This is not a flattering exhibit at a time of unparalleled depression of property and business, when taxation, direct and indirect, is already almost beyond endurance. But we have been so accustomed to talk about millions lately that we hardly realize the magnitude of the burden the Secretary has imposed upon the country.

If Senators will turn to the finance report for 1877, pages 14 and 15, they will find that the annual expenditures of the Government of the United States for all ordinary purposes—executive, legislative, and judicial, war, Navy, pensions, Indians, everything from the foundation of the Government up to and including 1861—never reached $73,000,000, and including the public debt and interest the gross expenditures never reached $83,000,000 a year. Yet Secretary Sherman can in three years and two months, without consulting Congress, add $115,561,550 to the principal of the bonded debt and over $5,000,000 to the annual taxation of the country to pay the interest on the increased debt, and be applauded as a great financier for doing it. By looking at the same pages of the finance report it will be seen that the ordinary expenditures of the Government for all purposes for the twenty-one years from 1791 to 1811, inclusive, were $99,922,560, or an average of $4,758,000 a year, being hundreds of thousands of dollars less than Secretary Sherman has imposed upon us annually already. This additional interest makes a sum very much larger, 50 per cent. more, than is received from the tax on *all* the circulation loaned to *all* the national banks in the United States and the tax on their capital added; and the Secretary advises us in his last report that he claims and intends to exercise the right to issue and sell as many more bonds as he pleases, even after resumption is supposed to be an accomplished fact, as will enable him to hoard gold enough to pay at all times in the future all demands that may be made upon the Treasury. How much he may by this process increase the bonded debt and the burdens of taxation is, he assumes, a question for him to decide and for the Congress of the United States to furnish him the means to carry out as he pleases, without asking the leave of the representatives of the people. Of course he will maintain resumption upon these terms as long as anybody will buy bonds and the people will submit to taxation. Whether the increase of bonded debt will be $200,000,000 or $500,000,000 is for the autocrat of the Treasury to determine. Prince Bismarck was right when he said:

> He who holds the money-bags controls the politics of the country.

Or, as Burke expressed it—

> The treasury is the state.

Fortunately there are laws which even the Secretary can be compelled to obey, and one of them is that all coin received from customs dues shall be held as a special fund and applied, first, to the payment of the interest on the public debt. Fortunately we can buy silver bullion and coin it into legal-tender silver dollars without costing the people a cent, and men will pay it at the custom-house, as shown by the Secretary's statement that at least $11,260,000 of it had been so paid in the first five months of the current fiscal year. At even this rate, and it will increase as the monthly coinage adds to its volume, a sufficient amount will be received to pay all our annual interest in silver coin, the estimate being that $25,000,000 of coin kept in use will enable the Government to pay as it matures $97,000,000 of interest.

The question recurs, why should the Secretary be allowed to increase the bonded debt of the country in order to obtain gold to hoard for resumption purposes, and pay out the gold bought at such a price as interest to bondholders, when he has silver coin in abundance, which is being coined without loss, indeed at a profit, to the people, with which to pay the interest we owe? Surely it is no answer to say that the creditors ask for and prefer gold to silver coin, and therefore he sells bonds, pays interest, and imposes taxes to get it to please or enrich them. It is the clear duty of the Secretary to pay the interest we owe in the coin that costs us least. It is our option, not the creditors', and Congress ought to see to it that the laws are executed in the interest of the people.

The present Secretary of the Treasury understands the law precisely as I do; he knows what his duty is, and fully appreciates his obligation, as the chief financial officer of the Government, to pay the coin received from customs dues, *first to satisfy the interest on the national debt.* He has said with great emphasis in this Chamber that the act of 1862 was a specific pledge of the coin received from customs: first, to the payment of interest on the public debt; second, to the payment of the sinking fund, and that only the residue of the coin thus received was subject to appropriation. He maintained that it was a fund mortgaged to the bondholders, and that any Secretary who dared to divert it to any other use ought to be impeached. He showed, what we all know to be true, that Congress had, in accord-

ance with the act of 1862, (see Revised Statutes, section 3689,) made a permanent annual appropriation of the coin received from customs, first to pay the interest, and, second, to provide for the sinking fund, so that it could not, without palpable violation of law, be touched by the Secretary for any other purpose, however urgent or meritorious. I read on page 1946, part 3, of RECORD of second session, Forty-third Congress, from Secretary (then Senator) Sherman's speech on the sinking fund bill, March 1, 1875. He said:

In regard to the first alternative, I say that by no vote of mine, under any circumstances, will I suspend or stop for a moment the operation of the sinking-fund laws. They are pledges of public faith that must be observed literally and truly, and I am very glad the Secretary of the Treasury has taken the position that whatever else comes that sinking fund shall be maintained. Indeed, the law in regard to the sinking fund is so clear, so strong, that a Secretary of the Treasury who would violate that law would clearly be subject to and ought to be impeached. That law is an element of the public credit and must not be impaired. Let us look a moment. The sinking-fund acts are pretty familiar to the Senate, but they will bear repetition. By the act passed at the beginning of the war—February 25, 1862—the customs duties are expressly pledged, first, to the payment of the interest in coin on the bonds of the United States; second, to the purchase or payment of one per cent. of the entire debt of the United States; and third, the residue thereof only to be paid into the Treasury of the United States.

It is perfectly clear, therefore, that the customs duties which were to be collected in gold were set aside and mortgaged just as sacredly as if I should mortgage the house in which I live, set aside as a fund to be applied to specific purposes, and that it is only the balance of this fund that can be used by the United States for other purposes. That is perfectly clear, and to that the public faith is pledged. That law is still the existing law.

It would be difficult for any Senator on this floor to express more clearly and forcibly than Secretary Sherman did in the extract I have read the two facts I seek to maintain; first, that the coin received for customs dues must be paid out for interest on the public debt, it being a fund set apart specifically by law and by permanent appropriation for that purpose; second, that the failure so to apply it, or its use by the Secretary for any other purpose, is a plain violation of his known duty as a public officer, for which he is liable to the most severe punishment. In the same speech the Secretary, after quoting from the law of 1870 to show that the pledge of the coin to the sinking fund is as sacred as that to pay the interest, proceeds to say—

It was an express appropriation of money out of this special fund for this special purpose, and no officer of the Government has any right whatever either to violate the law or to take this money appropriated especially out of a special fund to pay ordinary and current expenses. That is perfectly clear. First, by the act of February 25, 1862, the fund is made, the mortgage is created, and here by the act of July, 1870, an express appropriation is made to be paid out of the special fund for this special purpose. There is no power or authority that can be granted to any man by an appropriation bill to disturb this sacred pledge, and I trust the promise of the Secretary of the Treasury will be made good; that the sinking fund will be maintained at all hazards, whatever other appropriations are disregarded and set aside.

And here I wish to say that an appropriation bill is nothing but an appropriation of "money not otherwise appropriated." An appropriation bill even for our pay is an appropriation of money in the Treasury not otherwise appropriated; but this sinking fund is permanently appropriated and permanently pledged, and must first be paid. *It is like the interest on the public debt exactly.* The sinking fund must be maintained inviolate, and no authority must disturb it. I blame no one for the temporary deficiency in this fund by reason of the unforeseen difficulties that surrounded us after the panic of 1873. Then the sinking fund was not maintained; but now that our attention is called to the law clearly and distinctly it is apparent that thirty millions of the money received from customs must be annually set aside for the sinking fund, and no law in the ordinary form of an appropriation bill can disturb it.

It will thus be seen that the Secretary fully understands not only the force and effect of the laws specifically pledging the coin received from customs dues to the payment of the interest due to the bondholders, but he insists upon giving full force and effect to the laws of Congress making permanent appropriations of specific funds for specified purposes. Therefore, unless he can show some law authorizing him to divert the silver coin paid for customs dues from the purposes to which it was by general law and specific appropriation devoted, he is guilty of official misconduct if he does not pay it as the law directs. I showed conclusively at the last session of this Congress, by the statements of the Secretary to the Committee on Banking and Currency of the House of Representatives, made on the 1st and 4th of April, 1878, that he wholly disregarded and ignored all the laws he had so zealously maintained in 1875, and now uses the (so-called) sinking fund as a *slush* fund in his hands to retire greenbacks, buy up fractional currency, and do anything with that he sees fit, thus constituting himself absolute autocrat over all revenue collected by the tax-gatherer and not used in payment of the ordinary expenses of the Government. I invite the attention of Senators to that speech, made on the 28th day of May, 1878, (RECORD, part 4, page 3860.) There never was a more dangerous power usurped by an executive officer; and when I, in absolute good faith, offered a resolution reciting that the sinking fund had been not only provided for but exceeded by $220,000,000, and therefore Congress ought to direct what disposition should be made of the surplus revenue, so as to have it appropriated under the authority and direction of Congress as the Constitution requires it to be, and when I showed by the admissions of the Secretary that he was paying no attention to the provisions of the act of 1875 in regard to this great fund, the Senator from Vermont, [Mr. MORRILL,] unable to answer the facts, relying doubtless on his standing and position in this body as chairman of its Finance Committee, and thinking that he could whistle me down the wind by a smart repartee, said he had always liked to hear the speech I made on that subject, and his republican brethren enjoyed the wit of the chairman of the Committee on Finance. In less than sixty days new men and other ideas will control that committee, and the Senator from Vermont will be on a level with the balance of us. We will then see whether he and his executive officers can knowingly and willfully disobey and laugh at the laws of the land and use the revenues of this Government as though they were their private property. I sought in good faith to relieve the Secretary by a resolution of both Houses declaring that the law relating to the sinking fund had been anticipated, and therefore its provisions did not require what Senator Sherman in 1875 said was required of the Secretary, or impeachment not only should but would follow disobedience; but the Senator from Vermont, [Mr. MORRILL,] on the 30th day of April, 1878, (see RECORD, part 3, page 2953,) reported back my resolution in regard to the sinking fund adversely, saying:

Among other things, it seems to contemplate *the repeal of an existing law* and to give certain instructions to the Secretary of the Treasury, which cannot be done by concurrent resolution.

That law being still in force, the Finance Committee being the authority, all the penalties denounced by Senator Sherman in 1875 against the conduct of which Secretary Sherman in 1878 is, by his own confession, guilty ought to follow as no Senator will venture to say that a Secretary of the Treasury can be allowed willfully and knowingly to violate his duty. Whatever may be the effect of anticipated payments to the sinking fund, it is absolutely certain that the annual interest on the bonded debt has not been anticipated, and the specific pledge, mortgage, call it what you please, the appropriation by law of the silver coin received by the Government in payment of tariff taxation is as absolute and as binding on the Secretary of the Treasury as it was when he insisted on impeaching any Secretary who did not faithfully apply it specifically to the payment of the interest on the bonded debt, regardless of the provisions necessary for the maintenance of any other of the obligations of the Government. He admits that he is knowingly and willfully violating the law by refusing to so apply the silver coin, and I ask the Committee on Finance to report, by bill or otherwise, some measure which will compel him to obey it or make it necessary for the President to change his Secretary. The resumption act cannot be appealed to to shield the Secretary in this matter as it has been in regard to the sinking fund.

I know that the claim is set up by indirection, that any funds may be used under the resumption act that may be found necessary for that purpose. The only authority given to the Secretary that I am aware of to use public money in aid of resumption is in the last clause of the third section of the resumption act, which reads thus:

And to enable the Secretary of the Treasury to prepare and provide for the redemption in this act authorized or required, he is authorized to use any surplus revenues, from time to time, in the Treasury, not otherwise appropriated, and to issue, sell, and dispose of, at not less than par, in coin, either of the descriptions of bonds of the United States described in the act of Congress approved July 14, 1870, entitled "An act to authorize the refunding of the national debt," with like qualities, privileges, and exemptions, to the extent necessary to carry this act into full effect, and to use the proceeds thereof for the purposes aforesaid; and all provisions of law inconsistent with the provisions of this act are hereby repealed.

Approved, January 14, 1875.

It will hardly be assumed by the Secretary, in the face of the facts I have quoted from his own speeches, that the silver received for customs dues is "surplus revenue," especially when he in his annual reports has for years past assured us that there have been deficiencies each year; and he will hardly turn round and so far contradict the speech from which I have read as to assert that silver coin received from customs is surplus *revenue* "in the Treasury not otherwise appropriated," when he has shown from the statutes that, both by general statute and specific permanent appropriation, it is devoted as specifically as if it were mortgaged to the payment of interest on the public debt.

Senators may differ as to the policy of the silver bill. I approve it; but I know many think that gold ought to be the exclusive standard of value and quote the depreciation of silver bullion in the markets of the world against the justice of paying interest in silver coin. That is not the question; all these things may be arguments in favor of a repeal of the law. The question now is, shall the Secretary of the Treasury be required to obey the law, or may he disregard it with impunity? I *insist that he must obey and execute it*, so long as it is the law. *There can be no stability, no safety in administration, if executive officers can annul or defy congressional* action, as they too often do. Half of our deficiency bills arise from executive disregard of law. The frightful increase of the principal of our interest-bearing debt, nearly $90,000,000 in the last year with the threat of indefinite increase hereafter, is the result of the determination of the Secretary to ignore the provisions of the silver bill and make gold the sole standard of values in defiance of Congress. Every step taken by him is in favor of *incomes* against *production*. That is the struggle. It is not between *capital and labor*. Active capital is the friend and indispensable ally of labor. To prevent the destruction of industries this Congress prohibited by law the further contraction of the currency; yet the Treasurer's last report shows that on the 1st day of July last the legal-tender notes of the denominations from one to fifty dollars had been decreased $10,914,116 below what were outstanding on the 1st day of July, 1877, while notes of the denomination of $100 increased $2,407,800 during the same period, and orders looking to still further substitution of notes of large denominations for small notes have been already issued.

Contraction of the currency can be carried out quite as effectually by the withdrawal of the only denominations of notes that enter into retail trade and the every-day transactions of life, and by the substi-

tution therefor of notes of large denominations, as in any other way. And the Secretary tells us that he is looking to still further issues of notes of large denominations, although the statute approved May 31, 1878, which repeals all acts and parts of acts in conflict with it, orders the further retirement of legal-tender notes to stop, and provides that the same notes received at the Treasury from any source shall be reissued, paid out, and kept in circulation, and shall not be either canceled or destroyed. It must be obvious that any power the Secretary had under any previous law to change the denomination of legal-tender notes was by this act taken from him, as it would be impossible for him to issue other notes without inflating the currency to the extent of the issue of the notes of larger or other denominations, he being peremptorily ordered not to cancel or destroy the notes received. The words "*re*-issued," "paid out *again*," and "*kept* in circulation" necessarily require the original notes to be kept in circulation. The proviso of the act makes this construction absolutely certain, even when notes are received so mutilated that they cannot be *re*-issued, paid out again, or kept in circulation; other notes *of like denomination* must be issued in their stead. Congress did not intend to give the Secretary the power even to change the denomination of the small fragment of the $346,000,000 of legal-tender notes that might become mutilated and unfit for reissue, yet the Secretary, in plain violation of law and of his known duty, is contracting the currency by the substitution of large for small notes, and avows his intention to continue to do so.

The act of May 31, 1878, (see page 87 of the acts of the last session of this Congress,) reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall not be lawful for the Secretary of the Treasury, or other officer under him, to cancel or retire any more of the United States legal-tender notes; and when any of said notes may be redeemed or be received into the Treasury under any law from any source whatever and shall belong to the United States, they shall not be retired, canceled, or destroyed, but they shall be reissued and paid out again and kept in circulation: *Provided*, That nothing herein shall prohibit the cancellation and destruction of mutilated notes and the issue of other notes of like denomination in their stead, as now provided by law.

All acts and parts of acts in conflict herewith are hereby repealed.

Senators will be astonished, if they take the trouble to examine how small a proportion of the outstanding legal-tender notes are in any available form in circulation among the people for their daily wants, when the amount which has been lost or destroyed by fire and flood in the last fourteen years is deducted, (and it is a very large sum.) Some idea of it may be formed when it is stated that from ½ to 1 per cent. is the yearly estimate of loss, and when we find $16,000,000 of fractional currency outstanding yet, notwithstanding all the efforts to retire it, out of an issue of less than $50,000,000, it being now almost certain that one-fourth of the fractional currency is lost or destroyed in the hands of the people. That is, of course, a larger proportion of loss than the legal-tender notes will show, but the loss in regard to them will amount to many millions of dollars. Add to that the large amount held in the Treasury and the amount required to be kept in reserve by the national banks and hoarded by them in preparing for resumption, and it is very doubtful if there is anything like one-half of the outstanding legal-tender notes in circulation. If the Secretary, who takes in $120,000,000 a year for internal revenue and now issues his order to receive legal-tender notes for customs dues, proceeds, as he is doing, to convert them into notes of large denominations, and refuses to pay out silver coin for interest, as he is doing, the people will have no currency soon, except what the national banks supply, such as is needed to pay daily or weekly wages, railroad fares, market bills, or retail dealings generally. Against the illegal exercise of a power producing such results I protest.

Again, the Treasurer of the United States, in his last report, dated November 1, 1878, page 7, says:

The total amount of standard silver dollars coined under the above act to date is $18,282,500, of which amount there is in the mints and offices $13,359,877, and in circulation $4,922,623.

This statement is made in the face of the fact that the Secretary and Treasurer, in the response to my resolution which I now seek to refer, say that at least $1,500,000 in actual silver coin and $11,260,000 in coin certificates for silver coin have been actually deposited in the Treasury and transferred absolutely to the United States in payment of customs dues, and shows an absolute violation of the plain provisions of section 3694 of the Revised Statutes, which is as follows:

The coin paid for duties on imported goods shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of 1 per cent. of the entire debt of the United States, to be made within each fiscal year, which is to be set apart as a sinking fund, and the interest of which shall in like manner be applied to the purchase or payment of the public debt, as the Secretary of the Treasury shall from time to time direct.

Third. The residue to be paid into the Treasury.

If these things do not require investigation by the Committee on Finance, I do not see what use the Senate has for the committee, whether it aids or obstructs resumption.

One word on another subject. No man in Congress or out of it has struggled harder than I have *for many years* to obtain the passage of a law authorizing the receipt of legal-tender notes for customs dues. The Finance Committee has a bill for that purpose, introduced by me, before it now, and ought to report it at once, so that we can pass it. The House has already passed a similar one. Notwithstanding my anxiety to see that bill become a law, I would not allow the Secretary of the Treasury to receive these notes for customs dues, as he is doing now, in defiance of law. He has argued with great ability in his report to show why these notes should now be received for customs dues. I agree with him; but they should be received in accordance with law and not in plain violation of it. His object is to receive them when it suits him and refuse them when it does not, so as to make him autocrat. My purpose is to establish his duties, powers, and rights *by law*, which *all men can examine and understand*, and not leave the business of the country subject to the *whim or caprice of the Secretary*. The chancellor's conscience shall not be measured by the chancellor's foot if I can help it. The servant is not above his master, and the Secretary must understand that Congress makes laws and that he is bound to obey them. I think I could show that his sale of $50,000,000 of 4½ per cent. bonds to the syndicate in April last and the payment of $250,000 commission and double interest thereon, with the enormous loans made to pet banks, were not in accordance with law nor in the interest of the people, who have shown a willingness to take at 4 per cent. all the bonds the Government has for sale and to spend the interest at home and thus restore an honest balance of trade in our favor. But I am not seeking to arraign the Secretary. I only desire to urge upon the Finance Committee of the Senate to adopt or at least recommend such measures as will compel him to carry out in good faith the provisions of existing laws relative to silver coin and currency and the uses to which they must be applied, and to let him know that he is our agent, bound by law so long as they are on the statute-books to do as the laws direct, whether he likes them or not. That done, there will be no pretense of excuse for the further increase of the interest-bearing bonded debt of the country nor for the imposition of new burdens of taxation on the country. Seven hundred millions of 6 per cent. bonds can in two years be reduced to four percents without the intervention of syndicates, and taxation to pay interest on them reduced $14,000,000 annually.

That is all I care to say at present.

The VICE-PRESIDENT. Will the Senate agree to the resolution of the Senator from Kentucky?

Mr. ALLISON. Let the resolution be again read.

The resolution was read by the Secretary.

The resolution was agreed to.

FUNERAL OF REPRESENTATIVE HARTRIDGE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a resolution providing that the funeral ceremonies of Hon. JULIAN HARTRIDGE, late a Representative in that body from the State of Georgia, shall be held at three o'clock p. m. this day in the Hall of the House of Representatives, and inviting the Senate to attend at that hour.

The VICE-PRESIDENT. The resolutions of the House of Representatives will be reported by the Secretary.

The resolutions were read, as follows:

IN THE HOUSE OF REPRESENTATIVES, *January* 9, 1879.

Resolved, That the funeral ceremonies of Hon. JULIAN HARTRIDGE, late a Representative in this body from the State of Georgia, be held at three o'clock p. m. this day in this Hall.

Resolved, That the Clerk communicate the foregoing resolution to the Senate and invite the Senate to attend the said funeral ceremonies.

Mr. ANTHONY. Mr. President, I offer the following resolution and ask for its consideration:

Resolved, That, pursuant to the invitation of the House of Representatives, the Senate will attend the funeral ceremony of Hon. JULIAN HARTRIDGE, late a member of the House of Representatives from the State of Georgia, in the Hall of the House of Representatives this day at three o'clock.

The resolution was considered and agreed to unanimously.

NOTICES OF BUSINESS.

The VICE-PRESIDENT. The morning hour has expired, and the unfinished business of the Senate is the bill (S. No. 309) to amend the statutes in relation to patents, and for other purposes, on which the Senator from New Hampshire [Mr. WADLEIGH] is entitled to the floor.

Mr. BURNSIDE. By permission of the Senator from New Hampshire I desire to state to the Senate that it was my intention to make a motion this morning to take up the bill for the reorganization of the Army, with a view to lay it aside and allow the patent bill to be proceeded with; but as I am sure such a motion would meet with opposition, I have decided not to make it, but to ask the Senate at the termination of the debate on the patent bill, or at any time when the patent bill may be laid aside, to take up the bill for the reorganization of the Army. The bill is now indicated on the Calendar as a special order, and I shall not make a motion at this time to take it up. I beg to state that there are some mistakes in the printing of the bill, and I ask permission of the Senate to have the bill reprinted.

The VICE-PRESIDENT. To which the Chair hears no objection, and that order will be entered.

Mr. HEREFORD. I ask that the bill (S. No. 241) for the relief of the Methodist Episcopal Church South at Charleston, Kanawha County, West Virginia, be made the special order for next Monday after the morning hour.

Mr. EDMUNDS. I do not think we ought to have any more special orders.

Mr. CONKLING. Nor do I.

The VICE-PRESIDENT. The question is on the motion of the Senator from West Virginia.

Mr. EDMUNDS. I hope the Senator will not insist on that motion.

Mr. WADLEIGH. I shall be obliged to call for the regular order.

Mr. HEREFORD. If there is to be discussion I will withdraw the motion.

Mr. EDMUNDS. The Senator from West Virginia can give notice that he will move to take the bill up at that time, which accomplishes exactly the same purpose, and is a little better in fact.

REVISION OF THE PATENT LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, the pending question being on the amendment proposed by Mr. MORGAN, to strike out lines 30 to 35, inclusive, of the second section, in the following words:

> And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

And to insert in lieu thereof:

> And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious, or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct, or of such infringement, such sum by way of counsel fees and expenses of suit as it shall deem just and reasonable.

Mr. WADLEIGH. Mr. President, this bill proposes certain amendments to the patent laws to increase their efficiency and remove some defects which time and experience have revealed in them. The evils produced by those defects have in some localities rendered the whole patent system unpopular and created a clamor for its virtual abolition. With that clamor I have little sympathy. It demands a remedy which is worse than the disease. All the vexatious annoyances to which the patent laws have given rise are counterbalanced more than a hundred-fold by the benefits which they have conferred. They are intimately connected with our national progress, to which they have vastly contributed, and should be improved rather than repealed. If this bill becomes a law, I believe it will render them less odious, without impairing their vigor, and thus avert the impending storm which threatens their existence.

Patent laws are based upon the principle that the making and publication of useful inventions should be encouraged for the promotion of the public welfare. They do not, as is sometimes asserted, rest upon the absolute right of inventors nor seek to reward them except so far as to promote the public good. Webster, with his usual force, once likened the inventor's right of property to that of the savage in the canoe which his labor fashions from the tree of the forest. But the natural sense of justice would hardly accord to the wild mechanic a monopoly in any improvement which his experience or skill suggested; still less would it prohibit any subsequent inventor of the same improvement from using it.

It rarely happens that any important invention is the work of one person alone. The utility of such inventions has generally been obvious for a long time; many minds have sought for them; they have been approached step by step until some lucky person, instructed perhaps by the multiplied failures of others, hits upon the element essential to success.

Some very lucrative inventions have been merely obvious applications of widely-known scientific discoveries. For instance, about a third of a century ago Liebig had discovered and shown how bone-earth might be made a soluble manure by mixing it with sulphuric acid. Some manufacturers of artificial manures applied this discovery to coprolites or fossil excretions of extinct animals—vast beds of which exist in the Old World and in our own country—procured letters-patent for that application of the process, and held a monopoly of it for fourteen years. This so-called invention required no inventive talent and very little mental labor. It was so easy an application of a well-known discovery that it might not now be held to be the subject of a patent. But nevertheless it illustrates forcibly the rule that the exclusive right granted to patentees does not depend upon their merits. He who takes the last step to success, however easy and unimportant it may be, is alone rewarded. He who can prove priority, if only for an hour, wins the prize, though strict justice may require the lion's share of it to be given to others. This seeming injustice results from the fact already stated, that patent laws rest upon the public welfare rather than upon the absolute rights or merits of inventors. Priority of invention is alone rewarded to stimulate inventors to win success and show the public the pathway to it at the earliest possible moment.

The inventor may, if he chooses, conceal his invention. If he does others may discover and patent it. But the patent law says to him, "Publish your invention—give it to the world and for seventeen years you shall have the exclusive right to it." Without this promise to inventors, and the belief on their part that it would be kept, many valuable inventions if made at all would have been concealed and lost to the world. Many arts known to ancient and mediæval manufacturers were practiced in secret, were handed down as heirlooms from father to son until they were finally lost and have never been rediscovered. A few of those "lost arts" have furnished a subject for a fascinating lecture to one of the most eloquent of American orators. Such instances even now are by no means rare. I know the inventor of a very ingenious machine which gives to him the virtual monopoly of a certain trade, who has never procured a patent for it but conceals it from the public. He prefers a monopoly based on secrecy alone to the exclusive right which the law grants in terms but too often fails to protect. The public may thus forever be deprived of his invention. Legislation hostile to patents will not only tend to prevent the making of inventions but to deprive the public from deriving any benefit from such as are made.

The patent system appeals not only to the inventor's love of approbation, but also to that love of gain which underlies so much of human enterprise and effort. I know it is sometimes asserted that inventors need not the stimulus of pecuniary reward, but that they must execute the law of their being, which is to invent. They are likened to poets, and we are asked with an air of triumph if money could have induced Homer to sing the siege of Troy or Milton to write the Paradise Lost. But such comparisons and arguments are vain. The excellence of a poem depends mainly upon the force of the author's imagination, but the making of inventions calls into action other and radically different mental qualities. Nature yields her mighty talismans and hoarded secrets to no idle dreamer. No brilliancy of imagination can wrest them from her. The inventor's feet must rest upon the solid earth. To conquer the difficulties which confront him generally requires a thorough practical knowledge of mechanical forces and pertinent scientific facts, and the power of combining them and reasoning logically from them. The means he uses, the ends he seeks, are all material. The utility of his invention is the sign and the measure of his success. It must not only be useful, but most useful. Unless it furnishes the best and cheapest method of producing some useful result, it is unprofitable and therefore worthless. Such a struggle, with such means and for such ends, begets no scorn of wealth, but rather a keener appreciation of its power and its uses.

Hence it follows that inventors universally either apply for patents or use their inventions secretly in the hope of obtaining pecuniary profit. Without that hope the genius of invention would languish. Nearly all great inventions result from the anxious, sleepless toil of years and costly experiments which impoverish their creators. Few men, if any, would make such sacrifice to create inventions if they could have in them no exclusive right. A few glittering prizes laboriously won by men like Watt and Arkwright in England, and Howe and McCormick in this country, lure thousands of ingenious minds into efforts and experiments which are rarely successful, but whose failure lights the way to success.

We must bear in mind, too, the fact that the success of inventions rarely depends upon inventors alone. Most of them are poor, and few of them could procure the funds necessary to perfect their inventions and introduce them into use except by assigning a share in them when completed, which would be impossible without a patent law. No one would advance money to perfect the invention of another in which there could be no right of property. Hence it is that the greatest inventions of modern times are due to patent laws, and have been made in the few countries where such laws exist.

History furnishes almost countless illustrations of the truth of what I have said. The case of James Watt, the inventor of the steam-engine, is a typical one. That stupendous invention has been to modern civilization what the genii were to the hero of oriental fable. Yet the facts seem to show conclusively that without the encouragement and protection afforded by a patent law it would never have been made and completed for use. At the very threshold of Watt's experiments he had exhausted all his own means. His first associate, to whom he assigned two-thirds of his invention, was soon reduced to bankruptcy. He then applied for assistance to Matthew Boulton, a manufacturer of great wealth and surpassing skill. Six years of his patent had then expired. It had only eight more to run, and that time was too short to perfect the invention and get it into use so as to realize any profit from it. Parliament, upon petition, granted a new patent for twenty-four years, in which Boulton invested his wealth, energy, and business talent. Yet the struggle for success was long, arduous, and doubtful. Workmen had to be laboriously trained to make and run the engines. Doubt, ridicule, the fear of failure, and the passive force of conservatism rendered it well-nigh impossible to introduce the invention, and when its utility had been demonstrated infringers seized upon it and created a ruinous competition. The four and twenty years had nearly gone before it began to yield a return for the toil, anxiety, and money which it had cost.

Such is usually the fate of even the most successful inventors. Without a patent law, nay without a patent law giving the right to freely assign inventions, we should even now have been without the steam-engine and hundreds of other important discoveries which have changed the face of the world and given to modern civilization its distinctive features. This is as susceptible of proof as any proposition not purely mathematical can be. Imagine, if you can, what our civilization would now be without those inventions, and then, if you can, legislate in a spirit hostile to the system which created them. The legislator who, in obedience to prejudice caused by temporary grievances, destroys or cripples that system is likely to be classed with the caliph who burned the Alexandrian library with its accumulated treasures of ages.

It is sometimes urged by the opponents of patent laws that many great and useful inventions were made before such laws existed. They point to the printing-press, gunpowder, the magnetic needle, telescopes, watches, and the galvanic circuit. But those were due either to some lucky accident which revealed unsought mysteries of nature or to an ingenious application of the simplest mechanical forces. Few of these as they stood before patent laws had added to them countless improvements were the product of long and intelligent study, numerous experiments, and a mastery of scientific truths. The rude hand-worked presses of Faust or Guttenberg or Franklin no more resembled the gigantic machines which in a few hours print a million copies of a metropolitan newspaper than the acorn resembles the giant oak. All early mechanical inventions have been similarly improved, and those improvements are nearly all due to patent laws.

I wish here to refer to an argument or rather a piece of rhetoric which is often used against patents. We are told with great emphasis that they are oppressive monopolies, which originated in royal favor, and which are hostile to the spirit of our free institutions. But, sir, it seems to me that patent systems are the outgrowth of that bold spirit of inquiry and audacious enterprise which chafe even in golden chains and war against despotism in all its forms. The genius of invention avoids the nation composed only of masters and slaves. The latter, whose lot is hopeless, do not aspire to invent; the former, despising labor, will not stoop to invent. The stupendous monuments of ancient civilization were reared by millions of toiling hands, little aided by any but the simplest mechanical powers. Great as they were, they dwindle into insignificance when compared with the countless triumphs which our own nation, young as she is, has won over nature.

The first patent law ever passed was the result of a successful struggle with arbitrary power. Up to the year 1624 the English sovereigns granted monopolies to their favorites, not only in new inventions, but in various kinds of trade and manufacturing, which had before been open to all the freemen of the realm. Against the latter odious monopolies Parliament protested so vigorously that, in 1597, Queen Elizabeth promised to "examine all patents and abide the touchstone of the law." This gracious answer proved evasive, and the evil increased till her courtiers monopolized nearly all the trade and manufactures of the realm. Even the dealing in many of the necessaries of life was burdened by oppressive restrictions. In 1601 the indignation of Parliament broke out afresh. The long list of oppressive monopolies was read to the wrathful Commons.

"Nay," thundered one bold representative, "if no remedy be found for these, bread will be there before the next Parliament."

The assurance of Cecil, the prime minister, that all existing monopolies should be repealed, and no more granted, quelled the rising storm. But under James I, who was ignorant of the spirit of the people and surrounded by worthless and greedy parasites, the evil was renewed. In 1621 the same Parliament which degraded Bacon from the chancellorship for corruption impeached and exiled Mompesson for practicing extortion under a patent for licensing inns and ale-houses. Its dissolution and the vindictive punishment of its leaders soon followed. But the next Parliament, in 1624, passed the famous statute which declared the granting of monopolies in existing trade and manufactures to be contrary to law and the known liberties of the English people, but which enlarged the privileges of inventors by treating as a right the exclusive use of their inventions which they had before received only from the grace of the monarch.

Under the theory of the English constitution that law required the monarch to grant patents to inventors who complied with the legal formalities. Within six and twenty years after the passage of that act a great revolution swept away the throne and the House of Lords, sent the King to the block, and erased from the tables of English law the last trace of kingly or ecclesiastical tyranny; but the patent law evoked no hostility. It has survived substantially unchanged the restoration of the Stuarts, the revolution of 1688, and the peaceful revolution which for nearly two centuries has been silently transferring the scepter from the King and Lords to the House of Commons. Under it and by it Great Britain has been the workshop of the world. Her inventors have given to her machinery which is equivalent to the labor of more than four hundred millions of men. With the experience of more than two centuries and a half the only change she proposes to make in her patent law will bring it more closely to our own.

Nor, Mr. President, does the history of the patent law in this country furnish any evidence of the truth of the charge that it is hostile to freedom. Under the principle of the statute of monopolies some of the English colonies in America granted patents to inventors. An intelligent gentleman of my own State has referred me to an act of the general court of the colony of Massachusetts Bay, passed in 1646, granting to one of his ancestors, Joseph Jencks, the exclusive right of making and selling his improved scythe for the term of fourteen years. That I think was the first patent granted to an inventor in America. The improvement referred to changed the short, thick, straight English scythe into the longer, thinner, curved implement with stiffened back now in use.

The great statesmen of our revolutionary period imbedded the germ of a patent law in our Federal Constitution. It empowers Congress "to promote the progress of science and the useful arts by securing, for limited times, to authors and inventors the exclusive right to their respective writings or discoveries." The first act in execution of this power was passed in 1790, and was repealed and superseded by the act of 1793. The latter act, with slight modification, remained in force till 1836, when the law was completely revised. Up to 1836 patents were granted here as in England, merely upon application, without proof of their value or originality. The statute of 1836 established the Patent Office, in charge of an officer intrusted with the power and charged with the duty of rejecting applications for want of value or originality. Since 1836 our patent system has suffered no great change.

The Patent Office is self-sustaining. The fees received by it have paid all its expenses and have furnished a surplus of more than a million and a half dollars to the Treasury. That surplus for the year 1877 was more than $100,000, and more than $68,000 for the year ending June 30, 1878, notwithstanding the threat of hostile legislation, the hard times, and the loss occasioned by the partial destruction of the Patent Office by fire.

France first passed a patent law in 1791, in the enthusiasm for national progress inspired by her great revolution. It has outlived all the radical changes in her government, and has contributed much to her prosperity. In these three countries and under their patent laws nearly all great labor-saving inventions have been made.

The existence of a patent law in England one hundred and sixty-seven years before France had one will help account for the fact that the inventive triumphs of the former far surpass those of the latter country. But in two respects we have had great advantages over both England and France; first in the cheapness of our patent system, and, secondly, in the power of rejecting an application for want of value or originality, which makes a patent more valuable when granted. In those countries very few laboring-men could procure the means to get patents, and that inability has chilled and benumbed the inventive faculties of their artisans. The cheapness with which a patent could be procured here has made us not only a nation of inventors but has given to our workmen an eagerness for improvement, a willingness to adopt new methods, and a dexterity both mental and manual which has made them the most efficient artisans of this or any age. To their ingenuity and matchless skill we owe our only chance for success in the international contest now being waged for the scepter of commercial and productive supremacy. Without that ingenuity and skill which are due to our patent system as much or more than to all other causes a successful conflict with the cheaper labor of other lands would be utterly hopeless. This is not my view alone, but that of the most intelligent American manufacturers, some of the most eminent of whom reside in my own State and who have given me much valuable information.

These views are confirmed by the highest European authority. Mr. Bally, one of the commissioners from the Republic of Switzerland to the international exposition in Philadelphia in 1876, and the largest manufacturer of boots and shoes in Europe, upon his return home addressed to Swiss manufacturers a letter evincing much practical wisdom and the keenest intelligence. In it he warns his countrymen that unless they adopt a patent system like ours, and thus encourage new inventions, the United States will conquer them in industrial warfare. He says of us:

> Another factor which aids to favor the education of the people is the excellent system of patents, by means of which at a very moderate expense a patent is obtained; not only the inventor is protected against infringement but the invention is made known, and the American more than any one else loves inventions and adopts them the moment they are recognized as good.
>
> Many European states have also a patent system, but as they see in it first of all a source of revenue for the state, those of moderate fortune can hardly obtain a patent. In Europe the inventor anxiously hides his secret from all eyes until he is in possession of his patent. The Americans do not know this uneasiness, because there the inventor alone can take a patent, which he afterward has the right to sell if he pleases.
>
> Every intelligent man has thus before him the possibility of fortune, often by a very slight improvement, and this keeps in ceaseless activity the intelligent part of the population. I am satisfied from my knowledge that no people has made in so short a time so many useful inventions as the Americans; and if to-day machinery apparently does all the work, it nevertheless by no means reduces the workman to a machine. He uses it as a machine, it is true; but he is always thinking about some improvement to introduce into it, and often his thoughts lead to fine inventions or useful improvements.

Again he says, in referring to our shoe manufactures:

> A manufacturer complained to me of the high wages he was obliged to pay. He could not find workmen at less than $2 a day, which he said prevented him from thinking of exporting; but I added up from his books the wages which he paid for piece-work, and I saw that the price per piece which I pay for the same article is almost double his, and nevertheless my men grumble at the work. My workmen work also with American machines. They have the same tools, but their productive capacity is far inferior to that of the American operative. The same observation has been made to me by superintendents who have established German shoe factories after the American system, and who often cannot succeed with German workmen.

He sums up by this remarkable and emphatic declaration:

> We have but one thing to do if we will avoid the entire decadence of our industry, and that is to imitate the Americans.

The report of the British commissioners to Parliament on the same exposition has a similar tone. On page 135 of that report, under the head of "textiles," is the following:

> As regards extent of invention and ingenuity the United States was far ahead of other nations. * * * The extraordinary extent of ingenuity and invention existing in the United States and manifested throughout the exhibition I attributed to the natural aptitude of the people, fostered and stimulated by an admirable patent law and system, and to the appreciation of inventions by the people generally.

Sir William Thompson, president of the mathematical and physical section of the British Association, said to his associates and countrymen in September, 1876:

If Europe does not amend its patent laws (England in the opposite direction to that proposed in the bills before the last two sessions of Parliament) America will speedily become the nursery of useful inventions for the world.

Such, Mr. President, is the testimony of our industrial foes, and it can be multiplied indefinitely. They see in our patent system the magical weapon which insures our victory and their own subjugation. They earnestly appeal to their respective countrymen to adopt it to prevent the scepter of manufacturing supremacy from passing over the ocean into the hands of the great Republic of the west.

Sir, these declarations of our own manufacturers and admissions of their foreign rivals are supported by the statistics of our industrial and inventive growth. Let us compare the increase of our patent system with our swift advance in productive greatness.

During the first ten years of our patent system, from 1790 to 1801, only about 150 patents were granted in each year, and up to the passage of the act of 1836 only 10,020 had been granted in all. Since that time more than 200,000 have been issued, notwithstanding the rejection of from 35 to 50 per cent. of all those applied for. The present annual issue is about 13,000, while that of Great Britain, under a system requiring no rejections, is only about 4,000. This increase in our patent system was most remarkable at two periods. The first was about the year 1854. The average annual issue for four years previous to that year was only 961, while for the six years following it was 2,931. The second period was from 1860 to 1870 when the issue increased from about three thousand to about seven thousand annually. The census tables show a corresponding increase in our manufactured products. They rose from $1,000,000,000 in 1850 to $1,800,000,000 in 1860, and to $4,200,000,000 in 1870. The growth of manufactures, too, in different sections of our country has uniformly been attended by an increase of patents taken out in those localities. For a long time New England took out more than any other six States excluding New York. New York has long stood first, and Pennsylvania now stands next. But in 1870 the six great Western agricultural States, Ohio, Indiana, Illinois, Iowa, Wisconsin, and Missouri took out more patents than all New England—2,915 against 2,757. In 1877 Ohio, Indiana, and Illinois received 2,579 patents against 2,479 received by New England. For the ten months ending November 1, 1878, Ohio, Indiana, and Illinois received 1,961 patents, while New England received only 1,958. Texas, Georgia, and Tennessee during those ten months received 288 against 277 issued to Maine, New Hampshire, and Vermont with their varied manufactures. The number granted to the Southern States rapidly increased with the growth of their manufacturing industries.

We have been accustomed to regard ours as almost exclusively an agricultural nation, and a certain school of American statesmen have contended that we should confine ourselves to the raising of raw materials and rely upon the cheap labor of other lands for manufactured goods. This theory crops out, if I am not mistaken, in some legislation now pending. It is doubtless true that we are now able to control the agricultural markets of the world. But we are able to do so only by the aid of patented machinery created and constantly improved by the influence of our patent system. Were it not for this advantage the cheaper labor of Russia would give to her an easy victory over our western prairies.

Yet it is no less true that we are rapidly becoming a great manufacturing nation. Even in 1870 our manufactured products surpassed in value those of our agriculture, the former amounting to $4,232,325,000, the latter to $2,447,538,000. The wages of farm laborers, including board, then amounted to $310,286,285, while the wages of manufacturing operatives amounted to $775,564,343. Between 1850 and 1870 our population increased only about 65 per cent., while the product of our manufacturing industries increased nearly 322 per cent. In 1870 the agricultural industry of the seven great agricultural States of the West, Ohio, Indiana, Illinois, Missouri, Iowa, Wisconsin, and Minnesota, produced $861,000,000, while their manufactures produced $937,000,000.

Our commercial statistics tell the same story. For the ten years ending in 1830 our average annual export of the product of our manufacturing industry amounted only to $6,550,000 out of a total export of $53,221,241, while for the ten years ending in 1850 they were $15,750,000 out of a total of $112,000,000. But in 1877 the exports due to our manufacturing industry were $152,000,000 out of a total of $632,000,000, and in 1878 the proportion was yet greater.

The same statistics show that our imports of manufactured goods are steadily diminishing. Between 1875 and 1878 they fell much more than $100,000,000.

I do not include in these estimates breadstuffs nor dressed lumber among manufactured articles, though neither could be exported without the aid of many patented inventions.

Look for a moment at the statistics of the commerce of England and France, our chief manufacturing rivals. The amount of articles other than raw materials and food imported into England advanced from $269,147,000 in 1875 to $284,710,000 in 1877, while her exports of such articles fell from $353,177,000 in 1875 to $296,394,000 in 1877.

The imports of such articles into France increased from $316,613,000 in 1875 to $349,839,000 in 1877, while during the same period her exports of them fell from $362,489,000 to $320,954,000.

Thus we see that England imported $15,563,000 more and exported $59,753,000 less in 1877 than she did in 1875, making a difference against her of $75,346,000.

France imported $33,226,000 more and exported $41,535,000 less in 1877 than in 1875, a difference of $74,761,000 against her manufacturing industries.

During the same period that our great rivals in manufacturing lost more than $150,000,000 we gained more than $120,000,000. The next census will show, I believe, yet more astonishing progress on our part.

The excess of our imports over our exports in 1875 was $19,500,000. But in 1876 our exports exceeded our imports $79,643,81; in 1877 $151,152,094, and in 1878, $257,814,234. At the end of the present fiscal year the balance of trade in our favor must be yet greater.

These figures tell eloquently the great story of our national progress. Fresh from studying them Gladstone recently declared that we alone "could and probably would at a coming time wrest from England her commercial primacy."

Now, sir, let me ask the Senate to consider how much of our marvelous progress, how many of our gigantic triumphs over nature, how great a share of the wonderful development of our almost limitless resources is due to the aid of inventions whose very existence came from patent laws. Without patented inventions our vast crops could neither be planted, nor raised, nor gathered, nor marketed. Our mineral treasures would sleep secure in their beds of adamantine rock; our petroleum instead of illuminating the civilized world would remain hidden in its subterranean caverns; our vast and infinitely varied manufacturing industries could never have existed.

But, sir, we are told that the increase of labor-saving machinery has induced overproduction and deprived our workmen of labor. Yet it is an undeniable fact that in countries where labor is done by machinery its wages are much higher than in those countries where it is not. We are pre-eminently a machinery-using nation, but nowhere else does labor command so high a price. Mr. Edward Dubied, an eminent Swiss manufacturer, upon his return home from the Philadelphia exposition of 1876, published a pamphlet upon our manufactures, in which he says:

At this rate there is no reason why all our industries should not be overwhelmed, one after another, by those of America; and yet when we ask what wages are paid the workmen in the latter country we learn with surprise that they are three times as much as those which our workmen, both artisans and farm-hands, receive.

From this it would appear that under a good patent system, such as ours is acknowledged to be, workmen receive higher wages than they do where no such system or a less popular one exists.

The reason is obvious. Manufacturing cannot now be prosecuted to any extent without machinery. Those who deplore this cannot deny it. That country which has the best machinery can manufacture most cheaply, and can, therefore, undersell and ruin competitors, other things being equal; consequently it can afford to pay high wages to its operatives. A patent system like ours encourages and creates numerous labor-saving improvements in machinery which are slow to go into countries where a less popular system or none exists. Our manufacturers, therefore, keep always a few years in advance of their foreign rivals in the use of such improvements. It is not generally known how constantly and rapidly machinery is improved in this country by inventions which individually appear insignificant, but which aggregated produce great results. The efficiency of cotton-manufacturing machinery has thus been so much increased that no manufacturer could now afford to accept as a gift and use the best machinery of fifteen years ago. The same thing is true of many other kinds of machinery. These inventions are generally made by workmen who are stimulated to it by the cheapness with which patents can be secured here, and who, under the laws of England and France, would be unable to secure patents or to derive sufficient profit from them to warrant the outlay necessary to obtain them; besides, the encouragement which our patent system gives to workmen and their familiarity with inventions vastly increase their efficiency.

If, then, that system is crippled or destroyed our manufacturers must still use machinery. But improvements in it will cease to be made, or if made they will be kept secret. The result will inevitably be that countries having patent laws will soon gain over us the advantages we now have over them. Our manufacturers will be compelled to reduce the wages of their operatives to compete with foreigners even in our own markets, and to abandon the hope of finding markets abroad. Our agricultural machinery will cease to be improved; it will in a few years be adopted by other countries, and the western farmer will be compelled to contend with the cheap labor of Russia, wielding our mechanical weapons. No more fatal, peaceful blow could be aimed at our national greatness.

I firmly believe, Mr. President, that our labor-saving inventions do not permanently deprive our workmen of labor. Were they not made our manufacturers would be ruined by foreign competition and their operatives driven to the raising of raw materials, and thus kept in a state of ignominious and badly paid vassalage to foreign countries, where alone they could find markets. But labor-saving machines not only cheapen the product and thereby increase consumption, but furnish new markets abroad and thus immensely enhance the amount of work to be done. The operatives whose labor has been temporarily superseded by machinery are thus soon employed in running and in making such machinery.

Why, sir, when we look around us we see the mechanical industry of this country almost wholly employed in making and using the inventions which have been made within the last half century.

It is sometimes urged that if our patent system were abolished we should get the inventions of other nations free of cost. But, sir, we should then get them too late, if at all. They would first go into use abroad, and thus we should always be at a disadvantage. Other nations have tried that experiment and have repented of it. Bismarck advocated it less than a dozen years ago, but Prussia has to-day a patent law based upon our own. Switzerland and Canada believed in it till recently, but to-day confess their error and have either followed or are about to follow our own example. They have found that without the protection of a patent law their people will either not invent at all or keep their inventions secret or carry them to countries where they can have such protection. They have found their own manufacturers unwilling to adopt foreign inventions without protection against rivals who incur neither the expense of the trial nor the risk of failure.

Had the secrets of nature and the potentiality of mechanical forces been fully discovered and revealed it might be expedient to abolish all patent systems. But such is by no means the case. As the ever-widening circle of invention grows it opens new and broader realms to discovery and conquest. The mysteries and powers of nature seem limitless like the universe and countless like the stars which sweep through it in endless procession. We are assured that the lightning which but lately was tamed into carrying our messages will soon be compelled to light our dwellings, and it is hinted that it may soon be harnessed to the yoke in the place of steam. Eager minds are dreaming of the stupendous problem of decomposing water into its inflammable elements, and thus making it supply light, heat, and motive power to the world. Never before was the genius of invention so eager, so well equipped, or so powerful; never before had it so fair a prospect for winning startling and magnificent triumphs. It has ample room for effort in the further development of old and long-used discoveries. Take the steam-engine for example, the swart genie whom our civilization has converted into its most useful servant: its powers, gigantic as they are, are as yet mainly undeveloped. In the Cornish mines in the fifteenth year of the present century an engine could lift only twenty million pounds of water one foot for a bushel of coal. Five and thirty years after, in 1850, its powers had been developed threefold.

Since 1850 improvements have constantly been made, yet even now reliable estimates show that the best engine wastes nine-tenths of the power contained in the fuel which it burns. What a vast field for invention is afforded by this single machine. A monopoly of one-ninth of that wasted energy would give to any individual wealth beyond the wildest dreams of avarice and to any nation supremacy greater than any ever won by conquest. No daring inventor need sigh for new worlds to conquer. There is a realm before him wider, richer, and more magnificent than that over which flew the eagles of Macedon or Rome. His conquests once made will be more enduring, more civilizing, more beneficent than any ever won in the pomp and glitter of war or by the subtlest schemes of cold diplomacy. England was given greater power by the inventor of the steam-engine than by all her warriors from Caractacus to General Roberts.

Let me remind the Senate, too, that even during the life of a patent, when in terms the inventor has the exclusive right to its use, the public has nearly all the benefit of it. Statistics conclusively show that the inventor or his representatives rarely if ever obtain as royalty or otherwise more than one-tenth of the value of any invention during that period, and generally much less. The rest goes to the people in the cheapening of manufactured commodities. Some striking illustrations of this fact have been shown your committee in the hearings upon this bill.

The Senator from Minnesota offered a resolution the other day instructing your committee to inquire into the expediency of substituting for the patent laws the system of granting to inventors, by act of Congress or otherwise, specific rewards based upon the value of the invention and the labor and skill required to perfect it.

To this and all similar propositions there are objections which to me seem insurmountable. In the first place, such a plan is unconstitutional. Congress has no power over the subject except "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

How under this provision can Congress secure or grant to inventors anything but the exclusive right to their inventions? If Congress chooses to execute the power, it can do so only in the manner the Constitution prescribes. The grant of a pecuniary reward, or of a qualified right, or of anything more or less than an exclusive right for a limited time, seems to me unauthorized. Under such a system of rewards, when should they be granted? If before the invention went into use, its value would be uncertain, and receiving the reward would so chill the interest of the inventor that his invention would seldom if ever get into use. The British Parliament once attempted to grant such rewards, and the greatest one fell to the inventor of a pretended dyspepsia cure which was never afterward heard of.

I share to some extent the feeling expressed by the Senator from Michigan as to the trivial character of many patented inventions, but think it dangerous to apply the remedy for it which he suggests. The plain truth is that no Commissioner should exercise a power of rejection so undefined and so liable to abuse. I cannot forget that the steamboat, the locomotive, the electric telegraph, nay, even the steam-engine itself, were in their infancy the objects of much ridicule, and that many very worthy and learned men would have refused them the letters-patent without which they never could have been perfected.

Only a few years ago the learned Senator might have ridiculed the machinery for hatching fishes' eggs more keenly than he now does that for hatching the eggs of fowls, yet the former discovery is now universally recognized as of immense importance. Newcomen's engine was long regarded as a scientific toy, yet it was the germ of Watts's. I am disposed to look with some patience upon inventions relating to toys and articles of dress when I remember how much they have contributed to the wealth of Germany, Switzerland, and France. I console myself with the thought that the science of chemistry owes its origin to the foolish search of alchemists for the philosopher's stone and the elixir of life, and that even the manufacture of patent hoop-skirts, which we all doubtless consider a frivolous nuisance, led to valuable discoveries in the nature of steel. Trivial inventions pay to the Government more than they cost it, and do little, if any, harm. If they are worthless, the eleventh section of this bill will soon sweep them out of existence.

I now ask the attention of the Senate to the several sections of the bill.

The first section of the bill establishes the period of limitation in patent causes at four years.

There is now no statute of limitations applicable to patent causes, unless it be the act of July 8, 1870, which creates no bar from lapse of time till six years after the expiration of the patent, and which was omitted from the Revised Statutes. The present state of the law encourages patentees to sleep upon their rights for many years till their inventions have gone into general use and become interwoven with large business interests, and then to extort large sums from innocent infringers. This section will prevent such a practice and yet give the patentee time enough to carry one test case to judgment in the circuit court, at least, before embarking in extensive litigation to preserve his rights. It also provides that while one suit is being prosecuted in good faith and with reasonable diligence, proceedings in other pending cases involving the same issues may be staid by any court in which they may be pending. The amendment of the Senator from Illinois, adopted in the Committee of the Whole, seems to me to be unnecessary and inoperative, and I shall ask a vote upon it in the Senate. The cases for which it provides seem to me to be provided for in the bill.

The second section of the bill relates to damages and profits in suits for infringement and evokes more conflict of opinion than any other. Under the existing law (Revised Statutes, section 4919) a patentee may recover against an infringer in a suit at law "actual damages," and these are "to compensate him for the injury sustained by the unlawful violation of the exclusive right secured to him by the patent," (Birdsall *vs.* Cooledge, 93 U. S., 68.) Of this rule there is no complaint and the bill does not change it. The bill makes this rule as to the measure of damages applicable to suits in equity as well as to suits at law and authorizes the court to apply it. Damages, technically so called, are not recoverable in suits in equity except by force of some statute. But courts of equity have jurisdiction of trusts and have allowed the patentee to treat the infringer as his trustee holding his invention in trust. Upon this theory of a trust the infringer is held liable in equity to account to the patentee for all the profits derived from his unlawful use of the invention. In deciding what were profits for which the infringer must account the courts have adopted rules which sometimes work grievous injustice upon innocent infringers, which are not necessary for the protection of the patentee, and which often can be administered only with extreme difficulty.

In the recent case of Mowry *vs.* Whitney (14 Wall., 621) it was held that the "profits" consisted in the gain in advantage or in economy between the old method or machine open to the defendant and the new and improved machine invented by the patentee. This definition wrought no great injustice in that case, because the defendant had made actual profits from the infringement.

But afterward, in the case of Mevs *vs.* Conover, (11 Pat. Off. Gaz., 1111,) where the infringement had cheapened the manufacture, though it resulted in a loss, the Supreme Court held the defendant liable for the amount he had saved by the infringement, though the article made by the patented machine could not be sold for what it cost.

In similar cases the same rule has since been laid down by other courts. This rule compels an infringer who may be innocent of intentional wrong to account as trustee for imaginary profits which he never realized and which he could not possibly have realized.

This rule erroneously assumes that the "profits" from the use of a patented invention equal the saving it effects in the cost of production. Practically such is never the case. The use of a patented labor-saving invention lessens the cost of the product, but at once diminishes its selling price, so that the consumer, and not the manufacturer, gets the lion's share of the advantage. The experience of many years has shown that at least 90 per cent. of such saving in the cost of manufacture goes to the consumer. This rule, therefore, compels an innocent infringer, through a legal fiction, to account for profits at least nine times as large as his actual profits could possibly have been.

This rule has led to decrees giving almost fabulous sums for the use of worthless inventions and has wrought great injustice. The Su-

preme Court signified, in the case of Packet Company vs. Sickles, (19 Wall., 611,) its strong dissatisfaction with the operation of the rule, but subsequent cases have shown that it cannot break away from the precedents it has made. Legislation alone can do away with the rule, and the second section does it.

Courts of equity have also found it extremely difficult, if not absolutely impossible, to arrive by any process of accounting at the profits derived from a patented invention which is merely used in carrying on any business. For instance, how can any one determine the profits derived by a farmer from the use of a patented corn-planter? His profits depend upon his crop, and that depends upon the fertility of his soil, his skill, his care, the weather, the use of perhaps a score of other patented inventions and a score of accidents. It will not do to charge him with savings as profits because the general use of the corn-planter has so cheapened the product that he would not have undertaken to plant corn without it, and such savings might sometimes exceed the market value of the crop. It is absolutely impossible to ascertain his actual profits from the use of that invention. The same is true of every case where a patented invention is merely used in a business. It is especially true where the invention effects no pecuniary saving, but only produces increased comfort or safety, as in the case of a ventilator, railroad-brake, or an electrical fire-alarm. Now, this section says that in all such cases the courts shall not attempt to do what it is impossible for them to do and what they are bound to do only by a fiction of law.

It does away with the rule which requires the defendant to account for savings as profits, or for imaginary profits where he has made none, or to account for profits where it is impossible to determine what share of them is due to the use of the patented invention. In all such cases the courts must decide what sum the infringer must pay as a license fee for the actual use he has made of the invention. In arriving at that amount they are bound to consider the utility and advantage of the invention (including, of course, any saving it may have made in the cost of production) and all the material circumstances of the case. This section thus secures to the inventor in all such cases full and adequate compensation for any injury he may have suffered from the unauthorized use of his invention. It leaves to him unimpaired the sovereign remedy of an injunction. It protects all his rights so fully and completely that he has no just ground of complaint.

Where the defendant has made an actual profit from making for sale or selling the thing patented, or the product of it, there is much less difficulty in ascertaining the profits, and in such cases the bill leaves to the patentee the right to demand an account. It enlarges his remedy by providing for the appointment of an auditor to take such account in actions at law. If the profits do not equal the amount of a reasonable license fee, it allows the plaintiff to recover the difference.

This section repeals the allowance of treble damages but authorizes the court where the suit or defense is vexatious and malicious, or the infringement willful, to allow against the defeated party a just and reasonable sum as counsel fees and expenses of suit. The amendment offered by the Senator from Alabama allows the court in such cases to allow such just and reasonable sum, not only against the defeated but against the successful party. I am heartily in favor of that amendment. It will prevent the unnecessary multiplication of suits and accumulation of cost against innocent infringers, and will furnish to the worthy constituents of my friend the Senator from Minnesota protection against the oppressive and vexatious litigation they fear.

I am opposed to the amendment offered by the Senator from Illinois to this section. It allows an account to be taken of savings as profits when they are never justly such; it authorizes an account for merely imaginary profits, and an account for profits when no human ingenuity can tell what they are. It authorizes the court taking an account of these so-called profits, which is one of the most expensive and troublesome proceedings known to the law, to allow the plaintiff just what sum it may deem reasonable. It really leaves the question of damages in all cases to the discretion of the court, and allows the court to consider as evidence facts which should have no weight in the case. I am opposed to intrusting any court with such vast and undefined powers, however pure and learned it may be.

The third section of the bill gives the circuit courts power to allow appeals to determine the questions of validity and infringement before putting the parties to the delay and expense of an accounting which will be useless if its decision is reversed. I see no objection to the amendment to this section offered by the Senator from Illinois.

The fourth section enables the circuit courts, subject to the direction of the Supreme Court, to exercise control over the parties by injunction pending an appeal.

The fifth section supersedes section 4916 of the Revised Statutes, and relates to reissues. It changes the existing law in several respects.

First. Upon an application for the reissue of a patent it allows no evidence of what the intention is except such as is afforded by the papers filed in the office before the original patent issued, whereas the present law allows evidence beyond the record by *ex parte* affidavits.

Secondly. It does not allow the model to be resorted to at all as evidence for the reissue.

Thirdly. It makes it the duty of the court to inquire in suits on a reissued patent whether it is for anything except the same invention shown, contained, or substantially indicated in the specification or drawings of the original application and its amendments, and which the patentee would have been entitled to include as a part of his invention in the patent originally granted.

Fourthly. It forbids the granting of a reissue unless the same is applied for within seven years from the date of the original patent or within four years from the date of the passage of this act.

I hope and believe that the provisions of this section will be sufficient to prevent the frauds which have heretofore often been accomplished by means of reissues, and which have brought discredit on the patent system.

The sixth section provides that reissues shall not have a retroactive effect against any machine or other article made before their date.

The seventh section merely authorizes the correction of mistakes made in issuing patents to more or fewer persons than were entitled to receive them, with the consent of all the owners.

The eighth section authorizes the taking of testimony *in perpetuam* in patent causes, for which there is now no adequate provision.

The ninth section allows suit to be brought by special leave of the court to repeal and annul void patents.

The tenth section gives a remedy for cases where a person injures the business of another by setting up a claim that it infringes his patent and yet refuses to bring a suit to try its validity or the question of infringement.

The eleventh section requires the payment of a fee of $50 when the patent is about four and one-half years old, and another of $100 when the patent is about nine and one-half years old. This section is in the interest of inventors as well as of the public, and will annul the abandoned and worthless patents which obstruct valuable inventions, and which reappear in reissues and otherwise only for purposes of annoyance and oppression. This plan has been tried in other countries and proved beneficial.

The twelfth section requires exclusive licenses to be recorded like technical grants, because the two are identical. It shortens the time allowed for recording assignments from three months to one month, a change justified by improvements in the mail service since 1836. It also allows all agreements relating to patents to be recorded, and makes certified copies from the record legal evidence.

The thirteenth section gives effect to an agreement between joint owners of a patent as to which shall grant licenses when the same is in writing and recorded.

The fourteenth section punishes by imprisonment not exceeding one year, or by fine of $1,000, frauds perpetrated in the sale of patent rights which are not punishable at common law nor by the usual State criminal laws against fraud.

The fifteenth section requires the assistant commissioner of patents to give the same bond as the Commissioner.

The sixteenth section establishes the price for Patent-Office copies, in no case to be less than the actual cost, and the maximum price to be the same that it now is.

The seventeenth section authorizes the use of certified copies of models as evidence.

The first sentence of the eighteenth section conforms to the existing law, the second merely relates to a matter of convenience in the Patent Office, and the proviso enacts that an inventor who has done all that the law requires shall not suffer by the delay of the office.

The nineteenth section provides that if an inventor publishes his invention by patenting it abroad he must apply for a patent here within two years, if at all. The present law provides that if the inventor procures a patent abroad his patent here shall expire as soon as his foreign patent; but if he allows foreigners to use it without restriction he shall have the whole seventeen years here. This unjust discrimination against American patentees is abolished.

The twentieth section provides that applications for reissues may be signed and sworn to by the owner of the patent or his legal representatives.

The twenty-first section corrects a palpable oversight in the present law, by merely inserting the words "in order to be a continuance of the original application."

The twenty-second section provides that for the convenience of the Patent Office the patentee shall mark the number of his patent upon the patented article.

The twenty-third section amends section 4904 of the Revised Statutes so as to include applications for reissue and make them conform to the decisions.

I refrain from discussing the power of Congress to make the provisions of the second section of the bill applicable to existing causes of action and pending suits. That power has not been questioned in this debate. That section leaves to patentees just and ample remedies, which is all they are entitled to. Your committee has long and carefully considered this bill. Before them, in numerous hearings, have appeared many of the ablest patent lawyers in the land, representing all classes of persons interested in patents, the officials of the Patent Office, and many prominent patentees, who have discussed every feature of the bill and furnished a vast array of facts bearing upon the whole subject. For nearly two years the subject has been before your committee. Entering upon its consideration with different and conflicting views, they have, after exhaustive deliberation and discussion, unanimously arrived at the conclusion that the bill, if it passes,

will have a good effect and promote the best interest of patentees and of the people.

The able discussions to which it has given rise have clearly shown the enormous influence our patent laws have had and still have upon our national progress and prosperity. Doubtless they have sometimes been used for the purposes of oppression; and what laws have not? I can find no terms sufficiently strong to express my condemnation of the chicanery which has aroused the indignation of the Senator from Minnesota. I trust the worthy citizens of the West whose wrongs he has so eloquently portrayed will seek and obtain justice from their legal tribunals. I feel sure that this bill, if it passes, will relieve the people from vexatious and malicious prosecutions and remove all just cause of complaint they have against our patent laws.

I am confident also that the provisions of this bill will, if they pass into law, strengthen our patent system. Its importance to our people justly demands for it the fostering care of Congress. Now, when our foreign rivals recognize in it the secret of our success, is not the time to treat it with indifference, much less with hostility. The inventive genius of our people, stimulated by our patent laws, is our chief reliance for success in the great conflict going on between the nations of the earth for industrial and commercial primacy, in which our opponents have the advantage of cheap labor. Encouraged and protected by wise legislation, that inventive genius will win yet greater victories over nature and place our country first and foremost among nations.

The PRESIDING OFFICER, (Mr. MCMILLAN in the chair.) The pending question is on the amendment of the Senator from Alabama, [Mr. MORGAN.]

The amendment was read.

Mr. CONKLING. Mr. President, owing, no doubt chiefly, to the unusual occasion that the Senate has been invited to attend, it is obvious that the Senate is very thin; and so, without an expectation of a vote upon this bill to-day, I presume the chairman of the committee does not care about proceeding with it. The hour is very near when the Senate has agreed to go to the House; and therefore, unless I interfere with the wish of some Senator, I move that the Senate do now adjourn.

Mr. DAVIS, of Illinois. We ought not to adjourn; we go in a body to the other House.

The VICE-PRESIDENT. The Senator from New York will permit the Chair to say that the Speaker of the House has just called at his room, and desired that Senators should be in the Hall of the House of Representatives at five minutes before three o'clock.

Mr. DAVIS, of Illinois. Does not the Senate go to the House in a body?

Mr. CONKLING. Let me withhold my motion to adjourn for a moment to hear what the Senator from Rhode Island [Mr. BURNSIDE] desires to say.

Mr. BURNSIDE. I have been seeking the floor to say that I heard a Senator state a few moments ago that he would like to have an executive session of a few minutes. I know he is in the neighborhood of the Hall. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. CONKLING. I withdraw my motion for that.

Mr. BURNSIDE. I submit my motion.

The VICE-PRESIDENT. The Senator from Rhode Island moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened.

FUNERAL OF REPRESENTATIVE HARTRIDGE.

On motion of Mr. CONKLING, (at two o'clock and forty minutes p. m.,) the Senate took a recess until two o'clock and fifty minutes p. m.

The Senate reassembled at two o'clock and fifty minutes p. m.

Mr. ANTHONY. Mr. President, the resolution of the Senate provided that the Senate should proceed at three o'clock to the Hall of the House. I understand that it is desirable that the Senators should be seated there by three o'clock. I move, therefore, that the Senate now proceed to the Hall of the House of Representatives.

The motion was agreed to; and the Senate proceeded to the Hall of the House of Representatives, headed by the Vice-President and Secretary, and preceded by the Sergeant-at-Arms.

The Senate returned to its Chamber at four o'clock and fifteen minutes p. m., and the Vice-President resumed the chair.

Mr. ANTHONY. Mr. President, I move that the Senate do now adjourn.

Mr. THURMAN. I ask the Senator to withdraw that and let me submit another motion.

Mr. ANTHONY. Certainly.

Mr. THURMAN. I move that the Senate do now adjourn to Monday.

The VICE-PRESIDENT. The question is on the motion of the Senator from Ohio, that the Senate do now adjourn until Monday.

The motion was not agreed to.

The VICE-PRESIDENT. The Senator from Rhode Island moves that the Senate do now adjourn.

The motion was agreed to; and (at four o'clock and sixteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 9, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced agreement to resolution of the House providing for the appointment of a joint committee to take order for superintending the funeral of Hon. JULIAN HARTRIDGE, and to escort the remains of the deceased to his late residence in Georgia, and the appointment of Mr. GORDON, Mr. BOOTH, and Mr. BECK as said committee on the part of the Senate.

ORDER OF BUSINESS.

Mr. COOK. I offer the following resolutions.

The Clerk read as follows:

Resolved, That the funeral ceremonies of Hon. JULIAN HARTRIDGE, late a Representative in this body from the State of Georgia, be held at three o'clock p. m. this day in this Hall.

Resolved, That the Clerk communicate the foregoing resolution to the Senate, and invite the Senate to attend said funeral ceremonies.

The resolutions were adopted unanimously.

Mr. KNOTT. I move the House take a recess until five minutes before three o'clock.

Mr. KELLEY. I ask the gentleman from Kentucky to yield so I may have a resolution read from the Committee of Ways and Means.

Mr. MCMAHON. I demand the regular order of business.

Mr. KNOTT'S motion was agreed to; and the House accordingly (at twelve o'clock and ten minutes p. m.) took a recess until five minutes before three o'clock p. m.

MESSAGE FROM THE SENATE.

At five minutes to three o'clock p. m. the House reassembled.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the adoption of the following resolution:

Resolved, That, pursuant to the invitation of the House of Representatives, the Senate will attend the funeral ceremony of Hon. JULIAN HARTRIDGE, late a member of the House of Representatives from the State of Georgia, in the Hall of the House of Representatives this day at three o'clock.

FUNERAL SERVICES OVER REMAINS OF MR. HARTRIDGE.

At three o'clock the Senate of the United States, preceded by the Sergeant-at-Arms and headed by the Vice-President of the United States, with the Secretary, the Chief-Justice and associate justices of the Supreme Court, and the President of the United States and the members of his Cabinet, entered the Hall, were properly announced, and were then conducted to the seats assigned them.

At fifteen minutes past three o'clock the casket containing the remains was brought into the Hall, preceded by the Chaplain of the House, the committee of arrangements, and the Senators and Representatives from Georgia.

The Chaplain of the House, Rev. W. P. HARRISON, D. D., read the ninetieth psalm and selections from the Gospel according to Saint John, the book of Job, and the first epistle of Timothy. He then offered the following prayer:

Almighty God our Heavenly Father, we are assembled together this day on a solemn occasion. It has pleased Thee in Thy mysterious providence to call from earth into eternity one whom we loved, a member of this House of Representatives, one of the chosen servants of this people. We can but bow, O God, in submission to this affliction of Thy providence, and we pray Thee that while we consider this day the death of our departed friend, oh impress upon us the solemn truth that we too are mortal, that we are passing away, that very soon the place that knows us now will know us here no more forever.

O Infinite Spirit, apply the lesson of this hour to every heart. O God, help us to reverence Thy name and Thy law and to fear Thee as the beginning of wisdom, to give Thee our heart-service, to dedicate our lives to Thy glory upon the earth, that we may fulfill every duty, that with fidelity in all things we may honor Thy name and serve our generation.

O God, look in pity, in tender compassion, upon the family of this deceased brother. O Thou that hast promised to be a husband to the widow and a father to the fatherless, care tenderly for them. Do Thou soften this heavy stroke by the consolations of Thy Holy Spirit; and as no man can minister to grief so deep and so dark, O Infinite God, do Thou give solace, and in Thy compassion and Thy tender mercy may they find resignation and peace.

Go with us, O God, to the remainder of our life's short journey, prepare us for every duty to Thee, to our country, to ourselves. May we be faithful to all trusts; may we serve Thee with a perfect heart; and when we too shall lie cold in death, when we shall appear in the presence of our Infinite Judge, O God, grant unto us in the parting hour confidence in Thy mercy, trust in Thy redeeming power, and in the heaven of everlasting peace receive us all at last, through Jesus Christ our Redeemer. Amen.

The Chaplain next read selections from the fifteenth chapter of the

first epistle of Saint Paul to the Corinthians, and afterward addressed the House as follows:

All that is mortal, my beloved hearers, of JULIAN HARTRIDGE, Representative in the Congress of the United States from the State of Georgia, lies before us. Suddenly, in a day, without warning, cut down as by a single stroke of the great reaper, Death. In the prime of life and vigor of his days his sun has gone down while it was yet high noon.

It is not my purpose to speak of him as a man, as a friend, and a public servant. This task belongs to other and more capable friends. Only those who knew him intimately, who knew him well in all the closer relations of private friendship, were fully prepared to appreciate his worth.

It may be permitted to me to echo what I believe to be the general sentiment of esteem in which he was held by all who knew him. As a man, frank in disposition, courteous in manner, generous in spirit, brave in principle, true to every trust reposed in him. As a man, modest, retiring, somewhat reticent, and therefore needed to be thoroughly and closely cultivated in order to be fully understood and appreciated. As a public servant, trusted in early life with the responsibilities of a high station among his fellow-citizens, repeatedly the subject of their choice in various public stations in his own State, and for nearly four years in this House a Representative of his people. Everywhere that he was known, by all with whom he came in contact, I believe it to be simply true to say that he was thoroughly esteemed and fondly loved as a friend, as a man.

His mind was clear and logical, having the peculiar characteristics which qualified him for the thorough mastery of the science of the law. His life devoted to this profession, preferred by him above all others, it was but recently that he refused to be a candidate for renomination to the office which he had filled in this Government, preferring the private duties, the labors and toils and the promises of his own profession to public life.

A rapidly extending practice, a rapidly growing interest called his attention home; and so he was awaiting but the lapse of the few weeks that remain of this present Congress to retire to his native place and give himself wholly to the duties of the legal profession.

Alas, how frail are human expectations! How suddenly are our hopes blasted! Oh, how vain are the calculations of man trusting to a long life, to a prosperous and useful future! In a moment cut down and he himself summoned to the bar of his Judge!

While I leave to others to portray his character, as a minister of the everlasting gospel of the Son of God it becomes my duty to press upon your attention the solemn lesson of this hour. As he lies cold in the coffin to-day, you and I, my hearers, must lie before many days have passed away. It is but a trite statement of the truth, and it is one that we have avoided and have endeavored to put away from thought and conscience; but death is a certainty. Whatever else may happen to you and to me, we must die. If you or I were able to gather together all the wealth of the world we could not postpone, much less prevent, that solemn hour. Whatever station you may occupy in society, you may illustrate the glory of your country, you may write your names high upon the temple of fame, the world may be filled with the testimonials of its applause at your achievements, but though you stand in fame's highest niche, out of that you must come down and fill the narrow house of clay. The warrior may grasp all the world as the prize of his skill on the battle-field, and while the wreath is being placed upon his brow the insidious archer, Death, shall strike his vitals with the poisoned arrow, and the wreath of fame will be transferred from the throbbing brow to the pale memory of a man that was.

However we may fulfill, however we may dignify, the trusts committed to our hands, faithful or unfaithful, true or untrue to them, in any event, in every event, this, among all uncertainties of time, this is certain—that we must die. Let us not put away the consideration of this thought because it is appalling, because it brings to the conscience and to the heart a tremor and a fear that is dreadful. We must consider it; it is wisdom to think of it; it is the highest wisdom to prepare for it and so to live as that whenever death may come we shall be prepared to answer the summons.

You, my fellow-countrymen, you who are representatives of this great people, having responsibilities intrusted to you as broad as the mighty land you serve, you are in an especial sense the ministers of the great God, the ruler of nations and of men. Your public trusts will be judged by those who committed them to your care, and before that bar of judgment you periodically stand; but the accountability to the Judge of all men, to our Creator, our Preserver, our Redeemer, that is immediate; it is direct; it is unavoidable.

I have no right to enter into the secret councils of any man's thought, nor can I come between him and the Infinite Father. But to-day I solemnly exhort you. Oh, to-day I dare ask you this momentous inquiry: Are you, as representative men of this nation, by precept and example giving forth to those you represent, to the people whom you serve, such testimonies of moral rectitude and purity and goodness as they ought to follow, that following you they may glorify God and serve their generation? The very uncertainty of the time of death is often an excuse for our postponing its consideration. We must die; that is certain. We do not know when we shall die; the hour is uncertain. It may be in a month, a week, a day, an hour hence that our God shall call us to answer for the trusts reposed in our hands. Oh, to-day may the Infinite Spirit seal the solemn lesson thrice repeated within twenty days to the members of this House and of this Congress. Oh, to-day may the Infinite Spirit seal this lesson upon our hearts, and may we serving our country as fulfilling a duty to God himself, so serve God in all our actions, private and public, as that He may be pleased to own our labors, with gracious benediction to bless us, and make us the examples that others may follow in safety; and when these days of ours are numbered and our short life is passed away, oh that you, my hearers, that we all may pass out of the darkness, out of the clouds, out of the uncertainties, out of the doubts, out of the mysteries of this brief life into the eternal day of peace and rest at God's right hand.

Rev. BYRON SUNDERLAND, D. D., Chaplain of the Senate, then offered the following prayer:

O God, Most High, King Eternal, Immortal, Invisible, suffer us not in any blindness of nature, in any severity of trouble to doubt of Thy fatherhood. Suffer us not in any pride of reason or vanity of conceit to despise Thy chastening and set at naught Thy reproof. Though we are all as men of unclean lips before Thee, yet is there not in the wide universe any friend for us like Thee. There is none like Thee to love us. Though we cannot resolve the mystery of our complication with the evil of the world, yet in our struggle to be free we would fain put all our trust in Thee as our all-sufficient help.

O God, remember the days of our mourning and out of our darkness create Thou for us the light of immortal hope. Let not the failures of this life nor even the deliquium of death itself prostrate us and cast us down with dismay, since Thou hast opened for us the portals of eternity and made even the grave itself but the gateway to a realm of everlasting honor and renown.

Be graciously pleased to comfort those that weep for the father and friend who lies low in this hall. In this deep gloom who can embrace them but Thee? Be with Thy servants who shall go to bear him away out of the great station from which Thou hast so suddenly summoned him to his distant home, where the light of earth is gone out forever. Send Thine angels to whisper to the widow's heart and stricken children that solace which can come alone from Thee. O Lord of Grace, keep them in Thy peace. And now, we beseech Thee, be favorable to Thy servants, the President of the United States and to all our public rulers, counselors, law-givers, magistrates, judges, governors, officers, and all the inhabitants of the land, that righteousness and truth may be the stability of our times, and that we may be a people to Thy praise, in all our generation, through Jesus Christ. Amen.

The benediction having been pronounced by the Chaplain of the House, Rev. W. P. HARRISON, the remains of the deceased were then removed from the Hall, followed by the Georgia delegation and the committee of arrangements, to be conveyed to his late residence at Savannah, Georgia, and the President of the United States, the members of the Cabinet, the Chief-Justice and associate justices of the Supreme Court, and the members of the Senate retired from the Hall.

On motion of Mr. COLE, (at four o'clock and fifty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BANNING: The petition of Henry Meinkein, for a pension—to the Committee on Invalid Pensions.

By Mr. BLISS: The petition of Francis Pidgeon, the Devoe Manufacturing Company, and others, for an appropriation for the removal of bar and other obstructions at the mouth of New Town Creek, on East River, New York—to the Committee on Commerce.

By Mr. BOUCK: The petition of Frederick Priebe, for a pension—to the Committee on Invalid Pensions.

By Mr. COVERT: The petition of Mrs. Mary R. Pell, of Flushing, New York, for the removal of her political disabilities and for the exercise of the right of suffrage—to the Committee on the Judiciary.

Also, the petition of Mrs. J. H. Vail and 180 other ladies, of Orient, New York, to make effective the anti-polygamy law—to the same committee.

By Mr. CUMMINGS: The petition of citizens of Madison County, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of articles upon which there is a patent, and that the royalty and damages for infringements be confined to manufacturers and venders—to the Committee on Patents.

By Mr. DANFORD: The petition of Melissa McDevitt and 50 others, of New Alexandria, Ohio, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. DAVIS, of California: Memorial of Woolsey Teller, of San Francisco, California, asking for redress of wrongs inflicted by the Republic of Nicaragua—to the Committee on Foreign Affairs.

By Mr. EDEN: The petition of Lucy A. Fyffe and 175 others, of Lawrence County, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. ERRETT: The petition of 33 women of Pittsburgh, Pennsylvania, of similar import—to the same committee.

By Mr. FRYE: The petition of S. W. Carr and others, for the removal of sand-bar in Cathance River, Maine—to the Committee on Commerce.

By Mr. GOODE: The petition of George Smith, for a pension—to the Committee on Invalid Pensions.

By Mr. JAMES: The petition of Mrs. E. Elliott and 20 other ladies, of Heuvelton, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. Y. F. Clemson and 25 other ladies, of Waddington, New York, of similar import—to the same committee.

By Mr. JONES, of Ohio: The petition of Willard Comly, against the extension of McKay & Mathie's sewing-machine patent—to the Committee on Patents.

By Mr. KETCHAM: The petition of Mrs. J. C. Hoyt and 19 others, of Garrison's, New York, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KIDDER: The petition of Oscar P. Kemp and others, for a new land office in the Territory of Dakota, near Kampeska—to the Committee on Public Lands.

Also, the petition of D. C. Thomas and others, of similar import—to the same committee.

By Mr. LAPHAM: The petition of Willard Comly, against the extension of the McKay & Mathie's sewing-machine patent—to the Committee on Patents.

Also, the petition of ladies of Dansville, New York, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. LATHROP: The petition of Mrs. Jennie Caldwell and 118 other women, of Geneva, Illinois, of similar import—to the same committee.

By Mr. McGOWAN: The petition of Vorina Miller, and 55 others, of Barry County, Michigan, of similar import—to the same committee.

Also, the petition of Hon. George Willard and 30 others, citizens of Calhoun County, Michigan, for legislation to prohibit the adulteration of sugars and other sweets—to the Committee on Commerce.

By Mr. MONEY: The petition of J. R. Howard, for compensation for services rendered the United States in the Treasury Department—to the Committee on Expenditures in the Treasury Department.

By Mr. MONROE: The petition of Mrs. Lydia Johnston and 137 ladies of Rochester, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. OVERTON: The petition of Mrs. Mary Oliver and 37 other women, of Wyoming and Luzerne Counties, Pennsylvania, of similar import—to the same committee.

By Mr. POTTER: The petition of women of Westchester County, New York, of similar import—to the same committee.

Also, the petition of Frances E. Fry, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and other citizens of Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. REED: The petition of Armine P. Rowe and other women, of Baldwin, Maine, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. RICE, of Massachusetts: The petition of Willard Comly and others, citizens of Westborough, Massachusetts, against the extension of the McKay & Mathie sewing-machine patent—to the Committee on Patents.

By Mr. RYAN: The petition of Cynthia Miller and others, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SAPP: The petition of the pastor and 26 women, members of the Presbyterian church at Mount Ayr, Iowa, of similar import—to the same committee.

Also, the petition of 42 women, members of the Methodist church at Mount Ayr, Iowa, of similar import—to the same committee.

Also, the petition of all the national banks of the eighth congressional district of Iowa, for the repeal of the law authorizing a tax on deposits—to the Committee of Ways and Means.

By Mr. STEWART: Memorial of a committee of the lake improvement convention held at Saint Paul, Minnesota, December 18, 1878, for the improvement of the great lakes—to the Committee on Commerce.

Also, the petition of citizens of Lacqui, Minnesota, for a post-route from Lacqui to Canby, via Cerro Gordo, Minnesota—to the Committee on the Post-Office and Post-Roads.

By Mr. STONE, of Iowa: The petition of the city and Board of Trade of Burlington, Iowa, for an appropriation for the improvement of the harbor of Burlington—to the Committee on Commerce.

Also, the petition of Mary Ella McCalla, S. J. Risk, and 125 other women, of Jefferson County, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. TIPTON: Papers relating to the claim of Dr. Mary E. Walker—to the Committee on War Claims.

By Mr. WILLIAMS, of Wisconsin: The petition of Rev. John Bramer and 38 others, of Spring Prairie, Wisconsin, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WILLITS: The petition of Mrs. Myrta Harris and 45 other women, of South Litchfield, Michigan, of similar import—to the same committee.

Also, the petition of Mrs. C. W. Holmes and 54 other women, of Palmyra, Michigan, of similar import—to the same committee.

Also, the petition of Mrs. A. C. Voorhies and 327 other women, of Saline, Michigan, and vicinity, of similar import—to the same committee.

Also, the petition of George B. Smith and 49 others, of Ottawa Lake, Michigan, against such a tariff on the lower grades of sugar as will prohibit their importation—to the Committee of Ways and Means.

Also, the petition of G. H. Gilman and 48 others, coopers for sugar refiners of Riga, Michigan, of similar import—to the same committee.

By Mr. WRIGHT: The petition of John A. Steiner, for an increase of pension—to the Committee on Invalid Pensions.

Also, the petition of S. T. Wilson and 570 others, citizens of Altoona, Pennsylvania, for the passage of Mr. WRIGHT'S supplement to the homestead bill, or some other measure of like relief—to the Committee on Public Lands.

IN SENATE.

FRIDAY, *January* 10, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the Senate of December 9, 1878, a statement of amounts and rates paid by disbursing officers of the Quartermaster's Department to the Oregon Steam-Navigation Company for Government transportation and hire of steamboats on the Columbia River and its tributaries; which, on motion of Mr. MITCHELL, was referred to the Committee on Railroads, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois, presented the petition of Thomas J. Bigford and others, of Illinois, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented a memorial of wholesale grocers and dealers in sugar, of Chicago, Illinois, remonstrating against the recommendation of the Secretary of the Treasury that high-grade and low-grade sugars be admitted at a one-rate duty; which was referred to the Committee on Finance.

Mr. MATTHEWS presented the petition of M. J. Campbell and others, citizens of Montgomery County, Ohio, praying for the prompt passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. KERNAN. I present four memorials of different parties, similar in character, remonstrating against the passage of the bill (S. No. 1330) to quiet title of settlers on Des Moines River lands, in the State of Iowa, and for other purposes. These memorials are from people in New York State and some in Massachusetts. The bill having been reported, I move that the memorials lie upon the table.

The motion was agreed to.

Mr. KERNAN presented a memorial of Williams & Guion and others, merchants and ship-owners, in favor of the passage of House bill No. 3547, to regulate interstate commerce and prevent unjust discrimination by common carriers; which was referred to the Committee on Commerce.

He also presented the petition of Dr. Mary E. Walker, late acting assistant surgeon United States Army, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. KERNAN. I have received a resolution passed by the senate of the State of New York. It is short, and I ask that it be read.

The VICE-PRESIDENT. It will be reported at length.

The resolution was read, as follows:

STATE OF NEW YORK,
In Senate, Albany, January 7, 1879.

Whereas the "Army reorganization bill" now before Congress proposes to prohibit the future manufacture of ordnance and ordnance stores at United States arsenals; to sell all the arsenals, which thus become unnecessary, and hereafter to purchase ordnance and ammunition from private manufacturers only: Therefore,

Resolved, That the Senators and Representatives of this State in Congress be requested to oppose the passage of said bill, or at least the portions relating to the Ordnance department, United States arsenals, and ordnance stores.

By order:

JOHN W. VROOMAN, *Clerk*.

The resolution was ordered to lie on the table.

Mr. ARMSTRONG presented the petition of O. P. Riley and others, citizens of Plattsburgh, Missouri, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. HARRIS presented the petition of Levi L. Fancher and 77 others, of Tennessee, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. HARRIS. The Public Health Association of America, at its session in Richmond, Virginia, in November last, adopted a resolution appointing a committee to memorialize Congress for the publication of an index to the medical library. As the memorial is short and upon

a subject of general interest, I ask that it may be read and referred to the Committee on Printing.

The VICE-PRESIDENT. It will be reported.

The memorial was referred to the Committee on Printing, and read, as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

This memorial respectfully showeth that at the recent meeting of the American Public Health Association, held at Richmond, Virginia, November 19 and 22, 1878, the following preamble and resolutions were unanimously adopted:

"Whereas there has been formed at Washington, under the direction of the Surgeon General, United States Army, one of the most valuable medical and sanitary libraries in the world; and

"Whereas there has been prepared under the same direction the manuscript of an index catalogue of this library, which, if published, would more than double the practical utility of the collection, and would be of the greatest value to all medical men and sanitarians even if the library itself were not in existence: Therefore,

"*Be it resolved*, That a committee of five be appointed to urge upon Congress the immediate publication of this catalogue, setting forth that such publication, in the opinion of this association, is one of the most important steps which can be taken by the General Government to promote the interests of sanitary science and aid investigation into the causes and prevention of diseases."

In accordance with the above resolutions, the following committee was appointed: Drs. R. W. Mitchell, Memphis, Tennessee, (chairman;) H. I. Bowditch, Boston, Massachusetts; S. M. Bemiss, New Orleans, Louisiana; Wirt Johnson, Jackson, Mississippi; H. B. Baker, Lansing, Michigan; E. H. James, (secretary.)

We, the undersigned, having been duly appointed to act as the committee referred to in these resolutions, do therefore, in the name of the American Public Health Association, and in behalf of the interests of sanitary science in this and other countries, respectfully but urgently request that you will authorize and direct the publication of the catalogue referred to with the least possible delay. The information which it contains is of very great importance to all classes of people, because it will aid all who are laboring for the promotion of either individual or public health. It is information which cannot otherwise be obtained, and its publication by the Government is a duty the early performance of which will tend greatly to promote the cause of public health and prosperity in this country.

R. W. MITCHELL, M. D., Memphis, Tennessee, (chairman.)
H. I. BOWDITCH, M. D., Boston, Massachusetts.
S. M. BEMISS, M. D., New Orleans, Louisiana.
WIRT JOHNSON, M. D., Jackson, Mississippi.
H. B. BAKER, M. D., Lansing, Michigan,
Committee.

Mr. CONKLING. I present the petition of Eliza J. Hughes; another petition of Catharine M. Brownell; and still another of Lysander Brooks, citizens of the State of New York, praying for pensions. I move their reference to the Committee on Pensions.

The motion was agreed to.

Mr. CONKLING. I present also a resolution of the senate of the State of New York remonstrating against the passage of the bill to reorganize the Army. Being a resolution of the senate of New York, I ask that it be read.

The VICE-PRESIDENT. It has just been read upon the request of the Senator's colleague.

Mr. CONKLING. Then I do not ask to have this copy read. I was not aware it had been read.

The VICE-PRESIDENT. The resolution will lie on the table.

Mr. CONKLING. I present also the memorial of Ira Davenport, a citizen of Steuben County, in the State of New York, protesting, for very well-stated and cogent reasons, against the passage of Senate bill No. 1330, being a bill heretofore reported from the Committee on Public Lands, which bill, according to its title, is to quiet the possession and ownership of a large body of land in the State of Iowa. This memorialist thinks, as others do, that the effect of the bill would be not to quiet the title but to work very manifest and grievous injustice. The bill has been reported, is on the Calendar, and I suppose this memorial ought to lie on the table.

The VICE-PRESIDENT. It will be so ordered.

Mr. WINDOM presented the petition of B. F. Farmer and others, citizens of Spring Valley, Minnesota, and the petition of P. E. Liddy and others, citizens of Minnesota, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. ROLLINS presented the petition of Ellis Copeland and others, citizens of Washington, New Hampshire, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. McMILLAN presented the petition of E. J. Cutts and others, citizens of Minnesota, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WALLACE presented the petition of Solomon Calehoof and others, citizens of Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the petition of May & Somers and others, merchants and ship-owners of Philadelphia, Pennsylvania, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. MITCHELL presented the petition of Daniel McGrath, late private in Company H, Twenty-first Infantry, United States Army, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. MITCHELL. I present a petition numerously signed by merchants and importers at the port of Portland, Oregon, in which they represent briefly that "the building at present occupied by the customs authorities at that port is so far removed from the business center of the city as to render it very inconvenient and extremely burdensome to those having business transactions with the office;" that from the time that collection district "was first established until within a year or so past the customs office was located on the water front at a point convenient to importers as well as masters of vessels, and was removed to its present location by order of the honorable Secretary of the Treasury from economical motives;" that the "apartments assigned to the customs department in the public building in the city are inadequate to the wants of the public service, there being barely sufficient room for the present limited clerical force. Aside from these objections the Government is obliged to rent additional buildings for bonded warehouse, appraiser's store, and steamboat inspectors' offices at great cost, which buildings are fully three-fourths of a mile from the present customs office." They state that "the close business relations existing between these different customs officers render it absolutely necessary that they should be located in the same building."

They further represent that the large increase of business in the post-office department in that city "has already occasioned a demand for more room; that the money transaction alone has more than doubled, and amounts to fully $1,500,000 annually;" and "should the business in the money-order office alone increase during the next year as it has in the past, the post-office department," in which the present custom-house is located, "will require and demand from the proper authorities the entire ground floor of the present building for the proper transaction of its business."

For all these reasons they respectfully and earnestly memorialize Congress to make an appropriation of a sum sufficient for the construction and equipment of a suitable building at some suitable point on Front street for a custom-house, appraisers' store, United States bonded warehouse, and steamboat inspectors' offices; and as in duty bound they will ever pray. I move the reference of the memorial to the Committee on Public Buildings and Grounds, and I call the attention of that committee to it. I have already introduced a bill on this subject, and I hope the matter will receive the attention of the committee.

The motion to refer was agreed to.

Mr. INGALLS. I present a petition very largely signed by citizens of Kansas, praying for the prompt passage of the bill (H. R. No. 4234) granting arrears of pensions; and I repeat the notice I have hitherto given, that upon the conclusion of the pending measure I shall ask the attention of the Senate to this bill.

The VICE-PRESIDENT. The petition will lie upon the table.

Mr. COCKRELL presented the petition of J. R. Walker and others, citizens of Richland, Missouri; the petition of John E. Jacoby and others, citizens of Warrensburgh, Missouri, and the petition of John Proudfit and others, citizens of Summit, Missouri, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

He also presented additional papers in the case of George Heard, assignee of Chester Hebner, praying for the passage of a law authorizing the proper officers of the Interior Department to prepare and issue to him a bounty land warrant in pursuance of act of Congress of 1847 for one hundred and sixty acres of land in lieu of a warrant which was burned in the land office at Clinton, Missouri, in November, 1861; which were referred to the Committee on Private Land Claims.

Mr. CONKLING. Since presenting the former memorials I have received one signed by D. M. K. Johnson, John Stryker, and other neighbors of mine residing at Rome, in the county in which I live, and whom I know very well, protesting against the passage of the bill against the passage of which the remonstrance of Mr. Davenport protested. I am told that a motion is to be made to recommit the bill or to refer it to a committee. I suppose of course the memorials that now lie on the table would go with the bill should it be recommitted.

The VICE-PRESIDENT. The memorial will lie on the table for the present.

Mr. MORRILL presented the petition of C. B. Simpson and others, citizens of Vermont, praying that Edwin W. Reed, late of Company E, Eighth Vermont Volunteers, be restored to the pension-rolls; which was referred to the Committee on Pensions.

Mr. HOWE presented the petition of M. E. Gates and others, citizens of Wisconsin, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. DAWES presented the petition of Benjamin Reynolds and others, citizens of Monson, Massachusetts, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

LIBRARIAN'S REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print 500 extra copies of the annual report of the Librarian of Congress, to report it without amendment and to recommend its passage. I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the annual report of the Librarian of Congress on the Library and the copyright department for the calendar year 1878 be printed, and that 500 extra copies with paper covers, be printed for distribution by the Librarian.

BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1585) for the relief of such members of the Menomonee tribe of Indians as may desire to become citizens of the United States; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. DAVIS, of Illinois, (by request,) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1586) relating to writs of execution in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. ALLISON. At the request of my colleague, [Mr. KIRKWOOD,] who is absent on public business, I ask leave to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1587) to provide for the payment of additional bounty to the soldiers of the Army of the United States during the war of the rebellion; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1588) for the relief of Talley & Eaton; which was read twice by its title, and referred to the Committee on Claims.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1589) for the relief of the legal representatives of William S. Robinson, late of Malden, Massachusetts; which was read twice by its title, and referred to the Committee on Claims.

Mr. SARGENT (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1590) to enable the people of Dakota to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States; which was read twice by its title, and referred to the Committee on Territories.

AMENDMENTS TO POST-ROUTE BILL.

Mr. PLUMB and Mr. DORSEY submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

WAR CLAIMS OF WEST VIRGINIA.

On motion of Mr. HEREFORD, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the bill S. No. 937, and papers relating to the claim of the State of West Virginia for expenses incurred in organizing and equipping troops, &c., and that the claimants have leave to withdraw the same from the files of the Senate.

CHIEFS OF NAVAL BUREAUS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of enacting that the selection of the chiefs of the Bureaus of Steam Engineering, Provisions and Clothing, and Medicine and Surgery shall be made from officers whose relative rank is not below that of captain.

ADJOURNMENT TO MONDAY.

Mr. INGALLS. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

Mr. WINDOM subsequently said: I ask permission to enter a motion to reconsider the vote by which the Senate agreed to adjourn over until Monday. I do not ask a vote upon it now, but if we fail to pass the Indian appropriation bill this afternoon I shall ask to have the vote reconsidered.

The VICE-PRESIDENT. The motion to reconsider will be entered.

THEOPHILUS P. CHANDLER.

Mr. HOAR and Mr. DAVIS, of West Virginia, addressed the Chair.

The VICE-PRESIDENT. Under the notice given by the Senator from West Virginia yesterday, the Chair feels bound to recognize that Senator.

Mr. MITCHELL. I desire to state that I have been giving notice ever since before the adjournment for the holidays that I desired to submit a few remarks to the Senate. I do not know when the notice of the Senator from West Virginia was given, whether before the holidays or since.

Mr. HOAR. If the Senator from West Virginia will permit me, I desire to ask the Senate to take up a bill from the Committee on Claims. It is the unanimous report of that committee, and one which I think will occupy no time except the reading of a very brief report. It is very important, with reference to the settlement of some estates, that the bill should be passed at once.

Mr. DAVIS, of West Virginia. If there is to be no debate upon the bill whatever I will give way, subject to my right to the floor.

Mr. HOAR. I think that the reading of a very brief report is all that is required, if indeed that will be required.

Mr. DAVIS, of West Virginia. I dislike to insist upon the floor against the wish of a Senator; but I believe it was the rule of the Senate long before I was here, and perhaps before any Senator now present came here, that when a Senator gave notice that he desired to address the Senate on a particular subject the floor was always accorded to him.

Mr. HOAR. I do not question in the least that rule, and if the rule did not exist I should prescribe it as a rule for the government of my own conduct, and certainly should not antagonize the right of the Senator from West Virginia to the floor. I do not propose to do so. I merely inquired of the Senator whether it would be agreeble to him to yield for the passage of the bill to which I referred.

Mr. DAVIS, of West Virginia. If there is no objection to the bill whatever I shall of course yield to the Senator from Massachusetts.

Mr. HOAR. I will ask to have the bill read subject to the Senator's right to the floor.

The bill (S. No. 1531) for the relief of Theophilus P. Chandler was read; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. It relieves Theophilus P. Chandler, late assistant treasurer of the United States at Boston, from all liability for the acts of Julius F. Hartwell, late disbursing clerk and cashier in his office, in loaning or advancing the moneys or funds of the United States to Mellen, Ward & Company, and from all liability to account for any moneys or funds of the United States which were loaned or advanced by Hartwell to Mellen, Ward & Company, the same having been without the default or negligence of Chandler.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HARBOR OF REFUGE ON PACIFIC COAST.

Mr. DAVIS, of West Virginia. I understand the Senator from Oregon [Mr. MITCHELL] has on several occasions given notice that he wished to address the Senate. That being the case, I feel that I ought to give way to him this morning. I will, however, give notice that I shall follow the Senator from Oregon with the remarks that I wish to submit to the Senate, or that I shall ask to be heard on Monday morning.

The VICE-PRESIDENT. On Monday morning at the close of the morning business?

Mr. DAVIS, of West Virginia. Yes; but if the speech of the Senator from Oregon does not detain us too long, I may follow him to-day.

Mr. MITCHELL. I am much obliged to the Senator from West Virginia. I move that the Senate proceed to the consideration of the bill (S. No. 1451) authorizing the construction of a breakwater and a harbor of refuge on the Pacific coast.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I beg the attention of the Senate while I submit briefly as I may some considerations bearing upon a subject in one sense local to that portion of the country which I have the honor in part to represent on this floor, but which in fact concerns the future protection, development, and prosperity of a very large share of the commerce of our common country. Although not a member of the Committee on Commerce, I trust I may be pardoned in striving to attract the serious attention of that very able committee to the subject referred to in the bill now under consideration. I am not unmindful, Mr. President, of the fact that it is a not uncommon occurrence in the history of congressional legislation for members to propose at each session numerous measures looking to the development of their particular section or State, oftentimes, it may be, hoping thereby to win the approbation of their constituents. Conscious of this fact, and desirous, as I frankly confess I am, to merit the good opinion of my constituents by my labors in their behalf, I trust I shall, in the measure now under consideration, be able to convince the Senate that the end sought to be gained in this instance is one that is neither visionary, impracticable, nor in any sense void of merit; but rather one demanding in the name of the commerce of our country respectful and earnest consideration, and early and prompt action. I refer, as the bill states, to the construction of a breakwater and harbor of refuge on the Northern Pacific coast.

The subject is not one, I take it, that should excite either local jealousies or State pride as to point of construction, but one to be viewed in the more enlarged intelligence and comprehensive vision of general commercial advancement and national prosperity. The time was, within the memory of the present generation, when the Great West, extending from the Rocky Mountains to the Pacific and from the British dominions to Mexico, was comparatively a wilderness, and when the waters of the Pacific Ocean bordering on these extended shores were undisturbed by the ships of commerce. The inquiring and enterprising spirit of the age, however, has wrought a change. Emigration set its foot thitherward; Territories were organized, States created, society established, cities built, agriculture, mechanic arts, mining, manufactures—all have sprung into existence, and to-day the Pacific slope is in point of wealth, national resources, not to speak of its unquestionable prospective greatness, an empire in itself; while the Pacific Ocean, whose waters beat forever on the golden shores of the far West, are thronged by the ships of all nations and enlivened by the busy commerce of the world. Indeed, as I have before remarked, so rapid has been the transition state of the growth and prosperity of the Pacific coast that a mere statement of the real facts seems to strike eastern ears as the rehearsal of an Arabian tale—a mere product of the imagination. Hence the difficulty in concentrating the public mind and inducing public action in reference to these matters of such vital importance, not only to the Pacific coast but to the country at large.

I appreciate and frankly concede this difficulty in attracting public attention to the crying wants of our commerce upon the Pacific coast is not the result of any disposition upon the part of eastern or southern statesmen to ignore any section of the country, but rather

the result of a not surprising failure upon the part of those who have never visited the Pacific slope to note and comprehend the rapidity of the change by which the late frontiers of the West have been transformed into an empire of greatness, of commercial wealth, and political, social, and moral power. It is in vain that the six Senators and seven or eight Representatives of the Pacific coast raise their voices and bend their energies in favor of national legislation in the interest of the commerce of the far West, unless indeed we can engage the attention and secure the influence and support of our eastern and southern friends. To you, therefore, fellow Senators, whose long experience upon this floor makes your influence and power felt and recognized, not alone in the councils of the nation, but throughout the land, I appeal, basing it as I do upon no flimsy fabric woven by the imagination, but upon facts and statistics as irrefragable as truth itself. I ask, in the name of the suffering commerce of the West and in the interest of the real growth and prosperity of our nation, to extend us a helping hand, that the blessings of national legislation in aid of national commerce and for its protection may be extended in equal measure to all States and sections, to all rivers and harbors of our great Republic. Whatever national aid is given to protect and encourage our commerce, whether internal or external, even in the remotest portions of our national heritage, is not lost, but returns in vitalizing influence and power to strengthen the heart and energize our whole national being.

It is a fact no less startling than it is true, when viewed in the light of the rapidly increasing commerce of the eastern portion of the Pacific Ocean, that between San Francisco, California, and the strait of Fuca, a distance of over seven hundred miles of sea-coast, there is not a single harbor that can be entered in safety during a southerly gale.

This statement finds support in more than one report of the United States Engineer Corps and of the Coast Survey. To these I shall attract attention as I proceed. The mere statement of this fact, were I to stop here, it seems to me, taken in connection with what every one of common intelligence must concede in reference to the existing commerce of that coast, should arouse from their slumbers and startle from their lethargy those whose duty it is through congressional legislation to provide for the protection of our commerce. But when I point to the myriad merchant vessels, with their valuable cargoes and freighted treasures of life and property, as I shall do as I proceed, that have, as I have stated heretofore elsewhere, for the past twenty years, year after year, one by one, until the number in vessels, in values, and in human life becomes appalling, mainly for the want of some harbor of refuge, gone down amid storms, as Byron describes it, into that—

Vast, salt, dread, eternal deep,

the subject becomes one of deep interest, demanding serious consideration and prompt action. Before closing, I shall attract attention to the number and character of these disasters.

In considering the question as to the necessity of the construction of an artificial harbor of refuge on the Pacific coast at some point between the two points designated, it is not well to confine ourselves solely to the consideration of the coasting trade or the augmentation of the internal commerce of the Pacific States and Territories, but to examine it in the more comprehensive view as to what relation this portion of our seaboard sustains to the transoceanic and transcontinental commerce of the world. Until the people of this country had extended the area of their civilization and planted its banner on the shores of the Pacific, the commerce of Asia and the islands of the intervening ocean was not attracted toward the then uninviting western shores of the new continent. British statesmanship, then exercising its customary strategic influence and aggressive power in giving direction to and in obtaining control of the commerce of the world, had for centuries and ever since it had grasped the commerce of the East, which from the earliest period of the Christian era had been carried on by land from Western Asia to the shores of the Mediterranean, enriching the cities of Western Asia, Northern Africa, and Southern Europe, reaped golden harvests that annually flowed from these prolific sources of wealth.

The tracks of commerce did not then lie in the direction of our shores. The mighty magnets of civilized communities, of organized Territories, of dignified and influential States, of cultivated and prosperous cities, of energetic and ambitious populations, of productive mines, of prolific fields of agriculture, of pastoral wealth, of vineyards unsurpassed in beauty and fruitfulness, of industry, of enterprise—of all that is implied in the titular designation of empire in its most comprehensive sense and which now constitute the States and Territories of the far West—formidable, majestic, and wealthy rivals in commercial greatness of an equal number of any of the most enterprising and wealthy of the sisterhoods, did not then exist to attract to our western shores the merchants of the east and the west, and the ships of Europe and Asia and their dependencies. To-day it is different. No longer does the miner of the Pacific States and Territories send to Chili for bread to sustain life, or to France for wine to cheer the failing spirits, as he was compelled to and did do a quarter of a century ago; for California's export trade to-day is nearly forty millions, her wheat crop worth in value nearly forty millions, her wine crop reaching annually from 6,000,000 to 8,000,000 gallons, or more than double the whole wine crop of the United States in 1870, the total of which was then but 3,092,330 gallons, while the inward and outward tonnage of San Francisco alone is not less than 1,550,000 tons. In 1876 the inward foreign tonnage was 728,319 tons and the outward foreign tonnage 760,770 tons; while Oregon, surpassing in proportional productive capacity her more widely-known neighboring State, with her population of 160,000 souls, raises annually not less than 8,000,000 bushels of wheat, and exports annually an aggregate of over $100 to every man, woman, and child within its limits, these consisting of wheat, flour, wool, beef, fish, timber, lumber, furs, fruits, coal, and other products, including gold and silver bullion.

The ablest and most far-seeing statesman of a quarter of a century ago had not the faintest conception of the immense natural resources, the wonderful capabilities, the vital elements, the internal and external wealth, and commercial greatness and grandeur of the western shores of this continent. Daniel Webster, in speaking of California in this Chamber in 1850, (I quote from a recent work,) used this language:

I am sure that everybody has become satisfied that although California may have a very great seaboard and a large city or two, yet that the agricultural products of the whole surface now are not and never will be equal to one-half part of those of the State of Illinois, no, nor yet a fourth or perhaps a tenth part, no one will pretend to deny.

Yet, notwithstanding this prophetic declaration from the lips of one of the ablest, most far-seeing, and eminent statesmen this country has ever known, before twenty-four years had passed away California produced more wheat per annum by $2,191,280 in value than the State of Illinois, and more by $1,063,480 in value than any other State in the Union, while to-day its wheat crop exceeds in value that of the State of Illinois by more than $15,000,000; its barley crop is over four times that of Illinois; its wool crop double that of Illinois and greater than that of any other State in the Union except Ohio. But not only so; the Pacific States and Territories in 1877 exported about 40 per cent. of the total exports of wheat from the United States to foreign lands, perhaps not so much the past year owing to the drouth in California, and the day is not in the distant future when over one-half of all the wheat exported from the United States will be grown in the States of California and Oregon and Territory of Washington, while Oregon and Washington, I confidently predict, will produce over half of this amount, or one-fourth of our total exports. Although the Pacific belt, from Behring Strait to the thirty-third parallel of north latitude and from the Rocky Mountains to the Pacific Ocean, is the greatest gold and silver producing area of the world, producing annually over eighty millions of these precious metals, yet this annual product of this extended field, immense and princely in value as it is, is to-day dwarfed into comparative insignificance in commercial value and national importance by its annual contributions to the commerce of the world in the shape of grain, lumber, timber, fruits, wine, fish, wool, and kindred products.

In speaking of this subject the Chicago Journal of Commerce, in a recent editorial, makes this truthful statement:

When Oregon and Washington came into actual possession of our people, who even dreamed that they would become distinguished for the abundance of good qualities of their wheat fields? And yet ordinary men, attracted to the Pacific coast by the reports from its mines, its fish, and its game, but were disappointed in their expectations, retrieved their fortunes by sowing and reaping wheat and cultivating fruit. And now this immense coast is the wonder of all lands, for it pours into the lap of commerce grain, fruits, and fish beyond any other country known to man.

Yes, Mr. President, well may this influential patron and advocate of the nation's commerce speak of the Pacific coast in reference to its grain, its fruits, its fish as the "wonder of all lands," and of its contributions to the "lap of commerce" as being "beyond any other country known to man."

Well may it be said, in the apt and scriptural quotation of Professor Robert Ellis Thompson, of the University of Pennsylvania, in a recent article from his pen on our commercial future, that the great North Pacific coast is "a land where thou shalt eat bread without scarceness, thou shalt not lack any thing in it; a land whose stones are iron, and out of whose hills thou mayest dig brass." (Deut., viii, 9.)

But, again, hear what the San Francisco Journal of Commerce, located as it is in the midst of this mighty domain of unparalleled capabilities for productiveness, said two years ago. After speaking of the wheat-producing areas of the Pacific States and Territories, it uses the following language:

This Territory is thus capable of producing 2,500,000,000 bushels of wheat annually, worth, at the low rate of fifty cents, $1,250,000,000, or at seventy-five cents per bushel, or $1.25 per cental, $1,875,000,000. It would feed a population of 500,000,000, or something less than one-half the whole population of the earth at the present time—a population exceeding that of Europe and Africa, or Europe and America together, nearly twice that of British India, and greater, even, than the teeming population of the great empire of China.

After speaking further of the great fertility of the wheat-producing valleys of the Pacific Northwest, speaking of them as the peers of the celebrated valley of the Nile, which in ancient times supplied the world with bread, it proceeds as follows:

In days to come these valleys will do the same for the great world of India, China, and Japan, which, with their vast populations, are now opening up to our commerce and to Caucasian civilization. The populations of these vast regions are at present estimated as equaling 750,000,000 of people. By and by a large proportion of these, at least one-third, will become as accustomed to wheaten breads as are the urban populations of Europe to-day, and the sources of supply for them will naturally be the Pacific coast of the United States. California and Oregon are capable of producing 1,065,000,000 bushels of wheat yearly from their wheat lands, and this will supply over 200,000,000 of people. The wheat lands of the coast are extensive enough to supply a million farmers and their families with one-hundred-acre farms. Those of California are ample enough to locate a quarter of a

million farmers of Europe and the older States on small-sized farms of their own, while those of California and Oregon have room for 430,000. Reckoning in workmen and their families, the wheat lands of the coast can give employment in their cultivation to a population of 15,000,000; while taking into account tradesmen, manufacturers, merchants, &c., they can support in comfort and affluence not less than 35,000,000, or a population equal to that of France to-day, greater than of Italy or Great Britain, and almost equal to that of Germany, and those countries are the greatest and most powerful on the globe. In fine, the capacity of the coast as a wheat producer, and only on these lands which are immediately available for tillage, is equal to nine times the largest production of the whole United States in the best crop years recorded.

It is proper to remark in this connection that at the time the above was written, two years ago, the great extent and unparalleled capacity of the wheat-producing area of Oregon and Washington Territory were but partially known or understood. These mighty factors in external and internal commercial prosperity to which I have attracted attention, operating as they do through our foreign and coastwise trade, have transformed the waters of the Pacific Ocean between the strait of Fuca and San Francisco into one vast national highway, where pass and repass daily in scores the ships of all nations. Four regular steamship lines are now operating regularly the whole distance between San Francisco and Portland, Oregon, via the mouth of the Columbia River, one between Portland and Sitka, and one between San Francisco, the straits, and Puget Sound, to say nothing of the fleets of first-class sailers. According to official figures during the past twelve months an average of 3,150 persons passed each month by ocean steamers from San Francisco to Portland, Oregon, and an average of 1,166 each month from Portland to San Francisco, making a total average of 4,316 persons each month, or an aggregate of 51,792 souls, not including officers and crews of vessels, who have passed up and down this coast during the last year on *ocean steamers alone* as *through passengers* between those ports; while the trade of ports to the northward of San Francisco with the Sandwich and other Pacific Ocean islands, South America, Central America, China, and Japan is gradually growing into importance; while from the distant British Isles annually come in their long and perilous journey around Cape Horn and up the waters of the north Pacific to the Columbia River and Portland, Oregon, hundreds of the largest sailers, to carry from Oregon to Liverpool our surplus millions of the finest wheat of the continent. Will it be said, therefore, that Congress will not inquire into the conditions of the harbors of that coast, or that Government will refuse to enter upon a work so imperatively demanded by the true interests of commerce? While the Atlantic coast from the Bay of Fundy to Florida Keys, through the generous and just action of our Government, is lined with breakwaters, artificial harbors of refuge, light-houses, life-saving stations, and other aids to marine commerce and protection to life and property on the high seas, must the mariners, the shippers, the traveling public of the North Pacific Ocean for nearly two thousand miles of sea-coast be left to brave comparatively unaided the daily perils of what not unfrequently would seem to be a misnamed and treacherous Pacific?

From a personal experience of over thirty voyages between the ports of San Francisco and Portland I am able to speak with some degree of accuracy in reference not only to the commerce and its necessities but the perils also of this coast. I will only say in reference to these last that while they are no greater than those of ordinary ocean travel, and in fact much less than those of many other routes, they are, nevertheless, none the less, as some may suppose, from the fact that these are waters of an ocean called the Pacific. But no other weightier argument is needed than that conveyed in the lists of marine disasters I hold in my hand—disasters which have occurred on the Pacific Ocean on the coast line north of San Francisco since January 1, 1861, and which I ask to have incorporated in my remarks. These lists, aggregating as they do disasters to some four hundred and twenty-seven vessels, resulting in many instances in total loss, to say nothing of the loss of cargo and human life, speak in tones more convincing than any mere words of mine, not only of the extent of the shipping in these waters, but of the present need of governmental aid for this shipping.

The first of these lists that contains a statement of the disasters between January 1, 1861, and December 31, 1869, was obtained from custom-house statistics in San Francisco, and furnished by Captain William Tichenor, of Oregon, to the Alta of that city, and published in that paper in its issue of March 10, 1873. The other, containing statement of disasters from January 1, 1870, to the present time, has been furnished me by S. I. Kimball, esq., general superintendent of the United States life-saving service of the Treasury Department, and is authentic:

Maritime disasters north of San Francisco from January 1, 1861, to December 31, 1869.

Date.	Name.	Place.	Amount.	Remarks.
1861.				
Jan	Bark Acadia	Trinidad, stranded	$5,000	Total loss.
May ...	Ship Sea Nymph	Point Reyes, stranded	300,000	Total loss.
May ...	Brig Woodpecker	Columbia River Bar, stranded	30,000	Total loss.
June ...	Ship Lawson	Off Puget Sound, fire	60,000	Total loss.
July ...	Schooner Shooting Star	Off Bodega, capsized	3,650	
Sept ...	Brig Persevere	Off Cape Flattery, foundered	48,000	Total loss.
Oct	Schooner Anglo-American	Off Tomales, stranded	4,500	
Oct	Bark Hartford	Humboldt Bar, deck swept	1,000	
Oct	Schooner Marin	Tomales, stranded	3,500	Total loss.
Oct	Schooner European	Bodega, stranded	1,000	
Nov	Schooner Gina Reed	Stewart's Point, stranded	4,800	Total loss.
Nov	Brig Nellie Merrill	Puget Sound, stranded	3,000	
Nov	Schooner Bianca	North coast, stranded	2,000	Total loss.
Dec	Schooner Queen of the Isles	North Pacific, missing	8,000	Total loss of vessel and crew.
1862.				
Jan	Schooner T. H. Allen	Humboldt Bar	6,000	Total loss.
Jan	Schooner Kaluna	Humboldt Bar	6,000	
Jan	Schooner Sparkling Wave	Between San Francisco and Shoalwater Bay	5,000	Missing; total loss.
Jan	Ship Bald Eagle	Between Hong-Kong and San Francisco	300,000	Missing; total loss.
Jan	Ship Dictator	Between Hong-Kong and San Francisco, heavy weather	30,708	
Jan	Schooner Rosalie	Point Arenas, stranded	1,000	Total loss.
Feb	Bark Anna Barnard	Cape Flattery, stranded	4,500	Total loss.
March..	Schooner Ella Josephine	Between San Francisco and Humboldt	4,500	Missing, total loss.
April ..	Schooner Tongawanda	Capsized 12 miles north of San Francisco Heads	7,200	Total loss.
Sept ..	Schooner Pride of the West	Struck on Umpqua Bar	500	
Oct	Schooner Florence E. Walton	Stranded near Rogue River	742	
Nov	Brig Shanghai	North Pacific, heavy weather	1,000	
Nov	Schooner S. F. Blunt	Waterlogged off Albion River	700	
Nov	Schooner Monterey	Point Reyes, stranded	7,000	Total loss.
Nov	Brig Lopud	Between Puget Sound and San Francisco, leaky	346	
Dec	Schooner Sovereign	Navarro River, stranded	3,000	
Dec	Schooner C. W. Gunnel	Point Arenas, stranded	4,500	Total loss.
Dec	Schooner H. T. Clay	Noyo River, stranded	5,250	Total loss.
Dec	Steamer Sierra Nevada	Between Columbia River and Victoria, hurricane	600	
1863.				
Feb	Schooner J. R. Whiting	Mendocino, stranded	7,500	
Feb	Schooner Alcyone	Noyo River, capsized	6,000	Total loss.
Feb	Schooner Far West	Russian River, stranded	500	
Feb	Brig Quoddy Belle	Navarro River, stranded	3,000	Total loss.
April...	Schooner Union Forever	Big River, stranded	8,000	
April...	Schooner Josephine Willcutt	Noyo River, stranded	3,000	
April...	Schooner Francis Helen	Noyo River, stranded	5,000	
April...	Schooner J. E. Murdock	Noyo River, stranded	1,500	
Nov	Schooner Frances Helen	Bell's Creek, drifted ashore	12,000	Total loss.
Dec	Schooner Pride of the West	Rogue River, stranded	3,500	
May	Schooner Eagle	Russian River, stranded	4,000	Total loss.
May ..	Schooner Galveston	Mendocino, stranded	10,000	Total loss.
June...	Schooner Brilliant	Off Mendocino, dismasted	1,800	
Nov	Schooner Mendocino	Between San Francisco and Mendocino, sails carried away	1,000	
Jan	Brig Eolus	Struck on Humboldt Bar	10,000	
Nov	Schooner Dashaway	Capsized off Humboldt	40,000	Total loss.
Sept...	Steam Corvette Novick	Wrecked on Point Reyes	30,000	Total loss.
1864.				
June...	Ship Winged Arrow	North Pacific, dismasted	8,910	
June...	Ship Yolo	Swamped off Point Reyes	1,000	
Nov ..	Bark Ork	Lost at Umpqua River	6,000	

Maritime disasters north of San Francisco from January 1, 1861, to December 31, 1869—Continued.

Date.	Name.	Place.	Amount.	Remarks.
1864.				
Dec ...	Schooner J. M. Chapman	Between Shoalwater Bay and San Francisco, foundered	$9,500	Missing.
Feb....	Brig Energy	Lost, Coos Bay	10,000	
Oct ...	Schooner Cornelia Terry	Lost, Yaquina Bay	3,500	
Dec...	Brig Blanco	Siletz River, foundered	15,000	Total loss, passengers and crew.
Nov....	Bark Hartford	Humboldt Bar, lost	2,000	
April...	Bark Ocean Bird	Coast of Oregon, capsized	9,000	
July ...	Ship E. Bulkely	Point Arenas, stranded	24,500	Total loss.
Dec ...	Barkantine Constitution	Between Puget Sound and San Francisco, heavy weather	3,000	
Dec ...	Bark Mallory	Neah Bay, stranded	6,000	
Dec ...	Brig Sheet Anchor	Between Puget Sound and San Francisco, shifted cargo	500	
Dec ...	Bark Iwanowna	Off Cape Flattery, foundered	11,800	
Dec ...	Ship Caroline Reed	Between Bellingham Bay and San Francisco, heavy weather	5,000	
Dec....	Bark George Washington	Between Puget Sound and San Francisco, heavy weather	1,500	
Nov	Bark Leonora	Between Puget Sound and San Francisco, heavy weather	500	
Aug....	Bark Victor	Between Puget Sound and San Francisco, heavy weather	10,000	
1865.				
Nov	Schooner Sarah Louise	Thirty miles north of San Francisco, stranded	1,000	
Feb....	Schooner J. K. F. Mansfield	Between Mendocino and San Francisco, heavy weather	600	
March .	Schooner Ann G. Doyle	Yaquina Bay, wrecked	5,000	Total loss.
Sept ...	Schooner Leah	Natard Bay, stranded	1,661	
Nov ..	Schooner Golden State	Mendocino, wrecked	6,000	Total loss.
Nov	Schooner J. R. Whiting	Albion River	7,500	Total loss.
Nov	Schooner Metis	Caspar Creek, wrecked	7,000	Total loss.
Nov	Schooner Storm Cloud	Between Mendocino and San Francisco, wrecked	13,000	Total loss.
Nov....	Schooner Albion	For Albion River, from San Francisco	13,000	Missing.
Nov....	Schooner Lizzie Wild	For Umpqua, wrecked at sea	7,000	
Nov....	Schooner Helen	Point Arenas, wrecked	12,000	Total loss.
Nov....	Schooner Phœbe Fay	Little River, stranded	2,500	
Nov....	Schooner Don Leandro	Little River, stranded	500	
Dec....	Schooner J. K. F. Mansfield	For Noyo River	5,000	Missing.
Dec....	Schooner European	For Timber Cove	5,000	Missing.
Dec....	Bark Monitor	Humboldt Bar	1,228	
March..	Bark Industry	Columbia River Bar, wrecked	75,000	Total loss.
July...	Steamer Brother Jonathan	Near Saint George's Point, wrecked	250,000	Total loss.
Feb....	Ship Amethyst	Between Bellingham Bay and San Francisco, heavy weather	2,000	
June...	Bark Jennie Pitts	Skaget Head, stranded	27,742	
Nov	Ship Dublin	Between Nanaimo and San Francisco, heavy weather	7,000	
Nov	Brig Barclay	Port Discovery to San Francisco, dismasted	7,867	
Nov	Ship Amethyst	Bellingham Bay to San Francisco, heavy weather	1,600	
Nov	Bark Dictator	Puget Sound to San Francisco, capsized	21,000	Total loss.
Dec....	Bark Vidette	Puget Sound to San Francisco, heavy weather	4,806	
Dec....	Bark Milan	Puget Sound to San Francisco, heavy weather	1,000	
Dec....	Bark Scotland	Puget Sound to San Francisco, heavy weather	5,000	
Jan....	Ship Elizabeth Kimball	Trial Island, went ashore	18,147	
Dec....	Bark Domingo	San Francisco to Victoria, heavy weather	3,500	
Dec....	Ship William Tell	Strait of Fuca, wrecked	40,000	Total loss.
1866.				
Nov....	Schooner Union Forever	Trinidad, wrecked	12,000	Total loss.
Dec....	Schooner Brilliant	Albion River	1,500	
March .	Schooner W. F. Bowne	Umpqua Bar	3,196	
April ..	Schooner Pet	Stewart's Point, wrecked	7,000	Total loss.
April ..	Schooner Ann C. Anderson	San Francisco and Shoalwater Bay, foundered	4,000	Missing.
July¢...	Schooner C. P. Huestes	Albion River, heavy weather	500	
Aug	Schooner Coquette	Off Bodega, capsized	2,500	
Sept	Schooner Pacific	San Francisco to Umpqua, heavy weather	2,812	
Oct	Brig Perpetua	Coos Bay, wrecked	15,000	Total loss.
Oct	Schooner Glenarm	Albion River, stranded	4,255	
Oct	Barkentine Sue Merrill	Noyo River, wrecked	16,000	
Oct	Schooner Sarah	San Francisco to Victoria, heavy weather	1,000	
Oct	Schooner Hannah Louise	San Francisco to Mendocino, heavy weather	1,800	
July ...	Bark Harvest Queen	Humboldt Bar	940	
Jan	Bark Monitor	Humboldt Bar	1,228	
Dec....	Schooner Toando	Capsized north of San Francisco	9,500	
Feb....	Bark Oak Hill	Puget Sound to San Francisco, heavy weather	12,722	
Feb....	Bark Ella Francis	Puget Sound to San Francisco, abandoned at sea	12,700	
Nov	Steamer Transport	Vancouver's Island	12,000	
Nov	Bark Delaware	Nanaimo to San Francisco, heavy weather	887	
Dec....	Ship Caroline Reed	Puget Sound to San Francisco, heavy weather	956	
Dec....	Ship Nicolas Biddle	Nanaimo to San Francisco, heavy weather	7,390	
Dec....	Bark Adelaide Cooper	Puget Sound to San Francisco, heavy weather	9,615	
Dec....	Bark Washington	Puget Sound to San Francisco, heavy weather	12,000	
Dec....	Bark Almatia	Puget Sound to San Francisco, heavy weather	7,436	
Feb....	Bark Mustang	Vancouver's Island, wrecked	25,000	
April ..	Steamer Labouchere	Sunk off Point Reyes	160,000	
Dec....	Brig Deacon	San Francisco to Puget Sound, dismasted	8,010	
Sept ...	Schooner Pride of the West	San Francisco to North Pacific	15,000	Missing.
1867.				
Jan	Schooner Two Brothers	Stove	1,205	Repaired.
March .	Schooner Pacific	Bulged on Umpqua Bar	2,800	Repaired.
May ...	American schooner Flying Mist	Water-logged	2,000	Total loss.
July ...	American schooner Two Brothers	Stewart's Point, damaged	902	Repaired.
Sept ...	American steamer Shubrick	Stranded at Cape Mendocino	75,000	
Dec....	American schooner Kaluna	From Noyo, capsized at sea	10,000	Abandoned at sea.
April ..	American schooner Sine Johnson	For Navarro	5,000	Stranded and repaired.
April ..	American schooner Mendocino	Wrecked at Mendocino	10,000	Total loss.
April ..	American schooner Josephine Willcut	Wrecked at Mendocino	8,000	Total loss.
May ...	American schooner Noyo	Struck Umpqua Bar and burned at Coos Bay	60,000	Total loss.
Sept ...	American schooner Flying Mist	Wrecked at Bowen's Landing	5,000	Total loss.
Dec....	American schooner A. J. Wester	For Cape Mendocino	6,000	Never heard from.
Dec....	American schooner Eliza Walker	For Cape Mendocino	7,000	Never heard from.
Dec....	American schooner Enterprise	For Trinidad	6,178	Damaged in gale and repaired.
April ..	American bark Nahumkeag	Wrecked at Drake's Bay	11,500	Total loss.
May ...	American bark W. B. Scranton	Wrecked on Columbia River Bar	225,000	Total loss.
	American bark Nicholas Biddle	Wrecked in strait of Fuca	32,000	Repaired in Puget Sound
	American bark G. Washington	Wrecked in strait of Fuca	10,000	Total loss.
Sept ...	American bark Lizzie Boggs	Wrecked near Cape Flattery	12,000	Total loss.
Jan....	British ship Vertigew	From Puget Sound to Auckland, ran for Victoria, condemned	50,000	Vessel and cargo sold.
1868.				
Jan....	American schooner Hannah B. Bourne	Stranded at Bodega	3,250	Got off and repaired.
Jan....	American schooner Morning Light	Foundered at sea	4,000	Total loss with cargo.
Jan....	American schooner Sarah	Capsized off Bodega	1,500	Recovered and repaired.
Jan....	American sloop Malvina	Capsized off Bolinas	800	Recovered and repaired.
Feb....	American schooner Golden Rule	Stranded at Navarro	1,500	Got off and repaired.
Feb....	American schooner S. F. Blunt	From Noyo, stranded at Drake's Bay	3,000	Got off and repaired.

Maritime disasters north of San Francisco from January 1, 1861, to December 31, 1869—Continued.

Date.	Name.	Place.	Amount.	Remarks.
1868.				
Feb....	American schooner Ada May	From Albion, stranded at Noyo	$750	Got off and repaired.
June...	American brig Commodore	Struck Coos Bay Bar, sprung leak	4,278	Repaired, San Francisco.
Nov....	American schooner Ella Florence	Wrecked at Mendocino	5,500	Got off and repaired.
Dec....	American schooner Sine Johnson	Stranded at Albion	2,500	Got off and repaired.
Dec....	American schooner C. P. Huestes	Capsized at sea and drifted ashore at Noyo	6,000	Total loss of vessel and cargo.
Dec....	American schooner Henrietta	Wrecked at Tomales	4,000	Total loss of vessel and cargo.
Feb..	American brig Sheet Anchor	Wrecked at Coos Bay	7,313	Got off after six months' detention and repaired.
Feb...	American brig Hugh Barclay	Wrecked at Umpqua	12,000	Total loss.
Feb...	American schooner Anna Beck	For Noyo, damaged in gale	750	Returned to San Francisco for repairs.
March	American schooner Columbia	Wrecked at Cuffey's Cove in gale	5,000	Total loss.
March	American schooner Sarah	Stranded at Noyo	1,750	Got off and repaired.
April	American schooner B. H. Ramsdell	Bound for Mendocino, lost foremast-head	500	
May...	American schooner S. F. Blunt	Wrecked at Point Arenas	3,000	Total loss.
Sept...	American schooner J. A. Burr	Sunk at sea, off Russian River	2,500	Total loss.
Oct....	American bark D. M. Hall	Wrecked at Coos Bay	9,000	Total loss.
Sept...	American bark Ocean	Wrecked in Dungeness	8,000	Total loss.
July...	American schooner Louisa Downs	Wrecked on northwest coast	5,000	Total loss.
Oct....	Italian bark Palestro	For Puget Sound, injured in gale, ran to San Francisco, condemned.	15,000	
Nov....	American bark Mary	From Puget Sound, injured in gale	1,200	Repaired.
Dec....	American 3-m. schooner Forest King	From Puget Sound to Honolulu, damaged in gale	1,160	Repaired in San Francisco.
Dec....	Gautemalan ship Clarissa	From Puget Sound to Valparaiso, damaged in gale	8,766	Repaired in San Francisco.
1869.				
Jan....	American schooner T. S King	Stranded in Albion River	14,100	Got off and repaired.
Jan....	American schooner Don Leandro	Stranded at Point Arenas	1,500	Got off and repaired.
Feb....	American schooner West Evans	Stranded Cuffey's Cove	5,962	Got off and repaired.
April..	American schooner A. J. Mouje	Wrecked at Bowen's Landing	5,000	Total loss.
April..	American schooner Amazon	Stranded Point Arenas	2,870	Raised and repaired.
Aug....	American schooner Costa Sacramento	Capsized off Point Reyes	1,500	Saved.
Sept...	American schooner Louisa Simpson	Struck Yaquina Bar	1,500	Put in Albion.
Sept...	American schooner Twin Sisters	Wrecked at Coquille	5,600	Saved.
Nov....	American schooner J. J. Fransen	Wrecked at Noyo	12,000	Total loss.
Dec....	American schooner Alaska	Wrecked at Coquille	5,000	Total loss.
Dec....	American brig Ida D. Rodgers	Wrecked off Coos Bay	12,000	Total loss.
Dec....	American schooner Ajax	Wrecked Point Arenas	8,500	Total loss.
Nov....	American schooner Sovereign	Stranded Bowen's Landing	2,000	Got off and repaired.
Dec....	American schooner Haze	Stranded Bodega	2,500	Got off, water-logged, and repaired.
Dec....	American schooner Ostego	Damaged off Bodega	1,200	Repaired.
Feb....	American bark Harvest Queen	Off Cape Mendocino, foundered	13,000	Never heard from.
Nov....	American bark Kutustoff	From Bellingham Bay, foundered	14,800	Never heard from.
Nov....	American bark W. A. Banks	Wrecked strait of Fuca	6,000	Total loss.
Dec....	American schooner Ward J. Parks	Stranded strait of Fuca	3,827	Got off.
June...	American schooner Lizzie	For Sitka, damaged in gale	1,500	Repaired in San Francisco.
Feb...	British ship John Bright	From Puget Sound to Coquimbo, wrecked at Vancouver's Island.	15,000	Total loss.
Nov..	American bark M. J. Smith	From Puget Sound to Australia, wrecked at Vancouver's Island.	21,000	Total loss.
Dec....	British bark Ruby	From Puget Sound to New Zealand, wrecked at Vancouver's Island.	22,500	Total loss.
Dec....	American bark Vernon	From Puget Sound to Honolulu, foundered	10,000	All perished.

Maritime disasters north of San Francisco from January 1, 1870, to June 30, 1878.

Date.	Name of vessel.	Place of disaster.	Estimated loss.	Remarks.
1870.				
Feb....	American bark Charles Devins	Coos Bay to San Francisco, parted hawser while in tow, went ashore and sunk.	$5,000	Partial loss.
May...	American brig Occident	San Francisco to Coos Bay	15,000	Total loss.
June...	American steamer Active	Dragged ashore at Cape Blanco	.....	Total loss.
June...	American schooner Bunkalation	Stranded at Cape Blanco	7,000	Total loss.
Oct....	American schooner Alice	San Francisco to Behring Strait	.....	Total loss.
Nov....	American schooner Wild Pigeon	Went ashore at Stewart's Point	.....	Total loss.
Nov....	American schooner Idaho	Alaska to San Francisco	.....	Never heard from; 8 lives lost.
Nov....	American schooner Florence	Driven ashore at Casper Creek	.....	Total loss.
Dec....	American schooner Norwester	Stranded in Clarence Straits	.....	Total loss.
Dec....	American schooner Alice Haake	Humboldt Bar	.....	Partial loss.
Dec....	American schooner Potter	San Francisco to Arctic Ocean	.....	Never heard from.
1871.				
Jan....	American bark Massachusetts	San Francisco to Scammon's Lagoon	.....	Total loss.
Jan....	American bark Forest King	Run on Beach at Barclay Sound	.....	Total loss.
Jan....	American ship B. Aymer	Burrard's Inlet to Australia	.....	Lost at sea.
Feb....	American schooner Kate Piper	Driven ashore at Stewart's Point in a gale	.....	Partial loss; repaired.
Feb....	American schooner William	Stranded at Stewart's Point in a gale	.....	Total loss.
Feb....	American schooner Anna	Point Reyes, damaged in storm	.....	Repaired.
Feb....	American schooner Francis	Point Reyes, damaged in storm	.....	Repaired.
Feb....	American schooner Lizzie Derby	Off Stewart's Point, damaged	.....	Returned to San Francisco for repairs.
Feb....	American schooner Fannie A. Hyde	Off Stewart's Point, damaged	.....	Returned to San Francisco for repairs.
Feb....	American schooner George Hinrich	Went ashore at Stewart's Point	.....	Total loss.
Feb....	American schooner Huichica	Stranded at Stewart's Point	.....	
Feb....	American schooner J. H. Roscoe	Alaska coast, stranded	.....	Got off and repaired.
Feb....	American schooner Fanny Piper	Stranded in a gale at Stewart's Point	.....	Total loss.
Feb....	American schooner Tolo	Stranded at mouth of Casper Creek	.....	Damaged, and 2 lives lost.
March	American schooner William F. Bowne	Stranded at mouth of Casper Creek	.....	Total loss.
April..	American schooner Margaret Crockard	Capsized at Coos Bay Bar	3,000	Repaired in San Francisco.
April	American schooner Golden Rule	Stranded at Bowen's Landing	.....	Disabled, and towed to San Francisco.
May....	American schooner Mary Cleveland	Stranded at Stillwater Cove	.....	Towed to San Francisco and repaired.
May....	American schooner Clara L. West	Cook's Inlet	.....	Total loss.
June...	American schooner Brilliant	Stranded at Cape Mendocino	.....	Total loss.
July....	American bark Washington	Stranded at Cook's Inlet	.....	Total loss.
Oct....	American bark Whistler	San Francisco to Portland	.....	Partial loss.
Nov....	American brig Crimea	San Francisco to Trinidad, California	.....	Returned to San Francisco for repairs.
Nov....	American schooner Vanderbilt	San Francisco to Stewart's Point	.....	Partial loss.
Nov....	American schooner Skylark	San Francisco to Stewart's Point	.....	Partial loss.
Nov....	American barkantine Hattie C. Bessie	Near Cape Flattery; parted chains and drove ashore	40,000	Total loss.
Nov....	American bark Live Yankee	Portland to San Francisco	.....	Never heard from.

Maritime disasters north of San Francisco from January 1, 1870, to June 30, 1878—Continued.

Date.	Name of vessel.	Place of disaster.	Estimated loss.	Remarks.
1871.				
Nov ...	American schooner Amanda Ager	Humboldt to San Francisco		Never heard from.
Dec....	American brig Kitty Coburn	Between Burrard's Inlet and San Francisco		Partial damage.
Dec....	American ship Windward	Off Columbia River		Cut away masts to save ship.
Dec....	American bark Shooting Star	San Francisco to Nanaimo; stranded		Got off and returned to San Francisco for repairs.
Dec....	American schooner Liberty	Stranded at Timber Cove		
	American schooner Alaska	Mouth of Coquille River	$2,500	Partial loss.
	American steamer Commodore	Wrecked off Coquille River	4,000	Total loss.
	American steamer U. S. Grant	Driven ashore at mouth of Columbia River		Total loss.
	American ship Helen Foster	Neah Bay		Partial loss.
	American bark Mallory	Neah Bay		Partial loss.
	German ship Cornelia	Howe's Sound		Partial loss.
	American sloop Decatur	Off Washington Territory		Total loss.
1872.				
Jan....	American schooner Starr King	San Francisco to Coos Bay	15,000	Never heard from.
Feb....	American schooner Fanny Jane	Stranded off Navarro River		Total loss.
Feb....	American schooner Ella Florence	Broke from moorings at Mendocino		Total loss.
Feb....	American schooner Meldon	Stranded in Cuffey's Cove		Repaired and launched.
Feb....	American schooner Therese	Dragged ashore at Point Arenas		Got off and repaired.
Feb....	American schooner B. F. Lee	Dragged ashore at Point Arenas		Got off and repaired.
Feb....	American schooner West Evans	Dragged ashore at Point Arenas		Rebuilt.
Feb....	American schooner Emilie Schroder	Dragged ashore at Point Arenas		Got off and repaired.
March .	British bark Speedwell	Dragged ashore at Point Arenas		Total loss; part of cargo saved.
April ..	American schooner Elnora	Newport, Oregon		Partial loss.
April ..	American schooner C. A. Drew	Off Albion River		Partial loss.
April ..	American schooner Hannah Louise	Wrecked off Russian Gulch		Total loss.
May	American schooner D. S. Williams	Between Humboldt and San Francisco		Repaired at San Francisco.
May	American schooner W. H. Meyer	Puget Sound, stranded		Partial loss.
June....	American steamer California	Damaged on passage from Victoria to Portland, Oregon		Taken to San Francisco for repairs.
June....	American steamer Idaho	San Francisco to Puget Sound		Partial loss.
Aug	American schooner Energy	Coos Bay to San Francisco		Dismasted.
Oct	American schooner Walter Raleigh	Capsized and drifted ashore near Cape Flattery		All lost.
Nov....	American bark Chris. Mitchell	Sprang a leak at Port Madison		Repaired at San Francisco.
Nov....	American ship Coquimbo	Sprang a leak at Port Madison		Repaired at San Francisco.
Nov....	Italian ship Firenza	From Port Discovery		Put into San Francisco for repairs.
Dec....	American barkantine Fremont	San Francisco to Oonalarka		Disabled.
Dec....	American steamer George S. Wright	Sitka to Portland		Never heard from; 33 lives lost.
	American schooner Amethyst	San Francisco to Port Townsend		Partial loss.
	American bark Almetra	Buzzard Inlet to Australia		Partial loss.
	American schooner Meldon	San Francisco to Umpqua	10,000	Total loss with all on board.
	American schooner Emma Adelia	Off Bodega, capsized		Vessel and one man lost.
1873.				
Jan....	American schooner Wm. Mighel	San Francisco to Tomales		One man lost.
Jan....	American schooner Sovereign	Off Russian River, California		Total loss.
Feb....	American schooner Mary Cleveland	San Francisco to Point Arenas, stranded		Returned to San Francisco for repairs.
April ..	American schooner Light Wing	Stranded at Salmon Creek		Total wreck.
June....	American schooner Enterprise	Stranded at mouth of Umpqua Bay	10,000	
Oct	American schooner Nellie Edes	Struck reef in Cook's Inlet		Disabled.
Oct	American schooner William Ireland	Stranded on Orenga Island in a gale	6,000	Total loss.
Oct	American steamer Fearless	Stranded in Coos Bay	8,000	Total loss.
Oct	American schooner Bobolink	Stranded at mouth of Umpqua River	14,000	Total loss.
Nov....	American schooner Pinol	Stranded at Stewart's Point	3,500	Total loss.
Nov....	American schooner John Hunter	Stranded at Yaquina Bay	10,000	Total loss.
Dec....	American schooner Mary Hare	San Francisco to Humboldt, capsized	8,000	Total loss; 6 lives lost.
Dec....	American schooner Ann M. Iverson	Drove ashore at Point Arenas	5,000	Total loss.
Dec....	American schooner Elida	Coos Bay to San Francisco, capsized in a storm	16,000	Total loss; 15 lives lost.
Dec....	American sloop Artful Dodger	Stranded at Protection Island		Total loss.
Dec....	Amerian sloop N. L. Tibbals	Stranded in Puget Sound		Total loss.
Dec....	American sloop True Blue	Port Townsend to La Conner		Total loss.
Dec....	American schooner Forest King	Stranded on Vancouver's Island		Total loss.
Dec....	British bark Rosedale	Stranded on Vancouver's Island		Partial loss.
Dec....	British bark Fanny	Stranded on Discovery Island		Total loss.
1874.				
Jan....	American ship Panther	Nanaimo to San Francisco, lost in snow storm at Navarro Reef	39,000	Total loss.
Jan....	American schooner Laura May	Stranded nine miles north of Coos Bay	14,000	Total loss.
Jan....	American steamer Diana	Off Cape Flattery, disabled, drove ashore, and broke up	10,000	Total loss.
Feb....	Amerian steamer North Pacific	Stranded in gale in strait of Fuca	4,000	Partial loss.
Feb....	American schooner H. Caroline	Wrecked at Tomales	1,175	Total loss.
March .	French brig Sidé	Wrecked at Sand Island, mouth of Columbia River	52,000	Total loss.
March .	American schooner J. Mora Moss	Capsized in a heavy squall off Stewart's Point	4,000	Total loss; 1 man lost.
March .	American bark Chris. Mitchell	Wrecked at Dungeness	6,875	Total loss.
March .	American schooner Margaret	Sitka to San Juan Island, wrecked in a heavy gale		Total loss.
April ..	American ship James Cheston	San Francisco to Nanaimo	8,000	Partial loss.
May	American steamer Eastport	Stranded near Humboldt	4,500	Partial loss.
June....	British ship Prince Alfred	Stranded on Duxbury Reef	120,000	Total loss.
July	British ship Warrior Queen	Stranded north of Point Reyes	40,000	Total loss.
Aug....	American schooner J. E. Haskins	Capsized off Point Reyes	2,500	Total loss.
Oct....	American bark Shooting Star	Nanaimo to San Francisco		Partial loss.
Nov	American schooner Sine Johnson	San Francisco to Point Arenas	6,000	Total loss.
Nov	American schooner Emily A. Farnham	San Francisco to Crescent City	12,000	Never heard from; 11 lives lost.
1875.				
Jan....	American schooner Osceola	Dragged ashore at Fort Ross	1,500	Partial loss.
Jan....	American schooner Northwester	Stranded on Rogue River Bar	7,500	Total loss.
Jan....	American schooner Ellen Adelia	Stranded in heavy gale at Crescent City	3,500	Partial loss.
Jan....	American schooner Barbara	Driven on shore south of Kodiak		Total loss.
Feb....	American steamer Los Angeles	Off Tillamook Head, Oregon	10,000	Partial loss.
Feb	American schooner Venus	Dragged ashore in heavy gale at Point Arenas	8,000	Partial loss.
March .	American bark Architect	Dragged ashore at mouth Columbia River	8,000	Total loss.
March .	American schooner Ontario	Stranded in heavy gale at San Juan, strait of Fuca	1,000	Total loss.
April ..	American steamer Eastport	Stranded at Duxbury Reef	20,000	Partial loss.
May	American bark Union	Stranded at Clark's Island, Washington Sound	12,000	Total loss; 1 life lost.
May	American schooner Glenarm	San Francisco to Russian River; stranded in heavy sea	8,500	Total loss.
May	American schooner Orient	Stranded on Shoalwater Bay Bar	5,000	Partial loss.
June....	American steamship Ajax	Stranded near Astoria	1,500	Partial loss.
June....	British bark Forward	Stranded near Astoria		Partial loss.
July....	American sloop Lizzie Brown	Stranded mouth of Columbia River	150	Partial loss.
July....	American schooner Silas Coombs	Driven ashore at Little River	16,000	Total loss.
July....	American bark Clara R. Sutil	Struck by heavy sea on passage from San Francisco to Coos Bay	1,800	Total loss.
July....	American schooner Eastport	Stranded near Point Arenas	64,000	Total loss; 3 lives lost.
Sept	American schooner Sitka	Wrecked in gale at Wrangel, Alaska	1,050	Total loss.
Oct	American brig Willimantic	Foundered in heavy gale near Humboldt Bay	10,000	Total loss; 8 lives lost.
Nov....	American schooner Bud	Caprian Island, stranded in a gale	3,000	Total loss.

Maritime disasters north of San Francisco from January 1, 1870, to June 30, 1878—Continued.

Date.	Name of vessel.	Place of disaster.	Estimated loss.	Remarks.
1875.				
Nov....	American steamer Pacific	Collision with the American ship Orpheus, thirty miles southwest of Cape Flattery.	$100,000	Total loss; 236 lives lost.
Nov....	American ship Orpheus	Barclay Sound, British Columbia, stranded	40,000	Total loss.
Nov....	American schooner W. S. Phelps	San Francisco to Shoalwater Bay, stranded in a tornado	3,000	Partial loss.
Nov....	American ship Emily Farnham	Stranded at Destruction Island	25,000	Total loss; 2 lives lost.
Nov....	American steamer Gussie Telfair	Stranded near mouth Columbia River	6,000	Partial loss.
Nov....	American schooner Meta Bend	Stranded mouth Rogue River	7,000	Total loss.
Nov....	American bark David Hoadly	Lost part of cargo in heavy gale off Columbia River	450	Partial loss.
Nov....	American bark Florence	Abandoned twenty miles south of Umpqua River	8,000	Total loss; 9 lives lost.
Nov....	American schooner Sunshine	Ten miles north of Cape Foulweather, capsized and drifted ashore.	45,000	Total loss; 20 lives lost.
Nov....	American ship Coquimbo	Stranded at Point Wilson on passage from Port Madison to San Francisco.	3,000	Partial loss.
Dec....	American steamer Los Angeles	Broke engine in heavy gale south of Columbia River	.....	One life lost.
Dec....	American bark Oak Hill	Port Blakely to San Francisco	5,000	Partial loss.
Dec....	American schooner Sparrow	Stranded at mouth of Umpqua River	.....	Partial loss.
Dec....	American bark Powhatan	At sea off Cape Foulweather, heavy weather	200	Partial loss.
1876.				
Jan....	American bark Rival	Stranded at mouth Columbia River	200	Partial loss.
Jan....	American schooner Kate L. Heron	From Tillamook, dragged ashore at Smith's Point	200	Partial loss.
Jan....	American schooner Carolita	Stranded at Fisk's Mill	16,000	Total loss.
Jan....	American schooner Harriet Rowe	Stranded at Port Orford	8,000	Total loss.
Feb....	American schooner Uncle Sam	Wrecked off Cape Foulweather	14,000	Total loss; 6 lives lost.
Feb....	American schooner Susie	Stranded at Stewart's Point	5,800	Total loss.
Feb....	American bark Iconium	Southwest of Cape Flattery	2,000	Partial loss.
April..	American schooner Caroline Medan	Stranded at Yaquina Bar	8,200	Total loss.
April..	American schooner Albert and Edward	Capsized at Humboldt Bar	11,750	Total loss; 5 lives lost.
May....	American schooner Jas. Townsend	Off Bodega, in rough sea	5,500	Partial loss.
June....	American schooner Bill the Butcher	Collided off Bowen's Landing	3,200	Partial loss.
June....	American steamer Panama			
Aug....	American schooner Undaunted	Stranded at Bowen's Landing	4,000	Partial loss.
Aug....	British ship Buckinghamshire	Stranded near Columbia River Bar	2,500	Partial loss.
Sept....	American schooner Geo. P. Haub	Stranded at Point Reyes	110	Partial loss.
Oct....	American brig Perpetua	Coos Bay to San Francisco, foundered at sea off Cape Gregory	17,000	Total loss; 4 lives lost.
Oct....	American schooner Fideliter	Dragged ashore at Cuffey's Cove	30,000	Total loss.
Nov....	American schooner Fairy Queen	Off Mendocino, sprung a leak	150	Partial loss.
Nov....	American steamer Pelican	Off Cape Mendocino	1,750	Partial loss.
Nov....	American bark Gem of the Ocean	At sea, on passage from San Francisco to Seattle	150	Partial loss.
Jan....	American ship Commodore	Stranded at Cape Flattery	20,000	Total loss.
Jan....	American bark Oak Hill	Stranded in thick weather at North Point Shoal, Wash. T	100	Partial loss.
Feb....	American schooner Artful Dodger	Stranded at Bowen's Landing in heavy sea	4,300	Total loss.
Feb....	American schooner Ida Schnauer	Dragged ashore in gale at Dungeness	150	Partial loss.
Feb....	American schooner Sparkling Sea	San Francisco to Coos Bay	600	Partial loss.
April..	American schooner Morning Star	Sprung a leak, water-logged, and capsized southwest of Point Reyes.	12,175	Total loss; 1 life lost.
April..	American schooner Lizzie	Stranded at Yaquina Bar	3,500	Total loss.
April..	American Schooner Mose	San Francisco to Coquille River; gale and heavy sea	600	Partial loss.
June....	American ship Washington Libby	Seattle Harbor; accidental	4,000	Partial loss.
June....	American bark Cambridge	Capsized fifteen miles southwest of Cape Flattery Rocks	11,000	Total loss; 1 life lost.
Aug....	American bark Modoc	Stranded in strait of Fuca	1,500	Partial loss.
1877.				
Sept....	American schooner American Girl	Stranded at Duxbury Reef	1,200	Partial loss.
Oct....	American schooner C. H. Merithew	Collided off Bowen's Landing	1,100	Partial loss
Oct....	American steamer Monterey			
Oct....	American schooner Selma	Stranded at Point Reyes	8,900	Total loss.
Oct....	American schooner Nautilus	Stranded at Salt Point	3,280	Total loss.
Oct....	American schooner Johannes	Stranded at mouth of Little River in heavy sea	10,000	Total loss.
Nov....	American steamer Bouquet	Capsized near Point Reyes	1,500	Partial loss.
Nov....	American schooner Martha and Elizabeth	Stranded at Bowen's Landing	5,400	Total loss.
Nov....	American steamship City of Chester	Mouth Columbia River in heavy sea	250	Partial loss; 1 life lost.
Nov....	American schooner Mary Cleveland	Wrecked in heavy sea at mouth Noyo River	6,576	Total loss.
Nov....	American brig Hazard	Dismasted, &c., at mouth Columbia River	1,000	Partial loss.
Nov....	American schooner Eden	Capsized off Point Reyes	4,850	Total loss.
Nov....	American steamer San Vicente	Mouth Smith's River	2,000	Partial loss.
Nov....	American bark Oak Hill	Port Blakely to Australia, at sea, off Cape Mendocino, in a storm	600	Partial loss.
Dec....	American schooner Emilie Fransen	Cuffey's Cove, collided	1,400	Partial loss.
Dec....	American schooner B. F. Lee		13,000	Total loss.
Dec....	American schooner Marretta	Stranded at Humboldt Bar	12,400	Total loss.
Dec....	American ship Leading Wind	Dragged ashore on bar north of Columbia River	9,200	Partial loss.
Dec....	American ship Pilgrim	Mouth Columbia River, stranded	16,000	Partial loss.
1878.				
Jan....	American schooner Susan A. Owens	Stranded at Mendocino	12,000	Total loss; 1 life lost
Jan....	American schooner Annie Gee	Coos Bay to San Francisco, off Cape Mendocino	400	Partial loss.
Jan....	American bark King Philip	San Francisco to Puget Sound	19,000	Partial loss.
Jan....	American schooner Lola	Trinidad, stranded, stress of weather	16,000	Total loss.
Jan....	American schooner Free Trader	Drake's Bay, stranded	6,000	Partial loss.
Jan....	American schooner Mose	Dragged ashore in Drake's Bay	4,000	Partial loss.
Feb....	American schooner B. H. Ramsdell	Humboldt to San Francisco	1,300	Partial loss.
Feb....	American bark Oregon	Seabeck to San Francisco, at sea	2,000	Partial loss.
Feb....	American schooner Courser	Port Ludlow to San Francisco, continuous gales on passage	4,000	Partial loss.
Feb....	American schooner Alice	Port Blakely to San Francisco	1,300	Partial loss.
Feb....	American schooner Fourth of July	North of Point Bonita, heavy gale	2,000	Total loss; 3 lives lost.
Feb....	American barkantine Hattie Flickinger	Port Blakely to San Francisco	500	Partial loss; 2 lives lost.
Feb....	American bark Gem of the Ocean	Departure Bay to San Francisco, strained in heavy gales	600	Partial loss.
Feb....	American schooner James Townsend	Off Cape Mendocino, heavy gales	1,000	Partial loss.
Feb....	American barkantine Constitution	Duxbury Reef, whirlwind	1,500	Partial loss.
Feb....	American schooner Twin Sisters	Trinidad, stranded	2,100	Partial loss.
March..	American schooner J. G. Wall	Crescent City, stranded	2,500	Partial loss.
March..	American schooner J. P. Haven	Foundered ten miles north of Tomales Point	3,000	Total loss.
April..	American steamer Cordelia	San Francisco to Coquille River	11,000	Never heard from; 5 lives lost.
April..	American schooner Johanna M. Brock	San Francisco to Humboldt Bay	12,000	Never heard from; 6 lives lost.
April..	American schooner Lizzie Madison	Eureka to San Francisco, heavy continuous gales	3,400	Partial loss.
July....	American ship Western Shore	Duxbury Reef, stranded	77,000	Total loss.
Sept....	American steamship Ancon	Near mouth Umpqua River, collided	50	Slight damage.
Sept....	American schooner Phil Sheridan		16,000	Total loss.
Sept....	British ship Jesse Osborne	Between Point Bonita and Duxbury Reef	83,000	Total loss.
Sept....	American schooner Mary Hart	Bowen's Landing, foundered	4,620	Total loss.
Oct....	American schooner Mary Lunt	Mouth of Navarro River, stranded in a gale	3,800	Total loss.
Oct....	American barkantine Free Trade	Off Quilleyute Rocks, Washington Territory, water-logged and stranded, heavy weather.	11,500	Total loss.
Oct....	American schooner John Stitson	Between Fort Ross and San Francisco	2,000	Total loss.

I have, Mr. President, thus reluctantly felt constrained to bring forward this array of marine loss of life and property, believing that true statesmanship would not, for mere temporary benefit or local pride, permit any concealment of the truth or suppression of real facts.

The permanent aid to our commerce designed by the pending bill will, I trust, in the future, when years shall have passed away, more than compensate for any supposed temporary cloud that may be thrown over the commerce of that coast by a truthful exposition, not only of its extent and advantages, but of its disadvantages and perils as well. While we may not in all things welcome Mahomet as our pattern, he, we are told, "destroyed to save, and planted science and art in fields fertilized by blood." The physician who would effect a cure in an intelligent and speedy manner must of necessity understand the nature of the disease and the perils to which the patient is exposed, and how often then to save must the knife be applied and the limb amputated.

The true sentinel on the watch-tower, unlike the pirates on the coast of Barbary who allure but to deceive and destroy, will proclaim aloud to approaching fleets the dangers of the passage.

The Government, in view of these frequent disasters, has within the past two years taken one important step in the right direction by establishing, through the very efficient United States life-saving service, eight life-saving stations on this coast, to wit: at Neah Bay, Shoalwater Bay, Cape Disappointment, Cape Arago, Humboldt Bay, Bolinas Bay, Golden Gate Park, and Point Conception. This was done in accordance with an act of Congress passed in 1874; and the service should be extended to other points. Impressed, therefore, Mr. President, with this view of my duty, feeling called upon to "cry aloud and spare not," I feel constrained, in addition to what I have already stated on this branch of my subject, to call attention to the following statement made by the United States board of engineers for the Pacific coast in their report of February 14, 1877:

> The distance from San Francisco to Neah Bay, at the entrance to the strait of Fuca, is seven hundred nautical miles. While there are many open anchorages scattered along the coast between these places which afford reasonable good protection for vessels against the prevailing northwest winds and seas in summer, there are none for this entire distance that a vessel can enter in heavy southerly weather when the wind is south, southeast, or southwest, as it frequently is in the winter season. It is true that vessels can generally cross the bar of the Columbia River and seek shelter at secure anchorages on the river. But this is not always the case. In heavy southerly weather, when a harbor of refuge is most wanted, vessels dare not approach the bar of this river. It cannot therefore be considered a secure harbor of refuge. A good harbor of refuge ought, of course, to provide secure anchorage for all vessels for all winds from whatever direction. But what is more particularly needed on this coast is protection against heavy southerly storms.

This board, proceeding further to give their views in the report referred to upon the proposition as to whether the Government should build one large breakwater on this coast, inclosing a capacious harbor, or several smaller ones distributed along the coast, uses the following language:

> One of the first questions which arise in consideration of this subject is whether, in case protection for vessels is to be sought by artificial constructions, we should build one large breakwater, inclosing a capacious harbor, or several smaller ones distributed along the coast, each affording protection for a few vessels only. Our examinations and studies of this question have satisfied us that if any breakwater is to be built on the coast now under consideration, it should be large enough to afford all the protection that is needed for a harbor at that place for the present and for many years to come. We are led to this conclusion principally because any construction at any place on the coast affording secure anchorage for even a few vessels will necessarily be very expensive; and before undertaking any second work we should profit by the experience to be acquired by the first.

Again, Major John M. Wilson, of the United States Engineer Corps, and for over three years in charge of river and harbor improvements in Oregon and Washington Territory, in his report on Port Orford, of date September 23, 1878, says:

> The prevailing winds on the coast from November until April are from the south and southwest. In May they veer around to the north and northwest and continue in that direction until about October. The gales most dreaded by mariners are from the southwest and are at times fearful in their severity. On the whole of this northwest coast between San Francisco and the strait of Fuca, a distance of seven hundred and fifty miles, there is no harbor that a sailing-vessel will attempt to enter during a heavy southerly gale. A harbor of refuge is absolutely necessary, and nature seems to have indicated that Port Orford by its location and natural advantages should be selected for man to complete, and thus present a safe harbor to which mariners can run for shelter in any gale.

The Legislature of the State of Oregon at its late session gave expression to their views on this subject through a memorial to Congress, which I hold in my hand, and which reads as follows:

> *To the Senate and House of Representatives*
> *of the United States in Congress assembled:*
>
> Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that on the northwest coast of the United States, between Point Reyes to Puget Sound, a distance of more than two degrees of latitude, there is no harbor that a vessel can enter in heavy southern weather. The imperative necessity for the creation of a port of refuge is illustrated with emphasis, by the immense loss of life and property annually occasioned by our winter gales. During the last winter, seven vessels with their entire crews were lost, and are only another addition to the sad disasters of past years. The increase of the commerce of the coast is fully 50 per cent. annually, and no question is of more importance to our merchants and ship-owners than the creation of a port to which the commerce can resort for safety during stress of weather. Commissioners have been appointed to examine the different points as to their practicability for an improvement of the character demanded, and reports made, as far as your petitioners have been informed, all concur that the most practical point, the one offering the greatest number of advantages, is Ewing Harbor or Port Orford; it is geographically central between San Francisco and Puget Sound, the most western point on the coast; the largest roadstead, admitting vessels of the largest size, good anchorage, material of the best quality immediately at hand for use and all improvements, never subject to fogs, easy of access, with no danger of a lee shore; and believing, as we do, from all the advantages possessed by the point named, we would ask for the immediate construction of port of refuge irrespective of any local considerations, and would so pray.
>
> Adopted by the house, September 13, 1878.
>
> J. M. THOMPSON,
> *Speaker of the House.*
>
> Concurred in by the senate, September 25, 1878.
>
> JOHN WHITEAKER,
> *President of the Senate.*

That the vast interests involved in the present commerce of these waters, the present disadvantages and perils being considered, would more than justify an immediate expenditure of the amount necessary to complete within a year a breakwater and harbor of refuge, were such a thing a physical possibility, there can be, it seems to me, no question. When you take into consideration the time that must necessarily be employed in completing a great maritime work like this, even with the most lavish appropriations and under the most favorable conditions, the necessity for the speedy commencement of the work becomes at once conclusively apparent.

A suggestion or two in regard to the great length of time necessarily required in completing any such work: a partial breakwater according to a survey made at Trinidad on the Pacific coast, estimated to cost $3,076,500, containing 762,000 cubic yards of stone, and requiring two tons to the cubic yard, would, according to the report of the board of United States engineers for the Pacific coast, with the necessary money appropriated each year, require under the most favorable circumstances of wind and tide nearly eight years in the construction; while the completion of the whole work, costing according to the estimate $7,694,500, would under like favorable circumstances require necessarily seventeen and nine-tenths years in completing it. The board of engineers for the Pacific coast, therefore, very properly state in reporting upon the necessities of a breakwater on the Pacific coast, that although the interests of commerce at any time on any particular coast may not be of such magnitude as to require so vast an expenditure immediately, still, say they, if we can fix upon any time in the future when the wants of commerce will require one, it is manifest from the great magnitude of the work, as well as the uncertainty of the appropriations, that such a construction should be commenced more than twenty years before that time. If, therefore, a work of this character should in the opinion of our Engineer Corps be begun twenty years before the commercial necessities required it, then, *a fortiori*, may I insist upon the inauguration of this work when the magnitude of the commercial interests are such, as I confidently insist I have shown them to be, as to require it now.

Now, as to the point of location. And as to this I insist that the principle of the "greatest good to the greatest number" should prevail in the construction of a great national work such as this must necessarily be. While Congress may not undertake to, and perhaps should not, select or undertake to decide definitely as between points within certain parallels of latitude, within and between which it must be apparent to all the harbor should be located, still it is the duty of Congress, upon its knowledge of geographical lines and distances, the nature and extent of the commerce intended to be benefited, the area of the arc of the sea within which the shipping is to be aided by the contemplated work, to determine definitely the lines *within which* the work should be located. In this instance the commerce to be benefited is, in one sense, that of a coast extending from San Francisco to Behring Strait, a distance of over two thousand miles; but more directly and immediately that of a coast extending from San Francisco to the strait of Fuca, a distance of seven hundred miles. It is clearly evident then, at a glance, that this harbor of refuge should be located as far to the northward at least as half the distance from San Francisco to the mouth of the straits. A breakwater constructed at any point south of this would not give that general and equal protection to the shipping intended to be protected by the construction of one such breakwater on that coast. A central point between San Francisco and the strait of Fuca would be a point about three hundred and fifty miles north of San Francisco, on the Oregon coast. The forty-second parallel of north latitude is distanced a fraction less than three hundred miles north of San Francisco, and about midway between San Francisco and the mouth of the Columbia; and therefore I have provided in the pending bill that it shall be located at some point north of that parallel. This should be so, whether the interests of commerce require that this marine asylum for ships should be located centrally between the great ports of San Francisco and Astoria or midway between San Francisco and the strait of Fuca. But inasmuch as there are various candidates for the honor north of that and within the line of the central location, and at two of which at least surveys have been made under the direction of Congress, to wit, at Port Orford and Foulweather, I have provided that it shall be at such point between the line of the forty-second parallel and the strait of Fuca as the board of United States engineers for the Pacific coast, or the majority of them, may select. Either Port Orford, Coos Bay, or Foulweather would doubtless be sufficiently central. Port Orford is about midway between the strait of Fuca and San Francisco, while Foulweather is one hundred and twenty miles to the northward, Coos Bay being between the two.

I hold in my hand reports of surveys and estimates made within the past year by the engineer department under the direction of the Secretary of War in pursuance of an act of Congress of June, 1878, at Port Orford and Cape Foulweather, which I beg to incorporate into my remarks. From these it will be observed various estimates are

submitted for different kinds and dimensions of artificial structures, and the great question to be determined in inaugurating a national work of this character, namely, its location and extent, is, in view of these different proposed localities and estimates, one that manifestly belongs to the Engineer Corps rather than to Congress. Since I have been in the Senate the Legislature of Oregon has memorialized Congress at different times in favor of both Port Orford and Foulweather. Differences of opinion among the unscientific will necessarily exist while conflict of opinion resulting from conflict of mere personal interest and personal wish, regardless of the great overshadowing question of national interest, is sure to arise. Who, then, is better qualified to decide between these various conflicting views than the Engineer Corps of the Army, who by law are placed in charge of the improvement of our rivers and harbors, educated as they are by the Government with special reference to a proper performance of these important duties?

From these considerations, then, it is proposed by the pending bill to submit the question of locality to the determination of a majority of the United States board of engineers for the Pacific coast. It will be observed the estimate of the total cost of the proposed breakwater at Port Orford of 5,000 feet in length, running from the outer part of the head toward Coal Point, and which would, as stated in the report of Major John M. Wilson, engineer in charge, "secure a harbor of about three hundred acres with depth of from four to twelve fathoms outside of the three-fathom curve," and "give ample protection to a large fleet during the heaviest gales," is $9,405,000, while the total estimate of one 2,000 feet long at the same place, and which the engineer in his report states would "secure a valuable anchorage of about ninety acres with equal depth," and which would "for present purposes be sufficient," as it could be extended whenever the commerce rendered it necessary, is $3,427,000.

Major Wilson in his report on Port Orford makes this statement as a result of his investigations of that locality:

> After a careful examination of this subject, I beg to report that in my opinion Port Orford is a very valuable point for a harbor of refuge. It is easily accessible, occupies a position nearly midway between San Francisco and the strait of Fuca, presents a deep and capacious harbor offering secure anchorage from gales from all points except south, southeast, and southwest, is not subjected to northwest fogs, has no shifting sand-bars or hidden reefs within its limits; the land around is high and prominent and presents all the necessary materials easy and accessible for a stone breakwater. All that is now needed to make it a secure harbor of refuge at all seasons is a breakwater, behind which vessels can ride safely at anchor during winds coming from the southeast, south, and southwest, from which it is not already protected by nature. A careful examination of the chart of the currents and the general direction of the gales leads me to the conclusion that a breakwater about 5,000 feet long, running from the outer point of the head toward Coal Point, would give ample protection to a large fleet during the heaviest gales. For present purposes 2,000 feet would be sufficient, and this could be extended whenever it became necessary.

He says further in this connection:

> I think this breakwater should be connected with the headland, and that the United States should purchase so much of the head as will be necessary for works of defense after the harbor is completed and for stone-quarries, buildings, &c., for the construction of the breakwater.

I now attract attention to the estimates and remarks of engineers in reference to the proposed breakwater at Cape Foulweather. Three several plans and estimates are submitted as to this locality. The first proposes a breakwater starting from near Yaquina Head, running west, then curving to the north and terminating about a mile and a half from the cape.

Such a harbor—

Says Major Wilson in his report—

> would present a large area amply protected from southwest gales with a depth of from three to eight fathoms. The cape proper already presents a good protection from gales from the north and northwest.

This work would require a breakwater of about 9,900 feet in length, and the estimate of its total cost is $11,462,487.

The engineer reports, however, further, to use his own language, that—

> It is highly probable that for present purposes a breakwater would be sufficient starting from Yaquina Head running on the line projected, terminating in four and a half fathoms water, and having a length of 4,900 feet.

The total estimate for such a work is $4,606,122. Such a breakwater would make a harbor of about two hundred acres, protected from gales from the south and southwest.

Major Wilson still further reports that from the examination made under his direction by Assistant Engineer Robert A. Habersham, and from his report and his own observation, he is of the opinion that a better harbor can be made north of the cape than south of it. To use his own language:

> By constructing a breakwater running in a northwest direction just inside the reef running out from the cape, such a breakwater would be about 600 feet long and would contain within it an available anchorage of from 50 to 100 acres, with a depth of from 3 to 8 fathoms.

The total cost of this latter work is estimated at $656,251.

Such a harbor—

Says Assistant Engineer Habersham in his report—

> would satisfy present necessities not only as a refuge and also as a port of entry, Yaquina Bay being accessible only to light-draught coasting-vessels, and it may be enlarged at any future time, if desired, by extending the harbor along the reef.

To correct what seems to have been a false impression, I beg attention to the following extract from the report of Major Wilson in reference to the reef of rocks off Yaquina Bay:

> About three and one-half miles south of Cape Foulweather is Yaquina Bay, the mouth of Yaquina River. A railroad is projected to connect this bay with the Willamette River. It is anticipated that when that is completed a large amount of grain and other products now finding its way to market via the Columbia and Willamette will seek an outlet via Yaquina Bay. About three-fourths of a mile off the entrance to this bay a dangerous reef of rocks extending in a north and south direction, with many narrow and dangerous channels across it, is reported by the Coast Survey and laid down on their charts. I am informed that the residents in the vicinity presume that the reef extends from Yaquina Head toward the cape, and incloses an area of about one thousand acres—the ridge being, they thought, well defined, and that upon it a breakwater could be constructed which would form a fine harbor of refuge. As far as I could learn, the object of this survey was to locate a breakwater upon this supposed reef for a harbor of refuge. The chart of the United States Coast Survey shows no such reef, and a very careful examination by Assistant Engineer Habersham shows that four reefs of rock, apparently much harder than the rest of the bottom, from twelve to fourteen feet under low-water level, situated in a curved line in the direction above indicated, but distant from each other from one-fourth to one-half a mile, and with from six to eight fathoms of water between them. On these, during low tide, a heavy water or sea breaks constantly.

Major Wilson concludes his report on Cape Foulweather and the advantages of a breakwater there in these words:

> The value of the commerce to be benefited by this work would run up into millions, as the benefit would be felt by every vessel navigating the Pacific Ocean between San Francisco and the straits of Fuca. For the necessity for a harbor of refuge on the Northern Pacific coast, I respectfully call attention to the interesting and elaborate report of the board of engineers for the Pacific coast, dated February 14, 1877.

I have already called attention to this report, which, in strong language, points out the necessity for the early commencement of a harbor of refuge on the Pacific coast.

And now, in conclusion, may I recur once more with propriety to the magnitude of the Pacific Northwest and the material interests that center there—great not alone in territory and natural resources, in soil, in climate, in productiveness, but also in the bold, enterprising, self-reliant spirit of the pioneer people, who amid uncounted perils by sea and land have established on its shores, broad and deep, the foundations of a civilization whose structure in the ages to come shall be more than grand, whose light shall penetrate the remotest borders, and of a commerce which, if properly encouraged and sustained by national aids, will in the no distant future outstrip that of any country on the globe of either ancient or modern times. Will not, then, the influence of this Government, its wealth, its dignity, its power, be greatly augmented both at home and abroad by aiding in a proper manner the development of such a commerce and such a civilization, whether it be by aiding in the improvement of its rivers and harbors, the construction of its canals or railroads or of any other great national internal improvement, from which private capital and individual enterprise shrink and are afraid? Will not our Government gain wisdom from the legislation and history of other nations in the vital matter of national development through legitimate constitutional aid to internal improvements? How do Great Britain and France maintain their supremacy and extend their dominion over commerce into all lands and into every sea? Why is it that in the trade, for instance, of the West India Islands, Central America, and eastern South America, situate as they are at our very doors, we import annually over $155,000,000, and export to the same annually about $58,000,000, while England, situate from them across a mighty ocean, imports from their shores annually $121,576,000 and exports to them $117,237,000.

In other words, why is it that while in our total commerce with these countries, amounting to about $214,000,000 annually, and in which there is an annual average balance against us of over $98,000,000, the total of that of England with these same countries exceeds that of ours by nearly $25,000,000 annually, or amounts in all to about $238,800,000 annually, while her exports of this same trade only fall short of her imports by about $4,000,000 annually? Why is it that 62 per cent. of the importations which go into Japan come from Great Britain, while but 4 per cent., or less than one-fifteenth as much, are sent from the United States; or that of her export trade Great Britain receives 55 per cent., while we get but 17 per cent.? Why is it that while with pride we have hailed the coming in of the era that has changed the balance-sheet of our commerce with Europe, which now shows that our exports are largely in excess of our imports, and which points so strongly and unmistakably to our future prosperity, we are humiliated by seeing the marts of our immediate neighboring countries filled with the products of Europe, amounting to millions in value in excess annually of those from our own shores, many of which are in truth the products of this country, shipped by us to England and by that country sent back to the West Indies, and nearly all of which we are so abundantly able to produce and supply? Why have we in the last fifty years failed to increase the value of our export trade to Mexico, with all her many wants, which we ought to supply, and lying upon our borders? They were $5,000,000 half a century ago; they are less now, being only about $4,500,000 out of her $29,000,000 annual importations. Why is it that of the $90,000,000 and over imported annually by Brazil, the United States furnishes less than one-twelfth part, or only about $7,000,000, and this in the main *indirectly* through the ports of Great Britain? Why is it that of $60,000,000 purchased annually by the Argentine Confederation we sell them but little in excess of $2,000,000? Why of the

$170,000,000 of South American imports do we furnish less than one-eighth part, while France sends *three-eighths*, and Great Britain one-half; or, of the $100,000,000, or about that, purchased annually by Cuba, do we send them but one-seventh part, or about $14,000,000? Why of the over $300,000,000 imported annually by Russia are Great Britain and Germany able to supply over $220,000,000, or nearly 75 per cent. of the whole amount?

Why is it that Great Britain, with a less population than the United States and infinitely less natural resources, has within the past generation increased her annual import and export trade from less than £80,000,000 sterling to nearly $3,000,000,000, or about £600,000,000 sterling? Why is it that her export trade to-day is in the aggregate nearly double that of the United States, and more than double *per capita* of population that of our country? Why is it that although now our annual exports largely exceed our imports, even in the past year to the extent of $261,733,045, Europe should send from her storehouse into the markets of the world about $1,115,000,000 annually, while we, with our unparalleled capacity to supply so great a proportion of the wants of Christendom, export annually only about $707,771,153, including merchandise, coin, and bullion; or only $680,709,268 in merchandise alone? Why has American tonnage, entered at ports in the United States, increased in the last ten years but 1,339,949, while foreign tonnage entered at our ports has increased in the same time 7,807,941? Or why is foreign tonnage entered at our ports to-day 12,218,365, while American tonnage in our ports is but 4,711,949, or 7,506,416 less; and this too in the face of the fact that ships can be built in this country to-day as cheap or cheaper than in England, whether constructed of wood or iron, and when, as I have seen it stated recently on reliable authority, the building of one ship of twenty-five hundred tons burden will give employment to and feed the average-sized families of six hundred men a year?

Why is all this so? Of course there are for it a number of reasons, all of which, however, may be summed up in the one general statement that the commerce of this country, both internal and international, never has received, and does not now receive, that national aid, sympathy, encouragement, and support that have been, are now, and ever will be in Great Britain, France, and other European countries such potent agencies in building up, maintaining, and extending the influence and power of the commerce of these nations. And this aid to our commerce, this development of our commercial resources must not be confined to merely one species of legislation, nor for the benefit of our internal to the exclusion of our external commerce, nor *vice versa;* nor should it be given *at all*, in a *pecuniary sense*, to those agencies wherein private capital for private gain will necessarily supply the want; but it should cover and include, to the extent of our fiscal ability, all reasonable and constitutional means, such as the improvement of our great rivers and harbors, the encouragement of domestic ship-building, the strengthening of our merchant marine by wholesome legislation in reference to the navigation laws; the securing of such commercial relations with foreign nations through treaties of reciprocity and otherwise, as will give our country at least an equal standing among the nations in the great conflict for the control of the commerce of the world. Why England, we are told, has expended in India alone over $500,000,000 in internal improvements, while many of her leading statesmen are to-day boldly advocating, and with fair prospect of success, an additional expenditure of $150,000,000 more to be expended in the single item of irrigating the desert lands of India. France, through a system of internal improvements, at one time doubled the value of her commerce in a little over five years. Similar and numerous examples may be gleaned from the history of other European as well as Asiatic countries; but time fails me.

It is a source of gratification that these great questions, which look to the development of the resources of our country, which more than anything else will tend to the real solution of all our labor troubles, the building up of commerce, the revival of our industries, giving employment to the million, and at the same time adding strength, and vitality, and power to our nation, both on land and sea, are attracting the serious attention of our Government and people. The recent message sent to Congress by the President bearing upon this subject of the revival of our commerce, with the very important accompanying letter from the Secretary of State, I regard as most timely, and the suggestions they contain of incalculable importance to the country. I trust they will receive the attention to which their importance justly entitle them. Well does Mr. Secretary Evarts suggest, in speaking of the South American trade, and after referring to the means through and by which Great Britain and other countries have obtained and controlled it, that it is "this enterprise and sagacity of European nations that have actually *reversed* the advantage which our geographical position gives us in relation to this extensive commerce of the American hemisphere."

And now should America, learning wisdom from other nations, profit by their examples. Their sagacity and their enterprise in these important respects are worthy of imitation by any nation or any people, and never was the occasion with us more opportune than now, our Government having through wise congressional action and most able, efficient, and praiseworthy executive administration upon the part of the present Secretary of the Treasury, business prosperity and public confidence co-operating, reached a specie basis, without even the slightest strain on the public credit or the least disarrangement of the business of the country; and when the signs of the times in view of this, the grandest financial achievement, when considered in the light of all the circumstances, of either ancient or modern times, point with unerring certainty to an early and complete resurrection of our business industries and a healthy revival of our prosperity as a nation and a people. And in the consideration of these great questions, while the South, rising from the ashes of her great affliction, should find remembrance in the just and generous action of a great and impartial Government, may it not be forgotten that among the potential elements which contribute in a large degree to the dignity, the wealth, the greatness, the grandeur, and the power of our nationality, and which tend to promote her pre-eminence and add to her invincibility among the nations, the least in importance and worth are not those that are being evolved from a civilization planted, cultured, fructified, amid perils, persecutions, bereavements, and tears on the western shores of our Republic.

I move the reference of the pending bill to the Committee on Commerce.

The motion was agreed to.

The report referred to in the preceding remarks is as follows:

EXAMINATION OF CAPE FOULWEATHER HARBOR, OREGON.

UNITED STATES ENGINEER OFFICE,
Portland, Oregon, September 23, 1878.

GENERAL: I have the honor to transmit herewith a chart of Cape Foulweather Harbor, Oregon, together with the report of Mr. R. A. Habersham, assistant engineer, and to submit the following report of an examination and survey made under my direction in accordance with the act of Congress approved June 18, 1878.

Object of the examination.

The object of the examination and survey of this harbor was "to ascertain its adaptability as a harbor of refuge."

Early in August I organized a party for this work and placed it in charge of Mr. R. A. Habersham, assistant engineer, with orders to proceed to Cape Foulweather and make the necessary surveys to carry out the law. This party proceeded to Corvallis, Oregon, via the Willamette River; thence by wagons across the Coast Range of mountains to Newport, on Yaquina Bay, and thence to Cape Foulweather, where they camped until the survey was completed. On September 8 I visited Cape Foulweather and made a general examination of the locality.

Description of the harbors.

Cape Foulweather is situated on the western coast of Oregon, in latitude 44° 43′ north, longitude 124° 05′ west, and forms a headland boldly jutting out about three-fourths of a mile into the sea from the low beach, with high mountains in rear of it.

It is a mass of black basalt rising to a height of from 80 to 100 feet above the sea, the base honeycombed with caves formed by the action of the waves. The cape, by its position, forms bays on the north and south, the one fronting northwest and the other south and southwest. On the north the shore line is crescent-shaped, the outer extremity pointing north, a reef making out from it in a direction north-northeast a distance of about 5,000 feet, terminating at a lone rock about 1,800 feet from the beach. The depths on this reef vary from 10 to 30 feet, except for a distance of about 1,200 feet near the cape, where there is a channel of that width with a depth of from 30 to 40 feet. The lone rock referred to at the north end of the reef seems to be connected with a rocky point opposite on shore by a well-marked reef, upon which there is a depth of four fathoms.

The north bay is inclosed, therefore, on the east by the mainland, on the south by the cape, and on the west by the long reef. It is nearly a mile long, and about 1,700 feet wide between the three-fathom curve and the reef. It contains about 200 acres, with a depth of from 3 to 8 fathoms, and a sandy bottom. As far as could be judged, there is good holding ground for anchoring vessels, although I understand that no vessel has ever entered.

This south bay is formed by the main shore and the cape, and is protected on the east, north, and northwest. On the south and southwest it is open and exposed to the terrible southern gales, from which it is most desired to find shelter. The bottom is sandy, the depth gradually increasing from near the shore, where it is 3 fathoms, to 20 fathoms 2 miles off shore. The general depth, on a line drawn south from the cape, is from 4 to 6 fathoms.

Tides, fogs, &c.

The spring tides rise and fall about 9 feet. Dense fogs overhang the cape from time to time during the year, particularly during the month of July.

The harbor of refuge.

About 3½ miles south of Cape Foulweather is Yaquina Bay, the mouth of Yaquina River. A railroad is projected to connect this bay with the Willamette River. It is anticipated that when this is completed a large amount of grain and other produce now finding its way to market via the Willamette and Columbia Rivers will seek an outlet via Yaquina Bay.

About three-quarters of a mile off the entrance to this bay a dangerous reef of rocks, extending in a north and south direction, with many narrow and dangerous channels across it, is reported by the Coast Survey, and laid down on their charts. I am informed that the residents in the vicinity presumed that a reef extended from Yaquina Head toward the cape, and inclosed an area of about 1,000 acres, the ridge being, they thought, well defined, and that upon it a breakwater could be constructed which would form a fine harbor of refuge.

As far as I could learn, the object of this survey was to locate a breakwater upon this supposed reef for a harbor of refuge.

The chart of the United States Coast Survey shows no such reef, and the very careful examination of Assistant Engineer Habersham reports four knobs of rock apparently much harder than the rest of the bottom from 12 to 30 feet under low-water level situated in a curved line in the direction above indicated, but distant from each other from one-fourth to one-half a mile and with from 6 to 8 fathoms of water between them. On these during low tide and heavy weather the sea breaks constantly.

The chart transmitted herewith shows a breakwater projected on this line, starting from near Yaquina Head and running west, then curving to the north, and terminating about a mile and a half from the cape. Such a harbor would present a large area amply protected from southwest gales, with a depth of from 3 to 8 fathoms. The cape proper already presents a good protection from gales from the north and northwest. This breakwater would be about 9,900 feet long, and constructed upon the plan adopted by the board of engineers for the Pacific coast. It is described in their report of February 14, 1877, as follows:

"We propose to build the base of any breakwater up to the height of 15 feet below the level of low-water of small stone; that is to say, of such stone as any quarry will furnish, and while quarrying out this great mass to lay away all large stones of 5, 10, or 20 tons for the construction of that portion of the breakwater from 15 feet up to low-water. Upon this foundation we propose to build a masonry wall faced with granite 25 feet wide and 20 feet high, including foundation, protecting the seaward side by blocks of artificial stone (if natural cannot be obtained)

of large size (20 to 30 tons each) and thoroughly paving the harbor side with large blocks of granite to receive without displacement the water that will be thrown over the wall in great storms."

The cost of such a breakwater is estimated by Assistant Engineer Habersham to be as follows:

Ninety-nine hundred feet, at $1,052.57 per foot	$10,420,443 00
Contingencies, 10 per cent	1,042,044 00
Total	11,462,487 00

It is highly probable that for present purposes a breakwater would be sufficient starting from Yaquina Head, running on the line projected, terminating in 4½ fathoms of water and having a length of 4,900 feet; such a work would cost as follows:

Forty-nine hundred feet, at $854.57 per foot	$4,187,393 00
Contingencies, 10 per cent	418,739 00
Total	4 606 132 00

Such a breakwater would present an area of about 200 acres protected from gales from the south and southwest. The difficulty to be contended with in using this harbor would be that sailing-vessels entering during a southwest gale would be obliged in rounding the outer end to face the wind.

Assistant Engineer Habersham made a careful examination of the bay north of the cape; no survey has ever before been made, it is believed, of this bay, and as far as he could learn his boat was the first that ever entered it. He reports that it is a natural harbor of considerable extent without further improvement, and that he was informed that during southwest gales quite an area inside is comparatively smooth. Several of the seamen who were employed as boatmen on the survey, who had sailed for a number of years between San Francisco and Puget Sound and claimed to be familiar with the coast, said that if buoys were placed to mark the entrance, vessels could now enter for shelter from southwest gales. From the examination made under my direction by Assistant Engineer Habersham, and from his report and my own observation, I think a better harbor can be made north of the cape than south of it, by constructing a breakwater running in a northwest direction just inside the reef running out from the cape; such a breakwater would be about 600 feet long and would contain within it an available anchorage of from 50 to 100 acres with a depth of from 3 to 8 fathoms.

The plan for such a work would be similar to that already described, and the cost is estimated by Mr. Habersham at $656,251.

The harbor could be greatly increased in size by constructing a breakwater on the reef parallel to the shore already described.

This north harbor, with the 600-feet breakwater, would only be available in south and southwest gales; but during heavy weather from the northeast vessels could anchor on the other side of the cape.

Attention is respectfully invited to the interesting report of Assistant Engineer Habersham transmitted herewith. In making the examination there were numerous minor difficulties to overcome, and Mr. Habersham deserves credit for the efficient manner in which he carried out my instructions.

Cape Foulweather is in the collection district of Southern Oregon. The nearest port of entry is at Newport, Yaquina Bay; no revenue was collected during the last fiscal year; there were no foreign imports or exports; about 600 tons of assorted merchandise are brought in annually by coastwise vessels, which carry away lumber and oysters; two sailing-vessels of about 100 tons burden each, with a draught of 9 feet, are running between San Francisco and Yaquina Bay.

There is a first-order light-house on the cape, visible nineteen miles. The nearest works of defense are at the mouth of the Columbia River.

The value of the commerce to be benefited by this work would run up into millions, as the benefit would be felt by every vessel navigating the Pacific Ocean between San Francisco and the strait of Fuca.

For the necessity for a harbor of refuge on this Northern Pacific coast, I respectfully call attention to the interesting and elaborate report of the board of engineers for the Pacific coast dated February 14, 1877.

I am, general, very respectfully, your obedient servant.

JOHN M. WILSON,
Major of Engineers, Brevet Colonel United States Army.

Brigadier-General A. A. HUMPHREYS,
Chief of Engineers United States Army.

REPORT OF MR. ROBERT A. HABERSHAM, ASSISTANT ENGINEER.

UNITED STATES ENGINEER OFFICE,
Portland, Oregon, September 16, 1878.

COLONEL: I have the honor to submit the following report of a survey "at Cape Foulweather, to ascertain its adaptability as a harbor of refuge," with a general plan of improvement, and an approximate estimate of its cost, made in pursuance of your instructions dated August 8 of the present year.

This work was performed between the 9th and 23d of the same month. To save repetition, I will here state that all depths given refer, unless otherwise specified, to the lowest of mean low tides, as nearly as could be determined from the tide tables for the Pacific coast, published in San Francisco, and from information furnished by residents of the locality.

No extreme tides occurred during the progress of the survey, not even at full moon, an unusual circumstance.

Topography and hydrography at Cape Foulweather and its vicinity.

From Yaquina Head, which marks the north side of the entrance to Yaquina River, the shore line runs a little to the east of north for 4 miles, to the end of South Foulweather Beach; thence westward for three-fourths of a mile to the southwest elbow of the cape, where it begins to curve northward and eastward until it reaches the extreme point of Cape Foulweather, which points north; thence southeast, curving round to east, to the point where the cape joins the mainland again; thence north for about 7 miles to a point known as Old Cape Foulweather.

The shore line of Cape Foulweather proper describes the figure of a half crescent, the curved tip pointing north. From this point a reef makes out in a nearly direct line, course north-northeast, for 5,025 feet, terminating in a bare rock, which, for convenience, I have called Round Rock, distant 1,800 feet from the low-tide line on the north beach, and immediately opposite Rocky Point, a vertical cliff formed of rock of the same character, of which it was formerly a portion, as the soundings show a well-marked ridge connecting them about 4 fathoms under water.

The depths on this long reef, which is nearly flat on its crest, vary from 10 to 30 feet from Round Rock to within 1,200 feet of the cape, where a depression occurs which shows from 30 to 40 feet; the center being the deepest. The north side of this gap is marked by a rock on which the swell breaks constantly, and which is said to be bare at extreme low tide.

It is seen that the cape forms two bays, one fronting northwest, the other south and southwest. The North Bay, the outlines of which have just been given, is inclosed on the east by the mainland; on the south and southwest by the cape; on the west by the long reef; and on the north by the reef which connects Round Rock with Rocky Point. It is nearly one mile in length and one-third of a mile across, the width being measured from the curve of 18 feet depth to the west reef, and contains about 200 acres. The bottom is sandy, generally smooth, forming good holding-ground as far as can be judged, no vessel or craft of any kind having up to this time entered here that I can learn. The depths vary from 3 to 8 fathoms.

The South Bay, so called, is open to the south and west. It is bounded on the north by the cape and on the east by the mainland. The bottom is sandy, sloping seaward, the depth increasing uniformly from near the beach, where it is 18 feet, to 20 fathoms at a distance of 2 miles from the shore. The general depth on a line drawn south from the cape is from 4 to 6 fathoms. It is rather a roadstead than a bay; and while it is easy of access from the ocean in any direction, is sheltered only from north and east winds, which are never violent.

From Yaquina Head to the north end of Foulweather Beach the shore presents a slope of from 50° to 80°, tolerably uniform in direction generally, but much broken by sharp points and by ravines and small valleys. The face of the cliff shows soft sandstone overlying at greater or less depths a bed of marl filled with fossil shells. Numerous small veins of water trickle down the face of the sandstone, softening it and contributing to the destructive action of the weather, while the marl underneath is also wearing away under the heavy blows of the surf.

Between Yaquina Head and the cape four streams large enough to furnish good water-power, flowing through small valleys more or less heavily timbered, enter the ocean. Except in these valleys the vegetation, although luxuriant, is of small growth, and consists of salal, whortleberry, fern, and scattering spruce shrubs. The beach is from 300 to 800 feet wide, generally sandy, but the frequent occurrence of rocks above the surface show that the sand has little depth. The shore north of the cape is of the same general character.

Cape Foulweather is a promontory, covered with a thick carpet of grass and fern, making out from the continent, its crest line running from east to west, at right angles to the general course of the shore line, crossing two conical summits respectively 400 and 350 feet high, descending the latter at a slope of about 30° and terminating in a flat point 80 feet above mean sea-level, on which the light-house stands. The neck where the promontory joins the continent is 2,300 feet across between low-water lines and about 200 feet above sea-level at its highest point. The promontory is a mass of dense, hard, black basalt, which seems to have been forced like a wedge into a cleft in the sandstone. It rises vertically from the sea to a height of from 80 to 150 feet, in many places overhanging the water; its face hollowed out into caverns and seamed with fissures, with sharp projections of fantastic shape; the whole crumbling away slowly from the effects of the winter frosts and rains. The base of the cliff is honey-combed with caves, some of which might well be called tunnels, as they extend a long distance into the rock. One is said to penetrate 80 feet in a direct line from the face. It was not possible to verify this statement by measurement, as the surf was washing in and out of the cave with great force, but it is probably not far from the truth. The west end of the cape is surrounded by a number of pinnacles of rock rising vertically to a height of from 40 to 80 feet out of the water. Seen from a boat at a short distance, this black, jagged mass towering into the air, with the surf lashing its base with a noise like thunder, the scene excels in grandeur the sight of Devil's Cañon and Cape Horn, on the Central Pacific Railroad; but it must be a sight of terror to the unfortunate mariner who should see it as a lee coast during a southwest gale.

Weather.

From November to April the prevailing winds are southerly. Sometimes strong west winds occur, changing round to northwest, breaking into heavy squalls, accompanied by rain, hail, thunder, and lightning. This is generally from February to April. The gales which are principally dreaded by mariners come from the southwest. These are sometimes so strong that a man cannot keep his feet, and pebbles as large as hazel-nuts are caught up from the beach and dashed against the light tower, a height of more than 100 feet. These gales reach a velocity of 60 miles per hour. Fogs so dense that the shore is not visible from a distance of 500 feet out at sea occur at all seasons, but principally during the month of July. Rain during the winter is not so frequent as in the Willamette Valley, but heavier; snow is of rare occurrence, always light, and soon melts.

For the information contained in this paragraph I am indebted to Captain S. P. Wass, custodian of the light-house at Cape Foulweather.

Tides.

The spring tides, with the ocean in its normal condition, rise and fall 9 feet. During strong west winds the high tides have reached a height of 12 feet above mean low-water mark. The influence of ordinary high tides extends to Pioneer, 30 miles above the mouth of the Yaquina, the tide rising and falling from 4 to 6 feet.

Location for a harbor of refuge.

It has generally been believed by the residents of the country around Yaquina Bay that a reef from 3 to 5 fathoms under water extends in a curved line from Yaquina Head toward Cape Foulweather, terminating about one and a half miles south of the cape, inclosing a basin having a smooth, sandy bottom, which covers an area of nearly 1,000 acres, and that a breakwater built along the crest of the supposed reef would convert the basin into a harbor of shelter for vessels in distress as well as a port of entry.

It was for the purpose of ascertaining the feasibility of this project that a survey was requested by those interested, among whom may be included all of the people of that section of Oregon whose nearest outlet to the ocean lies through the valley of the Yaquina River. The chart of the United States Coast Survey in this locality and my soundings over the same ground show that no such reef exists. There are 4 knobs of sandstone, harder than the rest of the bottom, from 12 to 30 feet under low-water level, situated in a curved line in the direction above indicated, but distant from each other from one-fourth to one-half a mile, and with from 36 to 50 feet of water between them. On these, during low tides and heavy swells, the sea breaks constantly, suggesting the presence of a continuous reef.

The length of breakwater which this project contemplates would be 9,900 feet, with an average depth of 26 feet below low-tide level.

Its cost per linear foot, on the general plan recommended by the board of engineers, Pacific coast, would be as follows:

Ashlar masonry, 21.67 cubic yards, at $18	$410 60
Rubble masonry, 14.08 cubic yards, at $9	126 72
Small rough rubble, 73.00 cubic yards, at $3	219 00
Large rough rubble, 59.25 cubic yards, at $5	296 25
Per linear foot	1,052 57
Nine thousand linear feet, at $1,052.57	10,420,443 00
Add for contingencies 10 per cent.	1,042,044 30
Total	11,462,487 30

The estimate for rough rubble may appear excessive, but the stone would have to be brought from Cape Foulweather, the nearest point where hard rock is found, and where, owing to the prevalence of heavy seas, the loading of barges would be expensive and dangerous, often impossible, necessitating the suspension of the work until the recurrence of smoother water should allow the boats to approach the quarries with safety.

There is no question that such a work, if carried out, would greatly benefit navigation by affording shelter from southwest gales. Some such protection is absolutely required. But a better harbor, at much less cost, would be secured by building a breakwater from the extreme point of Cape Foulweather northward, inside of the reef above described, for a distance of 600 feet. This would inclose an area of about 100 acres, under the lee of the cape, with good anchorage in from 4 to 8 fathoms of water, having a free entrance from the west 1,200 feet wide. Such a harbor would satisfy the present necessities, not only as a refuge but also as a

port of entry, Yaquina Bay being accessible only to light-draught coasting vessels; and it might be enlarged at any future time, if desired, by extending the breakwater along the reef.

The cost per linear foot of a breakwater here, on the plan recommended, would be, as nearly as can be estimated from the data obtained, as follows, its dimensions being: Length 600 feet, average depth below low tide 31 feet.

Ashlar masonry	$410 60
Rubble masonry	126 72
Small rough rubble, 110 cubic yards, at $2	220 00
Large rough rubble, 59.25 cubic yards, at $4	237 00
Per linear foot	994 32
Making for its length of 600 feet	596, 592 00
Add for contingencies 10 per cent	59, 659 20
Total	656, 251 20

Here the stone could be obtained from the shore end of the wall and hauled in cars along the top, extending the track as the work progressed, making the cost of transportation less than in the south bay. The above estimates are in gold coin.

The hydrographic work of the Coast Survey in this vicinity terminates at the extremity of Cape Foulweather. No survey had ever been made of this bay, and, so far as I could learn, my boat was the first that had ever entered it. It is a natural harbor of considerable extent, even without improvement. I am informed that during southwest gales the whole of the area inside of the reef is comparatively smooth, and the southeast portion quite so. Several of the seamen employed as boatmen on this survey, who had sailed for a number of years between San Francisco and Puget Sound, and claimed to be familiar with the coast and its climate, said that if two buoys were placed to mark the entrance, and the fact published for the information of mariners, vessels of any draught could enter here, not only for shelter, but for purposes of commerce. If this opinion be correct—and there seems to be no reason to the contrary—the circumstance is of interest in connection with the fact that a narrow-gauge railway is now under construction from Corvallis, on the Willamette, to Yaquina Bay.

Last winter there were a number of vessels in distress off Cape Foulweather at different times, and one that I am aware of was lost, with all on board. In describing this bay I omitted to mention that there is a rock on which the swell breaks during westerly and northerly weather. It is small, and lies about 500 feet from the mainland, nearly opposite the entrance. It is not in the way of vessels anchoring.

Learning that a cove, with good anchorage, existed about ten miles north of the cape, and wishing to get all information possible on the subject of a refuge, I went there by sea, two members of my party being familiar with the spot. I found it to be an indentation in the rocky coast, three-fourths of a mile long and about 1,000 feet wide; its longer diameter parallel to the general direction of the coast line with from 6 to 10 fathoms depth, well sheltered from north wind, but open to the west and southwest. This place is called Wrecker's Cove, the name having been given by men who saved, or, rather, collected, some fragments of the schooner Uncle Sam, lost a mile north of the cove about two years since.

Respectfully submitted.

ROBERT A. HABERSHAM,
Assistant Engineer.

Colonel JOHN M. WILSON,
Major Corps of Engineers, U. S. A.

EXAMINATION OF PORT ORFORD HARBOR, OREGON.

UNITED STATES ENGINEER OFFICE,
Portland, Oregon, September 23, 1878.

GENERAL: I have the honor to transmit herewith a chart of Port Orford Harbor, Oregon, and to submit the following report of an examination made by me in accordance with the act of Congress approved June 18, 1878.

Object of the examination.

The object of the examination of this harbor was "to ascertain its adaptability for a harbor of refuge."

I left Portland, Oregon, on the morning of September 2, 1878, for Port Orford, 330 miles distant, reaching the latter place on the evening of September 4, the journey requiring three days.

I fortunately had a fine opportunity to judge of the capacity and availability of the harbor, as I entered it from the Pacific Ocean during a northwest gale, and our vessel anchored in 7 fathoms, opposite "Battle Rock," in smooth water.

I remained two days at the harbor, during which I made a careful examination of it and its surroundings, and conversed freely with all parties who were acquainted with its general character and the force and direction of the seas from which it needs protection.

Description of the harbor.

Port Orford, the most westerly port of the United States south of Alaska, is situated on the western coast of North America, in latitude 42° 44′, longitude 124° 29′, and according to the Coast Pilot of Oregon, published by authority of the Coast Survey, is by far the best summer roadstead on the Pacific coast between Los Reyes and the strait of Fuca.

The harbor is deep and capacious, and is formed by a headland boldly jutting out into the sea, nearly vertical on its water face, the portion forming the shelter from westerly gales attaining an altitude of about 350 feet; from the outer point the ground slopes gradually down to an elevation of about 60 feet above low-water, near the northern part of the bay, opposite which the town of Port Orford is situated.

The survey made by the Coast Survey, and plotted on their chart, is reported as follows by the Coast Pilot:

"From the extremity of the southwest point eastward to the main shore the distance is two miles, and from this line to the greatest bend of the shore northward the distance is one mile.

"The soundings within this space range from 16 fathoms close to Tichenor's Rock, forming the southwest point of the bay, to 3 fathoms within one-fourth of a mile of the beach on the northeast side, with 5 fathoms at the base of the rocky points on the northwest side toward Tichenor's Rock; one mile of the shores of the bay the average depth is about 14 fathoms, regularly decreasing inshore."

From my own examination and all the information I could collect, I find the bottom of the harbor to be of sand and mud, presenting a good holding-ground, and that there are no sunken rocks or hidden reefs to endanger vessels after getting inside the head. It is said that northwest fogs seldom, if ever, enter the roadstead, which gives it, consequently, a great advantage over other harbors on the coast south of the Columbia River.

From my own observation I am led to believe this is so. While off the coast, between Cape Arago and Port Orford, a dense fog enveloped the shore; but when we reached Cape Blanco this seemed to veer off and follow the line of the reef north of Orford, and we entered the harbor where it was perfectly clear. On the following day, while examining the coast north of Orford on shore I found a dense fog enveloping Cape Blanco, seven miles north, while at Port Orford it was perfectly clear and pleasant.

Tides.

The mean rise and fall of tides is 5.1 feet; of spring tides, 6.8 feet; and of neap tides, 3.7 feet.

Danger in entering the harbor.

Between Port Orford and Cape Blanco, and about 3 miles off the coast, there is a group of rocky islets and sunken rocks called Orford Reef, which renders the approach to Port Orford from the north somewhat dangerous; there is, however, a good wide ship-channel between this reef and the main shore.

General remarks.

In reference to the present condition of the harbor during winter gales the Coast Pilot notifies mariners as follows:

"In winter, anchor far enough out to put to sea when a southeaster comes up; during a protracted gale in December, 1851, a terrible sea rolled in so that no vessel could have ridden out.

"The old steamer Seagull was driven northward, and lost two weeks in regaining her position, and the mail steamer Columbia hardly held her own for many hours off Orford Reef."

In the fall of 1872 Major H. M. Robert, Corps of Engineers, made a careful examination of this harbor, and in January, 1873, presented an elaborate report, with plans and estimates for a breakwater. In the summer of 1876 the board of engineers for the Pacific coast made a similar examination, and in February, 1877, presented a report, with a plan and estimates; these very interesting reports were laid before Congress, and to them I respectfully call attention for details.

Conclusions.

After a careful examination of this subject I beg to report that, in my opinion, Port Orford is a very available point for a harbor of refuge. It is easily accessible, occupies a position nearly midway between San Francisco and the strait of Fuca, presents a deep and capacious roadstead, offering secure anchorage from gales from all points except south, southeast, and southwest; is not subjected to northwest fogs, has no shifting sandbars or hidden reefs within its limits; the land around is high and prominent, and presents all the necessary materials, easily accessible, for a stone breakwater. All that is now needed to make it a secure harbor of refuge at all seasons is a breakwater, behind which vessels can ride safely at anchor during gales coming from the southeast, south, and southwest, from which it is not already protected by nature.

A careful examination of the chart of the currents and the general direction of the gales leads me to the conclusion that a breakwater about 5,000 feet long, running from the outer point of the head toward Coal Point, would give ample protection to a large fleet during the heaviest gales; for present purposes 2,000 feet would be sufficient, and this could be extended whenever it became necessary.

A breakwater 5,000 feet long would secure a harbor of about 300 acres, with a depth of from 4 to 12 fathoms outside the three-fathom curve, while one of 2,000 feet in length would secure an available anchorage of about 90 acres with the same depth.

The plan of breakwater recommended is that proposed by the board of engineers for the Pacific Coast and described in their report of February 14, 1877, as follows:

"We propose to build the base of any breakwater up to the height of 15 feet below the level of low water of small stone, that is to say, of such stone as any quarry will furnish, and while quarrying out this great mass to lay away all large stones of 5, 10, or 20 tons for the construction of that portion of the breakwater from 15 feet up to low water. Upon this foundation we propose to build a masonry wall, faced with granite, 25 feet wide and 20 feet high, including the foundation, protecting the seaward side by blocks of artificial stone (if natural stone cannot be obtained) of large size, (20 to 30 tons each,) and thoroughly paving the harbor side with large blocks of granite to receive without displacement the water that will be thrown over the wall in great storms."

I think this breakwater should be connected with the headland, and that the United States should purchase so much of the Head as will be necessary for works of defense after the harbor is completed, and for stone-quarries, buildings, &c., for the construction of the breakwater.

The proposed breakwater of 5,000 feet is estimated to cost as follows:

108,333⅓ cubic yards of ashlar masonry, at $18	$1, 950, 000
70, 000 cubic yards of rubble masonry, at $9	630, 000
295,000 cubic yards large stone, at $5	1, 475, 000
2,247,500 cubic yards small stone, at $2	4, 495, 000
Contingencies, 10 per cent	855, 000
Total	9, 405, 000

A breakwater 2,000 feet long is estimated to cost as follows:

43,333⅓ cubic yards ashlar masonry, at $18	$780, 000
28,000 cubic yards rubble masonry, at $9	252, 000
118,000 cubic yards large stone, at $5	590, 000
747,000 cubic yards small stone, at $2	1, 494, 000
Contingencies, 10 per cent	311, 000
Total	3, 427, 000

Gales.

The prevailing winds on the coast from November until April are from the south and southwest; in May they veer around to the north and northwest and continue from that direction until about October; the gales most dreaded by mariners are from the southwest and are at times fearful in their severity; on the whole of this northwest coast between San Francisco and the strait of Fuca, a distance of 750 miles, there is no harbor that a sailing-vessel will attempt to enter during a heavy southwest gale.

A harbor of refuge is absolutely necessary, and nature seems to have indicated that Port Orford by its location and natural advantages should be selected for man to complete, and thus present a safe harbor to which mariners can run for shelter in any gale.

Port Orford is in the collection district of Southern Oregon; it is no longer a port of entry. In the range of hills in rear of the harbor there is said to be an inexhaustible supply of coal, and between the town and the Coquille River there are forests of the best cedar timber.

The nearest port of entry to Port Orford is at Ellensburgh at the mouth of Rogue River, about 25 miles south of the harbor. I was unable to learn what, if any, revenue was collected at Ellensburgh during the last fiscal year.

The nearest light-house is on Cape Blanco, 7 miles distant, and the nearest works of defense are at the mouth of the Columbia River, about 220 miles distant.

Since completing the foregoing I have received a very able and interesting communication from Captain William Tichenor, an experienced sailor and old resident of Port Orford, upon the great stream setting from the Japanese Islands northeast to the northwest coast of America, and its effects and changes on our shore line in eddies, shoals, drift-sands, &c. Captain Tichenor has gone into the whole subject, and gives his opinions as to the effects upon our coast from Cape Mendocino to the strait of Fuca, and particularly at Port Orford. I quote from the closing portion of his letter as follows:

"Port Orford has the following advantages: it is the central point between San Francisco and Puget Sound; it is the most western harbor on the coast, and it is therefore not liable to calms; it is *exempt at all times* from black fogs, and it is very seldom visited by gray or calm fogs; it is the most capacious roadstead upon the

coast, and large enough to accommodate our rapidly growing commerce for all time to come; it is exempt from all sunken dangers, either in it or its approach; it is shielded from all danger of being filled with drifting sands; it has the very best holding-ground of any roadstead upon the coast, composed of sand, loam, and decomposed slate; it affords immediately at hand all the material, and of excellent quality, for any improvement desired.

"Its approaches are unsurpassed, having on the east of the harbor a prominent sugar-loaf mountain of eighteen hundred feet altitude, laved by the waters of the bay, and four miles east of this mountain another, with an altitude of twenty-three hundred feet, thus presenting to the navigator landmarks that cannot be mistaken in approaching the shore. The country in the interior is undoubtedly as rich in resources as any other portion of our coast, with inexhaustible deposits of coal, iron, copper, silver, and gold, extensive bodies of timber, and fertile valleys, all teeming with nature's riches, but, like the major portion of our iron-bound coast, destitute of a place of shipment.

"At the same time, important as are these internal resources, they should be considered but secondary to the great commercial demand for a port of refuge for the safety of the lives and property engaged in our coast traffic. We have only to refer to the sad detail of the sacrifice of life and property during the last winter, to raise our voice in prayer to the Government to look to our safety. All shipmasters on this coast, those commanding our magnificent steamers as well as sailing-vessels, unite in recommending Port Orford as the place adapted for an improvement of this kind."

A chart of Port Orford, showing proposed breakwater and the direction of the heaviest seas and currents, is transmitted.

I am, general, very respectfully, your obedient servant,

JOHN M. WILSON,
Major of Engineers, Brevet Colonel U. S. A.

Brigadier-General A. A. HUMPHREYS,
Chief of Engineers, U. S. A.

EXECUTIVE SESSION.

Mr. EDMUNDS. I think it quite desirable to the public interest that there should be a short executive session, after which the doors can be again opened, and we can proceed to whatever legislative business there is. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. WINDOM. It is the understanding that the doors will be opened again.

Mr. EDMUNDS. Certainly.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont, [Mr. EDMUNDS.]

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened.

INDIAN APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. Mr. President——

Mr. WINDOM. I wish to appeal to the Senator from West Virginia. If it would be quite as convenient for him to address the Senate on some future day, I should be very glad indeed to have his consent to the consideration and passage of the Indian appropriation bill this afternoon.

Mr. DAVIS, of West Virginia. Is that bill ready?

Mr. WINDOM. It is now ready for action, and I should like to have the attention of the Senate to it.

Mr. DAVIS, of West Virginia. The appropriation bills are considered privileged questions, and they are of a great deal more importance than what I might have to say. I presume it would be proper for me to give way, though I am prepared to go on with what few remarks I have to submit. I therefore yield to the Senator from Minnesota, and will allow the Indian appropriation bill to be taken up.

Mr. MCCREERY. Mr. President, before the holidays I gave notice that on this day I should move to proceed to the consideration of Senate bill No. 855, for the relief of Warren Mitchell; but as there is an appropriation bill ready for action, I shall postpone that motion.

The VICE-PRESIDENT. The business before the Senate is the unfinished business of yesterday, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

Mr. WINDOM. I ask that the bill for the revision of the patent laws be informally laid aside, and I will say to the Senate that I think the Indian appropriation bill will occupy but very little time.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Minnesota that the bill for the revision of the patent laws be laid aside without prejudice?

Mr. WADLEIGH. I object to it, Mr. President. I feel compelled to object to it.

Mr. WINDOM. I move, then, that it be laid aside——

Mr. WADLEIGH. I can only yield to the expressed wish of the Senate.

The VICE-PRESIDENT. The Senator from Minnesota moves that the unfinished business and all prior orders be postponed and that the Senate now proceed to the consideration of the Indian appropriation bill.

Mr. WADLEIGH. Rather than have that order passed I think I will accept the proposition of the Senator from Minnesota. I yield to the Indian appropriation bill.

The VICE-PRESIDENT. By unanimous consent the unfinished business is laid aside without prejudice for the consideration of the Indian appropriation bill.

Mr. DAVIS, of West Virginia. I give notice that on Monday I shall ask the Chair to recognize me after the morning business is concluded, so that I may submit the remarks I intended to submit to-day.

The VICE-PRESIDENT. The Chair will recognize the Senator at that time.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes.

Mr. WINDOM. Before the Secretary proceeds to read the bill, I ask leave to make a very brief statement in reference to the action of the Senate Committee on Appropriations upon it.

The bill as it passed the House appropriates $4,681,278.58. The total estimates were $4,933,244.20. It will be observed that the House has substantially conformed to the estimates. The total of the act for 1879 was $4,746,275.70. The net additions made by the Committee on Appropriations of the Senate are $58,757.25, and embrace the following items:

For the northern Cheyennes and Arapahoes, $2,500.

For the Sioux of different tribes, $23,400. In both of these cases the amount was increased by the Committee on Appropriations to conform to the number of Indians as stated in the House bill. The treaties allowing a certain amount for each roaming Indian and for each Indian engaged in agriculture, the House state the number, but the amount is not appropriated according to the number and the amount named in the treaty, and the Senate committee have simply complied with Daboll and the treaty.

For the Tonkawa Indians at Fort Griffin, Texas, the committee have added $37,291.

For the pay of Indian police the committee have added $29,400. I will explain that item when it is reached in the reading of the bill, if it is desired.

The VICE-PRESIDENT. The bill will now be reported at length.

Mr. WINDOM. I ask that the amendments be acted on as the reading proceeds. There are but very few amendments proposed to the bill.

The VICE-PRESIDENT. The Secretary will report the bill, and the amendments of the committee will be acted on as they are reached in regular order in the reading.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Appropriations was, in section 1, line 8, before the word "agents," to strike out "seventy-four" and insert "seventy-one;" so as to make the clause read:

For pay of seventy-one agents of Indian affairs at the following-named agencies at the rates respectively indicated.

The amendment was agreed to.

The next amendment was, in line 592, under the head of "Miamies of Kansas," to diminish the appropriation "for permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article of treaty of October 6, 1818, and fourth article of treaty of June 5, 1854," from $411.43 to $348.20.

The amendment was agreed to.

The next amendment was, in line 597, to decrease the appropriation "for permanent provision for miller, in lieu of gunsmith, per same articles and treaties, and per fifth article of treaty of October 23, 1834," from $262.62 to $222.26.

The amendment was agreed to.

The next amendment was, in line 603, to decrease the appropriation "for interest on $21,884.81, at 5 per cent., for educational purposes, per third article of treaty of June 5, 1854," from $1,094.24 to $926.08.

The amendment was agreed to.

The next amendment was, in line 608, to decrease the total appropriation for these Indians from $5,051.01 to $4,779.26.

The amendment was agreed to.

The next amendment was, in line 707, under the head of "Northern Cheyennes and Arapahoes," to increase the appropriation "for first of ten installments, to be expended by the Secretary of the Interior for each Indian engaged in agriculture (one thousand eight hundred and seventy-five Indians) in the purchase of such articles as from time to time the condition and necessities of the Indians may indicate to be proper, as per sixth article of treaty of May 10, 1868," from $35,000 to $37,500.

The amendment was agreed to.

The next amendment was, in line 714, to increase the total appropriation for these Indians from $53,000 to $55,500.

The amendment was agreed to.

The next amendment was, in section 1, line 1039, under the head of "Sioux of different tribes, including Santee Sioux of Nebraska," to increase the appropriation "for tenth of thirty installments, to purchase such articles as may be considered proper by the Secretary of the Interior, for twenty-one thousand persons roaming; and for tenth of thirty installments, to purchase such articles as may be considered proper by the Secretary of the Interior, for one thousand four hundred and twenty persons engaged in agriculture," from $215,000 to $238,400.

The amendment was agreed to.

The next amendment was, in line 1064, to increase the total appropriation for these Indians from $1,483,900 to $1,507,300.

Mr. SAUNDERS. I should like to have the Secretary read again from line 1051 to 1059.

The Secretary read the clause from lines 1053 to 1059 inclusive.

Mr. SAUNDERS. That does not make sense. It seems to have been wrongly printed in some way. It says "Spotted Tail Sioux Indians from them February 19, 1867," and lines 1056 and 1057 should be

stricken out, and then it would read: "From the Missouri River and Sidney, Nebraska, or Cheyenne, Wyoming;" and after "Wyoming" the words "to be expended under the direction of the Secretary of the Interior" should be inserted. It would then make sense. I move that that alteration be made. It is evidently a misprint as the bill is, I think.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The bill will be corrected accordingly, there being no objection.

The Secretary resumed and continued the reading of the bill.

The next amendment of the Committee on Appropriations was, in line 1278, after the word "dollars," to strike out:

And the President of the United States is hereby directed to prohibit the removal of any portion of said tribes of Indians to the Indian Territory unless the same shall be hereafter authorized by act of Congress.

So as to make the clause read:

Collecting and subsisting Apache and other Indians of Arizona and New Mexico: For this amount, to subsist and properly care for the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in New Mexico or Arizona, $320,000.

Mr. MAXEY. Mr. President, I move to non-concur with the Appropriations Committee in the amendment just reported. I have so often explained my reasons to the Senate for opposition to the introduction of wild tribes among the civilized tribes in the Indian Territory that I will not repeat that argument. I have only to say that the five civilized tribes occupying the Indian Territory are in a condition of peace, of progress, and of comparative prosperity; that in my judgment it is exceedingly injurious to those tribes and their advancement, as well as to the surrounding States of Kansas, Arkansas, and Texas, that wild tribes should be moved in among them. For these reasons I move to non-concur, and I hope the Senate will sustain the motion.

The PRESIDING OFFICER. The question is on agreeing to the amendment, which is to strike out the words that have been read.

Mr. WINDOM. A single word in reply. There is no law now, as I understand it, authorizing wild Indians to be removed into that Territory. The treaty with the Cherokee Indians and the others resident there permitted friendly Indians who are civilized to be brought there; but I think there is no law now authorizing wild Indians to be removed to that Territory, so that the provision which the House propose to insert, and which is important legislation, is not necessary.

Mr. COCKRELL. Have they not already been taking these wild Indians there and putting them there without any authority of law?

Mr. WINDOM. I am not aware that they have. There is certainly no law for it that I have found yet.

Mr. COCKRELL. There is no law for it, but they have been doing it all the time.

Mr. WINDOM. I hope the Senate will agree to the amendment proposed by the Committee on Appropriations.

Mr. MAXEY. My motion was to non-concur in it.

Mr. PLUMB. I cannot at present call attention to the law under which it has been done, and it may be as the Senator from Minnesota says that there is no law for it, but it is one of those things which we understand to have been done and repeatedly done—I mean the transportation and location of wild and hostile tribes of Indians in the Indian Territory. An evidence of that is that which is well known to all members on this floor, the raid made by the Cheyennes through the western portion of Kansas and Nebraska last year—a very destructive raid in which some forty or fifty men were killed and a very large number of women ravished and other outrages committed. It is against incursions of this kind that the surrounding States seek to protect themselves by providing specifically that the President shall not under any circumstances place Indians within that Territory without the consent of Congress to it having been obtained.

If it be true, as the Senator from Minnesota says, that the law would remain without this clause of the House bill precisely as it is now, certainly the most that can be said about this provision would be that it would be a matter of extra precaution; it could do no hurt; and in view of the action that has been heretofore taken by the President, or by the Interior Department representing him, in placing Indians in that Territory, I think it is entirely proper and absolutely necessary in point of fact that a provision of this kind should be enacted. If there can be nothing more said against it than that it is merely superfluous, that ought not to weigh against what we know has taken place heretofore.

Mr. MAXEY. It is true, as stated by the Senator from Minnesota, that the various treaties with all the five tribes authorize the introduction of friendly Indians among them by the consent of the nations. It is true that there is no law which authorizes the introduction of wild or savage tribes among those people. It is a fact, most unfortunately, however, that such have been introduced among that people. Now, I want a prohibition there that cannot be mistaken; and the House has acted on that idea and has placed that prohibition in the bill, and I ask the Senate to support them in it. The Senator from Minnesota cannot know, as I know and as gentlemen who surround that Indian Territory know, the great evil to the people of that Territory as well as to the surrounding States, and the necessary interest which we feel in the sustainment of the position taken by the House and non-concurrence with the amendment of the Senate Committee on Appropriations to strike it out.

Mr. WINDOM. The only prohibition which the proposition of the House makes is against the removal of "Apaches and other Indians of Arizona and New Mexico" into that Territory. Now, if there are any civilized Indians there friendly to the Indians in the Indian Territory, whom those now occupying the Territory are willing to receive, I think they ought not to be prohibited; and as that is the present condition of the law, I think the provision is more than superfluous. I think it forbids the removal of Indians who ought to be removed there. As matters now stand, to state myself a little more clearly, no Indians can be removed there, as I understand, unless they be civilized and friendly and have the consent of the Indians in the Indian Territory. If that be true, I think we ought not to prohibit that class of Indians from being removed there.

Mr. DORSEY. That is not true, except to a degree. Under the original treaties with the five or six tribes of Indians who occupy that country it was provided that no Indian should be removed there except friendly Indians, with the consent of those tribes; but since that time the United States have bought of those several tribes of Indians a large part of that territory, and may now remove there Indians of any class, without regard to the wishes of the Indians occupying the other part of the Territory. In that way the northern Cheyennes were moved down from Nebraska or Dakota, and kept there surrounded for a time by soldiers; and as soon as the soldiers were removed they broke through the country and passed through the States of Kansas and Nebraska, committing murder, rapine, and devastation wherever they went. It is to prevent that that the surrounding States to that Territory enter a protest against action such as this, striking out a provision to prevent the removal of Indians from Arizona and New Mexico to that Territory.

There are no friendly Indians in Arizona and New Mexico that want to be removed. The only friendly Indians there are the Pueblos that never remove from the place where they live. They own their land and cultivate their farms. The other Indians are the Apaches and the Navajoes and the Utes. They are wild, savage Indians, and have committed probably more murders than any other similar number of Indians in this country.

Mr. MAXEY. I ask the Senator from Arkansas to state if it is not true that the Apaches are among the very worst of the savages we have ever had on that frontier?

Mr. DORSEY. I was just remarking that those Indians have committed more murders and outrages than any similar number of Indians in this whole country. They are now located on a reservation in Arizona where they have always lived, where they belong, surrounded by the military now upon that reservation, and a number of forts have been built at great expense to secure them. To take those Indians from that distant country and remove them to the Indian Territory would be an outrage on the people surrounding that Territory.

I hope that the amendment proposed by the Committee on Appropriations will be voted down.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Appropriations to strike out the words which have been read.

Mr. ALLISON. I desire to say one word on this question. I know of no intention or purpose anywhere at present to remove any portion of these tribes to the Indian Territory; at least I have heard of none. Has the Senator from Arkansas?

Mr. DORSEY. I do not know that I can state that any communication of that sort has been made to me officially; but I know that the Commissioner who has charge of this branch of the public business has over and over again on many occasions said that he thought it was the duty of this country to remove all the wild Indians into the Indian Territory. I know that that in his mind is a settled conviction.

Mr. ALLISON. There are a great many people who believe it would be a wise thing to collect the Indians upon a smaller number of reservations than they now occupy, and thus open up to the settlement and occupation of white people and civilized people a portion of their present reservations. Now under the treaties made with the civilized tribes, so called, I understand that friendly Indians may go into the Indian Territory by agreement with the civilized tribes, without the interference of Congress, or without an act of Congress, it requiring only the approval of the President of the United States. If we have made such treaties with the Cherokees and the other civilized tribes as will justify them in making arrangements with those Indians, I do not see why Congress should interfere.

Mr. DORSEY. The intention, I think, of that treaty was to permit these Indians, the Cherokees, Choctaws, &c., to amalgamate with any other tribe of Indians they saw fit to amalgamate with, and let those other Indians go in there and live with them. That is not a question of removal at all; that is simply a matter of arrangement between two separate tribes of Indians.

Mr. ALLISON. As I understand the treaty, by article 15 any friendly tribe of Indians may unite with those civilized tribes east of the ninety-sixth meridian.

Mr. DORSEY. Certainly.

Mr. ALLISON. And any other friendly tribe may be located there west of the ninety-sixth meridian with the approval of the President of the United States. It seems to me that it is hardly wise to require in advance the action of Congress to justify or authorize this removal. This Indian Territory is an immense domain, and I understand is unoccupied to a large degree west of 98°, and it seems to me if any of the tribes that are now occupying New Mexico desire to remove per-

manently to the Indian Territory they ought to have under this treaty the privilege of doing so; and if that should be found to be wise and expedient it seems to me that we ought not to put upon our statute-books a law which will prevent its consummation until such time as Congress can legislate upon the subject. Therefore I think this provision ought to be stricken out. I think we can trust the President of the United States not unnecessarily to interfere with these treaty provisions or with the rights of the Indians now occupying that Territory, or with the feelings of the adjacent States.

Mr. DORSEY. I am very sure that the chairman of the Committee on Indian Affairs does not wish to mislead the Senate on one important point; but his remarks leave the impression that the several tribes of Indians must give their consent before any other tribes can be removed into that Territory. That does not apply to all of that country west of the ninety-eighth meridian. The Commissioner of Indian Affairs or the executive authority of this Government can remove anybody they see fit, or any tribe they see fit that they have control of, into the country west of the ninety-eighth meridian, without regard to the civilized tribes living east of that line.

Mr. INGALLS. Mr. President, in my judgment this provision as it came from the House of Representatives should not only be retained, but its terms should be so enlarged as to prevent the removal of any Indians whatever to the Indian Territory without direct authority by act of Congress. The Senator from Minnesota states that there is now no law authorizing the President to remove unfriendly Indians into the limits of the Indian Territory. But whether that is so or not, if the Senator from Minnesota is not aware of the fact, everybody else is, that during the past six years the process has been gradually going on of concentrating all the unfriendly Indians within these limits whenever they become dangerous in the localities where they have been residing. I need only refer for illustration to the Modocs. When they committed the outrages that became historical, as soon as they were conquered they were removed by order of the Executive, without any sanction or authority on the part of Congress, into the Indian Territory. So with the northern Cheyennes and various other bands that I might name that have been from time to time located there with the design of carrying out what I believe to be a fixed purpose to consolidate all Indians within that portion of our country known as the Indian Territory.

Now, Mr. President, the Senator from Iowa states that in his judgment this is a matter that concerns solely the Indians who made these treaties under which this region is occupied. It is easy for him, living in a State that is not exposed to the dangers of Indian depredation, to reason philosophically upon the subject; but there are three great communities surrounding that Territory, Texas and Arkansas and Kansas, that have very material interests at stake, and that have at least as good right to be considered as the civilized Indians living within the limits of that Territory.

In September last, in consequence of the unauthorized location of the northern Cheyennes within the Indian Territory, depredations were committed in Kansas that rivaled all the savage atrocities that were ever committed in colonial America. Not less than thirty citizens of Kansas, unarmed, unoffending, attending to peaceful pursuits, were deliberately massacred in cold blood by these barbarians who had been placed there against their wishes, against their protest, by the Executive Department, without the authority or sanction of Congress. More atrocities, more wrongs, more outrages, were committed than could be atoned for by the utter extirpation and annihilation of every Indian on the continent. Property to the amount of hundreds of thousands of dollars was destroyed or stolen, innocent women and children were brutally murdered, houses, grain, all the products of industry, were wantonly destroyed by fire. And now, when we ask that we may be protected against further injuries resulting from this unauthorized policy, we are met by the statement that there is now no law which requires the Administration to do the acts of which we complain, and that therefore such a provision is superfluous.

I trust, Mr. President, that this provision will not only be agreed to by the Senate as it came from the House, but that it will be enlarged; and at the proper time I shall move to so amend it as to prevent the removal of any Indians hereafter into the Indian Territory without the direct authority and sanction of Congress.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Appropriations, to strike out the clause which has been reported.

The question being put, a division was called for, and the ayes were 7.

Mr. INGALLS. We had better have the yeas and nays.

Mr. ALLISON. Yes; let us have the yeas and nays.

The yeas and nays were ordered.

Mr. SAUNDERS. Mr. President, I wish to make one remark before the vote is taken on this amendment. If I understand the policy of the present Administration, it is not, as has been stated by one of the Senators who has spoken, to concentrate all the Indians in the Indian Territory, but to place them on fewer reservations than they now occupy. As I understand, we have now seventy-odd agencies in the United States, and troops are required at almost every one of these agencies to protect the Indians, not only one tribe from another, but to protect the whites from the Indians. It is asserted by the Senator from Arkansas that troops are already required to protect the Indians in New Mexico. The same troops could much more easily protect, in addition to the Indians that are already there, other Indians concentrated on a reservation than they could protect them where they are separated.

The great mistake, it appears to me, that is being now made on this subject is that with our present small Army we have to scatter the troops over the country, so that there are only a very few at any one point. Look, if you please, at the Cheyenne war, if you may call it a war—I refer to the effort made by the Cheyennes to get away from the Territory only a short time ago. The Indians passed from their country through Kansas and through Nebraska and up into the northern Territories, while there were not troops enough on the right or on the left of them, within striking distance, to stop their progress. We have not troops enough now, and that is the trouble. Instead of the same troops being scattered as they are now, a part of them engaged in protecting members of the same tribes in the Indian Territory, while part of them are protecting others in New Mexico, we should put the Indians together if they want to go together; and the same number of troops would certainly answer for all the Indians that now answer for only a part of them. In that way we could save much expense to the Government. I can see no good reason why, if the Indians want to go there and the Indians of that Territory want them to come, (and that has to be agreed upon before they can be removed,) they should not be removed. I believe there are now thirty-odd tribes in the Indian Territory and there is room for thirty more of the same size. The country is useless to us as it now stands, and if the Indians want to go there and go to work and become civil, or if they can be even kept better and cheaper there, we ought to remove them. I think that the amendment of the Committee on Appropriations ought to be agreed to.

Mr. INGALLS. The Senator from Nebraska seems to intimate or endeavor to leave the impression that the Indians who have been removed to the Territory went there because they desired to do so. Nothing could be more inaccurate. Take the case of the Nez Percés. After having revolted in the Northwest they were captured and taken to Fort Leavenworth. They desired to be returned to their original reservation. Their request was refused, and they were sent to the Territory against their wishes and over their protest; and they are to-day rapidly becoming exterminated from climatic influences and from the want of proper medicine and food.

Mr. SAUNDERS. Will the Senator from Kansas allow me to ask him if it was not Congress in place of the Administration that sent them down there?

Mr. INGALLS. No, sir; it was not Congress.

Mr. SAUNDERS. Yes, sir; I understand that it was.

Mr. INGALLS. It was by an order of the Executive, without sanction of law.

Mr. SAUNDERS. I certainly am more mistaken than I ever was in my life if we did not pass an act here authorizing those Indians to be sent to the Indian Territory. I remember opposing it myself at the time, and I know that I was outvoted and the bill was carried and they were sent down there.

Mr. INGALLS. The Senator is mistaken. There never was any act passed authorizing the removal of the Nez Percés to the Indian Territory. It was an inhuman and an outrageous act; and the result of it has been that in consequence of climatic influences largely, and through neglect and want of proper food, medicine, and clothing, those Indians, who had been the traditional friends of the white man for the greater part of a century, having been driven to revolt by the aggressions of their neighbors, were exiled and are now gradually being destroyed.

Mr. ARMSTRONG. Over 25 per cent. of them have died.

Mr. SAUNDERS. That is all true, and I was as much opposed to it as the Senator from Kansas; but nevertheless he will find himself mistaken. I have not the records at hand just now to refer to, but there was an act passed here within the last twelve months authorizing those same Indians to be taken from Fort Leavenworth and put in the Indian Territory. The Senator is evidently mistaken, because at that very time I rose and objected to it on the ground that they being from the north, if taken into the humid atmosphere of the south, would die; and they are dying. I have seen those Indians since myself, and know that what the Senator cites is true, that 25 per cent. of them are already in their graves. I speak of that because if the amendment provided for Indians coming from a northern district or country going into the Indian Territory I should oppose it; but these Indians that we are talking about now live in a southern country and are adapted and suited to that kind of climate.

Therefore I have no objection to their removal to the Indian Territory, while I did have great objection to the removal of northern Indians.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment reported from the Committee on Appropriations, and the Secretary will call the roll.

The question being taken by yeas and nays, resulted—yeas 8, nays 32; as follows:

YEAS—8.

Allison,	Hoar,	Morrill,	Saunders,
Davis of W. Va.,	Mitchell,	Rollins,	Windom.

NAYS—32.

Armstrong,	Burnside,	Christiancy,	Coke,
Bayard,	Butler,	Cockrell,	Conkling,

Davis of Illinois,	Ingalls,	Maxey,	Saulsbury,
Dennis,	Jones of Florida,	Morgan,	Sharon,
Dorsey,	Kernan,	Patterson,	Voorhees,
Hamlin,	McCreery,	Plumb,	Wallace,
Harris,	McDonald,	Randolph,	Whyte,
Hill,	Matthews,	Ransom,	Withers.

ABSENT—36.

Anthony,	Chaffee,	Grover,	McPherson,
Bailey,	Conover,	Hereford,	Merrimon,
Barnum,	Dawes,	Howe,	Oglesby,
Beck,	Eaton,	Johnston,	Paddock,
Blaine,	Edmunds,	Jones of Nevada,	Sargent.
Booth,	Eustis,	Kellogg,	Spencer,
Bruce,	Ferry,	Kirkwood,	Teller,
Cameron of Pa.,	Garland,	Lamar,	Thurman,
Cameron of Wis.,	Gordon,	McMillan,	Wadleigh.

So the amendment was rejected.

Mr. INGALLS. I now move to amend the bill, in line 1280, by striking out from the clause as it came from the House the words "portion of said tribes of;" so as to read:

And the President of the United States is hereby directed to prohibit the removal of any Indians to the Indian Territory unless the same shall be hereafter authorized by act of Congress.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. WINDOM. I shall not debate the question. I only hope the Senate will do no such thing; but from the expression just given I think they are disposed to vacate the Indian Territory.

The question being put, there were, on a division—ayes 13, noes 16; no quorum voting.

Mr. CONKLING. The yeas and nays are to be demanded, I suppose, and I rise to ask that the amendment be reported.

The PRESIDING OFFICER. The Secretary will report the amendment.

The Secretary read the amendment.

Mr. INGALLS. At the suggestion of some friends of the bill as it came from the House, I withdraw the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Kansas is withdrawn and the Secretary will proceed with the reading of the bill.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in line 1301, to increase the appropriation "for the support of the Tonkawa Indians at Fort Griffin, Texas," from $2,000 to $5,729.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 1352, after the word "pay," to strike out "and expenses of detectives" and insert "of employés;" so as to make the clause read:

Incidental expenses of Indian service in Montana: For general incidental expenses of the Indian service, including pay of employés, $6,000.

The amendment was agreed to.

The next amendment was, in line 1399, before the word "hundred," to strike out "four" and insert "eight;" in line 1400, after the word "exceeding," to strike out "fifty" and insert "one hundred;" and in line 1404, after the word "reservations," to strike out "thirty thousand six hundred" and insert "sixty thousand;" so as to make the clause read:

Pay of Indian police:
For the services of not exceeding eight hundred privates at $5 per month each, and not exceeding one hundred officers at $8 per month each, of Indian police, and for equipments, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations, $60,000.

The amendment was agreed to.

The reading of the bill was resumed and concluded. The last amendment of the Committee on Appropriations was to strike out the clause from line 7 to line 13 of section 6, in the following words:

And the Secretary of the Interior, under the direction of the President, may use any surplus that may remain in any of the said appropriations herein made for the purchase of subsistence for the several Indian tribes, to supply any subsistence deficiency that may occur for any tribe: *Provided, however,* That funds appropriated to fulfill treaty obligations shall not be so used.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

It was ordered that the amendments be engrossed and the bill read a third time.

The bill was read a third time, and passed.

ADJOURNMENT TO MONDAY.

Mr. WINDOM. I ask leave to withdraw the motion I entered this morning to reconsider the vote of the Senate adjourning over to Monday.

The PRESIDING OFFICER. The motion may be withdrawn by common consent. The Chair hears no objection, and it is withdrawn.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bills:

A bill (S. No. 89) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado;

A bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, of Cape Girardeau County, Missouri;

A bill (S. No. 882) to authorize the proper accounting officer of the Treasury to pay the claim of the State of Tennessee for keeping United States military prisoners;

A bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia;

A bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama; and

A bill (S. No. 1244) for the relief of the legal representatives of George Williams, deceased.

EXECUTIVE SESSION.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at three o'clock and thirty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 10, 1879.

The House met at twelve o'clock m. Prayer by Rev. Dr. C. K. MARSHALL, of Mississippi.

The Journal of yesterday was read and approved.

SUBJECT CATALOGUE OF SURGEON-GENERAL'S LIBRARY.

Mr. O'NEILL, by unanimous consent, presented a memorial of the College of Physicians of Philadelphia, suggesting that there be printed by Congress the "subject catalogue of the library of the Surgeon-General's Office" as of great importance to the medical profession; which was referred to the Committee on Printing.

HENRY MILLS.

Mr. EDEN, by unanimous consent, introduced a bill (H. R. No. 5773) for the relief of Henry Mills; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN NAIL.

Mr. EDEN also, by unanimous consent, introduced a bill (H. R. No. 5774) to place the name of John Nail, late a private in Company F, Second Regiment Kentucky Volunteer Infantry, on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BEABOUT.

Mr. EDEN also, by unanimous consent, introduced a bill (H. R. No. 5775) to place the name of John Beabout, late a private in Company E, Forty-eighth Regiment Illinois Infantry, on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES F. BOTTORFF.

Mr. EDEN also, by unanimous consent, introduced a bill (H. R. No. 5776) granting a pension to James F. Bottorff, late a private in Company I, Ninety-eighth Regiment Illinois Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WAR CLAIMS.

Mr. EDEN also, by unanimous consent, introduced a bill (H. R. No. 5777) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

UNITED STATES ARSENALS AND ORDNANCE STORES.

Mr. TOWNSEND, of New York, by unanimous consent, presented the following resolution of the senate of the State of New York; which was referred to the Committee on Military Affairs, and ordered to be printed in the RECORD:

STATE OF NEW YORK.
In Senate, Albany, January 7, 1879.

Whereas, the Army reorganization bill, now before Congress, proposes to prohibit the future manufacture of ordnance and ordnance stores at United States arsenals, to sell all the arsenals which thus become unnecessary, and hereafter to purchase ordnance and ammunition from private manufacturers only: Therefore,

Resolved, That the Senators and Representatives of this State in Congress be requested to oppose the passage of said bill, or, at least, the portions relating to the Ordnance department, United States arsenals, and ordnance stores.

By order:

JOHN W. VROOMAN, *Clerk.*

PROCEEDS OF PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

Mr. GOODE. By direction of the Committee on Education and Labor I ask unanimous consent that the bill to apply the proceeds of sales of the public lands to the education of the people may be made a special order for Thursday the 23d of January, immediately after the reading of the Journal.

There being no objection, it was ordered accordingly.

HEYL'S DIGEST OF IMPORT DUTIES.

Mr. KELLEY, by unanimous consent, submitted the following resolution; which was referred to the Committee of Ways and Means:

Resolved by the House of Representatives, (the Senate concurring,) That the Joint Committee on the Library be, and they are hereby, directed to purchase and procure for the use of this House, as early as practicable, five hundred copies of the latest edition of Heyl's United States Duties on Imports, to wit, one copy for each Senator, Representative, and Delegate, and the residue for the use of the committees of the Senate and House of Representatives; the price to be the same as was paid for a like number of copies purchased for the Forty-fourth Congress.

PRELIMINARY TRIALS BEFORE UNITED STATES COMMISSIONERS.

Mr. THROCKMORTON, by unanimous consent, introduced a bill (H. R. No. 5778) relating to preliminary trials before commissioners of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN G. ECKLES.

Mr. SAPP, by unanimous consent, introduced a bill (H. R. No. 5779) granting a pension to John G. Eckles; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. CLARK.

Mr. SAPP also, by unanimous consent, introduced a bill (H. R. No. 5780) granting relief to George W. Clark, captain Company K, Twenty-second Iowa Volunteer Infantry, and a discharge, to take effect on the 20th day of April, 1865; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM S. HEARD.

Mr. TOWNSHEND, of Illinois, by unanimous consent, introduced a bill (H. R. No. 5781) granting a pension to William S. Heard, son of the late Richard Heard, private Company C, Fifty-sixth Regiment Illinois Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETITION OF CHESTER W. CHAPIN.

Mr. ROBINSON, of Massachusetts, by unanimous consent, presented the remonstrance of Chester W. Chapin and 6,023 others, of Hampden County, Massachusetts, against the transfer of the fabrication of small-arms, ordnance, and ordnance stores from Government shops to private factories.

Mr. ROBINSON, of Massachusetts. The bill in reference to the subject of this petition is not now before the committee, but is before the House. I think it is best that it be laid upon the table, and I move that it be laid upon the table.

The motion was agreed to.

RESTORATION TO THE ACTIVE LIST OF THE NAVY.

Mr. WADDELL, by unanimous consent, introduced a bill (H. R. No. 5782) to regulate applications for restoration to the active list of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

NORTHERN JUDICIAL DISTRICT OF OHIO.

Mr. TOWNSEND, of Ohio, by unanimous consent, introduced a bill (H. R. No. 5783) to annex the counties of Erie, Huron, and Delaware to the northern district of Ohio, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES N. GARRETT.

Mr. REILLY, by unanimous consent, introduced a bill (H. R. No. 5784) for the relief of James N. Garrett, postmaster of the borough of Tremont, county of Schuylkill, State of Pennsylvania; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PENSIONS OF SOLDIERS AND SAILORS.

Mr. DEERING, by unanimous consent, introduced a bill (H. R. No. 5785) to amend the act approved June 14, 1878, to increase the pension of certain pensioned soldiers and sailors, &c.; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY PRUYN.

Mr. DEERING also, by unanimous consent, introduced a bill (H. R. No. 5786) granting a pension to Henry Pruyn, late a private in Company L, Third Regiment Wisconsin Volunteer Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PILOT KNOB RAILROAD.

Mr. HATCHER, by unanimous consent, introduced a bill (H. R. No. 5787) to declare forfeited to the United States lands granted to the State of Missouri in aid of the construction and extension of the Iron Mountain Railroad from Pilot Knob, Missouri, by act of Congress approved July 4, 1866; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

SLUICEWAY OVER SAINT ANTHONY FALLS.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 5788) to authorize the construction of a sluiceway over Saint Anthony Falls on the Mississippi River, to regulate the use thereof, and to appropriate money therefor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BENJAMIN C. BAMPTON.

Mr. BLISS, by unanimous consent, introduced a bill (H. R. No. 5789) for the relief of Benjamin C. Bampton; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

HOMESTEAD LAW.

Mr. GARFIELD. I desire unanimous consent to present a letter from the Secretary of War, inclosing a memorial from officers and enlisted men of the regular Army, praying for relief on account of the present homestead law. There are some memorials and papers that should be printed, and I ask that they be printed.

I move that they be printed and referred to the Committee on Public Lands.

The motion was agreed to.

ORGANIZATION OF INDIAN TERRITORY.

Mr. MANNING, by unanimous consent, introduced a bill (H. R. No. 5790) to carry out the stipulations of the treaties of the United States with the Cherokee, Creek, Seminole, Choctaw, and Chickasaw Nations of Indians; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

SETTLERS ON PUBLIC LANDS.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 5791) for the relief of settlers on the public lands of the United States; and a bill (H. R. No. 5792) for the relief of settlers on the public lands under the homestead laws; which were severally read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

DEPOSITS IN SAVINGS-BANKS.

Mr. PAGE also, by unanimous consent, introduced a bill (H. R. No. 5793) relating to the tax upon the deposits in savings-banks; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

RICHARD D. DUMPHY.

Mr. PAGE also, by unanimous consent, introduced a bill (H. R. No. 5794) to grant a pension to Richard D. Dumphy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RAILROAD LANDS.

Mr. PAGE also presented a resolution of the constitutional convention of the State of California, respecting the reduction of the price of public lands within railroad limits, and the restoration of forfeited railroad lands to pre-emption and homestead entry; which was referred to the Committee on Public Lands.

OBEDIAH RICH.

Mr. HARTZELL, by unanimous consent, introduced a bill (H. R. No. 5795) granting a pension to Obediah Rich, of Williamson County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES M'CABE.

Mr. HARTZELL also, by unanimous consent, introduced a bill (H. R. No. 5796) granting a pension to James McCabe, of Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELISHA E. REYNOLDS.

Mr. HARTZELL also, by unanimous consent, introduced a bill (H. R. No. 5797) granting a pension to Elisha E. Reynolds, of Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COAST SURVEY.

Mr. PATTERSON, of Colorado. I ask unanimous consent to submit for consideration at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Secretary of the Treasury be requested to communicate to the House of Representatives, with as little delay as possible, full information as to the present organization of the body known as the United States Coast Survey, which report shall contain a statement of the number of persons composing and in the employment of the said survey for the present fiscal year, their several ranks and positions, the salary or compensation received by each, the general nature of the work done, where each member or employé is at present located, together with a statement of the aid received by the said coast survey from the Army or Navy, or other forces or departments of the Government during the said fiscal year.

Mr. BURCHARD. I think it would be well to add to that——

The SPEAKER. Does the gentleman object to the consideration of the resolution?

Mr. BURCHARD. I do not. I think we ought to have more information than that calls for.

Mr. BANNING. I object to it.

Mr. PATTERSON, of Colorado. I trust the gentleman will not object. There is a proposition to transfer this bureau from one department to another, and we want the information for the benefit of the House.

Mr. BANNING. I object to it now.

ORDER OF BUSINESS.

Mr. BREWER. I call for the regular order.

Mr. BRIGHT. I ask leave to introduce a bill for reference.

The SPEAKER. That is not the regular order.

Mr. BRIGHT. I know it is not; and I do not call for the regular order now.

The SPEAKER. The gentleman is unfortunate; the regular order has been called for.

Mr. BRIGHT. Then I will call for the regular order now.

Mr. BANNING. I thought it was understood that all members who desired to introduce bills for reference should have an opportunity to do so now.

The SPEAKER. The Chair is quite willing to recognize gentlemen for that purpose; but when the regular order is called for it is the duty of the Chair to enforce the call.

Mr. BALLOU. Is it in order now to submit a privileged report?

The SPEAKER. If it is of a private nature.

Mr. BALLOU. It is from the Committee on Printing.

The SPEAKER. Is it public or private?

Mr. BALLOU. It is public.

The SPEAKER. Then the gentleman had better wait until to-morrow.

Mr. REAGAN. I desire to ask an order of the House to print some papers for the use of a committee.

The SPEAKER. The Chair will recognize the gentleman at some other time. The regular order is now demanded.

Mr. LUTTRELL. I appeal to the gentleman who called for the regular order to withdraw it. Who called for the regular order of business, Mr. Speaker?

The SPEAKER. Several gentlemen called for it.

Mr. BRIGHT. I demand the regular order.

MORNING HOUR.

The SPEAKER. The morning hour now begins at twenty-five minutes past twelve o'clock, and the call rests with the Committee on the Judiciary.

MISSOURI WAR CLAIM.

Mr. EDEN, from the Committee on War Claims, reported back favorably the bill (H. R. No. 1409) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State, for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress.

The preamble and bill were read, as follows:

Whereas it is claimed by the State of Missouri that at the time of the reimbursement of said State under and by virtue of the act of Congress entitled "An act to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion," approved April 17, 1866, there still remained a large amount due to the officers and privates of said militia forces, which had not then been paid by said State, and was not therefore included in said reimbursements, and that said State has since paid said amounts to said officers and privates of said militia forces, and has never been reimbursed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to investigate, consider, and examine the evidence, vouchers, and records relating to the payments claimed to have been made by the State of Missouri since the 17th day of April, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion in full concert and co-operation with the authorities of the United States and subject to their orders, which are now on file in his Department and which may be filed by said State or its agent or agents, and to report to Congress at the earliest practicable time the results of such investigation and examination, and the amount or amounts, if any, which shall appear to be justly due to said State for such payments made since April 17, 1866.

Mr. EDEN. As that bill makes no appropriation, Mr. Speaker, if there is no objection, I will ask that it now be put on its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. EDEN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BALAAM A. BRIDGES.

Mr. EDEN also, from the same committee, reported, as a substitute for House bill No. 969, a bill (H. R. No. 5798) for the relief of Balaam A. Bridges, of Bartow County, Georgia; which was read a first and second time.

The bill, which was read, provides that the sum of $72.06 be appropriated out of any money in the Treasury not otherwise appropriated, to pay Balaam A. Bridges, of Bartow County, for work done by him on the Western and Atlantic Railroad in the State of Georgia, during the months of August, September, and October, in the year 1864, while said railroad was in the hands of the United States military authorities.

Mr. EDEN. As that is simply to pay a laborer the small amount that the Quartermaster-General says is due him, I ask the bill be put on its passage if there be no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EDEN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SOPHIA B. MOORE.

Mr. REILLY, from the Committee on War Claims, reported a bill (H. R. No. 5799) for the relief of Sophia B. Moore, of New Berne, North Carolina; which was read a first and second time.

The bill, which was read, authorizes the Court of Claims to grant a rehearing in the case of Sophia B. Moore *vs.* The United States, No. 3446 of said court, with full power and jurisdiction to hear and determine and make judgment for the proceeds of the rosin and turpentine claimed to have been seized by the United States officers at the capture of New Berne in March, 1862, and belonging to William B. Moore, jr., which rosin and turpentine are claimed to have been taken to Philadelphia and libeled and sold by the marshal of the eastern district of Pennsylvania under the direction of the Federal court and the proceeds thereof deposited in the Treasury of the United States; provided that the act shall not be construed to have any effect or operation beyond the case therein specially named.

Mr. BREWER. Mr. Speaker, I ask that the report in that case be read.

The Clerk read the report, as follows:

The Committee on War Claims, to whom was referred the memorial of Sophia B. Moore, of New Berne, North Carolina, submit the following report:

Upon the capture of New Berne, in March, 1862, by the Union forces, there was seized by them a large quantity of personal property, consisting of rosin, turpentine, tar, lumber, &c., belonging to the citizens of that city, which was shipped, under the direction of Commodore Rowan, to New York and Philadelphia, where the several cargoes were proceeded against in the admiralty courts of the respective districts, and under the decrees of said courts the property was sold and the proceeds held to await the final decrees of the courts.

The owners appearing as claimants in the New York court, the proceeds of those shipments were, by the decree of that court, turned over to such claimants. No claimants appearing in the Philadelphia court, it was, in May, 1864, decreed by said court that whereas the property so seized was not lawful subject of prize of war, but was captured property under the provisions of the act of March 12, 1863, that the proceeds of such property, after deducting all expenses, and amounting to $44,313.62, be turned into the United States Treasury, where it was placed to the credit of the captured and abandoned property fund.

This fund being in the nature of a trust fund as declared by the Supreme Court for the benefit of the owners thereof, under the provisions of the several acts of Congress relating thereto, has been held separate and apart from other moneys of the Government, and only subject to the claims of the lawful owners thereof established by legal authority, and so far as this committee are advised no portion of this particular part of such fund placed therein under the decree of said court has ever been disbursed.

Among the articles so seized were two thousand barrels of rosin and fifty casks of turpentine belonging to William P. Moore, jr., and brother of the memorialist, who afterward died, leaving the memorialist his sole legatee, she taking upon herself the support of her widowed mother. The net proceeds of this property as included in the decree of said court was $15,270.

The memorialist, by her guardian, she then being a minor, instituted suit in the Court of Claims for such proceeds under the provisions of the act of March 12, 1863, and although the court unanimously found the facts to be as stated, yet a majority of said court held as a matter of law that the act of March, 1863, was not retroactive in its operation, and therefore that the court had no jurisdiction in the premises.

It seems to your committee that the case comes within the spirit of the several acts of Congress relating to captured and abandoned property, if not within the letter, and as the court has established the justice of the case in favor of the memorialist, which facts as found by said court are fully sustained by the proofs, this committee deem it advisable, inasmuch as the Court of Claims has in its files the evidence upon which the former judgment was rendered and may hear any additional evidence that may be adduced by either party, that the court should retain the control of said matter for the purpose of adjudication, with complete jurisdiction thereof, therefore for the purpose of correcting the technical want of jurisdiction in said court report the accompanying bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. REILLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. L. SHOTWELL.

Mr. CALDWELL, of Kentucky, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (H. R. No. 2312) for the relief of A. L. Shotwell, of Jefferson County, Kentucky; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MRS. JULIA ELLIOTT.

Mr. CALDWELL, of Kentucky, also, from the same committee, reported a bill (H. R. No. 5800) for the relief of Mrs. Julia Elliott, widow and administratrix of Newell D. Elliott, deceased; which was read a first and second time.

The question was on ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That the petition, claim, and papers of Mrs. Julia Elliott, widow and administratrix of Newell D. Elliott, deceased, late of the city of Memphis, Shelby County, State of Tennessee, relative to the taking, appropriating, and use of two hundred and six hogsheads of sugar and one hundred and twenty-seven and one-half barrels of molasses by the military authorities of the United States in the year 1862, in the city of Memphis, county of Shelby, State of Tennessee, be referred back to the commissioners of claims for re-examination and report; and the said commissioners of claims shall have full jurisdiction and authority to reopen, examine, and consider this case, and to make report thereon to Congress as in cases provided for in the second section of the act authorizing the appointment of the said commissioners, approved March 3, 1871; and that the evidence on file with the Committee on War Claims of the House of Representatives with her claim shall be received and considered by the commissioners of claims the same as if it had been taken by them orally.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CALDWELL, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM M. KENDALL.

Mr. ROBINSON, of Indiana, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (S. No. 605) for the relief of William M. Kendall.

The bill was read. It directs the Secretary of the Treasury to cause to be paid to William M. Kendall, of Plymouth, in the State of Indiana, who was commissioned by the governor of said State on the 1st day of September, 1864, major in the Seventy-third Regiment Indiana Volunteers, vice Alfred B. Wade, promoted, the pay and allowances of a major from said date until the 16th day of May, 1865, when he was mustered in as such major, he having been a prisoner of war in the interval, deducting therefrom whatever pay and allowances he received as a captain for the same period; and said payment shall be made from any money appropriated for the pay of the Army.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ROBINSON, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

D. W. M'CLUNG.

Mr. ROBINSON, of Indiana, also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1827) for the relief of D. W. McClung, of Woodsdale, Butler County, Ohio.

The bill was read. It authorizes and directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay D. W. McClung, of Woodsdale, Butler County, Ohio, late a captain and assistant quartermaster of United States volunteers, the amount of pay and allowances of a regimental quartermaster from the 26th day of April, 1861, to the 21st day of March, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ROBINSON, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GEORGE F. BROTT.

Mr. ROBINSON, of Indiana, also, from the same committee, reported a bill (H. R. No. 5801) for the relief of George F. Brott; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

HENRY LACHMAN.

Mr. THOMPSON, from the Committee on War Claims, reported a bill (H. R. No. 5802) for the relief of Henry Lachman; which was read a first and second time.

Mr. THOMPSON. I ask for the present consideration of the bill.

The bill was read.

Mr. WHITTHORNE. Let the report be read.

The report was read.

Mr. BRAGG. I make the point of order that the bill contains an appropriation, and that it should go to the Committee of the Whole on the Private Calendar.

Mr. THOMPSON. I hope the gentleman will not insist on the point of order.

The SPEAKER. The Chair sustains the point of order.

Mr. THOMPSON. I am very certain if the gentleman from Wisconsin understood the merits of the case he would withdraw his objection.

Mr. BRAGG. I examined it once as a member of the Committee on Military Affairs which rejected the claim.

The bill was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

W. JOHNSON AND J. R. FRANCIS.

Mr. THOMPSON also, from the same committee, reported, as a substitute for House bill No. 1904, a bill (H. R. No. 5803) for the relief of William Johnson and John R. Francis, of Edgar County, Illinois; which was read a first and second time.

The question was on ordering the bill to be engrossed and read a third time.

The bill was read. It authorizes and directs the Secretary of the Treasury to pay the sum of $2,440.90 to William Johnson and John R. Francis, of Edgar County, Illinois, out of any moneys in the Treasury not otherwise appropriated, the same to be in full compensation for all property taken from or furnished by them, or either of them, to or by the United States military authorities during the war.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THOMPSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MRS. MYRA CLARK GAINES.

Mr. GUNTER, from the Committee on Private Land Claims, reported a bill (H. R. No. 5804) for the relief Mrs. Myra Clark Gaines; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

TITLE TO LAND IN BURLINGTON, IOWA.

Mr. TOWNSHEND, of Illinois, from the Committee on Private Land Claims, reported back with an amendment the bill (H. R. No. 4186) confirming and vesting the title to a certain tract of land in Burlington, Iowa, in the "independent school district of said city."

Mr. TOWNSHEND, of Illinois. I should like to have that bill put upon its passage at once.

The bill was read. It provides that the act entitled "An act confirming the title to a tract of land in Burlington, Iowa," approved July 4, 1868, be, and the same is hereby, amended so as to read as follows:

That all the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines County, in the State of Iowa, described as being west of lot number 978 in said city, south of Valley street, east of Boundary street, and north of Market street, and which was originally reserved from sale by the United States and dedicated to public burial purposes, be, and the same is hereby, confirmed to and vested in the "independent school district" of said city, to be forever dedicated to and used by said school district for public-school purposes, and for no other purpose whatsoever.

The amendment reported by the committee was to insert before the enacting clause of the bill the following preamble:

Whereas it is claimed that the word "west," after the words "Valley street," in the "act confirming the title to a tract of land in the city of Burlington, Iowa," approved July 4, 1868, (volume 15, page 82, United States Statutes at Large,) is a clerical error, and that the word "east" should be inserted in lieu thereof: Therefore in order to properly confirm the title to the lot which was intended to be confirmed by said act.

Mr. TOWNSHEND, of Illinois. The amendment explains the purpose of the bill. It is simply to make a correction in the description of the lot.

The amendment reported by the committee was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TOWNSHEND, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESITA JUANA LOPEZ GRANT, NEW MEXICO.

Mr. McGOWAN, from the Committee on Private Land Claims, reported back, with a recommendation that it do pass, the bill (H. R. No. 3992) to confirm a certain private land claim in the Territory of New Mexico.

The bill was read. It provides that the private land claim in the Territory of New Mexico known as the Mesita Juana Lopez grant, made by the Spanish government January 18, 1782, examined, approved, and recommended for confirmation by the surveyor-general of New Mexico, November 29, 1872, designated as private land claim No. 64, and duly surveyed by the United States, the field-notes of the survey and plat being approved by the surveyor-general of New Mexico on February 28, 1877, shall be confirmed; provided that the foregoing confirmation shall only be construed as a quitclaim or relinquishment of all title or claim on the part of the United States in and to said private land claim, and shall not affect the adverse rights of any person or persons to the same; nor shall the United States be liable to make compensation for any part of said land to which there are or may be any adverse rights or claim.

Mr. McGOWAN. I ask now that the report be read.

The report was read, as follows:

The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 3992) to confirm a certain private land claim in the Territory of New Mexico, would respectfully submit the following report:

It appears from the report of the surveyor-general of New Mexico, as communicated to the House by the Secretary of the Interior on the 24th of January, 1873, that under the law of July 22, 1854, entitled "An act to establish the offices of surveyor-general of New Mexico," &c., said surveyor-general examined the claim set out in this bill and found in substance as follows:

First. That in the year 1782, the Spanish government of New Mexico granted in due form a tract of land, now known as the Mesita Juana Lopez grant, to these individuals, to wit, Domingo Romero, Miguel Ortiz, and Manuel Ortiz.

Second. That these parties took possession of said lands during said year 1782, and continued to occupy the same, themselves or their descendants, continuously down to the time of the said report, to wit, November 29, 1872.

Third. That the original papers which evidence the grant were produced and found to be in due form.

The claim has now been surveyed by the surveyor-general and the boundaries accurately determined, and the confirmation of the title in the claimants recommended.

A bill confirming the title to this claim with others was reported favorably to the House by the Committee on Private Land Claims in the Forty-fourth Congress, but failed to reach a vote.

Your committee have examined the evidence submitted in favor of the bill, and unanimously recommend the passage of the same.

Mr. McGOWAN. A bill precisely identical with this which has passed the Senate is now upon the Speaker's table and the Committee on Private Land Claims have reported unanimously in favor of the passage of this bill. I will therefore ask that Senate bill No. 9 be taken up and put upon its passage.

The SPEAKER. The gentleman from Michigan asks that the bill (S. No. 9) identical in every respect with the bill reported by the Committee on Private Land Claims, unanimously, be taken up and put upon its passage.

Mr. EDEN. I would like to ask the gentleman from Michigan if this claim was not embraced in the bill which was before the last Congress, which covered all the Mexican claims?

Mr. McGOWAN. It was.

Mr. EDEN. I recollect that there was a good deal of discussion about that bill and that it did not pass.

Mr. McGOWAN. There is no doubt but that this individual claim was included in that bill. There was no objection to it.

Mr. EDEN. But I know no reason why this claim should be singled out and passed while others are not.

Mr. McGOWAN. Because there is no objection to this individual claim.

Mr. EDEN. What is the amount of the claim?

Mr. McGOWAN. About 44,000 acres. The bill protects the United States against any adverse claims to the land.

Mr. EDEN. Forty-four thousand acres is a large amount of land. I think it would be well that the matter be considered. It should go to the Committee of the Whole on the Private Calendar.

Mr. McGOWAN. This is equivalent to a quitclaim of any right that the United States may have to this land.

Mr. BUCKNER. The gentleman makes the objection that it takes land from the United States.

The SPEAKER. The Chair so understands it.

Mr. BUCKNER. That objection cannot lie against a bill of this kind, because the Government of the United States does not own the land.

The SPEAKER. The gentleman from Illinois makes the point of order, and the Chair presumes that it is made against the proviso. The Chair will have the proviso read.

The Clerk read as follows:

Provided, That the foregoing confirmation shall only be construed as a quitclaim or relinquishment of all title or claim on the part of the United States in and to said private land claim, and shall not affect the adverse rights of any person or persons to the same; nor shall the United States be liable to make compensation for any part of said land to which there are or may be any adverse rights or claim.

The SPEAKER. It is not the duty of the Chair to determine what title the United States may have to this land, or whether there is any title of the United States to it; but the language of the proviso would seem to imply that the Government has a title, and that this bill provides for a waiver of that title. The Chair therefore sustains the point of order, and the bill goes to the Committee of the Whole on the Private Calendar.

MEDANO SPRINGS AND ZAPATO GRANT.

Mr. BICKNELL, from the Committee on Private Land Claims, reported adversely upon private land claim known as "the Medano Springs and Zapato grant," and the same was laid on the table, and the accompanying report ordered to be printed.

LAND TITLES IN NEW MEXICO.

Mr. BICKNELL also, from the same committee, reported a bill (H. R. No. 5805) to confirm certain land titles in the Territory of New Mexico; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOSÉ AND PABLO APIS.

Mr. DENISON, from the Committee on Private Land Claims, reported back, with a favorable recommendation, the bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis in the State of California.

The bill was read, as follows:

Be it enacted, &c., That the legal representatives, successors, or assignees of José Apis and Pablo Apis, or either of them, be, and they are hereby, permitted to file their claim and title to a certain tract of land in California known as La Iolla Rancho in and before the United States district court of California; and that said court shall have the same jurisdiction in all things, to be exercised originally, to hear and determine upon the said claim and title, and to confirm or reject the same, as the several district courts had under the act of Congress of March 3, 1851, and acts amendatory thereunto. And the Supreme Court of the United States shall have jurisdiction to hear and determine said cause upon appeal, as decided in said acts: *Provided*, That no lands shall be confirmed to said claimants by said decree to which there are valid claims existing under the pre-emption, homestead, or other laws of the United States at the date of the passage of this act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid; and that no decree shall be rendered for more than two square leagues: *Provided further*, That said claimants, before filing their claim and title, shall execute releases to any persons who may be in possession of any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States at the date of the passage of this act to the portions of said lands so held respectively; and before rendering a decree in confirmation the said court shall ascertain that said releases have been duly executed.

Mr. EDEN. I would like to hear the report read in this case. I do not know any reason why these parties cannot now go into the courts without this bill.

Mr. DENISON. The report is a very brief one.

The SPEAKER. The report will be read.

The report was read, as follows:

The Committee on Private Land Claims, to which was referred Senate bill No. 854 entitled "An act for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California," respectfully report that they have considered the same and recommend concurrence in its passage.

Mr. EDEN. That report does not give any reason for the bill. I will reserve any point of order upon the bill until I can hear some explanation.

Mr. DENISON. This case relates to about two leagues of land in the county of San Diego, State of California, which has been in controversy in Congress for a long time. It belonged formerly to a Spanish grant to a Spanish family. They were entirely ignorant of the English language, and before their claims were presented to the United States land commission the heads of the family died. That neglect grew out of the fact that they were ignorant of the English language, and never knew of the existence of the law under which they could present their claim until after the decease of the heads of the family.

The land still remains in the hands of the family and has never been contested by anybody. The proof is conclusive before the committee. The committee of the Senate were unanimous in their report, and the committee of the House after full consideration can see no reason why the bill should not pass. I will say further that every possible provision is made under the bill for the protection of all possible claimants.

Mr. EDEN. This bill permits the parties to go before the courts.

Mr. DENISON. Yes; but before they go there all possible rights are protected by the bill.

Mr. EDEN. Does any party represent the United States in that court? Does the bill provide that the United States shall be represented in that court?

Mr. GUNTER. The United States district attorney is bound to represent the Government in all these cases.

Mr. DENISON. I think there can be no objection to this bill.

The SPEAKER. Is this a contest between individuals only, or does the United States in any respect have any title whatever to the land?

Mr. DENISON. There is no title in the United States and never was. This land was granted by a Spanish grant long before the United States acquired the territory.

Mr. EDEN. Unless this bill proposes that these parties shall bring a suit against the United States, I do not see any necessity for passing the bill. If the Spanish grant is not good, then the title to the land is in the Government of the United States. I understand the gentleman from Vermont [Mr. DENISON] states that there are no adverse claimants.

The SPEAKER. Provision is made by the bill for a release by these parties to all legal adverse claimants.

Mr. EDEN. Then, unless these parties are going to sue the United States, I do not see who is to be sued.

Mr. GUNTER. It is absolutely necessary under the treaties and laws as they now exist that parties claiming under these old Spanish grants shall establish the grant as being legal and one properly made by the Spanish authority. The object of this bill is to establish that fact, that the original Spanish grant was in accordance with the laws of Spain at the time the grant was made. The bill protects the title of all parties.

The SPEAKER. This bill, then, could not divest any title the United States has, from the fact that the United States has no title.

Mr. GUNTER. Of course not. It is only a method required under the treaties between the United States and Spain to establish the other title.

Mr. EDEN. If the Spanish grant be found to be invalid, then as a matter of course the title of the land would be in the Government of the United States.

Mr. MILLS. Has the morning hour expired?

The SPEAKER. It has.

Mr. MILLS. Then, I call for the regular order.

The SPEAKER. The regular order being called for, this bill will go over until the next morning hour of Friday.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 1287) for the relief of Burr S. Craft; and

A bill (S. No. 1531) for the relief of Theophilus P. Chandler.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 1244) for the relief of the legal representatives of George Williams, deceased;

An act (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri;

An act (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado;

An act (S. No. 882) to authorize the proper accounting officer of the Treasury to audit and pay the claim of the State of Tennessee for keeping United States military prisoners;

An act (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama; and

An act (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. THORNBURGH, indefinitely, on account of sickness; to Mr. KEIFER, indefinitely; and to Mr. BURDICK, for ten days.

PRIVATE CALENDAR.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole for the consideration of business on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole (Mr. BURCHARD in the chair) and proceeded to the consideration of business on the Private Calendar.

WILLIAM AND MARY COLLEGE.

The CHAIRMAN. The pending bill in Committee of the Whole on the Private Calendar is the bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war.

Mr. BRIGHT. Before we enter upon the discussion of that bill, I would like to know what time remains for debate? I understand that there is some time unexhausted.

The CHAIRMAN. The debate was limited by the House to three hours, if the Chair remembers correctly, one hour of which still remains. The gentleman from Michigan [Mr. CONGER] is entitled to the floor.

Mr. PHILLIPS. I rise to make an inquiry. At the end of that hour will there be a vote on this bill? Is that the agreement?

The CHAIRMAN. That question will arise at the proper time. The Chair cannot now answer it.

Mr. CONGER. Mr. Chairman——

Mr. BRIGHT. Before we proceed with the debate, I wish to say that there seems to be some misunderstanding as to the length of time which the discussion is to occupy. After the hour shall have been exhausted by the other side, will there remain an hour to be exhausted upon this side before the final vote?

The CHAIRMAN. That question will be decided when it arises.

Mr. BRIGHT. That is a matter we wish to have determined before the debate is proceeded with.

Mr. CONGER. I suppose that this discussion is not to come out of my time?

The CHAIRMAN. The gentleman from Michigan is entitled to the floor.

Mr. CONGER. Mr. Chairman, I think there has been no bill before Congress since I have had the honor of being a member of this body that has had so little substantial legal merit as this bill; and no subject discussed in Committee of the Whole within my recollection has had brought to its aid so much eloquence, so much rhetoric, so many appeals to the higher sentiments of our nature. Every member of this House who has in prospect the presentation of any one of the myriad of southern claims, as they are called, of all shades and casts and varieties, is prepared to advocate the passage of this bill, in public and in private, by all the means by which the passage of a bill should be urged. I find southern gentlemen urging the passage of this bill with undiminished zeal for six or seven long years, with a patience, a perseverance, and a fidelity unrivaled in the prosecution of any other measure before this House. I find northern men urging the passage of this bill as I believe against the known judgment and feelings and wishes of their entire constituency. I am unable to account for the peculiar condition of things connected with this bill for the relief of the College of William and Mary.

I remember that when this bill was presented some years ago, a printed report accompanying the bill from the Committee on Education and Labor charged that the building of William and Mary college was burned by drunken and disorderly soldiers of the United States. I find as from year to year this bill has been presented, reported upon, discussed, and defeated or passed over, the language of the reports has become modified. In the present report there is no charge that drunken and disorderly soldiers of the United States burned William and Mary college. That was too bold, too aggressive, too aggravating a charge even for the House of Representatives of the United States; and it has been withdrawn.

I will not go through the long history of the action of Congress and its committees upon this bill, the discussions which have taken place, the gradual drawing in of the demand from one founded in absolute justice and equity for a wrong done by drunken and disorderly soldiers, till at the present time it comes to be an appeal to this House, as so eloquently presented by my friend from Massachusetts, [Mr. LORING,] who has made the only fair presentation of this case; it comes to be an appeal to this House because this college was an institution of learning, because of its antiquity, because of the many splendid names of those who have been connected with it, because we should all protect and sacredly preserve institutions of learning as far as may be from the ravages of war. On these grounds the representatives of the people are asked to vote away the people's money as a gratuity to William and Mary college for losses and damages for which the nation is not responsible, for which no nation in any country has ever held itself responsible. Thus by the admission of the advocates of the bill it has come to be a simple proposition to pay to William and Mary college thousands of dollars of money as a simple gratuity for injuries, for damage, for loss, occasioned by somebody, under some circumstances, but for which the people of the United States and the Government of the United States are in no way legally, morally, or equitably responsible.

Sir, I have opposed the passage of this and similar bills for many long years here because I have considered it the entering-wedge to the presentation and the successful prosecution of hundreds and perhaps thousands of this class of claims, involving the expenditure of millions and millions of dollars. I say that no man can conscientiously in the discharge of his duty vote for this bill unless he can vote with equal conscientiousness to pay a large portion of the damage and losses incurred by institutions and by individuals during the late war.

I say more than that, sir, and I do not say it as a threat, that no northern man, be he republican or be he democrat, dare vote for this bill and expect to receive the approval of that constituency which will have to bear the burden of this and other appropriations for similar purposes. If there be one thing at the North which the people understand better than another in regard to their liabilities to taxation and to burdens in the future it is that this William and Mary college bill is the foundation, the entering-wedge, the great precedent over all other cases which will be followed by troops and troops of bills marshaled in solid array here calling for the expenditure of the treasure of the United States which all the diligence, and all the industry, and all the economy, and all the activity of the American people cannot pay if they would, and which their judgment will not permit them to pay if they could.

Now, sir, after all the elaborate arguments, after all the displays of flowery eloquence, after all the array of the heroes of Virginia who have graduated at this college, after all the splendid panorama of its antiquities, it comes to this: that Virginia holds up this old moss-grown institution to the American people and asks for a gratuity to restore it to what it ought to be and what they claim it was when our troops took possession of it, and what they desire it shall be. On that bloody day, after the fierce encounters before that city, after thousands and thousands of men on both sides had fallen dead and wounded, our troops entered Williamsburgh. These gentlemen, my friend from Massachusetts, these gentlemen would have you believe that on that day this university sacred to education was the abode of peace, the home of men pursuing their studies under the light of the midnight lamp, and that on the morning after they heard the resounding cannon and lifted their worn and weary heads from the toil and study of the old books that were gathered in this sacred institution of learning, that they threw off their cowls and their caps, that they laid aside their robes and looked out of their windows and down into the court of this college, awakening from that philosophical dream of years, and inquired, "What means all this confusion; [laughter;] what causes this disturbance within the sacred precincts of learning?" as if they had never heard of war; as if for years they had not been teaching war and rebellion from the dome to the foundation of that old university; as if for months it had not been a deserted building, because its president and its professors and its students, ay, down to those of fifteen years of age, had donned the armor of the southern republic and gone to do the battles of the South!

What was the condition of this college when our troops marched into Williamsburgh and occupied that city? What was the repose, the peacefulness of this venerable institution? Its president was even then flushed with the excitement of the preceding conflict; its professors, some of them, wounded and laid low; some of them inmates of the same building then used as a hospital.

What else was this building used for on that day? It was a prison-house. Yes, Mr. Chairman, William and Mary college on the 8th day of May, 1862, when General McClellan rode with his staff of officers into Williamsburgh and repaired directly to the college building, at that moment it was the prison-house of Union officers and Union soldiers confined there—wounded, bleeding, dying, prisoners of the Union Army gathered into that college, this sacred institution of learning; gathered there to be kept, gathered there to die.

More than that, it was then a hospital and had been for a long time previous. It was filled with the wounded, with the dying, with the dead from those armies. What was its condition? Outside, the fences had been broken down, the grass-plats destroyed, even the beautiful monument which had been placed in the front of that building had been destroyed by southern troops who had occupied it as a prison, as a hospital, as a garrison. The walls of the building were defaced, outside and in; the fences, the stone columns were broken; the trees were cut down; the monument of a distinguished Virginian was defaced when our troops first came in sight of and up to this building.

The pictures which fancy has drawn of this peaceful, secluded university of learning, this delightful home of the muses, where the sacred nine tripped along the grass, the admiration of the professors and of the young student, are overdrawn.

I appeal from the fancy sketches of these eloquent gentlemen from

Massachusetts and from Virginia, these delightful recollections of the home and the abode of the sacred nine, to the historic record of that day. I am somewhat deficient in powers of description; I lack those essential elements which some of my friends have for picturing out gracefully and forcibly the condition of that institution. So I will send to the desk and let the Clerk read a plain, sober statement by an eye-witness of the condition of that institution at the very moment when Union soldiers came there to drive out confederate soldiers who, with a recklessness unexpected among civilized men, with a barbarity scarcely to be found among savages, had thrust themselves into the precincts of this sacred university, had destroyed its monuments, cut down its shade trees, defaced its walls, broken down its stone columns, occupied its inclosures for prison-pens of captured enemies, and as hospitals for the confederate troops; and that, too, not with the cleanliness, not with the regard even to the common decencies of hospital treatment which we should expect to find. That is the picture which I shall present of that institution at the very moment when it passed from the power of the confederate soldier to the power of the Union soldier. I ask the Clerk to read what I have marked; and I ask the attention of gentlemen. I hope my friend from Massachusetts [Mr. LORING] is not going away.

Mr. LORING. I am putting on my coat, as it is cold here.

Mr. CONGER. I hope to warm up the subject before I am through with it. What I ask the Clerk to read is dated May 8, 1862.

The Clerk read as follows:

General McClellan and staff drove directly through the city to the college building, from the roof of which the Stars and Stripes caught the breeze and our signal corps had already established a station communicating with the several divisions of the Army. Entering the edifice, which is of brick and somewhat imposing, though less so than the structure burned some years since, a visit was made to the several rooms, in all of which were more or less of the rebel wounded, abandoned by their fleeing brethren.

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I went into several of the buildings—all the churches are hospitals—but only to find them as slovenly as the college.

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In an upper room of the college our wounded of the Excelsior Brigade were found. The enemy had not time to carry them off, and very fortunately, for the journey to Richmond must have proved painful, if not fatal to many. Colonel Dwight, of the First Regiment, was stretched upon a cot in the center of the room. His wound in the leg had been partially dressed, but he was by no means comfortable.

* * * * * * *

The appearance of the college hospital was not at all creditable to its rebel keepers. The floors, the stairs, the walls, and even the windows were covered with filth, and we had only to open the pantries or stroll in the yard to detect as many distinct or well-defined stenches as Coleridge counted in the dirty streets of Cologne. Medical stores and implements, fragments of furniture and clothing, broken crockery, cooking utensils, and kindred rubbish were strewn all over the building, while the grounds heretofore so picturesque and well protected, which for their historic associations, if for nothing more, should have been jealously guarded, were a complete waste. The fences prostrate, the stone gate-posts overturned, the sod and trees destroyed, and even the marble statue of Baron de Botetourt disfigured and begrimed with mud.

The houses lately occupied by the professors, and situated on either side of the college building, had been used by rebel officers, and, profiting by their example, General Jameson, now made military governor of the place, had made one of them his headquarters.

Mr. GOODE. Will the gentleman from Michigan allow me to inquire who is the author of the communication just read?

Mr. CONGER. I will tell the gentleman in a moment. That is a part of a long communication from the correspondent of the New York Evening Post——

Mr. GOODE. What is his name?

Mr. CONGER. Written May 8, 1862.

Mr. GOODE. The name of the writer, if you please.

Mr. CONGER. I cannot tell you.

Mr. GOODE. It is the communication of an anonymous scribbler, then.

Mr. CONGER. No, sir; it is the letter of a man sent with the armies and permitted to go with the armies of the United States to report to the people of the United States the events and circumstances and condition of the Army of the country, of the captured places, and of the places not captured; a man accompanying General McClellan and his staff as such correspondent. He says: "I rode with General McClellan as he entered the city and visited with him all these places." Now, sir, that is a communication—I have had but part of it read—printed long ago, just after the time of the occurrences before the burning of this building, in the New York Evening Post, from its correspondent, giving a vivid description. Does the gentleman deny it?

Mr. GOODE. I do not deny that such a description was written. But I demand to know if this House is to be called upon to believe it, and to attach faith to the writing of an anonymous correspondent?

Mr. CONGER. If the gentleman cannot in his place, coming from that region, deny it, I take it for granted this House will not long hesitate to believe a communication published, within three days of the time when it was written, in the New York Evening Post.

Mr. GOODE. I do deny the truth of the statement, but I cannot deny that such a letter was written. The gentleman has misunderstood me.

Mr. CONGER. I thought the gentleman must deny the statement. I have not time to go through the RECORD and report to this House his speeches in which he has dwelt upon the peaceful beauty, the slumbering quietude of those venerable halls, until the ruthless hand of a drunken Union soldier set fire to the contents and destroyed the building.

Mr. Chairman, this whole scheme of dragging money from the Treasury has been surrounded and gilded with sentiment, with pictures, with adornments drawn not from the real, solid, loathsome facts of the case, but from the fancy of gentlemen who have talked upon the subject.

Oh, sir, Congress is to be wheedled out of this money by the siren songs of the sweet minstrel of Virginia, and the dulcet alto from Massachusetts! [Laughter.]

While I listened to this eloquent address I, too, felt that if I could restore that venerable institution to its pristine glory and excellence, if it was not for me to inquire what my constituents might think about it. With my feelings all wrought up to a love for the beautiful and intellectual, I was almost led to feel that I could vote away the dollars of the people, the American dollar with the American eagle on it and the motto "In God we trust," and all that, to replace that venerable institution. [Laughter.]

I thank my friend from Virginia [Mr. GOODE] that he did not force a vote upon this bill when I was carried away by these overpowering emotions. I have had time for my thoughts to cool. I have had time to subdue some of the earnestness of my imagination. I have had time since then to read again from the Rebellion Record the account of the situation of that building on the day when our troops took possession of it.

It was then a prison-house for our Union soldiers, wounded and dying, and also a hospital kept in the most slovenly manner, with its walls begrimed with dirt; with its doors broken down; with the grass even in its yard trampled and torn up, and with the statue of Baron Botetourt, the pride of Virginians, overturned and injured in the very presence of such an institution; with its venerable trees cut down to boil the pot of the confederate soldiers. [Laughter.]

I have recalled, so far as I have been able, my wandering fancies. I have subdued with gigantic effort my tendency to vote for this bill. I have been saved and I have been redeemed from committing a grave fault, and I owe it more perhaps than anything else to the fact that my friend from Virginia, whatever his motive might have been, postponed calling the previous question on a former occasion and gave me time to recall those wandering fancies.

Mr. GOODE. The gentleman seems disposed to revive historical associations; will he state where General Botetourt lived, for he speaks of him as a favorite of Virginia?

Mr. CONGER. I said he was a favorite of Virginians. Was he not?

Mr. GOODE. He was not a Virginian.

Mr. CONGER. Must the gentleman to carry his bill throw discredit upon all that Virginians have ever honored. For one I will not permit it; at least I will not permit that he shall do it in my time. I decline to permit him to destroy what respect we have for Virginians, when we know that they gave their reverence, love, and affection to Baron Botetourt, and those are degenerate sons of Virginia who come to this House of Representatives to throw discredit upon the taste and affection of their ancestors.

Sir, let the gentleman in reply repudiate the affections of his people for this venerable man, but it shall not come out of my time. [Laughter.]

I ask the Clerk to send me back the Rebellion Record, and while I am waiting for it the gentleman may be considering how soon he will write to his friends at Richmond to ask them to introduce a bill into the Legislature to take away the name of Botetourt from one of their counties and give it the name of some other man that he respects more.

Virginians may not have admired Baron Botetourt, but they placed his statue before their university and they gave his name to one of their counties.

Now, sir, what was the condition of this university at the time the Union troops took possession of it? It was in a dilapidated, disgraced, and dishonored condition. Dishonored by the confederate troops; an institution of learning around which clusters so much veneration!

I think my friend from Virginia was there, and now he comes here and tells us that it was dismantled and laid waste by Union soldiers. If that were not enough, it is charged in the printed report that the drunken and disorderly soldiers of a Pennsylvania cavalry regiment destroyed the building.

If that charge had been made in regard to a Michigan regiment there would have been somebody from that State to repel it. [Laughter.] I look in vain to either side of this House for a Pennsylvanian to repel that heinous charge.

Such, then, was the condition of this university when it came into the hands of Union men. It was cleansed; it was purified; the confederates were driven from it; the wounded soldiers were removed to a better hospital as soon as possible. It is true it was occupied, peacefully occupied, by Union troops from that time until the next September. It was cleanly in its occupation; no damage was done to it. There is not a particle of proof anywhere that after our troops took possession of that building there was the least damage done to it. On the other hand its condition was vastly improved until about the 8th or 9th of the September following; I will not be exact about the date. Then the confederates, under Colonel Shingles, seeing how we

preserved that college, attacked Williamsburgh, and by surprise captured Colonel Campbell and several of his officers. What they did, why they did it, is unexplained by these gentlemen.

On the lower floors of the building there was a large amount of medical stores for the wounded and the sick of both armies and all armies, deposited there for use. Whether it was burned in that attack, whether the fire was set there by rebel soldiers, whether it was burned by Union soldiers, or whether it caught fire accidentally, I have examined with great care to find some proof and have been able to find none.

When Colonel Shingles was killed and several of his officers taken prisoners, and his troops driven from the city of Williamsburgh, in the very midst of the conflict, about long enough for a fire which had been kindled in that building by confederate troops while they were in its occupancy to make itself visible, a fire broke out, and there was no time in the midst of deadly conflict to maintain our possession in that city, to extinguish the fire. A surprise far within our lines had taken place; the college had been seized by the confederates; a fight was going on. In some way the combustibles within that building, whatever they may have been, took fire. In the very heat of the conflict, while our troops were driving the enemy outside of the city, the building was burned. That is the history of it; brief, short, correct.

Now, sir, I have given what no man here can controvert, in few words, the exact condition of that building before the occupancy of our troops and the exact condition of that building when the surprise by Colonel Shingles of the confederate army occurred, the only known manner in which the building was burned and all the damage that was done to it.

I assert here now, without fear of contradiction, that all the damage to the grounds and to the building, except the final burning, which ever did occur, occurred while that building was in the possession of the confederate forces. No man can deny it; no man can bring one particle of proof to the contrary, or else he has been more successful than I have been after a long examination of all the means of information within my power.

I have been to the War Department; I have had the rebel archives themselves searched to find some proof in regard to this building and its burning, something further than has been published, and I have failed to find anything further.

This matter in all its varied forms has been creeping along, undermining the consciences and patriotism of members of this House for many years. These are the pure, naked facts in this case. It does not present to my mind a case with any more reason or ground for the aid of the people of the United States to restore this university as it was before the confederates destroyed it than a hundred other cases which I have examined. I now ask the Clerk to read from the Rebellion Record, under date of September 9, a description of the hospital at that time. It is not claimed by anybody that there was any damage to the grounds or to the buildings, making them at least worse than they were before.

Mr. GOODE. From what does the gentleman read now?

Mr. CONGER. From the Rebellion Record, a document which has great credence among the people of the United States.

Mr. GOODE. What particular part of it? Who is the author of what is about to be read?

Mr. CONGER. Well, this afternoon, after the House has adjourned, I will talk it over with the gentleman.

Mr. GOODE. That is in entire keeping with the gentleman's course.

The Clerk read as follows:

Colonel Shingles, with a force of rebel cavalry and three pieces of artillery, made an attack on Williamsburgh, Virginia, this morning. After having captured the national pickets, they marched into town, taking the troops by surprise. An engagement ensued, which lasted about thirty minutes. The national forces consisted of the Fifth Pennsylvania Cavalry, Colonel Campbell, who was taken prisoner, together with five captains, four lieutenants, and a few privates. The rebel commander, Colonel Shingles, and eight of his officers and men were killed.

Mr. CONGER. That is the history and the only history I have been able to find, except such as is contained in the report of the board of inquiry in regard to the conduct of Colonel Campbell when he was on trial for being surprised by the enemy. There is no allusion in any of those papers to the origin of this fire or the circumstances attending it. Even the burning of the building is not mentioned.

It will be remembered that a few years before this the university had been burned to the ground; it had been repaired; it had been rebuilt, but with less expense and tastefulness than had been bestowed upon the former building. It was not the old College of William and Mary which was destroyed by the fire; that venerable institution had already been burned to the ground, and existed only as it had arisen from its ashes. It was the phœnix which was burned on the occasion now in question. It is the phœnix—a bird of fable now, as it always was—that we are called upon to pay for. Shall we pay for the phœnix? Shall we give our gratuity for the fable? That is the practical question which appeals to members of this House, stripped of all the flowers of fancy, stripped of all the rhetoric and all the eloquence, which is suited equally well to any college commencement, equally well to any literary essay before any literary club; far better suited to touch the heart and the fancy of young students and imaginative maidens than to control the action, the serious, calm action of members of the House of Representatives when by their votes they are about to establish a precedent by which and through which the people of the United States may be taxed millions upon millions of dollars.

Sir, I have opposed this measure from the commencement of its progress in this House, seven or eight years ago, year by year until the present time. I have endeavored to speak truthfully and plainly of the injury to that institution. I have shown that it came from confederate troops. The injury came from Virginia troops; from their own people. It was the home of treason; it was the nursery-place of rebellion. The confederates changed it into a prison for Union soldiers—a hospital for confederate and Union wounded and dying men. They disfigured the ground; they broke down the walls; they destroyed the monuments; they filled those sacred halls with filth and uncleanliness. That is the picture I have drawn.

My duty as regards this bill is so plain and so transparent that if I desired ever so much to pay reverence to the ancient seats of learning I could not do it in this case. There are many far more meritorious cases of institutions of learning, beneficial and charitable institutions, even sanctuaries of worship, that would appeal with far more force to me to restore them to their pristine condition than does this home of treason.

Now, Mr. Chairman, I have said all I desire. I propose to give to other gentlemen the remainder of my time if they wish to occupy it.

Mr. LORING rose.

Mr. CONGER. I yield five minutes to the gentleman from Massachusetts, [Mr. LORING.]

Mr. LORING. Mr. Chairman, I have just returned to this House, in which I have sat but two days during this session, having been prevented from doing my duty here by circumstances to which I can only refer as a sufficient reason for my absence; and for the same reason I am in no condition physically and mentally to reply to the eloquent and fair and manly and high-toned and classical speech made by the gentleman from Michigan, [Mr. CONGER.]

I wish I had some small portion of the strength which I had when I had the honor to address the House on a former occasion upon this question—a question which I met and argued here, not with a disposition to surrender my views, as a republican, of the general policy of this Government, but with a desire to let my people and this country know that we hoped the time had come when, looking beyond all the local trials, all the difficulties of the great conflict that had surrounded and oppressed us, we could seize the bright and luminous spots of the conflict and turn our attention to peace and an adjustment of our difficulties.

I presented this question in a way which I find is not satisfactory to older and more experienced legislators than I am. I did come here believing in the educational institutions of this country, in the old moss-grown colleges, as the gentleman from Michigan calls them, in those institutions which have sent scholars into our land to guide the councils of the nation in early and later trials. I did come here filled with veneration for them, and I am happy to say, sir, that my veneration has been increased, not diminished, by the attacks that have been made upon them. I love the old universities still; and I am determined to love them, however much they may be assailed by gentlemen who desire to hold them and their students up to the ridicule of this House and the country. Sir, this question as presented to my mind—it may be a young, inexperienced, thoughtless, perhaps sentimental member of this House—was an old question of my own party here. I cannot be precise because I have not the data before me; but the memorial brought to this House, I think in the Forty-second Congress, was presented by my distinguished predecessor in this body.

Mr. GOODE. The Forty-first Congress.

Mr. LORING. I believe it was the Forty-first. I do not undertake to be accurate about the dates. The distinguished gentleman who preceded me here presented this memorial and first brought this question before this House and the country. He has not been remarkable for surrendering either to his own party or to any other party; he has not been noted for surrendering to those whom he antagonized during the war. Yet he found it in his heart to bring in here a memorial asking for the restoration of one of the great educational landmarks of the country. That gentlemen may have no doubt to whom I refer, I desire to say that I am representing the district once represented here by General BUTLER, and that it was he who, actuated I doubt not by high and patriotic motives, presented the memorial to which I allude.

[Here the hammer fell. Cries of "Go on!"]

Mr. CONGER. I yield a few minutes more to the gentleman from Massachusetts.

The CHAIRMAN. There are but three minutes more of the gentleman's time remaining.

Mr. LORING. The memorial was presented here; as I have said. It was not acted on in that Congress, if I remember rightly. In the Forty-third Congress it was advocated by one of the most distinguished scholars and statesmen of Massachusetts, [Mr. HOAR,] and toward the close of the session, I believe the second session of that Congress, it passed this House, then a strong and solid republican body, by a vote of about 117 to 70, and among those 117 I find enrolled the name of every Massachusetts member then on this floor except

two. I find among those voting in the affirmative such men as BANKS, (not distinguished for disloyalty,) such men as TWITCHELL, such men as BUTLER, such men as HOAR, Esty, and Crocker, all taught in republican schools, and earnest in their support of republican doctrines. There were but two gentlemen from Massachusetts who either neglected to vote for the bill or voted against it, if I remember rightly.

That bill was lost in a republican Senate because that body had no time to reach it during that session. The gentleman from Massachusetts, who in that day saw fit by report and speech to advocate the measure, won laurels then which helped to lift him from this House into a seat in the other branch which he so ably and honorably fills.

I was young and inexperienced, a dreamer perhaps, untaught in the wily and wiry ways of Congress. [Laughter.] I had been in the Massachusetts Legislature and brought with me the experience and lessons I had learned in that admirable school, [laughter,] but——

The CHAIRMAN. The time of the gentleman has expired and the time to which the House limited general debate has also been exhausted.

Mr. CONGER. I reserved one minute for myself and it is the Chair's fault if I have lost it.

The CHAIRMAN. The gentleman is correct, there was an interruption and he will be recognized for the time of that interruption.

Mr. CONGER. I only rise to say, Mr. Chairman, that I made a little, gentle, personal allusion to my friend from Massachusetts. [Laughter.]

Mr. LORING rose.

Mr. CONGER. Not a moment; I have given you all the time I could. My allusion to him was mild and gentle, and I thought just enough to give the gentleman from Massachusetts an opportunity to apologize to the House and to the country for his former speech in behalf of this bill. [Laughter.] Sir, I did not attribute that speech to youth; I did not attribute it to verdancy; I did not attribute it to lack of experience which might have been acquired in the Massachusetts Legislature, for God knows if there is any body in this world which need never go to any other legislative body to learn anything it is the Massachusetts Legislature, [laughter;] but it was that my friend might come here and might say again to the world, say to the country, say to this House that he brought his views from the closet and not from the law library; that he came here imbued with the robes of scholarship and asked, as he did ask this House, to make a gratuity to this institution simply because it was a college and because, as he said here to-day, he was a lover of colleges.

I have accomplished my purpose in the gentle, peaceful, rather graceful reminder which I gave to the gentleman from Massachusetts, and he has had his opportunity. Indeed we have both done very well on this question, and I now yield the floor. [Laughter.]

The CHAIRMAN. The time to which the general debate was limited by the House has now expired.

Mr. GOODE. Mr. Chairman, as the member reporting this bill to the House from the committee, I claim one hour under the rules to close debate, and I will yield to the gentleman from Massachusetts as much of that time as he may desire.

Mr. CONGER. That cannot be.

Mr. TOWNSEND, of New York. The time for debate was limited.

Mr. CONGER. The House has directed the committee what to do, and the time is now exhausted.

Mr. GOODE. I hope the gentleman from Michigan will not insist upon his objection; but if he does I wish to call the attention of the Chair to the rule on page 116 of the Digest:

> No member shall occupy more than one hour in debate in the House or in committee; but a member reporting the measure under consideration from a committee may open and close the debate.

Mr. CONGER. The gentleman has already opened the debate, and under the decision in the House he cannot close it. My point is that if entitled to the hour it is after the previous question has been ordered in the House.

Mr. GOODE. The previous question has not been called and cannot be called in committee.

Mr. CONGER. Under the decision of the Speaker the gentleman cannot both open and close the debate.

Mr. PHILLIPS. It was the agreement of the House that all general debate should close on this bill in one hour, and that precludes any right which the gentleman from Virginia may have had.

Mr. GOODE. I ask the Chair to rule on the point. I claim the privilege of one hour to close the debate under the rules.

Mr. TOWNSEND, of New York. All debate in committee has been closed by agreement.

Mr. SPRINGER. I think the rule is this: when a bill is committed to the Committee of the Whole on the state of the Union for consideration and the debate has been limited to a specific time, when that time has expired the bill is then before the committee for discussion under the five-minute rule, and after discussion under the five-minute rule it must be reported to the House, when the member reporting a bill from a committee may close the debate.

Mr. TOWNSEND, of New York. We are not in the House; we are in the Committee of the Whole, and the time for the debate has been fixed, and that time has expired.

Mr. SPRINGER. I said we were not in the House.

Mr. CALKINS. I wish to make a parliamentary inquiry, whether the committee cannot rise and go into the House and there extend the time for debate, notwithstanding the agreement?

The CHAIRMAN. That is a question which does not now arise, and perhaps is not proper for the Chair to answer. The Speaker decides points of order in the House, the Chairman in committee. The gentleman from Virginia claims the floor, and if entitled to the floor no other member could make the motion that the committee rise without his consent. He demands the ruling of the Chair on the question, and the Chair must rule on the point of order raised by the gentleman from Michigan.

Mr. CONGER. I do not know whether the Chair understood my point of order. The House, by unanimous consent, or what was equivalent to unanimous consent, limited debate in the committee. Now I understand, and I suppose it is the understanding of all, that when we rise and go into the House after the previous question has been ordered, then there would be an hour for the gentleman who reported the bill. I submit the point of order that he is not entitled to the hour now.

The CHAIRMAN. The point raised by the gentleman from Michigan is that the House having ordered that all general debate close in two hours, and the two hours having expired, the gentleman from Virginia who reported this measure is not entitled under Rule 60 to an hour in Committee of the Whole to close debate.

Mr. CONGER. Having used his hour.

The CHAIRMAN. Yes, having already occupied one hour, as the Chair understands, in opening the debate. In regard to the latter objection, that the gentleman from Virginia has already taken an hour in opening the debate, the Chair desires to refer to a decision of the House in the Thirty-first Congress, first session, where the point of order was made that the member reporting a measure having made an opening speech, followed by a running debate participated in by other members occupying the floor in their own right, and the previous question having been ordered, the gentleman reporting the measure had not an hour to close the debate in reply. The Speaker ruled that he was entitled to the additional hour to close the debate, and the House, upon an appeal, by a yea and nay vote, sustained that decision. The Clerk will read, for the information of the committee, the Journal of the proceedings when that decision was made.

The Clerk read as follows:

> Mr. Burt moved the previous question; which was seconded, and the main question ordered to be put; when
>
> Mr. Strong rose, and was proceeding to close the debate.
>
> Mr. Alexander Evans made the point of order that the previous question having been seconded, and the main question ordered to be put, it was not in order for Mr. Strong to proceed.
>
> The Speaker decided that the member from Pennsylvania, [Mr. Strong,] having reported the measure under consideration from a committee, was entitled, under the thirty-fourth rule of the House, to open and close the debate thereon, and that he did not think he was deprived of that right by the previous question having been seconded and the main question ordered to be put. That rule was adopted during the last Congress, and at the same session the question arose in Committee of the Whole on the state of the Union as to the right of the member to make his closing speech after the expiration of the hour at which the debate had been ordered to be closed. It was then held by the committee that he had the right, and by a parity of reasoning (the rule applying as well to the House as the committee) it would seem to be his privilege in the present case, especially as there had been no debate on the subject in Committee of the Whole on the state of the Union; otherwise the member reporting the measure would be deprived of the benefit of the rule.
>
> From this decision Mr. Alexander Evans appealed.
>
> And the question being put, Shall the decision of the Chair stand as the judgment of the House?
>
> It was decided in the affirmative.
>
> So the decision of the Chair was sustained, and Mr. Strong proceeded to close the debate.

The CHAIRMAN. In the case just read it was decided by the Speaker and by the House on appeal, as a reference to the Congressional Globe will show, that, first, a member reporting a measure from a committee, having taken his hour to open the debate thereon, is entitled to an additional hour to reply and close debate if another member has occupied the floor in his own right in opposition to the measure. Second, that he may take this additional hour to close debate after the main question has been ordered.

Under that decision, if this debate had taken place in the House, the gentleman from Virginia, [Mr. GOODE,] although he has taken an hour in opening the debate, since the debate has been continued by members occupying the floor in their own right, would seem to be entitled to an hour to close debate after the main question had been ordered. Is he entitled to an hour to close debate in Committee of the Whole after the time has expired to which general debate was limited by order of the House?

The Speaker based his ruling as to the right of an additional hour to close debate in the House after the main question had been ordered upon the construction that had been given to Rule 60 when a measure was under consideration in Committee of the Whole at a previous Congress.

The right of the reporter of a measure to his closing hour in the House after the main question had been ordered was sustained because under previous decisions he had such right in committee after debate had been closed by order of the House.

The rules of procedure during debate in the House and general debate in the Committee of the Whole are similar, as will be seen from Rule 113.

The Clerk will now read Rule 113, relating to proceedings in committee.

The Clerk read as follows:

The rules of proceedings in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the times of speaking; but no member shall speak twice to any question until every member choosing to speak shall have spoken.

The CHAIRMAN. The Chair finds that Rule 60, which he is called upon to interpret in its application to proceedings in Committee of the Whole at this time, was adopted in the Thirtieth Congress, on the 18th of December, 1847, being reported by a select committee to revise the rules. Within three weeks a question arose in Committee of the Whole as to the construction to be given to Rule 60, at which time the identical question arose which is now presented and is referred to in the decision just read by the Clerk. A bill reported from the Committee on the Post-Office and Post-Roads was referred to the Committee of the Whole and all general debate ordered to be closed thereon in two hours and a half. Upon the expiration of the time to which general debate had been limited, Mr. Goggin, of Virginia, who reported the bill, claimed his right under the rule to an hour to close the debate. The chairman of the Committee of the Whole, Mr. Caleb B. Smith, who had been a member of the select committee that reported the rule, decided that the member reporting the measure from a committee was entitled to an hour to close the debate after the time had expired to which general debate had been limited by the House. From this decision an appeal was taken. Nearly all of the members of the committee that reported the rule participated in the debate. They stated that the Chair had decided in accordance with the express and unanimous understanding of the committee as to the meaning and effect of the rule. To the objections that the committee would prolong the debate for an hour beyond the time fixed by the House, the members of the Committee on Rules answered that it was their intention to give the reporter of a measure an hour to close debate after the expiration of the time limited for general debate in the committee. The discussion explains the rule as having been framed and intended to secure to a committee not only an opportunity at the opening of the debate to explain through one of its members the provisions of a measure perfected and recommended by the committee, but at the close a further opportunity to answer objections made during the discussion by the opponents of the measure.

The decision of the Chair on the appeal was sustained by a vote of 103 to 70.

This contemporaneous interpretation and application of Rule 60 by the very Congress that first adopted it, and the explanation of its meaning given by the Committee on Rules that framed it seems to the Chair to be decisive of the question and the point of order.

It was first decided that in Committee of the Whole, where the House has by order closed debate in Committee of the Whole, a member reporting a measure from a committee, if a running debate occurs thereon, although he has taken an hour in opening, has a right to close the debate in committee by a reply after the time has expired to which general debate was limited. The Chair therefore, in accordance with these precedents, rules that the gentleman from Virginia [Mr. GOODE] is now entitled to one hour to close the debate in Committee of the Whole.

Mr. CONGER. I wish to say a word on just one point. I stated before there was no question in my mind that the gentleman from Virginia would have the right to his hour after the previous question was ordered. I suppose he would have that right even if he were permitted an hour now. In the conversation on the subject it was talked of as an hour being given after the previous question was ordered, and it was to prevent the repetition of the hour, so as to make it two hours, that I raised the point. I have no desire to limit the debate, but I do not think that two hours should be given for reply instead of one.

Mr. GOODE. I do not hear the gentleman from Michigan, but I insist that the ruling of the Chair should be carried out unless the gentleman takes an appeal.

Mr. CONGER. Nor do I hear the gentleman from Virginia. We are both thick about the head. [Laughter.]

Mr. GOODE. I yield ten minutes to the gentleman from Massachusetts, [Mr. LORING.]

Mr. LORING. When my time expired I was reciting the history of this question now before the committee and stating the attractions which it presented to my mind as a republican student desirous of comprehending and supporting the best principles of our Government and of recognizing the genius of our institutions. The attractions, as I was stating, that first presented themselves were, that the measure was born on this side of the House and passed this House when it was under the control of those gentlemen with whom I sympathize. It was introduced by gentlemen whose views then accorded with my own, and do now, advocated by them, sent before the country by them. A distinguished gentleman now on this floor from Ohio, distinguished gentlemen now gone, from Rhode Island and from Pennsylvania, have recorded their votes in favor of the measure which I in my inexperience, looking over the records of those believed on the floor to be sounder republicans than I was, thought as a republican I might safely support. When I was asked, therefore, as a member of the Committee on Education and Labor to support this measure in the House, I did it with the prestige attached to it, to which I have referred, with the conviction that it was a republican measure of generosity and peace, and I had and now have a right so to consider it.

I made my argument upon that line; and if the gentleman will be fair and remember that I declared over and over again that this college had advocated the sentiments of that section of the country where it existed, and that it had presented another instance in which professors and students had gone forth to battle, and followed an example which had been set before by illustrious and ardent men everywhere, whether right or wrong, successful or unsuccessful, he will do me the justice to which I am entitled. I looked upon this question as one elevated entirely above the controversies which naturally divide ardent men engaged in discussing the political questions of the country. I stated at the time that I did not care to bring up the personal history of the question, but I had no desire to rehearse the circumstances which surrounded the injury done to the college. I agreed at once with the recital of those circumstances, but I endeavored to elevate this matter entirely above the mere question of war claims of every sort and description, and to present it here as an instance in our history in which a measure has been adopted by the dominant party controlling public affairs, for the purpose of restoring peace and harmony in the minds of the American people.

I held that the colleges, the churches, the school-houses of the South should have been restored as one of the first and most necessary measures of reconstruction; and I asked gentlemen upon both sides of the House if such a measure would not have presented to the civilized world a high and honorable example of which we should all be proud and which would have done more to pacify the American mind and warm the American heart on both sides of the line than any act that could have been accomplished by those then in power. Sir, I believed it then, and I believe it now, even when the time for such concessions seems to be past. At the close of the war I asked a restoration of the educational institutions of the South by Congress; I asked that this restoration should form a part of reconstruction. Not being a member of the House at that time, I had no opportunity to present my views upon that question except through the mouth of one of the distinguished Representatives of my State upon this floor.

The suggestion was not adopted; the plan failed; but still, sir, I find the sentiment manifested everywhere, and I know that conflicting men can unite and warm and rouse their better natures to action before the institutions of learning and religion and before historical associations such as are connected with this question.

Those were the circumstances and influences under which I advocated this measure at the last session. That was the way in which the question presented itself to my mind before older and more distinguished members of the House taught me many ways of wisdom and, I trust, enlightened me on many of those processes by which an untaught representative may escape the dangers of the political path which he endeavors to tread.

Now, sir, having taken this stand, you cannot imagine my astonishment when I found myself charged with advocating disloyal war claims and introducing an entering-wedge for a recognition of such demands to a ruinous extent upon our Government. Why, sir, I declare unequivocally that at that time I was opposed to allowing such claims; and I am happy to say that the idea which I then presented has been taken up by a distinguished statesman from Vermont in the other House, who has introduced a measure for a constitutional limitation upon the payment of all such claims, in the support of which I doubt not every man in the country who has the welfare of the country at heart would gladly join. This was my own proposition, presented here after consultation with many of the wisest and soundest men of my own party—my own suggestion; and I am glad to see that one of the ablest, most influential statesmen of the time has taken up that proposition and is endeavoring to incorporate it into the constitutional law of the land.

Many warm-hearted republicans here and in my own section have called me to account for my action upon this question; and if I had not been sustained by those whose intelligence was superior to mine, and whose existence was dearer to me than life itself, if I had not received the approval of hosts of soldiers and civilians, and of thoughtful men North and South, I might have doubted the wisdom of my action, I might have suspected myself of having committed an unpardonable political sin thus early in my congressional career. I thank those who stood by me, in many walks in life and from every section of the land; I thank also those who raised the question against me, inasmuch as it gave my friends an opportunity to express themselves as they did, and my party an opportunity to support me generously notwithstanding our differences of opinion on this matter.

Sir, I advocate no war claims. I simply ask that this question may be put upon the high plane of American statesmanship and settled upon the high plane of American generosity and justice, so that it might stand in history for all time as an example which those who are to come after us might follow; an example set us by every civilized nation on the face of the earth which has been swept by civil war or invaded by foreign foes. On this ground alone would I support it.

Now, sir, I am charged with insulting Union soldiers, with stating that a drunken Union-soldier mob burned this building. I said no such thing.

Mr. CONGER. Neither did I say that the gentleman said it. I said that a former printed report, made by the predecessor of the gentleman, [Mr. HOAR,] did charge that a drunken, disorderly soldiery burned this building.

Mr. LORING. If the gentleman from Michigan says he did not charge me with such a statement, I have nothing to say one way or the other. The gentleman whom he charges with having made it can defend himself better than I can against any charge made against himself here or elsewhere.

Now, sir, there has been a great deal said in this House, since this question came up, in regard to the relations which have existed between Massachusetts and Virginia. The Representatives of Massachusetts are not responsible for that. No Representative from Massachusetts on this floor proposes to gush over that for the gratification of any calm and cool and disinterested observer sitting here from any neighboring State, or for the purpose of giving any gentleman an opportunity to furnish again a classical allusion to the heated and torturing poker for the benefit and amusement of this House.

But I do wish to say that the historical bonds that bind the States of Massachusetts and Virginia can never be broken. The streams of blood which ran from Massachusetts into Virginia veins can never be destroyed. Those of us whose ancestors gave away the lands of Virginia to their best-beloved children, because they considered that State as the favored spot of this nation, when Massachusetts was struggling for existence, will never forget those acts; they never can be forgotten. The relations which exist between these two old Commonwealths are such that there is a natural impulse which cannot be resisted, and which calls upon each to stand by the other whenever their relations in the past are assailed.

Massachusetts and Virginia have an honorable record, won by their united action in our early national conflicts. They have also been interlocked exactly as the great Northwestern States have been bound to Massachusetts—by names and families, by blood, and by every tie that make the younger States of this nation dear to the older ones. Now let no debate which may take place in this House on a question in which either side is interested assume such a character as to make it in any way appear that it is trifling, dishonorable, trivial, and puerile for a son of Massachusetts to defend the old universities of Virginia, or for a son of Virginia to defend the old universities of Massachusetts.

I have looked at this question from the stand-point that I have described here as a republican. I have explained here the exact attitude in which it is presented to my mind. I have stated here what the feelings of my own State are in regard to Virginia herself. I have stated distinctly what my own views are and what have been the views of my colleagues and predecessors in this House for many years past on the question now before us.

Again, sir, my imagination has been called in question here. It is true it may differ from the imagination of other gentlemen on this floor. There may be two pictures to be drawn here. If this college was the filthy and putrid scene presented by the gentleman from Michigan, [Mr. CONGER,] if the picture which he has given us here, and which is for the first time presented to this House, with regard to the condition of this university, is in any measure true, and he has been allowed to exercise his imagination in giving one side of this picture, will he not be charitable enough to allow us on the other side to exert our imagination also so as to give a favorable view of it, if such a view is possible? I am sure that his candor, his fairness, his sense of justice, his liberality, and his patriotism will at least allow his associates on this floor to exercise in a small degree those intellectual powers which he himself has exercised so largely.

I have listened with great pleasure to the picture he has drawn; it is a curious picture, a striking picture. The lines he drew were vivid, and the condition of affairs there was, to me, unexpected. When I made the argument for the benefit of this college, I had no idea that I was speaking for a roof which covered both sides of the question in the great conflict. I had no idea that this university had been converted into a common hospital for both parties in the bitter and bloody strife. I had no idea that it had been accepted as a temple which would shelter friend and foe alike.

But I learn now from the gentleman from Michigan that instead of simply being an institution of learning, it was an institution which had been converted into one of large, broad, and liberal charities, covering loyal and disloyal with a common shelter. Notwithstanding the depressing picture which has been presented, I am more kindly inclined than ever to the old college itself for its classical honors in peace and for its charitable services in war. I am under obligation to the gentleman from Michigan [Mr. CONGER] for so liberally giving me the opportunity to be not only just but generous to an institution which, according to his view, is manifestly entitled to justice and generosity alike.

I trust that in any argument which may be used on this question hereafter the exact position of gentlemen will always be remembered. Do not let any man inside or outside of this House charge me with advocating unjust claims against the Government. Let no man inside or outside of this House charge me with a desire to surrender my party principles; but let every man deal with me exactly according to the record. I mean precisely what I say when I repeat the words re-echoed on every republican platform, from every republican stump, wherever republican declarations have been made, that it is time this controversy between the two sections of our land should be adjusted, and that we should rise up as one people bound in one cause for the honor, the integrity, the financial credit, and commercial power and interests of a great people. For this purpose I join hands with my fellow-citizens everywhere. I am confident that the time is rapidly coming when the principles of government, the docrines of state and society which were confirmed by the war, will be kindly, fairly, and properly accepted in this land in spite of all opposition; when no further controversies over these questions will arise; but when, as in the last election, such divisions of opinion will be buried beneath the general hope and demand everywhere that the honor of the country, its financial honesty and credit, shall be undisturbed, and beneath a grand struggle that these may be secured. Thus, in all time to come, the question of American citizenship having been settled, as it must be, there will arise great, overtopping questions on which men can join hands, North and South, in one manly effort to preserve the honor and integrity of the land. I, sir, as a northern man ask for that, and for a speedy recognition of the equality and justice guaranteed now by the Constitution.

I surrender to no man on this floor in my fidelity to the principles of those who sent me here. I have advocated the doctrines of human right and suffrage, not quite so long as the gentleman from Michigan, not so long as I wish I had; but I have advocated them long enough and I have received sympathy enough from the declarations of gentlemen all over this House to know that they are rapidly becoming the great controlling laws of state and society in our country. I know there are circumstances in our political contests which would indicate that there is hostility to these doctrines, but, sir, these are incidents of violent political controversies which we must deplore and which, wherever they occur, must be speedily and firmly adjusted according to the requirements of the Constitution and the laws of this land. If this conflict is to be continued, I am ready to meet it, but I trust it may soon cease, and cease forever.

I speak, then, for my country; I speak also for my party; I speak for the doctrines presented here from the beginning by the scholars and educated men of the land; and I speak for that harmony of feeling that must come if we ever expect to restore our country to that condition which we all so much desire, and to which she is marching on, step by step, with an inevitable power which no human arm can restrain.

I have said what I wished to say as briefly as possible, laboring under a physical disability and weakness which prevents me from presenting the matter in any more elaborate form. I am sorry, I regret more than words can express, that a question of this description, a question entitled to calm and deliberate debate, has been seized here and whirled as a firebrand through this House. I regret more than words can express that it has been discussed in any but a fair, broad, liberal, national spirit. I do not object to opposition; but I do think I have a right to object to that spirit which would pervert the arguments and misrepresent the statements of those who desire to discuss all questions freely and fairly, and claim the right to differ from their associates on this floor, while standing by them in advocating that general policy of integrity, freedom, and right upon which the welfare of our people depends.

I am obliged to the gentleman from Virginia [Mr. GOODE] for the ten minutes which he has given me. I hope I have stated distinctly and fully what I understand to be the origin of this bill and the motives which operated upon my mind in advocating it as a national measure.

Mr. GOODE. Mr. Chairman, I will occupy only a few moments. I do not consider it at all necessary for me to reply on this occasion to the very characteristic speech made by the gentleman from Michigan, [Mr. CONGER.] If it affords that gentleman any pleasure, as it evidently does, to indulge in ill-natured flings and to pour out the vials of his impotent wrath upon the "Mother of Commonwealths," and the venerable college of William and Mary, let him enjoy it. But he may rest assured that all his envenomed shafts will fall harmless and fail to reach the mark at which they have been aimed. The time was (and I wonder the gentleman in his historical researches did not recall it)—the time was in the early days of the Republic when Virginia, in a spirit of patriotic and disinterested self-sacrifice, surrendered for the common good a vast and almost illimitable domain in the very section from which that gentleman comes, northwest of the Ohio River. But, sir, instead of cherishing a filial regard for the "Mother of Commonwealths," he seems utterly unwilling and unable to do her justice, and, like the unnatural daughter of King Lear, tries on all occasions which present themselves here to make her feel

> How sharper than a serpent's tooth it is
> To have a thankless child.

I therefore turn from the gentleman and leave him alone in his glory, knowing full well that he will never be able to soar to those heights occupied by the scholarly gentleman from Massachusetts. I leave him in the place which he has sought out for himself this morning, burrowing amid the ruins of William and Mary. I leave him there in his glory to hug to his bosom his idol of revenge and of hate, amid the hooting of bats and owls.

Mr. CONGER. I hear them now. [Laughter.]

Mr. GOODE. Yes, the gentleman heard them because he last heard himself. I say, I turn from that gentleman and leave him to hug his idol of revenge and hate, while I address myself for but a few moments to those Representatives who, like the gentleman from Massachusetts, believe that the war is over and are willing to recognize the Southern States as coequal sovereigns in a confederacy of States.

Now, what is this bill? Why should it not pass? As you have been told here it has been reported favorably by the Committee on Education and Labor at every succeeding Congress since 1870. It passed this body, largely republican then, by a decided majority in 1873. Why should it not pass? Sir, we are told it is a war claim. Why, Mr. Chairman, if it had been a war claim it would have been sent to the Committee on War Claims; but in 1870, and from that day to this, it has been uniformly referred to the Committee on Education and Labor.

The gentleman from Massachusetts has summed up in a few words the grounds upon which we rest the support of this bill. We ask the American Congress to restore this college, the oldest educational institution in the land save one, for the sake of the historic associations which belong to it, upon the same principle that we would repair a damage done to Mount Vernon or Independence Hall, or any other monument about which the affections and patriotic memories of our people cluster. What cares the gentleman from Michigan for all this? What cares he for the *alma mater* of George Washington, of Thomas Jefferson, of James Monroe, of John Tyler, of Peyton Randolph, of John Marshall, and of Winfield Scott? What cares the gentleman for the fact that upon the illustrious roll of those who drank in early life at the fountain of William and Mary are to be found the names of four signers of the Declaration of Independence, four Presidents of the United States, two eminent attorneys-general, twenty members of the House of Representatives, fifteen Senators of the United States, and a long list of distinguished officers of the Army and Navy, who have covered themselves with immortal honor and shed enduring luster upon the American name? He does not care about these things, but I trust the Representatives of the people here do.

We ask this House to restore this college for the sake of education, in order to educate the young in our land. Why, sir, nearly one hundred million acres of the public lands acquired by the common blood and the common treasure, lands held by this Government in trust for the common benefit of all the people of all the States, have been donated to your State and other new States for educational purposes. But when "the mother of States" comes, in the weeds of woe, asking the poor pittance of $65,000 to enable her to restore the oldest institution of learning in the land save one, are we to be told—I know we will be told so by the gentleman—but are we to be told by the American Congress they will turn a deaf ear to her appeal, and practically declare she is fit only to pay taxes and to bear burdens, and that all the favors of the Government are to be reserved for the new States?

The gentleman says this is a war claim. I deny it. I profess to know something at least of southern sentiment and feeling on this subject, and I tell the gentleman for the repose of his soul, [laughter,] I tell that gentleman that the people of the South do not now expect and never did expect that losses incurred by individuals as necessary incidents of the war would ever be reimbursed to them. Never! never! They went into that war, sir, with their eyes wide open, with a full knowledge of the consequences of failure. They staked everything they had on the issue of the struggle. They lost, and they accept it as the fate of war.

But the gentleman has made the wonderful legal discovery that a corporation can commit treason. He called it a nest of treason! Why? Because the faculty and students of William and Mary in our late unhappy civil strife yielded to the instincts of our common humanity and sympathized with their own kith and kin and stood by the mother who bore them. And for this he would harden his heart against those impulses which always inspire the breast of the generous conqueror. I will tell the gentleman so far as the question of war claims is concerned we will give him a receipt in full. He may put it in the bill that it is not to be regarded as a recognition of war claims so far as individuals are concerned. We put it upon the ground that it is a bill to encourage, to promote, to advance the great cause of education in our land.

But, sir, the gentleman has appeared here in a new *rôle* to-day and has played the part of a bulldozer. [Laughter.] He has undertaken to say from his place that there is no man here from the North, democrat or republican, who dare vote for this bill—dare was the word—who dare vote for this bill. "Upon what meat doth this our Cæsar feed that he hath grown so great!" [Laughter.] The testimony of eye-witnesses, now on file in the committee-room, and the statements of Colonel Campbell, General Dix, and General Meade, all show not only that the college buildings were fired and destroyed by the soldiers of the Union Army, but that it was an unnecessary and deplorable act of destruction. The numerous precedents cited by the committee in their report show that it is a well-established custom among all civilized nations to repair losses like this occurring in time of war. In other words, that civilized and Christian people do not make war upon works of art, or temples of religion, or public edifices dedicated to science and learning.

I will only say in conclusion that as chairman of the committee reporting this bill I have had the honor to receive a large number of letters from cultivated gentlemen all over the North, and I feel warranted in saying that, notwithstanding the speech of the gentleman from Michigan and his intimidation and threat here to-day, a large majority, in my judgment, of the cultivated, liberal-minded, public-spirited men all over the North, especially those who fought in the war, would hail the passage of this bill with approval and satisfaction, for the reasons so eloquently stated by my patriotic and public-spirited friend from Massachusetts.

I now yield ten minutes to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Chairman, it would be a very presumptuous thing for me to attempt to make a speech on this bill after the speeches of the eloquent gentlemen who have addressed the committee on both sides of the question. I have no wish to make a speech. I claim the attention of the committee a moment solely for the purpose of explaining the position which I occupy in regard to this measure.

It affords me no satisfaction to find that I must give a vote upon this question which does not appear to be generally approved by gentlemen on my side of the House. I fall behind no man on this side in respect for the opinions entertained by the majority of my political associates here. The opinion of my political friends always has had, and always will have, and always ought to have, great influence with me, and it only gives me pain to-day to find that I must vote differently on this subject from the way in which most of them, I suppose, will vote. But, Mr. Chairman, it so happens that a long time ago, having paid this question some attention at a time when it was not discussed from the stand-point from which it is now discussed, and having then made up my mind that this was a proper measure for me to support, and having so expressed myself, I do not find it consistent with my personal record to change my vote to-day on the question, although to my regret I find that I am differing from so many of my own side of the House.

When I was associated on the Committee on Education and Labor with the distinguished gentleman from Massachusetts whose name has been mentioned on this floor to-day, [Mr. HOAR,] and who has since taken a seat at the other end of the Capitol, I at that time expressed my sympathy with him in regard to this question of doing something to repair the damage to the College of William and Mary. I have repeatedly since said to gentlemen about me that I was prepared to support the measure, and I do not feel at liberty to-day to turn against my own honestly expressed views in the past because I find that my political friends take a different view of the matter from what I do.

Now, Mr. Chairman, I have it in my power to cite a single instance of legislation on the part of this House, an instance belonging to the last session of Congress, legislation which both sides of this House I believe unanimously supported, and legislation which exactly represents the feeling with which I shall vote for the proposition in regard to William and Mary. On a certain occasion in the last session of Congress the distinguished gentleman from New York, whom I do not now see in his seat, [Mr. COX,] introduced into this House a proposition to appropriate $5,000 to build a monument at the grave of Jefferson. The gentleman from New York, when he came to speak upon the question, said that he had first named $5,000, but that several prominent republicans had been over to see him and had asked him to raise it from $5,000 to $10,000, saying they would all vote to appropriate $10,000 to build a monument at Jefferson's grave. And we all did vote for it. We voted for it sincerely and heartily. We voted for it out of reverence to our own great past. We voted for it out of respect to the great history which this Republic made in former days. None of us felt any objection to it. And now, Mr. Chairman, in order that my friends may understand the feelings with which I shall vote for this bill in favor of the William and Mary college, I will say that I shall vote for this measure with exactly the same feeling with which I united with all my republican friends and all my democratic neighbors here in appropriating $10,000 to build a monument to the memory of Thomas Jefferson.

I cannot, in attempting to analyze my own feelings to-day, distinguish between the feeling with which I voted to build that monument at the last session and the feeling with which I shall vote to do something toward restoring this venerable monument which has now been under discussion. I do not discover any difference in my motives or any difference in my feelings. I am willing to vote, when it may be necessary, to aid in repairing, restoring, rebuilding any one of the most venerable of the historical monuments of the country, whether it be the monument of Bunker Hill or the Washington monument here, or the venerable monument of William and Mary, or Mount Vernon itself; I would be willing to vote money to keep any one of these venerable relics of the past in a state of preservation.

Let me add, Mr. Chairman, that the fact that William and Mary happens to be an educational monument instead of a monument at a grave does not diminish my interest in it. I have no dislike for education; I have no such feeling toward it as that I must pause right here in my liberality about keeping in repair the venerable, historical, monuments of the past. I confess frankly that the fact that it is an educational monument rather increases than diminishes my interest in it. I am quite as willing to do something to keep a venerable old college in repair as I am to keep in repair a monument over the bones of a dead statesman. It seems to me the proposition now before us is every way as worthy of us as was the proposition to repair the tomb of Jefferson.

And I would say, Mr. Chairman, to prevent all possible misunderstanding, that I have never taken the slightest interest in this bill as a war claim. I would not vote for it or say a word for it as a war claim. My friends may rest assured of that. If all that could be

urged in favor of this bill was what has been said in its behalf as a war claim, I should certainly vote against it. I will vote against any measure like this, as a war claim, whenever it shall make its appearance upon this floor.

I have never even read what has been put in print in favor of this bill as a war claim, because I felt no interest in it from that point of view. I should be utterly opposed to it from that stand-point, but I am in favor of it from the stand-point I have indicated.

I wish to add that whenever what are purely southern war claims come here and are pressed in this House my republican friends will find me standing out against them as stoutly as the firmest.

I take the ground of the gentleman from Massachusetts, [Mr. LORING,] that we do not support this measure on account of its having in it the character of a war claim; so far as that is concerned we should be utterly opposed to it. We put ourselves on record in this way, and in the future, if any man shall come to us and say you must vote for my war claim because you voted to repair William and Mary college, we will reply by saying, we gave you notice when we voted for William and Mary that we would vote against all war claims that may be brought before Congress.

I unite with my friend from Michigan [Mr. CONGER] in saying that I would not and could not give my support to such a claim.

Mr. REED. Will the gentleman allow me to ask him a question?

Mr. MONROE. Certainly.

Mr. REED. The gentleman from Ohio has said that he has not read the arguments in favor of this as a war claim. Has he taken the pains to read the title of the bill, which is: "A bill to reimburse the College of William and Mary for damages," &c.?

Mr. MONROE. I understand that the friends of the bill propose to change the title.

Mr. REED. In other words, my friend is like the deacon who was a member of a temperance society, who said he could not drink cider, but if they would call it apple juice he would drink it. [Laughter.]

Mr. MONROE. I am responsible for my own position, but I am not responsible for any other man's position here. I think we sometimes commit the mistake of trying to make our friends all act upon precisely the same reasons. Because the title of the bill is not satisfactory to some of my friends that is no reason why I should vote against it when my honest conviction is that it is a right and patriotic thing to pass it. I think my friend from Maine will feel on reflection that if he occupied my stand-point and honestly believed in the bill he would not allow himself to be bluffed off from voting for it because the title is not satisfactory to some of our friends. I know the mettle of my friend from Maine; that he is not in the habit of being put down by a joke, and I tell him in all kindness that I do not mean to be put down in that way myself.

Mr. REED. I had not the slightest idea of putting the gentleman down. I was only meeting an argument which both he and the gentleman from Massachusetts [Mr. LORING] presented. He says that hereafter he is going to be foremost in opposition to the payment of war claims. I tell him that the time to fight is when the battle is going on, and not after it is over.

Mr. MONROE. That is true; but it is not worth while to begin the battle beforehand; it is not worth while to get up in the middle of the night and begin sounding the trumpet and beating the drum and making the fife scream when every honest man is quietly sleeping in his bed. [Laughter.] When the time comes, I shall hope to be as belligerent as anybody, as the gentleman from Maine or my friend from Michigan. Now I did not say I would be foremost; I said I would try to keep even with others.

No, Mr. Chairman; the fact is, I do not believe in this as a war claim, and I have a right to that opinion. I have a right to vote in accordance with my opinion, and I am going to do it. Now that is the feeling I have in regard to the matter, and I am not going to allow any man to say that I am in favor of war claims, or of depleting the Treasury, or of any of these terrible "entering-wedges," as they express it, for future war claims. I am the enemy of all such "entering-wedges." [Laughter.] I hope to be just as firm as any other man here in resisting all claims that can properly be called war claims.

Mr. TUCKER. Mr. Chairman, I had intended to discuss this question more fully than I will be able to do in the ten minutes allowed me. In those ten minutes, if the Committee of the Whole will give its attention, I will state the propositions which in my judgment distinguish this case from every other case that has been or can be presented to this House.

I acknowledge the danger of bad precedents; God knows we have had enough of them. But I think I can show that this case of William and Mary college stands upon grounds which make it to differ from every other case that has been before it or that may come after it.

In the first place, it is not the claim of an individual; it is the claim of a corporation.

In the second place, it is not the claim of a joint-stock corporation, owned by individuals who may be responsible for crime; but it is an eleemosynary corporation, that is, a mere abstract entity, or, as the law-books state it, an *ens rationis*, a being of the mind, a creature of the law, in respect to which there are no persons interested as owners of its property or holders of its corporate powers; which has no power to act outside of its charter, which is its constitution; which is limited by its very being to its chartered powers in all of its actions; and in respect to which it cannot be said that its trustees, its faculty, its students, had anything to do in tainting the corporation with the crime of treason charged against them individually. Its trustees in their individual action could not, nor in their combined action could they bind or affect the corporation in anything not within the charter. Everything beyond was *ultra vires* and could not bind the college. Its faculty were its servants, its scholars its wards. It did not send them to the war. It could not, for its powers did not allow it. And all acts not authorized by the charter were as to the college null and void. In other words, I hold that a corporation which is not a joint-stock corporation is a thing purely of the mind, a being of the law, and is not and cannot be responsible for, because it cannot in any shape or form be chargeable with treason or with any such crime. It has no stockholders, no private owners. No individual has personal interest in it. It is a creation of law, a parasite of the State. It cannot migrate or live independent of the State or beyond the State which gave it being. It derives its vitality from the State. It is subject to the visitatorial power of the State, subject to its government, and living only through its attachment to the State.

I take another ground which distinguishes this case from others: the building destroyed was a seat of learning and science.

The law of nations is a bundle of customs, based on international usage, the decisions of courts of admiralty, the opinions of publicists, and the treaties between nations. These customs, as the civil law says, are based on universal consent, and "put on the character of law." The Constitution of the United States (Article 1, section 8, clause 10) gives power to Congress "to define and punish piracies and felonies on the high seas and *offenses against the law of nations*." The Constitution thus recognizes the law of nations as a part of the public law of the United States—a part of their own fundamental law. By that law even the red hand of war cannot touch an institution of learning without crime, which Congress is empowered to punish. This Government has again and again appealed to this legal principle, notably in the destruction of the Capitol in the war of 1812, for its own security. Wheaton says, page 423:

> By the modern usage of nations, which has now acquired the force of law, temples of religion, public edifices devoted to civil purposes only, monuments of art, and repositories of science, are exempted from the general operations of war. (*Wheaton's International Law*, 46.)

Phillimore and Halleck speak to the same effect. How can this Government in war violate that law which the Constitution has recognized as binding on it and has empowered Congress to punish those who violate it? I take higher ground. This case differs from all others (I beg the attention of gentlemen to this) in the fact that Virginia of all the States in the Southern Confederacy was the only State that had a government that was recognized by the Government of the United States as a legal and loyal government. The government for the State of Virginia was restored at the city of Wheeling in June, 1861. That government at Wheeling in May, 1862, consented to the partition of Virginia. By the act of Congress, passed in December, 1862, based upon that consent of Virginia, West Virginia was conditionally admitted into the Union, and in May, 1863, was fully and absolutely admitted into the Union. Virginia thus consented in May, 1862, the very date at which General McClellan's army took possession of William and Mary college, and without that consent West Virginia could not have been a State. This Government, therefore, is estopped to deny that the government of Virginia at Wheeling was a loyal and legal and regular government of that State as a State in the Union. If it was not, the whole proceeding for the partition of Virginia was a nullity, and West Virginia is not now a State. As the Federal Government cannot deny that West Virginia is a State, it is equally estopped to deny the legality of the government of Virginia at Wheeling; for, by the Constitution, the State of West Virginia could not have been formed out of the State of Virginia without the consent of the Legislature of Virginia. (Art. 4, section 3.)

When, therefore, the troops of this Government took possession of the College of William and Mary, they took possession of an institution of learning under the guardian care and clinging to the breast of a loyal mother, according to your own concession. And the Government was as much bound to protect that institution from burning as it would be bound if it took possession of Harvard University to-day. And if by the negligent use of the building, if by the wanton action of its troops, that property was destroyed, the Government is as much bound in law for that to the people of Virginia as it would be legally bound for the wanton destruction of Harvard University to-day if it was taken possession of and destroyed by the troops of the Government.

The Government took possession, for its use without rent and, as far as appears, without consent, of the property of an institution of learning sacred by international law from the profane touch of war; an institution clinging to and under the guardian and maternal care of a loyal and legal State government; and that property situated in territory which, from May, 1862, to the end of the war, was in the possession of Federal troops.

No gentleman on the other side will deny that with the advance of the Federal Army, the Constitution, like the pillar of cloud and fire, went before and with it. It is true the power to suppress insurrection is given by the Constitution, but its constitutional exercise can only consist with the observance of the constitutional duties prescribed in other clauses of that instrument. One of these clauses is as follows:

> The United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, * * * against domestic violence.

How can this Government, thus constitutionally bound *to protect* against invasion, become itself the invader and destroy the property of a college of a loyal and legal State government? How can it promote domestic violence when bound to defend the State against it? How can this Government, that, in the language of Macbeth, should against the murderer shut the door, not bear the knife itself, instead of preventing arson become itself the incendiary, and refuse compensation for the ruin it produced?

Look at another clause. In the fifth amendment to the Constitution, which is a limitation on Federal power, (Barron *vs.* City of Baltimore, 7 Peters, Milligan's case, 4 Wallace,) it is provided that no person "shall be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without just compensation."

In this case property was taken without due process of law. It was taken for public use and destroyed without just compensation. Can that compensation now be justly denied?

The United States was a bailee *without hire*, bound to extraordinary care. Its agents destroyed the property. Is not the Government bound to compensate? Gentlemen have cited cases to show the contrary. I need cite no cases to show that any private person under like circumstances would be liable. (See 22 N. Y. Reports, 355.) But a number of cases have been cited to show that this Government is not liable under like circumstances: Gibbons *vs.* U. S., 8 Wallace, 269; U. S. *vs.* Gill, 20 Wall., 517; Russell *vs.* U. S., 5 Court of Claims Cases, 121; Flushing Ferry Co. *vs.* U. S., 6 Court of Claims Cases, 1.

Some of these cases turned upon the point that in cases of *tort* the Court of Claims had no jurisdiction, and that such cases are reserved for the decision of Congress. In some the *dictum* of Judge Story, in his work on Agency, sec. 319, is relied on, which declared that no government was liable for the *laches*, misfeasance, or trespass of its officers, a dictum based on authorities the learned author refers to, which do not go further than that such acts will not discharge the *liability of parties to the Government*, and do not refer to the liability of Government to other parties. But in Russell *vs.* U. S., and U. S. *vs.* Gill, *supra*, the Government was held liable for the destruction and damage of property taken possession of, under its authority, by its agents; and in the late case of Clark *vs.* U. S., 2 Otto, the court says, per Justice Bradley:

> We do not mean to say that where a parol contract *has been wholly or partially executed and performed on one side*, the party performing will not be entitled to recover the fair value of his property or services. On the contrary, we think that he will be entitled to recover such value as upon an implied contract for a *quantum meruit*. In the present case, the implied contract is such as arises upon a simple bailment for hire, and the obligations of the parties are those which are incidental to such a bailment. The special contract being void, the claimant is thrown back upon the rights which result from the implied contract. This will cast the loss of the vessel upon him. A bailee for hire is only responsible for ordinary diligence and liable for ordinary negligence in the care of the property bailed. This is not only the common law but the general law on the subject. (See Jones on Bailments, p. 88; Story on Bailments, secs. 398, 399; Domat, Lois Civiles, lib. I, tit. iv., sec. 3, par. 3, 4; Bell's Com., vol. I, pp. 481, 483, 7th ed.)
>
> As negligence is not attributed to the employés of the Government in this case, the loss of the vessel, as before stated, must fall on the owner.
>
> Of course the claimant is entitled to the value of the use of his vessel during the time it was in the hands of the Government agents, which, as shown by the findings, was the period of eight days.

If, then, the Government, as bailee for hire, would be responsible to the owner for destruction of property hired, how can it escape liability as a bailee by seizure without hire when its own soldiers destroyed the property?

The case of Flushing Ferry Co. *vs.* U. S., cited and relied on by the gentleman from Ohio, [Mr. KEIFER,] has no application. It simply decided the Government was not liable for loss of a vessel because it appointed a bad pilot and did not keep up a buoy, for neither of which could it be liable to judgment in the Court of Claims, or be justly liable at all; because no government is properly responsible for the fidelity of its officials, and this Government is not bound to keep up buoys.

I maintain, therefore, that under the Constitution, and under the law of nations recognized in the Constitution, this Government is legally and equitably liable for the wanton destruction of this venerable college by its own soldiers, in possession under the orders of the Government.

Now, sir, I say that these three points differentiate this case from every other case that can be presented; in that it is a college under the guardian care of a loyal State government of the Union; in that it was a college, an eleemosynary and not a joint-stock corporation, that could not and did not commit treason; and in that as an eleemosynary institution and not a joint-stock corporation it was, under the international law of civilized mankind, sacred from destruction and entitled to the vigilant protecting care of every foreign belligerent, and *a fortiori* under that of a government constitutionally bound to guard its venerable buildings from injury through the negligence or wantonness of the troops of the United States even in the midst of civil strife. It will be seen that these grounds upon which I put this case furnish no precedent for action by the Government in respect to the so-called southern war claims of private persons. I do not mean to say that the Government is responsible for all these individual claims, far from it. I agree with my colleague that the people of the South are just as tired of the mass of southern claims presented here as any other part of this country. I will stand at the door of the Treasury and protect it against any of these claims that are not based upon legal and equitable grounds. [Laughter on the republican side.] I repeat "upon legal and equitable grounds." Do gentlemen on the other side who laugh deny that there is a responsibility based on equity as well as on law.

A MEMBER. Who is to determine equity?

Mr. TUCKER. Who is to determine equity? We are. Congress is capable of making the proper discrimination upon which the liability of the Government should depend.

Now, Mr. Chairman, there is another ground that I rest this case upon; and I must hurry on; I can only state my propositions; I cannot argue them. How can this Government as one of the civilized nations of the earth say to foreign nations with whom we may engage in war hereafter: "When you tread our soil, our institutions of learning are safe even from the incendiarism of war;" how can we say that when we have burned down an institution of our own in civil war, and then refuse to pay for it? If we justify this Government in burning an institution of learning under the guardianship of our Constitution, and our refusal to pay for our own destruction, how can we condemn a foreign power in doing the same thing in a public war? Are we not estopped to plead the principles of international law against such an act by a foreign nation when we have set such a precedent by our own action in this case? I warn gentlemen that we are making a bad precedent against our own highest interests as a member of the society of nations. We are teaching bloody instructions which, being taught, will return to plague the inventors. As a civilized nation we are bound to stand out before the world and say that in public war, as in civil war, where a government destroys an institution of learning by wantonness or negligence on the part of its custodians it is bound to compensate the owner, bound by international law in the case of a foreign war; by international law, by the Constitution of the United States, by the law of civilized humanity, and by the law of God in the case of a civil war.

A great deal has been said about this old institution and about its venerable character. I have some feeling on that subject. My ancestors for two generations back drank at its fountains of learning. One hundred years ago and more my grandfather was converted to the principles of republicanism there, and, renouncing his allegiance to the country of his birth, stood as an officer of the Revolution with the defenders of our liberties at the surrender of Yorktown. My father, my uncles, and kindred were trained there. The institution therefore is one that fastens itself upon my affections. But look at its alumni. The greatest jurist of the land, the greatest expounder of the Constitution, John Marshall, was an alumnus of William and Mary. Winfield Scott, one of our greatest warriors; Jefferson, the sage of Monticello; Madison of Montpelier—these and others whom I could name by the score were trained for their high duties by this noble Alma Mater, and, having shed luster upon the annals of our country by their splendid lives, come here and in mute appeal from a higher sphere than this claim that we shall rebuild this old institution and raise it from its ashes for a career of future usefulness no less glorious than it has wrought in its past history.

I pray you, gentlemen, to remember that this is no precedent for war claims, but a simple demand of justice to old Virginia. She comes not here to boast, as gentlemen have charged in this debate. I do not notice the harsh, the illiberal, the ungenerous expressions which have been used in the discussion of this question; but when gentlemen make this charge, I reply that she does not boast of the glory of her sons more than other States do, or in disparagement of the just pride of other States in their distinguished men.

It has been said by a great man that she is like the mother of the Gracchi: when asked for her jewels she points to her sons. Standing at the grave of her mighty and illustrious dead who have been trained at this institution of learning, she may well point her living sons to their tombs and to the memorable records of their lives to show how they have trodden the fields of glory and done immortal honor to her and to the Union, and say to them with tender pride: "Go, follow their noble examples." *Respicere exemplar vitæ morumque jubebo.*

The CHAIRMAN. The Clerk will now proceed to read the bill for amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the College of William and Mary, in Virginia, the sum of $65,000 out of any moneys in the Treasury not otherwise appropriated, to reimburse said college for the destruction of its buildings and other property destroyed without authority by disorderly soldiers of the United States during the late war: *Provided*, That no moneys be so paid except upon accounts of such destruction, and the damage caused thereby, duly verified and proven.

During the reading of the bill,

Mr. PHILLIPS said: I move to strike out the enacting clause of the bill.

The CHAIRMAN. That motion is not in order until the reading of the bill is concluded.

The reading of the bill being concluded,

Mr. CONGER. I move to amend by striking out the words "disorderly soldiers of the United States."

Mr. PHILLIPS. I believe my motion has precedence.

The CHAIRMAN. The Chair is bound to recognize the gentleman from Kansas.

Mr. PHILLIPS. I move that the committee rise and report the bill to the House with the enacting clause struck out.

The CHAIRMAN. The motion that the committee rise cannot be combined with the motion to strike out the enacting clause.

Mr. PHILLIPS. I move, then, to strike out the enacting clause.

The question being taken on the motion of Mr. PHILLIPS, it was not agreed to, there being—ayes 79, noes 82.

Mr. GOODE. I move that the committee rise and report the bill favorably to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BURCHARD reported that the Committee of the Whole on the Private Calendar had had under consideration the bill (H. R. No. 189) to reimburse the College of William and Mary, in Virginia, for property destroyed during the late war, and had directed him to report the same to the House with a recommendation that it pass.

Mr. GOODE. I call the previous question.

The previous question was seconded and the main question ordered; which was upon ordering the bill to be engrossed and read the third time.

Mr. PATTERSON, of New York, Mr. TOWNSEND, of New York, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 87, nays 127, not voting 75; as follows:

YEAS—87.

Aiken,	Davis, Joseph J.	Jorgensen,	Rice, Americus V.
Atkins,	Dibrell,	Kenna,	Robbins,
Bell,	Durham,	Kimmel,	Robertson,
Blackburn,	Elam,	Knott,	Sayler,
Bland,	Ellis,	Landers,	Scales,
Bliss,	Evins, John H.	Ligon,	Shelley,
Blount,	Felton,	Loring,	Singleton,
Boone,	Franklin,	Luttrell,	Smalls,
Brentano,	Garth,	Mackey,	Smith, William E.
Bridges,	Giddings,	Maish,	Steele,
Bright,	Goode,	Manning,	Stenger,
Brogden,	Gunter,	Martin,	Throckmorton,
Cain,	Harris, Henry R.	Mills,	Tucker,
Caldwell, John W.	Harris, John T.	Money,	Turner,
Candler,	Hatcher,	Monroe,	Vance,
Carlisle,	Henry,	Morse,	Waddell,
Chalmers,	Herbert,	Muldrow,	Whitthorne,
Clark of Missouri,	Hewitt, Abram S.	Muller,	Williams, Jere N.
Cox, Jacob D.	Hewitt, G. W.	Potter,	Willis, Albert S.
Cravens,	House,	Pridemore,	Wood,
Crittenden,	Hunton,	Rainey,	Yeates.
Culberson,	Jones, James T.	Reagan,	

NAYS—127.

Aldrich,	Danford,	Jones, John S.	Reilly,
Bacon,	Davis, Horace	Joyce,	Robinson, G. D.
Bagley,	Deering,	Keightley,	Robinson, M. S.
Baker, John H.	Denison,	Kelley,	Ross,
Ballou,	Dunnell,	Ketcham,	Ryan,
Banks,	Dwight,	Lapham,	Sampson,
Banning,	Eames,	Lathrop,	Sapp,
Bayne,	Eden,	Lindsey,	Shallenberger,
Bicknell,	Ellsworth,	Majors,	Sinnickson,
Blair,	Errett,	Marsh,	Smith, A. Herr
Bouck,	Evans, James L.	McCook,	Sparks,
Boyd,	Fort,	McGowan,	Springer,
Bragg,	Foster,	McKinley,	Stewart,
Brewer,	Frye,	McMahon,	Stone, John W.
Briggs,	Gardner,	Morgan,	Strait,
Browne,	Garfield,	Morrison,	Thompson,
Buckner,	Hale,	Neal,	Tipton,
Bundy,	Hamilton,	Norcross,	Townsend, M. I.
Burchard,	Hardenbergh,	O'Neill,	Townshend, R. W.
Caldwell, W. P.	Harmer,	Overton,	Turney,
Camp,	Harris, Benj. W.	Patterson, G. W.	Van Vorhes,
Campbell,	Harrison,	Patterson, T. M.	Ward,
Cannon,	Haskell,	Peddie,	Warner,
Claflin,	Hazelton,	Phelps,	Watson,
Clark, Rush	Hendee,	Phillips,	White, Harry
Cobb,	Hiscock,	Pollard,	Williams, Andrew
Cole,	Humphrey,	Pound,	Williams, C. G.
Collins,	Hungerford,	Powers,	Williams, James
Conger,	Hunter,	Price,	Williams, Richard
Covert,	Ittner,	Randolph,	Willits,
Cummings,	James,	Rea,	Wren.
Cutler,	Jones, Frank	Reed,	

NOT VOTING—75.

Acklen,	Dean,	Hubbell,	Southard,
Bailey,	Dickey,	Keifer,	Starin,
Baker, William H.	Eickhoff,	Killinger,	Stephens,
Beebe,	Evans, I. Newton	Knapp,	Stone, Joseph C.
Benedict,	Ewing,	Lockwood,	Swann,
Bisbee,	Finley,	Lynde,	Thornburgh,
Burdick,	Forney,	Mayham,	Townsend, Amos
Butler,	Freeman,	McKenzie,	Veeder,
Cabell,	Fuller,	Metcalfe,	Wait,
Calkins,	Gause,	Mitchell,	Walker,
Caswell,	Gibson,	Oliver,	Walsh,
Chittenden,	Glover,	Page,	White, Michael D.
Clark, Alvah A.	Hanna,	Pugh,	Wigginton,
Clarke of Kentucky,	Hart,	Rice, William W.	Willis, Benj. A.
Clymer,	Hartzell,	Riddle,	Wilson,
Cook,	Hayes,	Roberts,	Wright,
Cox, Samuel S.	Henderson,	Schleicher,	Young, Casey,
Crapo,	Henkle,	Sexton,	Young, John S.
Davidson,	Hooker,	Slemons,	

So the House refused to order the bill to be engrossed and read a third time.

During the vote,

Mr. SPRINGER said: I am paired on all political questions with my colleague, Mr. HENDERSON. But on inquiry I learn from my colleague, Mr. TIPTON, that if Mr. HENDERSON were present he would vote "no;" and as I would also vote on the same side, I claim the right to vote. The Clerk will call my name.

The CLERK. Mr. SPRINGER.

Mr. SPRINGER. I vote "no."

Mr. BEEBE. I am paired with my colleague, Mr. BAKER. I am not aware how he would vote if he were present, and am constrained, therefore, to withhold my own vote.

Mr. HUNTON. My colleague, Mr. CABELL, is paired with Mr. PUGH. If my colleague were present, he would vote in the affirmative.

Mr. McKENZIE. I am paired with Judge OLIVER, of Iowa.

Mr. COX, of New York. I am paired with my colleague, Mr. STARIN. I would vote in the affirmative and he would vote in the negative.

Mr. MAYHAM. I am paired with Governor WALKER, of Virginia. If he were present, he would vote in the affirmative and I would vote in the negative.

Mr. FORNEY. I am paired with Mr. WAIT, of Connecticut. If he were present, he would vote in the negative and I would vote in the affirmative.

Mr. GUNTER. My colleague, Colonel GAUSE, is paired with Mr. SEXTON, of Indiana. If present, he would vote in the affirmative and Mr. SEXTON would vote in the negative.

Mr. HENRY. I have been requested to announce that my colleague, Dr. HENKLE, is paired on this question with Mr. CALKINS, of Indiana. If present, Dr. HENKLE would vote in the affirmative and Mr. CALKINS would vote in the negative.

Mr. JONES, of Ohio. My colleague, Mr. KEIFER, who is absent by leave of the House, is detained at home on account of serious sickness in his family. If present, he would vote in the negative.

Mr. WARD. My colleague, Dr. EVANS, is detained at home by sickness. If present, he would vote in the negative.

Mr. SINNICKSON. My colleague, Mr. PUGH, is paired with Mr. CABELL, of Virginia. If present, Mr. PUGH would vote in the negative and Mr. CABELL in the affirmative.

Mr. PAGE. I am paired with Mr. WILSON, of West Virginia. If he were present, I would vote in the negative.

Mr. GARDNER. My colleague, Mr. DICKEY, is unavoidably detained at home.

Mr. TOWNSEND, of Ohio. I am paired with Mr. ACKLEN, of Louisiana. If he were present, he would vote in the affirmative and I would vote in the negative.

Mr. HUNTER. My colleague, Mr. CALKINS, is paired with Dr. HENKLE. If present, Mr. CALKINS would vote in the negative and Mr. HENKLE in the affirmative.

Mr. RICE. I am paired with Mr. FINLEY, of Ohio.

Mr. SAMPSON. My colleague, Mr. BURDICK, is paired with Mr. CLARKE, of Kentucky.

Mr. HAYES. I am paired with Mr. GLOVER, of Missouri. If present, he would vote in the affirmative and I would vote in the negative.

Mr. WHITE, of Pennsylvania. My colleague, Mr. MITCHELL, who has gone with the committee accompanying the remains of Mr. HARTRIDGE, if present, would vote in the negative.

Mr. LUTTRELL. My colleague, Mr. WIGGINTON, is detained at home by important business. I do not know how he would vote.

The vote was then announced as above recorded.

Mr. CONGER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HALE. I move that the House do now adjourn.

Mr. DURHAM. I desire to present a conference report.

The SPEAKER. The gentleman from Kentucky [Mr. WILLIS] desired to be recognized by the Chair for some purpose.

Mr. WILLIS, of Kentucky. I am instructed by the Committee on Education and Labor to present a report.

The SPEAKER. Does the gentleman from Maine yield to allow the gentleman from Kentucky to make a report from the Committee on Education and Labor, for recommitment, as the Chair understands?

Mr. HALE. It is late, and I think we had better adjourn.

The SPEAKER. The gentleman from Kentucky [Mr. DURHAM] has risen to make a conference report.

Mr. HALE. I must insist on my motion.

Mr. LUTTRELL. I wish it understood that republicans object to any legislation on the Chinese question. It is in keeping with their record.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. WHITE, of Pennsylvania, and to Mr. DUNNELL to have printed in the RECORD remarks on the bill in relation to the College of William and Mary. [See Appendix.]

The question being taken on Mr. HALE's motion, it was agreed to; and accordingly (at four o'clock and twenty-seven minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Moses Bailey and 183 others, citizens of Winterset, Iowa, for the enactment of laws to prevent the adulteration of sugars and other sweets, and for the suppression of the traffic in adulterated sweets—to the Committee of Ways and Means.

Also, the petition of M. W. Oliver, jr., and 110 others, citizens of Crawford County, Pennsylvania, of similar import—to the same committee.

Also, the petition of C. R. Peck and 36 others, citizens of Ironton, Missouri, of similar import—to the same committee.

Also, the petition of M. V. Bonney and others, citizens of West Hanover, Massachusetts, of similar import—to the same committee.

Also, the petition of H. M. Swan and 60 others, citizens of Clarksville, Iowa, of similar import—to the same committee.

Also, the petition of J. A. Rice and 80 others, citizens of Rockland, Massachusetts, of similar import—to the same committee.

Also, the petition of Ad Moeller and 84 others, citizens of Ohio, of similar import—to the same committee.

Also, the petition of E. L. Marshall, M. D., and 70 others, citizens of Keithsburgh, Illinois, of similar import—to the same committee.

Also, the petition of L. Z. Lantz and 26 others, citizens of West Liberty, Ohio, of similar import—to the same committee.

Also, the petition of J. H. Robertson and 42 others, members of the bee-keeper's convention of Michigan, of similar import—to the same committee.

Also, the petition of John W. Painter and 143 others, citizens of Freeman, Missouri, of similar import—to the same committee.

Also, the petition of Jacob May and 120 others, citizens of Cass County, Missouri, of similar import—to the same committee.

Also, the petition of David O. Hays and 48 others, citizens of Byron, New York, of similar import—to the same committee.

Also, the petition of Emma P. Cooper and 32 other women, of Prospect Park, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BACON: The petition of Cyrus D. Prescott and others, against the passage of the proposed amendments to the patent laws—to the Committee on Patents.

Also, the petition of W. R. Pease, captain and brevet lieutenant-colonel United States Army, against the passage of sections 312, 313, and 315 of the bill to reorganize the Army, relating to the "retired list"—to the Committee on Military Affairs.

By Mr. BANNING: Resolutions of the Board of Trade of Cincinnati, Ohio, asking the Senators and Representatives in Congress from said State to oppose the passage of the bills (S. No. 300 and H. R. No. 1612) amending the patent laws, because they are alleged to be subversive of the rights of property, in violation of the Constitution and every solemn pledge given by the people to meritorious inventors—to the Committee on Patents.

Also, the petition of Mrs. Nancy Dunn and 23 other ladies, of Lockland, Ohio, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BLAIR: The petition of Sarah H. Thompson and others, citizens of Stark, New Hampshire, of similar import—to the same committee.

By Mr. BLAND: The petition of soldiers of the Black Hawk war, for pensions—to the Committee on Revolutionary Pensions.

By Mr. BOYD: The petition of S. R. Meadows and others, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

By Mr. BREWER: The petition of Frederick C. Dunker, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Drucilla L. Town, Mrs. K. M. Stetler, and 36 other ladies, of Onondaga, Michigan, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. Kate Lopham, Mrs. R. D. Sowle, and 44 other ladies, of Ingham County, Michigan, of similar import—to the same committee.

By Mr. CAIN: The petition of 35 cooks, laborers, and nurses of the Freedmen's Hospital, in Washington, District of Columbia, for an increase in the rate of compensation received by them—to the Committee for the District of Columbia.

By Mr. CHITTENDEN: The petition of the Central Branch Union Pacific Railroad Company, that Congress request the executive department of the Government to take such steps as may be lawful under the Pacific Railroad acts of 1862 and 1864 for the completion of the Central Branch Union Pacific Railroad to a connection with the Union Pacific Railroad, according to the true intent and meaning of the said acts—to the Committee on the Pacific Railroad.

By Mr. DIBRELL: The petition of Joshua Beck, of Chattanooga, Tennessee, for compensation for supplies furnished the United States Army—to the Committee on War Claims.

By Mr. DUNNELL: The petition of E. A. Perkins and 56 others, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of Harvey Chapel and 19 others, citizens of Minnesota, of similar import—to the same committee.

Also, the petition of Nelson Brown and 24 others, citizens of Minnesota, of similar import—to the same committee.

Also, the petition of Charles Smith and 56 others, citizens of Minnesota, of similar import—to the same committee.

Also, the petition of George Schelter and 60 others, citizens of Minnesota, of similar import—to the same committee.

By Mr. FINLEY: The petition of Jabez Dickey and 75 others, citizens of Morrow County, of similar import—to the same committee.

Also, the petition of W. M. Griffith and 85 citizens of Holmes County, Ohio, against an extension of the clover-huller patent of John C. Birdsell—to the Committee on Patents.

By Mr. GARDNER: The petition of Mrs. C. Eldridge and 139 other ladies, of Warren County, Ohio, for legislation to suppress polygamy—to the Committee on the Judiciary.

By Mr. HARRISON: The petition of Reid, Murdoch & Fischer and 23 others, wholesale grocers of Chicago, Illinois, for duties on imported sugars to be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. HAYES: The petition of ladies of Mazon, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of wholesale grocers and dealers in sugars, of Chicago, Illinois, that the duties on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. HUMPHREY: The petition of Mrs. C. L. Fuerer, Mrs. R. C. Burgess, and others, of Alma, Wisconsin, to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. HUNTON: The petition of A. Humphrey Beans, of Loudoun, Virginia, for compensation for stock driven off by order of General Sheridan during the late war—to the Committee on War Claims.

Also, the petition of Harrison Haws, of similar import—to the same committee.

Also, the petition of Craven Howell, of similar import—to the same committee.

Also, the petition of Lydia H. Jones, of similar import—to the same committee.

Also, the petition of John Price, of similar import—to the same committee.

Also, the petition of Hugh S. Thompson, of similar import—to the same committee.

By Mr. JACOBS: A paper relating to the establishment of a post-route between Pomeroy and Almata, Washington Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. JAMES: The petition of Mrs. Jennie M. Booth and others, of Canton, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. JONES, of Alabama; A paper relating to the establishment of a post-route between Saint Stephen's and Deer Park, Washington County, Alabama—to the Committee on the Post-Office and Post-Roads.

By Mr. KEIGHTLEY: The petition of Mary E. Hewitt and 49 others, of Richland, Michigan, for the enforcement of the anti-polygamy law—to the Committee on the Judiciary.

By Mr. LAPHAM: Resolutions of the senate of the Legislature of New York, requesting the Senators and Representatives from that State in Congress to oppose the passage of the Army reorganization bill, or at least the portions of it relating to the Ordnance department, United States arsenals, and ordnance stores—to the Committee on Military Affairs.

By Mr. LINDSEY: The petition of A. B. Bowler and others, citizens of Somerville, Maine, for the passage of House bill No. 4234, granting arrears of pensions—to the Committee on Invalid Pensions.

By Mr. McCOOK: The petition of Mary M. Staats, guardian of the minor children of Francis Eckerter, deceased, that a pension be granted said children—to the same committee.

Also, the petition of R. Beggs and 54 others, of the city of New York, against changing the tariff on sugars—to the Committee of Ways and Means.

By Mr. McKINLEY. The petition of 59 citizens, farmers of Stark County, Ohio, against the extension of the Birdsell clover-huller patents—to the Committee on Patents.

Also, the petition of R. Kiely & Brother and 136 citizens of California, Missouri, of similar import—to the same committee.

Also, the petition of J. D. Talbot and 57 citizens of Polk, Ohio, of similar import—to the same committee.

Also, the petition of A. Muller and 23 citizens of Muscoda, Wisconsin, of similar import—to the same committee.

Also, the petition of J. D. Mumper and 20 citizens of Mohecanville, Ohio, of similar import—to the same committee.

Also, the petition of William R. Edwards and 67 citizens of Ashland County, Ohio, of similar import—to the same committee.

By Mr. McMAHON: The petition of John W. Brown, for a pension—to the Committee on Invalid Pensions.

By Mr. MONROE: The petition of Mrs. Lucy A. Shaw and 143 other women, of Tallmadge, Ohio, for such legislation as will make effective the law against polygamy—to the Committee on the Judiciary.

By Mr. OVERTON: The petition of Mrs. Mary Eads and 86 other women, of Hawley, Pennsylvania, of similar import—to the same committee.

By Mr. PAGE: A paper relating to the establishment of a post-route from Colfax to Yankee Jim's, via Yankee Crossing, California—to the Committee on the Post-Office and Post-Roads.

By Mr. POWERS: The petition of Zenas Herrick, a soldier of the

war of 1812, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of 40 citizens of Jones County, Iowa, for an amendment to the patent laws to protect innocent purchasers—to the Committee on Patents.

Also, the petition of the Women's Christian Temperance Union of Algona, Iowa, and 112 citizens, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. REA: Memorial of the Board of Trade of Saint Joseph, Missouri, for an appropriation for the improvement of the harbor at that place—to the Committee on Commerce.

By Mr. RYAN: The petition of William Simmons, for a pension—to the Committee on Invalid Pensions.

By Mr. SAMPSON: Papers relating to the war claim of Thomas McGuire—to the Committee on War Claims.

By Mr. SPRINGER: Papers relating to the claims of George T. Rogers and Benjamin P. Gaines for compensation for services as clerks to committees of the House of Representatives—to the Committee of Accounts.

By Mr. STONE, of Michigan: The petition of Myra Lowe and 60 other women, of Sparta, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of T. F. Bingham and 87 others, citizens of Otsego, Michigan, for legislation to provide for the punishment of the adulteration of sweets—to the same committee.

By Mr. TOWNSHEND, of Illinois: The petition of citizens of Hamilton County, Illinois, that a pension be granted William S. Heard—to the Committee on Invalid Pensions.

By Mr. WADDELL: The petition of citizens of Brunswick County, North Carolina, for an appropriation to open the channel of Lockwood's Folly River—to the Committee on Commerce.

By Mr. WOOD: The petition of W. A. Courtenay, agent, relating to the entrance fees on certain vessels at Charleston, South Carolina—to the Committee of Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 11, 1879.

The House met at twelve o'clock m.

The Chaplain, Rev. W. P. HARRISON, offered the following prayer:

Almighty God, our Heavenly Father, it hath pleased Thee once more to lay the heavy hand of death upon the membership of this body. In the midst of an active, useful, and honorable life a member of this House has been called hence. O God, our Father, our Creator, our Preserver, our Redeemer, we bow before Thee in submission to all acts of Thy providence, and we pray, we implore Thy mercy upon us. O God, minister by Thy gracious spirit's influence to those who have been so suddenly bereaved by this affliction, and do Thou teach us who remain so to number our days that we may apply our hearts unto wisdom.

May it please Thee, our Father, to spare the members of this House. O God, may their health and their lives be precious in Thy sight. Enable them to discharge their duties to the people whom they represent, and may they ever have Thee in remembrance, that they may fear God and walk in the ways of righteousness.

Bless the presiding officer and the members of this House and of the Senate, the President and the Vice-President of the United States, and all departments of the Government and all sections of our country. May God's blessing rest upon us ever. These and all gifts of Thy providence and grace we ask in the name of Jesus Christ, our Redeemer. Amen.

The Journal of yesterday was read and approved.

DEATH OF HON. GUSTAVE SCHLEICHER.

Mr. GIDDINGS. Mr. Speaker, it becomes my painful duty to announce to this House the death of my colleague, Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas, which occurred at his residence in this city at twenty minutes past ten o'clock yesterday evening. I shall at some time in the future ask the House to set apart a day for the consideration of the appropriate memorial resolutions. I offer now the resolutions which I send to the desk.

The Clerk read as follows:

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of eight members of the House and three members of the Senate be appointed to take order for superintending the funeral and to escort the remains of the deceased to San Antonio, Texas; and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

The resolutions were unanimously adopted.

The SPEAKER announced the appointment of the following-named members as the committee on the part of the House under the second resolution: Mr. D. C. GIDDINGS, of Texas; Mr. C. M. SHELLEY, of Alabama; Mr. J. A. MCKENZIE, of Kentucky; Mr. NICHOLAS MULLER, of New York; Mr. G. B. LORING, of Massachusetts; Mr. LORENZO BRENTANO, of Illinois; Mr. M. I. TOWNSEND, of New York, and Mr. L. POWERS, of Maine.

In accordance with the last resolution the House (at twelve o'clock and twenty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Conrad Jacoby and 72 others, citizens of Los Angeles, California, for the enactment of laws to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of Charles Oliver and 226 others, citizens of Crawford County, Pennsylvania, of similar import—to the same committee.

Also, the petition of Henry Peatsch and 86 others, citizens of Winona, Minnesota, of similar import—to the same committee.

Also, the petition of G. W. Warner and 63 others, citizens of Wisconsin, of similar import—to the same committee.

Also, the petition of 15 physicians and others, citizens of Shreveport, Louisiana, of similar import—to the same committee.

Also, the petition of William Bloom and 41 others, citizens of Kansas, of similar import—to the same committee.

Also, the petition of A. H. Hart and 39 others, of the Wisconsin bee-keepers' convention, of similar import—to the same committee.

Also, the petition of L. F. Ball and 50 others, citizens of Terre Haute, Indiana, of similar import—to the same committee.

Also, the petition of R. M. Argo and others, citizens of Lowell, Kentucky, of similar import—to the same committee.

By Mr. BUNDY: Resolutions of the senate of the Legislature of New York, requesting the Senators and Representatives from that State in Congress to oppose the passage of the Army reorganization bill, or at least the portions of it relating to the ordnance department, United States arsenals, and ordnance stores—to the Committee on Military Affairs.

By Mr. CHITTENDEN: The petition of M. A. Williamson and others, of Brooklyn, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CLARK, of Iowa: The petition of Hon. John McCartney and others, citizens of Benton County, Iowa, for the amendment of the patent laws of the United States so as to protect innocent purchasers of articles upon which there is a patent—to the Committee on Patents.

Also, the petition of citizens of Linn County, Iowa, of similar import—to the same committee.

Also, the petition of J. P. Henry and others, citizens of Benton County, Iowa, of similar import—to the same committee.

Also, the petition of Mrs. J. H. Haines and other ladies, of Grinnell, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CUMMINGS: The petition of G. Westinghouse & Co., of Schenectady, New York, Wooster Agricultural Works, at Wooster, Ohio, and Whiting & Shearer, of Ashland, Ohio, against extending the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. DAVIS, of California: Memorial of the constitutional convention of California, protesting against the proposed treaty with France relating to a revision of the tariff on French products—to the Committee of Ways and Means.

Also, resolutions of the constitutional convention of California, respecting the sale of public lands in said State—to the Committee on the Public Lands.

By Mr. GARFIELD: The petition of citizens of Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. HARRISON: The petition of Mary J. Haven, Clara A. Beecher, and 64 other ladies, of Chicago, Illinois, of similar import—to the same committee.

By Mr. HAYES: The petition of ladies of Will County, Illinois, of similar import—to the same committee.

By Mr. KIDDER: The petition of Gilbert Tuttle and others, for a new land office near Kampeska, Dakota Territory—to the Committee on the Public Lands.

Also, the petition of F. D. Lindsay and others, of similar import—to the same committee.

By Mr. MORSE: The petition of the women of the Protestant Episcopal church of Chelsea, Massachusetts, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. OVERTON: The petition of E. C. Post, of Montrose, Pennsylvania, and 37 others, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee of Ways and Means.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and 116 others of Prairie City, Iowa, of similar import—to the Committee on the Judiciary.

By Mr. SAPP: A paper relating to the bill (H. R. No. 5780) for the relief of G. W. Clark—to the Committee on Military Affairs.

By Mr. TIPTON: The petition of G. Westinghouse & Co. and others, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

IN SENATE.

MONDAY, *January* 13, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday last was read and approved.

JOHN P. JONES, a Senator from the State of Nevada, appeared in his seat to-day.

DEATH OF REPRESENTATIVE SCHLEICHER.

GEORGE M. ADAMS, Clerk of the House of Representatives, appeared at the bar of the Senate and said:

Mr. President, I am directed by the House of Representatives to transmit to the Senate a copy of resolutions passed by the House upon the announcement in that body of the death of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas. The House of Representatives have passed a concurrent resolution providing for the appointment of a special joint committee of eight members of the House and three members of the Senate to take order for superintending the funeral and to escort the remains of the deceased to San Antonio, Texas, and the Speaker has appointed as such committee on the part of the House Mr. D. C. GIDDINGS, of Texas; Mr. C. M. SHELLEY, of Alabama; Mr. J. A. MCKENZIE, of Kentucky; Mr. NICHOLAS MULLER, of New York; Mr. G. B. LORING, of Massachusetts; Mr. LORENZO BRENTANO, of Illinois; Mr. M. I. TOWNSEND, of New York, and Mr. L. POWERS, of Maine.

Mr. COKE. Mr. President, I ask that the resolutions of the House of Representatives be read.

The VICE-PRESIDENT. The Chair will lay the resolutions of the House of Representatives before the Senate. They will be reported.

The resolutions were read by the Secretary, as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 11, 1879.

Resolved, That the House has heard with sincere regret the announcement of the death of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas.

Resolved by the House of Representatives, (the Senate concurring,) That a special joint committee of eight members of the House and three members of the Senate be appointed to take order for superintending the funeral and to escort the remains of the deceased to San Antonio, Texas; and the necessary expenses attending the execution of this order shall be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a mark of respect to the memory of the deceased this House do now adjourn.

Mr. COKE. Mr. President, I offer the following resolutions:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. GUSTAVE SCHLEICHER, late a member of the House of Representatives from the State of Texas.

Resolved, That the Senate agree to the resolution of the House of Representatives providing for the appointment of a joint committee to take order for superintending the funeral and to escort the remains of the deceased to San Antonio, Texas.

The VICE-PRESIDENT. Will the Senate agree to these resolutions?

The resolutions were agreed to unanimously.

The VICE-PRESIDENT being by unanimous consent authorized to appoint the committee on the part of Senate, Mr. COKE, Mr. BAYARD, and Mr. HAMLIN were appointed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1827) for the relief of D. W. McClung, of Woodsdale, Butler County, Ohio;

A bill (H. R. No. 4186) confirming and vesting the title to a certain tract of land in Burlington, Iowa, "in the independent school district" of said city;

A bill (H. R. No. 5798) for the relief of Balaam A. Bridges, of Bartow County, Georgia;

A bill (H. R. No. 5799) for the relief of Sophia B. Moore, of New Berne, North Carolina;

A bill (H. R. No. 5800) for the relief of Mrs. Julia Elliott, widow and administratrix of Newell D. Elliott, deceased; and

A bill (H. R. No. 5803) for the relief of William Johnson and John R. Francis, of Edgar County, Illinois.

The message also announced that the House had passed the following bills:

A bill (S. No. 605) for the relief of William M. Kendall; and

A bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State, for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States, and subject to their orders, and to make report thereof to Congress.

ENROLLED BILLS SIGNED.

The VICE-PRESIDENT signed the following enrolled bills, which had previously received the signature of the Speaker of the House of Representatives:

A bill (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brother, of Denver, Colorado;

A bill (S. No. 347) to remove the political disabilities of Manning M. Kimmell, of Cape Girardeau County, Missouri;

A bill (S. No. 882) to authorize the proper accounting officers of the Treasury to pay the claim of the State of Tennessee for keeping United States military prisoners;

A bill (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia;

A bill (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama; and

A bill (S. No. 1244) for the relief of the legal representatives of George Williams, deceased.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers respecting the surveys of the Territories west of the Mississippi River and the changes recently recommended to Congress by the National Academy of Sciences concerning the methods and character of those surveys and the manner of carrying on the work; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the information of the Committee on Commerce, a letter from the Chief of Engineers containing a report of Lieutenant-Colonel C. S. Stewart, Corps of Engineers, upon the improvement of the harbor of San Diego, California; which was referred to the Committee on Commerce.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the consideration of the Committee on Commerce, a letter from the Chief of Engineers, inclosing a communication from Major C. B. Comstock, Corps of Engineers, in regard to the duplication of the War Department survey of the Mississippi River by the Coast Survey; which was referred to the Committee on Commerce.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the consideration of the Committee on Appropriations, a letter from the Chief of Engineers, inclosing a communication from Major C. B. Comstock, Corps of Engineers, in regard to the duplication of the War Department survey of the Mississippi River by the Coast Survey; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the consideration of the joint committee on the reorganization of the Army, a letter from Colonel George W. Getty, Third Artillery, commanding the artillery school, submitting a substitute for sections 253, 254, and 255 of Senate bill No. 1491, to reduce and reorganize the Army of the United States and to make rules for its government and regulation; which was ordered to lie on the table and be printed.

He also laid before the Senate a communication from the Commissioner of Fisheries, transmitting his annual report for the years 1877 and 1878; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. CHRISTIANCY presented the petition of Sampson Ovenden and others, citizens of Bridgeville, Michigan, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. FERRY presented the petition of Mrs. Rev. A. R. Hazen and other women, residents of South Attica, Metamora, Dryden, and Whigville, Michigan, and the petition of Mrs. Rev. A. E. Ketchum and other women, of Saint Joseph County, Michigan, praying for the passage of an act making effective the anti-polygamy law of 1862; which were referred to the Committee on the Judiciary.

Mr. EDMUNDS. I present the petition of a large number of citizens of the State of Vermont, (I should think several hundred from the size of the roll,) at the head of which stands the usual printed form of petition about the arrears of pension bill. I ask that this paper lie on the table. As a kind of commentary upon the value of the sacred right of petition of this sort, I may mention that some of the gentlemen who have sent in petitions have inclosed me the authority under which they got them up. Here is one of these communications to get up petitions, signed by a claim agent who says that he gives special attention to rejected claims, in which he says:

DEAR SIR: I inclose a petition to the Senate of the United States to which I wish you to get a few names and send them to Hon. GEORGE F. EDMUNDS, United States Senator. Please get twelve to twenty names, with the residence, signed, and send to the above address as quick as possible.

The value of petitions got up in that way, Mr. President, I do not know is of the very highest.

The VICE-PRESIDENT. The petition will lie on the table.

Mr. EATON presented the petition of Hoyt Dibble and others, citizens of Danbury, Connecticut, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the petition of James Eveleth, praying compensation for his services during the late war as disbursing agent for the defenses of Washington City, and for his services as disbursing agent

of the engineer department since the termination of that service; which was referred to the Committee on Military Affairs.

Mr. KERNAN. I present twenty-six memorials, signed by persons residing in different counties in the State of New York, and some in Massachusetts, some in Pennsylvania, and some in New Jersey, remonstrating against the renewal of the patent issued to L. J. Mabie, A. J. Manly and R. H. Morris, as assignees of Nathaniel Jones, the inventor of an improvement in shoe-lasts. I move the reference of these memorials to the Committee on Patents.

The motion was agreed to.

Mr. RANDOLPH presented the petition of Andrew R. Arnold, of Newark, New Jersey, praying for the extension of his patent for a machine for making twist drills; which was referred to the Committee on Patents.

Mr. WITHERS presented the proceedings of a public meeting of citizens of Charlotte County, Virginia, praying for the repeal of the tobacco tax; which were referred to the Committee on Finance.

Mr. THURMAN. I present the petition of numerous citizens of Ohio praying for the passage of House bill No. 4234, granting arrears of pensions.

The VICE-PRESIDENT. The petition will lie on the table.

Mr. THURMAN. I beg leave to say in one word that, after a careful study of this subject, I am satisfied the bill ought to pass, and I hope the Senate will take it up at an early day.

Mr. HARRIS presented the petition of Mary Byrd Dallas, of Tennessee, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented the petition of Parmelia A. Bartholmew, of Henderson County, Tennessee, praying to be allowed arrears of pension; which was referred to the Committtee on Pensions.

Mr. McCREERY presented the petition of Isaac F. Moore, late a private in Company H, Twenty-fourth Regiment Kentucky Volunteers, praying indemnity for a horse lost in the military service of the United States; which was referred to the Committee on Military Affairs.

He also presented the petition of Milton W. Triplett, late corporal Company F, Fifth Kentucky Cavalry Volunteers, praying indemnity for a horse lost in the military service of the United States; which was referred to the Committee on Military Affairs.

Mr. KERNAN. I present the petition of R. R. Crowley, of Randolph, Cattaraugus County, New York, and a large number of other persons, some of whom I know. The petition prays for the passage of a law to provide for the payment of arrears of pensions. I wish to say that while some of the petitions I receive are very likely gotten up and sent around to be signed in the manner stated, yet a large number of petitions come from people who take an interest in this subject, supplemented by letters from women, and from men who say they are lame soldiers, from all over my State, which make me feel that there is an honest desire on the part of the people interested to have early action on this bill. I am frank to say that I believe where there are pensions granted they should run from the time when the pensioners were disabled. I move that this petition lie upon the table.

The motion was agreed to.

Mr. SPENCER presented the petition of A. B. Mullett, of Washington, District of Columbia, praying compensation for certain services rendered by him while acting as Supervising Architect of the Treasury; which was referred to the Committee on Claims.

He also presented the petition of Anne P. Newlin, of New York, praying to be allowed a pension on account of services rendered by her son, Alfred S. Newlin, late first lieutenant Twenty-first Regiment United States Infantry; which was referred to the Committee on Pensions.

Mr. ROLLINS presented the petition of William S. Mackay, late second lieutenant Twenty-ninth Regiment of Infantry, praying for the passage of an act granting him the pay of his rank from the 18th of July, 1868, to the 20th of December, 1869, during which time he was unavoidably absent from his regiment; which was referred to the Committee on Military Affairs.

He also presented the petition of E. D. Boyd, first assistant examiner United States Patent Office, and Thomas L. Tullock, assistant paymaster, praying the passage of a bill to restore Commander Robert Boyd, United States Navy, to his original position on the Navy Register; which was referred to the Committee on Naval Affairs.

Mr. MATTHEWS presented the petition of H. D. Walbridge, of Toledo, Ohio, a property-holder in the District of Columbia, praying for the revision and correction of assessments for public improvements in the District; which was referred to the Committee on the District of Columbia.

Mr. SAUNDERS presented the petition of O. O. Abbott, W. H. Platte, George H. Thumul, and 200 others, citizens of Grand Island, Nebraska, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. DAWES presented the petition of Warren J. Davis, a soldier in the late war, praying for a pension and for the repeal of the statute of limitation in pension cases; which was referred to the Committee on Pensions.

Mr. DAVIS, of Illinois, presented the petition of Marie M. Diener and other women, of Secor, Woolford County, Illinois, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. PLUMB. I present the petition of E. A. Barber and others, citizens of Allen County, Kansas; the petition of W. H. Broadwell and others, citizens of Kansas; the petition of William Taylor and others, citizens of Kansas; and the petition of Frank Evans and others, citizens of Kansas, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions. I take this occasion to say that I indorse the prayer of these petitioners fully, and hope that the bill will be acted upon and passed at an early day. I move that the petitions lie upon the table.

The motion was agreed to.

Mr. INGALLS presented the petition of the Soldiers and Sailors' Association of Philadelphia, Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. GROVER presented a memorial of the Legislature of the State of Oregon, in favor of the removal of the Indians from the Umatilla reservation in that State, and the extinguishment of the Indian title thereto; which was referred to the Committee on Indian Affairs.

He also presented the petition of William Chambers and others, soldiers and sailors of the Army and Navy of the United States during the late war, praying for an amendment of the pension laws; which was referred to the Committee on Pensions.

He also presented a memorial of the Legislature of the State of Oregon, in favor of an appropriation for the permanent improvement of the Lower Willamette and Lower Columbia Rivers; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislatre of the State of Oregon, in favor of a modification of the treaty between the United States and China, so as to prohibit the importation or immigration of Chinese and other Asiatic laborers to the Pacific coast; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Legislature of the State of Oregon, in favor of an appropriation for the improvement of the channel and harbor of the Coquille River in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of the State of Oregon, in favor of an appropriation for the improvement of the harbor at Coos Bay in that State; which was referred to the Committee on Commerce.

Mr. WALLACE presented the petition of C. H. Mitchell and others, citizens of Manchester, Pennsylvania, and the petition of John Dwyer and others, citizens of New Bethlehem, Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

He also presented a memorial of the auditor-general of Pennsylvania, praying the payment of moneys advanced to the United States by the State of Pennsylvania during the war of 1812 with Great Britain; which was referred to the Committee on Appropriations.

Mr. MITCHELL presented the petition of William Gallick, of Portland, Oregon, praying compensation for cattle alleged to have been killed at Neah Bay Indian agency, Washington Territory, and used by the Government in feeding Indians; which was referred to the Committee on Claims.

Mr. ALLISON presented the petition of Alfred P. Alexander and 49 others, formerly soldiers, of Linn County, Iowa, and the petition of John D. Jones and 113 others, citizens of Iowa, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

He also presented the memorial of G. Westinghouse & Co. and others, citizens of the United States, remonstrating against the extension of letters-patent granted to J. C. Birdsell for clover-machines; which was referred to the Committee on Patents.

Mr. HOAR presented the petition of C. L. Taylor & Co. and others, citizens of Boston, Massachusetts, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

He also presented the petition of William Chambers and others, soldiers of the late war who lost their limbs below the knee and elbow, praying for an amendment of the pension laws recognizing them as totally disabled; which was referred to the Committee on Pensions.

Mr. HOWE presented the petition of George S. Kaime and others, citizens of Omro, Wisconsin, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

MISSOURI JUDICIAL DISTRICTS.

Mr. THURMAN. The Committee on the Judiciary have instructed me to call the attention of the Senate to an entry in the Journal of the Senate of the 14th of June, 1878, indefinitely postponing the bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes. The Journal shows that Mr. DAVIS, of Illinois, reported the bill from the Committee on the Judiciary adversely, and with the recommendation that it be indefinitely postponed, and that it was so postponed. That was an entire mistake. The committee never came to any such conclusion nor did that Senator ever make any such report. The mistake, no doubt, occurred by a page taking to the Clerk's desk the wrong bill. I am instructed by the committee to ask the unanimous consent of the Senate that that en-

try in the Journal be rescinded. The committee at this session have unanimously reported the bill favorably, and recommended its passage with an amendment; but this entry stands in the way of the action of the committee. The entry that it was reported against and the consequent order that the bill be indefinitely postponed was an entire mistake.

The VICE-PRESIDENT. The bill remained in the possession of the committee during the entire time?

Mr. THURMAN. Yes, sir, during the entire time. I ask unanimous consent to have the entry rescinded.

The VICE-PRESIDENT. To this there can be no objection. The Chair hears none.

Mr. COCKRELL. The Senate will recollect that I tried to get that bill from the Judiciary Committee, and made a motion to have the committee discharged in order to bring the bill before the Senate.

Mr. DAVIS, of Illinois. There is no question about it. I refused to report it at the instance of the Senator from Missouri.

Mr. COCKRELL. Yes, the Senator from Illinois refused to report it.

Mr. THURMAN. I should be glad if the Senate would take the bill up, to which I am sure there is no objection, and which the committee unanimously reported, and pass it this morning, as it ought to be passed at once if it is to pass at all.

Mr. SPENCER. Let us get through with the morning business first.

The VICE-PRESIDENT. The Chair will recognize the Senator from Ohio for the purpose indicated by him as soon as the business of the morning hour shall have been concluded.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 823) for the relief of the assignee in bankruptcy of Robert Erwin and Erwin & Hardee, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1215) to amend an act entitled "An act for the relief of Robert Erwin," reported adversely thereon, and the bill was postponed indefinitely.

Mr. THURMAN, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 2301) fixing the compensation of jurors serving in the district and circuit courts of the United States, reported adversely thereon, and the bill was postponed indefinitely.

Mr. INGALLS. I am directed by the Committee on the District of Columbia, to whom was referred a letter from the managers and officers of the Women's Christian Association of the District of Columbia, submitting the eighth annual report of the association, and asking further appropriations in aid of the work thereof, to report it back, and to ask that it be referred to the Committee on Appropriations, and they recommend that the prayer be granted.

The VICE-PRESIDENT. The Committee on the District of Columbia will be discharged from its further consideration and the paper referred to the Committee on Appropriations.

Mr. INGALLS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 643) for the relief of Thomas Lucas, reported it without amendment.

He also, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3625) relating to soldiers while in the civil service of the United States, reported it without amendment.

Mr. HOWE. I ask leave to make a report from the Joint Committee on the Library. The House of Representatives referred to that committee the report of the Secretary of the Interior touching the price and cost of certain squares near the Capitol. The committee, having considered that, have authorized me to report the bill which I hold in my hand. I am not authorized to say that the committee recommend the passage of this bill; I am authorized to say the committee recommend the Senate either to amend or to pass this bill. It is only one of the many propositions for the construction and location of a library building which have been considered here and elsewhere for several years. It was thought necessary to submit some proposition. There are several different propositions, which have their friends on the committee, and we considered that one was about as good as another for the purpose of amending; and this is the one that I am authorized to report to the Senate.

I want to say, furthermore, that as early as I think the business of the Senate will justify, I shall ask the Senate to consider this bill.

The bill (S. No. 1591) to provide additional accommodations for the Library of Congress was read twice by its title.

Mr. DAWES, from the Committee on Finance, to whom was referred the petition of Henry C. De Ahna, late collector of customs for the district of Alaska, praying compensation for services rendered, reported a bill (S. No. 1592) for the relief of Henry C. De Ahna, late collector of customs at Sitka, Alaska; which was read twice by its title.

Mr. DAWES. I am unanimously instructed by the committee to say to the Senate that there are some very pressing reasons why the committee would ask the Senate to pass upon this bill at once. I think it will take no time.

The VICE-PRESIDENT. The Chair will recognize the Senator from Massachusetts upon the conclusion of the morning business. First he will recognize the Senator from Ohio, [Mr. THURMAN.]

BILLS INTRODUCED.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1593) for the relief of H. D. Walbridge and H. S. Walbridge; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1594) to authorize the President to restore Edwin R. Parks to his former rank in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1595) to restore to the public domain the military reservation known as Fort Ripley, Minnesota, and for other purposes; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1596) granting a pension to R. W. Loyd; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1597) for the relief of William T. Pate & Co.; which was read twice by its title, and referred to the Committee on Finance.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1598) for the relief of A. B. Mallett; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1599) granting a pension to Anne P. Newlin; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McCREERY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1600) correcting the military record of James G. Howard, late captain Company E, Forty-ninth Regiment Kentucky Volunteers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EATON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1601) for the relief of James Eveleth; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1602) granting a pension to Louisa Bainbridge Hoff; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1603) regulating the rank and pay of fleet marine officer in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1604) for the relief of John S. Friend; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1605) granting a pension to Marshall D. Ellis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1606) granting a pension to Mary E. Simmons; which was read twice by its title, and referred to the Committee on Pensions.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1607) for the relief of Edward L. Wilson; which was read twice by its title, and, with the accompanying papers referred to the Committee on Patents.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1608) for the relief of James N. Garrett; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1609) for the relief of William S. Mackay; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1610) for the relief of Commander Robert Boyd, United States Navy; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

AMENDMENTS TO POST-ROUTE BILL.

Mr. MITCHELL and Mr. PLUMB submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

REPORT ON FISH AND FISHERIES.

Mr. ANTHONY submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 5,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877-'78, of which 1,500 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 copies for the use of the Commissioner of Fish and Fisheries; the illustrations to be made by the Public Printer under the direction of the Joint Committee on Public Printing.

NATIONAL MUSEUM BUILDING.

Mr. MORRILL. I move that the Senate proceed to the considera-

tion of the bill (S. No. 1574) for the erection of a fire-proof building for the National Museum. It will not take five minutes when the bill is explained.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $250,000 for a fire-proof building for the use of the National Museum, three hundred feet square, to be erected under the direction and supervision of the Regents of the Smithsonian Institution, in accordance with the plans now on file with the Joint Committee of Public Buildings and Grounds, on the southeast corner of the grounds of the Smithsonian Institution. The building is to be placed east of the Smithsonian Institution, leaving a roadway between it and the latter of not less than fifty feet, with its north front on a line with the south face of the buildings of the Agricultural Department and of the Smithsonian Institution.

Mr. MORRILL. Mr. President, it will be remembered that a bill similar to this passed the Senate unanimously two years ago. It was not reached in season in the House to be acted upon regularly, and could only be considered by that body under a suspension of the rules. The motion to suspend the rules for that purpose received a very large majority there, but not quite a two-third vote. The bill has been recommended by the committees of both Houses, I believe, unanimously.

It will also be remembered that we made an appropriation for the centennial celebration of a million and a half dollars, and that sum was repaid to the United States; but the contributions made by the United States cost the Government about $150,000. In addition to these contributions we have, of thirty-four States and nationalities out of forty-one, their entire contributions made at the centennial celebration. These contributions are now stored in the armory, four stories high, there being four thousand boxes packed as full as the armory can hold. It was naturally supposed by the governments which made these very generous contributions to the United States that they would be placed where the public could see them. We have immense riches in this line. The results of over two hundred exploring expeditions are now garnered in this city in various localities, but without the possibility of their being properly exhibited.

Mr. President, I suppose that the contributions of some of these States that were given to us, say of Siam, China, and Japan, will at the present moment, when properly displayed, occupy more space than the largest hall in the Smithsonian Institution, and must have cost those governments a very large sum of money, perhaps over $100,000. The contributions that come to us from abroad and from our various States and Territories, are specially rich and valuable in iron, silver, and gold ores, especially those of Norway, Sweden, Russia, Spain, Portugal, Brazil, Australia, and New Zealand, and our own contributions are exceedingly valuable in ores, metals, coals, building-stones, earth and clays for the potters' art, including all the economical products of the animal kingdom, as furs, hides, skins, preparations of fish and marine products, all the apparatus with which these animals were captured and utilized, generally whatever illustrates animal and mineral nature throughout the United States, and also a complete illustration of the Indian tribes, costing about $40,000. These are not merely curiosities, but they are specimens of objects that will be permanently interesting and useful to the whole country.

I may say that the contributions from the extreme eastern states, from Siam, Japan, and China, including bronzes of rare workmanship, could not have cost less, as I have said, than $100,000. At the present time, in the basement of the Smithsonian Institution, there is three times as much stored away as is on exhibition. I may say also that there are five pieces alone that were given to us from the centennial exposition upon which the actual cost or the estimate of the custom-house department upon their value was $48,000. They are now publishing a volume containing a list of what they have of animal products and products of the fisheries, where the title, occupying but a single line, will fill three hundred and fifty pages, and this is only one branch of the extensive collection which is to find a place in the new building proposed.

I suppose, Mr. President, that every Senator who has made any sort of investigation of this subject agrees as to the propriety of this building being erected for the purpose of accommodating these large results of our exploring expeditions and of the centennial exposition, and the various collections belonging to the Government that are now gathered together in this city. The building will occupy a space on the east of the Smithsonian Institution, and will only cost $250,000, and it is to be under the direction of the Smithsonian Institution.

Mr. EDMUNDS. I should like to call the attention of my colleague to the seventh and eighth lines of the bill, where in speaking of the location of the building it reads that it is to be located "on the southeast corner of the grounds of the Smithsonian Institution." That taken literally might seem to require that it be located exactly in the southeast corner, which is not intended, as can be seen further along. But to make it clear, I suggest to him to make it read, to be located "on the southeastern part of the grounds of the Smithsonian Institution," to save all possible question.

Mr. MORRILL. I have no objection to that amendment.

The VICE-PRESIDENT. To this there can be no objection, and the amendment is agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FUNERAL OF REPRESENTATIVE SCHLEICHER.

Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared at the bar of the Senate and said:

Mr. President, I am directed by the House of Representatives to communicate to the Senate a resolution of the House inviting the Senate to attend the funeral ceremonies of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas, to be held in the Hall of the House of Representatives at three o'clock p. m. this day.

Mr. THURMAN. I ask the Senate now to consider House bill No. 5067.

Mr. EDMUNDS. It seems to me that we ought to hear what this communication from the House of Representatives is.

The VICE-PRESIDENT. It will be reported.

The resolution of the House of Representatives was read by the Secretary, as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 13, 1879.

Resolved, That the funeral ceremonies of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas, be had in the Hall of the House at three o'clock p. m. this day, and that the Senate of the United States be requested to attend.

Mr. THURMAN. I do not know that according to our usage we ought to do any more business now.

Mr. EDMUNDS. I do not think we ought, in respect of decent appearance, to say nothing of the reality.

Mr. THURMAN. In that case I will give notice simply that to-morrow morning I shall ask the Senate to take up this bill at the end of the morning hour, or during the morning hour, and to pass it.

Mr. ANTHONY. Mr. President, I offer the following resolution:

Resolved, That, pursuant to the invitation of the House of Representatives, the Senate will attend the funeral ceremony of Hon. GUSTAVE SCHLEICHER, late a member of the House of Representatives, to be held in the Hall of the House this day at three o'clock, and that the Senate now take a recess till five minutes to three.

The resolution was agreed to unanimously.

The Senate (at twelve o'clock and fifty minutes p. m.) took a recess until five minutes to three o'clock p. m.; and was again called to order at two o'clock and fifty-five minutes p. m.

The VICE-PRESIDENT. The Senate will now proceed in a body to the House of Representatives.

The Senate proceeded to the Hall of the House of Representatives, headed by the Vice-President and Secretary, and preceded by the Sergeant-at-Arms.

The Senate returned to its Chamber at three o'clock and fifty minutes p. m.

The VICE-PRESIDENT resumed the chair.

Mr. ANTHONY. Mr. President, I move that the Senate do now adjourn.

The motion was agreed to; and (at three o'clock and fifty-one minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 13, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday was read and approved.

THE LATE HON. GUSTAVE SCHLEICHER.

Mr. SWANN. I am instructed by the Committee on Foreign Affairs to present a report and resolution in reference to the death of our late colleague, Mr. GUSTAVE SCHLEICHER.

The Clerk read as follows:

The Committee on Foreign Affairs desire to place upon its record its appreciation of the kindly qualities and analytic intellect of their late member, Hon. GUSTAVE SCHLEICHER.

Its members unanimously express their mature judgment of his unexampled merits and honest statesmanship, and his devotion to his State and his constituents, evidenced by his assiduity and labors in the sessions of this committee and reported to this Congress.

To show their unfeigned regret and sympathy to the country, to the State of Texas, and to the bereaved family, and to do this in such a way as to make this testimonial worthy and substantial: Therefore,

Be it resolved, That in consequence of the large family of the deceased and of the condition of his estate, the House be requested to make the customary appropriation of the balance of the salary which would be due to him, as a member of the Forty-fifth Congress, and that the next Congress, to which he was elected, be respectfully requested to make a similar appropriation of the salary which would have been due to him as a member of the Forty-sixth Congress.

The resolution reported by the Committee on Foreign Affairs was unanimously adopted.

Mr. GIDDINGS. I offer the following resolution:

Resolved, That the funeral ceremonies of Hon. GUSTAVE SCHLEICHER, late a Representative from the State of Texas, be had in the Hall of the House at three o'clock p. m. this day, and that the Senate of the United States be requested to attend.

The resolution was adopted unanimously.

Mr. GIDDINGS. I move that the House take a recess until five minutes before three o'clock p. m.

The motion was agreed to; and the House accordingly (at twelve

o'clock and ten minutes p. m.) took a recess until five minutes before three o'clock p. m.

MESSAGE FROM THE SENATE.

At five minutes to three o'clock the House reassembled.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the adoption of the following resolutions:

Resolved, That the Senate has received with deep sensibility the announcement of the death of Hon. GUSTAVE SCHLEICHER, late a member of the House of Representatives from the State of Texas.

Resolved, That the Senate agree to the resolution of the House of Representatives providing for the appointment of a joint committee to take order for superintending the funeral and to escort the remains of the deceased to San Antonio, Texas.

Ordered, That Mr. COKE, Mr. BAYARD, and Mr. HAMLIN be the committee on the part of the Senate.

Resolved, That, pursuant to the invitation of the House of Representatives, the Senate will attend the funeral ceremonies of Hon. GUSTAVE SCHLEICHER, late a member of the House of Representatives, to be held in the Hall of the House this day at three o'clock, and that the Senate now take a recess until five minutes to three o'clock.

ADMISSION TO THE FLOOR.

Mr. BACON, by unanimous consent, submitted the following; which was read, considered, and agreed to:

Resolved, That the families of members of the House who are unable to obtain seats in the gallery appropriated to them be admitted to occupy seats upon the floor of the House.

FUNERAL SERVICES OVER THE REMAINS OF MR. SCHLEICHER.

At three o'clock the Senate of the United States, preceded by the Sergeant-at-Arms and headed by the Vice-President of the United States, with the Secretary, the Chief-Justice, and associate justices of the Supreme Court, and the President of the United States and the members of his Cabinet, entered the Hall, were properly announced, and were then conducted to the seats assigned them.

At eight minutes past three o'clock the casket containing the remains was brought into the Hall, preceded by the committee of arrangements and the Senators and Representatives from Texas.

The Chaplain of the House, Rev. W. P. HARRISON, D. D., read selections from the Gospel according to St. John, the book of Job, the first epistle to Timothy, and from the ninetieth psalm.

He then offered the following prayer:

Almighty, everlasting God, our Heavenly Father, Thou hast summoned from our midst another member of this House of Representatives. His days upon earth are numbered. He has entered into the eternal world.

O God, our Father, help us to number our days, for they are but few. A few days hence and the places that know us now will know us no more forever.

O God, let Thy truth sink deep into our hearts. Teach us thy law. Give us a reverent spirit, that we may obey Thy precepts and serve Thee and love Thee with all our minds and hearts and strength.

O Infinite Spirit, do Thou in compassion look upon the widow and fatherless children of our deceased friend.

O God, we cannot enter into their sorrow. We cannot fully sympathize with their pain and anguish. Do Thou soothe and comfort them.

O Infinite Spirit, do Thou prepare us for a life of usefulness henceforth, so that when in the valley of the shadow of death we shall be called to pass, Thy rod and Thy staff may support us into eternal life at Thy right hand. Guide us, through Jesus Christ, our Redeemer. Amen.

The Chaplain next read selections from the fifteenth chapter of the first epistle of Saint Paul to the Corinthians, and afterward addressed the House as follows:

Again, my hearers, are we assembled to perform a mournful duty. The body of GUSTAVE SCHLEICHER, late a Representative from the State of Texas, lies before us.

It becomes us in speaking of his memory to deal kindly and lovingly and truthfully. He was a man of remarkable characteristics, and some of these I shall venture to-day to mention as eminently worthy of praise and of imitation.

Born in the city of Darmstadt, in Germany, educated at the university of Giessen, in the Grand Duchy of Hesse-Darmstadt, at a very early period of his life he manifested peculiar scientific abilities as a civil engineer, and became an assistant in the construction of several railroads in Europe.

At the age of twenty-three he came to America, spending some time upon the southwestern frontiers of the United States. In the year 1850 he located at San Antonio, in Texas. In three years from that date we find him a representative in the Legislature of that State, and certainly no small tribute is this fact to his eminent abilities. To acquire a foreign tongue; to become so prepared in this foreign language as thoroughly to comprehend the civil institutions, the political principles, and to represent a constituency as a legislator, is assuredly a very high compliment; and when it is accomplished in so short a period, when, rising to the second house, the highest body of the State Legislature, a member of the senate, he was ultimately chosen to represent a district of Texas in the Congress of the United States.

Only those who understand from personal experience the difficulties involved in the mastery of the English language by one born in a foreign land can truly appreciate the energy, the patience and earnestness, the zeal, the steady application which paved the way to his eminent success.

It is my privilege to speak of some characteristics of our departed friend that I have already named as worthy of praise and of imitation. Respect for law, a spirit of obedience to law, is essential to the perpetuity of a free government.

Respect for the law of the land depends in a very large measure upon popular esteem and respect for the men who make the law, and he who unsettles this confidence, he who contributes to diminish the faith of the people in the purity, in the wisdom, in the integrity, and in the honor of her law-makers and the executors of her law, does permanent injury to the country and ineffaceable wrong to society.

It has been a stigma, my countrymen, which we have been compelled to confess in a large measure to be just, that in the political contests that from time to time have been waged in our land, from the discussion of high and important principles of administration and of state policy, men have descended to personal vituperation and abuse; and these examples have been carried into the public prints, until in many sections of our land no character is so pure, no integrity so unquestionable, no honesty so evident that they will not be assailed by the tongue of detraction.

The man who lies before you never contributed in this direction a word or an act. He never felt that it was necessary, in order to compass his own success, to destroy the private character of a competitor. But as he felt himself to be actuated by principles of honesty and integrity, he recognized these in his opponent; and as a gentleman conscious of his own honor, so he regarded those who differed from him in sentiment.

This example I consider eminently worthy of universal imitation. Would that the restraints that are felt in this House, the requirements of parliamentary usage, could be everywhere observed in the discussions that excite the people throughout our land. To maintain respect for authority, to maintain confidence in the ability and incorruptibility of public men, to maintain a living faith in their purity of purpose, these are essential principles, and they lie at the very base of our future fortunes, and must form our hope for the stability and perpetuity of the institutions of this country.

A second qualification which I shall notice, an admirable quality in our deceased friend, was his eminent love of truth and a patient, earnest, untiring spirit of investigation. He spared no labor, he yielded to no inducements of ease, but gave himself wholly, to the full extent of his great natural powers, to the investigation of the problems that came before him and every subject that demanded his attention.

So thoroughly was his heart absorbed in his public duty that in the moments of delirium, when the mortal body to and fro was being tossed about, and the cords were being rapidly broken one by one that bound him to mortal life, even then his mind was upon his public work, in his daily duties, investigating, deciding, acting in the delirium of the hour.

Another and eminently characteristic feature in our deceased friend's character was his immovable and invincible resolution. When he believed himself to be right, whether in a vast majority or standing single and alone, if he believed himself to be right he was immovable. No matter what the issue might be, nor how much his position might endanger his personal fortunes and prospects, he followed the lead of his conscience and stood firm to the convictions of his intellect.

Statesmen ought to lead public opinion, not to follow it. They who give all time and labor and thought to the great principles of administrative government, they who do this with intelligence, with ability, with zeal, will be competent to lead the judgments of the people.

Our departed friend was a loving husband, a kind, indulgent father; generous to a fault, careless to his injury in his temporal interests. Free and large as his manly person was the great heart that beat within this cold body. The generous emotion, the tender feeling, the consciousness which enters into distress and sympathizes and rises higher than the emotion of pity and takes compassion upon distress and bears part of its burden, these he knew.

And thus in the midst of a useful life, a life of patient toil, of undivided devotion to his adopted country's interests, he has passed away. His memory will endure. May the example which he left in these high and noble characteristics of statesmanship be a guide to others.

So remembering him, may we in like steadfastness to duty, with like zeal and patient investigation into truth, with like strength of resolution and manliness of purpose, adhere to the convictions of right, and so shall we serve our country and serve our God.

When these few days of mortal life shall have passed away, O Infinite Spirit, into the light of eternal day guide us, into the presence of the eternal God, in the bliss of the eternal state.

Rev. BYRON SUNDERLAND, D. D., Chaplain of the Senate, then offered the following prayer:

Under the shade, O Lord, under the deep dark shade of Thy clouds, thickening one upon another, behold Thou all these Thy servants assembled here again to-day. The sweet light of the world is all around us; and yet Thou hast wrapped us in the darkness of sorrow again and again.

What meanest Thou, O Lord God Almighty, our Father in Heaven, to speak thus unto Thy children, for that they consider the time that

we spend our years as a tale that is told. Oh, out of the frailty of nature and out of the fever of life, yea, and from the apathy and the destruction of death itself, we beseech Thee to lift up the souls of Thy servants, that while their time is flowing on, and while the turmoil of the world is ever arising around them, they may by the inspiration of faith catch some glimpses of the great headlands, some glimpses of the immortal life that is yet to be unfolded to us.

And now, O Lord, our God, be graciously pleased to compassionate the sad circle on whom this fresh trouble has so bitterly fallen. To the sacred memory and the tender grief for him with whom they now part, add Thou the peace of trust and the comfort of hope. Be graciously pleased to go away with them on their desolate journey as they shall bear him hence forever, and bedew so oft his distant grave with their tears. We commend them to Thee, and we pray, Heavenly Father, that Thou wilt remember to-day those members of this House who are not here to mingle in this funeral scene, but who linger in their chambers of sickness. O God, if it pleases Thee, restore them to their places in this Hall.

And now again we invoke Thy blessings upon Thy servants, the President of the United States and upon all the rulers of this land. O gracious God, the God of our fathers, and our God, and the God of our children and children's children, Thou art trying us in the furnace of affliction, in our persons, in our families, in our nation. We beseech Thee lead us by a simple childlike faith to cleave evermore unto Thee; and do Thou dwell with us and be our Immanuel forever, through Jesus Christ, our Lord. Amen.

The benediction having been pronounced by the Chaplain of the House, Rev. W. P. HARRISON, the remains of the deceased were then removed from the Hall, to be conveyed to San Antonio, Texas, followed by the Texas delegation and the committee of arrangements.

The President of the United States, the members of the Cabinet, the Chief-Justice and associate justices of the Supreme Court, the Vice-President, and the members of the Senate then retired from the Hall.

Mr. HOOKER. In order to enable the members and officers of the House to accompany the remains of him whose funeral ceremonies have just been performed here to the railroad depot, I move that the House now adjourn.

The motion was agreed to; and accordingly (at three o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of L. L. Tomkies and 29 others, citizens of Shreveport, Louisiana, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of P. E. Chapman, M. D., and 30 others, citizens of Sigel, Illinois, of similar import—to the same committee.

Also, the petition of E. S. Farr and 56 others, citizens of Bristol, Louisiana, of similar import—to the same committee.

Also, the petition of Mrs. Loren Barnes and 28 other women, of Wheaton, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BAGLEY: The petition of ladies of Theresa, New York, of similar import—to the same committee.

By Mr. BAKER, of Indiana: The petition of Mrs. Matilda Miller and 32 other women, of Noble county, Indiana, of similar import—to the same committee.

By Mr. BRAGG: The petition of G. Westinghouse & Co. and others, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of citizens of Fond du Lac County, Wisconsin, of similar import—to the same committee.

By Mr. BRIDGES: The petition of John C. Kingston, of Buffalo, New York, and others, against the extension of the shoe-last patent of Nathaniel Jones—to the same committee.

By Mr. CLARK, of Iowa: The petition of Hon. A. J. Wood and others, citizens of Poweshiek County, Iowa, for such amendment of the patent laws as will protect the innocent purchasers of patented articles—to the same committee.

Also, the petition of Captain A. Mitchell and others, citizens of Benton County, Iowa, of similar import—to the same committee.

Also, the petition of Mrs. N. R. Martyn and other ladies, of Malcolm, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CLARKE, of Kentucky: The petition of J. F. Jones and others, citizens of Calloway County, Missouri, for legislation to prevent the adulteration of sugar—to the Committee of Ways and Means.

Also, the petition of T. M. Maughs and others, citizens of Calloway County, Missouri, of similar import—to the same committee.

By Mr. CORLETT: A paper relating to the establishment of a post-route from Carter Station to Burnt Fork, Wyoming Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. COX, of Ohio: The petition of H. D. and H. S. Waldbridge, for relief from alleged unequal special taxation in the District of Columbia—to the Committee for the District of Columbia.

Also, the petition of Colonel Crafts J. Wright, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. CUMMINGS: The petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

By Mr. CUTLER: The petition of Luke McNeill, of Passaic, New Jersey, that the Secretary of War be directed to issue to him an honorable discharge from the Army, and for pay for services rendered the United States—to the Committee on Military Affairs.

By Mr. DUNNELL: The petition of Mrs. Jemima Bacon and 80 others, of Nashville, Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of S. A. Davis and 100 others, of Washington, Minnesota, for the granting of arrears of pensions to Union soldiers—to the Committee on Invalid Pensions.

By Mr. DWIGHT: The petition of George E. Isbell, that in the next census such necessary vital statistics be taken as will definitely settle all controversy upon the question of the effects upon the offspring of consanguineous marriage—to the Joint Committee on the Census.

Also, resolutions of the senate of New York, against the passage of parts of the Army reorganization bill now before Congress—to the Committee on Military Affairs.

By Mr. ERRETT: The petition of 143 women of Dravosburgh, Pennsylvania, for the suppression of polygamy—to the Committee on the Judiciary.

By Mr. FRANKLIN: The petition of Nave, McCord & Co. and others, merchants of Kansas City, that the duty on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. GARFIELD: The petition of Mrs. A. D. Barber and 78 other ladies, of Claridon, Ohio, for legislation to render effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. A. B. Green and 70 other ladies, of Willoughby, Ohio, of similar import—to the same committee.

By Mr. HAYES: The petition of ladies of Farm Ridge church, Illinois, of similar import—to the same committee.

By Mr. HENDERSON: The petition of Margaret J. Johnson and 49 other women, of Edington, Illinois, of similar import—to the same committee.

Also, the petition of Mrs. E. H. Conibear and 33 other women, of Mineral, Illinois, of similar import—to the same committee.

Also, the petition of Mrs. Ruth A. Dickson and 15 other women, of Milan, Illinois, of similar import—to the same committee.

Also, the petition of Mrs. M. E. Faulkner and 21 other women, of Sheffield, Illinois, of similar import—to the same committee.

By Mr. HUMPHREY: The petition of John Howard, C. H. Kellogg, H. H. Beardsley, and other soldiers of the late war, for the equalization of bounties, for arrears of pensions, for land warrants, and for the repeal of the bill of June 19, 1878, relative to fees of claim agents and attorneys—to the Committee on Invalid Pensions.

By Mr. HUNGERFORD: The petition of Mrs. M. L. Cram and 1,040 other women, of Hornellsville, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. LAPHAM: The petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

Also, the petition of G. Westinghouse & Co. and others, against the extension of the Birdsell clover-huller patent—to the same committee.

By Mr. LYNDE: Memorial of the mayor and common council of Milwaukee, relative to Milwaukee Harbor—to the Committee on Commerce.

Also, the petition of Thomas Farmer, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Henry T. Fuller and others, to be relieved from liability upon the official bond of W. H. Waterman, formerly superintendent of Indian affairs for Washington Territory—to the Committee on the Judiciary.

By Mr. MCKINLEY: The petition of 250 women of Ashland County, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. PHILLIPS: The petition of Mary H. Green and other ladies, of Kansas, of similar import—to the same committee.

By Mr. PRICE: The petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

Also, the petition of the Women's Christian Temperance Union and 49 others of Waverly, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. RICE, of Massachusetts: The petition of Mrs. J. H. Windsor and other ladies, of Grafton, Massachusetts, for the suppression of polygamy—to the same committee.

By Mr. STEWART: The petition of residents on and near Fort Abercrombie military reservation, that the reservation be made subject to entry under the homestead and pre-emption laws—to the Committee on Public Lands.

By Mr. TIPTON: The petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

By Mr. VANCE: The petition of Edward Haile, that his claim for compensation for cotton seized by United States officials be referred to the Court of Claims—to the Committee of Claims.

By Mr. WIGGINTON: The petition of J. W. Mayers, for a post-

route from Newhall to Elizabeth Lake, California—to the Committee on the Post-Office and Post-Roads.

Also, the petition T. D. A. Collins and 28 others, for the establishment of a post-route from Tulare City, via Hunsucker, Woodville, Herrick's Cross, and Deer Creek, to Plano, California—to the same committee.

By Mr. WILLIAMS, of New York: The petition of Mrs. J. L. Beman, L. M. Howe, and 72 others, of Crown Point, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WRIGHT: The petition of Mary Byrd Dallas, of Tennessee, widow of the late Commodore Alexander J. Dallas, United States Navy, that her pension may be increased to $50 per month, the amount originally granted, and for arrears of pension—to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *January* 14, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills, received yesterday from the House of Representatives, were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 5798) for the relief of Balaam A. Bridges, of Bartow County, Georgia;

A bill (H. R. No. 5799) for the relief of Sophia B. Moore, of New Berne, North Carolina;

A bill (H. R. No. 5800) for the relief of Mrs. Julia Elliott, widow and administratrix of Newell D. Elliott, deceased; and

A bill (H. R. No. 5803) for the relief of William Johnson and John R. Francis, of Edgar County, Illinois.

The bill (H. R. No. 1827) for the relief of D. W. McClung, of Woodsdale, Butler County, Ohio, was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. No. 4186) confirming and vesting the title to a certain tract of land in Burlington, Iowa, in the independent school district of said city was read twice by its title, and referred to the Committeeon Private Land Claims.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a letter from the Chief of Engineers and a report from Major G. K. Warren, of the Corps of Engineers, of the results of examinations at Westport Harbor and at Wood's Holl, Massachusetts; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a letter from the Chief of Engineers and a report from S. M. Mansfield, Corps of Engineers, of the results of a survey of Portage Lake, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a letter from the Chief of Engineers and a report from Major D. C. Houston, Corps of Engineers, of the results of an examination of Wolf River, from Lake Poygan to Red River, Wisconsin; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the petition of Alfred A. Miller and 53 others, citizens of Blissfield, Michigan, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. CHRISTIANCY presented the petition of Mrs. Eva Hamill and 2,000 other gentile ladies, of Utah Territory, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. BUTLER presented the petition of the trustees of the Washington street Methodist church, of Columbia, South Carolina, praying compensation for property destroyed by fire during the late war, and alleged to have been destroyed by United States soldiers; which was referred to the Committee on Claims.

Mr. VOORHEES. I present the petition of David T. Land and 40 others, citizens of Rockport, Indiana, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions, which, as they allege, is intended to cancel the obligation of a just debt resting on the country and in accordance with the fulfillment of a contract of the Government when our citizen soldiers entered the service. I move that the petition lie upon the table.

The motion was agreed to.

Mr. VOORHEES presented the petition of W. W. Hunter and others, citizens of Somerville, Indiana, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. MORGAN presented the petition of James L. Williams, of Clay County, Alabama, praying for the passage of an act authorizing the Commissioner of the General Land Office to issue to him a patent to certain land in that State; which was referred to the Committee on Public Lands.

Mr. McPHERSON presented the petition of William G. White and others, citizens of Vineland, New Jersey, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WALLACE presented the petition of Emma M. Barber and other ladies, of Buffalo Valley, Pennsylvania, and the petition of Sarah J. Reitenbach and other ladies, of Buffalo Valley, Pennsylvania, praying for the passage of an act making effective the anti-polygamy law of 1862; which were referred to the Committee on the Judiciary.

Mr. WINDOM presented the petition of John Millington and others, citizens of Summit Lake, Minnesota, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. ARMSTRONG presented the petition of Robert Brady and others, citizens of Jefferson County, Missouri, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. PADDOCK presented the petition of Henry Storm and others, citizens of Nebraska, praying for the establishment of a mail-route from Keya Paha, Holt County, Nebraska, to Rosebud (Spotted Tail agency) in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of John B. Drew and others, citizens of Holt County, Nebraska, praying for the extension of a mail-route to a point thirty miles west of Keya Paha, and for the establishment of five new post-offices on said route; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of A. Jones and others, citizens of Nebraska, praying for the discontinuance of the mail-route from Arcadia to Kent, and the extension of the mail-route from The Forks to Kent in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Seth Motley, of Nebraska, praying for the establishment of a post-route from Grand Island to Hastings in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of A. G. Kendall and others, citizens of Nebraska, praying for the establishment of a post-route from Saint Paul to Jacksonville, Greeley County, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of W. J. Whiting and others, citizens of Nebraska, praying for the establishment of a post-route from Spring Valley to Nelson in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of P. M. Gall and others, citizens of Nebraska, praying for the establishment of a post-route from Kearney to Sweetwater in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Edward S. Towle and others, citizens of Nebraska, praying for the establishment of a post-route from Falls City to Brownville, in that State; which was referred to the Committee on Post Offices and Post-Roads.

He also presented the petition of Ira P. Conger and others, citizens of Nebraska, praying for the establishment of a post-route from Syracuse to Tecumseh, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

The VICE-PRESIDENT presented resolutions adopted at a convention of merchants, manufacturers, and other business men, held at Chicago, Illinois, November 12, 1878, for the promotion of American commerce, in favor of such legislation as will secure the development of commerce with other countries and promote the opening and improvement of such lines of transportation by land and water as are of general and national importance.

The VICE-PRESIDENT. This communication comes to the Chair in duplicate, and so much of it as refers to the subject-matter of commerce is referred to the Committee on Commerce, and so much as relates to the matter of railroads to the Committee on Railroads.

Mr. WADLEIGH presented the petition of Harriet Flagg, of Dover, New Hampshire, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. COCKRELL presented additional papers and affidavits in support of the bill (S. No. 1535) for the relief of George Heard; which was referred to the Committee on Public Lands.

Mr. INGALLS presented the petition of Henry B. Taylor, of Moores, New York, praying for the passage of the bill (S. No. 1500) to amend the laws relative to pensions; which was referred to the Committee on Pensions.

Mr. BRUCE presented the petition of Charles A. White, late first lieutenant Company I, Thirteenth Pennsylvania Cavalry, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. COCKRELL. The Committee on Military Affairs, to whom was

referred the bill (H. R. No. 591) for the relief of James Smith, late first lieutenant Company F, Forty-sixth Missouri Infantry, have duly considered the same, and have instructed me to report it adversely and recommend that it do not pass. I ask that the report be printed and the bill placed on the Calendar.

The report was agreed to, and ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1540) for the relief of Emanuel Klauser, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 556) for the relief of James A. Hile, of Lewis County, Missouri, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 521) for the relief of Thomas F. Alexander, of Illinois, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WINDOM. I ask leave to report back from the Committee on Appropriations a letter from the Secretary of War, communicating information in relation to the surveys in the territory west of the Mississippi River and recommending appropriations for continuing the same. I move that it be printed and recommitted to the Committee on Appropriations.

The motion was agreed to.

Mr. DORSEY, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1529) to authorize the commissioners of the District of Columbia to adjust and fix the water-rates within said District, reported it with an amendment.

Mr. DORSEY. I am directed by the Committee on the District of Columbia to report back a draught of a bill making a permanent appropriation for the payment of the interest on the funded debt of the District of Columbia and of the cities of Washington and Georgetown, and for the gradual redemption thereof, and for other purposes, together with certain communications from the Secretary of the Treasury. This bill was prepared at the Treasury Department, and the Committee on the District of Columbia think it ought to go to the Committee on Appropriations. I move that the Committee on the District of Columbia be discharged and the subject referred to the Committee on Appropriations.

The motion was agreed to.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred a letter from the Secretary of War recommending legislation to permit the appointment of William English, late a cadet, to a second lieutenancy in the Army, submitted a report thereon, accompanied by a bill (S. No. 1611) authorizing the appointment of William English to a second lieutenancy in the Army.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4190) for the relief of William H. Baldwin, reported it without amendment and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. SAUNDERS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1612) to provide for punishing persons who steal horses, mules, and other property from the Indians; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1613) for the relief of the Louise Home; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1614) to provide for the recomputation of the accounts between the United States and the several States, and between the United States and the city of Baltimore, growing out of moneys expended by the several States and the said city of Baltimore in the war of 1812 with Great Britain; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. SARGENT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1615) relating to the tax upon the deposits in savings-banks; which was read twice by its title, and referred to the Committee on Finance.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1616) for the relief of Faran & McLean; which was read twice by its title, and referred to the Committee on Finance.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1617) for the relief of the estate of George M. Hamner; which was read twice by its title, and referred to the Committee on Claims.

Mr. BUTLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1618) to make appropriation for the continuation of the work on the jetties in Charleston Harbor; which was read twice by its title, and referred to the Committee on Commerce.

Mr DENNIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1619) for the relief of John H. Sothoron; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENTS TO POST-ROUTE BILL.

Mr. PADDOCK and Mr. WALLACE submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

PRINTING OF GEOLOGICAL SURVEYS.

Mr. CHAFFEE submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate of the United States, (the House of Representatives concurring therein.) That there shall be printed as issued 5,000 copies of each of the quarto reports and accompanying topographical and geological atlas sheets of the United States geographical surveys west of the one hundredth meridian, under the Engineer Bureau of the War Department, and in charge of First Lieutenant George M. Wheeler, Corps of Engineers; 3,000 copies for the House of Representatives, 1,000 copies for the Senate, and 1,000 copies for the use of the War Department; the printing from the stereotype plates and binding to be done by the Government Printer, and the style of the text, together with the accompanying plates, maps, and atlas sheets to correspond with those now printed, the latter from proofs corrected and approved at the office of the United States geographical surveys.

ARMY REGULATIONS OF 1863.

Mr. ALLISON submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 1,500 copies of the Army Regulations of 1863; 500 copies for the use of the Senate and 1,000 copies for the use of the House.

PLANS FOR DISTRICT SEWERAGE.

On motion of Mr. ANTHONY, it was

Ordered, That the Public Printer be, and he hereby is, authorized to print a sufficient number of the maps and drawings accompanying Senate Miscellaneous Documents 17, 19, 25, to stitch into the reserve number of said documents for the files of the Senate and House.

NARRATIVE OF POLARIS EXPEDITION.

Mr. ANTHONY submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved, (the House of Representatives concurring,) That there be printed 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer, under the direction of the Joint Committee on Printing, at the cost of publication with 10 per cent. added thereto.

RAILROADS IN ARIZONA.

Mr. BUTLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inquire and report to the Senate at as early a day as practicable what railroad company, individual or individuals, if any, are constructing or building a railroad through the public domain in the Territory of Arizona, and under and by what authority the same is being constructed or built.

THE CALENDAR.

Mr. ANTHONY. We are far into the closing session of the present Congress, and there are many bills upon the Calendar that are unobjected to, which have gone through all the preliminary stages of legislation, and many of them have passed the House of Representatives. I think it is time that we should take them up. I therefore offer the following resolution:

Resolved, That on Friday next, at one o'clock, the Senate will proceed to the consideration of the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. DAVIS, of West Virginia. The Senator from Rhode Island does not propose to interfere with the appropriation bills, I take it?

Mr. ANTHONY. Certainly not.

Mr. DAVIS, of West Virginia. I make the inquiry because the chairman of the Committee on Appropriations is not in his seat at present.

Mr. ANTHONY. Nothing interferes with appropriation bills here.

Mr. WITHERS. I call the attention of the mover of the resolution to what I consider a defect in it, and that is permitting an objection to be interposed at any time during the progress of the bill. It seems to me if an objection is to be interposed at all, it ought to be at first. After the Senate shall have taken up a bill and possibly considered it for an hour under the five-minute rule it is to be placed in the power of a Senator then to interpose an objection and cause the bill to go over, as I understand the resolution.

Mr. ANTHONY. That is the way the rule has always been observed. The objection, if there is objection, would naturally be made at the beginning; but if it is found that a bill is to occupy the whole day, it is better to postpone it even after half an hour or an hour spent in its consideration than to let it go on till the adjournment.

Mr. WITHERS. I think it likely to produce a necessarily greater consumption of time than the rule I suggest. That is my impression.

Mr. ANTHONY. That is the way the rule has always been observed, and I think it has given better satisfaction to the Senate than if the rule required the objection to be confined to the beginning of the consideration of a bill.

The resolution was agreed to.

BEN. HOLLADAY.

Mr. MITCHELL. I desire to give notice of my intention to call up the bill (S. No. 1398) for the relief of Ben. Holladay at a very early day. I desire to premise the notice by a remark or two, if the Senate will indulge me. I shall make a single remark, as I do not wish to detain my friend from West Virginia, [Mr. DAVIS,] who has given notice that he will occupy the floor at the conclusion of the morning business.

The memorial of Mr. Holladay was before the Committee on Claims at the first session of this Congress. On the 26th day of November, 1877, the committee submitted a report to the Senate sending the case to the Court of Claims; but after a discussion of some two or three days, at different times in the Senate, the Senate recommitted the case to the committee by the adoption of the following resolution:

Resolved, That the bill referring the claim of Benjamin Holladay to the Court of Claims be recommitted to the Committee on Claims, with instructions to report to the Senate what amount, if any, is equitably due the claimant on account of his claim; and the said committee shall have power to send for persons and papers and take testimony.

Under that instruction the Committee on Claims has investigated this claim thoroughly, and in a manner different from any claim that has ever been investigated by that committee since I have been a member of it; that is to say, it called witnesses and examined them under oath. On the 13th of June, 1878, in compliance with the instructions of the Senate, the Committee on Claims reported a bill to the Senate, which is on the Calendar. I think it is but due to this claimant that the bill should be taken up at an early day and considered in the Senate; and I give notice of my intention to call it up at a very early day.

HENRY C. DE AHNA.

Mr. DAWES. I call up now the bill which I reported yesterday from the Committee on Finance, and ask for its present consideration. It will take but a moment.

The VICE-PRESIDENT. The Senator from West Virginia [Mr. DAVIS] has given notice several times that on this day, at the conclusion of the business of the morning hour, he would submit some remarks to the Senate. The Chair feels bound to recognize that Senator.

Mr. DAWES. I shall not interfere with the Senator from West Virginia. The Committee on Finance instructed me to ask the indulgence of the Senate for a moment for the passage of this bill, as there are peculiar circumstances requiring final action at once. I do not think it will take a moment if the Senator from West Virginia will indulge me. I shall not interrupt the Senator if he objects to it.

Mr. DAVIS, of West Virginia. At the solicitation of several Senators I feel that I must give way; but if the bill should lead to any debate, of course the Senator from Massachusetts himself will withdraw it and allow me to proceed.

Mr. DAWES. I will.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1592) for the relief of Henry C. De Ahna, late collector of customs at Sitka, Alaska. It directs the proper accounting officers of the Treasury, in the settlement of the accounts of Henry C. De Ahna, late collector of customs at Sitka, Alaska, to allow, in addition to the salary and fees to which he is entitled under existing law, the further sum of $3,500 in full compensation for all expenses incurred and losses sustained by him in traveling to and from Alaska and in obtaining and furnishing the Treasury Department with reports concerning the condition of public affairs in that Territory.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES CHESNUT.

Mr. BUTLER. My friend from West Virginia has consented to allow me to call up House bill No. 5503.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds of the Senate concurring therein.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his Secretaries, announced that the President had on the 13th instant, approved and signed the following acts:

An act (S. No. 88) for the relief of James W. Richard and J. S. Brown & Brothers, of Denver, Colorado;

An act (S. No. 347) to remove the political disabilities of Manning M. Kimmell, late of Cape Girardeau County, Missouri;

An act (S. No. 882) to authorize the proper accounting officer of the Treasury to audit and pay the claim of the State of Tennessee for keeping United States military prisoners;

An act (S. No. 992) for the relief of Columbus F. Perry and Elizabeth H. Gilmer, of Chambers County, Alabama; and

An act (S. No. 1244) for the relief of the legal representatives of George Williams, deceased.

PERSONAL EXPLANATION.

Mr. DENNIS. I wish to state that my colleague [Mr. WHYTE] is detained at home by sickness in his family.

ADVANCEMENT OF AGRICULTURAL INTERESTS.

Mr. DAVIS, of West Virginia. Mr. President, I move to take up the concurrent resolution offered by me early in December, in relation to the advancement of agricultural interests.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. DAVIS, of West Virginia, December 4, 1878:

Whereas agriculture is the foundation of nearly all our wealth and it is mainly through the exportation of its products that we are paying off our large indebtedness, foreign and domestic, and have the present large balance of trade in our favor; and

Whereas although about one-half of the people of this country are engaged in agricultural pursuits and all other interests are dependent upon this, our leading and most important interest, commercial and otherwise, yet but little has been done by the General Government to promote agriculture, while other less general and important interests have been largely aided: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That the committees on agriculture of the respective Houses be, and they are hereby, instructed to consider generally the subject of agriculture, and report, by bill or otherwise, what can or ought to be done by the General Government to better advance, encourage, and foster agricultural interests, and that said committees shall have the power to send for persons and papers.

Mr. DAVIS, of West Virginia. Mr. President, in inviting the attention of the Senate to this resolution and asking its passage I feel that there is no subject of more importance and more moment to the country, none around which so many interests cluster and in which so many center, as American agriculture.

It is a subject so broad, *so national*, *so universal*, *so non-partisan*, *so non-sectional*, so *far-reaching* in its *effects* and *important* in its *results*, that it should at once command the patient attention of all, and in its consideration party feeling and party passion should have no voice.

The country has been, and is, weighed down with a heavy national, State, municipal, and individual debt, held at home and abroad, the interest and principal of which must be paid; business has been, and is, depressed; commerce languishes; confidence is destroyed; almost numberless remedies and suggestions have been proposed to bring relief and restore prosperity, but, in the prolonged stagnation, most all have failed and are distrusted.

This resolution is not brought forward as a panacea for all our ills and the only safe road out of our troubles, but it is claimed that for what has been done in the past to bring relief, and for whatever of light and hope there is ahead of us, the country is mainly indebted to agriculture; and if anything can be done to stimulate and better promote this great national interest, the greatest of all, it will not only continue largely to aid in bringing relief and restore prosperity, but remain a lasting and substantial benefit to the country in the future.

IMPORTANCE OF AGRICULTURE.

It is impossible to measure, or even estimate, the importance of agriculture to a people. It is the foundation upon which civilization and society rest; the basis and source of the permanent wealth of a nation. No people in history have made substantial progress in civilization, the arts and sciences, and have remained long prosperous, if they neglected agriculture. It is the most universal of all arts, the parent of manufactures and commerce, and the basis of all other industries, and without which all others must decay and perish.

In all countries, its rudest beginnings have marked the first steps in the emancipation of the people from barbarism and their approach to civilization and organized society. This fact is fully established by annually appropriating and expending large sums and sending agents to induce the savage Indian to adopt farming instead of hunting for a living, and when successful much has been accomplished, and the Indian is on the high road to become a good and useful citizen.

Adam was the first agriculturist. We read in Genesis:

And the Lord God took the man, and put him into the garden of Eden to dress it and to keep it.

In the earliest times the Egyptians were devoted to agricultural pursuits, and Egyptian civilization only took form and shape after her people learned to till the soil.

The Israelites were one of the greatest agricultural nations of antiquity: nearly the whole people were engaged in agriculture; it constituted the chief source of their wealth. Nearly every Israelite was a land-owner, and literally sat "under his own vine and fig tree." Noah was a husbandman. Abraham had flocks. Job, in addition to owning large herds and flocks, had five hundred yoke of oxen, with which he plowed. Isaac was a farmer, and Jacob tended flocks and herds. David was a farmer and also a shepherd.

The Greeks, though possessing a sterile soil, gave great attention to agriculture.

ROME AND AGRICULTURE.

In the early history of Rome the people were thoroughly devoted to agriculture, and were proud of it; it was their chief source of wealth. They were a nation of farmers, and it was during the period they paid the most attention to agriculture that they enjoyed the most substantial progress, prosperity, and success. The state allotted to each citizen a certain parcel of land, and he who was not content to own and till the land was deemed dangerous to the state and to society. One could not hold office unless he was a land-owner and a

cultivator of the soil; and it is a remarkable fact that the decline of agriculture, more than anything else, marks the decay and dissolution of the Roman Empire. When her people neglected tilling the soil and tending their herds, and depended upon the neighboring provinces for supplies and food, her glory began to depart.

Cato, distinguished as a general, statesman, and orator, found time to write books upon farming. Cicero, the renowned and eloquent orator, prided himself upon his agricultural attainments. The agricultural literature of Rome was unsurpassed in its time, and is only inferior to that of a few nations to-day.

Cincinnatus was a farmer, and after having been chief ruler of his country and one of its great generals, returned to his plow. He was called from thence to save his country a second time, and, having accomplished his high purpose, he returned to it again.

In Spain, under the Saracens, followed by the Moors, agriculture reached a high state of perfection, which has not been surpassed in more modern times. The revenue from it alone amounted to $30,000,000 per annum more than the combined revenue of all the other monarchs of Europe at that time. During the dark ages, when the Goths, Vandals, and other barbarian conquerors overran nearly all Europe, agriculture was not only neglected and abandoned but it sunk into the lowest condition of contempt. It seemed as if civilization had taken its flight and barbarism was about to claim the world.

WHAT AGRICULTURE HAS ACCOMPLISHED.

About the fourteenth century agriculture revived and the improvement and elevation of the lower and middle classes began, and, with its advance, has gradually gone on all over the world.

Agriculture started England on her high road to prosperity and the commercial supremacy which she has maintained in the world for five hundred years.

Through agriculture a large part of Holland was reclaimed from the sea, and it is now the foundation of her great wealth and prosperity.

The people comprising the great German Empire, one of the most powerful of nations and respected all over the world, are largely devoted to agriculture and are greatly indebted to it for their wealth and power.

It has been the glory of France and the chief occupation of her people for centuries, and through it, though but a few years ago a conquered people and compelled to pay a war indemnity whose figures are staggering, but which was paid in less time than any other nation ever paid so large an amount, to-day her people are proud, rich, and prosperous.

It is agriculture that gives greatness to Russia and enables her to contend for supremacy in European affairs and carry on her great wars.

Belgium and Switzerland, though small, owe their prosperity and importance largely to agriculture.

Indeed, all history attests the fact that where a people have devoted themselves to agriculture they have been uniformly prosperous and progressive, while those nations and the people who have abandoned or even neglected it have declined.

The majority of all people, in all times and ages of the world, from the humblest to the highest, have engaged in agriculture. Presidents, emperors, kings, and nobles have not thought it a condescension to be farmers, but rather an honor and a credit. The greatest names in our history have been those who were practical farmers and devoted to agriculture. We have been from the beginning, and must remain, a nation of farmers.

WHAT WE OWE TO AMERICAN FARMERS.

From the time of the landing at Jamestown and Plymouth Rock, the American farmers have always constituted the advance guard and the largest part of that grand army of progress and liberty which in its triumphant march in the face of dangers, trials, privations, and the cruelty of the savage has gradually subdued forests, crossed rivers, and climbed mountains, until civilization, society, churches, schools, and happy homes have been established from ocean to ocean and from the lakes to the Gulf.

The American farmers have laid the foundation of an empire on this continent, destined, largely through their efforts, virtues, industry, courage, and devotion to free government, to surpass in substantial glory, grandeur, wealth, progress, and prosperity all the nations of this world and the achievements of all history.

Our liberties were conquered and our Constitution made mainly by farmers, and to them in any and every great crisis we must look for the safe-keeping and protection of both.

As a rule the agricultural classes have always been devoted to liberty, peace, and good order, and the friends of established society and the enemies of disorder, wrong, change, violence, and unjust revolution: they constitute the reserve forces of conservatism in all governments, particularly in ours.

The collection of large populations in commercial centers, by depleting the country, has a dangerous tendency. It is in the cities and these great centers that rings, strikes, frauds, trades unions, centralization, and consolidation are born, fostered, and best flourish, while in the agricultural districts the tendency is in the opposite direction.

EMINENT MEN AND AGRICULTURE.

Washington, called from his farm to command the armies of the Revolution, having gained our liberties and started our Government in its grand experiment, against the unanimous entreaties of his countrymen to remain in public life, returned to his farm at Mount Vernon and superintended it until the close of his exemplary and patriotic life, nearly the last act of which was to ride over and inspect his various fields and give orders concerning the same.

In a letter to Sir John Sinclair, Washington said:

> I know of no pursuit in which more real and important service can be rendered to any country than by improving its agriculture and its breed of useful animals.

And in his messages to Congress he more than once called attention to the great importance of agriculture.

General Jackson, in his fourth annual message to Congress, (December, 1832,) in speaking of agriculture, says:

> The wealth and strength of a country are its population, and the best part of that population are the cultivators of the soil. Independent farmers are everywhere the basis of society and the true friends of liberty.

Another great mind has said: "A virtuous and intelligent farmer has attained the highest estate of fallen man."

Mr. Jefferson, when not attending to his public duties, spent most of his time upon his estate at Monticello. He said that agriculture was the highest calling of man, the surest road and safeguard to a nation's prosperity and liberty.

Mr. Webster, perhaps the greatest constitutional lawyer this country ever produced, was fond of agricultural pursuits, and spent all of his leisure time at Marshfield, where his great mind found ample scope and occupation in attending to his farm and stock.

Mr. Clay, that great patriot of the West, who knew no North, South, East, or West, spent much of his time at Ashland, and while there devoted his great talent to farming; and when permitted to retire from public life he returned to his farm.

That able, pure, and great man, Silas Wright, when he retired from public life, went direct to his farm and gave his personal attention to its management; and the last work of his pen was to write an agricultural address, which he did not live to deliver. It is a proud distinction to agriculture in our country that it numbers among its advocates and followers such names as Washington, Jefferson, Adams, Madison, Jackson, Webster, Clay, and Wright.

Napoleon the First said that agriculture was the body and soul of the empire; and, in the height of his glory, he gave the subject much attention and encouragement, and established in France a department of agriculture.

Dr. Johnson remarks that agriculture not only gives riches to a nation, but the only riches she can call her own.

Prince Albert, a model farmer, said that agriculture was the foundation of the social state.

Gibbon says that agriculture is the foundation of manufactures, since the productions of nature are the materials of art.

THE UNITED STATES AND AGRICULTURE.

The following table presents the number of persons engaged in the different occupations in the United States at the last enumerations:

Population.	1870 (census.)		1878.	
	Number.	Per cent.	Number.	Per cent.
Total over 10 years	28,228,945	.....	34,000,000	.....
Males in all occupations	12,505,923	.....	15,000,000	.....
Agriculture	5,922,471	47.35	7,600,000	50.66
Manufacturing and mining	2,707,421	21.65	2,900,000	19.33
Professional and personal	2,684,793	21.47	3,000,000	20.00
Trade, commerce, and transportation	1,191,238	9.52	1,500,000	10.00

The census of 1870 gives an aggregate value of all personal and real property for that year of $29,822,535,140.

The agricultural interest being valued at 38 per cent. of all others combined the value of farms and property is $11,124,959,037.

Value of farms, 1870	$9,262,803,861
Value of farm animals, 1870	1,525,276,747
Value of farm implements, 1870	336,879,429
Total	11,124,959,037

In the United States about half or twenty-three millions of the people are engaged in agriculture. It is the fundamental business of the country, the leading commercial interest, and the most important home industry. We are a nation of farmers, and because of the vast area of our soil and its great fertility we must remain so. Our agricultural products not only support our people, but pay for what we buy abroad; they furnish our greatest source of revenue, and to them we are indebted for the balance of trade now being largely in our favor, and that our bonds and other indebtedness held abroad are so rapidly coming home. Ordinarily upon the results of our crops hinge our prosperity for a given year or period. If the crops are good, business is good; if short, business is dull.

The crops exert a controlling influence upon the moneyed operations of the people at home and abroad. The bankers, manufacturers, and merchants, in fact all classes of business men, watch if possible with more interest and concern the growth and gathering of the crops than the farmer who sows and reaps them. Mr. Jefferson declared that one-half of our old war debt was paid through the products of agri-

culture, and it is through them mainly that our new war and other debts have been and must be paid. If the farmers for a given year should only raise enough for their own support the consequences to the other classes would be almost ruinous; and if the crops should absolutely fail for a year the ruin and the starvation that would follow would be beyond description.

We have rich gold and silver mines, inexhaustible iron, coal, copper, and lead mines, great salt and petroleum wells, large forests of timber; but none of these, nor all combined, are equal to agriculture. Not only are the people of the United States interested in American agriculture and dependent upon it for support, for revenue, and for prosperity, but the whole world, because America is the granary of the world.

In the United States a more general and better interest is being awakened in agriculture; its importance is fast becoming better understood and appreciated; the people are beginning to learn and understand that mainly to agriculture, now and in the great future, we must look for our prosperity as a nation. It is not so much discredited and abandoned for the overcrowded professions and cities, for mercantile pursuits, and for clerkships now as in times past.

The following figures, taken from official sources, will serve to show what agriculture has done and is doing for the country. An official statement of the Treasury Department, dated January 1, 1879, shows that—

The imports for the twelve months ending November 30, 1877, were	$482,292,984
And for the twelve months ending November 30, 1878, were	430,661,998
Decrease of imports	51,630,986
The exports for the twelve months ending November 30, 1878, were	739,971,739
And for the twelve months ending November 30, 1877, were	623,016,613
Increase of exports	116,955,126
The exports for the twelve months ending November 30, 1878	739,971,739
The imports for the same period	430,661,998
Exports over imports	309,309,741

This is a good showing in round numbers during 1878. We bought $5,000,000 less and sold $116,000,000 more than we did in 1877, and we sold $309,000,000 more than we bought. This is principally owing to agriculture.

The following table, taken from the official report of the Bureau of Statistics, dated September, 1878, speaks well for agriculture:

Statement showing the value and percentage of agricultural products (including products of the forest) exported from the United States for each year from 1850 to 1878.

Year ending June 30—	Total domestic exports.	Total exports of agricultural products.	Percentage of agricultural products to total domestic exports.
1850	$136,946,912	$123,825,808	90.44
1851	196,689,718	165,828,736	85.69
1852	192,368,984	144,037,465	74.85
1853	213,417,697	176,589,418	82.74
1854	252,047,806	195,258,953	77.48
1855	246,708,553	175,385,328	71.09
1856	310,586,330	248,091,084	79.91
1857	338,985,065	260,139,925	76.75
1858	293,758,279	232,478,953	79.49
1859	335,894,383	258,449,990	76.96
1860	373,189,274	295,081,484	78.61
1861	228,699,486	180,516,442	82.46
1862	213,069,519	160,821,597	75.50
1863	305,884,998	215,273,568	70.36
1864	320,035,199	183,356,276	57.29
1865	323,743,187	207,232,749	64.01
1866	550,684,277	416,157,242	75.58
1867	438,577,312	330,413,246	75.35
1868	454,301,713	319,004,531	70.22
1869	413,961,115	311,756,665	75.32
1870	499,092,143	391,269,605	79.01
1871	562,518,651	397,963,220	70.75
1872	549,219,718	407,141,706	74.13
1873	649,132,563	493,962,697	76.00
1874	693,039,054	550,043,638	79.37
1875	643,094,767	479,893,212	74.63
1876	644,956,406	514,339,866	81.30
1877	676,115,592	517,737,998	76.58
1878	722,811,815	592,475,813	81.98

This statement shows that in 1878 our agricultural products, including forest, were about 82 per cent., and since 1850 they have averaged about 74 per cent. of our total exports.

The annual production and value of cereals for the ten years ending 1877 are given in the following table from official sources:

THE CEREAL CROPS OF THE UNITED STATES.

Statement showing the annual production, acreage, total value, value per bushel, yield per acre, and value per acre of the cereal crops of the United States, from 1868 to 1877, inclusive.

CORN.

Year.	Total production.	Total area.	Total value of crop.	Value per acre.	Av'ge per acre.	Av'ge value per acre.
	Bushels.	*Acres.*		*Cents.*	*Bush.*	
1868	906,527,000	34,887,246	$569,512,460	62.8	25.9	$16 32
1869	847,320,000	37,103,245	658,532,700	75.3	23.5	17 74
1870	1,094,255,000	38,646,977	601,839,030	54.9	28.3	15 57
1871	991,898,000	34,091,137	478,275,900	48.2	29.1	14 02
1872	1,092,719,000	35,526,836	435,149,290	39.8	30.7	12 24
1873	932,274,000	39,197,148	447,183,020	48.0	23.8	11 41
1874	850,148,500	41,036,918	550,043,080	64.7	20.7	13 40
1875	1,321,069,000	44,841,371	555,445,930	42.0	29.4	12 38
1876	1,283,827,000	49,033,364	475,491,210	37.0	26.1	9 69
1877	1,342,558,000	50,369,113	480,643,400	35.8	26.6	9 54
Total	10,689,595,500	404,733,355	5,252,116,020			
Average.	1,068,959,550	40,473,335	525,211,602	49.1	26.4	12 97

WHEAT.

1868	224,036,600	18,460,132	319,195,290	142.4	12.1	17 29
1869	260,146,900	19,181,004	244,924,120	94.1	13.5	12 76
1870	235,884,700	18,992,591	245,805,045	104.2	12.4	12 94
1871	230,722,400	19,943,893	290,411,820	125.8	11.5	14 56
1872	249,997,100	20,858,359	310,180,375	124.0	11.9	14 87
1873	281,254,700	22,171,676	323,594,805	115.0	12.7	14 59
1874	308,102,700	24,967,027	291,107,895	94.4	12.3	11 66
1875	292,136,000	26,381,512	294,580,990	100.0	11.0	11 16
1876	289,356,500	27,027,021	300,259,300	103.7	10.4	10 80
1877	364,194,146	26,277,548	394,695,779	108.2	13.9	15 68
Total	2,735,831,746	224,860,768	3,014,815,419			
Average.	273,583,174	22,486,076	301,481,541	110.2	12.12	13 40

RYE.

1868	22,504,800	1,651,321	28,683,677	127.4	13.6	17 37
1869	22,527,900	1,657,584	21,877,291	97.1	13.5	13 19
1870	15,473,600	1,176,137	12,612,605	81.5	13.1	11 72
1871	15,365,500	1,069,531	12,145,646	79.0	14.3	10 35
1872	14,888,600	1,048,654	11,363,693	76.3	14.1	10 83
1873	15,142,000	1,150,355	11,548,126	76.2	13.1	10 04
1874	14,990,900	1,116,716	12,870,411	85.8	13.4	11 52
1875	17,792,100	1,359,788	13,631,900	76.9	13.0	10 02
1876	20,374,800	1,468,374	13,635,826	66.9	13.8	9 28
1877	21,170,100	1,412,902	12,542,895	59.2	14.9	8 87
Total	180,160,300	13,111,362	150,912,073			
Average.	18,016,030	1,111,130	15,091,207	83.7	13.7	11 31

OATS.

1868	254,960,800	9,665,736	142,484,910	55.9	26.3	14 74
1869	268,334,000	9,461,441	137,347,900	47.6	30.4	14 51
1870	247,277,400	8,702,395	107,136,710	43.3	21.1	12 18
1871	255,743,000	8,365,809	102,570,030	40.1	30.5	12 26
1872	271,747,000	9,000,769	91,315,710	33.6	30.1	10 14
1873	270,340,000	9,751,730	101,175,750	37.4	27.7	10 37
1874	240,369,000	10,897,412	125,047,530	52.0	22.0	11 47
1875	354,317,500	11,915,075	129,499,930	36.5	29.7	10 86
1876	320,884,000	13,358,968	112,865,900	35.1	24.0	8 44
1877	406,394,000	12,823,148	118,661,550	29.2	31.6	9 25
Total	2,910,366,700	104,035,393	1,168,105,920			
Average.	291,036,670	10,403,539	116,810,592	40.1	28.0	11 22

BARLEY.

1868	22,896,100	937,498	29,809,931	130.2	24.4	31 79
1869	28,652,200	1,025,795	23,387,909	81.6	27.9	22 79
1870	26,295,400	1,108,924	22,244,584	84.5	23.7	20 05
1871	26,718,500	1,177,666	21,541,777	80.6	22.6	18 29
1872	26,846,400	1,397,082	19,837,773	73.8	19.2	14 19
1873	32,044,490	1,387,106	29,333,529	91.5	23.1	21 15
1874	32,552,500	1,580,626	29,983,769	92.1	20.6	18 96
1875	36,908,600	1,789,902	29,952,082	81.1	20.6	16 73
1876	38,710,500	1,766,511	25,735,110	66.4	21.9	14 56
1877	34,441,400	1,614,654	22,028,044	63.9	21.3	13 64
Total	306,066,091	13,785,764	253,854,508			
Average.	30,606,609	1,378,576	25,385,450	82.9	22.2	18 41

BUCKWHEAT.

1868	19,863,700	1,113,993	20,814,315	104.8	17.8	18 68
1869	17,431,100	1,028,693	15,814,265	90.7	16.9	15 37
1870	9,841,500	536,992	7,725,044	78.4	18.3	14 38
1871	8,328,700	413,915	6,900,268	82.8	20.1	16 67
1872	8,133,500	448,497	6,747,618	82.9	18.1	15 04

Statement showing the annual production, &c., of the cereal crops of the United States—Continued.

BUCKWHEAT.

Year.	Total production.	Total area.	Total value of crop.	Value per acre.	Av'ge per acre.	Av'ge value per acre.
	Bushels.	*Acres.*		*Cents.*	*Bush.*	
1873	7,837,700	454,152	$6,382,043	81.4	17.2	$14 05
1874	8,016,600	452,590	6,477,885	80.8	17.7	14 31
1875	10,082,100	575,536	7,166,267	71.0	17.5	12 45
1876	9,668,800	666,441	7,021,498	72.6	14.5	10 53
1877	10,177,000	649,923	6,998,810	68.7	15.6	10 76
Total	109,380,709	6,340,726	92,048,013			
Average	10,938,070	634,072	9,204,801	84.1	17.2	14 15

Total cereal products of the United States.

Year.	Total production.	Total area.	Total value of crop.
	Bushels.	*Acres.*	
1868	1,450,789,000	66,715,926	$1,110,500,583
1869	1,491,412,100	69,457,762	1,101,884,188
1870	1,629,027,600	69,251,016	997,423,018
1871	1,528,776,100	65,061,951	911,845,441
1872	1,664,331,600	68,280,197	874,594,459
1873	1,538,892,891	74,112,137	919,217,273
1874	1,454,180,200	80,051,289	1,015,530,570
1875	2,032,235,300	86,863,178	1,030,277,099
1876	1,962,821,600	93,920,619	935,008,844
1877	2,178,934,646	93,150,288	1,035,570,478
Total	16,931,401,037	766,867,363	9,931,851,953
Average	1,693,140,103	76,686,736	993,185,195

This table shows the average bushels and value per annum for ten years, 1868 to 1878, as follows:

Products.	Bushels.	Value.
Corn	1,068,959,550	$525,211,602
Wheat	273,583,174	301,481,541
Rye	18,046,030	15,091,207
Oats	291,036,670	116,810,592
Barley	30,606,609	25,385,450
Buckwheat	10,938,070	9,204,801

These figures are of great importance and value and show the enormous amount in bushels and dollars of one branch of agriculture.

The following official statement, dated November 14, 1878, shows the amount of our exports exclusively agricultural from 1875 to 1878:

Statement showing the currency value of the agricultural products herein mentioned exported from the United States during the years ending June 30, 1875, to 1878, inclusive.

Products.	1875.	1876.	1877.	1878.
Animals, living:				
Hogs	$739,215	$670,042	$699,180	$967,259
Horned cattle	1,103,085	1,110,703	1,593,080	3,896,818
Horses	242,631	246,964	301,134	798,723
Mules	356,828	224,860	478,434	501,513
Sheep	183,898	171,101	234,480	333,499
All other, and fowls	47,448	24,617	18,895	46,841
Total animals living	2,672,505	2,436,287	3,325,203	5,844,653
Animal oils:				
Lard oil	147,384	149,156	281,551	994,440
Neatsfoot and other animal oils	12,515	24,498	19,720	17,447
Total animal oils	159,899	173,654	301,271	1,011,887
Provisions:				
Bacon and hams	28,612,613	30,664,456	40,512,412	51,752,068
Beef, fresh			4,552,523	5,009,856
Beef, salted or cured	4,197,956	3,186,304	2,950,952	2,973,234
Butter	1,506,996	1,109,496	4,424,616	3,931,822
Cheese	13,659,603	12,270,083	12,700,627	14,103,529
Condensed milk	123,565	118,549	123,801	128,224
Eggs	8,743	8,300	8,429	14,880
Lard	$22,900,522	$22,420,485	$25,562,665	$30,014,254
Meats, preserved	735,112	998,052	3,939,977	5,102,625
Mutton, fresh			36,480	9,272
Pork	5,671,495	5,744,022	6,296,414	4,913,457
Total provisions	77,416,605	85,528,747	110,108,896	117,953,481
Hides and skins, other than fur	4,729,725	2,905,921	2,480,427	1,286,840
Tallow	5,692,203	6,734,378	7,883,616	6,695,377
Bones and bone-dust	132,246	69,159	121,493	78,989
Hair	429,598	310,761	338,487	361,348
Total animals and their products	10,983,772	10,020,219	10,824,023	8,422,554

Statement showing the currency value of the agricultural products herein mentioned, &c.—Continued.

Products.	1875.	1876.	1877.	1878.
Bread and breadstuffs:				
Barley	$61,408	$210,586	$708,541	$2,565,736
Bread and biscuit	610,092	632,580	626,034	730,317
Indian corn	24,456,937	33,265,280	41,021,245	48,030,358
Indian-corn meal	1,290,533	1,305,027	1,511,152	1,336,187
Oats	290,537	588,583	1,150,686	1,277,920
Rye	204,590	480,083	1,822,966	3,051,739
Rye flour	54,964	30,054	39,672	30,775
Wheat	59,607,863	68,382,899	47,135,562	96,872,016
Wheat flour	23,712,440	24,433,470	21,663,947	25,095,721
Other small grain and pulse	804,193	1,136,515	876,665	1,077,433
Maizena, farina, and all other preparations of breadstuffs used for food	364,708	707,478	650,206	1,709,639
Total bread and breadstuffs	111,458,265	131,181,555	117,806,676	181,777,841
Fruits:				
Apples, dried	326,193	67,915	920,292	260,085
Apples, green or ripe	722,247	221,764	986,112	386,261
Other fruit, green, ripe, or dried	269,632	210,177	268,282	236,310
Preserved in cans or otherwise	315,931	327,432	762,344	435,450
Total fruits	1,634,003	827,278	2,937,030	1,378,106
Seeds:				
Cotton	63,128	69,605	130,062	179,602
Flaxseed or linseed	137	257	8	437
Clover, timothy, garden, and all other	1,327,750	1,548,750	3,403,685	2,085,887
Total seeds	1,391,015	1,418,612	3,533,755	2,265,926
Textiles:				
Cotton, raw	190,638,625	192,659,262	171,118,508	180,031,484
Wool, raw	62,754	13,845	26,446	93,358
Hemp, raw	21,856	8,318	12,182	18,210
Total textiles	190,723,235	192,681,425	171,157,136	180,143,052
Vegetable oils and oil-cake:				
Cotton-seed	216,640	146,135	842,248	2,514,320
Linseed	30,689	23,770	43,435	27,232
Oil-cake	5,138,300	5,774,585	4,818,145	5,095,163
Total vegetable oils and oil-cake	5,385,639	5,944,490	5,703,828	7,636,715
Miscellaneous:				
Ginseng	658,926	646,954	562,268	497,247
Hay	110,225	134,017	116,936	141,340
Hops	1,286,501	1,384,521	2,305,355	2,152,873
Rice	$19,831	$30,918	$78,112	$33,953
Tobacco-leaf	25,241,549	22,737,383	28,825,521	24,803,165
Potatoes	522,182	431,443	533,187	541,593
Onions	51,259	54,015	48,081	44,522
Other vegetables, raw, prepared, and preserved	169,325	133,272	116,518	138,309
All other agricultural products unenumerated	791,197	665,202	1,154,437	1,251,534
Total value of miscellaneous	28,850,995	26,217,728	33,740,415	29,604,736
Total value agricultural products included in this schedule	430,575,923	456,429,995	459,439,233	536,038,951
Total value of exports of domestic merchandise	559,237,638	594,917,715	632,960,854	695,749,930
Per cent. of agricultural products to total domestic exports	77.00	76.72	72.59	77.05

For the year 1878 our exports from agriculture alone reached the enormous sum of $536,038,951

While our entire exports from all other sources, including agriculture, for 1878, amount to 695,749,930

Total exports, less agriculture 159,710,979

This shows that agriculture furnished full three-fourths of our entire exports, and amounted to more in dollars than our imports.

These statements establish the fact that as in the past we have mainly depended upon agriculture, so in the future we must look to it for our support and ability to pay for what we purchase abroad, as also the payment of our foreign debt and interest.

COTTON.

The soil of some of our States is so well adapted to the growing of cotton that we are the chief producer of the world, and must remain so. It constitutes the largest factor in our exports, bringing us since 1865 an average of more than $200,000,000 per annum, or more than two and a half billions for the thirteen years—which is more than our national debt. Without cotton our foreign trade would have been largely against us. There are good reasons to believe the production will increase from year to year. This large amount is part of the aid and contribution the Southern States bring to us in restoring prosperity to the whole country.

BREADSTUFFS, INCLUDING ALL CEREALS,

constitute the next largest item in our exports, yielding last year $181,777,841, and an average since 1865 of near $100,000,000 per annum.

ANIMAL PRODUCTS, INCLUDING CATTLE AND HOGS,

rank next in exports, and amounted last year to $133,232,575, an average for the last decade of about $80,000,000 per annum. For this and breadstuffs we are chiefly indebted to the West.

BUTTER AND CHEESE.

This is an important farming and agricultural interest which has not hitherto attracted the attention it deserves, and one that is fast growing in our country. It is estimated that last year the total production of cheese was 350,000,000 pounds, and of butter 1,500,000,000 pounds; estimated value of both being about $350,000,000. This is the contribution of the whole country, and is the leading agricultural interest next to corn, being only one-fourth less in value, one-third more than cotton, and one-seventh more than the hay crop. The exports for 1878 were: cheese, $14,103,529; butter, $3,931,822.

The number of cows in the United States is estimated at about 12,500,000—over six times the number in Great Britain, and twice the number in France.

VALUE OF FARM PRODUCTS AND EXPORTS.

The following statements, also from official sources, show the value of farm products, and exports of the same, as also estimated value of farm animals, and increase in the exports of some of the leading products, for 1876 and 1877:

Value of farm products and exports of the same, and ratio of exports to total production, for 1876 *and* 1877*:*

1876.

Products.	Total values.	Value of exports to June 30, 1877.	Percentage exported.
Indian corn	$475,491,000	$43,000,000	9.0
Wheat	300,259,000	69,000,000	22.9
Rye	13,636,000	1,850,000	13.6
Oats	112,866,000	1,230,000	1.1
Barley	25,735,000	708,000	2.7
Cotton	229,445,000	171,000,000	74.5
Total	1,157,432,000	286,788,000	24.8
Potatoes	83,861,000		
Hay	300,901,000		
Grand total	1,542,194,000		

1877.

Products.	Total values.	Value of exports to June 30, 1878.	Percentage exported.
Indian corn	$480,643,000	$49,365,000	10.3
Wheat	394,696,000	122,000,000	30.9
Rye	12,543,000	3,082,000	24.6
Oats	118,662,000	1,278,000	1.1
Barley	24,029,000	2,566,000	11.6
Cotton	215,000,000	180,000,000	83.7
Total	1,243,573,000	358,291,000	28.8
Potatoes	76,249,000		
Hay	271,935,000		
Grand total	1,591,757,000		

Estimated values of farm animals.

Classes of stock.	1876.	1877.
Horses	$610,000,000	$600,000,000
Cattle	615,000,000	628,000,000
Sheep	81,000,000	80,600,000
Hogs	171,000,000	160,839,000
Total	1,477,000,000	1,469,439,000

Value of agricultural exports.

Products.	1876.	1877.
Animals and animal products	$113,941,509	$140,564,066
Breadstuffs	131,212,471	118,126,940
Cotton	200,382,240	183,253,248
Wood	21,020,486	23,422,966
Miscellaneous	46,079,567	58,652,719
Total	513,236,273	524,019,939

The following table gives some of the principal items, showing the increase of exports of 1878 over the year 1877:

Increase in horned cattle	$2,303,798
Increase in barley	1,857,000
Increase in corn	6,409,000
Increase in wheat and flour	53,104,000
Increase in cotton	8,381,000
Increase in bacon	2,237,000
Increase in cheese	1,402,000
Increase in lard	4,451,000
Increase in preserved meats	1,160,000

These tables speak volumes for agriculture and show a great increase in the last few years.

POPULATION.

France, with an area of 201,000 square miles, has a population of about 36,000,000, or 182 persons to the square mile. At the last census Texas, with an area of 274,000 square miles, had a population of less than 1,000,000, or about 4 people to the square mile, while her soil and climate is equal, if not better, than that of France or any other country.

Belgium, with an area of 11,373 square miles, has a population of 5,336,634, or about 469 people to the square mile, while we have a dozen States with a larger area, equally fertile soil and better climate, with less than 20 people to the square mile.

Germany, with an area of 212,091 square miles, has a population of 42,727,360, or about 200 persons to the squate mile.

Great Britain and islands, with a population of 31,628,338, has an area of 121,230 square miles, or about 268 persons to the square mile.

The United States, with an area of 3,603,884 square miles, has a population of about 45,000,000, or 13 persons to the square mile, and if we take the States only and exclude the Territories the population is 22 persons to the square mile.

We have more than 2,000,000,000 acres of land, with a soil and climate unsurpassed and adapted to the production of almost everything necessary to the wants and comfort of mankind, three-fourths of which can be used for agricultural purposes, and much of it, indeed more than one-half, can be purchased for less than the rental value per acre for a single year of the agricultural lands of England, France, Germany, and Belgium.

These figures show that we have ample territory with agricultural facilities to support a population of *many hundred millions*, and then not be so densely populated as the countries above named.

In substantial prosperity and progress, in all that makes a nation great, we must soon take the lead of all other countries; and New York, supported by our vast agricultural, manufacturing, and commercial resources, at no distant day ought to and will be the financial and commercial center of the world as London is to-day.

This prospect should stimulate the encouragement of agriculture and commerce, which must contribute so largely to this result. It must, however, be admitted that, instead of doing so, the tendency and effect of our national legislation has been to encourage other industries and the building up of towns and cities at the expense of the soil, the mine, and commerce.

Several of the countries of Europe are now overcrowded with people, and it is a question whether or not they can long support the increasing population. There is trouble to-day in England and Germany from this source.

Lord Derby, in a recent address made at Liverpool on the subject of the present depression in England, stated in substance, "after much reflection," that England could not afford to pay large sums for food to America and other countries and compete with them in manufactures, and advised as a remedy wholesale emigration to America and Australia.

While we do not want the paupers from other countries, yet we have ample farming lands and room for all persons devoted to honest industry.

TARIFF AND OTHER LEGISLATION AGAINST THE FARMER.

The duty on articles used by farmers averages about 42½ per cent.

	Per cent.
On iron and steel it is from	35 to 50
Leather	25
China and earthen ware	40 to 50
Hosiery	35 to 60
Hats, bonnets, &c	40
Carpets	50 to 68
Salt	60
Ready-made clothing	50 to 60

The farmer pays the above duties and many more, and the eastern or manufacturing States receive the greater part of the benefit.

Then, again, most all the internal revenue comes from the tax on two items of agricultural products, one produced directly and the other indirectly from the soil.

The revenue from the tax on tobacco in 1878 was $40,091,754.67; spirits and liquors, $60,357,867.58—total, $110,459,622.25; and this comes almost entirely from the Southern and Western States.

In 1877 Virginia paid internal-revenue tax to the amount of $7,932,220, which is more than twice as much as all the New England States combined paid, and West Virginia paid $461,030.50, which is

more than the States of Maine, New Hampshire, and Vermont together paid.

The following table shows the receipts from tobacco and spirits in the States named for the year 1878:

States.	Spirits.	Tobacco.	Aggregate receipts.
Connecticut	$270,328 89	$156,348 63	$580,335 59
Illinois	16,072,539 33	2,829,805 58	19,668,791 32
Kentucky	4,866,480 32	1,746,118 21	6,880,614 15
Maine	15,217 42	46,356 84	70,695 78
Massachusetts	1,055,739 29	693,925 63	2,424,363 77
New Hampshire	65,144 06	30,572 51	228,188 11
Ohio	10,127,172 80	3,476,501 63	14,770,506 37
Rhode Island	39,072 21	63,254 00	246,759 65
Vermont	11,752 32	23,348 14	44,339 49
Virginia	302,580 21	6,145,442 85	6,501,730 29

This tax is mainly paid by agricultural States, as the above table shows, and falls directly or indirectly on the farmer, while manufactures and other industries of the non-agricultural States are aided by protection at the expense of the former.

So in one way or another the burdens of taxation fall heaviest on the farmer and agricultural interests, against which there should be some relief.

AID RENDERED BY DIFFERENT GOVERNMENTS TO AGRICULTURE.

From reliable sources we learn there was expended for the year 1877 by some of the governments of Europe in aid of agriculture the following sums:

Austria and Hungary	£1,099,025 or	$5,495,125
France, for agriculture and commerce	110,672,050 francs or	$20,534,410
Prussia	10,459,343 marks or	$2,612,340
Italy, for agriculture and commerce	10,863,981 livres or	$2,715,995
Russia, for agriculture and public lands	18,434,912 rubles or	$14,826,184
Great Britain	£159,118 or	$795,590
Sweden		$651,737
United States		$174,686

The following appropriations for the years named will be sufficient to illustrate the difference in the amounts appropriated for the various departments of the General Government:

Departments.	1877.	1878.	1879.
Department of State	$1,377,428 43	$1,353,807 50	$7,134,325 64
Treasury Department	163,015,647 68	159,222,392 61	167,122,213 75
War Department	39,251,271 81	4,245,628 00	68,263,792 48
Navy Department	13,115,176 55	13,745,422 90	20,684,492 83
Interior Department	37,673,054 12	36,674,573 32	38,245,551 74
Post-Office Department	6,422,283 49	3,469,045 00	7,295,389 98
Department of Justice	3,364,343 31	3,424,950 00	3,918,913 94
Department of Agriculture	174,686 96	188,640 00	204,900 00

These figures show how liberally the prosperous and progressive European governments aid and encourage agriculture and how little we do for this great interest. Russia, our great and principal agricultural rival, spends in support of agriculture and in respect of her public lands more than seventy times as much as the United States, and the little Kingdom of Sweden more than three times as much as this great nation.

We have what is called a Department of Agriculture, with a commissioner at its head, whose salary is $3,000 per annum, and the next highest salary is $1,900, while there are a large number of employés in other Departments whose chiefs of divisions or heads of bureaus receive from $3,000 to $6,000 salary per annum. The salaries of the Agricultural Department are either too low or the others are too high.

In the Senate the Committee on Agriculture is composed of five, while most of the other committees have from seven to nine members. The Committee on Commerce has nine and on Railroads eleven members. Why should not the Committee on Agriculture be made equal to any committee of the Senate? The slender aid we render in the way of appropriations and the attention given to agriculture in Congress indicate that we hold it inferior in importance to industries of much less magnitude and moment. The Commissioner of Agriculture within the last few years has done well, considering the limited means at his command, and deserves credit. Considering the vast importance of agriculture to the country, the number of people engaged in it, the interests dependent upon and affected by it, it seems to me that it deserves and demands at our hands more attention and substantial aid. There is nothing sectional or political about agriculture, and all parts of the country are interested in it.

AGRICULTURAL IMPORTS.

A large amount of agricultural products are imported which might and ought to be grown within our own borders.

The following table from the Bureau of Statistics shows the amount and value of sugar and molasses imported from 1869 to 1878:

Statement of imports into the United States of sugar, melada, and molasses during the years 1869 to 1878, inclusive.

Fiscal years ended June 30—	Brown sugar.		Melada and sirup of sugar-cane.		Molasses.	
	Pounds.		Pounds.		Gallons.	
1869	1,229,329,259	$59,782,008	17,294,314	$586,013	53,304,030	$12,011,147
1870	1,160,460,114	55,655,679	36,161,935	1,258,672	56,373,537	12,868,250
1871	1,189,155,938	61,249,621	87,113,535	3,286,877	44,401,359	10,192,384
1872	1,457,294,818	79,129,059	51,673,375	2,066,027	45,214,403	10,627,511
1873	1,454,124,259	77,953,470	113,670,829	4,722,165	43,533,909	9,901,051
1874	1,594,306,354	77,459,968	106,952,236	4,424,356	47,189,837	10,947,824
1875	1,695,726,353	70,015,757	104,768,386	3,313,597	49,112,255	11,685,224
1876	1,454,254,663	55,702,903	79,702,878	2,415,995	39,026,200	8,157,470
1877	1,584,102,924	81,187,504	39,461,057	1,654,165	30,188,963	7,808,257
1878	1,475,480,604	69,642,368	31,520,907	1,123,613	27,490,007	6,764,119
	14,254,295,286	687,724,337	665,319,452	24,861,480	435,834,500	100,983,237

For the year 1878 the value of these imports was about $77,000,000, and for the nine years named we paid for sugar and molasses the enormous sum of about $600,000,000.

Nearly if not all of this vast sum paid to foreign countries might have been saved had the overflowed and swamp lands on the Mississippi and other rivers (a large portion of which is especially adapted to the growth of sugar-cane) been reclaimed and the overflow provided against and prevented.

If the half of $77,000,000 we pay in a single year for sugar and molasses should be expended in reclaiming the swamp lands and preventing the usual overflows of the Mississippi and other rivers it would not only save to the country annually what we pay out for these articles, but restore from ten to fifteen million acres of rich, arable, and most productive farming lands to this and other agricultural uses, now abandoned and utterly useless. How long would France, England, Germany, Russia, or Holland suffer such a vast body of fertile soil to lie idle and go to waste while paying for what might be produced upon it annually nearly a hundred millions of dollars? The power of the General Government to levee the Mississippi River I believe is admitted. This being the case, is not the duty of Congress from an economical stand-point clear in the premises?

The following table shows many other agricultural products imported by our people, many, if not all, of which might be produced at home and save to the United States and its people more than a hundred million dollars per annum:

Statement showing the quantities and values of certain imported commodities entered for consumption in the United States, with rate of duty and amount of duties collected, during the fiscal year ended June 30, 1878.

Commodities.	Quantities.	Values.	Total value and duty combined.
Barley ..... bush..	5,806,191.24	$3,493,556 65	$4,364,485 35
Barley malt ..... bush..		401,816 06	482,179 27
Cork, unmanufactured		495,316 00	495,316 00
Eggs ..... doz..	6,084,663.00	726,030 01	726,030 01
Flax:			
raw ..... tons..	4,005.20	788,988 00	872,239 47
seed ..... bush..	1,284,862.00	1,880,197 00	2,137,169 40
Fruits and nuts	.....	10,084,838 63	13,322,675 02
Fruits and nuts	.....	546,732 56	
Hemp, raw ..... tons..	21,325.31	2,213,838 00	2,605,329 28
Jute, raw ..... tons..	24,663.80	1,109,011 00	1,247,993 81
Melada ..... lbs..	36,691,376.00	1,383,462 00	2,071,445 36
Molasses ..... gall..	26,855,565.85	6,860,317 33	8,553,271 80
Molasses ..... gall..	*87,534.00	14,449 22	
Paper materials:			
rags ..... lbs..	93,002,422.00	2,838,743 65	2,838,743 65
other ..... lbs..	41,552,618.00	1,150,444 00	1,150,444 00
Rice, cleaned, uncleaned, & paddy	41,414,838.00	1,109,466 01	2,352,566 41
Rice, cleaned, uncleaned, & paddy	*6,063,514.00	299,041 92	
Silk, raw ..... lbs..	1,186,172.00	5,116,707 00	5,116,707 00
Sugar:			
brown ..... lbs..	*30,368,328.00	2,274,430 38	117,629,284 37
brown ..... lbs..	1,552,875,112.00	78,969,204 69	
refined ..... lbs..	216,294.00	16,666 00	27,689 70
Tea ..... lbs..	65,366,449.00	15,665,742 07	15,665,742 07
Tobacco:			
leaf ..... lbs..	7,458,344.00	3,909,061 34	6,519,481 70
cigars ..... lbs..	551,056.37	2,117,510 31	4,024,540 22
other ..... lbs..	172,834.00	46,721 52	133,892 25
Wine:			
in casks ..... gall..	3,653,760.00	1,874,859 09	3,336,363 10
in bottles ..... doz..	336,930.00	2,186,647 58	3,190,793 58
Wool, unmanufactured ..... lbs..	39,801,161.00	6,995,366 69	9,709,762 89
Straw and palm-leaf manufactures	.....	1,681,330 01	2,963,018 12
Total	.....	156,151,793 70	210,918,125 46

* From Hawaiian Islands.

From the above official table it will be seen that the home value of articles imported in 1878 was..... $156,151,723 70
Value of duty added in 1878 was..... 210,918,125 46

This is a large amount of money paid for agricultural products that ought to be produced in our own country. We find by this table we pay foreign countries for—

Sugar and molasses, annually, nearly	$90,000,000
Tobacco and cigars, annually, nearly	6,000,000
Wine, annually, nearly	4,000,000
Wool, annually, nearly	7,000,000
Barley, annually, nearly	4,000,000
Eggs, annually, nearly	726,000

Eggs come in *free* of duty, and the amount paid is so large for so small an article that the following official table is given, which shows quantity, amount paid, and where from:

Quantity and value of eggs imported into the United States during the fiscal year ended June 30, 1878.

Countries.	Quantity.	Value.
	Dozens.	
China	87,800	$6,022
Nova Scotia, New Brunswick, and Prince Edward Island	1,096,963	126,574
Quebec, Ontario, Manitoba, and Northwestern Territory	4,866,981	593,297
Hong-Kong	1,695	100
Mexico	210	44
Total	6,053,649	726,037

Excluding silk and tea, the successful production of which is yet doubtful, and we pay annually more than one hundred millions for products that might be grown in our own country.

In the face of these figures and facts argument is not needed to show that agriculture is of the first and highest importance to our people and should be properly aided and encouraged.

A nation, like a corporation or individual that lives beyond his income, must in time become poor and in debt. After the war, between 1865 and the panic in September, 1873, we had what is usually called good times, when in fact as a nation we were paying to foreign countries much more than we received from them; that is, our imports were more than our exports, as the following official table will show:

NET IMPORTS AND DOMESTIC EXPORTS OF MERCHANDISE, COIN, AND BULLION.

Statement showing the total net imports of merchandise, coin, and bullion into the United States, and the domestic exports of merchandise, coin, and bullion from the United States, from 1860 to 1878, inclusive.*

Year ending June 30—	Total net imports.	Total domestic exports.	Excess of imports over exports.	Excess of exports over imports.
1860	$335,233,232	$373,189,274		$37,956,042
1861	315,004,726	228,699,486	$86,305,240	
1862	188,902,263	210,688,675		21,786,412
1863	226,796,336	241,997,474		15,201,138
1864	309,305,955	243,977,589	65,328,366	
1865	216,441,495	201,558,372	14,883,123	
1866	430,770,041	420,161,476	10,608,565	
1867	397,220,063	334,763,005	62,457,058	
1868	349,023,682	353,135,875		4,112,193
1869	412,140,841	318,082,663	94,058,178	
1870	431,950,428	420,500,275	11,450,153	
1871	513,033,809	512,802,267	231,542	
1872	617,569,017	501,285,371	116,283,646	
1873	635,467,636	578,938,985	56,528,651	
1874	572,080,910	629,133,107		57,052,197
1875	531,472,529	583,141,229		51,668,700
1876	455,407,836	575,620,938		120,213,102
1877	466,265,045	632,804,962		166,539,917
1878	446,039,908	707,738,783		261,698,875

*Net imports mean total imports less imported merchandise, coin, and bullion afterward exported to foreign countries. (specie values.)

The above statement clearly shows we paid, between 1860 and 1873, $439,087,737 more for imports than we received for exports.

In 1873 trade reversed, and has been largely in our favor up to this time. During the five fiscal years between 1873 and 1878 we exported or sold $659,072,791 more than we imported or bought. This is a good sign, and shows we are winding on and not off; and if we continue to export largely more than we import, it is only a question of time, which I believe is not distant, when we will be a prosperous and happy people.

Europe, in addition to paying us the large balance of trade now in our favor, according to a recent statement of David A. Wells, expends an average annually of $1,500,000,000 for war and the support of standing armies, while since the formation of our Government our average expenses annually for these purposes have been about $45,000,000.

In most of the governments of Europe all young men between the ages of twenty and twenty-seven are obliged to serve in the standing armies, thereby taking seven years of each man's life from useful industries.

If we had no other advantage than these named, we would in time grow rich and Europe poor.

WEST VIRGINIA.

And now, Mr. President, I trust I will be pardoned for turning aside and briefly referring to the State which I have the honor in part to represent, whose mineral and agricultural resources are so great and so varied. They are largely undeveloped as yet, the greater part of them lying dormant; but when the treasures of this mountain State are unearthed, as they must in time be, they will astonish the world. In minerals, such as coal, iron, and salt, West Virginia stands unrivaled, with the one exception, Pennsylvania. In the production of oil, which has become one of our largest industries and one of our most productive sources of national revenue, West Virginia and Pennsylvania are entitled to all the credit.

West Virginia has also agricultural and other resources of which the general traveler, in passing through the State over our principal thoroughfares, has but an imperfect idea. The Baltimore and Ohio and Chesapeake and Ohio, the principal railroads which pass through the State in their search for the lightest grades follow closely the streams in their deeply sunken channels cut through the mountain gorges, and the stranger, seeing nothing, comparatively speaking, but wild, rugged, and picturesque scenery, would naturally have erroneous impressions as to soil, topography, and resources.

SOIL.

Professor Maury, in his work on West Virginia, says that the large proportion of the State is fortunate in having a loam soil, composed of clay and sand mixed in about equal proportions. It may be said to be the characteristic soil of the State.

The "bottom lands" along most of the rivers are widely celebrated for their productiveness. The mountain and hill sides and even the tops are unsurpassed for grazing. Some of the finest and largest cattle sold in the eastern markets are from West Virginia.

Indeed, the State presents great advantages to the successful prosecution of farming and other industries. We are progressing intellectually and morally. There is no State in the Union that has made greater advances in schools within the last decade. Our taxes are about as low as any State in the Union.

COAL.

The coal-fields of West Virginia are, beyond question, the most remarkable in the world. It is in this State that the veins of bituminous coal exhibit their maximum thickness, having in the Kanawha Valley a combined thickness of fifty feet. This State is the only place in this country where cannel coal is found in good quality and paying quantities; and it is said to be fully equal to the best English or Nova Scotia. The splint coal of the Kanawha Valley is one of the best non-coking coals for smelting iron that can be found anywhere. Another advantage our coal possesses is that it is nearest to the seaboard, and consequently the rates of transportation are, or ought to be, greatly in our favor. The excellent gas and steam qualities of our bituminous coal are known all over the country.

The anthracite coal is confined to an area of about 470 square miles in Pennsylvania, where it alone is found in this country. The production in 1877 amounted to..... 21,323,000 tons.
The coal area of West Virginia comprises near 16,000 square miles, with a production in 1877 of..... 1,000,000 tons.
While the whole of Great Britain has but 11,900 square miles, with a production in 1877 of..... 134,179,968 tons.
Germany 1,770 square miles, producing in 1877..... 48,337,950 tons.
France 2,086 square miles, producing in 1877..... 16,763,779 tons.

A report made by the engineer department of the United States to the Secretary of War (Ex. Doc. 110, third session, Forty-first Congress, page 49) makes the following reference to West Virginia coals:

It is well known to geological men that the veins of bituminous coal which pervade the entire western slope of the Appalachian chain of mountains have their maximum aggregate thickness in the Kanawha Valley. From a late authentic work on the subject of Kanawha coals the following extract is made:

"The coal fields of the Kanawha region are superior to those of Great Britain or Pennsylvania. They are regarded by eminent gentlemen as *the finest deposit of coal in the world*. The quality of Kanawha cannel is equal to the best English; its bituminous is equal to the best found in Pennsylvania, and Kanawha splint, for smelting iron, is unsurpassed. The veins lie nearly horizontal, and vary from three feet to fifteen feet in thickness; and the aggregate thickness of the various seams in some localities amounts to forty and fifty feet of solid coal."

In the Piedmont or North Branch region the coal is fully equal to that in Kanawha Valley, and some of the veins now being worked are from fifteen to twenty feet thick of pure coal.

SALT AND NAILS.

The salt of the Kanawha and Ohio Valleys has the great advantage of being manufactured very cheaply; and it is a most superior article, as is attested by the preference given it in every market where it has been introduced. I doubt if there is another place in this whole country where salt can be made as cheaply as in the Kanawha and Ohio Valleys. There are over twenty salt-furnaces in the State, with an annual capacity of six million bushels.

West Virginia produces about one million kegs of nails annually, or about one-sixth of the whole amount of cut nails made in the world.

PETROLEUM.

Among the important productions of our State is petroleum. In the past three years, 1876, 1877, and 1878, there were produced in the oil regions of West Virginia and Pennsylvania 34,384,275 barrels or 1,444,139,550 gallons of petroleum, and of this amount there were exported 891,236,235 gallons of the value of $141,270,198, or an average of about $50,000,000 per annum. The production of petroleum in 1860

was but 10,542,000 gallons, while in 1878 it amounted to 619,007,004 gallons. The exportation of petroleum began in 1862, and in 1878 it amounted to near 66 per cent. of the entire production, being 407,482,175 gallons. It now ranks as the fifth article of export from this country.

TIMBER AND IRON.

The timber of our State is probably as good in quality and large in amount as that of any State in the Union. Almost every description of timber is found in the State, some of the most important varieties in great abundance.

The iron ore of West Virginia is abundant and varied. There are a number of iron-furnaces and rolling-mills in the State, and they all find a ready sale for their productions, which are of the best quality.

AGRICULTURE.

Though our State has such immense mineral resources, yet a large proportion of her population is engaged in agriculture. Until of late years, although the soil is rich and gives generous returns, our people have paid but little attention to the raising of agricultural products for exportation. They were content to produce sufficient for home consumption. But now they are becoming more and more interested in the pursuit of agriculture and the development of the great resources of the State. This is evidenced by the interest taken by the people in the different county fairs, and the number of granges in the State. It was at first feared that the Patrons of Husbandry would drift into politics and lose their usefulness, but such is not the case. They are doing a good work in West Virginia. No State has a greater or better variety of soil, and with increased attention given to agriculture, with our climate and proximity to the great markets, it may be predicted that in the near future West Virginia will take high rank as an agricultural as well as a mineral State.

AID TO AGRICULTURE.

The General Government has from time to time found warrant in the Constitution to aid directly and indirectly other industries of minor importance. Then why not seriously take in hand the great underlying and fundamental interest upon which all others depend, and do what may be properly done to promote and encourage it? All other interests and industries in comparison are subordinate and insignificant.

The extremities should not be nursed and nourished and the body and heart remain abandoned and neglected.

There is a feeling in the minds of the people that there is too much political agitation and contention in Congress and out of it; that too much effort is made to gain and maintain party supremacy while weighter matters and the things that make for peace and tend to promote prosperity are neglected.

The country and the business interests want quiet and repose. Progress, success, and prosperity such as never blessed another nation or people are within our grasp; our manufacturing, commercial, and agricultural supremacy in the world is no longer doubtful, but certain and assured if only proper effort is made.

Just to what extent and in what manner and by what methods the great agricultural interests of our entire country may be best promoted it will be the duty upon the adoption of this resolution of the Senate and House Committees on Agriculture to determine, and I have no doubt they will bring to the subject that careful and thoughtful consideration which it so justly merits.

France has very recently appointed through her department of agriculture a commission of able and distinguished persons to examine into the subject of agriculture and to report what should be done to advance and encourage it.

In urging the attention of Congress to agriculture I do not wish to detract from the importance of mining, manufacturing, and commerce. The latter especially ought to be considered by Congress. Between 1850 and 1860 American bottoms or vessels carried fully 75 per cent. of our commerce; now only about 25 per cent. This ought not to be, and a remedy is needed.

CONCLUSION.

Heretofore much attention and encouragement has been given by Congress and the departments of the Government to banks, railroads, tariff, &c., and but little to agriculture, which is the great interest upon which all depends. It is to be hoped there will be a change for the better and that the farming interests will receive more attention and encouragement.

President Hayes said, in his last message to Congress:

The great extent of our country, with its diversity of soil and climate, enables us to produce within our own borders, and by our own labor, not only the necessaries but most of the luxuries that are consumed in civilized countries. Yet, notwithstanding our advantages of soil, climate, and intercommunication, it appears from the statistical statements in the report of the Commissioner of Agriculture, that we import annually from foreign lands many millions of dollars' worth of agricultural products which could be raised in our own country.

Mr. President, the world has had many great and able men in state and in war, among them, Alexander, Cæsar, Napoleon, La Fayette, Wellington, Cicero, Burke, Pitt, Franklin, Hamilton, Jefferson, and Lincoln; not one of these was, nor has the world yet produced, the equal of our great and pure Washington, who was "first in war, first in peace, and first in the hearts of his countrymen."

In his eighth message to Congress he said:

It is not to be doubted that with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population and other circumstances of maturity this truth becomes more apparent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse; and to what object can it be dedicated with greater propriety?

Here we have in the early days of our Government, when most of the makers of the Constitution were yet alive, from Washington, who did more to give us our liberties and the Constitution we now enjoy than any other man, a direct recognition of the necessity and advantages of and the power and duty of Congress to encourage and foster agriculture.

Mr. President, I ask the passage of this concurrent resolution, and trust it may pass unanimously, as I think it ought to.

Mr. PADDOCK. Mr. President, I do not wish to retard the adoption of the resolution introduced by my colleague of the Committee on Agriculture, but I desire myself to speak briefly to this resolution, and I ask, therefore, that it may lie over for a time.

Mr. DAVIS, of West Virginia. As a matter of course, when the chairman of the Committee on Agriculture requests a postponement, I cannot refuse; but I will say to my friend, who is chairman of the committee of which I am a member, that I hope that at as early a day as practicable, or as may be convenient for him, he will call the resolution up, because if we are to have action upon it during this Congress, it ought to go to the House soon.

Mr. PADDOCK. I feel the same interest in the adoption of the resolution that my colleague on the committee does. Therefore I shall at the earliest practicable day submit the few remarks that I may have occasion to submit.

The VICE-PRESIDENT. The resolution goes over by common consent.

MISSOURI JUDICIAL DISTRICTS.

Mr. THURMAN. I now ask for the consideration of the bill of which I gave notice yesterday.

The VICE-PRESIDENT. The Senator from Ohio, in accordance with the notice given by him yesterday, asks the Senate to consider at this time the bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

An amendment was reported by the Committee on the Judiciary, to strike out all after the enacting clause of the bill and in lieu to insert the following:

The western district of Missouri is hereby divided into two divisions, which shall be known as the eastern and western divisions of the western district of Missouri. The western division shall include the counties of Andrew, Atchison, Barton, Bates, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Jasper, La Fayette, Linn, Livingston, Mercer, Nodaway, Platte, Putnam, Ray, Saline, Sullivan, Vernon, and Worth; and a term of the district court and circuit court of the United States for said district shall be held therein at the city of Kansas on the third Monday in May and the third Monday in October of each year. The remaining counties embraced in said district shall constitute the eastern division thereof, and terms of the district and circuit courts of the United States for said district shall be held therein at the times and place now prescribed by law.

SEC. 2. All offenses hereafter committed in either of said divisions shall be cognizable and indictable within the division where committed; and all grand and petit jurors summoned for service in each division shall be inhabitants thereof. And all offenses heretofore committed within said district shall be prosecuted and tried as if this act had not passed.

SEC. 3. All civil suits not of a local character which shall be hereafter brought in the district or circuit courts of the United States for the western district of Missouri in either of said divisions, against a single defendant, or where all the defendants reside in the same division of said district, shall be brought in the division in which the defendant or defendants reside; but if there are two or more defendants residing in different divisions, such suit may be brought in either division, and all *mesne* and final process subject to the provisions of this act, issued in either of said divisions, may be served and executed in either or both of the divisions.

SEC. 4. The clerks of the circuit and district courts for said district shall each appoint a deputy clerk at the place where their respective courts are required to be held in the division of the district in which such clerk shall not himself reside, each of whom shall, in the absence of the clerk, exercise all the powers and perform all the duties of clerk within the division for which he shall be appointed: *Provided*, That the appointment of such deputies shall be approved by the court for which they shall be respectively appointed, and may be annulled by such court at its pleasure. And the clerk shall be responsible for the official acts and neglects of all such deputies.

SEC. 5. All civil suits and proceedings now pending in the circuit or district court of said western district of Missouri, and which would, if instituted after the passage of this act, be required to be brought in the western division of said district, may be transferred, by consent of all the parties, to said western division of said district, and there disposed of in the same manner and with like effect as if the same had been there instituted; and all process, writs, and recognizances relating to such suits and proceedings so transferred shall be considered as belonging to the term of the court in the western division of said district, in the same manner and with like effect as if they had been issued or taken in reference thereto originally.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M.

ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the 17th of June, 1878, certain reports of the Commissioner of Agriculture on sheep husbandry; which was referred to the Committee on Agriculture, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of June 3, 1878, a copy of the correspondence between the Government of the United States and that of Her Britanic Majesty in regard to inviting other maritime powers to accede to the three rules of neutrality laid down in article 6 of the treaty of May 8, 1871; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Navy, transmitting, in answer to a resolution of February 6, 1877, a narrative of the second expedition to the Arctic regions by the late Captain C. F. Hall, during the years 1864 to 1869; which was ordered to lie on the table and be printed.

REVISION OF THE PATENT LAWS.

The VICE-PRESIDENT. The Senate will now proceed to the consideration of its unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 360) to amend the statutes in relation to patents, and for other purposes, the pending question being on the amendment proposed by Mr. MORGAN, to strike out lines 30 to 35, inclusive, of the second section, in the following words:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

And to insert in lieu thereof:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious, or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct, or of such infringement, such sum by way of counsel fees and expenses of suit as it shall deem just and reasonable.

Mr. MATTHEWS. Mr. President, the section of the bill that I suppose to be prominently in view of the Senate now is the second section, which I regard as the most important section of a very important bill. It is evident from the course of the debate that the bill itself has received long and careful consideration from the Committee on Patents, who have been assisted in their own reflections by arguments had before them from persons qualified to represent all the various interests which are involved in legislation of this character. In consequence of the carefulness of the consideration which this bill has received from the hands of its framers, it is rather an ungracious task to enter upon a work of criticism; and yet, as every Senator must vote in accordance with the results of his own reflections upon the subject, I feel it due to myself at least, and to such Senators as may choose to listen, to submit some objections which it seems to me are worth consideration in reference to this section of the bill. It may not be my good fortune to say anything which has not already been considered by the committee, and to which the advocates of the bill may not be ready at any time to furnish satisfactory answers; but as I have not yet heard any such I am compelled to make the objections which seem to me to avail.

The first criticism I have to make in reference to this section is a verbal one and easily obviated if there be anything substantial in it. The first sentence of the second section applies to pending suits, and prescribes that in such in which no final verdict has yet been rendered, or in which no decree for an account or settlement of damages has yet been pronounced, the measure of the plaintiff's recovery shall be the same, whether the suit be at law or in equity. The remainder of the section, as I suppose and assume, was intended to prescribe a rule of damages for future suits and actions; and yet the language of the remainder of the section does not so express the intention, and it might not be considered any extraordinary refinement of interpretation which should restrict and confine all the clauses of that section to pending suits, leaving the rule of damages as it now exists to be applied to all future actions and suits.

It is true that in the second sentence it is provided that if a license fee has already been established by a reasonable number of transactions applicable to the case at bar, such license fee or a proportion thereof according to the extent and duration of the infringement proved shall be the measure of the plaintiff's recovery in all cases, which would seem perhaps to be large enough to include possible as well as actual cases; and yet there would be nothing at all unreasonable in restricting that language to the cases mentioned in the first clause of the second section. It says:

In all suits for the infringement of a patent, in which, at the date of the passage of this act, no final verdict has been rendered, or no decree for an account or assessment of damages has been pronounced, the measure of the plaintiff's recovery shall be the same, both in law and in equity.

Mr. HOAR. That seems to me to include all future verdicts and all future decrees, whether in pending suits or in suits hereafter to be brought.

Mr. MATTHEWS. It may possibly mean that; and yet that is not the obvious meaning of it; and if we are legislating, certainly the matter ought to be put beyond any reasonable doubt; indeed it ought to be put beyond any doubt.

But the next objection I have to this section, Mr. President, is of more consequence. After providing that in actions at law or in suit in equity, if such be the application of the language, a license fee predicated upon an established and reasonable number of transactions shall be the measure and limit of the plaintiff's recovery, an exception is made, and that exception applies to cases both at law and in equity. The exception covers those "cases where the defendant has made an actual profit from making for sale or selling the thing patented or the product thereof," and prescribes that in such excepted cases, where the defendant has made such an actual profit from the making for sale or the actual sale of the thing patented, "the proportion of the actual profit of such making for sale or selling due to said infringement shall be determined," and that "that proportion," as and when determined of such actual profit "shall be the measure of the plaintiff's recovery." And now, in order, in actions at law, to provide a mode for ascertaining such profit and such proportion of the profits as may be due to the use of the infringement, it is provided that "the court may appoint an auditor to ascertain the same, and his report shall be *prima facie* evidence; but if such proportion shall not be equal to the amount of a license fee established or to be determined in the manner hereinafter provided, the plaintiff shall be entitled to recover such amount or so much thereof as shall be in excess of the profits so awarded."

Now, it is to be remembered that it is an attempt to provide the mode for ascertaining the damages to be assessed and for which judgment is to be rendered in an action at law to recover damages for the infringement of a patent. I inquire of the committee by what authority they withdraw from the consideration of the jury empaneled to try such a case the question of the amount of the recovery and seek to interpolate into that proceeding a proceeding at common law, the report of an auditor to ascertain the damages for which the verdict should be rendered, which it is declared in the same terms is not to be conclusive but only *prima facie* evidence of the amount to be rendered as the judgment, and to whose discretion is that matter subsequently to be submitted? That of the court? Or is the jury to pass with the aid of this report from an auditor upon the question of the damages? And if so, at what period in the history of the suit, and when and how is it to be determined that the case is one for the interposition of an auditor to ascertain these facts? At what stage of the trial, on whose motion, by what suggestion, upon what testimony? Because it is not and cannot be known in advance by either court or jury, when the case is about to be submitted to the jury, when the jury is sworn to try the issues of fact involved upon the pleadings, when the testimony is taken, whether the case is one of the excepted cases in reference to which an auditor shall be appointed, or whether it is a case in reference to which the statutory rule measuring the damages is to be applied. Is the court to interrupt the course of procedure on the discovery upon evidence of the fact which constitutes the contingency for the appointment of the auditor and thereupon appoint the auditor and dismiss the jury, or what is to become of the case?

I doubt, Mr. President, very seriously whether these provisions are either practicable or constitutional. The Constitution of the United States expressly provides, in the seventh article of amendments, that—

In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

Is this fact to be passed upon by the jury and then re-examined upon the report of an auditor by the court, or is the cause to be arrested prior to the verdict by the judge, the jury dismissed, and the cause submitted without a jury upon the question of damages, and without the consent of the parties?

It seems to me that these provisions are lacking at least in that definiteness of detail which if prescribed might possibly extricate the whole section from the category in which I think it now stands, both as being impracticable of execution, or if practicable then in violation of a fundamental principle of the Constitution.

But I object further, Mr. President, to the entire section as it stands, to its substance, to its merits, as undertaking to originate and prescribe a statutory rule for the measurement of damages recoverable at law or in equity for the infringement of patents. By the terms of the Constitution, under which the jurisdiction of Congress to legislate at all upon this subject vests, it is provided that—

The Congress shall have power * * * to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The very means by which Congress is to exert its authority as conferred in this section is provided by the Constitution itself. It is a recognition perhaps of the natural right of property in ideas when embodied in useful writings and inventions; but whether it be the creation merely of law or a declaration by law of that which nature has previously declared and established, Congress is required in its legislation to do one thing in all that it does; in all that it attempts

it has one object in view; and that is to secure for a limited time to authors and inventors an exclusive right. An exclusive right is a right which excludes that of all others. It is a monopoly. It is a declaration of a title to private property vested in the originator and owner and sanctioned by this constitutional prescription. Congress in pursuance of that power has legislated and undertakes to secure to inventors and to authors for the times named in the various statutes on that subject the exclusive right of property in that which thus is secured. How is that right defended from invasion, for no congressional legislative declaration could be self-executing? Remedies for the wrong which is correlative to this right must be provided, and they must correspond to the nature of the right and be coextensive with it. Accordingly that wonderful weapon of equity courts, both for offense and defense, the writ of injunction, is the substantial and efficacious remedy that steps in to redress wrong by preventing wrong. It comes in at the beginning. As soon as the knowledge of the infraction of the right comes home to the owner of the right, he can appeal to the preventive justice of courts of equity and obtain an order prohibiting the wrong-doer from continuing his wrong-doing. Without that there would be no security for this right. Without that all other remedies provided for the security and protection of it would be illusory, would certainly not be adequate. It is the injunction granted upon proper *prima facie* evidence of the existence of the right and of its infringement, perpetuated upon final hearing upon proof of the facts at issue. The question of damages is either a question that is merely auxiliary and accessory to that, incident to it, as compensation for the infringement during the period when the cause was pending or before the bill was filed and before the injunction could have been obtained, or it may be, at the election of the owner of the patent, compensation to him in full for all that he asks; and in that case it amounts to a license; for when the owner of a patent chooses not to insist technically upon the specific enforcement of his exclusive right, but is willing to obtain money compensation in lieu of it, that is granting, during the time for which damages are recovered, a lawful license to the defendant to do that for which he thus pays.

This bill, Mr. President, in the second section undertakes to do what I believe never was undertaken before in a statute. Indeed, it undertakes to do two things in respect of which I now recollect no precedent. It undertakes to prescribe a rule of damages by statute which is not certainly usually done except in statutes of a penal character. Damages for the infringement of ordinary rights at the common law are provided by rules either of law or of practice established by judicial decisions, and are largely in the discretion of the tribunal to whom the actual computation is submitted. That is one of the very offices of a jury. It has been considered one of the very grounds of commending that institution, that the average good sense of twelve true and lawful men selected from the vicinity could judge without arbitrary, technical, artificial, and exact rule, from their common knowledge of the common affairs of men, what under the circumstances ought to be and would be a fair compensation for the injury proved. This bill not only undertakes to introduce into our jurisprudence a fixed statutory rule for the measurement and computation of damages in this specified class of cases, but it undertakes to do that by breaking down and overruling a series of judicial decisions which have been built up according to the principles of equity jurisprudence and of common law from year to year for many years until it has acquired the proportions of a system.

Mr. President, that system may not be a good one; it may not be the best. It may have been the cover for many abuses. That I do not deny; but I am very fearful that this attempt by a fixed statutory provision to set aside those decisions and to introduce a new rule will lead to far more abuses in number and far greater abuses in importance than those it is sought to remove.

I have adverted to the use of the injunction as a means for the specific protection of this exclusive right. That is not touched.

As to the question of damages, why not leave it just as the question of damages is left in any other case? If it is thought that an error has crept into the system by treating the wrong-doer in equity as a trustee for the owner of the patent, and so holding him to an account of the profits which he has made by the use of another's property, why not, then, simply content ourselves with abolishing that as the exclusive rule, and leaving the whole ground and area of compensation for damages before the jury and before the court, both as to evidence and as to argument?

The damages in one case may be no rule for damages in another. What are the damages? For the ordinary breach of a right they are that sum of money which, in the judgment of the tribunal, ought to be considered a fair compensation to the plaintiff for the loss of that of which he has been deprived by the act of the defendant. Why not allow that loss to be measured by the rules of the common law in actions at common law, by applying them to this subject-matter, and leaving open to the consideration of the court and jury every single circumstance that can properly reflect upon it? Why not leave the whole question of profits and of savings, both in the manufacture for sale and the actual sale, as well as the use of the thing patented, together with every other item of evidence which can be adduced either to show the utility or the inutility of the improvement patented, open for consideration, in order that in each case, according to its individual circumstances, the jury, if that be the tribunal selected by the party, or the court, if it be required to act as an assessor, to award damages for the *ad interim* breach of the right, may be at liberty to find in any of the rules of law or equity or in all the facts which may be brought to its attention by competent evidence, wherein the plaintiff has been wronged and how much he has lost, in order that he may have full compensation made to him for this loss which he has suffered? Then it would be appropriate to add to that, as is done in one of the clauses of this section, in cases of vexatious and malicious suits or defenses, such additional amount may be awarded by way of penalty proportioned to the expense of the litigation as shall make the amount awarded a full compensation not only for the breach of the right, but for the expense of maintaining it. This section does not conform to that idea. It undertakes to introduce and establish a new rule, by overthrowing in many of the cases a part of that which has been established, drawing a line of distinction where to my mind there can be no difference, excluding as it does positively and peremptorily in all cases any account of savings effected by reason of an improvement, when the very profit which otherwise is allowable may depend entirely on the fact and the amount of saving.

Therefore the section, as it seems to me, is not only impracticable, but is inconsistent, unjust, and violates fundamental provisions of constitutional law. Unless these objections are removed by what I shall hear further from the advocates of the bill, I shall be compelled, if for no other reason yet for these reasons, to vote against the entire proposed statute.

Although I have not formally submitted any such amendment, and I do not know whether the bill is in a state where it would be proper for me to move to amend it, inasmuch as there are two pending amendments I think, I would propose after the word "cases," in line 10 of the second section, to strike out all of that clause of the section down to the word "awarded" in line 23; so that the clause would then read:

If a license fee has already been established by a reasonable number of transactions applicable to the case at bar, such license fee, or a portion thereof, according to the extent and duration of the infringement proved, shall be the measure of the plaintiff's recovery in all cases.

Then leaving out that which intervenes and beginning again on line 24, it would read:

If a license fee has not already been established by a reasonable number of transactions applicable to the case at bar, a license fee for the use actually made shall be determined from all the evidence in the case.

Leaving out the words which follow in that clause down to and including the word "recovery," in line 29, the section would then continue as follows, as it now stands:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious and malicious, or the infringement was willful, the court may award against the defeated party such sum by way of counsel fees and expenses of suit as it shall deem just and reasonable.

Then strike out in the next clause all that follows down to the proviso, and insert in lieu of it:

No account of profits or savings shall in any case be allowed—

Meaning by that, shall be allowed as a measure of damages—

but evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

At the proper time, if this be not that time, I propose to submit the amendment I have suggested.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The pending question is on the amendment offered by the Senator from Alabama, [Mr. MORGAN.]

Mr. CONKLING. Let it be reported.

The PRESIDING OFFICER. The amendment will be read by the Secretary.

The Secretary read as follows:

Strike out lines 30 to 35 inclusive, of section 2, and insert as a substitute therefor:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious, or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct, or of such infringement, such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I would state, Mr. President, that I share the views of the Senator from Ohio [Mr. MATTHEWS] in relation to this section, as I expressed before the recess; and if his amendments are adopted and they can come in before mine I shall withdraw my amendments. If they are not adopted I shall insist on mine.

Mr. MATTHEWS. Then I now move, Mr. President, as an entire amendment the matters which I have stated, to wit, to strike out, after the word "cases," in line 10 of section 2, all of that clause, including the word "awarded," in line 23; and in the second clause, to strike out, beginning in line 27, the words "and if the case shall not fall within the exception aforesaid the same shall be adopted as the measure of the plaintiff's recovery." That is necessary to be stricken out if the other is. Then also I move to strike out, beginning with line 36, all that part of that clause to the proviso, and insert instead thereof the following:

No account of profits or savings shall in any case be allowed, but evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

These constitute the whole amendment. I understand by the use of the word "account" there the technical accounting as usual in equity in a suit for that purpose, compelling a discovery under oath or proof by books and papers, &c., of the details of the items in each case.

Mr. WADLEIGH. Mr. President, if I correctly understand the Senator from Ohio, his first objection to the second section rests upon the unconstitutionality of that proviso allowing the appointment of an auditor by a court of law to ascertain the amount of profits made by the defendant, and making the report of that auditor *prima facie* evidence in the subsequent proceedings. That objection rests, as I understand, on that provision of the Constitution of the United States which requires that in all cases involving $20 and over the right of trial by jury shall be preserved.

Mr. President, if that clause of the Constitution makes this provision of the second section unconstitutional, it makes unconstitutional the laws of all those States which allow courts of law to appoint an auditor whose report shall be *prima facie* evidence before a jury. That is the law in my own State, and has been for a long time. I understand it to be the law in all the New England States and in the State of New York, and probably in many other States. The constitutionality of those provisions has been attacked, and the courts of the various States have uniformly, with one exception, (and that I think is in Rhode Island, and rests upon peculiar provisions which do not exist anywhere else, and of course the reason is not applicable here,) held that notwithstanding that provision of the Constitution such laws are constitutional. I am not aware that the point has ever been raised in the courts of the United States; I have been unable to find any decisions there; but with the overwhelming weight of authority in the State courts that provisions of this character do not conflict with the Constitution of the United States, the committee has deemed it proper to insert this provision in this bill, believing it to be reasonable and just.

Now, Mr. President, one object of this bill was to prevent different recoveries in different courts; to provide that the rule of recovery should be the same in courts of equity as in courts of law, and that the measure of damages in both courts should be the same. If that is to be carried out, there must be some provision for taking an account in a court of law.

The Senator from Ohio says that the absence of any provision in this bill as to the detail of procedure renders this obnoxious. Why, sir, the courts themselves, if this bill becomes a law, will make rules by which their proceedings will be governed. Can there be any doubt that a court of law can make a proper rule as to when a party shall ask for the account, as to the evidence upon which it shall be granted, as to the cases in which it is proper, and as to the mode in which that account when taken shall go to the jury? I do not see that there can be any difficulty about that.

My friend the Senator from Ohio says that this second section excludes the consideration of savings. Mr. President, it does no such thing. What are savings? Savings consist merely in the advantage which the new machine has over the old method; in that consists the utility of the machine or invention. Now, this section provides that the utility of the invention shall be one of the elements to be considered in making up what damages the plaintiff shall have. This matter of savings can be gone into as evidence to show what the license fee should be; but this section changes the law in that, whereas now the savings are considered as profits when they are not justly so, and become the measure and the inexorable measure of damages. If this section becomes a law the amount of savings or the utility of the invention becomes simply evidence to enable the tribunal to judge of what the license fee should be.

Mr. MATTHEWS. Will the Senator from New Hampshire allow me to interrupt him a moment to call his attention on that very point to the language of the bill which I think excludes the very idea that he now insists upon, because it says in the proviso "that nothing herein contained shall exclude other evidence." Other than what? Other than these very savings. And does not that exclude evidence of the savings of which it is said no account shall be taken?

Mr. WADLEIGH. It may exclude evidence of what the savings of that particular machine may have been in the case in which it has been used.

Mr. EDMUNDS. That is the very case where the question would arise.

Mr. WADLEIGH. The amount of savings always depends upon very many things which cannot properly be taken into the account. It depends upon the skill of the defendant, upon a great many other patented inventions perhaps, and upon many things. As the law is now, whenever it is ascertained what the amount of savings has been, they are deemed to be profits, and they become the measure of the damages of the plaintiff. The defendant has to account for the amount of those savings. As I stated the other day, those savings are not the real profits of the defendant in any case, and it is unjust to allow them to be considered so. This bill says that that account of savings shall not be evidence, but that the plaintiff may show what the machine will save, what the invention will do, how much may be made out of it, and what the advantages that it possesses are over the old method by which the same work can be done. It seems to me that that is all that should be required in reference to this matter.

Mr. CHRISTIANCY. Mr. President, while I am not prepared to concur at present in the constitutional view presented by the Senator from Ohio, I am still much inclined to think that the amendment which he has proposed would make this bill better. I wish to see that amendment and see it in its connection, and I think every Senator would like to see the same thing. I would therefore suggest that the matter be now informally laid over and that the proposed amendment be printed, so that every Senator may see and consider it.

The PRESIDING OFFICER. Is there objection to the suggestion made by the Senator from Michigan? The Chair hears none, and the order will be made.

Mr. HOAR. Mr. President, I desire to say a word or two in reply to the Senator from Ohio. Perhaps, as what he has said is now fresh in the memory of the Senate, I had better say it at once.

It seems to me that this question about which the Senator from Ohio finds a constitutional difficulty, is a very simple one. I suppose that it is no infringement upon the constitutional right to a trial by jury in all cases involving more than $20, to make provision by law for the perfection of the mechanism in cases in regard to which the intelligent action of a jury is impracticable. Now, there are many causes which arise for trial in courts of justice, in regard to which an intelligent determination by a jury is simply impossible; and they are cases which arise upon issues joined upon pleadings at common law, cases which involve complicated and profound mathematical calculations, cases which involve surveys, cases which involve accounts including large numbers of figures to which the human memory is absolutely inadequate without the service of experts, and without the power to write down results, and without the power to make calculations, which are impossible in the ordinary course of a jury trial. For that class of cases the service of an auditor is absolutely indispensable, preserving of course the right of the jury to overrule the decision of the auditor and come to a different result whenever any mistake is pointed out by either side; and that has been held to be constitutional, if I am not mistaken, in every court in this country in which the question has been raised.

It has been a practice in the New England States and in other of the States time out of mind, and it is by no means taking from a jury the constitutional power of determining cases; it is simply supplementing and perfecting the mechanism of jury trial in cases where without such supplementing and perfecting by this additional use of the auditor a jury trial is totally inadequate and impossible. The Senator might as well claim that the use of a microscope or that the use of a yard-stick or that the use of a bushel-basket for the purpose of scrutiny or weighing or measuring if a jury should weigh and determine the result was unconstitutional as to argue at this time in the history of American jurisprudence that the use of an auditor is unconstitutional.

Mr. MATTHEWS. Will the Senator allow me to make an inquiry?

Mr. HOAR. Certainly.

Mr. MATTHEWS. If I understand him, this report of the auditor is to be submitted for the consideration of the jury.

Mr. HOAR. Undoubtedly.

Mr. MATTHEWS. Now, then, the case, as I supposed, has been commenced, and must have been, according to the bill, before the fact is known whether or not it is one of the excepted cases in which there are profits which have been made from the sale or use of the thing patented. Now, as a matter of practice, I beg to inquire of the Senator from Massachusetts what would be the working of the bill after a suit has begun? The trial is on, and the fact arises in the case which necessitates its interruption in order to refer it to an auditor to make an inquiry. Then what becomes of the case? What becomes of the jury? And to what jury subsequently is this report of the auditor to be submitted? The same jury that was impaneled originally or some subsequent jury which a year or two afterward may still survive for that purpose?

Mr. HOAR. Well, Mr. President, that question is a mere restatement of the second point of the Senator from Ohio. I was dealing with the first point, the constitutional question, but I will come to the second point and answer the Senator's question.

In practice, as every Senator knows who is familiar with those jurisdictions where this method is common, that creates no difficulty. In nine cases out of ten where an auditor is desired, it is desired by both parties, and counsel inform the court before the case is reached of the necessity for an auditor. It is precisely similar to a good many cases where a master is appointed by a court of equity to examine accounts. In other cases, where the counsel are not agreed, it is usual either to give the court a brief information of the nature and character of the cause, or at any rate in very rare cases the question does not come up until the case is opened and the judge sees that such an inquiry is to be ordered. The pleadings in nine cases out of ten will so inform the court. That objection of the Senator would apply not only to all patent causes, but to all cases tried by a jury in which the services of an auditor are called in.

Then I wish to say one word in regard to the Senator's criticism upon the rule of damages laid down by this bill. The Senator does not attack this section of the bill by any suggestion that the rule of damages which it proposes is unreasonable or unjust, if I understood his very clear and lucid argument correctly, but it is that the rule of damages is prescribed by statute at all when he thinks it should be left to a jury. But certainly, Mr. President, the measure of damages in any case, whether in law or in equity, is a question of law; it is de-

clared by the court. An erroneous declaration of the rule of damages by the court to the jury is ground of exception and new trial. So that the power which declares the law, and not the power which ascertains the facts, is the power which is to declare the rule of damages which is to prevail, and it follows from that that the rule of damages must be the same for all like cases.

Well, now it has been found that the rule of damages in these patent causes which holds the defendant to be a trustee for the plaintiff in relation to all the profits which he has made by the use of the invention in case of an infringement has in practice become an intolerable grievance. It is an intolerable grievance for two reasons: first, because ordinarily it is an incorrect rule and the injury to the plaintiff is ordinarily far short of the saving which an infringer may have made by the use of a labor-saving invention. In the next place, it is an intolerable grievance because of the opportunity which it offers for oppression of poor defendants by complainants and the oppression of poor but honest complainants by defendants. The undertaking to enter upon and to delay the final judgment of a patent cause by inquiries into the profits of vast business undertakings in which patented inventions are used occasions very often years of delay and the most enormous expenditure, and it is the one blot on the patent law. The large number of persons before us, representing all the interests of inventors, infringers, lawyers, plaintiffs, defendants, all agree that complainants are often debarred from asserting and maintaining just claims by the cost of being compelled to go into these expensive and protracted investigations when they were required by the defendants, and that on the other hand the defendant was overburdened by costs and delay and to his ruin by being compelled to go into this class of investigation; and, therefore, the committee were of opinion that on the whole justice was best attained by adopting the simple, clear, practical rule which is set forth in the second section, which, although not absolutely complete for all cases, is the most complete practical rule for all cases which the committee, hearing all interests, have been able to devise.

If that be true, and we are justified in affirming to the Senate that it is the result of the greatest experience in patent causes in this country so far as we can learn that result, then it seems to me that it is proper for the law-making power to enact a rule of law by which damages are to be assessed hereafter just as much as it was proper for the Judiciary in the beginning to declare, in the absence of the statute enactment, the rule which they would lay down.

The PRESIDING OFFICER. The Secretary will report the pending amendment.

Mr. DAVIS, of Illinois. The motion of the Senator from Michigan was to have the bill laid over and the amendment printed.

The PRESIDING OFFICER. The Chair understood the suggestion to be made that the amendment be printed, but did not understand that the bill should be laid over.

Mr. DAVIS, of Illinois. He said temporarily laid over, at any rate until we could get the amendment in print.

Mr. CHRISTIANCY. Mr. President, I have one word to say which is suggested to me by the argument of the Senator from Massachusetts upon the constitutional question which is raised by the Senator from Ohio.

Mr. President, although the Constitution gives an exclusive right to an inventor to his invention or discovery, I do not therefore think it incompetent for Congress to provide a remedy and in the providing of that remedy to provide rules of damages or as to amounts of recovery. All the duty which devolves upon Congress in that direction is that they shall give a competent remedy for the violation of the patentees' rights, and it makes no difference in my view what that form may be so that it remains a competent remedy and will give an adequate compensation.

Mr. HOAR. Mr. President, I propose to offer an amendment to the seventh section. It was intended to be inserted by the committee when they reported the bill, but was omitted by accident. All the members of the committee assent to it, I believe.

The PRESIDING OFFICER. Does the Senator desire the amendment to be printed?

Mr. HOAR. I submit the amendment, and would like to have it printed.

The PRESIDING OFFICER. It will be so ordered.

Mr. WADLEIGH. I offer a similar amendment, which has been agreed to by the committee, and which was handed me by the chairman, on going away, with the request that I should submit it.

The PRESIDING OFFICER. Does the Senator desire to have it printed?

Mr. WADLEIGH. Yes, sir.

The PRESIDING OFFICER. That order will be made.

Mr. CHRISTIANCY. I renew the suggestion which I made a little while ago that this bill be informally laid aside until to-morrow, and that in the mean time the amendments be printed.

The PRESIDING OFFICER. Is there objection to the pending bill being informally laid aside until to-morrow?

Mr. CHRISTIANCY. I shall not insist upon it if the committee oppose it.

The PRESIDING OFFICER. Is there objection to the bill being informally laid aside until to-morrow, then to be resumed as the unfinished business? The Chair hears no objection, and that order is made.

Mr. DAVIS, of Illinois. I wish to move an amendment to the fifth section, which I submit to be printed.

The PRESIDING OFFICER. The order to be printed will be made.

Mr. HOAR. I should like to have the Senator's amendment read for information.

The PRESIDING OFFICER. The amendment of the Senator from Illinois will be reported.

The SECRETARY. It is proposed to add to section 5:

Provided, That it shall not be lawful to grant any reissue of any patent for any invention except the invention which was embraced in the original patent.

EXECUTIVE SESSION.

The PRESIDING OFFICER. The Calendar of general orders is now before the Senate. The Secretary will report the first bill.

The first business on the Calendar was the joint resolution (S. R. No. 8) authorizing Captain Jonathan Young, of the United States Navy, to accept a betel-nut box and a silver medal from the Emperor of Siam.

Mr. SARGENT. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at three o'clock and twelve minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 14, 1879.

The House met at twelve o'clock m. Prayer by Rev. W. V. TUDOR, Methodist Episcopal Church South, Saint Louis, Missouri.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. HASKELL. I move that there be so much of a morning hour this morning as will permit the call of States and Territories for the introduction of bills. There was no morning hour yesterday for that purpose.

Mr. McMAHON. I object.

Mr. COX, of New York. I hope we will have a morning hour for the introduction of bills.

Mr. McMAHON. I object.

The SPEAKER. It requires unanimous consent.

THE LATE ALPHEUS S. WILLIAMS.

Mr. HUBBELL. I ask unanimous consent to submit for consideration at this time the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Committee on Appropriations be instructed to include in the sundry civil appropriation bill an item appropriating a sum sufficient to pay the widow of the late Alpheus S. Williams, late a Representative from the State of Michigan, the amount he would have received for the remainder of the term for which he was elected.

Mr. COX, of New York. Why cannot we also include in that resolution a provision for the salary of the late Representative from Texas, Hon. Mr. Schleicher?

The SPEAKER. That has already been provided for.

There being no objection, the resolution was adopted.

Mr. HUBBELL. I desire to give notice that on Thursday, the 6th day of February next, I will call up the resolution in relation to eulogies upon my late colleague, Mr. Williams.

ORDER OF BUSINESS.

Mr. McMAHON. I call for the regular order.

Mr. DURHAM. I desire to submit a privileged report.

Mr. REAGAN. Allow me to ask an order of the House for the printing of certain documents for the use of the committee.

The SPEAKER. The gentleman from Ohio [Mr. McMAHON] demands the regular order. The gentleman from Kentucky [Mr. DURHAM] is on the floor by reason of his right to submit a conference report; and he has no power to yield the floor for some other purpose.

Mr. DURHAM. If I had the power I would yield; but the gentleman from Ohio [Mr. McMAHON] calls for the regular order.

The SPEAKER. The Chair does not think it is in the power of the gentleman to take the floor upon a privileged report and then parcel it out to others.

MILITARY ACADEMY BILL.

Mr. DURHAM. I submit the report which I send to the Clerk's desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 5230, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, and 4.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same.

That the House recede from its disagreement to the amendment numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$900;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$1,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$2,100;" and the Senate agree to the same.

M. J. DURHAM,
A. HERR SMITH,
Managers on the part of the House.
WILLIAM B. ALLISON,
HENRY G. DAVIS,
Managers on the part of the Senate.

Mr. DURHAM. There were three or four points of difference between the two Houses, the main one being Senate amendment No. 7 appropriating $3,000 for apparatus for illustrating the science of electricity as applied to the useful arts. We have agreed to appropriate half the sum proposed, $1,500. This was the principal item of difference between the two Houses. If no gentleman desires to make any further inquiry, I ask a vote on the adoption of the report.

The report was adopted.

Mr. DURHAM moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. McMAHON. I call for the regular order.

The SPEAKER. The Chair desires to state the situation of the business of the House.

Mr. REAGAN. Will the gentleman from Ohio [Mr. McMAHON] allow me to ask the printing of some papers?

Mr. McMAHON. We have substantially two hours to-day for debate upon the Geneva award bill. A great many measures are being pressed upon the attention of the House in antagonism to each other; and I feel that I cannot do otherwise——

Mr. COX, of New York. I object to discussion.

Mr. McMAHON. I call for the regular order.

The SPEAKER. The Chair desires to state that to-day was fixed by the unanimous consent of the House for the consideration of the bill known as the Mississippi levee bill, reported from the committee on that subject.

Mr. ROBERTSON. I move that the House resolve itself into Committee of the Whole for the consideration of that bill.

Mr. BUCKNER. Does that bill override other special orders previously made?

Mr. ROBERTSON. Yes, sir.

The SPEAKER. The Chair will cause to be read the order of the House on that subject.

The Clerk read as follows:

On motion of Mr. ROBERTSON, by unanimous consent the bill of the House No. 4318, to provide for the organization of the Mississippi River improvement commission, and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said river, reported on the 22d of May last, and committed to the Committee of the Whole House on the state of the Union, was made a special order therein for Tuesday, January 14, 1879, to the exclusion of all prior special orders.

Mr. HALE. I rise to the question of the order of business.

The SPEAKER. The gentleman will state it.

Mr. HALE. The Geneva award bill which has been debated for some days has come over from day to day; and if nothing else should interpose would be resumed this morning, and could be easily disposed of to-day. Many gentlemen who have taken an interest in this matter would be glad to have it out of the way so that it will no longer block other business. Now, in view of what may be the ruling of the Chair upon the special order in reference to the levees, represented by the gentleman from Louisiana, [Mr. ROBERTSON,] I suggest to him that he refrain from antagonizing that bill with the business which has been running for several days—the Geneva award bill; and I ask the Chair as a matter of parliamentary law whether if a motion in the nature of raising the question of consideration be made to postpone the levee bill until Thursday next, a majority of the House cannot so postpone it, and whether it will not in that case retain all the rights for Thursday next that it has to-day.

The SPEAKER. It has generally been held that the House by a majority vote has power to postpone a special order. This special order seems to have been fixed for the consideration of the bill in Committee of the Whole, and if there be no objection on either side that fact affords a ready solution of the present difficulty; so that, without dispute or controversy, a vote could be had to-day upon the Geneva award bill, the Mississippi levee bill retaining for Thursday next all the rights which it possesses to-day.

Mr. HALE. I trust the gentleman from Louisiana will agree to this proposition.

Mr. GIBSON. I hope my colleague, [Mr. ROBERTSON,] the chairman of the committee on this subject, will accede to the proposition of the gentleman from Maine. It should be perfectly satisfactory.

Mr. ROBERTSON. I accept the proposition of the gentleman from Maine.

The SPEAKER. Is there objection to the arrangement proposed?

Mr. BUCKNER. Is the consideration of the levee bill confined by the existing order to this day?

The SPEAKER. It is, according to the terms of the order.

Mr. BUCKNER. Then to-morrow any other business may come up.

The SPEAKER. To-morrow has been assigned for the consideration of business from the Ways and Means Committee.

Mr. EDEN. Then the levee bill, when it comes up on Thursday, will have only that one day.

The SPEAKER. But one day.

Mr. HEWITT, of Alabama. Will it have its day except by general consent?

The SPEAKER. The Chair thinks that a majority of the House can postpone the special order of to-day until Thursday next. In a moment the Chair will recognize the gentleman from Alabama [Mr. HEWITT] to test the sense of the House (as the Chair understands he desires to do) as between the Geneva award bill and the bill granting pensions to soldiers of the Mexican war. The Chair desires to clear away one difficulty at a time.

Mr. MONEY. Do I understand that, as respects the right of the Mississippi Levee Committee, Thursday is to be substituted for to-day?

The SPEAKER. That is the proposition, to which the Chair hears no objection.

Now the gentleman from Alabama [Mr. HEWITT] raises the question of consideration against the Geneva award bill, desiring to bring up for consideration the bill granting pensions to soldiers of the war with Mexico. This question can be determined by a majority of the House.

Mr. HALE. Let us have a vote on that.

The SPEAKER. The gentleman from Alabama moves that the House resolve itself into Committee of the Whole, the object being to reach the bill granting pensions to the soldiers of the war with Mexico.

The question being taken, the Speaker declared that the noes appeared to prevail.

Mr. HEWITT, of Alabama. I call for the yeas and nays.

Mr. HALE. I hope the gentleman will consent to have the question settled by a division.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 104, not voting 70, as follows:

YEAS—114.

Aiken,	Cravens,	Herbert,	Sayler,
Atkins,	Crittenden,	Hooker,	Scales,
Banning,	Culberson,	House,	Sexton,
Beebe,	Cummings,	Hunter,	Singleton,
Bell,	Cutler,	Ittner,	Slemons,
Bicknell,	Davis, Joseph J.	Jones, James T.	Smith, William E.
Blackburn,	Dibrell,	Kenna,	Southard,
Bland,	Durham,	Kimmel,	Sparks,
Bliss,	Eden,	Ligon,	Steele,
Blount,	Elam,	Luttrell,	Strait,
Boone,	Evins, John H.	Mackey,	Throckmorton,
Boyd,	Ewing,	Maish,	Townshend, R. W.
Bragg,	Felton,	Marsh,	Tucker,
Bright,	Forney,	Martin,	Turner,
Brogden,	Fort,	McMahon,	Turney,
Buckner,	Franklin,	Metcalfe,	Vance,
Bundy,	Fuller,	Mills,	Waddell,
Burdick,	Garth,	Money,	Walsh,
Caldwell, John W.	Gibson,	Morgan,	White, Michael D.
Campbell,	Goode,	Muldrow,	Whitthorne,
Candler,	Gunter,	Patterson, T. M.	Wigginton,
Cannon,	Hamilton,	Peddie,	Williams, James
Carlisle,	Hardenbergh,	Phelps,	Williams, Jere N.
Chalmers,	Harris, Henry R.	Phillips,	Willis, Albert S.
Clark of Missouri,	Harrison,	Rea,	Wood,
Clymer,	Hatcher,	Reagan,	Wren,
Cobb,	Henderson,	Rice, Americus V.	Wright.
Collins,	Henry,	Robbins,	
Cox, Samuel S.	Hewitt, G. W.	Sampson,	

NAYS—104.

Acklen,	Danford,	Joyce,	Reilly,
Aldrich,	Davis, Horace	Keightley,	Rice, William W.
Bacon,	Deering,	Kelley,	Robertson,
Bagley,	Denison,	Ketcham,	Robinson, G. D.
Baker, John H.	Dunnell,	Killinger,	Ryan,
Ballou,	Dwight,	Landers,	Sapp,
Bayne,	Eames,	Lapham,	Shallenberger,
Benedict,	Ellis,	Lathrop,	Smalls,
Blair,	Ellsworth,	Lindsey,	Smith, A. Herr
Bouck,	Errett,	Loring,	Starin,
Brewer,	Evans, James L.	Lynde,	Stewart,
Bridges,	Foster,	McCook,	Swann,
Briggs,	Frye,	McGowan,	Thompson,
Browne,	Garfield,	McKinley,	Tipton,
Burchard,	Hale,	Monroe,	Townsend, Amos
Cain,	Harmer,	Morse,	Townsend, M. I.
Calkins,	Haskell,	Neal,	Ward,
Camp,	Hayes,	Norcross,	Warner,
Caswell,	Hazelton,	O'Neill,	Watson,
Chittenden,	Hewitt, Abram S.	Overton,	White, Harry
Claflin,	Hubbell,	Page,	Williams, Andrew
Clark, Rush	Humphrey,	Patterson, G. W.	Williams, C. G.
Cole,	Hungerford,	Pollard,	Williams, Richard
Conger,	James,	Pound,	Willis, Benjamin A.
Covert,	Jones, Frank	Price,	Willits,
Crapo,	Jones, John S.	Randolph,	Young, John S.

NOT VOTING—70.

Bailey,	Clark, Alvah A.	Evans, I. Newton	Harris, Benj. W.
Baker, William H.	Clarke of Kentucky,	Finley,	Harris, John T.
Banks,	Cook,	Freeman,	Hart,
Bisbee,	Cox, Jacob D.	Gardner,	Hartzell,
Brentano,	Davidson,	Ganse,	Hendee,
Butler,	Dean,	Giddings,	Henkle,
Cabell,	Dickey,	Glover,	Hiscock,
Caldwell, W. P.	Eickhoff,	Hanna,	Hunton,

Jorgensen,	Morrison,	Roberts,	Thornburgh,
Keifer,	Muller,	Robinson, M. S.	Van Vorhes,
Knapp,	Oliver,	Ross,	Veeder,
Knott,	Potter,	Shelley,	Wait,
Lockwood,	Powers,	Sinnickson,	Walker,
Majors,	Pridemore,	Springer,	Wilson,
Manning,	Pugh,	Stenger,	Yeates,
Mayham,	Rainey,	Stephens,	Young, Casey.
McKenzie,	Reed,	Stone, John W.	
Mitchell,	Riddle,	Stone, Joseph C.	

So the motion to go into committee was agreed to.

During the vote,

Mr. CARLISLE said: My colleague, Mr. MCKENZIE, is paired with Mr. POWERS. If present, he would vote in the affirmative.

Mr. GUNTER. My colleague, Mr. GAUSE, is absent on account of sickness. If here, he would vote in the affirmative.

Mr. STONE, of Michigan. I am paired on this and on all political questions with Mr. SHELLEY, of Alabama.

Mr. BROWNE. My colleague, Mr. ROBINSON, is confined to his room by indisposition. If he were present, he would vote in the negative.

Mr. MARTIN. My colleague, Mr. WILSON, who is necessarily absent, would, if present, vote in the affirmative.

Mr. HARRIS, of Virginia. I am paired on this question with Mr. WAIT, of Connecticut. I would vote in the affirmative.

The vote was then announced as above recorded.

The SPEAKER. By the vote just taken the House has resolved to go into committee for the purpose of considering the bill granting pensions to soldiers and sailors of the Mexican and other wars; and for the present to postpone the further considération of the unfinished business, which is the Geneva award bill.

PENSIONS FOR MEXICAN AND OTHER WARS.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. EDEN in the chair,) and resumed the consideration of the bill (H. R. No. 257) granting a pension to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

The CHAIRMAN. All general debate on the pending bill is exhausted, and the Clerk will read the first section and then the amendment reported from the Committee on Invalid Pensions.

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers of the military and naval services of the United States, who served sixty days in the war of 1846 and 1847 with Mexico, or in the Creek war of 1835 and 1836, or in the Florida or Black Hawk war for thirty days and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

The CHAIRMAN. The Clerk will now read the pending amendment offered by the Committee on Invalid Pensions, from which the bill originally came.

Mr. HARRISON. I wish to know whether this bill is now in the condition when amendments can be offered to it?

The CHAIRMAN. The Clerk will first read the amendment reported from the Committee on Invalid Pensions.

Mr. HALE. Nobody has been able this morning, Mr. Chairman, to get a copy of this bill, and I therefore wish to ask whether the opportunity of offering amendments, aside from those printed, will be lost if this proceeding goes on any further?

The CHAIRMAN. The bill is now being read by section for amendment, and the amendment offered by the Committee on Invalid Pensions will first be disposed of and then the section will be open to further amendment.

Mr. HALE. The amendment proposed to be read is the amendment reported by the committee to the first section?

The CHAIRMAN. It is; and the same proceeding will be had in reference to the other sections.

Mr. HALE. The Chair will see the difficulty we are laboring under, as we have not copies of the bill and cannot get any.

The CHAIRMAN. The Clerk will now read the amendment reported to the first section by the Committee on Invalid Pensions.

The Clerk read as follows:

Strike out lines 9, 10, and 11, which read as follows: "Or in the Creek war of 1835 and 1836, or in the Florida or Black Hawk war for thirty days;" and in lieu thereof insert the following: "Who served thirty days in the Creek war or disturbances of 1835 and 1836, or in the Florida war with the Seminoles from 1835 to 1842, or the Black Hawk war of 1832;" so the section, if amended, will read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers, of the military and naval services of the United States, who served sixty days in the war of 1846 and 1847 with Mexico, who served thirty days in the Creek war or disturbances of 1835 and 1836, or in the Florida war with the Seminoles from 1835 to 1842, or the Black Hawk war of 1832, and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

Mr. HALE. Let me ask the gentleman from Alabama [Mr. HEWITT] where we can get the printed copy of this amendment?

The CHAIRMAN. The amendments, the Chair is informed, are printed with the bill.

Mr. HEWITT, of Alabama. I desire to offer an amendment to the amendment. The word "or" immediately following "Mexico," in the ninth line, was stricken out by mistake. That ought to be inserted in the amendment.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment reported by the committee as amended.

Mr. CLARK, of Missouri. I ask that it may be again read.

The amendment was again read.

Mr. HEWITT, of Alabama. I desire briefly to state the effect of the amendment.

The CHAIRMAN. By order of the House all debate has been closed.

Mr. HEWITT, of Alabama. Then I ask unanimous consent to make a statement.

Mr. TOWNSEND, of New York. I object unless others can have the same opportunity to speak on the amendment.

Mr. WILLIAMS, of Oregon. Is it in order to offer an amendment to the amendment?

The CHAIRMAN. Not while the committee is dividing. The question is on the adoption of the amendment which has just been read.

The question being taken, there were—ayes 65, noes 71.

Mr. HEWITT, of Alabama, called for tellers.

Tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. WHITE, of Pennsylvania, were appointed.

The committee again divided; and the tellers reported—ayes 81, noes 91.

So the amendment reported by the committee was not agreed to.

Mr. HARRISON. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 20 of the bill, after the word "days," insert the following:

Provided, however, That no such person shall be entitled to a pension until he shall have arrived at the age of sixty years, unless such person shall be, from disease or other infirmity, unable to earn his living by manual labor.

Mr. WHITE, of Pennsylvania, rose.

The CHAIRMAN. Debate is not in order.

Mr. WHITE, of Pennsylvania. I rise for the purpose of offering an amendment to the amendment, to strike out "sixty" and insert "seventy-five."

Mr. HARRISON. Do I understand the Chair to say that no remarks on amendments which may be offered are in order?

The CHAIRMAN. The Chair has so stated.

Mr. HOOKER. May I be permitted to inquire of the Chair why debate is not in order?

The CHAIRMAN. All debate was closed by order of the House before going into Committee.

Mr. HEWITT, of Alabama. Is not debate in order under the five-minute rule?

The CHAIRMAN. By order of the House all debate was closed before going into Committee of the Whole. The Clerk will read the order which was made on the 27th February, 1878.

The Clerk read as follows:

Mr. GOLDSMITH W. HEWITT moved that the House resolve itself into the Committee of the Whole House on the state of the Union.

Pending which,

Mr. HEWITT further moved that all debate on the bill of the House (H. R. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, pending therein, terminate in one hour and ten minutes when the House next resolves itself into the said committee.

Mr. HOOKER. I submit to the Chair that the debate which was closed by order of the House was general debate. All general debate was closed by the order which the Chair has just caused to be read; but I think the Chair is mistaken in supposing that that order of the House directing what course should be adopted when the House went into Committee of the Whole cut off the five-minute debate which is allowed by the rules upon the amendments that may be offered. I say this because I desire to oppose the amendment which the gentleman from Illinois has just offered.

Mr. SPRINGER. I call the attention of the Chair to Rule 60, which provides:

No member shall occupy more than one hour in debate on any question in the House, or in committee, but a member reporting the measure under consideration from a committee may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer.

Now we have just reached that stage in the consideration of this bill in Committee of the Whole where debate has been closed by order of the House and a member may debate an amendment for five minutes and then the member getting the floor next may oppose the amendment for five minutes. There can be no suspension of this rule except on Mondays and by a two-third vote of the House, and that has not been done.

I desire further to call the attention of the Chair to the last proviso of this rule. It is:

That the House may by the vote of a majority of the members present, at any time after the five minutes' debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or at their election upon the pending amendments only.

We have not yet reached that stage to which this clause of the rule applies, the five-minute debate not having taken place upon the amendment.

Mr. HEWITT, of Alabama. If the point of order had been raised when my motion to close debate was made, the motion might have been ruled out of order as being in conflict with the rule to which the gentleman from Illinois [Mr. SPRINGER] has called the attention of the Chair. But the motion was made to close all debate—not general debate, but all debate upon this bill; and no objection having been made to the form of the motion and no point of order having been raised upon it, it seems to me that the gentleman from Illinois is now debarred from invoking the application of the rule to which he has alluded.

Mr. SPRINGER. The motion made by the gentleman from Alabama was the usual motion to close all general debate. That was understood to be its effect, otherwise objection would have been made. If the effect of the order was to close all debate absolutely it would cut off all debate on the various sections of the bill and compel the committee directly to vote on every proposition without hearing it explained, which certainly was not contemplated at the time the order was made.

Mr. HEWITT, of Alabama. I will state that it was not my object when I made the motion to cut off debate under the five-minute rule. That was not my intention, and I thought that the bill was still open to debate under the five-minute rule. I think, however, the ruling of the Chair is technically right.

The CHAIRMAN. The Chair is prepared to rule on the point of order which has been raised. The usual order made as to closing debate is that all general debate be closed within a limited time, and when an order is made closing general debate amendments which are offered are then debated under the five-minute rule.

The order having been made closing all debate without any objection in the House the Chair thinks it was equivalent to a suspension of the rules and that all debate is closed on the bill, and he therefore rules that debate is not in order.

Mr. TIPTON. I move that the committee rise for the purpose of opening this question of debate.

Mr. HEWITT, of Alabama. If the gentleman will hear me for a moment he will see that that cannot be done.

Mr. MONEY. I desire to speak to the point of order.

The CHAIRMAN. The point of order is already decided, and the gentleman cannot be heard unless he wishes to take an appeal.

The question was put upon Mr. TIPTON's motion; and on a division there were—ayes 78, noes 72.

Mr. HEWITT, of Alabama, called for tellers.

Tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. TIPTON were appointed.

The committee again divided; and the tellers reported—ayes 91, noes 87.

The CHAIRMAN. Before announcing the result of the vote, the Chair wishes to be indulged a moment, for he desires to reverse the ruling made a short time ago. Upon further examination the Chair is now satisfied that the order to close debate on this bill was in the usual form, the closing of the debate under the hour rule. The Chair acted under a misapprehension in reference to the wording of the resolution closing debate. He reverses his former decision.

Mr. TIPTON. I desire, then, to withdraw my motion that the committee rise. [Cries of "Object!"]

The CHAIRMAN. Then the committee has determined to rise.

The committee accordingly rose; and Mr. SPRINGER having taken the chair as Speaker *pro tempore*, Mr. EDEN reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and had come to no conclusion thereon.

Mr. HEWITT, of Alabama. I move that the House resolve itself into Committee of the Whole on the state of the Union for the purpose of resuming consideration of the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican war, and, pending that motion, I move that all debate upon the pending section of the bill and amendments thereto be limited to twenty minutes.

Mr. REED. That is section 1?

The SPEAKER *pro tempore*. It is.

Mr. BLACKBURN. I rise to a parliamentary inquiry. I desire to know whether it is competent to set aside an order of this House which was made, if I mistake not, more than a year ago, limiting debate upon this question, and whether the time has not passed in which the House could reconsider the entry of that order?

The SPEAKER *pro tempore*. The House has not reconsidered it; nor is it proposed that it shall do so. By the ruling of the Chairman of the Committee of the Whole the bill is subject to debate under the five-minute rule.

Mr. BLACKBURN. I ask whether during the month of February last the House did not limit debate by its order upon this bill; and, if so, whether the time has not expired within which the House can reconsider that order?

The SPEAKER *pro tempore*. There is no reconsideration proposed of the order referred to. By the ruling of the Chairman of the Committee of the Whole House that order did not go to the extent of cutting off debate under the five-minute rule, and no appeal having been taken from that decision in Committee of the Whole, the question cannot be further considered by the House at this time.

Mr. BLACKBURN. The inquiry I submit is simply whether it is in the power of the House now, by any action it may take, to rescind or reconsider the order hitherto made and entered upon this subject.

The SPEAKER *pro tempore*. That question is not before the House at this time. The question is upon the motion of the gentleman from Alabama, [Mr. HEWITT,] that all debate upon the pending section and the amendments thereto be limited to twenty minutes.

Mr. CANNON, of Illinois. I understand the Speaker to say that the Chairman of the Committee of the Whole has ruled that five minutes' debate is in order in committee.

The SPEAKER *pro tempore*. The Chair so stated.

Mr. CANNON, of Illinois. I did not so understand it.

The question was taken upon the motion to limit debate upon the first section of the bill to twenty minutes; and, on a division, there were—ayes 93, noes 87.

Mr. TIPTON called for tellers.

Tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. TIPTON were appointed.

The House divided; and the tellers reported—ayes 97, noes 95.

Mr. CONGER. I call for the yeas and nays.

The yeas and nays were ordered, forty members voting therefor.

Mr. WHITE, of Pennsylvania. I desire to make a parliamentary inquiry, and it is this: Does it not require a two-third vote of the House to extend the time for debate, as proposed by the mover of this motion?

The SPEAKER *pro tempore*. It does not.

Mr. WHITE, of Pennsylvania. Can a majority——

The SPEAKER *pro tempore*. Rule 104 is applicable to this case.

Mr. WHITE, of Pennsylvania. Then the effect of this motion, if carried, will be to cut off the five-minute debate on the first section of the bill.

The SPEAKER *pro tempore*. At the end of twenty minutes. The yeas and nays have been ordered on this question.

The question was taken; and there were—yeas 124, nays 105, not voting 59; as follows:

YEAS—124.

Aiken,	Culberson,	Hewitt, Abram S.	Rice, Americus V.
Atkins,	Cutler,	Hewitt, G. W.	Robbins,
Banning,	Davis, Joseph J.	Hooker,	Robertson,
Beebe,	Dean,	House,	Sayler,
Bell,	Dibrell,	Hunton,	Scales,
Benedict,	Durham,	Jones, James T.	Singleton,
Bicknell,	Eden,	Jorgensen,	Slemons,
Blackburn,	Elam,	Kenna,	Smith, William E.
Bland,	Ellis,	Kimmel,	Southard,
Bliss,	Evins, John H.	Knapp,	Sparks,
Blount,	Ewing,	Knott,	Springer,
Boone,	Felton,	Ligon,	Steele,
Bragg,	Forney,	Luttrell,	Stenger,
Bridges,	Fort,	Mackey,	Throckmorton,
Bright,	Franklin,	Marsh,	Townshend, R. W.
Brogden,	Frye,	Manning,	Tucker,
Buckner,	Fuller,	Martin,	Turner,
Caldwell, John W.	Garth,	McMahon,	Turney,
Caldwell, W. P.	Gibson,	Metcalfe,	Vance,
Candler,	Goode,	Mills,	Waddell,
Carlisle,	Gunter,	Money,	Walsh,
Chalmers,	Hamilton,	Morgan,	Whitthorne,
Clark of Missouri,	Hardenbergh,	Morrison,	Wigginton,
Clymer,	Harris, Henry R.	Muldrow,	Williams, James
Cobb,	Harris, John T.	Patterson, T. M.	Williams, Jere N.
Collins,	Harrison,	Phillips,	Willis, Albert S.
Cook,	Hartzell,	Potter,	Wilson,
Covert,	Hatcher,	Pridemore,	Wood,
Cox, Samuel S.	Henkle,	Rea,	Wright,
Cravens,	Henry,	Reagan,	Yeates,
Crittenden,	Herbert,	Reilly,	Young, John S.

NAYS—105.

Aldrich,	Danford,	Keightley,	Ryan,
Bacon,	Davis, Horace	Kelley,	Sampson,
Bagley,	Deering,	Ketcham,	Sexton,
Bailey,	Denison,	Killinger,	Shallenberger,
Ballou,	Dunnell,	Landers,	Sinnickson,
Banks,	Dwight,	Lapham,	Smalls,
Bayne,	Eames,	Lathrop,	Smith, A. Herr
Blair,	Ellsworth,	Lindsey,	Starin,
Bouck,	Errett,	Marsh,	Strait,
Brewer,	Evans, James L.	McCook,	Thompson,
Briggs,	Foster,	McGowan,	Tipton,
Browne,	Garfield,	McKinley,	Townsend, Amos
Bundy,	Harmer,	Mitchell,	Townsend, Martin I.
Burchard,	Haskell,	Monroe,	Van Vorhes,
Burdick,	Hendee,	Morse,	Ward,
Cain,	Henderson,	Norcross,	Warner,
Camp,	Hiscock,	O'Neill,	Watson,
Campbell,	Hubbell,	Overton,	White, Harry
Cannon,	Humphrey,	Page,	White, Michael D.
Caswell,	Hungerford,	Patterson, G. W.	Williams, Andrew
Chittenden,	Hunter,	Peddie,	Williams, C. G.
Claflin,	Ittner,	Pollard,	Williams, Richard
Clark, Rush	James,	Pound,	Willis, Benjamin A.
Cole,	Jones, Frank	Rainey,	Willits,
Conger,	Jones, John S.	Randolph,	
Cox, Jacob D.	Joyce,	Reed,	
Cummings,	Keifer,	Robinson, G. D.	

NOT VOTING—59.

Acklen,	Cabell,	Eickhoff,	Glover,
Baker, John H.	Calkins,	Evans, I. Newton	Hale,
Baker, William H.	Clark, Alvah A.	Finley,	Hanna,
Bisbee,	Clarke of Kentucky,	Freeman,	Harris, Benj. W.
Boyd,	Crapo,	Gardner,	Hart,
Brentano,	Davidson,	Gause,	Hayes,
Butler,	Dickey,	Giddings,	Hazelton,

Lockwood,	Oliver,	Robinson, M. S.	Swann,
Loring,	Phelps,	Ross,	Thornburgh,
Lynde,	Powers,	Sapp,	Veeder,
Majors,	Price,	Shelley,	Wait,
Mayham,	Pugh,	Stephens,	Walker,
McKenzie,	Rice, William W.	Stewart,	Wren,
Muller,	Riddle,	Stone, John W.	Young, Casey.
Neal,	Roberts,	Stone, Joseph C.	

So the motion to limit debate was agreed to.

During the roll-call the following announcements were made:

Mr. THROCKMORTON. My colleague, Mr. GIDDINGS, is absent by order of the House and paired with Mr. HARRIS, of Massachusetts.

Mr. HARRIS, of Virginia. My colleague, Mr. WALKER, is paired with Mr. WAIT, of Connecticut.

Mr. PRICE. On this question I am paired with Mr. STEPHENS, of Georgia.

Mr. ACKLEN. I am paired on this question with Mr. CALKINS, of Indiana. If he were present, he would vote "no" and I would vote "ay."

Mr. STONE, of Iowa. I am paired with Mr. DAVIDSON, of Florida.

Mr. DEERING. I desire to announce that Mr. RICE, of Massachusetts, is paired with Mr. FINLEY, of Ohio.

Mr. McKINLEY. My colleagues, Mr. GARDNER and Mr. DICKEY, are paired on all political questions.

Mr. SAMPSON. My colleague, Mr. OLIVER, is paired with Mr. CLARKE, of Kentucky.

Mr. STONE, of Michigan. I am paired with Mr. SHELLEY, of Alabama. If he were present, he would vote "ay" and I would vote "no."

Mr. HUNTON. I desire to announce that my colleague, Mr. CABELL, is paired with Mr. PUGH, of New Jersey.

The result of the vote was then announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed without amendment a bill of the House of the following title:

A bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indians tribes, for the year ending June 30, 1880, and for other purposes.

The message further announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 1574) for the erection of a fire-proof building for the National Museum; and

A bill (S. No. 1592) for the relief of Henry C. De Ahna, late collector of customs at Sitka, Alaska.

PENSIONS FOR MEXICAN AND OTHER WARS.

The SPEAKER *pro tempore*. The question recurs upon the motion of Mr. HEWITT, of Alabama, that the House now resolve itself into Committee of the Whole for the further consideration of the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named.

Mr. TOWNSEND, of New York. And on that question I call for the yeas and nays.

Mr. LUTTRELL. Let them have the yeas and nays. We want to see who are the friends of the soldier.

The yeas and nays were ordered.

Mr. GOODE. I rise to a point of order. I submit that the motion made by the gentleman from Alabama [Mr. HEWITT] was "that the House now resolve itself into Committee of the Whole for the further consideration of the Mexican pension bill, and that the debate upon the pending section and amendments thereto be limited to twenty minutes."

The SPEAKER *pro tempore*. The Chair understood the gentleman from Alabama [Mr. HEWITT] to move that the House go into Committee of the Whole, and then to state that "pending that motion" he would move that all debate upon the pending section and amendments thereto be limited to twenty minutes. The question was first put upon the motion limiting debate, which has been agreed to. The question now recurs upon the motion to go into Committee of the Whole, upon which question the yeas and nays have been ordered.

The question was taken; and there were—yeas 124, nays 94, not voting 70; as follows:

YEAS—124.

Aiken,	Brogden,	Cummings,	Fuller,
Atkins,	Buckner,	Cutler,	Garth,
Banning,	Caldwell, John W.	Davis, Joseph J.	Gibson,
Beebe,	Caldwell, W. P.	Dean,	Goode,
Benedict,	Campbell,	Dibrell,	Gunter,
Bicknell,	Candler,	Durham,	Hamilton,
Blackburn,	Carlisle,	Eden,	Hardenbergh,
Bland,	Chalmers,	Elam,	Harris, Henry R.
Bliss,	Clark of Missouri,	Ellis,	Harris, John T.
Blount,	Clymer,	Evins, John H.	Harrison,
Boone,	Cobb,	Ewing,	Hartzell,
Boyd,	Cook,	Felton,	Hatcher,
Bragg,	Cravens,	Forney,	Henkle,
Bridges,	Crittenden,	Fort,	Henry,
Bright,	Culberson,	Franklin,	Herbert,
Hewitt, G. W.	Maish,	Reagan,	Townshend, R. W.
Hooker,	Manning,	Reilly,	Tucker,
House,	Marsh,	Rice, Americus V.	Turner,
Hunter,	Martin,	Robbins,	Turney,
Hunton,	McMahon,	Robertson,	Vance,
Ittner,	Metcalfe,	Sayler,	Waddell,
Jones, James T.	Mills,	Scales,	Warner,
Jorgensen,	Money,	Singleton,	Whitthorne,
Kenna,	Morrison,	Slemons,	Wigginton,
Kimmel,	Muldrow,	Smith, William E.	Williams, Jere M.
Knapp,	Patterson, T. M.	Southard,	Willis, Albert S.
Knott,	Phelps,	Sparks,	Wilson,
Landers,	Phillips,	Springer,	Wood,
Ligon,	Potter,	Steele,	Wright,
Luttrell,	Pridemore,	Stenger,	Yeates,
Mackey,	Rea,	Throckmorton,	Young, John S.

NAYS—94.

Aldrich,	Danford,	James,	Ryan,
Bacon,	Davis, Horace	Jones, Frank	Sampson,
Bagley,	Deering,	Jones, John S.	Sexton,
Bailey,	Denison,	Joyce,	Shallenberger,
Baker, John H.	Dunnell,	Keifer,	Sinnickson,
Ballou,	Dwight,	Kelley,	Smith, A. Herr
Banks,	Eames,	Ketcham,	Starin,
Bayne,	Ellsworth,	Killinger,	Stewart,
Blair,	Errett,	Lathrop,	Strait,
Brewer,	Evans, James L.	Lindsey,	Thompson,
Briggs,	Foster,	Majors,	Tipton,
Browne,	Frye,	McGowan,	Townsend, M. I.
Burchard,	Garfield,	Mitchell,	Van Vorhes,
Burdick,	Hale,	Monroe,	Ward,
Cain,	Hanna,	Morse,	Watson,
Camp,	Harmer,	Overton,	White, Harry
Cannon,	Hazelton,	Page,	White, Michael D.
Caswell,	Hendee,	Patterson, G. W.	Williams, Andrew
Claflin,	Henderson,	Peddie,	Williams, C. G.
Clark, Rush	Hewitt, Abram S.	Rainey,	Williams, Richard
Cole,	Hiscock,	Randolph,	Willis, Benj. A.
Conger,	Hubbell,	Reed,	Willits,
Covert,	Humphrey,	Robinson, G. D.	
Crapo,	Hungerford,	Ross,	

NOT VOTING—70.

Acklen,	Eickhoff,	McCook,	Sapp,
Baker, William H.	Evans, I. Newton	McKenzie,	Shelley,
Bell,	Finley,	McKinley,	Smalls,
Bisbee,	Freeman,	Morgan,	Stephens,
Bouck,	Gardner,	Muller,	Stone, John W.
Brentano,	Gause,	Neal,	Stone, Joseph C.
Bundy,	Giddings,	Norcross,	Swann,
Butler,	Glover,	Oliver,	Thornburgh,
Cabell,	Harris, Benj. W.	O'Neill,	Townsend, Amos
Calkins,	Hart,	Pollard,	Veeder,
Chittenden,	Haskell,	Pound,	Wait,
Clark, Alvah A.	Hayes,	Powers,	Walker,
Clarke of Kentucky,	Keightley,	Price,	Walsh,
Collins,	Lapham,	Pugh,	Williams, James
Cox, Jacob D.	Lockwood,	Rice, William W.	Wren,
Cox, Samuel S.	Loring,	Riddle,	Young, Casey
Davidson,	Lynde,	Roberts,	
Dickey,	Mayham,	Robinson, M. S.	

So the motion to go into Committee of the Whole was agreed to.

During the roll-call the following announcements were made:

Mr. SOUTHARD. My colleague, Mr. FINLEY, is absent on account of illness.

Mr. ACKLEN. I am paired with the gentleman from Indiana, Mr. CALKINS. If he were here, I should vote in the affirmative.

Mr. PRICE. I am paired with the gentleman from Georgia, Mr. STEPHENS.

Mr. BROWNE. My colleague from Indiana, Mr. ROBINSON, who is confined to his room by indisposition, would, if he were present, vote "no."

Mr. STONE, of Michigan. I am paired with the gentleman from Alabama, Mr. SHELLEY.

Mr. BOONE. My colleague, Mr. MCKENZIE, is paired with the gentleman from Maine, Mr. POWERS.

Mr. HARRIS, of Virginia. On all questions connected with this bill my colleague, Mr. WALKER, is paired with the gentleman from Connecticut, Mr. WAIT.

The result of the vote was announced as above stated.

The House accordingly resolved itself into Committee of the Whole (Mr. EDEN in the chair) and resumed the consideration of the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named.

The CHAIRMAN. Under the order of the House all debate on the first section of the bill and amendments thereto will terminate in twenty minutes. The question is on the amendment of the gentleman from Pennsylvania [Mr. WHITE] to the amendment of the gentleman from Illinois, [Mr. HARRISON.]

The amendment to the amendment was read, as follows:

Strike out "sixty" and insert "seventy-five;" so that, if amended, the amendment will read:

Provided, however, That no such person shall be entitled to a pension until he shall have arrived at the age of seventy-five years, unless such person shall be, from disease or other infirmity, unable to earn his sustenance by manual labor.

Mr. HOOKER. Mr. Chairman, I cannot see any justice or propriety in the proposed amendment to the amendment; nor did I see any propriety or justice in the amendment offered by the gentleman from Illinois, [Mr. HARRISON.] Thirty years after the close of the war with Mexico a proposition is introduced from the Committee on

Invalid Pensions, in the bill of which my friend from Alabama [Mr. HEWITT] has charge, to give a pension to the soldiers of that war. As long ago as 1872 it was estimated that there were but six thousand of these soldiers of the Mexican war surviving who were to be pensioned under the terms of the bill now before the House; and the amount which would be annually expended would of course decrease as the numbers of these were by mortality diminished from year to year. Upon an estimate made by the committee in the report which is submitted with this bill it was demonstrated that the amount to be paid, predicated upon the idea that there are the number of survivors I mention, would not exceed a million and a half or two million dollars per annum—but a fragment of the gross amount which you annually appropriate to support and maintain the standing Army of the United States.

Mr. Chairman, after these soldiers have rendered this service to the Government and have risked their lives in maintaining our flag in a war with a foreign country, surely there can be no justice or equity or good sound common sense in saying that you will discriminate against a man because he has not had the misfortune to arrive at the age of sixty or seventy-five years. The amendment would probably have better effected the object which it had in view if it had said that no man should be entitled to the benefits of the bill, no man should receive the pension of the Government for services rendered in the maintenance of its flag, unless he had arrived at the age of one hundred years. There can be no sense in such a discrimination unless it is intended to limit the application of the bill solely to those who may come within the class of invalid soldiers; and if this was the purpose, then it had better be so expressed, because, if the principle attempted to be ingrafted upon the bill is a correct one, if it is a proper rule to be incorporated in our legislation, then no amount of years can render more sacred the services which the soldier has given to his country. Hence, I say that there is nothing in the amendment except a proposition to confine the operation of the bill to those who would come within the class of invalid pensioners.

[Here the hammer fell.]

Mr. HARRISON. Mr. Chairman, this bill offers a gratuity to soldiers who fought in our wars. I believe that the men who thus fought, fought from motives of patriotism, not in expectation of any reward other than that they would derive from the satisfaction of having benefited their country. But, sir, there is a large number of these men who fought in Mexico who have become disabled from years or because the relics of disease acquired in Mexico are to-day striking them out of the list of that class of men who can earn their own livelihood. But there are many of them, a large number of them, hale, healthy, stalwart men, who I do not believe want the pittance the Government would give them if this bill were passed. There are upon the floor of this Congress three men, I believe, all younger than myself, yet hale and healthy, who fought in Mexico.

A MEMBER. We are all younger than you are—everybody is younger than you are. [Laughter.]

Mr. HARRISON. I will not answer that. I am too prone to throw back a joke, but I will not answer that now. [Laughter.] I am serious in the objection which I urge to this bill. These men come here and appeal to Congress for a recompense for the aid they gave the Government in long years past. Of that class of men those who are under sixty years of age, and are hale and hearty, I do not believe care to have it. And if we go on to give pensions to every man because he has fought, then how long will it be before that vast army which fought in our last war will be pleading here this precedent, and asking also to have pensions granted to them, which must inevitably result in bankrupting the Government? Now, when they shall have arrived at the age when they cannot support themselves, I believe the Government of the United States will grant them a pension, but not until then. I think, therefore, this amendment is one which appeals so thoroughly to the sense of right and justice of every member that I do not think it necessary even to discuss it further.

[Here the hammer fell.]

The question recurred on the amendment of Mr. WHITE, of Pennsylvania, to the amendment of Mr. HARRISON.

The committee divided; and there were—ayes 57, noes 77, no quorum voting.

Mr. WRIGHT demanded tellers.

Tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. WHITE, of Pennsylvania, were appointed.

The committee again divided; and the tellers reported—ayes 53, noes 96.

So the amendment to the amendment was rejected.

Mr. TOWNSEND, of New York. I move to strike out the last word of the amendment of the gentleman from Illinois.

Now, Mr. Chairman, I wish to take issue in opinion with the gentleman from Mississippi who has estimated the number of persons who might apply for pensions under the provisions of this bill. It will be noticed it is not the soldiers of any one war, but I believe every war since, if not including, the war Nimrod originally engaged in is now included in the provisions of this bill. [Laughter.] I may undertake to say with great confidence that sixty thousand instead of six thousand will apply for pensions under its provisions if in the providence of God this bill should ever become a law. [Laughter.]

We were told here that the old soldiers of 1812-'15 were all dead or pretty nearly so. Those men average eighty years and upward, and yet the applications under that law, I understand, fall very little short of forty thousand.

The men who served in most of these wars have only lived some forty, thirty, or twenty-eight years since the conclusion of those wars, and the probability is that the great body of those men are alive. If they are not alive their widows are alive, and besides many of them have minor children alive. It will be found, I believe, that it will saddle on this country pensions to forty thousand men.

Let me call the attention of the committee to the feeling this House gets up now and then as to the burdens resting upon the people. How I have wept and mourned here when the tax on whisky was debated in this House as a burden upon the people, [laughter;] and when the tax on tobacco was debated in this House as a burden resting on this people that called for our sympathy and called for the intervention of the Government! [Laughter.] Where is the *wind* to come from, where are the means to come from to pay these burdens? No man shall go in advance of me in honoring the men who served their country. I stand ready now to vote for every man who is lame, or sick, or disordered from services he has rendered to his country in any war; but here it is proposed to pay men who are independent. No matter how rich, no matter how prosperous, no matter what is the salary the individual is earning, yet if he has served in any of all these myriad wars we propose to put our hands into the Treasury to-day while the country is staggering under the burden it is carrying and dole out a pension to him. I protest against it. It is not statesmanship.

[Here the hammer fell.]

Mr. WHITE, of Pennsylvania. The amendment to the amendment limiting pensions to be granted under this bill to soldiers who are seventy-five years of age having failed, I move as an amendment to the amendment that the benefits of this bill shall be limited to those who are under disabilities from wounds or because of disease contracted in service, or to those who are seventy years of age.

Mr. TOWNSEND, of New York. I withdrew my formal amendment.

Mr. WHITE, of Pennsylvania. I so understood, and I have moved to strike out "seventy-five" in the amendment of the gentleman from Illinois and insert "seventy."

I have only a word to utter in addition to what my friend from New York has so properly said. When last year we passed a bill pensioning the old soldiers of the war of 1812 we were told it was a mere bagatelle, that it would amount to nothing. Instead of that, however, we now find it has largely exceeded the estimate made by the friends of that measure. But in addition to that, Mr. Chairman, I submit that the provisions of this bill are unfair to the soldiers in the war against the rebellion; for, if you will observe, no disability is required to entitle an individual who served in the Mexican or in any of these other wars mentioned in the bill against the Indians, the Black Hawk or the Florida War—that no disability is required to entitle him to a pension. Now, it is a well-known fact that many of the men who participated in the Mexican war are now in the full vigor of life. From the statistics it will be seen that many went into the Mexican war at seventeen years of age. It was thirty-two years ago, and seventeen and thirty-two will only make forty-nine. But taking twenty as a fair average, that would only give fifty-two years as the age of the survivors of the Mexican war.

Now, I submit it is unfair to make so sweeping a provision in behalf of the soldiers of the Mexican war, which is comparatively recent, and deny the same benevolent provisions in behalf of the soldiers who fought in the war against the rebellion. Why, sir, I can recall to my mind many gentlemen who are in affluent circumstances, in a prosperous position in life, one of whom has recently been elected to the United States Senate from the State of Texas, a man in the vigor of life, who will be benefited by the provisions of this bill. As long as the bill providing for the arrearages of pension to our own wounded soldiers, the Union soldiers in the war against the rebellion, is undisposed of, I am against the provisions of this bill without limiting it to the same class of persons who appeal to the sympathy and benevolence of this House.

[Here the hammer fell.]

Mr. HOOKER, and Mr. HEWITT of Alabama, rose.

The CHAIRMAN. Debate is exhausted on the pending section, and all amendments thereto. The question is on the amendment of the gentleman from Pennsylvania to the amendment of the gentleman from Illinois, to strike out "sixty" and to insert "seventy."

Mr. HOOKER. Do I understand the Chair to say that the time for debate, limited by the House, has expired?

The CHAIRMAN. The time allowed for debate on the pending section and amendments thereto has expired.

Mr. HOOKER. Then I shall take occasion to say something in reply to the gentleman on the other side when another section is under discussion.

The question being taken on the amendment of Mr. WHITE, of Pennsylvania, to the amendment of Mr. HARRISON, there were—ayes 50, noes 85.

So (further count not being called for) the amendment to the amendment was not agreed to.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Illinois, [Mr. HARRISON,] which the Clerk will read.

The Clerk read as follows:

In line 20 of the bill, after the word "days," insert the following:

Provided, however, That no such person shall be entitled to a pension until he shall have arrived at the age of sixty years; unless such person shall be, from disease or other infirmity, unable to earn his subsistence by manual labor.

The question being taken, there were—ayes 72, noes 79.

So the amendment was not agreed to.

Mr. GOODE. I desire to offer an amendment, which I understand is agreed to by the chairman of the committee. I move to amend by adding, after the word "States," in line 7, the following:

And the officers and men of the revenue marine service.

The question being taken on agreeing to Mr. GOODE's amendment, there were—ayes 55, noes 35.

Mr. WHITE, of Pennsylvania. A quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Virginia, Mr. GOODE, and the gentleman from Pennsylvania, Mr. THOMPSON.

Mr. GOODE. Would it be in order to ask unanimous consent to say a single word in support of the amendment?

Several members objected.

Mr. GOODE. I ask that the amendment be reported again. I am sure if gentlemen understood it they would vote for it.

The amendment was again read.

The committee again divided; and the tellers reported—ayes 114, noes 33.

So the amendment was agreed to.

Mr. WHITE, of Pennsylvania. I move that the committee rise.

The question being taken, there were—ayes 48, noes 86.

Mr. WHITE, of Pennsylvania. A quorum has not voted.

The CHAIRMAN. A quorum is not required on a vote that the committee rise.

So the motion was not agreed to.

Mr. SINNICKSON. I offer the following amendment:

Amend by inserting after the word "Mexico," in line 9, section 1, the words "or who served sixty days in the military or naval service of the United States in the war of 1861 for the suppression of the rebellion."

Mr. HEWITT, of Alabama. Mr. Chairman, I think the gentleman——

The CHAIRMAN. Debate is not in order.

Mr. HALE. Let the section be reported as it will read if amended.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers of the military and naval services of the United States, and the officers and men of the revenue-marine service who served sixty days in the war of 1846 and 1847 with Mexico, or who served sixty days in the military or naval service of the United States in the war of 1861 for the suppression of the rebellion, or in the Creek war of 1835 and 1836, or in the Florida or Black Hawk war for thirty days and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

Mr. WILLIAMS, of Oregon. I offer the following amendment to the amendment:

Add the words "or in the Oregon and Washington war of 1855 and 1856."

The amendment to the amendment was adopted.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from New Jersey [Mr. SINNICKSON] as amended by the amendment of the gentleman from Oregon [Mr. WILLIAMS] just adopted by the committee.

Mr. HARRISON. I desire to ask a question: whether gentlemen who served in the late war and who would be benefited by this amendment are entitled to vote on it?

The CHAIRMAN. Debate is not in order.

Mr. HARRISON. This is not debate; it is a parliamentary inquiry.

The question being taken on agreeing to Mr. SINNICKSON's amendment as amended, there were—ayes 81, noes 79.

Mr. HEWITT, of Alabama, called for tellers.

Tellers were ordered; and Mr. HEWITT, of Alabama, and Mr. SINNICKSON were appointed.

The committee divided; and the tellers reported—ayes 96, noes 88.

So Mr. SINNICKSON's amendment as amended was agreed to. [Applause on the republican side.]

Mr. HEWITT, of Alabama. I give notice that I shall ask for a vote upon this amendment in the House. [Cries of "That's right!"]

Mr. WILLIAMS, of Alabama, offered the following amendment:

Amend by inserting after the words "eighteen hundred and thirty-six," in the tenth line, the words "and eighteen hundred and thirty-seven."

The question was taken on the amendment of Mr. WILLIAMS, of Alabama, and it was not agreed to.

Mr. BRAGG. I offer the following amendment, to come in immediately after the amendment, which has already been adopted, allowing pensions to the soldiers of the war of 1861:

And to the officers and soldiers who may be engaged in the next war, and the widows and children of such officers and soldiers who may be killed therein.

[Laughter.]

Mr. LUTTRELL. There will be no republicans in that war.

The CHAIRMAN. Debate is not in order.

Mr. LUTTRELL. I raise the point of order that such an amendment is not in order.

The CHAIRMAN. The Chair does not know of any reason why it is not in order.

The question was taken on Mr. BRAGG's amendment, and there were—ayes 2, noes 23; no quorum voting.

Tellers were ordered; and Mr. BRAGG and Mr. SINNICKSON were appointed.

Mr. HEWITT, of Alabama. I hope the gentleman from Wisconsin will withdraw his amendment.

The CHAIRMAN. Debate is not in order.

The committee again divided; and the tellers reported—ayes 4, noes 78; no quorum voting.

Mr. BRAGG. Will it be in order for me to withdraw the amendment?

The CHAIRMAN. The gentleman can withdraw it by unanimous consent.

There was no objection, and the amendment was withdrawn.

Mr. HARRISON. I move to amend by striking out all after the word "Mexico," in line 9, down to the word "and," in line 16; in other words, all that refers to Indian wars of all characters.

The Clerk read the words proposed to be stricken out, as follows:

Or in the Creek war of 1835 and 1836, or in the Florida and Black Hawk wars for thirty days.

Mr. HEWITT, of Alabama. I move an amendment to the amendment. I move to strike out all after the word "Mexico" down to and including the words "eighteen hundred and thirty-two," in line 16, and including the amendment which was adopted a few moments ago in relation to the Indian wars in Oregon and the late war of the rebellion.

Mr. WHITE, of Pennsylvania. I raise the question of order that the committee cannot strike out that which it has just inserted.

Mr. HEWITT, of Alabama. My amendment will leave the bill providing simply for pensioning the soldiers of the Mexican war.

The CHAIRMAN. Debate is not in order.

Mr. WHITE, of Pennsylvania. I raise the question of order that the motion is out of order inasmuch as the committee cannot strike out that which it has just inserted. It can hardly be necessary for me to say anything upon that point of order. It is a well-known rule of parliamentary law that a Committee of the Whole cannot reconsider its action, and consequently this motion to strike out what it has just inserted is not in order.

Mr. HEWITT, of Alabama. It is true that I could not move under the rules to strike out the amendment which has been adopted, standing by itself; but it is a very different thing to move to strike out the amendment as adopted and a portion of the original text, that relating to the Indian wars. My amendment is not to strike out merely what has been adopted by the committee.

Mr. WHITE, of Pennsylvania. If the gentleman will allow me, I will say that both the portions of the section as it now stands which he proposes to strike out were inserted by the committee; a portion of what he proposes to strike out was inserted upon his own motion.

Mr. HEWITT, of Alabama. The gentleman is simply mistaken in what he has stated. The committee reported an amendment, but the Committee of the Whole refused to insert it, and the section stands now as originally reported by the committee.

Mr. WHITE, of Pennsylvania. Let us understand this matter. I understood that the gentleman's motion was to strike out that which is printed in italics in the bill and also that which has been inserted by the committee on motion of the gentleman from New Jersey, [Mr. SINNICKSON.]

Mr. HEWITT, of Alabama. When we first took up the bill this morning the Committee of the Whole refused to insert the amendment reported by the Committee on Invalid Pensions, and hence it has not been inserted. The words I propose to strike out are after the word "Mexico," the words "or in the Creek wars of 1835 and 1836, or in the Florida and Black Hawk wars."

Mr. CAMP. And you propose to strike out the amendment also which has been adopted on the motion of the gentleman from New Jersey?

Mr. HEWITT, of Alabama. Certainly, so that if my amendment is adopted the bill will only provide pensions for the soldiers of the Mexican war.

The CHAIRMAN. On page 154 of the Manual we find the following:

Although it is not in order to strike out by itself what has been inserted, it may be moved to strike out a portion of the original paragraph, comprehending what has been inserted, provided the coherence to be struck out be so substantial as to make this effectively a different proposition.

The amendment offered by the gentleman from Illinois proposes to strike out simply the provisions in relation to soldiers of the Indian wars. The amendment offered by the gentleman from Alabama [Mr. HEWITT] as an amendment to that proposes to strike out that in connection with what has been inserted, giving pensions to the soldiers of the war of 1861 and of the Oregon Indian wars, and the Chair is of opinion that according to the Manual the amendment is in order.

Mr. BURCHARD. I move to amend the amendment of the gentleman from Alabama by commencing in line 7, and embracing in the motion to strike out that part which includes soldiers of the Mexican war.

The CHAIRMAN. There is now pending an amendment and an amendment to the amendment.

Mr. BURCHARD. Then I offer mine as a substitute for the amendment of the gentleman from Illinois [Mr. HARRISON] as proposed to be amended by the gentleman from Alabama, [Mr. HEWITT.] My substitute is to strike out all of the first section as amended from and including the word "who," after the words "United States," in the seventh line. If we are going to strike out let us begin pretty near the head.

Mr. HEWITT, of Alabama. I make the point of order that the proposed substitute is simply an amendment, and therefore an amendment in the third degree and not in order.

Mr. BURCHARD. The Chair will find by reference to the rules that a substitute is in order. The rules provide that there may be an amendment and an amendment to an amendment, a substitute and an amendment to the substitute, all pending at the same time.

The CHAIRMAN. The gentleman from Illinois [Mr. BURCHARD] will please send up his amendment to the Clerk.

Mr. BURCHARD. I can state it I think so that it will be understood. My proposition is to substitute for the amendment proposed by the gentleman from Illinois [Mr. HARRISON] and the amendment to the amendment proposed by the gentleman from Alabama [Mr. HEWITT] a motion to strike out of the section all after the words "United States" in line 7.

Mr. HEWITT, of Alabama. And my point of order is that that is an amendment in the third degree and not in order.

Mr. WHITE, of Pennsylvania. I move that the committee now rise.

The CHAIRMAN. A question of order is now pending. After that question shall have been determined the Chair will recognize the gentleman from Pennsylvania [Mr. WHITE] to submit the motion he has indicated. The Chair will direct the Clerk to read from the Manual some paragraphs bearing upon the point of orders.

The Clerk read as follows:

An amendment may be moved to an amendment, but it is not admitted in another degree. But it is a well-settled practice of the House that there may be pending, at the same time with such amendment to the amendment, an amendment in the nature of a substitute for part or the whole of the original text, and an amendment to that substitute.

* * * * * * *

So, now, notwithstanding the pendency of a motion to amend an amendment to the original matter, a motion to amend in the nature of a substitute, and a motion to amend that amendment, may be received, but cannot be voted upon until the original matter is perfected.

The CHAIRMAN. The Chair is of opinion that the substitute is in order, and therefore overrules the point of order.

The committee rose informally, and the Speaker resumed the chair.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill of the House of the following title:

A bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the time and places for holding courts therein, and for other purposes.

PENSIONS FOR SOLDIERS OF MEXICAN WAR.

The Committee of the Whole resumed its session.

The CHAIRMAN. The question is upon the substitute moved by the gentleman from Illinois, [Mr. BURCHARD.]

Mr. WHITE, of Pennsylvania. I move that the committee now rise.

Mr. HEWITT, of Alabama. I make the further point of order that the vote must be first taken upon my amendment to the amendment offered by the gentleman from Illinois, [Mr. HARRISON.]

The CHAIRMAN. The question is first upon the motion that the committee now rise.

The motion was not agreed to, upon a division—ayes 67, noes 78.

The CHAIRMAN. The question is now upon the substitute offered by the gentleman from Illinois [Mr. BURCHARD] for the amendment offered by the gentleman from Illinois on the right of the Chair [Mr. HARRISON] and the amendment to the amendment offered by the gentleman from Alabama, [Mr. HEWITT.] The section will be reported as it will stand should the substitute be adopted.

Mr. BURCHARD. I will modify my substitute so as to strike out all of the section as amended from the words "United States," in line 7, down to and including the word "and," in line 16.

The CHAIRMAN. The section will be read as it will stand if the substitute as modified shall be adopted.

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers of the military and naval service of the United States who were honorably discharged, and of such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their terms of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

Mr. HALE. There must be some mistake in the reading, because the section read as proposed to be amended leaves out the amendment adopted on motion of the gentleman from New Jersey [Mr. SINNICKSON] giving pensions to the soldiers of the war of the rebellion. Now, what I want to know is where that amendment of the gentleman from New Jersey [Mr. SINNICKSON] will be if the proposed substitute is adopted.

The CHAIRMAN. The substitute proposes to strike out the portion of the section including that amendment.

Mr. HALE. Then I move to amend the substitute so that it will strike out all of that portion of the section except the part relative to the soldiers engaged in the war of the rebellion.

Mr. BURCHARD. I accept that amendment.

Mr. HALE. That will leave in the bill the provision which was incorporated on the motion of the gentleman from New Jersey, [Mr. SINNICKSON.]

The CHAIRMAN. The section will now be read as it will stand if amended by the adoption of the substitute proposed by the gentleman from Illinois [Mr. BURCHARD] as modified upon the suggestion of the gentleman from Maine, [Mr. HALE.]

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers of the Army and naval service of the United States, who served sixty days in the military or naval service of the United States in the war of 1861 for the suppression of the rebellion, or in the Oregon and Washington Indian war of 1855 and 1856, and who were honorably discharged; and of such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their terms of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

Mr. HALE. My motion is to strike out the whole section except that part relating to the Union soldiers in the war of the rebellion; and this is accepted by the gentleman from Illinois, [Mr. BURCHARD.] The section as thus modified provides simply for pensioning the men engaged as Union soldiers in the war of the rebellion. I ask the Clerk to read what is embodied in my amendment.

The Clerk read as follows:

Insert after "Mexico," in line 9, section 1, the words "or who served sixty days in the military or naval service of the United States, in the war of 1861, for the suppression of the rebellion."

Mr. HALE. No; my motion is to substitute those words in lieu of the words proposed to be struck out by the gentleman from Illinois, [Mr. BURCHARD.]

Mr. HOOKER. I make a point of order on the amendment of the gentleman from Maine, [Mr. HALE.] I submit that it is an amendment in the third degree, and is therefore not in order. An amendment was offered by some gentleman on the other side to include in this bill the soldiers of 1861 who served in the Union Army. That amendment was adopted, and subsequently another amendment was adopted including those who served in certain Indian wars in 1865 and 1866. Now the proposition of the gentleman from Maine is certainly an amendment in the third degree. The whole thing seems to be a stab at the soldiers of the Mexican war whom gentlemen on the other side do not intend to pension.

Mr. SINNICKSON. I raise the point that debate is not in order.

The CHAIRMAN. Debate is not in order. In reference to the point raised by the gentleman from Mississippi [Mr. HOOKER] the Chair understands the rule to be that where an amendment to an amendment is pending it is still in order to move a substitute for the amendment and the amendment to the amendment, and also to move to amend such substitute. The gentleman from Illinois [Mr. BURCHARD] having accepted the amendment of the gentleman from Maine, the substitute is the question now pending before the committee.

Mr. BURCHARD. I desire to modify my amendment so that instead of striking out the whole of the section it shall strike out down to and including the words "thirty-two," in line 16, leaving so much as relates to the discharge of soldiers, &c.

The CHAIRMAN. The section as proposed to be amended by the substitute of the gentleman from Illinois, [Mr. BURCHARD,] as modified, will be read.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers, in the military and naval services of the United States who served sixty days in the military or naval service of the United States in the war of 1861 for the suppression of the rebellion, and were honorably discharged; and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men as were married to such officers or soldiers or sailors prior to the discharge of such officers and enlisted men: *Provided*, That such widows have not remarried.

Mr. HALE. That is exactly my amendment. It proposes simply to pension——

The CHAIRMAN. Debate is not in order.

Mr. HOOKER. I make the point of order that this is an amendment in the third degree, and therefore is not in order.

Mr. HALE. That point has been decided.

The CHAIRMAN. This amendment being a substitute for the amendment and the amendment to the amendment, is in order, in the opinion of the Chair. The question is now on the adoption of the substitute offered by the gentleman from Illinois as modified by the gentleman from Maine.

Mr. PATTERSON, of Colorado. I make the point of order that the substitute cannot be voted upon until the matter proposed to be stricken out is perfected. That has been the decision time and again, as the Chair will see by reference to pages 155 and 156 of the Manual. I call the attention of the Chair to the last clause of the first paragraph on page 105:

"And a motion to amend that amendment may be received but cannot be voted upon until the original matter is perfected."

The CHAIRMAN. The amendments all apply to the text of the bill, and consequently the point of order made by the gentleman from Colorado does not apply. The question is on the adoption of the substitute offered by the gentleman from Illinois [Mr. BURCHARD] for the amendment offered by the gentleman from Illinois [Mr. HARRISON] and the amendment offered by the gentleman from Alabama, [Mr. HEWITT.]

Mr. HEWITT, of Alabama. I desire to state what the effect of the amendment is. [Cries of "Order!"]

The CHAIRMAN. Debate is not in order.

Mr. SINNICKSON. I ask for the reading of the section as proposed to be amended.

The CHAIRMAN. The section as proposed to be amended by the substitute has just been read.

Mr. HALE. Now let us have a vote.

The question being taken upon the substitute of Mr. BURCHARD as modified, there were—ayes 83, noes 85.

Mr. SINNICKSON called for tellers.

Tellers were ordered; and Mr. BURCHARD, and Mr. HEWITT of Alabama, were appointed.

The committee divided; and the tellers reported—ayes 97, noes 97.

The CHAIRMAN. The Chair votes in the negative, and the substitute is rejected.

Mr. WADDELL. I move that the committee now rise.

The question being taken on agreeing to the motion, there were—ayes 72, noes 80.

Mr. SINNICKSON called for tellers.

Tellers were ordered; and Mr. SINNICKSON, and Mr. HEWITT of Alabama, were appointed.

The committee divided; and the tellers reported—ayes 100, noes 79.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. EDEN reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 257) granting pensions to certain soldiers and sailors of the Mexican and other wars, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 605) for the relief of William M. Kendall;

An act (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress; and

An act (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina.

COMMITTEE VACANCIES FILLED.

The SPEAKER announced the following appointments to fill vacancies:

WILLIAM H. FORNEY, of Alabama, to the Committee on the Judiciary.

R. W. TOWNSHEND, of Illinois, to the Committee for the District of Columbia.

J. H. ACKLEN, of Louisiana, to the Committee on Foreign Affairs.

J. S. YOUNG, of Louisiana, to the Committee on the Militia.

WALTER L. STEELE, of North Carolina, to the Committee on Railways and Canals.

BENJAMIN DEAN, of Massachusetts, to the Committee on Patents.

JOHN M. BAILEY, of New York, to the Committee on Expenditures in the War Department.

JOHN S. YOUNG, of Louisiana, to the Committee on Expenditures in the Department of Justice.

JOHN T. HARRIS, of Virginia, Director for Columbia Institution for the Deaf and Dumb.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted in the following cases:

To Mr. FINLEY, for one week, on account of illness;

To Mr. MAYHAM, for one week, on account of important business; and

To Mr. DAVIDSON, for one week.

CHARLES B. MADDEN.

On motion of Mr. BAGLEY, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Charles B. Madden, no adverse report having been made.

MRS. FLORENCE DARLING.

On motion of Mr. WOOD, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Mrs. Florence Darling, no adverse report having been made.

LEAVE TO PRINT.

Mr. PHILLIPS, by unanimous consent, was granted leave to print as part of the debate certain remarks on correspondence relating to surveys under the War Department. [See Appendix.]

LATE JULIAN HARTRIDGE.

Mr. COOK, by unanimous consent, submitted the following resolution; which was adopted:

Resolved, That the Committee on Appropriations be instructed to include in the sundry civil appropriation bill a sum sufficient to pay to the widow of the late Julian Hartridge, Representative from the State of Georgia, the amount he would have received for the remainder of the term for which he was elected.

Mr. COOK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMERCIAL AND POSTAL INTERCOURSE, ETC.

Mr. REAGAN. By direction of the Committee on Commerce I ask for the printing of the four following documents:

A letter from the Postmaster-General, transmitting a report by Mr. J. W. Frelich in relation to the commercial and postal intercourse between the United States and the countries of South America;

A letter from the Secretary of State in response to a resolution of the House of Representatives of the 4th instant asking for information in relation to the commercial and postal intercourse between the United States and the countries of South America;

A memorial to the Congress of the United States on the improvement of the Mississippi River and the reclamation of the adjacent lands, addressed to the Committee on Commerce of the House of Representatives by John Cowden, of Washington, District of Columbia; and

A letter from the Secretary of the Treasury, transmitting the report of the Superintendent of the Coast and Geodetic Survey for the year ending June 30, 1878.

There was no objection, and it was ordered accordingly.

RESTRICTION OF CHINESE IMMIGRATION.

Mr. WILLIS, of Kentucky. Mr. Speaker, I am instructed by the Committee on Education and Labor to report back a bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States with certain amendments, and to move that the bill and amendments, together with the accompanying report, be printed and recommitted.

There was no objection, and it was ordered accordingly.

Mr. WILLIS, of Kentucky. I am also instructed to ask permission for that committee to report the bill on the 28th of this month, after the reading of the Journal.

Mr. CONGER. That is, with the usual condition that it is not to be brought back by a motion to reconsider.

The SPEAKER. The gentleman asks for permission to report it back on the 28th.

Mr. BUCKNER. Will that be made subject to other special orders?

The SPEAKER. Of course they will report on that day. It is a special order for that day, and that day only.

There was no objection, and it was ordered accordingly.

SALARY OF THE DISTRICT JUDGE OF MICHIGAN.

Mr. CONGER, by unanimous consent, from the Committee on the Judiciary, reported back a bill (H. R. No. 5446) to increase the salary of the district judge of the western judicial district of Michigan; and the same was referred to the Committee on Expenditures in the Department of Justice.

ABRAM F. FARRAR.

Mr. BROWNE, by unanimous consent, introduced a bill (H. R. No. 5806) granting a pension to Abram F. Farrar, late captain Company F, Thirty-Fifth Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EXPENSES OF DISTRICT JUDGE, MICHIGAN.

Mr. STONE, of Michigan, by unanimous consent, introduced a bill (H. R. No. 5807) to provide for the payment of certain expenses of the district judge of the western judicial district of Michigan; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. HANNA. Mr. Speaker, by direction of the House I have been absent since Thursday last until to-day as one of the committee which accompanied the remains of Mr. Hartridge to Savannah, Georgia. During my absence, on Friday last, I understand a vote was taken on the William and Mary college bill. Had I been present, I would have voted "no."

And then, on motion of Mr. GARFIELD, (at four o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of W. F. Bayne, M. D., and 20 others, citizens of Macomb Illinois, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of T. N. Marynis and 40 others, citizens of Watseka, Illinois, of similar import—to the same committee.

Also, the petition of George H. Kemp and 12 others, citizens of Barnesville, Ohio, of similar import—to the same committee.

Also, the petition of P. H. Davies and 26 others, citizens of Canton, Illinois, of similar import—to the same committee.

Also, the petition of John C. Kingston and 25 others, of the State of New York, manufacturers of lasts, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

By Mr. ATKINS: The petition of citizens of Tennessee, for the improvement of the navigation of Duck River—to the Committee on Commerce.

Also, papers relating to the war claim of George W. Mifflefon—to the Committee on War Claims.

Also, memorial of the American Public Health Association, asking the publication of an index to the medical library in the office of the Surgeon-General—to the Committee on Appropriations.

By Mr. BACON: The petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

By Mr. BALLOU: The petition of John C. Kingston and others, of similar import—to the same committee.

Also, memorial of the sugar importers and dealers of Providence, Rhode Island, against the proposed change of duties on sugar—to the Committee of Ways and Means.

By Mr. BANNING: The petition of citizens of New York, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

By Mr. BICKNELL: The petition of G. Westinghouse and others, against extending the Birdsell clover-huller patent—to the same committee.

Also, the petition of John C. Kingston and 25 others, manufacturers of lasts, against extending the shoe-last patent of Nathaniel Jones—to the same committee.

By Mr. BOUCK: The petition of citizens of Nekama, Wisconsin, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

By Mr. BOYD: The petition of S. H. Thompson & Co. and other firms, of Peoria, Illinois, for such a change of the tariff as will admit all raw sugars not above No. 16, Dutch standard in color, at one rate of duty—to the same committee.

Also, the petition of S. H. Thompson & Co. and other firms, of Peoria, Illinois, for legislation to prevent the adulteration of sweets—to the same committee.

By Mr. BRIDGES: The petition of citizens of Massachusetts, against the extension of the sewing-machine patent of McKay & Mathies—to the Committee on Patents.

By Mr. CARLISLE: The petition of the ladies of the Protestant Episcopal church at Dayton, Kentucky, for additional legislation to suppress the practice of polygamy—to the Committee on the Judiciary.

By Mr. CHITTENDEN: The petition of G. Westinghouse & Co. and others, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of John C. Kingston and others, against the extension of the shoe-last patent of Nathaniel Jones—to the same committee.

Also, resolution of the senate of the New York Legislature, opposing the passage of the Army reorganization bill, or at least the portions of it relating to the ordnance department, United States arsenals, and ordnance stores—to the Committee on Military Affairs.

By Mr. COX, of New York: The petition of Ralph King, for compensation for services as United States consul at Bremen, Germany—to the Committee on Foreign Affairs.

By Mr. CRITTENDEN: The petition of Samuel S. Case, of Booneville, Missouri, for bounty for himself and others—to the Committee on Invalid Pensions.

By Mr. DEAN: The petition of Mrs. Horace Manning and 14 others, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. DEERING: The petition of citizens of New York and Ohio, against extending the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of citizens of Buffalo, New York, against extending the shoe-last patent of Nathaniel Jones—to the same committee.

By Mr. FINLEY: The petition of Allen Campbell and 40 others, of Crawford County, Ohio, against the extension of the Birdsell clover-huller patent—to the same committee.

By Mr. FRYE: The petition of Elisha T. Totman and others, for the establishment of a life-saving station at Cape Small Point, Maine—to the Committee on Commerce.

By Mr. GUNTER: The petition of Joseph W. Estep, for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. HASKELL: The petition of citizens of Pleasanton, Kansas, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. HOOKER: The petition of Henry Blackman, late postmaster at Brookhaven, Mississippi, to be relieved from accounting for money stolen from him by burglars—to the Committee of Claims.

By Mr. JONES, of Alabama: A paper relating to the establishment of a post-route from Grove Hill, via Winn's Mill, to Jackson, Alabama—to the Committee on the Post-Office and Post-Roads.

By Mr. MORSE: Memorial of the harbor commissioners of Boston, Massachusetts, relative to the improvement of Boston Harbor—to the Committee on Commerce.

By Mr. MULDROW: Papers relating to the war claim of Abner McCollum—to the Committee on War Claims.

By Mr. OVERTON: The petition of Stella Hillis and other women, of Rushville, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mary E. Thomas and 42 other women, of Stevensville, Pennsylvania, of similar import—to the same committee.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and 36 citizens of Malcolm, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of the Women's Temperance Union of the sixth congressional district of Iowa, of similar import—to the same committee.

Also, the petition of the Women's Christian Temperance Union and others of Keokuk, Iowa, of similar import—to the same committee.

By Mr. RICE, of Ohio: The petition of Sarah J. Rauch, Lucinda J. Maple, and 80 other ladies, of Columbus Grove, Ohio, for such legislation as will make effective the anti-polygamy law of 1862—to the same committee.

By Mr. RYAN: The petition of women of Reno County, Kansas, of similar import—to the same committee.

By Mr. SAMPSON: The petition of Mrs. E. B. Woodruff, Mrs. H. T. Cunningham, Mrs. B. Ewalt, Mrs. A. M. Bonebrake, Mrs. A. M. Weyers, Ellen McClelland, Emma Ball, Susan Lewis, Kate Sears, and 605 other women, of Knoxville, Iowa, of similar import—to the same committee.

By Mr. SHALLENBERGER: The petition of 32 women of Lawrence County, Pennsylvania, of similar import—to the same committee.

By Mr. SLEMONS: The petition of citizens of Pine Bluff, Arkansas, for an appropriation to protect the river front of said city—to the Committee on Commerce.

By Mr. STRAIT: The petition of Mrs. S. L. Sherred and 20 other ladies, of Shakopee, Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, memorial of Henry M. Rice, of St. Paul, Minnesota, and others, in reference to the improvement of lake navigation—to the Committee on Commerce.

By Mr. TUCKER: Memorial of citizens of Charlotte County, Virginia, asking relief from the present onerous tobacco tax—to the Committee of Ways and Means.

Also, the petition of John S. Barbour, receiver of the Washington City, Virginia Midland, and Great Southern Railroad Company, for legislation to enable the Post-Office Department to establish a double daily mail service over said line of road—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Alabama: The petition of citizens of Bullock County, Alabama, for a post-route from Mount Level to Indian Creek, in said county—to the same committee.

IN SENATE.

WEDNESDAY, *January* 15, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. WITHERS presented the resolutions of a public meeting of citizens of Powhatan County, Virginia, protesting against the injustice of the tobacco tax; which were referred to the Committee on Finance.

He also presented a memorial of a committee of the Public Health Association, appointed at its late meeting in Richmond, Virginia, in favor of such legislation as will secure national sanitary results; which was referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. BOOTH presented the petition of James Powell, of San Francisco, praying for such legislation by Congress as will enable him to present and prove his claim for damages caused by the capture of the whaling-ship Edward Cary by the rebel cruiser Shenandoah during the late war; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present a petition signed by a large number of soldiers whose regiments and companies are given, praying for legislation touching their bounties. This does not relate to the arrears

of pension bill, but prays for special legislation in special cases. I ask its reference to the Committee on Pensions.

Mr. INGALLS. It should go to the Committee on Military Affairs if it relates to bounty.

Mr. CONKLING. The chairman of the Committee on Pensions says it belongs rather to the Committee on Military Affairs, and I ask that it take that direction.

The VICE-PRESIDENT. The petition will be referred to the Committee on Military Affairs.

Mr. CONKLING. I present also the memorial of Samuel G. Wolcott, of Oneida County, New York, who represents himself as one of the *bona fide* purchasers of land through bonds issued for the Des Moines River improvement in Iowa, and remonstrating against the passage of a bill now on the Calendar of the Senate, which professes to quiet the title to those lands. I move that the memorial lie on the table.

The motion was agreed to.

Mr. CONKLING presented the petition of W. E. Webster and a large number of others, soldiers resident in Auburn, Cayuga County, New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

He also presented the petition of Van Ness Brothers and a number of others, merchants and shippers in the city of New York, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce, and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. HOAR presented the petition of Mary L. Turner, widow of Sidney S. Turner, deceased, of Westborough, Massachusetts, praying for the extension of letters-patent granted to her late husband for an improvement in the wax-thread sewing-machine; which was referred to the Committee on Patents.

The VICE-PRESIDENT presented the petition of Abigail F. Voter and 101 other women, of New Vineyard, Maine, praying for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia, except for medical, medicinal, and scientific purposes; which was referred to the Committee on the District of Columbia.

COURTS IN COLORADO.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, which passed the Senate at the last session and was sent to the House and was returned with an amendment and again referred to that committee, to report it with a recommendation that the amendment of the House of Representatives be disagreed to. I think, as I see the Senator from Colorado [Mr. TELLER] is not here, that I had better, although I am not authorized by the committee to do so, move also that the Senate ask a conference on the disagreeing votes of the two Houses, as that will keep the matter in hand where it can be taken up and disposed of. I make that motion, that the Senate disagree to the House amendment and ask a conference thereon.

The VICE-PRESIDENT. That order will be entered.

REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire, to report it with an amendment striking out all after the enacting clause and insert what the committee report, and also an amendment to the title to conform to the amendment. The nature of the amendment simply is to make a general provision of law for restoring records and files that are lost instead of this special one for the State of Texas. I ask to have it printed.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. McDONALD. To the Committee on Public Lands was referred the memorial of William McGarrahan, praying the correction of a clerical error in the record of a patent to the land grant known as the Rancho Panoche Grande, in California. That committee at the last session of the present Congress reported adversely to the prayer of the memorialist, but asked leave to prepare a more complete report on the subject to be submitted to the Senate. They respectfully submit their report, and I now present it.

The VICE-PRESIDENT. Does the Senator desire it to be read at length?

Mr. McDONALD. I ask to have it printed.

The VICE-PRESIDENT. It will be printed and laid on the table, subject to the call of the Senator from Indiana.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1098) to transfer Paymaster Robert Burton Rodney from the retired list to the active list of the Navy, reported adversely thereon; and the bill was postponed indefinitely.

Mr. SARGENT. I am instructed by the same committee, to whom was referred the bill (S. No. 900) for the relief of Egbert Thompson, to report it adversely, relief having been given in another form.

The VICE-PRESIDENT. The bill will be postponed indefinitely.

Mr. SARGENT. I am also directed by the same committee, to whom was referred the bill (H. R. No. 356) directing method of annual estimates of expenditures to be submitted from Navy Department, to report it adversely, for the reason that the mode of requiring these estimates seems to be too complicated in their judgment.

The VICE-PRESIDENT. The bill will be postponed indefinitely.

Mr. SARGENT. I am also directed by the same committee, to whom was referred the bill (S. No. 750) to provide for experiments and the purchase of movable torpedoes for military and naval defense, to report it adversely. The appropriation asked for is very large, and the committee thought they would not recommend it at this session.

The VICE-PRESIDENT. The bill will be postponed indefinitely.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 3344) to authorize the appointment of apothecaries as warrant officers in the United States Navy, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of certain seamen serving on the United States steamship Pawnee at Port Royal, South Carolina, praying for an increase of pay and rates, reported adversely thereon, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of G. L. Dyer, master United States Navy, praying to be restored to his proper position on the Naval Register in the line of promotion, reported adversely thereon, and the committee were discharged from its further consideration.

He also, from the same committee, to whom was referred the petition of Hugo Osterhaus, United States Navy, asking that Master W. M. Wood, United States Navy, be restored to his proper rank, next after W. P. Ray, master United States Navy, reported adversely thereon.

Mr. COCKRELL. What action was had upon that by the committee?

Mr. SARGENT. It is reported adversely. The Senate disposed of the matter in another form, as the Senator from Missouri may be aware, at the last session, which makes this action proper.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the petition.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the memorial of Henry Erben, United States Navy, praying to be allowed to appear before the proper naval board of officers for examination for promotion, reported adversely thereon, and the committee were discharged from its further consideration.

He also, from the same committee, to whom was referred the petition of H. O. Rittenhouse, master United States Navy, praying to be advanced to his proper rank in the Navy, reported adversely thereon, and the committee were discharged from the further consideration of the petition.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (H. R. No. 3186) for the relief of the Commercial Bank of Knoxville, Tennessee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1620) to extend the jurisdiction of justices of the peace of the District of Columbia, and to regulate proceedings before them; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1621) to establish the judicial district of the Indian Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1622) appropriating money for payment of bounty to officers and men of Flag-Officer Farragut's fleet; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1623) authorizing the retirement of Brevet Major-General William W. Averill, United States Army, with the rank and pay of a brigadier-general; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1624) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1625) to remove the political disabilities of William T. Welcker, of California; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1626) providing for the payment of certain obligations of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. DORSEY. I present several communications to accompany the bill, which I move be referred to the Committee on the District of Columbia and printed.

The motion was agreed to.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1627) making appropriation for the purchase of Fort Clark, Texas; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GORDON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1628) to amend the act entitled "An act for

the relief of Robert Erwin;" which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CONKLING. By request, and not understanding in full its merits, I ask leave to introduce a joint resolution for reference to the Committee on the District of Columbia.

By unanimous consent, leave was granted to introduce a joint resolution (S. No. 47) touching assessments of property in the District of Columbia; which was read the first time by its title.

Mr. DAVIS, of Illinois. Let it be read at length.

The joint resolution was read the second time at length, and referred to the Committee on the District of Columbia, as follows:

Resolved by the Senate and House of Representatives in Congress assembled, That no sale of any property for revised assessments shall be advertised until each citizen, or his agent, shall have received the revised statement and shall have an opportunity to have all proper credit for work done under "permit" credited upon said bills and all errors committed by the board of audit corrected, after which thirty days' notice shall be given to come forward and pay said balances, and wherever work has been done by the citizen himself, by permit or otherwise, the same shall be a credit upon his bill; that no brick walls, stone steps, nor coping wall shall be charged in the assessment bills against private property outside the building line, but shall be charged to the general fund, and no grading unless done immediately in front of said premises.

AMENDMENT TO POST-ROUTE BILL.

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

MEMORIAL SERVICES TO PROFESSOR HENRY.

Mr. WITHERS. I offer the following resolution and ask that it lie on the table until to-morrow, when I shall call it up:

Resolved, That the Senate will now take a recess until 7.45 p. m., at which time they will meet in this Chamber and proceed to the Hall of the House of Representatives to participate in the ceremonies commemorative of the life and services of Professor Henry, late Secretary of the Smithsonian Institution.

The resolution was ordered to lie on the table.

CHEYENNE INDIANS.

Mr. VOORHEES. I offer the following resolution:

Resolved, That the Committee on Indian Affairs be, and is hereby, instructed to inquire into the circumstances which led to the recent escape of the Cheyenne Indians from Fort Robinson, and their subsequent slaughter by the United States forces who were charged with their custody; and that said committee report its findings to this body.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. ALLISON. I do not know that I object to the inquiry, but I do not see how the committee can obtain any additional information unless some power is given to it other than that which is provided in the resolution.

Mr. VOORHEES. I know nothing about that; I only know, in view of statements that are appearing in the press, attributed to officers of the highest character in the Army, the affair ought to be investigated for our own credit and for the credit of the country.

Mr. CONKLING. If the Senator will hear me one moment——

Mr. VOORHEES. Certainly.

Mr. CONKLING. I will say to him that his resolution is all-sufficient for the present. If the committee find that they want more power they can ask for more power. This initiates the inquiry, and I think too it would be very well that the inquiry should be made.

Mr. ALLISON. I only wish to say to the Senators favoring this resolution, that the Commissioner of Indian Affairs has made a full report of his version of this matter, and there are reports in the War Department from the military officers. If the inquiry is to go beyond those two things, which are accessible of course at any time by a call for information, some additional power must be given to the committee. I have no objection to the resolution.

Mr. VOORHEES. I will only say in response that this matter will be referred to the Committee on Indian Affairs by the resolution, and if they are not satisfied with the information that is here and desire to obtain more, and think more ought to be obtained, they can ask for further powers to obtain it.

The resolution was agreed to.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. ALLISON. I ask leave to make a report from the committee of conference on the Military Academy appropriation bill. It may not be necessary to read the report in full. There are only one or two subjects of conference, and the differences have been divided. I ask that the report be concurred in.

Mr. EDMUNDS. Let us hear what it is.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its amendments numbered 1, 2, 3, and 4.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same.

That the House recede from its disagreement to the amendment numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$900;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 7, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$3,100;" and the Senate agree to the same.

W. B. ALLISON,
H. G. DAVIS,
Managers on the part of the Senate.
M. J. DURHAM,
A. HERR SMITH,
Managers on the part of the House.

Mr. EDMUNDS. I wish the Senator having the report in charge would be kind enough to explain exactly what all this means, so that we can understand it.

Mr. ALLISON. I will explain the report briefly. The first amendment inserted by the Senate provided for increasing the compensation to two professors on the ground that the First Comptroller of the Treasury had decided that they were entitled to compensation as colonels rather than as lieutenant-colonels, under a section of the Revised Statutes; but, inasmuch as that decision is in conflict with the estimates made by the Department the House insisted that we should appropriate according to the estimates, and we have so appropriated the present year.

The next point relates to a clerk of the treasurer at the academy. We inserted an amendment authorizing the treasurer to appoint a clerk at a salary of $1,200 a year. The other House agree to the clerk, but provide a salary of $900 instead of $1,200, to which the Senate conferees have assented.

The Senate also inserted an appropriation of $3,000 to provide electrical apparatus for making experiments in electricity. The House thought that was too much and agreed to the insertion of $1,500, which we have accepted.

I believe those are all the items included in the report.

The report was concurred in.

DISTRICT WATER RATES.

Mr. DORSEY. I ask the Senate to proceed to the consideration of Senate bill No. 1529.

Mr. DAVIS, of West Virginia. Let it be read for information.

The bill (S. No. 1529) to authorize the commissioners of the District of Columbia to adjust and fix the water rates within said District was read by its title.

The VICE-PRESIDENT. Is there objection to the present consideration of this bill?

Mr. ANTHONY. This bill will excite some discussion, I suppose, and I suggest to the Senator from Arkansas that we utilize the remainder of the morning hour by proceeding to the consideration of unobjected cases on the Calendar under the resolution that was passed yesterday for next Friday.

Mr. DORSEY. It is very important that this bill should be passed at the earliest day practicable, so that it may go to the House and become a law at the present session of Congress. It is represented by the District commissioners that the tax received from the water register now is wholly inadequate to pay the expenses of the department and the interest upon the water debt. I believe that under the present law the manner of levying the tax is simply absurd. The tax now is assessed according to the front of the lot upon the street, without any regard whatever to the amount of water used, the number of faucets in the house, or the size of the house generally. Of course one man may use one hundred times as much water in his dwelling as his neighbor and not pay half as much for it. I shall be very glad if the bill can be acted upon now. It is a very short one, and I doubt whether it will lead to discussion.

Mr. KERNAN. I wish to ask the chairman of the Committee on the District of Columbia how long the present law has been in force?

Mr. DORSEY. I think since the establishment of the water-works.

Mr. KERNAN. That was away back in 1869?

Mr. DORSEY. Yes, sir.

Mr. BECK. I hope that bill will lie over unless the Senator can answer me a question. I happen to live temporarily in a portion of the city where the neighbors all around me say they can get no water at all. Is there any provision made in the bill to supply them with water if they are to be taxed for it? Unless the Senator can answer that question I wish the bill to lie on the table for the present, for the people living on the hill object very much to an increase of tax for water which goes to the benefit of a few people in a particular neighborhood, and excludes, as is now practically done, all the people living in that part of the city from getting any water at all, although they pay as much tax as those who have an abundant supply of water. If the Senator cannot answer that question, I should like to look at the bill, and for that purpose have it go over until to-morrow.

Mr. DORSEY. This bill is intended to meet the objection which the Senator from Kentucky raises, and which I know to be a real objection. In a letter which I hold in my hand from the commissioners they say that "from the want of means the commissioners are now unable to lay a section of twelve-inch pipe, at a cost of $7,500, which would materially improve the supply of water upon the high grounds of Capitol Hill," where I think there is no supply at all in many of the houses, and the commissioners have no money with which to lay the mains to convey the water to the points necessary.

Mr. BECK. I desire to say, and my information is very vague I admit, that one of the great difficulties is that they have what is called a stand-pipe, drawing the water away from the hill to the navy-yard for Government operations; and but for this stand-pipe draw-

ing it away they could get water; but as long as it remains they cannot get any. I desire that those people may have water; that is all.

Mr. DORSEY. I understand that last year we erected a stand-pipe at a very large expense, and now the commissioners are without money to convey the water from that stand-pipe to the part of the city intended to be benefited by it.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. DAVIS, of West Virginia. I should like to ask the Senator from Arkansas whether there is a printed report or any information by which the Senate can act upon this matter intelligently. This is a subject that needs some consideration, I have no doubt; but it must be borne in mind, as the Senator from Arkansas has just stated, that since 1869 the system has remained just as it is now. That being the case, and no petition having been presented here, there must be some special reason why we should move in the matter just at this time.

Again, my impression is that this matter should be well considered before the Senate takes final action upon it. I do not know how long or how thoroughly the Senator or his committee may have considered the subject, but it is one that needs attention.

Mr. DORSEY. I hold in my hand a report of the water commissioner of the District, and also a letter from the District commissioners, explaining in detail the reasons why this bill ought to pass. If the bill is taken up, of course I shall send these documents to the desk to be read.

Mr. BECK. I hope the Senator from Arkansas will have printed in the RECORD the information which he thinks we ought to have in reference to the bill. In that case I shall endeavor to get all the information possible in the course of to-night or in the morning and aid him in bringing up the bill in the morning after having an opportunity to read the documents to which he has referred. I should not like to be required to vote upon the bill now.

Mr. DORSEY. Then I ask leave to present the documents and to have them printed in the RECORD.

Mr. ANTHONY. They had better be printed for distribution to Senators in the usual way, and not be printed in the RECORD. Such a course cumbers the RECORD with a great deal of unnecessary matter.

Mr. DORSEY. The papers are very short.

Mr. DAVIS, of West Virginia. I agree with the Senator from Rhode Island, and think the papers ought to be printed in the usual manner.

Mr. DORSEY. They are very short communications. I have no choice as to the mode in which they are printed, whether in the RECORD or otherwise.

Mr. BECK. Is there objection to their being printed in the RECORD?

Mr. DAVIS, of West Virginia. Yes.

Mr. EDMUNDS. The matter of expense is all the objection.

The VICE-PRESIDENT. The papers will be printed, and the bill will go over, subject to the call of the Senator from Arkansas.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 986) for the relief of William S. Morris, William S. Mann, Charles A. Oakman, George W. Hillman, the Union Transfer Company, all of Philadelphia, the Union Transfer Company of Baltimore, Maryland, and John R. Graham, late of Philadelphia, now of Washington, District of Columbia.

THE CALENDAR.

Mr. ANTHONY. I move that the Senate proceed during the residue of the morning hour to the consideration of unobjected cases on the Calendar, under the rule adopted yesterday.

The VICE-PRESIDENT. Is there objection to the suggestion of the Senator from Rhode Island? The Chair hears none, and the Calendar will be called under the resolution adopted yesterday. The Secretary will report the bills on the Calendar in their order.

The first business on the Calendar was the joint resolution (S. R. No. 8) authorizing Captain Jonathan Young, of the United States Navy, to accept a betel-nut box and silver medal from the Emperor of Siam.

Mr. SARGENT. I object to that joint resolution.

The VICE-PRESIDENT. Objection is made, and the Secretary will report the next bill on the Calendar.

The next bill on the Calendar was the bill (S. No. 263) to provide for a survey of an inland water-route and canal from the Mississippi River to the Atlantic Ocean.

Mr. INGALLS. Let that lie over, Mr. President.

The VICE-PRESIDENT. It is objected to, and the next bill will be reported.

EXTRA PAY TO SOLDIERS OF MEXICAN WAR.

The next bill on the Calendar was the bill (H. R. No. 376) for the payment to the officers and soldiers of the Mexican war of the three months' extra pay provided for by the act of July 19, 1848. It directs the Secretary of the Treasury to pay to the officers and soldiers "engaged in the military service of the United States in the war with Mexico, and who served out the time of their engagement or were honorably discharged," the three months' extra pay provided for by the act of July 19, 1848, and the limitations contained in that act, in all cases, upon the presentation of satisfactory evidence that such extra compensation has not been previously received.

The bill was reported from the Committee on Military Affairs with an amendment to insert at the end the following proviso:

Provided, That the provisions of this act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war.

Mr. EDMUNDS. Let us hear the report read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report submitted by Mr. MAXEY January 22, 1878:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 376) entitled "An act for payment to the officers and soldiers of the Mexican war," &c., have had the same under consideration, and submit the following report:

The act of July 19, 1848, which House bill No. 376 seeks to revive, was "repealed" by the act of July 12, 1870. (Sections 4, 5, chapter 251, volume 16, Statutes at Large, pages 250, 251.) According to the construction of that law by the accounting officers of the Treasury—though it will be observed that neither the act of July 19, 1848, granting extra pay to the men of the Army, nor the act of August 31, 1852, (chapter 109, volume 10, page 100,) granting extra pay to persons in the naval service on the coasts of Mexico and California (the same as had been allowed to the Army serving in California, see chapter 78, 1850, volume 9, pages 504, 505,) are specifically mentioned as being included in the laws repealed by said act of July 12, 1870.

A proviso to House bill No. 376, on line 12, after the words "received," to wit—

"*Provided*, That the provisions of said act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war"—

would perhaps be just and proper.

The debate in the House (see CONGRESSIONAL RECORD, January 19 instant) when the bill passed, will give some light on the subject.

The same bill passed the House June 30, 1876, and some remarks were made by Mr. RIDDLE and others on the merits of the case. (See RECORD, July 1, 1876.)

Your committee therefore recommend the passage of the bill, amended by the proviso.

Mr. WITHERS. I desire to offer an amendment adding the words "the revenue service."

The VICE-PRESIDENT. The first question is on the amendment of the Committee on Military Affairs.

Mr. EDMUNDS. Let us hear the amendment of the committee reported again.

The amendment was read.

Mr. EDMUNDS. I move to amend the amendment recommended by the committee by adding after the word "war," in the last line, the words "and the war for the suppression of the rebellion."

Mr. WITHERS. I should like to ask how that would follow? It is not germane to the bill.

Mr. EDMUNDS. I think it is very germane myself.

Mr. WITHERS. Let the amendment of the committee be reported as it is proposed to be amended.

The VICE-PRESIDENT. It will be reported.

The SECRETARY. The proviso as proposed to be amended would read:

Provided, That the provisions of this act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war and the war for the suppression of the rebellion.

Mr. ALLISON. It seems to me if the amendment is applied to seamen who were employed in the war of the rebellion, it ought also to be applied to soldiers.

Mr. EDMUNDS. So it ought, but this is the proviso of the committee. When we come to the body of the bill, we can endeavor to fix that.

Mr. MAXEY. The bill now under consideration came to the Senate from the House and was referred to the Committee on Military Affairs. It was acted on by that committee and reported favorably to this body. On a former occasion the bill was called up for consideration, under what was known as the Anthony rule, and some discussion then took place upon it. Being myself in charge of the bill, at the request of the Senator from Vermont, [Mr. EDMUNDS,] which was in the nature of an objection, the bill was passed over. The RECORD of that date will show the correspondence which led to the presentation of this bill and its passage by the House. The whole purpose and design of the bill is to equalize the three months' extra pay which was granted by legislation many years ago. I had the dates at that time, and by reference to the RECORD they will be seen, together with a reference to the volumes of the United States Statutes at Large. The whole purpose, as I say, is to equalize the three months' extra pay among all those who served in the Mexican war. The Secretary of War at that time construed the law to be that the three months' extra pay applied only to volunteers and did not apply to those in the regular Army. It was deemed by the committee, and I think it equitable and just, that all those who served their country in Mexico, a foreign country, should be equally entitled to this gratuity on the part of the Government; and therefore the provisions of the law should be extended to those who served in the Army of the United States equally. It was considered, and I think properly, that those who were in the marine service (and there were officers and soldiers in the marine service in Mexico) and who did active service there should be included, and so the bill was amended by the committee so as to include in like manner those of the Navy who served in the Mexican war.

The whole design and scope of the bill was simply to place those who had not received their three months' extra pay upon an equal footing with those who had and who had done no other or better service than those who did not receive it. That is all there is of it. I do not myself believe that the amendment offered by the Senator from Vermont is germane to the bill or could properly be attached to

it as part of the measure, because the bill relates only to one war—the Mexican war—and it has no reference whatever to the late war.

Mr. EDMUNDS. Mr. President, the officers and soldiers and sailors of the last war had provisions made for them that have not been carried out; and therefore, if we are going to undertake to readjust questions of bounty and extra pay, and so forth, for the soldiers of the Mexican war, let us do it for the soldiers of a war quite as important as that.

Now as to the bill itself, I should like to ask the honorable Senator from Texas if there is any official report in the possession of the Senate from the War Department or any other Department, which sets forth exactly what this three months' extra pay was, what the extent and application of the three months' extra pay alluded to in the bill, provided for by the act of July 19, 1848, was; how many have received it; how many have not received it, and how it happens that those who were entitled to it by the law and did not receive it, failed to receive it?

Mr. MAXEY. A correspondence was opened up by the Committee on Military Affairs with a view of arriving at the record referred to by the Senator from Vermont. A communication was presented from the Paymaster-General in that regard. It seems that the matter was referred to the Paymaster-General, through an auditor, for final settlement of those matters. Accompanying that came an official copy of a letter from Secretary Marcy, which the Senator may perhaps recollect; he read it at the time. All those papers were before the Senate at the time this matter came under discussion, and the Senator objected at the last session of Congress. I thought I could lay my hand upon the papers, but I had no thought that the bill was coming up this morning, and I have not got them now. Those papers showed the construction placed by Secretary Marcy on the act. The Senator examined them at the time, and the RECORD will show that he said to the Senate that he believed the Secretary was correct in his construction. Secretary Marcy construed that the legislation did not grant three months' extra pay to those in the Regular Army of the United States.

The object of this bill, as I stated before, is to place them on terms of equality with others, and let in all who have not heretofore received their pay—officers of the Army, Navy, and marines, and all soldiers who have not been paid this three months' extra pay—on the same footing as volunteers.

Mr. EDMUNDS. I am so unfortunate as not to be able, even with the clear explanation of the Senator from Texas, to understand precisely what the state of the law was in 1848 here referred to, and precisely what has occurred, and what were the difficulties or misconstructions then that led to anybody being debarred from his extra pay who by that act was entitled to it. Now if we have in the files of the Senate or anywhere else official information which shows exactly what that was, I shall be glad to see it. Are there any papers?

Mr. MAXEY. I will state to the Senator that I had those papers on the previous discussion. If I had the RECORD of the former debate, that would show the whole of them.

Mr. EDMUNDS. It may be that they are in the files of the Senate.

Mr. MAXEY. The Senator took part in that debate, and the whole of it came out there.

Mr. EDMUNDS. But it has entirely gone out of my mind; I do not remember anything about it.

The Senator from Texas speaks of this bill being intended to apply only, if I correctly understand him, to the officers and soldiers of the regular Army and the regular Navy of the United States. The bill does not say so. It speaks of all officers and soldiers engaged in the military service of the country in the Mexican war.

Mr. MAXEY. I stated that there were quite a number of persons who were entitled as volunteers to that three months' extra pay who had not drawn it; but under a statute which passed some time in 1870 or 1871 all these claims were barred.

Mr. EDMUNDS. How barred?

Mr. MAXEY. An act passed which prohibited payment of any further claims under this previous legislation.

Mr. EDMUNDS. Can the Senator refer me to that act?

Mr. MAXEY. I have sent for the RECORD. That will show the whole of it.

Mr. EDMUNDS. I do not remember any such act.

Mr. MAXEY. I have not got all the papers at my desk. The RECORD will show them, and I have sent for it. I made a minute of it at the time.

Mr. EDMUNDS. Can the Senator give me the title of the act of 1870 to which he refers, or the subject of it?

Mr. CONKLING. If I do not interrupt the Senator from Vermont in the midst of a sentence, I will make an observation about this matter while he is looking at the bopks.

It seems to me without the amendment of the Senator from Vermont this bill is involved in so much difficulty that I venture to suggest to the Senator from Texas it is hardly worth while to attempt to dispose of it in this morning hour.

The bill provides that certain persons described shall receive the pay allotted to certain other persons in an act referred to. I have that act before me, and, unless I have omitted something in reading it over two or three times, there is no provision in the act sustaining this reference. The only section applicable to it that I can find concludes in this way:

Or who died in service, or who having been honorably discharged have since died, or may hereafter die, without receiving the three months' pay herein provided for, shall be entitled to receive three months' extra pay.

Now, there is no "pay herein provided for" unless a provision shall be found in some one of the acts here referred to, which acts are not quoted or referred to except by their date. So I suggest to the honorable Senator from Texas that perhaps he will want on review to make this bill more explicit as to the provision to which it really does refer, this provision which I have read being as it seems to me inadequate to the purpose of the bill.

Then, to confuse still more the confusion that may be found, comes in the amendment of the Senator from Vermont, which it will be perceived provides that the sailors of the late war—confining it to the present amendment—shall receive the three months' extra pay which was provided in an act approved on the 19th of July, 1848. Well, that was inconveniently before the war for the suppression of the rebellion; and it so happened that all the acts which existed then fixed a rate of pay by the month for soldiers and sailors quite different from the rate applicable to the war of the rebellion. So that with the amendment we should have here a sort of compound comminutive confusion, and I think that the Senator from Texas perhaps had better let this bill lie over until he finds his memorandum and is able to refer to the act to which he means to refer more fully, so that we may all understand it alike.

Mr. MAXEY. I think the suggestion of the Senator from New York is correct. I will simply state that I did not call up this bill this morning. I supposed it would be reached on Friday under the order adopted yesterday, and I expected to be prepared on Friday to submit it to the Senate.

The VICE-PRESIDENT. Under the order adopted upon the suggestion of the Senator from New York, the bill will go over.

Mr. EDMUNDS. I should like to say one word before it goes over if there be no objection.

Mr. CONKLING. I withdraw the suggestion so that the Senator may be heard.

Mr. EDMUNDS. My amendment was drawn on the idea that this bill that it is proposed to pass into a law, in legal effect actually provides for giving three months' extra pay to the soldiers of the Mexican war when the present law, the law of 1848, did not give it to them. My amendment, therefore, was intended, if we are to give a bounty of three months' extra pay to the soldiers of the Mexican war, good, bad, and indifferent, to provide that we shall give a bounty of three months' extra pay to the soldiers and sailors in the war for the suppression of the rebellion. I think it will turn out when you come to examine the act of 1848 and the history of it, that the soldiers and sailors are to get this money, not because the act of 1848 provided it for them, but because this bill provides it for them; and so I say if this bill is to provide three months' extra pay for the soldiers of the Mexican war, then it ought to provide three months' extra pay for the soldiers in the war of the rebellion.

Mr. MAXEY. I have now the debate that I referred to, which is in the RECORD of April 18, 1878, and which shows precisely what was said then when the matter was entirely fresh, not only by the Senator from Vermont but by myself. It is all here and all the acts are referred to and given.

Mr. EDMUNDS. As the bill goes over, I will take that RECORD and look at it.

The VICE-PRESIDENT. The bill goes over. The Secretary will report the next bill.

NATIONAL OBSERVATORY.

The next business on the Calendar was the joint resolution (S. R. No. 16) authorizing the appointment of a commission of scientists to investigate and report upon the establishment and location of an additional national observatory.

Mr. EDMUNDS. That has never been referred, has it?

The VICE-PRESIDENT. It has not been referred.

Mr. PADDOCK. It may lie over.

The VICE-PRESIDENT. The resolution will be passed over.

WILLIAM B. WHITING.

The next bill on the Calendar was the bill (S. No. 647) granting a pension to William B. Whiting.

Mr. SARGENT. Unless the committee are ready to have that bill indefinitely postponed, I ask that it go over.

Mr. WITHERS. I should be glad to have it take effect.

The VICE-PRESIDENT. The bill will be passed over.

LAURENA C. P. HASKINS.

The next bill on the Calendar was the bill (S. No. 413) to increase the pension of Laurena C. P. Haskins, which was reported adversely from the Committee on Pensions.

Mr. INGALLS. Let it be indefinitely postponed.

The VICE-PRESIDENT. That order will be made if there be no objection.

THE MILITIA.

The next bill on the Calendar was the bill (S. No. 104) amending section 1661, title 16, (The Militia,) of the Revised Statutes of the United States.

The VICE-PRESIDENT. The hour of one o'clock has arrived. The Senate will proceed with the consideration of its unfinished business.

REVISION OF THE PATENT LAWS.

The Senate, as in Committee of the Whole, resumed the considera-

tion of the bill (S. No. 360) to amend the statutes in relation to patents, and for other purposes, the pending question being on the amendment of Mr. MATTHEWS to the second section.

Mr. CHRISTIANCY. If it be in order now, there being another amendment pending presented by the Senator from Ohio, I have his consent to move to make a verbal amendment in the fourth line of section 2, to remove the verbal ambiguity which he pointed out when he addressed the Senate yesterday. That is, to add after the word "pronounced," in line 4, the words "as well as in all such suits hereafter instituted." That will remove the ambiguity.

The VICE-PRESIDENT. Is there objection to this amendment? The Chair hears none, and it is agreed to. The question now is upon the amendment proposed by the Senator from Ohio, [Mr. MATTHEWS,] which will be read.

The SECRETARY. The proposed amendment is, in section 2, line 10, to strike out all after the word "cases," where it first occurs, down to and including the word "awarded," in line 23; in line 27, to strike out all after the word "case," down to and including the word "recovery," in line 29; to strike out lines 36, 37, 38, 39, down to and including the word "aforesaid," in line 40, and in lieu thereof to insert the following:

No account of profits or savings shall in any case be allowed; but evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

The VICE-PRESIDENT. The question is on this amendment.

Mr. WADLEIGH. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WITHERS. I understand there are several amendments offered. Is it proposed to take the vote on all of them collectively?

Mr. DAVIS, of Illinois. It is necessary to take the question on the whole amendment of the Senator from Ohio. It embraces one subject.

Mr. MATTHEWS. It is all one amendment.

Mr. EDMUNDS. I should like to know, in the first place, whether this amendment—which I could not understand from the reading—is an amendment to the text of the bill, in section 2; or is it an amendment to the amendments of the committee?

Mr. MATTHEWS. It is an amendment to the text of the bill.

Mr. EDMUNDS. Do I understand the Senator from Ohio to mean by this amendment that in case of an infringement of a patent, and a recovery and establishment of that patent in a court of equity, no account of profits is to be taken, but that the whole measure of redress shall be a license fee?

Mr. MATTHEWS. The precise effect of the amendment, if adopted, would be first to make the rule and measure of damages in equity and at law the same, and then to make that rule what shall be considered a fair compensation for the loss to the plaintiff by way of damages for the injury which he complains of, excluding any computation or account of either profits or savings as such a measure of damages, but allowing evidence of them as tending to prove what the damages consist of.

Mr. EDMUNDS. As I heard it read, I understand that the license fee is the test of how much the party is to recover, "what would be a fair license fee," according to the reading from the desk; and if that is the sole rule in a matter where the Constitution recognizes such property, if Congress chooses to do so, as being an exclusive right to its use, if anybody may invade this exclusive right which the Constitution speaks of, and may pay the average license fee, then you have disposed of the whole value of your patent laws. If you are to say to the owner of a patent that he shall not have any exclusive use of it, but everybody is free to infringe it at the only risk of paying the ordinary license fee for use and occupation, then you had better say in terms that everybody shall be at liberty to invade a patent, whether by accident or by design and have absolute freedom of use, and that the owner shall collect of the party who uses it what a jury would say is a fair sum for use and occupation; that is, what he would have been willing, if he had wanted to rent it out, to take as a fair compensation for the use of his machine or the right to make it.

It appears to me that such an amendment would overthrow the whole patent system and the whole value of the patent system.

Mr. HOAR. You have an injunction left.

Mr. EDMUNDS. You have an injunction left, but it is too late usually.

Mr. CHRISTIANCY. With an amendment which might be made at the end of this section, and which I presume, if this amendment shall be adopted, the committee will accept, though I am not authorized to speak for it, I should be in favor of this amendment proposed by the Senator from Ohio unless the Committee on Patents object to it. They have given a great deal of consideration to this subject; they have had all the various interests in the country represented, both those of patentees and those of alleged infringers, and have spent a great deal of time getting up a bill to harmonize all interests and the views of all parties. I am therefore very loath myself to offer any amendment to the work of the committee; but there is one class of cases in which it seems to me justice requires that the patentee should be allowed to recover profits, and but one class, and that class is where the invention from its very nature is such that it would be for the interests of the patentee to retain the entire monopoly of his patent; such, for instance, as Mr. Edison's telephone. If he chose to retain the entire monopoly of the manufacture of that instrument I can see no good reason why any man who should violate that patent should not respond in profits, why he should not pay all the profits which he might make from the manufacture or sale. There the profits would in justice and equity measure a fair compensation, and it is only in that class of cases that profits do measure a fair compensation.

In the class of cases to which I have alluded profits constitute a proper measure of a fair compensation for the injury done to the patentee. Why? Because but for the act of the defendant the owner of the patent might have made the same. But in most patents, in ninety-nine out of one hundred at least, and probably a larger proportion, it is for the interest of the patentee that others should use his invention and should pay him a royalty or a license fee, and therefore, in all that large class of cases I see no reason for allowing any profits at all as profits. The evidence of profits, however, I think, ought to be allowed to be given as one of the items to show what would be a proper measure of damages as it tends to show what is the value of the patent which has been infringed. It would be one of the elements to show what would constitute a proper license fee.

But as to the first class of cases which I have mentioned, I confess that I have great difficulty in voting for the bill without a provision allowing profits to be recovered; that is, where it is for the interest of the patentee to retain his monopoly. It is an exclusive right, and it does seem to me that we are taking a very high position when we undertake to say that he shall sell it at whatever a jury may assess it to be worth when it would clearly be for his interest not to sell it at all, and therefore, if I could have my own way in reference to this bill—for I am discussing it in rather a discursive manner—I would adopt the amendment proposed by the Senator from Ohio, and then add an amendment taking out of the operation of this section the first class of cases which I alluded to, and I propose that now to the committee. The measure is one for which they are responsible more than I. I only make this as a suggestion, and I am very unwilling to antagonize the committee in anything pertaining to a bill over which they have spent so much time, and to which they have given so much consideration.

Mr. WADLEIGH. Mr. President, the amendment proposed by the Senator from Ohio abolishes any account for profits in all cases. It seems to me that the remarks of my friend the Senator from Michigan upon that point are correct: that it would be unjust to the patentee to abolish profits in all cases, because in some cases he may wish to have the exclusive use of his invention. Take, for instance, a pin-machine by which the patentee may be able to manufacture pins to supply the whole market. It is for his interest that there should be no use of it by others, and under the theory of the Constitution, and under the law, he has the right to manufacture pins for the market himself, and to allow no one else to do so under his patent. It seems to me that in such a case as that—and there are many cases of that kind—to compel him to sell his invention at such a price as any jury may say he ought to have for it is a violation of the exclusive right granted to him by the Constitution and the law.

Now, Mr. President, this bill has been the result of very much care and deliberation on the part of the committee. There have appeared before the committee all parties interested in patents. The bill, to a certain extent, is a compromise between those conflicting interests. To amend it materially and vitally, as this amendment proposes to do, will affect to a great extent the interests of people who have not been heard upon any question of this kind. I think that before any material amendment of the patent laws is adopted that amendment should be discussed, the parties who are to be affected by it should be heard before Congress; and for that reason, if for no other, I should be compelled to oppose the amendment of the Senator from Ohio, because no man came before the committee and proposed to abolish profits entirely, no one asks for that; and the Senator from Ohio in his opposition to this bill asks what no person asked, so far as I know, before the Committee on Patents, and he asks it, too, upon grounds which seem to me—and I say it with all due deference to him—to be absurd. One of these grounds is that the appointment of an auditor to take an account in a matter which no jury can possibly understand is unconstitutional, a violation of the constitutional right of trial by jury.

Why, Mr. President, in the New England States auditors have been appointed from time immemorial under laws like this. All complicated accounts go to an auditor appointed by the court. He examines them, and no jury could properly examine them. He makes a report upon them, and that report being adopted by the court goes before the jury as *prima facie* evidence of that account. The question of the constitutionality of such laws has again and again been brought before the courts of those States, and they have been decided to be constitutional. There is not a decision opposed to them in the United States that I am aware of. Are we to presume that the courts of the United States, against the decisions of all those courts which have considered similar questions, are to decide that such a law is unconstitutional?

Mr. President, it being vastly for the advantage of courts and for the advantage of justice that matters of this kind which cannot possibly be understood by a jury should in the first place be sent to an auditor, I prefer to leave that question in this law to the courts of the United States. If this is an unconstitutional provision let them so decide. But inasmuch as whenever the question has arisen before the State courts the State courts have decided such laws to be con-

stitutional, I prefer to treat such laws as constitutional until the Supreme Court of the United States shall have decided the question.

Then, too, it is said that any fixing of the measurement of damages is unheard of. Why, Mr. President, if the fixing of the measure of damages is not unjust, nobody has a right to complain; it is in violation of nobody's rights. The Senator from Ohio makes no complaint that the measurement of damages is unjust to anybody, as I understand.

Mr. MATTHEWS. The Senator is entirely mistaken. I did make that specific objection, that it was not the rightful measure of damages. I shall endeavor to explain it when the Senator concludes.

Mr. WADLEIGH. Then I will speak upon that question. The bill simply provides that an account of profits shall be taken in a case where the infringer manufactures and sells the machine itself or sells the product thereof. In such cases there is no difficulty or but very little difficulty in fixing the amount of profit which the party has received. That profit he has made from the property of the plaintiff. In most cases it would be the true measure of damages. So it seems to me, and so it appeared to the committee.

But I do not desire to multiply words upon this bill. As I have said before, the bill has been before the committee for a long time; the whole matter has been the subject of earnest consideration on the part of the committee, a full consideration; and all interests have appeared before the committee. As I said before, nobody proposed to go so far as the Senator from Ohio now proposes.

Mr. CONKLING. Will the Senator let me ask him a question and make a remark?

Mr. WADLEIGH. Certainly.

Mr. CONKLING. The Senator aims, I think, a serious blow at the pending amendment when he says that it affects interests which have never been heard before the committee or here. I want to inquire whether it is not true that, dismissing the amendment and taking the bill as it would stand without it, interests are then affected which have never been heard? For example, have all the men or all the interests been heard which are to be not only affected, but, as I understand it, altogether denied by this second section? I mean, among others, those whose inventions have been employed without profit ascertained by sales, but merely as elements of economy, of saving in processes. I mean those whose inventions have been adopted by extensive mill-owners, by corporations manufacturing goods, fabrics of various sorts, by railway companies, and by others who, utilizing the invention in the manufacture of apparatus and implements which they construct themselves, have saved very largely, but who, as I cannot help understanding this section, are given virtual impunity against all inventors. Now, I inquire whether all the men or all the interests thus to be affected were heard before the committee, and if it was after a hearing in behalf of those interests that the committee has proposed a section, which, it seems to me,—I may be mistaken about that, the Senator is much more intelligent about it,—leaves them remediless?

Mr. WADLEIGH. The bill thus affecting those who claim to have savings allowed as profits was printed more than a year ago. Five thousand copies of it were printed for distribution. Those copies have been furnished to every patentee or every user of a patent who desired one. The arguments before the committee upon this very point have been circulated broadcast among those interested in patents; and the question as to whether savings should be considered as profits and the abuses growing out of that rule have been fully considered by the committee, and everybody who was interested in having savings thus treated has had an opportunity to be heard, and, so far as I know, has been heard before the committee, if he desired. When my friend, the Senator from New York, asks me if every man in the United States who is interested in this matter has been heard, I am forced to answer, probably not.

Mr. HOAR. I should like to inquire of the Senator from New Hampshire whether the view in favor of allowing savings to be computed was not presented to the committee by very able counsel, representing clients who were interested in favor of that view, both orally and by correspondence very fully?

Mr. WADLEIGH. Certainly, and fully considered by the committee, and those parties have had a full opportunity to be heard, and have been heard, so far as I know. And the committee came to the unanimous conclusion that the abuses which grew up under that rule required the adoption of a different one.

Mr. CONKLING. The Senator says five thousand copies of this bill were printed and sent broadcast. That explains to me the great number of letters which come daily to me and which have been coming for a long time, not only from patentees and inventors, but from other persons, some of whom I know to be discerning and believe to be just persons, who think that this is a mistake, an experiment which will be regretted, an injustice sure to be experienced if it becomes a law and continues.

The Senator says that having heard, not every man—of course I did not mean to ask such a question, but having heard arguments in behalf of the idea that a man whose machine saves money was entitled to some consideration at least, the committee deemed it necessary to adopt a different rule, and he leaves us to infer that they selected the rule here adopted as the appropriate one to substitute. I venture, then, to ask the Senator to state in brief,—it may have been stated before, but I have not heard it,—the argument which answers a case like this: here is a man who confessedly did invent a useful and a novel thing which you cannot use, which I cannot use, but which can be used only by those conducting special kinds of business on a large scale. They, without license or authority, appropriate it. They carry it as an increment of value and an element of cost, and advantage, into vast quantities of productions which they make and use in their own affairs, selling none of them, for there is no market except to others engaged in like business, and they for themselves respectively manufacture also. Now, when this inventor comes to complain, unless the case happens to be one in which not merely saving, not merely economy, not merely advantage has been achieved by appropriating his invention, but also profit over and above all the gross expenses involved in the business, the answer this law makes to him is, as I understand it, "We know you not; you are an inventor; you are a meritorious inventor; your invention is one exceedingly useful, but it is not applicable to general and promiscuous use; the farmer on his farm, the dairyman in his dairy, the plowman in the field, does not use this invention. If he did, you might have a remedy. It is only used by large aggregated capitalists; they use it, and they make it, and therefore there is no answer for you except that answer which Marshal Ney is said to have made on his return from Moscow when a friend, freezing in the snow, appealed to him by the memory of early friendship to do something for him, and turning his head he said, "You are one of the victims of war," and passed along.

If that be true of this section, as many of these correspondents say it is, I submit to the Senate that in a forum in which justice is sought it is worthy of inquiry, and particularly so when we are dealing with a statute which in all its sections assumes that you have only to transfer the illustration to some man who uses a stove-damper, or a door-latch, or a window-fastener, or some one of the innumerable trifles that enter into the economy of life, and he may be prosecuted, not only the vendor but the purchaser, because there in the manufacture in detail of this article and its sale there are ostensibly profits above the cost of producing it. There the inventor has his remedy after some measure (and the Senator from New Hampshire tells us it is a just measure) for the infringement.

Now, I say that to utter together these two provisions, leveling the severe provision at all the people individually who are buyers and users, and aiming the provision for impunity and immunity at the strong, the powerful, the able, the intelligent, the organized, seems to me to furnish ground for the allegation that there is a two-fold injustice: first, an injustice toward the one class whom I have described; and, second, an aggravation of that injustice because in respect to another class the provisions fail.

I did not mean, Mr. President, certainly at this moment, to say anything about this bill. I wish to vote for the bill if I can, and certainly I do not wish to fail to vote for it if it is likely, if it is very likely, plainly likely to improve the patent system; but I confess I have some hesitation about a leap in the dark, and although I have no doubt the committee has performed conscientiously and carefully its duty, I have not seen until very recently evidence of the fact that the bench or the bar of the country had been sufficiently aroused on this subject to give the aid that they could give and which I must think from communications sent to me they are now in the act of giving in this regard. It is a very old saying that everybody knows more than anybody; and the ablest committee in this body or any other, may sit and listen to attorneys representing one interest and counsel representing somebody else and come to a most conscientious and intelligent conclusion, and still in a matter so complex as this it is more than likely that when the converging rays of a great many minds are turned upon that subject new considerations and new thoughts may be suggested which it is well worth while to utilize.

Now I beg to say again that I did not rise to criticise this bill: but in reading the second section again and again and reading it by the light of complaining communications that come to me, I confess that if I sat to-morrow in my office and a client were to come and consult me about his rights under this section, as I now understand it I should be compelled to make a statement to him which would enable him to put to me a very awkward question, which he would put if he were to say, "why then did you vote for such a law as that?" So that I should be glad in voting for it, for one, to be able to justify it here and to be able to justify it when it comes to be a statute if it shall, and to operate in the cases which it is intended to cover.

Mr. WADLEIGH. Mr. President, the communications to which my friend, the Senator from New York, refers, are not of modern date. I have been receiving them by bushels, I may say, ever since this bill was introduced into Congress. They and their arguments have been fully considered before the committee, and after considering them, and after hearing these complaints by the bushel, the committee has unanimously decided that this bill should pass. I do not undertake to say that every member of this committee prefers all the provisions of this bill to any provision which he might get up or make; but what I do say is, that the committee has unanimously come to the conclusion that this bill as it stands, if it passes, will be for the interest not only of patentees, but of the public.

Now, what kind of a right is it that is taken away from these suffering patentees? And in that connection I must say that patentees or combinations owning patent-rights are sometimes as powerful as anybody else. There are in this country combinations of capitalists

who own large numbers of patents and who do business upon those patents, and they are strong enough under the law as it is now to crush any patentee at their will; and that is one thing which the committee was desirous to get rid of, and I will tell my friend the Senator from New York how and why. Take, for instance, the invention of some improvement in a loom, which is used by a manufacturing company in a factory. It may be a very small invention, but a desirable one, and it goes into general use. Looms are made embodying that invention. The manufacturers who buy these looms know nothing about the invention; they cannot know anything about it. They do not suppose they are infringing anybody's right; but they buy these looms with this little invention, which is perhaps imperceptible to anybody who is not particularly skilled in patent-rights, and who has not examined the whole subject. They put the looms into their mill and operate the improvement in their looms. Under the law as it is now, after fifteen or sixteen or seventeen years, along comes a gigantic combination or company owning numerous patents, of which this is one, and it calls upon the manufacturing company for what? For damages? Oh, no, not at all; but that it shall account for the profits it has made by that invention during that whole time. They demand an account of profits. Consequently this corporation, this mill company, this manufacturing company has to go into all its books, go over all its accounts for those years, ascertain how much profit has been made each year, and at the end of all they have a computation that may last months or years to find out how large a part of all they have made for seventeen years is due to that little thing in the loom. Of course everybody knows that no one can find it out; it is a matter of guess after all; but under the law as it is now that goes into the account of profits in many cases. Now, what I say is that if that patent is in the hands of a powerful combination, that power which they have enables them to crush their adversary. What manufacturing company would not pay almost any amount rather than be subjected to an inquisition of that kind? Who can tell what the result is to be?

Mr. President, the results of this rule have been as absurd as might be expected. Take the swedge-block cases, where it was proved that the machine was of no use whatever, because after all had been done by it that could be done, it did not produce a result that was profitable. The rails which had been operated by it were not worth enough more after the operation to pay the cost of the operation.

Mr. EDMUNDS. Why did they resort to the operation, then?

Mr. WADLEIGH. They did not know anything about the patent; that is, they did not know who were the parties who claimed it. It was claimed that they must account for the difference in cost between doing that by hand and doing it by that machine, and a decree was entered against them for $1,700,000 for what was of no value whatever. The court finally arbitrarily reduced it to $400,000, which was enormously unjust and oppressive.

Mr. DAVIS, of Illinois. The Senator is mistaken as to the swedge-block cases. This was a process, a mode of mending exfoliated rails, protected by a patent. The old manner of doing it was by hammer, and the rule adopted was how much the railroad company saved between that old mode and the mode which was invented by Turrill. That was it; nothing else. It was susceptible of positive demonstration, there was no guessing about it at all, that the company had done this; but it was too much, of course; it was too large an amount. That, however, was the rule adopted.

Mr. WADLEIGH. In that case there was no guessing. My friend, the Senator from Illinois, is right. The court said that the defendants must pay just what had been saved between the cost of doing what they had done by hammer or by hand and doing it by that machine, when the truth was that what they had done was of no benefit to them whatever. The rails might better have been left as they were; they had better have cut off the rails and thrown away the ends.

Mr. DAVIS, of Illinois. They discovered that after they had used the process of Turrill for years and would not pay him anything. Then they discovered that by a new process they could do it a great deal cheaper.

Mr. CONKLING. May I ask a question in that connection?

Mr. WADLEIGH. Certainly.

Mr. CONKLING. I understand the honorable Senator from New Hampshire to commend these provisions now because they protect manufacturers from what he calls an inquisition, and he asks what would not a manufacturing company rather pay than submit its books and accounts to be pried into. Feeling the force of that, I call attention to the section at line 36——

Mr. WADLEIGH. I did not intend to make that the main point against this system at all.

Mr. CONKLING. I was so much impressed by it myself that I thought it was a capital point in the Senator's argument. I feel the force of it very much, and I speak seriously.

Mr. WADLEIGH. The terrors of that inquisition were as nothing compared to the decrees which might follow it and compared to the amounts which might be wrung from parties for the use of inventions nearly or absolutely worthless.

Mr. CONKLING. I think the Senator disparages his own point and treats unkindly his own offspring; and I repeat it struck me with a great deal of force when he said that there were grave objections to investigating all the accounts of manufacturing corporations. Therefore I was about to bring to his attention a provision of the bill that the committee proposes and to ask him what was the view of the committee at that moment in this regard:

> No account of savings shall in any case be allowed; and no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

And I inquire whether it is more onerous for a corporation to submit to an inquiry how much it has saved in its operations than to submit to an inquisition of all its books and accounts provided the case is one in which it appears that it has made a profit? Why is it that those who have made a profit out of "the product thereof as aforesaid" should be subjected to an inquisition any more than the people who have done the same thing but realized their profit by the saving which has nourished and made profitable the other branches of their business?

I thought, if the Senator will pardon me a moment further, that one of the greatest objections to the income tax was the very thing at which he now levels his remark, the prying, snuffing inquisition to which it subjected the private affairs of persons, natural and artificial; and therefore as I said and said seriously, his remark in that respect struck me. But when I find in the bill that fish is to be made of one and flesh of another, and by no means the distinction in favor of the most meritorious persons, I am unable to see entirely why one man should be treated in one way and another man should be treated in a different way in the same bill and upon the allegation that the way in which the one man is to be treated is unfit treatment for any man.

Mr. WADLEIGH. Mr. President, if, for instance, my friend the Senator from New York, invents and patents a machine and I make that machine and sell it, it is a very easy matter to take an account to ascertain what I make upon it. The price for which I sell each machine can be ascertained as a matter of course, and it is easy to compute the cost of each machine in that manufacture. That can be easily arrived at. It does no injustice. The profit is an actual profit, if any is made; and the inquisition is no such inquisition as follows the taking of an account where the machine is simply used in a business.

Mr. CONKLING. If the Senator will pardon me, he does not understand me or I do not understand him.

Mr. WADLEIGH. Let me get through, Mr. President. Now take the other case. Suppose that instead of manufacturing that machine for sale, or manufacturing its product and selling that, I put that machine into a factory as a small part of a complicated business; I go along in that business, under the present law, for seventeen years or nearly seventeen years, and then I am called upon to render an account of profits. What is the amount of profits? All the profits that I have made in the business for seventeen years; and then it is for the court to decide how much of those profits is due to the single machine of my friend the Senator from New York.

What the committee have said is that in view of the fact of the inconvenience of taking an account of that kind, and because the expense was enormously great, so that a powerful patent combination could crush any adversary by it, and in view of the fact that it is absolutely impossible to arrive at any correct result in such a case as that, for it must be merely guess-work, as anybody can see, it is inexpedient to continue that rule, especially as decrees made under it have been exorbitant and unjust.

Now, as to savings, there is not only the objection which I have stated to a certain extent, though not to so large an extent as I have named, against the rule of allowing savings to be considered in an account as profits, but there is a further objection. My friend the Senator from New York says that it is easier to ascertain what the saving or the economy is of using a patented machine than to take this account of profits. That is undoubtedly true. But under the present law where an account of savings is taken, those savings thus ascertained are regarded as profits, and the plaintiff has a right to a decree for those profits and for the amount thus found.

What has proved to be the practical operation of this rule? Let me cite an instance. There appeared before the Committee on Patents the other day a very ingenious machine for sewing on the bottoms of shoes—for bottoming sewed shoes. I think it was shown that before the invention of that machine the cost of bottoming a pair of shoes was about forty cents; but the royalty which the proprietors of that machine exact from the parties who use it is something less than two cents a pair, I think. We will call it two cents. When that machine goes into use it immediately reduces the price of shoes, and that was proved to us. The price went down so that the cost of bottoming a pair of shoes in the selling price, where two cents royalty was paid to the owner of the patent, would not be more than about five cents. Now suppose that an innocent infringer—and, by the way, at least nine-tenths of the infringements are, I think, innocent—uses the machine. There is a controversy in many cases as to who owns the patent-right or who was the inventor. A man buys one of these machines. He uses it. He uses it for seventeen years, and then comes a patent combination which has proved that it is the owner of the patent, and requires him to account, and requires him to account under the rule of savings. Under that rule he would have to account for the difference between the cost of the old way of making, which is forty cents, and the new way, which is two cents. He would have to pay for each pair of shoes bottomed by that machine the sum of

thirty-eight cents, when he could not in any market have got more than five cents. That is the practical operation of this rule.

The case which I have given is not a real case; but the evidence before your committee shows that under this rule by which savings must be accounted for as profits, such to some extent would invariably be its operation. That is unjust, and patentees cannot afford to have a law under which such wrongs may be committed.

The danger is, Mr. President, that if the law is not amended it will be repealed, and that was one of the arguments which induced the committee of the Senate to propose to change the rule.

Mr. CONKLING. May I ask the Senator to state to the Senate a case or refer us to an authority in which any court ever held that the rule of damages would be, not the difference in fact, not the saving in fact, but the saving as it would have been if the market could have been held up as it was before, and the man could have put in his pocket the thirty-eight cents not one of which he ever did put there? Will the Senator refer us to a case in which the courts have held that that is the present rule of damages?

Mr. WADLEIGH. The courts have decided generally that under this rule of savings the difference between the cost of the old way of doing a thing and the new way by the invented machine is the profits.

Mr. CONKLING. But decided it in cases where the infringer did not sell, but where for example a railway company had been in the habit of repairing no matter what in a certain way;—there are many illustrations—adopting the new way there was a net saving of so much, and the court said that was the measure of damages? Now will the Senator refer me to a case where the courts have said in the case of a manufacturer for sale, that although in point of fact he did not save a cent, although there was no appreciable saving at all, the measure of damages would be the difference between what it used to cost him and what would have been his saving if he had been able after applying the new process to sell at what he got before? That is the case as he states it, and I want to know what court ever decided that?

Mr. WADLEIGH. No court has laid down any such specific rule as my friend the Senator from New York has suggested; but the courts have generally laid down rules covering the cases which I have named, and the operation of those rules laid down by the courts has been such as I have stated.

Mr. CONKLING. I did not state the rule. The Senator stated it. He stated, if he will pardon me, that it used to cost to bottom a pair of sewed shoes forty cents; that a man made an invention which after deducting the two cents royalty cheapened the bottoming of those shoes thirty-three cents; but the man did not sell the shoes for any more than he did before. The market price immediately graduated itself accordingly. Having stated these as his premises, the Senator stated that under the present rule of law the courts would say that the measure of damages was the difference between nothing and forty cents a pair, less the royalty and the actual remaining cost at three additional cents, five cents in all. Now, if there is any such case as that, I should like to know what court ever so decided.

Mr. WADLEIGH. The Supreme Court of the United States decided in the case of Mowry *vs.* Whitney that the difference between the cost of the old method and the cost of the new was the profits in that case.

Mr. CONKLING. In the case of a vendor, in the case of a man manufacturing for sale or selling, or in the case of a railway company repairing its track?

Mr. WADLEIGH. There was no railway company in the case.

Mr. CONKLING. No, in that case; but I put it for the sake of the distinction.

Mr. WADLEIGH. Inasmuch as there was no railway company in the case, it is a little unfair to ask me what the court would have done if there had been one in it.

Mr. CONKLING. I do not ask that.

Mr. WADLEIGH. Let me state another case. A machine was invented for splitting wood, and the defendant used that machine for splitting wood. It was proved that he made no profits whatever. It was proved that the use of that machine lowered the price of wood per cord so that although the use of the machine saved some forty cents a cord in the wood, yet that the market price of the wood prepared by the machine did not begin to cover the forty cents. The court held in that case—the case of Mevs *vs.* Conover, I think—that the profits were the difference between the cost of splitting wood by hand and the cost of splitting it by that machine, and a very large decree was entered against the defendant although he had made nothing at all.

Mr. CONKLING. Mr. President, some moments ago the Senator from New Hampshire commented, if I understood him, upon the ease with which segregated savings could be determined in one case and the difficulty or impossibility of finding them out in another. He said that if a man manufactured a machine for sale it was easy to determine the saving to him if he made profit by doing so, while if he manufactured the same machine and used it in his business it was likely to be guess-work to determine the advantage there. I should like to state two or three familiar cases to the Senator, and see what he would do with them, because I think he fitted his case to his theory and not his theory to the practical case.

Here is a man, for example, manufacturing wagons. If one will go into the neighborhood of Newark, New Jersey, he will find a fruitful field of illustration. Here are men making wagons and selling them, not in parts, but a wagon as an entirety. The simplest wagon one makes involves the use of a number, I might almost say a great number, of patented inventions. There are patents on the skein, there are patents on the threads of the screws which he may use; there are patents on the process by which a deposition of one metal upon another takes place so as to make plate or electrotyping; in short from the top of the wagon to the tire which rests on the ground nearly every incident has been the invention of somebody, and, unless the patent has died, is covered by a patent. That is a very familiar case moderately stated. It is a case the like of which occurs in every center of industry this country owns. Some man wakes up calling himself a patentee; he is sixteen years old and he has a patent in respect of the shape of a bolt or in respect of one of the links of the elliptic springs which are placed under this wagon. Now, will the Senator from New Hampshire tell me that the mode of ascertaining and segregating the profit derived from the use of that little thing, as he said in his other case, is easier or simpler than the mode of ascertaining the saving from the use of that same article by a man who used it in his business, instead of putting it on a great variety of other things and offering the whole for sale?

Mr. WADLEIGH. If my friend the Senator from New York desires an answer now, I will say that in the case he names I think it would be exceedingly difficult to ascertain what share of the defendant's profits were due to the plaintiff's invention; but great as would be that difficulty, it would be nothing as compared with the difficulty of deciding what proportion of the profits of the defendant were in a large and extensive business in which he used that wagon and what proportion of the profits of that whole business in which he used the wagon was due to the particular thing that my friend the Senator from New York speaks of. There is a vast difference between the two. Great as the difficulty is in the one case, it is nothing compared to the difficulty in the other.

Mr. President, the Committee on Patents found the law as it stands requiring an account to be taken in both these cases. They did not go so far as my friend the Senator from New York suggests, not so far as they might have gone, not so far as some of the committee wished they should go, if I may properly say so, but they did abolish the rule as to the most difficult and the least satisfactory class of cases. I am aware that what remains of the rule in this bill will be exceedingly difficult in many cases to carry out; but, as I said, the difficulty in those cases of carrying out this rule is as nothing compared to the difficulty of deciding in an extensive business in which that wagon might be used the particular proportion and share of the profits of that whole business due to that little thing in the wagon.

Mr. CONKLING. Nobody can doubt, Mr. President, who has listened to the Senator from New Hampshire, that he says that, in his own language: that he has said it; and we have every reason to believe that he will continue to say it. I was seeking for reasons. Logicians sometimes speak of a *petitio principii;* they sometimes call assertion "begging the question;" and whether the Senator is right about this or not, perhaps we shall see more clearly when we look further into it.

Now let me state another case that I was in the act of stating when the Senator made his last remarks. Here is a manufacturer of steam-engines, locomotives for railway companies. Probably somebody knows the number of patents or patented articles employed in constructing a locomotive-engine; I do not; but the number is very great.

Mr. WADLEIGH. Very large.

Mr. CONKLING. Very large indeed. Now it is quite familiar to all of us (and a good many States whose Senators I see here are fields in which illustrations can be found) that concerns are engaged in constructing locomotive-engines; they make a great number of them, and every one of them represents a large sum of money, so that every concern engaged in producing locomotive-engines in considerable quantities has a great total of annual business, and their accounts of course are very diversified and perhaps in some cases complicated. Here comes a man with a patent which relates to something or other to be used on a Yankee bonnet to catch sparks on an engine. It is one small thing, smaller than the bit of watch-spring which goes somewhere into an article of dress, a hat, or a cravat, or whatever it may be; it is almost infinitesimal in its bulk or importance when compared with this great iron horse in making which it is used. Now the Senator asserts that it is comparatively easy to ransack the accounts of this locomotive-engine company, to go through all of them, to add and subtract and divide and analyze and find out what proportion of the profits of this great concern comes from the use of a particular mode of bending a wire or securing an angle in a Yankee bonnet used on the spark-arrester of a locomotive-engine. I deny it, and I should be willing to rest my denial upon the uninstructed intelligence of any man. It is not so; it cannot be so. On the contrary it would be much easier for an uninstructed man to calculate an eclipse than it would be to take such accounts as I am speaking of, and from them deduce the aliquot part, segregated from all this wilderness of items and of elements, referable to the use of this one little trifling thing. And yet the bill provides in substance, changing the language from negative to affirmative, that accounts and evidence of profits may be gone into in respect of all persons who make profits and who are engaged in making for sale or selling "the thing patented or the product thereof as aforesaid." What those words "the product thereof as aforesaid" are intended to mean, I should like to ask the Senator

from New Hampshire. "Or the product thereof as aforesaid"—does that mean the article produced by the use of the machine?

Mr. WADLEIGH. Of course.

Mr. CONKLING. The Senator says "of course." Then I have made a very inadequate statement of my objection; then I have fallen short, as I think, entirely in stating the whole of the objection to this. Now we are told that, notwithstanding the objection, notwithstanding the impossibilities (for they amount to those) stated by the Senator from New Hampshire, we are to enact that in the case of all persons whatever engaged in any business, no matter how complicated and extensive, an account may be required and evidence may search and analyze their accounts for all purposes whatever known to the law now, if they have made profits and if they manufacture machines for sale, in respect of all the outcome, all the facts of every name and nature of the use of any patented article in the production of anything whatever. If that is the design of it, I venture to say with more confidence than that with which I began, that, instead of abolishing the rule in the more offensive and less meritorious cases and preserving only so much of it as the committee thought, or as the Senate might think, was comparatively harmless, we are perpetuating and reasserting a part of the rule which has in it every element of vice to be found in the rule as it now stands, and which applies it arbitrarily in instances no more meritorious, no more compassable, no more easy of judicial ascertainment as distinguished from guesswork than the other cases to be excluded by this section. I venture to say that, after learning the meaning attributed to these words, which I was at first in doubt about, and to say it with considerable confidence that I am not mistaken about it.

Let me put the third case I was going to put. I take now the instance of men not engaged in making railway-carriages for sale, (as many concerns are whose names I might mention,) but the instance of railway companies which manufacture their own carriages, if they are only rubble cars, or platform cars, or burden cars of some sort. Here is a man who has a patent for the manufacture of axles in such a way as to avoid the possibility of a sand-crack in the iron; and I take that particular case because of a very leading instance to which the railroad between Albany and Boston was a party, the case of Hagerman *vs.* The Great Western Railway Company, where a man sued for an injury that befell him, which injury grew out, as it seemed, of a sand-crack in an iron axle, which the experts said there was no mode of detecting, no mode known to science in which the buyer could find it out. The court of last resort in my own State said "that is no answer to this action; there is a process in its manufacture by which it can be prevented, whether there be a process that will discover it afterward or not; and a common carrier of passengers, acting at his peril, if need be, must himself manufacture the apparatus with which he engages in this dangerous business; he must himself see to it that he applies all the precautions; but there is a mode of making iron axles by which sand-cracks will not occur." That railway company, admonished by the court, manufactures its own iron axles, and manufactures them by a process patented, not because it is a machine, but because it is a chemical process patentable by law. This company resorts to that process, and it makes axles all of which are good and stanch and reliable; and it is sued. Will it be said even in that case—and I have taken it because it is a much more difficult one and much more open to objection than many another I might have put—will it be said in that case that it is not as easy to ascertain the savings to the railway company from the use of this process as it would be had that railway company been the manufacturers of cars for sale, and used this mode of making the axles which it put in its cars and sold the whole as an entirety like the wagon with which I began as an illustration? And if that is to be said, why will it be said, and how can it be proved by reason? I do not know. I cannot see after hearing the Senator. On the contrary, it seems to me that if a man were to invent a process by which one of the eight or nine tenths of the fuel which now goes utterly to waste in the use of the steam-engine might be saved, the man who adopts that process and runs his engine with it in his own business is one as to whom you could ascertain and weigh in golden scales the advantage to him just as well as in the case of his next-door neighbor who adopts the same adjustment or apparatus for his engine and sells it to somebody else. If not, why not?

Mr. President, I incline to think that the argument against giving evidence of savings—I do not speak of an account in the technical sense—and looking at the books of defendants for that purpose, proves too much for this section. If it be sound as stated, then I say that I see little excuse and no justification for the provisions here made. If the argument is unsound or if it may be answered, then I do not see why it is not answerable as well in respect of one defendant as another, and I do not see why this section as it stands does not make, more than I supposed in the beginning, arbitrary and therefore unjust discriminations between different persons.

Mr. HOAR. Mr. President, I suppose in dealing with any rule of damages in patent causes, whether the rule is to be declared from the bench or enacted in legislation, it is easy to state in the vast multitude of contrivances which are the subject of patents cases in which the rule would work injustice, cases in which another rule would be more just; but all that can be done, whether by the courts or by legislation, is to provide a simple, practical, general rule which will work justice, according to the experience of men, in a majority of cases. Now, undoubtedly, a Senator may take an hour, as an hour has been taken, a Senator may take a day, a Senator may take a week, and he would not have exhausted the list of supposable cases in which it is more difficult to take an account of the profits than it is to take an account of the savings in other supposable cases. But still the fact remains that the section as reported by the committee excludes accounts in cases in which as a rule they are more burdensome to parties and less likely to contribute to doing practical justice in the cause, and admits accounts in the class of cases in which as a rule they are more likely to do practical justice in the cause, and less (according to the experience of persons conversant in such trials) likely to be instruments of injustice and oppression.

Now what is the rule as the committee have left it? The Senate will remember that the rule of law permitting the account of the saving to the particular individual by reason of the trespass upon the patent-right of a patentee is a departure from the general practice adopted in damages in all other cases, and the admitting evidence of the price for which the thing sold on the other hand is precisely in correspondence with the rule of damages in all other cases where the common law prevails as a system. Suppose a person by force and without right takes possession of my dwelling house, or my mill, and maintains against me the occupation of that dwelling-house or of that mill for a considerable period of time. The injury to me by the deprivation of the use of my property, the jury get at as well as they can upon the evidence; but the special fact whether the man saved in his business by having the occupation of that property so tortiously gotten into his possession is a fact which would be excluded from the consideration of the jury, and in regard to which evidence would not be admitted. The answer would be, "it is the remote, and not the proximate result; it is a result which might have happened, or might not;" and therefore, as I said, the old rule which admits an account or evidence of savings in any case in patent causes is an exception to the almost universal rule of damages applied in all other cases by the tribunals of this country.

Mr. EDMUNDS. Does the Senator (if I do not interrupt him) remember any instance in which any statute of the United States or of any State has regulated a rule of damages in an action at law?

Mr. HOAR. That is another proposition altogether. It is not a question, I submit respectfully to the Senator from Vermont, pertinent to the particular point with which I am now dealing.

Mr. EDMUNDS. I thought it was, or I would not have asked it. Probably I am mistaken.

Mr. HOAR. I do not mean that it is not pertinent to the general question we are discussing, but I am dealing now with the question of the wisdom of this rule, not with the question what the reason is for enacting a rule of damages by statute.

In the next place, in regard to the sale of the thing, the profit for which the party has sold it, that is the regular, and ordinary, and usual test of damage. A man is deprived of a horse, or his dwelling-house is tortiously burned up, or any other property is destroyed; its market value is one, and ordinarily the true, test of the damage, and the market value ascertained by a sale of the very thing in dispute is of course evidence admissible. The committee therefore restore the rule of damages in patent causes as nearly as may be to an analogy with that rule which the universal sense of justice, where justice is administered according to the forms of the common law, has established in all similar cases.

The Senate will observe in the cases which have been put by the Senator from New York and the Senator from Ohio, how ample and extensive the remedy is left. In the first place the remedy by injunction remains untouched, so that whatever expenditure may have been made by the infringer in his business, however inconvenient the abandonment of a manufacture or a use being an infringement may be to the defendant, the inexorable injunction comes down and protects the plaintiff absolutely for the future; the statute only deals with damages for the past. It leaves open in the first place where the owner of the patent is himself using it, making it profitable to himself as an article, the use of which is to be licensed, and in that case the license fee which he has established by a number of transactions is the measure of damages. Nobody, I suppose, will question the justice of that, so that if he has held it open to mankind and has established his price, that price which the defendant shall pay, with the addition of a special award to be made by the court in a case of willful infringement, is to be the remedy. In the case supposed by the Senator from Michigan, and I think by the Senator from New York, where the owner of the patent does not propose to open it to public use but proposes to avail himself of his constitutional property by a use made by himself, there a license fee not having been established, the reasonable compensation or license fee for the use is to be determined by all competent evidence an abundant and ample compensation in such cases. If the use by the infringement would be a destruction of the purpose to which the owner of the patent had applied it by the destruction of his business, then of course the jury in determining what it would have been reasonable for him to impose as a condition to that use would have regard to that important circumstance.

It seems to me, therefore, Mr. President, that as the practical and general rule, the rule of damages which the committee have reported in the bill is the sound and correct one.

And now I propose to answer the question put by my honorable

friend, the Senator from Vermont, whether it has ever been known that the rule of damages has been established by legislation. There are very many instances in our legislation where legislatures and parliaments have been compelled to interfere to alter the rule of law established by the courts in regard to this matter of damages. The matter of highway damages is a familiar instance in the New England States. We have from time immemorial had special statutes on that subject on our statute-book and have made a new one within the last twelve months in Massachusetts.

Mr. EDMUNDS. If my honorable friend thinks that the case of what he calls highway damages meets the inquiry I made to him, I respectfully submit that I think he did not understand it. I inquired whether he knew of any statute which undertook to regulate the rule of damages in an action at law between man and man for property. I suppose what he means by "highway damages," as that seems to be a general New England system, is where property is appropriated for the public use under the power of eminent domain.

Mr. HOAR. No, I speak of injuries to travelers—damages sustained by travelers.

Mr. EDMUNDS. That they shall not get over $5,000 damages?

Mr. HOAR. Or may have double damages in certain cases.

Mr. EDMUNDS. That does not regulate the principle on which damages are to be assessed. It only says there shall be a maximum limit.

Mr. HOAR. It seems to be a pretty sharp limitation on the principle on which they were to be assessed.

Mr. EDMUNDS. Not on the principle, but on the degree of its application.

Mr. HOAR. But, Mr. President, the whole patent law is the creature, the property in the incorporeal and intangible thing called an invention or discovery is itself the creature of that paramount act of legislation, the Constitution of the United States. The whole law is entirely not the result of common-law principles, but the result of special statute enactment at every step—both law and the remedy. Now, it is found by a complaint coming from the great agricultural interest of the country, coming from the great railroad interest of the country, coming from the great manufacturing interest of the country, that the power which the patent law puts in the hands of complainants who desire to oppress innocent defendants, and of defendants who desire to resist meritorious honest complainants requires of them the abandonment of their legal rights or the incurring of the expense of costly, protracted, burdensome investigations, lasting often years and years—there was one case referred to before the Patent Committee which had lasted some twelve or fifteen years if I mistake not—into the details of vast businesses and great occupations. I say the complaint came that that was a grievance which rather than to further endure, these great interests were prepared, if necessary, to sacrifice the entire patent system itself; and the committee found and believed that that complaint from those great classes of our citizens endangered the entire patent system, and that to endanger the patent system of the country was to endanger its manufacturing supremacy and its place in the ranks of civilization among the nations of the earth. The committee under these circumstances adopted the best practical method of remedying this grievance that they could devise. They left the right to the account of profits open in the cases whereas as a rule they believed that account of profits could be made practicable cheaply and was required by the justice of the cause. They destroyed the right to the account of savings in cases where as a rule they believed that to leave it open would be burdensome, costly, tend to enormous delays, and would be to overthrow as a rule and as a general practice the administration of justice between the parties in such causes.

Now, the committee believe, in spite of the thousand ingenious cases which may be put of exceptions, that to require in a simple litigation in regard to some slight patented article an account of the vast business and an inspection of the vast books of the person who may use that article in one of his processes, as a general rule is unjust and unwise, and that on the other hand to leave open to parties the right to require an account of the profits for which the thing has actually been sold which the infringer has purloined from the owner, is wise, reasonable, and just; and although you can undoubtedly put cases where the latter may be more burdensome than the former, yet as a general rule it will not be the case.

Mr. WADLEIGH. Mr. President, I do not desire to delay action upon this bill, because if it is to pass, action must be had upon it soon, and I shall add but a single remark to what has been said by my friend, the Senator from Massachusetts.

The Senator from New York in his last remarks took it for granted that this bill abolished all evidence of what savings could be effected by a patented invention, as I understood him. That the committee did not understand to be the case. The bill provides:

> That nothing herein contained shall exclude other evidence as to the utility and advantage of the invention as one element to aid in determining a license fee where none has been established.

What is "the utility and advantage" of an invention if it be not the saving that that invention will effect in the business or manufacture in which it is used? Your committee believe that under that provision of this bill evidence can be admitted showing what saving the invention will effect, and that is all the provision there need be upon that subject.

Then we are told that the committee made this and the committee made that provision. Mr. President, those provisions exist in the present practice of the court. The committee makes nothing. It abolishes a certain rule to a certain extent where the committee believed that rule has been most unsatisfactory and most unjust in its operation. It does not wholly abolish it. And the committee do not make that portion of the rule which they leave unmolested. The committee believe that far as this bill goes it is an improvement upon the present law, and that if passed, as my friend the Senator from Massachusetts has stated, it will benefit not only the public but patentees as well.

Mr. CONKLING. Mr. President, whatever errors we may fall into we shall be inexcusable if we do not avoid any mistake upon this bill while there is yet a misunderstanding of the meaning. The Senator from New Hampshire thinks such a misunderstanding is mine; and to ascertain how that is, I want to submit an actual case to him and get him to tell me, if he will, what becomes of it under this bill. I will take now the instance of an iron concern whose business it is to carry on puddling. That concern is losing a hundred dollars a day. I wish the case I am putting were an imaginary one; but it is not. An invention is made for puddling iron, and the concern supposed adopts that invention, and it is so valuable that, instead of carrying on business at a loss of one hundred dollars a day as before, they save ninety dollars and the loss per day is only ten dollars. Will the Senator from New Hampshire tell me would the inventor in that case be able to recover or not, and, if he would be able to recover, under which one of the clauses of this proposed statute?

Mr. WADLEIGH. In the case supposed by my friend, the Senator from New York, evidence could be presented showing what advantage the patented invention had been, the effects that it had produced, the saving that it had made——

Mr. DAVIS, of Illinois. I do not understand that.

Mr. CONKLING. Nor do I either.

Mr. WADLEIGH. I ask that I shall not be interrupted by my friend, the Senator from Illinois.

I say so because in that case what the invention can do in the way of savings is "the utility and advantage of the invention." Now what cannot be done, what this bill prevents from being done, is going into an account of all the business in which that invention has been used to ascertain in the first place what the profits of that invention have been, and then what proportion of the profits is due to the invention, or compelling the defendant in such a case to account for savings as profits when these savings in no case would be his profits, but almost always, from the natural operation of the laws of trade, would be very many times greater than those profits.

Mr. CONKLING. Before the Senator from New Hampshire sits down, will he be good enough to look at some of the lines of this section between line 1 and line 15, and tell me whether he means to leave standing what he has now said, in spite of the provisions there found?

Mr. WADLEIGH. What is the particular point?

Mr. CONKLING. I call the Senator's attention especially to line 10, beginning with the word "except." Certainly his understanding is so unlike mine about a matter which seems to me pretty plain that one of us must have read this very carelessly.

Mr. WADLEIGH. I answered the question of the Senator from New York so far as it relates to evidence of savings being admitted in the case to which he referred that it can be admitted. No account of savings can be required, but they may be proved in certain cases to establish what the damages of the plaintiff are, what the advantage derived from the use of that invention is, what the invention will do in the way of saving.

Now, in answer to the question of my friend the Senator from New York just put, it is true that this bill abolishes all accounts for profits where no profits have been made——

Mr. CONKLING. Does the Senator mean what he says now?

Mr. WADLEIGH. Where no actual profits have been made.

Mr. CONKLING. That it abolishes all recoveries for profits where no profits have been made?

Mr. WADLEIGH. No; all accounts for profits. That is, the account for profits in all other cases is based upon actual profits which the defendant has received. A rule has been adopted in patent causes which compels a defendant to account for profits where he has made none, and to account for profits where there have been simply savings, although he has made a loss in his business and no profit at all. Now, the view of the committee was, that where there had been no profits at all, nobody ought to be required to account for profits which were simply imaginary; that in all such cases the plaintiff should show what injury he had suffered from the use of his invention; that he should not compel the defendant to pay profits when there had been none, but that in all such cases he should show by evidence the utility and advantage of his invention, and by all other competent and material evidence just what he was entitled to.

Mr. DAVIS, of Illinois. Now, Mr. President, I will say a word, as the Senator from Ohio [Mr. MATTHEWS] does not seem to be in his seat. I certainly did not wish to be offensive to the Senator from New Hampshire in rising at the time that I did. I thought he supposed I was offensive to him.

Mr. WADLEIGH. I did not think of such a thing.

Mr. DAVIS, of Illinois. I did not mean to be so at all. I simply

meant to state that that was not the understanding I had of the section, nor is it the understanding of very many abler men than myself.

Mr. HOAR. There are not many abler.

Mr DAVIS, of Illinois. I consider that there are. It seems to me that clearly this section proposes to do two things: to abolish all account of profits in a chancery suit, unless profits have been made. Now, the case cited by the Senator from New York when he last sat down——

Mr. WADLEIGH. That is the intention of the committee.

Mr. DAVIS, of Illinois. I will go on a little while. I know that we say this man who is engaged in the manufacture of iron and is losing $100 a day gets hold of a patent invented by somebody and uses it and loses $10 a day; and is not that man richer in consequence of using that invention, and should he not pay for it? Is not that the true measure? It is the net advantage to that man which he has in the business.

Mr. CHRISTIANCY. I ask the Senator from Illinois whether it is fair to presume that a man who is losing $100 a day will constantly keep on in any business?

Mr. DAVIS, of Illinois. Yes, sir; many manufacturers who are losing that amount do it to keep their hands together. They do it to keep in such a position that when better times come they can manufacture at a profit. That is the answer to that question.

This bill proposes that there shall be no account of savings, that is, there shall be no account of profits where no profits have been made. It cuts off savings entirely. The Senator from New Hampshire thinks that the proviso, which I shall read, allows the court to receive an account of savings. Why not put it in plainly?

Provided, That nothing herein contained shall exclude other evidence as to the utility and advantage of the invention as one element to aid in determining a license fee where none has been established.

The Senator from Ohio wants evidence touching the subject of profits and savings to be considered by the court in determining what is the proper license fee to be established in that case. You cannot establish a license fee in all cases alike. It depends upon the utility of the invention, the magnitude of it. It is very small in some cases, and very large in others.

Mr. WADLEIGH. Will my friend, the Senator from Illinois, let me state right here my answer to that?

Mr. DAVIS, of Illinois. Oh, yes.

Mr. WADLEIGH. I believe that the bill abolishes the technical account for savings, and in the case which the Senator supposes the court would not decree that an account should be taken showing the savings which the defendant had made in his particular business, going over his books and all his business affairs, ascertaining the whole amount of his savings and then deciding how much was due to this particular machine, and thereby ascertaining the savings which the invention had effected. But what does it authorize? It authorizes the plaintiff, by any evidence he may see fit, except by an account going over all the business matters of the defendant or going over his savings, to prove the saving his machine will effect, what is its utility and its advantages; and that can be done without any taking of a technical account at all.

Mr. DAVIS, of Illinois. When you say that the court shall not allow a patentee to take an account of profits you cut him off from everything in the world that is available to him. When you say that the advantage to the infringer of the patent cannot be estimated inside of the profit you take it away entirely. The Senator says it is a great hardship to have the books of a manufacturer opened up for investigation. You have that done when you allow an account for profits. You are to investigate for years and years to ascertain whether there have been any profits or not, when it is very difficult to prove that; but it is very easy to prove that this man has been advantaged $100 a day or $500 a day by the use of a particular machine.

Then, again, Mr. President, if all account of profits is to be disallowed unless profits are actually made by the infringer, why confine this case to the thing actually patented or the product thereof? As I said the other day, this excludes a large class of cases where service is performed. It excludes a spoke in a wagon-wheel if it has been patented; it excludes machinery in a mine; it excludes machinery by which houses are built; it excludes the brake by which a railroad train is run, and a thousand other things of that kind. Where service is performed it certainly should be put on the same footing as "the thing patented or the product thereof." I simply rose because the Senator from Ohio [Mr. MATTHEWS] was not in his seat at the time.

Mr. CONKLING. While the Senator from Ohio is rising, I ask him to allow me to get a piece of information. The Senator from New Hampshire—and I was about to reply to that, but I was very glad that the Senator from Illinois proceeded—called attention to these words:

Provided, That nothing herein contained shall exclude other evidence as to the utility and advantage of the invention as one element—

I ask the Senate to observe this—

to aid in determining a license fee where none has been established.

Not to aid in determining the damages; not to aid in informing the court or jury how much the one man is entitled to recover of the other on the question of profits or savings; but simply to make an adjustment, to fix a standard of the royalty which the one man should pay to the other for the use of his invention. I ask the Senator from New Hampshire to tell me whether this bill, should it become a law, is at that point to speak both backwards and forwards, or whether it is to speak only of the future; in other words, in a given case, when this license fee has been established, whether the decree is to be one under which this license fee would be paid as of a past time, running from the beginning of the patent down to the date of the decree, or whether it is to be a license fee fixed as the rate at which for the future the infringer is to pay?

Mr. DAVIS, of Illinois. The past use, of course.

Mr. CONKLING. I want to see as to that, because I am informed by one member of the committee that it is not "of course;" that the reverse is the meaning. Will the Senator from New Hampshire be good enough to tell me which of these two meanings the committee does ascribe to this language?

Mr. WADLEIGH. What copy of the bill has the Senator?

Mr. CONKLING. The words are on page 5, at line 40, and so on. It is the proviso that the Senator read; and I want to know whether after a man succeeds in establishing by this proof what the license fee should be he is to be entitled to recover for the past infringement at that rate, or whether it is a license fee to be established for future proceeding.

Mr. WADLEIGH. The copy of the bill which the Senator from New York has in his hands is not the copy I have; and consequently——

Mr. CONKLING. But I have called the Senator's attention to the proviso which he read in the Senate, which is in all the copies of the bill, and which I will read to him again, as he read it to me:

Provided, That nothing herein contained shall exclude other evidence as to the utility and advantage of the invention as one element to aid in determining a license fee where none has been established.

My question is whether it is the intention that that determination shall be one under which for the future the infringer is to pay, or whether the meaning is that the complainant may recover for all the past time this license fee per annum?

Mr. WADLEIGH. The chairman of the Committee on Patents [Mr. BOOTH] has in his hands a similar copy of the bill that the Senator from New York has.

Mr. CONKLING. I did not hear the Senator from New Hampshire.

Mr. WADLEIGH. That part of the bill which answers the question of the Senator from New York is found from the twenty-fourth to the twenty-ninth line of section 2, and it is as follows:

If a license fee has not already been established by a reasonable number of transactions applicable to the case at bar, a license fee for the use actually made shall be determined from all the evidence in the case.

If that language is not plain, I do not know what is plain language.

Mr. CONKLING. Will the Senator be kind enough to those who like me have difficulty about the clause, to tell me whether the language I have read to him means that the license fee is to be established for the future, or whether it means from the beginning of the patent a recovery is to be had for the amount of this license fee for each elapsed year?

Mr. WADLEIGH. If the license fee is to be "for the use actually made," the Senator from New York can answer the question as well as I can. I apprehend that no use of the patent could have been made in the future, and consequently the license fee would not cover its future use.

Mr. CONKLING. If the Senator from New Hampshire, who is managing this bill, is content with that answer and that statement, I am; and if it benefits the prospects of the bill I think it benefits them in the estimation of those who have not listened to his statement.

Mr. WADLEIGH. The establishment of a license fee by a patentee is undoubtedly in one case evidence of what he should receive in other cases. The establishment of a license fee in one case may be some evidence in another case to show what the patentee should receive. But as I understand the language of the bill it applies to the use actually made; it does not apply to any use that may hereafter be made.

Mr. HOAR. The whole section is a section in regard to a measure of damages for past transactions. There is nothing else in it.

Mr. CHRISTIANCY. I wish to refer to the subject of savings, which was alluded to by the Senator from Illinois [Mr. DAVIS] and illustrated by him as he seemed to think in a way which showed the soundness of the doctrine of allowing savings as profits. The instance which he cited was that of a man engaged in business losing a hundred dollars a day without using the invention and losing only $10 a day with the invention. I then put the question whether it was to be presumed that such a man would continue to do business at a loss of a hundred dollars a day. The reply was that there were many instances in which he would do so, looking to future operations. Now I wish to put the question in a little different form; but I will not call on the Senator to answer it at this instant. Here is a man losing a hundred dollars a day, and under certain circumstances he loses but $10. Is it to be presumed that when the man is losing the $100 a day he would be likely to continue to do business at that losing rate as long as the man who was losing only $10 a day, in looking to future operations?

Let me put one other question. Ought not a man who is doing a losing business to be at liberty to stop that business whenever he

pleases? If so, then the rules of equity established at present by the Federal courts are wrong. Why? Because they go upon the assumption that such a man would continue through all time, so far as that is concerned, to do business at that particular losing rate, and they give him no chance to stop. That is illustrated in a number of cases which I cited here the other day, and to which I will not now refer. Therefore the idea of accounting for savings as profits rests entirely upon assuming as true what we know is not true.

I did not rise mainly for the purpose of replying to that portion of the argument. I wish to say here once for all that I look upon the rights of a patentee as sacred as the rights of any other man; that I look upon the property of a patent as sacred as property of any other kind; but no more sacred. Such property is entitled to the same protection but to no greater protection. What should be the rule where any man has been injured? What is the rule of justice and equity? It is that the person injured shall recover a fair and just and adequate compensation, and no more. The rule which is complained of is a fiction of equity which holds the infringer of a patent in all cases as a trustee. It is a pure fiction of law in all cases except where the amount of profits would tend to fix a just compensation; but where the amount of profits has no relation whatever to what would be a just compensation, then it ought not to be taken as the measure of recovery, because in that case the rule always must produce injustice.

The argument made by the Senator from New York in illustrating the difficulties and I will say the absurdities of carrying out this fiction of law in accounting for profits where a patent has been given for one little item in a machine, is one of the strongest arguments in my opinion that could be made against the justice and propriety of keeping up this mere fiction of law where it can result in nothing but injustice, where the profits do not even tend to show what is a just compensation. There is just the one class of cases which I mentioned where the profits do tend to show, and where they do measure, a just compensation, and that is where the patentee has chosen to retain the entire monopoly of his invention and to manufacture and supply the market himself. Then when an infringer comes in and manufactures, the profits ought to be allowed, because but for that infringement the patentee would have made that amount, or at least he was prevented from making it. But that is not the case with one patent in a hundred. The objection which the Senator from New York makes to the bill is not so strong when made to the bill as it is when made to the entire system as it now stands. The very difficulties, the very absurdities, which he has illustrated here are those existing in the present course of adjudication in the law as it now stands; and the bill is objected to because it does not cure the law.

Mr. CONKLING. If the Senator will pardon me, the bill is objectionable for another reason.

Mr. CHRISTIANCY. There may be other reasons.

Mr. CONKLING. If the Senator will pardon me, there is something beyond that. The bill is objectionable because the distinction the Senator now points out is made, and made not in favor of the innocent, the defenseless, the people who need protection, but made in favor of exactly those persons who do not need it. It is an exemption of aggregated capital, of powerful combinations, of intelligent persons from a rule of law which in the same bill we propose to visit upon the ignorant, the weak, and those who accidentally become subject to it.

Mr. CHRISTIANCY. I do not so understand it.

Mr. CONKLING. I do.

Mr. CHRISTIANCY. In the first place the bill does exempt from this rule of profits all mere users of a machine, where the user, that is, the innocent owner, does not make or sell the machine or its product. The manufacturer is the one who does it willfully, if anybody does, and those who manufacture with a machine and sell its products are the parties who ought to be bound, for before they do that they inquire more than the man who simply purchases a mowing-machine or a reaper or anything of that kind. I think the bill is just, as far as it goes, but I do not think it goes far enough. I think it should not allow an account of profits to be taken in any case except in the single class of cases where the patentee retains the entire monopoly of the patent and refuses to make sale of his license.

Mr. MATTHEWS. I apologized yesterday, Mr. President, for assuming to criticise the work of the Committee on Patents, because I was perfectly aware of what the committee itself has since advised us in open Senate, that it had bestowed unusual care and reflection and consideration upon the questions involved in this section of the bill in reference to the establishment of the rule and measure of damages which should apply in all suits, both at law and in equity, for the recovery of damages for the infringement of patent-rights. But I am certainly not mistaken, as the debate which has sprung up to-day proves, as to the importance of viewing critically every legislative attempt to introduce a new rule of decision in cases to be submitted to the arbitrament of judicial tribunals. I doubt whether in the history of legislative improvement, from the time of the statute of frauds to the present, any statute seeking to do that has not introduced more new questions difficult of solution than it has settled old ones, the evils of which were hard to be borne. I venture to make the prediction here that if this bill becomes a law it will give rise to more, and more expensive, litigation than it will compose strifes which have arisen under the existing rules. It is with a view of simplifying its provisions and removing ambiguities that I have moved the amendment which is now pending; and as the vote is to be taken upon it, I desire to call the attention of Senators to the precise effect of the section as it stands compared with what will be the effect in case the proposed amendment should be adopted.

Let me, in the first place, say a word in passing in reply to the Senator from Vermont, [Mr. EDMUNDS,] who seemed to think that in contrast with the provisions of the bill as they now stand, the adoption of the amendment would sweep away the exclusive right which by the Constitution of the United States is guaranteed to inventors. That is a misconception, for the reason that the actual enjoyment of the exclusive right does not depend upon the application of any rule of damages. It depends upon the proper, prompt, and effective administration of equity jurisprudence in wielding the power of the injunction. It is that writ of prohibition which secures by its possession the owner of such a right in the enjoyment of all its privileges; and that is not disturbed either by the bill in its present form or in the form which it will assume in case the amendment proposed shall be adopted.

Mr. EDMUNDS. Yes, Mr. President, if the Senator will pardon me, but he seems to leave out of view, when he speaks of the redress by injunction, what I suppose he will agree is a well-established principle of equity jurisprudence, that if the answer of the defendant in an infringement case totally denies the equity of the bill, by denying that the thing complained of is an infringement of an acknowledged patent, or denying the validity of the patent itself, it having not before been established in some court, then a preliminary injunction cannot go, and the patentee must wait until the end of a long litigation before he can get his injunction at all. Then, the Senator says, when you come to that, he shall not have any exclusive right at all, but all this man shall be obliged to account for is exactly what, if the patentee had been willing to hire him out the right, would have been a fair price.

Mr. MATTHEWS. To be sure the case exists, because there is a period during which there would be an unauthorized and illegal usurpation and use of the exclusive right; and in that case, as in all other cases, there would be an award by the proper process of an equity court of damages by way of compensation which the complainant has in the mean time suffered, as ascertained by the final decree.

Mr. EDMUNDS. Yes, but you say that the damages shall only be a license fee.

Mr. MATTHEWS. I say the damages shall be the market price of the property used, the market value, that which anybody in the market would give; and that is all that can be given appropriately under the name of damages, except in those cases where the infringement has been willful, as to which special provision is made for an extra allowance to cover the costs and expenses of asserting, maintaining, and defending the right.

Let us see what the propositions contained in the bill, as reported, are. They are, first, that very thing of which the Senator from Vermont complains, namely, that the old principle of awarding compensation in equity cases is abolished.

Mr. EDMUNDS. They still leave actual profits.

Mr. MATTHEWS. Let us see. It is declared in the very first sentence of the section that the rule and measure of damages shall be the same, both in actions at law and in suits in equity. The distinction between law and equity in that very particular (in which it has been supposed that equity was more conservative of the property rights than a court of law would be) is taken away, and the complainant is compelled to rely upon and resort to only that measure and rule of compensation which he can obtain by a verdict or award of damages as a compensation for the injury which has been inflicted upon him. I agree that in every case of a violation of the right the complainant ought to have that much. He ought to have a fair, full, adequate, and complete compensation for the loss to him of the enjoyment of his property, just as if it had been visible and tangible personal property, just as if it had been real property on which a trespass had been committed. Further, I am of opinion that every avenue of evidence ought to be kept open for proof in each individual case according to its circumstances, and the amount in such a case should be reasonable and fair, and that that should be left absolutely upon that evidence to the discretion of the tribunal charged by law with the finding of such a verdict or the making of such a decree, without any restraint, without any artificial rules to bind that discretion, without shutting out any light; so that every fact and every circumstance which is material and important to the determination of the question shall be permitted to be proved.

In undertaking to specify the various cases in which rules for the apportionment of this compensation shall be adopted, the bill of the committee first takes the case where it is the design and the desire of the patentee to put his patent upon the market to make it a subject of sale to other persons. In that case it is said by the Senator from New Hampshire in advocacy of the bill that no one can object to the application of the rule of the market price, where the vendor seeks a market for his wares. The very object he has in view in obtaining his patent is to use it in that way, that he may by sales of the right to any one in the community who desires it obtain a revenue and income from it. It is said that is a fair rule; that it gives a full equivalent, and that when the party sues for damages for the recovery of that compensation, the very fact that he is seeking that and not the enjoyment and possession of his exclusive right by means of an in-

junction, shows that he is willing to give a license to the defendant and will be satisfied with a proper, usual, reasonable license fee. Yet the bill immediately makes an exception from that rule, after establishing it as a fair and just rule. After establishing the principle that that is all that ought to be claimed, where the patentee desires to go into the market for the purpose of sale, they except it in all cases where the defendant has made an actual profit from making for sale, or selling, or using the thing patented, or the product thereof. Why should that exception be made. If the plaintiff gets all that he would have asked from others for a license to do the thing, why should he as against a party unlicensed recover any greater amount? If it be said that he ought to be permitted to do so because the defendant may have willfully and knowingly violated the plaintiff's right, and so put him to the necessity and expense of maintaining it and asserting it, the answer is that in another clause of the same section that case is provided for by the committee's bill, for in that case the court is authorized to award against the defeated party such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable in order to punish the defendant, if he be the one in default, for the willfulness, maliciousness, and vexatiousness of his conduct. But if any exception is to be made at all, why not, as inquired by several Senators, make the exception as broad as the fact, instead of confining it only to those cases where an actual profit has been made from the manufacture or sale of the thing patented or the product thereof? For it is manifest, as has been already so fully pointed out as to obviate the necessity of dwelling upon it again, that actual profits may be made just as much in violation of the rights of a patentee by those who do not manufacture for sale or sell the thing patented or the product thereof, but who use it merely in their own business and for their own purposes.

The next proposition of the bill is to deal with those cases where by a reasonable number of transactions in the market no market price has been established for the use of the patented article, and there the provision of the bill seems to be perfectly fair; for it declares that in such a case a license fee for the use actually made shall be determined from all the evidence in the case. If it had stopped there, it would have stopped just where I desire it to stop, for then there would be no limitation upon the kind and the character and the amount and the degree of the evidence which would be admissible for the purpose of proving what was a fair compensation for this use. But the bill does not stop there. It goes on and in that connection declares that—

> No account of savings shall in any case be allowed; and no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

We exclude the evidence of such profits, and I take it that evidence of savings would be excluded under the same head, although perhaps not technically embraced in the words that introduce the sentence, where only an account of savings is forbidden. But how can you prove the actual profits made by reason of the use of the invention without showing the saving and economy in the manufacture which have been produced by the use of the invented thing? Yet not only is an account of such profits forbidden, but proof by way of evidence to establish what would be a fair amount for the defendant to pay is forbidden. The other language which admits other evidence as to the utility and advantage of the invention as one element only strengthens the conclusion which excludes the evidence of profits and of savings.

Mr. BOOTH. Will the Senator from Ohio allow me to interrupt him for one moment?

Mr. MATTHEWS. Certainly, sir.

Mr. BOOTH. In line 36, on the fifth page, does the Senator construe the word "account" in the phrase "no account of savings shall in any case be allowed" as excluding from the testimony the amount the machine itself has saved over any other known device? I know the intention of the committee was simply to shut out the account technically of the savings and the making of that the measure of damages; but certainly it was intended that the saving that the machine made should be one of the elements that should determine its value and enter into the determination of the license fee.

Mr. MATTHEWS. My answer to the Senator would be that perhaps the conclusion which he combats might not be deduced from that language alone. Taking the section altogether, as a court would do it, by the four corners, the inference is to my mind strong that when the offer was made upon an actual trial of a cause to show the economy by the use of the particular machine in the manufacture in which it was used, it would be excluded, not because that was an attempt to take an account between the parties, but because it was an attempt to show what were the actual profits, which is excluded by the succeeding language.

Mr. CONKLING. Will the Senator allow me to remind him that he speaks of the whole section? I suggest to him that he need not deal with anything more than the paragraph at which the Senator from California points his question to be able to say all that he has said, because following the words to which the Senator from California alluded are these:

> And no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

How can there be any doubt, as to the cases thus excluded, that the effect of that paragraph is exactly that for which the Senator from Ohio insists?

Mr. MATTHEWS. I think there can be no doubt about it, that in the very offer which I supposed, where a party litigant by his counsel proposes to show that there were profits made in the manufacture by the use of a patented article, which consisted simply in saving and in economy, that would be excluded by the court on the ground that no proof or evidence could be submitted on the point, unless it went to the length of establishing "actual profits resulting from the making for sale or selling the thing patented or the product thereof as aforesaid."

The effect of the amendment which I propose as a substitute for that language is to remove at least any doubt that may arise upon that by declaring:

> But evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

I would be better satisfied, greatly better, to dispense with the use of the words "a reasonable license fee" throughout the entire section, and to leave the rights of patentees, both in equity and at law, so far as the question of compensating them for infringement is concerned, to the general rule which now establishes the proper measure of damages in every other case of violations of the rights of property, giving to the patentee that in its fullest extent, with all the benefit of common-law rules and common-law evidence, and upon that, and beside it, and beyond it, and above it, the extraordinary relief by the writ of injunction to secure him in the possession and enjoyment of his exclusive right; for after that has been broken and during the time the cause is pending, and when he is endeavoring to establish by evidence the fact of the infringement or the fact of his exclusive right, he is like every other litigant in court under similar circumstances; he is compelled from the nature of the case to accept that which the law gives him in lieu of his exclusive right, and that is a compensation in money for the temporary loss of it. It might as well be said that it was a violation of the right of property to allow as is done in my own State, and I believe in most others, in actions of replevin for personal property, where it is open to the plaintiff, if he chooses to make an affidavit which establishes in the first instance his right to the writ, to take the defendant's personal property into his possession and acquire a title to it as against the defendant and all the world, and by virtue of a transfer merely produced and wrought by the bringing of his suit, leaving to the defendant not the right of being restored to the possession of the identical property which in the mean time may have been destroyed, but only to such compensation as a jury may award, based upon those rules of law and those rules of evidence which in all other cases of violations of the rights of property have been established by the common law for the protection not only of that plaintiff and defendant, but of us all. I agree that the right of a patentee under his patent is a right of property which is secured by the Constitution, and it ought to be protected and enforced by the law, but exactly upon the same principles and upon the same rules of evidence, and his damages measured by the same principles of law, as in other similar cases.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and twenty-two minutes spent in executive session the doors were reopened, and (at four o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 15, 1879.

The House met at twelve o'clock m. Prayer by Rev. W. V. TUDOR, Methodist Episcopal Church South, Saint Louis, Missouri.

The Journal of yesterday was read and approved.

MANAGEMENT OF INDIAN AFFAIRS.

Mr. O'NEILL, by unanimous consent, presented a memorial of the representatives of the Religious Society of Friends in Pennsylvania, New Jersey, and Delaware, remonstrating against the transfer of the management of the Indians from the Interior Department to the War Department; which was referred to the Committee on Military Affairs, and ordered to be printed in the RECORD.

The memorial is as follows:

To the Senate and House of Representatives
of the United States in Congress assembled:

The memorial of the representatives of the Religious Society of Friends in Pennsylvania, New Jersey, and Delaware, respectfully represents that your memorialists have regarded with deep interest and anxiety the proposition now pending before your body, to transfer the management of the Indians within the United States from the Interior Department to the War Department, and they would respectfully but earnestly remonstrate against such transfer for the following reasons:

The past history of the Indian nations of this continent proves that they are susceptible to the softening influences of kindly Christian treatment, and the European discoverers found that as they were thus approached they almost invariably responded in a friendly and even generous spirit. The peaceable policy pursued by William Penn and the early settlers of Pennsylvania and New Jersey avoided

all Indian wars in those colonies so long as it was adhered to, a period of seventy years; while the settlers of New England, who depended on military defense during the same period, were almost constantly embroiled in desolating contests with the aborigines.

We believe it is essential for the ultimate safety and the best interests of the Indians that they should be trained in the habits and arts of civilization, and should be induced to exchange the unsettled life of the chase for the practice of agriculture. It is evident that the necessary instruction to promote these ends cannot be looked for from men whose own training and habits have been of an altogether different character. It is a fact admitted by most military officers familiar with the subject, and proved by experience, that the presence of soldiers among the Indians is a fruitful source of demoralization and disease. In a memorial to Congress by the "United States Indian commission," dated "July 14, 1868," the view is expressed that "one of the finest physical types of man has already become seriously enfeebled, and that tribes originally comparatively pure are fast sinking into a grossness of vice which threatens their utter extinction. This latter evil, in all its destructive extent, seems to be an inevitable attendant of the presence of our troops in the Indian country. All these and many other disgraceful facts are attested by respectable officers of the Government, by a large number of Indian chiefs, and by many trustworthy private citizens." It must be further borne in mind that the misery thus produced is not confined to the immediate victims, but reaches in its consequences to generations yet unborn. It is clear, therefore, to us that the proposed transfer would greatly interfere with the educational agencies now in operation, would retard the progress of the Indians, and, we do not doubt, would cause a retrograde movement.

The system of treatment inaugurated of late years, whereby men and women of philanthropic views were engaged to co-operate with the Government in instructing and encouraging the Indian tribes in literary knowledge, Christian morality, the arts of agriculture and of civilized life, we consider a truly wise and just one, and we trust it may be continued. Its practical value has been already proved by the result among many of the tribes, where it has been in operation for several years. Some of these, who were as intractable and as warlike as any Indians on the continent, have yielded to the patient efforts of their agents and teachers until now they remain on and cultivate portions of their reservations; many of them send their children to the schools and have begun to build houses and raise stock. Should a similar line of action continue to be steadily pursued by the Government, there is abundant reason for believing that a few years would suffice to render the wildest tribes of the West peaceful, law-abiding, and settled in their mode of life, and eventually self-supporting and even useful citizens. Shall we now arrest the progress of the good work by a change of policy and the return to a system which has hitherto proved defective and injurious?

Moreover, your memorialists would call attention to the manifest inconsistency of military rule with a system of republican government like ours, and to the determined opposition which our ancestors manifested to its exercise over them by the King of Great Britain. It was made a special subject of complaint in the preamble to the Declaration of Independence that large bodies of armed troops were quartered among the colonists, and that the military was made independent of and superior to the civil power. Among the self-evident truths asserted in that declaration were these: "That all men are created equal, and that governments derive their just powers from the consent of the governed." We are credibly informed that all the Indian tribes who have been granted an opportunity to express their sentiments on the proposed change have signified their decided objection to it, and have predicted that, if tried, it will operate to their serious disadvantage. To insist upon it under these circumstances would be a clear violation of the principles on which our Government is founded.

We believe the United States are bound by every consideration of religion, honor, and self-interest, to regard the welfare of the feeble remnants of the tribes who formerly occupied the whole breadth of our country from the Atlantic to the Pacific, and who still retain a paramount right to a fair share of its territory. Regarding civil government as existing by divine appointment, we believe it can only be rightly administered so long as its accountability to the Most High is recognized, and the important fact remembered that it is "righteousness" alone that truly "exalteth a nation," while on the other hand, national sins, like those of individuals, are visited by just retribution. Representing, as the government of the United States does, a people professing Christianity, we feel that its position as such can only be consistently maintained as its general policy is in accordance with the benign precepts of the Gospel. It is true the Indian may be regarded as a somewhat incongruous element in our population, but while a knowledge of the arts of civilized life renders us his superior in many respects, that fact affords no warrant for our disregard of rights which are inherent in him. Still further should the injunctions of that holy religion which we profess forbid us to follow him with those deeds of violence and revenge which, in his savage ignorance, he has been taught to regard as virtues.

Our true policy as a people enlightened by the teachings of the Gospel should therefore manifestly be to extend to the Indian the same blessed influences which have thereby come to us; to gain his confidence by the strict performance of every promise; to secure to him and his children a suitable and permanent home; to instruct him as rapidly as his condition will permit in useful arts and modes of life; to surround him by wholesome moral influences; to shield him from the contaminating contact with unprincipled men of our own race; in short, both by example and precept to impress upon him the fact that the habits of civilized life and the religion which we profess are better than his own.

We look with feelings of sorrow and abhorrence on the great injustice and suffering that have repeatedly been inflicted upon the aborigines of this land, and we may rest assured that those who violate the rights of others and oppress those who are unable to protect themselves will sooner or later experience the truth of the Scripture declaration, "Vengeance is mine, I will repay, saith the Lord." It was the belief in this truth that led Thomas Jefferson to exclaim: "I tremble for my country when I remember that God is just and that His justice will not sleep forever!"

Let us, then, endeavor to atone, so far as we can, for past injustice toward the Indian race, for our breach of solemn treaties and the slaughter of their helpless women and children, by recognizing the obligations resting on a powerful people to protect and foster these weak and defenseless wards of the nation, and so fulfill the law of Christ, "Whatsoever ye would that men should do to you, do ye even so to them."

Taken from the minutes of a meeting of said representatives held in Philadelphia, first month, 6th, 1879.

JOSEPH WALTON, *Clerk.*

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair asks consent of the House to make reference of a large number of communications from the Departments of the Government, which should go immediately to the respective committees that have asked for the information communicated. In consequence of the frequent adjournments of late the Chair has not had that opportunity.

There was no objection.

BALANCES ON LOAN ACCOUNT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting supplementary statement of balances on loan account standing to the credit of the Treasurer of the United States in national-bank depositories, January 1, 1879; which was referred to the Committee of Ways and Means, and ordered to be printed.

WAR CLAIMS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, with the papers in each case, lists of 1,034 claims arising under act of July 4, 1864, examined and allowed by the proper accounting officer since January 11, 1878; which was referred to the Committee on War Claims.

WASHINGTON CITY POST-OFFICE.

The SPEAKER also laid before the House a letter from the Postmaster-General, relative to a building for the Washington City post-office; which was referred to the Committee on Appropriations.

CYRUS THOMAS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, recommending the passage of a bill for the relief of Cyrus Thomas, disbursing agent of the entomological commission; which was referred to the Committee on Appropriations.

BENJAMIN ALVORD.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report on House bill No. 5345, correcting the date of appointment of Benjamin Alvord as brigadier-general and Paymaster-General; which was referred to the Committee on Military Affairs.

UNITED STATES PROPERTY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, relative to the amount, character, and present value of real property belonging to the United States or in which it has an interest, which property was acquired in the collection of debts due to the Government; which was referred to the Committee on Public Buildings and Grounds.

WASHINGTON MONUMENT.

The SPEAKER also laid before the House a letter from the chairman of the joint commission for the completion of the Washington Monument in reference to the proposed modification in the plan of the monument as prepared by Mr. W. W. Story; which was referred to the Committee on Appropriations.

MILITARY WAGON-ROAD.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting Lieutenant Ruffner's report of the expenditure of $5,000 for the construction of a military wagon-road; which was referred to the Committee on Military Affairs.

HOT SPRINGS RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, in reply to a resolution of the House of Representatives of December 4, 1878, transmitting a report relative to the Hot Springs reservation in Arkansas; which was referred to the Committee on Public Lands.

HARBOR OF SAN DIEGO.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting copy of letter from Chief of Engineers recommending an appropriation of $1,000 for contingent repairs upon the harbor of San Diego, California; which was referred to the Committee on Commerce.

ARMY BILL.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from the Paymaster-General concerning a revision of the estimates and the phraseology of the Army bill; which was referred to the Committee on Appropriations.

LONGEVITY RATIONS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from First Lieutenant C. E. Nordstrom, Tenth Cavalry, asking an amendment to the bill for the support of the Army for the fiscal year ending June 30, 1879, be made providing that the time served in the Navy shall be counted in computing service for longevity rations and retirement; which was referred to the Committee on Military Affairs.

ARMY ESTIMATES.

The SPEAKER also laid before the House a letter from the Secretary of War, containing revised estimates for the subsistence and other expenses of the Army for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations.

The SPEAKER also laid before the House a letter from the Secretary of War, concerning estimates for subsistence of the Army; which was referred to the Committee on Appropriations.

SURVEYS OF THE MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting letter from Major Comstock, Corps of Engineers, relative to the duplication of War Department surveys of the Mississippi River by the Coast Survey; which was referred to the Committee on Appropriations, and ordered to be printed.

BUILDING FOR STATE, WAR, AND NAVY DEPARTMENTS.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the east wing of the building for the State, War, and Navy Departments; which was referred to the Committee on Appropriations.

WESTERN SURVEYS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from the Chief of Engineers respecting the changes recently recommended by the National Academy of Sciences in regard to the surveys of the territory west of the Mississippi; which was referred to the Committee on Appropriations, and, on motion of Mr. PAGE, ordered to be printed.

DUPLICATION OF WAR DEPARTMENT SURVEYS.

The SPEAKER also laid before the House a letter from the Secretary of War; transmitting a copy of a communication from Major Comstock, of the Corps of Engineers, in regard to the duplication of War Department surveys; which was referred to the Committee on Appropriations.

Mr. BURCHARD. I move that that communication be printed.

Mr. HEWITT, of New York. That is the same document which was ordered to be printed a moment ago.

The SPEAKER. Then the order to print will not be made if upon examination it be found to be the same.

AMERICAN COMMERCE.

The SPEAKER also laid before the House the resolutions adopted by the convention for the promotion of American commerce, held at Chicago on the 13th of November, 1878; which was referred to the Committee on Commerce, and, on motion of Mr. REAGAN, ordered to be printed.

SURVEY OF ALLEGHENY RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a copy of the report of Major W. E. Merrill, of the Corps of Engineers, on the examination of the Allegheny River as far as French Creek; which was referred to the Committee on Commerce.

HARBORS OF SAN LUIS OBISPO, ETC., CALIFORNIA.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report upon the examination of the harbors of San Luis Obispo, Santa Barbara, and San Buenaventura, California; also a report upon the Humboldt River and Crescent City Harbor, California; which was referred to the Committee on Commerce, and, on motion of Mr. PAGE, ordered to be printed.

STRENGTH OF UNITED STATES ARMY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement showing the actual strength of the Army at a stated period in each year from the beginning of the Government to the present time; which was referred to the Committee on Military Affairs.

FORT YUMA MILITARY RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of War relative to the sale of Fort Yuma military reservation in Arizona; which was referred to the Committee on Military Affairs.

EXPENDITURES OF WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of the chiefs of the bureaus of the Department upon the expenditures of said Department; which was referred to the Committee on Appropriations.

CAPTAIN JOSEPH IRISH.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury relative to the proposal of the King of Spain to confer on Captain Joseph Irish, of the United States marine service, the Grand Cross of Merit; which was referred to the Committee on Naval Affairs.

EMPLOYÉS IN NAVY DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting a statement of the civil employés of that Department during the year ending December 31, 1878, with the length of service and the amount of salary paid to each; which was referred to the Committee on Appropriations, and ordered to be printed.

MILITARY POSTS IN TEXAS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting papers relating to the projected purchase of the sites of military posts in Texas; which was referred to the Committee on Military Affairs.

THOMAS P. BLAIR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting papers in the case of Thomas P. Blair; which was referred to the Committee of Claims.

ORDER OF BUSINESS.

The SPEAKER. There is a large number of gentlemen who desire to have bills referred. To-day, under a suspension of the rules, is devoted to the consideration of bills reported by the Committee of Ways and Means. If the gentleman from New York, [Mr. WOOD,] who is chairman of that committee, gives his consent, the Chair will recognize gentlemen who desire to introduce bills.

Mr. WHITE, of Pennsylvania. I suggest that half an hour be devoted for that purpose.

The SPEAKER. The gentleman from Pennsylvania suggests that half an hour be allowed for the introduction of bills for reference.

Mr. BURCHARD. I would suggest that the Committee of Ways and Means need the whole day.

The SPEAKER. That is in the nature of an objection.

Mr. WHITE, of Pennsylvania. I trust there will be no objection.

Mr. SPRINGER. We had no morning hour on Monday of this week, and we have had no opportunity of introducing bills.

Mr. WOOD. I shall be willing to yield to gentlemen to introduce bills, but I will state that this is the first opportunity that the Committee of Ways and Means has had for reporting, and we expect to need all the time until half past four o'clock, and then have a recess for an evening session, and I do not feel that I am at liberty to yield.

The SPEAKER. Then the Chair recognizes the gentleman from New York, in obedience to the order of the House.

INDIAN APPROPRIATION BILL.

Mr. SPARKS. Before the gentleman from New York proceeds, I ask to take from the Speaker's table the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, returned from the Senate with amendments, and that the same be referred to the Committee on Appropriations.

The SPEAKER. Does the gentleman from New York yield for that purpose?

Mr. SPARKS. It is only that we may refer the bill to a committee.

Mr. WOOD. I will yield for that purpose.

The bill was taken from the Speaker's table and, with the Senate amendments, referred to the Committee on Appropriations, and ordered to be printed.

REFUNDING THE PUBLIC DEBT.

Mr. WOOD, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (H. R. No. 5477) to authorize the issue of certificates of deposits in aid of the refunding of the public debt.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized and directed to issue, in exchange for lawful money of the United States that may be presented for such exchange, certificates of deposit, of the denomination of $10, bearing interest at the rate of 3 per cent. per annum, and convertible at any time, with accrued interest, into the 4 per cent. bonds described in the refunding act; and the money so received shall be applied only to the payment of the 5-20 bonds in the mode prescribed by said act, and he is authorized to prescribe suitable rules and regulations in conformity with this act.

Mr. KELLEY. By consent of the Committee of Ways and Means I desire to submit an amendment to this bill. I will state to the House that the committee have not authorized my amendment further than to consent that it may be offered and considered as pending.

Mr. WOOD. The committee consented that the gentleman from Pennsylvania [Mr. KELLEY] should offer his amendment. If he insists upon it, it will be submitted to a vote of the House. It is the individual act of the gentleman from Pennsylvania himself.

Mr. KELLEY. I have so stated to the Chair. If the Committee of Ways and Means consent that a vote may be taken upon it, the amendment will thus be disposed of. If not it will be my duty when the previous question is called to ask that it be voted down.

The SPEAKER. The remedy is with the House.

The amendment was, to strike out the words "at any time" after the word "convertible," and to insert after the words "accrued interest" the words "after six months into lawful money and at any time;" so that the bill will read, if amended:

That the Secretary of the Treasury is hereby authorized and directed to issue, in exchange for lawful money of the United States that may be presented for such exchange, certificates of deposit of the denomination of $10, bearing interest at the rate of 3 per cent. per annum, and convertible, with accrued interest, after six months into lawful money, and at any time into the 4 per cent. bonds described in the refunding act; and the money so received shall be applied only to the payment of the 5-20 bonds in the mode prescribed by said act, and he is authorized to prescribe suitable rules and regulations in conformity with this act.

Mr. WOOD. Before proceeding I desire to ask the House now to consent that in case the committee shall not have exhausted its reports there shall be a recess from half-past four until half-past seven this evening.

Mr. HALE. For the business of this committee alone?

Mr. WOOD. Exclusively.

Mr. EDEN. The session of this evening to be for purposes of legislation?

The SPEAKER. To-day has been assigned exclusively for consideration of reports from the Committee of Ways and Means. It is in the power of the majority of the House, of course, to take a recess at any time.

Mr. BURCHARD. Let that matter be decided now.

The SPEAKER. The Chair will submit the question. The gentleman from New York [Mr. WOOD] moves that the House take a recess from half-past four o'clock this afternoon until half-past seven

o'clock this evening, for the purpose of continuing the consideration of reports from the Committee of Ways and Means.

The motion was agreed to.

Mr. WOOD. If I can get the attention of the House, I desire to call it especially to the very important bill now under consideration. It is a bill that introduces substantially a novel feature into the management of the affairs of our Government so far as the producing classes are concerned.

Mr. Speaker, this bill proposes to authorize the Secretary of the Treasury to issue certificates of deposit for as low a denomination as $10, and to receive the lawful money of the Government therefor, which certificates shall draw 3 per cent. per annum interest and be convertible at the pleasure of the holder into bonds of the United States bearing 4 per cent. interest. The money thus received is to be used exclusively for the purchase of the 5-20 bonds, which now draw 6 per cent. interest. This bill differs somewhat from the recommendations of the Secretary of the Treasury. He recommended a limitation of one year in which the certificates should be convertible, that the interest should be 3.65 per cent., and that United States notes or coin only should be received in payment for them. The committee thought that, inasmuch as there might be some doubts as to what constituted coin, anything that was "lawful money" should be received for these certificates, and that there should be no limitation as to the time in which the holders should be entitled to the bond, and that 3 per cent. was a more convenient rate of interest and sufficiently high for the objects in view.

The principal object of the Treasury in favoring this measure is that it will facilitate the refunding into 4 per cent. bonds of those now outstanding bearing 6 per cent. It will of course have this effect. I shall refer more fully, before I close, to this advantage and its benefits. I do not attach to them, however, the chief merits of this proposition. It has another, of far greater importance, which at this time should have much force with Congress. I refer to the issuing of certificates in so small a sum as $10, and thus affording to the poorer classes an opportunity to save beyond hazard or possible loss their surplus earnings. It will not only give a sure protection against loss, but secure the interest on the principal also, upon which they can for all future time confidently depend. We need not go far to find proofs of the necessity of some safer depository for the poor man's earnings than is now furnished by savings-banks. I am sure that every one has noticed the large number of failures of the savings-banks which have taken place within five years, and are yet occurring, and the consequent disasters to the poor people who had intrusted to them their small savings. Some of the largest of these institutions have made the most shameful exhibits of assets. As a general thing these institutions were organized for twofold purposes; ostensibly for philanthropic objects, but too frequently to give good salaries and employment to those who were intrusted with their management.

Though these persons were in the main highly esteemed citizens, in whom confidence should have been placed, yet experience shows that many of them were not strong enough in integrity to resist the opportunity of private speculation, nor of foregoing the advantages which the possession of large sums of other people's money gave them of individual profit.

The last annual report of the Comptroller of the Currency furnishes some interesting statistics showing the total resources and liabilities of the savings-banks of the United States from 1874 to 1878. Some significant and pertinent facts may be gathered from these tables:

Aggregate resources and liabilities of savings-banks from 1874 to 1878.

	1873–'74.	1874–'75.	1875–'76.	1876–'77.	1877–'78.
	— banks.	674 banks.	686 banks.	675 banks.	663 banks.
RESOURCES.					
Loans on real estate	$315,288,088	$351,336,551	$373,501,243	$369,770,878	$408,921,601
Loans on other securities	168,308,332	181,143,206	164,024,477	114,474,163	88,192,337
United States bonds	66,414,629	83,206,272	108,162,624	115,389,880	129,362,890
State and other stocks and bonds	148,456,231	161,334,436	169,801,399	184,116,602	170,155,076
Railroad bonds and stocks	17,981,807	20,690,901	23,992,313	24,586,503	21,752,650
Bank stock	29,545,071	30,508,752	33,267,494	34,571,531	34,703,256
Real estate	11,378,364	14,136,748	15,540,384	21,037,426	29,952,494
Other investments	8,780,263	11,354,781	20,730,050	18,135,673	18,169,863
Expenses	931,959	1,248,688	866,013	1,029,238	216,690
Due from banks	18,431,846	23,378,937	23,011,142	23,522,572	22,551,208
Cash	15,715,134	17,858,182	18,456,405	16,160,096	17,469,085
Total	801,231,724	896,197,454	951,353,544	922,794,562	941,447,150
LIABILITIES.					
Deposits	759,946,632	849,581,633	891,459,890	866,498,452	879,897,425
Surplus fund	12,590,196	16,499,565	51,321,033	43,835,885	43,892,503
Undivided profits	26,623,850	29,072,493	5,497,503	9,200,778	6,964,177
Other liabilities	2,071,046	1,043,763	3,075,118	3,259,447	10,693,045
Total	801,231,724	896,197,454	951,353,544	922,794,562	941,447,150

It will be seen that the aggregate deposits held by the savings-banks of the United States in 1877-'78 were $879,897,425. To secure these deposits these banks held aggregate nominal resources of $941,447,150; but when the nature of these resources is examined it will appear that more than two-thirds must necessarily be of doubtful value. As for instance $408,921,601 are loans upon real estate. Who can say of what real value these loans are? So far as the city of New York is concerned it is quite certain that if an attempt should be made to realize upon loans made upon real estate three or four years ago not over one-fifth of the amount loaned would be obtained. The tables from which I gather these figures state that of these resources are $88,192,337 of "loans on other securities." Who can tell how much would be returned of this if liquidation should be forced? Again, there are $170,155,076 of "State and other stocks and bonds," and about $100,000,000 equally uncertain in value. Thus it will be seen that it is altogether probable that of the $941,447,150 nominal resources, about $767,000,000 would, if forced upon the market for conversion, yield a much less sum in cash.

Now, if these depositors held the obligations of the Government no such contingency could exist. They would have absolute security, convertible at any moment into cash, with any addition which the accumulated interest earned would afford. This would not be the only advantage. Every holder of these certificates would become if possible a better citizen and more devoted to the unity and welfare of the Government. He would have a direct and practical impulse prompting his "love of country." Having thus become one of its creditors, he would feel the necessity of protecting its interests and of promoting its advantages and aiding in its success. There can be no question that one of the principal causes of the great wealth existing among the working classes of France has been in consequence of the opportunities afforded by the government for the safe deposit of their earnings in the rentes or funds.

Under the French system, the lowest obligation issued by the government is for one hundred francs—about $20; and nearly all the spare money of the producing classes finds this lodgment and no other. No losses happen to them. They feel encouraged to work and to save, which they do to an extent beyond any other persons of like condition on the globe. It is true there are other reasons which conduce to their prosperity. As a people, the French produce the luxuries which are of universal consumption, while they consume little of these themselves. They buy less and sell more than others; the surplus is hoarded, safely kept by the government, and used not only for its own necessities but for the benefit of those who have made it their depository—the custodian of their reliance in old age, sickness, or reverses. The statesmen of France comprehended the advantages of this system a century ago. Often has its wisdom been shown. No better illustration can be found of this fact than the late Franco-German war gave. At the close of that war France lay at the mercy of Germany, a conquered empire in possession of the enemy. She purchased her ransom by the payment of an exaction of a thousand million of dollars, which was demanded in coin, to be paid at once, without delay.

She did not murmur, hesitate, nor ask time for consideration. She called upon her own people for succor, and met the indemnity demanded promptly, not by borrowing of foreign governments or bankers, nor by syndicates, but by the subscription of her own people who came at once forward with their earnings and savings; the industrial classes being the chief contributors. A popular loan was inaugurated by the government, and the working men and peasantry drew from their hiding-places nearly the whole of the indemnity. French thrift, industry, and patriotism thus gave the government its freedom. The most astonishing feature in this home supply of such an immense sum, and most of it from the working class, is, that the industries had been paralyzed by the war, that the people had been subjected to a severe trial which had crippled their usual resources and caused widespread and general discouragement.

But though conquered, they were not subdued nor destitute. Their wages had been already largely invested in the *rentes*. Thousands

of millions of francs had been before that stowed away in the safe-keeping of the government, and every Frenchman felt that all he had should follow, if only to save his previous investments. Thus it is that the debt of France is held by Frenchmen; it is distributed among the people; the government is the national savings-bank; and it is proverbial that of all Europeans the French are most attached to their own country, and most reluctant to give it up for any other. Now, why should not Americans go and do likewise? Why should we not make any sacrifice to instill love of country and national pride and unity and the general happiness and fraternity of the whole people under one government? I admit there is a difference in the peculiarities of Americans and Frenchmen, and that we cannot expect such great results as have been shown in France from the adoption of a like system here to that which I now propose. We are extravagant and speculative, fond of travel and adventure, and that hoarding of savings too frequently is wasted in seeking larger gains and a higher social position. Not so the Frenchman; he is closely economical; with few expensive personal wants; avoids speculation, and rarely emigrates, thinking no other country is equal to "La belle France."

We have already made considerable progress in the retention of our funded debt at home, and in its more general distribution among the people. The following highly instructive and suggestive facts are pertinent to this question. At my request, the Treasury Department has vouched for the accuracy of the figures, and they may therefore be accepted as official:

At last the Treasury officials have arrived at an approximate conclusion as to who are the takers and holders of the new loan. There are two classes of these bonds, coupon and registered. The following table gives the number, denomination, and amount of 4 per cent. registered bonds outstanding to date:

Denomination.	Number.	Amount.
$50	6,291	$314,550
100	27,552	2,755,200
500	13,090	6,545,000
1,000	21,806	21,806,000
5,000	3,698	18,490,000
10,000	4,732	47,320,000
20,000	202	4,040,000
50,000	564	28,200,000
Total		129,470,750

The following is the total amount, number, and denomination of coupon 4 per cent. bonds sold to date:

	Number.	Total.
$50 each	31,002	$1,550,100
100 each	93,067	9,306,700
500 each	20,314	10,157,000
1,000 each	31,653	31,653,000
Total		52,666,800

There is no way to ascertain how many holders these are distributed among. The best estimate that Treasury officials can make, however, is as follows:

Number of holders of $50 bonds	25,000
Number of holders of $100 bonds	75,000
Number of holders of $500 bonds	15,000
Number of holders of $1,000 bonds	25,000

So that it is probable that the $52,666,800 of the coupon bonds are held by 140,000 different individuals and corporations. This indicates a wide distribution.

The number and character of holders of registered bonds, however, can be ascertained from Treasury books and is as follows (up to time of payment of October interest:)

	Foreign.	Held by Treasury for national banks.	Held by individuals and corporations.	Total.
Holders of $50			228	228
Holders of $100	1		492	493
Holders of over $100 and not over $500	6	1	3,156	3,163
Holders of over $500 and not over $1,000	4		3,268	3,272
Holders of over $1,000 and not over $5,000	13	13	5,787	5,813
Holders of over $5,000 and not over $10,000	8	20	1,724	1,752
Holders of over $10,000 and not over $20,000	3	30	808	841
Holders of over $20,000 and not over $100,000	1	191	880	1,072
Holders of over $100,000		60	144	204
Totals	36	315	16,487	16,838

It will be observed that only thirty-six of these bonds are held by foreigners, while nearly seventeen thousand are held at home. This is the most striking illustration yet adduced to show how entirely the American debt is finding its way into American hands, thus keeping the money at home. It seems almost incredible that of nearly seventeen thousand bonds only thirty-six are held in foreign countries, but such is the fact.

We may therefore not accomplish all that the French have, with a people so much more fitted to the system, but with our greater energy, quickness, and facilities for the acquisition of gain we need it much more. The Government, therefore, should furnish it. One objection has been urged against the proposition to which I shall refer. It is that these certificates not being convertible into bonds before amounting to $50, which is the lowest United States bond issued, if the holder shall wish to use the money before having obtained that sum he will be forced to go to money-brokers with it and submit to a shave. There would be some force in this objection if the certificates bore no interest; but as they do bear interest from the day they are issued, and this interest is accumulating every day afterward, of course the certificate is enhancing in value all the while. If compelled to part with it the holder would of course get the benefit of its increased value, or at least suffer no loss. Another objection has been urged, namely, that these certificates could pass as currency. Well, suppose they do; what harm is done? who will suffer? Certainly not the Government, and certainly not the holder.

I am not alarmed lest some injury should be done by a free circulation of paper money. I prefer paper as a circulating medium if it is what on its face it purports to be, and am willing that the Government should furnish it if at the pleasure of the holders it is convertible into the universally recognized standard of value throughout the civilized world. I am ready to go further, and admit I should prefer that the Government should furnish such a circulating medium to the exclusion of all other authority to do so. The sole power to issue money should rest in the Government itself. I think it unwise to support a dual money-creating authority, especially when it may frequently happen that values may be unsettled in the differences which may possibly occur.

Another objection has been urged, that this system would not be successful in consequence of the want of confidence of the people in the Government itself, growing out of the interference of politicians, which endangers the public credit. There is no foundation for this fear. Our Government is one of the most stable in the world. If the people of France have confidence in a government like their own, which has vibrated between an imperial despotism and a licentious republic for the past one hundred years—having been a kingdom under a weak monarch, an empire under a despot, and a republic under a military chieftain, all within a half century—how much greater is the security offered in this country where not only our form of constitution but the theory, principles, and essence of our Government have been steadily and continuously maintained from the beginning? It is true there are men who would introduce wild schemes of finance and endanger the public credit, but the strong vigorous common sense of the people, the fountain from which all political power emanates, as it has in the past so it will in the future carry the nation onward in its regular and steady course, maintaining alike the public honor and the public faith.

Thus far I have referred only to the advantage of this bill, if it should become a law, to the poorer classes as a secure depository for their surplus earnings, and such others as choose to avail themselves of it. I shall now refer to the benefit it will confer upon the Government. One of the chief burdens which the people have had to labor under since the close of the war has been the high rate of interest which their obligations had to bear. This source of expenditure has borne a relation to the total expense of the Government truly alarming. The total ordinary expenditures of the United States for the year ending June 30, 1878, was $236,964,326.80, and of this aggregate there was paid for interest on the public debt $102,500,874.65 or nearly one-half. The estimated interest on the Government securities for the present fiscal year will be about $97,000,000. One of the principal causes for this enormous outlay is the high rate which the outstanding bonds now carry. An earnest effort is being made to call in the six percents and to replace them with four percents. Much progress has been made in this direction. About $100,000,000 has been thus refunded within a year. This bill will reach a new class of bondholders who have heretofore used the savings-banks and other methods of investments. If the whole amount of the present outstanding obligations or bonds now redeemable were converted into four percents, there would be a saving to the Government of near $9,000,000 a year in interest. This reduction of 2 per cent. in interest would be equal to one-third of the total sum paid for interest, which is at present about equal to one-third of the entire revenues of the Government.

This reduction in the expenditures would warrant a corresponding reduction in taxation, and to this extent would relieve the industries of a portion of their present onerous burdens. It is not necessary to argue in favor of any proposition which will tend to the accomplishment of this object. A judicious reduction of the public expenditures is at all times desirable, and needs no defense, especially when it is accomplished in a way which instead of affecting injuriously the industries of the people will promote them. I am sure every good citizen will cheerfully sustain it and support Congress in its enactment.

There are other advantages of lesser importance. The Secretary, under existing laws, is allowed to expend, in the work of refunding, ¼ of 1 per cent. I am glad to bear testimony to the fact that he has not exhausted this allowance, so far as the 4 per cent. bonds are concerned. The total amount of such bonds issued down to January 1 of this year was $203,585,450. One-half of 1 per cent. on this sum would be $1,017,927.25; whereas he officially states that the expense had been only $779,250.29, with $62,511.98 yet unpaid on that account, which will show a deduction of $176,164.98 from the ½ per cent. allowed by law. That portion of the debt which will be refunded

through this agency will cost nothing except the expense of printing. This will be a saving to the Secretary of no inconsiderable sum. The power is given to the Secretary to provide rules and regulations to carry the act into effect. Much of the detail of the execution of the law must necessarily be left to him. He will, of course, use existing public officers throughout the United States as agents for the issuing of the certificates and for receiving and remitting the sums subscribed for them, and create such rules as will the better enable the people to reap the advantage of it and facilitate the refunding through this process.

With these remarks I submit the bill to the House, and will yield to my colleague on the committee, the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. How long does the gentleman yield to me?

Mr. WOOD. How long does the gentleman require?

Mr. KELLEY. I shall require but a few minutes. I have no prepared remarks.

Mr. WOOD. I should like to have an understanding as to the time.

Mr. KELLEY. I desire to accommodate the gentleman. I do not think I will take longer than the gentleman may think is proper.

Mr. WOOD. In justice to other gentlemen of the Committee of Ways and Means, I must ask the gentleman to name the time.

Mr. KELLEY. Say twenty minutes.

Mr. WOOD. How much time have I occupied?

The SPEAKER. Thirty-two minutes.

Mr. BANKS. I hope the gentleman from New York will allow me five minutes, rather to ask for some information on the subject than to make an argument of my own.

Mr. WOOD. The balance of the hour will be fairly divided.

Mr. STEELE. Is this debate to be confined to a few persons? If it is it is a disgrace to the legislation of the country.

Mr. BANKS. How much time remains?

The SPEAKER. Twenty-eight minutes remain of the hour of the gentleman from New York. But the debate is not necessarily confined to one hour nor is it necessarily confined to members of the committee.

Mr. BUTLER. I hope not.

The SPEAKER. The House has now entire control of the subject.

Mr. KELLEY. Mr. Speaker, this bill is one of vast importance to the people of the country, especially to economical and thrifty poor people. It has been heralded to them as proposing a national savings-bank, a safe substitute for institutions such as those by which they have since 1872 lost so many tens of millions of dollars.

The gentleman from New York, [Mr. WOOD,] speaking as chairman of the committee that reports the bill, tells us that it offers to this class of citizens a national savings-bank in which their funds will be safe. What are the objects of savings-banks? They are to accept small deposits from poor people, who have no means of preserving with safety their little surplus of earnings, and to give them therefor a low rate of interest in order that the funds thus confided to the bank may be loaned on securities that are absolutely safe. A savings-bank is a contrivance to enable the laboring people—men, women, and children—to lay by a small sum each week, each month, each quarter, or each year to provide for sickness, loss of employment, or any other calamity that may require them to draw upon or exhaust their savings.

The character of the deposits has been described in characterizing the objects of such banks. They come to the bank in driblets. There are dime savings-banks; there are dollar savings-banks; there are savings-banks that will not accept over $200 or $500 as a total deposit from one depositor. And then there are many speculative concerns that hold themselves out as savings-banks, and they have failed by the thousand, ruining those who had intrusted their savings to them. The very purpose of these depositors is to put their money where it will be safe, and where they can obtain it on demand or after certain specified notice, often ten days, sometimes two weeks, and in some States with an alternate right of requiring them to wait sixty days in case of a run. The principle of a savings-bank is safety and prompt return of deposits on conditions predetermined.

Examine this bill in view of these purposes of a savings-bank and you will find that the only provision which characterizes a savings-bank is that the Government will receive deposits as low as $10. There is no other. In this bill the United States Government proposes to engage the laboring people of the country in a game of chance, the law of which is to be "Heads it wins; tails they lose." No laboring-man can have benefit from an advance in the price of 4 per cent. bonds. These bonds are being issued at par, and will continue to be issued at par so long as there is a 5-20 or 10-40 bond to be exchanged. Suppose a laboring man or woman should be fortunate enough to get a 4 per cent. bond at $50, it cannot improve in value; for the Government competes with it by issuing 4 per cent. bonds at par. These bonds may fall below par in the market; and Government circles apprehend the possibility that they will go below par whenever business and enterprise shall revive. The New York Times of a date within the past week has admonished its readers of this possibility. The most conservative papers of the country present it not as a thing to be wished for, but as a thing possible and to be dreaded.

But, sir, this bill makes no provision for the payment of interest to the frugal man or woman who has loaned the Government $10, $20, $30, or $40. The only redemption it offers to people who deposit for temporary safety is a 4 per cent. bond to be converted into cash at the stock board. It is to turn this class of people who may be fortunate enough to be able to invest $10, $20, $30, $40, or $50 into game for the Shylocks that concentrate about the stock exchanges of the country. Look at the terms of the bill in regard to the ten-dollar certificates it proposes to issue. It reads thus:

That the Secretary of the Treasury is hereby authorized and directed to issue, in exchange for lawful money of the United States that may be presented for such exchange, certificates of deposit, of the denomination of $10, bearing interest at the rate of 3 per cent. per annum, and convertible at any time, with accrued interest, into the 4 per cent. bonds described in the refunding act.

Mr. BUTLER. Will the gentleman yield to me for a question?

Mr. KELLEY. Yes, sir; but if the gentleman will permit me I would rather pursue my argument without interruption.

Mr. BUTLER. Very well.

Mr. KELLEY. Now mark you, the holder of $10, $20, $30, or $40 is to be allowed accrued interest when he gets a bond; he is to receive none in the mean while. Now, the holder, the man or woman who has believed he or she could save $50, and under that belief invested $10, and then loses employment by any circumstance, sickness or other, will have the happy consciousness that if he or she cannot make up $40 more that by the mere accretion of 3 per cent. interest he or she can, at the end of one hundred and thirty-three years and four months, get back her or his deposit, and thenceforth be entitled to 4 per cent. interest. That is the only repayment of deposits proposed by the United States when it is about to open a savings-bank for its poor laboring people.

There is an alternative: the certificate may be sold. Oh, yes, and what will a ten-dollar certificate at 3 per cent. bring when a fifty-dollar bond at 4 per cent. payable quarterly can be had at par. Some philanthropist may buy from a sick servant or workingman the scrip and pay par for it; but the laws of trade will put these certificates away below par whenever they have to be sold on the market. Thrifty people who can get together $20 and no more may, if compelled to use their savings, take the risks of the market in an inland town or at the stock-board of a city or enjoy the happy consciousness that at the end of fifty years they will be entitled to a bond. This will be a very safe investment for the temporary deposits of the laboring poor! If $30 has been invested and the depositor shrinks from the loss involved in a sale in open market, he will be consoled by the consciousness that twenty-two and two-ninths years will bring about the day when the Government will refund his savings in a bond. With $40 invested the depositor must either take the risk of the stock-board or the village Shylock, or wait eight years and four months. This is the savings-bank to be offered to the laboring poor of America by their magnanimous and generous Government!

Mr. Speaker, my amendment proposes to remedy these hardships by striking from line 8 the words "at any time," and by the insertion of other words to make the clause read, "convertible with accrued interest after six months into lawful money, and at any time into the 4 per cent. bonds described in the refunding act."

This is a provision by which, if calamity overtakes a depositor, redemption may be had after six months, and 3 per cent. interest be allowed for the money while it had remained on deposit.

How does this bill treat wealthier citizens, those who can subscribe to 4 per cent. bonds as was done to the amount of $13,000,000 yesterday; $11,000,000 on another day, and $8,000,000 on still another. These poor people who are investing these millions of dollars are not to have 3, but to receive 4 per cent. They are not to be postponed for the collection of their interest one hundred and thirty-three years and four months, or fifty years, or twenty-two years, or even eight years, as the working-people may. They are to be paid 4 per cent. quarterly in coin.

I have shown what the bill offers the poor. Let us see what it offers banks and millionaires. Four per cent., payable quarterly, will double itself in seventeen and one-half years; 3 per cent. will double itself in thirty-three years and four months. "The poor we have always with us," and therefore we need not care about paying them their money or their interest. They are unworthy of consideration, useless appendages to a republic. There are but few rich, and we ought to take proper care of them; for without them and their capital and their enterprise the nation would go to the dogs. Do we not all know that they, few as they are, perform all the labor and produce all the wealth of the country? At least, is not such a fair inference from the provisions of this bill?

It will be observed that I use the language "lawful money" in my amendment. Gold is no longer merchandise; it is part of the lawful money of the country. When years ago I submitted a proposition kindred to this, it was said that I proposed a double back-action, interconvertible system by which bonds worth nothing should be issued and be redeemable in paper worth nothing. Sir, at that time the paper-paying bonds of the Government rated day by day and year by year higher than any coin-paying bonds of the Government. But now I propose that these certificates shall be convertible with accrued interest after the end of six months, by any unfortunate holder who cannot raise the full sum of $50 in gold, silver, or paper, the lawful money of the United States. Without this amendment the bill proposes a snare and a trap to the poor, and is in my judgment a disgrace to the Government. With it it will be safe for the people and beneficent in its effects upon the funding operations of the Government.

Mr. MILLS. Is it too late, Mr. Speaker, to make the point of order that this bill should receive its first consideration in the Committee of the Whole?

The SPEAKER. The Chair thinks it is; but at any rate that point would not interfere with the consideration of the bill. To-day was assigned, under a suspension of the rules, for the consideration of bills from the Committee of Ways and Means, and the gentleman from New York [Mr. WOOD] would have the right to move to go into Committee of the Whole for the consideration of this bill in the same manner as the Committee for the District of Columbia have that privilege on the day assigned for the consideration of their business.

Mr. SPRINGER. Would not any member have the right to move to go into Committee of the Whole for the consideration of this bill?

The SPEAKER. Any member recognized for that purpose would have that right.

Mr. SPRINGER. I desire to be recognized for that purpose.

The SPEAKER. The floor at present is under the control of the gentleman from New York, [Mr. WOOD.]

Mr. BANKS rose.

The SPEAKER. The Chair understands that the gentleman from New York has yielded to the gentleman from Massachusetts, [Mr. BANKS.] There are eight minutes remaining of the hour of the gentleman from New York.

Mr. BANKS. I shall occupy but a few minutes.

Mr. BURCHARD. I shall ask the Speaker for the floor at the expiration of the hour.

The SPEAKER. At the expiration of the hour, if the previous question is not demanded, or if, being demanded, it should not be sustained, the Chair would recognize the opponents of this bill, if there be such on the floor—first members of the Committee of Ways and Means who may be opposed to the bill, if there be any such, and then other members of the House.

Mr. BURCHARD. I oppose the bill so far as to desire to amend it.

The SPEAKER. That is opposing the report of the committee, of course.

Mr. SPRINGER. The amendment offered by the gentleman from Pennsylvania is not a part of the report of the committee.

The SPEAKER. It was allowed by the committee to be offered.

Mr. SPRINGER. I ask the gentleman from New York to allow this bill to go to the Committee of the Whole, where it can be thoroughly discussed. It is one of the most important measures that has been proposed in this House, and it ought not to be passed here under the previous question, with one hour for discussion, apportioned out by the chairman of the Committee of Ways and Means.

The SPEAKER. The House has its remedy. The majority, if they think further discussion is desirable, have only to vote down the demand for the previous question after it has been made. Everything is within the control of the majority.

Mr. SPRINGER. I give notice, then, that at the proper time I will make that motion.

Mr. BRIGHT. Is this discussion going on in the morning hour, permit me to inquire?

The SPEAKER. There is no morning hour to-day.

Mr. BANKS. I trust this will not come out of the few minutes allowed me.

The SPEAKER. It will not.

Mr. BANKS. Mr. Speaker, it is not my purpose to dissent from the general statements of the gentleman from New York, [Mr. WOOD.] The principle of the bill of the committee as reported is undoubtedly a correct one. But what I wish to call attention to is the possible immediate effect of the operation of this measure upon one of the important interests of the country, affecting nearly all the States and very materially the country at large. There is no doubt the purchasers of these bonds will have good security, but it is not absolutely certain. I do not oppose the principle of the bill. On the contrary, if the chairman of the committee or other gentlemen can explain the subject to which I refer, I will cheerfully vote for it. Depreciation of property and the depression of the industries of the country do not arise from savings-banks. On the contrary, when any question is made in regard to our prosperity universal reference is made to the extent and number of deposits in savings-banks. They amount to many hundred thousand in number, to millions even, and their deposits are over $850,000,000. I am told the depositors number two millions or more. Their liabilities are nine millions and a half.

The law describes and limits securities to be taken for loans from savings-banks and for the money of depositors. They are not allowed to take whatever securities they may please, but the law specifies what securities shall be taken. The securities accepted are those required by law; therefore, as the gentleman has stated, and correctly, no doubt, there are liabilities of real estate alone to nearly $500,000,000. He has stated, further, with a reasonable degree of accuracy, that the depreciation in real estate is one-half its value, and in some instances more than that. If, then, this bill shall go into operation, the inevitable first effect of it will be to induce depositors to withdraw their deposits from the savings-banks, and consequently the very next effect will be inevitably to induce persons having money to invest to make that deposit with the United States in the shape of these bonds rather than with the savings-banks. This will compel the savings-banks to call in their loans and foreclose the mortgages given to them, and foreclosure of those mortgages will throw real estate upon the market and produce still greater depreciation of property and business.

Mr. WOOD. Will the gentleman permit me to remind him that these securities of deposit bear but 3 per cent. interest, while on the contrary savings-banks allow 5 per cent., and that where savings-banks are solvent and retain the confidence of their depositors, it is not natural to believe they will give up 5 per cent. interest and take 3 per cent. interest. This bill, therefore, would not inflict any damage of the kind suggested by the gentleman from Massachusetts upon any solvent savings-bank in the country.

Mr. BANKS. I was about to notice that myself. The interest proposed by this bill upon the bonds to be issued under it is 3 per cent. The savings-banks pay, as the gentleman has suggested, 5 per cent. in some instances, but frequently not more than 4 per cent. Gentlemen sitting around me say that in the States they represent they pay but 4 per cent. But suppose it to be 5 per cent, as the gentleman has stated. The effect of the bill will be to take from the savings-banks the additional deposits which might be made upon which the banks must rely to meet increased liabilities and withdraw to a considerable extent the money already deposited in the savings-banks, and the mortgages on real estate held as securities will be foreclosed, and the real estate suddenly put upon the market at this time amounting to $500,000,000 and more would of course depress the securities of every savings-bank in the country, and possibly deprive them of the power to pay any considerable proportion, or at least the whole of the amount of the deposits called for.

The gentleman has stated that the number of persons investing in the bonds of the country amount to over sixteen thousand. Undoubtedly that number will be largely increased. Generally they are capitalists, while depositors in savings-banks belong to the poor people of the country, and their deposits are made in small sums. The bank for which I am speaking, on the representation made to me, receives five-cent deposits. It is incorporated for that very purpose, and bears that name. There are a multitude of depositors, and I am assured by the officers of that institution that if the Government shall pursue this course at this time it will be impossible for them to realize upon their securities or to pay their depositors.

Now, I do not oppose the principle of this bill; if the circumstances of the country were now as they were in England and France when the same principle was established there, I should make no opposition to it. I only ask the attention of the chairman of the Committee of Ways and Means, and other members of the House to the facts that I have stated, hoping that they will be better able to give a definite and satisfactory answer upon these points than I have been.

The SPEAKER. The time of the gentleman from New York [Mr. WOOD] has expired.

Mr. WOOD. Then if the House will give me the previous question I will divide my closing hour with other gentlemen who desire to be heard.

Mr. SPRINGER. I hope the House will vote down the previous question. I will then move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from New York will lose nothing by allowing the debate to continue. The Chair will recognize the suggestion of the committee whenever the House or the gentleman himself desires to test the sense of the House upon the question of closing debate, so that he may move the previous question.

Mr. WOOD. I have no wish to deprive any gentleman of an opportunity of discussing the bill; but if the motion of the gentleman from Illinois shall prevail of course it means that the bill will go over for this session.

The SPEAKER. The House might wish to discuss this bill in Committee of the Whole on the state of the Union. The Chair does not entirely recognize that as an adverse vote. The House may desire to consider it either in the House itself or in Committee of the Whole.

Mr. SPRINGER. I do not desire at all to delay the bill.

The SPEAKER. The Chair understood the purpose of the gentleman from Illinois.

Mr. WOOD. I wish the bill disposed of to-day.

The SPEAKER. The Chair has already decided that it is competent for a motion to be made to go into the Committee of the Whole on the state of the Union to consider this bill to-day, and when the House goes into committee this bill will of necessity be considered.

Mr. BURCHARD. Is it now too late to make a motion to refer the bill to the Committee of the Whole on the state of the Union on the point of order?

The SPEAKER. Yes; the Chair has so decided, but the Chair has not decided that it is too late for the House to have an opportunity, by a majority vote, to refer the bill to the Committee of the Whole on the state of the Union, and if there should be an adverse vote upon the demand for the previous question that motion would be in order.

Mr. MILLS. But the gentleman from New York will not permit that motion to be made.

The SPEAKER. The gentleman from New York [Mr. WOOD] has not the floor; the gentleman from Illinois [Mr. BURCHARD] has it.

Mr. SPRINGER. Has the time of the gentleman from New York expired?

The SPEAKER. It has.

Mr. SPRINGER. I asked the Chair to recognize me at the end of his hour to make this motion.

The SPEAKER. The Chair under the practice of the House recognizes the members of the committee who reported the bill. If time is allowed the Chair will then recognize gentlemen outside of the committee.

Mr. WOOD. I desire to understand whether the Speaker has decided that I have lost control of the bill?

The SPEAKER. The gentleman has not lost control of the bill, because the Chair will recognize him to demand the previous question whenever he wishes to do so under the rule.

LATE HON. B. B. DOUGLAS.

Mr. HUNTON. I ask the gentleman from Illinois [Mr. BURCHARD] to yield to me to make a motion touching the payment of the salary of a late member.

Mr. BURCHARD. I will do so if it can be done by unanimous consent.

The SPEAKER. The Chair thinks nobody will object.

Mr. HUNTON. If anybody objects I will withdraw the resolution.

The Clerk read the resolution, as follows:

Resolved, That the Committee on Appropriations be instructed to include in the sundry civil appropriation bill an item appropriating a sum sufficient to pay the three children of Hon. B. B. Douglas, late a Representative from the State of Virginia, the amount he would have received for the residue of the term for which he was elected.

There was no objection, and the resolution was considered and agreed to.

Mr. HUNTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REFUNDING THE PUBLIC DEBT.

The House then resumed the consideration of the bill reported from the Committee of Ways and Means.

Mr. SPRINGER. I desire to ask when the gentleman from New York designs to move the previous question upon this bill, so that we may know what to expect.

The SPEAKER. The Chair understands the object of the gentleman from Illinois is to have general debate or a lengthy debate upon this bill. The time of the gentleman from New York expired. The Chair then recognized the gentleman from Illinois [Mr. BURCHARD] who is in opposition to the bill as reported. As soon as the committee shall cease to occupy the floor, the Chair will recoguize, as is the practice, members outside of the committee.

Mr. BURCHARD. Mr. Speaker, I think that this bill is not objectionable so far as it goes. I should prefer in its place a measure already reported by the Committee of Ways and Means and which is on the Calendar, a measure which obviates all the objections so earnestly urged by the gentleman from Pennsylvania, [Mr. KELLEY.]

This bill of a single section is intended to encourage refunding by issuing certificates of deposit, in the hope that investors will purchase certificates of $10 each, drawing the low rate of interest of 3 per cent., which certificates will ultimately be merged into and become 4 per cent. bonds.

Now, the argument urged in favor of this measure is that there is a class of investors—the poor and saving, the economical and industrious—who desire to invest their savings in Government securities, and to make the investment in amounts less than the minimum now authorized by law, which is $50. This measure is designed to facilitate the refunding of the debt by authorizing the issue of 3 per cent. certificates of deposit and their conversion into 4 per cent. bonds, the money paid for the certificates of deposit being used in the redemption of the outstanding 6 per cent. bonds. So far, I believe, it is a desirable measure.

Under the rules and regulations that are provided in the latter part of this bill, as I am informed, the Secretary of the Treasury holds that money can be forwarded in post-office money-orders to the Treasurer of the United States, and he can collect the money from the Post-Office Department, and thus we will have all the advantages of the money-order system which are provided for in the other bill to which I have alluded.

There is, however, an additional feature in that bill which I think should be provided by Congress. I think there is no more important measure that has been presented to this Congress than that one. It is much more simple than the systems which have been adopted by other governments.

In 1861, Great Britain adopted a system by means of which the poor and the frugal who desired to invest their savings in government securities could utilize the postal service for the purpose of forwarding their money to the treasury, and they could be repaid through the post-offices of that country their deposits or any portion. The full system of postal savings-banks was established at that time in Great Britain. I submit a statement showing the increase of savings deposits in post-office and ordinary savings-banks in Great Britain and Ireland from 1862 to the latest parliamentary returns accessible—the year 1877.

Deposits of British savings-banks, 1863 to 1877.

	Post-office banks.	Ordinary savings banks.	Total ordinary and post-office savings-banks.
1863	$16,884,140	$204,757,525	$221,641,665
1864	24,965,620	197,601,680	222,567,300
1865	32,632,000	193,726,490	226,358,490
1866	40,605,875	181,910,580	222,516,455
1867	48,749,645	182,666,015	231,415,660
1868	58,333,275	184,337,285	242,670,560
1869	67,621,045	187,768,730	255,389,775
1870	75,495,520	189,792,745	265,288,265
1871	85,125,020	194,098,315	279,223,335
1872	99,591,695	200,441,740	297,033,435
1873	105,838,745	202,500,675	308,339,420
1874	115,787,345	207,529,745	323,317,090
1875	125,936,725	212,038,845	337,945,570
1876	134,982,750	216,417,850	351,400,600
1877	143,703,785	221,193,430	214,897,205

The deposits in the British postal savings-banks are in effect deposits in the treasury. The government receives, credits, and repays the depositor at the post-offices designated for that purpose. There were 301 of them in 1863 and 5,480 in 1877.

Now, it is unnecessary to provide post-office banks on that system for the purpose of utilizing and gathering the savings of the poor for the purpose of refunding the debt. It is unnecessary that in every town where there is a money-order office the postmaster should be authorized to receive and keep an account of the moneys so deposited, entering upon the books the names of the depositors, and allowing them to draw their money at that office. We can simply adopt a system by means of which, through the money-order offices, the money of these investors can be forwarded to the Treasurer of the United States, to be entered on the books of the Treasury, there to remain to the credit of the depositor, drawing a low rate of interest and convertible into 4 per cent. bonds, and when paid to be paid through the money-order system or by a Treasury draft. The system is practicable and desirable.

This Government owes $2,000,000,000. It has borrowed from the people of this country and of foreign countries some $1,800,000,000, represented by our bonded debt. The people of the United States have in their banks, savings, national, public, and private, over $2,000,000,000. In the savings-banks of a dozen States they have nearly $900,000,000; $843,000,000 in less than one-third of the States of this Union.

The people have the capital to loan; the Government desires to borrow. On the 1st of this month it was paying 6 per cent. interest on $657,846,200, and 5 per cent. on $703,266,650. The capitalists are offering at this time to loan at 4 per cent. as their 6 per cent. bonds mature and are called for payment by the Secretary. But thousands of the poor would loan their savings if our Government would receive them.

The savings deposits of Great Britain are all invested in her consols except a comparatively small sum, not much more than $1,000,000, retained as balances in the post-office banks to meet withdrawal demands. If the people should deposit under this proposition $100,000,000 in the United States Treasury not 5 per cent. need be reserved from investment and immediate use in the redemption of 6 per cent. bonds.

Now we can adopt this system without jeopardizing the savings-banks of the country, because a rate of interest is proposed lower than that paid by the savings-banks. In the postal savings-bank system in Great Britain the rate of interest is placed at 2½ per cent.; the interest paid by the savings-banks is 3½ per cent. We find in the history of that system since 1861 that the savings-bank deposits remain substantially as they were, while the deposits under the postal saving system have increased from nothing in 1862 to $143,000,000 in 1877. During the same period the deposits in the savings-banks have increased from $200,000,000 up to $221,000,000. The postal saving system in Great Britain, although so widely and conveniently extended to every important post-office, has not injured the savings-banks of that country by diminishing their deposits, but they continue not only to hold their deposits but to increase the amount. Those who are interested in the savings-banks of this country, the officers of those banks, the trustees and representatives of those institutions, need not fear that this system will jeopardize or injure them, or only such of them as are rotten and ought to die speedily.

Why should we not adopt some such system? Two-thirds of the States of this Union practically have no savings-banks. A system inviting and affording facilities for the people to intrust their savings to the care of the Government would induce habits of thrift and economy. The people are anxious to do this. Wherever this subject has been agitated the people are asking for some such system. Why should not Congress adopt it? Because in a few States there are other systems which it is feared even this low rate of interest will injure, shall we hesitate to legislate for the benefit of the people? A ten-dollar certificate of deposit is but little better as an investment for savings than a ten-dollar note. The whole value of the savings system consists in the fact that the savings, to a certain extent, are placed beyond the reach of the depositors for immediate use.

If a man has a ten-dollar bill and a desire or temptation comes to him to spend the money, he can spend it. That is one reason why a man who wants to save his money puts it into a savings-bank or some place where it is beyond his immediate control. It is there for safe-keeping for himself and from himself for the time being.

Now, if he puts his money into a 3 per cent. certificate, convertible as my friend from Pennsylvania [Mr. KELLEY] proposes at any time into legal-tender notes, that certificate will readily pass as money, and the holder of it can spend it just as well as he could spend a ten-dollar bill.

If the money is put into a savings-bank, then the depositor must take his book to the bank or draw a check for the money. That takes time, and often the temptation passes and the depositor leaves his money in the bank. If the money is deposited in the Treasury of the United States, and it takes some days or a week for the depositor to obtain it, he will probably allow it to remain there undisturbed.

Now let us have what is equivalent to a savings system, instead of these certificates of deposit. If amendments are to be offered to this bill, I desire to offer one in the form of a section that will allow such a system to be adopted. I would prefer that the bill should pass, with some such amendment. Without such a provision, I think this is but a half-way measure in aid of refunding.

I did not oppose this bill in committee, but consented that it should be reported to the House, instead of insisting that we should proceed to consider the savings-deposit bill already reported. That bill is now on the Calendar, is a special order, in charge of the gentleman from North Carolina, [Mr. ROBBINS,] and I understand that the friends of the bill desire that it shall be called up at an early day, and brought before the House for consideration.

I do not desire at this time to occupy the attention of the House any longer in discussing that measure. I will merely say that I desire additional legislation upon this subject, either by way of amendment to this bill or by considering the bill which has already been reported.

I now yield for ten minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. I should not have troubled the House on this matter did I not deem this bill a delusion and a snare. What is the proposition? It is that the poor man who has $10 surplus each month may go to some depository of the Government, I do not know where, and spend the day in obtaining with his $10 of money a ten-dollar certificate of deposit. This he may do every month for five months, and then he can put his $50 of certificates of deposit into a 4 per cent. bond. During that time he will receive as his interest on the certificates of deposit the sum of thirty-four and one-half cents. He will have spent five days or parts of five days in doing that, and when he gets it done he will have the privilege of buying a fifty-dollar 4 per cent. bond. If he would only keep his money in his pocket-book and continue at work he would at the end of five months have the same privilege without having lost time in running about hunting up public depositories. That is all there is in this bill.

It is said that the object is safety. How is this certificate of deposit for $10 any more safe than a ten-dollar bill? If the depositor loses it, it is gone. This system has no element of a savings-bank in it. It does not afford any safety. It does not provide for any payment of accrued interest. After getting your certificate of deposit, if you require the money, you can get a broker to sell it for you at a shave greater than the whole interest. That is all there is in the bill. If there is anything more I fail to find it; and I should like to have some gentleman of the Committee of Ways and Means tell me what more there is in it.

But it is said, "Oh! we are going to do something for the poor people;" and my friend from Illinois [Mr. BURCHARD] has likened this proposed system to the governmental savings-bank system of England. But mark the difference. The governmental savings-bank of England pays 2¼ per cent. interest, while the ordinary discount of the Bank of England is 2½ per cent. Therefore there is some boon to the laborer. But here the ordinary rate of discount is from 7 per cent. to 10 and 12 per cent., according to the locality. What boon is it to the poor man to give him the right to get 3 per cent. interest on his deposit—less than half the lowest rate of discount anywhere in this country? Put the rate up to 7 per cent. for six months, and I will talk with you. Give the same chance to the poor man that you give to the bank.

Under this system you propose to gather the deposits of the people, the greenbacks, into the Treasury of the United States—for what purpose? There is no way of paying them out. The current receipts of the Government must be equal to its current expenditures; and this surplus fund which gets into the Treasury cannot get out so far as I can understand, whatever laws you may pass. Thus you continue still further the contraction of the currency which has already depressed labor, stopped business, and brought the country to its present condition. This is said to be a necessary condition; and we are told that we have this great and Heaven-born boon of resumption as the result—resumption at New York and nowhere else! You will not let a man get $10 of your gold; he must have accumulated $50 before he can get either a 4 per cent. bond or any gold.

Why not say that these 4 per cent. bonds shall be issued in the form of ten-dollar registered bonds? Why go through this circumlocution for the simple purpose (and in my humble judgment this measure originates in that purpose) of getting rid of the greenbacks—getting them locked up. Therefore I cannot vote for this bill. If I understand anything of the interests of the people, it will do them no good. It can do them no good. It might possibly injure the savings-banks if it were possible to have any large operations under this bill.

When your poor man has put his first $10 or his second $10 into one of these certificates what shall he do with it in case he is under the necessity of using the money? If he puts the amount in the savings-bank he can go and draw it out and use it; but with this certificate he must go to a broker and submit to a shave, and the shave of that particular broker too. All that he can possibly get if he accumulates $10 a month for five months is thirty-four cents interest, and this he secures by going five times and buying five of these certificates.

Mr. PEDDIE. The storekeepers will take them in trade.

Mr. BUTLER. If you want to do anything in this direction I am in favor of a postal savings-bank of the Government, allowing interest on deposits as high as any interest the Government pays, deducting a small percentage for the expenses of doing the business. That is what we want, South and West and East and North.

Let the rate of interest be 6 per cent. if you please, as long as the Government pays 6 per cent. interest to other creditors. To whom on earth should the Government pay interest rather than the poor laborer, to encourage him in making savings? Who on earth should have the preference over him? You pay 6 per cent. interest to one class; you give a special privilege to the banks and allow them to make 8 and 10 and 15 per cent.—never less than 7. And now you undertake to demagogue this question of the savings of the people by offering them 3 per cent., these 3 per cent. certificates being convertible when they reach the amount of $50 into a 4 per cent. bond, which may or may not be worth all its face imports, which never can be worth any more, and may at any time be worth less. Is the House prepared for such a measure? If you are going to pass the bill at all the amendment of my friend from Pennsylvania [Mr. KELLEY] should certainly be adopted. That amendment provides simply that a man after making his deposit may go and get his money again, if he does not like the security. This is exactly what he can do at the savings-bank. But one principal objection to this whole measure is the want of safety. The holder of the certificate of deposit may be robbed of it at any time; he may lose it by accident; it may be burnt up; and then his money is gone.

Mr. KELLEY. Is not the case the same if the depositor loses his savings-bank book?

Mr. BUTLER. By no manner of means; not in our portion of the country; I do not know how it may be elsewhere. With us every savings-bank book is registered; means are taken for the identification of the depositor by handwriting and otherwise; and if his book is lost he can still get his money by giving an indemnity bond in the same way as is required in the case of United States registered bonds which are lost or destroyed. Under this bill when a certificate has been lost the money is gone forever; but under a postal savings-bank system the deposit would be registered; the voucher might be transferred according to proper forms, and the assignee could get his money. The poor man, if his voucher should be lost, could get his money as well as the Manhattan Savings-Bank. Perhaps, if necessary, we would pass a bill to facilitate the operation, though possibly that is doubtful.

For the reasons I have stated I am heart and soul, body and mind, opposed to this bill.

Mr. KELLEY. Will the gentleman vote for my amendment?

Mr. BUTLER. I will vote for the amendment, because the man who deposits his money and gets a ten-dollar certificate would, under the amendment, be no worse off than if he had a ten-dollar bill. He could get his money at any time, and by waiting six months he could get it converted into a bond.

On the 12th of February, 1869, I proposed to this House the convertible system. My speech is on record, and I have never had occasion to go back on it. I stand by it still.

[Here the hammer fell.]

Mr. BURCHARD. I yield now to the gentleman from New York.

Mr. HEWITT, of New York. Mr. Speaker, this proposition originates in the recommendation of the Secretary of the Treasury contained in his annual report. That clause of the report is headed by the word "savings," and undoubtedly the intention of the Secretary was to recommend a system to Congress by which the savings of the poor might be converted into Government bonds. Incidentally no doubt he expected to assist the refunding system.

Now, I am in favor of a well-digested postal savings-bank. I agree with all that has been said by the gentleman from Illinois [Mr. BURCHARD] and by the gentleman from Massachusetts [Mr. BUTLER] as to the desirable nature of such an institution as that in the framework of our Government. I hold that it is due to the laborer to give him a place of absolute certainty for the deposit of his earnings and his savings. But I need not take one moment of time to show this proposition submitted by the Committee of Ways and Means is not such an institution as will protect or give any facility indeed for a poor man to save his earnings. The gentleman from Pennsylvania [Mr. KELLEY] and the gentleman from Massachusetts [Mr. BUTLER] have shown how utterly baseless it is to call this a provision for the

savings of the poor. A man might as well keep his $10 in the form of a bank bill, as the gentleman from Massachusetts has said, as to put it in the form of one of these certificates.

A loss of one of these certificates would be equivalent to the loss of a ten-dollar bill, for it is not to be supposed that a poor man can by any process take the measures instituted for the recovery of his loss. And I was glad to hear some one put to the gentleman from Massachusetts the question as to the savings-banks books. When a savings-bank book is lost it does not require even a bond as the gentleman from Massachusetts has said to get a new one. In order to test that matter I myself lost a book purposely, as I wished to see whether there was any hardship on the poor. I lost my book and went to the bank and asked for a new one. They first made me write my signature and identify it. They asked from me an affidavit, they asked me to identify myself; all of which I did with very considerable trouble, for it cost me two hours to find a man who knew me, but nevertheless I succeeded in doing it. [Laughter.] I received and have in my possession now a new book without any other than the ordinary trouble necessary to prove a loss.

Now, the gentleman from Pennsylvania [Mr. KELLEY] proposes to remedy this difficulty which he makes so clear, that this is not a savings-bank, by an amendment which would give the right to the depositor to get his money back after six months with 3 per cent. interest. I am sure the gentleman from Pennsylvania would not have made that suggestion if he had known what will necessarily be the effect of it. It is a proposition to give to the rich men with large sums of money 3 per cent. interest on deposits with the Government for six months, and that is all it amounts to. I state to this House that for the last four years there have been many millions of dollars on deposit in trust companies in the city of New York at less than 3 per cent. interest. I know of large sums lying there at 2½ per cent., and the owners will be glad to stipulate to let them lie for six months if they can get 3 per cent. interest. If this amendment of the gentleman from Pennsylvania shall pass, they will certainly walk to the subtreasury, deposit their money, take out these ten-dollar certificates—it is as good as any other form—and at the end of six months go back and draw 3 per cent. interest, and must, therefore, keep the cash on hand so that it cannot be invested in bonds.

The Chair is about to rap me down, and I ask the gentleman from Illinois to yield to me for ten minutes.

Mr. BURCHARD. I will yield to the gentleman from New York five minutes longer.

Mr. BUCKNER. Let me ask the gentleman from New York whether that would not be a good operation for the Government, if it can take up 5 and 6 per cent. bonds and retire them?

Mr. HEWITT, of New York. It would be if it did not have to pay it back at the end of six months. The gentleman from Pennsylvania provides the money shall be paid back. If the money be put in 6 per cent. bonds how are you going to get it out of the 6 per cent. bonds and pay back these deposits? The thing is impossible, and the suggestion of the gentleman from Pennsylvania is entirely impracticable.

But, Mr. Speaker, if this were ever so much a savings-bank, I should be utterly and absolutely opposed to it for another reason which to my mind is insuperable. The money which is to be received from these ten-dollar depositors is to be used according to the provisions of the refunding act. What are the provisions of the refunding act? That when the money is deposited in the Treasury three months' notice shall be given for the call of the 5-20 bonds. Now, then, when this money is aggregated together it is going to lie for three months somewhere and the Government is going to pay 3 per cent. interest on it, and also during the three months pending the call it is going to pay 6 per cent. upon the called bonds. Where will this money be in the interval? Where is it now on the called bonds? I hold in my hand, in the RECORD of the 21st of December, the letter of the Secretary of the Treasury in which he reports that on October 1, 1878, there were sixty-four millions of public money on deposit without interest in the national banks. This money, gathered up in sums of $10 from the poor people of this country, is to go into the public depositories in the same manner as the money received for the 4 per cent. bonds and it is to lie there three months idle; and these banks which have made over a million of dollars in double interest in the last year under the funding system, are to get 1½ per cent. more interest for three months out of the savings of the people of this country.

The process is very simple. The money will be deposited in the banks; the banks will use it in buying the 6 per cent. bonds, which, under the regulations of the Treasury, are accepted as collateral security; these bonds draw interest for three months, amounting to 1½ per cent., and are then surrendered either as called bonds or exchanged for them with the holders when they are presented for payment. The people pay interest on both the deposits and the bonds; the depositor gets ¾ of 1 per cent. and the national bank gets 1½ per cent.; and this is called justice to the poor and an aid to refunding.

Mr. Speaker, I am a zealous, earnest advocate for resumption. I trust there are many in this House as earnest as I am, but I claim there are none more earnest. I am equally earnest for the refunding of the national debt at a lower rate of interest in order to relieve the pressure of taxation. I believe in the policy, and I would believe in the practice if I did not find it every time so arranged as to build up the profits of certain national banks which hold the public funds. I acquit the committee, cheerfully, of any complicity in this transaction. I know it never occurred to them to suppose that this money was to lie idle and that the Government was to continue to pay 1½ per cent. interest on it, on the bonds which it is intended to redeem. But that objection, it seems to me, is absolutely fatal to this bill in its present form. Its efficiency as a savings-bank has been shown to be a delusion, but its efficiency as a means of taking 1½ per cent. interest out of the Treasury of this people and putting it into the treasury of certain national banks which hold the Government deposits is as clear as noonday, and I cannot support the bill.

[Here the hammer fell.]

Mr. BURCHARD. I yield ten minutes to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. On general principles it is my opinion that the less legislation we have on financial questions, in the present situation of the country, the better. We are getting on well; and I would not, just now, favor any radical change in the present order of our currency laws. But here is a proposition more misunderstood, I think, than any I have ever heard discussed for the same length of time, as is shown by two or three speeches that have been made during the last half hour.

Let us get at the situation. The Secretary of the Treasury is by law authorized and directed to refund the 6 per cent. interest-bearing bonds of the United States into four percents. Every time he makes a refund of $1 he lightens the annual burden of coin interest paid by the people to the amount of two cents.

We have a very considerable number of the 6 per cent. bonds still out, but at a rate wholly unparalleled in the history of this country they are being refunded into four percents. At first it was the custom of the Treasury to accomplish that through a syndicate; but there was much feeling throughout the country that it allowed a small group of people to have all the advantages of the business of refunding. The present Secretary of the Treasury abandoned the syndicate plan, and invited all the national banks of the United States, at least all the depository banks, to take hold of the work and aid him in the transfer of the six percents into four percents without the help of the syndicate. Several of the banks took hold of it, and, the plan having a broader basis than the syndicate, the refunding has been going on more rapidly. Instead of a syndicate of a few people, it was done by all the banks that were willing to help, and these banks were acting as agents of their customers to take bonds. When a bank takes a million of 4 per cent. bonds, it takes them for its customers; and in that way the refunding is going on, through the agency of the banks, by the people.

Now, the Secretary of the Treasury, while he has saved considerably by this method and has rapidly hastened the work of refunding, finds or believes he can save more and make the refunding more rapid still if he can broaden the basis still further by going beyond the banks and dealing directly with the people. He proposes that, in order to do this thing, he shall be authorized to permit private citizens to come in with savings of $10 each, or any multiple of $10, and place them in his custody to be entered as loans to the Government, on which they shall receive 3 per cent. interest until such time as their subscriptions shall amount to $50, when they will be transferred into 4 per cent. bonds. It is simply a measure to invite the co-operation of men of small means in the work of funding.

Mr. TOWNSEND, of New York. May I ask the gentleman a question?

Mr. GARFIELD. Yes, sir.

Mr. TOWNSEND, of New York. Why not allow on the small deposit 4 per cent. as well as on the large one?

Mr. GARFIELD. For the reason that there would then be no motive to go on and put it into 4 per cent. bonds. This is not a savings-bank bill. When the time comes to discuss the question of a postal savings-bank, I may want to say something on that subject. But this is not a proposal to convert the Treasury into a savings-bank. It is a proposal to facilitate and hasten the refunding of our 6 per cent. into 4 per cent. bonds, and for no other reason.

Now, the amendment of the gentleman from Pennsylvania [Mr. KELLEY] puts a savings-bank feature into it, but it is not broad enough to cover that subject; it takes away altogether the motive and defeats the purpose of refunding.

Mr. KELLEY. I would ask the gentleman if the chairman of the Committee of Ways and Means did not distinctly announce that this was to furnish the people of the United States national savings-banks?

Mr. WOOD. Let me answer the gentleman. I did not state it in that sense. In speaking of the French system I said that the effect and object would be to make this in one sense a national institution for the savings and earnings of the people.

Mr. GARFIELD. It is so to this extent, that in many sections of the country the savings-banks have broken down; the people have lost confidence in them, and in lieu of placing their funds in savings-banks, which they cannot trust, the Secretary of the Treasury believes and I believe that if they were allowed to do it they will place their savings where they will be invested in 4 per cent. bonds.

Now, here is a way to hasten refunding, without the aid of a syndicate; without the aid of the banks; and without the cost of ¼ per cent. commission, which we now pay, as the means of doing that

without changing any of our laws whatever, except simply allowing a man to deposit $10 at a time until his deposits amount reaches $50. I believe it will be most efficacious.

Mr. KELLEY. Where?

Mr. GARFIELD. Wherever they cannot trust the savings-banks, in the Treasury of the United States. By postal money-orders addressed to the Secretary of the Treasury, and from the postal money-order offices in the United States, or through the banks, without cost, citizens can send their orders under regulations to be fixed by the Secretary of the Treasury, and transfer their gains to this national loan.

The gentleman from Massachusetts sees trouble in this project. He says that this is a scheme for the contraction of the currency. Why, sir, does not the gentleman know that this is a plan for paying out every dollar put in, and buying up the 6 per cent. bonds, so that all the money paid in this way will find its way immediately to the people in the purchase of 6 per cent. bonds. If he can find contraction in that he must have a microscope of a higher power than any I have ever seen.

Again, he says that this is going to distress the poor man. I have more faith in the poor man than the gentleman seems to have. If a man believes that he can in a few months save $50, I am willing to trust him that he can do it. When he puts in a ten-dollar deposit I believe that he has enough character to follow it by another and another, until he becomes the owner of a 4 per cent. bond of the United States.

Reference has been made to France. One of the great elements of strength of public credit in France is because five millions of Frenchmen hold the bonds of France, and the day when three million American laborers are the holders of bonds of the United States will be the day when the occupation of these gentlemen who try to raise a storm in this country between the bondholder and the poor people will be gone, and the strength of our public faith will be established, and there will be a death to demagoguery, and for no other reason than that the people of this country will become interested in the public debt of the United States. A man that holds a fifty-dollar bond will not stand much nonsense about repudiation of the public debt. It is a great measure of protection of the public credit. It will hasten the day of the refunding of our debt.

Mr. Speaker, if we want to help the business of this country, we should aid the United States to get out of the way as a great competitor for loans. While the United States is paying 6 per cent., no private citizen can get a loan for less than 6 per cent., or as low as 6 per cent. When the United States gets its debt re-funded down to 4 per cent., then it has substantially got out of the way as a competitor for the loans of private persons, and the sooner we can do that the sooner we shall get out of the way of the industry and business of this country.

Now, if the proposition of the gentleman from Pennsylvania [Mr. KELLEY] be adopted we simply make this, in a small and imperfect way, a savings-bank bill, and the Government must take and hold a large volume of money and be ready on call to pay again what has been deposited; but, on the contrary, if the bill is allowed to stand as it is reported by the committee, the Government can use every dollar deposited as soon as it comes into the Treasury to buy up the 6 per cent. bonds.

Mr. HEWITT, of New York. On three months' notice.

Mr. BURCHARD. How much time have I left, Mr. Speaker?

The SPEAKER. Fifteen minutes.

Mr. BURCHARD. I will yield five minutes to the gentleman from Kansas, [Mr. PHILLIPS.]

Mr. PHILLIPS. Mr. Speaker, I regret that the Committee of Ways and Means should have come before this House with a measure of such importance as this, proposing to move the previous question so as to cut off all amendments or debate. The Committee of Ways and Means has this privilege, but I do not think it should be so permitted to exercise it. I do not believe that a measure of such magnitude can be properly considered save in Committee of the Whole. There are other measures which this antagonizes which may be offered, and the members ought to have the right to vote on them. This bill is a mere skeleton, to be filled up by the Secretary of the Treasury. The necessity for amending it appears in every line of it, and yet it is a proposition against which, almost in any shape, members are reluctant to vote.

There are three bills upon our Calendar waiting in their order to be reached, which after great labor were matured by three separate committees, providing postal savings-banks or savings-banks for the people. One bill was reported from the Committee on the Post-Office and Post-Roads by the gentleman from North Carolina, [Mr. WADDELL;] another was reported from the Committee of Ways and Means by another gentleman from North Carolina, [Mr. ROBBINS,] and one was reported from the Committee on Banking and Currency by him who is now addressing the House. Those bills meet the case more fully than either of the propositions now before the House. One of them is a proposition for a popular loan, and the other two carefully matured bills for postal savings-banks.

What is the proposition which the chairman of the Committee of Ways and Means [Mr. WOOD] and the majority of the members of that committee ask this House to support? They propose this as a popular loan, offering the people a lower rate of interest than the Government has ever paid. To-day we are paying 5 and 6 per cent. interest, and are boasting because we have been able to float a loan at 4 per cent. Now they propose offering on this people's loan only 3 per cent. They provide no means by which the people can get back the money they will have thus deposited. The only mode by which buyers of these certificates can get back their money will be to sell them to any broker or shaver, as the gentleman from Massachusetts [Mr. BUTLER] has said.

I do not think any proposition could be made so inevitably barren of all useful results as this proposition. A ten-dollar 4 per cent. bond would have been better. Even a 3 per cent. bond. It does not give the people a postal savings-bank. It does not give them an interest-bearing bond. It is a certificate that is not convertible. When a number of them are aggregated they can be converted into 4 per cent. bonds. That process cannot be said to be devised for the people. But the worst of it is that it increases the already too great powers of the Secretary of the Treasury. He is to make the regulations to carry out the bill, which scarcely contains a restriction on this exercise of power. This may enable bankers to hold their reserves in these certificates, for they can convert them, but it is in no just sense a popular measure. I am sure that this House desires to do something in this direction. I am sure the country expects it of us. Each member will be reluctant to vote against any proposition for a popular loan, no matter how defective, but surely the country had a right to expect something better than this. Again, this bill provides no means by which the people can obtain the interest to be paid upon these certificates of deposit. Such interest must and can only be paid when the certificates are ultimately paid, or be computed when the certificates are converted into bonds. The interest on Government bonds is payable semi-annually; but there is no provision in this bill for the payment of any interest upon the certificates of deposit semi-annually or at any regular period.

Every member of this House very well knows that upon the old compound-interest notes the people obtained no interest; the banks who bought them obtained it all. Those old twenty-dollar bills floated as money merely until bankers found that the interest was worth more than its value as circulation, when bankers and brokers held them.

In the limited time which is allowed me I desire to say that I hope this House will not sustain the previous question. I hope the House will assert what is due to it and to every member of it by going into a Committee of the Whole, so that this bill may be amended. I send to the Clerk's desk, to be read as a part of my remarks, an amendment which I desire to offer. The pending measure, as it comes from the committee, is very defective, but if is to be passed at this time I desire that the amendment which I send up shall be a part of it.

The Clerk read as follows:

SEC. —. That any holder of lawful money or Treasury notes, or coin, may make deposits thereof in any sums not less than twenty-five cents in any post-office in the United States which is a money-order office; and the money received therefrom shall be forwarded to the Treasury of the United States, or any designated depository, under such rules and regulations as shall be agreed on by the Secretary of the Treasury and the Postmaster-General. An account shall be kept with every depositor and shall bear interest at the rate of 4 per cent. per annum, payable quarterly, when the sum of said account shall reach $5. And when it shall amount to $10 it may be converted into the certificates heretofore provided for, or the said account, whatever its amount, may be withdrawn by any depositor on giving ten days' notice at the office where deposited. The provisions of this section for postal savings-banks shall be executed under regulations to be agreed on between the Postmaster-General and the Secretary of the Treasury. All amounts of money derived under this section shall be invested in bonds bearing the highest rates of interest subject to call, except that 10 per cent. of such amount shall be held to meet demands under this section.

Mr. PHILLIPS. That is not the postal savings bill reported by me to the House from the Committee on Banking and Currency, but it is all of it that could be made applicable as an amendment to this bill. If the amendment of the gentleman from Pennsylvania [Mr. KELLEY] should be adopted, which makes these certificates convertible into currency, and thus enable the people to get back their money, and then the amendment I have offered should be adopted, it would be something nearer what the postal savings-bank bill was designed to be. I hope the previous question will be voted down, so that these propositions can come before the House and be voted on. I have been earnestly desirous to pass a measure of this kind, and would accept a defective measure rather than have none. I think a loan in bonds or certificates of small denominations should always bear the highest rate of interest the Government is now willing to pay. Why should the people get a lower rate of interest than the capitalists? Our first purpose should be to offer the people inducements to save their money. I do not despair of passing a postal savings-bank bill this session, but would urge the House to so amend this bill, for fear the other bills may not be reached.

Mr. BURCHARD. I now yield five minutes to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I am in favor of a Government issue of 4 per cent. bonds in small sums, not below $20, at the earliest practicable moment, in order to hoard the savings of the people. I regard this bill, in its simplicity and terms, as a good step toward that end. At the present moment the savings-bank interest in this country is very great, and it demands consideration by Congress. But for that I would advocate a change of the rate of interest here proposed from 3 to 4 per cent.

Considering it to be our bounden duty in legislating in this regard to respect the savings-bank interest, it does seem to me that the bill

is wisely devised. It is not mandatory. It will work slowly at first and without harm. The rhetoric that has been expended here in behalf of the poor people who are to be cheated by it is all wasted. No man is obliged to deposit his $10 with the Government any more than he is obliged to deposit it in any savings-bank. The poor man cannot put his $10 in any place where it will be safer than to invest it in one of these proposed ten-dollar certificates. The tendency of the bill will be to encourage savings and economy.

I like this bill because it is, in contrast with almost every other proposition which has been offered here upon the subject, a practicable measure. It is intelligible, it is simple. There is no trap, no device about it. Any man who has $10 can obtain a preliminary certificate of deposit for the amount, and thus he will be encouraged to obtain four more such certificates, and then he can become possessed of a 4 per cent. fifty-dollar bond. I would issue bonds for $20. If the rate of interest is found too low, it will be discovered and amended very promptly. It is neither necessary nor desirable that this measure shall be especially inviting at the start.

These certificates are not likely to fall below the legal-tender currency. We have had experience in respect to that. My friend and colleague from New York [Mr. HEWITT] understands perfectly well that when in war times currency was issued bearing 7.30 per cent. interest, after a very few days every one of those issues was carefully hoarded. There was always somebody picking up and counting the little interest on such issues; and it will be precisely so in this case under the operation of this bill. These certificates bearing 3 per cent. interest, if put in circulation, after a few days or weeks will inevitably be hoarded in somebody's pocket, unless 4 per cent. bonds fall below par.

[Here the hammer fell.]

Mr. BURCHARD. If the amendment proposed by the gentleman from Pennsylvania [Mr. KELLEY] should prevail, it would be to me an indication of the desire of the House to enter upon something more than a mere plan for aiding the process of refunding, which is the purpose of the pending bill. I shall therefore, if that amendment prevails, submit and ask a vote on a substitute which will include the first section of this bill, with the additional provision that the Secretary of the Treasury may, at the desire of any person presenting money for exchange in this manner, enter the transaction upon the books of the Treasury Department, and thereupon the depositor shall be entitled to 3 per cent. interest per annum upon the highest amount remaining to his credit for the whole quarter, with the right of conversion into a 4 per cent. bond at his option; and that, if the amount of deposit should reach $1,000, the Secretary may convert it into a bond so as to protect the Treasury against too large demands for immediate redemption. These are the substantial features of the bill of the gentleman from North Carolina, [Mr. ROBBINS,] which, without objection from him, I propose to offer now as a substitute.

The SPEAKER. The Chair does not understand that any amendments are pending. Several amendments have been read; and members presenting them have stated that if opportunity should be allowed by the House they would offer them.

Mr. BURCHARD. The amendment of the gentleman from Pennsylvania [Mr KELLEY] is pending, as I understand.

The SPEAKER. The Chair does not so understand.

Mr. WOOD. Mr. Speaker, the Committee of Ways and Means gave consent that the gentleman from Pennsylvania should offer his amendment.

Mr. KELLEY. And that a vote should be taken upon it. That was the express understanding of the committee.

The SPEAKER. The Chair did not understand that statement to be made originally by the gentleman from New York; but if that was the understanding the Chair will of course promptly conform to it.

Mr. KELLEY. I understood the gentleman to admit the amendment. Certainly it was the understanding of the committee that while they did not indorse the amendment, they would consent to a vote being taken upon it in the House.

Mr. WOOD. Probably this is the proper time for me to say that there are at least ten or fifteen members who desire to submit, in some form, amendments to this bill, and there are probably as many gentlemen, if not more, who desire to discuss the bill. Now, so far as the committee is concerned, there is no disposition to prevent discussion; but we have some eight or ten other bills of very great importance, and in view of the limited time allowed for making these reports, (to-day and this evening,) I submit whether the House should not, at the earliest practicable moment consistent with giving every gentleman an equal right on this floor, come to a vote on the passage of the bill. If the House is opposed to it, the sooner the Committee of Ways and Means knows that fact the better; if it is in favor of it, the Committee of Ways and Means will unquestionably consent to any reasonable amendment.

The SPEAKER. Does the Chair understand that the gentleman from New York is willing that amendments to the proposition originally introduced shall be voted on under the rules of the House?

Mr. WOOD. As the organ of the committee, I feel bound to allow the gentleman from Pennsylvania [Mr. KELLEY] to have a vote on his amendment. Then I would like the House to grant us the previous question; and the hour which would be allotted to me to close debate I am willing to give to other gentlemen for the purpose of testing the sense of the House upon any amendments they may desire to submit, so that we can reach a final vote within the hour.

The SPEAKER. The Chair, however, asks again whether the gentleman is willing that the various amendments which have been suggested shall be voted upon without debate after the expiration of the hour which would be allotted him to close debate, if the previous question should be sustained?

Mr. HUBBELL. Will the gentleman from New York [Mr. WOOD] yield for a question?

Mr. BURCHARD. This of course does not come out of my time?

The SPEAKER. It does not. The Chair desires that each member of the House, if possible, may have an opportunity afforded to obtain a vote upon such amendment as he may wish to offer; and he thought, that in this respect he was in accord with the gentleman from New York, except that the gentleman from New York has no such instructions from his committee.

Mr. WOOD. I will explain my object. If the previous question be sustained by the House, I desire that in the hour which would be allotted to me for closing the debate, this bill shall be disposed of, either by passing it or defeating it, so that we may proceed to the consideration of other reports from the Committee of Ways and Means.

The SPEAKER. The effect of that would be to shut out amendments unless the gentleman will allow them to be introduced before the previous question operates, with the understanding that they shall be voted upon *seriatim*.

Mr. WOOD. As the organ of the committee, I cannot consent to any amendment except that of the gentleman from Pennsylvania.

Mr. PHILLIPS. Will not the gentleman from New York allow a vote to be taken on my amendment?

Mr. SPRINGER. At the close of the hour I shall ask the floor for the purpose of moving that the bill be referred to the Committee of the Whole House.

The SPEAKER. The gentleman from New York will, of course, be recognized to call the previous question; and if the House wants to open the bill for amendment, it will vote down the previous question.

Mr. SPRINGER. The gentleman from New York has occupied his hour and has lost control of the bill.

The SPEAKER. He has not lost control of the bill.

Mr. SPRINGER. He has lost control of the floor.

The SPEAKER. The Chair understands it to be in accordance with the uniform practice that a member reporting a bill should at some time have the right to test the sense of the House upon the bill by calling the previous question. But the House has the matter within its own control. If it desires to amend the bill, or desires further debate, it will of course vote down the previous question; and thus the bill is thrown open for amendments and debate.

Mr. BURCHARD. Mr. Speaker, my time has not expired.

The SPEAKER. The gentleman has five minutes remaining.

Mr. BURCHARD. If the amendment of the gentleman from Pennsylvania shall be adopted then I shall ask for a vote on the substitute I offer.

The Clerk read as follows:

SEC. 1. That the Secretary of the Treasury is hereby authorized and directed to issue in exchange for lawful money of the United States that may be presented for such exchange certificates of deposit of the denomination of $10, bearing interest at the rate of 3 per cent. per annum, and convertible at any time with accrued interest into the 4 per cent. bonds described in the refunding act; and the money so received shall be applied only to the payment of 5-20 bonds in the mode prescribed by said act. And he is authorized to prescribe suitable rules and regulations in conformity with this act.

SEC. 2. That in lieu of the certificates of deposit authorized to be issued herein the Secretary of the Treasury shall, when required, cause the amount presented for exchange under the provisions of this act to be credited on the books of the Treasury in a savings deposit account, and shall allow interest thereon and credit the same quarterly at the rate of 3 per cent. per annum at the close of the calendar quarter for the highest amount remaining to the credit of each depositor for the whole of such quarter. And the sum so deposited shall, subject to such rules and regulations as the Secretary of the Treasury shall prescribe, be withdrawn and repaid to such depositor, or converted into the 4 per cent. bonds heretofore mentioned: *Provided*, That whenever the sum of $1,000 shall be accumulated to the credit of any depositor, the Secretary may cause the sum to be converted into such 4 per cent. bonds in payment of the whole amount due such depositors.

Mr. BURCHARD. I yield the balance of my time, with the exception of half a minute, which I yield to the chairman of the Committee of Ways and Means to call the previous question, to the gentleman from New York, [Mr. TOWNSEND.] I reserve one-half minute to the gentleman, the chairman of the committee, to demand the previous question.

The SPEAKER. The gentleman from New York is recognized for half a minute.

Mr. TOWNSEND, of New York. I desire to say I consider the proposition introduced by the gentleman from New York from the Committee of Ways and Means as looking in the right direction. The object is not only to secure the refunding of the national debt, but to popularize the national loan and, as designed, to create an inducement among the great body of our people to sustain the Government and maintain order, and so far the bill has my entire approbation. I have but little fault to find with the bill.

Now, if I am not to have two or three minutes I do not wish to speak further. I understand the gentleman from Illinois yields to me all his time except the final half minute in which to call the previous question.

The SPEAKER. The gentleman from Illinois had only one minute left for both purposes. [Laughter.] The gentleman has only half a minute.

Mr. WOOD. Then I demand the previous question.

Mr. TOWNSEND, of New York. I ask by unanimous consent to have four or five minutes.

There was no objection, and it was ordered accordingly.

Mr. TOWNSEND, of New York. Now, Mr. Speaker, I do not sympathize with any denunciations of the national banks. It is a great interest in this country and much greater than we sometimes are led to suppose until we have thought a little on the subject. The savings deposits in this country I assume now amount probably to not less than $2,000,000,000. They probably amount to considerably more than that sum, and the whole of that vast amount belongs to people of small means. Therefore we should walk softly whenever we walk over this interest. Allow me to say that, notwithstanding the fact that there have been failures among savings-banks, there is not an interest in this country not wholly resting upon the credit of the United States which has shown so small a percentage of loss as has been sustained by our people through the savings-banks.

My only objection to the bill as it now stands is to the rate per cent. of interest allowed on the preliminary certificates proposed to be issued. I do not believe the object of the bill will be attained by offering on the preliminary certificates but 3 per cent. In my part of the country there is to be found in every town a reputable institution which will now receive deposits at 5 per cent. I do not believe we shall succeed in inducing the class of people it is sought to interest in this matter unless we pay 4 per cent. on the preliminary certificates, and I see no objection to paying that amount.

I am not one of those who believe the poor man is better than the rich man, but I do believe the poor man is just as good as the rich man, and I would pay upon $10 as high a rate of interest as I would upon fifty, or upon any other sum. I see no reason why we should not do it. I see no reason why the interest of the Government is not sustained in paying on every dollar intrusted to it as high a rate of interest as we pay on the larger amounts. And I do not say this as my friend said who sits by me here in the spirit of demagogism. I do not understand what he said on that subject has any relation to the point I make. I say it because I desire if this bill passes that the project should succeed. I wish there were five millions of the people of the United States who held the securities of the Government. The larger the number the better, and it is especially the poor, the men in moderate circumstances, whom it is desirable to interest in the Government securities, so that there may not be a feeling abroad to which demagogues can appeal, crying out from time to time that we have one law for the rich and another law for the poor.

I want to have a state of things in which we shall all feel that we pay as high a rate of interest on small amounts as we do on large. That is my only objection to the bill, and I hope that somewhere before this bill becomes a law we shall modify the rate of interest payable on the preliminary certificates. In other respects I am for the bill.

[Here the hammer fell.]

Mr. WOOD. I now demand the previous question.

The SPEAKER. The gentleman from New York demands the previous question on the bill and the amendment offered by the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. BURCHARD. My amendment is also pending. I offered it when I had the floor in my own right.

Mr. SPRINGER. If the previous question is voted down, I give notice that I will then move that the bill be committed to the Committee of the Whole on the state of the Union, where every member will have an opportunity to offer amendments.

The SPEAKER. Did the gentleman from New York admit the amendment of the gentleman from Illinois?

Mr. BURCHARD. I had the right to the floor, and offered my amendment. The gentleman from New York had his hour, and when his hour expired another gentleman having the floor had the right to offer an amendment.

The SPEAKER. If that is the case the Chair has no objection, of course.

Mr. WOOD. I desire that the House shall express its opinion as to the amendment of the gentleman from Pennsylvania and the amendment of the gentleman from Illinois.

Mr. PHILLIPS. Will the gentleman from New York admit my amendment?

The SPEAKER. Two amendments are all that are allowable under the rule.

Mr. SPRINGER. By voting down the previous question the gentleman from Kansas will get an opportunity to offer his amendment.

The SPEAKER. The effect of seconding the previous question will be to bring the House first to an immediate vote on the amendment of the gentleman from Pennsylvania as an amendment to original text and then to a vote upon the substitute of the gentleman from Illinois.

Mr. CANNON, of Illinois. I call for the reading of the substitute.

The substitute offered by Mr. BURCHARD was again read.

On seconding the demand for the previous question there were—ayes 103, noes 66.

Mr. SPRINGER. I call for tellers.

Tellers were not ordered, only 28 members voting therefor; not one-fifth of a quorum.

So the previous question was seconded.

The SPEAKER. The question recurs, "Shall the main question be now put?"

Mr. SPRINGER. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 99, not voting 56; as follows:

YEAS—133.

Aiken,	Davis, Horace	Killinger,	Robbins,
Aldrich,	Davis, Joseph J.	Kimmel,	Robertson,
Bacon,	Deering,	Knott,	Robinson, G. D.
Bagley,	Denison,	Landers,	Ryan,
Bailey,	Dunnell,	Lapham,	Sampson,
Baker, John H.	Dwight,	Lathrop,	Sapp,
Ballou,	Eames,	Ligon,	Sayler,
Banks,	Eickhoff,	Lindsey,	Sexton,
Bayne,	Elam,	Luttrell,	Shallenberger,
Bliss,	Ellsworth,	Lynde,	Sinnickson,
Boyd,	Evans, James L.	Marsh,	Slemons,
Brewer,	Evins, John H.	Martin,	Smalls,
Bridges,	Foster,	McCook,	Smith, A. Herr
Bundy,	Frye,	McGowan,	Starin,
Burchard,	Garfield,	McKinley,	Stewart,
Burdick,	Hale,	Metcalfe,	Stone, John W.
Cain,	Hanna,	Mitchell,	Stone, Joseph C.
Calkins,	Harmer,	Monroe,	Townsend, Amos
Camp,	Haskell,	Morse,	Tucker,
Campbell,	Hatcher,	Neal,	Turney,
Candler,	Hazelton,	Norcross,	Van Vorhes,
Cannon,	Hendee,	O'Neill,	Ward,
Caswell,	Hubbell,	Overton,	Warner,
Chittenden,	Humphrey,	Page,	White, Michael D.
Claflin,	Hungerford,	Patterson, G. W.	Wigginton,
Clark, Rush	Hunter,	Peddie,	Williams, Andrew
Cole,	James,	Phelps,	Williams, C. G.
Conger,	Jones, John S.	Pollard,	Williams, James
Cook,	Jones, James T.	Pound,	Willis, Benj. A.
Cox, Jacob D.	Jorgensen,	Price,	Willits,
Crapo,	Joyce,	Pugh,	Wood.
Cummings,	Keightley,	Rainey,	
Cutler,	Kelley,	Randolph,	
Danford,	Ketcham,	Reed,	

NAYS—99.

Atkins,	Dean,	Hooker,	Scales,
Banning,	Dibrell,	House,	Singleton,
Benedict,	Durham,	Hunton,	Smith, William E.
Bicknell,	Eden,	Ittner,	Southard,
Blount,	Ellis,	Jones, Frank	Sparks,
Boone,	Ewing,	Keifer,	Springer,
Bouck,	Felton,	Kenna,	Steele,
Bragg,	Forney,	Knapp,	Stenger,
Briggs,	Fort,	Mackey,	Thompson,
Bright,	Fuller,	Maish,	Throckmorton,
Brogden,	Garth,	Manning,	Tipton,
Buckner,	Goode,	McMahon,	Townsend, M. I.
Butler,	Hamilton,	Mills,	Townshend, R. W.
Cabell,	Hardenbergh,	Money,	Turner,
Caldwell, John W.	Harris, Henry R.	Morgan,	Vance,
Caldwell, W. P.	Harris, John T.	Morrison,	Walsh,
Chalmers,	Harrison,	Muldrow,	White, Harry
Clark of Missouri,	Hart,	Patterson, T. M.	Whitthorne,
Clymer,	Hartzell,	Phillips,	Williams, Jere N.
Cobb,	Hayes,	Pridemore,	Willis, Albert S.
Collins,	Henderson,	Rea,	Wilson,
Covert,	Henry,	Reagan,	Wright,
Cravens,	Herbert,	Rice, Americus V.	Yeates,
Crittenden,	Hewitt, Abram S.	Roberts,	Young, John S.
Culberson,	Hewitt, G. W.	Ross,	

NOT VOTING—56.

Acklen,	Davidson,	Henkle,	Robinson, M. S.
Baker, William H.	Dickey,	Hiscock,	Shelley,
Beebe,	Errett,	Lockwood,	Stephens,
Bell,	Evans, I. Newton	Loring,	Strait,
Bisbee,	Finley,	Majors,	Swann,
Blackburn,	Franklin,	Mayham,	Thornburgh,
Blair,	Freeman,	McKenzie,	Veeder,
Bland,	Gardner,	Muller,	Waddell,
Brentano,	Gause,	Oliver,	Wait,
Browne,	Gibson,	Potter,	Walker,
Carlisle,	Giddings,	Powers,	Watson,
Clark, Alvah A.	Glover,	Reilly,	Williams, Richard
Clarke of Kentucky,	Gunter,	Rice, William W.	Wren,
Cox, Samuel S.	Harris, Benj. W.	Riddle,	Young, Casey.

So the main question was ordered.

During the roll-call the following announcements were made:

Mr. HARRIS, of Georgia. My colleague, Mr. BELL, is detained at his room by sickness.

Mr. BEEBE. I am paired on all questions with my colleague from New York, [Mr. BACON.] If he were present, I should vote "no."

Mr. CARLISLE. My colleague from Kentucky, Mr. MCKENZIE, is paired with Mr. POWERS, of Maine. My colleague, Mr. CLARKE, is detained at home by sickness, and is paired with Mr. OLIVER, of Iowa.

Mr. HARRIS, of Virginia. My colleague, Mr. WALKER, is paired with Mr. WAIT, from Connecticut.

Mr. MCKINLEY. My colleagues from Ohio, Mr. GARDNER and Mr. DICKEY, are paired.

Mr. RICE, of Massachusetts. I am paired with Mr. FINLEY, of Ohio. If he were here, I should vote "ay."

Mr. SAMPSON. My colleague from Iowa, Mr. OLIVER, is paired with Mr. CLARKE, of Kentucky.

Mr. CRAVENS. My colleague from Arkansas, Mr. GAUSE, is detained at his room by sickness.

Mr. HARDENBERGH. Mr. REILLY, of Pennsylvania, has been called to his home on important business.

Mr. McMAHON. My colleague from Ohio, Mr. FINLEY, is detained at home by serious illness.

The result of the vote was then announced as above recorded.

Mr. WOOD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The main question having been ordered, the vote will first be taken on the amendment of the gentleman from Pennsylvania, [Mr. KELLEY.]

The question being taken, there were—ayes 37, noes 102.

Mr. KELLEY. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 28, noes 123; the affirmative not being one-third of the entire vote.

Mr. EWING. I call for tellers.

Tellers were ordered; and Mr. KELLEY and Mr. WOOD were appointed.

The House again divided; and the tellers reported—ayes 38, noes 140.

So, the affirmative being more than one-fifth of the whole vote, the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 149, not voting 57; as follows:

YEAS—82.

Atkins,	Dean,	Keifer,	Smith, William E.
Banning,	Dibrell,	Kelley,	Southard,
Beebe,	Dunnell,	Kenna,	Sparks,
Blackburn,	Eickhoff,	Killinger,	Springer,
Blount,	Elam,	Ligon,	Steele,
Bragg,	Ellis,	Luttrell,	Throckmorton,
Bright,	Ewing,	Mackey,	Tipton,
Butler,	Felton,	Maish,	Townshend, R. W.
Cabell,	Forney,	Martin,	Vance,
Caldwell, John W.	Franklin,	McMahon,	Walsh,
Caldwell, W. P.	Fuller,	Mills,	White, Michael D.
Chalmers,	Garth,	Morgan,	Whitthorne,
Clark of Missouri,	Goode,	Muldrow,	Williams, C. G.
Clymer,	Harris, Henry R.	Phelps,	Williams, Jere N.
Cobb,	Harris, John T.	Phillips,	Willis, Albert S.
Collins,	Hartzell,	Pridemore,	Wilson,
Covert,	Haskell,	Randolph,	Wren,
Crittenden,	Herbert,	Reagan,	Wright,
Culberson,	Hooker,	Rice, Americus V.	Yeates.
Cutler,	House,	Singleton,	
Davis, Joseph J.	Ittner,	Slemons,	

NAYS—149.

Acklen,	Crapo,	James,	Robinson, G. D.
Aiken,	Cravens,	Jones, Frank	Ross,
Aldrich,	Cummings,	Jones, John S.	Ryan,
Bacon,	Danford,	Jones, James T.	Sampson,
Bagley,	Davis, Horace	Jorgensen,	Sapp,
Bailey,	Deering,	Joyce,	Sayler,
Baker, John H.	Denison,	Keightley,	Scales,
Ballou,	Durham,	Ketcham,	Sexton,
Banks,	Dwight,	Knapp,	Shallenberger,
Bayne,	Eames,	Knott,	Sinnickson,
Benedict,	Eden,	Landers,	Smalls,
Bicknell,	Ellsworth,	Lapham,	Smith, A. Herr
Blair,	Evans, James L.	Lathrop,	Starin,
Boone,	Evins, John H.	Marsh,	Stenger,
Boyd,	Foster,	McCook,	Stewart,
Brewer,	Frye,	McGowan,	Stone, John W.
Bridges,	Garfield,	McKinley,	Stone, Joseph C.
Briggs,	Gibson,	Metcalfe,	Strait,
Brogden,	Gunter,	Mitchell,	Thompson,
Browne,	Hale,	Money,	Townsend, Amos
Buckner,	Hamilton,	Monroe,	Turner,
Bundy,	Hanna,	Morrison,	Turney,
Burchard,	Hardenbergh,	Morse,	Van Vorhes,
Burdick,	Harmer,	Neal,	Ward,
Cain,	Hart,	Norcross,	Warner,
Camp,	Hayes,	O'Neill,	Watson,
Campbell,	Hazelton,	Overton,	White, Harry
Candler,	Hendee,	Patterson, G. W.	Wigginton,
Cannon,	Henderson,	Patterson, T. M.	Williams, Andrew
Carlisle,	Henkle,	Peddie,	Williams, James
Caswell,	Henry,	Pollard,	Williams, Richard
Chittenden,	Hewitt, Abram S.	Pound,	Willis, Benj. A.
Claflin,	Hewitt, G. W.	Price,	Willits,
Clark, Rush	Hubbell,	Pugh,	Wood,
Cole,	Hunter,	Rea,	Young, John S.
Conger,	Hunton,	Reed,	
Cook,	Humphrey,	Robbins,	
Cox, Jacob D.	Hungerford,	Roberts,	

NOT VOTING—57.

Baker, William H.	Finley,	Lynde,	Robinson, M. S.
Bell,	Fort,	Majors,	Shelley,
Bisbee,	Freeman,	Manning,	Stephens,
Bland,	Gardner,	Mayham,	Swann,
Bliss,	Gause,	McKenzie,	Thornburgh,
Bouck,	Giddings,	Muller,	Townsend, M. I.
Brentano,	Glover,	Oliver,	Tucker,
Calkins,	Harris, Benj. W.	Page,	Veeder,
Clark, Alvah A.	Harrison,	Potter,	Waddell,
Clarke of Kentucky,	Hatcher,	Powers,	Wait,
Cox, Samuel S.	Hiscock,	Rainey,	Walker,
Davidson,	Kimmel,	Reilly,	Young, Casey.
Dickey,	Lindsey,	Rice, William W.	
Errett,	Lockwood,	Riddle,	
Evans, I. Newton	Loring,	Robertson,	

So the amendment was not agreed to.

During the roll-call the following announcements were made:

Mr. MANNING. I am paired with Mr. CALKINS, who is absent on account of sickness. If he were present, he would vote "ay" and I should vote "no."

Mr. GUNTER. I wish to announce that my colleague, Mr. GAUSE, is absent on account of sickness.

Mr. WARD. I am paired with my colleague, Mr. EVANS, who is absent on account of sickness. If he were here, I should vote "no."

Mr. RICE, of Massachusetts. I am paired with Mr. FINLEY. If he were present, I would vote "no."

Mr. STONE, of Iowa. I am paired with Mr. DAVIDSON. If he were present, I should vote "no."

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

REFUNDING OF THE PUBLIC DEBT.

The question recurred upon the amendment in the nature of a substitute offered by Mr. BURCHARD.

Mr. GARFIELD. I ask the gentleman from Illinois to withdraw that amendment in view of the fact that the amendment of the gentleman from Pennsylvania [Mr. KELLEY] has been voted down.

Mr. BURCHARD. I gave notice that I should offer it as a substitute if the amendment of the gentleman from Pennsylvania was adopted. Of course, I cannot withdraw it without unanimous consent. I trust I shall be allowed to withdraw it.

Mr. PHILLIPS and others objected.

Mr. BURCHARD. Personally I should prefer to have a vote upon it.

Mr. EWING. I call for the yeas and nays upon the substitute.

The question was put upon ordering the yeas and nays, and 37 members voted therefor, not one-fifth of the last vote.

Mr. EWING. I call for tellers upon the yeas and nays.

Tellers were ordered; and Mr. EWING and Mr. WOOD were appointed.

The House divided; and the tellers reported—ayes 46, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 159, not voting 62; as follows:

YEAS—67.

Bicknell,	Cravens,	Hartzell,	Rea,
Blackburn,	Crittenden,	Haskell,	Reagan,
Blount,	Culberson,	Hatcher,	Rice, Americus V.
Bouck,	Cutler,	Hayes,	Robertson,
Bragg,	Dean,	Henderson,	Ryan,
Brogden,	Dunnell,	Ittner,	Sapp,
Browne,	Ellis,	Keifer,	Southard,
Buckner,	Ewing,	Kelley,	Steele,
Burchard,	Forney,	Kenna,	Throckmorton,
Cain,	Fort,	Lynde,	Tipton,
Caldwell, John W.	Franklin,	Mackey,	Turney,
Caldwell, W. P.	Fuller,	Marsh,	White, Harry
Cannon,	Garth,	McMahon,	Whitthorne,
Chalmers,	Hamilton,	Phelps,	Willis, Albert S.
Clymer	Hanna,	Phillips,	Wilson,
Cobb,	Harris, Henry R.	Pridemore,	Wright.
Cook,	Harris, John T.	Randolph,	

NAYS—159.

Aiken,	Denison,	Ketcham,	Sampson,
Aldrich,	Dibrell,	Killinger,	Sayler,
Atkins,	Durham,	Knapp,	Scales,
Bacon,	Dwight,	Knott,	Sexton,
Bagley,	Eames,	Landers,	Shallenberger,
Bailey,	Eden,	Lapham,	Singleton,
Baker, John H.	Elam,	Lathrop,	Sinnickson,
Ballou,	Ellsworth,	Ligon,	Slemons,
Banks,	Errett,	Lindsey,	Smalls,
Bayne,	Evans, James L.	Maish,	Smith, A. Herr
Benedict,	Evins, John H.	Manning,	Smith, William E.
Blair,	Felton,	Martin,	Sparks,
Bliss,	Foster,	McGowan,	Springer,
Boone,	Frye,	McKinley,	Starin,
Boyd,	Garfield,	Metcalfe,	Stenger,
Brewer,	Goode,	Mills,	Stewart,
Bridges,	Gunter,	Mitchell,	Stone, John W.
Briggs,	Hale,	Money,	Strait,
Bright,	Hardenbergh,	Monroe,	Thompson,
Bundy,	Harmer,	Morgan,	Townsend, M. I.
Burdick,	Hart,	Morrison,	Townshend, R. W.
Butler,	Hazelton,	Morse,	Tucker,
Cabell,	Hendee,	Muldrow,	Turner,
Camp,	Henkle,	Neal,	Vance,
Campbell,	Henry,	Norcross,	Van Vorhes,
Candler,	Hewitt, Abram S.	O'Neill,	Walsh,
Carlisle,	Hewitt, G. W.	Overton,	Warner,
Caswell,	Hooker,	Page,	Watson,
Chittenden,	House,	Patterson, G. W.	White, Michael D.
Claflin,	Hubbell,	Patterson, T. M.	Wigginton,
Clark, Rush	Hunter,	Pollard,	Williams, Andrew
Cole,	Hunton,	Pound,	Williams, James
Conger,	Humphrey,	Price,	Williams, Jere N.
Covert,	Hungerford,	Pugh,	Williams, Richard
Cox, Jacob D.	James,	Rainey,	Willis, Benj. A.
Cummings,	Jones, Frank	Reed,	Willits,
Danford,	Jones, John S.	Robbins,	Wood,
Davis, Horace	Jones, James T.	Roberts,	Yeates,
Davis, Joseph J.	Joyce,	Robinson, G. D.	Young, John S.
Deering,	Keightley,	Ross,	

NOT VOTING—62.

Acklen,	Dickey,	Lockwood,	Shelley,
Baker, William H.	Eickhoff,	Loring,	Stephens,
Banning,	Evans, I. Newton	Luttrell,	Stone, Joseph C.
Beebe,	Finley,	Majors,	Swann,
Bell,	Freeman,	Mayham,	Thornburgh,
Bisbee,	Gardner,	McCook,	Townsend, Amos
Bland,	Gause,	McKenzie,	Veeder,
Brentano,	Gibson,	Muller,	Waddell,
Calkins,	Giddings,	Oliver,	Wait,
Clark, Alvah A.	Glover,	Peddie,	Walker,
Clark of Missouri,	Harris, Benj. W.	Potter,	Ward,
Clarke of Kentucky,	Harrison,	Powers,	Williams, C. G.
Collins,	Herbert,	Reilly,	Wren,
Cox, Samuel S.	Hiscock,	Rice, William W.	Young, Casey.
Crapo,	Jorgensen,	Riddle,	
Davidson,	Kimmel,	Robinson, M. S.	

So the substitute was not adopted.

During the roll-call the following announcements were made:

Mr. MANNING. I am paired with Mr. CALKINS, of Indiana, who is absent on account of illness. If he were present, he would vote "no," as I am informed; and as I would vote "no" likewise, I will record my vote in the negative.

Mr. McCOOK. On this question I am paired with Mr. ACKLEN, of Louisiana.

Mr. RICE, of Massachusetts. I am paired with Mr. FINLEY, of Ohio.

Mr. HUNTER. My colleague, Mr. ROBINSON, is detained at his room on account of indisposition.

The result of the vote was then announced as above stated.

Mr. SPRINGER. For the purpose of testing the sense of the House on this bill, I move to lay it upon the table; and on that motion I call for the yeas and nays.

Mr. WOOD. The House has ordered that there shall be a recess taken at half past four o'clock this afternoon.

The SPEAKER. The main question is ordered on this bill, and it will come up immediately after the recess.

Mr. WOOD. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. WOOD. By an order of the House made unanimously to-day there must be a recess taken at half past four o'clock. If the yeas and nays are called on the motion to lay the bill on the table, that hour will be reached before the call is concluded.

The SPEAKER. The Chair will determine that question should it arise as stated by the gentleman from New York [Mr. WOOD] when the hour of half past four is reached.

Mr. BUNDY. I move that the House now adjourn.

The SPEAKER. The House has already ordered that a recess shall be taken from half past four until half past seven.

Mr. BUNDY. But a motion to adjourn is in order, is it not?

The SPEAKER. The Chair will entertain such a motion.

Mr. BUNDY. Then I insist upon my motion.

The question was taken upon the motion to adjourn; and upon a division there were—ayes 79, noes 85.

Before the result of this vote was announced,

Mr. SPRINGER called for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered, there being 34 in the affirmative, more than one-fifth of the last vote.

Mr. AIKEN. I desire to make a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman.

Mr. AIKEN. Should the motion to adjourn be carried, where will this bill be?

Mr. WOOD. I desire also to submit a question to the Chair, whether under the order of the House setting aside to-day for the consideration of reports from the Committee of Ways and Means——

The SPEAKER. The Chair desires to answer first the inquiry of the gentleman from South Carolina, [Mr. AIKEN.] Should the House now adjourn this bill will come up the first thing to-morrow morning after the reading of the Journal, the main question having been ordered upon it.

Mr. AIKEN. There would then be no night session to-night?

The SPEAKER. There would not be.

Many MEMBERS. We do not want any.

The Clerk proceeded to call the roll upon the motion that the House adjourn; but before the call was concluded,

Mr. CONGER said: I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. CONGER. It is now half past four o'clock, and the House has ordered that a recess shall be taken from this time until half past seven this evening.

The SPEAKER. That is an unusual question of order, and has arisen but once before, so far as the memory of the Chair carries him, and that was in 1867, as will be seen from the following:

> Where a motion is made to adjourn before the hour for taking a recess has arrived, and the yeas and nays are ordered to be taken upon the motion, the roll-call must be completed, and the result of the vote must be announced by the Chair, even though the roll-call is not completed until after the hour for taking the recess has expired; and if the question is decided in the affirmative, the House stands adjourned until the morrow.—*Congressional Globe*, first session. Thirty-ninth Congress.

The House to-day made order that there should be a recess taken from half past four until half past seven this evening. There was no motion made to reconsider and table that order, and the Chair entertains this motion to adjourn as the only motion which would enable the House to change its order and allow it to proceed. If the motion was one relating only to the pending bill in one of its stages, the Chair would declare the House in recess from this time. But the Chair thinks that the House should have an opportunity to change its mind in regard to a recess, more especially when such change would not affect the condition of the pending bill.

The Chair will state incidentally that from the call of the roll, so far as it has been carried, the motion to adjourn would seem to be voted down. As soon as the roll-call is completed, should the motion to adjourn not prevail, the Chair will immediately declare the House in recess, that being the first moment when the order for a recess can take effect.

The Clerk completed the call of the roll, which resulted—yeas 77, nays 127, not voting 84; as follows:

YEAS—77.

Banning,	Dwight,	Jones, James T.	Smalls,
Benedict,	Elam,	Jorgensen,	Smith, A. Herr
Bicknell,	Errett,	Keifer,	Smith, William E.
Blackburn,	Ewing,	Kimmel,	Sparks,
Boone,	Felton,	Lindsey,	Springer,
Boyd,	Forney,	Maish,	Stenger,
Bragg,	Fort,	Marsh,	Strait,
Bright,	Franklin,	McGowan,	Tipton,
Bundy,	Garth,	Metcalfe,	Townshend, R. W.
Burdick,	Hardenbergh,	Mitchell,	Turner,
Butler,	Harris, Henry R.	Morrison,	Vance,
Cabell,	Hartzell,	Muldrow,	Watson,
Cain,	Hayes,	Patterson, T. M.	White, Harry
Caldwell, John W.	Herbert,	Pollard,	White, Michael D.
Caldwell, W. P.	Hooker,	Pridemore,	Wigginton,
Campbell,	House,	Rea,	Willis, Albert S.
Clark of Missouri,	Humphrey,	Rice, Americus V.	Yeates,
Cook,	Hungerford,	Ross,	
Crittenden,	James,	Scales,	
Culberson,	Jones, Frank	Slemons,	

NAYS—127.

Aiken,	Conger,	Henkle,	Pound,
Aldrich,	Covert,	Henry,	Price,
Atkins,	Cox, Jacob D.	Hewitt, Abram S.	Pugh,
Bacon,	Cravens,	Hewitt, G. W.	Rainey,
Bagley,	Cummings,	Hunter,	Randolph,
Bailey,	Danford,	Hunton,	Reed,
Baker, John H.	Davis, Horace	Ittner,	Robbins,
Ballou,	Davis, Joseph J.	Jones, John S.	Robertson,
Banks,	Dean,	Joyce,	Robinson, G. D.
Bayne,	Deering,	Keightley,	Sapp,
Beebe,	Denison,	Kelley,	Sayler,
Bliss,	Dibrell,	Kenna,	Sexton,
Blount,	Dunnell,	Killinger,	Shallenberger,
Brewer,	Durham,	Knott,	Singleton,
Bridges,	Eames,	Landers,	Sinnickson,
Briggs,	Eden,	Lapham,	Starin,
Brogden,	Ellis,	Lathrop,	Stewart,
Browne,	Evans, James L.	Ligon,	Townsend, Amos
Buckner,	Evins, John H.	Mackey,	Townsend, M. I.
Burchard,	Foster,	Majors,	Tucker,
Camp,	Frye,	Martin,	Turney,
Candler,	Garfield,	McCook,	Van Vorhes,
Cannon,	Goode,	McKinley,	Ward,
Carlisle,	Gunter,	Mills,	Whitthorne,
Caswell,	Hamilton,	Monroe,	Williams, Andrew,
Chalmers,	Hanna,	Norcross,	Williams, C. G.
Claflin,	Harmer,	O'Neill,	Williams, Jere N.
Clark, Rush	Harris, John T.	Overton,	Willis, Benjamin A.
Clymer,	Harrison,	Page,	Willits,
Cobb,	Hatcher,	Patterson, G. W.	Wood,
Cole,	Hazelton,	Phelps,	Young, John S.
Collins,	Hendee,	Phillips,	

NOT VOTING—84.

Acklen,	Freeman,	Mayham,	Southard,
Baker, William H.	Fuller,	McKenzie,	Steele,
Bell,	Gardner,	McMahon,	Stephens,
Bisbee,	Gause,	Money,	Stone, John W.
Blair,	Gibson,	Morgan,	Stone, Joseph C.
Bland,	Giddings,	Morse,	Swann,
Bouck,	Glover,	Muller,	Thompson,
Brentano,	Hale,	Neal,	Thornburgh,
Calkins,	Harris, Benj. W.	Oliver,	Throckmorton,
Chittenden,	Hart,	Peddie,	Veeder,
Clark, Alvah A.	Haskell,	Potter,	Waddell,
Clarke of Kentucky,	Henderson,	Powers,	Wait,
Cox, Samuel S.	Hiscock,	Reagan,	Walker,
Crapo,	Hubbell,	Reilly,	Walsh,
Cutler,	Ketcham,	Rice, William W.	Warner,
Davidson,	Knapp,	Riddle,	Williams, James
Dickey,	Lockwood,	Roberts,	Williams, Richard
Eickhoff,	Loring,	Robinson, M. S.	Wilson,
Ellsworth,	Luttrell,	Ryan,	Wren,
Evans, I. Newton	Lynde,	Sampson,	Wright,
Finley,	Manning,	Shelley,	Young, Casey.

So the motion to adjourn was not agreed to.

And then, in accordance with previous order, the House (at four o'clock and forty minutes p. m.) took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

CERTIFICATES OF DEPOSIT—REFUNDING THE PUBLIC DEBT.

Mr. HENDERSON. I ask unanimous consent to introduce a bill for reference.

The SPEAKER. The previous question is prevailing on the bill

pending when the House took a recess, the bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the refunding of the public debt.

Mr. BRAGG. I move that the House adjourn.

The motion was not agreed to; there being—ayes 20, noes 47.

The SPEAKER. The question recurs on the motion of the gentleman from Illinois [Mr. SPRINGER] that the bill be laid on the table.

The question being taken, there were—ayes 33, noes 39.

Mr. SPRINGER. No quorum has voted.

The SPEAKER. The gentleman from Illinois makes the point that no quorum has voted. Nothing is in order except a call of the House or a motion to adjourn.

Mr. LUTTRELL. I move a call of the House.

The motion was not agreed to; there being—ayes 34, noes 35.

Mr. GARFIELD. I demand the yeas and nays on the motion to lay the bill on the table. That will test the question whether there is a quorum present.

The SPEAKER. The question was taken on the motion to lay on the table, and no quorum voted. The Chair will recognize the demand of the gentleman from Ohio for the yeas and nays on that motion.

Mr. HARRIS, of Virginia. The yeas and nays upon that motion were refused before the recess.

The SPEAKER. The Chair thinks that they were not refused, and the record does not show that they were.

Mr. FRANKLIN. I move that the House now adjourn.

Mr. SAYLER. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 18, nays 146, not voting 124; as follows:

YEAS—18.

Benedict,	Forney,	Morrison,	Turner,
Bicknell,	Franklin,	Neal,	Vance,
Bragg,	Garth,	Springer,	Williams, Jere N.
Clark, Rush,	Harris, Henry R.	Steele,	
Culberson,	Maish,	Townshend, R. W.	

NAYS—146.

Acklen,	Cutler,	Hungerford,	Reagan,
Aiken,	Danford,	Hunter,	Robbins,
Atkins,	Davis, Joseph J.	James,	Roberts,
Ballou,	Davis, Horace	Jones, John S.	Robinson, G. D.
Bayne,	Deering,	Joyce,	Ross,
Blair,	Denison,	Keightley,	Sampson,
Bliss,	Dibrell,	Kelley,	Sapp,
Blount,	Dunnell,	Kenna,	Sayler,
Boone,	Durham,	Killinger,	Sexton,
Bouck,	Eames,	Kimmel,	Shallenberger,
Brewer,	Eden,	Knapp,	Singleton,
Bridges,	Errett,	Knott,	Sinnickson,
Briggs,	Evans, James L.	Landers,	Slemons,
Bright,	Evins, John H.	Lapham,	Smith, A. Herr
Brogden,	Felton,	Lathrop,	Southard,
Browne,	Fort,	Ligon,	Starin,
Buckner,	Foster,	Luttrell,	Stewart,
Bundy,	Garfield,	Lynde,	Strait,
Burchard,	Gibson,	Mackey,	Thompson,
Burdick,	Goode,	Manning,	Tipton,
Butler,	Gunter,	Marsh,	Townsend, Amos
Cain,	Hamilton,	Martin,	Townsend, M. I.
Caldwell, John W.	Hanna,	McCook,	Ward,
Camp,	Hardenbergh,	McGowan,	Warner,
Campbell,	Harris, John T.	Monroe,	White, Michael D.
Candler,	Hart,	Morgan,	Whitthorne,
Chittenden,	Hartzell,	O'Neill,	Williams, Andrew
Clymer,	Haskell,	Page,	Williams, C. G.
Cobb,	Hayes,	Patterson, G. W.	Williams, James
Cook,	Hazelton,	Patterson, T. M.	Willis, Albert S.
Cole,	Henderson,	Phillips,	Willis, Benj. A.
Collins,	Henry,	Pound,	Willits,
Conger,	Herbert,	Price,	Wilson,
Covert,	Hewitt, Abram S.	Pridemore,	Wood,
Cox, Jacob D.	Hewitt, G. W.	Pugh,	Young, John S.
Cravens,	House,	Randolph,	
Cummings,	Humphrey,	Rea,	

NOT VOTING—124.

Aldrich,	Dickey,	Keifer,	Robertson,
Bacon,	Dwight,	Ketcham,	Robinson, M. S.
Bagley,	Eickhoff,	Lindsey,	Ryan,
Bailey,	Elam,	Lockwood,	Scales,
Baker, John H.	Ellis,	Loring,	Shelley,
Baker, William H.	Ellsworth,	Majors,	Smalls,
Banks,	Evans, I. Newton	Mayham,	Smith, William E.
Banning,	Ewing,	McKenzie,	Sparks,
Beebe,	Finley,	McKinley,	Stenger,
Bell,	Freeman,	McMahon,	Stephens,
Bisbee,	Frye,	Metcalfe,	Stone, John W.
Blackburn,	Fuller,	Mills,	Stone, Joseph C.
Bland,	Gardner,	Mitchell,	Swann,
Boyd,	Ganse,	Money,	Thornburgh,
Brentano,	Giddings,	Morse,	Throckmorton,
Cabell,	Glover,	Muldrow,	Tucker,
Caldwell, W. P.	Hale,	Muller,	Turney,
Calkins,	Harmer,	Norcross,	Van Vorhes,
Cannon,	Harris, Benj. W.	Oliver,	Veeder,
Caswell,	Harrison,	Overton,	Waddell,
Carlisle,	Hatcher,	Peddie,	Wait,
Chalmers,	Hendee,	Phelps,	Walker,
Claflin,	Henkle,	Pollard,	Walsh,
Clark, Alvah A.	Hiscock,	Potter,	Watson,
Clarke of Kentucky,	Hooker,	Powers,	White, Harry
Clark of Missouri,	Hubbell,	Rainey,	Wigginton,
Cox, Samuel S.	Hunton,	Reed,	Williams, Richard
Crapo,	Ittner,	Reilly,	Wren,
Crittenden,	Jones, Frank	Rice, Americus V.	Wright,
Davidson,	Jones, James T.	Rice, William W.	Yeates,
Dean,	Jorgensen,	Riddle,	Young, Casey.

So the motion to adjourn was not agreed to.

During the roll-call, the following announcements were made:

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is confined to his room by sickness.

Mr. ACKLEN. My colleague, Mr. ELAM, is detained at his house by sickness.

Mr. HARRIS, of Georgia. My colleague, Mr. BELL, is detained at his room by sickness.

Mr. PRICE. The gentleman from Missouri, Mr. CRITTENDEN, and the gentleman from Kansas, Mr. RYAN, are paired.

Mr. DEERING. The gentleman from Massachusetts, Mr. RICE, is paired with the gentleman from Ohio, Mr. FINLEY.

Mr. PATTERSON, of New York. The gentleman from Vermont, Mr. HENDEE, is paired with the gentleman from Louisiana, Mr. ELAM.

Mr. McGOWAN. My colleague from Michigan, Mr. STONE, is paired with the gentleman from Alabama, Mr. SHELLEY.

Mr. KILLINGER. My colleague, Mr. WATSON, is detained from the House by illness.

Mr. WILLIAMS, of Oregon. I am paired on this vote with the gentleman from Illinois, Mr. SPARKS.

Mr. DURHAM. My colleague, Mr. CARLISLE, is quite sick to-night, and unable to attend the session of the House.

Mr. MAISH. My colleague, Mr. STENGER, is detained at his room by indisposition.

Mr. BOONE. My colleague, Mr. McKENZIE, is paired with the gentleman from Maine, Mr. POWERS.

Mr. HEWITT, of New York. The gentleman from Mississippi, Mr. CHALMERS, is detained at home by sickness.

Mr. COBB. My colleague, Mr. FULLER, is detained at home by sickness in his family.

Mr. HUMPHREY. The gentleman from Ohio, Mr. VAN VORHES, desired to be excused from attendance this evening on account of sickness.

Mr. VANCE. My colleague, Mr. YEATES, is detained from the House by sickness.

Mr. COOK. My colleague from Georgia, Mr. SMITH, is detained at his room by indisposition.

The result of the vote was announced as above stated.

The question recurred on the demand for the yeas and nays on the motion to lay the bill on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 72, nays 115, not voting 101; as follows:

YEAS—72.

Acklen,	Evins, John H.	Jones, Frank	Ross,
Aiken,	Felton,	Keifer,	Singleton,
Atkins,	Forney,	Kelley,	Slemons,
Benedict,	Franklin,	Kenna,	Southard,
Bicknell,	Garth,	Knapp,	Springer,
Blackburn,	Goode,	Knott,	Steele,
Blount,	Hardenbergh,	Ligon,	Strait,
Boone,	Harris, Henry R.	Mackey,	Tipton,
Bragg,	Harris, John T.	Martin,	Townshend, R. W.
Bright,	Hart,	Mills,	Turner,
Butler,	Hartzell,	Morgan,	Vance,
Caldwell, John W.	Henkle,	Morrison,	Warner,
Culberson,	Henry,	Muldrow,	Wigginton,
Dean,	Herbert,	Patterson, T. M.	Williams, Jere N.
Dibrell,	Hewitt, Abram S.	Pridemore,	Willis, Albert S.
Durham,	Hewitt, G. W.	Reagan,	Wilson,
Eden,	House,	Rice, Americus V.	Wright,
Errett,	Ittner,	Roberts,	Young, John S.

NAYS—115.

Bacon,	Cummings,	Joyce,	Rea,
Bagley,	Cutler,	Keightley,	Reed,
Ballou,	Danford,	Ketcham,	Robbins,
Banks,	Davis, Horace	Killinger,	Robinson, G. D.
Bayne,	Davis, Joseph J.	Kimmel,	Sampson,
Blair,	Deering,	Landers,	Sapp,
Bliss,	Denison,	Lapham,	Sayler,
Brewer,	Dunnell,	Lathrop,	Sexton,
Bridges,	Eames,	Lindsey,	Shallenberger,
Briggs,	Evans, James L.	Luttrell,	Sinnickson,
Brogden,	Fort,	Lynde,	Smalls,
Browne,	Foster,	Maish,	Smith, A. Herr
Buckner,	Garfield,	Marsh,	Starin,
Bundy,	Gibson,	McCook,	Stewart,
Burchard,	Gunter,	Metcalfe,	Thompson,
Burdick,	Hale,	Mitchell,	Townsend, Amos,
Cain,	Hamilton,	Monroe,	Tucker,
Camp,	Hanna,	Neal,	Turney,
Campbell,	Harrison,	Norcross,	Ward,
Candler,	Haskell,	O'Neill,	White, Harry,
Cannon,	Hatcher,	Overton,	White, Michael D.
Chittenden,	Hayes,	Page,	Whitthorne,
Clark, Rush	Hazelton,	Patterson, G. W.	Williams, Andrew
Clymer,	Henderson,	Peddie,	Williams, C. G.
Cobb,	Humphrey,	Phillips,	Williams, James
Cole,	Hungerford,	Pound,	Willis, Benj. A.
Conger,	Hunter,	Price,	Willits,
Covert,	James,	Rainey,	Wood.
Cravens,	Jones, John S.	Randolph,	

NOT VOTING—101.

Aldrich,	Bland,	Caswell,	Cox, Jacob D.
Bailey,	Bouck,	Chalmers,	Cox, Samuel S.
Baker, John H.	Boyd,	Claflin,	Crapo,
Baker, William H.	Brentano,	Clark, Alvah A.	Crittenden,
Banning,	Cabell,	Clark of Missouri,	Davidson,
Beebe,	Caldwell, W. P.	Clarke of Kentucky,	Dickey,
Bell,	Calkins,	Collins,	Dwight,
Bisbee,	Carlisle,	Cook,	Eickhoff,

Elam,	Hubbell,	Pollard,	Swann,
Ellis,	Hunton,	Potter,	Thornburgh,
Ellsworth,	Jones, James T.	Powers,	Throckmorton,
Evans, I. Newton	Jorgensen,	Pugh,	Townsend, M. I.
Ewing,	Lockwood,	Reilly,	Van Vorhes,
Finley,	Loring,	Rice, William W.	Veeder,
Freeman,	Majors,	Riddle,	Waddell,
Frye,	Manning,	Robertson,	Wait,
Fuller,	Mayham,	Robinson, M. S.	Walker,
Gardner,	McGowan,	Ryan,	Walsh,
Gause,	McKenzie,	Scales,	Watson,
Giddings,	McKinley,	Shelley,	Williams, Richard
Glover,	McMahon,	Smith, William E.	Wren,
Harmer,	Money,	Sparks,	Yeates,
Harris, Benj. W.	Morse,	Stenger,	Young, Casey.
Hendee,	Muller,	Stephens,	
Hiscock,	Oliver,	Stone, John W.	
Hooker,	Phelps,	Stone, Joseph C.	

So the House refused to lay the bill on the table.

During the vote,

Mr. BANNING said: I am paired with Mr. CLARK, of Missouri. If he were present, he would vote in the affirmative and I would vote in the negative.

Mr. MULDROW. My colleague, Mr. CHALMERS, who is absent on account of sickness, is paired with Mr. CASWELL. If present, Mr. CHALMERS would vote in the affirmative.

Mr. VANCE. My colleague, Mr. YEATES, is detained from the House on account of sickness.

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is confined to his room by sickness.

Mr. COOK. I am paired with my colleague, Mr. SMITH. If he were present, he would vote in the negative and I would vote in the affirmative.

Mr. DURHAM. My colleague, Mr. CARLISLE, is sick and unable to be present this evening. My other colleague, Mr. MCKENZIE, is paired with Mr. POWERS on all political questions.

Mr. HATCHER. My colleague, Mr. CRITTENDEN, is paired with Mr. RYAN, of Kansas.

Mr. MANNING. I am paired with Mr. CALKINS, who is absent on account of sickness. If he were present, he would vote "no" and I would vote "ay."

Mr. ACKLEN. My colleague, Mr. ELAM, is absent by reason of sickness.

Mr. PUGH. I am paired with Mr. CABELL, of Virginia. If he were present, I would vote in the negative and he would vote in the affirmative.

Mr. COX, of Ohio. I am paired with Mr. HUNTON, of Virginia. He would vote "ay" and I would vote "no."

Mr. HARRIS, of Virginia. My colleague, Mr. WALKER, is paired with Mr. WAIT, of Connecticut.

Mr. WILLIAMS, of Oregon. I am paired with Mr. SPARKS, of Illinois. If he were here, I would vote "no."

Mr. TOWNSEND, of New York. I am paired with Mr. HOOKER, of Mississippi. If he were present, I would vote "no."

Mr. HUNTER. My colleague, Mr. CALKINS, is paired with Mr. MANNING. If he were here, he would vote "no."

Mr. PRICE. Mr. RYAN, of Kansas, is paired with Mr. CRITTENDEN, of Missouri.

Mr. HUMPHREYS. My colleague, Mr. CASWELL, who is paired with Mr. CHALMERS, of Mississippi, would, if present, vote "no."

Mr. PATTERSON, of New York. Mr. HENDEE is paired with Mr. ELAM.

Mr. ROBBINS. My colleague, Mr. WADDELL, is detained from the House by indisposition.

Mr. TUCKER. I have been requested to state that Mr. HOOKER, of Mississippi, is paired with Mr. TOWNSEND, of New York.

The vote was then announced as above recorded.

The bill was then ordered to be engrossed and read a third time.

Mr. WOOD demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. BRIGHT demanded the yeas and nays.

The House divided; and there were ayes 34, noes not counted.

Mr. SPRINGER demanded tellers on the yeas and nays.

Tellers were ordered; and Mr. WOOD and Mr. BRIGHT were appointed.

The question was again put; and the tellers reported ayes 45.

So the yeas and nays were ordered, more than one-fifth of those present having voted in the affirmative.

The question was taken; and it was decided in the affirmative—yeas 116, nays 71, not voting 101; as follows:

YEAS—116.

Aldrich,	Buckner,	Cobb,	Eames,
Bacon,	Bundy,	Collins,	Evans, James L.
Bagley,	Burchard,	Conger,	Fort,
Ballou,	Burdick,	Covert,	Foster,
Banks,	Cain,	Cravens,	Garfield,
Bayne,	Caldwell, W. P.	Cummings,	Garth,
Blair,	Camp,	Cutler,	Gibson,
Bliss,	Campbell,	Danford,	Gunter,
Brewer,	Candler,	Davis, Horace	Hale,
Bridges,	Cannon,	Davis, Joseph J.	Hamilton,
Briggs,	Claflin,	Deering,	Hanna,
Brogden,	Clark, Rush	Denison,	Hatcher,
Browne,	Clymer,	Dunnell,	Hayes,
Hazelton,	Luttrell,	Pound,	Smith, A. Herr
Henderson,	Lynde,	Price,	Starin,
Humphrey,	Maish,	Rainey,	Stewart,
Hungerford,	Marsh,	Randolph,	Townsend, Amos
Hunter,	McCook,	Rea,	Tucker,
James,	Metcalfe,	Reed,	Turney,
Jones, John S.	Mitchell,	Rice, Americus V.	Ward,
Joyce,	Monroe,	Robbins,	White, Harry
Keightley,	Neal,	Robinson, G. D.	White, Michael D.
Ketcham,	Norcross,	Sampson,	Williams, Andrew
Killinger,	O'Neill,	Sapp,	Williams, C. G.
Kimmel,	Overton,	Sayler,	Williams, James
Landers,	Page,	Sexton,	Willis, Benj. A.
Lapham,	Patterson, G. W.	Shallenberger,	Willits,
Lathrop,	Peddie,	Sinnickson,	Wood,
Lindsey,	Phillips,	Smalls,	Wright.

NAYS—71.

Acklen,	Evins, John H.	Kelley,	Singleton,
Aiken,	Felton,	Kenna,	Slemons,
Atkins,	Forney,	Knapp,	Southard,
Benedict,	Franklin,	Knott,	Springer,
Bicknell,	Goode,	Ligon,	Steele,
Blackburn,	Hardenbergh,	Mackey,	Strait,
Blount,	Harris, Henry R.	Martin,	Tipton,
Boone,	Harris, John T.	McGowan,	Townshend, R. W.
Bragg,	Hart,	McMahon,	Turner,
Bright,	Hartzell,	Mills,	Vance,
Caldwell, John W.	Henkle,	Morrison,	Warner,
Chittenden,	Henry,	Morse,	Whitthorne,
Culberson,	Herbert,	Muldrow,	Wigginton,
Dean,	Hewitt, Abram S.	Patterson, T. M.	Williams, Jere N.
Dibrell,	Hewitt, G. W.	Pridemore,	Willis, Albert S.
Durham,	House,	Reagan,	Wilson,
Eden,	Ittner,	Roberts,	Young, John S.
Errett,	Jones, Frank	Ross,	

NOT VOTING—101.

Bailey,	Davidson,	Jones, James T.	Shelley,
Baker, William H.	Dickey,	Jorgensen,	Smith, William E.
Baker, John H.	Dwight,	Keifer,	Sparks,
Banning,	Eickhoff,	Lockwood,	Stenger,
Beebe,	Elam,	Loring,	Stephens,
Bell,	Ellis,	Majors,	Stone, John W.
Bisbee,	Ellsworth,	Manning,	Stone, Joseph C.
Bland,	Evans, I. Newton,	Mayham,	Swann,
Bouck,	Ewing,	McKenzie,	Thompson,
Boyd,	Finley,	McKinley,	Thornburgh,
Brentano,	Freeman,	Money,	Throckmorton,
Butler,	Frye,	Morgan,	Townsend, M. I.
Cabell,	Fuller,	Muller,	Van Vorhes,
Calkins,	Gardner,	Oliver,	Veeder,
Carlisle,	Gause,	Phelps,	Waddell,
Caswell,	Giddings,	Pollard,	Wait,
Chalmers,	Glover,	Potter,	Walker,
Clark, Alvah A.	Harmer,	Powers,	Walsh,
Clarke of Kentucky,	Harris, Benj. W.	Pugh,	Watson,
Clark of Missouri,	Harrison,	Reilly,	Williams, Richard
Cole,	Haskell,	Rice, William W.	Wren,
Cook,	Hendee,	Riddle,	Yeates,
Cox, Jacob D.	Hiscock,	Robertson,	Young, Casey.
Cox, Samuel S.	Hooker,	Robinson, M. S.	
Crapo,	Hubbell,	Ryan,	
Crittenden,	Hunton,	Scales,	

So the bill was passed.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is confined to his room by sickness.

Mr. BANNING. On this question I am paired with Mr. CLARK, of Missouri. If he were here, I should vote "ay" and he would vote "no."

Mr. HATCHER. My colleague from Missouri, Mr. CRITTENDEN, is paired with Mr. RYAN, of Kansas.

Mr. MANNING. I am paired with Mr. CALKINS, of Indiana. If he were present, he would vote "ay" and I should vote "no." My colleague from Mississippi, Mr. MONEY, is absent, and is paired with Mr. HUBBELL, of Michigan. If present, Mr. MONEY would vote "no" and Mr. HUBBELL, I presume, would vote "ay." I should have stated in the last vote that Mr. MONEY would have voted "ay" on the motion to lay the bill on the table.

Mr. MULDROW. My colleague from Mississippi, Mr. CHALMERS, is paired with Mr. CASWELL, of Wisconsin. Mr. CHALMERS is absent on account of sickness. If he were present, he would vote "no."

Mr. COOK. I am paired on this question with my colleague from Georgia, Mr. SMITH. If he were present, he would vote "ay" and I should vote "no."

Mr. COBB. My colleague from Indiana, Mr. FULLER, is absent on account of sickness in his family.

Mr. HENKLE. On this question Mr. MORGAN, of Missouri, and Mr. HARRISON, of Illinois, are paired.

Mr. TUCKER. Mr. HOOKER, of Mississippi, is paired with Mr. TOWNSEND, of New York. If present, Mr. HOOKER would vote "no."

Mr. PUGH. I am paired with Mr. CABELL, of Virginia. If he were present, he would vote "no" and I should vote "ay."

Mr. HARRIS, of Virginia. My colleague, Mr. WALKER, is paired with Mr. WAIT, of Connecticut.

Mr. COX, of Ohio. I am paired with Mr. HUNTON, of Virginia. If he were present, he would vote "no" and I should vote "ay."

Mr. CUMMINGS. Mr. WILLIAMS, of Oregon, is paired with Mr. SPARKS, of Illinois.

Mr. COLE. I am paired with my colleague from Missouri, Mr. GLOVER.

Mr. HALE. My colleague from Maine, Mr. POWERS, is paired with Mr. MCKENZIE, of Kentucky

Mr. TOWNSEND, of New York. I am paired with Mr. HOOKER, of Mississippi. If he were present, I should vote "ay."

Mr. KEIFER. I am paired with my colleague from Ohio, Mr. MCKINLEY, who is detained from the House to-night by the illness of his wife. If he were here, he would vote "ay" and I should vote "no."

Mr. HUMPHREY. My colleague from Wisconsin, Mr. CASWELL, is paired with Mr. CHALMERS, of Mississippi. If present, Mr. CASWELL would vote "ay" and Mr. CHALMERS, I suppose, would vote "no."

Mr. WARD. My colleague from Pennsylvania, Mr. EVANS, is absent from his seat on account of illness. If present, he would vote "ay."

Mr. PRICE. Mr. CRITTENDEN, of Missouri, and Mr. RYAN, of Kansas, are paired on this question.

Mr. PATTERSON, of New York. Mr. ELAM, of Louisiana, and Mr. HENDEE, of Vermont, are paired.

Mr. DURHAM. My colleague from Kentucky, Mr. CARLISLE, is detained from the House by sickness. If present, he would vote "no." My colleague, Mr. MCKENZIE, and Mr. POWERS, of Maine, are paired on all political questions.

Mr. HEWITT, of New York. I am requested to state that Mr. CHALMERS, of Mississippi, is detained from the House by sickness.

Mr. VANCE. My colleague from North Carolina, Mr. YEATES, is detained from the House by illness. If present, he would vote "no."

The result of the vote was then announced as above recorded.

Mr. WOOD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PAYMENT OF DUTIES IN UNITED STATES NOTES.

Mr. WOOD. I am directed by the Committee of Ways and Means to report back with a favorable recommendation the bill (H. R. No. 5548) to make United States notes receivable for duties on imports.

The bill was read, as follows:

Be it enacted, &c., That on and after the passage of this act United States notes shall be receivable for duties on imports; and all acts and parts of acts inconsistent with this act are hereby repealed.

Mr. WOOD. I shall not detain the House with any explanation of this bill. Upon its face it fully explains its purpose and object. I call the previous question on the engrossment and third reading.

Mr. GARFIELD. I desire to offer an amendment to the bill by inserting the words "so long as such notes are equivalent to coin."

Many MEMBERS. No! No!

Mr. GARFIELD. I do not propose for one to shut off our supply of coin to meet our interest in case any calamity should happen to us. Unless that limitation can be put upon the bill, I hope it will not pass.

Mr. BRIGHT. I ask that the bill be again read.

The bill was again read.

Mr. GARFIELD. The amendment I desire to offer is to insert after the word "imports" the words "so long as said notes shall be exchangeable at par in coin."

[Cries of "Regular order!"]

The SPEAKER. The gentleman from New York [Mr. WOOD] demanded the previous question. If the House desires to amend the bill, it can reach that by voting down the previous question.

Mr. BURCHARD. Mr. Speaker, the Committee of Ways and Means authorized its chairman, the gentleman from New York, to yield for this amendment.

[Cries of "Regular order!"]

The SPEAKER. The Chair has no knowledge on that point.

Mr. WOOD. If the gentleman from Illinois will permit, the chairman will explain.

The SPEAKER. The Chair has nothing to do with what occurred in committee.

Mr. GARFIELD. I said nothing about what occurred in committee. I asked the gentleman from New York to yield for the amendment I indicated.

The SPEAKER. Does the gentleman from New York yield for the amendment?

Mr. WOOD. I have no objection to the gentleman from Ohio having a vote upon his amendment. When this subject was up in the committee that gentleman made the request of the committee that he should be permitted to offer the amendment, and the committee accorded to him that right. But it is for the House to determine what disposition it will make of this amendment, and I hope it will not be adopted.

Mr. O'NEILL. That is a poor way to get out of it. It is a backdown.

The SPEAKER. The House can vote down the previous question if it wishes.

Mr. GARFIELD. If the gentleman will not admit my amendment, I move to lay the bill upon the table.

Mr. LUTTRELL. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BURCHARD. I hope the gentleman from Ohio [Mr. GARFIELD] will withdraw his motion until we see whether the House will or will not refuse to sustain the previous question. [Cries of "Regular order!"]

Mr. GARFIELD. If the gentleman from New York will give me leave to offer my amendment I will withdraw my motion. [Cries of "Object!" and "Regular order!"] Gentlemen cannot cough me down. I withdraw my motion, and, as I understand, with the permission of the gentleman from New York, offer my amendment. [Cries of "Too late!"] It is not too late; the roll-call had not been commenced.

Mr. RICE, of Ohio. Can a motion be withdrawn after the yeas and nays have been ordered upon it?

The SPEAKER. It can be withdrawn at any time before the roll-call is commenced.

Mr. EDEN. But the yeas and nays have been ordered.

Mr. MILLS. I understand the gentleman from New York [Mr. WOOD] to demand the previous question.

The SPEAKER. The Chair will cause Rule 40 to be read.

The Clerk read Rule 40, as follows:

After a motion is stated by the Speaker or read by the Clerk, it shall be deemed to be in the possession of the House; but may be withdrawn at any time before a decision or amendment.

The SPEAKER. The gentleman has a right to withdraw his motion, and the Chair now desires to know what the disposition of the gentleman from New York is, as to admitting the amendment submitted by the gentleman from Ohio.

Mr. WOOD. If the House will listen to me for one moment I will endeavor to explain the position of this matter as it stands. I do yield, as the organ of the committee, to the gentleman from Ohio to offer his amendment, and test the sense of the House upon it, and now upon the bill and amendment I call the previous question.

The previous question was seconded and the main question ordered, being upon Mr. GARFIELD's amendment.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

CONSULAR AND DIPLOMATIC BILL.

The SPEAKER appointed as the members of the House upon the committee of conference upon the disagreeing votes of the two Houses upon the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, Mr. SINGLETON, Mr. HALE, and Mr. CLYMER.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to withdraw from the files of the House papers in the following cases, in which no adverse reports had been made:

To Mr. SHELLEY, in the case of Lucinda McGuire; and

To Mr. PHELPS, in the case of George Cowles.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted for three days to Mr. REILLY.

PAYMENT OF DUTIES IN UNITED STATES NOTES.

The House resumed the consideration of the bill (H. R. No. 5548) to make United States notes receivable for duties on imports.

The question was upon the amendment offered by Mr. GARFIELD, to insert in the fourth line, after the word "imports," the following: "so long as said notes shall be exchangeable at par in coin."

Mr. HARRISON. I would like to ask the gentleman one question.

The SPEAKER. The gentleman may only do that by unanimous consent.

Mr. HARRISON. My question is, if he has any doubt that we have reached resumption?

Mr. GARFIELD. I have no doubt of the success of resumption, unless by hostile legislation resumption shall be destroyed.

Mr. SPRINGER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 76, nays 122, not voting 90; as follows:

YEAS—76.

Aldrich,	Cole,	James,	Peddie,
Bacon,	Conger,	Jones, Frank	Reed,
Bagley,	Covert,	Jones, John S.	Robinson, G. D.
Ballou,	Cox, Jacob D.	Joyce,	Ross,
Banks,	Davis, Horace	Keifer,	Sexton,
Bayne,	Denison,	Keightley,	Shallenberger,
Benedict,	Eames,	Lapham,	Sinnickson,
Blair,	Errett,	Lathrop,	Smalls,
Bliss,	Evans, James L.	Lindsey,	Smith, A. Herr
Briggs,	Foster,	McCook,	Starin,
Bundy,	Garfield,	McGowan,	Stewart,
Burchard,	Hale,	Metcalfe,	Strait,
Burdick,	Hardenbergh,	Mitchell,	Townsend, Amos
Cain,	Hart,	Monroe,	Ward,
Camp,	Hazelton,	Morse,	White, Michael D.
Campbell,	Hewitt, Abram S.	Norcross,	Williams, Andrew
Chittenden,	Hunter,	O'Neill,	Williams, C. G.
Claffin,	Humphrey,	Overton,	Williams, James
Clark, Rush	Hungerford,	Page,	Willis, Benj. A.

NAYS—122.

Acklen,	Deering,	Ittner,	Rice, Americus V.
Aiken,	Dibrell,	Kelley,	Robbins,
Atkins,	Dunnell,	Kenna,	Roberts,
Banning,	Durham,	Killinger,	Sampson,
Bicknell,	Eden,	Kimmel,	Sapp,
Blackburn,	Ellis,	Knapp,	Sayler,
Blount,	Evins, John H.	Knott,	Singleton,
Boone,	Ewing,	Landers,	Slemons,
Bouck,	Felton,	Ligon,	Southard,
Bragg,	Forney,	Luttrell,	Springer,
Brewer,	Fort,	Lynde,	Steele,
Bridges,	Franklin,	Mackey,	Tipton,
Bright,	Garth,	Maish,	Townshend, R. W.
Brogden,	Gibson,	Marsh,	Tucker,
Browne,	Goode,	Martin,	Turner,
Buckner,	Gunter,	McMahon,	Turney,
Caldwell, John W.	Hamilton,	Mills,	Vance,
Caldwell, W. P.	Hanna,	Morgan,	Warner,
Candler,	Harris, Henry R.	Morrison,	White, Harry
Cannon,	Harris, John T.	Muldrow,	Whitthorne,
Clymer,	Harrison,	Neal,	Wigginton,
Cobb,	Hartzell,	Patterson, G. W.	Williams, Jere N.
Collins,	Haskell,	Patterson, T. M.	Willis, Albert S.
Cook,	Hatcher,	Phillips,	Willits,
Cravens,	Hayes,	Pound,	Wilson,
Culberson,	Henderson,	Price,	Wood,
Cummings,	Henkle,	Pridemore,	Wright,
Cutler,	Henry,	Rainey,	Yeates,
Danford,	Herbert,	Randolph,	Young, John S.
Davis, Joseph J.	Hewitt, G. W.	Rea,	
Dean,	House,	Reagan,	

NOT VOTING—90.

Bailey,	Dwight,	Lockwood,	Smith, William E.
Baker, John H.	Eickhoff,	Loring,	Sparks,
Baker, William H.	Elam,	Majors,	Stenger,
Beebe,	Ellsworth,	Manning,	Stephens,
Bell,	Evans, I. Newton	Mayham,	Stone, John W.
Bisbee,	Finley,	McKenzie,	Stone, Joseph C.
Bland,	Freeman,	McKinley,	Swann,
Boyd,	Frye,	Money,	Thompson,
Brentano,	Fuller,	Muller,	Thornburgh,
Butler,	Gardner,	Oliver,	Throckmorton,
Cabell,	Gause,	Phelps,	Townsend, M. I.
Calkins,	Giddings,	Pollard,	Van Vorhes,
Carlisle,	Glover,	Potter,	Veeder,
Caswell,	Harmer,	Powers,	Waddell,
Chalmers,	Harris, Benj. W.	Pugh,	Wait,
Clark, Alvah A.	Hendee,	Reilly,	Walker,
Clark of Missouri,	Hiscock,	Rice, William W.	Walsh,
Clarke of Kentucky,	Hooker,	Riddle,	Watson,
Cox, Samuel S.	Hubbell,	Robertson,	Williams, Richard
Crapo,	Hunton,	Robinson, M. S.	Wren,
Crittenden,	Jones, James T.	Ryan,	Young, Casey.
Davidson,	Jorgensen,	Scales,	
Dickey,	Ketcham,	Shelley,	

So the amendment was not agreed to.

During the roll-call the following announcements were made:

Mr. STEELE. My colleague, Mr. SCALES, is absent on account of sickness. If present, he would vote "no."

Mr. HATCHER. My colleague, Mr. CRITTENDEN, is paired with Mr. RYAN. If Mr. CRITTENDEN were here, he would vote "no." My colleague, Mr. GLOVER, is paired with the gentleman from New York, Mr. BEEBE. If he were here, he would vote "no."

Mr. BANNING. My colleague, Mr. FINLEY, is at home on account of sickness.

Mr. HEWITT, of New York. I desire to announce that Mr. CHALMERS is absent on account of sickness.

Mr. DURHAM. My colleague, Mr. CARLISLE, is unable to be here to-night. If here, he would vote "no."

Mr. MULDROW. My colleague, Mr. CHALMERS, is paired with Mr. CASWELL, of Wisconsin.

Mr. CULBERSON. My colleague, Mr. THROCKMORTON, is detained from the House by sickness.

Mr. GUNTER. My colleague, Mr. GAUSE, is absent on account of sickness. If present, he would vote "no."

Mr. ACKLEN. My colleague, Mr. ELAM, is absent by reason of sickness. If here, he would vote "no."

Mr. COBB. My colleague, Mr. FULLER, is detained from the House on account of sickness in his family.

Mr. PUGH. I am paired with Mr. CABELL. If he were here, he would vote "no" and I should vote "ay."

Mr. TOWNSEND, of New York. Upon this question I am paired with Mr. HOOKER, of Mississippi. If he were present, I should vote "no."

Mr. HARRIS, of Virginia. I desire to announce that my colleague, Mr. WALKER, is paired with Mr. WAIT, of Connecticut.

Mr. DEERING. I desire to announce that Mr. RICE, of Massachusetts, is paired with Mr. FINLEY, of Ohio.

Mr. STONE, of Michigan. I am paired with Mr. SHELLEY, of Alabama, who is absent by leave of the House.

Mr. CUMMINGS. I have been requested to state that Mr. WILLIAMS, of Oregon, and Mr. SPARKS, of Illinois, are paired.

Mr. HUMPHREY. I desire to state that my colleague, Mr. CASWELL, is paired with Mr. CHALMERS, of Mississippi.

Mr. PRICE. I desire to state that Mr. RYAN, of Kansas, is paired with Mr. CRITTENDEN, of Missouri.

Mr. PATTERSON, of New York. I have been requested to state that Mr. HENDEE, of Vermont, is paired with Mr. ELAM, of Louisiana.

Mr. BOONE. My colleague, Mr. MCKENZIE, is paired with Mr. POWERS, of Maine.

Mr. MANNING. I am paired with Mr. CALKINS, of Indiana. If he were present, I presume he would vote "ay;" I would vote "no." I desire further to state that my colleague, Mr. MONEY, is absent on account of illness, and is paired with Mr. HUBBELL, of Michigan. If present, Mr. MONEY would vote "no."

The result of the vote was then announced as above stated.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. GARFIELD. Believing that this is a serious attack upon resumption, I move to lay the bill on the table.

Mr. SPRINGER and Mr. SAYLER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 41, nays 155, not voting 92; as follows:

YEAS—41.

Bacon,	Dean,	Joyce,	Sinnickson,
Ballou,	Denison,	Lathrop,	Smith, A. Herr
Benedict,	Eames,	Lindsey,	Starin,
Blair,	Foster,	McCook,	Stewart,
Briggs,	Garfield,	Monroe,	Townsend, Amos
Camp,	Hardenbergh,	Morse,	Ward,
Chittenden,	Hart,	Norcross,	Williams, Andrew
Claflin,	Hewitt, Abram S.	O'Neill,	Williams, James.
Cole,	Hungerford,	Reed,	
Covert,	Jones, Frank	Robinson, G. D.	
Cox, Jacob D.	Jones, John S.	Shallenberger,	

NAYS—155.

Acklen,	Cummings,	Ittner,	Rea,
Aiken,	Cutler,	James,	Reagan,
Aldrich,	Danford,	Keightley,	Rice, Americus V.
Atkins,	Davis, Horace	Kelley,	Robbins,
Bagley,	Davis, Joseph J.	Kenna,	Roberts,
Banks,	Deering,	Killinger,	Ross,
Banning,	Dibrell,	Kimmel,	Sampson,
Bayne,	Dunnell,	Knapp,	Sapp,
Bicknell,	Durham,	Knott,	Sayler,
Blackburn,	Eden,	Landers,	Sexton,
Bliss,	Ellis,	Lapham,	Singleton,
Blount,	Evins, John H.	Ligon,	Slemons,
Boone,	Ewing,	Luttrell,	Southard,
Bouck,	Felton,	Lynde,	Springer,
Bragg,	Forney,	Mackey,	Steele,
Brewer,	Fort,	Maish,	Stone, John W.
Bridges,	Franklin,	Marsh,	Strait,
Bright,	Garth,	Martin,	Tipton,
Brogden,	Gibson,	McGowan,	Townshend, R. W.
Browne,	Goode,	McMahon,	Tucker,
Buckner,	Gunter,	Metcalfe,	Turner,
Bundy,	Hamilton,	Mills,	Turney,
Burchard,	Hanna,	Mitchell,	Vance,
Burdick,	Harris, Henry R.	Morgan,	Warner,
Butler,	Harris, John T.	Morrison,	White, Harry
Cain,	Harrison,	Muldrow,	White, Michael D.
Caldwell, John W.	Hartzell,	Neal,	Whitthorne,
Caldwell, W. P.	Haskell,	Overton,	Wigginton,
Campbell,	Hatcher,	Page,	Williams, C. G.
Candler,	Hayes,	Patterson, G. W.	Williams, Jere N.
Cannon,	Hazelton,	Patterson, T. M.	Willis, Albert S.
Clark, Rush	Henderson,	Peddie,	Willis, Benj. A.
Clymer,	Henkle,	Phillips,	Willits,
Cobb,	Henry,	Pound,	Wilson,
Collins,	Hewitt, G. W.	Price,	Wood,
Conger,	Herbert,	Pridemore,	Wright,
Cook,	House,	Pugh,	Yeates,
Cravens,	Hunter,	Rainey,	Young, John S.
Culberson,	Humphrey,	Randolph,	

NOT VOTING—92.

Bailey,	Eickhoff,	Jorgensen,	Scales,
Baker, John H.	Elam,	Keifer,	Shelley,
Baker, William H.	Ellsworth,	Ketcham,	Smalls,
Beebe,	Errett,	Lockwood,	Smith, William E.
Bell,	Evans, I. Newton	Loring,	Sparks,
Bisbee,	Evans, James L.	Majors,	Stenger,
Bland,	Finley,	Manning,	Stephens,
Boyd,	Freeman,	Mayham,	Stone, Joseph C.
Brentano,	Frye,	McKenzie,	Swann,
Cabell,	Fuller,	McKinley,	Thompson,
Calkins,	Gardner,	Money,	Thornburgh,
Carlisle,	Gause,	Muller,	Throckmorton,
Caswell,	Giddings,	Oliver,	Townsend, M. I.
Chalmers,	Glover,	Phelps,	Van Vorhes,
Clark, Alvah A.	Hale,	Pollard,	Veeder,
Clark of Missouri,	Harmer,	Potter,	Waddell,
Clarke of Kentucky,	Harris, Benj. W.	Powers,	Wait,
Cox, Samuel S.	Hendee,	Reilly,	Walker,
Crapo,	Hiscock,	Rice, William W.	Walsh,
Crittenden,	Hooker,	Riddle,	Watson,
Davidson,	Hubbell,	Robertson,	Williams, Richard
Dickey,	Hunton,	Robinson, M. S.	Wren,
Dwight,	Jones, James T.	Ryan,	Young, Casey.

During the roll-call the following announcements were made:

Mr. HATCHER. I desire to state that my colleague, Mr. GLOVER, is paired with Mr. VEEDER, of New York. If present, Mr. GLOVER would vote "no." My colleague, Mr. CRITTENDEN, is paired with Mr. RYAN, of Kansas. If present, Mr. CRITTENDEN would vote "no."

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is absent on account of sickness. If here, he would vote "no."

Mr. MANNING. I am paired with Mr. CALKINS, of Indiana. If present, I presume he would vote "ay;" I would vote "no." My colleague, Mr. MONEY, is absent on account of illness, and is paired with Mr. HUBBELL, of Michigan. If present, Mr. MONEY would vote "no." I do not know how Mr. HUBBELL would vote.

Mr. MULDROW. My colleague, Mr. CHALMERS, is absent and paired with Mr. CASWELL, of Wisconsin. If present, Mr. CHALMERS would vote "no."

Mr. CULBERSON. My colleague, Mr. THROCKMORTON, is detained from the House by sickness. If present, he would vote "no."

Mr. ACKLEN. My colleague, Mr. ELAM, is absent on account of illness. If present, he would vote "no."

Mr. KNOTT. My colleague, Mr. MCKENZIE, is absent by order of the House. If present, he would vote "no."

Mr. COBB. My colleague, Mr. FULLER, is detained from the House by reason of sickness in his family. If present, he would vote "no."

Mr. TUCKER. My colleagues, Mr. CABELL and Mr. HUNTON, are absent. If here, they would both vote "no."

Mr. TOWNSEND, of New York. On this question I am paired with Mr. HOOKER, of Mississippi. If he were present, I would vote "no."

Mr. PUGH. I am paired with Mr. CABELL, of Virginia. As I am informed that he would vote "no" if present, I will also vote "no."

Mr. LANDERS. My colleague, Mr. WAIT, is paired with Mr. WALKER, of Virginia. If Mr. WAIT were present, he would vote "ay."

Mr. TOWNSEND, of Ohio. My colleague, Mr. MCKINLEY, is absent from his seat in consequence of sickness in his family.

Mr. HUMPHREY. My colleague, Mr. CASWELL, is paired with Mr. CHALMERS, of Mississippi.

Mr. CUMMINGS. I desire to state that Mr. WILLIAMS, of Oregon, is paired with Mr. SPARKS, of Illinois.

Mr. ROBBINS. My colleague, Mr. WADDELL, is absent on account of indisposition. If here, he would vote against the motion to lay on the table, and in favor of the passage of this bill.

The result of the vote was then announced as above stated.

The bill was then ordered to be engrossed and read a third time. Being engrossed, it was accordingly read the third time.

Mr. WOOD called for the previous question.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

Mr. GARFIELD. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 153, nays 43, not voting 92; as follows:

YEAS—153.

Acklen,	Davis, Horace	Kelley,	Ross,
Aiken,	Davis, Joseph J.	Kenna,	Sampson,
Aldrich,	Deering,	Killinger,	Sapp,
Atkins,	Dibrell,	Kimmel,	Sayler,
Bagley,	Dunnell,	Knapp,	Sexton,
Banning,	Durham,	Knott,	Shallenberger,
Bayne,	Eden,	Landers,	Singleton,
Bicknell,	Ellis,	Lapham,	Sinnickson,
Blackburn,	Evans, James L.	Ligon,	Slemons,
Blount,	Evins, John H.	Luttrell,	Smalls,
Boone,	Ewing,	Lynde,	Southard,
Bouck,	Felton,	Mackey,	Springer,
Bragg,	Forney,	Maish,	Steele,
Brewer,	Fort,	Marsh,	Stone, John W.
Bridges,	Franklin,	Martin,	Strait,
Bright,	Garth,	McMahon,	Tipton,
Brogden,	Gibson,	Metcalfe,	Townsend, Amos
Browne,	Goode,	Mills,	Townshend, R. W.
Buckner,	Gunter,	Mitchell,	Tucker,
Burchard,	Hamilton,	Morrison,	Turner,
Burdick,	Hanna,	Muldrow,	Turney,
Butler,	Harris, Henry R.	Neal,	Vance,
Cain,	Harris, John T.	Overton,	Warner,
Caldwell, John W.	Harrison,	Page,	White, Harry
Caldwell, W. P.	Hartzell,	Patterson, G. W.	White, Michael D.
Campbell,	Haskell,	Patterson, T. M.	Whitthorne,
Candler,	Hatcher,	Peddie,	Wigginton,
Cannon,	Hayes,	Phillips,	Williams, C. G.
Clark, Rush	Hazelton,	Pound,	Williams, Jere N.
Clymer,	Henderson,	Price,	Willis, Albert S.
Cobb,	Hewitt, G. W.	Pridemore,	Willits,
Collins,	Herbert,	Pugh,	Wilson,
Conger,	House,	Rainey,	Wood,
Cook,	Hunter,	Randolph,	Wright,
Cravens,	Humphrey,	Rea,	Yeates,
Culberson,	Ittner,	Reagan,	Young, John S.
Cummings,	James,	Rice, Americus V.	
Cutler,	Keifer,	Robbins,	
Danford,	Keightley,	Roberts,	

NAYS—43.

Bacon,	Covert,	Hewitt, Abram S.	O'Neill,
Ballou,	Cox, Jacob D.	Hungerford,	Reed,
Banks,	Dean,	Jones, Frank	Robinson, G. D.
Benedict,	Denison,	Jones, John S.	Smith, A. Herr
Blair,	Dwight,	Joyce,	Starin,
Bliss,	Eames,	Ketcham,	Stewart,
Briggs,	Foster,	Lathrop,	Ward,
Camp,	Garfield,	McCook,	Williams, Andrew
Chittenden,	Hardenbergh,	Monroe,	Williams, James
Claflin,	Hart,	Morse,	Willis, Benj. A.
Cole,	Henry,	Norcross,	

NOT VOTING—92.

Bailey,	Bundy,	Cox, Samuel S.	Evans, I. Newton
Baker, John H.	Cabell,	Crapo,	Finley,
Baker, William H.	Calkins,	Crittenden,	Freeman,
Beebe,	Carlisle,	Davidson,	Frye,
Bell,	Caswell,	Dickey,	Fuller,
Bisbee,	Chalmers,	Eickhoff,	Gardner,
Bland,	Clark, Alvah A.	Elam,	Gause,
Boyd,	Clarke of Kentucky,	Ellsworth,	Giddings,
Brentano,	Clark of Missouri,	Errett,	Glover,
Hale,	Majors,	Reilly,	Thompson,
Harmer,	Manning,	Rice, William W.	Thornburgh,
Harris, Benj. W.	Mayham,	Riddle,	Throckmorton,
Hendee,	McGowan,	Robertson,	Townsend, M. I.
Henkle,	McKenzie,	Robinson, M. S.	Van Vorhes,
Hiscock,	McKinley,	Ryan,	Veeder,
Hooker,	Money,	Scales,	Waddell,
Hubbell,	Morgan,	Shelley,	Wait,
Hunton,	Muller,	Smith, William E.	Walker,
Jones, James T.	Oliver,	Sparks,	Walsh,
Jorgensen,	Phelps,	Stenger,	Watson,
Lindsey,	Pollard,	Stephens,	Williams, Richard
Lockwood,	Potter,	Stone, Joseph C.	Wren,
Loring,	Powers,	Swann,	Young, Casey.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. DAVIS, of North Carolina. My colleague, Mr. SCALES, is detained from the House by sickness. If present, he would vote "ay."

Mr. HATCHER. My colleague, Mr. GLOVER, is paired with the gentleman from New York, Mr. VEEDER. Mr. GLOVER, if present, would vote "ay." My colleague, Mr. CRITTENDEN, is paired with the gentleman from Kansas, Mr. RYAN. Mr. CRITTENDEN, if present, would vote "ay."

Mr. HARRIS, of Georgia. My colleague, Mr. BELL, who is detained from the House by illness, would, if present, vote "ay."

Mr. MANNING. My colleague, Mr. MONEY, who is absent on account of illness and is paired with the gentleman from Michigan, Mr. HUBBELL, would, if present, vote "ay." I am paired with the gentleman from Indiana, Mr. CALKINS, who is detained from the House by sickness. If he were present, I should vote in the affirmative.

Mr. MULDROW. My colleague, Mr. CHALMERS, who is paired with the gentleman from Wisconsin, Mr. CASWELL, would, if present, vote "ay."

Mr. TUCKER. My colleagues, Mr. HUNTON and Mr. CABELL, who are absent, would, if present, vote "ay."

Mr. LANDERS. My colleague, Mr. WAIT, is paired with the gentleman from Virginia, Mr. WALKER.

Mr. TOWNSEND, of New York. On this question I am paired with the gentleman from Mississippi, Mr. HOOKER. If he were present, I should vote in the affirmative.

Mr. DWIGHT. My colleague, Mr. BUNDY, is absent on account of illness.

Mr. SAMPSON. The gentleman from Oregon, Mr. WILLIAMS, is paired with the gentleman from Illinois, Mr. SPARKS.

Mr. BAYNE. My colleague, Mr. ERRETT, is detained at home by sickness. If present, he would vote "ay."

Mr. HUMPHREY. My colleague, Mr. CASWELL, is paired with the gentleman from Mississippi, Mr. CHALMERS. The gentleman from Ohio, Mr. VAN VORHES, is detained at home by sickness.

Mr. DURHAM. My colleague, Mr. CARLISLE, who is detained from the House by indisposition, would, if present, vote "ay." Mr. MCKENZIE and Mr. POWERS are paired. Mr. MCKENZIE would vote "ay." I do not know how Mr. POWERS would vote.

Mr. KILLINGER. My colleague, Mr. WATSON, is detained from the House by sickness.

The result of the vote was announced as above stated.

Mr. WOOD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BRAGG. I move that the House do now adjourn.

Mr. WOOD. If the gentleman will withdraw that motion for a few moments, I desire to report to-night one more bill from the Committee of Ways and Means and have the previous question ordered upon it so that it may come up in the morning. I will then consent to an adjournment. It is a bill to facilitate the refunding of the public debt; and I believe that when understood it must command the approval of the House.

The SPEAKER. The question is on the motion to adjourn.

Mr. WOOD. I desire to put an inquiry to the Chair. If the House should adjourn now, will not this bill be the first business in order in the morning?

The SPEAKER. It will not.

Mr. WOOD. Then I hope the House will not adjourn.

The question being taken on the motion to adjourn, there were—ayes 88, noes 63.

Mr. WOOD called for tellers.

Tellers were ordered; and Mr. WOOD and Mr. BRAGG were appointed.

The House divided; and the tellers reported—ayes 88, noes 63.

Mr. WHITE, of Pennsylvania. I call for the yeas and nays.

Mr. WOOD. I hope the yeas and nays will be ordered, unless the House will permit the bill to be read and placed in such a position that it can be acted on to-morrow morning.

Mr. BURCHARD. I hope the bill will be reported and allowed to be pending.

The yeas and nays were ordered; there being—ayes 42, noes 98.

The question was taken; and it was decided in the negative—yeas 69, nays 102, not voting 117; as follows:

YEAS—69.

Acklen,	Blackburn,	Bouck,	Bright,
Banning,	Boone,	Bragg,	Browne,

Butler,	Hardenbergh,	Maish,	Starin,
Cain,	Harris, Henry R.	Manning,	Steele,
Caldwell, John W.	Hartzell,	Martin,	Stone, John W.
Claflin,	Hayes,	Mills,	Strait,
Culberson,	Herbert,	Morrison,	Townshend, R. W.
Danford,	House,	Morse,	Turner,
Davis, Horace	Hungerford,	Muldrow,	Vance,
Dibrell,	Joyce,	Norcross,	Wigginton,
Durham,	Kenna,	Patterson, T. M.	Williams, Jere N.
Eames,	Killinger,	Price,	Willis, Albert S.
Eden,	Kimmel,	Reagan,	Wilson,
Ellis,	Knott,	Rice, Americus V.	Yeates,
Ewing,	Lapham,	Roberts,	Young, John S.
Felton,	Ligon,	Sampson,	
Forney,	Luttrell,	Smalls,	
Gibson,	Lynde,	Springer,	

NAYS—102.

Aiken,	Cravens,	Hunter,	Reed,
Aldrich,	Cummings,	Ittner,	Robbins,
Atkins,	Cutler,	Jones, Frank	Robinson, G. D.
Bagley,	Davis, Joseph J.	Jones, John S.	Sayler,
Banks,	Dean,	Keifer,	Sexton,
Bayne,	Deering,	Keightley,	Shallenberger,
Blair,	Denison,	Kelley,	Singleton,
Bliss,	Dunnell,	Ketcham,	Sinnickson,
Blount,	Dwight,	Lathrop,	Southard,
Brewer,	Evans, James L.	Lindsey,	Stewart,
Bridges,	Evins, John H.	Mackey,	Tipton,
Briggs,	Fort,	Marsh,	Townsend, Amos
Burchard,	Foster,	McCook,	Tucker,
Burdick,	Franklin,	McKinley,	Turney,
Camp,	Goode,	McMahon,	Ward,
Campbell,	Gunter,	Monroe,	White, Harry
Candler,	Hamilton,	Overton,	White, Michael D.
Cannon,	Harris, John T.	Page,	Whitthorne,
Clark, Rush	Harrison,	Patterson, G. W.	Williams, Andrew
Clymer,	Haskell,	Peddie,	Williams, C. G.
Cobb,	Hatcher,	Phillips,	Williams, James
Cole,	Hazelton,	Pound,	Willis, Benj. A.
Collins,	Henry,	Pugh,	Willits,
Conger,	Hewitt, Abram S.	Rainey,	Wood.
Covert,	Hewitt, G. W.	Randolph,	
Cox, Jacob D.	Humphrey,	Rea,	

NOT VOTING—117.

Bacon,	Davidson,	Jones, James T.	Sapp,
Bailey,	Dickey,	Jorgensen,	Scales,
Baker, John H.	Eickhoff,	Knapp,	Shelley,
Baker, William H.	Elam,	Landers,	Slemons,
Ballou,	Ellsworth,	Lockwood,	Smith, A. Herr
Beebe,	Errett,	Loring,	Smith, William E.
Bell,	Evans, I. Newton	Majors,	Sparks,
Benedict,	Finley,	Mayham,	Stenger,
Bicknell,	Freeman,	McGowan,	Stephens,
Bisbee,	Frye,	McKenzie,	Stone, Joseph C.
Bland,	Fuller,	Metcalfe,	Swann,
Boyd,	Gardner,	Mitchell,	Thompson,
Brentano,	Garfield,	Money,	Thornburgh,
Brogden,	Garth,	Morgan,	Throckmorton,
Buckner,	Gause,	Muller,	Townsend, M. I.
Bundy,	Giddings,	Neal,	Van Vorhes,
Cabell,	Glover,	Oliver,	Veeder,
Caldwell, W. P.	Hale,	O'Neill,	Waddell,
Calkins,	Hanna,	Phelps,	Wait,
Carlisle,	Harmer,	Pollard,	Walker,
Caswell,	Harris, Benj. W.	Potter,	Walsh,
Chalmers,	Hart,	Powers,	Warner,
Chittenden,	Hendee,	Pridemore,	Watson,
Clark, Alvah A.	Henderson,	Reilly,	Williams, Richard
Clark of Missouri,	Henkle,	Rice, William W.	Wren,
Clarke of Kentucky,	Hiscock,	Riddle,	Wright,
Cook,	Hooker,	Robertson,	Young, Casey.
Cox, Samuel S.	Hubbell,	Robinson, M. S.	
Crapo,	Hunton,	Ross,	
Crittenden,	James,	Ryan,	

So the House refused to adjourn.

During the vote,

Mr. BLACKBURN said: I desire to announce that Mr. CHALMERS is paired with Mr. CASWELL.

Mr. PATTERSON, of New York, by unanimous consent, moved that the reading of the names be dispensed with.

The motion was agreed to.

The vote was then announced as above recorded.

REFUNDING NATIONAL DEBT.

Mr. WOOD, from the Committee of Ways and Means, reported a bill (H. R. No. 5808) to facilitate the refunding the national debt; which was read a first and second time.

The bill, which was read, provides that the Secretary of the Treasury is hereby authorized, in the process of refunding the national debt under existing laws, to exchange directly at par the bonds of the United States bearing interest at 4 per cent. per annum, authorized by law, for the bonds of the United States commonly known as five-twenties outstanding and uncalled. And whenever all such 5-20 bonds shall have been redeemed the provisions of this section and all existing provisions of law authorizing the refunding of the national debt shall apply to any bonds of the United States bearing interest at 5 per cent. per annum, or a higher rate, which may be redeemable. In any exchange made under the provisions of this section interest may be allowed on the bonds redeemed for a period of three months.

Mr. WOOD. I wish to know, Mr. Speaker, whether the demand for the previous question will carry this bill over to be acted on in the morning?

The SPEAKER. The demand will not.

Mr. WOOD. Then let the demand for the previous question be seconded.

Mr. EWING. I wish to make a motion to recommit.

The SPEAKER. The gentleman from New York demands the previous question.

Mr. SPRINGER. Would not this come up to-morrow as unfinished business?

The SPEAKER. Not unless the previous question is seconded, as to-morrow is specially assigned for the levee bill.

Mr. SPRINGER. Then this would not be the unfinished business?

The SPEAKER. Not unless the main question is ordered. The question is now on seconding the demand.

Mr. SPRINGER. I call for a division on seconding the demand for the previous question.

The House divided; and there were—ayes 135, noes 13.

So the previous question was seconded.

The question recurred on ordering the main question to be now put.

Mr. SPRINGER called for a division.

The House divided; and there were—ayes 116, noes 33.

Mr. SPRINGER demanded tellers.

Tellers were not ordered.

So the main question was ordered.

And then, on motion of Mr. WOOD, (at ten o'clock and fifty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of D. D. Palmer and 68 others, citizens of Marion County, Illinois, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of Noah Cameron and 27 others, citizens of Lawrence, Kansas, of similar import—to the same committee.

Also, the petition of members of the bee-keepers' convention, of Albany, New York, of similar import—to the same committee.

By Mr. BAKER, of Indiana: The petition of Julius A. Weicht and 112 others, citizens of Steuben and De Kalb Counties, Indiana, for the establishment of a post-route from Kendallville, via Fairfield Centre, Turkey Creek, Salem Centre, and Flint, to Angola, Indiana—to the Committee on the Post-Office and Post-Roads.

By Mr. BREWER: The petition of Mrs. Nelson Norton and 220 other ladies, of Leslie, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. G. W. Hasty and 93 other ladies, of Lansing, Michigan, of similar import—to the same committee.

By Mr. BURDICK: The petition of N. J. Quandahl, for a post-route from Locust Lane, via Quandahl, to Bergen, Iowa—to the Committee on the Post-Office and Post-Roads.

By Mr. CLARK, of Iowa: The petition of ladies of Buckingham Township, Iowa, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CRAPO: The petition of Mrs. T. H. Boynton and others, of Raynham, Massachusetts, of similar import—to the same committee.

By Mr. CRAVENS: Papers relating to the claim of James Clifford for compensation for manufacturing iron doors and windows for the United States prison at Fort Smith, Arkansas—to the Committee on Appropriations.

Also, papers relating to the claim of T. J. Newber, for compensation for the use of rooms occupied by the United States district court for the western district of Arkansas, at Fort Smith—to the same committee.

By Mr. CUMMINGS: Memorial of the Religious Society of Friends in Pennsylvania, New Jersey, and Delaware, remonstrating against the transfer of the management of the Indians from the Interior to the War Department—to the Committee on Military Affairs.

By Mr. DEERING: The petition of citizens of Howard County, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. DUNNELL: The petition of Mary A. Sheldon and 110 others, of Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, in favor of an appropriation to complete Davis Island dam—to the Committee on Commerce.

By Mr. FORT: The petition of Mrs. C. A. Bennett and 169 other women, of Kankakee County, Illinois, for the enforcement of the law against polygamy in Utah—to the Committee on the Judiciary.

Also, the petition of Mrs. J. Bailey and 89 other women, of Gilman, Illinois, of similar import—to the same committee.

By Mr. FOSTER: The petition of Mrs. C. D. Patterson and others, of Green Springs, Ohio, of similar import—to the same committee.

By Mr. FRYE: The petition of George S. Hunt and others, against the proposed change of the tariff on sugars—to the Committee of Ways and Means.

By Mr. GARTH: The petition of Mrs. Jennie Taylor, Mrs. Ellen Thach, Mrs. Jane Harris, and 23 others, of Limestone County, Alabama, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. GOODE: The petition of James E. Harris of Virginia, to

be paid the value of three barrels of brandy improperly taken from him by United States officials—to the Committee of Ways and Means.

Also, memorial of the American Health Association, asking certain legislation affecting the public health—to the select committee on the origin, introduction, and prevention of epidemic diseases in the United States.

By Mr. HARMER: Papers relating to the war claim of Henry Frank, of Philadelphia, Pennsylvania—to the Committee on War Claims.

By Mr. HUNTON: The petition of James Beckham and wife, for compensation for property destroyed by United States soldiers during the late war—to the same committee.

By Mr. JACOBS: The petition of J. W. Jewett, W. H. Crockett, and 8 others, citizens of Washington Territory, for the restoration of the branch lands of the Northern Pacific Railroad to the public domain—to the Committee on Public Lands.

Also, the petition of John A. Shoudy and 39 others, citizens of Washington Territory, of similar import—to the same committee.

Also, the petition of H. L. Yesler and 1,005 others, voters of Washington Territory, of similar import—to the same committee.

By Mr. JONES, of New Hampshire: The petition of Mrs. B. A. Sherwood and 32 other women, of Milton Mills, New Hampshire, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. LAPHAM: Memorial of the representatives of the religious society of Friends, in Pennsylvania, New Jersey, and Delaware, remonstrating against the transfer of the management of the Indians from the Interior to the War Department—to the Committee on Military Affairs.

By Mr. McKINLEY: The petition of L. C. Kice and 70 citizens of Michigan, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of 58 women of Carrollton, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. MONROE: The petition of S. S. Eberhart and 29 others, citizens of Ohio, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of A. K. Richards and 32 others, citizens of Ohio, of similar import—to the same committee.

Also, the petition of H. M. Culbertson and 10 others, citizens of Ohio, of similar import—to the same committee.

Also, the petition of Rev. Mason Noble, D. D., and the delegates of fifty-three religious and secular temperance organizations in the District of Columbia, representing six thousand members, asking Congress to pass more efficient laws to provide against the evils resulting from the sale of intoxicating drinks—to the Committee for the District of Columbia.

By Mr. MORRISON: The petition of Carlos J. Stolbrand, for authority for the Navy Department to test the usefulness of a "subaqueous vessel and mine"—to the Committee on Naval Affairs.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, of Bellevue, Iowa, and others, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. RICE, of Massachusetts: The petition of Mary L. Turner and others, for the extension of the sewing-machine patent granted Sidney S. Turner, August 22, 1854—to the Committee on Patents.

By Mr. ROBINSON, of Massachusetts: The petition of Mrs. Betsey DeWitt and others, of Agawam, Massachusetts, for the suppression of polygamy—to the Committee on the Judiciary.

By Mr. SAYLER: The petition of John E. Kelly, for compensation as a messenger and doorkeeper for the Committee of Ways and Means, House of Representatives—to the Committee of Accounts.

By Mr. SINNICKSON: The petition of Mrs. Edna Taylor, guardian of two orphan children of the late General John Williams, that they be granted a pension—to the Committee on Invalid Pensions.

By Mr. STARIN: The petition of manufacturers of Buffalo, New York, against the extension of the shoe-last patent of Nathaniel Jones—to the Committee on Patents.

Also, the petition of G. Westinghouse & Co., of Schenectady, New York, and others, against the extension of the Birdsell clover-huller patent—to the same committee.

Also, the petition of churchmen of Johnstown, New York, for legislation prohibiting liquor traffic in the several States and Territories and the District of Columbia—to the Committee on the Judiciary.

Also, the petition of the women of Charleston, New York, for legislation that will render effective the anti-polygamy law of 1862—to the same committee.

Also, the petition of women of Coglingsville, Saratoga County, New York, of similar import—to the same committee.

By Mr. STENGER: The petition of 13 women of Mount Union, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the same committee.

By Mr. STEPHENS, of Georgia: Resolutions of the city council of Augusta, Georgia, in favor of the establishment of a United States district court in that city with circuit court powers—to the same committee.

By Mr. STONE, of Iowa: The petition of Sarah F. Moore and 150 other ladies, of Birmingham, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the same committee.

By Mr. TURNEY: The petition of citizens of Pennsylvania who served in the Union Army in the late war, and who were honorably discharged, for the passage of a law granting them aid in making settlements on the public lands—to the Committee on Public Lands.

By Mr. VANCE: A paper relating to the establishment of post-routes from North Cove to Marion, and from Old Fort to Grassy Knob, via Stone Mountain, Buffalo, and Cedar Creek, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. WALSH: The petition of Frederick Schaum, for a pension—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Wisconsin: The petition of Mrs. H. K. Moore and 50 others, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WILLIAMS, of Delaware: The petition of 206 citizens of Delaware and Maryland, for a survey of the Nanticoke River—to the Committee on Commerce.

By Mr. WILLIS, of New York: The petition of William S. Carr, for an extension of a patent for an improvement in water-closets—to the Committee on Patents.

IN SENATE.

THURSDAY, *January* 16, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers inclosing reports from Lieutenant-Colonel George Thom, Corps of Engineers, upon the results of examinations made in compliance with the river and harbor act of June 18, 1878, at Lincolnville Harbor, Lubec Channel, Maine, Scituate Harbor, Massachusetts, and Charles River, Massachusetts; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, forwarding a letter from the Third Auditor of the Treasury, calling attention to the subject of the unpaid claims of citizens of Montana and Dakota Territories under the acts of March 3, 1873, and March 3, 1875, and recommending an appropriation of $15,000 for that purpose; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting a report of the Quartermaster-General, recommending the passage of Senate bill No. 485 repealing the laws prohibiting payments to land-grant railroads for the transportation of property or troops of the United States, with certain amendments; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. WALLACE presented a memorial of the representatives of the Religious Society of Friends, of Pennsylvania, New Jersey, and Delaware, remonstrating against the change of the Indian Bureau from the Interior Department to the War Department, and giving reasons therefor; which was referred to the select joint committee to consider the subject of the transfer of the Indian Bureau from the Interior to the War Department.

He also presented the petition of Mary G. Kelly and other women, of Huntingdon County, Pennsylvania, and the petition of Mrs. Kate M. Shafer and other women, of Clearfield County, Pennsylvania, praying for the passage of an act making effective the anti-polygamy law of 1862; which were referred to the Committee on the Judiciary.

Mr. FERRY presented the petition of E. V. Smith and 35 others, citizens of Michigan, and the petition of Richard Whiteside and 563 others, citizens of Michigan, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

He also presented the petition of Mrs. L. J. Anderson and 29 other women, of Van Buren, Wayne County, Michigan, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. MATTHEWS presented the petition of Henry Rigler and a large number of others, soldiers at the National Soldiers' Home, Dayton, Ohio, praying for the prompt passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. HOAR presented the petition of James King, late private Company B, Second Regiment Massachusetts Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. DAVIS, of Illinois, presented the petition of John Bauman and others, citizens of Illinois, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1627) making appropriation for the purchase of Fort Clark, Texas, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. THURMAN, from the Committee on the Judiciary, to whom

was referred the bill (S. No. 468) to extend the operation of the act of February 27, 1875, entitled "An act to provide for settlements with certain railway companies" for one year, reported it with an amendment.

Mr. EATON, from the Committee on Patents, to whom was referred the petition of Helen Frances Manville, executrix, &c., praying the extension of the several patents granted for the McKay sewing-machine, August 12, 1862, No. 36163, and reissued July 6, 1875, No. 6535, submitted a report thereon, accompanied by a bill (S. No. 1629) to allow the Commissioner of Patents to extend the patent numbered 6535 of reissues.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. EATON. I will state that this is the report of a majority of the Committee on Patents, and a minority report will be submitted in the case.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, to whom the subject was referred, submitted a report, accompanied by a bill (S. No. 1630) authorizing and directing the Postmaster-General to readjust the salaries of certain postmasters in accordance with the provisions of section 8 of the act of June 12, 1866.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the bill (S. No. 1419) granting a pension to Mrs. Rosa Gale, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1474) granting a pension to John G. Eckles, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3572) granting a pension to Andrew J. Morrison, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4364) granting a pension to Lydia A. Morris, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1288) to repeal section 4717 of the Revised Statutes, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Elizabeth Joines, widow of John Joines, late a sail-maker in the United States Navy, praying to be allowed a pension, reported adversely thereon; and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 1454) granting a pension to Ann M. Paulding, widow of Hiram Paulding, late senior rear-admiral of the United States Navy, reported it without amendment.

Mr. KELLOGG, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4975) granting an increase of pension to Mrs. Eliza H. Frailey, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4986) granting a pension to H. Louise Gates, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2296) to authorize the Secretary of the Interior to place upon the pension-roll the name of John Ward, late sergeant of Company K, Second Regiment West Virginia Volunteer Cavalry, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

ADMISSION TO THE FLOOR.

Mr. BLAINE. A day or two since a resolution was passed by the Senate, on motion of the senior Senator from Ohio, [Mr. THURMAN,] directing the Committee on Rules to inquire into the expediency of so amending them that the oldest ex-cabinet minister should enjoy the privileges of the floor. The resolution was intended to apply to Hon. George Bancroft. The Committee on Rules have instructed me to report a resolution, of which I ask the present consideration. I presume there will be no objection to it.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That Hon. George Bancroft be admitted to the privileges of the floor of the Senate.

BILLS INTRODUCED.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1631) for the relief of William Gallich; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1632) to authorize the Secretary of the Treasury and Commissioner of Internal Revenue to adjust and settle certain claims for succession taxes erroneously paid; which was read twice by its title, and referred to the Committee on Finance.

Mr. McPHERSON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1633) for the relief of the captors of the ram Albemarle; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. INGALLS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1634) for the retirement of an Army officer; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO POST-ROUTE BILL.

Mr. PLUMB and Mr. INGALLS submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

WITHDRAWAL OF PAPERS.

On motion of Mr. KELLOGG, it was

Ordered, That the claimant or his attorney in the claim of J. Phelps & Co. have leave to withdraw from the files certain papers heretofore filed by him in said case by leaving copies thereof.

EXPENSES OF INDIAN SERVICE.

Mr. DORSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he hereby is, directed to furnish the Senate with a statement of all appropriations and expenditures from the National Treasury or otherwise for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations, including all payments and expenditures for and on account of Indian tribes from July 16, 1790, to June 30, 1878, with such notes and references as may be requisite for a full understanding of the subject.

MIGRATION OF COLORED PERSONS.

Mr. WINDOM. I offer a resolution, and I ask that when it is read the resolution may lie on the table, as I shall in a few days request the indulgence of the Senate to be allowed to make some remarks upon it.

The resolution was read, as follows:

Resolved, That with a view to the peaceful adjustment of all questions relating to suffrage, to the effective enforcement of constitutional and natural rights, and to the promotion of the best interests of the whole country, by the elimination of sectionalism from politics, a committee of seven Senators be appointed by the Chair, and charged with the duty of inquiring as to the expediency and practicability of encouraging and promoting by all just and proper methods the partial migration of colored persons from those States and congressional districts where they are not allowed to freely and peacefully exercise and enjoy their constitutional rights as American citizens, into such States as may desire to receive them and will protect them in said rights, or into such Territory or Territories of the United States as may be provided for their use and occupation; and if said committee shall deem such migration expedient and practicable, that they report by bill or otherwise what in their judgment is the most effective method of accomplishing that object; and that said committee have leave to sit during the recess.

The VICE-PRESIDENT. The resolution will lie on the table subject to the call of the Senator from Minnesota.

Mr. WINDOM. Let it be printed.

The VICE-PRESIDENT. It will be printed.

LAURENA C. P. HASKINS.

Mr. McMILLAN. I desire to call attention to an order made yesterday upon the bill (S. No. 413) to increase the pension of Laurena C. P. Haskins when it was reached on the Calendar. On reaching the case upon the Calendar the bill was indefinitely postponed, at the instance of the chairman of the Committee on Pensions, [Mr. INGALLS.] I ask a reconsideration of the vote postponing the bill indefinitely, in order that the bill may resume its place upon the Calendar.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Minnesota that the vote by which the bill was indefinitely postponed be reconsidered? The Chair hears none, and the bill will be placed on the Calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the refunding of the public debt;

A bill (H. R. No. 5548) to make United States notes receivable for duties on imports; and

A bill (H. R. No. 5808) to facilitate the refunding the national debt.

The message also announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. OTHO R. SINGLETON of Mississippi, Mr. EUGENE HALE of Maine, and Mr. HIESTER CLYMER of Pennsylvania, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had

signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 605) for the relief of William M. Kendall;

A bill (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress;

A bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina; and

A bill (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

ARREARS OF PENSIONS.

Mr. INGALLS. Mr. President, I have given notice on several occasions heretofore that at the conclusion of the pending bill, to amend the patent laws, I should ask the Senate to proceed to the consideration of House bill No. 4234, known as the bill in relation to arrearages of pensions; and as there is no business of the morning hour at this time before the Senate, I move now that the bill be taken up for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4234) to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes.

The bill was reported to the Senate without amendment.

Mr. SAULSBURY. I should like the chairman of the Committee on Pensions to indicate to us something as to the amount of money which will be required to pay the pensions here provided for. We ought not to vote blindly on this matter.

Mr. INGALLS. Mr. President, in 1876, when a similar measure was pending before the Senate, I addressed a communication to the Commissioner of Pensions, and asked him for information in regard to the amount which would be required to make the bill operative. I received from him a statement which was printed as Miscellaneous Document No. 113, at the first session of the Forty-fourth Congress, which gives in detail, as far as it could be ascertained from the records of the Pension Office, the amount that would be required to pay the arrears both of invalids and widows and dependents in each year since the adoption of section 4709 of the Revised Statutes. I do not know that it will be necessary to read specifically the annual amounts, but up to the 1st of January, 1876, the Commissioner reports that there were 16,454 invalid cases to which the limitation of the section applied, and the estimated amount of arrears at that time was $9,529,775. The number of widows and dependents was 5,145. The amount required to pay the arrears of those would be $3,887,334; making a total at that time of $13,417,109.

There have been three years since that date, and of course I can only estimate what amount would be required since this computation was made; but taking the estimate for 1875 as an average, my judgment would be that to this sum should be added not less than five million dollars for claims since allowed to which the limitation now applies. Of course these estimates are very largely in the nature of surmises, because we cannot tell until the bill is put practically in operation exactly what will be required.

Mr. CONKLING. Making in all how much, as the Senator has it there?

Mr. INGALLS. Making in all, up to the 1st of January, 1876, the sum of $13,417,109, and that amount I should judge would be increased by not less than $5,000,000 up to the 1st of January, 1879.

Mr. CONKLING. Which makes about $19,000,000?

Mr. INGALLS. I should judge somewhere from eighteen to twenty million dollars, in round numbers. Of course it is impossible to make anything like an accurate calculation upon matters of this kind.

Mr. SAULSBURY. I should like to inquire of the chairman of the Pension Committee whether the bill covers the cases of persons who have received pensions under special acts of Congress and not under the general law?

Mr. INGALLS. The bill does not cover cases where pensions have been granted by special act. The uniform custom and practice of the Pension Committee has been in no case to allow pensions unless they were claims that had been rejected for some informality of evidence before the Commissioner of Pensions. Therefore in all those cases where special acts have been passed since I have been a member of the committee, for the last six years, the claims had been originally rejected, and therefore are not technically allowable under the general pension law. The committee believed that this class of cases, therefore, should not be included in legislation of a general character; but in case these pensioners should be thought entitled to arrears it would require some legislation of a different character.

Mr. FERRY. I desire to ask the chairman of the committee whether the bill applies to all pensioners under the general law, those who have received their pensions as well as those who may hereafter receive them?

Mr. INGALLS. The object of the bill is simply to remove the limitation that is imposed by section 4709 of the Revised Statutes. I will read it:

> All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the 4th day of March, 1861, or in consequence of wounds or injuries received or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, or from the termination of the right of party having prior title to such pension; provided the application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same.

Mr. FERRY. Then it is simply the removal of the limitation.

Mr. INGALLS. It is the removal of what is known as the five-year limitation clause of section 4709.

Mr. CHRISTIANCY. I wish also to address an inquiry to the chairman of the Committee on Pensions. I do not profess to know much about the pension law; but I will ask if there are not cases under the pension law as it now stands in which a party becomes first entitled to a pension some time after his discharge from the service in consequence, for instance, of disease contracted in the service, but which has not reached the point of such disability as to entitle him to a pension until perhaps a year or two after his discharge? Are there not cases of that kind?

Mr. INGALLS. I do not know that I quite comprehend the question of the Senator.

Mr. CHRISTIANCY. Here is a soldier who has been discharged on a certain day. He has contracted the seeds of disease during his service, but the disease does not develop to such an extent as to entitle him to a pension until some years after his discharge. Are there not cases of that kind?

Mr. INGALLS. I presume there are.

Mr. CHRISTIANCY. Then I would suggest that such cases ought to be provided for in this bill, because the bill makes the pension date from the death or discharge. It might, therefore, entitle such a person to a pension during a portion of time in which he should not be entitled to a pension.

Mr. INGALLS. Undoubtedly the intention and object of this bill where it uses the word "discharge," is that the pension shall date from the discharge when the disability is the cause of the discharge. I presume that the case the Senator from Michigan refers to would not come within the provisions of the bill, because there must be a *prima facie* case established in the discharge papers of the claimant in order to entitle him to a pension upon them without additional evidence. If it appears that the soldier was discharged for disability resulting from a gunshot wound, that is a specific fact of which the Pension Bureau would take notice; but in cases where the disease arises after the discharge I do not understand that the bill would carry the pension back to the date of the discharge.

Mr. CHRISTIANCY. As the bill now reads, if I can really understand English and understand the case, I think it would.

Mr. DAVIS, of Illinois. To what lines of the bill does the Senator refer?

Mr. CHRISTIANCY. I will read the first section down to the proviso, and then it will be seen:

> That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension.

It seems to me this language does cover a period of time during which the party ought not to receive a pension. If, for instance, he has contracted a disease during the war and before his discharge which has not yet sufficiently developed to entitle him to a pension, but may do so a year or two afterward, and has done so, I see no reason why, under this or any other bill, he should receive a pension for the particular period intervening between the discharge and the actual disability.

Mr. FERRY. I ask my colleague if that does not depend upon the proof? The bill covers such a case. The proof is required that the disease was contracted in the military service. It seems to me that it depends entirely upon the proof, and the case would rest there.

Mr. CHRISTIANCY. But the pension "shall commence from the date of the death or discharge."

Mr. FERRY. Yes, but that depends upon the proof. To be sure, the pension would commence from the discharge of the soldier, but it depends entirely upon the proof of the disease, whether it was contracted in the service or not.

Mr. CHRISTIANCY. In regard to time he is to be entitled to a pension from the date of his discharge when he may not have become entitled to it for a year or two after.

Mr. FERRY. My colleague asks if, under the bill, the pension would not date from the discharge when the soldier has not proved his disease or disability at the time of the discharge.

Mr. CHRISTIANCY. No; not exactly that.

Mr. FERRY. Then I do not understand my colleague.

Mr. DAVIS, of West Virginia. There seems to be a letter, which the chairman of the Committee on Pensions has kindly handed me,

from the Commissioner of Pensions, which contains considerable information on this subject, together with an estimate of the expense involved. I would suggest that it had better be read for the information of the Senate. It is not very long.

Mr. INGALLS. There is but a very small portion of the communication to which the Senator alludes that relates to the subject now under consideration. If he will examine it minutely, he will see that all that refers to it is on page 4. The rest refers to the proposed legislation in regard to the pensioning of the surviving soldiers of the war of 1812. I would suggest that the Secretary merely read that part on page 4.

Mr. DAVIS, of West Virginia. That is all that it is necessary to read. The part relating to the bill now before us is all that it is necessary to read, and the chairman of the committee says it is on the last page. I think he will find something on another page relating to this bill.

The Secretary read as follows:

This section not only provides for the payment of arrears in claims adjudicated, but also includes claims hereafter to be allowed. The sum of nearly $16,000,000 will be required; for the latter class a largely increased annual appropriation will be necessary, as each year will add to the sum due to each pensioner. During the next fiscal year the sum needed over that made necessary by existing legislation will probably exceed $4,000,000.

Mr. DORSEY. I think the criticism of the Senator from Michigan [Mr. CHRISTIANCY] is a very just one, as I have had some practical experience in that matter. It has not been more than a month since a soldier who served under me during the war was given a pension, thirteen years after his discharge, the disability not being developed for five or six years after the discharge was made, though the cause of it occurred during his service in the Army. I know of several such pensions having been granted. As this bill now reads, it seems to me such pensioners could get their arrears from the date of discharge when as a matter of fact they would not be entitled to them at all. They may have been regularly discharged as soldiers, not discharged for any disability. The disability may have occurred three, four, six, or eight years, or, as in the case I have just alluded to, thirteen years after the discharge. I suggest to the chairman of the committee that after the word "death," in line 9 of section 1, he insert "disability" before "discharge;" so as to read "from the date of the death, disability, or discharge."

Mr. INGALLS. Let that clause be reported by the Clerk as it would stand if amended.

The SECRETARY. On line 9, after the word "death," it is suggested to insert "disability;" so as to read:

That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death from a cause which originated in the United States service during the continuance of the late war of the rebellion, or in consequence of wounds, injuries, or disease received or contracted in said service during said war of the rebellion, shall commence from the date of the death, disability, or discharge from said service of the person on whose account the claim has been or shall hereafter be granted, or from the termination of the right of the party having prior title to such pension.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Arkansas, [Mr. DORSEY.]

Mr. KERNAN. Mr. President, I am not very familiar with the pension laws; but I think the construction of this House bill as now presented would, in connection with the pension laws as they exist, have the effect of only giving the pension from the date of the death or the injuries that caused the disability. If that is so, as I believe it is, without having had an opportunity to examine it carefully, I should regret this amendment, only because it sends this bill back to the House. I desire very much that this bill shall pass. It is nothing but carrying out the pledge that was given to the men who went into the Army that if they died or if they were disabled their widows and children should have a pension, which of course would date from the time the man died, or, if he did not die, from the time when he was disabled. The amount involved, I concede, is large, but this people and this Government are able and willing to pay what they are fairly obligated to pay to this class of persons.

I hope the bill will pass, and I cannot believe there is danger that it will get a construction different from what Congress means; and if we pass it now as it is it will not have to go back to the House and be in danger of delay. Every Senator knows that there is a large number of women, representatives of deceased soldiers and of disabled soldiers, that feel the want of these arrears, which I think are due them. They need the money now; and they write imploringly to us, urging us to act upon the bill. I hope it may pass as it is, not believing that there is danger that where a man did not become sick until years afterward the Department will allow a pension from the date of his discharge in good health.

Mr. FERRY. I now understand the object of my colleague. I call the attention of the Senator from Arkansas to the fifth line where it is said that the pension shall have been "granted in consequence of death from a cause which originated in the United States service." Now, if the disease does not develop for even thirteen years, as stated by the Senator from Arkansas, the cause may be dated back to the service in the United States Army, and must necessarily in order to entitle the pensioner to a pension. It seems to me that the amendment proposed by the Senator from Arkansas ought to be amended so as to refer to the proof of disability, and not simply the fact of disability, because if he will look to line 5 he will see that it dates back to the cause and is not necessarily dependent upon the development of the disease, and it seems to me that the amendment should cover proof of disability.

Mr. DORSEY. I do not object to that.

Mr. HOAR. That is inserting in the bill the very principle at which the bill is aimed, to wit, to have the pension paid from the time the title to the pension accrued without regard to the delay in the proof.

Mr. INGALLS. In my judgment there is no danger of any injurious or dangerous construction being placed upon this measure by the Commissioner of Pensions; and I am very confident that the case which the Senator from Michigan suggests is one that is not likely under any circumstances to arise. This is a bill supplemental to the general law regulating the subject of pensions, and will of course be construed in accordance with the general principles and policy of that statute. I therefore venture to express the hope that those friends of the bill who desire that it should become a law will reject all suggestions for amendment unless they shall be shown to be much more necessary than I believe that to be.

Mr. HOWE. Mr. President, if I remember the language correctly the statute just now read by the Senator from Kansas gives a pension in case the application is made within five years, to date from the death or from the discharge, using the very words which are used in this section now under consideration. Is not that so?

Mr. INGALLS. The precise language is as follows:

Shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, or from the termination of the right of party having prior title to such pension.

Mr. HOWE. These are the very words employed here—"from the date of the death or discharge." Now, the object of this bill, if I understand it, is simply to give to the claimant who applies for a pension after five years have expired precisely the pension that he would get if he applied before the expiration of the five years.

Mr. FERRY. Yes; but the object of the amendment suggested by my colleague is that he should not have a pension earlier than the time he proved that the disability occurred.

Mr. HOWE. Precisely; but under the present law if the application be made within the five years, does the claimant get a pension earlier than the proof shows that the disability occurred?

Mr. FERRY. This covers broader ground than the present law. That is the point made by my colleague. It would date back to the time of discharge.

Mr. HOWE. Why date back to the time of discharge?

Mr. FERRY. So the bill provides.

Mr. HOWE. The present law is that if he applies within five years his pension shall date from the discharge; but suppose the proof shows that the disability was subsequent to the discharge?

Mr. FERRY. The point made by the Senator from Arkansas is that in the case which he has cited of twelve or thirteen years expiring before the development of the disease, the party should not receive a pension from the date of discharge, but only from the date of the development of the disease. Now if the limitation of five years is removed according to this bill, the claimant will be entitled to a pension from the date of discharge, provided he proves that the disease originated in the military service of the United States.

Mr. HOWE. If I understand the case referred to by the Senator from Arkansas, it is the case of a claim made within five years.

Mr. FERRY. Oh, no; he cited the case of one claiming after twelve or thirteen years.

Mr. DORSEY. I alluded to a case where the claim was not made until within the last three or four months.

Mr. FERRY. Thirteen years after the war.

Mr. DORSEY. Thirteen years after the discharge, and the pension was allowed, proof having been submitted to show that the man contracted his disease more than thirteen years ago, but that it had not finally developed until recently. I have no doubt that the suggestion made by the Senator from Michigan——

Mr. COCKRELL. Will the Senator speak louder? We have scarcely heard a word that has been uttered on that side of the Chamber, and we should like very much to hear what is being said, as we are correcting errors which have occurred in the past.

The Vice-President rapped to order.

Mr. DORSEY. Mr. President, to repeat substantially what I said, a soldier who was discharged in 1864, not for disability at all, but by reason of the expiration of his term of service, has recently applied, within the last four or five months, for a pension, which has been granted him on the ground that he contracted a disease, which has just developed itself, while he was in the military service. Under this bill, as it is reported by the committee, I think this soldier would be entitled to thirteen years' arrears of pension, while during those thirteen years he was just as well perhaps as any other person, and able to earn his own living.

I suggest that in lieu of the amendment I proposed, the one suggested by the Senator from Michigan farthest from me, [Mr. FERRY,] to wit, that proof of disability shall be the date from which arrears of pensions shall be paid, be adopted. I think that will correct the error.

Mr. FERRY. And I follow that by the suggestion that the whole theory of the pension law is on the basis of disability. If for thirteen years a claimant has pursued the avocations of life without the knowledge of any disability, certainly without the development of a

disability, he should not be paid for the thirteen years in which he had no knowledge of such disability growing out of military service. It seems to me that if it is based on the proof of disability, he would be paid by the Government all that he is entitled to by being paid from the time of disability. If he has lived thirteen years without the knowledge of any disability occurring while he was in the military service, certainly he ought not to be paid a pension for that time simply on the development of a disease which he imagines, as may be the fact, has grown out of service under military orders.

Mr. HOAR. I should like to inquire of the honorable Senator from Michigan how he justifies the bill at all if he supports that particular amendment? I understand that there are a vast number of pensioners who did not make their proof of disability in time.

Mr. FERRY. I answer the Senator from Massachusetts on that point by his permission. The difficulty has been occasioned simply by neglect, simply by want of knowledge. I am not disposed to deprive a just claimant for a pension of his rights simply because he has failed to make his proof in time, probably owing to lack of knowledge of the statute.

Mr. HOAR. That I understand; but I understand that the amendment which the Senator seems to be supporting proposes to make the period of proof of disability the time for the beginning of the pension in all cases, not in the case merely of disease which has developed into disability recently, but in all cases. That is the proposition of the Senator from Arkansas.

Mr. FERRY. Not at all. I recall the attention of the Senator from Massachusetts to line 9, where the language is that all pensions "shall commence from the date of the death or discharge." Now it is proposed to add to that "or proof of disability."

Mr. HOAR. But if you add "from the proof of disability," then you would put the limit for all pensions on account of disability at the time of proof, which is the very thing that the bill intends to change.

Mr. FERRY. The Senator perhaps is a little more technical than I am.

Mr. HOAR. My criticism is not of the position of the honorable Senator, but upon the form and the language which is proposed by the Senator from Arkansas.

Mr. FERRY. I accept the criticism of the Senator from Massachusetts. Then I would move to amend the proposition of the Senator from Arkansas by adding, after "disability," the word "proved;" so as to read "from the time of the disability proved."

Mr. HOAR. Will the Senator allow me to make a suggestion?

Mr. FERRY. I will hear the suggestion.

Mr. HOAR. Add at the end of the section, where it says "*Provided*, the rate of pension for the intervening time," &c., this:

And that no pension for disability shall be granted for any period before such disability occurred.

Mr. FERRY. That will do. That is substantially what I proposed in the modification of the amendment of the Senator from Arkansas, that it ought to be upon the disability proved. I accept the proposition of the Senator.

Mr. HOAR. I do not mean by making that suggestion to say that it seems to me any amendment ought to be made, because I am inclined to concur with the Senator from Kansas, who reported the bill, in thinking that the Department may be safely trusted to make a construction so consistent with the general purpose of the pension law that they will not grant persons pensions for a period of time before which they are entitled to them under the law, not merely by reason of the fact that they have not made their proof, but by reason of the fact that the cause does not exist. I only make that suggestion so that in case the Senate propose to make an amendment, they may have one that does not go further than the Senate intend.

Mr. FERRY. One moment in that connection. I have a case in mind where a pension was granted and upon subsequent examination it was found that there was fraud practiced and that the claimant was not entitled to a pension. It seems to me that if the amendment proposed as now modified and perfected by the Senator from Massachusetts should be adopted, it would prevent any such occurrence and any such fraud upon the Government. If a claimant shall prove that the disability he experiences occurred by service under the Government, then certainly he is entitled to a pension, but only from the time that he proves the disability occurred in such service. Now, if it is proposed here that no amendment shall be made when we have a month and a half of time to have a bill perfected here and go to the House and be concurred in there, if it be proposed that this bill shall be passed simply as it comes from the House, without any modification, we may as well surrender any criticisms that may be made by Senators. It seems to me there is time enough to perfect this bill and let it go back to the House and have all proper amendments concurred in. It was passed by a large majority in the House, and I have no doubt that any amendment made by the Senate will be concurred in by the House. Certainly the Senate ought not to waive its right to perfect the bill according to the light it now possesses.

Mr. INGALLS. Mr. President, Senators appear to treat this bill as if it was in some way an innovation upon existing law, or an attempt to introduce a new principle in regard to the administration of pensions. But I want to call the attention of the Senate back again to this point that the purpose of this bill is simply to remove a limitation that was imposed in section 4709 of the Revised Statutes, which was in itself arbitrary, which was unnecessary, which was unjust, and which finds no parallel, so far as I am aware, in any other legislation of Congress. Let me call the attention of the Senate to the law as it originally stood in 1862 when the first bill on the subject of pensions was passed. I read from volume 12 of the Statutes at Large, chapter 166, section 5:

That pensions which may be granted, in pursuance of the provisions of this act, to persons who may have been or shall be employed in the military or naval service of the United States, shall commence on the day of the discharge of such persons in all cases in which the application for such provisions is filed within one year after the date of said discharge; and in cases in which the application is not filed during said year, pensions granted to persons employed as aforesaid shall commence on the day of the filing of the application.

Here was, then, in 1862 a limitation provided of one year, but if the application was made within that year, then in case the application was granted the pension should date back to the time when the discharge was made.

In 1864 the law was again amended. I read from volume 13, chapter 247, section 6:

That no pension claim now on file, unless prosecuted to a successful issue within three years from the passage of this act, and no claim hereafter filed not thus prosecuted to a successful issue within five years from the date of such filing, shall be admitted without satisfactory record evidence from the War Department to establish the same; and in every case in which a claim for pension shall have been filed for more than three years—

The Senate will observe that the period is here increased from one year to three years—

after the discharge or decease of the party on whose account the claim is made, the pension, if allowed, shall commence from the date of filing the last paper in said case by the party prosecuting the same.

This period, which had originally been one year and was subsequently extended to three years, was by the statute now in force extended to five years, and the limitation in section 4709 of the Revised Statutes reads:

Provided, The application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same.

The Senate will observe, therefore, that the tendency of legislation has been toward a constant liberalization of the policy in regard to granting pensions: that the period, at first one year, was extended to three years, and now stands at five; and the object of the pending legislation is, not to establish any innovation upon the law as it now exists, not to establish new principles of administration or of granting pensions, but simply to enlarge the period within which applications may be made for the administration of the law upon the principles as they have always existed.

Mr. FERRY. If the Senator will allow me, there are two limitations——

The VICE-PRESIDENT. The morning hour has expired.

Mr. INGALLS. I move that the pending measure in regard to the patent laws be laid aside to allow us to continue the debate on this pension bill.

Mr. WADLEIGH. Informally?

The VICE-PRESIDENT. Is there general consent that the unfinished business be informally laid aside? The Chair hears no objection.

Mr. FERRY. The chairman of the Committee on Pensions will observe that the object of the last law was to remove two limitations; in the first place, the limitation of five years within which proof should be made; and second, the limitation of the date of the pension. That is the present statute. Now, following out the liberal construction that is proposed to be made by the modification of the law, the pending bill designs, I suppose, to remove the limitation of the proof.

Mr. INGALLS. Certainly; but the Senator still misapprehends my point. The language that is employed in the first section of this bill is precisely the language now existing in section 4709 of the Revised Statutes.

Mr. FERRY. I understand that.

Mr. INGALLS. And the removal of the period of limitation will in no way whatever affect the principles upon which pensions are granted.

Mr. FERRY. As I understand lines 9 and 10, the pension "shall commence from the date of the death or discharge."

Mr. INGALLS. That has been the law uniformly from the beginning of the Government.

Mr. FERRY. Exactly; but the present law limits the proof to within five years, and the previous law limits the pension, and also the law which provides the proof, to be within five years, and limits the date of pension to the date of proof.

Mr. INGALLS. No, Mr. President, the limitation of 1862 and the limitation of 1864 did not interfere with the principles upon which pensions were then administered nor affect the general subject of the granting of pensions; but under those limitations, the one-year limitation and the three-year limitation, if the application was made within those periods, then the pension dated back to the time of the death or discharge precisely as provided in this bill.

Mr. FERRY. Then I did not understand the Senator in the statement of the effect of the law. If that be the case, then the object of this bill is simply to remove the limitation of proof.

Mr. INGALLS. That is all.

The VICE-PRESIDENT. Does the Senator from Arkansas accept the amendment proposed by the Senator from Massachusetts?

Mr. DORSEY. Yes, sir.

The VICE-PRESIDENT. The question then is on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. DAWES. I should like to hear the amendment proposed by my colleague.

The VICE-PRESIDENT. It will be read by the Secretary. In lieu of the amendment first proposed by the Senator from Arkansas and next by the Senator from Michigan, the Senator from Massachusetts proposes what will be read.

The SECRETARY. At the end of the first section it is proposed to add—

And that no pension for disability shall be granted for any period before such disability occurred.

Mr. DAWES. I should like to call the attention of my colleague to this view: the disability must originate before the discharge. I take it a man is not entitled to any pension who has not incurred some disability before his discharge, although it does not develop itself so as to be apparent until some years after.

Mr. FERRY. But if the Senator from Massachusetts will allow me, the proposition of this bill is, as illustrated by the case cited by the Senator from Arkansas, that if the development does not occur for twelve or thirteen years the party shall be entitled to a pension during that time as well as thereafter.

Mr. DAWES. And I am inquiring whether my colleague's amendment meets the case.

Mr. FERRY. I understand that it does.

Mr. DAWES. With this idea, whether if the seeds of the disease originated in the service, the disability may not be said to have occurred then, and only developed, shown afterward by working out into some effect upon the system?

Mr. HOAR. I think my colleague will see that the statute makes very plain the distinction between a disability, which is after all simply an inability on the part of a man to use his mind or body in the natural way, and the cause of the disability. The bill says, in the fifth line, speaking of the death:

Death from a cause which originated in the United States service * * * or in consequence of wounds, injuries, or disease received or contracted in said service.

Mr. DAWES. I only called my colleague's attention to it because I agree with the chairman of the committee that it is better not to amend the bill at all, and it seemed to me it was possible an uncertainty was introduced by the very phraseology which was suggested. I may not be correct, however.

Mr. HOAR. It seems to me that under the fifth section, making a distinction between the cause and the disability, this addition that the pension shall not begin until the disability begins is sufficiently clear and cannot possibly lead to any difficulty. I will state a case which came under my own knowledge in my own city about a year ago. A very distinguished soldier had a bullet wound through the jaw, the effect of which was not to disable him from the ordinary occupations of life. For a good many years after he had a bad sore in the jaw. The effect of that was an incapacity to relish food, and at times an absolute incapacity to eat to any considerable extent, and that developed into a pulmonary disorder. When he got from that pulmonary disorder in a condition that he could not work or perform the ordinary occupations of life, then his disability began, and not till then.

Mr. VOORHEES. Mr. President, the Senators from Massachusetts are wrong in assuming that this bill attempts to fix any rules of proof. It does not. It seeks to change no rules of evidence heretofore established in the allowance of pensions.

Mr. DAWES. Allow me to say that I had no such idea as that. I supposed it only removed a limitation, and that precisely the same construction would be applied to the law after the passage of this bill as before, saving this question of the limitation. There was a suggestion of an amendment, and I was discussing the construction that might possibly be put upon the phraseology of the amendment to the bill, which was suggested by my colleague.

Mr. VOORHEES. Yes.

Mr. HOAR. The Senator from Indiana undoubtedly did not hear what I said when I first rose. An amendment was offered which seemed to me to defeat the object of the gentleman who offered it, and I suggested to him a phrase which would accomplish that object and would not destroy the effect of the bill, saying, however, that I doubted whether any amendment at all was necessary.

Mr. VOORHEES. I did not hear that. Now, Mr. President, I hope no amendment will be attached to this bill. As a member of the Committee on Pensions it has been my duty to examine it. It is simple in its character. The principle on which pensions are allowed at all is that at the time of a man's death in the service of his country those who are dependent upon him have a right to the pension; or if he has not suffered death, but has been disabled by wounds received in battle or by disease contracted in the service, his right to his country's beneficence then accrues to him at once. That is the principle, and the purpose of this bill is to carry it out. It simply says to those who have been disabled by wounds or disease, and to such as have been deprived of support by death, that they shall receive their pensions from the date of death or disability, notwithstanding they may not have made their application or their proof within the limitation of time now on the statute-book. That is all there is in this bill. It asserts no new principle, but wipes out a statute of limitation.

Mr. FERRY. If the Senator will allow me a moment, it seems to me that it covers still more than that. The object of the law of 1864, cited by the chairman of the committee, seemed to be to provide enough time for the claimant to prove his case, giving him five years. Now nearly fourteen years have expired since the war closed. The proposition of this bill is to remove the limitation of five years and give every claimant the right to come forward and prove his disability and receive a pension from the time of his discharge. It seems to me that five years was sufficient time for the claimant to satisfy himself that he was entitled to a pension for disability. Now, if the disability does not develop until the present year, fourteen years after the expiration of the war, it seems to me if he gets a pension from the time that his disability occurred, allowing fourteen years to elapse before he himself was aware of the disability, the legislative power of the Government has been sufficiently generous.

The proposition of this bill is to remove the limitation of proof in the case of a claimant whose disability develops at the late date of thirteen or fourteen years after the expiration of the service, so that he shall not be debarred from the right to a pension by the present limitation of the statute.

Mr. VOORHEES. For the purposes of the Senator's argument he assumes that the disability spoken of in this bill is to be developed now or at some recent time. The question when the disability develops is a matter of evidence; it is a question of proof to be decided by the Commissioner of Pensions. If it is shown by the evidence that this disability is of recent development, it would be a circumstance tending to justify the rejection of the claim. This bill, however, goes on the theory that a man has been disabled in the service, makes satisfactory proof of that fact, and has been honorably discharged from the service of his country. Now, let me ask the Senator a question. In such a case contemplated by this bill, where no doubt is left that actual disability or death took place in the service of the Government, would he reject the application for a pension because it was not made in five years or even in twenty years?

Mr. FERRY. That would be an exceptional case.

Mr. VOORHEES. The very kind of case we are contemplating and legislating for.

Mr. FERRY. General statutes do not provide for special cases. Now, I call the attention of the Senator, who is a member of the committee, to a case I have in mind, where within five years the claimant obtained a pension, and it was shown afterward that the proof was not sufficient and the claim was canceled and the pension revoked. Now, under the present statute it is not an obligation on the part of the claimant that he should prove his disability; he is entitled to a pension if he has been discharged within the five years.

Mr. VOORHEES. Certainly not. The bill does not so read.

Mr. FERRY. So I read it.

Mr. VOORHEES. Let me read the bill and compare it with the existing law.

Mr. FERRY. I am talking about the present law. Within five years any soldier claimant is entitled upon proof of discharge, or his heirs on proof of his death, to a pension. Now, the proposition of the present bill is to remove the limitation of five years and give every claimant the right to prove his disability. I say that after the lapse of thirteen years, during which a man has not been conscious of disability growing out of service in the war, certainly he is not entitled to a pension; but if he can prove and trace his disability to a disease contracted in the service, then he should be entitled to a pension from the date of the disability. If he has lived thirteen years without the knowledge of any such disease causing a disability or without the experience of the disability, certainly the Government ought not to pay him for a time during which he considered himself perfectly well, not experiencing any disability occurring by reason of service in the Army.

Mr. VOORHEES. I think the Senator from Michigan misunderstands both the existing law and the proposed legislation. Allow me to read section 4709 of the Revised Statutes:

All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the 4th day of March, 1861, or in consequence of wounds or injuries received or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, or from the termination of the right of party having prior title to such pension.

Mr. KERNAN. Will the Senator allow me to put an inquiry? As I understand, the Pension Bureau has construed that to mean that he shall only draw pension from the time when he was actually disabled from the cause which occurred in the war, and then this law would be in exact harmony with it.

Mr. VOORHEES. Precisely. The Senator from New York has caught the idea.

Mr. FERRY. Allow me. If I am not mistaken, in all special cases that have been reported by the Committee on Pensions they have invariably given a pension from the date of the passage of the law.

Mr. INGALLS. Why?

Mr. FERRY. I ask why.

Mr. INGALLS. Because the cases upon which we have acted have been those that have been rejected by the Commissioners of Pensions, and therefore did not come within the provisions of the general law.

Mr. FERRY. For what reason has the rejection occurred, I ask the chairman of the committee?

Mr. INGALLS. I have given the reason.

Mr. FERRY. Not the reason for rejection; simply the fact of rejection.

Mr. INGALLS. The rejection before the Commissioner of Pensions was under the general law, simply because there was a defect of proof or a disability on the part of the applicant to bring himself technically within the provisions of the law.

Mr. FERRY. Then the case has come to Congress because the limitation of five years has excluded the party.

Mr. INGALLS. Oh, no.

Mr. VOORHEES. I decline to yield further until I get through with comparing the existing law and the proposed legislation. I have read the statute so far as it goes until the proviso comes in. The proviso is:

Provided, The application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued.

Now, sir, I desire to show that the bill under consideration reads exactly, word for word, as section 4709 does, with the exception of the proviso. It asserts nothing new, only leaves the proviso out. The present law, section 4709, provides that a man's pension shall commence from the date of death or discharge, and as the Senator from New York has well suggested, the Pension Bureau has construed it to mean that no pension shall begin prior to the alleged disability. The position, therefore, of the Senator from Michigan need deter nobody from voting for this bill, the Pension Office having, as I said before, construed the existing law to mean that the pension shall not run back further than the disability is shown to exist, and the proposed legislation is word for word the same on that point as the law under which this construction has been made.

Mr. FERRY. Will the Senator allow me then to ask the question whether he is unwilling to express in a clear expression as a statute what the law power determines, rather than leave it to the construction of an administrative officer?

Mr. VOORHEES. The Senator from Michigan certainly knows that there is a broad field left for the Commissioner of Pensions, in which he fixes the rules of evidence and the amount of proof. In fact the procuring of pensions is purely a question of fact. Day after day cases that have been rejected by the Commissioner of Pensions are brought before the Committee on Pensions of this body. Why? Because the claimant alleges that he made proof enough and the Commissioner says he has not. It is altogether a question of fact, and it is useless to take the time of the Senate in discussing the question of the sufficiency of evidence which can never be fixed by general legislation.

Mr. FERRY. If the Senator will allow me, his view of the province of the Commissioner of Pensions does not relate to the facts, but to the regulations requiring proof. My object is to state in the statute the fact of disability, and from that fact I certainly am disposed, as other Senators are, to allow a pension from the date of the fact proved. But if a man has lived for thirteen or fourteen years without the consciousness of any disability growing out of service under the Government, he certainly should not come in at this late period when proof is so uncertain, and get a pension covering that time, unless it is evident disability occurred. I have a case in mind where proof has been so doubtful that the Commissioner has been unwilling to receive it. Now, if you allow thirteen years to expire and permit any claimant to come up here and prove that the seeds of disease which has developed thirteen years since the war were planted during his service in the Army, and get a pension to date back to the end of the war instead of from disability, I think it is very doubtful legislation; it is very unsafe legislation, and it is opening the Treasury to a large amount of claims that I think would not be sanctioned if the Senate understood their proportions.

It seems to me the proposition of the Senator from Massachusetts simply fixes the date of the disability proved as the period for the pension to commence; and when a man comes, whether fourteen years after the war ends or twenty-five years after the war ends, and proves that he has a disability that arises from seeds planted in the service of the Government, he should then be entitled to his pension from the date of the proof, not from the date of his discharge——

Mr. HOAR. From the date of disability.

Mr. FERRY. From the date of the disability, I should have said.

Mr. VOORHEES. The Senator from Michigan has two or three times spoken of this question of conscious and unconscious disability. He must know, as every Senator knows, that all this will be a matter of proof. The applicant for a pension must prove that his disability did exist, and if one of the facts connected with his claim before the Commissioner of Pensions is that he went about as a well man, betrayed no consciousness or appearance of disability, it would be a circumstance, as I have before said, tending to justify the rejection of his claim. But it is a question of fact; and this bill makes no change whatever upon that subject.

I answer the gentleman's question; he does not answer mine. I asked him awhile ago, in case a man did make proof satisfactory to the Senator himself of his disability in the service of his country, and had not applied within the five years, had allowed himself to be debarred by the statute of limitations either from ignorance, obscurity, poverty, or any other cause, whether the Senator therefore would reject the claim.

Mr. FERRY. I am ready to answer the question. I am not disposed to waive any question proposed by the Senator from Indiana. I would answer that question flatly and directly thus: if a claimant remains thirteen years, as it is at the present time since the close of the war, without availing himself of the benefit of a statute of which he should have knowledge, and if in the absence of knowledge without the consciousness of any disability whatever—which of course is entirely personal to himself and following him day by day and hour by hour—if he fails within thirteen years to make application or present proof of the fact when he knew that upon a claim being made and proof made he would be entitled to a pension, then I say he should not be entitled to a pension until his disability had been made apparent by proof.

Mr. VOORHEES. The Senator and I differ. If a man had gone on his crutches with one leg off for the last thirteen years, and from pride or any other consideration had not applied for a pension, I would not deprive him of one now, if he asked for it, because of the statutory limitation.

Mr. FERRY. I do not allow the Senator to cite the case of a man without a limb, because that is proof in itself. If a man has gone with the loss of a limb for thirteen years without making application for a pension, that is his own default; there is proof sufficient entitling him to pension. But I would cite to the Senator's attention a case—I will not name the case—where a pension was allowed under the present law upon the proof of a surgeon, and it was found afterward, upon a re-examination instituted by the Commissioner here under a new agency, that that very applicant went upon crutches to the surgeon, and after he left the surgeon's office he walked without crutches; and thereupon the Commissioner, as was his duty, revoked the pension.

Mr. VOORHEES. Undoubtedly.

Mr. FERRY. I ask the Senator if he is disposed to open the Treasury to cases of that kind; and if they would occur within six or seven years after the war ended, certainly more such cases would occur as a longer time expired after the war.

Mr. VOORHEES. Of course frauds occur under our pension laws; of course claims are sometimes allowed that ought not to be, and as soon as the officers of the Government discover that fact they strike them from the pension-roll properly and rightfully. This bill, however, does not make it any more easy to commit a fraud than the present law, for it is in the very same words with the exception of the proviso as to time.

Mr. HOAR. Mr. President, it seems to me that the debate has wandered somewhat from the question before the Senate. As I understand it, the question before the Senate is simply this; I can illustrate it by stating a fact. A very well-known member of the other House, who served with the honorable Senator from Indiana and myself and several other Senators, was thrown from his horse in one of the battles of the war and received a concussion. He was insensible a few hours, but got over it apparently, and has been a member of Congress and an eminent lawyer doing a large business ever since. He had some symptoms which indicated to an experienced surgeon that he was likely to be exposed some time to paralysis, but they never till lately resulted in anything which in the least interfered with the labors of his professional and public life. Last summer he was struck with paralysis. Now, I suppose every Senator agrees that that officer ought to receive a pension for the disability occasioned by that cause which occurred during the war, and every Senator agrees that that pension ought to begin from the time of the paralytic shock of last summer, and should not go back to the date of the battle where the original cause was received; and the only question is whether this bill as it is reported enables persons in a case like that to go back to the time of the original cause, or whether it limits it to the time of the commencement of the disability. It is a mere question of the construction of the language of the bill. My amendment makes that certain.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Massachusetts.

Mr. BLAINE and others. Let it be reported.

The VICE-PRESIDENT. The amendment will be reported.

The SECRETARY. At the end of the first section of the bill it is proposed to add—

And that no pension for disability shall be granted for any period before such disability occurred.

Mr. INGALLS. I call the attention of the Senate to the fact that that is merely an attempt to re-enact what is now the recognized principle of the Pension Bureau, and that the language of the bill now before the Senate is identically the same in terms with the language that has been employed in the pension laws of 1862, of 1864, and of 1873, under which all pensions have been granted; and if under the law of 1864 the applicant made his claim within three years, then the pension dated back within that period as the Commissioner of Pensions might see fit under the proofs to establish it, and that is all that can be done in this case if this bill becomes a law; and the Senators who are attempting to introduce an amendment here are arguing as if this intended some innovation upon existing law, which it does not do, as I have repeatedly said. The language

is exactly the same as it has been under the pension system ever since the war of the rebellion began.

Mr. BLAINE. Mr. President, as there seems to be a great deal of difference of opinion in regard to this point, and as I have no doubt that when the Commissioner of Pensions proceeds to put this law, if it shall become a law, into effect, he will discover that it will require additional legislation, I submit that it will be entirely safe to leave it till then, and if there be any defects in it they will be developed. Congress is in session every year, and it will be safe and wise to take the bill as it is. I have no doubt some amendment to it will be necessary. I vote for it with that belief, but I will vote for it with the belief that it is better to do justice so far as it goes, and when positive defects are developed we shall be here to correct them in the interest of pensioners and in the interest of the Government.

Mr. FERRY. I am not disposed to sit in my seat here and allow the Senator from Maine to suggest that those who are criticising this bill are opponents of the bill——

Mr. BLAINE. I did not say so.

Mr. FERRY. Or of the principle of the bill. The remark of the Senator from Maine is a proposition that Senators should rest in their seats and decline to criticise and perfect the bill which is before them for consideration, and allow the Commissioner of Pensions, who is to execute the provisions of the bill, to discharge the duties which Senators should perform.

Mr. BLAINE. Oh, no; the Senator entirely misapprehended me. I certainly had not the remotest idea of making a reflection on anybody. What I meant was this. Here between Senators equally entitled to an opinion there is a very grave difference as to the real meaning of the bill, as to the necessity of the amendment offered by the honorable Senator from Massachusetts or that of the honorable Senator from Michigan. I said in view of that difference, which I do not profess to be sufficiently wise to resolve, it is safe to do the justice which the bill now pending will do; and if there shall be developed any of the evils which have been suggested by the Senator from Michigan and the Senator from Massachusetts we shall be here to remedy them. That is all I said. We do substantial justice and make a great step in that direction by taking this bill as it comes from the House, instead of at this period of the session trusting it to any of the doubts and the dangers of a difference between the two branches. That is all I meant.

Mr. FERRY. I have risen as an advocate of the principle of the bill, and yet I am calling the attention of Senators to the fact, and I think it is within the experience of most Senators that there are cases where fraud is attempted to be practiced. I have known cases to be presented to me where I thought fraud had been practiced; and for that reason I, holding the responsibility of a double duty—duty to the claimants for pension and duty to the Treasury of the United States, the property of the people at large—could not allow a bill of this kind to pass without presenting my objections. Now, if in the judgment of the chairman of the Committee on Pensions the object of this bill is simply to remove a certain limitation, that is one phase; and certainly if that be the sole object there cannot be an objection to the amendment proposed by the Senator from Massachusetts, which provides that the pension shall be paid upon the disability occurring.

I reiterate that if a claimant has lived twelve or thirteen years since the war without the consciousness of a disability growing out of military service, certainly he ought not to be entitled to a pension until he himself is satisfied that he has suffered a disability growing out of such service. Why is it that we have constantly before each session of Congress bill after bill for specific cases, except it be that the parties have not applied within the five-year limitation, or except it be that the case proposed does not come within the provisions of law? Now the object is to remove every limitation, and my purpose is to place it upon the simple fact that a claimant has suffered a disability, and it is on that principle and fact that our pension law is based.

If it is proposed, after the lapse of fifteen, twenty, or twenty-five years, when all witnesses have died or disappeared, that a man shall come here, where it is so easy to obtain a certain kind of proof, and submit to the Commissioner of Pensions his claim for a pension and be entitled to it whether disability occurred or not, and demand from the Treasury of the United States money to be paid him in that regard, I say it is loose legislation, and I say it is opening the Treasury of the United States to an amount of draught which the people will not indorse. At least I am disposed to support the amendment as modified by the Senator from Massachusetts, which I think will cover the case.

Mr. THURMAN. Mr. President, upon a hasty reading of this bill, when the point was first suggested by the Senator from Arkansas, it seemed to me that the language of the bill was so clear as to admit of but one interpretation, and that was that no matter when the disability occurred the pension would date back to the discharge of the soldier. That was what seemed to me upon the first reading of the bill; but since I have looked at the statute now in force and learned the interpretation that has been given to that statute by the Department, and it has been constantly acted upon, I do not suppose there is any danger of that interpretation being given to this bill if it should become a law which it seemed to me at first sight was the natural reading of the bill. But, Mr. President, I find on looking at section 4709 of the Revised Statutes that this bill is substantially that section, omitting the five-year limitation. In respect to the language under consideration, it is identical in the statute and in the bill. It reads in the statute—

> Shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted.

Now, there are five years allowed in which to make the claim. The disability may have occurred in the fourth year; the claim is then made. Now, according to the very letter of that law, it would seem that that man was to get his pension from his discharge, four years before the disability occurred, just as it is supposed would be the case under this bill. But the interpretation placed upon it by the Department and steadily acted upon, as I am told by the chairman of the Committee on Pensions, is that in such a case he cannot go back to the date of his discharge, but only back to the date of the disability, and that instead of getting a pension for five years he would get one for one year; that is, it would commence only one year back instead of five years back. If that is the settled interpretation of the law as it now stands, the same interpretation must be given to this bill if it shall be passed.

Mr. FERRY. Will the Senator allow me to call his attention to lines 9 and 10, where we propose to enact that it shall be from the death or discharge of the claimant?

Mr. THURMAN. That is the very language of the law now in force.

Mr. FERRY. Exactly. Now, if the Commissioner of Pensions in the execution of this law does not conform to it, and we are repassing a similar statute, is it not the desire of Congress that his administration should conform to the statute?

Mr. THURMAN. No; there is no more familiar principle of law than this, that when a statute uses language that is in a former law and which has received a settled construction, the presumption is that its use in the subsequent statute is according to the meaning that was given to the previous statute. That is a well-settled principle of the interpretation of statutes. And it is upon that ground that I can vote for the bill without the amendment. It would have been much better if the House had made it clear by inserting the word "disability," as suggested by the Senator from Arkansas, or still more clear by such an amendment as was suggested by the Senator from Massachusetts; but I really do not see how it can be necessary to amend the bill in that respect in view of the fact that the bill is precisely what the present law is in the particular under consideration, and that these words "death" and "discharge" have received an interpretation, as I am told, and no doubt correctly, by the chairman of the Committee on Pensions, at the Department, which has never been departed from.

For these reasons, although it would have been better that the bill should have been clearer in its language than it is, I can vote for it as it is; and it may be that there is something wise in the bill being as it is; for, if it were changed as has been suggested, it would seem to be a determination by Congress that the old law had been incorrectly interpreted.

Mr. FERRY. One word more. As I understand now from the Senator from Ohio the administration of the present statute has been, and the probable administration of this bill if it becomes a law will be, contrary to its provisions. That is to say, if a claimant files his claim at the present time, thirteen years after the expiration of the war, he will not be entitled to a pension except from the date of the proof of his disability. Now, I understand the proposition of the Senator from Ohio who has last spoken is that he is willing to waive his duty to so frame laws that there can be no doubt upon the question of their construction, and leave it for the administration of the Commissioner of Pensions. He says that it is a rule well known that where there is an administration under a statute that administration will continue under different administrative officers. My experience has taught me that different officers have different judgments, and my duty here as a legislator is to make the law so explicit that there can be no question upon its administration.

Mr. THURMAN. As I am a little sensitive upon my law, I beg to correct my friend. I did not say that one administration would do just precisely like another in the interpretation of the law. I said this, that when words in a statute have received a fixed interpretation about which there is no doubt, when the same words are used in a subsequent statute on the same subject the presumption is that they are used in the sense in which they were used in the previous statute.

Mr. FERRY. That may be the presumption, but I am talking about fact. I find in lines 9 and 10 that every claimant on proof of his disability is to have a pension from the date of his discharge. If this bill becomes a law, and the limitation of five years be removed, every claimant on proof of his disability is really entitled by this statute to his pension from the date of his discharge, because those lines read "from the date of the death or discharge." If the present Commissioner construes this to mean from the time of the proof made, his successor may not. If it is the proposition of the Senator from Ohio, and others who view the question as he does, that for fear this bill may not become a law when we have a month and a half, six weeks, before us, for it to go back to the House to have our amendments concurred in, we should take it just as it is sent to us, then we might as well waive our right here as Senators to criticise and frame legislation.

The proposition of the Senator from Massachusetts is to express in

a proviso that no claimant at this late period shall be allowed to date his pension prior to the occurrence of his disability when the restriction of five years shall be removed entirely. This bill allows any claimant to present his proof at any time, whether it be thirteen, fifteen, or twenty years after the war. If on this bill such a proposition as that of the amendment is voted down, it will be the judgment of the Senate and virtually of Congress that the construction made by the Commissioner of Pensions shall be the rule of this Government, that any man who, twenty-five years from this time if he pleases, shall prove that he suffers from disability growing out of military service under the Government shall be entitled to a pension from the date of his discharge, not disability, or, in the construction or administration of the then Commissioner, from the date of the proof of his disability.

Mr. MORRILL. Mr. President, I expect to vote for this bill or something of the kind, but I trust the Senate is not to be deterred from perfecting a bill that is to take fifteen or twenty millions out of the Treasury by any fear lest any proper amendment shall not be adopted by the other House. There is ample time for its consideration there, and it is entirely unfounded to suppose that any proper amendment which may be made to this bill will not be received with favor by the other House.

As I understand, nearly all the pensions that have been granted are to be reopened and a new account taken by the Commissioner of Pensions. It is not only to reopen the cases that have been barred by the one and three and five years limitation, but it is to reopen those which have been granted from the time the record of proof was made in the office instead of from the time of the disability; and I think that the chairman of the Committee on Pensions is mistaken in supposing that the pensions which have been separately granted by Congress in special bills will not be reopened. I am very sure that in regard to all those acts which have been passed granting pensions, from the time of the passage of this bill there will be a presentation of the claim of each and every one of them for arrears of pension commencing from the time when the disability occurred.

Mr. INGALLS. May I interrupt the Senator a moment?

Mr. MORRILL. I am going to talk only a few moments, and I prefer to go on with what I have to say.

Under these circumstances, with a bill before us that is to take out of the Treasury so much as the chairman of the Committee on Pensions has asserted, eighteen or twenty millions, I think it is entirely prudent on the part of the Senate to make any just and proper amendment. For instance, it occurs to me that the Commissioner of Pensions is at the present time two years behindhand in taking up the cases that have already been lodged in his office. Now, how is he to go on with this vast addition to the labors of that office unless we give him a greater force? If we are to pass this bill, I am in favor of giving the Commissioner of Pensions an additional number of clerks to enable him to execute the provisions of this act.

Another thing I desire to call the attention of the Senate to—the amount of burden that is to be imposed upon the Treasury. I suppose not all Senators are aware that our expenses have been much greater for the past six months than for the corresponding six months in the previous year. I will just read to the Senate what the condition of facts is in relation to the position of the Treasury as to imposing further burdens upon it at this time.

The expenses for the six months ending respectively December 31, 1877, and December 31, 1878, were for 1877 $136,053,399.83 and for 1878 $141,167,879.08. Our ordinary expenditures for the last six months exceed those of the corresponding six months of the previous year by nearly $13,000,000, including the award under the Halifax commission; so that instead of having a surplus as we had last year of over $14,000,000, the present year's surplus will be only $7,138,720.

If this bill is to pass, in my judgment, instead of imposing it upon the Treasury with a clear apprehension that there is to be a deficit, we ought to provide that the Treasury may issue bonds in sufficient amount to cover this additional burden. I shall not propose such an amendment as that, but I clearly think that it is the duty of the chairman of the Committee on Pensions to consider that matter. I shall propose, if the bill is to become a law, that we give the Commissioner of Pensions an additional increase of clerks to enable him to execute the provisions of the act.

Mr. PADDOCK. I should like to inquire of the Senator from Vermont if it is right and proper that this bill should pass and that this beneficent provision should be adopted, although it may in some degree increase the burdens of the country, would he not say that it ought to be done? It is only a little time since that, although the country questioned the justice and the right of the thing, we made the Halifax award, to which my friend has alluded. He was in favor of that award, as I remember, and in favor of the prompt payment of the millions required to meet it, although there was a question with very many people in this country as to the propriety and justice of such award. Now here is a matter that is manifestly just, manifestly proper, manifestly demanded of the justice of this country, and although it may increase the burdens lightly, although it may require a few additional clerks to do this work, yet, because it is right and proper and a thing that ought to be done, it ought to be done without reference to any such considerations as are urged by my distinguished friend from Vermont. I am for this bill because the principle involved is correct and just and proper. I am opposed to any and all amendments because they imperil its passage. Supplemental legislation can readily be secured if necessary to make plain and certain that that may appear ambiguous and indefinite. I hope that the amendment will not prevail.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Arkansas [Mr. DORSEY] as modified on the suggestion of the Senator from Massachusetts, [Mr. HOAR.]

The question being put, a division was called for; and the ayes were 18.

Mr. INGALLS. Probably we had better have the yeas and nays.

The yeas and nays were ordered.

Mr. FERRY. I ask that the amendment be again reported.

The VICE-PRESIDENT. It will be again read.

The SECRETARY. The amendment is to add at the end of the first section:

And that no pension for disability shall be granted for any period before such disability occurred.

Mr. DAWES. Is this an amendment to an amendment?

The VICE-PRESIDENT. It is not.

Mr. DAWES. It has been adopted by the mover?

The VICE-PRESIDENT. The mover of the original amendment accepted it as a modification.

Mr. DAWES. I supposed it was an amendment to an amendment, and as I preferred this form of amendment I voted for it. I am opposed to amending the bill at all. If this is not an amendment to the original amendment suggested by the Senator from Arkansas, I shall vote against the amendment on the ground that I would rather the bill should not be sent back to the House.

Mr. MCMILLAN. I should like to inquire if an amendment was not adopted inserting the word "disability" after the word "death" in the ninth line?

The VICE-PRESIDENT. No such amendment was adopted. That was the amendment proposed by the Senator from Arkansas.

Mr. MCMILLAN. I thought it was adopted and subsequently the other amendment proposed?

The VICE-PRESIDENT. The proposed amendment was withdrawn and the amendment of the Senator from Massachusetts accepted in lieu thereof.

Mr. INGALLS. Mr. President, the pending amendment, I repeat, proposes merely to re-enact existing provisions of law and long-standing constructions of the statute; and, inasmuch as it is superfluous and unnecessary, and will do no good, and may defeat or hinder or delay the passage of the bill, I hope that the friends of the measure will vote against the amendment.

Mr. MCMILLAN. I should like to inquire of the chairman of the Committee on Pensions whether or not the point raised here has been affirmatively decided by the Commissioner of Pensions in the construction of the existing law?

Mr. INGALLS. I so understand it, and have repeatedly stated it so.

Mr. FERRY. I do not want the remarks of the chairman of the Committee on Pensions to go forth to the country that those who vote for this amendment are attempting to interrupt or impede the passage of this bill. I am in favor of the bill in principle. The chairman of the Committee on Pensions smiles, and he ought to smile, when he rises here and says that this amendment is simply a re-enactment of the construction of the present Commissioner of Pensions or any commissioner. If that be the case, there cannot be any objection to the adoption of the amendment; for it specifically declares the intention of the Senate upon this point, that when after the lapse of thirteen years or more application is made, the pension shall date, not from the discharge, but from the revelation of the disability or the experience of the disability.

As I said, I am in favor, and most of us are in favor, of this bill, but I am opposed to opening the Treasury to fraud, and I have heard of cases of fraud where parties at this late period are attempting to obtain proof that they were entitled to a pension for disability, and are yet unable to prove it.

Mr. PADDOCK. I understand the judgment of those who have this bill in charge to be unanimous that there is no change in the rule of proof.

Mr. FERRY. If I, as chairman of the committee of which the honorable Senator who has just spoken is a distinguished member, should propose to dictate a policy in behalf of that committee, I think I should be depriving him of his right on the floor of the Senate to express his dissent or comment on such construction; and therefore I am not here to yield to the judgment of any Senator or any committee upon a question of such policy that involves $20,000,000 out of the Treasury and out of the pockets of the people of this country. I think no Senator here occupying a seat—and there are many present to-day—will waive his right to express his judgment upon a construction and shield himself, as it is proposed to do now, upon the construction of the head of a bureau, because heretofore the construction has been to date a pension from the time of the proof of disability. I say that while the bill is pending before us with ample time for this amendment to be concurred in by the House, namely, six weeks yet to expire before the termination of this session, it is my duty, if it is not the duty of other Senators, to cast my vote in behalf of a construction that shall be so plain that this Commissioner, so distinguished as he is, and so faithful to his duty as he is, as well as other

commissioners who shall succeed him, will have no doubt whatever as to the construction to be placed upon the statute.

Our duty is to frame statutes. I see my asssociate on another committee, who is a member of this committee, [Mr. VOORHEES,] rising, probably to defend this committee. I say in his presence that he cannot run any risk whatever in allowing this amendment, which is so explicit and will express the judgment of this Senate so squarely and fairly and directly—he can run no risk by allowing this amendment to be appended to the bill. The simple question before the Senate is whether the Senate now, in its deliberate judgment, will express itself in behalf of allowing pensions to date from the discharge of the claimant after the lapse of thirteen years or more, or confine the pension to date from the existence of disability.

Mr. HOAR. Will the Senator allow me to call his attention to the fact that everybody, as I understand, agrees that the pension should go back to the time of the existence of the disability, even if it existed thirteen years ago, without any regard to the date of the proof. The only question here is the mode of accomplishing an arrangement by which the pension shall not go back to the discharge of the soldier, that discharge being many years prior to the existence of the disability. The date of the proof has nothing whatever to do with it, as I understand.

Mr. FERRY. I may be unfortunate in understanding the force of language, and I will cover my unfortunate condition by attaching my support to the full amendment of the Senator from Massachusetts, let it cover what it may. As I understand that, it covers a different principle from the bill; and that is that after the lapse of thirteen or more years, if a claimant proves his disability, his pension shall date from the occurrence of the disability. Do I understand the amendment of the Senator from Massachusetts?

Mr. HOAR. Yes, sir.

Mr. FERRY. I have his assent. Then we agree on that point. Then there are two principles involved, if the Senator from Indiana will be patient with me——

Mr. VOORHEES. Certainly.

Mr. FERRY. The bill proposed and reported by the Committee on Pensions involves an important question. As was very wisely suggested by my friend in front of me, the chairman of the Committee on Finance, it is whether the Senate will now reopen all cases that have been decided and allow pensions to date, not from their allowance on proof, but date back to the discharge of the claimant in all cases, not only those in the past, but all cases in which application shall be made to give the pension from the date of discharge. On the other hand, by supporting the amendment of the Senator from Massachusetts the principle will be settled that all claimants shall have their pensions from the date of the occurrence of the disabiiity as established by proof. I think I state the force of the amendment.

Mr. VOORHEES. I do not intend to go into the discussion of this matter again, but there is a feature of this debate which strikes me with great force and some ludicrousness. We have a law now on the statute-book that will be seventeen years old in March. In March, 1862, we enacted section 4709 on the subject of pensions, and it has been on the statute-book ever since. We now bring in here to-day a bill that does not differ in one word or letter in its phraseology from that statute, with the exception of leaving out the statute of limitations.

Mr. HEREFORD. Will the Senator allow me to ask him a question right there?

Mr. VOORHEES. Yes.

Mr. HEREFORD. The question I ask of the Senator is in regard to the remark he has just made and which is only a reiteration of the remark he made when he was up before, to the effect that there was nothing in the bill except the repeal of section 4717.

Mr. VOORHEES. The bill is not merely the repeal of that section.

Mr. HEREFORD. The third section of the bill now under consideration does that very thing in terms, and why do you want four more sections? The third section in terms does repeal section 4717; and what do you want with four more sections if the object of the bill is simply to repeal that section?

Mr. VOORHEES. The repealing section of the bill is in these words:

> That all acts or parts of acts, so far as they may conflict with the provisions of this act, be, and the same are hereby, repealed.

A question more wide of the mark I was discussing could hardly be propounded. What I wish to state is that we have had a law for now nearly seventeen years which has been construed in a certain way by the Commissioner of Pensions during all that time. A bill is now brought forward the same as that law, with the exception of the time within which the application shall be made. The Senator from Michigan at once sees great danger growing out of this proposed new legislation, which proposes no change at all with the exception of wiping out the statute of limitation; and he appeals to Senators with great earnestness that we ought to seize the opportunity to put it beyond the power of a Commissioner to make an erroneous construction of the law. The Senator from Michigan has been in the public service a long time. I have had the honor to serve with him in both branches of Congress. He was in Congress, either in the other branch or here, when the existing law, construed for so many years by the Commissioner, was enacted.

Mr. FERRY. Pardon me. If the Senator will allow me, I was not in Congress in 1862 or 1864.

Mr. VOORHEES. Ever since that time, however, the Senator has sat here and has raised no cry of alarm. The Senator from Vermont and the Senator from Michigan——

Mr. FERRY. The Senator from Indiana will not misrepresent me.

Mr. VOORHEES. No, I will not.

Mr. FERRY. I know he does not intend to misrepresent me. Our relation is such that he would not do that. I was not in Congress in 1862 or 1864, when the pension laws were passed; and it was not my duty outside of Congress to protest or declare against a law that was in force.

Mr. VOORHEES. Not at all; but if the Senator from Michigan with his well-known acuteness found a law susceptible of dangerous construction by the Commissioner of Pensions, and has allowed it to pass under his observation without protest for the last fifteen years, I should say that his new-born zeal in the cause of public safety to-day is rather surprising.

I say that the law as it stands, and as it has been construed by succeeding Commissioners of Pensions, is the same as the law now proposed, so far as the time when a pension shall begin. The danger observed by the Senator from Michigan is that a pension will begin when it ought not to; that is to say, before a disability is proven to exist. The Commissioner of Pensions under the existing law has ruled that a pension shall commence from the time only when the disability is proven to have existed. We propose nothing new upon that subject; and yet Senators who have known of the existing law, and had it under their observation in public life for many years, pretend to discover a great danger growing out of the fact that we propose to reiterate and reassert the same principles in the same phraseology which have evoked the construction I speak of. What new danger is there under this new legislation proposed that did not assail the public interest under the old law? What new danger is there that the Senator discovers to-day upon the consideration of this bill that he would not have discovered yesterday under the law as it then stood?

Mr. FERRY. If the Senator will allow me, I will say that I have always been in favor of this bill. I was in favor of it at the last session, and at prior sessions whenever a similar measure was before us; but I have not conceived it to be my duty at every session or on every day of the session to propose a modification of the pension law or any other law. I have rather followed in the lead of the distinguished Senator from Indiana and his colleagues on the Pension Committee to await the proper moment for action, just as he has waited for the Committee on Finance upon questions of finance. He has not deemed it his obligation at every time to protest against inimical legislation as he conceived existing upon that question, but at the proper time he has been vigilant and able in pressing his views whenever financial measures have been before the Senate for consideration.

Mr. EATON. If my friend from Michigan will permit me, I do not think he intends to misrepresent my honorable friend the Senator from Indiana, but I think "in season and out of season" he has been very ready on the question of finance.

Mr. VOORHEES. I am obliged to my friend from Connecticut. All I desire to impress on the minds of Senators now is that we have operated under the law and paid our pensions, and our Commissioner has made his construction for the last seventeen years on exactly the same kind of a law, so far as the point discussed by the Senator from Michigan is concerned, as we propose here to-day. That is to say, there is no change proposed by the bill under consideration from the existing law as to the time when a pension shall commence growing out of a disability, and we have operated, as I repeat myself, for seventeen years safely under a construction given by the Pension Office to the existing law. Consequently I do not share in the alarm that Senators express here for fear of a different ruling.

I express the hope again that the bill may not be amended. It is as good perhaps as we can make it, and if we find out hereafter that some Commissioner departed from the precedents set by his predecessors in office for seventeen years past, or should appear likely to break away from the present construction of the law, as the Senator from Maine well said, we will be here and we can take care of that question.

Mr. FERRY. I desire to state that we cannot speak with perfect confidence that we shall all be here at all times.

Mr. VOORHEES. I beg the Senator not to suppose that I alluded to any passing events at all.

Mr. HOAR. When I first suggested this form of amendment it was merely to suggest to a Senator who proposed an amendment which I thought did not accomplish the purpose a different expression, without having come to any conclusion in my own mind as to whether the bill ought to be amended or not; but the progress of the debate has satisfied me very clearly that the amendment ought to be made. In the first place, there is not the slightest possible doubt, so far as we can speak of any matter in future legislation, that this bill is to pass. The Senate is unanimous for it; there has not been a voice raised against its principle; and without adverting, as I have no right to do, to the particular vote or majority by which it passed the other House, I have a right to say that a bill on this subject, for which the Senate is unanimous, is sure to find a unanimous House when it goes back to that body with amendments. There is plenty of

time; and therefore the question to us is a question of general principle in legislation, whether when a bill is before us we shall, as one branch of the Government, perfect it.

Here is a bill in which, as the Senator from Ohio very justly remarked, the plain and clear language of the text means one thing, and but one, and that is that hereafter pensions for disabilities which do not exist until to-day shall be paid from the time of the discharge of the soldier at the end of or during the war. That is the plain language of this bill. Nobody can stand up here to deny it, or will stand up here to deny it, or has stood up here to deny it; and the plain language of the bill is exactly what the Senate does not mean shall be the law, as everybody on both sides of the question who has spoken has declared.

The Senator from Indiana thinks that it is a good plan in legislation to pass a law, the plain, clear meaning of which means one thing, the intent of the Senate and of the House being a different thing, and to trust the Executive Departments of the Government with the power to reverse that clear meaning of the law when they think it wise or expedient or just. He proposes to pass this bill in that way because a subordinate executive officer has in the past previously so dealt with another statute phrased in the same way. Will the Senator apply that principle to Secretary Sherman? Will he apply that principle to the Comptroller of the Currency? Will he apply that principle to the Attorney-General? Will he apply that principle to any other executive officer of this Government who has to deal with any question in regard to which the political parties are at issue?

Mr. VOORHEES. Will the Senator allow me to say one word?

Mr. HOAR. The Senator will allow me to add one sentence, and then I will yield the floor.

Mr. VOORHEES. I was only going to say simply that as to the Secretary of the Treasury I would not allow him to construe any law or give him any power of construction at all.

Mr. HOAR. The Senator who votes against this amendment votes that he is content that executive officers of the Government, in cases where they deem it just or wise, shall construe and act upon statutes in opposition to their plain, clear, and undisputed meaning. And they are so content that that practice shall go on that they will not amend a bill when the amendment does not have the slightest effect on the prospect of its ultimate and speedy passage.

Mr. McMILLAN. Mr. President, this bill, I understand, has had the examination of the Committee on Pensions of this body, and I presume they have carefully compared the present statute with the proposed legislation. The chairman of the committee has stated that the present ruling of the Commissioner of Pensions has been upon a law embodying the same terms that the act proposed contains. I should like to ask the chairman of the committee, so as to relieve any doubt which might exist in regard to that question, whether he has adverted to the fact that in section 4709 of the Revised Statutes the proviso contains this language:

> Provided the application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same.

Here is language in one part of the section, the proviso, which refers to the date when the disability occurred. The Commissioner may have taken the whole section together, instead of passing merely upon the words contained in the principal part of the section, providing that all pensions granted in consequence of death, "or in consequence of wounds or injuries received or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted." That language is the same as that contained in the first section of the pending bill, but there is no language in the proviso which I have read which relates or has reference particularly to the time at which the right to the pension accrued. I should like to know if the chairman has adverted to that fact in his remarks, and if he has considered the effect of that language.

Mr. INGALLS. I have not. I propose to strike that language out.

Mr. McMILLAN. That language is contained in the original section of the Revised Statutes, under which the Senator says the decisions have been made. The whole of section 4709 reads in this way——

Mr. INGALLS. I am familiar with the language of the section.

Mr. McMILLAN. For the sake of making my point apparent I will read it:

> 4709. All pensions which have been, or which may hereafter be, granted in consequence of death occurring from a cause which originated in the service since the 4th day of March, 1861, or in consequence of wounds or injuries received or disease contracted since that date, shall commence from the death or discharge of the person on whose account the claim has been or is hereafter granted, or from the termination of the right of party having prior title to such pension.

The language of the bill under consideration conforms to that phraseology, but the existing section of the Revised Statutes proceeds further:

> Provided the application for such pension has been or is hereafter filed with the Commissioner of Pensions within five years after the right thereto has accrued; otherwise the pension shall commence from the date of filing the last evidence necessary to establish the same.

Mr. INGALLS. That part of the section is omitted in the pending bill.

Mr. McMILLAN. There is no language in the pending measure referring to the time the right to a pension has accrued. That would therefore present to the Commissioner a different question. It might be said that he did not construe section 4709 merely in the light of the words "from the death or discharge of the person on whose account the claim has been or is hereafter granted," but that he construed the whole section together; that the proviso limiting the pension to the time the disability or the right to the pension accrued affected the language in the former part of the statute and enabled him to say that no pension should be granted except from the date of the death or the date of the disability. I was not certain upon that point, and therefore present this view to the Senator from Kansas and ask him if he has considered it?

Mr. INGALLS. I think I apprehend the particular doubt of the Senator from Minnesota, and, without intending either to be curt or disrespectful in my reply, I will simply say that if the Commissioner of Pensions does not interpret and construe this statute, should it become one, as we think it ought to be construed, we can very readily pass a supplemental act that will give him proper instruction in regard to its meaning.

Mr. CHRISTIANCY. Mr. President, that is very true, but that is shutting the stable-door after the horse has been stolen.

Mr. INGALLS. I think not, because nobody knows better than the Senator from Michigan that no payment can be made until the money is appropriated to pay it.

Mr. FERRY. I want to call the attention of the chairman of the Committee on Pensions to the fact that when a bill is before us making an appropriation to pay pensions, we generally pass what is recommended by the Commissioner of Pensions to cover the statute. In fact we are derelict in our duty if we do not appropriate according to the statute. If we pass this proposed statute, providing for the payment of $20,000,000, or nearly that amount, out of the Treasury of the United States, it becomes our duty to make the appropriation. Therefore I think the reply of the chairman of the committee does not relieve us of our responsibility in so framing this proposed statute that there can be but one construction made of its terms.

Mr. INGALLS. If there could be but one construction put upon a statute, the occupation of courts and lawyers would long ago have been gone.

Mr. EATON. Mr. President, it strikes me as very singular that this discussion should have arisen when there is no difference of opinion whatever between the Senator from Massachusetts and the Senators from Ohio and Indiana, so far as I know, in regard to the proper construction of the proposed statute. If I understood my friend, the Senator from Ohio, he said he would not vote for the bill except with the construction which had been put upon a similar law heretofore. There is where I think, with all due deference, my friend errs, and errs very greatly. The construction of the Supreme Court of the United States upon a statute of Congress is of some value; the construction of a bureau officer is of no value whatever. Here is a man who is Commissioner of Pensions to-day. He goes out of office and somebody from Ohio, whom my friend from Indiana does not like very well, may come in to-morrow, and then comes his construction upon this statute, if it become a law.

I desire to vote for this bill; but I certainly desire that it shall be made so plain that there will be no doubt as to the way in which any bureau officer will have to construe it. With the amendment of the Senator from Massachusetts, in my judgment, the bill will be perfect; and therefore I shall vote for the amendment.

Mr. CONKLING. I want to inquire of the Senator from Kansas whether I understood him aright a moment ago when I think that he said that there were other amendments to the bill which he or the committee intended to move?

Mr. INGALLS. The Senator misunderstood me.

Mr. CONKLING. So that unless the present amendment is adopted, so far as the Senator knows, the bill will not be amended before it receives final action?

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The question is on the amendment of the Senator from Arkansas [Mr. DORSEY] as modified by the Senator from Massachusetts, [Mr. HOAR,] on which the yeas and nays have been ordered.

The Secretary called the roll.

Mr. WALLACE, (when Mr. WHYTE's name was called.) The Senator from Maryland [Mr. WHYTE] is detained from the Senate by illness in his family.

The result was announced—yeas 20, nays 27; as follows:

YEAS—20.

Anthony,	Christiancy,	Jones of Nevada,	Morrill,
Barnum,	Dorsey,	McCreery,	Sargent,
Beck,	Eaton,	McPherson,	Saulsbury,
Booth,	Ferry,	Maxey,	Sharon,
Burnside,	Hoar,	Morgan,	Withers.

NAYS—27.

Allison,	Dawes,	McMillan,	Spencer,
Armstrong,	Gordon,	Matthews,	Thurman,
Blaine,	Howe,	Mitchell,	Voorhees,
Butler,	Ingalls,	Paddock,	Wadleigh,
Cockrell,	Kernan,	Plumb,	Wallace,
Conkling,	Lamar,	Rollins,	Windom.
Davis of Illinois,	McDonald,	Saunders,	

ABSENT—29.

Bailey,	Cameron of Pa.,	Coke,	Dennis,
Bayard,	Cameron of Wis.,	Conover,	Edmunds,
Bruce,	Chaffee,	Davis of W. Va.,	Eustis,

Garland,	Hill,	Merrimon,	Teller,
Grover,	Johnston,	Oglesby,	Whyte.
Hamlin,	Jones of Florida,	Patterson,	
Harris,	Kellogg,	Randolph,	
Hereford,	Kirkwood,	Ransom,	

So the amendment was rejected.

Mr. SAULSBURY. I move at the end of the first section of the bill to add the following proviso:

Provided, That the proof of disability upon which any pension has already been granted shall not be conclusive of the right of any claimant to the arrears of pension under this bill, but the question of disability shall be open to re-examination by the Commissioner of Pensions, who may, in his discretion, require addditional or further proof.

Let me state briefly my object in offering the amendment. I understand that a former Commissioner of Pensions expressed the opinion that at least one-fourth of the pensions granted were fraudulent claims upon the Government; and I understand that the same opinion was also expressed at one time by the chairman of the Pension Committee. If the bill passes as reported from the committee, all those fraudulent claimants will be entitled to arrears of pensions. The amendment I have offered simply provides that the proof originally offered and furnished to the Pension Bureau of disability shall not be conclusive upon that question, but that the Commissioner of Pensions, acting in his discretion, whenever he thinks the interests of the country require it, may re-examine and require, if the case needs it, proper additional proof of disability. It is simply a measure to protect the pension fund from frauds upon it. It seems to me the provision is a wise one. I offer it in no hostility whatever to the bill, but simply to perfect the bill in the manner in which I think it ought to be perfected. Proof furnished ten years ago of disability may have satisfied the then existing Commissioner of the party's right to a pension, but that proof may not be such as a Commissioner now, removed from the influences which the war created, would deem proper to establish the right of a claimant to arrears of pension. All I want is that the proof may be such as would be satisfactory and conclusive to the mind of the present Commissioner.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Delaware, [Mr. SAULSBURY.]

Mr. INGALLS. The position taken by the Senator from Delaware is a singular one for a lawyer to assume, and I presume that upon reflection he will probably withdraw his amendment.

Mr. SAULSBURY. Let us hear the Senator's objection to my amendment.

Mr. INGALLS. There is one very important function that is carried on by the Commissioner of Pensions from day to day, and that is the examination of claims alleged to be fraudulent. Every year a considerable number of persons are dropped from the rolls either because they were placed there improperly in the first place or because circumstances subsequently arising have shown that they should no longer be continued. Therefore the amendment proposed gives no power to the Commissioner that is not now enjoyed and constantly exercised. Its adoption would simply be an embarrassment to the bill, without giving any additional power or authority to the Commissioner and without in any way carrying out the object which the Senator undoubtedly has in view, and which he and I possess in common. It is true, as has been stated, that from a variety of causes there are fraudulent claims made against the Government in the matter of pensions as well as in everything else; but it is not for a moment to be understood that because a pensioner is once placed upon the rolls by testimony that was improper or false or fraudulent he is to be continued there after the fraud is discovered. The process of elimination and of dropping names improperly upon the rolls is constantly carried on, and that is one of the most important branches of the pension service.

Mr. SAULSBURY. I was aware that the Commissioner had power under the existing law to drop from the rolls the name of any pensioner who was not found to be entitled to a pension upon a re-examination of his case; but I hold that under the provisions of this bill every pensioner upon the rolls upon the passage of the bill would become vested with the right to the arrears of pension which the bill grants to him.

Mr. INGALLS. Do I disturb the Senator from Delaware?

Mr. SAULSBURY. Not at all.

Mr. INGALLS. If the Senator will refer to a table that was furnished by the Commissioner of Pensions in 1876 he will see that the number of those entitled to arrears is very small compared with the aggregate number on the rolls. Take, for instance, the year 1868. The number of invalids admitted that year was 9,460. They received pensions without the application of the limitation in the law of 1864. The number to whom arrears were denied that year, to which the limitation applied, was but 270. The Senator will see that a great majority of cases have already been passed upon under the operations of this very principle that we now seek to apply to those who were rejected.

Mr. SAULSBURY. But the bill provides that persons who were disabled and who did not get their pensions allowed until some time afterward shall be entitled to arrears of pensions from the date of their disability.

Mr. INGALLS. The great mass of pensioners have received that already.

Mr. SAULSBURY. All that my amendment proposes is to give to the Commissioner of Pensions the right to re-examine, so that he shall not be concluded by the proof already furnished, but may re-examine, if he thinks it proper to do so, before he pays any of these arrears. That is all I seek to accomplish by the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Delaware, [Mr. SAULSBURY.]

The question being put, there were on a division—ayes 7, noes 16; no quorum voting.

Mr. SAULSBURY. I give it up.

The PRESIDING OFFICER. The amendment is rejected.

The bill was ordered to a third reading, and read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. MORRILL. I have an amendment that I desire to offer as an additional section, to come in before the last section of the bill.

The PRESIDING OFFICER. An amendment can only be received by unanimous consent at this time. Is there objection?

Mr. INGALLS. I will hear the amendment read, reserving the right to object. I want to hear it in the first place.

The PRESIDING OFFICER. The amendment will be reported for information.

The SECRETARY. It is proposed to insert as an additional section the following:

SEC.—. That the Commissioner of Pensions is hereby authorized to temporarily employ such number of clerks, not exceeding fifty, as may be necessary to promptly execute the provisions of this act; and for the payment of such clerks the sum of $75,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL. I desire merely to say that any one who knows the present condition of the Pension Bureau knows that this proposed law will be entirely inoperative unless some provision of this kind shall be attached to it. The bureau is now already at least two years behind time in the examination of cases. If the pending bill is to pass, as I hope and expect it will, but in a proper shape, we ought to furnish the means by which the bureau can execute the law. It should not be a law on the statute-book and inoperative for two years, as it will practically be unless some amendment of this kind is adopted.

Mr. INGALLS. The Senator from Vermont is for him unusually inaccurate in saying that unless the amendment passes the bill will become utterly inoperative. I suppose he meant to say, or if he did not I would suggest to him to say, that the execution of it might be delayed, or procrastinated, or deferred. It is true that the business of the Pension Bureau is now very much behind. There are more than one hundred thousand cases unacted upon. Instead of there being an increase of the force by the addition of fifty clerks, there ought to be at least two hundred additional clerks employed in the bureau of the Commissioner of Pensions and in the office of the Surgeon-General. At the proper time, I will co-operate with the Senator from Vermont in securing that addition to the force. This is not, however, the time, nor the place.

Mr. PADDOCK. I should like to ask the Senator from Kansas if he makes that statement in reference to the present condition of things without regard to the additional force required by the pending bill?

Mr. INGALLS. I make it without reference to this bill at all. There are more than one hundred thousand cases unacted upon in the bureau of the Commissioner of Pensions.

The PRESIDING OFFICER. Is there objection to the amendment of the Senator from Vermont?

Mr. PADDOCK. I object.

Mr. KERNAN. I feel constrained to object. I do not think it germane to the bill.

The PRESIDING OFFICER. Objection being made, the amendment is not in order. The question is on the passage of the bill.

Mr. FERRY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. Mr. President, I think the bill is one at least of very doubtful propriety. It proposes to impose an additional burden of $18,000,000 at least to the burdens of the people of this country. I would not do any act of injustice to the men who served their country in the time of danger and alarm. I think the Government has been liberal toward its soldiers. Perhaps no country on earth has been more liberal in the way of bounty and pensions than has the American Government been to the people who served in its Army. Now after the lapse of more than thirteen years from the termination of the war we come in and offer a gratuity (because it is no claim of right which these parties have; it is a mere gratuity on the part of the Government) to the soldiers who have already been pensioned. The law provided that those who served their country in the Army, or their widows and children in the case of their death, should be entitled to certain pensions upon certain conditions. So far as I am informed, upon compliance with those conditions every person entitled to a pension has received it at the hands of the Government. This proposition is simply a revocation of the conditions which entitled the party to his pension, and, in that view of it, it is a mere gratuity on the part of Congress toward a class of very worthy people doubtless; but while we are generous we ought also to be just.

The people of this country have been taxed for a series of years beyond that which has been imposed upon any other people on the face of the earth. Under the present taxing system the industries of this country have been crippled, the business interests of our people

have declined. That which men have needed for the support and comfort of themselves and their families has been taken from their pockets to pay the debts of the National Government. If we keep on adding to this continual drain upon their resources the people of this country will become still more impoverished than they are. While I would be generous to the soldier, I would be just to the tax-payer.

Why is it that every industry in our country is depressed to-day? Various causes have been assigned; but in my humble judgment there is none more potent than the continual drain upon the resources of the people, taking from the pocket of the farmer, the mechanic, and the artisan that which they need to carry on their business and to support their wives and their children. I think we have done ample for the soldiery. I wish now to see some legislation that will relieve the burdens of the people generally. For that reason, as the yeas and nays have been called for upon this question, I shall vote against the passage of the bill; and it was because of the fact that the yeas and nays were demanded that I have seen proper to express my opinion on this subject.

Mr. KERNAN. Mr. President, I differ with my friend entirely. If I thought this was a gratuity I should vote against the bill. I regard it as discharging a just obligation to a class of people who ought to be dealt with justly. How can the Senator from Delaware say that it is a gratuity? There was a statute of limitations shorter than exists in my State for ordinary debts. A class of pensioners were unable to perfect their claims within the five years prescribed. I have their letters here in my drawer; numbers of them letters from widows who could not find the officer to whom to give the certificate that their husband was dead. That class of cases exists. I am for waiving that statute in such cases, and if I shall ever vote for enforcing it, as I would against some claims, it will be in regard to a different class of claims from these.

I admit there is heavy taxation, and I will join with my friend in economy; but I will strike the first blow somewhere besides cutting these people off by a short statute of limitations. We have plenty of opportunities here to save by the million, and I hope we shall do so. I do not mean to vote for gratuities, because I think they are unjust to the tax-payers; but I will vote to pay an obligation incurred to these people who are lame and sick, and to their representatives, when they prove their claim to it. I will not do this on the theory of a gratuity, but on the principle that we are fulfilling an obligation which ever has been held by the people of this country to be of the most sacred character.

The PRESIDING OFFICER. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 44, nays 4; as follows:

YEAS—44.

Allison,	Davis of Illinois,	Jones of Florida,	Patterson,
Armstrong,	Dawes,	Kellogg,	Plumb,
Barnum,	Dennis,	Kernan,	Rollins,
Blaine,	Dorsey,	McDonald,	Saunders,
Booth,	Ferry,	McMillan,	Sharon,
Bruce,	Gordon,	McPherson,	Spencer,
Burnside,	Harris,	Matthews,	Thurman,
Butler,	Hill,	Maxey,	Voorhees,
Christiancy,	Hoar,	Mitchell,	Wadleigh,
Cockrell,	Howe,	Morrill,	Wallace,
Conkling,	Ingalls,	Paddock,	Windom.

NAYS—4.

Davis of West Va.,	Hereford,	McCreery,	Saulsbury.

ABSENT—28.

Anthony,	Coke,	Hamlin,	Oglesby,
Bailey,	Conover,	Johnston,	Randolph,
Bayard,	Eaton,	Jones of Nevada,	Ransom,
Beck,	Edmunds,	Kirkwood,	Sargent,
Cameron of Pa.,	Eustis,	Lamar,	Teller,
Cameron of Wis.,	Garland,	Merrimon,	Whyte,
Chaffee,	Grover,	Morgan,	Withers.

So the bill was passed.

Mr. INGALLS. I present a petition of a large number of citizens of Pennsylvania, which I have just received by mail, praying for the passage of the bill (H. R. No. 4234) granting arrears of pension—the bill just disposed of. I move that it lie on the table.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. SAUNDERS. Before the Senate resumes the consideration of its regular order, I wish to occupy a few minutes, not exceeding five, in order to make an explanation.

You will remember, Mr. President, that on Friday last when we had before the Senate the Indian appropriation bill a discussion took place between the Senator from Kansas [Mr. INGALLS] and myself, in regard to the removal of the Nez Percé Indians to the Indian Territory. The Senator from Kansas seemed to have the impression made upon his mind that they were removed without authority of law, and that afterward an appropriation was asked to defray the expenses of their removal. I understood the matter differently; that is, that an appropriation had been first made, and that actual congressional action had been taken. I think I was correct, for I found afterward where action was taken upon the subject in an appropriation bill that was passed in May last. I think the Senator from Kansas was mistaken, as probably he may have learned by this time. I care but little about the matter myself, but others do care about it as it places them in an unpleasant situation. Seeing the Senator in his seat, I will ask him if he meant to say that that removal was without authority of law, and also if he does not now remember that an appropriation had been made and that the Indians were afterward removed to the Indian Territory.

Mr. INGALLS. I really must beg the pardon of the Senator from Nebraska; I did not know he was addressing me at all. My attention was called another way.

Mr. SAUNDERS. I was calling the attention of the Senator to a little discussion on an amendment to the Indian appropriation bill that took place between us on Friday last.

Mr. INGALLS. Is that bill now before the Senate?

Mr. SAUNDERS. I will read for the information of the Senator what he said.

Mr. INGALLS. Is the bill now before the Senate?

Mr. SAUNDERS. No, sir.

The PRESIDING OFFICER. The Senator from Nebraska has asked to make a personal explanation.

Mr. INGALLS. Oh!

Mr. SAUNDERS. I will state that I was in favor of leaving the matter open so that the President could remove any Indians that he saw fit into the Indian Territory if the Indians in the Territory holding the title to the land and the Indians wanting to go there agreed to it. The provision of the bill as it came from the House prevented that. It did not allow the President to make such a removal of the Indians without an act of Congress. I was opposing that provision of the bill at the time, and after I had made some remarks the following colloquy occurred:

Mr. INGALLS. The Senator from Nebraska seems to intimate or endeavor to leave the impression that the Indians who have been removed to the Territory went there because they desired to do so. Nothing could be more inaccurate. Take the case of the Nez Percés. After having revolted in the Northwest they were captured and taken to Fort Leavenworth. They desired to be returned to their original reservation. Their request was refused, and they were sent to the Territory against their wishes and over their protest; and they are to-day rapidly becoming exterminated from climatic influences and from the want of proper medicine and food.

To this I replied:

Will the Senator from Kansas allow me to ask him if it was not Congress in place of the Administration that sent them down there?

Mr. INGALLS. No, sir; it was not Congress.

Mr. SAUNDERS. Yes, sir; I understand that it was.

Mr. INGALLS. It was by an order of the Executive, without sanction of law.

This is the point to which I wish to call the attention of the Senator from Kansas, because others have felt themselves aggrieved that it should be stated here, in open Senate, that they had done this thing without authority of law when in fact they were carrying out a law that had been passed some months before.

I wait now to give an opportunity to the Senator from Kansas to state whether he so understands the matter.

Mr. INGALLS. What is the peculiar, special object of catechising me on this point? I may or may not have been correct, or the fact may or may not have been as I stated. Does the Senator desire to raise a question of veracity with me?

Mr. SAUNDERS. Not at all. I have no fault to find, no complaint to make myself; but the Indian Department seem to feel themselves arraigned in this matter by its having been said that they had, contrary to law, or without law, done this thing. I took the contrary position at that time, and I simply wanted it to go on the record according to the facts.

Mr. INGALLS. I suppose if the Administration are dissatisfied with any statements I make, they can apply to me for a correction. I do not understand that I am put on the defensive here by anybody.

Mr. SAUNDERS. I certainly want no discussion of the matter particularly with the Senator. I am only fulfilling an obligation by having read a letter that I send to the desk, which will probably satisfy the Senator that I was correct.

Mr. INGALLS. The Senator entirely misunderstood me if he supposed that I was making any controversy with him.

Mr. SAUNDERS. I did not so understand; but, after he had said that this was done without law, I received some telegrams saying that that thing sounded very badly for the Administration that they should be sending Indians into the Territory without any authority of law, and that they thought I was correct in the matter, that legislative action had been taken beforehand, and they said this matter ought to be set right before the Senate. Now, in order to set it right, I communicated with the Department, receiving the letter which I send to the desk.

Mr. INGALLS. Certainly, let that go on the RECORD.

The PRESIDING OFFICER. The Senator from Nebraska asks that a letter be read. Is there objection? The Chair hears none and it will be read.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 16, 1879.

SIR: In reply to your request for information in regard to the removal of the Nez Percés, I have to say that the Nez Percés were not removed from military control at Fort Leavenworth until the 21st of July last; and the removal was made in accordance with the provision of law contained in the Indian appropriation bill, dated May 27, 1878, which reads as follows:

"For this amount, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, in the removal of the Nez Percé Indians of Joseph's band, now held as prisoners of war at Fort Leavenworth, Kansas,

to such suitable location in the Indian Territory as the United States has a right to use for such purpose, consistent with existing treaties or arrangements with tribes occupying Indian Territory, and for their settlement thereon, * * * the sum of $20,000: *Provided*, That such amount of the above sum as may be necessary for said removal and for subsistence for remainder of the fiscal year ending June 30, 1878, may be immediately available."

Very respectfully, your obedient servant,

E. A. HAYT, *Commissioner.*

Hon. A. SAUNDERS, *United States Senate.*

Mr. SAUNDERS. That letter confirms what I have said on the subject, and I presume the Senator from Kansas has no objection to the position taken. He was only mistaken, I presume, in saying that the impression seemed to be on his mind that they had been removed and the appropriation asked for afterward, when, in fact, the appropriation was first made and then they were under authority of that law removed to the Territory. That is all there is of it.

REPORTS OF COMMITTEES.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (H. R. No. 309) for the relief of Andrew F. Higgins, of Brown County, Ohio, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 5219) granting a pension to Belinda Macdonald, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. VOORHEES, from the Committee on Pensions, to whom was referred the bill (S. No. 1182) granting a pension to Louis S. Blair, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1789) granting a pension to Miles L. Reed, of Newcastle, Indiana, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1414) granting a pension to James H. Woodard, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

BILL INTRODUCED.

Mr. HILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1635) for the relief of Samuel I. Gustin; which was read twice by its title, and referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

Mr. HOWE. I was told just now, and I ask the attention of the Senator from Louisiana, [Mr. KELLOGG,] that an order was passed during the morning hour authorizing Mr. Harlow J. Phelps to withdraw some papers from the files of the Senate. Among these papers are some originals not filed by Mr. Phelps, but communicated to the Senate by the Secretary of the Treasury, papers which are necessary to the files of the Treasury Department, and which they are likely to have occasion to use in litigation very soon. I wish to suggest that the order should be so modified as not to authorize the withdrawal of those papers, but only the papers filed by Mr. Phelps himself.

The PRESIDING OFFICER. Is there objection to this modification of the order made this morning?

Mr. KELLOGG. I have no objection.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

On motion of Mr. BRUCE, it was

Ordered, That Eunice J. Stockwell have leave to withdraw her papers from the files of the Senate upon leaving copies of the same.

REVISION OF THE PATENT LAWS.

The PRESIDING OFFICER. The regular order, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, is before the Senate, as in Committee of the Whole, the pending question being on the amendment of the Senator from Ohio, [Mr. MATTHEWS,] upon which the yeas and nays have been ordered. Is the Senate ready for the question?

Mr. EDMUNDS. Let the amendment be reported again.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. The proposed amendment is in section 2, line 10, to strike out all after the word "cases," where it first occurs, down to and including the word "awarded," in line 23; in line 27, to strike out all after the word "case," down to and including the word "recovery," in line 29; and to strike out lines 36, 37, 38, 39, and down to and including the word "aforesaid," in line 40, and in lieu thereof to insert the following:

No account of profits or savings shall in any case be allowed; but evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

Mr. WITHERS. Before the yeas and nays are taken, I wish to state that my colleague [Mr. JOHNSTON] is detained from his seat by indisposition.

Mr. ALLISON. I think I ought to state that the Senator from North Carolina [Mr. RANSOM] was called away this afternoon by sickness in his family. I do not know how he would vote on the proposition, nor do I know how he would have voted on the preceding bill. I rise to state the fact that he was called away from the Chamber.

Mr. MAXEY. My colleague [Mr. COKE] is, absent on a very sad official duty in Texas. His views are similar to those indicated by me in my vote. I shall vote "nay" on this question.

The question being taken by yeas and nays, resulted—yeas 6, nays 32; as follows:

YEAS—6.

Beck,	Davis of Illinois,	Matthews,	Wallace.
Christiancy,	McCreery,		

NAYS—32.

Allison,	Eaton,	Kellogg,	Patterson,
Booth,	Edmunds,	Kernan,	Rollins,
Burnside,	Harris,	McDonald,	Sargent,
Cockrell,	Hereford,	McMillan,	Saunders,
Davis of W. Va.,	Hoar,	Maxey,	Voorhees,
Dawes,	Howe,	Mitchell,	Wadleigh,
Dennis,	Ingalls,	Morgan,	Windom,
Dorsey,	Jones of Nevada,	Morrill,	Withers.

ABSENT—38.

Anthony,	Chaffee,	Hill,	Randolph,
Armstrong,	Coke,	Johnston,	Ransom,
Bailey,	Conkling,	Jones of Florida,	Saulsbury,
Barnum,	Conover,	Kirkwood,	Sharon,
Bayard,	Eustis,	Lamar,	Spencer,
Blaine,	Ferry,	McPherson,	Teller,
Bruce,	Garland,	Merrimon,	Thurman,
Butler,	Gordon,	Oglesby,	Whyte.
Cameron of Pa.,	Grover,	Paddock,	
Cameron of Wis.,	Hamlin,	Plumb,	

The VICE-PRESIDENT. No quorum has voted.

Mr. DAVIS, of Illinois. It is pretty late and gentlemen have gone away.

Several SENATORS. Call the roll! Call the roll!

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary proceeded to call the roll, and forty-eight Senators answered to their names.

Mr. SAULSBURY, (when Mr. BAYARD's name was called.) I wish to say that my colleague [Mr. BAYARD] is not present because he has gone with a committee to Texas.

The roll-call was concluded.

Mr. DENNIS. I wish to place on record that my colleague [Mr. WHYTE] is detained at home by illness in his family.

Mr. HARRIS. I wish to say that my colleague [Mr. BAILEY] is absent upon a committee of investigation under the order of the Senate.

Mr. EDMUNDS. I wish to say that Senators KIRKWOOD, TELLER, and Mr. CAMERON of Wisconsin are absent under the command of the Senate on a committee.

The VICE-PRESIDENT. The Secretary reports forty-eight Senators present.

Mr. MAXEY. I desire to state that the Senator from Arkansas [Mr. GARLAND] is not present because he is away on official business as a member of a committee.

The VICE-PRESIDENT. A quorum is present. The Secretary will again call the roll on the amendment offered by the Senator from Ohio.

EXECUTIVE SESSION.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. May I ask if there are any executive messages from the President to-day?

The VICE-PRESIDENT. There are. The question is on the motion of the Senator from Ohio, [Mr. THURMAN.]

The motion was agreed to; there being on a division—ayes 21, noes 18; and the Senate proceeded to the consideration of executive business. After thirteen minutes spent in executive session the doors were reopened.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the refunding of the public debt;

A bill (H. R. No. 5548) to make United States notes receivable for duties on imports; and

A bill (H. R. No. 5888) to facilitate the refunding the national debt.

MEMORIAL SERVICES TO PROFESSOR HENRY.

Mr. WITHERS. I ask for the consideration of the resolution I submitted yesterday.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read as follows:

Resolved, That the Senate will now take a recess until 7.45 p. m., at which time they will meet in this Chamber and proceed to the Hall of the House of Representatives to participate in the ceremonies commemorative of the life and services of Professor Henry, late Secretary of the Smithsonian Institution.

The resolution was agreed to; and the Senate accordingly took a recess until seven o'clock and forty-five minutes p. m.

Mr. EDMUNDS. I move that the Vice-President be directed on the return of the Senate from the Hall of the House of Representatives to adjourn it until to-morrow at twelve o'clock.

The VICE-PRESIDENT. To this suggestion the Chair hears no objection. Senators now present will proceed to the Hall of the House of Representatives to participate in the ceremonies commemorative of the life and services of Professor Henry, late Secretary of the Smithsonian Institution.

The Senate accordingly proceeded to the Hall of the House of Representatives; and on its return (at eleven o'clock and two minutes p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 16, 1879.

The House met at twelve o'clock, m. Prayer by Rev. W. V. TUDOR, Methodist Episcopal Church South, Saint Louis, Missouri.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. BEEBE. I desire to introduce a bill for reference.

Mr. WOOD. I demand the regular order.

The SPEAKER. The regular order is the bill (H. R. No. 5808) to facilitate the refunding the national debt, which comes over as unfinished business, the previous question having been ordered on the engrossment and third reading.

Mr. HEWITT, of New York. My colleague from New York yields to me.

The SPEAKER. The gentleman from New York [Mr. WOOD] demands the regular order, and cannot yield.

Mr. HEWITT, of New York. This is a matter of some importance to the business of the House.

Mr. BALLOU. I desire to make a privileged report. Does not that take precedence of the regular order?

The SPEAKER. It does not.

Mr. ROBERTSON. I desire to make a parliamentary inquiry. Will the regular order, the bill of the gentleman from New York, [Mr. WOOD,] conflict with the special order for this day—the Mississippi levee bill?

The SPEAKER. It will not, except that it has first to be got rid of, and then the Chair will recognize the gentleman from Louisiana, [Mr. ROBERTSON.]

Mr. BEEBE. My colleague yields to me.

The SPEAKER. Then the gentleman from New York withdraws the demand for the regular order, and the gentleman from Rhode Island [Mr. BALLOU] rises to make a privileged report.

Mr. WOOD. I demand the regular order, and yield to no one.

REFUNDING NATIONAL DEBT.

The SPEAKER. The regular order being demanded, the House resumes the consideration of the unfinished business, being the bill (H. R. No. 5808) to facilitate the refunding the national debt, on which the main question has been ordered. The question is on ordering the bill to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WOOD. I demand the previous question on the passage of the bill.

Mr. BUCKNER. Let the bill be again reported.

The bill was again read.

Mr. MILLS. I ask the gentleman from New York [Mr. WOOD] to permit me to offer an amendment to the bill, providing that all bonds hereafter issued by the Government shall be liable to federal taxation.

Mr. WOOD. I decline to yield for that purpose.

Mr. EDEN. Would it be in order to amend the bill so that this double interest should only run for thirty days and the interest on called bonds cease in thirty days?

Mr. WOOD. We have another bill making that provision, and will take an early opportunity of reporting it.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. WOOD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

IMPROVEMENT OF MISSISSIPPI RIVER.

The SPEAKER. In obedience to the order of the House, made under a suspension of the rules, assigning as a special order for to-day the bill for the improvement of the Mississippi River, for consideration in Committee of the Whole, the Chair recognizes the gentleman from Louisiana, [Mr. ROBERTSON.]

Mr. ROBERTSON. I move that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of the special order, the bill for the improvement of the Mississippi River.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. CARLISLE in the chair,) and proceeded to consider the bill (H. R. No. 4318) to provide for the organization of "the Mississippi River improvement commission," and for the correction, permanent location, and deepening of the channel, and the improvement of the navigation of said Mississippi River and the protection of its alluvial lands.

The bill was read, as follows:

Be it enacted, &c., That there is hereby created a commission, to be called "the Mississippi River improvement commission," to be composed of five persons.

SEC. 2. That the President of the United States shall, by and with the advice and consent of the Senate, appoint five commissioners, and shall in like manner fill any vacancy or vacancies which may occur in said commission. Said commission shall be composed of three officers of the Army Engineer Corps, one of whom shall be designated by the President of the United States as president of the commission, and two persons from civil life, who, by their residence and experience, shall be familiar with the navigation of said river, and with the effect of the overflow of said river upon the alluvial lands of the Mississippi Delta. And for the services and duties hereinafter prescribed, the said Army officers shall receive no other or additional pay or compensation than is now allowed them by law, and the other two commissioners shall receive as pay and compensation each the sum of $3,000 per annum. Said commissioners appointed as above shall remain members of said board during good behavior, subject to removal by the President of the United States for cause.

SEC. 3. It shall be the duty of said commission to direct and complete such surveys of said river, between the city of Saint Louis, in the State of Missouri, and the passes at the mouth of said river, as may now be in progress, and to make such additional surveys, examinations, and investigations, hydrographical and topographical, as may be deemed necessary by said commission, to enable it to perform its duties and to carry out the objects of this act with the greatest advantage to the public interests; and to enable said commission to complete such surveys, and to make such additional surveys, examinations, and investigations; and the Secretary of War shall, when requested by said commission, detail from the Engineer Corps of the Army such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary; and the said commission may, with the approval of the Secretary of War, employ such additional force and assistants, and provide, by purchase or otherwise, such vessels or boats and such instruments and means as may be deemed necessary.

SEC. 4. It shall be the duty of the said commission to take into consideration such plans and estimates for the correction and permanent location and deepening of the channel of the Mississippi River and the improvement of the navigation of said river, and for the protection of the alluvial lands of the Mississippi Delta from overflow from said river, as may be suggested by any member or members of said commission, and by other persons, and to prepare and mature plans for, and estimates of, the cost of a general system of works for the correction and permanent location and deepening of the channel and the improvement of the navigation of said Mississippi River and the protection of said lands between Saint Louis, Missouri, and the passes at the mouth of said river; and when so prepared and matured and approved by the president of said commission, to make and submit to the President of the United States of America a full and detailed report of their proceedings and actions, and of such plans and estimates, for the purposes aforesaid, to be by him transmitted to Congress.

SEC. 5. If such plans and estimates, or such plans, shall be approved by the Congress of the United States, then the construction and completion of said works according to such plans shall be conducted and carried on by the Secretary of War, under the supervision and direction of said commission; and said commission shall annually, prior to the commencement of each regular session of Congress, make and submit to the Secretary of War, to be by him submitted to the Congress of the United States, full and detailed reports of their proceedings and actions, and of all works and improvements done, and the cost thereof, and of the progress and effects of such works, and of estimates of the necessary amounts of appropriations for successfully and efficiently carrying on the construction of said works and improvements, and also for the completion of such works and improvements according to the said plans.

SEC. 6. The said commission, or a majority of said commission, including the president thereof, may, prior to the completion of all the surveys and examinations contemplated by this act, and prior to the submission to the President of the United States of their matured plans and estimates for the purposes aforesaid, prepare and submit to the President of the United States plans, specifications, and estimates for such immediate works as may be necessary for closing such outlets of said river and such gaps and crevasses in the levees on the banks of said river, and, as may be necessary, in the judgment of said commission, to secure an earlier correction and permanent location and deepening of the channel of said river, and for the protection of said lands, and as may constitute a part of the general system of works herein contemplated and provided for, to be by him transmitted to Congress; and if such plans, specifications, and estimates shall be approved by the Congress of the United States, then the Secretary of War, under the supervision and direction of said commission, shall cause the immediate construction of such works in such manner as may be deemed most speedy and economical.

SEC. 7. When said commission shall have so prepared and matured such plans for and estimates of the cost of a general system of works for the purposes aforesaid, and shall have so reported and submitted the same to the President of the United States, and the same or said plans shall have been so approved by the Congress, as herein provided for, then it shall be the duty of the Secretary of War, under the supervision and direction of said commission, to cause said works and improvements to be constructed and completed as rapidly as the appropriations made by Congress therefor shall justify. And it shall be the duty of said commission, or a majority thereof, including the president of said commission, to prepare and submit to the Secretary of War detailed plans, specifications, and estimates for said general system of works, or such portion or portions thereof as may from time to time be deemed necessary to secure the earliest and most economical construction and completion of the same, or any portion or portions thereof; and thereupon the Secretary of War shall contract and let said work, or any portion or portions thereof, to the lowest responsible bidder or bidders, either by advertising for sealed proposals or bids for the construction, or the construction and completion of said works, or any portion or portions thereof, according to said plans and specifications, or in such other manner as he may deem best to secure the construction, or construction and completion of such works, or any portion or portions thereof, at the lowest prices and in the best manner; and shall, as a condition precedent to the acceptance or approval of any contract or letting, require of such contractor or bidder such safeguards and such bond or bonds with such conditions and sureties as he may deem necessary to secure the earliest and best construction and completion of said works, or any portion or portions thereof, according to said plans and specifications, and shall prescribe such rules and regulations for conducting such work as he may deem necessary; and in the event of the failure, refusal, or neglect of any contractor or bidder to construct or complete such work according to said plans and specifications, or to perform and comply with the terms and conditions of the bond, or with the rules and regulations prescribed, the Secretary of War may rescind said contract or bid, and declare the same forfeited, and relet such work, and shall have the same rights and powers in regard to each contract or bid and to each bidder or contractor under the first or any subsequent letting or reletting as herein given; and no payment shall be made by the Secretary of War for any work done, in whole or in part, until such work shall be accepted by said commission and approved by the Secretary of War.

SEC. 8. The Secretary of War may detail from the Engineer Corps of the Army of the United States any officer who may be selected and recommended by said commission, or a majority thereof, including the president of said commission, to act as secretary of said commission.

SEC. 9. The Secretary of War is hereby authorized to expend the sum of $250,000 for the payment of the salaries herein provided for, and of the necessary expenses incurred in the completion of such surveys as may now be in progress, and of such additional surveys, examinations, and investigations as may be deemed necessary, and in maturing and perfecting and reporting the plans and estimates, and the plans, specifications, and estimates contemplated by this act, as herein provided for; and said sum is hereby appropriated for said purposes out of any money in the Treasury not otherwise appropriated.

The amendments reported by the Committee on Levees and Improvement of the Mississippi River were read, as follows:

In section 4, line 17, strike out the words "President of the United States of America," and insert the words "Secretary of War."

In section 5, line 5, strike out the words "under the supervision and direction of said commission."

In section 6, line 4, strike out the words "President of the United States" and insert the words "Secretary of War;" and in line 18, strike out the words "under the supervision and direction of said commission."

In section 7, line 4, strike out the words "President of the United States" and insert the words "Secretary of War;" and in line 8, strike out the words "under the supervision and direction of said commission."

Add the following as new sections:

SEC. 10. That there is hereby appropriated, out of any money in the United States Treasury not otherwise appropriated, the sum of $3,871,574, for closing such crevasses and raising and strengthening the levees along the Mississippi River, deemed necessary by the engineer placed in charge of the work, under supervision of the Chief of Engineers, and approved by the Secretary of War, to wit:

In the State of Illinois, $75,000.
In the State of Missouri, $490,380.
In the State of Missouri, above the Ohio, $51,264.
In the State of Tennessee, $100,000.
In the State of Arkansas, $1,299,180.
In the State of Mississippi, $1,178,000.
In the State of Louisiana, $677,750.

SEC. 11. That the Secretary of War shall, after public advertisement, under the supervision of said engineers, let all the work to be done by virtue of the tenth section of this act to the lowest bidder or bidders: *Provided*, That no bid shall be accepted without good and solvent security, and that no payment for the work done shall be made until the same shall be accepted and approved by the Chief of Engineers: *And provided further*, That no portion of the money hereby appropriated shall be applied to the payment of debts incurred by the local levee authorities, or to any other work than such as may be contracted for and constructed under the supervision of the said engineers in accordance with the foregoing provisions.

Mr. BRIGHT. I would like to hear the report read.

The report of the committee was read, as follows:

To appreciate the national importance of keeping in repair the great river highway between Saint Louis and the Gulf of Mexico, a comprehensive review of the whole Mississippi River system seems necessary. The many navigable tributaries and subtributaries which flow from the region of the lakes in the North, the Alleghanies in the East, and the Rocky Mountains in the West, converge and unite in one grand trunk-line known as the Lower Mississippi. Many States and Territories have a business interest in this system, and, while sharing its benefits, should also share the damages and cost of repairs. Your committee therefore consider the questions of river improvement and alluvial lands as intimately and inseparably connected. To treat of one question to the exclusion of the other, and to go to an extreme on either side, would be to ignore the fact that business is conservative, made up of checks and balances, facts and figures, and not radical theories.

There are, in print, many official reports of surveys and other authorities on the Mississippi and its various tributaries, but these contain detached information, and no one is sufficiently general and comprehensive to embrace the whole river system. The magnitude and national importance of the system are too little understood by the general public. To supply that information we have made use of a map and manuscript prepared by Alexander D. Anderson, giving a concise descriptive and statistical review of this great natural and national highway of commerce.

HISTORICAL NOTES.

In the early days of European discovery and rivalries in the Mississippi Valley its comprehensive river system played a prominent part on the stage of public affairs. The discovery of the river in 1541 by the Spaniards under De Soto was, about a century later, followed by explorations by the French, under the lead of Marquette, Joliet, and La Salle, who entered the valley from the north. La Salle, during the years 1679–'83, explored the river throughout its whole length, took possession of the great valley in the name of France, and called it Louisiana in honor of his king, Louis XIV. Then resulted grand schemes for developing the resources of the valley, which a French writer described as "the regions watered by the Mississippi, immense unknown virgin solitudes, which the imagination filled with riches." One Crozat, in 1712, secured from the king a charter giving him almost imperial control of the commerce of the whole Mississippi Valley. There was at that date no European rival to dispute French domination, for the English of New England and the other Atlantic colonies had not extended their settlements westward across the Alleghanies, and the Spanish in the Southwest, or New Spain, had not pushed their conquests farther north than New Mexico. Crozat's trading privileges covered an area many times larger than all France, and as fertile as any on the face of the earth. But he was unequal to the opportunity, and, failing in his efforts, soon surrendered the charter. John Law, a Scotchman, at first a gambler, and subsequently a bold, visionary, but brilliant financier, succeeded Crozat in the privileges of this grand scheme, and secured from the successor of Louis XIV a monopoly of the trade and development of the French possessions in the valley. In order to carry into effect his wild enterprise he organized a colossal stock company, called "The Western Company," but more generally known in history as "The Mississippi Bubble." According to the historian Monette, "it was vested with the exclusive privilege of the entire commerce of Louisiana and New France, and with authority to enforce its rights. It was authorized to monopolize the trade of all the colonies in the provinces and of all the Indian tribes within the limits of that extensive region, even to the remotest source, of every stream tributary in any wise to the Mississippi." So skillful and daring were his manipulations that he bewitched the French people with the fascination of stock gambling. But the bubble soon burst, and its explosion upset the finances of the whole kingdom.

The French made little progress in the settlement and development of the great valley, and in 1762 and 1763, after a supremacy of nearly a hundred years, were crowded out by the English from the east and the Spanish from the southwest, the Mississippi River forming the dividing line between the conquests of those two nations.

The Spanish officials, for the purpose of promoting colonization, and to aid in establishing trading-posts on the Mississippi, Missouri, Arkansas, Red, and other rivers, in the western half of the valley, granted to certain individuals, pioneers, and settlers, immense tracts of land. They accomplished even less than the French in peopling the valley; but whatever progress was made under the successive supremacies of the French, Spanish, and British, the Mississippi and its navigable tributaries furnished the only highways of communication and commerce.

The United States, as a result of the revolutionary war, dispossessed the British of the eastern half of the valley (except that portion east of the Mississippi and below the thirty-first degree of north latitude to Bayou Manchac, which remained in undisputed possession of Spain until 1810, when the people of that territory now known as the Florida parishes of Louisiana threw off the Spanish yoke, captured the forts at Baton Rouge and other points of military occupation, and declared and maintained their independence until Governor Claiborne dispersed the legislature and government of the people, and the United States Government extended its authority over the territory, but which Spain did not cede to the United States until 1819,) and in 1803, by the treaty of Paris, purchased the western half from France, which she, three years before, had reacquired from Spain. Then began a thorough development of the valley, and the thrifty American civilization made good use of the river highway. It became one of the most important channels of commerce in the world; but its prestige was soon eclipsed by the advance of railways, and for years past the natural highway has been less used than the artificial ones.

At the present time, however, this river system is once more coming into great prominence, both in a national and international sense. One scheme for its improvement contemplates an outlay of $45,000,000 in the construction of levees. Another proposes its improvement on the jetty plan with an outlay of $50,000,000. Still others aim at the removal of sand-bars, snags, shoals, and overcoming the obstructions caused by rapids. Direct shipments of grain are proposed from the center of the valley to Europe. The river is also considered an important factor in the development of direct and increased trade with Cuba, Brazil, Mexico, and other Spanish-American nations. To facilitate these commendable schemes, it is proposed to improve and deepen the channel of the Lower Mississippi, which we have termed the grand trunk-line of the whole system, so that its waters may float ocean steamers, and make continuous the navigation of the great interior of the United States with the Gulf and the ocean. In brief, the new era of peace, material development, revival of industries, and extension of trade, which is succeeding several years of political strife and business depression, finds in the Mississippi River system a fine field for operations. The problem of cheap transportation, so important to the welfare of the producing classes, looks to the river and its many navigable tributaries for solution. Considering the national importance of that question at the present time, it is safe to assert that the river system has reached a point in its history where it will soon regain its lost prestige.

DESCRIPTIVE NOTES.

The Mississippi and its navigable tributaries intersect and supply with cheap transportation nearly every portion of the vast agricultural region extending from the lakes to the Gulf and from the Alleghany to the Rocky Mountains, an area of about 2,000,000 square miles: in other words, about two-thirds of the area of the whole United States. Strictly speaking, the Mississippi River basin contains but 1,257,545 square miles. That total is, according to Walker's Statistical Atlas of the United States, composed of the following minor basins or subdivisions, viz:

	Square miles.
Lower Mississippi	65,646
Upper Mississippi	179,635
Missouri	527,690
Arkansas	184,742
Ohio	207,111
Red	94,721

But the region drained and in a business way benefited by the Mississippi River system is more extensive than the mere basins, and it is fairer to use the first-mentioned area (which is that given by Foster, in his excellent work on the valley) as the proper measure of territory for the purposes of this review.

The following table shows the number of miles which the river and each one of its tributaries is navigable from its mouth to the place designated on the accompanying map as the head of navigation:

Rivers.	Miles.	Rivers.	Miles.
Missouri	3,127	Cumberland	653
Mississippi	2,166	White	460
Ohio	1,021	Washita	445
Red	820	Yellowstone	438
Tennessee	759	Wabash	369
Arkansas	668	Alleghany	325
Minnesota	295	Chippewa	90
Illinois	269	Iowa	80
Yazoo	240	Saint Francis	80
Osage	237	Saint Croix	65
Sunflower	207	Rock	64
Tallahatchie	200	Kentucky	60
Green	200	Black (Louisiana.)	54
Wisconsin	160	Big Horn	50
Black (Arkansas)	136	Clinch	50
Monongahela	110		
Kanawha	94	Total	14,086
Muskingum	94		

It will be observed that several of the rivers placed on the map are not navigable. Some of them can easily be made so, and when the country becomes more densely populated doubtless will be suitably improved. The Mississippi River, for instance, can, by use of locks, be made navigable to Leech Lake, about six hundred miles above the present head of navigation. In the same way the navigation of the Missouri, Yellowstone, Red, and other tributaries may be extended. It will also be observed that the mileage, as given in the above table, is to the heads of navigation. In most instances that means continuous navigation, but not always so. For instance the navigation of the Mississippi is broken at Saint Anthony's Falls, and then is resumed and extends to Sauk Rapids. In the Tennessee River there is an interruption at Muscle Shoals, in the State of Alabama, and another below Chattanooga. In the Red River there is also an interruption of continuous navigation. But these breaks in continuous navigation exist in only a few of the above list of tributaries, and can, with little expense, be overcome whenever Congress furnishes the necessary legislation.

Did time permit, it would be interesting to give descriptive notes on each of the thirty-three navigable rivers of the Mississippi system, stating the general features and characteristics of each, the nature of the interruptions to continuous navigation, the kind of boats used, or capable of being used, on each, the number of miles of navigation, which, by improvements and repairs, might be added to each river, &c. Such a review is much needed in the interest of commerce, and intelligent and adequate legislation, and it is to be regretted that no provision has been made for its preparation.

A noticeable feature of the system, as may be seen on the map, is that on the east and west it nearly connects with rivers flowing into the Atlantic and Pacific. The James River in Virginia so nearly unites with the Kanawha, which is a tributary of the Ohio, that ever since the days of Washington, who originated and first advocated the plan, it has been proposed to connect in this manner the waters of the Atlantic with those of the Mississippi Valley. At the present time there is a bill pending before Congress asking that a commission of engineers be appointed "whose duty it shall be to proceed at once to make a survey of and consider and mature plans for the construction of a navigable canal from the Upper Columbia River to the Upper Missouri River." A continuous water-line from New York City to the waters of the Mississippi, by way of Hudson River, the Erie Canal, and the great lakes, has been much discussed, and in 1874 its construction was strongly recommended by a select committee of the United States Senate.

Thus it is proposed, by supplementing the Mississippi system on the north, east, and west, to extend the water highways of commerce across the continent, not only from the lakes to the Gulf, but from ocean to ocean.

A NATIONAL HIGHWAY.

The navigable portions of this vast river system either intersect or border eighteen States and two Territories. Each one of these States and Territories has an exten-

sive business interest in the Lower Mississippi or trunk-line, as well as the particular portions of the river highway which touch its own territory. The mileage of the navigable portions of the system which cross or border each State is nearly as follows:

States.	Miles.	States.	Miles.
Arkansas	1,826	Minnesota	660
Missouri	1,504	Wisconsin	560
Louisiana	1,314	Ohio	556
Montana	1,311	Nebraska	400
Illinois	1,277	Pennsylvania	380
Tennessee	1,220	Texas	300
Mississippi	1,207	Dakota	285
Kentucky	1,187	Alabama	250
Iowa	845	Kansas	190
Indiana	840	West Virginia	104

An estimate of the political power of these States and Territories shows how national are the interests attaching to the river. Of the three hundred and one representatives of the people in the present Congress, the eighteen States and two Territories sent one hundred and seventy-one. This representation is based on population, and, according to the last census, those States and Territories had a population of 22,215,022, against 16,343,349 in the rest of the United States.

Again, a comparison of some of the leading products of those eighteen States with the products of the whole United States illustrates very clearly the national character of this comprehensive highway. According to the recent annual report of the United States Commissioner of Agriculture, they, in 1876, produced 1,123,106,000 bushels of Indian corn of the total 1,283,827,500 bushels produced in the whole Union; in other words, over 87 per cent. of the whole national crop.

The wheat product of the same eighteen States was 206,899,000 bushels against the total 289,356,500 bushels of the whole United States, or 69 per cent. They produced 72 per cent. of the total rye product of the United States. During the same year they furnished 70 per cent., or $19,811,650 of the total $28,282,968 worth of tobacco produced in the United States. Of the total 4,438,000 bales of cotton grown in the whole United States in 1876, they produced 74 per cent., or 3,318,000 bales. As the statistics of pork packing are usually given by cities instead of States, we will take, for a further comparison, the value of live hogs in 1876. According to the same authority, the Commissioner of Agriculture, the value of the hogs of the eighteen States was estimated to be $137,154,406, and those of the whole Union $171,077,196, or 71 per cent.

The chief coal fields of the United States, those of Pennsylvania, Indiana, Ohio, Illinois, and Missouri, are in close proximity to the navigable waters of the Mississippi or its tributaries. The extensive iron deposits of Tennessee, Western Pennsylvania, and Missouri also adjoin this national highway. It furnishes water communication with the ocean for the commerce and freights of such cities as Pittsburgh, Cincinnati, Louisville, Nashville, Memphis, Saint Paul, Keokuk, Omaha, Little Rock, Shreveport, Jefferson, Texas, Saint Louis, New Orleans, and many others scattered over different portions of the great interior of the United States.

In fact, the river system itself is national, for it is a highway controlled by the United States and is subject to the laws of the General Government instead of the laws of the various States through which it passes. The law as declared in 1870 by the Supreme Court of the United States, in the case of "The Daniel Ball," (10 Wallace, 557,) is as follows:

"These rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water. And they constitute navigable waters of the United States, within the meaning of the acts of Congress, in contradistinction from the navigable waters of the States, when they form, in their ordinary condition, by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries, in the customary modes in which such commerce is conducted by water."

Here, then, we find a highway which is controlled by the people instead of private corporations. No monopoly of transportation or exorbitant charges attach to the river system, but it is a public way open to free and unrestrained competition. It is, in nature, fact, and law, a national institution.

ITS INTERNATIONAL FEATURES.

A glance at the map shows how the various branches of this inland highway converge, meet, and finally terminate at the Gulf, directly opposite Brazil, the Spanish-American nations of South America, Mexico, and the West Indies. No intention of nature is more clearly indicated than that the commerce of the great valley should find a direct and continuous interchange with that of neighboring nations at the south. But statistics show that the wise plans of nature have, in this respect, been almost totally disregarded. According to a report on the resources and commerce of Brazil, submitted at our centennial exhibition, her average annual purchases in the European market were 85.29 per cent. of her total imports, while her annual average purchases from the United States were only 4.67 per cent.

Taking the statistics of the foreign commerce of Mexico for the year ending June 30, 1873, which is probably a fair illustration of the general direction of that trade, we find that Mexico imported to the extent of $18,897,611 in commodities from distant Europe, and only $7,420,419 from the United States. Taking the single item of cotton stuffs imported that same year, Mexico bought ten million five hundred and thirty-one thousand nine hundred and seventy dollars' worth from Europe, and only three hundred and sixty-nine thousand four hundred and thirty-eight dollars' worth from the United States. Yet her chief harbor, Vera Cruz, is but a very short distance across the Gulf from the mouth of the Mississippi and the best cotton-producing States of the world. The grain products of the valley have for years past been sent overland for foreign shipment, while the waters of the river which penetrates all portions of the grain-producing regions form an unbroken channel to the ocean.

The people of the valley are beginning to appreciate the fact that it is a costly luxury to ignore the plans of nature, and now, more than ever before, they are considering the international features of the river highway. The recent direct shipments of grain from the mouth of the Mississippi to foreign markets have proved so successful and so beneficial to the producers of the valley that it is proposed to improve the river so as to permit ocean steamers to ascend to the very center of this great river system. This result could be accomplished by a channel of twenty feet in depth from Saint Louis to the Gulf. One plan of improvement of the Lower Mississippi contemplates such a depth of navigation. But it is not our purpose to advocate any particular theory of improvement. Suffice it to say that the river should be impressed into the service of commerce in every way possible and to its utmost capacity, whether for local, national, or international exchanges.

An inevitable result of an adequate development and use of this river highway, and enlarged trade with Spanish-American countries adjoining the Gulf, will be the construction of the proposed interoceanic canal across Central America or Southern Mexico. That would make continuous and very direct water communication between the valley and Japan, China, and India. The Mississippi Valley is destined at no distant day to have its share of the much coveted and enriching oriental trade.

AN ECONOMICAL HIGHWAY.

This river system, considered as a whole, extends from north to south, from one climate to another. Nature has provided that different climates shall furnish different products, and it is but in accordance with those designs and sound principles of political economy that the chief commercial exchanges of the United States should be in the same direction. In America, at least, those principles of trade have been disregarded, and the exchanges have been too much on parallels of latitude. But, regardless of what has been the practice, it is a fact which cannot be gainsaid, that the most important trade for the United States to secure is that of the nations lying south of us, and within easy reach of the Mississippi Valley. Of the valley itself it may be said that the northern and southern portions are, in climate, resources, and products, the supplement of each other. Of the valley, and the Spanish-American nations, it may be said that one is, in climate, products, resources, supply, and demand, the complement of the other. The Mississippi River furnishes facilities for exchanges on that principle, and is, therefore, economically correct. True public economy requires that such laws of nature and trade be not disregarded.

Again, this highway is in accordance with the rule of political economy as well as common sense, which is that channels of commerce be located in regions which are sufficiently fertile and settled to furnish products for transportation. The most productive portions of the United States are the rich valleys extending up and down the Mississippi and its many tributaries. The highway was located where most needed, and where it can perform the greatest service in the shape of transportation.

Again, it is in accordance with the strictest principles of political economy in that it was constructed without expense. The single State of New York had, up to the close of 1866, expended $64,710,832 in the construction, improvement, and enlargement of her thirteen hundred and eight miles of canals. It will be observed that the mileage of these canals which cost such an enormous sum is not quite one-tenth the mileage of the Mississippi River system which cost nothing.

Still again, sound public economy requires that the cost of transportation be not so great as to check production. The question of cheap transportation has during the past few years been very generally discussed, and a select committee of the United States Senate in 1874 prepared an elaborate report on that subject. In its summary of conclusions and recommendations is the following:

"The above facts and conclusions, together with the remarkable physical adaptation of our country for cheap and ample water communications, point unerringly to the improvement of our great natural waterways, and their connection by canals or by short freight railway portages, under control of the Government, as the obvious and certain solution of the problem of cheap transportation."

The following, from the Cincinnati Commercial, of recent date, illustrates the force of that conclusion:

"The tow-boat Josh Williams is on her way to New Orleans with a tow of thirty-two barges, containing six hundred thousand bushels (seventy-six pounds to the bushel) of coal, exclusive of her own fuel, being the largest tow ever taken to New Orleans or anywhere else in the world.

"Her freight bill, at three cents per bushel, amounts to $18,000.

"It would take eighteen hundred cars, of three hundred and thirty-three bushels to the car, (which is an overload for a car,) to transport this amount of coal.

"At $10 per ton or $100 per car, which would be a fair price for the distance by rail, the freight bill would amount to $180,000, or $162,000 more by rail than by river.

"The tow will be taken from Pittsburgh to New Orleans in fourteen or fifteen days.

"It would require one hundred trains of eighteen cars to the train to transport this one tow of six hundred thousand bushels of coal, and even if it made the usual speed of fast freight-lines, it would take one whole summer to put it through by rail.

"This statement shows the wonderful superiority of the river over rail facilities."

The following statistics from the New Orleans market reports show the increased receipts of some of the articles of produce from the interior, largely due to improvement at the mouth of the Mississippi River.

In other words, the producers desiring cheap transportation will always patronize the river highway when it is in repair.

From September 1, 1877, to April 21, 1878—

		Increase.
Corn, this year, bushels	3,679,319	
Corn, last year, bushels	1,173,381	
		2,505,938
Wheat, this year, bushels	653,551	
Wheat, last year, bushels	93,725	
		559,826
Cotton-seed, this year, sacks	1,724,012	
Cotton-seed, last year, sacks	1,058,716	
		665,296
Cotton, this year, bales	1,602,121	
Cotton, last year, bales	1,323,819	
		278,302

A NEGLECTED HIGHWAY.

With the great natural advantages possessed by the river highway, one would naturally suppose it would be the main dependence for the bulky freights of an agricultural valley. But it is the channel of trade least in use. According to the recent report of the United States Bureau of Statistics on internal commerce, the commerce of Saint Louis, the central city of the great Mississippi Valley, was, during the year 1875, transported chiefly by rail, 78 per cent. going by rail and only 22 per cent. by river. The same report asserts that "at first the railroads of the Western States were regarded as being merely tributary to the water-lines." But the reverse is now true, for since railways have been so generally extended over the valley, from 1850 to the present time, they have gradually gained in relative importance and prestige until the river has become tributary to the railways. Until recently the mouth of this whole system of water-ways, which connects over fourteen thousand miles of inland navigation with the Gulf and the ocean, has been permitted to remain filled with bars and deposits, to the great damage of commerce. Along the trunk-line, or Lower Mississippi, the levees, or fences of the river, constructed to protect adjoining fields from overflow, and damage, have become neglected and broken down. The amount of this damage to property, and loss to the sum total of national wealth, is truly astonishing. In estimating the damage one must bear in mind that the alluvial lands along the Lower Mississippi, the Red, and Arkansas Rivers are as fertile as any upon the face of the earth, and, for the purpose of cotton, sugar, and rice growing, doubtless superior to any. The extent of territory subject to overflow was, in 1874, estimated by Mr. Morey, in his report to the House of Representatives, to be 41,193 square miles. This is an area as great as the combined areas of New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New Jersey, and of course many times more productive. As regards the value of that area, reduced to acres, we quote as follows from Mr. Morey's carefully prepared estimate:

"Assuming the 26,363,520 square acres of land to have been worth, unreclaimed, $1.25 per acre on the fronts of streams of the larger class to an average depth of one mile on each side, amounting to about 8,000 square miles—equal 5,120,000 acres—

the whole would be worth, at this rate, about $6,400,000. Computing the rest as not salable, but worth ten cents per acre, say $2,124,352; add to this the salable land, and we have an aggregate value of $8,524,352 as the total value of the Mississippi Delta without levees.

"What was their value at the beginning of the war, with the ineffective levee system then extending something like 1,000 miles in Louisiana and at least 500 miles in the other States? The lands reclaimed were worth on an average $30 per acre, and the 5,120,000 acres became worth $153,600,000, and the remaining 21,243,352 acres were worth $10 per acre, or $212,443,520, and the real value of the whole area worth $366,043,520."

Here, then, was an addition to the national wealth of over $357,000,000 as a result of the reclamation of the alluvial lands. It is an amount greater than the value, as given in the last census, of all the farming lands of the great and fertile State of Kentucky. But the wealth gained by fencing in the river highway has, since the beginning of the war, been almost entirely lost. According to the able report of the Levee Committee, made to the House of Representatives by Mr. ELLIS, in 1876, "millions of acres have been sold for taxes; others, after advertisement, have failed to bring anything whatever, and it is safe to say that the depreciation in the last sixteen years has reduced the value to less than $100,000,000." Here, then, is a damage of $266,000,000 to property, caused by failure to keep a public highway in repair—a highway so public that it furnishes transportation to eighteen States, which, as we have already stated, supply on an average about 75 per cent. of the staple products of the whole country.

The damage not only consists of devastation to adjoining fields, caused by overflow, but to the levees themselves, which adjoining States and proprietors have constructed at great expense. On this subject Profes;or Forshey, a distinguished civil engineer of many years' experience and observation on the Mississippi, a very reliable authority, made before the Association for the Advancement of Science, in 1872, the following assertion, namely:

"The steamers that transport this commerce send their resistless waves against banks and levees, lashing and abrading them almost without cessation. Our lower river hardly ever rests. One set of waves succeeds another, and each finds its rest in the equivalent of its forces transferred to the banks and channel of the river. These lashings and abradings, independent of the other causes, render the task of levee construction more and more oppressive yearly, until it has become intolerable."

At the convention which met at Saint Paul, in the fall of 1877, to consider the river interests, he illustrated that assertion by a few facts and figures in regard to the damage to levees along Kempe's plantation, on the Mississippi, and about one hundred miles above the mouth of Red River. He cited that case as a fair illustration of the general damage to levees and alluvial lands caused by the commerce of the eighteen States and two Territories which make free use of this highway. He said:

"In 1840 I made a survey of the whole tract of more than 1,200 acres, half in cultivation. The front was protected by a levee only four feet high. Its back line, forty arpents from the front, nearly one and a half miles, had the original Spanish landmarks of 1802. The front had remained thirty-eight years without material change. The currents had done their worst upon them and still the depth of forty arpents was there. In 1872-'73 I located and built a levee on the front of the same tract, and this was the fourth parallel levee that had been built there since my survey. Its length was four miles, 18 feet its average height, (maximum, 22½ feet,) and with a base of 130 feet. Its contents were 640,000 cubic yards, and it cost the State of Louisiana $384,000. In locating the line of the levee I destroyed the back, and marks at forty arpents, 1½ miles from the river front. This whole front had caved none in the thirty-eight years, from the original survey until 1840; and in the thirty-two years of commercial history the abrasions have carved away nearly the whole plantation, and eaten down three levees, costing the State and the proprietors more than $500,000."

THE QUESTION OF REPAIRS.

In nearly every portion of this country, and in fact of the civilized world, there is some provision of law in regard to the repairs of public roads. The county, town, city, and private corporation which is benefited by a highway invariably finds some way to keep it in repair. As the construction of these roads costs large sums of money, it is considered economical as well as necessary to take care of them. In brief, the statute law of every State compels the counties or towns to keep their roads in good repair, and the failure to do so subjects them to liability for damages caused by the neglect.

There is no good reason why the United States should not take equal care of the great interstate highways of commerce which she controls by legislation. As regards interstate commerce, communication, and exchanges between different sections of the nation, and between the interior and the seaboard, the uses of railways are very similar to those of river highways. It is therefore fair to contrast these two systems of highways as regards the question of repairs and damages.

The laws of the various States, particularly those which are the oldest and best settled, are very much alike in their requirements of railway corporations on the subject of damages and fences to protect adjoining property-holders from damage. To illustrate the spirit of the statute laws in this respect, we quote as follows from the laws of Connecticut:

"Every railroad company which has been incorporated since the first Wednesday of May, 1850, or which shall be hereafter incorporated, shall erect and maintain good and sufficient fences on both sides of its railroad throughout its whole extent, except at such places as, in the opinion of the railroad commissioners, the erection and maintenance of the same shall be inexpedient or unnecessary."

The statutes of this State further provide for the construction, by the railway companies, of "suitable cattle-guards in the form of culverts or pits at all places where its railroad shall cross public highways or passways."

In the construction of railways the companies are compelled to pay for the right of way, and to suitably compensate the land-owners whose property they cross for the damages caused. Such is also the spirit of the law in England. The general spirit of the law on this subject is concisely stated by Bouvier, as follows:

"In England the laying out of highways is regulated by act of Parliament: in this country by general statutes, differing in different States. In England the uniform practice is to provide a compensation to the owner of the land taken for highways. In the act authorizing the taking in the United States such a provision must be made or the act will be void, under the clause in the several State constitutions, that 'private property shall not be taken for public use without just compensation.'"

It is true that nature, instead of the United States, constructed the river highways. But is that a sufficient reason why the General Government, which controls the navigable waterways, should not protect the adjoining property-holders from damage? Equity requires that the general public which uses and is benefited by this national highway should fence it in by levees, so as to protect the adjoining fields from overflow and ruin. Congress has already established several precedents showing that it recognizes this general and universal spirit of the laws in regard to public highways and compensation for damages. They are as follows:

"The act of March 2, 1849, provides 'that, to aid the State of Louisiana in constructing the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands which may be or are found unfit for cultivation shall be, and the same are hereby, granted to that State.'

"The act of September 28, 1850, provides 'that, to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation which shall remain unsold at the passage of this act shall be, and the same are hereby, granted to said State.' Another section of this act extends its provisions and the grant of swamp lands to the other States of the valley and the Union.

"The act of September 30, 1850, provides 'for the topographical and hydrographical survey of the Delta of the Mississippi, with such investigations as may lead to determine the most practicable plan for securing it from inundation, and the best mode of so deepening the passes at the mouth of the river as to allow ships of twenty feet draught to enter the same, $50,000.'

"The act of August 31, 1852, provides 'for continuing the topographical and hydrographical survey of the Delta of the Mississippi, with such investigations as may lead to determine the most practicable plan for securing it from inundation, $50,000.'

"The act of March 12, 1860, provides 'that the provisions of the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September 28, 1850, be, and the same are hereby, extended to the States of Minnesota and Oregon.'

"The act of June 22, 1874, provides 'that the President be, and he is hereby, authorized and directed to assign three officers of the Corps of Army Engineers, United States Army, and to appoint two civil engineers, eminent in their profession, and who are acquainted with the alluvial basin of the Mississippi River,' &c.

' " " " 'It shall be the duty of said commission to make a full report to the President of the best system for the permanent reclamation and redemption of said alluvial basin from inundation.'"

The total number of acres selected for the several States, under the provisions of the above-mentioned acts, is 67,683,045. Of that quantity granted, Florida, Oregon, California, and Michigan, States which are not intersected by any portion of the Mississippi River system, received 23,969,528 acres. Of the quantity received by the States interested in the Mississippi and its tributaries, the larger portion was within the alluvial districts dependent upon levees.

Such are the precedents which Congress has established in regard to the subject of alluvial lands. They are sufficiently numerous to indicate an admission by the General Government of an obligation to build levees or fences along its great highway of commerce, so as to protect adjoining fields from damage.

The precedents on the subject of river improvement are much more numerous. From the beginning of the Government to the year 1878 there have been nearly two hundred different appropriations by Congress for improvements of the Mississippi and its various tributaries. The total amount of these appropriations for improving 14,086 miles of water-ways in the Mississippi system, and which are under control of the United States, is not so remarkable as the number of the appropriations. The amount is in round numbers only $18,500,000, a sum only one-fifth the amount of bonds issued (with interest added) by the United States in favor of the Pacific railroads. It is an amount less than one-third the sum spent by New York State alone on her canals. It is also less than half the sum appropriated by Congress for the improvement of rivers and harbors in other portions of the United States.

A further comparison shows that the single State of New York has received from the General Government for the improvements of its rivers and harbors the sum of $7,894,603, an amount considerably over one-third the appropriations for the whole Mississippi system, in which eighteen States and two Territories have a business interest.

There is a wide difference in principle between the granting of Government aid in the construction of railways owned by private corporations and simply keeping in repair river highways controlled by the United States, and which nature built for her without expense. If precedents show that the General Government has pursued a very liberal policy in the first instance, it is certainly apparent that the policy should be liberal in regard to navigable rivers, the ways which furnish cheap and free transportation, and therefore the ways of greatest importance to the producers and the people who pay the taxes. According to the United States Bureau of Statistics, the amount of public lands granted in aid of the construction of railways is, up to the present time, 187,795,850 acres. The amount of bonds issued by the General Government to Pacific railways, with interest accumulated, was, at the beginning of last year, $91,637,928. The single State of New York has, as we have already shown, expended over $64,000,000 in the construction of artificial water-ways. The average cost per mile of those 1,308 miles of canal was $49,000. Suppose the General Government had, at the same cost per mile, constructed the 14,086 miles of water highways in the Mississippi River system, the total cost would be over $690,000,000. This river highway is infinitely superior to and more serviceable than any canal which can be constructed. Its value is just as great to the people as if built at public expense, and is as much entitled to repairs. Is it wise for the General Government to neglect its most important highway of commerce simply because nature assumed the cost of the original construction?

CONCLUSION.

The bill reported by your committee is a substitute for the various bills which have been referred to them for consideration.

By resolution of the present session the jurisdiction of the committee has been extended so as to include questions relating to the improvement of the river, as well as questions relating to levees and alluvial lands. In the past these have been rival interests, notwithstanding nature made them interdependent. At present, however, all parties in interest admit that levees are necessary aids to the improvement of navigation. Your committee therefore, in accordance with their new jurisdiction, and the fortunate adjustment of rival interests, report a bill combining those two very important questions.

Without advocating any particular theories—leaving them for a commission to determine—they do, however, recommend a liberal and comprehensive system of repairs to this great natural and national highway of commerce, which is under the control of the Government and open to the free and unrestrained use of the people.

As preliminary to such a system of internal improvements, they recommend a commission to examine and decide upon some adequate and comprehensive plan of improvement of the Lower Mississippi, from Saint Louis to the Gulf, which is the concentration and trunk line of the whole Mississippi River system. The bill provides that the commission shall take into consideration plans and estimates for the improvement of the navigation of the river as well as for the protection of the alluvial lands of the Mississippi Delta from overflow.

Mr. GIBSON. I offer as a substitute what I send to the desk. I ask that it may be read.

The CHAIRMAN. It may be read now for information, but is not in order at the present time to be offered as an amendment.

The Clerk read as follows:

Be it enacted, &c., That for the purpose of confining the Mississippi River to its channel, to improve its navigation, to facilitate trade and commerce, and to protect shipping and the country from its floods from the head of the passes of the Mississippi River to the mouth of the Illinois River, there is hereby appropriated out of any money in the Treasury not otherwise appropriated the sum of $2,500,000, to be expended by the Secretary of War in accordance with surveys and estimates made under his directions.

Mr. REAGAN. I give notice that at the proper time I will offer the amendment which I send to the desk and which I desire the Clerk to read.

The Clerk read as follows:

Amend section 6, by adding at the end of the section the following proviso:
Provided, That said commission shall also consider and report on the practicability of improving the navigation, deepening the channel, and redeeming the alluvial lands of said Mississippi River by means of opening new and additional outlets for the flow of the waters of said river into the Gulf of Mexico.

The CHAIRMAN. The gentleman from Louisiana [Mr. ROBERTSON] is entitled to the floor for one hour.

Mr. ROBERTSON. Mr. Chairman, I wish at the outset to make an explanation with reference to the amendment reported from the committee making the appropriation. That amendment was offered by me in committee, and I was authorized to report it with the understanding that such members of the committee as might choose to do so reserved the right to oppose it. I have offered it as a member of the committee and the committee is not responsible for that amendment.

The bill under consideration, and which I had the honor to report from the Committee on Levees and Improvement of the Mississippi, relates to a material question, and, I may truly say, one of unusual importance. It contemplates the improvement of the chief avenue of transportation of a great commercial nation. It also seeks to protect from floods and pestilence over twenty-six million acres of the most fertile and productive lands upon the face of the earth. It does not, as is so often alleged, aim at the reclamation of those lands or seek to perform work which properly belongs to the individual citizen. The word "reclamation" is not used in the bill. It is well that we understand the distinction at the outset of this discussion, for the wrong use and confusion of terms have given the opponents of river improvement an opportunity to misinterpret, and therefore misrepresent, the object we seek to accomplish. The word "reclamation" has furnished them with the key-note of unjust criticism. We simply ask protection from the frequent ravages of this great river, over which no power but the General Government has legal control, in order that we who possess lands along its course may have an opportunity to reclaim and cultivate them at our own expense. The protection we ask is similar in principle to that furnished by the General Government, through its Army and at national expense, against a warlike and dangerous enemy who would drive its citizens away from their legitimate and peaceful avocations. We ask protection from an enemy which we, as individuals and States, are powerless to oppose. We invoke the aid of that power whose fundamental principle is the protection of its citizens.

Nor does the bill raise the troublesome question of subsidy, the bare mention of which operates upon a portion of the press and public like an attack of nightmare. The improvement of this waterway is not in the nature of aid to individual property. The benefits resulting from the work proposed will not be confined to a private corporation, a city, town, county, State, or section, but will inure to the people of the whole country. It is the people's highway which we seek to improve—an avenue always open to their use, free of charge or restraint.

The means of accomplishing these two most important ends—improved navigation and protection of neighboring lands—are left for a commission of experts to determine. It would indeed be impossible for this House, or any other legislative body, to adjust and reconcile the many complicated and conflicting theories of improvement, for they involve problems of science too intricate for any but skilled engineers to solve. Some idea of the labor and intricacies attending the subject may be derived from the number and character of the bills relating to the Mississippi and its tributaries introduced in this House alone during the present Congress. The total number of bills to date is ninety-six. Of these, thirty-five relate to the Mississippi, twelve to the Missouri, four to the Ohio, six to the Red, six to the Tennessee, and the rest to the various other tributaries. The greater number aim at the improvement of the channels of the respective rivers composing the system. But some are based on other features, such as a canal to connect the Pacific Ocean with the Mississippi Valley, by way of the Upper Missouri and Columbia rivers. Another seeks to connect the valley with the lakes by a ship-canal uniting the Illinois River and Lake Michigan. Another would connect the valley with the Atlantic Ocean by means of a canal from Saint Mary's River, flowing between Florida and Georgia. Still another would establish reservoirs at the sources of the Mississippi, which would gather up surplus water in flood-time, to be reserved and used to supplement navigation in dry seasons. Several others are based solely upon protection of alluvial lands, ignoring the question of navigation.

This practice of distributing among a multitude of inharmonious bills the questions relating to a river system, which nature made interdependent and harmonious, to me seems extremely unwise. Only by a comprehensive view of the whole system can one understand and appreciate the defects and necessities of a part. Such comprehensive and intelligent action can be reached by enlarging the jurisdiction of the Committee on Levees and Improvement of the Mississippi so as to include all of its tributaries throughout the length and breadth of the great valley. I trust such adequate jurisdiction will, at an early day, be provided for the committee. A bill relating to the Lower Mississippi, unlike any other part of this river system, necessarily involves the interests of all the tributaries, for it is the trunk-line of all the various branches flowing from the region of the lakes, the Alleghanies, and the Rocky Mountains. This, then, cannot be called a sectional bill. Here, as elsewhere, we find a multiplicity of theories covered by as many bills. They relate to the subject of alluvial lands, improved navigation, or both. Four have been introduced on the subject of lands alone; thirteen relating simply to navigation; seven which combine the two questions, and a few relating to the mouth of the river. One bill seeks to improve the mouth by building a wall across the bed sufficiently high to shut out the action of the Gulf waves, and yet leave over its top sufficient depth of water for purposes of navigation. Another seeks to protect the lands from overflow, and improve navigation by a series of outlets to tap and draw off the surplus waters, and by a diversion to the Gulf of some of the tributaries. There is another theory now pending, known as Captain Eads's plan, which is in direct conflict with the one last mentioned. It aims at both improved navigation and protection of lands from overflow by preserving the whole volume of water, and confining it within walls of uniform distance apart, so that the current may scour out and deepen the channel and lower the surface level. This theory is not embodied in a bill, but it is understood that it will be urged before the proposed commission.

The bill under consideration is based on no theory, but leaves it to skilled engineers to review the whole subject, unravel the net-work of rival theories, and determine which is the best. It relieves us of a difficult work which we have not time to perform, and which is too technical for and foreign to our jurisdiction. Our legitimate duties are already sufficiently numerous, and we should rather confine our attention to affairs of state than attempt legislative quackery with questions of engineering. It is for us to prescribe the object to be accomplished, leaving to others the means.

The necessity for improved navigation of the Mississippi was never more apparent than to-day. One of the most important questions now before the American people is foreign commerce. Instead of section against section and internal strife, which for a generation past has engrossed the attention of the national mind, consuming its energies, and nearly impoverishing the people, we have, thank Heaven! now reached the point in our history where the arts of peace and international commercial relations are stimulating our ambition for a wider field of action. Beginning with the year ending June 30, 1876, an appropriate year to inaugurate a new commercial departure, the balance of foreign trade in our favor was, in round numbers, $79,000,000; the next year it was $151,000,000, and the third year it was $257,000,000; and during the fourth or present fiscal year it will, judging from the official reports thus far made, considerably exceed $300,000,000.

By far the most important field for the further extension of our commerce, a field which heretofore has been unaccountably neglected and left for European commercial nations to monopolize, is that composed of the Spanish-American countries south of the Mississippi Valley. Those countries, in resources, supply, and demand, are the very reverse and complement of the United States, and therefore, according to all correct rules of political economy, their trade is the most important and valuable to us. With the press, chambers of commerce of various cities, and the people this new commercial movement is justly becoming very popular. It is indorsed by the State Department, which, as early as the summer of 1877, sent circular letters to the official representatives of the United States in those countries instructing them to investigate and report how enlarged commercial relations could best be promoted. It should also be the policy of this House to use every exertion to sustain and facilitate such a commendable policy.

The question, then, arises, how can we best extend aid? When we consider that eighteen States and two Territories are bordered or intersected by the navigable portions of the Mississippi and its tributaries, which, with a total of 14,086 miles of present navigation, converge, unite, and finally terminate at the Gulf of Mexico, at the very doors of the Spanish-American nations; when we consider that those eighteen States in 1876 produced 69 per cent. of the wheat, 87 per cent. of the corn, 72 per cent. of the rye, 74 per cent. of the cotton, and contained 71 per cent. in value of live hogs; when we consider further that one of the most important elements of successful foreign trade is cheap transportation from the great interior to the seaboard, we cannot fail to see that the mighty Mississippi, when freed from all obstructions, is a very important factor in extending our foreign commerce with the nations south of us.

Opposite the mouth of this river system, just across and half surrounding the Gulf, is the great Republic of Mexico, containing twenty-seven states and one territory, with a population nearly as great, in proportion to area, as that of the United States. It is the nearest, and, next to our own, the largest and richest of all republics. It abounds in silver, coffee, sugar, dye-stuffs, fancy woods, fruits, and other tropical products; but it is deficient in the class of products and manufactures which we have in excess. Mexico needs our railway-iron and supplies, mining machinery, agricultural implements, and the thousand and one articles of our manufacture, and will for years to come, or until she herself is adequately developed, demand what we can so easily supply. She annually spends several millions of dollars in purchasing cotton stuffs from distant Europe, when the finest cotton region of the world is near at hand along the Lower Mississippi. Her foreign commerce is almost entirely dependent upon water transportation, for there is not a single mile of railway con-

necting her with the United States or any other nation. Early this month an excursion, or pioneer party of merchants and manufacturers of Saint Louis, Chicago, Pittsburgh, New York, and other commercial centers, sailed from the mouth of the Mississippi to establish more intimate business relations with our Mexican neighbor.

When the proposed improvements of the Mississippi are accomplished the fertile States of the great valley and their industrial centers will have direct, easy, and cheap water communication with the principal ports of that country, and then we may hope for the extensive commercial intercourse which nature evidently intended should exist between the two republics.

The Empire of Brazil, the other states of South America, Central America, and the West Indies, also furnish attractive and inviting fields for our surplus products and manufactures. An official statement of the foreign trade of Brazil, published in 1876, shows that 85.29 per cent. of her demand is supplied by the markets of Europe, and only 4.67 per cent. by the United States. Here again can the Mississippi, when improved, play a leading part in developing American commerce. The total annual imports of those American nations south of us is, according to the statistics of the last attainable year, about $336,000,000. Of this large and growing demand the United States supplies only about $52,000,000, the lion's share being monopolized by European nations. We should, even at the present time, supply at least two-thirds of their demand, or $224,000,000, and double that sum in the near future when those lethargic nations awake to an adequate development of their resources, commerce, and brilliant possibilities.

It devolves upon the Mississippi Valley to take an active part in extending and enlarging that valuable branch of our foreign commerce, a commercial movement so correct in principle and so beneficial to the whole country. And she will perform her duty in that respect just so soon as her great river highway is unfettered and her steamers can find continuous navigation along the Mississippi and through the Gulf of Mexico to the ports of those nations.

One of the highest authorities on the subject of cheap transportation, Senator WINDOM, recently said, in speaking of the improvement of the Mississippi:

> I entertain no doubt whatever that, when the improvements contemplated shall be finished, the charges from Saint Louis to New Orleans will not exceed 3 to 4 cents per bushel, with probabilities even below that small figure; and 6 to 8 cents from Saint Paul to New Orleans, and even 18 to 20 cents from Saint Paul to Liverpool, may be confidently expected.

During the year 1878, just ended, the average rate of transportation by river from Saint Louis to New Orleans was, for a bushel of wheat, about 7⅛ cents. During the same year the average rate of transportation of wheat from Chicago to the seaboard at New York was, by way of the lakes and canal, 10⅝ cents; in 1876 it was 10 cents; in 1875, 11 cents; in 1874, 13 cents; in 1873, 19 cents; and in 1872, 24 cents. The rate between the same points by rail was, in 1878, 16½ cents; 1876, 17 cents; 1875, 24 cents; 1874, 28 cents; and in 1873, 33 cents. These differences in rate of transportation from the great centers of the valley to the seaboard range all the way from 4 to 30 cents per bushel. The total number of bushels of corn and wheat combined produced in the eighteen States making use to a greater or less extent of the navigable portions of the Mississippi system was, in 1878, 1,324,000,000. Now, suppose one-half of that product had to be transported to the seaboard at New Orleans at a saving of 5 cents per bushel, by virtue of the proposed improvement of the river, the total annual saving to the producers and consumers on these two articles alone would be over $33,000,000.

Such facts and figures speak for themselves, and it needs no extended argument to demonstrate the new impetus which would be given increased production and enlarged exportations by putting in an adequate state of repair our most important line of water transportation. These two great questions, cheap transportation and foreign trade, are of more importance to the people than the kind of money we shall use, what our banking system shall be, or who shall be President. They are questions most intimately associated with the great Mississippi, which we ask to have improved.

Turning to the other feature of the bill, alluvial lands, I might urge the almost fabulous additions to the taxable wealth of the country resulting from their protection by the Government, and consequent reclamation by the owners—the enormous increase of our corn, rice, cotton, and sugar crops, which the cultivation of those prolific lands would cause—the annual saving to crops, buildings, and stock, by protection from the floods and the desirability of closing the outlets in the levees, which the amendment to the bill proposes as a temporary relief, until the commission can provide for permanent protection. But those points were considered in the report accompanying this bill, which I submitted last session, and in a speech in support of the bill as amended.

Since then another question, peculiarly and intimately associated with the Lower Mississippi, has stalked before the public, carrying with it death and destruction. I refer to the terrible pestilence whose ravages were chiefly confined to the black belt, from thirty to one hundred and fifty miles wide, and over one thousand long, extending from Cairo to the Gulf, and which represents on the river maps the alluvial, overflowed, and insufficiently drained district. Regardless of conflicting theories concerning the origin of yellow fever, it is a fact that in the United States the disease is chiefly confined to this alluvial district, which is subject to overflow and subsequently to stagnant water and rank vegetation steaming and festering under a hot sun. My personal observation upon the banks of the Lower Mississippi, where I have lived since 1825, has been that whenever the fever raged to any great extent it followed such conditions. The pestilence of 1829 followed the overflow of 1828; that of 1847, the overflow of 1844; that of 1853, the overflow of 1848, 1849, 1850, and 1851; that of 1867, the overflow and early subsidence of the flood of that year; and that of 1878, so fearful in its proportions, the overflow of 1874, and the high waters of 1875, 1876, and 1877, which floods were succeeded by extreme low water and the dry, hot summer, leaving the stagnant water of the marshes and decaying vegetation to exude poisonous gases and help propagate the fever.

It is also a fact, that when the alarm is first sounded the health officers and other officials of the cities and towns along the river, instead of lingering to discuss fine-drawn theories, take immediate steps to improve their drainage, remove the garbage, and transform those places from a state of filth to one of cleanliness. The alluvial district is a settlement upon a large and more extended scale, and if it were within the bounds of reason, its citizens would themselves in times of pestilence perfect its drainage and remove the unwholesome vegetation. But, as I have before remarked, there must first be protection from overflow, and that is a work too formidable for individual citizens or States. It is an interstate improvement which requires the purse and legal supervision of the General Government. The protection of those lands from the floods will, however, enable the individual owners to clear, drain, and cultivate them and keep them free from impurities. If the improvement proposed by this bill will result in protecting the health and lives of the people dwelling along the Lower Mississippi, the subject is indeed one of momentous importance, and calls for our earliest action.

In addition to the loss of life, the pecuniary damage to commerce and other industries during the single season just ended, and as a result of the fever, was many millions of dollars. It has been estimated to be two hundred millions. It certainly is a very low and safe estimate to say that such damage exceeds the total cost of improvement on the most expensive plan proposed, or $50,000,000. The forthcoming report on the subject of the fever, by a select committee of this House, will give more definite information. But they will simply report the facts for our further action. The proposed commission on the Mississippi, however, will report how those facts should be applied, and the alluvial district, or hot-bed of the pestilence, drained and purified and made serviceable to the health and industries of the people along the lower river.

Consideration for the people of the North, whose boundless generosity during the recent pestilence so tenderly ministered to the afflicted people of the South, is another reason why Congress should afford this necessary legislation. It is nothing less than imposition to periodically throw this excessive burden of relief upon charitable individuals of the North when the scourge arises from a defective and neglected national sewer concerning which no power but Congress has the right to legislate. Humanity, as well as pecuniary considerations, dictates that we give early and careful attention to this imperative duty devolving upon us.

There is also a political reason why the great river should always be kept in good repair. It is a natural bond of union between the North and the South, which should be strengthened by continual use for purposes of commerce and friendly intercourse. It was a favorite policy of Washington to unite the James River with the Ohio, by means of a canal, to bind the Mississippi Valley to the original thirteen States, and prevent it from falling under the domination of a foreign power. It was the policy of Congress, a few years since, to aid in the construction of a railway to connect the Pacific States with the rest of the Union with bands of steel. Nature, at her own expense, constructed the connecting link between the North and South. It would indeed be sacrilege on our part to ignore and neglect its use.

It may seem a broad assertion, nevertheless it is a fact, that the Mississippi has not even been surveyed in a comprehensive manner. While De Soto and his Spanish comrades discovered the river three hundred and thirty-eight years ago, we, who claim to be progressive, have not yet discovered how to utilize it. The surveys which have been made were restricted to some particular feature or section of the river. That known as Humphreys and Abbot's survey, under the acts of Congress of 1850 and 1852, was a "topographical and hydrographical survey of the Delta of the Mississippi, with such investigations as may lead to determine the most practicable plan for securing it from inundation and the best mode of so deepening the passes at the mouth of the river," &c. That provided for by the act of June 22, 1874, was "to make a full report to the President of the best system for the permanent reclamation and redemption of said alluvial basin from inundation." The important subject of improved navigation has been ignored. Such one-sided legislation is like the play of Hamlet with Hamlet left out. It is a consummate farce and a very costly one to the people.

In this material age when the whole scientific world is advancing upon the latent forces of nature, discovering and subjecting them to the service and welfare of mankind, it will be a discredit to us to longer delay the solution of this river problem. The people North, South, East, and West, are losing interest in political strife, and demand of us, their representatives, such action as will be conducive to their industrial and commercial advancement. The politicians may at-

tempt to manufacture a "solid South," or a "solid North," but the people care more for a solid country, alive to the grand opportunities of the day for increased commerce, both internal and international.

As preliminary to such a consummation the improvement of the Mississippi becomes of transcendent importance. It is a motive power of too great magnitude to be longer neglected.

I had intended, sir, to close my remarks here, but in view of the amendment offered by the gentleman from Texas, [Mr. REAGAN,] I desire to offer a few remarks in addition to what I have already said.

Let it be understood, Mr. Chairman, that the amendment which I offered and which is a part of the bill under consideration, does not antagonize the other sections of the bill, but simply carries out the policy provided for in the sixth section, under which commissioners are to report the temporary repairs, or work necessary to be done to close the outlets and to raise and strengthen the present line of levees on the Mississippi River.

That amendment does not antagonize; on the contrary, in my opinion, it carries out the provisions of the bill. Now I propose to show that there is but one theory that does oppose the bill, and that is the theory known as Captain Cowden's, or "the outlet system."

At this session of Congress that gentleman had introduced a bill for the purpose of carrying out his views, which was referred to the Committee on Commerce, and that committee has taken jurisdiction of this matter.

I propose, then, sir, for the purpose of refuting the theory of Captain Cowden, to state simply that although it seems to have attracted attention all over the country it is not a new theory. Why, sir, it is as old as the earliest settlements of this country when there were a thousand outlets all along the river. It was the policy of the earliest settlers to close them, and now these outlets have been closed and levees built.

The outlets closed were the Bayous Jacob and Manchac in 1826, and the Bayou Plaquemines in 1865. At a much earlier date than 1826 the Bayou Goula and the innumerable small bayous leading from the Mississippi River into Lake Clause, both mouths of False River, the Fordoche, Latinash, and many other smaller outlets, too numerous to mention, were closed below the mouth of Red River.

After 1827, when the levee system was extended above the mouth of Red River, the same system of diking and closing the outlets on both sides of the river was pursued; and when that system was completed, and formed an almost unbroken levee system from the Gulf to Commerce, in the State of Missouri, we find the flood levels of high water not at all increased, for it is well known that levees built one hundred years ago below the mouth of Red River are still standing intact, not having been increased in height a single inch.

The highest water we ever had was in 1828 (when we had comparatively no levees above Red River) except the flood of 1874, when at Baton Rouge it was eighteen inches higher than was ever known before; and yet, strange to say, it was six feet lower at Natchez than in 1867. This was probably caused by the accumulation of crevasse water coming down from Arkansas and upper Louisiana uniting with the extraordinary floods in the Ouachita and Red Rivers to so great an extent that it could not be carried off by the Atchafalaya River, and poured back into the Mississippi River through the mouth of Old River, causing a sudden rise at that point of fourteen inches in twenty-four hours; and in consequence of this the Morganza and other levees gave way, and still in no instance did the water run over the tops of levees, the grade of which had been established years before. As an exception, at one point in West Baton Rouge the water did go over the levees, because the original grade had not been kept up.

Now Captain Cowden proposes to reopen the outlets closed by our levee system and create new ones for the purpose of lowering the flood level and improving the navigation. Why the opening of these outlets will reduce the flood level, when, as I have shown, the closing of them did not increase it, I cannot see. In the first place you cannot make these outlets above the mouth of Red River, as the water must return to the Mississippi River again, as in the case of crevasses, and these crevasses fully demonstrate at this time their effects upon the country.

Now, does not the House know that within the last forty years outlets have been made which take off a large percentage of the waters of the Mississippi through Cubit's Gap and the enlargement of the Atchafalaya. Cubit's Gap was cut during the late war to afford an outlet for fishing-boats into an arm of the Gulf of Mexico. At first it was but a small canal, but now so enlarged in proportions as to threaten the success of Eads's jetties by cutting off water needed for scouring out the bars at South Pass.

As to the Atchafalaya, previous to 1839 a raft for twenty miles dammed and completely blocked this river almost as effectually as if it had been diked, and closing its navigation. At this time, at low water the mouth of the Atchafalaya was entirely dry, and no water from the Red or Mississippi Rivers passed down it. In the fall of 1839, which was an extraordinarily dry season, this raft which had completely blocked up the Atchafalaya from its top to its bottom, was set fire to and burnt out. The State then cleared out the *débris*. Instantly the waters of the Red River and the Old River poured into the Atchafalaya and it began to scour out its bottom, and the banks tumbled in by the acre; and it has been going on to increase in width and depth until now it has enlarged six hundred feet in width and deepened eighty feet in depth, as shown by recent soundings.

And now, sir, I think the proposition of Captain Cowden to divert the Red River is too late. The gentlemen of the Committee on Commerce and others who have examined this matter should have at least known that Red River is no longer a tributary of the Mississippi. In 1831 the bend into which the Red and Atchafalaya connected the first as a tributary and the other as an outlet was cut off from the main river, and is now known as Old River; and as a consequence the Red River has been drawn into the enlarged channel of the Atchafalaya, and is no longer a tributary of the Mississippi River, only contributing to that stream at high water a surplus not yet provided for by the natural enlargement of the Atchafalaya, because of crevasses above occurring at the same time and uniting with Red River.

At the last session, Congress appropriated $150,000 for the improvement of the mouth of Red River, and the plan of the United States engineers is to bring back from the Atchafalaya a portion of the water of the Red River, through the Old River, into the Mississippi for purposes of navigation, showing conclusively that the diversion I have referred to had caused the bottom to rise into bars, and is now again to be used to cut out these shoals and improve the navigation.

I know, Mr. Chairman, that I am trespassing upon theories when I say that the levee system improves the navigation of the river. The levee system tends to deepen the channel of a river and keep it from being obstructed by the natural accumulations of a river like the Mississippi, consequently when we built the levees the *navigation was improved*.

Now, it is shown that the velocity of a stream is increased by confining it between levees, and consequently this velocity acts as a dredge and prevents the accumulation of sediment; and I made the assertion at the last session of Congress that whenever a large crevasse occurred, thereby depleting the river and checking the current, you choke up the river below.

That proposition has never been successfully refuted. Wherever soundings have been made that fact has been established. I am confirmed to-day in that opinion by the surveys which have recently been made by the Coast Survey. And I assert that the diversion of the waters of the Red River into and down the Atchafalaya River, and the consequent enlargement of the channel of the Atchafalya, thus forming one of the largest outlets, except Cubit's Gap, has shoaled the channel of the river below. By the soundings at the mouth of the Red River it is found that the depth of the channel of the Mississippi River was one hundred and twenty-six feet. At Baton Rouge, seventy-five miles below, the depth of the channel was one hundred and three feet, showing that by means of this tremendous outlet of the Mississippi, taking off at least one-tenth of the volume of the water of the Mississippi, the current is checked to such an extent that the bottom of the river below the mouth of the Red River has been filled up twenty-three feet.

I assert positively that the building of levees does improve the navigation of the river. The banks cave in, it is true; but I am satisfied that increased velocity of the current also deepens the channel by scouring the bottom. The trouble is to prevent these banks from caving.

Engineers have not gone into that subject. The commission of 1874 simply reported the fact that the town of Saint Joe and the town of Natchez-under-the-hill were protected by breakwaters. They dismissed that subject with a few words by saying that such a system would cost too much. I doubt whether it would cost one-half of what the plan recommended by that commission would cost for building a new line of levees a mile or more back of the present levees.

Now, I am opposed to their scheme, because it will fence out and leave to the mercies of the floods sixteen hundred square miles of the best improved lands on the Mississippi River, the open lands and buildings where the front proprietors reside.

I have therefore offered this amendment, based upon estimates by the Engineer Corps, on my own responsibility, because I believe it ought to pass. I think I have already presented sufficient argument to show that you must close the outlets and at least repair the levees and raise and strengthen them until this commission can act upon some permanent plan for the improvement of the river and protection of the alluvial lands.

I now yield the remainder of my time to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. ELLIS. Before the gentleman from Mississippi proceeds, I desire to offer a substitute for the pending bill and to have the substitute read.

Mr. CHALMERS. I will yield for that purpose, if it is not taken out of my time.

The Clerk read the substitute as follows:

Strike out all after the enacting clause and insert the following:

That the sum of $4,850,000 be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the purpose of repairing and rebuilding the levees of the Mississippi River, thereby reclaiming from inundation by its waters the alluvial lands of its Delta, deepening its channel for commercial purposes, closing its crevasses, and thereby protecting and promoting its commerce, as follows, to wit:

Seventy-five thousand dollars in the State of Illinois.
Five hundred thousand dollars in the State of Missouri.
One hundred thousand dollars in the State of Tennessee.
One million two hundred and eighty thousand dollars in the State of Arkansas.
One million one hundred thousand dollars in the State of Mississippi.
One million eight hundred thousand dollars in the State of Louisiana.

SEC. 2. That the Chief of Engineers of the United States Army, under the direction of the Secretary of War, shall have sole and exclusive direction of the work

to be performed and the expenditures to be made under the provisions of this act; that as soon as practicable after the passage of this act, and after proper advertisement by the Secretary of War, upon estimates to be furnished by the Chief of Engineers, the work herein provided for shall be let to the lowest bidder or bidders, in such sections and quantities as the Chief of Engineers may deem proper; that such contractors or bidders, before they enter upon their contracts, shall furnish bond, with good and solvent sureties, in favor of the United States, in an amount equal to one-third of their entire contract, for the faithful performance of the work contracted for; and in no case shall the full amount agreed upon be paid to any contractor; and until his entire contract is performed and the work done under it surveyed and accepted by the Chief Engineer, or some officer designated by him, 20 per cent. of said entire amount shall be retained; after which survey and acceptance, the residue of 20 per cent. shall be paid to said contractor.

SEC. 3. That all estimates required, and all surveys, plans, and locations of said levees, and for their construction, shall be made by the Chief of Engineers, or under his direction by such engineers of the corps as he may designate, or by such citizen civil engineers as he may see fit to employ.

SEC. 4. That no portion of the moneys herein appropriated shall ever be applied to the payment of any debts or obligations incurred by any State or other local levee company or corporation or authority, nor for compensation for any work other than that performed under the provisions of this act, nor for any other purpose than that contemplated and provided for herein.

SEC. 5. That on or before the 1st day of January, 1877, the Secretary of War shall submit to Congress a full and complete report of the manner in which the work contemplated by this act has been performed, and in what manner the moneys herein appropriated have been expended.

Mr. CHALMERS. Mr. Chairman, I shall not trouble the committee with any lengthened argument on this question. The whole subject, including the vast extent of wealth-producing territory to be reclaimed, the best method of reclamation, and the constitutional power of the Government to reclaim it, has been so fully and so ably discussed by gentlemen of practical experience, scientific knowledge, and legal ability, that I shall not attempt to do anything more than group together the arguments that have been advanced by others.

During the administration of President Taylor, himself a Louisiana planter and deeply interested in the question, the first resolutions were passed in the Senate of the United States directing a survey of the Mississippi River expressly to ascertain the best method of reclaiming the alluvial lands of the Mississippi Valley. This, after many years, resulted in the able and exhaustive report of Humphreys and Abbott, Chief Engineers of the United States Army, who emphatically declare that the levee system is the best method of accomplishing this purpose.

In furtherance of this object the United States donated the swamp lands lying in Arkansas, Mississippi, and Louisiana, which were of no value without protection from overflow, to these respective States to assist in building up their levees. The funds arising from these lands were small and soon exhausted, and millions of their own money were expended by these States in the creation of levees under State legislation. The levees thus constructed were just being tested and were more or less successful in different places when the war came on and large portions of them were destroyed; some by the attrition of wagons and horses, when they were used as a road-bed; some by the erosion of the water, aided by the paddle-wheels of steamers in high tide; and some directly by the Army and Navy of the United States. Mississippi and Louisiana have expended large sums of money since the war to repair their levees, but experience has shown that they have not the pecuniary strength to accomplish this great work as individual States, and that they are prohibited by the Constitution of the United States from forming combinations with each other or other States to create a uniform system of levees, which is essential to their protection. They have therefore appealed to the United States Government to take charge of the work and give to them that protection which every citizen is entitled to claim at the hands of the government to which he yields obedience and which he pays taxes to support.

There are many gentlemen in this House who have expressed a desire to vote aid to the Mississippi levees if they could do so consistently with their ideas of constitutional duty. I propose, therefore, briefly to show that there are more clauses of the Constitution under which, as construed by the judgments of courts and precedents of practice, the Government can construct the Mississippi levees than there are to support any other work of internal improvement it has ever undertaken. I look first to the power to regulate commerce. Under this power the Government has built light-houses, buoys, and piers for the warning, guidance, and protection of vessels against danger, and has established a life-saving service, prompted by humanity and sanctioned by success. It has constructed breakwaters, which are, under another name, expensive levees for the protection of property behind them. It has cleaned out natural harbors and made artificial harbors where there were none. It has cleaned out rivers and dug canals to create commerce where there was none. The Mississippi River is the greatest artery of internal commerce in the world, and yet it is filled with snags and sand-bars that are the deposit of its annual overflows, which not only destroy vessels, but tax the whole commerce of the West with an increase of insurance that is destructive to prosperity.

It is claimed by scientific men, and I believe truly, that when the water of the Mississippi is permitted to spread over a large surface the velocity of its current is checked; it makes deposits of sediment and snags, creates sand-bars, and obstructs navigation; and that, on the other hand, the concentration of the water into a narrow stream will increase the velocity so that it will remove the sand-bars, clean out the snags, deepen the channel, and improve navigation. If this be true, as the reports of scientific engineers declare and as the action of the jetties seems to demonstrate, then the construction of the levees, which would confine into a stream one mile wide water that would spread over forty miles without them, must conduce to the benefit of navigation and commerce; and we might rest our claim for power to construct levees under that clause of the Constitution.

We look next to the power "to establish post-offices and post-roads." Under this power we find that the Government has opened dirt roads, built bridges and causeways, and constructed turnpikes, in the early days of the Republic, and in later days has built railroads and telegraph lines, established postal-cars, fast mail-routes, and letter-carriers, who deliver their mail to the merchant princes of the cities at their door-steps. The Mississippi River is the greatest natural post-route in the Union, and when there is no overflow the mails are delivered at every post-office on its banks. If railroads and telegraph lines can be built under this power, and the Supreme Court of the United States has said they can, to distribute mails where no post-routes previously existed, certainly levees, which are but embankments of earth, scarcely more expensive than the embankment alone of railroads, can be built on this great natural post-route to enable its inhabitants to receive their mail on dry land and not in the midst of water forty miles wide. We might therefore rest our claim for power to construct levees on this clause of the Constitution. We turn next to the clause which gives to the General Government power "to provide for the common defense and general welfare." Under this clause we find that it has been the practice of the Government to levy high duties on articles of foreign commerce, ostensibly to raise revenue, but in effect to protect what are called "American industries." One political party has contended it was the duty of the Government so to regulate its tariff as to protect American industry. The other party, to which I belong, has denied the power or the duty of the Government to pass a purely protective tariff, but admitted that a strictly revenue tariff would afford incidental protection to American industry. Among the most important industries of the United States is the cotton and sugar cultivation in the Mississippi Valley—a vast mine of undeveloped agricultural wealth, capable of supplying the Union with sugar and the world with cotton, if protected from overflow, but which is often submerged for weeks and months by the wide-spreading floods of the Mississippi River.

Mr. DUNNELL. I rise to a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. DUNNELL. The gentleman from Mississippi [Mr. CHALMERS] should address the Chair. He has been addressing that side of the House only, and we on this side are unable to hear what he is saying.

Mr. TOWNSEND, of New York. He wants to convince the members on his own side.

Mr. CHALMERS. Yes. I know that the gentlemen on the other side are sensible and liberal men and do not need to be convinced of the necessity and importance of this measure. I am anxious to convince those on my side of the House. [Laughter.] However, I will speak so as to be heard by gentlemen on either side of the Hall.

If it is the duty of the Government to protect American industry this should unquestionably be protected. Long staple cotton is eminently American, and brings more gold to the country than all the other protected articles together; and I appeal to our protective friends, and especially my handsome friend from Pennsylvania, [Mr. WRIGHT,] the most available greenback candidate for the Presidency in 1880, to come to our assistance and the support of his own doctrines. [Laughter.]

Mr. WRIGHT rose and bowed to the speaker. [Renewed laughter.]

Mr. CHALMERS. If, on the other hand, the Government, in the exercise of its acknowledged power to regulate commerce or establish post-routes, adopts such plans as those set out in the bill now under consideration to improve the commerce and navigation of the Mississippi River, and in so doing affords incidental protection to its alluvial lands, no one—not even my esteemed friend from Illinois, [General EDEN,] though a democrat of the strictest sect of objectors—could possibly object. We might therefore well claim that the common defense provided for in the Constitution would include the defense of people who are helpless against the great floods of the Mississippi River, and that the general welfare would be promoted by protecting and increasing crops which have turned the balance of trade in our favor. And we can make the claim all the more confidently because under this or some other power, or all the powers granted in the Constitution combined, the General Government has already established the precedent of granting aid to the building of levees. Thirty years ago it donated lands for this purpose, and if it had the constitutional power to give lands it has the power to give money. It has time and again ordered surveys of the river to be made, at considerable expense, for the express purpose of determining the best method and the cost of protecting the alluvial lands. These reports are all now in, showing that the levee system is the best method and that the cost of repairing the levees now standing is precisely the sum which this bill asks to be appropriated.

To hesitate now to adopt the recommendations of the engineer upon the ground that there is no authority for making the appropriation is a censure and repudiation of all the various acts of legislation which ordered these reports. We look next to the power which the Government has, arising out of its exclusive jurisdiction over the waters of the Mississippi River. We do not assent to the doctrine that the Gov-

ernment possesses any peculiar rights over the Mississippi River by reason of the fact that we acquired a portion of it by purchase.

The lands adjacent were purchased at the same time and in the same manner as the waters, and yet the States subsequently organized out of this territory acquired the same right of eminent domain that belongs to any other State of the Union. The riparian proprietors in Arkansas and Louisiana have the same rights over the Mississippi River as those in Kentucky and Indiana have over the Ohio. But the Supreme Court of the United States, after a contest over the subject for many years, has determined that the United States, through its district courts, has exclusive jurisdiction over all the navigable waters of the Union. The States of Mississippi and Louisiana therefore find themselves in this condition: after spending every dollar they could tax from their people or borrow from others to repair their levees, and after having passed stringent laws to prevent their own people from riding or driving on them, lest in time of high water the jar thus produced might create a crevasse, they have sometimes been compelled to see their levees broken by the landing of some steamboat against them when the water was nearly level with the top, or by the paddle-wheels of some great steamer in mid-river, and witness the destruction of their property as the waters poured over it. But the States have no right to protect themselves against these injuries, because they cannot interfere with the commerce of the Union. Again, it is the belief of many that the clearing up of the new States on the headwaters of the Mississippi have precipitated the floods with more violence on the country below; and while the States below would not desire to prevent this, it affords them just ground for demanding relief from the strong hand of the Union. Again, any State may erect perfect levees along its whole river front and still be subjected to inundation through another State. Arkansas may be overflowed through Missouri, Mississippi through Tennessee, and Louisiana through Arkansas; and, while neither can protect itself, they cannot combine for their mutual protection, because this is forbidden by the Constitution.

The General Government alone has the power to do this; it has the means to give protection, and it has exclusive jurisdiction over the Mississippi and its tributaries; and gentlemen should remember that every power carries with it a corresponding duty. The duty in this case is that the United States Government should so use its property in this river as not to injure the property of others. It has exclusive control over this river, and should so control it as not to permit it to deluge the riparian owners. It has exclusive power to regulate the commerce of the Mississippi River, and it should so regulate it that its wheels shall not destroy millions of agricultural wealth. It has exclusive power to establish post-offices and post-routes on the Mississippi River, and it should so establish them that the mail can be delivered to the inhabitants on its bank; if not at their doorsteps, where the inhabitants of cities receive their letters from the hands of carriers, at least to men on dry ground, and not to raftsmen floating on the water. The Government collects revenue and gives protection to iron and manufactures; let it deepen the channel of the Mississippi River, by wing-dams in low water and levees in high water, and thus improve its commerce and navigation and at the same time give incidental protection to the great sugar and cotton producing industries in its valley.

The Government, by a long line of precedents, has built breakwaters to protect sea-coast cities from the inroads of the ocean. Let it build breakwaters to protect the riparian owners of the Lower Mississippi from what Mr. Calhoun called "a great inland sea," whose waters have built up an empire which its floods threaten to destroy.

If gentlemen will look to any one of these powers, it ought to be sufficient to satisfy the conscience of the most obdurate politician, democrat or republican, whose political life has depended on a war against subsidies; and when we look to all combined, it ought to be sufficient to overcome the conscientious scruples and soften even the hard-hearted souls of the Committee on Appropriations.

Mr. ROBINSON, of Massachusetts. Mr. Chairman, the Committee on Levees and the Improvement of the Mississippi River has had intrusted to it during the present session the consideration of subjects connected with the protection of the Mississippi River and of the alluvial lands of the Mississippi Delta. In the discharge of our duty it has been necessary for us to hear many persons, to listen to various theories, and to read many comments, and opinions upon the whole subject. As a result of long deliberation on the part of the committee, we have brought before the House the bill which is now under consideration.

I allude only to the first nine sections of the bill; the remaining two sections are not a part of the bill reported from the committee. For fear that the chairman of the committee [Mr. ROBERTSON] may not have been distinctly heard when giving his account of that amendment, if the Committee of the Whole will bear with me I will state that it is simply a proposition of the gentleman from Louisiana [Mr. ROBERTSON] alone; and that the committee agreed that he might offer it and that a vote might be taken upon it in the House. I wish to say that several members of the committee besides myself are utterly opposed to the proposed sections ten and eleven, and I myself should vote against the whole bill should those sections become a part thereof.

I need not go over the wants of the commerce of the Mississippi Valley to speak of the twenty millions of people that are accommodated by the great traffic upon that rolling stream. I need not allude either to the fact that nearly a score of States and Territories of this Union are interested in the commerce upon that river and upon its tributaries. That knowledge is within the reach of every school-boy in the land.

I propose to address myself only to the practical features of this bill. What are we trying to do here? The first nine sections of the bill propose to establish a permanent commission whose duty it shall be to investigate the whole system bearing upon the navigation of that river and the protection of the alluvial lands of its Delta. That commission is to be constituted of three engineer officers of the Army, one of whom shall be its president, and of two persons taken from civil life who may be conversant with and experienced in the wants of the commerce of the Mississippi Valley. No money whatever is called for by the first nine sections of this bill, except that required to pay the expenses of the survey. We are now from year to year spending varying sums under the charge of the War Department and of the Coast Survey in examinations of the Mississippi River. It seemed wise to your committee that all this work of examination and investigation should be combined; that it should be put in the charge of one body of men, and that we should not go on by piecemeal from year to year, having separate and distinct reports from these departments, without coming to any definite conclusion. Therefore, this commission is authorized to take charge of all the surveys now in progress upon the river, also to complete the surveys requisite for the purposes embraced in the bill.

Further, this commission must report to Congress before any action can be had upon its plans or specifications, and no work can be done until those plans are approved by Congress. It seemed, therefore, to your committee that this bill provides a safeguard against any extravagant expenditures on the part of the Government. In the sixth section of the bill it is provided that this commission may make a partial report, provided a majority of them, including the president of the commission, shall consent to such report, such partial report to refer to the protection of the alluvial lands of the river.

The committee have found those two subjects to be interdependent. They have not seen in the investigation they have given that the one stands necessarily apart from the other. All the writers and all the engineers from whom they have heard declare that in some measure, greater or less, the protection of the lands has also an influence upon the navigable character of the river. Therefore it seemed proper that this commission, before completing fully the plan, should submit to Congress a report, subject to its approval and action.

Perhaps that is all I ought to say of the bill in its main features, because that is all there is of it—a provision that a sufficient sum of money shall be provided at present to meet the demands of the survey—nothing further.

Now, it is proposed to add to this bill two sections constituting an amendment; and as I said at the outset I am utterly opposed to that amendment, or to any amendment of that character. Sections 10 and 11 commit this Congress at the outset, regardless of the determination of the commission, to the policy of rebuilding the levees along the line of the Mississippi River. Gentlemen of the committee, upon examination of the first nine sections of the bill proper, will find that Congress is not by them committed at all to that theory, but that the whole subject is left open for investigation and subsequent determination. Then these amendments contemplate that Congress should appropriate about $4,000,000 at once, which shall become available to carry out somebody's theory that the levees in the Southern States along the Mississippi River ought to be rebuilt and restored. Your committee, Mr. Chairman, have not come to the conclusion that such is the duty of Congress or the demand of the country at the present time, however much the people of the States immediately interested may demand it, or however strongly gentlemen representing the various districts in those States may feel moved to declare here their advocacy of that plan. The committee do not recommend it. Why? It will be seen at a glance that this proposition to constitute a commission which shall take the whole subject under consideration and report thereon to Congress at a subsequent session, is supplemented by one that commits us to one of the plans which must come before the commission. In other words, you tie the hands of the commission at the outset; you pre-occupy all ground; you make your commission of no effect or consequence whatever.

Why, sir, these amendments go so far as to put the construction and repair of those levees, not in the hands of the commission, but in the hands of the Chief of Engineers and the Secretary of War, neither of whom is to be a member of the commission. These officers are to go on and expend money for this work which is all to be under the charge simply of one engineer appointed for that purpose. Therefore I say that these two sections are in no way in harmony with the general purposes of this bill. In fact it will be seen at once that if this work be carried on by the Chief of Engineers and the Secretary of War under these amendments, the whole object of the first part of the bill is interfered with and prevented.

Again, we had before us, and there are now before this Committee of the Whole, in discussion various theories which commend themselves to different gentlemen with varying degrees of force. I am led to believe, Mr. Chairman, that there is not on this floor any man who sees this whole subject through and through, who understands thoroughly the mighty problems connected with that river and valley. I find as a matter of fact that gentlemen who represent the

States along the Mississippi Valley are not agreed upon those theories. I find members upon this floor who say, for instance, that one-half of a district represented in this Congress is in favor of the levee system and another half utterly opposed to it. Then, the people even in that neighborhood are not agreed. There are various plans, as I have said; notably the plan of keeping the river within the limits of its natural banks for all time, bringing down its flood-line so that the body of water shall be set to work upon the bottom or bed of the river, thereby rendering it unnecessary that these walls of mud alongside the river should be carried up and up into the air, perhaps for the immediate protection of the land but to the certain terror of everybody living in that neighborhood thereafter.

It must be known that this is the theory of Captain Eads. Whether or not he makes a final or perfect success at the pass of the Mississippi River, where he is now operating, he certainly has accomplished enough to challenge our patience and our investigation of his theories. He says that he would lower the current of the river so that it should be within the natural banks, thereby rendering the levees useless. I find his ideas on this subject expressed in some remarks submitted by him in New Orleans last year. I ask the Clerk to read a passage which I have marked, in order that it may be understood that this is a theory advocated by a gentleman prominent in the scientific world, and one who has been intrusted by Congress with the money of the Treasury.

The Clerk read as follows:

I am satisfield that if the volume below Red River were increased, as it would be by closing Atchafalaya and compelling Red River to seek the sea by way of your city, it would lower the flood-line five or six feet at the mouth of Red River and more than two feet at New Orleans.

The same reasoning assures me that closing all gaps and crevasses in the levees, and thus increasing the volume in the natural channel, will not necessitate higher levees, and hence the estimate of $46,000,000 is very excessive and unreliable, because it is based on the idea of raising them from three to eleven feet higher than before the war. The great objection to the levee system is not from the present amount needed for absolute protection from the near floods, because four or five million dollars would insure this; but it is the incessant destruction of them which must ensue from the cause I have named. Remove that cause and the levees can be cheaply maintained, but when the cause of the caving banks is removed we will find the flood-slope lowered and levees useless.

It will be seen that this system is radically different from that advocated by the levee commission, by Humphreys, Abbot, Warren, Hebert, and engineers of lesser fame, who adopt the theory that there is no relation between the velocity of current and amount of sediment carried, because they have invariably compared the velocity per second with the sediment contained in a cubic foot of water, and not with the total amount carried by the whole river in each respective second of time that the velocity is noted.

They advocate the diffusion of water by outlets and raising high levees around the wide places. I advocate its conservation, every drop of it, in one channel of uniform width, and the abolition of all the wide places; the closure of the outlets, every one of them, and, if found necessary, the closure of the island chutes. They propose to attack the banks of the river with shovel and wheelbarrow to accommodate its anticipated elevation ten or a dozen feet higher than ever before. I propose to set the river to work in the bottom of its bed, as we did at the jetties, and, while deepening it for the benefit of commerce, lower its haughty crest forever. They provide for a river carried threateningly above the land, a constant source of terror and anxiety, while I propose that its vast volume, in all the grandeur of its mightiest floods, shall be viewed with an admiration devoid of fear, from happy homes safe above its surface.

Mr. ROBINSON, of Massachusetts. It will be seen from these remarks of Captain Eads on the protection of the alluvial lands—that was his subject—that he would make the levees useless. I stop there, and I say that Congress has no right to spend $4,000,000 out of the Public Treasury immediately without investigating a theory and a plan which proposes to render such an expenditure wholly unnecessary.

Mr. ROBERTSON. Does not Captain Eads recommend as a part of his plan that the crevasses should be closed?

Mr. ROBINSON, of Massachusetts. Captain Eads has not made that recommendation in any form that has reached me; hence I am not prepared to answer that question.

I want to say that I was present at a hearing on this subject at Willard's Hotel when Captain Eads explained his project. When a question was asked whether levees formed any essential part of his plan he said they did not, and that he should disregard them. Subsequently I have been informed he said he would for the present, as a temporary expedient, close some of the crevasses, but I do not understand it is his theory to put $4,000,000 upon the top of these banks. And moreover, Mr. Chairman, while gentlemen upon this floor seem to differ about what is the plan of Captain Eads, I think this Congress should well pause to take some proper way to find it out and not leave it to the dictum of any gentleman here.

Mr. HOOKER rose.

Mr. ROBINSON, of Massachusetts. I will yield to the gentleman from Mississippi for a question.

Mr. HOOKER. I desire to ask the gentleman from Massachusetts whether, if Captain Eads proposes to accomplish the result of allowing the citizens to reside upon the banks in quietude and peace, he proposes to do it by depening the channel, or by opening outlets for the river, or in what other way he proposes to accomplish it?

Mr. ROBINSON, of Massachusetts. In answer to the gentleman from Mississippi, I wish to say in brief, although it is not necessary for me to state it, that Captain Eads's theory is based on the same idea that is at the basis of the jetty system, that he would build his works within the banks of the river and set the river itself at work upon its bed scouring out its bottom. In opposition to that, it may be necessary to state that Army engineers, many of them, disagree with that theory. They say it is not sound—that it will not work the desired result, because it is claimed by them a large portion of the bed of the river is of hard blue clay and will not yield to the erosive action proposed; and therefore, when you confine the water, instead of scouring the bed, it will scour the sides down, together with the banks, levee, people, and all. That, we are told, is the difficulty about the matter. Then, upon this great question Captain Eads and the Army engineers are directly at variance, and I say it is well the subject should be investigated in the proper mode before we spend money on it.

I was about speaking of the outlet plan, and especially in reference to one of them, that of Colonel Cowden, to which the chairman of the committee has already referred. I wish to say, and I think it is due to Colonel Cowden to say a little more than the chairman has said, that we gave him the briefest hearing of any man who came before us; that we gave him the long time of about ten minutes. He has appeared before the Committee on Commerce recently, and submitted a memorial, which is now in print, and may be had by members. It is Miscellaneous Document No. 13. It gives the statement of his plan and views. He proposes, and so do others—for, on investigation of engineers' reports from time to time we find they say the outlet theory has been advocated by gentlemen of the highest ability, and not alone by Colonel Cowden—he proposes, as he illustrates it, to let the water out of the barrel through three holes instead of one, stating that three holes would carry off more water than one. Perhaps there are more than one now; but he would add three to whatever number there may be, and the three more would carry off more water.

Mr. ACKLEN. I should like to ask the gentleman a question.

Mr. ROBINSON, of Massachusetts. Let me make my statement first, and I will be happy then if I can answer the gentleman's question.

Colonel Cowden's plan is to relieve the Lower Mississippi of the surfeit of water, and that relieving the channel of the excess of water will, as he claims and as claimed by others who favor the idea, prevent overflow of the adjacent lands. He would open the river, for instance, into Lake Borgne, which connects with the Gulf of Mexico on the east, if I am not wrong in my geography, which would carry off a large portion of water in that direction. And it is well known that down the channel of the Red River comes an immense flood of water, contributing to the height of the Mississippi. He proposes, before that reaches New Orleans, to divert it and carry it into the Gulf of Mexico by the Calcasieu River. He proposes, also, that the Atchafalaya shall bear off from the Mississippi the waters of the Ouachita and other tributaries. That I understand, in brief, to be the outline of his plan, that if the water is kept away from the channel of the Lower Mississippi the people living along its banks will have less cause to fear, and those banks will be protected and ready for occupation and tillage. I will now hear the gentleman from Louisiana.

Mr. ACKLEN. The gentleman from Massachusetts has made the statement that Mr. Cowden's idea was that he could let the water out of the barrel by three holes more readily and rapidly than he could by one. I ask the gentleman whether that would not depend altogether upon the size of the holes. In the first place, he proposes to let the water out of the Mississippi River by a large number of small outlets. By Captain Eads's plan it is proposed to force the water out of the Mississippi River by deepening and enlarging the capacity of the river both at its outlet and for several hundred miles up its course.

Mr. ROBINSON, of Massachusetts. I wish to say in reply to the gentleman that the size of the hole makes a great deal of difference. [Laughter.] I am going to leave it to the Congress of the United States hereafter to say what that shall be, and not let anybody in this House tell us what it shall be. I would not even let the gentleman from Louisiana decide that for me. [Laughter.]

Mr. ACKLEN. I should not oppose the commission by any means, but I should also strongly advocate the amendment.

Mr. TOWNSEND, of New York. I desire to ask the gentleman from Massachusetts a question.

Mr. ROBINSON, of Massachusetts. I shall be glad to answer it if I can.

Mr. TOWNSEND, of New York. Does this individual who proposes to take water out of the Mississippi propose to do it in the interest of the navigation of the Mississippi?

Mr. ROBINSON, of Massachusetts. In answer to the gentleman from New York, on the Upper Hudson——

Mr. TOWNSEND, of New York. On the Upper Mississippi.

Mr. ROBINSON, of Massachusetts. Having an interest on the Upper Mississippi also, I will reply that I am not prepared to say what Colonel Cowden's plans in detail are. I am not here to advocate his plans. The Committee of the Whole will not of course so understand me. I infer, however, that his plan looks more to the protection of the lands than it does to the improvement of the navigation of the river. Then, there is, as a third proposition, this one of the levee system. Now, this question has been reported upon by various commissions of engineers, in part only at any one time. We find the commission constituted under the act of 1874, the president of which was General Warren, submitted to the Congress assembling thereafter a full report on the question. They made recommendations for an extensive survey of the whole locality. That commission was intrusted only with the duty of examining into and reporting upon the proper method of reclaiming and protecting the lands, not upon the improvement of the river.

This same question also has been under consideration of different committees of Congress from time to time; and I find in the report of the Senate committee in the Forty-second Congress—a report by Senator Alcorn—a paragraph that is very significant upon this proposition to repair the existing levees. After an investigation by that committee he submits the views of the committee, and I ask the Clerk to read the portion which I have marked. It will be seen that he says it would be wholly inadequate to repair the existing breaks and simply maintain the present levees.

The Clerk read as follows:

The estimates made by the Government engineers of the works on the Mississippi River consider "repairing existing breaks," "perfecting existing levees to the present height," and "perfecting existing levees to the *proper* height." "Repairing existing breaks" would, so far as the great aims which make the levees national, be a mere waste of public money. "Perfecting levees to the present height" would, in face of the scientific investigations which show that height to be totally insufficient, be a weak dalliance with a national duty. Your committee, therefore, have no hesitation in recommending that Congress go at the work of giving to the country the immense resources of the Mississippi alluviums in the spirit of intelligent earnestness which demands all that the Government engineers estimate under the head "perfecting existing levees to the *proper* height." To patch those works in any form short of this would be but to adjourn the question of their execution, after the loss of the immediate benefits which make the final disposition of that question an urgency of the hour, to be dealt with by and by in the more enlightened statesmanship which *demands that it be dealt with thoroughly now.*

Mr. ROBINSON, of Massachusetts. So much for the views of the Senate committee of the Forty-second Congress. And now, turning to the investigation made by the commission of 1874, at the head of which was General Warren, I find that commission declares that the present levee system is entirely defective and insufficient; that it is not sufficient for the demands of the locality. It will be borne in mind, in listening to the portion I shall ask to have read from that report, that the commission speak also of the reclamation of the lands. The lines should be drawn sharply between the plan for the protection of the lands in the future and plans for the reclamation or restoration of the country that has been injured by the previous floods. I ask the Clerk to read the portion I have marked from the report of the engineers' commission under the act of 1874.

The Clerk read as follows:

It being certain that the alluvial regions of the Mississippi can only be reclaimed by levees, it remains to consider what experience has taught respecting them. The existing system was begun a century and a half ago, near New Orleans, and has gradually extended upward until there are but few points on the river at which it has not been tried. The crops of cotton, sugar, corn, and rice heretofore gathered from the alluvial region, with all the existing wealth represented by lands under cultivation, cities, villages, plantations, and stock, are the direct fruits of this method of protecting the country against overflow. It cannot, therefore, properly be called a failure, and yet the actual condition of the region to-day is such as to demonstrate that the practical application of the system is fatally defective, and that unless some radical improvement be made, no hope remains of opening to cultivation the immense districts of back lands now exposed to annual inundation through annual breaks in the levees; and also that only precarious crops can be expected from the narrow fringe of plantations under cultivation now skirting the immediate borders of the Mississippi and its principal bayous and tributaries. To determine, therefore, in what respects the existing system is defective is highly important. The faults are only too apparent. They are:

First. Vicious levee organization.

Second. Insufficient heights, in adjusting which only existing high-water marks have been considered, without remembering that there has never yet been a great flood in the river in which the water has not been greatly lowered by immense crevasses which occur with absolute certainty.

Third. Injudicious cross-sections and construction, which alone would be sufficient to explain many of the frequent breaks, under the combined influence of pressure, seepage, burrowing of craw-fish, &c.

Fourth. Inadequate arrangements for inspecting and guarding.

Fifth. Faulty location of the embankments, which are often placed so near caving banks as to insure an early destruction.

Mr. ROBINSON, of Massachusetts. That commission suggested that the most proper plan would be a system of double levees. Now, I for one am not competent, and I presume many other gentlemen on this floor are not competent, to judge on that matter and not prepared to-day to vote on such information as we have. I hear gentlemen from that locality say that the recommendation of the commission is absurd, but I have not information enough to decide for myself for my own vote that the five gentlemen constituting that commission have put forward something that is absurd in science.

It was argued by a gentleman on the other side, I think the gentleman from Mississippi, [Mr. CHALMERS,] that the levees would constitute a means of enlarging and deepening the channel of the river and of scouring it out. Why, sir, it need only be suggested upon that point that if the bottom of the river is hard, as I said before, this scouring will be on the banks and against the banks of the river and to the damage and destruction of the levees, instead of upon the bottom.

But there are more serious questions than any of these I have touched upon, and because of these I feel this Congress will stop to consider before it puts out $4,000,000 from the Treasury of the United States in the repairs of levees. It has been said that the Government is committed to this work of repairing the levees. I take issue with that statement. The Government of the United States has ordered investigations from time to time and asked for plans and has given to the States grants of swamp and overflowed lands in order that they might repair their levees and keep out the enemy from their doors. But the Congress of the United States has not opened its Treasury to pay the labor that should build the levees along the banks of the river. This is the point where the new departure is sought; and I believe, Mr. Chairman, that we shall all pause and give it most careful reflection before we enter upon that great work.

Why, there are sovereign States in the Mississippi Valley. Many of them are jealous of their rights and perhaps would not wish to have their domain invaded by the national authorities for the construction of these national works. Will the United States go forward into the Mississippi Valley spending millions of dollars when it has no jurisdiction over the land it steps upon? Will it put men there to work upon a line where it has no right of way? Will it put its property into the embankments along the Mississippi in the various States and afterward be powerless to go upon that property and protect it? Consider it in that way. The State of Louisiana may be ever so vigilant; she may have the most perfect system of levees; the river may be carefully guarded so far as the levees of Louisiana are concerned; but the great old river is regardless of State lines, of the existence of Louisiana, and whenever there is a defective levee in Arkansas over it goes into Louisiana, spreading devastation in its course. That is true of all the States upon the river except those at the north. The United States, if it puts its money into this system of repairs, has no power to protect these levees; it has no power there to set its foot upon the territory of those States for that purpose. You may build the most perfect levees in any one of these States and there are enemies of the levees, both human and brute, who will destroy them at the first opportunity.

Why, sir, some jealous rascal, who is offended because a planter in his neighborhood is more prosperous than he, will dig a hole in the levee some night and let the water in and devastate the whole district, and in the same manner, but innocently, the musk-rat will do the same thing for his own diversion and pleasure. Why, sir, upon the great levees built in Egypt, upon the Nile, there is constant inspection and guard upon the whole line. It is watched and guarded and as much looked after and protected as are the great railway lines that belt this continent.

I do not believe that it is policy, I do not believe that it is safety for the United States Government to put its money into such a work beyond supervision or control. In the States there are local provisions imposing penalties for injuries to this class of property, but when these lines of levees become the United States property the United States has no jurisdiction through which it can make penalties or enforce them after it has provided them.

Mr. Chairman, I have said enough to give to the Committee of the Whole my views upon the whole subject. I am in support of the bill as reported by the committee, the first nine sections of the bill. This subject has been coming before Congress from time to time and it will continue to come until the people's representatives here have met it and passed upon it. The people of the Mississippi Valley, in the lower part of it, have a right to be heard upon this subject and to have their interests investigated and if possible acted upon if within the limits of the constitutional power of the Government and proper policy. I say that it is not the duty of the country to continually thrust this great question aside upon one pretext or another, but it is our duty to meet it squarely as a man would deal with such a question in his own affairs. He would sit down first and count the cost, and not begin to build a tower and have not the wherewithal to complete it. I say to the friends of this measure who believe that the whole system should be adopted that it is their duty to be patient and wait until the whole country sees that it is not only a proper but a necessary thing to do. I am not deterred by any considerations that when the great river is opened to commerce to an enlarged extent more freight will go down its bosom and be diverted perhaps from the great cities on the Atlantic shore. I am willing that the whole country shall be improved and opened for its best and most profitable occupation.

This territory whose interests are affected by this measure is greater than the whole of New England. I am not afraid that whatever improvements may be made there New England will be left out in the cold. Whatever conduces to the prosperity of the West or the South will benefit the East and the North. We are parts of one great whole, and if it is necessary under a proper policy to spend some money from the Treasury of the United States to meet the wants of those States lying along the Mississippi River, I hope it will not be begrudged to them, but it should not be done and the Government should not be committed until the plans have received a careful consideration and indorsement of the proper officers.

Therefore, Mr. Chairman, as I said at the outset, I favored the bill as reported by the committee. I am opposed to the amendments which have been offered, and I say very frankly that if any of the amendments offered or suggested become a part of the bill, I shall be compelled to record my vote upon it in the negative.

Mr. SPARKS. I understood the gentleman to say that he was in favor of the first nine sections of the bill.

Mr. ROBINSON, of Massachusetts. Of the first nine sections.

Mr. SPARKS. Is the gentleman in favor of this portion of the fourth section of the bill, namely, "and for the protection of the alluvial lands of the Mississippi Delta from overflow from said river?"

Mr. ROBINSON, of Massachusetts. My impression is either that the gentleman from Illinois [Mr. SPARKS] has not been present while I have been addressing the committee, or that I have been singularly deficient in making myself understood.

Mr. SPARKS. That provision is in section 4. Are you in favor of that?

Mr. ROBINSON, of Massachusetts. I will answer the gentleman

This bill is intended to provide a commission to devise a plan for the improvement of the Mississippi River and the protection of the alluvial lands combined. If, as a part of the whole plan for the improvement of the river for purposes of navigation and incidental thereto, the lands of that valley may be protected—I am in favor of it. But if the result of the work of the commission should be only a report for the protection or reclamation of the lands alone, then as I now stand, as I am at present advised, I could not advocate or vote for such a proposition.

I have said, Mr. Chairman, all that I desire to say upon this subject, unless some gentleman wishes to ask me a further question.

The CHAIRMAN. The gentleman has thirteen minutes of his hour remaining.

Mr. ROBINSON, of Massachusetts. I will reserve that time subject to my control in the future.

Mr. ELLIS. Mr. Chairman, it is my opinion that if this great Mississippi River found its original sources in the Rocky Mountains and then its outlet to the sea somewhere on the upper Atlantic coast, long since, had necessity required, it would have been walled in with marble and deepened, if need were, a thousand fathoms. If it rose somewhere in Russia and found its mouth down in the warm waters of the Mediterranean, ten millions of lives if not more would be sacrificed to control the river, and millions, nay hundreds of millions of dollars would be expended like water to make it perfectly subserve all the great and grand purposes intended by the bountiful Father in its creation.

One thing I would like to say right here, and I say it in no feeling or spirit of bitterness and with no intention even to engender or to originate a sectional thought. But I want the Representatives of this House, and particularly those from the northern section of the Union, to know one fact. While we of the South ask the mere pittance to improve the great river and protect the dwellers on its banks, in the coffers of the United States, in its Treasury, there are to-day $86,000,000 unconstitutionally and illegally collected upon the products of the very soil which is watered and enriched by this great river, and more than forty millions of that amount was collected in the States through which this river runs and whose lands and lives and homes we seek to protect by the passage of this bill.

There are $40,000,000 to-day in the Treasury of the United States unclaimed under the title of "captured and abandoned property" fund gathered from the wrecks of the alluvial States. Nobody claims it; it will never be paid back. Neither of these funds will ever be reimbursed. We do ask that you give us at least the interest of these great sums so that the lands from whose rich products they were wrung may be protected and rehabilitated.

This is no new subject; it has been a fruitful theme of debate very frequently in this Hall and in the other end of the Capitol for many years. When gentlemen tell us that we are not prepared to act, they very seriously criticise the action of a former House. In the Forty-Third Congress this House passed a levee bill appropriating, I think, some $3,600,000. That bill was beaten in the Senate by a single vote, and at a time, too, when the party to which the gentleman from Massachusetts belongs and which gave that vote had a two-third majority in this House and a very large majority in the other branch of Congress.

I propose to speak to-day, Mr. Chairman, not so much upon the bill reported from the committee or the amendments offered by my colleague [Mr. ROBERTSON] as upon the substitute which I have myself offered. I do not seek to dodge behind the commercial phase of this question. It is true that the commerce of the Mississippi River will be promoted and protected by levees. There is no question but that the deepening of the channel of the river, the washing out of its bars, and the removal of its snags will be promoted, will be accomplished by the building of levees; there is no doubt of that. But I also insist that it is the duty of this Government, its solemn and binding duty, to say that this great river which drains twenty-six States and Territories, and which performs that service in favor of the people who live in the higher latitudes, should be so guarded as to work no injury to the dwellers below. It is a national duty, binding in law and morals. Further along in my argument I will dwell briefly upon this feature of the measure.

In one phase this is the old question of internal improvements, practically the question which has so often occupied the time and attention of publicists, and which indeed has constituted one of the great questions upon which the political parties of the country have differed. But amidst all the conflicting theories upon this question I hold that there can be no doubt that where a work of internal improvement is either national in its character, national in its extent, or national in its influence, Congress may with perfect propriety lend its aid.

A work may be national in its extent, when it extends through several States and Territories, or it may be national from the influence which it is designed to exert. The jetties of Captain Eads which are confined to an extreme portion of the Union are national in their influence and national in their results. So, too, the Union Pacific Railroad, as well as the proposed Texas Pacific Railroad. These great measures are national by reason not only of the results which so flow and are to flow from them, but by reason also of the extent of the works themselves.

We are met by the gentleman from Massachusetts [Mr. ROBINSON] with two or three difficulties in the outset. In the first place, he intimates that we are divided among ourselves, that we do not know the character of the relief we want.

Mr. Chairman, the gentleman is mistaken in that. We do know that we want the levees, a system which from 1845, about the time it became general, up to 1861, was tried and found effective in protecting the lands and in keeping the navigation of the river open and unobstructed. We are told that one faction advocates a system of weirs and outlets as the proper mode of relief, and that we should pause until we ascertain which system it is best to adopt.

Now, Mr. Chairman, I desire to appeal to the common sense of this House upon this proposed theory of outlets; I desire to appeal to the experience of every man who has traveled up and down the Mississippi River; I desire to appeal to the late reports of soundings by distinguished engineers, to show conclusively that wherever an outlet occurs, wherever a crevasse occurs and the water is diverted from its main channel, below that crevasse the river invariably fills up and bars are formed. Nature is always conservative in her action; she does not use more room than she requires; and it stands to reason that in sedimentary streams, where the dense sediment is suspended and carried along by the current, so soon as you check that current or decrease the volume and power of the flow which suspends and carries the sediment a deposit will occur in exact proportion with the check and decrease of power. Divert one-sixth of the water at any given point and it stands to reason that one-sixth less room is required below that point, and therefore conservative nature fills it up. In support of this theory I cite the remarkable case of the Tones Bayou, a little outlet which occurred in the Red River some twenty or twenty-five years ago, which in the beginning was only twenty or twenty-five feet wide, but which deepened and strengthened until it absolutely threatened to close up the navigation of Red River below, so that Congress was obliged to appropriate money to close the bayou. You gentlemen who voted for the last river and harbor bill appropriated $25,000 for that purpose, and $25,000 had been appropriated before, making in all $50,000 appropriated for the purpose of saving the navigation of the Red River by closing Tones Bayou. Since it has been closed by a dam and the whole power of the river current is confined to the channel the water has washed out the bars below and navigation is restored as completely as before. But in further support of the theory that crevasses or outlets form bars below their point of divergence I send to the Clerk's desk and will ask him to read the experiments and actual observations of Mr. Bailey, once a distinguished civil engineer, and now deceased; a gentleman who is remembered for eminence in his profession as well as for many civic virtues:

The Clerk read as follows:

Mr. Bayley says: "On September 20, 21, (after the occurrence of the Bonnet Carre crevasse in April, 1874,) when the river was very nearly at its lowest stage, 20 feet below high water, I measured and carefully sounded two river sections above the crevasse outlet, one opposite and two below it; taking transit angles to each sounding. Sections 1 and 2 were taken 1 and 1¼ miles above the outlet, respectively; sections 4 and 5 were taken 750 and 1,500 feet below the outlet; sections 1 and 2 (taken above the crevasse) gave the following dimensions respectively: Widths, low water, 2,886 and 3,014 feet; maximum depths, 110 and 79 feet; mean depth, 64 and 54 feet; sectional areas, 184,653 and 164,167 square feet; high water width, 3,120 and 3,210 feet. Sections 4 and 5 (taken below the crevasse) gave the following dimensions respectively: Widths, low water, 2,406 feet and 2,452 feet; maximum depths, 62 and 64 feet; mean depth, 40 and 42 feet; sectional areas, 96,640 and 106,150 square feet; high water width, 3,300 and 3,430 feet. The average dimensions of the two upper and the two lower sections were as follows: Low-water widths, 2,950 and 2,429 feet; depths, 59 and 41.65 feet; sectional areas, 174,410 and 101,395 feet. Reduction of channel below average of upper and lower sections in width, at low water, 521 feet; in depth, average of whole sections or mean depth, 17.35 feet; in area of channel section, 73,015 feet—square feet. The mean high-water sectional area above was 232,003 square feet, and below, 156,913 square feet; reduction below 75,000 square feet.

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"The bottom, or the river-bed, when the upper sections were taken, consisted of firm blue clay into which the 11-pound sounding-lead sunk from 1 to 2 inches only all the way across, while the depths were tolerably uniform, all indicating a channel of full natural dimensions free from deposits. The bottom, when both the lower sections were taken, was a soft, oozy mud or silt, into which the sounding-lead sunk from 1 to 2 feet, except near the left bank,' (where the current was strongest,) on the bend side of the river, where the bottom was also firm clay and free from deposits. Opposite the lower sections the sand-bar on the right-bank side had encroached upon the channel so much that the low-water width had been reduced more than 500 feet, and a new sandy ridge, evidently a deposit made during the preceding high water, from 12 to 15 feet high at its lower end, had been formed above the low-water line and over the old bar, in a direction parallel with the thread of the current, from the river above into the outlet opening. Very extensive new deposits of sand had been made in the right-bank bend next below, several feet high above low water and extending several hundred feet out from the shore-line; these were known to be new. Everything, the new sand-bars and sandy deposits, the new, oozy mud or silty deposits, extending nearly across the river channel below the outlet, and the very great reduction of channel-way below caused thereby, indicated most unmistakably that this Bonnet Carre crevasse outlet of 1874 did cause a partial filling-up of the river below." The experiments and observations of Mr. Bayley leave no room to doubt the fact that the crevasses of the Mississippi River swiftly and directly operate the formation of bars in the river below their point of outlet. He cites also the effect of outlets upon Red River, and especially the outlet known as Tones Bayou, some twenty miles below the city of Shreveport.

In twenty-five years this bayou, which, when cleared out, was an insignificant outlet, has increased its sectional area to 5,600 feet, while that of the main river below it has been reduced to 3,500 square feet; its depth has decreased 15 feet, and its channel has been contracted some 300 feet. An official report confirms Mr. Bayley's statements, and attributes the decrease in the area, width, and depth to the outlet above, "which has been," says the report, "constantly enlarging."

Mr. Bayley concludes that "the same law governs in all sedimentary rivers, whether small or great. The first effect of an outlet is to lower the flood-line of a river, because time is required to readjust the river's regimen; but the ultimate

effect the reverse, because the law is that the less the quantity of water flowing the greater is the slope required for its discharge at a given velocity."

Mr. ELLIS. Upon this same point I quote from Professor Caleb G. Forshey, a very distinguished engineer, who has given perhaps twenty-five years of his life to the study of the Mississippi River and whose ripe scholarship and eminent attainments have justly awarded him a national reputation. Professor Forshey first announced this doctrine in 1850, and found himself combated by the entire Engineer Corps of the United States Army. In a late paper read before the Society of Civil Engineers this distinguished scientist and engineer says:

Outlets or water-weirs will form outlets almost immediately across the stream and directly below the weir or outlet. This is amply shown in the report upon the Bonnet Carré crevasse of 1850. Soundings showed the section below to be contracted 75,613 square feet as compared with a section at the upper end of the crevasse.

Now mark:

Soundings made during the high-water of 1851, the crevasse having been closed, prove that the great bar thrown across the river channel, by weakening its transporting forces in the discharge of water through the crevasse, was entirely carried away when the river was confined by the new levee. The difference was twenty-three thousand feet in the section.

Why, Mr. Chairman, this is the very theory on which Captain Eads is proceeding at the mouth of the Mississippi River. His jetties are mere levees—nothing else in the world than levees—and this scouring process, which we claim will be the result of rebuilding the levees, is absolutely vindicated by Captain Eads's experiments. He built levees in the South Pass; he confined the entire river in a narrow channel; he has caught up and concentrated the power of the river, and lo! it fights its own way to the deep sea, and makes for itself and for commerce a channel commensurate with the demands and necessities of both.

Now let gentlemen who advocate this outlet system beware. Let them reflect that if they inaugurate this mad system of diverting the waters of the river at given points bars will form below every point of diversion. The more the bars form the greater and deeper and wider will grow the outlets. The bars will increase, and new outlets will be demanded. It must go on in this way; and if the Government should attempt to carry out this insane theory the result will be that in forty or fifty years this magnificent river, this mighty inland sea, the first view of which thrilled the knightly soul of De Soto with dreams of splendid empire, will be utterly shoaled and barred, its strength filtered away through outlets and its usefulness utterly destroyed. The more outlets that are made, the more the bars will form. As the bars form and fill up the channel, the more will the outlets deepen and widen. Flood lines temporarily lowered by outlets will rise to their normal line and height just so soon as the river readjusts its regimen to its new requirements by deposits of sediment. Pursue this insane and exploded theory if you will, and you will utterly destroy the Mississippi River for commercial purposes.

Men of the West and men of the South, what say you to that dire possibility?

But we are told by the gentleman from Massachusetts [Mr. ROBINSON] that because Captain Eads has asserted his theory and announced his stupendous plan of straightening the river and thereby lowering the flood line, we are therefore not agreed as to a remedy, and we had better pause and ascertain the true plan to be pursued before spending money upon an uncertain experiment. Mr. Chairman, I tell my friend from Massachusetts that we have been pausing a little too long about this matter. Why, what is this theory of Captain Eads? Is it not the very doctrine underlying his theory that so soon as the river is straightened its scouring capacity will be increased, its force and power accelerated, augmented, and by the very action of its own current thus quickened in flow and augmented in power it will its own current thus quickened in flow and augmented in power it will deepen the channel until the channel shall be washed out, room for all its waters made, and the flood line of the river will be lowered to the level of the banks, and levees will be unnecessary. He wants $46,000,000 to do that. We ask a little above $4,000,000 to perform the same work by means of the old and well-tried system of levees. But in addition to the opinions and actual experiments of civil engineers we have the universal experience of the oldest and most experienced of our steamboatmen that so soon as the levee-system became general in 1845 and 1848 many bars were washed out, many dangerous snags and sawyers were removed, and there was a perceptible deepening of the entire channel of the river from Cape Girardeau to New Orleans. I hold, therefore, that in appropriating money to repair and rebuild the levees of the Mississippi River, the immediate effect of which will be to remove bars and deepen the channel of the river, Congress is moving directly in the interests of the commerce of the country. And for such purposes its constitutional power and authority are unquestioned.

But, again; how is the commerce of the river unfavorably affected by the crevasses and breaks in the levee? Mr. Chairman, those who have never seen a crevasse can form no adequate conception of its force, power, and destructiveness.

The force of a mighty outlet creates a powerful suck or counter-current from the center of the main stream; and this force exists in every crevasse, stronger or weaker as the outlet is greater or smaller. These maëlstroms draw with immense power and overwhelm whatever comes within their terrific grasp. The steamer, piloted with care and driven by ponderous machinery, and obedient as a child to the touch of the wheel, by hugging the opposite shore in the daytime, passes the point of danger in safety. But at night, and especially when the nights are dark or during the prevalence of the dense fogs that are so incident to that climate, the steamer is often obliged to land and tie up and await till the coming of day, or until the lifting of the fog, so as to pass the maëlstrom of the crevasse in safety. This operates a great deal of vexatious delay in the transportation of passengers, mails, and freight, and loss of time and money.

But steamers do not always escape. In the year 1875 one of the most costly and splendid steamers of the Lower Mississippi River—the Katie—freighted with four thousand bales of cotton and carrying hundreds of passengers, was drawn into the Bonnet Carre crevasse and came near proving a total wreck. Below New Orleans, at what is called the Jump, a large steamer—the St. Nicholas—some years ago was drawn into the crevasse and lost, and to-day her wreck may be seen from the river—a mournful proof of the dangers of the crevasse and a warning to those whose duty and whose province it is to guard and protect the commerce of the majestic river.

But while the steamer, guided by human intelligence and driven by machinery, may pass with comparative safety the suck of the crevasse, not so with vessels propelled with sail or oar or poles. And a busy and profitable trade has ever existed upon the Mississippi River by means of barges, flat-boats, rafts, and other kinds of trading-boats. Many of them do a mere local traffic, while others are freighted away up the Ohio and Missouri and Upper Mississippi, and floated down to the mart at New Orleans. Huge rafts of valuable timber also are gathered and floated upon the current of the river to a market. Even coal and grain barges in tow of a powerful tug and projecting their lengths a quarter of a mile in front of the tug are defenseless as the smaller water craft against the remorseless grasp and power of the crevasse. All are liable to be drawn into its jaws and totally wrecked. In the fall of 1874, when passing through the track of Bonnet Carre crevasse, I saw a flat-boat lying high and dry upon a pile of drift-wood fifteen feet in height. And during the flood season, which lasts from four to five months, commerce of this character is wholly and totally paralyzed. And it is no insignificant item, for thousands of men are engaged in it, and millions of money are invested in it. The statistics show in 1870 the arrival of some three hundred flat-boats at New Orleans, while in 1860 the arrivals were eight hundred and seventy-nine. This falling off, which has increased in the past six years, tell the sad story of the decline of the commerce of the river in this line of water craft. And here, Mr. Chairman, I desire to impress upon the members from the great West, from Ohio, Indiana, Illinois, Missouri, and other great States of that region, that this class of commerce was and is peculiarly theirs.

And another impressive fact for their consideration is that the opening of the mouth of the river through the enterprise of Captain Eads and the aid of the Government will make the Mississippi River their great highway to the sea, and that their vast crops of grain in bulk will be transported in barges down the river, and that there are now unclosed and unchecked more than thirty dangerous crevasses which if unclosed must during four or five months of the year operate the most serious danger and hinderance to that particular kind of water craft. The same may be said of the coal-barges which are laden with the toil of the hardy miners of Pennsylvania and West Virginia at Pittsburgh and Wheeling to float down fifteen hundred miles to the levee at New Orleans. Thus, Mr. Chairman, do the interests of East and West demand alike that the navigation of that great national highway be made safe and its commerce free from peril and accident.

Though the dwellers in those regions are safe from the ravages of floods and have not listened with anxiously beating hearts to hear the swollen and angry river dash its mad waves against the frail levee in front; though they and their wives and children may never hear with wild alarm the terrific and triumphant roar of the river's voice when it has burst through the barriers that bound it and sweeps around and against their homes in its desolating career, yet their vital interests call for these measures of relief, which will make the dwellers by the river's side as safe as they in their upland homes.

I ask you, men of the West, if you will see the usefulness of the river and the mission it was sent to perform for you utterly destroyed by the failure of the Government to appropriate money in its behalf? Talk to me about the fear of subsidies! I tell you men of enlightened opinion, you men of information, it is your duty to lead your people to the light in regard to these measures, and not permit them to stand between you and the light. I say the man of the West who cannot go before his people and successfully defend his course in voting to deepen the channel of our great river and make its commerce safe is not worthy to represent that people on this floor.

But, sir, there are yet other commercial considerations to be advanced in support of this great measure. The Mississippi River, from Cape Girardeau to within fifty miles of its mouth, runs upon a ridge. Its natural banks in the lowlands are about seven feet above the lands one mile from the river's margin; or, in other words, in a straight line at right angles with the river the land deflects seven feet in one mile. The levees upon the banks vary in height from seven to twenty-two feet. In the flood season of each year the waters rise nearly to the top of the levees, so that the flood-line of the river is from fourteen to twenty-nine feet above the homes and fields of the dwellers in the plains below.

It is a well-known fact that when a levee is once washed over or broken through it is almost impossible to save it and prevent a crevasse. A steamer of large size will hurl a succession of waves fifteen or twenty in number, and varying in height from eighteen to twenty-one inches, from her side-wheels against the levees.

I send to the Clerk's desk and ask that he read from this report the portions I have marked. They are the calculations and results of the observations of a distinguished civil engineer from whom I have already had occasion to quote.

The Clerk read as follows:

The claim of the inhabitants of the Delta for national aid rests upon much stronger grounds than mere prospective revenues and productions. These claims come in the form of reclamation. They are based upon the perpetual and ever-increasing attack upon the levees by the passing commerce of twenty-six States and Territories of the Union. * * * The steamers that transport this commerce send their waves ceaselessly against banks and levees, lashing and abrading them with tremendous power. The Lower Mississippi rarely rests. One series of waves succeeds another, and each wave finds its rest in the equivalent of its force transferred to the banks and channel of the river. These lashings and abradings, independent of other causes, render the task of levee construction more and more oppressive yearly, until they have become intolerable. That this burden should be borne in part by those whose commerce attacks and batters down the levees, appears most equitable.

* * * * * * *

The forces started by a steamer in motion are chiefly lateral. The bow of the vessel and the paddle-wheels throw up waves that find movement only upon the river's surface, and even when the paddle strikes downward the displacement of the water is lateral, except at a short distance below the dip of the wheel. The force operates downward only at the wheels or propeller, and the reaction causes waves which race along the surface in successive lines, and break against the levees. And since the waters are indefinitely mobile among their particles, repose for the results of force can alone be found against the walls of the channel. The total force exerted against the bank must be the same whether diffused or concentrated, though the abrasions may be totally different. * * * The banks of the river being composed of material brought and deposited by a current flowing at the rate of three feet per second, it is but reasonable that when new forces are brought to bear upon them by greater velocity of current or wave these particles are displaced and carried on down the current.

Let us take an example: the steamer James Howard, side wheels, with 1,500 tons freight, passed up the river at near mean high-water gauge at Carrollton, 12.5 feet, 3 feet below maximum. Her rate of speed was ten miles per hour against a current of four miles per hour, making the movement of her waves equal to fourteen miles per hour. The waves of practical value were oblique 23° to her course on each side, and could be distinctly counted to the fifteenth wave, and I added five for the confused and irregular waves that followed. Ten of these waves were nearly of the same height, and were measured by their rise on a rod and a drift-log that did not break them. These waves averaged about 16 inches height at 300 feet behind the steamer, and the remaining ten waves averaged less than half that height, say 6 inches. They were all delivered against the banks with the velocity of the steamer plus the rate of the current, say fourteen miles per hour, or 20 feet per second. Without attempting to weigh this force by computing its dynamics from these data, we assume the tonnage of the steamer multiplied by her velocity gives the just practical result. The tonnage of freight and vessel was about 2,300 tons. We have, then, 4,600,000 pounds multiplied by 14.6 seconds multiplied by 17.60 for each mile of her travel. The aggregate force, then, that is abnormal, applied by this steamer, amounts in foot-pounds to 118,201,600 pounds, equal to 59,000 tons.

Let us illustrate: a levee of 9 feet in height, by the recent formula of Humphreys and Abbott, with slopes of two and three to one, contains 1,200 cubic yards in every 100 feet of levee, and 3,000 pounds to the cubic yard. The 300 feet of levee, equal to the length of the steamer James Howard, would weigh 10,800,000 pounds. The force thrown against the levee or bank each trip by the passing steamer would be—

$$\frac{68,160,000}{2} = \text{to } 34,080,000;$$

more than three times the weight of the whole levee.

Owing to the tenacity of the soil and materials of the banks of the river, these banks do stand these forces repeated fifty times a day under many modified forms. The fact that they do stand this fearful servitude is almost miraculous. But it is wholly abnormal and chargeable to the commerce of the Mississippi Valley.

Mr. ELLIS. Mr. Chairman, I call the attention of the Representatives of the entire Mississippi Valley and every one interested in the commerce of the river to the facts just read. Before I close I will notice more at length this "wear and tear upon the levees," a servitude imposed by the commerce of the river. What I desire now to notice is the constant danger that the lateral waves of the passing steamers are liable at any time in flood season to wash over and dissolve the levees. For fear of this calamity descending steamers are often obliged to shut off steam and float past the threatened points or weak places in the levee, while the ascending steamer must depart from her course to hug the opposite shore, or slacken her speed to three or four miles per hour. Again, the steamers are afraid to land at or near the weak points of the levee lest their waves or weight against the frail embankment cause a crevasse, to the ruin of those who dwell below. Consequently they are often obliged to carry passengers, mails, and freight many miles away from and beyond their destination to the great detriment and delay of commerce and travel. To these considerations I might add the tremendous loss and damage to the commerce of the Delta over the railroad lines which pass through it.

Within the last fifteen years the bed of the New Orleans, Saint Louis and Chicago Railroad, the only line of egress or ingress north of New Orleans, has been washed away three times by crevasses from the river, inflicting upon it a loss of millions of dollars, and paralyzing its operations for months. The New Orleans and Texas Road which connects New Orleans with a line of Texas and Mexican steamers shared a like fate. The Monroe and Vicksburgh Road, which from a point opposite Vicksburgh runs to Monroe, and is designed to pass through Shreveport into the heart of Texas, is useless and worse than useless four months in the year. Its line passes through a region of marvelous fertility, the chosen land of cotton. Yet, during the flood seasons its trains are stopped because a sea of water, forty miles in width, covers and whelms its track and the adjacent lands. Not many months ago I passed over that road. It crosses the bayou Macon some forty miles from Monroe. The bank of that bayou in former days was a solid field, and the little depot on the road shipped annually two hundred thousand bales of cotton. The depot is gone; the deserted fields are already grown up in a wilderness of cottonwood trees; the devouring flood left not one vestige of fence or houses in their resistless sweep, and the smile of the fertile field is changed to the dark frown of the wilderness.

One single other cry of the suffering and endangered commerce of that river do I desire to voice, and then I will have done with this branch of the subject.

New Orleans, the city which I in part represent here, has suffered untold ills in the seventeen fearful years since 1861. That year saw her proud and rich and smiling, so like a queen amid her groves and palaces that winter never touched too rudely and that care never overshadowed. From her throne by the flow of her majestic river, she looked abroad upon fields of marvelous fertility covered with their billowy green of sugar cane, with their noble mansions, the abode of the most splendid refinement and prodigal hospitality. Far up and down the broad river she watched to see the flitting steamers come and go under the mighty impetus of her grand commerce, while afar upon lake and gulf came and went the stately ships, bearing her rich gifts to foreign shores, and coming to quietly furl their sails by her levee, to pay their tribute and tender their offerings to her. This era of splendid prosperity was followed by war, a paralysis of her commerce, and utter prostration of her business. The loss to New Orleans by the war was most enormous. But in 1865, without a murmur, she gathered up her strength and set forward to work out her destiny. The levees of Louisiana were down; many of the finest plantations were in ruins; the labor-system wholly destroyed; without capital or credit, and with a debt of some $8,000,000. During the years 1865, 1866, and 1867, the State was under military rule except for a brief period.

These years of misrule cost the State untold millions of money and plunged her into a hopeless sea of debt. Our city debt from $4,000,000 grew to be $23,000,000. So enfeebled and ruined was the condition of the State and city that it seemed impossible that they could grapple with the levee system. Yet the State since the war has issued $11,000,000 of bonds for levee purposes, enough, if honestly administered, to have built up the levees and closed every crevasse from New Orleans to Cape Girardeau. But alas, the fund was maladministered and squandered uselessly. Just north of New Orleans is Lake Ponchartrain, once a most beautiful expanse of clear water, forty miles long by an average width of twenty-two miles. Through the Rigolets on the southeast it connects with the Mississippi Sound and Lake Borgne. Across this lake some three hundred vessels of all kinds were plying, and the commerce carried on upon its waters engaged three thousand men and maintained twenty thousand people. The traffic with the upland regions was of lumber, bricks, wood, cattle, moss, sand, shells, fruits, cotton, and other products of the soil. In the lake itself a large traffic in fish and oysters was carried on. On the northern shores of the lake and for near one hundred and thirty miles along the Mississippi Sound a number of beautiful little towns have sprung up, adorned with handsome villas and splendid residences. These were the summer resorts of the people of Mobile and New Orleans. There resorted the merchants and business men of these cities with their families for relief from the five months of summer of that climate.

The healthfulness of the locality, the fine bathing and fishing afforded, constituted the chief delights of the summer homes. But in 1874, in April, forty miles above New Orleans and four miles west of the western border of Lake Pontchartrain, when the river was at flood height, the powerful levee of Bonnet Carre Point gave way. The river wave through the crevasse burst with awful force upon the plains below; it reached and swept away houses, sugar-mills, fences; reached and tore up the line of the New Orleans, Saint Louis and Chicago Railroad a distance of twenty-two miles, and then headed itself into Lake Pontchartrain. It has washed a gulf where it leaves the river over fifty feet deep and is now nearly half a mile wide. In flood seasons it is computed that one-sixth of the river water passes through it into the lake. That crevasse is still open. Each year it is widening and deepening. It is forming a serious bar in the main channel just below it. The bar, under the law of the river I have cited, will increase as the outlet increases. The whole character of Lake Pontchartrain is changed. Its once clear and salt waters have become fresh and muddy as the river. The sediment from the river is being deposited in the lake and has shoaled it already in five years along a distance twenty-two miles long by five miles wide a depth of from two and a half to eight feet. Captain T. S. Hardee, an engineer of much distinction and late city surveyor of New Orleans, who has recently completed a hydrographic survey of the lake and has carefully observed the effects of the crevasse upon it, in his able and comprehensive report, says:

The effects of the crevasse up to the present time has been to raise the ordinary level of Lake Pontchartrain, which abnormal condition lasts generally about four months in the year, or during the flood period of the Mississippi River. The elevation of the service of the lake is almost exclusively due to the immense volume of foreign water constantly precipitated into its bosom from the crevasse, which must necessarily create for itself a new plane of discharge to the Gulf by the consequent forced rising of the water.

Colonel Hardee estimates that during the flood season, when the waters of the lake are raised from this abnormal condition, the prevalence for some days of a southeasterly storm, checking and driving back the flood-water which seeks egress to the sea through the Rigolets, would subject the city of New Orleans to the severest overflow she has ever experienced, and would flood that city from the river to the lake. The damage from such a result it is almost impossible to estimate.

Under the influence of the Bonnet Carre crevasse, Lake Pontchartrain is undergoing a complete metamorphosis. The oysters and fish, which contributed largely to the commerce of the city and supplied it with these articles, have been killed or driven from Lake Pontchartrain, while the same result is perceptible along the entire Mississippi coast as far as East Pascagoula, more than a hundred miles from the city of New Orleans. The beauty and healthfulness of the summer resorts along these shores have been sadly changed, and property has depreciated immensely in value. The intermingling of the mud-laden waters of the Mississippi with the salt water of the sea, changing the character of the lake entirely, has been the fruitful cause of many types of disease that has destroyed the healthfulness of the upland regions. Sir, I do believe that to this cause may be traced the inducement of those peculiar conditions and that atmospheric state that, if it did not originate, at least created a congenial and favorable condition for the growth and spread of that dark angel of pestilence which spread its somber wings above so large a portion of the South during the past autumn and summer, and breathed death into the faces of those who dwell in that unfortunate portion of our common country, and filled all that bright land with desolation and mourning and woe.

Mr. Chairman, I appeal to the enlightened judgment of the representatives of the American people if in the simple recital of these facts there is not enough cause for the relief asked for in this bill. Misruled and bankrupt, with prostrate commerce and ruined industries, so sadly changed that they are scarcely now to be recognized as the same proud rich State and city that they seemed in 1861, unable to help themselves, they appeal to the justice and sympathy of this great Government for aid, that final and utter ruin may be averted.

Having briefly pointed out the reasons which go to the commercial character of this bill, and stamp it as clearly constitutional under the powers of Congress to regulate commerce between the States, I propose briefly to allude to the national character of the work proposed to be accomplished through this measure. It is national—eminently national:

First. Because it is for the benefit of the commerce of the greatest of all the rivers of the Union, emphatically a national river.

Second. It is national because the work extends through the river fronts of six great States of the Union.

Third. It is national because destined to benefit the entire people of the Union.

Fourth. It is national because a levee system to be successful must be uniform. No single State can perfect a system that will be perfect and successful. Upon this point I cannot do better than to quote from a report of a former committee, which was unanimously adopted. I read from page 3, Report 494, Forty-fourth Congress, first session:

> General Humphreys, Chief of Engineers, was kind enough to come before your committee, and he was especially asked for an opinion upon this point. With map before him he pointed out the localities of the levees in the States, beginning with those of Louisiana and Mississippi and tracing them to those of Illinois and Missouri, showing the weak points and natural outlets of the levees and the river, and demonstrated that the system to be successful must be uniform in all the exposed States. Of what avail would Louisiana build levees with none constructed in Arkansas? The outlets in the latter State, in flood-time pouring their immense volumes of water down upon the former State, would deluge all her territory in rear of her levees and render them, however effective and well constructed, but a narrow thread of island in the midst of an inland sea. Professor C. G. Forshey, a distinguished engineer and scientist, who has made the currents and levees of the Mississippi a study for more than thirty years, agrees perfectly with General Humphreys in this view. He says: "No State alone can build its levees, because of the interdependence of its topography. A system to be efficient in one must comprehend them all. The interior is a basin or series of basins. The water, wherever let in, submerges the basin alike. These States, then, must share a common fortune, and hence it must appeal to a power that comprehends many States in its operations. Congress alone has that power."

Then the work proposed by this measure is national in its every aspect, and as such it ought of right to be undertaken and performed by the National Government.

But, Mr. Chairman, I hold as a legal proposition that the Government should assume the labor and the responsibility of leveeing the Mississippi River. Apart from every commercial, economical, and charitable consideration, I hold that the Government is legally and morally bound to do this work. The Mississippi River is the great intercontinental drain or sewer of the Union. It is the drain for twenty-four States and Territories of the Union. To bring the thought nearer to this body, let me say that it drains the homes and fields of the constituents of forty Senators and one hundred and fifty Representatives in Congress.

In this it performs a most valuable, useful, and necessary function for two-thirds of the States in the Union; and, if this be true, is it not the duty, nay, more, does there not rest upon the Union the legal and moral obligation to so control the functions of this sewer that it shall not be a benefit and a blessing to certain States and people of the Union and to other States and people of the same Union a blight and a curse?

Let us see if this proposition be sound. We will suppose that the people of the overflowed regions were able, by dike or canal, to divert the surplus waters of the river from their own lands and States, and force them by unnatural ways upon the people of some other States and regions; and suppose they should attempt to do so—would not the courts and laws of the Union be invoked, and would not decrees of injunction issue restraining such an attempt; and would not the decision be that a natural servitude was imposed upon the streams and lands below in favor of the lands and dwellers above? Unquestionably it would be so decided. Such are the rules of law. But a principle of the same law is that whenever a political corporation imposes or enforces or enjoins a servitude upon one portion of its domain for the benefit of other portions, it shall be so regulated as not to injure the portion which bears the burden of the servitude.

But, Mr. Chairman, I must pass on rapidly and as briefly as possible to regard this measure in the light of its economy and necessity. The region subject to overflow is some 600 miles long and has an average width of 60 miles. Its area is 38,000 square miles. It is larger than the six New England States, leaving out Maine. It is five times as large as New Jersey or Massachusetts; it is four times as large as Maryland. And I undertake to assert that it is naturally the richest region of like extent upon the face of the earth. It can sustain a population of 60,000,000 more easily than New England sustains 3,500,000. Its soil is exhaustless. When cleared of its forest growth it is ready for the plow. There are no stones or gravel or pebbles intermingled with its soil. It is alluvial deposit, and does not wear out.

Its crops of sugar, rice, and cotton are of the richest kind. In all productions of forest and field and orchard it is unrivaled. Noble streams, deep and broad, drain this region in all directions, and its level lands, its splendid timber, invite the laying of road-beds without cuts and tunnels and curves, and almost without grading. Before the mad strife of 1861 began the States and people, chiefly by their own means, had leveed this region, and where protected, even sparsely settled as it was, how rich and splendid were its productions!

In 1860 it produced 469,000,000 pounds of sugar, and yet the fronts of streams and bayous alone were cultivated. The mere crust of the sugar region was cultivated, while the main body of the lands adapted to sugar growth were all untouched. That crop of sugar and molasses alone added $40,000,000 to the produced values of the country, and by supplying one-third of the demand for home consumption saved the country, including the duty on sugar, about $53,000,000.

There are 2,000,000 undeveloped acres of those sugar lands. If you will protect them they will be brought in cultivation within the next fifteen years. The sugar crop was in the past year the best that has been produced since the war, and reached about 180,000,000 pounds, or 280,000,000 less than in 1860, a loss of $26,000,000 as compared with the crop of 1860, and all occasioned by lack of protection against the floods of the river.

And now suppose in ten years from now you reclaim by protection half the sugar area and bring it into cultivation, say 1,000,000 acres. It will average one and a half hogsheads or 1,500 pounds to the acre, and the total yield will be 1,500,000,000 pounds. We now import 1,515,091,627 pounds, for which we pay in price and duty $121,207,429.62 in gold, besides $12,000,000 in commercial commodities. Let us estimate that in ten years our consumption of sugar will have increased to 2,000,000,000 pounds from about 17,000,000,000 pounds that we now consume. Then will there be a necessity only for the importation of 500,000,000 pounds, for which in price and duty at present rates we will pay $47,500,000 against the $121,207,429.62 which we now pay, or in other words we will then save annually $73,707,429.62 in this single item of sugar alone.

And, Mr. Chairman, it is well to look at this sugar problem. That article has entered into the life of our people. It is no longer a luxury, but a necessity, as much so as salt. The doom of African slavery is near at hand. Cuba and the Spaniard have agreed that the slave shall be free.

And then, sir, in my judgment, will the history of sugar production in Jamaica, Porto Rico, and Hayti be repeated in Cuba, and in a few years she will cease to export that product. The causes which will bring this result are apparent and natural. In those tropical islands sugar can only be successfully raised by forced African labor. It has been attempted. England has experimented with African free labor in Jamaica, and she then tried the Mongolian, the cooly, and she failed. That island and Hayti and Porto Rico ceased to export sugar when slave labor was abolished. The causes which operated this result in those islands exist in Cuba. The African laborer there is a mere human machine; has never been held close to the strong and intense blaze of Anglo-American civilization, and is so far behind the African laborer in the United States as scarcely to be recognized as belonging to the same race of beings. The Cuban slave is a mere barbarian, but recently from his tribe and his native shores; he is treated as an animal and driven as one. The history of that race and its present condition prove that its individuals will not work where they can be idle. In Cuba he can be idle; nature there tempts him to be idle; she holds out to him her arms laden with rich and magnificent fruits that never fail; she points to her rivers and sea-coasts with unfailing yield of food from the waters, and her climate is so mild that it invites the barbarian to wear simply nature's garb.

These causes are climatic and natural. We cannot alter them. Let me disclaim here all intention of reflecting upon the African race or

of wounding the sensibilities of those of that race who are American citizens. For them I have only feelings of kindness and respect. I recognize among them men of great ability and virtue. Representing a district in which half the people are colored, I number among them many warm personal and political friends. Their interests are dear to me; for their happiness, their moral, social, and intellectual elevation I feel the deepest solicitude, and while I remain a public servant I shall neither know nor seek to know any difference between their interests and those of the people of my own race.

But I simply state what is well known when I say that the barbarian who now tills the sugar lands of Cuba will not work unless forced to do so either by his fellow-man or by the rigorous demand of nature. Nature is kind in Cuba; she invites to idleness; she has established there the home and the paradise of the "lotus eaters." Then take away the power of the owner, the coercive system, and the laborer, free to go where he pleases, will accept cordially nature's invitation to be idle, and the labor system of Cuba is destroyed. From Cuba we import 1,500,000,000 pounds of the 1,700,000,000 pounds of sugar we consume annually. If that supply fails then where shall we turn and to what source shall we look for our supply? Fully developed, Louisiana can and will supply it. If her lands were reclaimed and in culture and her capacity fully tested she can produce with her two millions of acres 2,500,000 hogsheads of sugar or 2,500,000,000 pounds, or 800,000,000 pounds more than we now need. We would then save annually in price and duty $121,207,429.62 in gold, and leave us a surplus of 800,000,000 pounds for export, which at present prices would be worth $56,000,000, or a total annual profit to the United States of $177,207,429.62.

But, sir, another great interest now demands attention. I refer to our great staple, cotton. This overflowed region in 1861 produced 2,300,000 bales of cotton, worth $138,000,000. Now it produces but about 1,000,000 bales, worth but $60,000,000. The loss in this staple alone is therefore $68,000,000. But developed it will produce 10,000,000 bales of cotton, worth $600,000,000 at present prices. It is true that the production of this enormous quantity of the raw material would of necessity cheapen it, but it would also transfer the cotton manufactures of the world to the United States. Our manufacturers could, with the raw material at hand, save all the expense in cotton manufacture between the gin and the sale-counter, and this now includes the pressing, weighing, marking, hauling, freight by rail or river, insurance, commissions for sale, reweighing, repressing, and loss in weights and samples; or, in other words, a saving of 30 per cent. in favor of our home manufactures. Mr. Chairman, without pausing further for details I would add that the great production and advantage to our manufacturers would give to this Union the cotton trade of the world. England has long enjoyed a monopoly of it, and even now she is straining every nerve to make herself independent of us and of our production. At a cost of $400,000,000 she has projected a railroad system in India. Her intention is to tap the coal regions of China and connect them with the cotton fields of India. She squanders her treasure like water to do this. Contemplating the swift advent of that period when her cotton trade and manufactures must suffer defeat and fall back from Manchester, she plans to remove Manchester to India, or, in other words, to her cotton-field.

Splendid nation! Magnificent people! Penny-foolish but pound-wise, she plants her gold where it will produce and return sixty and one hundred fold. She halts not at climatic difficulties; she fights the very decrees and laws of nature. She showers her treasure in the jungle that her commercial supremacy may still be maintained. It is in our power to wrest from her the control of the cotton trade and manufacture of the world and to wield its scepter forever. Shall we not extend our hands and grasp this prize? And then, even as our starry flag in war swept the ocean wave the harbinger of victory, so shall our more peaceful pennant of commerce float high above those of the other nations. And for this triumph you must look, you are obliged to look, to the overflowed lands of the Mississippi River. The cotton belt is narrow. The upland cotton regions are now taxed to their greatest capacity. It is this development of the uplands since the war that has kept our cotton crop up to the mark of 1861. To increase it you must reclaim the alluvial fields; you must reopen the abandoned plantations.

But, Mr. Chairman, look again at the losses to the general wealth for lack of levees. Originally these lands unreclaimed were worth but $8,520,000. When reclaimed they were worth, in 1861, $366,100,000. The value of the appreciation was $357,580,000. In sixteen years, without levees and protection, these same lands are worth $100,000,000. The loss through depreciation is $257,580,000.

But, sir, I would have you glance with me at another item of loss which is more tangible and more easily appreciable. Since 1861 there have been four great floods.

In 1862 the loss was estimated, in stock, houses, fences, and crops, at	$9,000,000
In 1865, from same causes, loss was	6,000,000
In 1867 it was but about	4,000,000
And in 1874 it reached the great sum of	13,000,000
Or a total material loss in fifteen years of	32,000,000

Or at the rate of more than $2,000,000 each year.

In the flood seasons the suffering of the people in the overflowed regions is very great. Especially is this the case with the colored laborers. They are poor, they have no credit, they cannot move from their homes as most of the whites can do. Freed by the policy of the Government, the Government should in honor and duty protect their material interest from ruin. Ah! had the Government shown as eager desire to protect their little homes and crops and stock as it has to protect them in "rights" which can not feed or clothe them, it would have been far better for the Government, for them, and for us. In 1874 the suffering was immense. Thousands of persons were huddled in their homes for months and saw no dry land. In the day-time it was from door or window to watch the restless waters rise, to see fences and outhouses floated away, to travel about in boats to gather what they could of moss and evergreen to feed stock placed in gins and upon platforms above the reach of the flood; and at night it was to sleep with the sob and murmur of the hungry waters in their ear, or to be awakened by the cry and struggle of drowning stock. From our poverty we gave what we could. And then the generous people of the Union heard the cry of suffering. Boston and Massachusetts asked no questions, but sent us aid. That generous city sent us a quarter of a million of dollars, and other cities of the State added to the sum until it reached $400,000. And New York and Philadelphia, Chicago and Saint Louis, Cincinnati and Baltimore, heard and responded. The President with great promptness and humanity ordered immediate distribution of rations and clothing.

In recalling now that splendid charity toward my suffering people equaled only by that noble outburst of humanity which came to them last autumn and which was the only ray of heavenly light amid the awful gloom of the pestilence, and in saying that our hearts beat warmly with gratitude, I do speak the feelings and utter the hearts of our whole people; and I voice their feelings and utter their hearts also when I beg of the Representatives of that noble and generous people who aided us in the hour of our danger and sorrow that they give to us now such aid as will enable us to rebuild our waste places, recover our lost fields, and re-establish our ruined homes; and then will we no more be obliged to eat the bread of charity—bitter, even though so generously tendered by a brother's hand.

Mr. Chairman, in providing in the substitute I have offered for the rebuilding of the levees I have followed the counsel of all the engineers. The engineers of the United States have recommended it time and again; and so do Forshey, Eads, Bayley, Warfield, and every other engineer that has spoken. The various plans of reclamation by outlets, diversion of tributaries, reservoirs, have all been discussed and condemned as unwise and impracticable. The amounts named in the bill are the estimates of the United States engineers of 1874, to which have been added the estimates for a number of crevasses that have occurred since the estimates of the Government engineers were made. In proposing to place the work under the control of the Engineer Corps of the Army my design was to confide it to hands that would do it faithfully and intelligently; hands that are strong and clean and free from jobs and contractors' bribes.

Mr. Chairman, I have concluded the simple story of this measure, and of its necessity. You do not know how eagerly and how intently the people of that grand but unfortunate region are watching you and how joyfully their hearts will throb; how hope will revive and confidence be restored when they hear that you have passed this measure. False partisans have told them you cared nothing for the South or her interests; that the two great political parties cared but for her political alliance and strength as an element of their own strength. Now you will show that these representations are false. Uniting upon this great measure, the two great parties will give earnest token that they eagerly long for the rehabilitation of the South and a restoration of her prosperity. But this measure is not alone for us. It is also for you of the West and the North and the East. I say to you that there is no industry, there is no pursuit, there is no interest within all your bordors from east to west that will not feel the impetus of new life with these plantations of the South reopened again and all of their ancient industries and productions revived and increased.

Since 1861, agriculture in this country has taken a mighty stride forward. Machinery has been applied to almost every branch of agriculture, which is the true source and basis of national wealth. Yet your ships are idle, your miners are in want, your coal scarcely finds a southern market, your machinery is no longer needed, your farming utensils are no longer in demand. We no longer need your corn or bacon from the mighty West, because we have been obliged to circumscribe our product of the great staples and to learn to cultivate and rear the bare necessities of life at home, and all because we have no money to buy what you produce, for we cannot cultivate our flooded fields.

Open up the plantations of the South and they will extend their hands for your sugar-mills and your cotton-gins, and all your labor-saving implements. Ay, and they will have the money with which to pay for them. They will extend their hands for your mules and horses and your improved stock of every description, and they will be able to pay for them. Realizing greater profit in the culture of the staples, they will gladly be dependent upon the great West for the cereals which are annually burned for fuel in that great country, or which seeks through forced and unnatural channels a profitless market; and for your wheat and corn they will give you gold. Their machinery will hunger for the productions of your mines, and your coal-barges away from Pittsburgh and Wheeling down the Ohio will

find welcome and customers and money at ten thousand plantations along the Mississippi River, and along all the mighty streams and bayous which vein the now overflowed region. Yes, and we will freight your ships with wealth more splendid than that of "Ophir and of Ind," and sending them forth they shall return to you anon laden with treasure more countless than that of the Tyres and Sidons of the olden story.

Mr. Chairman, these are the aspirations of the South; these are her ambitions. War-worn and weary, with every dream of separate empire vanished, she longs now only for the nobler triumphs of peace and civilization. In her desolation she asks your aid. Give it her, and she will repay you sixty and a hundred fold. In the march of years you men of other sections will understand her better, and she will keep perfect step with you in that giant stride which will time the measure of her march toward the highest pinnacle of national power and glory.

Mr. HATCHER. I yield a portion of my time to the gentleman from Texas, [Mr. REAGAN.]

Mr. WHITE, of Pennsylvania. Will the gentleman from Texas yield for a motion that the committee rise?

Mr. REAGAN. I have but a few remarks to make and as this matter will probably not come up to-morrow, I think I had better say what I have to say now.

Mr. Chairman, I had not expected to participate in this debate, indeed I did not know until this morning that this question was to come up to-day, but I only propose to say a few words in relation to it, because the general subject has on many occasions during the last three years been before the Committee on Commerce, of which I am a member.

Mr. SPRINGER. Will not the gentleman yield for a motion that the committee rise? There are to be memorial services to-night to the late Professor Henry.

Mr. REAGAN. I shall not occupy more than ten minutes and I prefer to go on.

No questions more affecting the interests of the country could come before the House than those raised by the bill reported by the committee and the various amendments thereto.

The constitutional authority of Congress to act upon this question so far as it relates to the improvement of the navigation of the Mississippi River and its navigable tributaries is beyond doubt, and is conferred by that clause of the Constitution giving Congress authority to regulate commerce between the States.

Mr. ITTNER. There is too much confusion in the Hall. We cannot hear the gentleman. He has said that he desires to speak but a few minutes, and I hope that order will be restored and maintained so that he can be heard.

Mr. ROBERTSON. If the gentleman from Texas [Mr. REAGAN] will yield, I will move that the committee now rise.

Mr. REAGAN. As members seem to be somewhat restless, I will yield for the committee to rise.

Mr. ROBERTSON. I move that the committee now rise. I desire to say that I will ask the House for leave to proceed with the further consideration of this bill on Tuesday evening next.

Mr. WHITE, of Pennsylvania. Make it Wednesday evening.

Mr. ROBERTSON. Very well; I will say Wednesday evening; and that if the previous question shall be called at the close of the session that evening and sustained, the vote on the bill shall be taken the next morning.

Mr. RANDALL, (the Speaker.) If I understand aright the proposition of the gentleman from Louisiana [Mr. ROBERTSON] who has charge of this bill, it is that we shall now in Committee of the Whole come to an understanding, to be carried out in the House, that the further consideration of this bill shall be continued on Wednesday evening next, and that should the previous question be called and sustained at the close of that evening session the vote upon the bill and pending amendments shall not be taken until the following day. That I think is very proper, and I hope that the members of this committee will come to such an understanding. The House alone has the power to enforce such an order or understanding, but it will probably conform to the wish of this committee.

The CHAIRMAN. Of course the committee can make no order upon such an understanding.

Mr. ROBINSON, of Massachusetts. Allow me to inquire if that understanding will include the right to discuss this bill by sections during the day session of the House.

The CHAIRMAN. The proposition is to have the discussion in the evening session.

Mr. RANDALL, (the Speaker.) Of course all the rules of the House which apply to such cases would apply to this bill.

Mr. ROBINSON, of Massachusetts. My object is to secure a debate of this bill by sections in a full House, not in a thin House.

Mr. RANDALL, (the Speaker.) The debate will be continued in Committee of the Whole.

Mr. BANKS. Is general debate to be closed upon this bill to-night?

The CHAIRMAN. No such order is proposed.

Mr. GIBSON. I understand that the proposition is to continue the debate on this bill next Wednesday evening, and it will not be concluded at that time unless the House shall then so determine.

The CHAIRMAN. The committee cannot now make any order upon the subject. The proposition is submitted to the committee in order that there may be a common understanding in relation to it, so that proper action may be taken in the House after the committee rises. The question now is upon the motion that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CARLISLE reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the special order, being the bill (H. R. No. 4318) to provide for the organization of the "Mississippi River improvement commission," and for the correction, permanent location, and deepening of the channel, and the improvement of the navigation of said Mississippi River, and had come to no resolution thereon.

Mr. ROBERTSON. I now ask that the further consideration of this bill be continued on Wednesday evening next at half past seven o'clock, and that if the previous question shall be called at the end of that evening session the vote upon the bill and amendments shall be taken the next day.

The SPEAKER. The Chair will state, so far as he can, the understanding arrived at in Committee of the Whole, but which the committee had no power to enforce. The agreement of the Committee of the Whole, and which it expected the House to enforce by its order, is that the House shall sit again on Wednesday evening next for the consideration of the Mississippi levee bill in Committee of the Whole; and if at that session the previous question should be called and sustained, the vote shall not be taken on the bill and amendments pending thereto until the next morning. That requires unanimous consent.

There was no objection, and it was so ordered.

Mr. GIBSON. The printed copies of the bill and accompanying report have been exhausted. I move that an additional number of the report, and of the bill, with the amendments proposed thereto, be printed for the use of the House.

There was no objection, and it was so ordered.

SPECIAL ASSESSMENTS IN THE DISTRICT OF COLUMBIA.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. No. 5809) to empower the commissioners of the District of Columbia to revise, correct, or annul special assessments upon the written application of any person whose real property in said District has been assessed, and providing for an appeal to the supreme court of the District of Columbia from the action of the commissioners in respect to such application by any person feeling aggrieved thereby, and for other purposes; which was read a first and second time, and, with a memorial of Robert Christie, a citizen of said District, in relation to that subject, referred to the Committee for the District of Columbia, and ordered to be printed.

Mr. SPRINGER. I desire to say that I have introduced this bill and memorial at the request of the memorialist, and have not had an opportunity of reading either.

EDWIN S. BURBANK.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 5810) granting a pension to Edwin S. Burbank; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE HUGGINS.

Mr. SPRINGER also, by unanimous consent, introduced a bill (H. R. No. 5811) for the relief of George Huggins, of Menard County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. JOSEPH S. WILSON.

Mr. CONGER (by request) introduced a bill (H. R. No. 5812) making compensation to Mrs. Joseph S. Wilson, the widow of the late Joseph S. Wilson, for collecting the scientific museum for the General Land Office; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

SALE OF INTOXICATING LIQUORS IN THE DISTRICT OF COLUMBIA.

Mr. MONROE, by unanimous consent, introduced a bill (H. R. No. 5813) to provide against the evils resulting from the sale of intoxicating drinks in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DUTY ON QUININE.

Mr. SINGLETON, by unanimous consent, introduced a bill (H. R. No. 5814) to repeal the customs duty on quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

REFUNDING THE PUBLIC DEBT.

Mr. SINGLETON also, by unanimous consent, introduced a bill (H. R. No. 5815) to amend an act entitled "An act to authorize the refunding of the national debt;" which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CLAIMS OF SOUTHERN MAIL CONTRACTORS.

Mr. SINGLETON also, by unanimous consent, introduced a bill (H. R. No. 5816) to amend so much of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878," as provides for paying certain mail contractors in the Southern States for services rendered prior to the late

war; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ELIZABETH HEARDSLY.

Mr. PEDDIE, by unanimous consent, introduced a bill (H. R. No. 5817) granting a pension to Elizabeth Heardsly, widow of Isaac P. Heardsly, a private in Company I, Sixth Regiment United States Infantry, who served in the Florida war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS FARMER.

Mr. LYNDE, by unanimous consent, introduced a bill (H. R. No. 5818) granting a pension to Thomas Farmer; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HARBOR OF REFUGE AT MILWAUKEE.

Mr. LYNDE also, by unanimous consent, introduced a bill (H. R. No. 5819) to reimburse the city of Milwaukee for money paid in the construction of a harbor of refuge at the port of Milwaukee; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HIRAM POTTER.

Mr. LYNDE also, by unanimous consent, introduced a bill (H. R. No. 5820) for the relief of Hiram Potter; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

HERMAN VOIGTLANDER.

Mr. LYNDE also, by unanimous consent, introduced a bill (H. R. No. 5821) granting a pension to Herman Voigtlander, late a private in Company K, Thirteenth New York Heavy Artillery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY T. FULLER.

Mr. LYNDE also, by unanimous consent, introduced a bill (H. R. No. 5822) for the relief of Henry T. Fuller and others, sureties upon the official bond of William H. Waterman, formerly superintendent of Indian affairs for Washington Territory, and from liability upon the judgment rendered upon such bond; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REFUNDING OF THE NATIONAL DEBT.

Mr. WHITE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 5823) to amend an act entitled "An act to authorize the refunding of the national debt," approved July 14, 1870; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

PORT OF NEW YORK.

Mr. HARDENBERGH, by unanimous consent, introduced a bill (H. R. No. 5824) extending the limits of the port of New York; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHANGING THE NAME OF A STEAMBOAT.

Mr. HENDERSON, by unanimous consent, introduced a bill (H. R. No. 5825) to change the name of the steamboat C. J. Caffrey; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TAXATION OF LEGAL-TENDER NOTES.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 5826) to authorize the local taxation of the legal-tender Treasury notes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN CALVERT.

Mr. COBB also, by unanimous consent, introduced a bill (H. R. No. 5827) for the relief of John Calvert, of Sullivan County, Indiana; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

EQUALIZATION OF BOUNTIES.

Mr. COBB also, by unanimous consent, introduced a bill (H. R. No. 5828) to equalize the bounties of soldiers who served in the late war for the Union; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LAND CLAIMS IN CALIFORNIA.

Mr. PAGE, by unanimous consent, presented the memorial of David Dixon and the memorial of Refugio L. Valdas, relative to certain lands in California; which were referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM WILSON.

Mr. COX, of Ohio, by unanimous consent, introduced a bill (H. R. No. 5829) to relieve William Wilson, late a private soldier in Company C, Fifteenth Michigan Cavalry, from the charge of desertion; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

H. D. AND H. S. WALBRIDGE.

Mr. COX, of Ohio, also, by unanimous consent, introduced a bill (H. R. No. 5830) for the relief of H. D. and H. S. Walbridge; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JOHN H. GRAY.

Mr. RYAN, by unanimous consent, introduced a bill (H. R. No. 5831) granting a pension to John H. Gray; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANN EASTO.

Mr. LAPHAM, by unanimous consent, introduced a bill (H. R. No. 5832) granting a pension to Ann Easto, mother of Charles Easto, late a private in Company E of the Veteran New York Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARK J. BUNNELL.

Mr. LAPHAM also, by unanimous consent, introduced a bill (H. R. No. 5833) granting a pension to Mark J. Bunnell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OLIVE STEPHENSON.

Mr. LAPHAM also, by unanimous consent, introduced a bill (H. R. No. 5834) granting a pension to Olive Stephenson, widow of Caleb Stephenson, a soldier in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

FORESTRY.

Mr. DUNNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of Agriculture be requested to forward to this House any facts or statistics in his office on the subject of forestry, not heretofore reported.

UNITED STATES COURTS IN MISSOURI.

Mr. FRANKLIN. I ask unanimous consent that Senate amendments to House bill No. 5067 be taken from the Speaker's table and concurred in. I suppose there will be no objection. The bill has passed the House and the Senate without opposition, and is a meritorious measure.

The title of the bill was read, as follows:

A bill (H. R. No. 5067) to divide the western district of Missouri into two divisions and to prescribe the times and places for holding courts therein, and for other purposes.

The SPEAKER. The amendments will be read.

Mr. FRANKLIN. I suppose it is not necessary that the amendments be read in full. I believe there is no opposition to concurring in them.

The SPEAKER. The Chair thinks that the amendments should be read.

The Clerk read as follows:

Strike out all after the enacting clause of the bill, and in lieu thereof insert the following:

The western district of Missouri is hereby divided into two divisions, which shall be known as the eastern and western divisions of the western district of Missouri. The western division shall include the counties of Andrew, Atchison, Barton, Bates, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Daviess, De Kalb, Gentry, Grundy, Harrison, Holt, Jackson, Jasper, La Fayette, Linn, Livingston, Mercer, Nodaway, Platte, Putnam, Ray, Saline, Sullivan, Vernon, and Worth; and a term of the district court and circuit court of the United States for said district shall be held therein at the city of Kansas on the third Monday in May and the third Monday in October of each year. The remaining counties embraced in said district shall constitute the eastern division thereof, and terms of the district and circuit courts of the United States for said district shall be held therein at the times and place now prescribed by law.

SEC. 2. All offenses hereafter committed in either of said divisions shall be cognizable and indictable within the division where committed; and all grand and petit jurors summoned for service in each division shall be inhabitants thereof. And all offenses heretofore committed within said district shall be prosecuted and tried as if this act had not passed.

SEC. 3. All civil suits not of a local character which shall be hereafter brought in the district or circuit courts of the United States for the western district of Missouri in either of said divisions, against a single defendant, or where all the defendants reside in the same division of said district, shall be brought in the division in which the defendant or defendants reside; but if there are two or more defendants residing in different divisions, such suit may be brought in either division, and all *mesne* and final process subject to the provisions of this act, issued in either of said divisions, may be served and executed in either or both of the divisions.

SEC. 4. The clerks of the circuit and district courts for said district shall each appoint a deputy clerk at the place where their respective courts are required to be held in the division of the district in which such clerk shall not himself reside, each of whom shall, in the absence of the clerk, exercise all the powers and perform all the duties of clerk within the division for which he shall be appointed: *Provided*, That the appointment of such deputies shall be approved by the court for which they shall be respectively appointed, and may be annulled by such court at its pleasure. And the clerk shall be responsible for the official acts and neglects of all such deputies.

SEC. 5. All civil suits and proceedings now pending in the circuit or district court of said western district of Missouri, and which would, if instituted after the passage of this act, be required to be brought in the western division of said district, may be transferred, by consent of all the parties, to said western division of said district, and there disposed of in the same manner and with like effect as if the same had been there instituted; and all process, writs, and recognizances relating to such suits and proceedings so transferred shall be considered as belonging to the term of the court in the western division of said district, in the same manner and with like effect as if they had been issued or taken in reference thereto originally.

Mr. KNOTT. The bill as it passed the Senate is substantially the same as that reported by the Judiciary Committee of the House,

and which I believe passed the House without debate. I hope the amendment will be concurred in.

The SPEAKER. This is a House bill amended by the Senate, so that the bill has passed both Houses.

Mr. KNOTT. I understand that. The amendment of the Senate makes no material change in the bill.

The amendment was concurred in.

Mr. FRANKLIN moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BLOCK ISLAND SIGNAL STATION, RHODE ISLAND.

Mr. EAMES, by unanimous consent, introduced a bill (H. R. No. 5835) to establish a signal station on Block Island, in the State of Rhode Island; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

IMPROVEMENT OF PROVIDENCE RIVER, ETC.

Mr. EAMES also, by unanimous consent, introduced a bill (H. R. No. 5836) making an appropriation for the improvement of the Providence River and Narragansett Bay; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ELIZABETH M'FARLAND.

Mr. HARMER, by unanimous consent, introduced a bill (H. R. No. 5837) granting an increase of pension to Elizabeth McFarland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LOUISA BAINBRIDGE HOFF.

Mr. HARMER also, by unanimous consent, introduced a bill (H. R. No. 5838) granting a pension to Louisa Bainbridge Hoff, widow of late Rear-Admiral H. K. Hoff, United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DEVELOPMENT OF PUBLIC DOMAIN.

Mr. HARMER also, by unanimous consent, introduced a bill (H. R. No. 5839) for the enlistment of volunteer artisans, laborers, and mechanics to develop the agricultural and mineral resources of the public domain; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

RICHARD DILLON.

Mr. BACON, by unanimous consent, introduced a bill (H. R. No. 5840) granting a pension to Richard Dillon; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BUCKBELLER.

Mr. TIPTON, by unanimous consent, introduced a bill (H. R. No. 5841) granting a pension to John Buckbeller, of Bloomington, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IVORY H. PIKE.

Mr. TIPTON also, by unanimous consent, introduced a bill (H. R. No. 5842) granting a pension to Ivory H. Pike, of Washington, District of Columbia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. ELIZABETH HUDSON.

Mr. TIPTON also, by unanimous consent, introduced a bill (H. R. No. 5843) granting a pension to Mrs. Elizabeth Hudson, of McLean County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HEIRS OF WILLIAM JOHNSON.

Mr. FORNEY, by unanimous consent, introduced a bill (H. R. No. 5844) making an appropriation for the payment of a certain claim reported allowed to Virginia R. Williams and Ben. E. Johnson, as heirs of William Johnson, deceased, which was accidentally omitted from the act of June 15, 1878; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

STAFFORD PALMER.

Mr. VAN VORHES, by unanimous consent, introduced a bill (H. R. No. 5845) granting a pension to Stafford Palmer, of Morgan County, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN Q. WHITE.

Mr. VAN VORHES also, by unanimous consent, introduced a bill (H. R. No. 5846) granting a pension to John Q. White, of Morgan County, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID ALLEN.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 5847) for the relief of David Allen; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES FORD.

Mr. FORT, by unanimous consent, offered the following resolution; which was referred to the Committee of Accounts:

Resolved, That the Clerk of the House be directed to pay Charles Ford out of the contingent fund the sum of $319 for services in the Doorkeeper's department during the last session of Congress.

MISSOURI AND COLUMBIA RIVERS CANAL.

On motion of Mr. FORT, by unanimous consent, the Committee on Railways and Canals was discharged from the further consideration of the bill (H. R. No. 3634) for the survey of a canal to unite the Upper Missouri River with the Upper Columbia River; and the same was referred to the Committee on Commerce.

EDWARD L. WILSON.

Mr. BAYNE, (by request,) by unanimous consent, introduced a bill (H. R. No. 5848) for the relief of Edward L. Wilson; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

B. A. MILLER.

Mr. KNOTT, by unanimous consent, introduced a bill (H. R. No. 5849) for the relief of B. A. Miller, late a captain in the Thirteenth Regiment United States Volunteer Cavalry from Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES SUTHERLAND.

Mr. KNOTT also, by unanimous consent, introduced a bill (H. R. No. 5850) for the relief of Charles Sutherland, of Hardin County, Kentucky; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

UNITED STATES COAST SURVEY.

Mr. PATTERSON, of Colorado. I offer for present consideration the resolution which I send to the desk. It was objected to the other day by the gentleman from Ohio, [Mr. BANNING.] That gentleman has withdrawn his objection, and I think there will be no further objection to obtaining the information sought by the resolution.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be requested to communicate to the House of Representatives, with as little delay as possible, full information as to the present organization of the body known as the United States Coast Survey; which report shall contain a statement of the number of persons composing and in the employment of the said survey for the present fiscal year, their several ranks or positions, the salary or compensation received by each, the general nature of the work done, where each member or employé is at present located, together with a statement of the aid received by the said Coast Survey from the Army or Navy or other forces or departments of the Government during the said fiscal year.

The resolution was agreed to.

THOMAS H. CANFIELD.

Mr. PRICE, by unanimous consent, introduced a bill (H. R. No. 5851) granting a pension to Thomas H. Canfield; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF ST. BENEDICT.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 5852) to secure to the Order of St. Benedict certain lands on the White Earth Indian Reservation, in Minnesota; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM BROWN AND OTHERS.

Mr. STEWART also, by unanimous consent, introduced a bill (H. R. No. 5853) for the relief of William Brown and others; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WILLIAM P. VOGAN.

Mr. SHALLENBERGER, by unanimous consent, introduced a bill (H. R. No. 5854) granting a pension to William P. Vogan, late private in Company H, Seventy-eighth Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM S. MACKAY.

Mr. BLAIR, by unanimous consent, introduced a bill (H. R. No. 5855) for the relief of William S. Mackay; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. HUNGERFORD, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of John Laidlaw, there being no adverse report thereon.

On motion of Mr. BACON, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Leonard Moore, there being no adverse report thereon.

WASHINGTON CITY POST-OFFICE.

The SPEAKER. Yesterday, in the referring of executive documents, a letter from the Postmaster-General relative to a building for the Washington City post-office was referred incorrectly to the Committee on Appropriations. It should have been referred to the

Committee on Public Buildings and Grounds. If there be no objection the reference will be changed accordingly.

There was no objection.

EXPENDITURES OF WAR DEPARTMENT.

The SPEAKER. A mistake also occurred in the reference of a letter from the Secretary of War, transmitting reports of chiefs of bureaus of that Department upon the expenditures of said Department. It was referred to the Committee on Appropriations, and should have gone to the Committee on Expenditures in the War Department. If there be no objection it will be so referred.

There was no objection.

JAMES S. KING.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the petition of First Lieutenant James S. King for reimbursement for personal property destroyed by fire on the steamer Montana; which was referred to the Committee on Military Affairs.

LOSS OF CLOTHING.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting proceedings of a board of survey on the losses of clothing of enlisted men of Company L, Fourth Cavalry; which was referred to the Committee on Military Affairs.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of a board of survey of loss of clothing of enlisted men of Company F, Eighteenth Infantry; which was referred to the Committee on Military Affairs.

PURCHASE OF CONFEDERATE RECORDS.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the appropriation of $6,000 to complete the purchase of certain confederate records from Colonel Thomas L. Snead; which was referred to the Committee on Appropriations.

LOSS OF CLOTHING.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of a board of survey on loss of clothing of enlisted men of the Sixth and Eighth Infantry; which was referred to the Committee on Military Affairs.

HENRY VOELTER.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the application of Henry Voelter for a second extension of his patent for making wood paper pulp; which was referred to the Committee on Patents, and ordered to be printed.

RAILWAY MAIL SERVICE.

The SPEAKER also laid before the House a letter from the Postmaster-General, recommending the appropriation of $35,000 to cover the cost of the railway mail service; which was referred to the Committee on Appropriations.

CLAIMS FROM DAKOTA AND MONTANA.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the appropriation of $15,000 for the payment of claims of citizens of Dakota and Montana Territories; which was referred to the Committee on Appropriations.

MILITARY POST NEAR EL PASO, TEXAS.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the appropriation of $40,000 for the erection of a military post in the vicinity of El Paso, Texas; which was referred to the Committee on Appropriations.

PURCHASE OF CONFEDERATE RECORDS.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the purchase of confederate records of General J. B. Hood; which was referred to the Committee on Appropriations.

BROOKLYN NAVY-YARD.

Mr. TOWNSEND, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to inform this House whether in his opinion it would be for the interest of the Government to sell any portion of the Brooklyn navy-yard, and the reason influencing his opinion.

Mr. TOWNSEND moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, without amendment, the bill (H. R. No. 4234) to provide that all pensions on account of death or wounds received or disease contracted in the service of the United States during the late war of the rebellion, which have been granted or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States, for the payment of arrears of pensions, and other purposes.

MEMORIAL OF CENTENNIAL BOARD OF FINANCE.

Mr. KNOTT, from the Committee on the Judiciary, reported back the memorial of the Centennial Board of Finance, asking for relief; and moved that the committee be discharged from the further consideration of the same and that it be referred to the Committee on Appropriations.

The motion was agreed to.

REPRINTING OF A BILL.

Mr. BURCHARD. I ask for the reprinting of the bill (H. R. No. 3848) to promote the refunding of the national debt, &c.

There was no objection, and the order was made.

CONTINGENT FUND OF THE STATE DEPARTMENT.

Mr. SPRINGER, (by unanimous consent,) from the Committee on the Expenditures in the State Department, moved that the letter from the State Department relative to the contingent fund of that Department be recommitted to their committee, and ordered to be printed.

The motion was agreed to.

EVENING JOINT SESSION.

Mr. CLYMER. This evening memorial services in commemoration of the late Professor Joseph Henry are to take place in this Hall, and I desire to offer a resolution in relation to that matter, and if it should be adopted by the House I shall follow it with a motion that the House take a recess until a quarter to eight o'clock.

The Clerk read the resolution, as follows:

That at the session to-night the Doorkeeper be directed to admit to the floor all persons, public bodies, and societies indicated by the Regents of the Smithsonian Institution, also the wives and daughters of members.

The SPEAKER. The Chair thinks that the space in the House will hardly suffice.

Mr. CLYMER. I would say in reply to the suggestion of the Chair that the Doorkeeper is of opinion that they might be accommodated upon one side of the Hall, not in the seats of members, and the public bodies might be accommodated on the other side.

I have confined the resolution expressly to the wives and daughters of members, because if I put in the wives and families the number would be indefinite.

Mr. THOMPSON. Is the meeting to-night a legislative meeting in any sense?

The SPEAKER. It is not; but the House and Senate have voted to participate in this ceremony.

Mr. THOMPSON. Is it to be in any sense an official meeting of the body?

The SPEAKER. The Clerk will read the order made upon the subject.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the Congress of the United States will take part in the services to be observed on Thursday evening, January 16, 1879, in honor of the memory of Joseph Henry, late Secretary of the Smithsonian Institution, under the auspices of the Regents thereof, and for that purpose the Senators and Representatives will assemble on that evening in the Hall of the House of Representatives, the Vice-President, supported by the Speaker of the House, to preside on that occasion.

Mr. PRICE. But no legislative business to be transacted.

The SPEAKER. No legislative business can be done at any rate in joint session.

Mr. PRICE. But the presumption is that when the House takes a recess, it meets again as a House for business.

The SPEAKER. That is usually a reasonable presumption.

Mr. CLYMER. The Senate has taken a recess, and I suggest that we should pursue the same course.

The resolution of Mr. CLYMER was then adopted.

Mr. CLYMER. I move that the House now take a recess.

The motion was agreed to; and accordingly (at five o'clock p. m.) the House took a recess until seven o'clock and forty-five minutes p. m.

EVENING SESSION.

The recess having expired the House resumed its session.

IN MEMORY OF THE LATE JOSEPH HENRY.

At five minutes before eight o'clock, the Senate of the United States preceded by the Sergeant-at-Arms and Chaplain, and headed by the Vice-President of the United States with the Secretary, entered the Hall and were properly announced, and the Vice-President took his seat on the right of the Speaker, and the Senators took the seats assigned them.

At eight o'clock the Chief-Justice and associate justices of the Supreme Court, and the President of the United States and the members of the Cabinet, entered the Hall, were properly announced, and were conducted to the seats assigned them.

The VICE-PRESIDENT. The Senators and Members of the Congress of the United States, in pursuance of the resolutions of their respective bodies, have assembled for the purpose of taking part in the services to be observed in memory of Joseph Henry, late Secretary of the Smithsonian Institution, under the auspices of the Regents of that Institution.

The memorial services (a report of which will appear hereafter) were then proceeded with, and at their conclusion the President of the United States with his Cabinet, the Chief-Justice and associate justices of the Supreme Court, the Senate of the United States with the Vice-President, retired from the Hall.

The SPEAKER then (at eleven o'clock p. m.) said: The object of

this evening's session as provided for by the order of both Houses of Congress having been fittingly realized, the duty remains to me to declare this House adjourned until to-morrow at twelve o'clock.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAKER, of New York: The petition of women of Bridgeport, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BAYNE: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, recommending an appropriation for the completion of Davis Island dam—to the Committee on Commerce.

Also, resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, calling the attention of Congress to the present unjust construction of the tariff regarding tin plate and recommending relief—to the Committee of Ways and Means.

By Mr. BLAIR: The petition of James H. Burns and 115 others, of the Allegheny and Beaver County convention of the Independent Order of Good Templars, for the passage of the bill providing for the appointment of a commission to investigate the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. BREWER: The petition of citizens of Glass River, Michigan, for a post-route from Morrice to Glass River, Michigan—to the Committee on the Post-Office and Post-Roads.

By Mr. BURCHARD: The petition of T. F. Reinsmith and others, for legislation to prevent the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of Mrs. John A. Slater and others, of Lyndon, Illinois, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of citizens of Lyndon, Illinois, that the pension of Mrs. Ellen J. Higley, be increased to $30 per month—to the Committee on Invalid Pensions.

By Mr. BURDICK: The petition of Mrs. E. B. Shaw, Mrs. C. H. Talmage, and 100 other ladies, of West Union, Iowa, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CASWELL: The petition of Mary A. Davis and others, of Spring Green, Wisconsin, of similar import—to the same committee.

By Mr. COBB: The petition of John Calvert, for compensation for the care of W. P. Calvert, an insane discharged soldier—to the Committee on War Claims.

By Mr. COX, of Ohio: The petition of Hannah M. Wright, widow of Brevet Brigadier-General Joseph J. B. Wright, late colonel and surgeon in the United States Army, for a pension—to the Committee on Invalid Pensions.

Also, the petition of William Wilson, for relief from a charge of desertion during the late war—to the Committee on Military Affairs.

By Mr. CRAVENS: Papers relating to the war claim of Green V. Childers—to the Committee on War Claims.

By Mr. DEERING: The petition of citizens of Chickasaw, Floyd, Butler, and Bremer Counties, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. ERRETT: The petition of 140 women of Braddocks, Pennsylvania, for the enforcement of the laws against polygamy—to the Committee on the Judiciary.

By Mr. GARFIELD: The petition of Leonidas Carson and 50 others, citizens of Mahoning County, Ohio, for such legislation as shall protect the public health against the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of N. Case and 63 others, citizens of Orangeville, Ohio, for the passage of a bill to equalize the bounties of soldiers of the late war for the Union—to the Committee on Military Affairs.

By Mr. HEWITT, of Alabama: The petition of H. D. Moore and J. B. Short, of Hanceville, Blount County, Alabama, to be relieved from the bail bond of Victor L. Taylor—to the Committee on the Judiciary.

By Mr. HUNTON: Papers relating to the claim of the heirs of James Barnett—to the Committee on Revolutionary Pensions.

By Mr. KETCHAM: The petition of Mrs. James E. Dean and 59 other ladies, of Fishkill, New York, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KIDDER: A paper favoring the present system of public-land surveys, from Henry Esperien—to the Committee on Public Lands.

Also, the petition of William Crozus and others, for the establishment of a land office near Kampeska, Dakota Territory—to the same committee.

Also, the petition of D. F. Winter and others, of similar import—to the same committee.

Also, the petition of D. F. Spaulding and others, of similar import—to the same committee.

Also, the petition of E. F. Train and others, of similar import—to the same committee.

By Mr. LAPHAM: The petition of Ann Easto, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Olive Stephenson, for a pension—to the Committee on Revolutionary Pensions.

Also, the petition of citizens of Naples, New York, that a pension be granted Mrs. Olive Stephenson—to the same committee.

By Mr. MARTIN: The petition of James A. Tenant, for compensation for property taken and used by the United States Army—to the Committee on War Claims.

By Mr. MAYHAM: The petition of the women of Cairo, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of women of Dashville Falls, New York, of similar import—to the same committee.

By Mr. MITCHELL: The petition of ladies of the Linden Presbyterian church, Lycoming County, Pennsylvania, of similar import—to the same committee.

By Mr. PEDDIE: The petition of Elizabeth Hearsey, for a pension—to the Committee on Invalid Pensions.

By Mr. SMITH, of Georgia: The petition of citizens of Colquitt and Worth Counties, Georgia, for a post-route from Moultrie to Ty-Ty, via J. B. Norman's House and Warrior Bridge—to the Committee on the Post-Office and Post-Roads.

By Mr. VAN VORHES: Papers relating to the pension claim of Stafford Palmer—to the Committee on Invalid Pensions.

Also, the petition of John Q. White, for a pension—to the same committee.

Also, the petition of Nellie G. Pasco and 30 other women, of Belpre, Ohio, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

IN SENATE.

FRIDAY, *January* 17, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. MORGAN presented the credentials of George Smith Houston, chosen by the Legislature of Alabama a Senator from that State for the term beginning March 4, 1879; which were read and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting copies of reports from the commanding general of the Department of Missouri in regard to the establishment of a military post in the vicinity of El Paso, Texas, and recommending an appropriation of $40,000 for that purpose; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, for the information of the Committee on the District of Columbia, a letter from the Chief of Engineers and a copy of a report of S. T. Abert, United States civil engineer, on the improvement of the sanitary condition of Washington and the deepening of the channel of the Potomac River; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting, in response to a resolution of the Senate of the 14th instant, all the information in possession of the Department on the subject of railroads through the public domain in the Territory of Arizona; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of Mary T. Jones and John C. Jones, of Autauga County, Alabama, praying compensation for a mill and other property destroyed by United States troops during the late war; which was referred to the Committee on Claims.

Mr. MATTHEWS presented the petition of George Sadler and others, citizens of Ohio, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. DAVIS, of Illinois, presented the petition of J. W. Barker and others, citizens of Pittsburgh, Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. GROVER presented the petition of E. J. H. Brodie, ordnance-sergeant, United States Army, stationed at Fort Stevens, Oregon, praying for a suitable recognition by the Government of the United States for long and faithful military service; which was referred to the Committee on Military Affairs.

Mr. KERNAN presented the petition of A. T. Stewart & Co., importing merchants, of New York, complaining of alleged wrongful act of United States officers at the port of New York as to imports, specifying a number of grievances and praying that the matter be investigated; which was referred to the Committee on Commerce.

Mr. WHYTE presented the petition of Marcus Bitzlee and others, citizens of Maryland; the petition of Joseph N. Jones and others, citizens of Frostburgh, Maryland; and the petition of Jeremiah Whitmore and others, citizens of Frederick County, Maryland, praying for the passage of the bill (H. R. No. 4224) granting arrears of pensions; which were ordered to lie on the table.

Mr. DAVIS, of West Virginia, presented the petition of H. N. Worden and others, citizens of Moorefield Junction, West Virginia, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WITHERS presented the petition of Charles W. Owston and others, citizens of Oil City, Pennsylvania, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. PADDOCK presented the petition of A. L. Bixley and others, citizens of Nebraska; the petition of William H. Kellow and others, citizens of Nebraska; and the petition of E. S. Chadwick and others, citizens of Nebraska, praying for the establishment of a mail-route from Genoa to Saint Paul, in that State; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. PADDOCK. I present a petition signed by Theodore C. Dennis, of Boston, Massachusetts; William P. Wild, of Brooklyn, New York; G. W. Worth, of Baltimore, Maryland; P. H. Goodwin, of New York; J. C. Smith, of Chicago, Illinois; and Moses Church, of Worcester, Massachusetts, praying for the passage of the bill to increase the pay of letter-carriers. As the bill on this subject is pending, I move that the petition lie upon the table.

The motion was agreed to.

Mr. BUTLER. I present a memorial of the National Grange on the subject of the unjust discrimination of railroad freights. I ask that it be read and printed in the RECORD.

The VICE-PRESIDENT. If there be no objection, the memorial will be read at length.

The memorial was referred to the Committee on Commerce, and read as follows:

To the Honorable Senators and Members of the House of Representatives in Congress assembled:

The National Grange, composed of representative men and women of twenty-seven different States of this Union, were in annual session at Richmond, Virginia, from the 20th November last till the 1st December, inclusive, and during the session instructed their executive committee to memorialize Congress upon the subject of existing discriminations in railroad freights.

Pursuant to these instructions we, the said executive committee, believing that the substitute to House bill No. 3547, presented by Mr. REAGAN, of Texas, is in accord with the views of the National Grange, do earnestly solicit the passage of said bill for the following reasons:

First. That freight charges on all of our through lines of transportation are whimsical and subject to unjust, unreasonable, and violent fluctuations.

Second. Terminal points are invariably accorded discriminations prejudicial to all intermediate points, thereby compelling producers and consumers of one section to pay the transportation of another section of the country.

Third. Railroads are common carriers built by the people for the common weal, and should not be tolerated as arbitrary and crushing monopolies.

Fourth. Competition among parallel lines is no longer a safeguard against monopoly; for organized combination effectually establishes the one and defeats the other, to the great injury of the commerce of the country.

Fifth. Speculators are allowed rebates and drawbacks to such an extent that large capitalists can buy the products of the West at a higher price and sell the same at a lower price in the eastern markets, and yet realize a larger marginal profit than the honest shipper of more limited means.

Sixth. Congress alone can grapple with these mammoth monopolies, who, by reason of their magnitude, either defy or evade the laws of individual States.

And your memorialists would ever pray.

SAMUEL E. ADAMS, Minnesota.
S. H. ELLIS, Ohio.
HENLEY JAMES, Indiana.
D. WYATT AIKEN, South Carolina.

Mr. THURMAN. I present certain resolutions of the city council of the City of Cincinnati, Ohio, adverse to certain provisions of what is called the patent bill now under consideration. The bill having been reported, I move that these resolutions lie upon the table.

The motion was agreed to.

Mr. CONKLING presented the petition of Frank S. Witherbee and George Duncan, of New York, praying for the passage of a law changing the name of the steamer Florence Witherbee to The Florence; which was referred to the Committee on Commerce.

Mr. CONKLING. I have received a petition signed by a number of citizens of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions, which passed the Senate yesterday. I suppose I should present the petition, nevertheless. I move that it lie upon the table.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. ALLISON, from the Committee on Finance, to whom was referred the bill (S. No. 599) to authorize the killing of fur-seal and other fur-bearing animals within the limits of Alaska Territory, reported adversely thereon; and the bill was postponed indefinitely.

Mr. PATTERSON, from the Committee on Territories, to whom was referred the bill (S. No. 1582) providing for an additional associate justice of the supreme court of the Territory of Dakota, reported it without amendment.

REPORT ON FISH AND FISHERIES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print 5,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877–'78, have instructed me to report the same without amendment, and to recommend its passage; and I ask for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 5,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877–'78, of which 1,500 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 copies for the use of the Commissioner of Fish and Fisheries; the illustrations to be made by the Public Printer under the direction of the Joint Committee on Public Printing.

Mr. PADDOCK subsequently said: I understand that the resolution reported from the Committee on Printing in reference to the publication of the report of the Commissioner of Fish and Fisheries was adopted without amendment. My attention was diverted at the time. The number of volumes of that report authorized by the resolution, as I understand it, seems to me to be quite insufficient. This is a most interesting subject, and the report is a very able and interesting and useful one. There is no interest that is attracting greater attention in the country at the present time than that of fish culture. I should like to have a reconsideration of the vote by which the resolution was adopted, in order that I may offer an amendment to increase the number, as no more than five thousand copies have been ordered.

The VICE-PRESIDENT. Is there objection to the reconsideration of the vote by which the resolution to print extra copies of the report of the Commissioner of Fish and Fisheries was adopted? The Chair hears none, and the resolution is before the Senate.

Mr. PADDOCK. I move to strike out the word "five," where it occurs before "thousand," and insert the word "fifteen." This is one of the most useful reports that have ever been published by order of Congress.

Mr. SAULSBURY. I should like to inquire of the chairman of the Committee on Printing how many copies of the report have already been printed.

Mr. ANTHONY. This report has not been printed. This is the usual number that has been printed at previous sessions of Congress.

Mr. SARGENT. It is the report for the year 1877–'78.

Mr. SAULSBURY. I think we had better adhere to the usual number.

Mr. ANTHONY. The report is certainly a very valuable one, and very interesting to the whole country.

Mr. PADDOCK. The demand for the report last year was universal almost. So far as my experience goes at least, that was the fact, and it was almost impossible to get a copy of the report.

Mr. SAULSBURY. I have no doubt the report is very valuable to certain persons, but I judge it is not such a report as will be generally appreciated. If we depart now from the usual number, it will become a precedent to be followed hereafter in reference to all these reports. We are doing a very large amount of printing in the Senate. There are a great many other reports besides those on the subject of fish and fisheries that we ought to have printed; but if we keep on multiplying the editions of reports that have already been printed and continue to print large numbers, I do not know where we shall stop.

Mr. MORRILL. Mr. President, the report of the commissioner and the work of the commissioner has proved a splendid success, as has been witnessed in every place where it has been tested on rivers, lakes, and on the ocean, increasing the amount of food of the country, so that living is to be made cheaper hereafter. I regard the work as perhaps one of the most useful that has ever been encouraged by Congress. I therefore hope that a larger number of this report than was proposed by the Committee on Printing will be printed.

Mr. BECK. I do not know that I have anything to add to what has been said by the Senator from Vermont; but as I have the floor I desire to say that I have looked into this question with some care, and I believe that we ought to have at least fifteen thousand copies of the report. All over the section of the country which I represent demand is made for them, and the people take such an interest in them as I have never seen taken in other reports. I have tried to buy copies in order to supply the demand. Of course it is a report on fish and fisheries, but it is something that everybody seems to want to know about. The subject is new. Professor Baird in late years has made immense discoveries in regard to the power of developing fish everywhere; and he is still going on with the work. All along the coast everywhere he is showing the people how to make the waters of the country produce food for the people, perhaps more abundantly than the best land in the country. I hope the amendment will be agreed to, notwithstanding the objection of the Senator from Delaware. I know that we have never printed a report of more value to every one.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Nebraska, increasing the number of copies from five thousand to fifteen thousand.

The amendment was agreed to.

Mr. ANTHONY. The resolution will require an additional amendment.

Mr. SARGENT. The resolution should now be referred back to the Committee on Printing for correction, because as the number is increased from 5,000 to 15,000 the distribution of the report should be differently arranged. I therefore suggest that it be recommitted to the committee that the details of the resolution may be corrected.

Mr. PADDOCK. I think in a moment the relative increase in the distribution may be arranged. I think the Secretary has already made the computation.

Mr. SARGENT. Very well. I withdraw the suggestion.

The VICE-PRESIDENT. As thus amended, to make the distribution agree with the increased number, will the Senate agree to the resolution?

The resolution, as amended, was agreed to.

NARRATIVE OF POLARIS EXPEDITION.

Mr. ANTHONY. I am also instructed by the Committee on Printing, to whom was referred a resolution to print 1,000 copies of the Narrative of the Polaris Expedition for sale, to report it without amendment, and to recommend its passage. I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

Resolved, (the House of Representatives concurring), That there be printed 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer, under the direction of the Joint Committee on Printing, at the cost of publication with 10 per cent. added thereto.

Mr. ANTHONY. The committee have always been very anxious to promote the sale of public documents. An edition of this book was printed for sale with some hesitation on the part of the Senate, but the whole edition has been exhausted and there are calls for additional copies.

The resolution was agreed to.

BILLS INTRODUCED.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1636) for the relief of Henry T. Fuller and others, sureties upon the official bond of William H. Waterman, formerly superintendent of Indian affairs for Washington Territory, and from liability on the judgment rendered on such bond; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1637) granting a pension to Hugh O'Neil; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1638) to appoint Spruille Braden an ensign in the United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1639) to authorize the purchase of a life-size portrait of the late Major-General George H. Thomas; which was read twice by its title, and referred to the Committee on the Library.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1640) for the relief of Jacob D. Felthousen and the heirs of William H. Akins; which was read twice by its title.

Mr. COCKRELL. I introduce the bill by request, as it is for the extension of a patent-right; and I am, as a matter of course, not committed to the support of the bill by introducing it, nor am I committed against it. I move its reference to the Committee on Patents.

The motion was agreed to.

Mr. COCKRELL. I also move, in connection with the bill just introduced, that the bill (S. No. 553) for the relief of William H. Akins and Jacob D. Felthousen, their heirs and assigns, which was reported on the 10th of May, 1878, by the chairman of the Committee on Patents, and the accompanying report, be recommitted to the Committee on Patents, that they may consider the bill just introduced in lieu of the original bill, and act upon it.

The motion was agreed to.

Mr. LAMAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1641) for the relief of the Vicksburgh and Meridian Railroad Company from taxes improperly paid; which was read twice by its title, and referred to the Committee on Railroads.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1642) to amend section 5356 of the Revised Statutes of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT TO POST-ROUTE BILL.

Mr. DAVIS, of West Virginia, submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-roads herein named; which was referred to the Committe on Post-Offices and Post-Roads.

SUPPLY OF WATER ON CAPITOL HILL.

Mr. DORSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the commissioners of the District of Columbia be, and they hereby are, directed to report to the Senate what action by Congress, if any, is necessary to secure to the residents of Capitol Hill, and other elevated portions of the city of Washington, a proper supply of water; what appropriation of money, if any, is required for this purpose; and to transmit to the Senate such facts relating thereto as they may deem important.

HALL'S SECOND ARCTIC EXPEDITION.

Mr. ANTHONY submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 5,000 additional copies of the Narrative of Hall's Second Arctic Expedition, of which 1,200 copies shall be for the use of the Senate, 2,400 copies for the use of the House of Representatives, 150 copies for the use of the Navy Department, 250 copies for the use of the Naval Observatory, and 1,000 copies to be sold by the Public Printer, under the direction of the Joint Committee on Public Printing, at the cost of printing and binding, with an addition of 10 per cent.

TRANSACTIONS OF TREASURY DEPARTMENT.

Mr. SAULSBURY. I submit a resolution of inquiry.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate of the amount of commissions or other compensation paid to bankers, brokers, firms, companies, syndicates, and individuals for services in negotiating the sale of bonds and other obligations of the United States from the year 1862 until the present time; when, and to whom, such commissions or compensation was paid, and when paid to syndicates, firms, corporations, or companies, to state the names of the persons composing the same; and also to inform the Senate whether any, and, if any, what amount of commissions or other compensation has been paid to bankers, brokers, firms, companies, syndicates, and individuals for services rendered in refunding any of the bonds of the United States, and, if any such payments have been made, to state when and to whom made; and, also, whether interest has been paid on called bonds at the same time that interest was accruing on the bonds sold to redeem the same, and whether such double interest has been uniformly paid while the refunding operation has been in progress or on bonds sold for resumption purposes, specifying whether there has been any exception to such payments of double interest, and who was Secretary of the Treasury at the time of such exception, and how much double interest has been paid on each class of bonds and the total amount thereof, and whether the money received for bonds sold by any bank or syndicate has in all cases been allowed to remain on deposit with the national banks acting as Government depositories pending the call of bonds, specifying the names of the banks and the length of time during which the proceeds of the bonds sold have been left on deposit with each bank, and whether at any time any gold coin has been delivered by the Treasury to any parties concerned in the negotiation of United States bonds or otherwise in exchange for or upon the security of United States bonds, or in advance of the payment thereof, pending any call of bonds on which interest was allowed or paid up to the date of the maturity of the call, and also whether any money in the Treasury held for the payment of overdue called bonds has been left on deposit without interest in any Government depository, and what was the largest amount thereof at any one time, stating the names of the banks in which such money was deposited, and what security the Treasury held for the payment thereof when demanded.

The VICE-PRESIDENT. Is there objection to this resolution?

Mr. MORRILL. Mr. President, if the Senator introducing the resolution proposes to have it referred to the Committee on Finance, I have no objection.

Mr. SAULSBURY. No, sir.

Mr. MORRILL. It certainly ought to go to the Committee on Finance. To resolutions asking for legitimate information I have, for one, not the slightest objection; but I think it the part of prudence not to impose a vast amount of work upon the department, involving the labor of thirty or forty clerks for a month, unless there is some good object to be attained. I do not know but that a large portion of the information asked for is already in print; but I think it is eminently a resolution that ought first to be considered by the Committee on Finance.

Mr. SAULSBURY. I believe a mere resolution of inquiry it is not usual to refer to any committee. This is a mere inquiry to be made of the Secretary of the Treasury about matters which he will be able to answer. There is no doubt but that he can give an answer without much labor or without much hesitation. It simply inquires as to matters of which the people have a right to know.

Mr. MORRILL. I must object to its consideration now, unless the Senator will allow it to go to the Committee on Finance.

Mr. SAULSBURY. No, sir; I prefer that it be printed and lie on the table.

The VICE-PRESIDENT. The resolution goes over under the rule.

WITHDRAWAL OF PAPERS.

Mr. HOWE. I have a letter from the Treasury Department asking that certain papers used in the case of Harlow J. Phelps be returned to the Treasury Department. They are required in New York on Monday next. I ask that the order may be made at this time.

The VICE-PRESIDENT. The Chair hears no objection, and that order will be entered.

MRS. MARIA B. CRAIG.

Mr. THURMAN. I ask the unanimous consent of the Senate that the order of the Senate, made at the present session, indefinitely postponing the bill (H. R. No. 3116) granting an increase of pension to Mrs. Maria B. Craig, may be reconsidered and the bill again referred to the Pension Committee of the Senate. I have spoken to the chairman of that committee and he makes no objection to this reconsideration. There are certain reasons, with which I need not interrupt the Senate, why I think this action ought to be had.

The VICE-PRESIDENT. Is there objection? To the proposition of the Senator from Ohio the Chair hears no objection. The order will be entered.

RESTORATION OF COURT RECORDS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire. I make this motion because it is very important to the interests of justice between private parties, and the United States as well, that the records which were unhappily destroyed there should be restored immediately. Everything of course is at a stand-still. I ask the Senate, therefore, to take up the bill now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary with

an amendment to strike out all after the enacting clause and in lieu to insert:

That section 902 of the Revised Statutes of the United States is hereby amended so as to read as follows:

In any proceedings in conformity with law to restore the records of any court of the United States which have been or may be hereafter lost or destroyed, the notice required may be served on any non-resident of the district in which such court is held anywhere within the jurisdiction of the United States or in any foreign country; the proof of service of such notice, if made in a foreign country, to be certified by a minister or consul of the United States in such country, under his official seal.

SEC. 2. That section 903 of said Revised Statutes is hereby amended so as to read as follows:

A certified copy of the official return, or any other official paper of the United States attorney, marshal, or clerk, or other certifying or recording officer of any court of the United States, made in pursuance of law, and on file in any department of the Government, relating to any cause or matter to which the United States was a party in any such court, the record of which has been or may be lost or destroyed, may be filed in the court to which it appertains, and shall have the same force and effect as if it were an original paper or other document made to or filed in such court; and in any case in which the names of the parties and the date and amount of judgment or decree shall appear from such return, paper, or document, it shall be lawful for the court in which they are filed to issue the proper process to enforce such decree or judgment, in the same manner as if the original record remained in said court. And in all cases where any of the files, papers, or records of any court of the United States have been or shall be lost or destroyed, the files, records, and papers which, pursuant to law, may have been or may be restored or supplied in place of such records, files, and papers, shall have the same force and effect, to all intents and purposes, as the originals thereof would have been entitled to.

SEC. 3. That section 904 of said Revised Statutes be amended so as to read as follows:

That whenever any of the records or files in which the United States are interested of any court of the United States have been or may be lost or destroyed, it shall be the duty of the attorney of the United States for the district or court to which such files and records belong, so far as the judges of such courts respectively shall deem it essential to the interests of the United States for such records and files to be restored or supplied, to take such steps, under the direction of said judges, as may be necessary to effect such restoration or substitution, including such dockets, indices, and other books and papers as said judges shall think proper. Said judges may direct the performance, by the clerks of said courts repectively and by the United States attorneys, of any duties incident thereto; and said clerks and attorneys shall be allowed such compensation for services in the matter and for lawful disbursements as may be approved by the Attorney-General of the United States, upon a certificate by the judges of said courts stating that such claim for services and disbursements is just and reasonable; and the sum so allowed shall be paid out of the judiciary fund.

Mr. MAXEY. I simply desire to say that the bill as it passed the House restored the records of the district and circuit courts of the western district of Texas, which were destroyed in November last by fire. The entire business of that court has been clogged ever since by reason of the loss of the records. The Judiciary Committee thought proper, as it was a special bill for a special purpose, to use it as a basis for a general bill, and therefore they have presented the amendment which covers the object had in view by the bill as it passed the House and takes into consideration all like cases. I ask that the amendment be adopted, and that the bill be passed as recommended by the committee.

Mr. EDMUNDS. Mr. President, the committee to which this bill was referred found on an examination of the bill and upon consultation with the head of the Department of Justice that the bill itself was defective in respect of the very purposes it had in view. Although it followed exactly the provisions of an act about the records that were destroyed in Illinois a few years ago, there was an omission in respect of giving effect to the restoration of those papers, which was extremely dangerous. It was therefore necessary to make an amendment. That being ascertained, we thought it better to make a general provision, about half of which already exists in the Revised Statutes and the other half does not. As to the half that already exists, in respect of the records of private parties, the committee made a general provision to cover the future as well as the past, where the records and files of a court may unhappily be destroyed. I presume this brief explanation will be satisfactory to the Senate as to the propriety of putting the bill in this form.

Having made that statement, I notice one or two clerical or typographical errors in the amendment which I beg to have corrected. In section 2 of the amendment, line 11, after the word "original," should be inserted the words "report, return," so as to read:

And shall have the same force and effect as if it were an original report, return, paper, or other document made to or filed in such court.

It does not make grammar as it is now. It is a clerical omission.

The VICE-PRESIDENT. That amendment will be made.

Mr. EDMUNDS. Then in section 3, line 9, the word "for" should read "that." It now reads—

So far as the judges of such courts respectively shall deem it essential to the interests of the United States for such records and files to be restored or supplied.

"For" should be "that," in order to make it proper and grammatical reading; and "to" after the word "files" should be stricken out.

The VICE-PRESIDENT. That amendment will also be made.

Mr. EDMUNDS. That being done, I believe the committee's amendment needs no further amendment.

The amendment reported by the Committee on the Judiciary, as modified, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend the Revised Statutes of the United States relating to records and files in the district and circuit courts of the United States destroyed by fire."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 109) defining the manner in which certain land-scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the time and places for holding courts therein, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes; and

A bill (H. R. No. 4234) to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payment of arrears of pensions, and other purposes.

REVISION OF THE PATENT LAWS.

Mr. WADLEIGH. I move that the Senate proceed to the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The unfinished business of the Senate is the consideration of the bill for the revision of the patent laws, and it comes up under the rule without a motion.

Mr. ANTHONY. This day was assigned for the consideration of unobjected cases on the Calendar. I hope the Senator from New Hampshire, who has yielded so graciously and gracefully to several other bills, will yield to these and allow the Calendar to be proceeded with.

Mr. WADLEIGH. I shall be obliged to refuse the request of my friend, the Senator from Rhode Island.

The VICE-PRESIDENT. The order of the Senate in reference to unobjected cases on the Calendar would take effect at one o'clock, in the absence of the unfinished business of the Senate, which has priority.

Mr. ANTHONY. Then I move that the Senate proceed to the consideration of the Calendar under the rule that was adopted for to-day.

Mr. WADLEIGH. My motion has precedence, I think. I have moved to take up Senate bill No. 300.

The VICE-PRESIDENT. Such a motion is not necessary. The bill comes up of course under the rule. The Senator from Rhode Island moves to postpone the present and all prior orders for the purpose of considering the general Calendar under the rule which was adopted on his motion for to-day. The question is on the motion of the Senator from Rhode Island.

Mr. ANTHONY. I hope the Senate will agree to take up the Calendar. We are toward the close of the last session of this Congress, and there are a great many bills on the Calendar which will be lost unless they are acted upon at once. The bill amending the patent law is sure to have consideration. It has had consideration during the whole session, and I think it is going to take the remainder of the time.

Mr. WADLEIGH. Senate bill No. 300 will have to go to the House very soon in order to have action upon it there at this session. Consideration upon it has proceeded to a considerable length, and the debates are fresh in the minds of Senators. My friend, the Senator from Illinois, [Mr. DAVIS,] assures me that he is not aware of any further considerable discussion, and the prospect is that in a very short time to-day we shall pass the bill and dispose of it. I ask my friend, the Senator from Rhode Island, to give me an opportunity to pass that bill.

The VICE-PRESIDENT. The question is on the motion of the Senator from Rhode Island, that the Senate lay aside the pending and all prior orders and proceed to the consideration of the general Calendar.

The question being put, there were on a division—ayes 15, noes 20; not a quorum voting.

The VICE-PRESIDENT. The Secretary will call the roll of the Senate.

Mr. THURMAN. I suggest that there be another division. There are a number of us here who did not understand the question.

Mr. McDONALD. I ask for the yeas and nays.

Mr. CONKLING. Let us have a new division first.

Mr. McDONALD. My object is simply to get a quorum.

Mr. THURMAN. There is manifestly a quorum here.

Mr. CONKLING. Another division will reveal a quorum.

Mr. McDONALD. Very well, let there be another division, then.

The question being again put, there were on a division—ayes 17, noes 22. So the motion was not agreed to.

The Senate, as in Committee of the Whole, resumed the considera-

tion of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from Ohio [Mr. MATTHEWS] upon which the yeas and nays have been ordered.

Mr. EDMUNDS. Let it be reported.

The VICE-PRESIDENT. The amendment will be read for information.

The SECRETARY. The amendment is, in section 2, line 10, to strike out all after the word "cases," where it first occurs, down to and including the word "awarded," in line 23; in line 27, to strike out all after the word "case," down to and including the word "recovery," in line 29; and to strike out lines 36, 37, 38, 39, and down to and including the word "aforesaid," in line 40, and in lieu thereof to insert the following:

No account of profits or savings shall in any case be allowed; but evidence thereof may be admitted as tending to prove what shall be deemed a reasonable license fee as compensation for the infringement.

Mr. EDMUNDS. I should like to have the Senator from Ohio tell us what the state of the law will be, that amendment being adopted and becoming a law, in respect of cases in equity, in view of the provision of the Constitution respecting trials by jury. I happened to be present the other day in a court of the United States, where a patent cause was on hearing, and I heard one of the counsel maintain with earnestness——

Mr. WHYTE. We should like to hear the Senator from Vermont, but the noise in the Chamber is so great that it is impossible.

The VICE-PRESIDENT. Order! Senators will please be seated.

Mr. EDMUNDS. I was saying, Mr. President, that I desire to have the Senator from Ohio explain to us what in his opinion, if he chooses to give it, the state of the law will be if this provision is to become a law in such a way that the patent laws simply provide that there shall be no account of profits in cases in equity where there are now accounts of profits, but that the rule shall be a rule of damages to be measured in a certain way, in view of what I was stating when the Senator from Maryland rose, that happening the other day to be in a circuit court of the United States where a patent cause was on argument, I heard a very distinguished counsel make with earnestness and sincerity the point, under the existing law even, that the provision of the Constitution requiring trial by jury (with which we are all familiar and which I need not recite) stood in the way, notwithstanding the statute, of the right of a court of equity to proceed to ascertain any damages at all; and therefore that the decree of the court in that case which was being settled, the rights of the parties having already been pronounced upon on the same occasion or before, must be confined, notwithstanding the existing statute, to taking an account of profits and savings. Now, then, if by statute we erase from the jurisdiction and right of a court of equity the power to take an account of profits and savings, if the point of this gentleman was correct, we shall have deprived the courts of equity in all patent cases of any right to give any redress at all except a simple injunction. What I desire is an explanation from my honorable friend from Ohio on that point.

Mr. MATTHEWS. Mr. President, as I understand the matter, as the law now stands, the owner of a patent-right which has been infringed has his election to pursue one or the other of two remedies. He may bring his action at law to recover damages for the infringement, and the amount of his damages is a question to be determined by the verdict of a jury upon the evidence adduced before it showing the loss to which he has been subjected by virtue of this infringement of his rights; or he may pursue his remedy in equity, which is for the purpose of obtaining an injunction to restrain and prohibit the defendant from infringing upon his rights, and on obtaining an injunction on the hearing upon the merits, which is a final adjudication of the rights of the parties, perpetuating that injunction he is then, according to the course of practice in courts of equity, entitled to have compensation for the injury which he has been compelled to submit to in the mean time by virtue of the fact or the law that the court of equity having obtained jurisdiction of the cause for one purpose is entitled to hold it in order to do complete justice between the parties.

In rendering that compensation the practice of courts of equity adopting a rule to that end is to turn the defendant convicted as a wrong-doer into a trustee *de son tort* and to charge him as if he had in law and in fact occupied a fiduciary relation toward the owner of the property, and so take an account of the profits which the defendant had made in the mean time by the use of the plaintiff's property. The bill as reported by the committee abolishes the distinction between the rule of damages in actions at law and the rule of compensation based upon an account of profits as it has heretofore obtained in courts of equity; and the amendment proposed by me does not touch that part of the bill. The committee seek to substitute for the existing rule in equity practice as to profits another rule in respect to profits, also interpolating into the action at law an account in certain excepted cases of actual profits, but in both instances, in both rules, excluding that which may become in some cases necessarily a part of the very computation necessary to arrive at what actual profits may be.

My proposition was intended not to interfere with the main purpose of the section in respect to reducing to unity and identity the rules of equity and of common law in respect to the measurement of the compensation, but to have one rule in both cases and to substitute for all accounts of either savings or profits the ordinary common-law rule giving to the complainant who had suffered an injury by the use of the property by another what in the opinion of the tribunal constituted for that purpose should be a fair, reasonable, full, adequate compensation for that loss; and I do not understand that a man loses more or less in point of fact because he happens to seek his remedy by an action at law or by a suit in equity. So that I do not understand that any constitutional provision is violated unless it be one which undertakes because the suit is in equity merely to prescribe by statute a rule of compensation which is different from that heretofore adopted by the courts.

Mr. EDMUNDS. My point was not that this proposition of the Senator from Ohio violated any constitutional rule; but it was an inquiry whether, supposing this point about the Constitution to be a sound one, (in regard to which I express no opinion,) it was the purpose to deprive a court of equity of any power to give any other redress in any patent cause except the simple injunction, because the effect of the amendment is to cut off from a court of equity any jurisdiction to take an account of actual profits even, which the committee's bill provides for. Therefore a court of equity under this amendment has no power to take an account of actual profits. Then what is it to do? It is to take an account of damages. But, say the gentlemen who contend that way, the Constitution does not allow a court of equity to take an account of damages *per se*; you may take the damages into consideration in connection with the question of estimating profits, but *per se* it has not any jurisdiction. The effect, therefore, of this amendment would be, supposing this claim about the Constitution to be correct, to say that a court of equity shall not under any circumstances give any other redress in a patent cause than the simple prohibition of use, turning over the party to a court of law to get his damages, to the great benefit, I may add, of all lawyers and other people of that kind, because they have two suits instead of one.

Mr. WADLEIGH. Mr. President, this amendment had been debated at great length prior to the adjournment last night, and a vote had been taken upon it, six voting in favor and thirty-two against it, barely lacking a quorum, which necessitated another call of the roll. I do not propose after that to say anything more upon this amendment. I trust now that we shall have a vote.

Mr. BECK. Mr. President, I desire to say a word before the vote is again taken. Upon the vote of yesterday I voted for the amendment of the Senator from Ohio on the yeas and nays, simply on the idea that I regard the present patent law as in many instances doing great injustice to the people; and sympathizing very fully, so far as I am advised, with what has been said by the Senator from Minnesota [Mr. WINDOM] and by those gentlemen who seek to curtail the power of patentees over the people, I thought I was voting for an amendment that did help to curtail it. If, however, it is unconstitutional or there is any difficulty on that point, I do not desire to go so far in my efforts to curtail the power of patentees as to do anything that is in violation of the Constitution. Therefore I suppose I shall change my vote and vote against the amendment, if there is any doubt on that subject. I only desire to add that I shall never fail to vote to curtail the present rights of patentees, which I think are absolutely enormities in many regards.

Mr. MATTHEWS. Mr. President, after the expression of opinion indicated by the vote of yesterday, I ask leave of the Senate to withdraw the amendment.

The VICE-PRESIDENT. To this the Chair hears no objection.

Mr. DAVIS, of Illinois. Mr. President, I now propose the amendments of which I have given notice. I do not care about discussing them. They have been incidentally discussed throughout this debate; I discussed them as fully as I could on the 20th of December, and they have been discussed substantially by the Senator from Ohio, the Senator from New York, and others.

The VICE-PRESIDENT. The amendments will be reported and acted upon separately. The first will be reported.

The SECRETARY. In section 2, lines 11 and 12, it is proposed to strike out the words "for sale or," and in line 12 insert after the word "selling" the words "or using;" so as to read:

Except in cases where the defendant has made an actual profit from making selling, or using the thing patented, or the product thereof.

Mr. DAVIS, of Illinois. I will read a part of the section:

If a license fee has already been established by a reasonable number of transactions applicable to the case at bar, such license fee, or a portion thereof, according to the extent and duration of the infringement proved, shall be the measure of the plaintiff's recovery in all cases, except in cases where the defendant has made an actual profit from making for sale, or selling the thing patented, or the product thereof.

I want to amend it so as to strike out the words "for sale" in the eleventh line and insert in the twelfth line the words "or using," so as to read if amended, "the defendant has made an actual profit from making, selling, or using the thing patented or the product thereof." An account of profits under this is confined now by this section to cases where the thing patented or the product thereof is sold. I want to extend it so that where service is performed by railroad companies, where anybody is using a patented thing but does not manufacture it for sale, this provision as to an account shall apply.

Mr. McMILLAN. I trust this amendment will not be adopted. The

effect of this amendment would be to make every person using a patented article, under any circumstances, without a license from the patentee, liable for profits just as for manufacturing or selling the article. That question was discussed some days ago, and I think the Senate are pretty well satisfied that the principle should not apply to citizens who merely use a patented article for their private purposes, and in many instances without a knowledge of any infringement of a patent, as is the case in the State I have the honor in part to represent at this time, with regard to the drive-well referred to on the day of the former debate, where there are multitudes of suits instituted against our citizens which are very burdensome to them and which involve no principle of justice whatever.

Mr. EDMUNDS. But my friend ought to remember that the drive-well was the only thing that enabled Her Majesty's government of Great Britain to conquer that Nubian or whatever other king he was at Magdalla. They could only get across the deserts in that way.

Mr. WINDOM. I hope the Queen of Great Britain will pay for it, then.

Mr. EDMUNDS. I have no objection to that.

Mr. DAVIS, of Illinois. I do not want this amendment to be voted upon on the theory that the drive-well is the sole thing to which it can apply. Here is a railroad company that uses a brake, a mill that uses a patented thing, a manufacturer who uses a patented thing and does not sell it. This may be illustrated by many things used in the building of houses; there are a thousand things that might be mentioned.

I do not care about discussing the question; but I want the Senate to vote understandingly. I do not understand how a railroad company that uses a patented bridge should not pay for it as well as if it sold the thing patented.

Mr. WADLEIGH. I agree with my friend the Senator from Illinois that a railroad company that uses a brake should pay for it. What this bill provides is that the railroad company shall not go into an account of its whole business, everything, and then undertake to apportion the share of the profits of that business due to the use of that railroad-brake. This account for profits, in cases where the invention is simply used, is extremely expensive and long——

Mr. DAVIS, of Illinois. But I would ask the Senator if that is any different from the case of a manufacturer manufacturing India-rubber goods or anything else? Is there any difference at all? You do bring a bill in equity and require an account for profits. You have said here that savings shall not be taken into consideration. Why should not a railroad company, in the thousand cases in which service is performed for it by a patented thing, pay for it the same as for the patented thing itself?

Mr. WADLEIGH. My friend the Senator from Illinois interrupted me in the middle of a sentence, and I shall have to leave the rest of it unsaid because I have forgotten what I was saying. But the distinction between the two cases was very well argued the other day, particularly by the Senator from Massachusetts, [Mr. HOAR.] Where the patented article is sold, or where its product is sold, the case is very different from where a machine or the patented invention is simply used. In the one case there may be some difficulty, and a good deal of difficulty, in taking an account of profits, but in the other case it is generally absolutely impossible to take an account which is at all just.

I trust that the amendment of the Senator from Illinois will not be adopted.

Mr. WHYTE. Mr. President, I hope the Senator from Illinois will amplify by argument his proposition. My friend from New Hampshire said that it had been all argued. Well, but it was before a different jury. It has not been argued here very fully; at least I have not heard it argued very fully, and I do not know that the RECORD discloses any full argument upon the subject.

But why an account of profits or an account of savings in a business where a patented article is used should not be examined into by a court is a matter that I cannot understand. Why a party who infringes a patent by its use should not pay for it is a thing that I cannot understand; and the simple reply is that because his whole business does not actually make a profit, therefore you cannot inquire into the use of the particular patented article——

Mr. WADLEIGH. If the Senator will look at the section he will see that it covers the whole question.

Mr. WHYTE. But this applies only to making for sale or selling the patented article or the product thereof. This is covered up in very fine language. I am rather afraid that there is a snake in this branch of the case. It is not plain enough for a man of ordinary comprehension like myself to see it exactly, and I would rather have it a little plainer. I have read the bill and examined it very carefully; but I saw a bill that had two little words, "if any," in it once, and it was a very serious bill when it came to be carried into execution.

The proposition in the amendment proposed by the Senator from California, [Mr. BOOTH,] which seems to have been adopted by the committee, does not cover the case contemplated by the Senator from Illinois, and I do not see why there should not be a close examination into the business, whether it is profitable or not profitable, to ascertain whether by the use of a patented article a branch of that business has not been carried on at a cheaper rate than without the use of that patented article, as for instance——

Mr. HOAR. Will the Senator from Maryland allow me to ask if he can see any reason why a trespass committed more than six years ago should not be paid for, as much as a trespass committed six months ago?

Mr. WHYTE. Well, I do not see any reason, except that the statute of limitations bars it.

Mr. HOAR. I know; but I ask for the reason of the statute of limitations. Is not the reason the fact that the experience of mankind shows that more injustice is done by going into an inquiry in regard to transactions more than six years old, involving expense and litigation, than there is by drawing a limit at that period? Now, the testimony of a vast number of persons on both sides of patent questions before the committee was, with remarkable unanimity, to the effect that the habit of going into an account of savings of great business concerns which used patented articles enabled a wealthy complainant, who required it of a defendant, to make patent causes so expensive and burdensome that they broke down the defendants, and enabled wealthy defendants resisting poor and honest complainants to make the pursuit of their remedy so burdensome that they practically destroyed it; and for that reason the committee were of opinion that it would be more just, as a general rule, to abolish accounts of savings altogether, leaving the general amount of damages to be settled, however, by the jury or by the court on the whole evidence in the case, gathering it from the general nature and character of the invention and the business.

Mr. DAVIS, of Illinois. I should like to ask a question of the Senator who has just taken his seat: whether the committee took testimony upon the subject as it affects a poor man who has made an invention which all the railroads of the country use? Here is a poor man who makes an invention. All the railroads of the country use it. They combine against him. He has to fight them. He has no money to do it with. They can go on and use his invention and not pay him for it at all. He is in a different position altogether from those who manufacture a thing patented for sale.

Mr. WHYTE. I am much obliged to the Senator from Illinois for answering the question propounded to me by the Senator from Massachusetts. My friend from New Hampshire says that a clause in this bill covers the case which I have just suggested; but it is a remarkable fact that Mr. Raymond, who seems to represent the combined railroad companies of the country, should object to this very amendment of the Senator from Illinois upon the ground that "the second section of the bill proceeds upon the theory that savings resulting from the use of a patent can in no case constitute a just measure of the plaintiff's recovery." There is the very point. Mr. Raymond stands upon the very ground that such an inquiry ought not to be gone into, because it constitutes no just estimate of the measure of damages, though my friend from New Hampshire indicates that it is already covered by the bill, when the lawyer who seems to have been arguing mostly this case before the committee says that the bill excludes any such theory.

This is a new argument, since the bill has been in Committee of the Whole, and the amendments were offered by the Senator from Illinois; it is no old argument, but it is an argument addressed to us now when we are about to vote upon this proposition of the Senator from Illinois. And he cites a case with which I am familiar myself, for I argued one of its branches, the case of Conover, where people used a wood-splitting machine in their business of selling coal and wood, and when we sued them for infringing our wood-splitting-machine patent, the reply was that their whole business had been unprofitable, and that we could not go into an inquiry in regard to the use of our patented article because they had lost money in carrying on a general coal and wood business. And it is just such people to whom this bill, if enacted into a law, will be beneficial. It is to help them. Why should that be so, Mr. President? Because a man carries on a general business improperly, negligently, without good judgment, and loses money by it, if forsooth he uses a patented article in carrying on that business and is asked to pay for it, if we own the patent, we are told that the business has been carried on at a loss, and we cannot go into any inquiry in regard to the use of our particular patent. Mr. President, that cannot be just. Why a patented article should be accounted for if you can sell it, why if it forms a component part of a product that should be paid for, and yet you should not pay for using a patent the property in which is just as valuable and ought to be just as much protected as the property in the other sort of patent, I cannot understand. I cannot see why there should not be an inquiry in regard to the use of a patented article just as much as an inquiry where you sell the article patented.

Mr. WADLEIGH. My friend the Senator from Maryland starts out with the proposition that the infringer of a patent should pay for his use of it. I agree with him entirely in that proposition. He says that the advantage derived from the invention, or the savings which it is capable of making, should also be inquired into. I agree with him in that. Then, where do the Senator from Maryland and myself differ? I cannot state wherein we differ better than by referring to an actual case, the Cawood patent case, which is reported in the fourth volume of Otto. It is one of the swedge-block cases. In that case there were several patents for repairing the exfoliated ends of rails upon railroads. The railroad companies defendants in this case used one of those patents, there being a controversy at the time as to which of the patents infringed upon the other. They repaired their

rails according to a certain patent. It turned out that the patent that was used was an infringement upon another patent, the owner of which brought suit against them for that. They offered to prove upon the trial that nothing was saved by the use of this machine at all, because repairing the ends of rails in that way was absolutely useless; that the effect of it was such that in a short time the same exfoliation occurred again, and it was absolutely worthless. The court refused to allow them to do so upon this ground, that when they undertook to use this machine there were two methods open to them; one by taking up the rails and repairing them in the old-fashioned way upon the anvil, which it was estimated would cost thirty-six cents a foot, which I think would be more than the foot of rail would be worth now; the other was by using the plaintiff's machine; and that inasmuch as they chose to use the plaintiff's machine they saved the work that would have been required to be done by the anvil process by the old way, and that they should account for the difference in cost under that rule which exemplifies the doctrine of technical savings that my friend the Senator from Maryland advocates. In that case, where the defendants offered to show and could have shown that they derived no advantage at all from the plaintiff's invention, a decree was rendered for nearly $1,500,000 against the railroads.

Now, my friend, the Senator from Delaware, inquires why the railroads are opposed to that system. Why, Mr. President, I should think they would be. Everybody who does business upon those railroads should be opposed to any rule by which such extortion as that can be wrought out. Such decrees as that would burden the whole business interests of the country if they were enforced; and other injustice equally flagrant has been wrought under the rule to which I refer. Now we say that that shall not be the rule any longer, but that a new rule shall be adopted, and that is that in order to show what the defendant should pay the plaintiff may prove what his machine will save as a part of "the utility and advantage" of the machine, that he may go fully into evidence to show what advantage the machine will effect, what it will save, what it is worth, but that a machine which can produce no useful results whatever, the work of which is good for nothing, shall not be paid for at any such rate as that to which I have alluded.

Mr. DAVIS, of Illinois. I did not intend to discuss this question at all, and I told the Senator from New Hampshire that I would not discuss it; but discussion has been brought on without any wish of mine.

The Senator from Maryland and the Senator from New Hampshire are discussing a different thing from that to which this amendment applies. I agree that it is very difficult in such a case as the swedge-block case to fix a true invariable rule. I do not believe that in any such case you can fix an invariable rule upon the subject, and my second amendment applies to that because I have left it to the court to say, when they have taken the account of savings, what is a fair compensation under all the circumstances by a reference to the nature, the magnitude of the invention, as well as the use to which it is put.

The swedge-block case I tried myself in connection with Judge Drummond. The Senator from New Hampshire is a little mistaken about it. The old process for mending exfoliated rails was by the anvil. The new process was by Turrill's patent. All the railroads abandoned the old process and used the new. After a while there were inventions that superseded Turrill's, so that they could do it cheaper by other inventions than they could by Turrill's; but they used Turrill's during all the time that the other inventions had not been made, and the question was how much the railroads saved in doing that over the old mode of mending by the anvil and hand. That was a subject of actual, definite computation from the railroads themselves. The judges there felt the force of the objection that this was too much of a remuneration; I agree that it is too much. How are you going to measure that? You must leave it with the court. This man was entitled to something, and although his invention was superseded by others, that was no reason why the railroad companies should use that invention without compensation until it was superseded by others.

What I want to get at in this first amendment is to put all these things alike; and then my subsequent amendment I think improves the section because it leaves the law subject to the court to decide after they have heard the evidence what is a fair remuneration under the circumstances.

Mr. WADLEIGH. I have here the case to which I have referred, and I desire to read a sentence or two from the opinion of the court. The court say:

> It has been argued that it would have been better for these defendants, if, instead of repairing the crushed and exfoliated ends of the rails, they had cut off the ends and relaid the sound parts, or had caused the rails to be rerolled. Experience, it is said, has proved that repairing worn-out ends of rails is not true economy, and hence it is inferred that defendants have derived no profits from the use of the plaintiff's invention. The argument is plausible, but it is unsound. Assuming that experience has demonstrated what is claimed, the defendants undertook to repair their injured rails. They had the choice of repairing them on the common anvil or on the complainant's machine. By selecting the latter they saved a large part of what they must have expended in the use of the former. To that extent they had a positive advantage, growing out of their invasion of the complainant's patent. If their general business was unprofitable, it was the less so in consequence of their use of the plaintiff's property. (4 Otto, 710, Cawood Patent.)

In that case the court assumes that the railroad companies would have repaired those rails by the anvil process at a cost of thirty-six cents a foot if they had not had the plaintiff's invention to repair them with.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Illinois.

Mr. CHRISTIANCY. Mr. President, I wish to say a word in reply to the last statement made by the Senator from Illinois. He says that by the adoption of his amendment we get rid of those general or universal rules so as to do justice in each particular case. Now, I contend that the adoption of that amendment will put into this bill an iron rule which will adopt a rule of recovery entirely independent of any idea of mere compensation. As the bill now stands the user of a patent is not liable to account for profits, but he is liable for all damages done, all the injury to the patentee——

Mr. CONKLING. Who is?

Mr. CHRISTIANCY. The infringer, the mere user, is, as the bill now stands, liable to all damages; a full compensation can be recovered from him; as the bill now stands profits cannot. With the amendment of the Senator from Illinois profits can be.

Mr. DAVIS, of Illinois. Savings cannot but profits can.

Mr. CHRISTIANCY. I am speaking now of the mere user of a patent. The case is exactly as I put it. The mere user of a patent, under the bill as it now stands, is not liable to account for profits, but with the amendment proposed by the Senator from Illinois he will be liable to account for profits; and now what are those profits? They are not founded at all on the idea of compensation; and if the Senator will look to the ninety-third United States Reports, pages 68 to 71, he will fine that all idea of profits being placed upon the ground of compensation is utterly abandoned, that it stands purely on the fiction of a trust, and that the profits recovered may be ten, even a hundred fold more than a just compensation, and yet they would have to be allowed under the rule. His amendment, therefore, not only adopts all the abuses which have grown up in the course of time under this system of patent laws, but it even makes them worse for it fixes them by statute.

The Senator from Illinois argues as if no remedy were left to a patentee in case of a mere user infringing the patent. Why, sir, there is a full remedy left, an adequate remedy left to recover entire compensation in damages.

Mr. CONKLING. Where is that in the bill?

Mr. DAVIS, of Illinois. I put the user upon a different footing.

Mr. CHRISTIANCY. I am hardly in a condition of health to continue this discussion, but I have undertaken to show heretofore, and I think I have shown, that there should be a distinction in favor of the mere user of a patented article, which he purchases only for his own use of a manufacturer really and practically in good faith. There is every reason why he should account for nothing more than a just compensation for the injury; but adopt this amendment of the Senator from Illinois, and every purchaser of a mowing-machine, every purchaser of a patented plow, every purchaser of any farming implement, although he purchases in good faith, will be responsible not only for the real damages but for all the profits it can be shown he has made.

Mr. CONKLING. Mr. President, it is not the habit of the Senator from Michigan to make assertions touching matters of law without having some reason, commonly I think a good one, for whatever he says. That Senator has told the Senate now that the user—and by that he means one who knowingly uses the patent of another——

Mr. CHRISTIANCY. That was not the case I put, but the bill would cover it in both cases.

Mr. CONKLING. What was not the case the Senator put?

Mr. CHRISTIANCY. I stated the case of a man purchasing, for instance, a mowing-machine, or a plow, or any other farming implement, which he generally does, as we all know, practically, in entire good faith without any knowledge that he is infringing a patent.

Mr. CONKLING. I remember, Mr. President, that once when a very celebrated lawyer in our State was opening a case before Chancellor Walworth the chancellor put in as quickly as the Senator does now, and said he supposed it was such a case. "No," Mr. Reynolds said; and when the chancellor had supposed several cases, finally Mr. Reynolds said: "Your Honor cannot guess what it is if you should guess an hour." So it is possible that the Senator from Michigan cannot guess what I am going to say before I have said it, if he were to guess again. The particular thing that he has guessed now is not the thing which I was going to say. Let me proceed now, if I can, to bring that to the mind of the honorable Senator. I am not talking about an innocent person who buys a rat-trap for use in his kitchen and who is afterward notified by somebody that the man who sold that rat-trap violated his patent. I want to take, for instruction from the Senator, the case of a man who takes a patented invention, not the product of it, and uses that patented invention in his business, whether it is an air-brake on a railway or a spark-arrester for a locomotive, or any other thing the Senator shall please. He manufactures it, not for sale, but for use, and using it he saves very largely in his business, but he does not sell, and in that sense he does not make profit. I understood the Senator from Michigan to affirm that under this bill now commended to us, should it become a statute, the patentee in the case supposed can recover full compensation for such an act. Does he say so?

Mr. CHRISTIANCY. If the Senator from New York will allow me to state what I meant by that, I will explain.

Mr. CONKLING. First, if my honorable friend will forgive me, I

want to ascertain from him if I am right in supposing that he so said. That is the first step.

Mr. CHRISTIANCY. Will the Senator repeat it again?

Mr. CONKLING. I will, though by the time I have repeated it again I am afraid I shall not understand it myself. [Laughter.]

I understand the honorable Senator to affirm that if a person engaged in manufactures, for example, appropriates the patented invention of another and uses it in his business, not manufacturing it for sale, but manufacturing it for his own use and convenience, and by this use saves and I will say saves largely, the patentee whose rights are thus violated can on that state of facts recover full compensation. I believe I borrow his words, and I ask him if he did not so state?

Mr. CHRISTIANCY. I did, undoubtedly.

Mr. CONKLING. Now, will the Senator be kind enough to take the bill and point to me the provision under which he makes that answer, and then I shall be glad to know what he means by it. But first I want him to instruct me that I may understand what provision of the bill he is talking about.

Mr. CHRISTIANCY. I will state to the Senator, without even looking at the bill, that that case is provided for in this way: the complainant, the patentee, it is declared, shall recover a license fee such as shall be established by the whole evidence in the case, and that license fee is of course to be found according to the amount of injury which has been sustained. That is what amounts to a fair compensation in the case of a patent which in its nature is one which can only be made profitable by being used by others. There is another class of patents, to which I have heretofore alluded, where it would be manifestly for the interest of the inventor to retain the monopoly of the patent himself and prevent others from manufacturing the article, where profits should be given.

Now, I wish to state right here, to save the Senator the opportunity of replying to what I have not said, that if he had paid attention as closely to my argument as I have to his, he would have seen that I have already said, in a speech which I delivered here some time ago, that as to willful infringers, whoever they are, I have no objection to the rule of profits. I admit that the bill here presented does not provide for that case, and I should like it better if it did.

Mr. CONKLING. Mr. President, the Senator from Michigan has given me now a translation of what he said, and I think a translation of a translation. He began by affirming that the bill provided that such a party as I have supposed might recover full compensation. If I mistake not, those were his words. As a lawyer, he knows what those words mean; they are terms of art—"full compensation." And now he explains that there is a provision in the bill under which he thinks evidence may be given about savings, not in order to measure the damages, not in order to tell the jury what "full compensation" is, but to aid the court in determining a license fee.

Mr. CHRISTIANCY, (in his seat.) The value of the improvement; what the patentee ought to be allowed for it.

Mr. CONKLING. My friend, even speaking quietly in his seat, will not say to me, he will not say in the presence of lawyers, and, therefore, he will not say were he alone, that that is full compensation or compensation at all, within the meaning of the law or within the meaning of equity. It is not so. On the contrary, the distinction is as broad as any legal distinction can be. I have, (to suppose a case,) trespassed upon my friend's land; I have broken his close; I have cut down his timber and committed waste; and he sues me in trespass, and he is entitled to recover full compensation. Now, suppose a statute should provide that evidence might be given to determine how much I should pay him annually for a right of way across his premises, and then some man were to get up and say "that provision is for the measure of damages, and it provides full compensation for this trespass!" Every lawyer listening to him would presume that he was in jest, or that he was strangely mystified. So the Senator from Michigan will take no offense at me saying that it seems to me that if his assertion rests upon this provision, which I want to say a word about, in regard to the license fee, it falls very far short indeed of a warrant for asserting that under this act a patentee so treated can recover full compensation.

But I call the attention of the Senator to the real meaning, as it seems to me, of this paragraph, beginning on line 36:

> No account of savings shall in any case be allowed;—

That is very plain, stopping there—

> and no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

Mr. President, consider for one moment the repugnance, the contradiction of that provision. Here is a distinction established by statute law. What is the distinction? It is that in the case of one set of parties a certain thing shall not be permitted, but they shall be deprived of that altogether, and in the case of another class it shall be allowed fully. That would seem to imply that here was one class meritorious and deserving as contrasted with the other. Is that true? Let us look a moment:

> No evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

There is a provision for full compensation, in the language of the Senator, against whom? Against all individuals, great and small alike who, manufacturing for sale, make a profit, who using the invention to produce articles or materials of any sort for sale make a profit. They are subjected to the rigors of an account, in the technical sense, and evidence of the account. Who are excluded? We know not from this bill, but from other information of which we cannot fail to take notice we do know who the excluded parties are, namely the strong, the rich, the powerful, the owners of aggregated capital, the great mill-owners, the railway corporations of the country. They cannot be visited; why? Because they are not manufacturing for sale, they are not selling the patented invention, they are not selling the product of it; but they are using it to nourish and conduct and make profitable the vast enterprise which they carry on: and therefore a provision deemed not too rigorous for the small and feeble individual is said to be inadmissible for them.

Mr. President, I say such a provision as that is repugnant, it is inconsistent, it is arbitrary; it is worse because, making a distinction between classes, it does not distinguish between classes who stand in parity with each other, nor in favor of a class more meritorious than another, but it distinguishes in favor of the powerful, in favor of those who do not need defense, who are able to keep themselves with their own sword, and against those who are comparatively helpless, defenseless, weak. And therefore if the honorable Senator from Michigan were right in saying that this provision is for full compensation and just compensation, why not apply it to all? Why not apply it as well to the blacksmith who uses in shoeing the horses that come to his shop a wrought nail turned down by a patented machine, or a nail which he himself produces by a patented process? Why not exempt him and the wagon-maker and the small dealer and manufacturer, even though he may make a profit on what he sells, and does of course in order to live? Why not protect him by the same shield which is thrown over the great variety of strong and powerful parties upon whom this section is to operate?

Mr. CHRISTIANCY. In the case put, the blacksmith would be protected against accounting for profits.

Mr. CONKLING. You mean in respect of his horse-shoeing. How would he be protected?

Mr. CHRISTIANCY. Because he is not a manufacturer: he does not make it for sale.

Mr. CONKLING. There the honorable Senator begs the question. Perhaps he is and perhaps he is not.

Mr. CHRISTIANCY. I took the case you put.

Mr. CONKLING. I beg your pardon, you do not take the case I put. I stated it in the alternative. I say he uses nails covered by a patent, or perhaps he buys those nails manufactured, or perhaps he makes them himself. Here is a little machine which makes wood screws, and there is a long history connected with wood screws. Some man buys one of those patented machines, and he makes his wood screws himself and uses them in his business, and the articles into which the wood screws go are sold; that is, the screws themselves are sold. That man is liable to all the rigors and inquisition of an account within the broadest meaning of that term.

Mr. CHRISTIANCY. By this bill?

Mr. CONKLING. Yes, sir; by this bill:

> No account of savings shall in any case be allowed; and no evidence or account of the defendant's profits shall in any case be admitted, except as to actual profits resulting from making for sale or selling the thing patented, or the product thereof as aforesaid.

Therefore by this bill I answer yes; and side by side with this little smith's shop or this little tinker's establishment, which is thus to be visited, stands some colossal mill on every loom and mule and machine in which there are half a dozen of these same machines pirated, and under this bill no account can be taken.

Mr. CHRISTIANCY. If they make the product of the machine, certainly there can.

Mr. CONKLING. Not unless they make an actual profit in that regard.

Mr. BOOTH. Not unless they make an actual profit in each case. There is a perfect parity between the cases.

Mr. CONKLING. Except in this, where the great disparity appears: a blacksmith who is engaged in making nails for sale, in point of fact does make a profit on those nails if he sells them, not inevitably and invariably, but practically, nine hundred and ninety-nine times in a thousand, whereas a railway company which is using all manner of patented inventions and making the things itself may or may not be making money, especially in these times, on all its passenger business and all its freight business and its construction account and rolling-stock account and all its other accounts carried in. I have heard the honorable Senator from California [Mr. BOOTH] in some of his most felicitous moments, giving sketches and more than vague ideas of the possibilities of railway accounts; and when you come to confine it to people who are making an actual profit, and making an actual profit in a particular way in a vastly complicated business, it is a very different thing from applying it, as this bill does, to all the minute and small interests of a man engaged in doing a single thing on which he must be making a profit if he makes any profit at all, because that is the only one thing that reaches the case.

Now, Mr. President, I do not believe it will do to refuse to amend this second section and as the only excuse for refusing amendment to assert that the patentee whose property is pirated by one who only makes a saving is put by the bill upon a par with the same patentee

whose invention is infringed by somebody else differently engaged in respect of whom you say "profits" rather than "savings." I do not believe the ingenuity of man can either explain or torture this section to mean any such thing as that. There is a broad distinction made here; and the argument which sustains this section as it is proves too much. If the argument is good to show that there should be no account taken in the case of savings, that argument will show that there should be no account taken in the case of profits; and if it does not show that, it does not show anything.

Mr. CHRISTIANCY. I am not aware that the amendment offered by the Senator from Illinois raises at all the distinction between savings and profits. That is a question about which I was not speaking and have not been speaking to-day, although I have spoken about it heretofore. But I wish the attention of the Senator from New York at the present moment to one case which he puts, that is the case of the blacksmith who makes use of a patented machine and makes horse-nails himself and then uses them in his business and sells his work. He says, if I understand him correctly, that the blacksmith would not be liable to account under this bill——

Mr. CONKLING. I have not said that.

Mr. CHRISTIANCY. I so understood the Senator.

Mr. CONKLING. I said exactly the other thing.

Mr. CHRISTIANCY. I am glad to understand that.

Mr. CONKLING. I said that some blacksmith at a cross-roads who in his business is using a patent and not selling the thing he makes from the patent but selling the product that comes out of that and his labor would be liable to an account and to all the inquisition as it was called of an account, and although a great establishment right next-door to him might be doing the same thing fifty-fold, unless you show that they were making a profit on the whole over and above all losses in any branch of their business they would not be liable at all.

Mr. CHRISTIANCY. The measure of profits is not what we are now talking about, but the question of whether profits shall be substituted in the place of mere damages. That is the point and the only point raised by the amendment offered by the Senator from Illinois. I shall answer the Senator's argument just so far as it relates to that and nothing else.

I will again advert to the fact that there are certain classes of patents where it is clearly for the interest of the patentee not to allow the use of his invention by others. That class I am not now discussing. But the Senator from New York says that adequate compensation is not given in cases where parties manufacture for their own use a patented article and do not sell it. I replied to that that adequate compensation is given under the provisions of this bill by way of giving a license fee. Now there are two classes of cases in which a license fee is given by this bill. First, where the patentee has already sold rights or given licenses in a sufficient number of cases to fix a license fee, it says that which shall be adopted as the amount of damages. That is adopting the estimation of the patentee himself as to the amount of the injury.

Mr. WADLEIGH. My friend from Michigan will pardon me for saying that that is the law now.

Mr. CHRISTIANCY. That is the law now; I have already so stated heretofore. It is the law now that where the patent is of that class of patents where the patentee must look for his profits to the use of his invention by others, if he has already given licenses in a sufficient number of cases to establish the value of a license fee, that is the amount of his recovery, and that is an adequate recovery, and that is full compensation according to his own estimate in that class of cases. Now, there is another class of cases provided for by this bill, where a sufficient number of sales of licenses have not been made to establish a proper license fee. There it provides that it shall be established from all the evidence in the case, and as applied to any patents where the patentee must get his profit by the use of his invention by others it is perfectly just and equitable, and is a fair and just compensation; but as to another class of cases where it is to the interest of the patentee that it should not be used by any other persons but himself, then it would not be; and, as I have already indicated, I should like this bill much better if it provided for that class of cases and gave profits. I think, therefore, that the bill as it now stands, with the exception of that single class of cases, is right in principle and gives just and adequate compensation.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) The question is on the amendment of the Senator from Illinois, [Mr. DAVIS.]

The amendment was rejected.

Mr. DAVIS, of Illinois. Now let the other amendments be read in order.

The PRESIDING OFFICER. The next amendment of the Senator from Illinois will be read.

The SECRETARY. It is moved to strike out, in section 2, lines 36, 37, 38, 39, and 40, to the word "aforesaid," inclusive, and in lieu thereof to insert:

In taking an account of profits for the use of an invention secured by a patent where the patentee or his assignee shall elect to demand profits, the whole, or such portion of the actual profit or saving derived from such use shall be allowed to the patentee or his assignee, as the court may deem just, in order to secure a fair compensation for such use, having regard to what would be a fair royalty therefor in view of the skill exhibited in making such invention, and the value thereof to the parties using the same, and to all the circumstances of the case; and the master, in taking and stating such account, after stating the amount of profit or saving actually made by such use, shall give and state what portion thereof would, in his judgment, be such fair compensation as aforesaid, to be subject, however, to the modification and judgment of the court. But when a patentee or his assignee shall elect to demand an account of profits against any person, for an infringement of his patent, he shall not be entitled to recover damages for the same infringement.

The question being put, there were on a division—ayes 6, noes 23; no quorum voting.

Mr. DAVIS, of Illinois. I give it up.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DAVIS, of Illinois. No; I do not withdraw the amendment. I want it to remain. I do not want, in the present temper of the Senate, to do anything discourteous; but I want the amendment to be voted upon. I do not want to withdraw it because I believe it is right.

The PRESIDING OFFICER. There was no quorum voting.

Several SENATORS. Yeas and nays.

Mr. DAVIS, of Illinois. I do not care about the yeas and nays. I think there is a quorum here if everybody will get up. Let there be a recount

The PRESIDING OFFICER. The Chair will again submit the question to the Senate.

The amendment was rejected; there being on another division—ayes 10, noes 29.

The PRESIDING OFFICER. There is one more amendment of the Senator from Illinois, which will be read.

Mr. DAVIS, of Illinois. I have no further amendment to the second section.

The PRESIDING OFFICER. This is to the third section.

Mr. DAVIS, of Illinois. But there may be some other amendments to the second section; but if none be offered, I move now to add to the third section:

Provided, however, Where an appeal is allowed from an interlocutory decree establishing the validity of a patent or its infringement, the complainant may be permitted, in the discretion of the court, to go on and take his account, subject to payment of costs and counsel fees, if the decree is reversed, and on giving security therefor.

I put it in the imperative originally, "shall be permitted." At the suggestion of the Senator from Massachusetts, I have altered it to "may be permitted in the discretion of the court." After a decree is rendered in the circuit court, and the case is appealed to the Supreme Court, it is there for three years. During that time, as the law now stands, there is nothing done at all. It is advisable I think that the complainant, at his own peril, should be permitted to go on and take his account.

The PRESIDING OFFICER. The Senator from Illinois proposes to amend the third section by an amendment which will be read.

The SECRETARY. It is moved to add to the third section of the bill the following words:

Provided, however, Where an appeal is allowed from an interlocutory decree establishing the validity of a patent or its infringement, the complainant may be permitted, in the discretion of the court, to go on and take his account, subject to payment of costs and counsel fees, if the decree is reversed, and on giving security therefor.

The amendment was agreed to.

Mr. HOAR. I move an amendment to section 7, which was intended by the committee to be in the bill originally but was accidentally omitted. I have shown it to all the members of the committee and have the assent of all the members of the committee who are here to offer it.

The SECRETARY. It is proposed to amend section 7 by adding thereto the following:

And whenever a patent has been issued to two or more persons jointly, describing or representing matter which was of the invention of only one of them, and for which the inventor thereof might lawfully have taken a separate patent to himself, said invention may be secured to the first inventor thereof by reissue of the patent so jointly issued, upon proceedings had as in other cases of reissue, and with the consent in writing of the assignees, if any, of such original patent.

Mr. CONKLING. I should like to inquire whether this provision is to be retroactive, and if retroactive there may be something in the amendment which answers my questions what is to become of those who have vested rights?

Mr. HOAR. Mr. President, the vested rights are all thoroughly saved, because it is only to be by consent of all parties in interest.

Mr. CONKLING. Perhaps the Senator himself if he can do so will read the amendment. I have not yet been able to hear it just as it is meant to be.

Mr. HOAR. The original section provides that where a patent has been issued to one person for an invention actually made by him jointly with another, or a patent has been issued to several persons for an invention made by only one, a reissue may correct that error. In other words, the same principle which now is applied in the existing patent law of correcting mistakes in the descriptions of the invention by a reissue is applied to the correction of mistakes in the description of the owner. That is, where a patent has been issued by mistake jointly where it belongs to one, or issued by mistake severally where it belongs to two or more, the reissue may correct the error.

That is the original section. Now the amendment is this:

And whenever a patent has been issued to two or more persons jointly, describing or representing matter which was of the invention of only one of them, and for which the inventor thereof might lawfully have taken a separate patent to himself, said invention may be secured to the first inventor thereof by reissue of the patent so jointly issued, upon proceedings had as in other cases of reissue, and with the consent in writing of the assignees, if any, of such original patent.

That is the whole of it.

Mr. CONKLING. The Senator from Massachusetts may be right in saying that the latter words he reads cover the case of vested rights. Without his assertion I should not be able to say that they do provide for assignees; but certainly assignees are not the only persons who may intervene; and I take it the Senator does not mean by a statute which shall speak backward to change the rights of any person whose rights have become fixed. And in this same connection I call the attention of the Senator from Massachusetts, who seems to be regarding this seventh section, to which his amendment as printed applies, to line 4, which seems to be a very inapt line to effectuate his meaning:

Or a patent has been issued to several persons for an invention made by only one or more of them.

Surely that is not what the committee means.

Mr. WADLEIGH. Whenever it is in order I propose to ask the consent of the Senate to amend what is evidently a verbal inaccuracy, and it should be amended as the Senator from New York suggests.

Mr. CONKLING. What is the amendment, if the Senator pleases?

Mr. WADLEIGH. To insert after the word "person," in the second line of the seventh section, the words "as sole inventor;" to insert after the word "persons," in the third line, the words "as joint inventors;" and to insert after the word "invention," in the fourth line, the word "not;" and after the word "by," in the fourth line, the words "all of said persons jointly;" so that the section as amended will read:

Whenever a patent has been issued to one person as sole inventor for an invention actually made by him jointly with another or others, or a patent has been issued to several persons as joint inventors for an invention not made by all of said persons jointly, &c.

There can be no objection whatever to that verbal correction.

Mr. HOAR. It seems to me we are passing away from the first point which is made by the Senator from New York, and perhaps it would be more convenient to him and the Senate to deal with that and settle it in the first place.

Mr. CONKLING. I did not mean to divert attention from the point at which the Senator from Massachusetts was aiming; but as a remark has been made about this, I wish to say that if the four amendments, for there are four of them, indicated by the Senator from New Hampshire were introduced, it might be that the difficulty I suggested, save in one respect, would be cured. The criticism that occurred to me upon the language, (and I commend it to the Senator from New Hampshire,) is that the premises stated are not those from which any error might be inferred at all in such an issue as is supposed; and yet his proposed amendments assume that every such case as the section describes would be the case of error. I do not so understand it.

Mr. HOAR. Mr. President, the case provided for by this amendment which I have moved is a case where the original patent would be void without a reissue, and therefore where, strictly speaking, there can be no rights under it to preserve; but at the same time the section undertakes to provide that where there is an assignee in writing of the original incorrect or void patent, who, of course, is an assignee of the party who gains the reissue, he ought to have his own making good of the patent to him inure to the benefit of his assignee; and in that point of view the criticism made by the Senator from New York is a just one, and should be yielded to, that to merely describe the assignee does not cover all parties in interest, and the language should be extended by using these words, "with the consent, in writing, of the assignees, if any, of such original patents, such reissue to inure to the benefit of all parties lawfully claiming under the original patent as if their claim had arisen under the patent so reissued," or some phrase of that sort.

Mr. CONKLING. That is the idea I had.

Mr. HOAR. I will put that in writing, and move it.

Mr. EDMUNDS. While the Senator is putting that in writing, I wish to suggest that this is an interesting and important point in this bill, and according to something that I said yesterday, I move that the Senate proceed to the consideration of executive business.

Mr. HOAR. Will the Senator from Vermont allow this amendment to get in before he makes the motion?

Mr. EDMUNDS. It may get in and be printed.

Mr. HOAR. Why not take the vote on it? Nobody objects to it.

Mr. EDMUNDS. Because we cannot tell in a moment what may be the full effect of it. I want to look at it myself. I move that the Senate proceed to the consideration of executive business.

The question being put, there were on a division—ayes 9, noes 17; no quorum voting.

Mr. WADLEIGH. Let us have a call of the Senate.

The PRESIDING OFFICER. Are the yeas and nays demanded?

Mr. EDMUNDS. I do not demand anything; there does not seem to be a quorum here.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and forty-seven Senators answered to their names.

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. There is a quorum present. The question now recurs on the motion of the Senator from Vermont.

Mr. EDMUNDS. Mr. President, I understand that nobody has yet moved to adjourn over until Monday; an important amendment of the Senator from Massachusetts is not in print, and I appeal to the Senator from New Hampshire to let this matter go over until to-morrow, when we shall have a sitting to finish the bill, with the understanding that it shall be finished.

Mr. WADLEIGH. The amendment of the Senator from Massachusetts is one that nobody can object to, and it is to a section that there is no objection to on the part of any one, as I understand. I trust the Senate will go on with this bill. It has been long before the Senate, and it seems to me from what I know of it that we can soon finish it.

The PRESIDING OFFICER. Does the Senator from Vermont withdraw his motion?

Mr. EDMUNDS. That is the pending motion. I have moved that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The question is on the motion of the Senator from Vermont.

The question being put, there were on a division—ayes 15, noes 18; no quorum voting.

Mr. EDMUNDS. Now, I ask the Chair to count the Senate to save time; and I hope my friend from New Hampshire, who is certain to have his bill disposed of to-morrow, will assent to this thing. I think there is a quorum in the Chamber.

The PRESIDING OFFICER. The Chair will count the Senate.

Mr. EATON. I move that when the Senate adjourns to-day it be to meet on Monday next.

The PRESIDING OFFICER. There is not a quorum present. The motion is not in order. The Secretary will call the roll.

The Secretary proceeded to call the roll, and forty-four Senators answered to their names.

The PRESIDING OFFICER. Forty-four Senators have answered to their names. A quorum is present. The question recurs on the motion of the Senator from Vermont that the Senate proceed to the consideration of executive business.

Mr. EATON. Will the Senator give way for me to make a motion that when the Senate adjourns to-day it adjourn to meet on Monday next?

The PRESIDING OFFICER. Does the Senator from Vermont withdraw his motion?

Mr. CONKLING. He does not have to withdraw it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Connecticut, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. ANTHONY. I hope, if we do not finish this patent bill, we shall not adjourn over, but shall sit to-morrow.

Mr. KERNAN. I hope we shall adjourn over. If we cannot finish the bill to-day, we shall not be able to do so to-morrow, and there is no use of coming here to-morrow.

Mr. ANTHONY. I fear we shall never finish it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Connecticut, [Mr. EATON.]

The motion was agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Vermont, [Mr. EDMUNDS,] that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts [Mr. HOAR] to the seventh section of the bill.

Mr. WADLEIGH. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. DAVIS, of Illinois. Mr. President, I offer an amendment to the fifth section——

Mr. CONKLING. Before that amendment is read, will the Senator let me inquire what amendment it was which the Senate adopted a moment ago?

The PRESIDING OFFICER. The amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. CONKLING. The amendment of the Senator from Massachusetts as offered at first, or as afterward modified?

The PRESIDING OFFICER. As modified by him.

Mr. CONKLING. May we hear it read? It never has been read as modified.

Mr. HOAR. I hope no advantage will be taken of declaring that vote in the confusion.

Mr. CONKLING. I do not know that I shall have any objection to it; but I want to know for information what we have adopted.

The PRESIDING OFFICER. The amendment will be read as adopted.

The SECRETARY. The amendment was to add to section 7:

And whenever a patent has been issued to two or more persons jointly, describing or representing matter which was of the invention of only one of them, and for which the inventor thereof might lawfully have taken a separate patent to himself, said invention may be secured to the first inventor thereof by reissue of the patent so jointly issued, upon proceedings had as in other cases of reissue, and with the consent in writing of the assignees, if any, of such original patent; such reissue to inure to the benefit of all persons claiming under the original patent as if their claims had arisen under the patent so reissued.

Mr. EDMUNDS. Now, Mr. President, I should be glad to have the Senator from Massachusetts tell us what is the necessity for this provision in view of the existing law?

Mr. HOAR. I understand that the existing law does not permit the reissue of a patent which has been issued to two persons in the name of one, or the reverse. That is the necessity for it. Does the Senator from Vermont understand otherwise?

Mr. EDMUNDS. I do not understand anything about it. I only want to understand precisely what this thing means.

Mr. HOAR. I understand the patent law at present to permit in case of a defective claim, a defective statement of the invention by reason of claiming more than the party is the original inventor of, or by reason of claiming less than the party is the original inventor of, to be amended by a reissue which may give the party a good monopoly to the time when the original patent would have expired; but there is no provision in the existing patent law for the case where the defect is in the allegation of invention, that is, where the invention is the invention of one and is described wrongly as the invention of two, or where the invention is the invention of two jointly and is described wrongfully as the invention of one. The section as originally drawn cures one of these evils, and this amendment is intended to cure the other.

Mr. EDMUNDS. Yes; but does my honorable friend from Massachusetts understand that it would invalidate a patent issued in the way he describes because it turned out that the invention was an invention of two instead of one?

Mr. HOAR. Yes, sir, I do.

Mr. EDMUNDS. Then under this provision, supposing that to be the law, which I of course am entirely ignorant about, and certainly would not put my opinion against my honorable friend from Massachusetts——

Mr. HOAR. I beg the Senator not to put too much reliance upon mine.

Mr. EDMUNDS. I do not mean to put too much.

Mr. HOAR. This amendment was drawn, I will say, by one of the most distinguished patent lawyers in the country to cure this evil, and I have no doubt he knows all about it.

Mr. EDMUNDS. I can see force in the case as the Senator from Massachusetts states it, but I am afraid, I have a suspicion, for I want to state it very mildly, that under this provision you might get a patent on the books issued for an invention of one man who had not got his patent, nor undertaken to get it, within the time, (one that had gone into public use, and therefore one in respect of which he had lost and justly lost all his rights,) and under this form of reissue in the name of another man you will have covered that and scooped into this monopoly a provision of security that ought not to exist.

Mr. HOAR. How is that possible? If the Senator from Vermont will pardon me, let me ask what must have happened to have this clause apply? The Senator from Vermont and somebody with whom he compares notes and acts in inventions jointly, invent an improvement. A patent is taken out on the application of one of them as his work, his invention, and thereupon it runs some time. He undertakes to establish it in court by a suit, and the defense is set up, or at any rate he goes to a lawyer and finds that it could be successfully defended against on the ground, that he was not the original and sole inventor, in the language of the patent law, but that he and somebody else invented it, or the reverse, whichever the case might be. Thereupon he goes to the office, and having had all the time a patent declaring him to be the original and sole inventor he says, "Mr. A B should be associated with me and I want a patent to run for the rest of the time that is unexpired," stating it correctly. Can that possibly be the instrument of any fraud, or can it enable the Senator from Vermont to secure to himself something which the public have been using without claim or pretense of ownership on his part for a series of years?

Mr. EDMUNDS. The fundamental theory of the patent law has always been just as the specific letter of the Constitution is, that a patent is to secure to the discoverer—I believe that is the word of the Constitution—the exclusive right to what he has discovered; and it has always been an essential point, as I understand it, with great respect to my honorable friend, in the fundamental justice of the patent law, that the patent should be granted to the man who made the discovery and not to anybody else. Now, then, if you undertake by this first step in legislation of this character to say that a patent which has been issued to one man may one year or two years or ten years afterward be reissued to another, whether that other man is to have it independently or jointly with the patentee, then I say you do open the door to great danger of fraud and of injustice to the public.

The bill is not altogether satisfactory to my mind as it stands, but if it were to have any one feature of danger that is greater than another, of litigation and trouble and abuse, I am very much afraid it would be this provision.

Mr. HOAR. Will the Senator allow me to ask him a question?

Mr. EDMUNDS. No; if the Senator will pardon me, I will go on.

Mr. HOAR. I thought the Senator would like to hear the point I wished to present to him.

Mr. EDMUNDS. Probably I should; only I must say now what I have to say, or I shall forget it. The difficulty under which I am laboring at this moment is the circumstance that the amendment of the Senator from Massachusetts is in manuscript, modified or changed once or twice, and merely hearing it read at the desk, very likely I see difficulties that do not exist. Perhaps the difficulties do exist. The suitable thing in an important matter of this kind is to have it where the eye can run over it and reflect upon it a moment or two. Perhaps I am entirely wrong; but I want to put in a caveat, as they say in the patent law, so that if we turn the world upside down by all sorts of lawsuits and squabbles people have got into through this business, it will not be through any fault of mine.

Mr. HOAR. I should like to make an inquiry of the Senator from Vermont, if he will permit me.

Mr. EDMUNDS. With pleasure.

Mr. HOAR. I inquire whether he understands that the purpose of my amendment is to permit an issue to anybody not the true inventor?

Mr. EDMUNDS. I do not understand that that is the purpose of it.

Mr. HOAR. And does the Senator mean by his suggestion to intimate an opinion that the present policy of the patent law, the ancient policy of the patent law, permitting a reissue in case of defective description, is an unwise or dangerous one; because this amendment and the section which is to be amended design to extend the provision which permits a reissue to cure a mistake in the description of the invention, also to cure a mistake in the ownership of the invention, and to make a true allegation where the patent was void because the allegation was false?

Mr. EDMUNDS. The answer to that is that a mistake in ownership is a mistake that has no right to have occurred. It is impossible that any honest man one time in ten millions can have supposed himself to be the inventor of a particular thing unless he was, unless there had been a prior invention of somebody with whom he had no connection and about whom he knew nothing; and if so his patent of course would go for nothing. Therefore this provision is to cure up, in favor of an inventor whose invention has gone into public use and who has not obtained a patent, his rights and monopolies by issuing a patent that will cure his invention as well as that of his friend and neighbor or partner, or whoever he may be.

As I say, so that my friend from Massachusetts will not misunderstand me, I am speaking of this thing off-hand. I only heard the amendment read at the desk; and I cannot tell with any certainty satisfactorily to my own mind whether the amendment on a careful scrutiny and study would be right or wrong. I only want to say that we are dealing with important interests in a very sudden way by making a provision of this kind.

The PRESIDING OFFICER. There has been some modification of the amendment, and the Chair will have it read before putting the question to the Senate.

Mr. CONKLING. If the Senate is to vote upon the amendment, or whether so or not, I venture to make one, possibly two suggestions. As a mode of making my suggestion I read the latter words in manuscript of the amendment:

> Such reissue to inure to the benefit of all persons claiming under the original patent as if their claim had arisen under the patent so reissued.

I think there are two classes of cases which this amendment forgets. I feel quite sure there is one class. I will state that of which I have the most doubt first. A man claiming under a patent in some form as it was originally, received his rights, whatever they were, ten years ago. The time when he received them may be of the essence of those rights. This provides that his rights, after this act takes effect and after a reissue has occurred, shall be as if they obtained under that reissued patent. I am inclined to think that a good many cases which with a little reflection might be stated would be ignored by a provision of that kind.

But I come now to the second class of cases, of which I feel more sure. The Senator from Massachusetts says that a patent issued to one man for an invention conceived by two would be void. I will take such a case. A patent was issued ten years ago. Attempts have been made in the courts to enforce it. Issues are pending to test the validity of the patent. This bill becomes a statute. A reissue takes place, and now, if I understand these words, as the tree has fallen so must it lie, and everybody's rights concerned must be as if they had inured under the reissued patent. In other words, if I apprehend it, the defense, the chief defense, perhaps the solitary defense, set up by men who have already become liable for costs and counsel fees and so on, rests upon a fact which under this amendment would cease to be. Is not that so?

Mr. HOAR. The Senator from New York will pardon me. His argument applies to the existing law in regard to all reissues. The point he is now making, if I understand him, is not confined to "the extension of the law by this amendment," but applies to the whole reissue policy. That point, which is a good one we suppose, is largely covered by the sixth section:

> No machine or other article made prior to the surrender of a patent, and the issue thereupon of a new patent, which, or the use of which, did not infringe such surrendered patent, shall be held to be an infringement of any of the claims of the new patent not existing when such machine or other article was made. All rights of action accruing to a patentee, his executors, administrators, or assigns, for profits and damages on account of any infringement of a patent, prior to its surrender for a reissue, shall remain unaffected by such surrender, and no suit shall be barred or abated by such surrender.

Mr. CONKLING. The words "prior to the surrender," if the Senator will pardon me, are not in the print which I have, and which is the latest print of the bill.

Mr. HOAR. There may be a later print than the copy I have. I am reading the sixth section.

Mr. CONKLING. What line?

Mr. HOAR. What I read begins at the first of the section:

> No machine or other article made prior to the surrender of a patent, and the issue thereupon of a new patent, which, or the use of which, did not infringe such surrendered patent, shall be held to be an infringement of any of the claims of the new patent not existing when such machine or other article was made.

Mr. CONKLING. That is here; but the Senator read it the first

time "all rights of action accruing to a patentee, &c., prior to the surrender." That is not in my bill.

Mr. HOAR. It is on the ninth line. I believe the two sections are identical in the print I read from and the other print.

Mr. CONKLING. It is possible that I misheard the Senator or he misread. I understood him to read:

All rights of action accruing to a patentee prior to the surrender.

Mr. HOAR. I read the language of the bill, as follows:

All rights of action accruing to a patentee * * * for profits and damages on account of any infringement of a patent prior to its surrender for a reissue, shall remain unaffected by such surrender.

I so read, and it is so in this copy of the bill.

Mr. CONKLING. The Senator does not apprehend me, or I him. I understood him to read:

All rights of action accruing to a patentee prior to the surrender.

The bill that I have reads:

All rights of action accruing to a patentee, his executors, administrators, or assigns, for profits and damages on account of any infringement of a patent, prior to its surrender for a reissue.

The difference between the two things is very marked. It is not typographical at all, but it is very substantial.

Mr. HOAR. I will send to the Senator from New York the two copies of the bill which I now have. If he has a third print I do not know what it is.

Mr. CONKLING. I read mine as it is. I do not know whether it is a third or second print. [Examining the bills.] Mine resembles one of the copies the Senator sends and does not resemble the other.

Mr. HOAR. The Senator is mistaken; the two copies are identical.

Mr. CONKLING. They are not identical as to the paging and lines certainly.

Mr. HOAR. No, they are not identical as to the paging.

Mr. CONKLING. Or the lines.

Mr. HOAR. Or the lines; but the sections are identical in language, without any question.

Mr. CONKLING. That may be. I do not think that the honorable Senator from Massachusetts apprehends the point I stated altogether, and if he does not I assume that it is my fault. The suggestion I seek to make is that under this amendment the rights of all parties will become triable as if the original patent had been like the reissued patent, and as if the date of that patent had been as of the reissued date, so that a man who is defending upon the prior patent may be entirely cast and overthrown in his defense by this section. If it has that effect, I do not think the Senator from Massachusetts means that.

Mr. HOAR. I understand that the sixth section makes a general provision on that subject, covering all reissues.

Mr. CONKLING. Does it make a general provision in a case of this sort? Here is a suit in equity which has been pending for five years, and there are a great many such, and one chief ground of defect is vice in the issue of the original patent. The Senator's amendment declares that the patent may be reissued, and when reissued, that the rights of all persons claiming under the original patent shall be as if they claimed under the reissued patent. Does not that retroact and deprive the party defending of the defense which he sets up?

Mr. HOAR. It is easier, Mr. President, to meet the objection taken by the Senator from New York, which is based on a misunderstanding of the operation of the bill, by providing language which shall remove doubt, if there is any doubt of the meaning. It is very clear, of course, that it would not be just that a reissue should affect the rights of persons who are contesting with the owner of the original patent in any particular.

Mr. CONKLING. At that point I ask the Senator, if he will allow me, to read the latter words of the amendment and give us his opinion whether they are not open to the criticism I state.

Mr. HOAR. The language of my amendment is that such reissue shall "inure to the benefit of all persons claiming under the original patent as if their claim had arisen under the patent so reissued." But I do not think that would be construed to repeal an express section which still stands in the law, that in all cases of reissues a machine shall not be held to be an infringement of the new patent if it was not an infringement of the old. The two would stand together.

Mr. CONKLING. If the Senator will pardon me, what becomes of the costs, for example in pending cases, under that theory now of construing the sixth and seventh sections?

Mr. HOAR. Pending cases would be decided both as to damages and costs and in judgment, in all respects as if the reissue had not taken place.

Mr. CONKLING. I should not want to defend a man on that theory.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. HOAR] as modified.

Mr. HOAR. I will modify the amendment further by adding the words "except as provided in the sixth section."

The PRESIDING OFFICER. The Senator from Massachusetts modifies the amendment. As modified it will be reported by the Secretary.

The SECRETARY. It is proposed to amend section 7 by adding thereto the following:

And whenever a patent has been issued to two or more persons jointly, describing or representing matter which was of the invention of only one of them, and for which the inventor thereof might lawfully have taken a separate patent to himself, said invention may be secured to the first inventor thereof by reissue of the patent so jointly issued, upon proceedings had as in other cases of reissue, and with the consent in writing of the assignees, if any, of such original patent; such reissue to inure to the benefit of all persons claiming under the original patent as if their claim had arisen under the patent so reissued, except as provided in the sixth section.

The question being put on the amendment, there were on a division—ayes 9, noes 14; no quorum voting.

Mr. CHRISTIANCY. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts, [Mr. HOAR.]

Mr. EDMUNDS. Not until we get a quorum.

Mr. WADLEIGH. I move a call of the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to amend the seventh section of the bill, on which no quorum voted. The Secretary will call the roll.

The Secretary called the roll and forty-six Senators answered to their names.

The PRESIDING OFFICER. A quorum is present.

The question being again put upon the amendment, a division was called for; and the ayes were 21——

Mr. WADLEIGH. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 8; as follows:

YEAS—34.

Allison,	Eaton,	Lamar,	Rollins,
Barnum,	Ferry,	McMillan,	Saunders,
Beck,	Gordon,	Maxey,	Spencer,
Booth,	Harris,	Mitchell,	Voorhees,
Bruce,	Hereford,	Morgan,	Wadleigh,
Burnside,	Hoar,	Morrill,	Windom,
Christiancy,	Ingalls,	Plumb,	Withers.
Cockrell,	Johnston,	Randolph,	
Dawes,	Kellogg,	Ransom,	

NAYS—8.

Conkling,	Edmunds,	McDonald,	Saulsbury,
Davis of Illinois,	McCreery,	Matthews,	Whyte.

ABSENT—34.

Anthony,	Coke,	Hill,	Paddock,
Armstrong,	Conover,	Howe,	Patterson,
Bailey,	Davis of W. Va.,	Jones of Florida,	Sargent,
Bayard,	Dennis,	Jones of Nevada,	Sharon,
Blaine,	Dorsey,	Kernan,	Teller,
Butler,	Eustis,	Kirkwood,	Thurman,
Cameron of Pa.,	Garland,	McPherson,	Wallace.
Cameron of Wis.,	Grover,	Merrimon,	
Chaffee,	Hamlin,	Oglesby,	

So the amendment was agreed to.

Mr. DAVIS, of Illinois. Mr. President, I do not like to trouble the Senate when it is weary, and from the temper manifested in relation to this bill I can see the fate of my amendment; but I conceive it to be my duty to present it. It is an amendment to the fifth section, which I ask the Secretary to read.

The PRESIDING OFFICER. The amendment will be reported.

The SECRETARY. It is proposed to add at the end of section 5 the following proviso:

Provided, That it shall not be lawful to grant any reissue of any patent for any invention, except the invention which was embraced in the original patent.

Mr. DAVIS, of Illinois. Mr. President, the Senator from New Hampshire, in his speech the other day, enumerated the particulars in which the new section relating to reissues is an improvement on the old. The substance of it all is that in granting a reissue the Commissioner is to be confined to "the papers filed in the office before the original patent issued"—"without resort to the model,"—and it is implied that the reissue may be granted for all that might have been patented on the first application upon the said original papers, for the court is directed to inquire whether it is for anything except "the same invention, shown, contained, or substantially indicated in the specification or drawings of the original application and its amendments, and which the patentee would have been entitled to include as a part of his invention on the patent originally granted."

The first part, confining the Commissioner to the original papers, is right; although, if the reissue is to be confined to the same invention as that described in the original patent, I can see no harm in referring to the model.

But the effect of the whole section taken together is to allow the Commissioner to go outside of the invention secured or indicated by the original patent and to put into the reissue anything suggested by the original application and papers. This will be productive of great evil.

When an application is made for a patent generally a struggle commences between the applicant and the Patent Office. The applicant wishes his patent to cover everything; the office wishes to restrict it within reasonable bounds, so as not to cover any other patent or anything that has been known or used before.

After much negotiation, contention, and argument the office finally decides what it will allow and the patentee acquiesces. If he does not acquiesce, he has the right to appeal. Say he does not appeal, but acquiesces, is it not evident that what he did not then get allowed to him was decided to be not his? He now waits for eight or ten years until there is another Commissioner or examiner and until the facts known to them are forgotten, and then goes to the Patent Office for

a reissue. The present officials knowing nothing of what has transpired except what correspondence may be on file, grants all he wants, for it is all covered by his original papers. Thus he gets the original decision of the Commissioner reversed without an appeal; or rather, his new application (for reissue) serves him as an appeal from the first decision. In this way some of the most unjust reissues have been granted.

Again, after a patent has been issued the public are free to occupy the ground not covered by it, and confiding in the action of the Patent Office which has confined the patentee to a certain invention, described or indicated, in his patent, capital is often expended to a large amount for the purpose of using that which is not patented. If a reissue can reverse all this, great injustice is done throughout the community. Whereas, if the patentee, desiring to claim some invention indicated in his first papers and not being part of the invention which was patented, is obliged to make a new original application, he is then subjected to all the rules and defenses which his delay and the public use create. The public thus has some protection.

To obviate these difficulties, the courts have decided, under the present law, which only authorizes a reissue for "the same invention," that a reissue can only be granted for the same invention which is patented, or attempted to be patented, in the original patent, and not for a different thing, although mentioned or alluded to in the original papers. If he wants to patent such different thing, he must make a new and original application, and be subject to all the defenses that time and public use may have created in the mean time.

This was clearly illustrated in a late case (the nitro-glycerine and giant powder case) decided at the present term of the Supreme Court, in which Mr. Justice Bradley wrote the opinion.

There a German by the name of Noble applied for a patent for several things, among others, first, for a process of exploding nitro-glycerine by detonation in contact with it while in a confined state; second, for a new compound of nitro-glycerine with gunpowder and other substances. A patent was issued to him for the process only. He afterward surrendered this patent (after some years) and got a reissue for both inventions. The court held that reissue to be void, not being authorized by the statute. Even as the law now stands great abuses are brought about by reissues; but if the discretion of the Commissioner is enlarged, so as to empower him to grant reissues for invention not included in the original patent, the way would be open for much greater abuses still. This feature of the proposed new section, which while it seems to restrict the Commissioner's power actually enlarges it, seems to me very objectionable. The section ought at least to have a proviso confining the power to grant reissues within the same bounds that now exist. Something like the following would answer the purpose:

Provided, That it shall not be lawful to grant any reissue of any patent for any invention, except the invention which was embraced in the original patent.

In the argument of the nitro-glycerine case the counsel of the patentee contended earnestly, under the law as it now stands, for the Commissioner's power to grant a reissue for anything described in the original application. The court decided that he had no such power, for that would be to take up the case anew, and grant what has been refused by the former Commissioner or waived by the patentee. The privilege of having a reissue is intended to correct mistakes or inadvertences, not to revise the action of the former Commissioner or the former action of the same Commissioner. To allow this to be done would, as I have remarked, introduce great evils, which none but a person practically acquainted with the subject can adequately appreciate. The section, in my judgment, has the effect to open this door to abuses. It seems to impose restraints, but it actually enlarges the powers of the Commissioner.

It does this by implication. It says that the reissue shall not contain anything that was not described or indicated in the original application or amendments or correspondence, which by a negative pregnant means that it may contain anything that was described or suggested in the original papers. This ought not to be allowed. The reissue ought to be confined to the same invention which was included in the original patent. Whoever wishes to protect the public against the flagrant abuses of the patent law should, I think, contend earnestly for this principle.

Mr. WADLEIGH. May I ask the Senator from Illinois wherein the present bill enlarges the old law?

Mr. DAVIS, of Illinois. I have just stated it.

Mr. WADLEIGH. In what part of a particular section?

Mr. DAVIS, of Illinois. As I have just stated, the bill provides that the reissue shall not contain anything that was not described or indicated in the original application, or amendments, or correspondence, which by a negative pregnant means that it may contain anything that was described or suggested in the original papers. I have said it does it by implication. If you are willing that the reissue shall be confined to the original patent, my amendment does no harm, and it does great good.

Mr. WADLEIGH. Mr. President, I regret to be again obliged to discuss this bill. The fifth section of the bill is precisely the same as section 4916 of the Revised Statutes except so far as it provides what evidence may be received by the Commissioner upon a reissue.

The provision in section 4916 as to such evidence is as follows:

But no new matter shall be introduced into the specification, nor in case of a machine-patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

The similar provision in the bill is as follows:

But no new matter shall be introduced into the specification not shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments, and which the patentee would have been entitled to include as a part of his invention in the patent originally granted. But no reissue shall be allowed, unless applied for within seven years from the date of the original patent, or within four years from the date of the passage of this act.

All the change that this bill makes in the law is to guard against the frauds that have been perpetrated by allowing parties to obtain reissues upon *ex parte* affidavits and an examination of models.

Mr. DAVIS, of Illinois. But it is not that point I object to at all. If you are in favor of confining the reissue to the original invention as patented and described, why object to the amendment? It cannot do any harm. I simply want to confine it to that. I do not say this may not be an improvement upon the old law. I am not speaking about that. I am simply saying that I believe, as it is, you can go back and patent anything that was contained in the original papers by a reissue; that is all.

Mr. WADLEIGH. The Senator from Illinois will not deny that the bill is an improvement on the law as it now stands, under which enormous frauds have been committed.

Let us look at the effect of the amendment of the Senator from Illinois. An inventor presents his claim to the officials of the Patent Office. Now, he cannot take a patent as he claims it; his claim must be clothed in the language that the officials choose. The description which they give of the invention may be so defective as not to give him a valid patent. Under the amendment of my friend the Senator from Illinois I fear he would be prevented from correcting such mistake through a reissue, and would lose his rights without any fault of his own.

Under this bill no injury can happen to the public on account of a reissue, because the sixth section provides that no right of action shall accrue on account of what has been done prior to the reissue, unless there has been an infringement of the patent originally granted. I think it would be wrong to make a patentee liable to lose his rights and be ruined by the mistake of an official in the Patent Office when the papers filed by him, which are open to the world, correctly describe his invention. Therefore I hope the amendment of the Senator from Illinois will not be adopted on that account.

One word more. Under the law as it now stands the Supreme Court, in the case The Giant Powder Company *vs.* The California Powder Works, decided this point. I read from the syllabus of the decision:

A reissued patent must be for the same invention as that which formed the subject of the original patent; or for part thereof when divisional reissues are granted. It must not contain anything substantially new or different.

The provision in the present law upon which that decision rests is precisely the same as the provision in this bill, and that opinion applies to this bill as well as to the present law. This bill restricts rather than enlarges the power of the Commissioner to grant reissues.

Mr. CONKLING. Mr. President, before we vote on this amendment, I should like to understand by the aid of the Senator from New Hampshire one point at least. I observe that in section 4916 of the Revised Statutes, which this section amends, stand these words:

But no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other.

I ask the Senator and all Senators to turn now to the equivalent words, as far as they are equivalent, proposed in the fifth section:

But no new matter shall be introduced into the specification not shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments.

If I understand this aright no man now can amplify his patent by a reissue beyond this possibility:

No new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other.

That is sufficiently definite to have enabled the court in the nitro-glycerine case referred to by the Senator from Illinois to hold that the party who made originally two claims, as they are called, and had one decided against him and received a patent for the other could not in a new patent cover both those claims. That is what the court held. So the court has held in other cases. That was one of the great struggles in the India-rubber case. Under this proposed section see what a party may do. He may obtain a reissued patent for anything which was shown by his original application and specification, anything which was contained in the original specification, and for something I think very much more, to wit, for anything "substantially indicated."

Mr. EDMUNDS. "Indicated!" Is that the word?

Mr. CONKLING. Certainly, "substantially indicated;" and the Senator from Vermont very naturally calls attention to that word, upon which, in one moment, I am going to dwell. "Or substantially indicated." "Indicated" where? Indicated either in the specification or in the drawings of the original application or in any of its amendments. What does "indicated" mean? It means "denoted," does it not? It does not necessarily mean "described," "fully specified and clearly presented," but anything indicated; and, industriously enough, the draughtsman of this section has used the prefix "substantially." So that, it is not necessary that it should even be indicated in any literal or full sense, but "substantially indicated," which

as it seems to me would be the synonymous term with "it is substantially denoted," "it is pointed out," "it is adverted to." I confess frankly that my attention had not been called to those words until I heard the Senator from Illinois point them out, and I think it will be manifest on reading, as I have done, with some care, section 4916, and reading this language, and assuming that this is the part of the section which describes the evidence on which the Commissioner may act, and so the chairman of the committee tells us, that this does bring in new and wider elements of judgment than the present law.

As I understand the decisions of the courts, they are in many instances that a patent may not issue for the very things which were substantially indicated, which were more than substantially indicated, which were exactly indicated; as, for example, in the case referred to by the Senator from Illinois, a claimant comes and says, "I have a process by which I can explode dynamite and gunpowder mixed together, and I can do it by detonation. That is my first claim. I claim, second, a new process, a new compound. I claim a patent for a method of commingling nitro-glycerine with certain other substances, so as to give greater explosive force or greater economy or advantage of some kind in the use of this new compound." The Commissioner says, "Claim No. 1 is allowed; I issue a patent for that." Manifestly claim No. 2 was substantially indicated, and yet the courts say that a reissued patent embracing also claim No. 2 is void, void at all events *pro hac vice*, or, more accurately speaking, void *pro tanto*, void as to the new claim, although it was substantially and clearly indicated. Here comes a section which by way of express authority, as I understand it, enables the Commissioner of Patents to take up this very case and grant a reissued patent, not only for claim No. 1, but for claim No. 2, and not only so but for anything else which was substantially indicated either in the specification or in the drawings, if the invention was mechanical, or in either of the amendments found in the Patent Office and filed to the specification.

Mr. WADLEIGH. Will the Senator from New York allow me to ask him if he has ever read the case of Seymour *vs.* Osborne, in 11 Wallace, where the court expounded this?

Mr. CONKLING. If my friend will let me see the head-note I will tell him if I have ever read it.

Mr. EDMUNDS. Yes, everybody knows about Seymour *vs.* Osborne, I think.

Mr. CONKLING, (examining 11 Wallace's Reports.) Yes, sir; I have read this case; but I do not know the particular point in this very copious syllabus to which the Senator from New Hampshire calls my attention.

Mr. WADLEIGH. Before the Senator closes I will call his attention to it.

Mr. CONKLING. Will the Senator be kind enough to direct my attention now to the point of the case he refers to?

Mr. WADLEIGH. Yes, I will. I propose to state it, and then the Senator can proceed if he desires, if the Senator will now give me the floor.

Mr. CONKLING. Certainly, I will give the Senator the floor. I will be very glad to have him give me any information I am seeking.

Mr. WADLEIGH. The position taken by the Senator from Illinois and by the Senator from New York is that the present bill so changes the law as to enlarge the rights of the patentee in respect to reissues. It is true that in the case to which my friend the Senator from New York refers, (Giant Powder Company *vs.* The California Powder Works,) the court decided that under the law as it now stands a patent could not be reissued containing an invention not contained in the original patent; but that the reissued patent must be for the same invention. But that decision rests upon the provision contained in the present law and also in the bill—that the Commissioner may "cause a new patent for the same invention" to be issued. It is under that clause, which is precisely the same in this bill as in the present law, that the court in that case decided that the reissued patent must contain the same invention and no other than that contained in the original patent. As to the evidence which the Commissioner shall receive upon the reissue of a patent, the Supreme Court, in the case of Seymour *vs.* Osborne, decided that precisely the same evidence that this bill provides for shall be admitted.

I read from the opinion of the court, page 544, 11 Wallace:

4. That the reissued letters-patent are void and of no effect because they were not granted for the same invention as that embodied in the original letters-patent nor for any invention made by the patentees before the original letters-patent were granted.

Reissued letters-patent must, by the express words of the section authorizing the same, be for the same invention, and consequently where it appears on a comparison of the two instruments, as matter of law, that the reissued patent is not for the same invention as that embraced and secured in the original patent, the reissued patent is invalid, as that state of facts shows that the Commissioner, in granting the new patent, exceeded his jurisdiction. Power is unquestionably conferred upon the Commissioner to allow the specification to be amended if the patent is inoperative or invalid, and in that event to issue the patent in proper form; and he may, doubtless, under that authority, allow the patentee to redescribe his invention and to include in the description and claims of the patent not only what was well described before, but whatever else was suggested or substantially indicated—

The very words of the bill—

in the specifications or drawings which properly belonged to the invention as actually made and perfected. Interpolations of new features, ingredients, or devices, which were neither described, suggested, nor indicated in the original patent, or Patent-Office model, are not allowed, as it is clear that the Commissioner has no jurisdiction to grant a reissue unless it be for the same invention as that embodied in the original letters-patent, which necessarily excludes the right on such an application to open the case to new parol testimony and a new hearing as to the nature and extent of the improvement, except in certain special cases, as provided in a recent enactment not applicable to the case before the court.

This bill repeals that "recent enactment" to which the court refers.

Corrections may be made in the description, specification, or claim where the patentee has claimed as new more than he had a right to claim, or where the description, specification, or claim is defective or insufficient, but he cannot under such an application make material additions to the invention which were not described, suggested, nor substantially indicated in the original specifications, drawings, or Patent-Office model.

We have adopted in this bill the precise language used by the court in Seymour *vs.* Osborne to describe the power of the Commissioner under the existing statute. We limit that power, however, by forbidding any use of models or affidavits as evidence to show what the real invention was, and under this bill the Commissioner can reissue a patent only "for the invention described, suggested, or substantially indicated" in the application or drawings.

Mr. EDMUNDS. Mr. President, if the Senator from New York whose affair this is, will pardon me, I wish to call the attention of my friend from New Hampshire to a difference that he does not appear to have observed in his statement. The statement of the Supreme Court is a negation, and it does not therefore follow that on the other hand if in a description there was something denoted or indicated, the man was entitled to a reissue for that. That would depend on a thousand circumstances.

Mr. WADLEIGH. Senators have heard the extracts I read from the opinion in 11 Wallace, and if they will carefully examine the bill before the Senate they will see that it does not change the existing law except to limit the power of the Commissioner by forbidding the use of models or any evidence except that of the written application and drawings. In that opinion the court say that in a reissued patent the patentee "may include in the description and claims of the patent not only what was well described but whatever else was described or substantially indicated."

Mr. CONKLING. Mr. President, if I understand the Senator from New Hampshire aright, he says that the section of the statute as it stands now consists of two members, first a provision which lays down the existence and marks the boundaries within which new patents may be issued, and second a definition, if I may so say, of the evidence on which that reissue may be adjudged. Does the Senator so say?

Mr. WADLEIGH. I beg the Senator's pardon, but I was interrupted. Will he repeat his question and I will try to answer it?

Mr. CONKLING. Mr. President, it occurs to me that a good many of us are interrupted during the consideration of this patent bill in times when if we were not interrupted it is just possible we might understand it better. However——

Mr. WADLEIGH. But the Senator from New York has a way of cross-examining Senators for which they may not be entirely prepared. I will try to answer his question.

Mr. CONKLING. If the Senator will say that, I will forbear to cross-examine him or to examine him at all.

Mr. WADLEIGH. I do not ask the Senator to forbear because I will try to answer to the best of my ability.

Mr. CONKLING. I was endeavoring to understand the Senator from New Hampshire, who thinks he has read a decision of the Supreme Court vindicating this section. If he has he has contributed a very valuable piece of evidence. I understood him to say that the section of the Revised Statutes now in existence consists of two members; first, it lays down the rule, or prescribes the instances within which reissues may take place, and, second, it indicates the evidence on which the Commissioner may act. Am I right so far, if the Senator will not deem it a cross-examination? I do not comprehend whether the Senator authorizes me so to understand or not.

Mr. WADLEIGH. I nodded, and I supposed that signified assent in all civilized countries.

Mr. CONKLING. Undoubtedly the Senate should take notice whenever the Senator from New Hampshire nods; but as I asked him a question, and as he is of age and abundantly able to speak for himself, I thought it very likely he would tell me whether I was right or not.

Mr. WADLEIGH. I will say that in my judgment the Senator from New York has correctly stated.

Mr. CONKLING. Well, assuming, then, that that is the present state of the statute, I want the Senator from New Hampshire to inform the Senate, if he will, why he has amplified the statute in respect of the evidence the Commissioner may receive. He has certainly done that according to his own statement, because he has interpolated or imported into the section all that he says the Supreme Court declares the Commissioner may act upon. Now, if he wants to restrict it why does he multiply the evidence on which the Commissioner may act? Certainly he does not do it to narrow the effect of the section.

Mr. WADLEIGH. Well, I will answer that under the old law the Commissioner had the right upon a reissue not only to refer to the specification or drawings and the application or its amendments, but also to the model, and in addition to that he had the right to receive *ex parte* affidavits, and that under the clause which is "upon proof satisfactory to the Commissioner," and that led to fraud in reissues.

Mr. CONKLING. But if my friend will pardon me, he has read the part of the section to which I do not refer and has omitted these words to which I want pointedly to refer:

But no new matter shall be introduced into the specification.

I stop there. "But no new matter shall be introduced into the specification." That is tolerably plain-spoken. We all know what that is.

Nor in case of a machine patent shall the model or drawings be amended, except each by the other.

If they are variant they may be compared and corrected, but nothing shall be added to them and no new matter shall be introduced. Now, what does the Senator propose here in the place of that? He proposes to say:

But no new matter shall be introduced into the specification not shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments, and which the patentee would have been entitled to include as a part of his invention in the patent originally granted.

Can any lawyer or layman listen to those words and suppose that they do not amplify these words: "but no new matter shall be introduced," no matter what? And yet the Senator tells us, as I understand him, that dealing with a section the first part of which prescribes the case in which the Commissioner may act and the second part of which points out the evidence and all of it on which he may act, he is going to narrow the administration of that section by multiplying the kinds of evidence and bringing in new elements on which he may act?

I understand the Supreme Court to have said that under this section of the Revised Statutes, as it stands now, narrower as I think than the proposed provision, certain things cannot be done, and I understand the court in referring to what may be done to say that as to that there must be a substantial indication of the meaning of the party; and now the Senator proposes, as I understand it, to so change this section that, not only as to that one specific thing which may be under the present statutes within the power of the Commissioner, but as to any other thing which may be substantially indicated, he may propose to reissue a patent or to issue a new patent, and I think the Senator from Illinois asks with great force the Senator from New Hampshire why it is, if his purpose be as he indicates, that he objects to an amendment in three or four lines which says so. The amendment says as the Supreme Court has said that there shall be no patent reissued for an invention not covered by the first patent. If the Senator from New Hampshire means the same thing why does he not adopt the amendment? It can do no harm; it is simply for abundant caution. It merely puts in the letter of the statute what he says is to be its spirit now.

Mr. DAVIS, of Illinois. I think the Senator from New York misunderstood the Senator from New Hampshire. I do not think the Senator from New Hampshire will say that this section, if passed without my amendment, does not authorize the Commissioner of Patents to reissue for anything that was contained in the original application and papers.

Mr. CONKLING. He does say so. He says that it only authorizes the Commissioner to do that which the Supreme Court in the Seymour case in 11 Wallace said he could do.

Mr. DAVIS, of Illinois. Is the Senator from New Hampshire in favor of my construction? That is the point.

Mr. WADLEIGH. I am in favor of the decision in Seymour *vs.* Osborne, in 11 Wallace, which has never been overruled nor criticised in any way by anybody till now; and that is this:

Power is unquestionably conferred upon the Commissioner to allow the specification to be amended if the patent is inoperative or invalid, and in that event to issue the patent in proper form; and he may doubtless, under that authority, allow the patentee to redescribe his invention and to include in the description and claims of the patent not only what was well described before, but whatever else was suggested or substantially indicated in the specification or drawings which properly belonged to the invention as actually made and perfected.

This bill does not go beyond that one hair's breadth, and I ask the Senator from Illinois if it does.

Mr. DAVIS, of Illinois. I think where two patents are applied for, one for a process and one for a combination, this bill, under its provisions as to evidence, authorizes a reissue for both.

Mr. WADLEIGH. I ask the Senator from Illinois whether or not this bill goes beyond what I have read from the decision of the Supreme Court?

Mr. DAVIS, of Illinois. That is not the question. This section is very astutely drawn, and what earthly objection is there to inserting the few words I propose, that a reissue shall cover nothing more than was covered by the original patent? If the object of the committee is to confine it to that, what objection is there to this? A statute has to be construed by a court; the minds of men do not agree about these things. An appellate tribunal may differ from us about the particular construction of a patent. I am for the interest of the great public in this matter, that no man who has obtained a patent, resting satisfied with it without taking an appeal, having waived all objection to the decision of the Patent Commissioner, shall after eight or ten years come forward and by referring to the original papers on file get a reissue for more than his patent originally embraced.

I want the Senator to say distinctly whether that ought not to be done? If so, do not these words make the section plainer? What is the use of looking to see whether there is a discrepancy between the decisions of the Supreme Court on that subject? If the Giant Powder case is the last one be it so; but I do not know whether in Seymour *vs.* Osborne the court would have decided as they have done in the case of the Giant Powder Company. Time makes men a great deal wiser, and it was a great many years ago that Seymour *vs.* Osborne was decided. Now, why not incorporate here the simple words of my amendment?

Mr. WADLEIGH. The Senator from Illinois made an accusation against this bill which the Senator from New York indorsed, that it enlarged the operation of the present law. The decision in Seymour *vs.* Osborne shows that under the old law the Commissioner had precisely the power this bill gives him. The Senator from Illinois asks why I object to his amendment. Because, sir, I fear that if it is adopted honest patentees who have defectively but substantially described their inventions or who have accepted erroneous descriptions from the officials in the Patent Office will lose their rights. I fear that his amendment will be so construed as to prevent the Commissioner from reissuing a patent for the invention described, or substantially indicated in the original application and drawings of the patentee, because some official of the Government may have made a mistake.

Under this bill no new matter can be introduced upon a reissue, to show what the invention was. New matter is something not "described, suggested, nor substantially indicated" in the papers originally filed by the patentee. What is thus described, suggested, or substantially indicated may now be introduced and that rule laid down by the court in Seymour *vs.* Osborne is left unchanged by this bill.

Mr. DAVIS, of Illinois. Mr. President, I should have no sort of objection to this bill under the recent decision of the Supreme Court if it was an exact transcript of the old law. Reissues now are granted for inadvertence or mistake; and it is very plain that this amendment proposed has no reference to that at all. It hits at the root of the evil. It says that there shall be no reissue except for the thing patented. There may have been a mistake of the Commissioner in the claims set forth in the specification. He may have inadvertently done something in relation to that patent which he should not have done; but when he has granted a patent for a process he is not to turn round and grant a patent for a compound although it was originally applied for. I say under this section that you may get a patent for a compound although the process was the only thing patentable.

Mr. WADLEIGH. The decision to which the Senator from Illinois refers is put expressly on the ground that the patent must be reissued "*for the same invention.*" Now, this bill provides that such reissue must be "*for the same invention*" exactly as does the present law.

Mr. DAVIS, of Illinois. But my amendment says it shall be for the same invention.

Mr. WADLEIGH. The amendment of the Senator from Illinois goes further. It may be so construed as to prevent a patentee from obtaining a reissue on account of a defective description of his invention in his letters-patent, where such defective description results from the mistake of some official, and where the patentee correctly described his invention in his application and drawings.

Mr. CONKLING. The same invention?

Mr. WADLEIGH. The same invention. If the amendment does not have that effect it seems to me to have none, because the provision contained in the present law and in the bill under consideration—that the reissue must be "for the same invention"—has been so construed in Seymour *vs.* Osborne and in Giant Powder Company *vs.* California Powder Works as to prevent the reissue for another invention than that already patented, which is all my friend the Senator from Illinois professes to desire.

Mr. DAVIS, of Illinois. I introduced the amendment in the interest of the public and common justice.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

Mr. WADLEIGH. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 11; as follows:

YEAS—24.

Allison,	Cockrell,	Ingalls,	Mitchell,
Anthony,	Conkling,	Kellogg,	Morrill,
Barnum,	Davis of Illinois,	McCreery,	Paddock,
Beck,	Dawes,	McMillan,	Plumb,
Bruce,	Ferry,	Matthews,	Windom,
Burnside,	Hill,	Maxey,	Withers.

NAYS—11.

Christiancy,	Kernan,	Rollins,	Wallace,
Davis of W. Va.,	McDonald,	Voorhees,	Whyte.
Hoar,	Randolph,	Wadleigh,	

ABSENT—41.

Armstrong,	Dennis,	Howe,	Ransom,
Bailey,	Dorsey,	Johnston,	Sargent,
Bayard,	Eaton,	Jones of Florida,	Saulsbury,
Blaine,	Edmunds,	Jones of Nevada,	Saunders,
Booth,	Eustis,	Kirkwood,	Sharon,
Butler,	Garland,	Lamar,	Spencer,
Cameron of Pa.,	Gordon,	McPherson,	Teller,
Cameron of Wis.,	Grover,	Merrimon,	Thurman.
Chaffee,	Hamlin,	Morgan,	
Coke,	Harris,	Oglesby,	
Conover,	Hereford,	Patterson,	

The VICE-PRESIDENT. No quorum has voted.

Mr. ALLISON. Unless the Senator from New Hampshire specially desires to close this bill to-night, I move that the Senate adjourn.

Mr. WALLACE. I hope the Senator will withdraw that motion.

Mr. ALLISON. I withdraw it, certainly.

Mr. WALLACE. The Senator from Delaware [Mr. BAYARD] and myself have agreed to withdraw from the committee of investigation on Federal elections South and ask that the Chair fill our places, owing to the absence of the Senator from Delaware and my inability to attend to the duty.

The VICE-PRESIDENT. The Senator from Pennsylvania asks that himself and the Senator from Delaware may withdraw from the investigating committee on the subject of elections. Is there objection?

Mr. CONKLING. I wish to make no objection in response to the remark of the Chair; but if I can do so without its being in the nature of an objection, I will say that the rules of the Senate declare that without a quorum no business whatever shall be done, except to adjourn or have a call of the Senate. What the effect might be of the request being granted under such circumstances, the Senator must consider for himself; but unless it is very pressing, I think he had better wait until a quorum is present if he wants to be excused.

Mr. President, unless the Senator wishes to continue the matter now, I will submit a motion that the Senate adjourn.

Mr. VOORHEES. Mr. President, I ask for a call of the Senate.

The VICE-PRESIDENT. The Secretary will call the roll of the Senate.

Mr. CONKLING. Pending that call, I move that the Senate do now adjourn.

The VICE-PRESIDENT. Pending the call the Senator from New York moves that the Senate do now adjourn.

The motion was not agreed to; there being on a division—ayes 12, noes 28.

The VICE-PRESIDENT. The Secretary will call the roll of the Senate.

The Secretary called the roll, and forty-three Senators answered to their names.

The VICE-PRESIDENT. A quorum is present.

EXERCISE OF ELECTIVE FRANCHISE COMMITTEE.

Mr. WALLACE. I now renew my motion.

The VICE-PRESIDENT. The Senator from Pennsylvania renews his request that he and the Senator from Delaware [Mr. BAYARD] be excused from further service upon the committee to investigate matters connected with southern elections.

Mr. WALLACE. I may state to the Senate that the reason for this is that the gentlemen who represent the minority of the Senate now at New Orleans are about starting for the North, and the remainder of the committee are charged with the duty of going to Charleston. The Senator from Delaware is absent on important duty, and it is impossible for myself to go. We are therefore compelled to decline service, and to ask the Senate to appoint other members representing the minority.

The VICE-PRESIDENT. Will the Senate agree to the request of the Senator from Pennsylvania?

Mr. HOAR. I hope that will lie over until Monday until the Senate is full. ["No!" "No!"]

Mr. WALLACE. The committee will be at Charleston on Monday and the minority will not be represented.

The VICE-PRESIDENT. Is objection made to action to-day?

Mr. HOAR. I only made the suggestion.

Mr. WALLACE. I hope the Senator from Massachusetts will not object because the committee will be at Charleston on Monday and will be there with the majority of the Senate represented and no representation of the minority at all.

Mr. HOAR. Of course the Senator knows that I would not wish to make an objection on that ground; but the Senator from Minnesota [Mr. MCMILLAN] and myself who are members of the committee, understanding that the Senator from Pennsylvania and the Senator from Delaware were not going to Charleston, had ourselves determined not to go to-day. Now, if those gentlemen withdraw and some new gentlemen of the democratic side should go, it might result in the minority being represented and the majority not being represented. That is all I wish to guard against. I am sure no gentleman on the other side would seek to bring about such a result.

Mr. WALLACE. We had no intention to do anything of the kind.

Mr. HOAR. That was my only reason for objecting; but now, understanding with the Senator from Pennsylvania that some arrangement will be made that the parties on both sides will be represented, I withdraw my objection.

The VICE-PRESIDENT. The Chair then hears no objection; and he appoints to fill the places of the Senators retiring the Senator from Indiana [Mr. MCDONALD] and the Senator from New Jersey, [Mr. RANDOLPH.]

PETITIONS AND MEMORIALS.

Mr. MCMILLAN presented a petition of citizens of Stillwater, Minnesota, praying the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. WITHERS presented the petition of R. A. Young & Brother, citizens of Petersburgh, Virginia, praying compensation for certain tobacco alleged to have been seized and appropriated by United States military forces at Petersburgh during the late war; which was referred to the Committee on Claims.

He also presented the petition of Pickrell & Brooks, citizens of Virginia, praying compensation for certain tobacco alleged to have been seized and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

He also presented the petition of J. Cheeves, surviving partner of Cheeves & Osborne, of Virginia, praying compensation for tobacco alleged to have been taken and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

EULOGIES ON THE LATE REPRESENTATIVE LEONARD.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the following resolution, reported it without amendment, and it was considered by unanimous consent, and agreed to:

Resolved by the House of Representatives, (the Senate concurring,) That 8,000 copies of the eulogies delivered in the House of Representatives and to be delivered in the Senate upon the late J. E. Leonard, late member of this House from the fifth district of Louisiana, be printed; 6,000 for the use of the House, and 2,000 for the use of the Senate.

BILLS INTRODUCED.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1643) to establish a land district in Watertown, in the Territory of Dakota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 48) providing for the payment of 50 per cent. of the amounts required by law to be withheld from certain railroad companies for transportation service rendered for the Government; which was read twice by its title, and referred to the Committee on Railroads.

AMENDMENT TO POST-ROUTE BILL.

Mr. WITHERS submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which, with the accompanying petition, was referred to the Committee on the Post-Office and Post-Roads.

PRINTING OF A BILL.

On motion of Mr. PADDOCK, it was

Ordered, That the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers, be reprinted for the use of the Senate.

ADJOURNMENT.

Mr. ALLISON. I move that the Senate adjourn.

Mr. ANTHONY. Will the Senator change that to a motion for an executive session?

Mr. ALLISON. I will if the Senator desires it. I move that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. THURMAN. I move that the Senate adjourn.

The motion was agreed to.

The VICE-PRESIDENT, (at four o'clock and twenty-five minutes p. m.) The Senate stands adjourned to Monday next at twelve o'clock noon.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 17, 1879.

The House met at twelve o'clock m. Prayer by Rev. W. V. TUDOR, of the Methodist Episcopal Church South, Saint Louis, Missouri.

SUPPRESSION OF POLYGAMY.

Mr. WILSON, by unanimous consent, presented a memorial of Mrs. Laura J. Tarr and 120 other ladies, of Wellsburgh, West Virginia, asking Congress to enact the necessary legislation to make effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary, and ordered to be printed in the RECORD.

The memorial is as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

We, the undersigned, women of Wellsburgh, West Virginia, pray your honorable body to enact such legislation as will make effective the anti-polygamy law of 1862.

Mrs. W. H. McKelvy, Stella Moore, Mrs. L. A. Grimes, Mrs. J. S. Hall, Ockie Wheeler, Mrs. I. M. Charnock, Ida Barth, J. Rieid, M. A. Carmichel, Mrs. A. Forbes, Nancy Amick, Mrs. R. Hodgen, Mrs. N. Van Seckle, Mrs. Lena Walter, Mrs. A. Mackey, Mrs. S. Jacobs, Mrs. M. J. Lazear, Nancy Frank, Mrs. E. Applegate, N. B. Waddle, A. B. Halley, Annie Lazear, Mrs. Laura J. Tarr, Sallie Moore, Mary E. Hall, Fanie Potts, Ethlinda Waugh, Mrs. Mackey, Mrs. Sallie Bowman, Miss Jennie Bowman, Mrs. Mary Huggins, Miss Margaret Huggins, Mrs. M. J. Dodd, Mrs. Margaret Gelsthorpe, Carrie Gelsthorpe, Emma Gelsthorpe, Rinnie Quest, Mollie Jones, Maggie B. Waugh, Miss Carrie Harris, Mrs. Elizabeth Applegate, Annie C. Beall, Mrs. J. S. Beall, Mrs. M. J. Beall, Mrs. Virginia Harvey, Miss Rebeca Lewis, Mrs. Rebeca Nelson, Mrs. Sarah E. Nicholl, Mrs. Mary A. Nicholl, Mrs. Sarah Deighton, Mrs. Jackson Jones, Mrs. Susan Lloyd, Mrs. Jane Haney, Mrs. Mary Nicholls, Mrs. Ellen Nicholls, Miss Nancy Fisher, Mrs. Ella Lloyd, Mrs. Laura Grimes, Miss Sarah Langhead, Mrs. Catharine Ralston, Mrs. Mary Liston, Mrs. Hanah Timmons, Mrs. Luna Caldwell, Mrs. Susan Ward, Mrs Marthe Taylor, Mrs. Laura McClelland, Mrs. Annie Taylor, Mrs. Lizzie Linton, Mrs. Alphereta Parish, Miss Emma J. Taylor, Miss Sallie Taylor, Mrs. Elizabeth Chester, Mrs. Sarah Waldron, Miss Addie Roberts, Mrs. Annie Roberts, N. M. Clendenen, Mrs. F. C. Glass, Mrs. Jennie Antills, Mrs. Mary Parke, Miss Nannie McHenry, Mrs. Nancy Moren, Mrs. Clara O. White, Miss Joanna Poole, Mrs. Terressa Poole, Miss E. J. Gaston, Mrs. I. P. Klein, Mrs. Belle Exley, Mrs. M. C. Richards, Mrs. D. Latemore, Mrs. H. W. Crothers, Mrs. Saml. Jacobs, Miss Abby Styers, Miss Lizzie Styers, Miss Jennie Cregg, Miss Mary Latimer, Mrs. John

Jacobs, Mrs. E. J. Paull, Mrs. June Fenwick, Miss Eliza Patton, Miss Agnes Ferguson, Miss Lizzie Paull.

PATENT LAWS.

Mr. BANNING, by unanimous consent, presented resolutions of the board of common councilmen of the city of Cincinnati, Ohio, protesting against the passage of Senate bill No. 300 and House bill No. 1612, relating to the patent laws; which was referred to the Committee on Patents, and ordered to be printed in the RECORD.

The resolutions are as follows:

CINCINNATI, *January* 15, 1879.

SIR: At a meeting of the board of councilmen of the city of Cincinnati, held on the 20th day of December, A. D. 1878, the following was adopted.

[L. S.] RICHARD C. ROHNER, *City Clerk.*

Hon. H. B. BANNING,
Member of the House of Representatives, Washington City, D. C.

Whereas, representing a constituency generally acknowledged to be one of the leading manufacturing cities of the United States, whose business interests and prosperity are largely founded upon the labors of inventors, we recognize the wisdom and importance of laws protecting inventors and manufacturers in the right of property existing in patented inventions under the Constitution; and

Whereas certain measures known as the Wadleigh bills (Senate bill No. 300 and House bill No. 1612) have been introduced and are pending in the Congress of the United States, which under the guise of amending the patent laws at present existing would tend to deprive inventors and patentees of those rights in inventions which are accorded to holders of other property, and by imposing unnecessary burdens and limitations discourage and repress that creative genius that has distinguished the American people above all other nations and contributed more than all other causes combined to their material prosperity; and

Whereas it is the sense of this body that the passage of such or similar laws would react injuriously upon the constituency and interests we represent: Now, therefore,

Be it resolved by the city council of Cincinnati, That sections 1, 2, and 3 of the said Wadleigh bill and House bill No. 1612 are unwise, impolitic, and unjust to inventors and manufacturers and tend to discourage invention and impede the progress of the useful arts and sciences, and that our Senators and Representatives in Congress be, and are hereby, requested to use all honorable means to defeat the sections of said bills above alluded to.

Resolved, That a copy hereof be transmitted to each of our Senators and Representatives, under the seal of the city.

RESOURCES OF COOS RIVER, OREGON.

Mr. WILLIAMS, of Oregon, by unanimous consent, presented a statistical report of the resources of Coos River, in the State of Oregon; which was referred to the Committee on Commerce.

RETIREMENT OF AN ARMY OFFICER.

Mr. BANNING, by unanimous consent, introduced a bill (H. R. No. 5856) for the retirement of an Army officer; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN C. BECK.

Mr. BANNING also, by unanimous consent, introduced a bill (H. R. No. 5857) for the relief of John C. Beck; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ADOLPH VON LUETTWITZ.

Mr. BANNING also, by unanimous consent, introduced a bill (H. R. No. 5858) to provide for the retirement of Adolph von Luettwitz, first lieutenant Third Cavalry, United States Army, with the rank and pay of a mounted captain; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

THOMAS CRARY.

Mr. BEEBE, by unanimous consent, introduced a bill (H. R. No. 5859) for the relief of Thomas Crary, postmaster at Parksville, New York; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

Mr. BREWER. I call for the regular order.

SALE OF INTOXICATING LIQUORS IN THE CAPITOL.

Mr. ELLSWORTH. I rise to a question of privilege, and ask that the Clerk read what I send to the desk.

The Clerk read as follows:

Whereas Joint Rule No. 19 of the House of Representatives prohibits the sale of intoxicating or malt liquors in the Capitol building of the United States, or within the public grounds adjacent thereto; and

Whereas at the last session of the Forty-fifth Congress this House by resolution expressed its condemnation of the sale of intoxicating or malt liquors in said building or within said grounds and its approval of said joint rule, and instructed the officers of the House to see that said rule be not violated by the keepers of the House restaurant, which action was approved by the honorable Speaker of the House; and

Whereas it is commonly reported that said keepers do not, and have not, respected the said action of the House, but have continued, from the time of the passage of said resolution, to violate Joint Rule 19, and have continued to sell intoxicating liquors in said restaurant,

Now comes the undersigned, and doth charge the present keepers of the House restaurant with violation of said joint rule, and with disregarding the express wishes of the members of this House and defying the law and the honorable Speaker, and with violating the internal-revenue laws of the United States by selling intoxicating liquors in said restaurant without license.

C. C. ELLSWORTH.

Resolved, That the charges preferred by C. C. ELLSWORTH against the keepers of the restaurant of the House be referred to a select committee of five, who, when appointed, are instructed to investigate the matter so referred, and report to this House their findings thereon as soon as possible.

The SPEAKER. This is not a question of privilege.

Mr. ELLSWORTH. I think it is.

The SPEAKER. In what respect?

Mr. ELLSWORTH. It concerns employés of this House, having relation to their conduct.

The SPEAKER. The Chair begs to differ from the gentlemen. As much as he may desire to see the object the gentleman has in view executed, he is at a loss to know how this can be considered a question of privilege.

Mr. ELLSWORTH. I present my views on it. I regard it as a question of privilege.

Mr. COOK. Let it be referred to the Committee on Rules.

The SPEAKER. If there be no objection the Chair will entertain the proposition.

Mr. HOOKER. Let it be again read.

Mr. ELLSWORTH. I hold it to be a question of privilege.

The SPEAKER. The Chair cannot hold it to be a question of privilege, because there is no warrant under the rules for such interpretation or construction.

Mr. EDEN. Let it be referred to the appropriate committee.

Mr. HOOKER. Let the proposition be again read.

The resolution was again read.

Mr. EDEN. There is no need of a select committee. This should be referred to the appropriate standing committee.

Mr. LUTTRELL. Let it be referred to the Committee on Rules.

The SPEAKER. The proper reference would be to the committee having the appointment of the keeper of the restaurant—the Committee on Public Buildings and Grounds.

Mr. LUTTRELL. I move its reference to that committee.

The SPEAKER. If there be no objection to the introduction of the resolution and the paper presented by the gentleman from Michigan, the Chair will entertain the motion for consideration or for its reference to the Committee on Public Buildings and Grounds. The keeper of the restaurant is not an officer of the House. His appointment is with the Committee on Public Buildings and Grounds, and that is the proper committee for its consideration.

Mr. ELLSWORTH. That committee will not act on it.

Mr. FRANKLIN. I understand the gentleman to say that committee will not act on it. I wish to know by what authority he makes that statement. When were charges made against the keeper of the restaurant and inquiry was ordered by the House and that committee refused to investigate them?

Mr. ELLSWORTH. I understand this to be the fact and I think I know this to be the fact that the committee do not act.

Mr. FRANKLIN. If the gentleman understands that to be the fact he understands something that is not the fact.

The SPEAKER. The Chair desires to state that a complaint of this sort was heretofore made to the Speaker, and he communicated the same to the chairman of the Committee on Public Buildings and Grounds, and the chairman of that committee took immediate steps to rectify what was complained of.

Mr. COOK. I will add to what has been stated by the Chair that I went to the keeper of the restaurant and notified him that he would be removed for any violation of that rule so soon as the committee should have information that it had been violated. I have not been in the restaurant since.

Mr. EDEN. I demand the previous question on the motion to refer.

The previous question was seconded and the main question ordered, and under the operation thereof the paper submitted by Mr. ELLSWORTH and the accompanying resolution were referred to the Committee on Public Buildings and Grounds.

ORDER OF BUSINESS.

Mr. COOK. I desire to ask the reference of a bill to the Committee on Public Buildings and Grounds.

Mr. BREWER. I demand the regular order.

The SPEAKER. The gentleman from Michigan insists on his demand for the regular order, which is the call of committees for reports of a private nature.

CENSUS BILL.

Mr. COX, of New York. I rise to a question of privilege. The Committee on the Census has leave to report at any time.

The SPEAKER. On public bill days.

Mr. COX, of New York. I think no one will object to the request I desire to make. It is merely that the bill which I introduced on behalf of the Committee on the Census may be reprinted.

The SPEAKER. The Chair is bound to protect committees and the body of the House on Friday from the introduction of matters of a public character, for the reason that private bills have but that one day in the week; and if that day is infringed upon private bills would not get that just consideration which they should have. But the Chair will submit the request of the gentleman from New York that there be a reprint of the bill introduced by himself as chairman of the Committee on the Census.

There was no objection, and the bill (H. R. No. 5765) to provide for taking the Federal census was ordered to be reprinted.

BUSINESS OF THE JUDICIARY COMMITTEE.

Mr. KNOTT. I ask the gentleman from Michigan [Mr. BREWER] to withdraw for a moment the demand for the regular order that I may prefer a request from the Committee on the Judiciary.

Mr. BREWER. I yield for that purpose.

Mr. KNOTT. I am instructed by the Committee on the Judiciary to ask unanimous consent that on next Monday evening a session may be held, commencing at half past seven o'clock, for the consideration of reports from that committee.

The SPEAKER. That would have to be by unanimous consent.

Mr. KNOTT. I ask unanimous consent.

The SPEAKER. Is there objection to the request made by the gentleman from Kentucky?

Mr. TOWNSEND, of New York. Will that include the right to pass bills?

The SPEAKER. It will.

Mr. TOWNSEND, of New York. Then I must object.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twenty-six minutes past twelve o'clock, the business of the morning hour being reports from committees of a private nature. The call rests with the Committee on Private Land Claims. At the close of the morning hour on last Friday, the bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California, was under consideration. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the legal representatives, successors, or assignees of José Apis and Pablo Apis, or either of them, be, and they are hereby, permitted to file their claim and title to a certain tract of land in California known as La Iolla Rancho in and before the United States district court of California; and that said court shall have the same jurisdiction in all things, to be exercised originally, to hear and determine upon the said claim and title, and to confirm or reject the same, as the several district courts had under the act of Congress of March 3, 1851, and acts amendatory thereunto. And the Supreme Court of the United States shall have jurisdiction to hear and determine said cause upon appeal, as decided in said acts: *Provided*, That no lands shall be confirmed to said claimants by said decree to which there are valid claims existing under the pre-emption, homestead, or other laws of the United States at the date of the passage of this act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid; and that no decree shall be rendered for more than two square leagues: *Provided further*, That said claimants, before filing their claim and title, shall execute releases to any persons who may be in possession of any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States at the date of the passage of this act to the portions of said lands so held respectively; and before rendering a decree in confirmation the said court shall ascertain that said releases have been duly executed.

Mr. REAGAN. Is there a report accompanying the bill

Mr. DENISON. There is.

Mr. REAGAN. I ask that the report may be read.

The report was read, as follows:

The Committee on Private Land Claims, to which was referred Senate bill No. 854 entitled "An act for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California," respectfully report that they have considered the same and recommend concurrence in its passage.

Mr. EDEN. Is the Senate report on the desk?

Mr. DENISON. I do not know whether the Senate report is there or not. I can state in a moment what the case is.

This bill has reference only to two leagues of land. It is limited by the terms of the bill to two square leagues. Originally the grant was made to a family by the name of Apis by the Spanish government. They took possession under the Spanish government and occupied the land, and have continued to do so; and their descendants occupy it now. The land having been granted to them while they were Spaniards, and they never having learned the English language, they never knew of or knew about any law by which they could have their title confirmed under the United States Government. In the course of time one of the men to whom the land was granted died and his administrator was unable to find the deed making the grant; and while he was searching for the grant the time in which he should have presented the claim expired. Meantime the other grantee, a brother of the deceased man, also died. Each left a daughter. And these two daughters and their descendants are the present owners of these lands; but the bill provides that they and their representatives may go before the United States courts and have their title confirmed under the Spanish grant exactly as if they had not been limited by the act, and it expressly prevents any possible injury to anybody else. It provides that they shall execute a release to anybody claiming the lands. Everybody is protected. No injury can happen and it would be great injustice to these parties not to pass the bill. The question has been examined thoroughly by a committee of the Senate and also by a committee of the House, and both committees are unanimous in their report. I trust there will be no objection to the passage of the bill.

Mr. REAGAN. I ask that the bill be again read.

The bill was again read.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DENISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND CLAIM IN NEW MEXICO.

Mr. McGOWAN. I ask unanimous consent to take from the Speaker's table Senate bill No. 753, to confirm certain land claims in the Territory of New Mexico, and put it upon its passage. It is a bill identical with one favorably reported by the committee.

There being no objection, the bill was taken from the Speaker's table and read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the private land claim in the Territory of New Mexico known as the Mesita Juana Lopez grant, made by the Spanish government January 18, 1782, examined, approved, and recommended for confirmation by the surveyor-general of New Mexico November 29, 1872, designated as private land claim No. 64, and duly surveyed by the United States, the field-notes of the survey and plat being approved by the surveyor-general of New Mexico on February 28, 1877, be, and the same is hereby, confirmed: *Provided*, That the foregoing confirmation shall only be construed as a quitclaim or relinquishment of all title or claim on the part of the United States in and to said private land claim, and shall not affect the adverse rights of any person or persons to the same; nor shall the United States be liable to make compensation for any part of said land to which there are or may be any adverse rights or claim.

No objection being made, the bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. McGOWAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSIGNMENT OF LAND SCRIP.

On motion of Mr. GUNTER, the bill (S. No. 109) defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives, was taken from the Speaker's table and read a first and second time.

The bill was then read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in cases prosecuted under the acts of Congress of June 22, 1860, March 2, 1867, and the first section of the act of June 10, 1872, providing for the adjustment of private land claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at $1.25 per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June 22, 1860, or applied according to the provisions of the second section of this act; and said certificate of location or scrip shall be subdivided according to the request of the confirmee or confirmees, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty land warrants.

SEC. 3. That the register of the proper land office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

SEC. 4. That the provisions of this act respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity certificates of location provided for by the act of the 2d of June, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."

Mr. EDEN. I call for the reading of the report.

The report in that case was read, as follows:

The private land claims which are recognized by this bill, with many others which have been from time to time recognized and adjusted, had their origin prior to the purchase of the province of Louisiana by the United States from France. The treaty of purchase specially recognized the rights of property in the then inhabitants. The third article of the treaty of April 30, 1803, is as follows:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, *property*, and the religion which they profess."—8 *Stat. at Large*, 202.

This obligation has been repeatedly recognized by Congress, and various acts have been passed, from 1806 to 1858, providing for commissioners to hear and determine the claims of parties to lands embraced within the territory thus acquired, and to report lists of such lands as, in the opinion of the commissioners, should be confirmed to the claimants.

Under these several acts lands were, from time to time, confirmed to the respective claimants. The greater portion of these claimants took their lands in place, but some were unable to do so for various reasons, but principally because the United States had disposed of the particular lands to which their claims attached. To remedy this difficulty Congress passed the act of June 2, 1858, (11 Stat. at Large, 295,) providing that "where any private land claim has been confirmed by Congress, and the same, in whole or in part, has not been located or satisfied, either for want of a specific location prior to such confirmation or for any reason whatsoever other than a discovery of fraud in such claim subsequent to such confirmation, it shall be the duty of the surveyor-general of the district in which such claim was situated, upon satisfactory proof that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, to issue to the claimant, or his legal representatives, a certificate of location for a quantity of land equal to that so confirmed and unsatisfied; which certificate may be located upon any of the public lands of the United States subject to sale at private entry at a price not exceeding $1.25 per acre: *Provided*, That such location shall conform to legal divisions and subdivisions."

Congress also, by act of June 22, 1860, (12 Stat. at Large, 85,) the operation of which was extended by acts of March 2, 1867, (14 Stat. at Large, 544,) and June 10, 1872, (17 Stat. at Large, 378,) authorized claimants to proceed to establish their claims by petition in the district court, with the right of appeal to the Supreme Court of the United States.

In cases where claims have been held valid under the statute above cited, and where the court has decreed that the claimants are entitled to enter a specified number of acres of the lands of the United States subject to entry, or to receive certificates of location for such proportion of the lands decreed to them as have been disposed of by the United States, the bill under consideration authorizes the subdivision of the same into quantities as nearly as practicable conforming to the legal divisions and subdivisions of the public lands of the United States; and also authorizes the assignment of the certificates of location, by written instrument, so

as to vest the assignee with all the rights of the original owner, including the right to locate the scrip in his own name.

The bill further proposes to make all such scrip receivable from actual settlers in payment of pre-emption claims, or in commutation of homestead claims, in the same manner as now authorized by law in case of military bounty land warrants.

The third section provides for the issue of certificates of entry by the proper local land officer in the name of the parties making the location, and for the issue of patents by the Commissioner of the General Land Office, if he shall be satisfied that such certificates have been fairly obtained. The right of these parties to enter certain quantities of the public land or to receive certificates of location for so much as had previously been disposed of by the Government rests upon the decrees of the courts, as above set forth. Where the right to lands is recognized by the courts, and the Government has, by its previous disposition of them, deprived the parties of the enjoyment of the particular lands claimed, these certificates entitle the claimants to similar quantities of the public lands, and, to render them available, their subdivision to conform them to the legal subdivisions of the public domain is authorized.

A bill similar to the one under consideration was considered by the Committee on Private Land Claims of the House of Representatives at the last session of the Forty-fourth Congress and a favorable report was made, the views expressed in which we have adopted as the basis of this report. The Commissioner of the General Land Office approved the purpose of that bill, and suggested certain amendments which have been embodied in the present measure, which has also received the approval of the Secretary of the Interior.

The committee therefore recommend the passage of the bill with an amendment.

Mr. DUNNELL. I desire to inquire how much land is involved in this bill or will be conveyed by the land scrip?

Mr. GUNTER. There is no land conveyed. There are about three hundred thousand acres involved, one hundred and twenty thousand of which belong to a school at Baltimore and one at New Orleans; it only affects three hundred thousand acres in all.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GUNTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELINQUISHMENT OF TITLE.

Mr. GUNTER, from the Committee on Private Land-Claims, reported back the bill (H. R. No. 5439) relinquishing the right of the United States to an island therein named; which was referred to the Committee of the Whole on the Private Calendar, and, with the report, ordered to be printed.

HEIRS OF ISRAEL DODGE.

Mr. CALDWELL, of Tennessee, from the Committee on Private Land Claims, reported, as a substitute for House bill 3483, a bill (H. R. No. 5861) for the relief of the heirs and legal representatives of Israel Dodge, deceased; which was read a first and second time.

The bill was read, as follows:

A bill for the relief of the heirs and legal representatives of Israel Dodge, deceased.

Whereas it appears that the claim of Israel Dodge or his legal representatives was confirmed by the act of Congress entitled "An act to confirm certain land claims in the State of Missouri," approved June 21, 1860, to the extent of seven thousand and fifty-six arpents, equal to six thousand and two acres and fifty-hundredths of an acre, and that on the 22d day of December, 1865, a certificate of location, No. 2, was issued by the Commissioner of the General Land Office in full satisfaction of said claim of Israel Dodge, erroneously reciting the act of Congress approved June 2, 1858, as the authority for the issue of said certificate; and

Whereas it appears that certain tracts of land subject to location and entry under the provisions of the aforesaid act of June 21, 1860, have been duly entered under and by virtue of said certificate, and in part satisfaction thereof: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, authorized and required to issue patents to such of the legal representatives of Israel Dodge, deceased, as may be entitled to them for lands entered under and by virtue of certificate of location No. 2 issued by the Commissioner of the General Land Office on the 22d day of December, 1865, to the legal representatives of said Israel Dodge, under and by virtue of act of Congress approved June 2, 1858, as though said lands had been entered under and by virtue of a certificate duly issued in accordance with the provisions of the second section of the act of June 21, 1860: *Provided*, Said entries be found free from objections in every other particular, and that for the remainder of the land yet authorized to be located under said certificate upon the surrender thereof, he issue to the legal representatives aforesaid, who may be legally entitled thereto, certificates of location in quantities not to exceed eight acres, each of which may be located upon any lands not mineral of the United States subject to entry under the laws thereof, and the lands located therewith patented in like manner as other public lands of the United States: *Provided*, That the location in each case shall conform to the legal subdivisions of the public surveys.

Mr. EDEN. I would like to inquire of the gentleman from Tennessee [Mr. CALDWELL] if there are any adverse claimants to these lands?

Mr. CALDWELL, of Tennessee. There are none. This bill is intended merely to correct a mistake made in the certificate of location. That certificate referred to the act of 1858 for the authority for its issue, when in point of fact it was the act of 1860 which authorized it. The Commissioner of the General Land Office now refuses to issue a patent upon the certificate of location because of this erroneous recital. The object of this bill is to correct that mistake and authorize the Commissioner of the General Land Office to issue the patent.

Mr. EDEN. I would inquire if the residue of this certificate can under this bill be located upon lands that are held at higher rates than $1.25 an acre?

Mr. CALDWELL, of Tennessee. No, sir, the bill especially so provides.

Mr. EDEN. The bill provides that it shall not be located upon mineral lands; but may it not be located upon lands within the limit of grants which are held at higher rates than $1.25 per acre?

Mr. CALDWELL, of Tennessee. It is expressly limited to $1.25 an acre.

The bill was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. CALDWELL, of Tennessee, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LANDS IN SAN MATEO COUNTY, CALIFORNIA.

Mr. GUNTER, from the Committee on Private Land Claims, reported back, with a favorable recommendation, the bill (H. R. No. 4886) to authorize the correction of boundaries of certain lands in San Mateo County, California.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That any and all persons claiming land the title of which was derived through the grant of the Mexican authorities to Juan Coppinger, known as the Cañada de Raimando rancho, situated in San Mateo County, in the State of California, and which lands are alleged to have been erroneously included in the survey, location, and patent of the Pulgas rancho, in said county, contrary to the boundaries originally designated by the decree of the Supreme Court of the United States rendered at the December term, 1855, of said court, shall have the right to contest the said location in their own names, without leaving the State, by suit in chancery in the circuit court of the United States, with the right of appeal to the Supreme Court; and said courts are hereby given jurisdiction of the same and authorized to correct the said boundaries and to reform the patents to either or both of said ranchos, if they shall be found not to be in conformity with the decree of the Supreme Court, and to give such other and further relief as equity and justice may require.

The United States and all persons having an interest in the subject-matter of said suit or in the adjustment of the lines of the patents, if determined upon by the court, shall be made parties defendant; and any party defendant may rely upon any legal or equitable defense except the lapse of time during which the opposite party had, under existing laws, no remedy in the courts; and either party may appeal to the higher Federal courts and on up to the Supreme court of the United States in the manner now provided by law.

Mr. BLOUNT. I would inquire of the gentleman from Arkansas [Mr. GUNTER] how much land is involved in this bill?

Mr. GUNTER. It does not involve any land; it is merely to correct the boundaries of certain lands. I ask that the report be read.

Mr. PAGE. Is it proposed to put this bill on its passage now?

Mr. GUNTER. That is the proposition.

Mr. PAGE. There will be objection, and it may as well go to the Committee of the Whole at once, so as to save the time that will be required to read the report.

Mr. GUNTER. I prefer to have the report read.

The report was read, as follows:

The Committee on Private Land Claims, to whom was referred House bill No. 1871, entitled "A bill to authorize the correction of boundaries of certain lands in San Mateo County, California," have considered the same, and report the accompanying bill as a substitute therefor, with the recommendation that the substitute do pass. The facts are fully set forth in the printed report of Hon. S. L. MAYHAM, made to the Forty-second Congress, which is hereto annexed and made a part hereof.

THOMAS TURNER.

Report of the subcommittee on Private Land Claims in the matter of the boundary line of the Las Pulgas rancho.

The undersigned subcommittee on Private Land Claims, to whom was referred the petition of Dennis Martin and others, asking for authority to contest the correctness of the survey and location of a land grant in California, respectfully reports to the Committee on Private Land Claims as follows:

That on the 27th day of November, 1835, José Castro, political chief and governor *ad interim* of Alta California, granted to the heirs of Arguello a tract of land called Las Pulgas, and bounded on the south by the arroyo of San Francisquito; on the north by the San Mateo; on the east by the estuaries or bay; on the west by Cañada de Raimando, and in said grant described the same as being four leagues in latitude and one in longitude. That the western boundary of said grant was surveyed and marked, and juridical possession was given to said grantee establishing the westerly bounds thereof one league west of the estuary or bay of San Francisco. (Arguello *vs.* U. S., 18 Howard, 539.)

In 1852 the Las Pulgas claimants petitioned the California land commissioners for a confirmation of their claim to the amount of twelve leagues, and the commissioners rejected the claim for twelve leagues, but confirmed the claim for four leagues, which decision was confirmed by the United States district court, from which an appeal was taken to the Supreme Court of the United States, and heard at the December term, 1855, when the decision of the district court was affirmed and the land described in the decree as follows: "Bounded on the south by arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east esteros or waters of the bay of San Francisco, and on the west by the eastern borders of the valley known as the Cañada de Raimando, said land being of the extent of four leagues in length and one in breadth, be the same more or less."

On the 19th of December, 1856, John C. Hayes, United States surveyor-general for California, returned to the General Land Office field-notes and a map purporting to be a survey of the Las Pulgas rancho, including an area of land of the amount of 35,240 acres, and the 2d day of October, 1857, the Commissioner of the General Land Office issued a patent to the heirs at law and legal representatives of Luis Arguello, deceased—a patent for the land embraced in that survey, but provided in said patent that in virtue of the fifteenth section of the act of March 3, 1851, the confirmation of said claim and the patent shall not affect the rights of third parties.

The survey by Hayes, and the patent issued in accordance therewith of the Pulgas rancho, was not limited in quantity to the amount in the original grant or that specified in the decree of the Supreme Court of the United States confirming the same, but was, as appears by the certificate of the county surveyor of San Mateo County, three Spanish leagues wide at the southerly end, one and four-tenths leagues at the center, and one and six-tenths leagues at the northerly end, and embraced land in excess of the original grant of one league in width to the amount of 17,490 acres, or nearly double that of the original grant.

2. On the 3d of August, 1840, Governor Alvarado, then governor of California, granted to John Coppinger the tract of land known as the Cañada de Raimando. This grant was bounded on the east by the Rancho de Las Pulgas, which, at that time, must have been understood as extending but one league from the Bay of San Francisco according to the terms of the grant. On the 15th of March, 1843, John

Coppinger conveyed by deed (which was duly recorded) to Dennis Martin a large portion of the southeast portion of this grant, and in said deed described the same as bounded on the south by the creek of San Francisquito, and on the east by the grant of Las Pulgas, and said Martin, regarding the extreme westerly bound of the Las Pulgas to be located one league from the bay, took possession of said land described in his deed and continued in undisturbed possession thereof while it remained under the Mexican government, and for a long time thereafter, and made improvements to the amount of $75,000 to $100,000 on the same. The balance of the grant to Coppinger was occupied by him until his death in 1846, except such portions of the same as he had conveyed to other parties. The claimants of the Coppinger grant petitioned the commissioners to be allowed to intervene in the name of the United States, under the provisions of the act of March 3, 1851, for the purpose of showing that the Pulgas rancho did not extend but one league from the bay, but were denied that privilege at the hearing of the Pulgas claim in 1852.

But there does not appear to be anything in the decision of the commissioners, or of the district or Supreme Court, that affects the rights of the Coppinger claimants, or that in any way extends the rights of the Pulgas claimants beyond the league line, or over one league from the bay. On the contrary, the language of the court in the case of Arguello *vs.* The United States (18 Howard, 539) seems to be adverse to the floating of the Pulgas rancho beyond one league from the bay. The court says: "The Mexican authorities have themselves given a construction to this grant in 1840, when they granted the Cañada de Raimando to Coppinger, calling for Las Pulgas as its eastern boundary. Moreover, juridical possession was given to the Arguellos, establishing the western boundary of the Las Pulgas one league west of the estuary or bay of San Francisco."

The inference is inevitable from this language that the court regarded the league line as the westerly limits of the Pulgas rancho; and if this is so, then the adjudication of the Supreme Court is an adjudication in favor of and not against the rights of the petitioners, and their rights are affected only by the acts of the surveyor in making the survey, and the Commissioner of the Land Office in issuing a patent not in accordance with the grant or the decision of the Supreme Court.

On the 23d of November, 1853, the commissioners of California confirmed the title of the Coppinger grant, and bounded on the east by the Rancho de Las Pulgas. If the westerly line of the Pulgas rancho had been the league line, or a line one league from the bay, this would have been a correct description. But by the survey and patent the Pulgas rancho had been floated beyond the limits of the league line from the bay. In other words, the grant which had the bay as one of its fixed boundaries, and which by its terms was limited to one league in width from the bay, had been extended two leagues beyond that limit, and in that way the Coppinger grant had been crowded back to make room for the growing dimensions of the Pulgas rancho, and to this proof of expansion and removal the heirs of Coppinger have failed to interpose any effectual resistance.

But to the grantees of Coppinger, who had purchased their lands and paid for them when the line one league from the bay was, by all parties, regarded as the exterior boundary of the Pulgas grant, this extension of the Pulgas rancho was total absorption and annihilation, and unless they can be protected in the courts or in Congress they are remediless.

Can they be protected in the courts? If so, they would not seek congressional aid. In Waterman *vs.* Smith, (13 Cal. R., 373,) the court says the patent is conclusive evidence of the right of the patentee to the land described therein, not only between himself and the United States, but as between himself and a third person, who has not superior title from a source of paramount proprietorship.

"This being the settled law of California, and conclusive evidence of title in the patentee, he can maintain ejectment at law for all lands embraced in his patent against persons in possession holding adversely to him, or may defend himself in his possession against any person seeking to evict him by or under an adverse title."

But it can hardly be pretended that this power, under a patent, is so crystallized as to defy the power of Congress in cases where a patent has been either erroneously or fraudulently located, especially if the party injured was not a party to the location or the fraud.

By the terms of section 15 of the act of March 3, 1851, as well as by the express language of the Pulgas patent, the rights of third parties are reserved and protected, and in the case of Minturn *vs.* Bovee (24 Cal. R., 644) the court says: "Third persons must be regarded to be all persons who are not parties to the proceeding before the land commissioners, or standing in such relation with those who were parties thereto as to become affected and bound as privies, and the interest of third persons that remain unaffected by the final confirmation and patent, and those subsisting in perfect title derived from a source of paramount proprietorship, which could be used in resisting successfully the action of the Government respecting them."

The grant to Coppinger was perfect in itself. It was an absolute conveyance to him as full and ample as letters-patent could be from the United States.

This deed to his grantees passed to and vested in them a perfect title, which they held at the time of the acquisition of this territory by the United States.

The treaty of Guadalupe Hidalgo imposed upon the United States the duty of protecting the title of those who had perfect titles to real estate under the Mexican Government, as well as that of perfecting such titles as were in their nature inchoate.

These parties having been divested of their legal title by a proceeding to which they were not parties, and over which they could not exercise any control, are still the equitable owners of these lands, and the persons in whom the legal title is by this patent vested should be treated as trustees for the benefit of those having the equitable title.

That they have bought and held these lands in good faith is evidenced by their original purchase and title-deed, and by their long occupancy and substantial improvements.

They were transferred by the act of annexation from one sovereignty to another, and every principle of justice, humanity, and civilization requires that the Government extending its jurisdiction over them should extend its protection as well as its authority.

The petitioners have not had a day in court, or an opportunity to defend themselves against the overshadowing claim of the Pulgas rancho. Their grantor did not contest the location of the line on appeal to the Supreme Court, and that question has never been presented to that tribunal or adjudicated by it. The only question that seems to have been litigated is, as to the validity of the respective grants, and not as to their location or boundaries, except as that question has incidentally occurred in the description of the land as contained in the grant.

Unless the petitioners are permitted to contest the correctness of the location of the exterior lines of the Pulgas rancho and the survey of the grant, they will be forced to relinquish their claim to their lands, which they bought in good faith of a grantor having a valid Mexican title, and have occupied for more than a quarter of a century, and upon which they have made valuable and expensive improvements.

I therefore recommend that the bill introduced by Mr. LUTTRELL be reported to the House, and that this committee recommend its passage.

S. L. MAYHAM,
Subcommittee Private Land Claims.

Mr. GUNTER. I now ask the present consideration of the bill.

Mr. DAVIS, of California. I object.

Mr. BLOUNT. I would like to ask the gentleman who has this bill in charge if this same bill was not reported against by a majority of the Committee on Private Land Claims of the Forty-fourth Congress?

Mr. GUNTER. I believe such a report was ordered; whether made or not I cannot tell.

Mr. RANDOLPH. Was not this same question adjudicated by the courts twenty years ago?

Mr. BLOUNT. I must object to the present consideration of this bill.

Mr. DAVIS, of California. And I object to it.

The SPEAKER. On what ground?

Mr. DAVIS, of California. On a point of order.

The SPEAKER. What is the point of order which the gentleman makes against the bill?

Mr. DAVIS, of California. It involves costs of litigation; the Government is made a defendant in the suit.

The SPEAKER. The Chair is advised that the bill grants no additional land; it is simply to correct a boundary-line of certain lands in question.

Mr. LUTTRELL. It does not grant an acre of land or a dollar of money.

The SPEAKER. As the Chair is advised at present, there is no point of order resting against the bill. The Chair, however, will listen to the gentleman from California [Mr. DAVIS] if he has any views to suggest.

Mr. WHITE, of Pennsylvania. I understand that this bill makes the Government liable for costs, and thereby increases the expenditures of the Government. I have not carefully read the bill, but I gathered that from hearing it read by the Clerk.

The SPEAKER. The impression of the Chair is that the provision making the Government one of the parties defendant is merely a matter of form—that the real parties involved are the two grantees.

Mr. GUNTER. The suit will not be determined either for or against the Government. The Government is not necessarily a party to the suit. The real litigation is between the two parties claiming the land.

The SPEAKER. The Chair can only look upon the face of the bill, and is unable to see wherein any point of order rests against this bill.

Mr. PAGE. Has the morning hour expired?

The SPEAKER. It has not.

Mr. PAGE. When will it expire?

The SPEAKER. In six minutes.

Mr. PAGE. The Chair does not propose to limit debate on this bill to six minutes?

The SPEAKER. That is a matter for the House to control.

Mr. WHITE, of Pennsylvania. I move that this bill be referred to the Committee of the Whole.

Mr. GUNTER. I call for the previous question upon the engrossment and third reading of the bill.

Mr. WHITE, of Pennsylvania. My motion to refer was first made.

The SPEAKER. But the gentleman was not recognized by the Chair to submit that motion. The Chair recognizes the gentleman reporting the bill as the one entitled to take charge of it. If the House agrees with the gentleman from Pennsylvania [Mr. WHITE] and the gentleman from California [Mr. DAVIS] all it has to do is to vote down the previous question.

Mr. CONGER. Pending the call for the previous question, is not a motion to commit in order?

Mr. WHITE, of Pennsylvania. I move that the House do now adjourn.

The SPEAKER. That motion is in order; and if agreed to, the bill will go over as unfinished business until next Friday.

Mr. WHITE, of Pennsylvania. The next day the committee is reached, it will come up of course.

Mr. PAGE. I think that my colleague, [Mr. DAVIS, of California,] who has made this objection, ought to have an opportunity to state it.

The SPEAKER. After the previous question is sustained there will be an hour for debate, under the control of the gentleman reporting the bill.

Mr. DAVIS, of California. I would prefer not to have the time in that shape.

Mr. GUNTER. We will divide the time.

Mr. CONGER. I made an inquiry whether pending a demand for the previous question a motion to recommit would be in order. I understood the gentleman from Pennsylvania to move to recommit.

Mr. WHITE, of Pennsylvania. I did, but the motion was not entertained; and then I made a motion to adjourn, which is in order.

The SPEAKER. The Chair entertains the motion to adjourn. In answer to the inquiry of the gentleman from Michigan [Mr. CONGER] the Chair will say that while the demand for the previous question is pending a motion to recommit is not in order. The call for the previous question must be voted upon; and if the House desires further debate beyond the hour which would be allowed after the previous question is ordered, or desires to throw the bill open to amendment, it is within the power of the House to vote down the call for the previous question.

The question being taken on the motion of Mr. WHITE, of Pennsylvania, that the House adjourn, it was not agreed to.

Mr. BLOUNT. I ask the gentleman in charge of this bill to withdraw the call for the previous question and allow the majority report of the committee of the Forty-fourth Congress to be read. The gentleman has had his report read.

The SPEAKER. The reading of the report would be in the nature of debate, and unless the gentleman from Arkansas yields——

Mr. GUNTER. I cannot yield for that purpose.

Mr. WHITE, of Pennsylvania. I submit that the morning hour has expired.

The SPEAKER. There is one minute remaining.

Mr. THOMPSON. I rise to a point of order. I submit that the point of order already made was well taken. I ask the Clerk to read from the bill at line 21, page 2.

Mr. PAGE. Is it not in order to move to lay the bill on the table?

The SPEAKER. It is.

Mr. PAGE. I make that motion.

Mr. THOMPSON. I think the point of order already submitted is well taken, and I ask the Clerk to read the clause of the bill to which I have referred.

The Clerk read as follows:

The United States and all persons having an interest in the subject-matter of said suit or in the adjustment of the lines of the patents, if determined upon by the court, shall be made parties defendant; and any party defendant may rely upon any legal or equitable defense, except the lapse of time during which the opposite party had, under existing laws, no remedy in the courts; and either party may appeal to the higher Federal courts, and on up to the Supreme Court of the United States, in the manner now provided by law.

The SPEAKER. The Chair does not find anywhere in the bill any language appropriating a dollar of money or donating an acre of land belonging to the United States.

Mr. PAGE. It involves private parties in litigation.

The SPEAKER. That the Chair does not take cognizance of.

Mr. PAGE. I understand that.

Mr. THOMPSON. But if the Speaker please, the Government is made a party in the litigation provided for in the bill, and its rights are to be concluded by that litigation, if it result adversely to the Government, as it is to be presumed it will.

The SPEAKER. The gentleman will observe that the Government of the United States has already by law parted with all its interest in the lands which are in controversy between individuals, as mentioned in this bill.

Mr. LUTTRELL. And agreed by a treaty to protect these litigants.

The SPEAKER. The Government of the United States does not make any donation of land or any appropriation of money by this bill. The Chair overrules the point of order.

Mr. THOMPSON. But the Speaker does not understand the point.

The SPEAKER. The Chair thinks he does.

Mr. THOMPSON. The Government may have parted with all its title; and then this bill makes the Government a defendant in a case in which it has no interest. The litigation in which the Government is thus made a party must be a charge upon the Government.

The SPEAKER. The expense of any such litigation is provided for in another bill. The judicial expenses of the Government are provided for in one of the regular appropriation bills——

Mr. THOMPSON. But this increases such expenses.

The SPEAKER. The Chair, while anxious to treat the gentleman from Pennsylvania with entire fairness, does not see how the bill can be reached by a point of order.

Mr. THOMPSON. What I mean is this: when this bill makes the Government a defendant, whether it has any claim or not, (and if it has no claim my point is so much the stronger, as a party who has no interest is compelled to defend,) can it be said there is no expense incurred?

The SPEAKER. The Chair does not think he is required to argue this point; but if for the sake of argument the case was as stated by the gentleman from Pennsylvania, still the language of this bill does not authorize the payment of any money out of the Treasury. Any expense of costs is provided for by other law or laws. The Chair has already overruled the point of order. The pending question is on the motion to lay on the table.

Mr. WHITE, of Pennsylvania. Has the morning hour expired?

The SPEAKER. The morning hour has expired. The situation of the bill is this: the gentleman from Arkansas demands the previous question, pending which the gentleman from California moves that the bill be laid upon the table.

ENROLLED BILLS.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 4234) to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payment of arrears of pensions, and other purposes; and

An act (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes.

G. H. HILL.

Mr. HUNTON, by unanimous consent, introduced a bill (H. R. No. 5860) to remove the political disabilities of G. H. Hill, of Virginia; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PRIVATE CALENDAR.

Mr. BRIGHT moved the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the Private Calendar, Mr. MILLS in the chair.

HEIRS OF BRIGADIER-GENERAL WILLIAM THOMPSON.

The CHAIRMAN. The House resumes the consideration of the Private Calendar, and the first business in order is a bill (H. R. No. 934) for the relief of the heirs of Brigadier-General William Thompson, of the revolutionary army.

Mr. MACKEY. Mr. Chairman, I move by unanimous consent that bill be passed over for the present, not to lose its place upon the Calendar.

The CHAIRMAN. The Chair hears no objection, and it is ordered accordingly.

SAMUEL P. TODD.

The next business on the Private Calendar was the bill (H. R. No. 2160) for the relief of the heirs of Samuel P. Todd, deceased, late a purser in the United States Navy.

The bill, which was read, directs that there be paid to James Todd, administrator of the estate of Samuel P. Todd, deceased, late a purser in the United States Navy, for the use and benefit of the heirs-at-law of said Samuel P. Todd, deceased, the sum of $4,000, out of any moneys in the Treasury not otherwise appropriated.

The report was read, as follows:

The memorialist, Samuel P. Todd, on the 5th day of October, 1839, being at that time a purser in the Navy of the United States, was ordered to the United States ship Potomac, one of the squadron on the Brazil station, as purser. On the 5th day of July, 1840, he was appointed by Commodore Charles G. Ridgeley, who was commander-in-chief of the said squadron, special Navy agent for procuring and disbursing moneys for the use of the squadron, there being at that time no agent upon that station authorized by the Navy Department to draw for funds.

The following is the letter of appointment:

UNITED STATES SHIP POTOMAC,
Rio de Janeiro, July 5, 1840.

SIR: As there is no agent upon this station authorized by the Navy Department to draw for funds for the use of the squadron, I have deemed it expedient to appoint one, and I do hereby appoint you a special agent for that purpose.

You will therefore, whenever funds are required for the use of the squadron, draw bills of exchange upon the Navy Department or upon Messrs. Baring Brothers & Co., of London, in my favor, and present them to me for indorsement, after which you will negotiate them upon the most favorable terms for the United States, taking care to procure the proper vouchers, as accounts of sales, certificates, &c., which vouchers you will lay before me for my approval.

The pursers of the squadron will make their requisitions upon you, approved by their commanders and myself, for the funds required for the respective vessels to which they belong; and for the labor and responsibility which will devolve upon you in consequence of this appointment you will, I presume, be allowed by the Navy Department the same compensation as is made to agents upon other stations, to which I conceive you will be justly entitled.

I am, very respectfully, your obedient servant,

CH. G. RIDGELEY,
Commodore and Commander-in-Chief of the United States Naval Forces on Coast of Brazil and Rio La Plata.

To SAMUEL P. TODD,
Purser United States Ship Potomac.

It will be readily perceived that Mr. Todd was appointed on the express ground that there was no authorized agent on the station authorized to raise and disburse funds, and for negotiating bills of exchange, and for keeping accounts of the larger disbursements to the subordinate disbursing officers for the general use of the squadron.

Under this appointment, which the memorialist was not at liberty to decline, being ordered by his superior officer, Mr. Todd negotiated for and disbursed more than $300,000, and he claims as compensation therefor 2½ per cent. upon the amount so negotiated and disbursed.

At that time the squadron on the Pacific station consisted of the same force as that on the Brazilian station, and the agency of the business similar to that devolved on the memorialist was performed by Messrs. Edward McCall & Co., temporary agents for the Pacific squadron, and they were allowed a salary of $4,000 for the same.

At the same time the squadron on the Mediterranean station consisted of about the same force as the Brazilian, and the agency thereof was just about the same as the Pacific and that performed by the memorialist, and was performed by Messrs. Fitch, Brothers & Co., of Marseilles, and it is understood that they were allowed a commission of 5 per cent. upon the money disbursed, and the money, besides, being advanced to them and paid in to their mercantile house in New York.

At the same time the squadron on the West India station consisted of one frigate and two sloops of war, and the agency was performed by Messrs. Furniss & Co., of St. Thomas, and your committee are informed, and they think credibly, that they received 2½ per cent. commission.

The memorialist discharged the duties of his said special agency from the 5th day of July, 1840, the date of his appointment, to the 20th day of December, 1841, a period of nearly eighteen months, and no impeachment whatever was ever made of the ability or fidelity with which he conducted said extraordinary duties so cast upon him. And your committee come to the conclusion that the Navy Department, by acquiescing in this appointment and permitting it to continue, confirmed it in all things, and are now estopped from denying that they authorized the services to be performed or that the United States is not bound in honor and law to pay for the same what it was reasonably worth.

But the Department refuses the compensation asked for the petitioner, and rests its refusal upon the ground that by law no extra compensation can be allowed to persons receiving an annual salary or pay and emoluments fixed by law from the Government.

But your committee fully coincide with Hon. H. D. Gilpin, former Attorney-General, and whose opinion is filed in this case, that there is nothing in this construction which prevents an officer who is receiving a salary or fixed compensation for his particular office from being also paid for services not belonging to that office which he is legitimately required to discharge, provided these services are such as are recognized by law as entitled to compensation.

It was not as purser of the Potomac that Mr. Todd drew the bills or raised the money for the squadron; as such he would have had no right to draw them; it was as special agent, special Navy agent, taking the place of a Navy agent on the station, and he took it by order and appointment of the commander of the squadron, on the express ground stated in the order that it was too remote from the residence of any Navy agent to procure the money in that manner.

If a Navy agent then had been on the station, he would have been entitled to compensation for the services the memorialist performed. On what principle of

law or justice it can then be withheld from Mr. Todd your committee are unable to see.

A similar agency for the same station was intrusted to Purser Daragh in the years 1826 and 1827, and a commission of 2½ per cent. was allowed him as such agent, in addition to his compensation as purser, on the amount of bills drawn by him for the use of the squadron.

On the Pacific station, in the interval between the agency of Mr. White, who resided at Lima, and who left there about 1833, and that of Messrs. E. McCagg & Co., which commenced in 1838, Edward M. Coxe, actual purser of the Vincennes sloop of war, was appointed special agent on the station, and on his leaving there Joseph Wilson, actual purser on the North Carolina, (seventy-four,) was similarly appointed, and both of them received an allowance for the special service at the rate of $2,000 per annum, that certain sum being fixed as a compensation for it in lieu of the more inadequate one of commission.

It will be seen by the cases given above, and they were of like kind, that it has been the practice of the Government to pay extra for such services which have been performed outside of and beyond the duties properly pertaining to the proper office of the purser.

In view of the considerations above mentioned, and also of the fact that the Supreme Court have held at different times in like cases that such special agents are entitled to pay for their services, as will be seen by reference to 2 Peter's Reports, page 10; also on page 23 of the same report, in the case of Major-General Ripley; also 15 Peter's Reports, in the case of General Gratiot, wherein the Supreme Court affirmed their former decision in like cases as the one before your committee, they do therefore report a bill authorizing the payment to James Todd, administrator of the estate of Samuel P. Todd, deceased, late a purser in the United States Navy, for the benefit of the heirs at law of said Samuel P. Todd, deceased, the sum of $4,000, and recommend that the bill pass.

Mr. EDEN. It occurs to me this claim, now forty years old, if the Government ever owed it, should have been paid long ago if it were just. If we are going back forty years to settle all claims of this kind we will never get through.

Mr. BRIGHT. There have been various claims allowed by this Congress within the last two years which have gone farther back into antiquity than forty years. The age of a claim, while it may raise a presumption against it, is not conclusive against its validity. It argues on the contrary a dereliction of Congress in paying just claims of the Government when the citizen has been here toiling with this body for justice at its hands.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

DANIEL W. PERKINS.

The next business was the bill (H. R. No. 850) for the relief of Daniel W. Perkins, of East Saginaw, Michigan.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Daniel W. Perkins, of East Saginaw, Michigan, the sum of $1,090, being in full for services rendered as substitute district attorney in the eastern district of Michigan, from October 1, 1871, to June 30, 1875.

Mr. BLOUNT. Has the gentleman from Michigan the statute before him under which these services were rendered?

Mr. ELLSWORTH. The statute is not here, but it has been examined thoroughly by the committee.

Mr. BLOUNT. Let the report of the committee be read.

The Clerk read as follows:

The bill is for the relief of Daniel W. Perkins, of East Saginaw, Michigan, who was appointed a substitute attorney under section 14 of the act of Congress of August 16, 1856, and acted as district attorney in cases before United States commissioners in Saginaw county, in said State. His claim is for services rendered from October 1, 1871, to April, 1875.

The claim of Mr. Perkins seems to your committee to be entirely just and reasonable. He allowed the matter of his compensation to run on from year to year without settlement, at the same time continuing his services as such district attorney without calling for a settlement, as he should have done. Finally, when he did present his bill for services against the Government, he was told that the appropriations for the respective years he had served the United States were exhausted, and it could not be paid without an act of Congress authorizing the payment. The act referred to fully authorizes the appointment and employment of substitute attorneys, who are to receive the same fees as the district attorney. This law continued in force up to 1874, when the Revised Statutes were adopted, at which time this provision seems to have been dropped; but the omission was not discovered by the authorities in the department until July, 1875, and notice was not given until August following.

The claimant, it seems by the printed report of the Committee on the Judiciary of the Forty-fourth Congress, (which was a favorable report,) furnished said Judiciary Committee a list of the cases he tried as such substitute attorney and a full copy of his account, but the same is not now to be found; which account, as appears from said report of the Judiciary Committee, was duly certified to by the commissioners before whom the cases were pending when the services were performed; also the certificate of the First Comptroller of the Treasury, showing that the charges correspond with the cases reported, and that neither the claimant nor any one else has ever been paid for the services rendered. The district attorney also appends his certificate to the same, as appears by said report, showing that he appointed Mr. Perkins as such substitute, and that he rendered said services for several years.

The claim of the memorialist amounts to the sum of $1,090, and appended to it, as appears by said report of the said Judiciary Committee, are the following certificates:

UNITED STATES OF AMERICA,
Washington, D. C.:

I, James R. Cook, late United States commissioner for the eastern district of Michigan, do hereby certify that the dates stated in the foregoing cases, as examinations had before me, are correct and true, showing the time occupied in such examinations; that Daniel W. Perkins was the attorney and the only attorney who appeared for the United States Government and conducted such examinations.

JAS. R. COOK,
Late United States Commissioner, Eastern District of Michigan.

TREASURY DEPARTMENT,
First Comptroller's Office, July 10, 1876.

The records and files of this Department show that examinations were had in the cases specified in the foregoing statement of D. W. Perkins, substituted United States attorney in said cases * * * have been made to the said attorney or his substitute, D. W. Perkins.

R. W. TAYLER,
Comptroller.

UNITED STATES DISTRICT ATTORNEY'S OFFICE,
For the Eastern District of Michigan:

I, A. B. Maynard, United States district attorney for eastern district of Michigan, do hereby certify that D. W. Perkins, of East Saginaw, Michigan, has been my deputy at that place for a number of years; that none of the services of the said Perkins were ever audited with my services in any cases in which said Perkins appeared; that I have never been allowed or paid for any services which said Perkins has performed as such deputy district attorney; that all the pay which said Perkins has received for his services as such deputy district attorney has been allowed and audited by the First Auditor of the Treasury; and that the said Perkins should receive pay for such services as he has performed which do not appear to have been audited by the said First Auditor; that the certificate of the United States commissioner, before whom said Perkins performed said services, will show what these services were; that I have been personally acquainted with Mr. D. W. Perkins for many years, and know him to be reliable and trustworthy, and that he would not present any account for services which was not correct and true; that I personally know that he has not been paid for a number of years, but I cannot give the exact date; that the fact of his not being paid grew out of the fact of Mr. Perkins not presenting his account till after estimates for the years had been exhausted or closed.

Dated June 24, 1876.

A. B. MAYNARD,
United States District Attorney for the Eastern District of Michigan.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., June 5, 1876.

SIR: Your letter of the 3d instant to the First Auditor relative to a claim of Daniel W. Perkins has been referred to this office.

By section 14, act of August 16, 1856, district attorneys were authorized to employ substitutes, who were to receive the same fees as the district attorneys for like services. Mr. Perkins was so employed and so paid. His last account settled at this Department embraced services to the 30th day of September, 1871.

In the revision of the statutes of the United States the authority to employ substitutes was dropped.

It appears from the district attorney's statement that Mr. Perkins continued to act until April, 1875. I therefore presume that his claim is for compensation as substitute attorney from October 1, 1871, to April, 1875, which cannot be paid at the Treasury for want of authority. His account has probably been rendered to the Department of Justice, where it would properly go if it could be allowed.

Very respectfully,

R. W. TAYLER,
Comptroller.

Hon. N. B. BRADLEY,
House of Representatives.

It appears that the omission in the revision was not discovered till about July, 1875, and no notice was given till August, 1875, to district or substitute attorneys. They, including Mr. Perkins, continued to act in good faith, as can be ascertained from the First Comptroller of the Treasury.

Your committee, from this examination, and from the above facts as found by the Judiciary Committee of the Forty-fourth Congress, and from the evidence attached to their report, come to the conclusion that there can be no doubt about the justice of the claim of the said Daniel W. Perkins, and that it should be paid; and therefore, without waiting for the filing of a new statement of his accounts, so lost, we report back the bill so referred to said committee and recommend that it do pass.

The bill was laid aside, to be reported to the House with the recommendation it do pass.

ELLA P. MURPHY.

The next business on the Private Calendar was the bill (H. R. No. 1502) for the relief of Ella P. Murphy.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Mrs. Ella P. Murphy, widow of Patrick Murphy, out of any money in the Treasury not otherwise appropriated, the sum of $3,875, as full compensation for depredations committed by the Mescalero Apache Indians upon the property of said Patrick Murphy.

The report was read, as follows:

The bill seeks to appropriate $3,875 for losses sustained by the husband of claimant on account of depredations committed by the Mescalero Apache Indians on his property on the night of the 6th of August 1861, and in 1870, at Fort Davis, Texas.

To sustain that part of the claim occurring in 1861 there is no proof except that of Mrs. Murphy, the widow, and while there can be but little if any doubt of the loss as set out by claimant it is not deemed a safe precedent to allow such claims without certain and strict proof of the actual loss, the character and value of the property, and the identity of the tribe of Indians committing the depredation.

After investigation by the agent of the Indians charged with the depredation and the Interior Department, this part of the claim was disallowed. Another portion of the claim is for depredations committed by the same band of Indians at Fort Davis in 1870.

The sworn testimony of Captain Charles Parker shows that in the month of August, 1870, Patrick Murphy, then in the employ of the United States Government as a post-trader, lost three hundred head of sheep and goats, taken by the Indians mentioned; that Captain Parker was dispatched with his command in pursuit of the Indians, and that twenty-two head of the sheep and goats were recaptured. This testimony is further sustained by the sworn statement of Acting Assistant Surgeon Thomas Landers, United States Army. It appears that two hundred and eighty-seven sheep and goats were lost, and that they were of the value of $2.50 each. After investigation, this part of the claim, amounting to $695, was allowed by the Department and reported to Congress.

During the Forty-third Congress the Committee on Indian Affairs made a report recommending the passage of the bill for this amount.

(See Report No. 632, Forty-third Congress, first session).

Your committee recommend the following amendments, namely:

First. In seventh line, strike out the words "three thousand eight hundred and seventy-five," and insert in lieu thereof the words "six hundred and ninety-five."

Second. Add at the end of the section the words "*Provided*, That before paying the moneys hereby appropriated the said Ella P. Murphy shall make satisfactory proof that she is the sole heir of Patrick Murphy, late of Fort Davis, Texas, or otherwise the sole owner of the claim: *And provided further*, That the sum herein appropriated shall be paid out of the moneys due the Mescalero Indians of New Mexico."

With the adoption of the amendments indicated the committee recommend the passage of the bill.

The CHAIRMAN. The pending question is on the amendments reported by the committee and contained in the report just read.

The amendments were agreed to; and the bill, as amended, was laid aside, to be reported to the House with the recommendation that it do pass.

W. JESSE BUCHANAN.

The next business on the Private Calendar was the bill (H. R. No. 1854) for the relief of W. Jesse Buchanan, late first lieutenant Third Michigan Cavalry Volunteers; which was reported from the Committee on Military Affairs adversely.

Mr. DIBRELL. I move that bill be laid aside, to be reported to the House with the recommendation that it do lie upon the table.

The motion was agreed to; and the bill was laid aside, to be reported to the House with the recommendation that it be laid on the table.

JENKINS A. FITZGERALD.

The next business on the Private Calendar was the bill (H. R. No. 796) for the relief of Jenkins A. Fitzgerald, assistant surgeon United States Army.

The bill, which was read, provides that the payments made by the Department of the Interior to Assistant Surgeon Jenkins A. Fitzgerald, United States Army, for medical services rendered the Cheyenne and Arapaho Indians, at the request of said Department, in the absence of other medical aid, are hereby sanctioned, and the said Assistant Surgeon Fitzgerald is authorized to retain the compensation paid, anything in the statutes of the United States to the contrary notwithstanding.

The report was read, as follows:

This bill provides that the payment made by the Department of the Interior to Assistant Surgeon Jenkins A. Fitzgerald, United States Army, for medical services rendered the Cheyenne and Arapaho Indians, at Camp Supply, Indian Territory, in the year 1869, at the request of said department, in the absence of other medical aid, shall be sanctioned, and allows him to retain the compensation, amounting to $798.33. A precisely similar bill was introduced at the second session of the Forty-fourth Congress, and was referred by the Committee on Military Affairs of the House of Representatives to the Secretary of War, for information, and returned by the Secretary on the 8th of February, 1877, accompanied with a letter from the Adjutant-General, in which the bill is inclosed, in the following words:

"The Surgeon-General, to whom the bill for the relief of Dr. Fitzgerald was referred, reports as follows:

"It is my opinion the money was fairly earned and is justly due."

A bill of precisely similar character, for the relief of Assistant Surgeon Thomas F. Azpell, unanimously passed both branches of the Forty-fourth Congress, and was "approved January 19, 1877." (United States Statutes at Large, volume 19, page 503.)

Your committee respectfully report the bill back to the House, and recommend its passage.

Mr. EVINS, of South Carolina. I move as a substitute for the bill the following:

The Clerk read as follows:

Strike out all after the enacting clause and in lieu thereof insert the following:

That the Secretary of the Treasury is hereby authorized and directed to pay or cause to be paid, out of any money in the Treasury not otherwise appropriated, to Assistant Surgeon Jenkins A. Fitzgerald, for moneys originally received by him from the Department of the Interior for medical services rendered at the Arapaho and Cheyenne Indian agency, in the year 1869 and 1870, and which moneys so received the said Jenkins A. Fitzgerald was required to return to the Treasury by order of the Second Comptroller.

Mr. EVINS, of South Carolina. Since the introduction of the bill Assistant Surgeon Fitzgerald was compelled by order of the Second Comptroller to refund the money to the Treasury. The bill as originally introduced proposed he should retain the money; but as he has paid it back—and I have the papers here which show he has paid it back—the amendment proposed by the committee is that the money shall be refunded to him. The Surgeon-General recommends the payment; so does the Secretary of War. The Surgeon-General says this man performed these services in good faith and in ignorance of any law which prevented him from receiving compensation for them. As stated in the report, precisely a similar bill was passed by the Forty-fourth Congress.

The amendment was adopted; and the bill, as amended, was laid aside to be reported favorably to the House.

PROTESTANT EPISCOPAL SEMINARY, VIRGINIA.

The next business on the Private Calendar was the bill (H. R. No. 943) for the relief of the trustees of the Protestant Episcopal Seminary and High School in Virginia; reported by Mr. GOODE, from the Committee on Education and Labor.

The bill was read, as follows:

Be it enacted, &c., That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, in full payment of rent due to the trustees of the Protestant Episcopal Theological Seminary and High School in Virginia, for the use and occupation of their buildings and other property (located near Alexandria) for hospital purposes.

SEC. 2. That this act be in force from and after the passage thereof.

The report was read, as follows:

This seminary and high school were established for the most beneficent of all purposes—that of educating and training the minds of those young men who felt called to enter upon the solemn and responsible duties of ministers of the Protestant Episcopal Church in the United States. They were situated near Alexandria, in Fairfax County, Virginia, and within sight of the Capitol. The buildings were erected and the schools sustained by contributions from all parts of the United States. They were seventeen in number, and stand upon a tract of land containing about two hundred acres. One of these buildings was erected from funds furnished by William H. Aspinwall & Brother, of New York, and another by John Bohlen and his sister, of Philadelphia, and still another by the congregation of Saint George's church, New York. Funds were contributed from all parts of the United States to build the others. The students in these schools have been from nearly all the States—North, South, East, and West.

In the seminary there have been 601 students of divinity. Of these, 200 were from the North, 195 from the South, 19 foreigners, and 187 whose residence is not given in the catalogues. These holy men all entered the ministry. Of this number, some 440 still remain in the ministry in thirty-two States of the Union and foreign lands. One of the most important Christian denominations is indebted to this institution for one-seventh of the entire body of her clergy. Thirty-one have gone to foreign lands as missionaries, 44 are laboring in Maryland, 56 in Pennsylvania, 34 in New York. The rest are scattered in smaller numbers in other States of the Union.

The high school is a first-class preparatory school for the colleges and universities of the country. A very large number of students from all parts of the country have entered this school. These statistics are obtained from the reports up to 1871. A large number has since been added to the catalogues of both schools.

At the time the war began, in 1861, both these schools were in a most prosperous condition. Many of the buildings were new, and all were furnished in a complete manner. On the 24th of May, 1861, the Federal troops took possession of Alexandria, and soon commenced a permanent system of fortifications for the defense of the city. These fortifications embraced all the buildings of these schools, and they remained in the permanent and undisturbed occupation of the Federal Government during the whole war.

On or about the 25th August, 1861, these buildings were taken possession of by the United States authorities and converted into a brigade hospital, or an aggregation of the hospitals of the different regiments on duty in and near Alexandria. (See the order of Charles S. Tripler, surgeon of United States Army, to Brigade Surgeon George Suckley, on file in the Surgeon-General's Office.) On the 14th of August, 1865, David P. Smith, a surgeon of United States Volunteers, ordered a discontinuance of this hospital, which order is on file in the same office. So that from the 25th August, 1861, to 14th August, 1865—about four years—the Government had the entire use of these buildings. Besides the use of the buildings, a very large quantity of wood was cut from this land and used by the Government. The valuable furniture of all these buildings was either destroyed or carried away under the mistaken impression that it belonged to the Government.

Some time after the close of the war the friends of the institution from the North and South united in an application to the War Department for payment of rent and for the property destroyed. This application was indorsed by Surgeon-General Barnes as just and reasonable. The Secretary of War agreed to pay rent, but refused to pay damages, and requested a bill for rent and he would pay it.

Before this bill was presented he was informed of the law of 1867, which prohibited payment of such claims coming from the seceding States, and he advised that application be made to Congress. This application is contained in the above bill No. 948, and is only for the rent of the property. The proof before your committee shows that the reasonable rent of this property for the four years amounted to $20,000, the amount appropriated by this bill.

Upon the above statement of facts ought this claim to be paid? Your committee report in the affirmative, for the following reasons:

1. It is a benevolent and literary institution, founded by the good people of this country, North and South. Such institutions are exempted and sacred from injury by the laws of nations, and, when used for the necessary purposes of the war, should be paid for.

2. This claim would have been paid but for the law of 1867, prohibiting the payment of such claims in the seceded States. This institution, though in a seceded State, was, during the whole war, in the permanent undisturbed occupation of the Federal Government. The proclamation of President Lincoln of 16th August, 1861, a few days before these buildings were occupied, declaring that insurrection existed in certain States, expressly exempted from its operation and effect such parts as "may be from time to time occupied and controlled by the forces of the United States." Besides this continued military occupation, Alexandria was represented continuously in what was called the restored government of Virginia, which always recognized the Government of the United States and rendered obedience to its authority and laws. The seat of this restored government was in Alexandria until it was removed to Richmond in April, 1865, and became the government for the whole State of Virginia.

This institution was not, therefore, in any sense of the word, in an insurrectionary district, and was as much within the equity of the laws for the payment of this claim as any similarly situated institution in New York or Massachusetts. The Supreme Court of the United States in the case of the Planters' Bank *vs.* The Union Bank, (16 Wall., 259,) decided that the city of New Orleans, in August, 1863, was so held by the United States forces. If this was true of the city of New Orleans, how can it be denied as to the locality of this institution, which was never under control of the Confederate forces for two days after the ordinance of secession was ratified by the vote of the people.

There are many precedents for the payment of claims like this. Joseph Segar was paid for use and occupation of his farm near Fortress Monroe, in Virginia. (See Statutes at Large, No. 17, page 699.) The University of Kentucky was paid for occupation of its buildings. (16 Statutes at Large, 678.)

3. For the above reasons the question of loyalty does not enter into this case. But for technical application of the law of 1867 the Secretary of War would have paid it. Although a part of a seceded State it was in no sense of the word at any time during the war in insurrection against the United States, and, as before stated, is completely within the equity of the law for payment. But how can such an eleemosynary institution as this be disloyal? Its trustees may be disloyal, but they only hold, as an artificial person under the law of incorporation, the naked legal title for the benefit of all who may hereafter reap the benefits of its teachings. Who shall say they are disloyal? Who are they, and from what section do they come? It is believed that the term disloyal cannot be applied to any such institution. It is further believed that the good faith of the Government demands its payment: that the benevolent objects of the institution call loudly on the Government, if not to repair the losses actually sustained by its occupation, at least to pay a fair rent for the use of the buildings and grounds, which, if not paid for these buildings, would of necessity have been paid for some others to shelter the sick soldiers of the Union Army.

For these reasons your committee report back the bill and recommend its passage.

Mr. GOODE. I move that the bill be laid aside, to be reported favorably to the House.

Mr. CONGER. From the reading of this report the committee is informed of two things: first, that the payment of this claim is contrary to law, a consideration which sometimes has a little force with some members of the House; and perhaps it would not be a serious injury to any of us if we regarded the law in making appropriations. The next fact which we learn from this report is that these buildings were not only in a seceded State but were actually inclosed within the fortifications built by the United States, and were themselves a part and parcel of a military fortification, the erection of which we may naturally suppose was rendered necessary to secure to our soldiery the occupation of that territory.

Now, sir, I need not go again and again over the proposition that

Alexandria was a captured city, captured by our forces in the presence and occupation of a hostile army; that every building, public and private, every warehouse, every dock, was the captured property of the United States under the laws of war and the law of nations; and that our Government had the right to take any and every building under that law for its own purposes. The report shows, and I do not go outside of the report—and I thank the gentleman from Virginia [Mr. GOODE] for having been so candid with the House in making the report—the report shows that as a war measure, after making such capture, and I do not know whether I am right in the supposition that this property was in the city of Alexandria, or whether it was property on the heights above the city of Alexandria——

Mr. GOODE. The property is about a mile beyond the limits of Alexandria.

Mr. CONGER. I had supposed so. That whole region, including the city and the surrounding suburbs, the hills and the valleys around, was captured by Union forces opposed by confederate forces; and not only was this occupied as captured territory, but the military forces of the United States thought the possession, as I suppose, of these gounds, of these buildings which were on the heights, of so much importance in the carrying on of the war and in defending their position there against the assaults of the confederate forces that they made there a military fort, inclosing within it, as the report says, these buildings and making the buildings themselves, by the act of our generals and by the act of our Army, a part of the forts of the United States.

Now, sir, if it be true that the common judgment of all men, North and South, acquiesced in the decision of Congress in regard to the payment of Dr. Best for the use of his house, and perhaps for its destruction, in a place then about to be, and which was finally, occupied by our Army for a fort; if it be true that we may use the property, the houses in which loyal citizens and their families reside without payment, without even the right of compensation—for that question arises in the Best case, whether this Government has the right, whether it can, in compliance with the laws of nations and the obligations of this Government to many thousand others in like circumstances, make payment either for the use or for the destruction of such property—I ask this committee to show how this Government can pay for using a part of its own fortresses, how it can pay for the use and occupation of property which it has not only seized and made a military fort but which it has surrounded with the ramparts of a fortress to be specially and solely, and as we may suppose necessarily, occupied, directly and absolutely, by our troops to the exclusion of every other occupancy whatever.

The cases which have been referred to by the committee are the cases of the occupation of premises, of houses, or the property of other institutions, where there was no war necessity to occupy them, where there were other buildings that could have been occupied, and where there was some agreement either direct or indirect between the Government and the owners that rent should be paid. I dislike to oppose the payment of claims to institutions of this kind as much as any other man on this floor, and I cannot divest myself of the conviction that this belongs to a class of cases which are of such a nature that if we pay one we must pay hundreds equally deserving, equally meritorious; if we pay one we must pay by thousands and by millions of dollars a class of cases which, under the law of nations, as the committee already admit, under the laws of the United States as they now exist, could not and cannot be paid.

Now, sir, I call upon the committee to show by what right this case can be taken away from the operation of existing law and in what it differs from other cases which are said to be equally meritorious. I call upon the committee to show that it does not open a class of cases to payment and prosecution which would involve the expenditure of enormous sums of money from the Treasury of the United States.

There must come a time somewhere when the dividing line between what is right for this Government to pay in these matters of war claims, and what it is not right for the Government to pay must be clearly defined.

I dislike to question every one of these claims. It is in no spirit of antagonism to the South or to Virginia. It is in no spirit of antagonism to colleges, much less to religious institutions, that I am compelled to call attention to the passage of these bills. I have not examined this case. I take it upon the report of the committee, and upon the report itself of a committee which ought not to have had this bill to report upon.

I mean by that that this is one of those bills that ought to have gone to the Committee on War Claims and been decided there according to the conditions and terms which that committee have imposed upon such claims, and which this House has instructed them to impose upon such claims.

Now, sir, I ask the gentlemen who favor this bill to show the House wherein this is different from other cases which the judgment of the House has been unable to approve of, and let us see where the dividing line stands.

It is interesting for me to know that there have been graduates who have become ministers of an influential, prosperous, and beneficial church of Christ. I rejoice that this has done much good and is now doing much good to the world of sinners; but if it be not one of the claims that are to be paid by the money from the Treasury of the United States, no matter what hallowed names are associated with it, no matter what number of ministers and missionaries may have gone forth from its walls, we are not here to vote the money of the people to pay for institutions which have done good merely. We are to pay such obligations of this Government as the good judgment and sound sense, the law of nations, the laws of our land, and the concurrent judgment of the vast mass of our constituents will warrant us to vote out of the Treasury of the United States.

Let us be informed concerning this bill, and if it be one for which I may vote in conformity with my judgment, the laws of nations, and the laws of the country; if it be a claim which the people of the United States ought to pay, as a right claim, no man will vote for it more cheerfully than I; but if it be not, however grand the institution, however hallowed its work, however glorious the names of those who have gone forth to do good in the world, I must, although reluctantly, raise my feeble voice against the passage of this or any other bill which overrides the laws of the land, the laws of war, the laws of nations, and depletes the Treasury, contrary to all those principles of law.

Mr. EDEN. I am constrained to differ with the distinguished gentleman from Michigan in reference to the propriety of paying this claim. Neither do I agree with him that it has been reported by the wrong committee. While in one sense it is a war claim in another it is an educational matter, and hence it might properly be considered by the Committee on Education and Labor. I opposed the payment for the destruction of William and Mary college for the reason that I thought it would be a bad precedent for this Government to undertake to pay for damages which were merely incidental to the prosecution of the war. This claim for compensation by this institution for the use of its buildings for hospital purposes for a period of four years by the Government of the United States stands upon entirely different principles. If there is either any law or any moral principle against the propriety of the Government of the United States paying claims like this they are written in some book that I have never read.

This is simply and purely a claim for compensation for the use of this property, and this institution of learning is just as much entitled in law and in morals to be paid a fair rate of compensation as any person in any other part of the country would have been had the Government used his property for that purpose. The confederate government never had any control of this property. The Government of the United States took possession of Alexandria and the surrounding country, I believe, a day or two after the passage of the ordinance of secession by the State of Virginia, and before that State had become a part of the confederate government. That portion of the territory of Virginia in which the cemetery is situated was recognized by the Government of the United States during the entire war as loyal territory. It was represented in the Senate of the United States during the entire war, and during a portion of the war at least it was represented in this House.

Mr. LATHROP. I desire to ask the gentleman if he ever heard of a nation blockading its own ports?

Mr. EDEN. It never was in the possession of the confederate government. It was in our possession and could not be blockaded; it never was in the possession of the confederate government at any time.

Mr. LATHROP. I never heard of a people blockading against themselves; but there was a blockade there against the enemy.

Mr. EDEN. The gentleman from Michigan puts this upon the ground that the Government of the United States had captured that property, had captured the city of Alexandria, including this high-school, and all the property there. Well, if the Government of the United States had captured that property, and intended to hold it and own it as captured property, I suppose that the rights of individuals would have been entirely dispensed with, and all the inhabitants of that territory, after the war was over, before they could again reoccupy their lands and houses, would have been compelled to buy them from the Government of the United States. No one ever heard of such a law as that.

Again, this is not setting a precedent; the payment of the rent for this seminary is not making a precedent. The precedent has already been made, was made soon after the close of the war, and I do not know but during the war, and has been followed from that time until this. The Government of the United States has paid for the rent of property held as this property was in Tennessee and in Kentucky, and probably in other States of the Union, to which I do not now have time to refer.

Mr. CONGER. Was not that by special contract?

Mr. EDEN. I am not aware that there was any special contract in those cases. But in this case, as I understand from the report, Surgeon-General Barnes advised the payment for this property, and it would have been paid without any additional legislation but for the fact that in 1867 an act of Congress was passed which forbade the payment of any claims in the seceded States without action of Congress. Consequently that act prevented this institution from receiving what the Department was willing to pay, and what it would have paid but for the law that forbade the payment of claims in all that territory.

In the treatment of the people in the late insurrectionary States, and in the treatment of their property, the Government of the United States has not proceeded upon the theory laid down by the gentleman from Michigan. The Government has not proceeded upon the theory

that all property that was captured in that country belonged to the Government of the United States and that the Government had no right to pay for it because it had captured it.

At the close of the late war we had a large amount of what was denominated in the law as captured and abandoned property; some $24,000,000. A large part of the proceeds of that captured and abandoned property has been paid into the Treasury of the United States. This Congress passed an act giving the claimants upon that fund the right to sue in the Court of Claims, and if they could identify their property they were allowed to recover the proceeds of it.

Mr. CONGER. This House passed such an act; not this Congress.

Mr. EDEN. It became the law of the land; it was an act of Congress, and it became the law of the land many years ago. A large part of that property has been recovered under that law.

Now, I am as much opposed to the payment of unlawful claims as my friend from Michigan [Mr. CONGER] or anybody else. As a member of this House and as a member of the Committee on War Claims, in my dealings with this question I have been as careful and as cautious as probably any gentleman upon this floor. But when the Government has had the use of a valuable property in its own territory, under its own jurisdiction, never under the jurisdiction of the enemy, for a period of four years, I say that instead of its being unlawful to pay for the use of that property, it is disgraceful for the Government to refuse to pay for it.

Mr. WHITE, of Pennsylvania, addressed the committee. [His remarks will be printed in the Appendix.]

Mr. HASKELL. Mr. Chairman, as one of the members of the Committee on Education and Labor, to which was referred this bill for its consideration, it became my duty to investigate somewhat the nature of the claim and to cast my vote in the committee for or against the passage of the bill. I believe in the justice of the claim, in its equity, in its right. I do not see that it is in any sense a war claim; and in reply to my friend from Pennsylvania, who says he fails to distinguish between the case of William and Mary and the case of the Episcopal Seminary at Alexandria, I will say that in the one case the College of William and Mary was on territory belonging to and under the control of the Confederate States, and it was destroyed by one of the exigencies of war.

Mr. WHITE, of Pennsylvania. Allow me to recall the gentleman's attention to the report made by the same gentleman from Virginia who made this report. He states that this territory was under the control of the United States at the time it was occupied.

Mr. HASKELL. Very good. It was destroyed as one of the exigencies or one of the casualties of war. It afforded the confederate service no protection and no benefit. It gave the Union side no protection and no benefit. It was destroyed as much by one of the accidents of war as the destruction of a building destroyed by a stroke of lightning can be termed an accident. This building was located in Alexandria, a section of the country which by proclamation of the President of the United States was declared to be part of the United States and not part of the confederacy. These buildings were not destroyed by one of the accidents of war. There is no claim to pay for the destruction of this building. There is no claim here to pay for the destruction of any furniture. This was a piece of territory declared by the President of the United States to be part of our territory and not part of the confederacy. By order of our own officers these buildings were appropriated to the use of the Union soldiers. For four long years Union soldiers were protected by the roofs of these buildings. Every friend of the Union soldier who knew his friend was there felt he was provided with comfortable hospital accomodations.

Now, then, these buildings constructed by the gratuitous gift of loyal men, this institution was in no sense disloyal, in no way allied to the confederate service.

These buildings have escaped all the exigencies of the war, and are at present in possession of the same old company, and this claim is pending before Congress to pay for the valuable services which the Union soldiers received from an entirely lawful and legal corporation.

Mr. ELLSWORTH. Let me ask the gentleman a question. Early in the war the United States took possession of the city of Nashville; they took possession of the churches, the colleges, the court-house, and other public buildings, and they used them for hospitals. The whole city was a military camp for years, and now what good reason is there if the Government pays this claim why it should not also pay for the rent of those buildings?

Mr. HASKELL. I do not know.

Mr. ELLSWORTH. Neither do I.

Mr. HASKELL. I do not know what good reason a church or building occupied by Union soldiers in the city of Nashville, a loyal institution, no charge of disloyalty attaching to the owner; affording protection and shelter and convenience to Union troops by order of officers of our Army—I say I do not see any good reason why it should not be paid for. I suppose there may be some good reason, but I do not know it.

But I am not alone in the advocacy of this bill. The payment of this rent has been asked for by a republican and a Union Secretary of War. The payment of this rent has been asked for by a loyal Union Surgeon-General. A similar institution has been paid under a similar bill. I am not in favor of any war claim. I apprehend it is not necessary for a representative of the State of Kansas to vote against anything anybody may suggest as a war claim in order to prove his devotion and loyalty to the Union or to the republican party. I am a citizen and a resident of the town that was destroyed by one of these accidents of war. I know exactly what it cost. No, I do not want to be paid, but if I shall come here with a legitimate bill and ask for nothing but what is right and just and equitable, I hope the American Congress, republican or democratic, will forego for a moment all petty considerations and deal in the spirit of that great higher law which commands us to do unto others as we would that others should do unto us.

I cannot conceive wherein this is a war claim. I take it this in no way binds me to vote for war claims. I would not cast my vote for one on any consideration. I conceive, however, these buildings used by our troops, affording valuable aid, ought to have a moderate rent allowed for them, especially when the institution and the very soil upon which it stands, by the word of a republican Union President of the United States, was declared not to be within the lines of the rebellion.

Mr. HUNTON rose.

Mr. TOWNSEND, of New York. I would like, if the gentleman from Virginia would allow me, to ask the gentleman who has just finished a question for information.

Mr. HUNTON. I yield for that purpose.

Mr. TOWNSEND, of New York. Does the gentleman from Kansas know who were the officers of this institution?

Mr. HASKELL. I do not.

Mr. TOWNSEND, of New York. Has the gentleman any knowledge as to whether they were loyal?

Mr. HASKELL. The officers?

Mr. TOWNSEND, of New York. The officers of this institution.

Mr. HASKELL. Some were loyal and some were not, as I understand.

Mr. TOWNSEND, of New York. Does the gentleman know who was the presiding officer of the institution?

Mr. HASKELL. The president now is Cassius M. Lee. I cannot recall the name of the president at that time.

Mr. TOWNSEND, of New York. What was the objection in the way of the Secretary of War paying for the use of this building?

Mr. HASKELL. I cannot recall at present the terms of the objection.

Mr. GOODE. If the gentleman from New York will allow me I will answer him upon that point. If he has paid attention to the reading of the report——

Mr. TOWNSEND, of New York. I have not; I was out when the report was read.

Mr. GOODE. I will be glad, then, to state, with the permission of my friend from Kansas, that after the termination of the war a claim for the rent of this building was brought under the attention of Surgeon-General Barnes, and he recommended its payment. Application was made to the Secretary of War and he directed the bill to be paid as one which ought to be paid because it was reasonable and just. Then his attention was called to the law of 1867, prohibiting the payment of any claim arising in the seceded States; he therefore declined payment and recommended that application be made to Congress.

Mr. HUNTON. If there ever was a claim which came before this House that ought to be received and treated without any sectional feeling, this is such a claim; and I am gratified, Mr. Chairman, that up to this period no sort of sectional feeling has been introduced into the debate upon this bill which comes before the House reported by one of its committees with unanimity, as I understand. Gentlemen from the North and the South and the East and the West have all, by uniting in that report, said to this committee, this is one of the claims pending before this House that ought to be paid because it is just.

Let us look a moment at this claim, Mr. Chairman, and see how it presents itself before this House and to the minds of the members of the committee who have to vote upon it. It is the claim of the Virginia Theological Seminary and High School. There were seventeen buildings used by the two institutions under one government, for the education of ministers of the Gospel and the preparation of young men for the colleges and the higher schools of the country. These seventeen buildings were erected by funds contributed throughout the length and breadth of the land. This institution owed its rise and its success to no one section of this land, but as far as the Episcopal Church was known in the United States it received funds for its endowment. We learn by the report what I knew before, that one of these buildings was erected by funds furnished by William H. Aspinwall & Brother, of New York; another by John Bohlen and his sister, of Philadelphia; and still another by the congregation of Saint George's church, New York; and the residue of the fund was furnished from all parts of this land.

The gentleman from New York [Mr. TOWNSEND] asked the gentleman from Kansas [Mr. HASKELL] a question as to where the officers of this institution owed their allegiance, to which government they adhered. I unfortunately cannot answer the gentleman except as to one of the officers of that institution whom I knew and loved, who spent many days in my house, and was esteemed and beloved by my family. I refer to Rev. James May, of Philadelphia, one of the leading officers of that institution. When this college was taken possession of as a hospital building by the Army of the United States,

that pious and excellent gentleman returned to his home in the city of Philadelphia, and died there during the war.

Now, Mr. Chairman, in this theological seminary according to the statement in the report, which is unquestionably true, up to 1874 there had been educated 601 students of divinity. They were not students of the South; they were not students of any given section of this great country, but they came from every section—North, South, East, and West. I find that of these there were 200 from the North, 195 from the South, 19 foreigners, and 187 whose residence is not given in the catalogue. Now, sir, what has become of those 601 students of divinity? These men entered the holy ministry. They were not preachers of the South alone but they scattered throughout the length and breadth of the land, preaching the Gospel to the people of Michigan as well as to the people of Virginia. Of this number of 601 students, 440 still remain in the ministry, and they are in thirty-two States of this Union and in foreign lands preaching the Gospel; 31 have gone to foreign lands as missionaries; 44 are laboring in Maryland, 56 in Pennsylvania, 34 in New York, and the rest are scattered in smaller numbers in other States of the Union.

Such is the institution for the rent of whose buildings this bill is pressed before this committee, and I say, as I said at the outset of my remarks, if there ever was a claim before the Congress of the United States that ought to be treated in a non-sectional spirit, this is such a claim. And I say, sir, that while the gentleman from Michigan [Mr. CONGER] has opposed this claim, he has stated to the committee that he opposed it, not because it comes from Virginia or the South, but because he believed it is one of those claims coming from anywhere that ought not to be paid. I cannot take exception to any such position. If the gentleman believes it should not be paid, let him vote according to his sentiments. I must say, however, that I cannot conceive the process of reasoning by which the gentleman arrived at such a conclusion.

Why ought this claim to be paid? Why is it distinguishable from those other claims which this committee has over and over again rejected? The gentleman from Pennsylvania [Mr. WHITE] said it seemed strange that gentlemen should vote against William and Mary college and support this bill. Why, sir, it does not seem strange to me.

I do not mean to express any approbation of the action of this committee in rejecting the claim of William and Mary. On the contrary, I believe that that claim ought to have been paid; but this claim rests upon higher ground, and does not present any phase of the question involved in the payment of William and Mary.

William and Mary was an *ex delicto* claim. It was a payment for the destruction of property in the exigencies of war. This is a claim *ex contractu* for the payment of rent and property occupied by the United States Government as a hospital, and if gentlemen cannot see any difference between this claim and that one I must confess that I am surprised.

The one claim is for the destruction of buildings by the exigencies of war, while this claim is for payment for the use and occupation *ex contractu*, and for rent of property occupied by the United States Government as a hospital for its soldiers.

Mr. ELLSWORTH. Would not that apply to every public building occupied by the Union Army throughout the South?

Mr. HUNTON. Every building occupied by the Army of the United States in Union territory ought to have been and in many cases has been paid for.

Mr. ELLSWORTH. Was this Union territory?

Mr. HUNTON. I will show you that this was Union territory.

Mr. ELLSWORTH. That is not admitted.

Mr. HUNTON. I will prove that it was so.

Mr. ELLSWORTH. Take, for instance, the city of Nashville. It was not Union territory when the Government took possession of the city, and they occupied almost every public building there. And if they have a right to claim pay for the occupation of this building, pay may be claimed for every one of those buildings in Nashville, and also for the buildings in New Orleans and where the *ex contractu*. Is not that true?

Mr. COX, of New York. With the permission of the gentleman from Virginia, I will ask whether or not the territory in which these buildings were situated was not by proclamation of the President declared to be loyal territory? That is the main point.

Mr. HUNTON. I was about to state that. This property is situated one mile from the town of Alexandria, and was never for twenty-four hours under the control of the confederate government after the ordinance of secession was adopted. I believe I am right in saying this, certainly not for more than one night after the adoption of the ordinance of secession by the State of Virginia.

The Federal forces took possession of Alexandria, and I believe of this college, and held it until the close of the war.

The territory in which this building is situated was in the possession, the undisturbed permanent possession, of the Federal Government during the late war.

Mr. ELLSWORTH. Was the city of Nashville?

Mr. HUNTON. If that be true, the Supreme Court of the United States has decided that such permanent occupation as this made the territory as much a part of the territory of the United States as Massachusetts or New York.

Mr. MILLS. If my friend from Virginia will allow me, I will say that on this matter of contracts the Attorney-General of the United States has decided in a written opinion that the law of 1867, which has been quoted, does not apply to contracts at all, and he rendered an opinion, which I believe will be found in the twelfth volume of the Opinions of the Attorneys-General, sustaining a contract made by the Government with a rebel in the State of Virginia for furnishing wood to a railroad occupied then by the Government. The court held that the act had no reference to contracts made by the Government, and that all contracts must be carried out, no matter whether they were made with rebels or not.

Mr. HUNTON. The decision to which I desired to refer when I was interrupted was in the case of The Planters' Bank *vs.* The Union Bank of New Orleans. The Supreme Court decided that when the city of New Orleans was taken possession of by the Federal troops and held by them permanently to the close of the war, this occupation of itself placed the people of that city and its property under the protection of the flag of the Union.

Now this is not only true as to the city of Alexandria and the territory embracing the buildings for which rent is asked, but the President in his proclamation expressly exempted this territory from the operation of the proclamation which declared that rebellion existed in certain portions of the country.

Sir, look at this question in any way you may, in any phase you may, and no man in my opinion can maintain on this floor that these buildings were in territory at that time at war with the United States. They were in territory subject to the dominion and laws of the United States, and its people and its property were as much entitled to the protection of the Government of the United States as were the people of any State in the Union.

That is not all, sir. All through the four years of the unhappy war that waged between these sections there was a Legislature of the State of Virginia which was denominated on this side of the river the loyal Legislature of Virginia.

That Legislature held its sessions at first in the city of Wheeling, and when West Virginia was taken from the old Commonwealth that Legislature removed to the city of Alexandria.

Mr. TUCKER. In May, 1863.

Mr. HUNTON. And held its sessions in the city of Alexandria from that time until the close of the war, when it went to the city of Richmond and became the Legislature of the whole State, and was recognized by the whole State as its lawful Legislature.

Mr. CASWELL. To which State government did this locality pay taxes?

Mr. HUNTON. To what was known on this side of the river as the "loyal" State government of Virginia, holding its sessions in the city of Alexandria.

That is not all. This very territory, embracing these very buildings, was represented in that Legislature in the city of Alexandria, and that Legislature sent Senators from the State of Virginia who occupied seats in the other branch of the legislative department of this Government. And this very territory, embracing these buildings, helped to elect members of this House who took their seats here during the war.

Mr. RYAN. Was not that by force of arms? Did we not by force of arms carry our authority and laws over that territory as hostile territory? In other words, I wish to ask the gentleman if the confederate arms had prevailed instead of the Federal arms, whether as the Confederate States were then organized this territory would not have been embraced within the jurisdiction of the Confederate States?

Mr. HUNTON. I presume it would. But while it was in the permanent possession of the Federal Government it was entitled to the protection of the Federal laws both as to persons and to property.

Mr. TUCKER. And entitled to the protection of the Constitution.

Mr. HUNTON. Yes. Another thing which strikes my mind——

Mr. ELLSWORTH. That applies anywhere where we had possession?

Mr. HUNTON. Where you had permanent possession.

Mr. ELLSWORTH. Yes.

Mr. HUNTON. And in this case the possession never ceased until the whole southern country, including the whole State of Virginia, recognized the United States laws and the Constitution of the United States.

Mr. BRAGG. Will the gentleman allow me to ask him one question?

Mr. HUNTON. Certainly.

Mr. BRAGG. I desire to inquire whether this same territory was not represented in the confederate legislature of Virginia and in the confederate congress?

Mr. HUNTON. I think not.

Mr. GOODE. It was not.

Mr. HUNTON. My colleague says positively that it was not. Now, if this was Federal territory, subject to Federal laws and jurisdiction, I ask this committee if the Constitution does not guarantee to these claimants here payment for the use of their property? I call the attention of the committee to the fifth amendment of the Constitution, which provides that—

> No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

There is no question that this was private property, or that it was taken for public use. And if it was under the jurisdiction of the

Federal Government it is the bounden duty of the Government to pay rent for this property. It had no right to take this property, being private property, for public use without just compensation.

Mr. ELLSWORTH. Does the gentleman claim that that applies in case of war?

Mr. HUNTON. It applies where the Federal Government had jurisdiction; as much in this case as in any portion of the district which you represent.

Mr. ELLSWORTH. It does not apply in case of war.

Mr. HUNTON. This case is not without precedents. The Kentucky University was taken possession of and occupied by the forces of the United States, and it was paid for by an act of Congress. The farm of Colonel Joseph Segar, situated away down yonder in Virginia near Hampton, was paid for by law of Congress. The use of the fair grounds at Lexington, Kentucky, was paid for on the same principle. Why the rent of this property should be excepted out of the precedents already established by this House I cannot for the life of me see.

This question has been before different Departments of this Government several times since the war closed. Soon after the close of the war these parties presented their claim to the Secretary of War. They did not present it for rent alone. While the Federal soldiers held possession of these buildings for hospital purposes they destroyed very nearly all the property that was in these seventeen buildings; most of it was new. That was not all. They cut and used the timber from thirty acres of land belonging to this institution, which furnished fuel for that portion of the Army of the United States.

When this claim was presented to the Secretary of War it contained not only a claim for rent for the occupation of these buildings, but a claim for the destruction of the furniture and for the destruction of the timber on the thirty acres of land. The Surgeon-General of the United States, General Barnes, indorsed the entire claim as just and right, and said it ought to be paid.

Mr. RANDOLPH. That was in violation of law, was it not?

Mr. HUNTON. This claim was presented to the Secretary of War with the indorsement of Surgeon-General Barnes. The Secretary of War said he did not feel authorized by existing law to pay for the destruction of property or the destruction of the timber. He said that if they would strike out those items from the account he would pay the rest. They went back and reformed their account, and again presented it. The Secretary of War was then informed that by the law of 1867 he was prohibited from paying any such claims as this, and for that reason alone he did not pay it.

Now, Mr. Chairman, I maintain that while the law of 1867 was technically a prohibition upon the Secretary of War to pay this claim, yet, according to the equity of this case, he was as much bound to pay it as to pay any claim for rent for any building in the United States occupied by Federal troops during the war; because, though this institution was within the boundaries of a seceding State according to the phraseology of the law of 1867, it was in that portion of the State of Virginia which the President of the United States declared was not in rebellion, which belonged to the Government of the United States, and was entitled to its protection so far as concerned both person and property.

Mr. RYAN. Will the gentleman allow me to ask him a question for information?

Mr. HUNTON. Yes, sir.

Mr. RYAN. I understood the gentleman to state that there was a contract to pay this rent. Do I understand him to say that there was an express contract, or is it claimed that the occupancy by the Government raises an implied contract to pay for such use?

Mr. HUNTON. I said that this is a claim *ex contractu*, while the case of William and Mary was *ex delicto*. I do not mean to assert, and I trust I have not asserted, that there was an express contract between the parties as to the payment of rent. But we all know, and it has been decided by the Supreme Court of the United States, that the Government of the United States is as thoroughly and completely bound by an implied contract of this sort as by an express one.

Mr. RYAN. I was led to ask the question because of the reply which the gentleman from Virginia made to the question put by the gentleman from Texas, [Mr. MILLS.] There was some misunderstanding on this side of the House in regard to the gentleman's position, and hence I asked this question for information.

Mr. HUNTON. I certainly did not mean to say, and did not wish to be understood as saying, that there was an express contract between the Government and the trustees of this institution for the payment of rent. But in the late case of Clark *vs.* The United States, reported in 2 Otto, the Supreme Court of the United States decided that the Government of the United States was bound by its implied contract as well as by an express contract.

Now, Mr. Chairman, if I have stated this case fairly, (and I have labored to do so,) I ask what is there surrounding the case that should cause a single member of this committee to hesitate one moment to pay for the rent of these buildings occupied by the United States Government as a hospital for its troops? They were occupied by order of the Government—by order of one of its surgeons; and they were not surrendered until that surgeon or his successor decided to abolish the hospital. When this institution, built as I have said for the purpose of sending preachers all over this land, comes here and asks for payment, not for property destroyed, not for furniture carried away or destroyed, not for the thirty acres of wood, most valuable to the institution—when this institution is willing to relinquish any claim for these matters as belonging possibly to the exigencies of war—when it comes here and simply asks the Congress of the United States to pay what the buildings were worth as shelter for sick soldiers of the Union Army, I cannot see how the Representatives of this Government can hesitate to pay such a claim.

Mr. KELLEY. Mr. Chairman, distinguishing this case from that of William and Mary college, I shall support this bill. The discussion to-day has recalled some of the earliest memories of my public life, at least in connection with national affairs. I had been elected to Congress in October, 1860; and from the 4th of March, 1861, when President Lincoln was inaugurated, until the 4th of July of the same year, when Congress assembled upon his call, I spent much of the time in Washington, especially after the 19th of April. Listening to the discussion to-day as to whether the city of Alexandria was hostile or Union territory, I could not help remembering that I was oftentimes an almost daily visitor to Alexandria; that a short time after the assassination of Colonel Ellsworth and the killing of his murderer, Jackson, I addressed from the window of an engine-house the citizens of Alexandria as a Union man, and was kindly received by them.

I remember, too, the carrying of wounded troops to this hospital and when its buildings were filled, the erection of frame barrack hospitals which covered gradually acre after acre until they themselves made a great city of the sick and dying. When public duty or that duty of a semi-public nature which had brought me to Washington would permit, it was my privilege to visit those hospitals; and some of my most devoted friends in the State of Pennsylvania to-day are men whom I found there, then unknown to me but who would send a messenger to me or would feebly respond when I would ask whether there was any Philadelphia soldiers there. I could name some of them if it were necessary.

I remember, too, Mr. Chairman, that Congress has taken action on cases of this kind when there were no Representatives from the confederacy on this floor—before we had so many confederate brigadiers in the Halls of Congress. We paid Joseph Segar, who for a time occupied a seat as a member of this House, if I remember rightly, and was returned from what was called the loyal government of Virginia as Senator of Virginia with Mr. Bowden as his colleague. They did not take their seats, but I remember a good deal of pleasant intercourse with them. We paid, too, Mr. Armes, and but for an unfortunate inability to recall the name I think I could give some others. The cases of Segar and Armes I remember distinctly. The records will show in what year it was these loyal citizens, one of Alexandria and the other of Williamsburgh, were reimbursed by a Congress overwhelmingly republican.

Again, I remember an immense number of buildings that the Government rented under special contracts in Alexandria. The Quartermaster's Department occupied them, together with the commissary and other branches of the military service; and I can make no distinction between the propriety of paying rent for these seventeen buildings, which for four years gave comfortable shelter to the wounded and sick and dying of our Army, and any other building the Government occupied in and about that city for which it paid rent.

Mr. TOWNSEND, of New York. I would vote for the payment of this claim, Mr. Chairman, as readily, it being in the territory of Virginia, as I would if it were in any other territory. I opposed the payment of the claim of William and Mary college for reasons which I then expressed to the committee. It will be remembered by such members of this House as were members of the Forty-fourth Congress that I voted to pay the claim of Van Hoffman and his partner for the rent of their mill at Alexandria under an arrangement with the Commissary-General. But the element which made me vote for that Van Hoffman claim I find wanting in this case. I voted as I did in that instance because it was established beyond peradventure that Van Hoffman and his partner were, during every day of the war, loyal citizens; but there is an utter absence here of any positive proof that the ruling power of this corporation was loyal—that this corporation and the controlling power of Fairfax Episcopal Seminary was loyal. I know that Bishop Johns, the bishop of Virginia, under whose auspices this institution was and whose residence was at its very door, cast in his fortunes with the confederacy and gave his influence and his power in favor of the opponents of the Government.

I stand in this case as I would in any other case, and I do not think our sentiments had better run away with us, even though it happened to us as to the gentleman from Pennsylvania, who had the kindly feelings of his heart touched to see some of his neighbors' boys there lying down to die at Fairfax Seminary in consequence of wounds received in fighting against the rebellion. I went there, too, in December, 1861, and I saw some very good and excellent friends there. It was an occasion long to be remembered. But the occupants of the seminary were not there. It was in the Union lines. It was under the protection of the Union guns. There was not even a seminarial rat on the grounds. [Laughter.] I went through the seminary buildings and they were utterly vacant so far as its officers and students were concerned. Where had they gone? If the Union Government and the Union soldiers were their friends, how happened it they ran away from them?

Mr. GOODE. If the gentleman will refer to the military orders issued from the Army of the Potomac he will find that on August 28, 1861, this institution could not possibly be occupied at that time as a seminary, because it had been taken and appropriated for hospital purposes.

Mr. TOWNSEND, of New York. What was the date?

Mr. GOODE. August 28, 1861. And as to Bishop Johns, the president of the seminary, he went, when it was taken in charge under that military order, to another portion of his diocese, where he remained and discharged the duties incumbent upon his office of bishop of Virginia, having nothing to do with the war.

Mr. TOWNSEND, of New York. I do not find fault with Bishop Johns for joining the confederacy. I do not find fault with the gentlemen here representing the States which went into rebellion. I do not stand here to find fault with anybody who went into the rebellion, whether he be bishop or layman. It makes no difference. Those who cast their lot in the confederacy adopted in taking their choice all that resulted from it. Those who cast in their lot with the Union took their choice and they took with that choice all the advantages that resulted from it, and time has shown they have taken all the burdens that resulted from their choice; and God only knows when those burdens will cease being piled on them. If we knew what we had to carry we should feel better about it. But there is one approach, and another approach, and another and another. Yesterday we had a warning from over yonder [Mr. ELLIS, of Louisiana] that some one had a claim of $82,000,000 against us, and that we must be ready to "shell out." We must pay that when the time comes and must pay everything else.

Now, I am not to find any fault with Bishop Johns. His religion, as he construed his duty, required him to go into the confederacy, and Bishop Johns must take the consequences.

Mr. GOODE. He is in heaven now.

Mr. TOWNSEND, of New York. I hope he is, and I believe many of those who were for the confederacy will go to heaven and to the best part of it. They were dreadfully mistaken; they had a tough time of it here and I hope they will go in future where they will have better luck. [Laughter.] I hope I will meet my friend from Virginia [Mr. GOODE] there, and we will not then hear any more about rebel claims, or about claims under a violated "*Constitution*." [Laughter.] The only claim of our friends from the confederacy will then be for mercy; it will not come under the Constitution of the United States.

Mr. Chairman, I put my objection to this bill on the very ground on which I rested my action when I voted for the claim of Van Hoffman. I then said if a claimant is shown to have been loyal I will pay, if not loyal I will not pay. I am not going to pay this claim because northern men contributed to build up this seminary. We took from the Treasury of the Union money to build the court-houses and custom-houses in what were afterward the Confederate States, and some of that money of course came from the North. But that did not vary the circumstances of the case. They were just as rebellious in those neighborhoods although the money which built their custom-houses and their light-houses and court-houses came partly from the North; it made no odds whatever that the North had contributed, as I trust the North ever will contribute what it properly should contribute for our brethren of the South, however much they may get angry or fly into a passion, or however much we may fly into a passion; for I want to have it understood that if there is to be any passion about it, while I am in public life there will be as much passion on my side as on theirs. [Laughter.] For half a century before the late war we never got into a passion on our side; but I now say to gentlemen on both sides of this House, "Be ye angry and sin not."

A MEMBER. But you must not let the sun go down upon your wrath.

Mr. TOWNSEND, of New York. That applies only to night sessions, after the sun has gone down. In day sessions it is right to be angry all the time. [Laughter.]

I cannot and will not vote for this bill until it is established beyond peradventure that the influence of this corporation was in the right direction. I had one friend in that seminary, and I know he considered then and considers now that it was the providence of God that enabled him to get off to the North with his life.

Let me say also that I envy the people of Alexandria the privilege they had of hearing my friend from Pennsylvania, [Mr. KELLEY;] of hearing his beautiful voice ringing out on the night air in favor of the Union. But my friend will not forget that he had our New York Zouaves to protect him. [Laughter.] But for our New York Zouaves all that beautiful flow of eloquence would have been lost to the world.

Does any man believe that with the spirit prevailing there—with the spirit prevailing which stimulated Jackson to murder the gallant Ellsworth—it would have been allowed to my eloquent friend to speak in favor of the Union in Alexandria unless he had been protected by the guns of the Ellsworth Zouaves? We know it was rebel territory at one time. Virginia had declared itself out of the Union, and however void that declaration might be held to be under the Constitution, that was forgotten then, but it is vividly remembered now when there is money to be got. However the matter was afterward, there was a time when this territory was a part of a rebel State and in the power of that State.

But I do not put my objection simply on that ground. I know that our troops took possession. Our troops finally got possession of the whole confederacy down at Appomattox, but that did not wipe out the rebellion. It wiped out the fighting on the field, but only prepared us for that long, protracted, never-ending fight at the doors of the Treasury that began immediately after Appomattox, and God knows when that battle will end. No, sir, I put my opposition to the bill upon the ground that the influence of this institution was, up to the day and after the day when Virginia went out, in the wrong direction.

Mr. BRIGHT. Mr. Chairman, perhaps it is proper that as a member of the Committee on Education and Labor I should say a word in advocacy of this bill. I heartily approve the bill and shall most cheerfully vote for its passage. I propose to give several reasons in brief why I shall vote for the bill. I do not propose to refine upon the technicalities of the law, to quibble upon the ninth part of a hair whether it is a contract express or a contract implied, or whether it is no contract. The vital point in the matter is that here was private property, the property of a corporation to be sure, but it was, nevertheless, property the Government used. It derived a benefit from the use, and according to all principles of law, public and private, and the higher principles of equity and morality, when the Government has received the benefit of it, it should recognize that benefit by a just compensation. There are principles that tower like a monument in the plains of jurisprudence and legislation far above legal technicalities and sectional passions; they are the principles of justice and equity which all nations must recognize to maintain an exalted civilization.

Now, Mr. Chairman, placing it on the high ground of equity and justice, the Government having taken something for nothing the only vindication of its integrity is to make a fair compensation. But we are not without law for the support of this proposition. We have an ancient instrument called the Constitution of the United States. It not only embodies but it regulates the exercise of all the powers of the Government. The President and all civil officers, the Army and the Navy, are restrained by its fetters. It treads the deck of the American man-of-war as high-admiral in the most distant sea and curbs the robust powers of the nation's armies. There is no power which is not covered by its canopy, and there is no escape from its presence in war or in peace.

I wish to restate here distinctly this fundamental idea, and it is time that the American people understood it, that the Constitution is the paramount law of this land, above military law, above the laws of war, and every power and force known to this Government are subject to its control.

The question has been asked, Was not the Constitution suspended or held in abeyance during the existence of the war? By no manner of means. No doctrine could be more monstrous and dangerous to the life, liberty, and property of the people than an army, the most dangerous of all powers, turned loose in unbridled licentiousness upon the country.

Once admit that a state of war suspends the functions of the Constitution, the time may come when that sacred instrument may be trampled in the mire beneath the red hoof of war, and liberty may be strangled with the iron hand of a conqueror who may mount like a Cæsar to a throne. No, Mr. Chairman, the Constitution did not intend to dispense with its obligations in a time of war. But it was intended to go before our armies as the pillar of cloud by day and fire by night; and all those who directed the movement of our armies recognized this theory of the Constitution.

I wish it understood that I am not insisting upon the obligation of the Government to repair losses resulting from the unavoidable casualties of war. It is my purpose to speak to the issue involved in this case.

I now invite attention to this clause of the Constitution:

> No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Now let us inquire what was the policy of the Government in relation to the occupancy of private property? If my recollection is not at fault, the President, in the early stages of the war, caused a proclamation to be issued that all private property should be respected, but the property of the Confederate States should be appropriated to the Government. Now, sirs, every officer who maintained the authority of the Constitution and was obedient to the proclamation of the President of the United States recognized this fundamental principle. Here is an extract from the proclamation of that great soldier, General McClellan, when he marched his legions upon the soil of the "Old Dominion," and I call your attention to it:

> I have ordered the troops to cross the river. They come as your friends and brothers, as enemies only to armed rebels, who are preying upon you. Your homes, your families, and your property are safe under our protection.

There was a guarantee; there was a regulation for the Army of the United States; there was no brigandism in it; it was not the tread of the Goths, Vandals, Huns, Lombards, and the savage Norsemen who invaded the plains of Italy. Did this mean a violation of the laws of humanity and of civilization and the spoliation or destruction of the arts and sciences? It was intended to save the country from the historic execration of vandalism.

Mr. WHITE, of Pennsylvania. Will the gentleman allow me to inquire did these people accept this guarantee?

Mr. BRIGHT. That is not the question I am now dealing with.

I will call your attention to the authority to which I wish to bring the attention of the House. Here is another authority with reference to the movement of the Army of the West. Here is the proclamation of that great soldier, statesman, publicist, and patriot, General Halleck, who said:

Military stores and public property of the enemy must be surrendered, and any attempt to conceal such property by fraudulent transfer or otherwise will be punished, but no private property will be touched, unless by authority of the commanding general.

It was not to be *touched* except by order of the commanding general. Well, now, Mr. Chairman, seeing the effect of the Constitution of the United States, that our armies were under it, that they were subordinate to the laws of the land, that private property was to be respected, that the orders of the military authorities guaranteed this protection, and that it could not be *touched* without authority of law, I come up to the question now before us. Was this property taken by the authority of military orders, or was it violently taken without order? And, so far as that question is concerned, it matters not whether it comes in either shape, the *vis major* or the superior power; sir, if taken in that way there is another obligation that rushes with constitutional force upon the conscience of the American people.

I call attention to another clause of this old instrument that seems to be moss-grown and forgotten in these days of excitement and sectional strife:

Nor shall private property be taken for public use without just compensation.

Do you inquire whether that was suspended? I tell you no. It was put in the Constitution as a fetter upon the Government. There was a power intended to be reserved to the people, and it was an antagonistic power to the old governments of Europe which had been in the habit of confiscating property by acts of Parliament and without compensation. It was intended to deny and guard against the principles and practices of barbarian nations that seized private property and distributed it as spoils of war among the soldiers. It was intended as a bulwark of the citizen against the rapine and plunder of the Government. Modern nations now pay for all private property taken for purposes of war.

The question comes back to us what are we going to do with these claims? It is a question of power and one easily decided. If you wish to get rid of southern war claims—loyal claims—there is one power and only one power that can absolve the Government from the obligation to pay them, and that is by amending the Constitution and repudiating the claims.

There was an amendment offered in the last Congress for the purpose of changing the Constitution. They had seen that this question would recur as long as this Constitution stood, and it will recur and it will be a bone of contention until the question is settled.

As it stands at present, why should you not pay this claim? It is addressed to the discretion of Congress. We do not legislate for other Congresses; they are not bound by our precedents. As a matter of course, when this question comes to us in that form it is simply one of justice; a question whether you will pay the claim or not. That being the whole question, it appeals from your sectionalism to the Constitution of the nation; it appeals to law and justice and to the higher elements of equity itself.

While I am upon this subject allow me to say a word in all kindness to my northern friends. I have no drops of fire to rain upon them. I am not one to stir the angry passions of sectional strife, nor to fan the fire which is slumbering. I would rather quench than inflame. But I wish to say this to them; they have a grand opportunity to dignify their great triumph with magnanimity and mercy. If they wish the sundered and bleeding limbs of this grand Republic to be entirely healed, if they wish its wounds to be cicatrized, it must be done with the surgery of love and in the higher feeling of justice, and with the recognition of constitutional right. I tell you that you have now an opportunity to vindicate your name, not only before the eyes of the present, but before the opening eyelids of posterity. I tell you that a record is being made just here upon this occasion. There is no law that authorizes the destruction of school-houses and churches and hospitals; none whatever. There is no law of war that authorizes an invasion of the laws of humanity. There is no law of war that authorizes an invasion upon the civilization of the people. There is no law that authorizes the spoliation or destruction of the arts and sciences, which belong not to the present alone, not to one generation, but which belong to the world and to all time. They are not under the caveat of a patent for the present; they belong to posterity. These works are to be entailed upon them, and they are entitled to the inheritance.

The point that I make is this: when we look over the desolate churches and school-houses, these monuments of civilization and the religion of the people; when they appeal to you upon a principle far above sectional strife and the maxims of revenge, that you should rebuild the waste places, the school-houses and churches, and bid them soar heavenward; thereby you will build monuments that will do more to reconcile the people of the North and of the South than any other donation or tribute that you can pay to them. They will stand there for the eye of posterity; they will oft speak that you have been charitable, that you have been benignant, that you have been humane, that you are not subject to the charge of vandalism. Although there have been desolated cities and smoking ruins, and whole districts swept by the fires of war, still so far as this matter is concerned no tribute to the civilization and religion of a people will be more warmly recognized as a return of your love and your benediction, and of your willingness to be restored one to the other; not only to shake hands across the bloody chasm, but to have it healed up and cicatrized so that the wound shall disappear like a wound of the air.

If you wish your country to be one in heart as it is one in government, if you wish the people of the North and of the South to rush again into the arms of each other, make them feel that they have one national heart, the same pulsation, the same grand vital principles sending its life to all the extremities. You have the opportunity now.

But you may make a record, I warn you, that will repel and drive them away from you in their efforts of love. You may draw them to you, and do so at very little cost. You may save your justice, you can save your honor, you can save the Constitution of the United States and command the blessings of posterity when it shall read the record you have made here to-day and perhaps in time yet to come.

If you want peace, let us begin now to rebuild the waste places; bid our churches arise and point their steeples to the skies; bid our institutions of learning arise in their influence throughout all the land. Harvard and Yale and Princeton are just as much cherished in the South as they are at home. They have been the well-springs of our civilization as well as of our learning. The waters have gone forth free until they have overspread this whole land. We desire no hostility, no war, no cry of sectionalism to be raised against them.

This is your common country; it appeals to you as your own country. You cannot inflict an injury upon the South without it recoils upon yourselves. True patriotism and a proper feeling would dictate that the people of the North should have the same pride in relation to the prosperity of the South and its institutions as they have in relation to that of their own section: Massachusetts belongs to me as well as to any other gentleman upon this floor; it is a part of the inheritance of a common liberty; and Louisiana and Virginia belong to you just as much as to the citizens who reside in those States.

While I say this for old Virginia it is not in a spirit of "gush." She has been liberal in her treatment of the West. She opened her treasures and her heart for the purpose of extinguishing the national debt. She has given you a vast domain; and when she comes here now asking for a recognition at your hands shall she, like a beggar of old, say, "A pampered ingrate drove me from the door?" No; remember that you had a mother, ye men of the West; never forget it. Recognize the boon which you have enjoyed; restore estranged feelings; and if you want peace, then Heaven will send the Angel with her brow adorned with her olive crown.

Mr. HOOKER. Mr. Chairman, I had desired to say a few words on this bill, but what I had intended to say has been so well and fully expressed by others that I do not know whether I shall be successful in gaining the attention of the committee.

I take it for granted that among lawyers there will be no disputing the proposition that so far as the question of loyalty is concerned the universal principle and rule of law is that loyal territory raises the presumption of loyalty in those who are the occupants of that territory; and the converse of that proposition is equally true. Now, allow me to make a remark in answer to what fell from my friend from New York, [Mr. TOWNSEND.] Notwithstanding the fact that he lashes himself occasionally into a tempest of passion, I cannot help still speaking of him as my good-natured friend from New York, because while he prefers the freshening breeze that lashes the surface of the waters into a tempest, even though it may blow mountain-high, rather than that dead-sea stillness which is unmoved by breeze or gale, still, even in his passion, I can trust to the soundness of his judgment and the goodness of his heart, and I know that he will respond to the sentiment which I have uttered and the legal proposition I have announced.

He spoke, Mr. Chairman, of welcoming in mercy those who had swerved from their loyalty to the Union. I hope he will take to himself something of the salutary lesson given by the gentle Portia in her judgment upon the exacting Jew, when she said:

> The quality of mercy is not strained;
> It droppeth as the gentle rain from heaven
> Upon the place beneath: it is twice bless'd;
> It blesseth him that gives, and him that takes:
> 'Tis mightiest in the mightiest: it becomes
> The throned monarch better than his crown:
> * * * * *
> It is an attribute to God himself,
> And earthly power doth then show likest God's,
> When mercy seasons justice.

I hope the gentleman from New York will bear in mind this just judgment upon an exacting demander.

When the gentleman asks, was this institution loyal, what part of the institution does he mean? Does he mean the insensate buildings which, in the language of the gentleman from Philadelphia, [Mr. KELLEY,] sheltered the sick and prostrate soldiers of the Union Army? Would you carry the test of loyalty to that extent? Would you ask whether the insensate stones upon which these buildings were founded and the unfeeling timber that was erected over them were loyal to the Government? You took those buildings and used them for the purposes of the Government; and that institution, devoted to learning, now asks simply that the Government of the United States shall

remunerate it for the occupancy of the buildings; a claim which was sanctioned by the then Secretary of War, who, I believe, was Mr. Stanton, and by the then President of the United States. If that be so, upon what principle will you now ask that loyalty shall be established in regard to this institution?

Why, sir, let me state a case that occurred before the war claims commission—a commission organized by law for the purpose of ascertaining what loyal citizens of the South could make just claims against the Government for any part of that fund of $34,000,000 which was deposited in your Treasury, not as a fund belonging in general to the United States, but as a specific fund held in trust by the Government, never to be diverted to any other or general purposes of appropriation. The Supreme Court of the United States decided in two cases that came from the State of Mississippi, one the case of McArdle, the other the case of Kline, that where a party makes a claim against the Government the question of loyalty is not to be considered if that party has been embraced in a general amnesty by the President of the United States or in a specific pardon. Yet this claims commission, a subordinate tribunal, invested simply with the power of paying back to the loyal men of the South what was taken from them, undertakes to assert its prerogative as higher than that of the Court of Claims, higher than that of the Supreme Court of the United States—undertakes to say that in all cases coming before this tribunal the fact of loyalty must be established.

It is within my knowledge that in one case before that tribunal the question of loyalty was raised with reference to an infant who at the time of the facts in controversy was only ten years of age. In deciding this question this judicious commission determined that it would take the deposition of this infant of tender years, not to ascertain if she had been disloyal to the Government, but to find out what were her sympathies and feelings during the progress of that war. The commission absolutely went through the farce of sending to the Isle of Man (where the young lady had been removed by her parents) and taking her deposition. Among the questions propounded to her was this: "How were your sympathies during the war of the rebellion?" She answered truthfully, "I had none." Then the question was put: "Did you sympathize with one side more than the other?" "No." "Did you feel rejoiced when Vicksburgh fell?" "I did not know that Vicksburgh had fallen or risen," was her answer. Yet, sir, when these commissioners undertook to determine the question of the justice of this claim they actually decided this infant, thus unconscious of passing events about which she is called upon to testify, so far as her interest in the claim was concerned ought not to be recognized. I think that is running the doctrine of loyalty to a more farcical conclusion than that reached by my distinguished friend from the State of New York. This is all I have to say.

Mr. GOODE. I move the committee rise and report the bill to the House with the recommendation that it do pass.

Mr. CONGER. There are amendments to be offered and that motion cannot be submitted so long as an amendment is pending.

Mr. GOODE. I move, then, that the committee rise for the purpose of closing debate on this bill. It has been sufficiently discussed.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MILLS reported that the Committee of the Whole House had had under consideration the Private Calendar, and had directed him to report sundry bills with the recommendation that they do pass and one that it be laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a resolution for printing 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer, and a resolution for printing 15,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877–'78; in which resolutions the concurrence of the House was requested.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western districts of Texas, lately destroyed by fire.

BILLS PASSED.

The following bills, reported from the Committee of the Whole with the recommendation that they do pass, were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. No. 2160) for the relief of the heirs of Samuel P. Todd, deceased, late a purser in the United States Navy; and

A bill (H. R. No. 850) for the relief of Daniel W. Perkins, of East Saginaw, Michigan.

ELLA P. MURPHY.

The SPEAKER. The bill (H. R. No. 1502) for the relief of Ella P. Murphy is reported with amendments.

Mr. SPARKS. Is it in order to move to recommit that bill to the Committee on Indian Affairs?

The SPEAKER. It is, the previous question not having been demanded.

Mr. SPARKS. Then I make that motion. That bill was acted on adversely by the Committee on Indian Affairs in the Forty-fourth Congress.

Mr. CONGER. Not this bill.

Mr. SPARKS. This is the claim of Ella P. Murphy, which is identical with the claim acted on by the Committee on Indian Affairs in the Forty-fourth Congress.

Mr. TOWNSEND, of New York. But it does not embrace what the other claim did.

Mr. SPARKS. I ask that the report of the committee be read.

Mr. CONGER. It has been already read in the committee.

Mr. SPARKS. And I now ask that it be read in the House.

Mr. CONGER. Then I move the House adjourn, for it is too late to read it.

The motion was agreed to; and (at four o'clock and twenty-three minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. CLARK, of Iowa: The petition of John Dilatush and others, citizens of Johnson County, Iowa, for such amendment of the patent laws as will protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. COX, of New York: The petition of J. M. Weddell and others, for back pay under the eight-hour law—to the Committee on Education and Labor.

By Mr. DANFORD: The petition of Eliza P. Holliday and 205 others, citizens of Martin's Ferry, Ohio, for the enforcement of the laws relating to polygamy—to the Committee on the Judiciary.

By Mr. DAVIS, of North Carolina: The petition of S. M. Barbee, Kemp P. Battle, and others, for a post-route from Chapel Hill to Pittsborough, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. EDEN: The petition of Mrs. Elizabeth Reaville and 93 others, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mary J. Espy and others, of La Place, Illinois, of similar import—to the same committee.

By Mr. FORT: The petition of Catharine A. Schafer, administratrix of the estate of W. C. Bradford, for the reference of a war claim to the claims commission—to the Committee on War Claims.

By Mr. HARMER: Memorial of the representatives of the religious society of Friends of Pennsylvania, New Jersey, and Delaware, remonstrating against the transfer of the management of the Indians within the United States from the Interior to the War Department—to the Committee on Military Affairs.

By Mr. HASKELL: A communication from Walter L. Simons, favoring the passage of the bill providing for holding terms of the United States circuit and district courts at Fort Scott, Kansas—to the Committee on the Judiciary.

By Mr. JAMES: The petition of S. P. Remington and others, for an amendment of the act for the regulation of steam-vessels—to the Committee on Commerce.

By Mr. JONES, of Ohio: The petition of citizens of Ohio, against polygamy—to the Committee on the Judiciary.

By Mr. KIDDER: A paper relating to the establishment of a post-route from Vermillion to Glenwood, Dakota Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. MONROE: The petition of President Carroll Cutler and others, members of the faculty of Western Reserve College, for the passage of the Senate bill providing for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of R. Bosworth and 107 others, citizens of Hudson, Ohio, of similar import—to the same committee.

By Mr. MORRISON: The petition of citizens of Illinois, for *ad valorem* duties on imported sugars—to the Committee of Ways and Means.

By Mr. NORCROSS: The petition of Sidney Sibley and others, for arrears of pensions—to the Committee on Invalid Pensions.

By Mr. PHILLIPS: The petition of 1,935 citizens of Kansas, for woman suffrage—to the Committee on the Judiciary.

By Mr. ROBINSON, of Massachusetts: The petition of Mrs. E. F. Barnes and others, of Housatonic, Massachusetts, for the suppression of polygamy—to the same committee.

By Mr. STONE, of Michigan: The petition of Hannah Pasinger and others, citizens of North Plains, Michigan, for an amendment to the Constitution relating to woman suffrage—to the same committee.

By Mr. THOMPSON: The petition of Sarah R. Hand and others, of Steuben, Pennsylvania, of similar import—to the same committee.

By Mr. TUCKER: The petition of citizens of Appomattox County, Virginia, for a post-route from Spanish Oaks to Mooreville, Virginia—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS, of Wisconsin: The petition of Alex. Spencer and 150 other ladies, of Somers, Wisconsin, that the anti-polygamy law of 1862 be made more effective—to the Committee on the Judiciary.

By Mr. WARD: The petition of Priscilla R. Pickering and others, of the counties of Lancaster and Chester, Pennsylvania, for an amendment to the Constitution relating to woman suffrage—to the same committee.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 18, 1879.

The House met at twelve o'clock m. Prayer by Rev. W. V. TUDOR, of the Methodist Episcopal Church South, Saint Louis, Missouri.

The Journal of yesterday was read and approved.

GENEVA AWARD.

Mr. FRYE and Mr. McMAHON demanded the regular order of business.

The SPEAKER. The first business in order is the unfinished business coming over from a former session, which has been interrupted by other subjects temporarily and is the bill known as the Geneva award bill, on which the gentleman from Maine [Mr. HALE] has seventeen minutes.

Mr. HALE. I yield to the gentleman from Rhode Island, [Mr. EAMES.]

Mr. EAMES. Mr. Speaker, upon the question of distributing the balance of the Geneva award, with regard to which the committee to which the subject has been referred are nearly equally divided, I desire in connection with my vote to put on record very briefly my reasons for it.

In the report of the committee, the fact to which every member of the House must give his assent is stated, "that in consequence of the appearance upon the high seas of the Alabama and other confederate cruisers, fitted out and sailed from British waters, a large portion of the American commercial marine was speedily transferred to the British flag, while such of our ship-owners and merchants who either preferred or were compelled by circumstances to keep their vessels and cargoes under the flag of their own country, were subjected to the payment of greatly enhanced rates of insurance when they chose to or could insure at all."

This statement of the committee, if not in words, substantially admits that the ships and their cargoes sailing under the American flag were driven from the high seas and the loss which resulted thereby to American citizens was attributable to "the failure of the British government to properly discharge its duties as a neutral, by negligently permitting confederate cruisers to be fitted out, supplied, and sailed from British ports." The committee in this statement are as accurate in fact as they are precise in their language. The American commerce was not driven from the high seas solely by the Alabama, Florida, and Shenandoah; but if neither of these cruisers had been fitted out from British ports there would not have been any other confederate cruiser afloat to capture and destroy an American ship or cargo. The act of Great Britain, therefore, in regard to the Alabama, the Florida, and Shenandoah was indirectly the occasion of all the damage to American commerce, whether by these or by any other confederate cruiser.

Now, Mr. Speaker, after the war had closed and this Government, in the conflict of arms, had vindicated and established its lawful authority, the great injury which had arisen from the unfriendly acts of a neutral power became a serious question between Great Britain and this country, and threatened the peace of the two countries. Happily this difficulty was averted by the agreement to submit these differences to a peaceful arbitrament. Under this agreement fifteen and one-half millions have been paid by Great Britain to the United States, a portion of which has been distributed under the law of 1874, and with regard to the balance of which we have now before us the propositions of the committee and of the minority of the committee.

How ought this balance to be distributed? is the question which we here, by our votes, are called upon to decide. I propose to answer this question so far as to indicate, in a few words, the reasons for my own vote.

The treaty of Washington was but an agreement between Great Britain and the United States to submit to the arbitrament of the tribunal for which it provided, certain matters of difference between the two governments, involving the interests of this Government and its citizens.

If, therefore, we would act wisely upon the question now before the House, it would be well to keep in mind what, under the treaty of Washington, was submitted to the decision of the Geneva tribunal, and also at the same time not to lose sight of what was the award or decision of that tribunal. In this way we may correctly decide for what the fifteen and one-half millions was awarded, and thus determine to whom it should in equity and justice be distributed.

What, then, was submitted to this tribunal and for what was the $15,500,000 awarded?

This Government submitted in its own behalf certain claims for indirect damages arising from the continuation of the war and for the general injury which had been done to American commerce in the transfer of it to the British flag. These claims for good and sufficient reasons were waived by this Government, and the other claims, of the insurance companies and of American citizens for the destruction of their ships and property, without regard to the loss by any particular confederate cruiser, and for enhanced rates of premium, were left to the consideration and determination of the court of arbitrament.

Some of these claims were admitted and others were rejected by the tribunal, and its final decision was not to divide and apportion the award among those for which they held the British government responsible, but to name under the seventh article of the treaty a sum in gross, and in their award to determine that this sum should be in full satisfaction of *all claims referred* for decision, with an express notice from this Government that in such event the United States should be at liberty to dispose of this sum in gross, awarded for all claims referred, as in its discretion seemed to be just and in accordance with justice and equity.

In pursuance of this notice, a portion of this fund, under the law of 1874, has been distributed among those who were justly entitled to it, and the balance now held is proposed to be distributed by the bills now pending before the House.

To whom in equity and justice does this balance belong? My reply to this inquiry is, to all American citizens who have actually sustained loss, either directly or indirectly, by the acts of the British government, and that no distinction ought to be made with respect to injuries by cruisers denominated inculpated or exculpated. But for the fitting out of the inculpated cruisers, I repeat, no so-called exculpated cruisers would have been afloat to commit depredations upon the ships and cargoes of American citizens; and therefore, under the submission and award, no distinction ought to be made in the distribution of this balance, but it should be applied upon the broad, just, and equitable principle of reimbursing any loss occasioned by any of the confederate cruisers.

And such seems to be the conclusion to which the committee have come. In general language, they propose to submit to the determination of the court all claims without distinction, and to leave it to the court upon the facts and according to equity and justice to determine for what and to whom, whether citizen or insurance company, the money shall be paid for damages actually sustained either by inculpated or exculpated cruisers, or by the payment of war premiums to insure American ships and cargoes against loss by these cruisers.

And yet there seems to be a doubt whether the bill of the committee does not in fact exclude a large portion of such claims from the consideration of the court.

Why not, then, remove this doubt by the exact language which will make the duty of the court in this respect clear and plain?

The speech the other day of the gentleman from Indiana, [Mr. BICKNELL,] in favor of the bill of the committee, from his standpoint demonstrated that only those who had suffered loss by the so-called inculpated cruisers had, under the bill of the committee, any legal or equitable claim upon this fund for the losses which they had sustained; while the equally clear argument of the gentleman from Pennsylvania, [Mr. STENGER,] who is of the committee reporting the pending bill, established the fact that the court to which the distribution is referred could consider all claims presented, and without regard to whether the damage occasioned was by the payment of war premiums or was by an inculpated or an exculpated cruiser.

As between these conflicting views with regard to the bill reported by the committee, it seems to me that it would be prudent and wise to give to the court such specific directions that no class of claimants having actually suffered loss, either directly or indirectly, by the act of the British government shall be excluded from participating in the distribution of this fund. Such direction would be not only consistent with the submission to the Geneva tribunal, but in exact accord with the award which that tribunal made, as well as with the expressed purpose, in case of an award in gross, of this Government to distribute the fund as to it seemed equitable and just.

And as a member of this House who believes that no distinction should be made between American citizens who, directly or indirectly, by the act of the British government have suffered actual loss, either by the inculpated or the exculpated confederate cruisers or by the payment of war premiums, I think it just and wise that such specific direction should be given to the court.

Such direction in no true sense interferes with the judicial power as limited in the Constitution of the United States. It merely names the classes of claimants who have a right to present their claims as entitled to a part of this fund, and with reference to such claimants leaves the court upon the facts to determine the persons entitled to it and the amount of their claims.

With these views upon the pending question, I shall vote for the proposition of the minority of the committee.

The principle which underlies their proposition, as I understand it, is to distribute this fund among actual sufferers, either directly or indirectly, by the negligent act of the British government. And the bill of the minority provides by specific directions for the distribution of the balance among those who have actually suffered loss. It provides for the equitable distribution of the fund, and because it does, it ought to receive, and I hope it will receive, the approval of the House.

Mr. HALE. Mr. Speaker, the debate on the Geneva award bill has run along and has been full and complete, and now it is more important an early vote shall be reached than anything else. Therefore I shall not, as I originally proposed, undertake to make any elaborate speech, but will only call attention of members to certain points which in the interval since the last discussion may have somewhat floated away from their minds.

It is really, sir, a contest between the insurance companies of the great cities and the parties upon whom unrelieved losses fell by reason of the depredation of confederate cruisers. The Alabama and her sister cruisers drove from the seas a prosperous American commerce.

It declined from year to year; men who persisted in maintaining their ships under the American flag found their property depreciating from day to day, and that competition with the English ships was growing more and more, so that when the war ended the owners of the American commercial marine were struck down. It was a prostrate interest, and one of the grievances at that time uppermost in the American mind was against Great Britain because she had afforded opportunity to those cruisers to do this damage.

During the time when this interest was growing more and more prostrate under the conditions of the war, there was another interest that grew up and blossomed almost like Jonah's gourd, in a night, and that was the marine-insurance interest. It thrived upon the losses of the community. It was like an undertaker, who is most prosperous when pestilence stalks abroad, and the insurance business of these marine companies was as much built up during the war and made a prosperous business upon the one side, as was the ruin of the shipowners and the freighters on the other side.

Now, when the war ended this grievance in the mind of the American citizen was prosecuted by our State Department, representing our citizens, from time to time, against the British government. We had more than one treaty; the Johnson-Clarendon treaty and the other treaty that was negotiated but never acted upon. From year to year after the war the grievance against Great Britain in the mind of the American people grew so that at last wise and thoughtful men believed that out of it might at any time come a war.

Now I ask anybody who is inclined here to vote for the majority bill—which, as my friend from New York said the other day, is a clean bill for the insurance companies, and nothing else—I ask anybody here who is inclined to vote that way to put to himself this question, whether at that time any portion of the American people, or any large portion of the American people, was pushing for a settlement with Great Britain with the idea that war might arise if this thing was not settled; whether anybody at that time was prosecuting this thing in favor of the insurance companies. Was there any danger, Mr. Speaker, that America and Great Britain would go to war because of the insurance companies, which had grown rich in consequence of the war, which had erected enormous buildings and had paid higher salaries and greater dividends from year to year? Was it for them negotiations were set on foot and all the powers of diplomacy brought to bear to settle this great international question? Why, sir, if at that time anybody had been told this fund was to go to add to the increased stores of the insurance companies the American people would have ceased to take a particle of interest in the controversy and we never would have heard of it again. The Geneva tribunal was not set afoot because the American people believed there might be war unless the insurance companies were paid; but the sufferers all along the coast, in every State, which had built and owned ships, the American citizens impoverished by the acts of these cruisers, were the men behind this agitation and the people for whom the Government interposed.

So we got the tribunal and the award, and at once the insurance companies come to the surface on the right, as they claim, of subrogation. Now, Mr. Speaker, that does not apply here. I cannot go into a legal discussion on this subject, for I have not time. It has been gone over very thoroughly in this Congress and in other Congresses. The insurance companies claim a legal right to be substituted if they paid for the ships or their damages to the rights of the insured. Now, if they have got any right under subrogation, it is a clean, bare, unrelieved, technical legal right. All insurance lawyers know that subrogation is a right which is defined and complete in law, of such a nature that the insurance companies may go into the courts and maintain and enforce it.

Now, if the insurance companies have any rights that are complete as legal rights, why have they not been in the courts? The answer is they must have congressional legislation to let them into the courts; that is the position they are in now. There is no right of subrogation, no right of insurance companies which they can maintain unless Congress gives them the right. We are now confronted with the request that we give them the right which in private cases they get as a technical legal right; and that brings up the whole question of our duty in regard to this fund.

On this question of the legal technical right there is a broader view than any court can take. I maintain here freely and boldly when I am asked if I am afraid to send this question to the courts that there are some subject-matters that are of a broader scope and nature than should be dealt with simply by a court. The right of subrogation is claimed here. Why, sir, it would not be any more absurd if in case of a vessel that had been wrecked or damaged and paid for or repaired by the insurance company the insurance company should claim it had a right to the medal given to the master of that ship for gallant conduct. This is a thing that does not come under any legal right attaching it to the act of the vessel or to the act of the insurance company. This is a great, broad political question. Why, sir, let me give an illustration. When the war ended a very large class of meritorious claims connected with the transactions of the war came up and were pushed against the Government; southern claims, meritorious claims, and claims of Union men. What did Congress do? We had plenty of courts. We had the Supreme Court, and circuit courts, but Congress specially organized a court for these claims. Congress said, this is a great question, beyond the question of claims; it is a question that Congress must settle; and Congress must establish a tribunal of its own; it must make a basis of its action; and must make the rules by which it should be governed. So we established the southern commission which reports to Congress, because in all that vast subject-matter there was something more than a legal question.

The results of operation of the Alabama and other cruisers involved broad questions of statesmanship; involved the securing of a gross fund which is now in the hands of Congress, in order to give to those that suffered—to those for whom Congress intervened and set the tribunal afoot; and it should not be said that any court was established by Congress, with rules for its action, so as to keep the jurisdiction within its own power. It is for that reason, looking into the future, the Secretary of State instructed the counsel in these words:

> You will be careful not to commit the Government as to the disposition of what may be awarded. The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case.

There was no intimation then and there that there were any legal rights to be decided by any court, but that the Government retained the right of deciding who should be entitled to this fund. Now, the bill provides, and very adroitly—although, as my friend from New York said the other day, it is a bill for the insurance companies and nothing else—that upon the principles of justice, equity, and the laws of nations this shall be apportioned.

Now, I do not know that if this question ever went to the courts that the insurance companies would dare to assert that they could claim it by the technical right of subrogation. But they did something; they made an assignment of their policies and followed it up by a reassignment; and it must be by something of this kind that they claim under this bill.

There is not a lawyer who does not know that the word "equity," in courts, is got to be just as well established by rules and practice as the word "law." The courts are just as much bound by rules in equity as they are in law.

I have discussed this question heretofore in another Congress, and I have no time to go over it again now, but the word itself gives no scope to the tribunal in the direction of relieving the men who suffered absolutely, the war-premium men, who struggled along, keeping their vessels under the American flag, and refused to transfer them to the British flag because of their pride in our nationality.

Now, the insurance companies have tried this thing over and over again. Beaten in one Congress, they have come to another, and it may be fairly claimed that as a precedent they wish to destroy the action of the House in 1874. That was a Congress that was fresh upon this subject, and the rule was fixed there that excluded the insurance companies, and now we are asked to go back beyond this and pass a bill clearly for their interest and for nobody else. I maintain that under the bill of the majority no other man can get a dollar, and that is why it is pushed by the insurance companies.

Mr. Speaker, you and I, during our ten years' service have seen certain things very noticeable before this House. We have seen men with honest claims, that should have been paid when first presented, drag along for years, and at last in very weariness of spirit and because Congress would not relieve them, they left us in despair or died in Washington.

There have been many instances of individuals who have just claims against the Government who died here because they were unable to get away, and because they had not the power and force of will to continue the prosecution of their claims. But there are certain large interests that never die. They clamor and knock at our doors from year to year and will never die.

There are seven or eight millions in this matter which, if the bill pass, will go to the insurance companies, which from the day when this matter was first spoken of have maintained able counsel here in Washington, in the committee-rooms and dogging the members at their residences. The money is enough so that this interest which always appears here never dies. It is always here. It employs counsel in the committees, and who have the right to come here on the floor to besiege the members at their desks. Our desks have been loaded with documents, arguments, and speeches by one man and another, kept up by this immense interest that is bound never to leave the American Congress until it wears it out and gets its claim through. Every Congress thus far has smitten this claim in the face, has denied it and defied it, and said that it had no right in equity or in law, but that the fund should be kept for the men who actually suffered loss. Now with all the investigations that have been had, with all the light which has been thrown upon the subject, I do not believe that even with all the persistent efforts of the insurance companies this House is prepared to go back upon its own record and reverse the principles of the act of 1874 and give this money to companies to whom it does not belong either in fairness or in law.

[Here the hammer fell.]

Mr. McMAHON. Mr. Speaker, we have about $10,000,000 of the Geneva award fund to be yet distributed; not because we received too much money from Great Britain, but for other reasons which I will allude to hereafter. The question now is, shall this money be distributed by Congress; or will Congress shut its eyes to the merits of the various claimants and remit the whole subject to a court of law, leaving to that court alone the settlement of the conflicting rights and interests of the parties, if they have any?

The most plausible argument that can be addressed to the legislator or to the average American mind is a proposition to leave anything of a troublesome nature to the courts. We went so far in that direction recently as to submit to a so-called court the sovereign right of this House to count the electoral vote. For one, I had an experience upon that occasion which without good ground I am not willing to repeat. And I am not in favor of remitting to any judicial tribunal the duties that belong to us as legislators.

I do not believe in the proposition which underlies the argument of those gentlemen who openly plead for the insurance companies, or of those who plead for the majority bill without expressing an opinion upon the rights of anybody. Therefore, with the consent of the other members of the minority of the committee, I have drawn a substitute which is based upon an entirely different theory and, as I hope to show, upon a theory sanctioned by law and precedent and founded in common sense and natural justice.

The proposition made in favor of the insurance companies is that they have a claim, or rather I should say a right, legal or equitable, to this fund. And they ask to be allowed to go into court to assert it. Now, if I believed that anybody had such legal or equitable right I would be the last man to refuse this request. I am not in favor of confiscation. If the insurance companies have a legal or equitable right to any part of this fund I for one would not, under any circumstances, agree to cut off that right by any act or vote of mine.

I said that the insurance companies believe or claim that they have a legal or equitable right to this fund. And the gentlemen who advocate the majority bill as an impartial bill between the contending parties must advocate the proposition that *some* person or corporation has a right to this fund, because a proposition to refer to the courts must be a proposition to refer some *title* to the court which it can consider, and must involve something more than the enforcement of mere moral obligations. The bill of the majority, though seeming to be in the interests of neither class of claimants, is therefore based upon the theory of the insurance companies, that some *rights* exist enforceable in the ordinary courts of law.

It is because there is neither a legal nor an equitable right to this fund in any person or corporation that I believe, not only that it ought to be distributed by Congress, but that it *must* be so distributed.

The argument that certain *rights* exist in this fund and, permit me to say, with all due deference to the eminent gentleman by whom it was first made, the fundamental *error* of gentlemen speaking for the insurance companies or the majority bill, is that all *national* claims were excluded by the tribunal at Geneva by the order of June 22, 1872; and that after that order nothing was submitted to the tribunal except, in the expressive language of the present Secretary of State, "a bundle of private claims." This is the underlying argument of the insurance companies. It is the argument of the gentleman who will follow me in support of the majority bill; it cannot but be his argument. It was the argument of gentlemen who have preceded me. And upon this foundation rests the proposition that those whose claims seem to have been allowed there should be paid, and no others. And that all should be excluded here who were rejected at Geneva.

This is not true; and if the foundation of the argument is false, the argument must fall. The claims that were excluded at Geneva were the "indirect claims," not the "national claims." I ask gentlemen to read the order excluding them. That will be proof sufficient. Certain national and private claims were ruled out, not because they were national or private, but because they were "indirect," or consequential.

As conclusive proof of this assertion, I call attention to the award itself; because if national claims were excluded by any preliminary order of that tribunal, prior to its entering upon the investigation of the case, as only the "indirect" claims were, then we would find nothing in the award admitting or rejecting a national claim. But what is the fact? The record will show that after the unanimous order excluding indirect losses, the Government of the United States offered proof of its expenses in the pursuit of the various confederate cruisers. This was considered and passed upon in the final judgment, and if gentlemen will turn to the award which was rendered September 14, 1872, they will find that the tribunal gave the following opinion upon this question:

> And whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States,
>
> The tribunal is therefore of opinion, by a majority of three to two voices—
>
> That there is no ground for awarding to the United States any sum by way of indemnity under this head.

This is conclusive proof that the *unanimous* judgment of the tribunal on the 22d of June, 1872, against indirect losses was only against them because of their indirect character and not because they were public claims. Therefore when the distinguished gentleman, now Secretary of State, said in his argument before one of the committees of a former House—which argument is so often repeated—that after the order referred to nothing was submitted to the tribunal at Geneva but a "bundle of private claims," he was presenting his case as a lawyer with a large present, a larger prospective fee. He was arguing his side of the case—not presenting an unbiased opinion—leaving to the committee and the House to decide the question. He never gave any such opinion, he never made any such statement while occupying an independent position; nor did he make it to the tribunal at Geneva when acting for the Government of the United States.

Mr. Speaker, so far from it being true that "private claims" were submitted to the tribunal at Geneva as "private claims," I make the assertion, and I propose to support it by distinguished authority at home and abroad, that all that was submitted to the tribunal of arbitration at Geneva was a question between the two governments, all that was passed upon was the question between the two governments; and when private claims were presented they were brought forward in the attitude of witnesses, and witnesses only, as to the extent of the injuries suffered by the American Government; not as the claims of individuals prosecuted either by themselves in person or by their attorney, or by their trustee or agent, the United States Government, as some gentlemen claim.

This whole question lies within the narrowest compass. Did our Government in the treaty stipulate for the payment of the claims of individuals as private claims, or did it stipulate for the settlement of a question of a public character? Did the tribunal at Geneva award upon private claims, or did it award to the nation? If these claims were presented at Geneva as private claims on behalf of individuals and were awarded to the United States for the benefit of these citizens, and no others, the case would come within the precedents cited in the majority report, to which I expect to refer more at length in the course of my argument.

Mr. Speaker, when I affirm that no private claims were submitted, as such, to the tribunal at Geneva, I do not wish this proposition to stand upon the authority of my opinion, for that would have no weight. I desire to call the attention of the House to various public documents containing the history of this transaction, with some other persuasive proof. I read first, from volume 6 of the papers relating to the Geneva award, the instructions which Mr. Secretary Fish gave to General Schenck and the other commissioners selected by the Government of the United States to frame the treaty of Washington, and under which they acted in agreeing to the same. He says, page 275:

> You will receive herewith a confidential memorandum or brief embodying a reference to correspondence of this Department and to the history of several of the questions which may be discussed by the commission: First, the fisheries; second, the navigation of the Saint Lawrence; third, reciprocal trade between the United States and the Dominion of Canada; fourth, the northwest water boundary on the strait of San Juan; fifth, the *claims of the United States* against Great Britain on account of acts committed by rebel cruisers; sixth, claims of British subjects against the United States for losses and injuries arising out of acts committed during the recent civil war of the United States.

Observe the difference between sections 5 and 6. The Alabama claims are spoken of in section 5 as "claims of the United States," not as claims of the United States and citizens thereof, or claims of citizens of the United States, but exclusively as "claims of the United States." But when private claims are spoken of in the following paragraph they are alluded to as claims of "subjects of Great Britain," and not as claims of Great Britain.

Men who engage in the highest offices of government, such as negotiating treaties between sovereign powers, which are always open to the closest scrutiny and narrowest construction that interest may dictate, and in reference to which extreme care in the use of language is of the greatest importance, because out of a varying construction may come that great calamity, war—I say that men who exercise these great offices always study in the closest manner the exact meaning of words and use them with the greatest circumspection.

In the framing of the treaty itself the same care was observed in distinguishing the Alabama claims from private claims. A comparison of article 1 of the treaty of Washington with article 12 will make the distinction most apparent. When the treaty speaks in article 1 of the claims of one government against the other, it uses language which specifically covers the claim of one government against another. But when in article 12 it treats of the settlement of private claims, it uses no doubtful words. What is the language of the treaty? I read from page 410 of the same book. Article 1 provides:

> Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims, &c.

I need not read further; but it is sufficient to say that nowhere in this treaty are the Alabama claims referred to as claims of citizens of the United States against Great Britain, nor is compensation to them provided for. Under articles 1 to 11, inclusive, the tribunal at Geneva was established for the settlement of past and great present and future international questions between the two nations. It was to consider nothing but the question whether Great Britain had failed in her duty to the United States, and to determine the extent of the responsibility that might grow out of her possible neglect. But when we turn to article 12 of the treaty what do we find? The two powers are here contracting about the settlement of the claims of private individuals or corporations, and what is the language they there use? There is no mistake in it; and it has been copied from previous treaties:

> The high contracting parties agree that all claims on the part of *corporations, companies*, or *private individuals, citizens of the United States*, upon the government of Her Britannic Majesty, arising out of the acts committed against the persons or property of citizens of the United States during the period between the 13th of April, 1861, and the 9th of April, 1865, inclusive, not being claims growing out of the acts of the vessels referred to in article 1 of this treaty, and all claims, with the like exception, on the part of *corporations, companies*, or *private individuals, subjects of Her Britannic Majesty, upon the Government of the United States*,

arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article 14 of this treaty, shall be referred, &c.

Referred to what? To the tribunal at Geneva, to which had been referred the Alabama claims? Oh, no; they did not confound the public with the private questions, and consequently they provided for a separate commission, which was to meet in the city of Washington, and it met there and acted upon all these private claims arising upon the part of *citizens* of either of the two countries against the government of the other.

After the treaty was ratified, how was its language construed by the gentleman who was at the head of our Government and had charge of these matters? I have here his instructions to our attorneys when they were departing for Geneva. What does he say to them?

In the discussion of this question and in the treatment of the entire case you will be careful not to commit the Government as to the disposition of what may be awarded or what may be recovered in the event of the appointment of a board of assessors.

Mentioned in the 10th article of the treaty.

The Government wishes to hold itself *free to decide as to the rights of the claims of insurers.* If the value of the property captured or destroyed be recovered in the *name of the Government* the distribution of the amount recovered will be made by this Government *without committal as to the mode of distribution.* It is expected all such commital will be avoided.

And yet, sir, in the face of that explicit instruction to our counsel, which was as implicitly followed by them, the insurance companies say to us that the United States Government went to Geneva only as a lawyer, as a claim agent, as a trustee, or in some other belittling capacity, in which it was pushing the claims of insurance companies which had already more money than they well knew what to do with; and money, too, made out of war risks. No; we never would have hazarded all the great risks of war, with all the calamities incident thereto, for the purpose of putting additional sums in the coffers of insurance companies—never! What we wanted was a settlement of the questions between the two governments. We wanted these claims treated as public claims, as they are; and as such they were treated. We wanted to settle some questions for the future, because, although we happened to occupy the position of a belligerent in this unfortunate war, our usual policy had been in the past, and will be for the future, to occupy the position of a neutral, and we really desired adverse decisions on many pending questions because they would tend to our benefit in the future.

I pass now to the rest of this history. When this claim was being prosecuted at Geneva our attorneys said distinctly, we prosecute this as a case of one government against another. The following language was used by them:

These claims are all preferred by the United States as a nation against Great Britain as a nation, and are to be so computed and paid.

After we recovered the money, which was distinctly awarded to the Government of the United States, free from any claim of any private citizen, Great Britain took measures to provide for its payment. The appropriation of the money was made on the 26th day of May, 1873. In the course of the debate in the House of Commons (to be found in Foreign Relations of U. S., 1873, part 1, pages 368 to 377) Mr. Gladstone, then chancellor of the exchequer, replying to some strictures of the opposition, used the following language, (see page 374:)

Then the honorable gentleman asks why the arbitrators decided upon the claims of the United States before they considered the British claims against the United States. The honorable gentleman is in error in supposing that it was intended to give such precedence, or that precedence was actually given to the Alabama claims over *private* claims. *The Alabama claim was a public claim* arising between the two governments; the other claims were made by *citizens* of the United States against the British government.

He here distinctly recognizes all claims referred to the tribunal at Geneva as *public claims;* and those referred to the Washington commission, provided for in article 12, as *private* claims.

After the resolution appropriating the money was agreed to, the following took place, (see page 377:)

Sir I. Elphinstone asked the first lord of the treasury whether it was the intention of Her Majesty's government to submit the claims of Her Majesty's subjects for losses sustained by the capture of vessels containing British property by the Alabama to arbitration.

Mr. GLADSTONE. Her Majesty's government have no such intention. I think the question, judging from its form, has been put under an entire misapprehension. It appears to be implied that the government submitted the claims of certain *persons* not subjects of Her Majesty to arbitration. That is altogether a mistake. *No claims of individuals* have been submitted to arbitration in relation to the Alabama. What was submitted to arbitration was *entirely a question between the two governments.*

Can anything be more explicit? No member of Parliament objected to this statement. Of all its able lawyers and statesmen, not one rose in his seat and disputed its correctness. It was the accepted British opinion of the public nature of the controversy. When I am met upon this floor, Mr. Speaker, with the statement that only private claims were submitted and passed upon at Geneva, I must appeal from the judgment of the honorable gentleman from Indiana [Mr. BICKNELL] who gave so dogmatic an opinion upon this question. I appeal to the distinguished heads of the two governments, who had spent years in the study and consideration of these great questions while the gentleman from Indiana and myself were engaged in the courts of our respective States in the settlement of petty disputes between neighbors. They certainly knew what they were about. They certainly knew, better than he or I, the nature of the case. They certainly had the best counsel in either country as to the character of the controversy. And, in my judgment, no doubt would ever have been raised upon this point but from the immense power of the corporations who have an interest in a different construction, with the ability to confuse judgment by the employment of a multiplicity of well-known and well-paid lawyers of high reputation.

I pass now from the opinions of eminent statesmen to another kind of testimony—the judgment of a court upon the very question involved. Of course, I do not allude to it as binding upon us.

After we passed the law of June 23, 1874, providing for a partial distribution of this money, the court provided for therein met and gave decisions in many interesting cases. I will cite the opinion of the court in two of them.

I will cite first the opinion of the court in the case of Rhind *vs.* United States, to be found on page 33 of the report of the clerk of said court to the honorable Secretary of State:

Has he [the petitioner] such a right? He had a right of property in the ship which the Alabama destroyed, and he lost it without any act on the part of the Government of the United States, which could give him redress against it. The Government of the United States was not obliged to claim from Great Britain payment of the loss, but acted in that regard according to its sovereign pleasure. It did not succeed in obtaining payment of the whole of the claims presented, and the most careful investigation of the proceedings at Geneva has failed to show what claims were included in the award and what excluded therefrom. The award was made *in favor of the Government* and *not in favor of the claimants.* The Government thus vindicated the national honor, but it did not assume to pay any particular class of claimants nor any particular claim. Having obtained the money by its own act and at its own cost, it had the right to prescribe the terms on which the distribution should be made. It certainly had the power to exclude certain claimants and to include others less meritorious. In the act now before us, claimants are excluded who believe themselves justly entitled to a part of the fund, but they have no power to assert their right to it. Under the powers committed to us, we have in some instances rejected altogether claims presented at Geneva, and in many more instances we have largely reduced such claims in amount.

In the second case, the case of Robeson, as Secretary of the Navy, *vs.* The United States, for the recovery of the value of a vessel of war belonging to the United States Government destroyed by the Alabama, the court giving judgment against Mr. Robeson, as Secretary, uses the following language, (see page 121 of the same report:)

The reclamation made upon Great Britain was made by our Government in its capacity of sovereign, and not as a mere representative of private interests, and the indemnity received has been paid to the United States as a government. The fund is now in the Treasury entirely under the control of Congress, invested as directed by Congress, and was so when the act constituting this court was passed. Congress might have refused to pass any act providing for the indemnification of citizens; it might have retained the whole fund; it did appropriate such part of the fund as it judged just and right to be distributed among certain classes of claimants therefor. After the payment of the amount of our judgments, as provided by law, it may still retain the balance remaining, or it may provide for a further distribution among other classes of claimants. But in so doing it will dispose of its own; of money held in the Treasury of the Government free from all restraints except those which ought to influence any sovereign power, under the circumstances.

A MEMBER. What court gave those decisions?

Mr. MCMAHON. The court of commissioners of Alabama claims, composed of five judges sitting under the law of June, 1874—gentlemen with whom I am not personally acquainted, but whose decisions and impartiality I am assured gave pretty general satisfaction.

I do not wish to be understood as casting any imputation upon the entire fairness claimed by gentlemen of the committee reporting the majority bill; but that clause, in section 1 of their bill, which orders the Court of Claims to distribute this money "without regard to any *rule* or *principle* of allowance, *exclusion,* inclusion or distribution adopted by the tribunal created by" the law of 1874, would seem to be aimed expressly at the decisions I have just cited. And I cannot understand why the principle of these decisions should be set aside or repealed, as they were the opinions of men learned in the law, upon abstract questions, not depending solely upon a construction of the law of 1874, but upon the effect of the treaty and award themselves.

Now, Mr. Speaker, I claim that if any one proposition, as a proposition of authority, can be established, it is that the only thing that was presented at Geneva was a national claim; that the only thing that was passed upon was a claim between the two governments; and the only person to whom money was awarded was the Government of the United States.

But this proposition does not depend upon authority. It would have but little respectable authority for its support if it was not founded in reason and international law, as I will now proceed to show to the best of my ability. The claim could not strictly be any other than a public claim for this simple reason: that all the property that was destroyed upon the high seas by confederate cruisers was destroyed in a *state of public war,* which by the law of nations is a legal destruction, and gives no claim to the citizen against his own government, or against the government whose ships or citizens did the injury, or against those citizens, or against any open and acknowledged or secret and insidious ally. When the ship and cargo go to the bottom of the sea the property is gone, and no right springs into existence in its place. But had our Government been at peace with all the world and had the destruction of the ships and cargoes of American merchants occurred by the wrongful act of one of two other belligerent nations the case would have been different. Let me suppose that France and England were at war and that the privateers of either nation had destroyed American ships pursuing a legal and innocent trade. By the acknowledged laws of nations the merchant own-

ing the ships has a legal right to compensation. All codes of law admit that the *right* exists. There may not be an adequate *remedy*. The courts of the offending nation may not be open to aliens—and they never are except by permission of the nation itself. The government of the injured citizen may not have the ability or disposition to interfere with diplomacy or the strong arm of war. But nevertheless, as was said by the Supreme Court of the United States in the case of Comegys *vs.* Vasse, the *right* exists. And I use the word "right" in its proper legal sense, not as synonymous with "claim;" for claim is as broad as the ingenuity and roguery of the human race, whereas right is circumscribed by the fixed and immutable principles of natural justice.

And now we can account for the different language used in describing, in article 1 of the treaty of Washington, the claim made by our Government upon Great Britain for compensation or indemnity for the property that was destroyed by the confederate cruisers in *a state of war* existing between the Confederate States and the Government of the United States, and the language used in article 12 of that treaty for injuries done to citizens of States that were not in a state of war with each other. It would not have been correct legal language to have spoken of the Alabama claims as the private claims of individuals. And on the other hand, the claims provided for in article 12 were claims arising out of the violation of private rights of person or property of persons whose country was not in a state of war with the government doing the injury, giving to the citizen injured a right to compensation—the remedy to be afforded by his government when it saw fit and in the manner its judgment approved. Such private claims have generally been pressed by and upon our Government as the claims of individuals. For the government can scarcely suffer a material injury which is not represented by a corresponding injury to some citizen or domiciled person. And on the other hand an injury cannot occur to the person or property of a citizen which is not also an injury to the government to which he belongs. An inspection of all the treaties of the United States Government will show that we have made over twenty separate treaties providing for reclamations from foreign governments for injuries done to our citizens or their property; and this striking fact will appear that every one of these reclamations was for injuries done to our citizens by a nation with whom we were then at peace and while we were at peace with all the world; and in each and every treaty—and I challenge contradiction—explicit language was used in regard to such claims, stamping them, without exception, as the claims of individuals. I refer to our numerous treaties with Great Britain, Spain, and France, and to our treaties with Denmark, Mexico, China, Texas, Costa Rica, New Grenada, Algiers, Peru, the Two Sicilies, and Venezuela. In all these cases the *rights* of our citizens were *illegally* interfered with, and our Government took up such rights and prosecuted them as individual claims with success. In such cases it was eminently proper that the Government should regard the fund it received as received for the benefit of those exclusively who had been injured. The *right* to compensation existing should be recognized and satisfied by our Government. But even in such a case, as was expressly decided in the English courts in the recent important case of Rustomjee *vs.* The Queen, (cited in the minority report,) the act of distribution is a sovereign act, and is only remitted to the courts for the convenience of the government itself and at its pleasure.

But, says some gentleman, if the Government did not recover upon these claims as private claims, upon what ground did it proceed? It proceeded upon the general proposition that as between nations all the property in the territory of each nation belongs to the nation as a whole. I cannot express this better than in the language of Vattel, whose doctrine will also be found in Rutherford's Institutes. I read from chapter 7, page 164:

> Even the property of individuals is, in the aggregate, to be considered as the property of nations, with respect to other states. It, in some sort, really belongs to her, from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches and augments her power. She is interested in that property by her obligation to protect all her members. In short, it cannot be otherwise, since nations act and treat together as bodies in their quality of political societies, and are considered as so many moral persons. All those who form a society, a nation being considered by foreign nations as constituting only one whole, one single person—all their wealth together can only be considered as the wealth of that same person.

This is very clear and needs no further illustration.

Now, Mr. Speaker, because no private claims were submitted to the tribunal at Geneva, because no money was awarded to private individuals, either in gross or separately, because it was a question solely between the two governments, I say that there is no legal or equitable right to the fund in anybody, and when I speak of legal and equitable right I do not use the term in the sense of natural justice but as we lawyers understand it.

I take it for granted that if it can be shown that the insurance companies have no legal or equitable right to this fund no gentleman on this floor will be willing to allow them to share in a fund that was given us as an indemnity to our fellow-citizens, and was not contended for to enrich those who have already grown rich enough out of their exactions upon shippers and ship-owners by their excessive war premiums.

"But," says some one, "let us send it to the courts. The courts are the only appropriate tribunals." My friend from Pennsylvania [Mr. STENGER] made one of the most plausible appeals to this House to let this whole question go to the courts. He said we were not a proper body to distribute this money. Let us look at the majority bill, under which we are asked to refer these questions to the court. Let us see how peculiarly it is worded. It reads as follows:

> That all persons and corporations claiming to be entitled—

may go into court; these insurance companies may go; private citizens may go; foreigners and foreign insurance companies may go; all persons may go before the Court of Claims, and the court—

> shall render judgment for each claimant who was an actual sufferer by the violation of the laws of neutrality by Great Britain for such an amount as in their opinion he shall be justly entitled to recover under *such treaty and award* according to the principles of justice, equity, and the law of nations, without regard to any rule—

That is one thing—

> or principle—

That is another thing—

> of allowance, exclusion, inclusion, or distribution heretofore adopted by Congress in chapter 459 of the laws of the Forty-third Congress, or otherwise, or by the tribunal created by said law.

I cannot understand why the majority of the committee in framing this bill were anxious to overturn the rules or principles of distribution prescribed in a statute which *has long since expired* and ceased to be a law. But I am much more surprised at the proposition to exclude any "rule or principle" adopted by the court of five judges who have heretofore distributed this money by judicial decision. I cannot understand why it was necessary to repeal or annul a dead law, or to exclude the general propositions of law that might have been decided by a court once established for the distribution of this very fund.

I say that that bill is not a fair bill. It is not impartial. It assumes the very question at issue. It does not give an equal chance to all persons. On the contrary, I say that those who paid large war premiums and those who suffered losses by the exculpated cruisers, whose claims I shall hereafter consider, will not have the remotest chance. Only the insurance companies, if anybody, would have any standing; and they would get it only by the peculiar language and effect of the bill itself. I do not say they could prosecute successfully. But I will say this much, that only they could make the pretense of a showing.

We received this money to distribute as a nation. The majority *assumes* that we received it for individuals. My friend from New York [Mr. POTTER] substantially admitted away the whole case of the majority in his very able and ingenious argument, when he said that we are only under "a moral obligation" to distribute this fund. If the insurance companies have any right to this fund we are under a legal obligation to let them have it. It is our duty as a legislature just as much as it would be the duty of a court to give it to them if their claim is founded upon a legal or equitable right. But if only moral obligations are involved, we are bound by the general principles of justice, and should not snatch the money of sufferers to bestow it upon those who have become rich, in part, at their expense.

But this majority bill says, "You gentlemen who claim this fund may go into a court." What court? A court of the narrowest jurisdiction; the Court of Claims without equity powers; which would and could only act upon the narrow rules of law settling strict right among men. And then the bill says to the Court of Claims, "You are instructed to give this fund to those who can show that they are entitled to it under the treaty *and the award*." Why, sir, the bill assumes the very question in controversy which we are now discussing, that somebody has a right under the award. By the bill the Government abandons its right to distribute this money according to our notions of justice and equity, and it says to the court below, because that court is bound by the express or implied instructions of the law which we may pass, "We do not claim this money as belonging to the Government, as belonging to the Treasury; nor do we desire to distribute it under our sovereign power. We admit that it belongs to individuals; that it was awarded to individuals; and you will please find out who *under the award* has the best right to it." This is almost an express instruction to pay *only those* whose claims can be shown to have been included in the award. And under such a law only the insurance companies, as the controversy now stands, would have the ghost of a chance.

As I said in the opening of my argument, a proposition to refer to a court appeals strongly to the sympathy of all lawyers. It appeals more strongly to the uninformed or occupied legislator. If anybody had a legal or equitable right, as we understand the term, I would not only be in favor of letting him go to the courts, but would be glad to be rid of the wearisome investigation and debate we have had. But the preliminary question for this House to decide is whether there is a legal or equitable right in any one, because the court cannot enforce moral obligations. The court can only act upon titles. And what would be the condition of this controversy and of the needy claimants, if after three years of litigation under the majority bill the Supreme Court should finally decide that under that bill *nobody* had any rights which a court could enforce? We should then be where we are now.

That I am right in the proposition that a reference to the courts would narrow the rules of decision, allow me to make a suggestion. Suppose the House should refer this matter to the Court of Claims, "with as full power to distribute this fund as Congress may have."

Does not every gentleman see at once that, although that court is bound by rules of law, yet if it had conferred upon it, and could receive, such power, then the chances of all claimants would be equal; and the controversy would be transferred from this unwieldy body to a smaller number of persons learned in the law. Such a reference would not be so objectionable as the present bill, although the dangers of appointing a court, or clothing one already appointed, with such extraordinary powers would be unusual and might be dangerous. The appearance of the majority bill is that it confers such power, but in reality it does not. For the instruction to the Court of Claims to decide according to "justice, equity, and the law of nations" is the unmeaning language of precedent, and does not abridge or enlarge the jurisdiction or power of that court. It would look only for titles, and discover them under the ordinary rules. I do not think that my friend from Pennsylvania [Mr. STENGER] was in earnest when he said that if we send this case to the Court of Claims to be decided according to equity, that court will act upon the definition of equity given by Grotius. Equity has a different meaning in the jurisprudence of the United States and of Great Britain. It has a well-defined and much narrower meaning in these days. But the gentleman from Pennsylvania in the very same breath in which he said he was for referring this question to the courts because they were better able to investigate and determine it and because they could administer broad equity as well as we, said he was opposed to the amendment of the gentleman from Maine, [Mr. FRYE.]

The question involved in that amendment is whether an insurance company should be considered an actual loser unless the sum of its losses by war risks exceeded the sum of its war premiums received. Is that a legal question? Is that a question for a court of equity? Is that a question upon which a court of law or equity can give a decision more in consonance with the principles of justice and equity than can this body? I would like to see some attorney pleading in the Court of Claims against these insurance companies, if an amendment of this kind defining their rights is not adopted. An insurance company comes in for a loss upon the ship Brilliant, for example. The company says, "We insured her for $100,000 and we received a premium of $10,000; hence we are actual losers and our net loss is $90,000." Under the majority bill the case would end here, and the insurers of this vessel would come out of court with $90,000. Under what rule of law or equity, or what provision of this majority bill, would the court have the right to say to the insurance company, "Don't be so fast; bring in your books; let us see the amount of the war premiums you received in cases where you suffered no loss; and we will offset them against your losses and see whether you are an actual sufferer." Such a proposition would be scouted. Yet my friend from Pennsylvania, who claims that this is a fair bill, that it gives the insurance companies only an equal chance with other people, thinks that we are not equal to the settlement of such a question as this, and wants to prevent its determination in the *only* tribunal that has the power to settle it—that is Congress. We are the only body that can compel an insurance company to make an exhibit of its whole war-premium business and require the deduction of all the war premiums from the losses alleged to have been suffered, to ascertain the net loss.

Is that a complicated question of law or equity? Is it not a political or public question? Are we unequal to its decision? Ought we to give up our opportunity to settle it when we have the power and the right to do so?

Most certainly not; and we should vote for the amendment. The business in which these companies were engaged involved only the receipt and disbursement of money—the receipt of premiums and the payment of losses. When the cruisers began their damage the business of assuming war risks began. It involved no additional expense to the companies; no new buildings, clerks, or offices; not even new paper, pens, or ink; but everything proceeded as usual. They charged heavy extra premiums. In doing so they made enormous profits. These profits were made in the war-risk business, and it is only of such profits that the amendment of Mr. FRYE demands an account. These profits were made only out of war premiums. Their business was not complicated by the circumstances surrounding a merchant. They did not deal in cloths, sugars, teas, coffees, hardware, or merchandise. They had no general business, outside of the receipt of money as premiums, in which to lose or gain, so as to complicate the solution of the question as to what their losses or gains were due. And when they present themselves here as actual losers by the presence of confederate cruisers upon the high seas we are compelled to say to them, "Let us inspect your books. It is a simple question. If you paid out more money in war losses than you received in war premiums in all your war risk business, you are truly a loser and may share in this fund. But if you charged such enormous premiums as to lose nothing, but actually to largely increase your profits, you became *gainers* by the conduct of Great Britain, and we cannot recognize your claim to share in an indemnity fund under the false pretense of being 'actual losers.'" The substitute contains Mr. FRYE's amendment.

Now, Mr. Speaker, the next strong argument that is made by gentlemen on the other side, and insisted upon in the report of the majority with great vigor and ability, is the argument drawn from previous precedents. They affirm that all the precedents are in favor of the bill of the majority, and they refer us to the treaties with England, Denmark, China, the Two Sicilies, Peru, France, Brazil, and Spain, in all of which a gross sum was awarded to the United States Government for the satisfaction of private claims. And they say, and say truly, that in all, the division was remitted to a court or commission in language similar to that used in this bill. I have carefully examined all these treaties.

In each case the reclamation was made for injuries done to our citizens while we were at peace. In each treaty the claims were preferred as the private claims of individuals. And in no single case does it appear that any controversy arose as to the classes of persons who should share in the money. The questions were chiefly questions of fact, such as we refer to the court in the minority substitute. Under such circumstances, our citizens having, as I have already argued at length in the opening, a *legal right* to compensation, it was proper to send all the parties to a court to determine the extent and value of that right. Their property had been *illegally* captured or destroyed. The payment of the money is stipulated in each treaty to be on their account. And in no case that I have found do the peculiar questions arise that surround this controversy.

But these precedents are only analogous. They are wanting in the chief element that gives rise to the discussion. In the Geneva fund we have seen that no one has a right, legal or equitable. It was recovered by the nation on the national title and not for individuals on their private title. It was paid to the nation without committal, and its distribution is an act of justice in general and not the mere recognition of existing legal titles.

I was very much interested in the able and plausible argument of the gentleman from Mississippi [Mr. MANNING] who rested his approval of the majority bill almost entirely upon its accord with the precedents. But he had not given the case that thorough examination which it needs, and he must permit me to say that he fell into a very serious and contradictory position. I desire to call attention to the gentleman's exact language:

> Precedents, when exactly in point with the case under consideration, are usually held to have a binding authority, as well to keep the scales of justice even and steady as because the question to be decided has been solemnly considered and determined. And it is therefore a time-honored maxim that when a point has been settled by decision it forms a precedent which it is not wise to depart from, unless, in the language of Mr. Blackstone, "it is manifestly absurd and unjust." It is to be hoped that no step will be taken by the Congress of the United States to lessen the value of that great doctrine of *stare decisis* which has been so cordially approbated and observed through many generations by the good and wise men of the world.

This is very well and very ably stated. How far the doctrine may be applied to a legislative body is uncertain. We know that it is rarely applied to political questions; that it does not apply to many other questions of a public character; but I will admit its full, persuasive force in all matters which concern merely personal or private rights. I want the House, however, to observe in the first place that the cases are not even analogous, as I have already shown, and I am sure that the honorable gentleman will himself admit that there is another rule of action higher and better than the one he states, and that is the rule that a decision made by a previous Congress in the *identical case*, if precedents are worth anything, is worth all the merely analogous decisions of a hundred other cases put together. If the gentleman from Mississippi wants this House to stand by the precedents, to adhere to the doctrine of *stare decisis*, upon the presumption that the question has been solemnly considered and decided, I am with him, heart and soul, in this case. But why does he advocate a bill which repeals every rule and principle settled by a prior solemn law of Congress under which one-half of this money has already been distributed. Why does he ask us to vote for a bill that repeals not only the principles of that law, but the solemn decisions of a court of justice rendered under it? If he had given this part of the subject more careful attention he could not have failed to discover that the minority bill is based on his idea. We have already given a public character by law to this fund. Our courts have already decided certain questions under that law, and upon the general right. We have already, as a Government, adopted certain rules for the distribution of this fund, and to adopt the bill which the gentleman advocates is to go back upon all that Congress and the courts have done in this particular matter; putting the Government of the United States in the extraordinary position of deciding in 1874 all the questions involved in this controversy in one way, and reversing its action in every particular in four years after, because a powerful lobby may have confused the judgment of some of us by the multitude of its pamphlets.

The SPEAKER *pro tempore*, (Mr. PRIDEMORE in the chair.) The gentleman's time has expired.

Mr. KNOTT. I ask by unanimous consent that my friend may have his time extended sufficiently to enable him to complete his argument.

The SPEAKER *pro tempore*. That will give the gentleman another hour if he desires to occupy it. Is there objection?

There was no objection, and it was ordered accordingly.

Mr. McMAHON. Mr. Speaker, I am obliged to the House for its indulgence. The question will not admit of more brevity.

To show to the House that I am right in saying that all these questions have been once adjudicated by the House, in the language of the gentleman from Mississippi, I need only refer to the previous history of legislation. The insurance lobby was here just as powerful in 1873 and 1874 as now. It has lost nothing by age. All the arguments now advanced by them were advanced then. The honorable Mr. Evarts appeared before the committee. Able men considered these questions in both Houses, and they agreed upon a law, the law of 1874.

In that law they determined, by express provision, that only certain classes of claimants should be admitted. They required losers to deduct the insurance money received. They said to insurance companies, you may participate, but you must render an account of all premiums received in war risks, as against war losses claimed. The courts were opened. Losers by the Alabama, Florida, and the Shenandoah came in. When their insurance-money was deducted, their net loss amounted to only $9,100,000. A few insurance companies came in and proved themselves actual losers to the extent of $111,000. Thus, after providing for all losers of ships and cargoes by the three inculpated cruisers, (deducting insurance-money received,) and after providing for the payment to insurance companies of all losses they had suffered by war risks taken by them upon vessels destroyed by the said inculpated cruisers, (deducting the war premiums received by them in their business,) *we have settled with all persons supposed to have been included in the award at Geneva*, and we have a large surplus of money on hand. This surplus does not arise from overvaluation by the tribunal, or the practice of sharp Yankee tricks, but by the deduction of the insurance-money received by losers, and the requirement that insurance companies must show net loss, as I have already stated.

All this the bill of the majority would rip up and unsettle; for the concluding paragraph of section 1 contemplates the reopening of adjudicated cases when it says:

But all payments heretofore made on any claim by the United States shall be deducted from the judgment to be rendered thereon.

Having settled by the law of 1874 with all persons supposed to have been included at Geneva, the question now recurs, What shall we do with the balance? It amounts to nearly $10,000,000.

One person says, "Keep it in the Treasury." Another speaks for internal-improvement schemes; a third proposes a division among retiring members of Congress. [Laughter.] Many such plausible schemes are advocated, and have been considered.

The proposition to turn the money into the Treasury would have been more weighty if we had not already paid large sums to persons who were not more meritorious than some who are yet unpaid. Having commenced to treat this fund as an indemnity for losers upon the high seas, I think we should continue in the same line. And, after careful consideration, the minority have come to a conclusion which has heretofore always met the approbation of the members of this branch of the National Legislature whenever the question was presented to it. In the Forty-third and Forty-fourth Congresses bills have readily passed by large majorities in this House for the relief of war-premium payers and losers by the exculpated cruisers.

Some person exclaims immediately, "War-premium payments were excluded, as indirect losses, by the interlocutory judgment of the tribunal at Geneva in June, 1872;" and another says that, upon trial by the tribunal, "Great Britain was not found guilty as to the losses suffered by the exculpated cruisers." "Will you," exclaim both, "pay people whose claims were not recognized?" And our familiarity with mere legal proceedings prevents a proper consideration of these questions in a broad and statesman-like manner.

My answer to all this is found in the argument made in the opening. We preferred this claim as a nation, prosecuted it as a nation, recovered it as a nation, and now hold the money as a nation. Our purpose in all this, acceded to by Great Britain, was to hold the power of distribution in our hands without committal. To facilitate this the arbitrators carefully concealed the method by which they arrived at the sum total, and they awarded a sum in gross. For a long time before the treaty was made our Government endeavored to procure the consent of Great Britain to agree to fix upon a gross sum in the treaty itself to be paid to us. Failing in that, the provision was made for a gross sum at the discretion of the tribunal, upon finding Great Britain guilty of neglect in any one particular.

I can readily understand why claims for enhanced rates of insurance were excluded by the tribunal. The payment of war risks did not necessarily involve the loss of any national wealth. It was the transfer of money from the pocket of John Smith, merchant, or John Jones, ship-owner, into the coffers of some American insurance company. This might be serious loss to Smith or Jones, but it was equal gain to the insurance company, and therefore no net loss to the nation, as no property was destroyed, but only transferred from one citizen to another. But is Smith or Jones any the less a loser? It is true their loss could not be recovered upon at Geneva. But when the nation has recovered a gross sum in its own name and upon its own title, what rule of international law, or natural law, or justice, or constitutional right, will prevent it from recognizing the losses of Smith and Jones, instead of paying the money to the insurance companies, whose exorbitant rates of insurance drove more vessels from under the American flag than the confederate cruisers destroyed?

So with the case of losers by exculpated cruisers. These men were not at Geneva. They had no control of the litigation whatever. Their counsel and witnesses were not there. As to quite a number of the confederate cruisers the Government of the United States *offered no testimony whatever*, as an inspection of the award itself will show; and such was the testimony of General Cushing before the subcommittee having this matter in charge. How is it possible for a fair-minded legislator to say that such a person has had a day in court and failed? The Government of the United States was not even prosecuting his case as his agent or attorney. It was prosecuting, as we have seen, upon its own title, expecting to do ample justice at home with the money which it might receive. And that nobody's rights were prejudged at Geneva or destroyed by the action of the tribunal is frankly admitted by the candid gentleman from New York, [Mr. POTTER,] who said in his argument on this floor a few weeks ago:

The mode of distribution has not been preadjudicated. We are here to-day to say what the mode ought to be.

I agree with him entirely upon this proposition, and we part company upon only the narrowest basis. He would not permit the amendment of Mr. FRYE. I would. He believes there are *rights*. I do not. If I did, he and I would agree entirely.

Mr. HOUSE. May I ask the gentleman a question?

Mr. McMAHON. Yes, sir.

Mr. HOUSE. Have any of the claimants whose claims were excluded from consideration at Geneva been paid?

Mr. McMAHON. No, sir. But some not presented have been paid, and some presented have been rejected.

Mr. HOUSE. Were any of their claims presented?

Mr. McMAHON. Yes, sir; several were presented, so as to make a test case, both as to war premiums and exculpated-cruiser losses; and the court decided it had *no jurisdiction*, because the law of Congress directed the court what it should consider, and it could not look further than the law. Section 11 of the law of 1874 expressly confined the power of the court to consider claims arising from damage caused by the cruisers Alabama, Florida, and the Shenandoah after leaving Melbourne.

Is it not a hardship that losers by the exculpated cruisers are not paid? Take the instance of Mr. Metcalf, from the State of Ohio. His ship was destroyed by the Shenandoah just before going into Melbourne. He receives no pay, but the ship destroyed just after the Shenandoah steamed out from that port has been fully settled for.

My proposition is, and it is the fundamental principle of the minority substitute, that all actual net losses should be paid to all persons who suffered actual damage by the presence of confederate cruisers upon the high seas. I have fully considered the objection made to such payment upon the ground of their rejection at Geneva. I do not think it valid.

I will next consider the proposition: Were they actual losers?

There can be no doubt that a man whose ship or cargo was *destroyed* by an exculpated cruiser was an actual loser to the extent of the value of his ship or cargo, less the insurance money, if any, which he may have received. This needs no further argument.

The question is more difficult as to war-premium payers. It has been argued that they were not actual losers; that the extra war risks were charged up in the price of goods or freight, and that in this way their losses were reimbursed out of the public in general. This statement is vigorously denied by persons holding such claims; and their statements would seem to be in accord with the nature and situation of American shipping during the war.

I think it is fair to say that we did not own one-eighth of the shipping of the world during the time we speak of. And it is equally fair to say that from 60 to 70 per cent. of the war-premium claims preferred are put forward by owners of ships. I cannot understand how, either in our own or in foreign ports, except in the coastwise trade, one-eighth of the shipping could dictate prices to the remaining seven-eighths, whose competition with each other would settle freight without reference to American bottoms. One would suppose that American shipping would be avoided; that it would find only casual employment under the American flag; and that its losses from demurrage and loss of freight would far exceed the war premiums it would have to pay. To repay such ship-owners their war premiums, which was the penalty for floating the American flag, would be repayment of only a small portion of their losses. If they obtained cargoes, they would be compelled to reduce their freights to leave the merchant a margin for the payment of his war premiums; or he might stipulate that the ship should pay such premium, which would amount to almost the same thing. It is well known that in the Eastern trade our merchants do business upon credits, and that the bankers who furnish these require insurance to accompany the bill of lading. What became of such merchants as were engaged in the valuable and costly trade of that section of the world, or of ship-owners who wished to carry silks, teas, and such valuable cargoes?

But we are not left to mere inference upon these questions, conclusive though it may be. I hold in my hand various documents which will throw some light upon this subject. I read to the House from an *original* price-current list issued in Bombay in December, 1863, by Dossabhoy, Merwanjee & Co. Under the head of "Freights," it says:

Freights to England have been generally active during the period under review, but vessels under the American flag have found great difficulty in obtaining employment except for the country trade; several have been sold and changed their flag. The prejudice against this flag will, we are afraid, be considerably enhanced from the fact of the "Alabama" being in Indian waters. About a month ago she was spoken by a British vessel not far from Point de Galle, and it was expected she would visit this place, but it seems she has changed her course, having gone into China waters.

I hold in my hand another original document, the price-current list of Shanghai of January 25, 1864, issued by Augustin Heard & Co. It says:

The Henry Harbeck and the Algonquin (both American) have been sold for less than £6,000 each, but there has been no inquiry for vessels of this nationality since

the news was received of the destruction of the Martaban, under English colors, (formerly the Texan Star, of Boston,) by the Alabama; that act has much impaired the confidence formerly placed in the validity of transfers made of American vessels to neutral flags.

I hold another list issued by Augustin Heard & Co., at Hong Kong, October 31, 1863, in which it says under the same heading:

Freights: There is a decided improvement in the demand for tonnage, the inquiry being restricted, however, to vessels under the English and continental flags to the *total exclusion of American bottoms*, as the Chinese are unwilling to ship by the latter and some of the local officers decline taking any risk of them.

From one of these documents we discover that twenty-one American vessels are then lying idle in port. At another date in another port fifteen American vessels are idle in port.

I might quote many similar documents, and I have in my possession many original letters written during that period confirming all that these documents tell us. Do they not tell a sad tale for the American ship-owner? And the person who suffered is the man whose love for his flag and his ship would not permit him to transfer it to another nationality or to part with it altogether. Do not the claims of such men appeal most peculiarly to our sense of justice?

But I have several other documents which I desire to lay before the House in this connection.

I hold in my hand several copies of charter parties entered into between the agent of the Peruvian government and the firm of Sturges, Buchanan & Co., part owners of American ships. After the usual stipulations for receipt and delivery of cargoes, &c., we find the following clause:

The ship is to furnish a policy of insurance as agreed before commencing to load, covering the cargo against war risk at the rate of $60 per ton in gold, *premium paid by ship*

Thus the American ship-owner paid a war premium not only upon his vessel, but upon the cargo which did not belong to him. These were the penalties he paid for his preference for the flag of his nation or his love for his ship. Should any technical arguments stand in the way of his reimbursement? And who are his antagonists? The very men to whom these premiums were paid.

I say that a denial of his claim to compensation is not founded in justice. He has no technical rights, I admit; but he has powerful equities. And when a gentleman says on this floor that rather than give it to one of the war-premium men or ship-owners he would give it back to Great Britain, and that we would be dishonored if we did not do so, I say his sense of honor is entirely too nice and too fine, and would be met with a guffaw on the other side of the Atlantic instead of being regarded as a wise and statesman-like measure. Since the award in the fishery question, England is more than satisfied. The money paid is not a tithe of the injury both sections suffered by the hostile attitude of Great Britain—the North by the destruction of its property and the prolongation of the war, and the South by the delusive hope held out of recognition which led her into the prolonged struggle for separate existence long after her capacity to accomplish it alone was exhausted. But if we received small pecuniary compensation we were well rewarded in the principles settled for future use. If we had succeeded in holding Great Britain responsible for the increased cost of the war, for the enhanced rates of insurance, and the transfer of our marine to other flags, all of which claims were ruled out as indirect, the next war in which England was engaged might have seen the seas covered with American Alabamas, whose ravages would drive the English merchantmen from the ocean, and whose enormous bills against this Government would equal the present public debt. The trial at Geneva was singular in this respect. Each party was seeking to narrow the liability of the defendant, and to insure as narrow a basis of computation as possible.

Mr. ELAM. Will the gentleman allow me to ask him a question?

Mr. McMAHON. Certainly.

Mr. ELAM. Do you propose to pay losses that resulted from the action of exculpated cruisers?

Mr. McMAHON. Yes, and upon this basis: that the award at Geneva was not an award in favor of any class of claimants as against another; that all that was settled there was how much was to be paid by Great Britain, and the money paid was paid in satisfaction of all "claims *referred by the treaty*."

I will refer the gentleman to article 7 of the treaty which provides that "in case the tribunal finds that Great Britain has failed to fulfill any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it."

Mr. ELAM. Allow me to ask the gentleman another question.

Mr. McMAHON. Before I leave this point will the gentleman allow me to conclude what I was stating? The language is: "For all the claims *referred to it*, and in such case it shall be so paid." Gentlemen might argue that this sentence is a settlement clause; that Great Britain when she paid the money wanted to be understood as paying it in settlement of all the claims in controversy, and therefore she wanted a clause in the treaty that the payment was in full and final settlement of all such claims. Undoubtedly.

But we find that in a separate article of the treaty, article 11, which is the settlement clause for the Alabama claims alone, it is provided that—

When a sum in gross is so paid the high contracting parties agree to consider the result of the tribunal as a full, perfect, and final settlement of all the claims herein referred to, and further engage that such claims, whether the same may have or may not have been presented to the tribunal at Geneva, are settled.

It is plain that under the treaty it was intended that when a sum in gross was awarded it was awarded in *payment* of all the claims *referred to* the tribunal, and not of any special claims. For it is only when a board of assessors should meet that the validity of any claim could come in question.

Mr. ELAM. Suppose the arbitrators had decided that Great Britain was not responsible for the action of any of these confederate cruisers; would Great Britain have paid any money at all?

Mr. McMAHON. I think she would not; she would not for this reason——

Mr. ELAM. Answer the question, please. In that case would the arbitrators have held Great Britain liable for the payment of any sum of money?

Mr. McMAHON. Certainly not, for the Government of the United States would have lost its whole case.

Mr. ELAM. Then has not the Government of the United States lost the case in regard to all the cruisers except the inculpated cruisers?

Mr. McMAHON. Yes; but it was only the Government which lost this part of its case; the claimants have not lost their case, or any part of it. The claimants were not at Geneva in person or by proxy. I never yet heard of a man being estopped by a proceeding in any court when he never had a day, or a pleading, or a lawyer, or a witness in court. I think we never ought to apply the doctrine of estoppel in these claims, when the claimants had no possible control over the proceedings.

Now my fundamental proposition is that we ought to distribute this fund upon as broad a basis as that on which we made the original claim for settlement. What was our claim against Great Britain? I cannot take up time in elaborate argument, but will state it briefly. Our case was that the precipitate act of Great Britain in recognizing the confederacy was the beginning and the end of all the trouble to which our ships and cargoes were subjected. From the very beginning Secretary Seward and Minister Adams made claim upon Great Britain in about these words: that Great Britain not only gave birth to the naval power of the confederate government, but nourished, maintained, and equipped it throughout the entire war; and we could not but hold Great Britain responsible for *every particle* of the damage that resulted. This ground we held from the recognition referred to until 1869. Then we changed our position. For a long time we insisted that when this case was to be referred to arbitration the question of the premature recognition should be submitted to the arbitrators. But Great Britain said that was a question she never would agree to submit. Finally, in the interest of peace, (and the correspondence shows it,) our minister, Mr. Motley, was instructed by Mr. Secretary Fish that in all future negotiations upon the Alabama claims, the submission to arbitration of the premature recognition of the Confederate States should not be insisted on, and he should simply proceed upon the second point, which was the conduct of Great Britain in permitting vessels of war to escape, or equip, or refit in her ports.

But when we waived that first point we did not do so because we were wrong. We did not so admit. And I appeal to any man on either side whether our position was not a correct one. We had a treaty of peace with Great Britain. Our war was not in the beginning a war between two separate contending nations. It was one part of the United States trying to fly off from the General Government. It presented itself in the shape of an intestine commotion, and we had a right to demand that Great Britain should hold off and not recognize the southern people as belligerents until they had manifested a power upon the high seas and had shown themselves capable of maintaining themselves. But the recognition of belligerency by Great Britain took place precipitately on the very day that our new minister, Mr. Adams, arrived in London. That recognition was promulgated before a battle had been fought, before a vessel of the confederacy was upon the high seas. It was entirely true that the aid and comfort exhibited by the English government in unfriendliness to our Government gave birth to the naval power of the confederate government. And whatever claim we had was the right that one government has to charge another with all the consequences of her unfriendly or hostile conduct. This we did; and our original just claim covered *all the damage* by confederate cruisers.

Let us, then, pay out this money to all actual losers to whom we would have paid it if Great Britain had agreed to pay us a sum in gross without the intervention of a tribunal of arbitration.

Mr. BRIDGES. I understood the gentleman to say that those who suffered losses by exculpated cruisers are entitled to this money.

Mr. McMAHON. Yes, sir; that is, to a portion of it, not to all. I do not say entitled as a matter of right; but as persons equally deserving with those who have been paid.

Mr. BRIDGES. Upon what principle are they entitled to this money in contradistinction to every other citizen of the United States? If they thought proper to risk their property upon the high seas, with the hope of gain, and with the possibility of loss, is it not their fault and not the fault of the people of the United States?

Mr. McMAHON. Well, you might say the same to the sailors who enlisted in the marine service in the hope of prize-money, and had their arm or leg shot off; that they took the risk and the Government ought not to give them a pension. The commerce of the country (and this was the able argument made by the gentleman from Pennsylvania, Mr. Jenckes, in the last House) stands upon a different footing

from its internal relations. Commerce ought to be fostered; the men who navigate ships ought to be preferred if they stand in the line of preferment. If the men who preferred to let the American flag fly over their vessels, instead of taking it down, suffered loss thereby, they ought to be preferred—certainly by a gentleman from Pennsylvania. A large portion of our people did consult the instincts of gain and made a formal transfer of their ships to the British or other flags. There their ships are. Do we not suffer to-day from the contracted amount of American shipping? Are we not all anxious to have our shipping extended?

Mr. BRIDGES. We suffer as a nation from contracted commerce.

Mr. McMAHON. But the individuals who kept their ships under the American flag, and thereby incurred and paid extra risks, suffered just that much in addition, for they bore all the other burdens as well as you and I. These premiums were their extra loss.

And now, in conclusion, I desire to refer to an argument of which the most seems to have been made on the other side, considering its unimportance. A great deal is made of it in the report of the committee. It is said it will not do to establish a new court, and thereupon the ideas used in a former report by my friend, the distinguished gentleman from Massachusetts, [Mr. BUTLER,] are quoted as a solemn warning: "You will have too many judges; you will have a perpetual court; there will be a lobby about it; there will be this and that, and many other extraordinary things." The answer I have to make is this: The warnings of that gentleman were disregarded. The special court was instituted by the Congress to which he gave them. The special court tried cases; it gave general satisfaction; it did not prove perpetual; it disposed, in a reasonable time, of its business, and expired.

All the evils apprehended failed to occur. And we find at the present time the gentleman from Massachusetts agreeing to a report to establish another special court. Experience has taught him that he was wrong. And he is one of those wise men who know when they have made a mistake and do not hesitate to acknowledge it.

Gentlemen who assail the minority substitute upon this ground would do well to follow his example. There are no dangers in the establishment of such a court, and many advantages will come from it. In the first place the public business will not be delayed in the Court of Claims and the Supreme Court. In the next place, all the expense of litigation will be paid, under the substitute, out of the fund, and not out of the public Treasury, as provided in the majority bill. And having settled the principles of distribution by law, there will be no danger of the influence of the lobby. The court will deal with questions of fact chiefly; and certainly will, if properly selected, be as honest, as capable, and as satisfactory as the court to which the majority incline so decidedly.

Mr. Speaker, I am under very great obligations to the gentlemen of the House for the courtesy they have extended to me in this matter. I only wish to say in conclusion that the extended argument that I have made has not been made in the interest of any client in the shape or disguise of a constituent. I have none interested either way. The only person known to me to be interested in my State is the gentleman to whom I referred awhile ago, who lives hundreds of miles from me, and whom I never knew until I came here; and of him I will say that although a citizen of Ohio he is one of recent date; but Ohio has no need to be ashamed to own him, for he has shown unusual vigor and ability in the pursuit and argument of his interests. The committee has derived much information from his research. But beyond the obligation thus far conferred no other exists.

I have spoken on this question with some earnestness, only because of my convictions of right and of duty. As chairman of the subcommittee of the Judiciary Committee, to whom this question was referred, it became my duty to give the subject the fullest investigation. I have done that conscientiously for nearly a whole year. I have given the House the result of my labors. If it will enable it to come to an intelligent conclusion, my whole duty will have been performed and my work ended. It has been an interesting and fascinating study; but I cannot help but admit that I am glad it is now done.

Before taking my seat I wish to say in justice to the gentlemen of the committee and to myself, but above all, to the memory of the gentleman whose remains but recently left this Hall to go to his late home in Savannah, followed by the sincere regret of us all, that there are several expressions in the minority report for which I am solely accountable, but for which other gentlemen have been held responsible on this floor, and for the inadvertent use of which I am sorry. They are expressions which, when my attention was called to them, I saw at once were capable of being construed as a reflection upon the sincerity of members of the majority of the committee in advocating a bill to send these claims to a court as an impartial bill.

I want to say here, and I say it of my own accord, as gentlemen of the committee know, and I say it in justice to them and to myself, that whatever gentlemen may have construed into any reflection upon them was written not only in the heat of discussion, but in the hasty preparation of a long and elaborate report which had to be prepared for the printer within three or four days. The nature of the criticism was not apparent to me until my attention was called to it by the gentleman from Georgia to whom I have referred. I desire to say, (as I then said to my friend,) that I did not then intend, nor do I now, to reflect upon the honesty or sincerity of the opinion of any member of the committee. Too many good lawyers have differed upon this question to justify the suspicion of any view he may hold. And where so many able jurists and distinguished statesmen have ranged themselves on either side, I feel more like distrusting my own judgment than calling in question the opinion of others.

Mr. KNOTT. I demand the previous question on the bill and amendments.

The SPEAKER. Lest the gentleman from Kentucky should proceed under a misunderstanding the Chair deems it proper to say that after the previous question is ordered he will not be entitled to speak for more than an hour.

Mr. HALE. I suggest that unanimous consent be now given that the gentleman from Kentucky shall have as much time as he chooses to occupy.

Mr. GARFIELD. The main question might be ordered now, and thereafter such time might be allowed to the gentleman from Kentucky as he desires.

The SPEAKER. The request is made that the gentleman from Kentucky shall have the time necessary beyond the hour to say what he may desire on the subject.

There was no objection.

Mr. KNOTT. I desire before the vote is taken on the demand for the previous question to prefer a request on behalf of my distinguished colleague on the committee, the gentleman from Massachusetts, [Mr. BUTLER,] who was not here in time to avail himself of his hour and who now desires ten or fifteen minutes.

The SPEAKER. To come out of the time of the gentleman from Kentucky?

Mr. KNOTT. The gentleman does not desire to conflict with my time. I ask unanimous consent that my colleague may have fifteen minutes.

There was no objection.

The previous question was seconded and the main question ordered.

Mr. HALE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BUTLER. Mr. Speaker, having examined this question in the course of public duty very fully and made two reports upon it as chairman of the committee of which I have the honor now to be a member, I have deemed it my duty to ask a few moments in which to state the position of the question, so far as I understand it comes up in the amendments and in the bill.

By the proper exercise of belligerent rights the confederate authorities fitted out certain steamers to annoy the commerce of the other belligerents of the United States. That was legitimate warfare and of that no complaint has been or can well be made. But a neutral nation who were enjoying an accretion of their commercial marine greater than they ever had before because of our state of controversy, wanting to increase that marine aided in that warfare illegitimately and improperly; and for the injury done to the country and for the wrong done that nation did to us what it never did before, made a public humble apology of regret. That satisfied the national honor. They then said, "We will pay to the United States such an amount of pecuniary compensation as will satisfy the wrongs done to the nation." They did not make any private apology, any apology to private citizens, but they made an apology to the nation. They made no provision for the payment of any class of private citizens wronged, but they made a provision for the payment of national losses which fell more or less directly and indirectly upon private citizens. Before this in the Johnson-Clarendon treaty they had made a proposition to pay private citizens for private losses and that had been rejected by the United States Senate as you remember; the nation saying, "No, we will take nothing less than an apology to the national honor and the payment of national claims."

The case went before the tribunal, and that tribunal decided to pay only national losses. The question was whether certain indirect losses, national losses, should be paid, and this question came very nearly wrecking that tribunal, but the good sense of the two countries removed this difficulty, and it was finally agreed that national claims, and they only, should be submitted. While the matter was *in fieri* before the tribunal it was whispered around that one of the counsel of the United States was the retained counsel of the insurance companies. Whether that rumor was right or wrong it is not necessary to consider, but the effect was to bring from the State Department a peremptory order to its counsel and agents not to allow the tribunal at Geneva to make any disposition whatever in regard to several classes of claims which should be paid; if they gave a judgment for a sum in block; but if they took into consideration the particular ships as they might do, then of course they would settle that question as regarded each particular ship that was destroyed or in the case of which loss was incurred. The tribunal came to the conclusion under those instructions to award a sum in block that covered everything.

Now, then, that money, in my judgment, belongs to the United States without any trust, any legal duty or any claim of any class of citizens whatever, to be disposed of precisely as the United States pleases, as a man may do with his own property. But there came a difficulty in the mean time, when we had come together after the close of our late unfortunate war, and it was not thought well by the gentlemen who had before been in the confederacy, then in the House and Senate, that the money should remain in the Treasury of the United States,

because for the reason among others that if it remained there the southern people would be sharing in the indemnity for wrongs which they had committed. Those high-spirited and honorable gentlemen chose not to be placed in that position. They had committed the wrong; we had not called on them for redress; we had got redress from another source and therefore it was said in the course of the discussion why we did not want any part of it. It was a part of the losses of the war that fell upon you and we will not call upon you to make those losses good. But if we have the money in the Treasury to make them good from any other source that money we do not want.

Now there are three propositions to be taken into consideration: one is to put this money into the Treasury. I do not believe there is a southern gentleman on this floor who would vote for that proposition after having inflicted that wrong rightly, so far as that war can have any element of right, no one of you wants to have any advantage from the money obtained from our neutral friend for losses due to wrongs committed by him, his aid in that wrong. Therefore the proposition to put the money into the Treasury never has commanded, so far as I know, any considerable vote from the gentlemen who represent upon this floor the confederacy part of our Union.

The other proposition is to give it to somebody. All of us, including the learned gentleman who is to close this debate, agree that it is to be given by the United States to somebody. To whom shall it be given as an indemnity? Nobody has any legal right to it. We have a right to do anything we please, to make Mississippi levees or northern railroads, to give subsidies to lines of ships, if we choose, as we will.

But what ought to be done with it is to indemnify somebody who has lost.

Now, the next proposition is to give it to the insurance companies or to give them some rights to get into the courts with their claims or set up what they seek as claims of subrogation, but when they have no legal right to it, because the premiums or matter of insurance of the property had nothing to do with it.

Now they do not claim any right to it because premiums are the mother of insurance. The property has nothing to do with insurance. Now, these gentlemen of the insurance companies have received nearly nine million dollars' worth of premiums during the war, and they have paid out only about $5,500,000 of losses; therefore they have lost nothing. That is the condition of things precisely. Not only that, but in a bill which I had the honor to draw, and which passed the House and the Senate and became a law, a provision was made that if in pursuance of any insurance in any business, upon reckoning up that business, it was found that any individual company upon profit and loss account in its business had sustained a loss, it should be paid; and all the insurance companies of the United States that can show that they have sustained a loss in the business during the war have gone before the tribunal before constituted and received their pay.

Now, who is there here that thinks there is any equitable claim on the part of the insurance companies? Clearly, none. Now, have they any legal claim? Their legal claim states itself in this way: they say when we insure the law of insurance is that when we pay the loss on a ship, so long as there is a plank in that ship above water just so long we own that plank as our property, and we are subrogated, having paid the loss, to all the rights of the ship's owner in that property. True, very true; there can be no truer principle in the law of insurance than that.

But how is it when there is not a plank above water? Have you any legal title to anything then? How is it when there was no claim existing on earth that any private individual could prosecute against any foreign nation? I suppose no man will dispute this proposition of public law: that no private citizen can maintain a claim against a foreign government as a matter of right for anything done by that foreign government. He must go through his government if he goes at all.

Therefore there is nothing to be subrogated to; there is nothing to which their right, if they have one, can attach. There is nothing whatever upon which they can found a legal claim of right. There has been a decision in England of a case carried to the privy council on a petition of right. If time would permit me I would like to go over that case. But I have stated the effect of it, and my learned friend will agree fully that I have given the whole effect. Therefore they have no legal claim.

It is difficult to see where the equitable claim comes from, for the reasons I have before stated. They made four millions of dollars. Are they to make four millions more?

Now, who are the war-premium men? They are a class of men who paid premiums and who have got no return for those premiums. They were obliged to pay 10 per cent. insurance in order to get their ships across the water in the course of business. So great was this burden that many men sold their ships, nominally or actually, to citizens of Great Britain, to be sailed under the British flag. But there were other men who with true patriotism carried on their business and paid the war premium, and have not received a dollar return in any way from the insurance companies or from anybody else.

These were direct losses to their property, unless the answer is true which is this: all that is true, but the merchant and the ship-owner charged the amount of his war premium paid into the prices of the goods he sold, and therefore he has collected it back from the whole people. That is a fair argument and is to be fairly considered.

Now, what is the fact in regard to that? It could have been done so except for the reason that four-fifths of all the commerce of the United States during the war was carried on in foreign bottoms. Now, which fixed the price of the goods, the four-fifths or the one-fifth? The one-fifth was carried on under war premiums; four-fifths was carried on in foreign bottoms that paid no premiums. It was the four-fifths that fixed the price, and therefore the men who paid war premiums could not charge them back into their goods, and so raise the price of those goods as to obtain indemnity. So much for that.

But it was not a question between the merchant who sold the goods to the people, but it was a question between the American ship-owner, the man who owned the ships and had them in the East Indies, for instance, and was asking for freight. Here was a ship at Hong-Kong, a British ship alongside of an American ship. The British ship had come safe against all war risks, and the man who shipped on her would sell his tea at a profit so far as the war was concerned. If he put his tea on board of an American ship, even if the American ship paid the war premium in order to get the freight, all that he would get back would be the simple cost of the tea; he would lose all his profit. All our ship-owners had to do business with that burden upon them. It was a direct and positive loss of so many millions of dollars. There is about $7,000,000, I think, uncovered by anything like remuneration from the insurance company; seven or eight millions of dollars of absolute loss to the freighter, to the ship-owner, to the ship-master, who had to pay this war premium in order to obtain his freight.

Now they come before Congress and say to us, "Here is this sum of money for you to do with as you see fit. Let us have the opportunity of going before a proper court for its distribution." These men are somewhat indifferent as to whether it shall be the Court of Claims or some other court. But they ask that they may be given that to which they shall show they are justly entitled.

Now, you do not want the money in the Treasury. You will not admit to England that you cheated her out of six or seven millions more at Geneva than you ought to have had. Yet that is what you will do if you do not give this money to somebody; and it should go to the war-premium men.

Now that is the principle of the minority report, which has three times passed this House by an overwhelming vote; twice when this House was republican, and once when it was democratic largely, much more so than it is now. Therefore there is no party consideration in this matter.

Then, there is another class of claimants, and those claimants are claimants for losses by what is called the unInculpated cruisers. That is, under certain new rules of international law which we laid down in the treaty of Washington, and which we said should govern us hereafter, as I think wisely, certain cruisers were to be known as exculpated cruisers. I think we shall find trouble with those rules whenever we become a neutral nation, as between two belligerents. We said we would have certain new rules; we made those new rules. Under those rules, which were narrowing public law, there were certain cruisers which took our property, which could not be held liable by the judgment of the tribunal.

Now, I have no quarrel with the judgment of the tribunal under rules which we made in the treaty. But it left unreimbursed a portion of our property actually destroyed. Having enough money to cover those claims, the minority of the committee say why should not we, whose duty it was to have protected this property on the high seas, pay these men who in good faith prosecuted their voyages and who were captured by the cruisers of the confederacy, as they had a right to capture them under the laws of war? But the men who were captured also had a right to be protected by the power of the United States.

The United States, failing in that power of protection, why should we not remunerate these men from this fund so far as it will go? Let us take this fund out of the Treasury to make compensation for private property taken for public uses (although not directly yet in fact) by reason of the exigencies of war.

This claim, with one other, is the only question growing out of the war that will ever be presented by the North. Being such a claim, the question is whether you of the opposite section will deal with it precisely as you would desire that your claim should be dealt with by us; and if we of this section have done any wrong in that regard, it is now your turn to "heap coals of fire upon our heads."

[Here the hammer fell.]

Mr. KNOTT. I think I can safely affirm, Mr. Speaker, that the position I occupy with regard to the matter under consideration is one of absolute impartiality. I have not a solitary constituent who pretends to have any more claim upon any portion of the sum awarded by the tribunal at Geneva than he has to a diamond mine on the far side of the moon, and I am sure that I have not the slightest scintilla of feeling or prejudice for or against any particular claimant or class of claimants to any portion of that fund. The only solicitude I have in relation to anything in anywise connected with it is, that simple justice may be done, and that such steps may be taken here as will insure the speediest practicable distribution of the remainder of the sum now in the hands of the Government among those to whom it really belongs, no matter who they may be or by what circumstances they may be surrounded.

I am therefore under no temptation to discuss with the zeal of an advocate the merits of any claim upon which it may possibly become my duty to vote as a judge. All that I desire is that gentlemen who have not had an opportunity of investigating the subject as fully and carefully as I have myself may have a distinct understanding of the propositions upon which they are now called upon to vote, and may be sufficiently advised as to the facts which are necessary to be understood in order to vote intelligently thereon. Those facts are very few and simple, sir, and if the House will favor me with its patient attention while I attempt to eliminate them from the mass of irrelevant and superfluous matter which has been brought into this discussion, I will endeavor to requite that distinguished courtesy by such brevity and clearness as I shall be able to command; though to those who had the good fortune to hear or who have read the brief but singularly lucid argument of the gentleman from Indiana [Mr. BICKNELL] it may perhaps seem like a work of supererogation on my part to undertake to do so at all.

I deem it entirely unnecessary, however, that I should enter into anything like a detailed statement of the familiar facts which gave rise to the treaty of Washington, concluded between the United States and Great Britain on the 8th of May, 1871. Nor will I abuse the patience of the House by referring to any transaction of the tribunal of arbitration organized under the provisions of that treaty which does not have an immediate bearing upon the questions under consideration. It is sufficient, perhaps, to state in general terms that according to the stipulations of the treaty it was made the duty of the tribunal thus organized to carefully and impartially examine and decide all questions submitted to it by the two governments respectively, and especially to determine whether Great Britain by any act or omission had failed to fulfill any duty prescribed in three rules which had been agreed upon in the treaty or recognized by the principles of international law not inconsistent therewith; and, if so, to certify that fact and the particular vessel or vessels with respect to which such dereliction had occurred. And in case the tribunal should find that Great Britain had been thus derelict it was authorized, if it should think proper, to award a sum in gross to be paid by Great Britain to the United States, in satisfaction of the damages resulting from such dereliction.

The tribunal contemplated in the treaty having met and organized at the place agreed upon, the United States presented their "case," claiming that Great Britain should be held responsible for the transactions of the Florida, Alabama, Georgia, Nashville, Tallahassee, Tuscaloosa, Chickamauga, Shanandoah, Retribution, and some other vessels perhaps whose names I cannot at this moment recall, and exhibiting a detailed statement of all the claims for losses of vessels and cargoes captured and destroyed by those vessels, which had come to the knowledge of our Government; showing the cruiser which did the injury in each instance, the vessels destroyed, the names of the claimants of such vessels and cargoes, the amount of insurance on each, and all other facts necessary to enable the tribunal to determine the amount of injury committed by each cruiser and who were the sufferers thereby.

In addition to these specific individual claims for direct losses, the United States demanded indemnity for losses occasioned by the presence of the confederate cruisers on the high seas, and resulting from the transfer of a large portion of the American commercial marine to the British flag; the addition of a large sum to the cost of the war, and the payment of enhanced rates of insurance popularly known as "war premiums." This demand, however, was instantly met by such a decided and, I may say, indignant opposition on the part of Great Britain that all prospect of a settlement of the differences between the two governments seemed utterly out of the question if such claims were to be insisted upon. The tribunal therefore announced:

> That after the most careful perusal of all that had been urged on the part of the United States in respect to these claims, they had arrived; individually and collectively, at the conclusion that these claims did not constitute, upon principles of international law applicable to such cases, good foundation for an award of compensation, or computation of damages between nations, and should upon such principles—

That is, principles of international law—

> be wholly excluded from the consideration of the tribunal in making its award, even if there had been no disagreement between the two governments as to the competency of the tribunal to decide thereon.

This conclusion, which I have read in the very language of the arbitrators themselves, on being communicated to the President of the United States met his entire approbation, and he accordingly authorized the announcement to be made to the tribunal that all claims for indemnity on account of the transfer of American commercial marine to the British flag, the addition of a large sum to the cost of the war, and the payment of "war premiums" would be no further insisted upon by the United States, but might be wholly excluded from their consideration by the arbitrators in making their award; and upon this announcement being made the tribunal directed it to be entered as its solemn judgment that such claims should from thenceforth be wholly excluded from its consideration, so they really cut no more figure in the subsequent proceedings or conclusions of the tribunal than if they had never been mentioned, or even thought of.

The truth is, sir, that these claims were not presented with any expectation or desire on the part of the executive department of our Government that a pecuniary award would be made upon any such grounds. They were exhibited simply and solely with the view of eliciting the opinion of the tribunal upon a question of international law of far more importance to the United States as a neutral power than all the gold in the British exchequer. In proof of this I need only refer to the following telegram from Mr. Secretary Fish in reply to Mr. Bancroft Davis, the agent of the United States at Geneva, of date June 22, 1872:

> I have laid your telegram before the President, who directs me to say that he accepts the declaration of the tribunal as its judgment upon a question of public law which he had felt that the interest of both governments required should be decided, and for the determination of which he had felt it important to present the claims referred to for the purpose of taking the opinion of the tribunal. *This is the attainment of an end which this Government had in view in the putting forth of those claims. We had no desire for a pecuniary award, but desired an expression by the tribunal as to the liability of neutrals for claims of that character.* The President, therefore, further accepts the opinion and advice of the counsel as set forth above, and authorizes the announcement to the tribunal that he accepts their declaration as determinative of their judgment upon the important question of public law upon which he felt it his duty to seek the expression of their opinion, and that in accordance with such judgment and opinion, from henceforth, he regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American commercial marine to the British flag, *the enhanced payments of insurance*, and the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion as adjudicated and disposed of; and that, consequently, they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making its award.—*Papers*, vol. 2, p. 579.

It is unnecessary that I should linger upon the details of the proceedings of the tribunal after its unanimous judgment excluding these claims finally and forever from its consideration, nor need I pause here to show that that judgment was of infinitely greater consequence to the United States than ten times the sum subsequently awarded would have been. Suffice it to say, sir, the arbitrators finally determined that the indemnity to which the United States were entitled was limited to losses resulting directly from the destruction of vessels and their cargoes by the Alabama, the Florida, and their tenders, and the Shenandoah after her departure from the port of Melbourne on the 18th of February, 1865; and inasmuch as the reference of the subject of compensation to another tribunal composed of members of different nationalities, as contemplated in article 10 of the treaty, for further discussion and deliberation, might lead to disagreements, difficulties, delays, and unnecessary expenses, if not to ultimate injustice and wrong, and in view of the fact that they had before them the necessary data to enable them to approximate such gross sum as would be a full compensation for the injuries for which they had determined that Great Britain should be held liable, they proceeded, in exercise of the discretion vested in them, to award "the sum of $15,500,000 in gold as the indemnity to be paid by Great Britain to the United States for the satisfaction of all claims referred to the consideration of the tribunal, conformable to the provisions of article 7 of the treaty of Washington."

That I have thus far, Mr. Speaker, presented a candid and impartial statement of the facts material to be understood and borne in mind in this discussion cannot be denied by any one who has made a careful and dispassionate examination of the whole subject, as I have endeavored to do myself; and from that simple recital, sir, it must be obvious that the Georgia, the Nashville, the Retribution, and other confederate cruisers might have swept our entire commercial marine from the face of the seas; every merchant and ship-owner in the land might have been rendered bankrupt by the payment of enhanced rates of insurance, yet had the Florida and the Alabama or their tenders never captured or destroyed a vessel, and had the Shenandoah never entered or never left the port of Melbourne, all the learning and eloquence which have been expended in this debate in behalf of those who paid war premiums or those who suffered directly from the operations of the so-called exculpated cruisers would have been lost forever to this House and to the world, simply because it is absolutely certain that the United States would never have received a solitary cent to be distributed to them or anybody else. On the other hand, it is equally obvious to every unprejudiced mind that the sum awarded was intended simply and solely as a compensation for losses occasioned directly by the operations of the three inculpated cruisers—the Florida, the Alabama, and their tenders, and the Shenandoah after she left Melbourne—and for no others whatever.

That such was the ultimate conclusion of the Forty-third Congress, whatever may be asserted to the contrary, is manifest from the provisions of the act of June 24, 1874, creating the special tribunal known as the "court of commissioners of Alabama claims," by which the jurisdiction of that court was expressly limited to claims resulting directly from the destruction of vessels and cargoes by these three cruisers and their tenders, as gentlemen will see by referring to the act.

By the court organized in pursuance of the provisions of that act, circumscribed by the limitations and restrictions therein contained, claims were allowed and have been paid out of the gross sum awarded by the Geneva tribunal, amounting to something over $6,000,000, leaving a balance of near $10,000,000 yet in the hands of the Government and undisposed of.

To that remainder, sir, there appear to be several classes of claimants: first, the owners of vessels and cargoes destroyed by the Alabama, the Florida, and their tenders, and the Shenandoah after she left Melbourne, who claim that they have not been fully remunerated under the act of June 24, 1874; second, the owners of vessels and cargoes destroyed by the Georgia, Sumter, Nashville, Tallahassee, Chickamauga, Sallie, Jefferson Davis, Music, Boston, V. H. Joy, and the Shenandoah before she arrived at Melbourne, familiarly known

as the "exculpated cruisers;" third, those who claim to have paid enhanced rates of insurance, commonly known as "war premiums," in consequence of the presence of the confederate cruisers on the high seas; and, fourth, the insurers, who claim to have paid the owners of certain vessels destroyed by the inculpated cruisers the losses thus sustained by them, and ask to be subrogated to the rights of the insured to the extent of the losses so paid.

Now, sir, with these facts clearly and constantly in view, gentlemen may proceed to consider intelligently the two propositions now before the House. The one presented by the substitute proposed by the minority of the Committee on the Judiciary is that Congress shall assume a function belonging properly to the judicial department of the Government, and solemnly adjudge that the remainder of this fund shall be distributed among those embraced in the first three classes I have enumerated, notwithstanding the minority themselves say, as I will presently show, that none of those claimants have a legal or equitable right to a solitary cent of it, and that those belonging to the fourth class shall receive nothing at all, and that a board of audit shall be organized to carry out that decree.

On the other hand the bill reported by the committee proposes to make no discrimination among these parties whatever. It does not undertake to determine the title, or to decide the intricate questions of fact, or the delicate principles of law involved in favor of or against any one, but proposes to give every claimant to any portion of this fund, no matter to which class he may belong, or what the nature of his claim may be, a full, fair, and equal chance to manifest his right by regular proceedings in one of the established courts of the country, with the privilege secured to the Government, as well as the claimant, of appealing to the highest tribunal known to our Constitution and laws, in the event of a supposed injustice or mistake.

Such, sir, is the pith and substance of the two conflicting propositions between which this House is now called upon to choose. The one—to use the mildest terms—a mere act of congressional grace; the other, of impartial, even-handed justice. The one presenting in their most odious forms all the most objectionable features of "class legislation," as dangerous in practice as it is indefensible in principle; the other a fulfillment of the sacred guarantee in our bill of rights that no person, high or low, rich or poor, shall be deprived of his property without due process of law—the most priceless, sir, of all the crown jewels that glitter in the diadem of American liberty. Certainly, sir, a graver or a more interesting question could scarcely be presented for the serious consideration of this honorable body, involving, as it does, not only the disposition to be made of millions of dollars, but the integrity of the American Government, and the private rights of a large number of American citizens, all equally entitled to justice and protection under the broad ægis of the American Constitution.

Let us therefore examine the merits claimed for these propositions respectively through the calm, clear medium of unprejudiced, dispassionate reason.

The plan proposed in the substitute offered by the minority, sir, is obnoxious to many and, to my mind, insuperable objections. It bristles all over with difficulties. We are met at the very threshold by a grave and important question as to the nature of the fund itself upon which the most enlightened legal minds in the country are divided. Here we find the minority of the Committee on the Judiciary of this House boldly and confidently asserting that it belongs absolutely to the United States in their corporate capacity, discharged of every feature and attribute of a trust, while on the other hand there are those, endowed with less ability, and equipped with less learning perhaps, yet who, after as much laborious and impartial research, as honestly believe that the Government holds it in the capacity of a trustee for certain persons to whom it legally and justly belongs. The gentlemen of the minority contend with great zeal and ability that Congress has an unlimited discretion with regard to it and may give it away to whomsoever it may see proper, while there are others who maintain that the Government holds it under a moral obligation to provide for its speedy distribution among those upon whose losses it was assessed, for whose indemnity it was intended, and to whom it really belongs according to the broad principles of natural justice and enlightened equity. Yet, sir, permit me to ask how many gentlemen upon this floor have found the time, amid the multitude of other duties demanding their attention, to explore this question in all its intricacies with such care as to enable them to form an intelligent and independent opinion of their own with regard to it?

The majority of the committee, sir, conscious of their own liability to err, but without presuming to challenge the infallibility of their learned colleagues of the minority, have not asked the House to adopt their opinion upon this great underlying question or to be influenced by it in any manner whatever. They did not undertake to decide it themselves nor do they ask you to decide it. On the contrary, they have sought, by the bill which they have reported, to relieve the House entirely of that onerous and disagreeable duty, by remitting the whole subject to a forum to which it properly belongs and where it can be investigated with that deliberation and determined with that impartiality and precision which its importance demands.

But, sir, the minority not only ask the House to assume that their opinion as to the nature of this fund is the correct one, that is, that it belongs absolutely to the United States, but that it should be distributed among certain parties who, they say themselves, have no legal or equitable right to any portion of it whatever. To show that I do not state this startling and anomalous position too strongly, I beg leave to call attention to the exact language employed by them in their printed views, at page 26. They say:

> The undersigned are of the opinion that the fund in question is an *indemnity fund*. They believe it was awarded to us as a nation. They believe that no person or corporation has a legal or equitable right to any portion of it. They regard it as a fund for actual sufferers by the conduct of Great Britain.

There, sir, is the most remarkable creed to be found in any language ancient or modern, living or dead. A creed expressed in four brief, crisp sentences, in which there are two distinct and sharply defined changes of faith. First it is an indemnity fund. Then it is a fund to which no person or corporation has any legal or equitable right whatever. And then it changes again to a fund for the actual sufferers by the conduct of Great Britain. And then again those actual sufferers have no legal or equitable right to any portion of it.

> Can such things be,
> And overcome us like a summer's cloud,
> Without our special wonder?

I once heard of a man who changed front so often and so quickly that it was impossible to tell whether he wore his breastpin in his shirt bosom or between his shoulder-blades, but I never believed it, sir, until I read this rapid succession of inconsistent conclusions, following each other like the ever-varying hues of the aurora borealis,

> Which flit ere you can point the place.

Why, sir, old Polonius himself could scarcely have changed his opinions with such celerity.

"Do you see yonder cloud, that's almost in shape of a camel?" demands the melancholy Dane. "By the mass," exclaims the garrulous old chamberlain "and 'tis like a camel indeed." "Methinks, it is like a weasel," adds the prince. "It is backed like a weasel," admits the cunning old courtier. "Or, like a whale," suggests Hamlet. "*Very* like a whale," echoes the complaisant old sycophant.

But, sir, the language I have read from the printed "views" of the minority was not one of the accidental inaccuracies of a hurried or ill-considered debate. It was conceived in the calm deliberation of the closet by a cool brain and penned by a steady hand. It was intended and has been harped upon as the key-note of the entire argument in favor of the substitute offered by the minority. I propose, therefore, to analyze it a little more narrowly.

I will first state, however, what will be admitted as a self-evident truth by every gentleman on this floor, lawyer or layman, except perhaps the advocates of the substitute proposed by the minority, and that is that this fund either belongs to the United States or it does not. If it belongs absolutely to the United States, as the minority assert, they are correct in saying that "no person or corporation has any legal or equitable right to any portion of it," for no person can have a legal or equitable right to that which belongs absolutely to another; or, if he can, our laws against trespass, embezzlement, larceny, and highway robbery are not only superfluous but unjust and despotic. If, on the other hand, this fund does not belong to the United States, the Government cannot withhold it from the rightful owner, no matter who that owner may be, without violating the most familiar injunction of the decalogue as well as the plainest provision in our bill of rights.

Now, sir, if this fund does really belong absolutely to the United States, and no person or corporation has a legal or equitable right to any portion of it, as the minority so broadly and boldly assert, I would like to inquire by what right any portion of it can be claimed for one who has paid a "war premium" upon his vessel or cargo, or who may have had his property destroyed by a confederate cruiser either "inculpated" or "exculpated?" In what code of law or under what system of equity have the gentlemen found this new and anomalous principle which authorizes a man to claim that to which he has no right either in law or equity, but which belongs absolutely to another? The Pilgrim Fathers I believe took possession of this continent in the name of the Lord, upon the ground that "the earth was the Lord's and the fullness thereof." They only proposed to occupy it until the Lord should come along and demand his property. But it is not pretended that these claimants, who have no right of their own, can demand this fund even as trustees of the Lord. Why, then, should it be claimed for them at all? They may beg it as an alms, I grant you, but they can never demand it as a right.

And this, sir, when the naked truth is told, is after all the real grounds upon which the substitute is based. The gentlemen who propose it say, in effect: "It is true that this fund belongs absolutely to the United States; it is true that those who paid war premiums or suffered by the acts of the 'exculpated cruisers' have no legal or equitable right to any portion of it, yet Congress has an unlimited discretion with regard to it and can do whatsoever it pleases with the money. Let us therefore give it to these claimants 'for sweet charity's sake.'" But, sir, I most earnestly and emphatically deny that Congress has any such discretion, either under the Constitution or in good morals. Congress may violate the Constitution, it is true, as I fear it too frequently does, by appropriating the public moneys to purposes unauthorized or forbidden by the fundamental law of the land. Ay, sir, it may do even more than this. It may outrage every principle of common justice, and trample in the dust the plainest mandates of morality by withholding money which may be in the hands of the Government from its rightful owners; or, what is more reprehensible still, it may direct the payment of such money to those who

have no legal or equitable right to any portion of it. Yes, sir, it may do all this, and more, by dint of mere brute power. But if my learned colleague from Ohio, [Mr. McMAHON,] who drafted this substitute, and who has advocated its adoption with such ingenuity and zeal, had studied the Constitution of his country with half the assiduity he seems to have devoted to the case of Rustomjee against the Queen of England, or the opinions of Mr. Gladstone, he would have discovered that this Government was instituted "to establish justice," and not to dispense gratuities. He would have found that Congress has the power "to pay the debts and provide for the common defense and general welfare of the United States," but no provision anywhere authorizing it to peddle favors or dole out charities.

But, sir, suppose we admit, for the sake of the argument, that the gentlemen are correct. Suppose we admit that there is no limitation, either moral or legal, upon congressional discretion with regard to this fund. Suppose we admit that Congress is the mere hospital for crippled fortunes the proposition and the argument of the gentleman would make it. Suppose we admit that the public money may be distributed around *ex gratia* among those who have no legal or equitable right to any portion of it; that it may be dispensed in tender charity to the pleading pensioners upon public pity provided for in the substitute. Suppose we grant all this, are there not other and equally as meritorious objects of governmental bounty appealing fully as justly, if not so piteously, to congressional compassion? If this money belongs absolutely to the United States, if it is true, as the gentlemen of the minority assert, that none of these claimants have any legal or equitable right to any portion of it, why give it to them at all? Or, if it *must* be given away, why not use it in the erection and maintenance of homes for the thousands of maimed and needy veterans, who, with nothing to shield them from the pitiless blasts of poverty and want, are slowly dragging their mutilated and hungry forms toward the more hospitable shelter of the tomb? Why not dedicate it to the education of the myriads of poverty-stricken orphans whose fathers sleep their last long sleep in the unmarked graves of the far-off battle-field? True they have "no legal nor equitable right to any portion of it;" but if the minority are correct, neither has the merchant prince who paid war premiums to protect his wealth, nor the ship-owner whose vessel, sharing the common casualties of public war, was destroyed by the confederate cruisers? When these inquiries are answered satisfactorily, it will be time enough for this House to consider whether it will prefer charity to justice.

"Ah, but," say the minority, "this is an indemnity fund." Indeed! An indemnity fund out of which no one has a legal or equitable right to claim indemnity! That is very strange. But pray, sir, if this is an indemnity fund, who were intended to be indemnified by it? Upon what losses was it computed, and for whose compensation was it paid? Who here is prepared to answer these questions as a judge under his oath?

The war-premium claimant says: "It is mine. In consequence of the presence of the confederate cruisers upon the high seas I chose to pay several thousand dollars more than I would otherwise have been obliged to pay rather than bear the risk of losing the entire value of my ship and cargo. It was therefore intended to indemnify me, notwithstanding my loss was totally excluded from all consideration, and not taken into the account at all when the sum was computed by the arbitrators."

The owner of a vessel destroyed by one of the exculpated cruisers says: "It was intended to indemnify me, although Great Britain was held in no wise responsible to me or any one else for the acts of the cruiser by which my property was committed to the flames or sent to the bottom of the ocean;" while the underwriter says: "I contracted in good faith with the owners of certain vessels and cargoes that in consideration of certain sums paid me I would pay them certain sums in case their vessels and cargoes should be lost or destroyed, with the understanding, however, that to the extent of the sums paid by me whatever might be recovered from or on account of the wreck should be mine. Those vessels and cargoes were destroyed by the Alabama, the Florida, and the Shenandoah after she left Melbourne. I paid those owners every cent I agreed to pay them. What would otherwise have been their losses became my own. The Government invited me to present my claim and undertook to collect it for me. I did so, and the Government was successful in its demand upon Great Britain. To that extent, therefore, this fund should be mine."

Now, Mr. Speaker, I ask in all seriousness, how many of the gentlemen I see around me are willing to say that these conflicting claims should not be settled one way or the other, finally and forever? Yet how many of them can truly and conscientiously say that they are prepared to decide upon them with the accuracy, impartiality, and justice with which they would have the matter determined if they stood here in the attitude of any honest claimant to any portion of this fund, no matter to which class he may belong?

The gentleman from Maine [Mr. FRYE] may think that he is prepared to do so; for he told us in the very able and eloquent remarks he submitted upon this subject some time ago that he had made it the subject of profoundest study for the last six years or more; but is he quite certain, sir, that he can poise the scales of justice in this instance with a perfectly steady and even hand? Is he sure that he could decide between the conflicting interests involved in this matter as coolly, calmly, and dispassionately as he could if his own constituents were not clamoring for several millions of this very money? Is he satisfied that notwithstanding all his eloquent vituperation and vociferous denunciation of the insurance companies he can mete out to them their full measure of impartial justice? Does he think that he could pass upon their claims with that degree of judicial fairness that he would ask of a judge or juror in a case in which he himself had a direct personal or pecuniary interest? He may be capable of doing so, and I am sure he thinks he is, or he would be the very last man on this floor to undertake it; for a long and intimate acquaintance with him has satisfied me that he is as honest a gentleman as breathes. But who of us has devoted six hours to the earnest, candid investigation of this subject, much less six long years of laborious study as he has?

Sir, I am sadly mistaken in the character of the materials of which this honorable body is composed if there is a solitary gentleman on this floor who would take it upon himself to determine a dispute between two conflicting claimants to the paltry sum of $10 unless he was fully advised, by competent evidence, of all the material facts, and felt certain that he fully comprehended the principles of law involved in the controversy. No, sir, there is not a gentleman in this House who would not positively and peremptorily refuse to decide a controversy involving the pitiful sum of ten shillings simply upon hearsay testimony or the mere opinion of a heated advocate. Yet, sir, here is a sum amounting to $10,000,000, involving the property rights of a large number of American citizens and the honor of the Government itself, which this House is actually asked to guess off; for how many gentlemen here, who are to assume the functions of judges if this substitute shall pass, have toiled through the twelve or fifteen ponderous volumes of documents which relate to this subject in order to acquaint themselves with the facts in controversy? How many have made a critical analysis of the various legal questions involved, so as to be able to announce an intelligent opinion upon them, independent of the mere representations of others? How many of us have studied the opinions of Sir William E. Gladstone as carefully and diligently as my learned colleague from Ohio, [Mr. McMAHON?] Sir, I ask gentlemen if this request to thus determine the intricate questions of fact and the delicate and important principles of law involved in this matter is not rather too great a demand upon their good nature and complaisance?

But, sir, it has been contended with singular earnestness and zeal that the claims embraced in the substitute should be paid out of this fund, notwithstanding they were excluded from all consideration by the arbitrators in making their award, simply because the Government presented them and declined to commit itself at Geneva as to the "*mode*" in which the gross sum should be distributed. I will not pause here, sir, to discuss what was meant by that word "*mode*," as used by Mr. Secretary Fish, or to show that no such committal was ever asked. I will not even say that such a proposition is an absurdity. But if I should assert here that, in case a guardian of five different wards should bring a suit against a single defendant in favor of each of them, recover a judgment in one of the cases and be nonsuited in the other four, a court of equity should compel him to distribute the amount recovered among the four who were nonsuited and give nothing to the one for whom the judgment was obtained, I should fear that the House would entertain some doubt either of my sanity or my sincerity.

But admitting this to be correct, it is a matter of profound regret, sir, that the gentlemen, in their zeal for those who paid enhanced rates of insurance, or whose property was destroyed by the "exculpated cruisers," totally forgot to make any provision whatever for the losses of those who were forced—sometimes, I am told, at immense sacrifices—to transfer their vessels to foreign flags in order to prevent their capture and destruction by the confederate cruisers; for, sir, it must be remembered that the very first demand made by our Government in the class of indirect claims was indemnity for losses resulting from the transfer of a large portion of the American commercial marine to the British flag, and that this claim was excluded along with and upon precisely the same grounds that the claim for war premiums was. Is it not a little singular, therefore, that this class of sufferers should have been so entirely overlooked by the gentlemen of the minority in preparing their substitute? Yet why should any discrimination have been made against them?

This question becomes the more perplexing, sir, the more we reflect upon the fact that at the beginning of the war over three-fourths of our carrying trade was carried on upon American bottoms, while at the close of the war over three-fourths of it was carried on upon foreign bottoms; and especially when we remember that in some instances, when the American ship-owner happened to be caught out where it was impossible for him to invoke the protection of the ungodly underwriter, he was compelled to sell his vessel to some British or other foreign purchaser at perhaps one-fourth of its actual value or take the chances of going to the bottom of the ocean before he could reach home. The question will recur, then, why the gentlemen have so totally neglected this class and thought only of the war-premium claimants who are not a particle more meritorious? Why, they have left it to be said of themselves with respect to these two classes of claimants, "Jacob have I loved, and Esau have I hated," notwithstanding their claims upon Government bounty stand on such an exact parity.

But again, sir, if it is true, as the gentlemen so broadly assert, that

this money belongs absolutely to the United States, discharged of every feature and attribute of a trust, it is as much the property of one citizen as another; and it cannot be forgotten, sir, that the presence of the confederate cruisers upon the high seas added ten, ay twenty, times the amount of this entire award to the cost of the war, expenses for which we are still in debt and for which the people of Ohio and Kentucky in common with those of every other State in the Union are still taxed, and likely to be taxed until the present generation, insurers and insured, war-premium claimants and all, shall have mingled in common dust. It will be remembered too, sir, that our Government presented a claim and demanded indemnity for these additional expenses at the same time and in the same manner that it presented the claim for "war premiums," and that indemnity was refused in both cases upon precisely the same grounds.

I do not think, therefore, Mr. Speaker, that I shall envy the predicament in which my learned colleague from Ohio [Mr. McMAHON] will find himself if he should be called upon by his constituents to explain why he was so swift to donate some $10,000,000, in which they had a common interest, to the merchants and ship-owners of the seaboard who saw proper to pay enhanced rates of insurance in order to save themselves from loss, and not reserve a cent to alleviate the burdens resting upon the people of his own and every other district throughout the Union. He will possibly find an additional difficulty in the fact that perhaps in ninety-nine cases in a hundred the person who paid the war premium added it to the price of his wares or the amount of his freights, and got it all back again, with a profit, from the consumer. I know it is claimed by the distinguished gentleman from Massachusetts [Mr. BUTLER] that this was not done, and it may not have been in some isolated instances, but it will be very difficult to convince the honest yeomanry of my colleague's district, or my own, that either the merchant or the ship-owner carried on a losing business simply for amusement, especially during the war when the prices of everything the farmer or mechanic had to buy had reached almost fabulous proportions.

Now, Mr. Speaker, having said all I propose to say with reference to the substitute, I beg leave to address myself very briefly to the merits of the bill. And what, sir, does the bill propose to do? To give any portion of this money to the insurance companies? Not one word of it. Does it propose to deprive those who may have paid war premiums or who suffered loss by any of the exculpated cruisers of the millionth part of a cent to which they may be entitled upon known principles of justice, equity, or law? Not a syllable of it, sir. If it did no gentleman could possibly oppose it with more vehemence and zeal than I would myself. I should consider myself as utterly unworthy to associate with the honorable gentlemen I see around me if I could consent to be instrumental in withholding from any man a solitary cent to which he is justly entitled.

On the contrary, sir, it simply proposes, as I have already said, and as was so clearly shown in the able argument of the gentleman from Mississippi, [Mr. MANNING,] to remit all the intricate and perplexing questions connected with the entire subject and about which there seems to be such a contrariety of opinion upon this floor to a forum where they can be calmly, deliberately, and dispassionately considered by a regularly organized court, and there determined by disinterested and impartial judges according to the well-established principles of equity, justice, and international law, and not by the heated advocates of either party to the controversy. It proposes that the court shall be open to every possible claimant to any portion of the fund. No person or class of persons who pretend to have a claim upon it is excluded.

And now, sir, I ask if any conceivable plan for the final distribution of this money could possibly be fairer or more expedient than this? Can any one who pretends to have a just and honest claim to any portion of it offer any valid or reasonable objection to having his claim fairly adjudicated by an impartial tribunal of his country, especially when the amplest provision is made for the speediest possible determination of his right both in that court and the supreme court of appeals? Are the claimants of war premiums or the sufferers by the exculpated cruisers afraid of justice? Do they shrink from the fullest and fairest investigation of their claims before an unbiased court with the Supreme Court to correct any error, injustice, or mistake that may be committed to their prejudice? Will their advocates on this floor dare make such an admission for them here? No, sir; the doors of this court and of the Supreme Court are thrown open to all claimants alike, and if one who asks indemnity for "war premiums" or for injuries done by any of the confederate cruisers can there show that according to the broad principles of natural justice, equity, or the law of nations he is entitled to any portion of this fund he will certainly get it, and if they cannot show themselves thus entitled to it I ask if there is a gentleman here who is willing to say they ought to have it? On the contrary, the interests of the Government cannot possibly be endangered, for if upon a careful examination of the entire subject under the strong, clear lights of justice and equity it shall appear that the fund belongs absolutely to the United States the court will certainly so determine and give it to none of the claimants at all.

But again, Mr. Speaker, the bill reported by the committee is not only just in itself, but if there is any weight to be attached to legislative precedents, the principles upon which it proceeds will be found in exact harmony with the almost unbroken practice of Congress since the year 1827. You will find collated in the report of the committee eight instances in which the distribution of indemnity funds similar to the one in question has been remitted to independent tribunals with authority to decide upon the rights of the various claimants according to the principles of justice, equity, and the law of nations, unembarrassed by any special legislation, discrimination for or against any particular individual or class. I was amazed to hear my distinguished colleague from Ohio [Mr. McMAHON] attempt to evade the force of these precedents simply upon the grounds that the wrongs for which the indemnity in those cases was paid were committed when the United States was at peace; for, sir, how can that circumstance make any difference? Is not our Government as much bound to protect its citizens in the one condition as the other? Or is it only bound to shield him in the calm sunshine of peace, and may abandon him and all his interests in the hurricane of war?

And it is a remarkable fact, sir, that in all these cases we hear of no complaint of any fraud, unfairness, injustice, or even mistake, except in two instances, occurring in the adjudication of the fund awarded to the United States under the convention with China of November 8, 1858. One was the case of the Neva, in which the claims of certain underwriters were disallowed by the commissioners, but the claimants were by act of Congress allowed a rehearing before the Attorney-General, who reversed the decision of the commissioners, and payment was accorded them.

The other is the case of the bark Caldera, in which the commissioners made a deduction of 60 per cent. in the claims of the underwriters on account of the cargo, on the ground of a supposed prior damage by sea water, and the claimants were told that their acceptance of the 40 per cent. allowed them would not preclude a rehearing of their case here in Washington. Inasmuch, however, as the act of 1859, creating the commission, allowed no such rehearing, the Committee on Foreign Affairs, through Mr. CRAPO, of Massachusetts, on the 5th of March last, unanimously reported a bill for the relief of the parties precisely parallel in principle and almost exactly similar in detail to the one now under consideration, which passed this House without a division.

The first section of that bill provides that any person or corporation holding or making any claim upon the balance of the fund usually designated as the "Chinese indemnity fund," under the control of the Department of State of the United States and now unappropriated, for losses sustained by the plunder and destruction of the bark Caldera in the year 1854 and property on board of said vessel, may at any time within twelve months from the passage of the act commence proceedings in the United States Court of Claims against the United States in the same manner as other suits are brought pursuant to and in virtue of the statutes of the United States and the rules of said court; and that the court shall have jurisdiction to hear and determine such claim or demand according to the principles of justice and international law; while the second section makes provision that either party, plaintiff or defendant, may appeal from the judgment of the Court of Claims to the Supreme Court as in other cases. And now, sir, I would ask gentlemen who voted for that bill, or sat quietly by and saw it pass without uttering a syllable in opposition to its becoming a law, to place it side by side with the bill under consideration and point out the difference between them if they can, or show what possible objection can be urged against the one that does not apply with equal force to the other.

Again, sir, I would ask gentlemen to contrast the speedy and satisfactory adjustment of claims under the precedents to which I have alluded, with the history of the French spoliation claims, in which such frequent and persistent efforts were made for nearly three-quarters of a century to have rights of the claimants determined by congressional enactment, and which, after having elicited reports from forty-two committees, have at length sunk, at least temporarily, out of view, and then say, whether it would be just or wise to permit this fund to remain undisposed of for generations to come, a perpetual stigma to the honor and integrity of our Government. If it belongs to the Government let the courts so decide, and the Government keep it; if it belongs to others let them manifest their right to it by regular judicial proceedings, and take it. Let the controversy be determined one way or the other, finally and forever. Let us not have these corridors thronged with claimants to this fund, pouring the piteous tale of their wrongs into the ears of Congress for the next three-quarters of a century to come.

It has been suggested, however, sir, that the passage of this bill will contribute additional burdens to the already crowded docket of the Supreme Court; but suppose that to be true, shall this Government say to even the meanest of its citizens, "Our courts are too busy to hear your cause; they have not time to do you justice?" Shall it wave him off with the haughty petulence of Richard III when Buckingham demands the promised earldom and movables of Hereford: "Thou troublest me; I am not in the vein?"

But, sir, this objection is more specious than real. It is safe to say, that every question that can arise in relation to the right to this fund will be settled, if not in a single case, in two or three at the outside, and that the business of the Supreme Court will not be retarded by them half as much as the business of this House has already been by the discussion of the various measures which have been brought before it touching the distribution of this money. I believe, in fact, that the determination of all the questions which might arise in con-

nection with this matter would not retard the general business of the Supreme Court to any appreciable extent whatever.

But, Mr. Speaker, the objection which has been most persistently and earnestly urged against this bill is, that if it should become a law the insurance companies will be certain to be subrogated to the rights of the insured, and be reimbursed for the losses they have paid. This is assumed as an absolute certainty in the printed views of the minority, and has been the burden of all the more declamatory speeches which have given a spice to this discussion. It was the apprehension of that hideous fact which twice brought the marvelous magnanimity of the gentleman from New York [Mr. CHITTENDEN] so conspicuously to the front.

Well, sir, how that may be I am sure I do not know, but there is one thing of which I am absolutely certain, and that is if the insurance companies do get any portion of this fund under the provisions of this bill, they will do so either because they are justly and legally entitled to it or because both the Court of Claims and the Supreme Court of the United States are so utterly depraved that they will adjudge it to them in total disregard of every principle of justice, equity, and law applicable to such cases. I am not particular which horn of this dilemma gentlemen may select. I give them their choice. Which will they take? There can be no dodging or evasion in the matter; they must take one or the other. Now, will they assert here in the face of this House and of the world that both of these courts, and one of them the highest known to our system of government at that, are so completely lost to every sentiment of common decency, so completely sunk in beastly depravity, that it can be predicted with absolute certainty that they will render a corrupt decision in favor of certain parties either from bribery or the sheer love of corruption for its own sake? Are gentlemen prepared to say that? If not, they must admit that if any portion of this fund shall be adjudged to the insurance companies it will be simply because they are justly entitled to it according to the plain principles of equity and right. But, admitting their right to the fund, will gentlemen say they ought not to have it? Sir, I know they will not. I would spurn with indignant scorn the slightest insinuation that there is a member on this floor base enough to get his own consent to withhold from any man a single cent to which he can show himself justly and lawfully entitled.

Sir, I do not stand here as the champion of any class of claimants, but as the humble advocate of justice. The insurance companies may be, for aught I know or care, the viewless, soulless, godless beings they have been represented. Yet, sir, they are composed of citizens of the United States who look, as you and I do, to the Constitution and laws of their country for protection. Shall they not have simple justice? Or shall we confiscate their property in defiance of the most cherished of all the guarantees in our bill of rights, and shut the doors of our courts in their faces, merely because they may have been successful in the prosecution of a perfectly honest business demanded by the exigencies of commerce, authorized by law, and encouraged by an enlightened spirit of enterprise? Shall this Government, the grandest, the freest, the proudest ever vouchsafed to man, after its sublime appeal to justice as the arbiter between nations, at Geneva, deny justice to its own citizens?

Sir, we cannot afford to do that. The vital principle of republican government is not to be found in the grandeur of its domain, the splendor of its possessions, the magnitude of its armies, or the strength of its navies, but in the popular confidence and affection inspired by the certainty with which it administers simple, impartial justice to its citizens. When it refuses justice to even its humblest citizens, it is to that citizen not a benefactor to be loved and revered, but a despotism to be loathed and despised, a delusion and a fraud which holds out the word of promise to the ear but breaks it to the hope.

I have now, sir, discharged my duty to the House with regard to this matter, humbly it is true, but honestly and faithfully, and what ever may be its action I shall be content.

Mr. HOUSE. I move to lay the bill and amendments on the table.

Mr. FRYE. I hope not.

Mr. CARLISLE. I think it is evident that we will not be able to dispose of this bill and pending amendments to-day. I therefore move that the House now adjourn.

The SPEAKER. The Chair will state the effect of the motion to adjourn if carried. The effect will be to bring up this bill immediately after the reading of the Journal on Monday.

The motion to adjourn was not agreed to, upon a division—ayes 46, noes not counted.

The question recurred upon the motion of Mr. HOUSE to lay the bill and amendments on the table.

Mr. LUTTRELL. Upon that question I call for the yeas and nays.

The yeas and nays were not ordered.

The motion to lay on the table was not agreed to, upon a division—ayes 42, noes not counted.

The SPEAKER. The question now is upon the amendment moved by the gentleman from Maine [Mr. FRYE] to the bill reported from the Committee on the Judiciary, to add to section 1 that which will be read by the Clerk.

The Clerk read as follows:

But in no case shall any claim be admitted or allowed by said court by or in behalf of any insurance company or insurer, either in its or his own right, or as assignee or otherwise in the right of a person or party insured as aforesaid, unless such claimant shall show to the satisfaction of the court that during the late rebellion the sum of its or his losses in respect to its or his war risks exceeded the sum of its or his premiums or other gains upon or in respect to such war risks; and in case of any such allowance, the same shall not be greater than such excess of loss. And no claim shall be admissible or allowed by said court arising in favor of any insurance company not lawfully existing, at the time of the loss, under the laws of some one of the United States.

The question was taken upon the amendment; and upon a division there were—ayes 131, noes 50.

Before the result of the vote was announced,

Mr. KNOTT called for the yeas and nays.

The yeas and nays were not ordered, there being 28 in the affirmative; not one-fifth of the last vote.

Mr. FRYE moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CANNON, of Illinois. I now move that the bill as amended be laid upon the table.

The question was taken; and upon a division there were—ayes 78, noes 106.

Before the result of the vote was announced,

Mr. CANNON of Illinois, and Mr. MILLS, called for the yeas and nays.

The yeas and nays were ordered; there being 47 in the affirmative, more than one-fifth of the last vote.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. What is the pending motion?

The SPEAKER. It is to lay the bill as amended on the table.

Mr. SPRINGER. Will that include the substitute reported by the minority of the Judiciary Committee?

The SPEAKER. That motion, if agreed to, will carry the bill and everything connected with it upon the table.

The question was taken; and there were—yeas 95, nays 122, not voting 71; as follows:

YEAS—95.

Aiken,	Cox, Samuel S.	Hooker,	Randolph,
Atkins,	Culberson,	House,	Reagan,
Baker, John H.	Cutler,	Hubbell,	Robbins,
Banning,	Danford,	Hungerford,	Ross,
Bicknell,	Davis, Joseph J.	Jones, John S.	Scales,
Blackburn,	Dibrell,	Jones, James T.	Slemons,
Blount,	Durham,	Kenna,	Smith, A. Herr
Boone,	Dwight,	Knapp,	Smith, William E.
Bouck,	Eden,	Knott,	Southard,
Bright,	Ellis,	Ligon,	Sparks,
Brogden,	Felton,	Lynde,	Springer,
Burdick,	Forney,	Maish,	Steele,
Cabell,	Garfield,	Manning,	Stenger,
Caldwell, John W.	Goode,	Marsh,	Throckmorton,
Caldwell, W. P.	Gunter,	Mayham,	Townshend, R. W.
Candler,	Hardenbergh,	McCook,	Turney,
Cannon,	Harris, Henry R.	McGowan,	Vance,
Chalmers,	Hartzell,	Mills,	Waddell,
Clark, Alvah A.	Hatcher,	Morrison,	Wigginton,
Clark of Missouri,	Henderson,	Muldrow,	Williams, Jere N.
Clarke of Kentucky,	Henry,	O'Neill,	Willis, Albert S.
Clymer,	Hewitt, Abram S.	Patterson, G. W.	Willits,
Collins,	Hewitt, G. W.	Patterson, T. M.	Yeates.
Cook.	Herbert,	Pridemore,	

NAYS—122.

Acklen,	Davis, Horace	Ketcham,	Robinson, M. S.
Aldrich,	Dean,	Killinger,	Ryan,
Bacon,	Deering,	Kimmel,	Sampson,
Bailey,	Denison,	Lapham,	Sexton,
Baker, William H.	Dunnell,	Lindsey,	Shallenberger,
Ballou,	Eames,	Loring,	Singleton,
Bayne,	Eickhoff,	Luttrell,	Sinnickson,
Benedict,	Errett,	Mackey,	Smalls,
Blair,	Evans, James L.	Majors,	Starin,
Boyd,	Evins, John H.	McKinley,	Stewart,
Brewer,	Ewing,	McMahon,	Stone, John W.
Briggs,	Fort,	Metcalfe,	Strait,
Browne,	Foster,	Mitchell,	Swann,
Buckner,	Frye,	Monroe,	Thompson,
Bundy,	Gause,	Morgan,	Townsend, Amos,
Burchard,	Hale,	Morse,	Townsend, M. I.
Cain,	Hanna,	Neal,	Turner,
Calkins,	Harrison,	Norcross,	Van Vorhes,
Camp,	Hart,	Oliver,	Walker,
Campbell,	Haskell,	Overton,	Ward,
Carlisle,	Hayes,	Page,	Warner,
Caswell,	Hazelton,	Phelps,	Watson,
Claflin,	Henkle,	Pollard,	White, Harry
Clark, Rush	Humphrey,	Pound,	White, Michael D.
Cobb,	Ittner,	Price,	Williams, Andrew
Cole,	James,	Pugh,	Williams, C. G.
Conger,	Jones, Frank	Rea,	Williams, Richard
Crapo,	Jorgensen,	Reed,	Wren,
Cravens,	Joyce,	Rice, Americus V.	Young, John S.
Crittenden,	Keightley,	Rice, William W.	
Cummings,	Kelley,	Robinson, G. D.	

NOT VOTING—71.

Bagley,	Chittenden,	Fuller,	Hiscock,
Banks,	Covert,	Gardner,	Hunter,
Beebe,	Cox, Jacob D.	Garth,	Hunton,
Bell,	Davidson,	Gibson,	Keifer,
Bisbee,	Dickey,	Giddings,	Landers,
Bland,	Elam,	Glover,	Lathrop,
Bliss,	Ellsworth,	Hamilton,	Lockwood,
Bragg,	Evans, I. Newton	Harmer,	Martin,
Brentano,	Finley,	Harris, Benj. W.	McKenzie,
Bridges,	Franklin,	Harris, John T.	Money,
Butler,	Freeman,	Hendee,	Muller,

Peddie,	Roberts,	Thornburgh,	Williams, James
Phillips,	Robertson,	Tipton,	Willis, Benj. A.
Potter,	Sapp,	Tucker,	Wilson,
Powers,	Sayler,	Veeder,	Wood,
Rainey,	Shelley,	Wait,	Wright,
Reilly,	Stephens,	Walsh,	Young, Casey.
Riddle,	Stone, Joseph C.	Whitthorne,	

So the motion to lay on the table was not agreed to.

During the roll-call the following announcements were made:

Mr. MONEY. On this question I am paired with Mr. SAYLER, of Ohio. If he were present, I would vote "no."

Mr. SPARKS. I desire to state that Mr. COVERT, of New York, who is indisposed, is paired with Mr. REILLY, of Pennsylvania.

Mr. HARRIS, of Georgia. My colleague, Mr. BELL, is absent on account of sickness.

Mr. ELAM. I am paired with Governor HENDEE, of Vermont. If he were here, I would vote "ay."

Mr. CARLISLE. My colleague, Mr. MCKENZIE, is absent serving upon a committee of the House.

Mr. HAMILTON. I scarcely know how to vote on this question. In justice to an absent member, Mr. FINLEY, of Ohio, I desire to make a statement. It was understood by that gentleman, I think, that I was opposed both to the bill and amendments; that I was in favor of covering this money into the Treasury of the United States. A short time ago a telegram was received from him requesting me to pair with him on the majority bill; but leaving me at liberty to vote "no" on the substitute of the minority. I asked his colleague, Mr. MCMAHON, what I should do in this case. There seems to be a conflict of opinion in regard to it. If I were permitted to vote, I would vote for laying this bill on the table. As I am paired upon it and as it seems that no one knows positively how Mr. FINLEY would vote on this particular question, I decline to vote.

Mr. BRIDGES. On this question I am paired with Mr. WILLIS, of New York. If he were here, he would vote "ay" and I would vote "no."

Mr. TUCKER. On all questions connected with this subject I am paired with Mr. STEPHENS, of Georgia. If I were not paired, I would vote "ay" upon the pending motion. I desire also to state that my colleague, Mr. HUNTON, is paired with Mr. WILSON, of West Virginia. If Mr. HUNTON were here I suppose he would vote "no."

Mr. HARRIS, of Virginia. On this question and on all others connected with this bill I am paired with Mr. WAIT, of Connecticut.

Mr. WHITTHORNE. On this question I am paired with Mr. WILLIAMS, of Delaware. If he were here, he would vote "no" and I would vote "ay."

Mr. COX, of Ohio. I am paired with Mr. POWERS, of Maine, who is absent on committee duty, attending the remains of the late Mr. Schleicher, of Texas. If he were present, he would vote "no" and I would vote "ay."

Mr. KEIFER. I am paired on this question with Mr. MULLER, of New York, who is also absent on the committee attending the remains of Mr. Schleicher. If he were here, I should vote "ay" and he would vote "no."

Mr. CRAPO. My colleague, Mr. HARRIS, is absent attending the remains of the late Mr. Schleicher, of Texas, and is paired with Mr. GIDDINGS, of Texas. If present, my colleague would vote "no" and Mr. GIDDINGS would vote "ay."

Mr. ROBINSON, of Massachusetts. The gentleman from New Jersey, Mr. PEDDIE, is paired with the gentleman from West Virginia, Mr. MARTIN. On this question Mr. PEDDIE would vote "no" and Mr. MARTIN "ay."

Mr. STONE, of Iowa. I am paired with the gentleman from Florida, Mr. DAVIDSON.

Mr. MCKINLEY. My colleagues, Mr. GARDNER and Mr. DICKEY, are paired.

Mr. HANNA. My colleague, Mr. HUNTER, is paired with my colleague, Mr. FULLER. Mr. HUNTER on this question would vote "no." I do not know how Mr. FULLER would vote.

Mr. RICE, of Massachusetts. My colleague, Mr. BANKS, is paired with the gentleman from Missouri, Mr. FRANKLIN. My colleague, if here, would vote "no."

Mr. TIPTON. I am paired with the gentleman from Maryland, Mr. ROBERTS. If he were present, he would vote "ay" and I should vote "no."

Mr. BUTLER. I am paired with the gentleman from New York, Mr. POTTER, who, I suppose, would, if here, vote "ay."

The result of the vote was announced as above stated.

Mr. HALE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on the adoption of the following substitute offered by Mr. MCMAHON, on behalf of the minority of the Judiciary Committee:

Strike out all after the enacting clause and insert the following:

That an act approved June 23, 1874, entitled "An act for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award by the tribunal of arbitration constituted by the first article of the treaty concluded at Washington the 8th of May, A. D. 1871, between the United States of America and the Queen of Great Britain," be, and the same hereby is, revived, re-enacted, and continued; all the provisions thereof to take effect from and after the approval of this act, except as changed or modified by this act.

SEC. 2. That the number of judges for said court shall be three; and the agreement of two of the judges shall be necessary to decide any question arising before said court.

SEC. 3. That the judges of the court hereby re-established shall convene and organize, in the city of Washington, as soon as practicable after their appointment; and the court so organized shall exist eighteen months; and all claims provable under this act shall be verified and filed with the clerk of said court within six months from its organization, or they shall be held to be waived and barred.

SEC. 4. That the first class shall be for claims described in section 11 of said original act not already adjudicated, and for claims directly resulting from damage done on the high seas by confederate cruisers during the late rebellion, including vessels and cargoes attacked and taken on the high seas or pursued by them therefrom, although the loss or damage occurred within four miles of the shore.

In cases of the loss of a whaling-vessel and outfit, the court shall allow, in addition to the compensation provided for in the said original act, the sum of 10 per cent., in lieu of freight, upon the value of said vessel and outfit as found by said court.

And upon all judgments heretofore rendered under said act for the loss of a whaling-vessel and outfit, there shall be allowed the said sum of 10 per cent. upon the awards as made by the court, with 6 per cent. interest thereon from the day from which said original award bore interest until the date of payment.

The second class shall be for claims for additional interest upon judgments which have been awarded and decreed by the said court of Alabama claims under the said original act; such interest to be computed in each case from the time from which interest was allowed in the original judgments, at the rate of 2 per cent. per annum in addition thereto, to the time of payment, as hereinafter provided.

And upon all judgments to be hereafter rendered upon claims of the first class, as herein described, interest shall be allowed at the rate of 6 per cent. per annum, instead of 4, as provided in the original act.

The third class shall be for claims for the payment of premiums for war risks, whether paid to the corporations, agents, or individuals, after the sailing of any confederate cruiser; in determining which it shall be the duty of the court to deduct any sum in any way received by or paid to the claimant in diminution of the amount paid for any such premium, so that the actual loss only shall be allowed.

SEC. 5. That the judgments rendered by said court under this act shall be paid in currency by the Secretary of the Treasury out of the sum of money paid to the United States pursuant to article 7 of the treaty of Washington, and accruing therefrom, not appropriated to claims heretofore proved and allowed under the provisions of said original act and the act extending the time for the filing of claims thereunder.

And the Secretary of the Treasury is hereby authorized and directed to pay out of said fund, without further adjudication by any court, the 10 per cent. upon whaling-vessels and their outfit, with interest, as provided in section 5 of this act, upon all awards heretofore made for their loss; and to pay in the same manner the sum of 2 per cent. per annum upon judgments which have been heretofore rendered by said court, to be computed, as provided in section 5 of this act, up to the time of payment; and, to enable him to make such payments, the Secretary of State is directed to furnish a certified statement to the Secretary of the Treasury from the files and records of the court in his possession.

SEC. 6. Judgments rendered in the first class shall be first paid, and as soon as entered. Payments shall be made in the second class before judgments in the third class. If the sum of money so unappropriated shall be insufficient to pay the claims of the second class in full, they shall be paid according to the proportions which they severally bear to the whole amount of such unappropriated sum after the payment of judgments in the first class; and the same rule shall be applied in the payment of judgments in the third class.

SEC. 7. No person shall be excluded from the provisions of this act by reason of his being born in any other country than one of the United States, if at the time he suffered the loss or damage provided for in this act he was residing in the United States and doing business therein, or was sailing under the protection of the flag of the United States.

SEC. 8. That all claims filed, or that may hereafter be filed, in said court in the name of one or more claimants, relating to a vessel in which other claimants are interested, shall be deemed and held to be legally filed the same as if all the parties in interest had joined in the filing of the petition.

SEC. 9. That this act shall not be construed as in any way renewing, extending, or continuing any of the commissions or appointments of judges or officers of the said court of commissioners of Alabama claims issued and made by virtue of said original act.

SEC. 10. That all moneys necessary for the payment of the salaries of the judges and officers authorized by this act, and for the lawful expenses of the said court hereby re-established, are hereby appropriated out of any moneys in the Treasury not otherwise appropriated; all of which shall be reimbursed out of the said unappropriated moneys before any of the judgments rendered under this act except the first class shall be paid. And after the reimbursement of all the expenses authorized by this act, and the payment of all the judgments rendered thereunder, if there shall remain any part of the said money the same shall be and remain a fund from which Congress may hereafter authorize payment of other claims thereon.

The question being taken the substitute was adopted, there being—ayes 112, noes 73.

Mr. HALE moved to reconsider the vote just taken, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill, as amended by the adoption of the substitute, was ordered to be engrossed for a third reading; and was accordingly read the third time.

The question being on the passage of the bill,

Mr. MCMAHON. I demand the previous question.

Mr. EDEN. I move that the House adjourn.

The motion of Mr. EDEN was not agreed to, there being—ayes 40, noes not counted.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

Mr. KNOTT. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 93, not voting 82; as follows:

YEAS—113.

Acklen,	Buckner,	Crapo,	Ewing,
Aldrich,	Bundy,	Cravens,	Fort,
Bacon,	Burchard,	Crittenden,	Foster,
Bailey,	Cain,	Cummings,	Frye,
Baker, William H.	Camp,	Davis, Horace	Hale,
Ballou,	Campbell,	Dean,	Hanna,
Bayne,	Carlisle,	Deering,	Harrison,
Blair,	Caswell,	Denison,	Haskell,
Boyd,	Claflin,	Dunnell,	Hayes,
Brewer,	Clark, Alvah A.	Eames,	Hazelton,
Briggs,	Cobb,	Eickhoff,	Henkle,
Brogden,	Cole,	Errett,	Humphrey
Browne,	Conger,	Evans, James L.	Ittner,

James,	Metcalfe,	Rea,	Stone, John W.
Jones, Frank	Mitchell,	Reagan,	Strait,
Joyce,	Monroe,	Reed,	Swann,
Keightley,	Morse,	Rice, William W.	Thompson,
Kelley,	Neal,	Robinson, G. D.	Townsend, Amos
Ketcham,	Norcross,	Robinson, M. S.	Van Verhes,
Killinger,	Oliver,	Ross,	Waddell,
Kimmel,	Overton,	Ryan,	Warner,
Lapham,	Page,	Sampson,	Watson,
Lathrop,	Patterson, G. W.	Sexton,	White, Michael D.
Lindsey,	Phelps,	Shallenberger,	Williams, Andrew
Loring,	Pollard,	Singleton,	Williams, C. G.
Luttrell,	Pound,	Sinnickson,	Williams, Richard.
McGowan,	Price,	Smalls,	
McKinley,	Pugh,	Starin,	
McMahon,	Rainey,	Stewart,	

NAYS—93.

Atkins,	Cox, Samuel S.	Hewitt, Abram S.	Scales,
Bagley,	Culberson,	Hewitt, G. W.	Slemons,
Baker, John H.	Cutler,	Hungerford,	Smith, A. Herr
Banning,	Danford,	Jones, John S.	Smith, William E.
Benedict,	Davis, Joseph J.	Kenna,	Southard,
Bicknell,	Dibrell,	Knott,	Sparks,
Blackburn,	Durham,	Ligon,	Springer,
Blount,	Dwight,	Lynde,	Steele,
Boone,	Eden,	Mackey,	Stenger,
Bouck,	Ellis,	Maish,	Throckmorton,
Bright,	Evins, John H.	Manning,	Townshend, R. W.
Burdick,	Felton,	Marsh,	Turner,
Cabell,	Forney,	Mayham,	Turney,
Caldwell, J. W.	Garfield,	McCook,	Vance,
Caldwell, W. P.	Goode,	Mills,	Walker,
Candler,	Gunter,	Morgan,	Wigginton,
Cannon,	Hamilton,	Morrison,	Williams, Jere N.
Chalmers,	Hardenbergh,	Muldrow,	Willis, Albert S.
Clark of Missouri,	Harris, Henry R.	O'Neill,	Willits,
Clarke of Kentucky,	Hart,	Patterson, T. M.	Yeates,
Clark, Rush	Hartzell,	Pridemore,	Young, John S.
Clymer,	Hatcher,	Randolph,	
Collins,	Henderson,	Rice, Americus V.	
Cook,	Henry,	Robbins,	

NOT VOTING—82.

Aiken,	Franklin,	Jorgensen,	Stephens,
Banks,	Freeman,	Keifer,	Stone, Joseph C.
Beebe,	Fuller,	Knapp,	Thornburgh,
Bell,	Gardner,	Landers,	Tipton,
Bisbee,	Garth,	Lockwood,	Townsend, M. I.
Bland,	Gause,	Majors,	Tucker,
Bliss,	Gibson,	Martin,	Veeder,
Bragg,	Giddings,	McKenzie,	Wait,
Brentano,	Glover,	Money,	Walsh,
Bridges,	Harmer,	Muller,	Ward,
Butler,	Harris, Benj. W.	Peddie,	White, Harry
Calkins,	Harris, John T.	Phillips,	Whitthorne,
Chittenden,	Hendee,	Potter,	Williams, James
Covert,	Herbert,	Powers,	Willis, Benj. A.
Cox, Jacob D.	Hiscock,	Reilly,	Wilson,
Davidson,	Hooker,	Riddle,	Wood,
Dickey,	House,	Roberts,	Wren,
Elam,	Hubbell,	Robertson,	Wright,
Ellsworth,	Hunter,	Sapp,	Young, Casey.
Evans, I. Newton	Hunton,	Sayler,	
Finley,	Jones, James T.	Shelley,	

So the bill was passed.

During the roll-call the following announcements were made:

Mr. MONEY. I am paired with the gentleman from Ohio, Mr. SAYLER, who has been called away by business. If he were present, I should vote "ay."

Mr. SPARKS. The gentleman from New York, Mr. COVERT, who is paired with the gentleman from Pennsylvania, Mr. REILLY, would vote for the bill of the majority of the committee, and therefore against this substitute of the minority.

Mr. SPRINGER. The gentleman from Tennessee, Mr. WHITTHORNE, is paired with the gentleman from Delaware, Mr. WILLIAMS. Mr. WHITTHORNE, if here, would vote "no" and Mr. WILLIAMS would vote "ay."

Mr. MULDROW. My colleague, Mr. HOOKER, is paired with the gentleman from Indiana, Mr. CALKINS. If Mr. HOOKER were present, he would vote "no" and Mr. CALKINS would vote "ay."

Mr. HAMILTON. My vote on this question is "no." The gentleman from Ohio, Mr. FINLEY, with whom I am paired, would vote against the minority report and in favor of the majority report. This question being upon the minority report, I vote "no."

Mr. BRIDGES. I am paired with the gentleman from New York, Mr. WILLIS, who, if here, would, I presume, vote "no." I should vote for the bill in its present form as the best thing I could get.

Mr. GUNTER. My colleague, Mr. GAUSE, is paired with the gentleman from Iowa, Mr. SAPP. Mr. GAUSE, if present, would vote "no" and Mr. SAPP "ay."

Mr. EVINS, of South Carolina. My colleague, Mr. AIKEN, is paired with Mr. WARD, of Pennsylvania. If present, Mr. AIKEN would vote "no" and Mr. WARD would vote "ay."

Mr. TUCKER. I am paired with Mr. STEPHENS, of Georgia. If he were present, I should vote "no" and he would vote "ay." My colleague from Virginia, Mr. HUNTON, is paired with Mr. WILSON, of West Virginia. If present, Mr. HUNTON would vote "ay" and I suppose Mr. WILSON would vote "no."

Mr. TOWNSEND, of New York. On this question I am paired with Mr. HERBERT, of Alabama. If he were present, he would vote "no" and I should vote "ay."

Mr. COX, of Ohio. I am paired on this question with Mr. POWERS, of Maine. If he were present, Mr. POWERS would vote "ay" and I should vote "no."

Mr. RYAN. My colleague from Kansas, Mr. PHILLIPS, is absent on account of important business. If present, he would "no."

Mr. KEIFER. I am paired with Mr. MULLER, of New York. If present, he would vote "ay," as I am informed, and I would vote "no."

Mr. ROBINSON, of Massachusetts. Mr. PEDDIE, of New Jersey, and Mr. MARTIN, of West Virginia, are paired. If present, Mr. PEDDIE would vote "ay" and Mr. MARTIN "no."

Mr. STONE, of Iowa. I am paired with Mr. DAVIDSON, of Florida.

Mr. HANNA. My colleagues from Indiana, Mr. HUNTER and Mr. FULLER, are paired.

Mr. TIPTON. I am paired with Mr. ROBERTS, of Maryland. If present, he would vote "no" and I should vote "ay."

Mr. RICE, of Massachusetts. My colleague, Mr. BANKS, is paired with Mr. FRANKLIN, of Missouri. If present, Mr. BANKS would vote "ay."

The result of the vote was then announced as above recorded.

Mr. MCMAHON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MCMAHON. I move that the title of the bill be amended so as to read:

A bill for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award.

The motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. SMITH, of Pennsylvania, from the Committee on Appropriations, reported back the bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880, with amendments by the Senate, and moved that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY FORT AT EL PASO, TEXAS.

Mr. THROCKMORTON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House the necessity, if any exists, for the construction of a military fort at El Paso, Texas, and, if such necessity exists, the amount of money that will be required for the construction thereof.

EXPENSES OF PUBLIC PRINTING.

Mr. SINGLETON. I desire to report from the Committee on Printing a bill to reduce the expense of the public printing and binding and for other purposes. I ask that the bill be printed and made a special order for Monday.

The SPEAKER. That requires unanimous consent.

Mr. SINGLETON. I am aware of that. I do not think there will be any objection to the order being made. It will not take an hour.

Mr. WHITE, of Pennsylvania. Monday is too soon. Say Wednesday.

Mr. SINGLETON. Very well; I will say Wednesday, after the morning hour.

Mr. CONGER. Let the title of the bill be again read.

The title of the bill was again read.

Mr. SINGLETON. I wish to say just one word. I assure the House that this will save to the Government $175,000 a year.

Mr. CONGER. Does the bill propose a transfer of the public printing?

Mr. SINGLETON. No, sir; it does not interfere with that at all.

Mr. CONGER. I do not object to the bill being printed, but I object to fixing a day for its consideration.

The SPEAKER. The Chair suggests to the gentleman from Mississippi to move that the bill be printed and recommitted. By adopting that course whatever privilege he has he will maintain.

Mr. CONGER. Not to be brought back on a motion to reconsider.

The SPEAKER. The Committee on Printing have a right to report it at any time.

Mr. SINGLETON. I give my word that there is not a single feature in the bill to which the gentleman will object. All the Departments agree to it and the printing department agrees to it. The bill simply reduces the expenses of printing.

Mr. MILLS. I move that the House do now adjourn.

The SPEAKER. Pending the motion to adjourn the Chair will submit sundry requests.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILLIAMS, of Delaware, for three days.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. BLAIR to have printed in the RECORD remarks on the Senate bill for the appointment of a commission on the traffic in alcohol; and also remarks on the bill providing for a subsidy to the Texas Pacific Railroad; and to Mr. HARRISON to have printed in the RECORD some remarks on the bill introduced by him on free ships. [See Appendix.]

ORDER OF BUSINESS.

Mr. CONGER. I withdraw my objection to fixing a day for the consideration of the bill reported by the gentleman from Mississippi.

Mr. PAGE. I renew it.

Mr. SINGLETON. I ask the gentleman from Texas [Mr. MILLS] to withdraw his motion to adjourn, that I may ask to have the bill recommitted.

Mr. MILLS. I withdraw the motion to adjourn.

Mr. SAMPSON. I renew it.

Mr. COX, of New York. I ask the gentleman from Iowa not to insist at present on the motion to adjourn. I have a matter here which I am sure nobody will object to.

Mr. SAMPSON. I insist on the motion.

The question being taken on the motion to adjourn, the Speaker announced that in the opinion of the Chair the "ayes" had it.

Mr. COX, of New York. I call for a division.

The House divided; and there were—ayes 44, noes 31.

Mr. COX, of New York. I call for tellers.

Tellers were not ordered.

So the motion was agreed to; and accordingly (at five o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Charles R. Lang, president of the Buffalo branch of the Chicago Seamen's Benevolent Union, and other presidents and officers connected with seamen's benevolent associations, for the repeal of sections 829 and 4585 of the Revised Statutes, relating to the hospital tax on seamen, &c.—to the Committee on Commerce.

By Mr. BAKER, of New York: The petition of women of Vermillion, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BUNDY: Resolutions of the senate of New York, opposing the passage of the Army reorganization bill—to the Committee on Military Affairs.

By Mr. CARLISLE: The petition of Dr. J. B. A. Risk and others, citizens of Kentucky, for the passage of a law to prohibit the adulteration of sweets—to the Committee on the Judiciary.

By Mr. COBB: The petition of ladies of Pleasantville, Indiana, and vicinity, for such legislation as will make effective the anti-polygamy law of 1862—to the same committee.

By Mr. COX, of New York: Papers relating to the war claim of Sarah H. Milveney—to the Committee on War Claims.

By Mr. DIBRELL: Papers relating to the war claim of John M. Kimbrough—to the same committee.

By Mr. FORT: The petition of M. A. Newman and 65 others, of Collins, Illinois, for the prevention of the adulteration of sweets—to the Committee of Ways and Means.

By Mr. HENDERSON: The petition of Lucy A. Robinson and 57 other women, of Burns and Cambridge Townships, Henry County, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. Thomas Nowers and 14 other women, of Atkinson, Illinois, of similar import—to the same committee.

By Mr. HEWITT, of New York: The petition of A. T. Stewart & Co., for the appointment of a committee to investigate appraisements of kid gloves at the port of New York—to the Committee of Ways and Means.

By Mr. HOOKER: The petition of women of Tougaloo University, Hinds County, Mississippi, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KEIGHTLEY: The petition of Mary Worthington and 70 others, of Buchanan, Michigan, of similar import—to the same committee.

Also, the petition of Mrs. W. A. House and 180 others, of Kalamazoo, Michigan, of similar import—to the same committee.

By Mr. KIDDER: The petition of J. C. Miller and others, for a land office near Kampeska, Dakota Territory—to the Committee on Public Lands.

Also, the petition of E. Harris and others, of similar import—to the same committee.

Also, the petition of F. L. Cameron and others, of similar import—to the same committee.

Also, the petition of Fred. J. Bowman and others, of similar import—to the same committee.

Also, the petition of John H. Drake and others, of similar import—to the same committee.

By Mr. LAPHAM: Resolutions of the Senate of New York, opposing the passage of the Army reorganization bill—to the Committee on Military Affairs.

By Mr. MAISH: The petition of William J. Morton, for a pension—to the Committee on Invalid Pensions.

By Mr. McGOWAN: The petition of D. W. Peabody and 5 others, merchants of Hanover, Michigan, for legislation to prevent the adulteration of food—to the Committee on Commerce.

By Mr. PATTERSON, of New York: Resolutions of the Legislature of New York, opposing the passage of the Army reorganization bill—to the Committee on Military Affairs.

Also, the petition of 43 ladies, of Findley's Lake, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. PHELPS: The petition of Rev. Mrs. A. O. Abbott and 45 other ladies, members of the Methodist Episcopal church, of Naugatuck, Connecticut, of similar import—to the same committee.

By Mr. POUND: The petition of Mrs. Isabella W. Phillips and 40 other ladies, of Westfield, Wisconsin, of similar import—to the same committee.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, of Fort Dodge, Iowa, and 80 others, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of the Women's Christian Temperance Union, of Lansing, Iowa, and 40 others, of similar import—to the same committee.

Also, the petition of the Woman's Temperance Union and 120 others, of Oskaloosa, Iowa, of similar import—to the same committee.

By Mr. RICE, of Ohio: The petition of John Honegger, for a pension—to the Committee on Invalid Pensions.

By Mr. STEELE: The petition of C. C. Wade, W. H. Watkins, and 40 others, citizens of Montgomery County, North Carolina, for a reduction of the tax on spirits distilled from fruit, and a change in the mode of collecting internal revenue—to the Committee of Ways and Means.

By Mr. TURNEY: The petition of women of Green County, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WHITTHORNE: The petition of John S. Cunningham, a pay director United States Navy, to be reimbursed certain moneys withheld by a clerk in the Navy pay office and appropriated to his own use—to the Committee on Naval Affairs.

IN SENATE.

MONDAY, *January* 20, 1872.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a report of Major Godfrey Weitzel, of the Corps of Engineers, on the superintendence, management, and repair of the Louisville and Portland Canal for the year ending December 31, 1878; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting copies of reports from Generals Sherman, Sheridan, and Terry, setting forth the necessity for the construction of buildings for the military headquarters at Fort Snelling, Minnesota, and recommending an appropriation of $125,000 for that purpose; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and a letter from Captain William Ludlow, of the Corps of Engineers, submitting estimates of the amounts required for the protection from overflow of the sites of fortifications on the Delaware River, and also estimates of the cost of repairs at Sandy Hook, New Jersey; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Mrs. I. L. Davenport and 22 other women, of Iowa, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. CONKLING. I present a resolution of the Assembly of the State of New York, touching the so-called reorganization of the Army bill, and I ask that it be read.

The VICE-PRESIDENT. It will be read.

The resolution was read, and ordered to lie on the table, as follows:

STATE OF NEW YORK,
ASSEMBLY CHAMBER, *Albany, January* 15, 1879.

On motion of Mr. Braman,

Whereas the Army reorganization bill, now before Congress, proposes to prohibit the further manufacture of ordnance and ordnance stores at United States arsenals; to sell all the arsenals which thus become unnecessary, and hereafter to purchase ordnance and ammunition from private manufactures only: Therefore,

Resolved, That the Senators and Representatives of this State in Congress be requested to oppose the passage of said bill, or at least the portions relating to the Ordnance department, New York arsenals, and ordnance stores.

By order of Assembly.

EDW. M. JOHNSON, *Clerk*.

Mr. PLUMB presented the petition of D. J. Holmes and 2,000 others, citizens of Kansas, praying for an amendment to the Constitution of the United States prohibiting the several States from disfranchising United States citizens on account of sex; which was referred to the Committee on Privileges and Elections.

Mr. DORSEY. I present the memorial of C. C. Cox, chairman of the Capitol Hill and East Washington Improvement Association, setting forth the condition of the streets in the eastern portion of the

city, the insufficiency of the water supply, and presenting generally the way in which that portion of the city has been treated by the District government. It is a very important document, and I hope there will be no objection to its being printed.

The VICE-PRESIDENT. The Chair hears no objection, and it will be printed and referred to the Committee on the District of Columbia.

Mr. SARGENT. I present the memorial of Reed and Dougherty, of San Francisco, citizens of the United States, setting forth that upon the conclusion of the treaty between the United States and Japan, in 1855, they invested large sums in San Francisco and Honolulu, Sandwich Islands, in the purchase of such articles as are needed by whalers fishing in the Kodaic; that the fleets of whalers were to make such Japanese ports as were opened by that treaty their place of rendezvous; that the memorialists loaded the schooner Caroline E. Foote with a valuable cargo, and they with their families sailed for Hakodadi to establish stations for supplying the whaling fleets; that the vessel arrived at Hakodadi, but the memorialists were prevented from landing or trading and were peremptorily ordered away, in violation of the treaty, to their great damage. Admiral John Rodgers, then in command of the United States naval force in those seas, protested, as did the memorialists, without any avail. Another vessel, the Grecian, was also purchased by them in San Francisco and fitted out to take similar supplies, but did not sail, they returning from their trip to Japan before this vessel was quite ready for sailing. They complain of great injury—the figures are somewhat high in the memorial—by the loss of cargoes and by loss in the purchase and charter of these vessels. They think they have a just claim against the Empire of Japan, and they ask Congress to allow this out of the Japanese indemnity fund.

The correspondence with reference to the matter between the Japanese authorities, Admiral Rodgers, and the memorialists, is on file in the State Department. It would appear, as Congress seems to be somewhat in the mood of returning the balance of this fund to Japan on the ground that the legitimate claims of American citizens have been allowed from it, that this claim should be looked at in order that our citizens may be remunerated if it shall be found on examination of the facts that they were thus treated in violation of the treaty by the Japanese authorities.

I move that the memorial be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. SARGENT. I also present a petition of citizens of Philadelphia, Pennsylvania, both men and women, praying for an amendment to the Constitution of the United States, prohibiting the several States from disfranchising United States citizens on account of sex. The petition is headed by John H. Campbell, attorney-at-law, 738 Sansom street, and by Mary Charmann, and it is signed by many others. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. KERNAN presented the petition of the trustees of the Corcoran Gallery of Art, praying for compensation for the use by the Government of property belonging to the corporation; which was referred to the Committee on Appropriations.

He also presented the memorial of D. B. St. John and others, citizens of New York, remonstrating against the passage of the bill (S. No. 1330) to quiet the titles of settlers on the Des Moines River lands in the State of Iowa, and for other purposes; which was ordered to lie on the table.

He also presented a memorial of R. S. Burrows, of Albion, New York, remonstrating against the passage of the bill (S. No. 1330) to quiet the titles of settlers on the Des Moines River lands in the State of Iowa; which was ordered to lie on the table.

He also presented the petition of William S. Carr, of New York, praying for the extension of letters-patent granted to him for improvement in water-closets; which was referred to the Committee on Patents.

He also presented the petition of E. A. Kent & Co., and others, merchants and ship-owners of New York, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. KERNAN. I also present a preamble and resolution passed by the Assembly of New York on the 15th instant, requesting its Senators and Representatives to vote against the passage of the bill (S. No. 1491) to reduce and reorganize the Army of the United States and to make rules for its government and regulation. This is a copy of the same paper that was presented by my colleague and read. I move that it lie upon the table.

The motion was agreed to.

Mr. WITHERS presented the petition of John B. Parsons, W. H. Miles, N. B. Conquest, and 60 others, citizens of Accomac County, Virginia, praying for an appropriation to deepen the channel between Franklin City and Chincoteague Island, in the State of Virginia; which was referred to the Committee on Commerce.

He also presented the petition of Upshur B. Quinby, George T. Garrison, M. Oldham, John I. Blackstone, and 43 others, citizens of Accomac County, Virginia, praying for an appropriation to deepen the channel between Franklin City and Chincoteague Island, in the State of Virginia; which was referred to the Committee on Commerce.

He also presented the petition of W. P. Burwell, praying compensation for certain property confiscated by the collector of customs at the port of Richmond in 1867; which was referred to the Committee on Claims.

Mr. DENNIS presented the petition of DeWitt C. Forkes, George W. Purnell, A. B. Barnes, W. E. Timmons, and 185 others, of Worcester County, Maryland, praying for an appropriation to improve the channel between Franklin City and Chincoteague Island, in the State of Virginia; which was referred to the Committee on Commerce.

He also presented the petition of I. T. Kenney, William Booth, Robert Hudson, and 41 others, citizens of Chincoteague Island, Virginia, praying for an appropriation to improve the channel between Franklin City and Chincoteague Island, in the State of Virginia; which was referred to the Committee on Commerce.

He also presented the petition of I. T. Kenney, R. B. Benson, John H. Latland, and 105 others, praying for the establishment of a lighthouse on Killich Shoals, Chincoteague Island, in the State of Virginia; which was referred to the Committee on Commerce.

Mr. WALLACE presented a memorial of manufacturers of the city of Erie, Pennsylvania, remonstrating against certain provisions of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes; which was ordered to lie on the table.

Mr. PADDOCK presented the petition of S. M. Hazen, C. M. Murdock, and 100 others, citizens of Nebraska, praying for an extension of time for making payments for lands purchased under the act of August 15, 1876, authorizing a sale of a part of the Otoe Indian Reservation in Nebraska; which was referred to the Committee on Public Lands.

He also presented a petition of W. L. Wilson and others, citizens of Nebraska, praying for the establishment of a mail-route in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. MATTHEWS presented a supplementary paper to the petition of H. S. & H. D. Walbridge, praying for relief from unequal taxation in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. FERRY presented the memorial of Moses W. Field and 63 others, citizens of Detroit, Michigan, remonstrating against any change in the duties on imported sugars; which was referred to the Committee on Finance.

Mr. GROVER presented a memorial of the Legislature of Oregon, in favor of the appointment of a commission to audit and allow the claims of citizens of Oregon and Idaho Territory for property destroyed by Indians in the Indian war of 1878, and for an appropriation for the payment of the expenses of such commission and for such of the claims as may be allowed by it; which was referred to the Committee on Military Affairs.

Mr. HOAR presented additional papers in the case of the application of Edward Rice, praying for the passage of a law authorizing the Secretary of the Treasury to issue to him duplicates of certain coupon bonds, known as consols of 1867, issued under the act of March 3, 1865; which were referred to the Committee on Finance.

THOMAS STRIDER.

Mr. WITHERS. There is a bill on the Calendar on which an adverse report was made some time since from the Committee on Claims—the bill (H. R. No. 3734) for the relief of Thomas Strider. I present some additional evidence in that case, and move that the papers I now present be referred to the Committee on Claims, and that the original bill be recommitted to that committee.

The motion was agreed to.

POSITION OF TROOPS AT GETTYSBURGH.

Mr. ROLLINS. I move that the letter of the Secretary of War of March 12, 1878, with accompanying documents now upon the table, found in Executive Document No. 42, Forty-fifth Congress, second session, be taken from the table and referred to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the petition of Samuel H. Chew, a citizen of Fayette County, Kentucky, praying compensation for property alleged to have been taken and appropriated by the United States military forces during the late war, submitted a report thereon, accompanied by a bill (S. No. 1644) for the relief of Samuel H. Chew.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1571) for the relief of William W. Ross, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of W. F. Hovis, praying compensation for services as assistant assessor of internal revenue for the eighteenth division of the first collection district of Georgia, submitted an adverse report thereon; and moved that the prayer of the petitioner be not granted, and that the claim be not allowed.

The report was agreed to, and ordered to be printed.

Mr. COCKRELL also, from the same committee, to whom was referred the petition of Rev. H. W. Read, praying compensation for superintending the transportation of money belonging to the United States from Saint Louis to Santa Fé, New Mexico, in the year 1863,

submitted an adverse report thereon; and moved that the prayer of the petitioner be not granted, and that the claim be not allowed.

The report was agreed to, and ordered to be printed.

Mr. VOORHEES, from the Committee on Pensions, to whom was referred the bill (S. No. 1214) granting a pension to Amos Argle, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1210) granting a pension to Henry A. Armstrong, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 837) granting a pension to William R. Browne, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4378) granting a pension to Arthur W. Irving, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1166) granting a pension to Mary Mitchell, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4687) granting a pension to Georgine Thomas, widow of General Charles Thomas, deceased, reported adversely thereon; and the bill was postponed indefinitely.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1342) concerning street railroads in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1613) for the relief of the Louise Home, reported it without amendment.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of Maurice Samuelson, late of Company A, Twelfth Maine Volunteers, praying the passage of an act granting him back pay and extra-duty pay, asked to be discharged from its further consideration and that it be referred to the Committee on Military Affairs; which was agreed to.

He also, from the same committee, to whom was referred the petition of Maurice Samuelson praying to be allowed a pension, reported adversely thereon; and the committee was discharged from its further consideration.

He also, from the same committee, to whom was referred the bill (H. R. No. 734) granting a pension to Syvert A. Anderson, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Caroline Croxton, widow of John T. Croxton, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (H. R. No. 4682) granting a pension to Adaline P. Loy, widow of Joseph F. Loy, deceased, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4971) granting a pension to Mary Frazee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the petition of Dr. Mary E. Walker, praying to be allowed an increase of pension, reported a bill (S. No. 1645) granting a pension to Mary E. Walker; which was read twice by its title.

He also, from the same committee, to whom was referred the petition of Mrs. Phœbe C. Doxsie, widow of Lieutenant James W. Doxsie, late of Company G, Twenty-seventh Regiment Michigan Volunteers, praying to be allowed a pension, reported a bill (S. No. 1646) granting a pension to Phœbe C. Doxsie; which was read twice by its title.

He also, from the same committee, to whom was referred the bill (H. R. No. 3583) granting a pension to William Denene, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 4200) relating to the National road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road, reported it with an amendment.

Mr. EDMUNDS. I beg leave to make a report for the Senator from Michigan [Mr. CHRISTIANCY] from the Judiciary Committee, he being unable to be present at this moment on account of sickness.

The VICE-PRESIDENT. The report will be received.

Mr. EDMUNDS, (for Mr. CHRISTIANCY,) from the Committee on the Judiciary, to whom was referred the bill (S. No. 410) to provide for challenges to jurors in trials for bigamy and polygamy in the Territory of Utah, and to amend section 4 of the act entitled "An act in relation to courts and judicial officers in the Territory of Utah," approved June 24, 1874, reported it with an amendment.

BILLS INTRODUCED.

Mr. HARRIS. By request and with no knowledge as to the merits of the measure I ask leave to introduce a bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1647) to empower the commissioners of the District of Columbia to revise, correct, or annul special assessments upon the written application of any person whose real property in said District has been assessed, providing for an appeal to the supreme court of the District of Columbia from the action of the commissioners in respect to such application by any person feeling aggrieved thereby, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1648) to provide for the survey and sale of certain public lands; which was read twice by its title, and referred to the Committee on Public Lands.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1649) to provide for the holding of terms of the district and circuit courts of the United States at Fort Scott, Kansas; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1650) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1651) making appropriations for the support of the government of the District of Columbia for the fiscal year ending June 30, 1880, and for other purposes; which was read twice by its title.

Mr. DORSEY. I move that the bill be referred to the Committee on the District of Columbia, for the purpose of revision only.

The motion was agreed to.

Mr. DORSEY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1652) to provide for the appointment of a commissioner for the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1653) to amend an act entitled "An act providing a permanent form of government for the District of Columbia," approved June 11, 1878; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. THURMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1654) granting a pension to Oliver H. Perry; which was read twice by its title, and referred to the Committee on Pensions.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1655) granting a pension to Elmer A. Snow; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1656) for the relief of Rollin J. Reeves; which was read twice by its title, and referred to the Committee on Claims.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1657) to ascertain and report the losses of citizens of the State of Oregon and the Territories of Idaho and Montana on account of the destruction of property by hostile Indians in the year 1878; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SAUNDERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1658) for the relief of John A. Horbach and others, sureties upon the official bond of Edward B. Taylor, formerly Indian superintendent in the northern superintendency, and for other purposes; which was read twice by its title, and referred to the Committee on Claims.

Mr. BARNUM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1659) to correct an Army officer's record; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. HOAR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1660) for the relief of Edward Rice; which was read twice by its title, and referred to the Committee on Finance.

Mr. COCKRELL. I ask leave, without previous notice, to introduce a bill. I ask that it be read at length the first time, and then that it lie on the table, as I may possibly want to make some remarks upon it.

By unanimous consent, leave was granted to introduce a bill (S. No. 1661) to provide a uniform national currency, to retire the notes of the national banks and prohibit their incorporation and their issue of notes, to utilize silver and silver coin and provide for the issue of coin and bullion certificates, to provide for the redemption or payment of the bonds of the United States, and the issue of bonds bear-

ing a lower rate of interest, and to provide for the expansion and contraction of the paper currency to meet the business interests and wants of the people; which was read the first time at length, as follows:

A bill to provide a uniform national currency, to retire the notes of the national banks and prohibit their incorporation and their issue of notes, to utilize silver and silver coin and provide for the issue of coin and bullion certificates, to provide for the redemption or payment of the bonds of the United States and the issue of bonds bearing a lower rate of interest, and to provide for the expansion and contraction of the paper currency to meet the business interests and wants of the people.

Be it enacted, &c., That immediately upon the passage of this act the Secretary of the Treasury shall cause to be prepared and issued Treasury notes of the United States, equal in amount to the aggregate outstanding circulation of United States notes and national-bank notes, and in form as follows, to wit: "The United States of America will pay to the bearer —— dollars, redeemable in coin at the pleasure of the United States, and receivable in payment of all dues and demands to the United States," and containing such devices and superscriptions as the Secretary of the Treasury may direct; and said Treasury notes of the United States shall, in denominations and general similitude, conform as nearly as may be to the said United States notes, and shall be dated and signed by the Treasurer of the United States and countersigned by the Register of the Treasury, or their signatures may be thereto engraved, and shall be received in payment of all taxes, excises, customs duties, debts, and demands due to the United States, and of all claims and demands against the United States, except such obligations as may be payable in coin by express provision of existing laws.

SEC. 2. As soon as the Treasury notes of the United States herein provided for can be prepared and issued, and as fast as they are ready for circulation, the Secretary of the Treasury shall cause them to be forwarded to the assistant treasurers of the United States, in amounts proportioned to the receipts and disbursements of their several offices, with regulations and instructions to the following effect, to-wit:

First. That the said several assistant treasurers of the United States, immediately upon the receipt of such Treasury notes, shall cease to pay out, in disbursing the public funds, upon any account whatever, the said United States and national-bank notes, or any of them, then in their several offices or thereafter received by them, and shall in the place of and in substitution for the said United States notes and national-bank notes, and each or either of them, pay out the said Treasury notes herein authorized, and shall issue and deliver the said Treasury notes in exchange for the said United States and national-bank notes, and each or either of them, upon the application of any person, until the whole amount of said United States notes and national bank notes, and each of them, shall be retired as herein provided.

Second. That said assistant treasurers, and each of them, shall at the end of each month and oftener, as the Secretary of the Treasury may direct, transmit to the Treasurer of the United States at Washington, District of Columbia, all the said United States notes and national-bank notes, and each or either of them on hand or received by them respectively up to such date, to be received by said Treasurer in settlement with said several assistant treasurers for the said Treasury notes so forwarded to them respectively as herein provided.

SEC. 3. The Treasurer of the United States shall, as rapidly as the said United States notes are received by him, cause them to be assorted, numbered, counted, and totally destroyed, and shall, as rapidly as the said national-bank notes are received by him cause them to be carefully assorted, numbered, and counted, and the notes of each national bank ascertained and as soon as the notes of any national bank shall be ascertained, to the amount of $5,000 or any multiple thereof, the said national bank shall be duly notified thereof, and required within sixty days thereafter to redeem its said notes, which shall then be totally destroyed; and the bonds of such national bank on deposit with said Treasurer of the United States to secure its circulation, corresponding to the amount of its said notes so ascertained, redeemed, and destroyed, shall be returned to such bank and such bank shall thereafter be released and discharged from any further tax on its circulation to the amount of its said notes so redeemed and destroyed; and each national bank shall have the right to redeem its said notes with the Treasury notes herein authorized, or with drafts or certificates of deposit issued by any one of said assistant treasurers or with coin or coin certificates issued by authority of law.

And if any national bank shall fail, neglect, or refuse, within sixty days after the date of such notice, to redeem its said notes, then the interest on its bonds deposited with the Treasurer to secure its circulation and bearing the highest rate of interest, corresponding to the amount of its said notes so ascertained as aforesaid, shall cease from the day of the date of such notice and be forfeited to the United States and be canceled up to the day of the redemption of its said notes; and any national bank shall have the right to withdraw and receive from said Treasurer at any time all its bonds or any portion thereof, on paying to said Treasurer, as herein authorized, an amount corresponding to the amount of its said bonds so to be withdrawn and received.

SEC. 4. From and after the passage of this act no national bank or national banking association shall be formed, incorporated, or chartered or shall issue any notes for circulation under any law of the United States, and all laws and parts of laws and all acts and parts of acts now existing authorizing the forming, incorporating, or chartering of any national bank or national banking association or the issuing by any such national bank or national banking association of notes for circulation are hereby repealed.

SEC. 5. The Secretary of the Treasury is hereby required and directed, from time to time, as the said national-bank notes are redeemed as herein provided, to pay, lay out, and expend the said Treasury notes of the United States, to the full and equal amount of such national-bank notes so redeemed, in the purchase of silver bullion—bars—and coins of foreign governments and each or either of them, upon the lowest and most advantageous terms, at a rate and price not exceeding $1 in the face amount of said Treasury notes for each 412½ grains of silver, of standard weight and fineness, and as rapidly as such silver bullion—bars—and coins of foreign governments are so purchased, to cause the same to be coined into the standard silver dollar now authorized by law, and as rapidly as such silver dollars are coined to call in, redeem, and pay with said silver dollars, in the manner herein authorized, the outstanding obligations or bonds of the United States now redeemable at the pleasure of the United States, bearing 6 per cent. per annum interest; and when all the said bonds now redeemable, bearing 6 per cent. interest, are so called in and redeemed, then to call in and redeem in like manner the outstanding bonds now redeemable at the pleasure of the United States and bearing 5 per cent. interest and known as the "ten-forties of 1864" and the "loan of 1858."

SEC. 6. In order to enable the Secretary of the Treasury to coin said silver dollars as rapidly as possible, he is hereby authorized and required to cause the facilities and capacities of the mints of the United States to be improved, increased, and enlarged; and whatever sum or sums of money may be necessary for such purposes is hereby appropriated out of any money in the Treasury of the United States.

SEC. 7. The Secretary of the Treasury is hereby authorized and required to receive deposits of gold coin and bullion and silver dollars with the Treasurer or any assistant treasurer of the United States, in sums not less than $5, and to issue certificates therefor in denominations of not less than $5 each, corresponding with the denominations of the Treasury notes of the United States herein authorized, and of the form and similitude of the coin or bullion certificates issued under existing laws.

The coin and bullion deposited for or representing the certificates of deposit shall be retained in the Treasury for the payment of the same on demand, and any certificates so paid may be reissued from time to time upon a like deposit of gold coin and bullion and silver dollars, and the fact and date of such reissue shall be stamped or impressed upon the face thereof; and the said certificates shall be received at par in payment for all debts, excises, taxes, customs duties, and demands of every kind due to the United States, and for any of the 3 per cent. bonds of the United States herein authorized, and when so received the said certificates shall be from time to time reissued as herein provided, or the coin in the Treasury representing them may be used as other coin belonging to the United States.

And whenever and as soon as the market value of 412½ grains of silver bullion or foreign silver coins of the standard weight and fineness of the United States shall be at par with the face value of the Treasury notes of the United States herein authorized, then the Secretary of the Treasury is hereby authorized and required to receive deposits of such silver bullion or foreign coins with the Treasurer or any assistant treasurer of the United States in sums of not less than $5, estimating 412½ grains of silver of standard weight and fineness to the dollar, and to issue certificates therefor in denominations of not less than $5—at said estimate—each, corresponding with the denominations of the Treasury notes of the United States herein authorized; and the said certificates shall be of the form and similitude in all respects of the certificates herein authorized to be issued for gold coin and bullion and silver dollars, and shall in like manner, in all respects, be reissued and received. And the gold and silver bullion and foreign silver coins as herein authorized to be deposited and received may, in the discretion of the Secretary of the Treasury, be coined at the mints of the United States into gold and silver coins of the standard value of the United States as authorized by law; and when so coined, such gold and silver coins shall be held and used in the same manner and for the same purposes as the gold coin and silver dollars herein authorized to be deposited and received may be held and used.

SEC. 8. From and after the passage of this act no discrimination in favor of gold coin or against silver dollars, and no discrimination or preference between gold coin and silver dollars shall be made or allowed by any disbursing officer of the United States or his employé. And the Secretary of the Treasury, the Treasurer, all assistant treasurers, and all disbursing officers of the United States shall reserve to the United States and exercise for the benefit of the people thereof their rightful option to redeem or pay in gold and silver coins, or either, all the bonds and all interest, the Treasury notes, and all obligations of the United States redeemable or payable by law in coin; and shall exercise such option in disbursing such standard coins in such manner as to maintain unimpaired their relative value and the double or bimetallic standard.

SEC. 9. In order to provide for the redemption and payment of the obligations or bonds of the United States now redeemable or payable and hereafter becoming redeemable or payable, and to reduce the rate of interest on the public debt, the Secretary of the Treasury is hereby authorized and required to cause to be prepared and to issue in a sum or sums not exceeding in the aggregate the amount of said bonds now redeemable or payable and hereafter becoming redeemable or payable, and at such times as to provide for their redemption or payment as they severally become redeemable or payable, coupon and registered bonds of the United States, and each or either of those classes, in such form as he may prescribe, and of the denominations of $50, or some multiple thereof, redeemable at the pleasure of the United States at any time after ten years from their dates respectively, and bearing interest at the rate of 3 per cent. per annum, payable quarter yearly; and not less than two hundred millions of said bonds shall be of the denomination of $50, and not less than two hundred millions of said bonds shall be of the denomination of $100; and the Secretary of the Treasury shall sell and dispose of said bonds, at not less than their par or face value, for gold coins or silver dollars now authorized by law, or for gold-coin certificates or silver-coin certificates, or gold or silver bullion certificates, authorized by law now existing or herein authorized, and shall apply the proceeds thereof to the redemption or payment of the present outstanding bonds of the United States, at their par or face value, now redeemable or payable and hereafter becoming redeemable or payable, and shall exchange any bonds herein authorized for any present outstanding bonds of the United States, par for par, upon the application of the holder or holders thereof.

SEC. 10. Hereafter the Secretary of the Treasury, in calling in, redeeming, and paying the bonds of the United States, shall give public notice, describing by class, dates, and number the particular bonds to be redeemed or paid and stating the day of such intended redemption or payment. And the interest on the particular bonds so described and to be redeemed or paid shall cease at the expiration of twenty days from the date of such notice.

SEC. 11. From and after the passage of this act it shall not be lawful for the Secretary of the Treasury to issue or dispose of any bond or bonds of the United States not authorized by this act or bearing a higher rate of interest than 3 per cent. per annum.

SEC. 12. In order to provide for the business interests of the people and to regulate the proper expansion and contraction of the paper currency of the United States and to give elasticity thereto, the Secretary of the Treasury is hereby authorized and required to cause to be prepared and to issue, in addition to the amount of the Treasury notes of the United States hereinbefore authorized, other Treasury notes of the United States of the like form, character, conditions, description, and denominations with those hereinbefore authorized, in such amounts, from time to time, as may be needed, and to cause the same to be delivered, by and through the Treasurer of the United States and each of the assistant treasurers of the United States at their respective offices, to any person or persons applying therefor, upon the deposit with and delivery to said Treasurer or any assistant treasurer by such person or persons of an equal amount of any bonds of the United States bearing interest, estimating principal and interest thereon accrued at such date. And the said bonds so received in exchange for such Treasury notes shall be held or transmitted to and held by the Treasurer of the United States, and all interest accruing thereon during the time such bond or bonds are so held and in transit shall cease and be canceled. And the said bond or bonds shall be returned and delivered to such person or persons upon application and deposit with and delivery to said Treasurer or any assistant treasurer of an equal amount of any Treasury notes of the United States, and thereupon the interest on such bond or bonds shall begin to accrue and run. And such Treasury notes may in like manner be reissued and received from time to time.

SEC. 13. The Secretary of the Treasury shall make to Congress on the first day of each regular session full and detailed reports of his operations and proceedings under this act, in connection with his regular finance report.

SEC. 14. All laws and parts of laws, and all acts and parts of acts, inconsistent or in conflict with any of the provisions or requirements of this act are hereby repealed.

The bill was read the second time by its title, and ordered to lie on the table.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 49) authorizing the President to appoint Surgeon J. Rufus Tryon a medical inspector in the United States Navy; which was read twice by its title.

Mr. KERNAN. I introduce the joint resolution by request, and I wish to say that while my impressions are strongly against this kind of legislation, I think this is as meritorious as any of the similar claims presented. I move the reference of the joint resolution to the Committee on Naval Affairs.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CONKLING, it was

Ordered, That the petition of Henry Mentz be taken from the files of the Senate and referred to the Committee on Pensions.

BEN. HOLLADAY.

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That 1,000 copies of Senate bill No. 1398 and accompanying report No. 513 be printed for the use of the two Houses of Congress, the number heretofore printed being exhausted.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

Mr. MORGAN. I submit the following resolutions, which I intend to offer as a substitute for the resolution of the Senator from Vermont, [Mr. EDMUNDS.] I ask that they be read, printed, and laid on the table.

The resolutions were read, as follows:

1. *Resolved, as the judgment of the Senate*, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States are as valid and binding as any other part of the Constitution; that the people of the United States have a common interest in the enforcement of the whole Constitution in every State and in the Territories of the United States, and that it is alike the right and duty of the United States, so far as the power has been delegated to them, to enforce said amendments and to protect every citizen in the exercise of all the rights thereby secured.

2. *Resolved*, That the Government of the United States and the governments of the several States are distinct, and each has citizens of its own, who owe it allegiance, and whose rights within its jurisdiction it must protect. That the Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument, nor prohibited by it to the States, are reserved to the States respectively or to the people. And that no right can be acquired under the Constitution, or secured through the laws of the United States, except such as the Government of the United States has the authority to grant or secure.

3. *Resolved*, That the Constitution of the United States has not conferred the right of suffrage upon any one and the United States have no voters of their own creation in the States; but the fifteenth amendment of the Constitution has invested the citizens of the United States with a new constitutional right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. And it is within the jurisdiction of the Government of the United States, which Congress may exert by appropriate legislation, to prevent the denial or abridgment by a State of the right of a citizen to vote when such denial or abridgment is on account of the race, or color, or previous condition of servitude of the voter.

4. *Resolved*, That when such right to vote is denied or abridged by the conduct of a person who is not so acting by the authority and in obedience to the laws of a State, the jurisdiction to punish such conduct is in the State government and is not in the Government of the United States.

The resolutions were ordered to lie on the table, and be printed.

ROBERT ERWIN.

Mr. GORDON. I ask unanimous consent to reconsider the vote by which the bill (S. No. 1215) to amend an act entitled "An act for the the relief of Robert Erwin" was indefinitely postponed, and recommit it to the Committee on the Judiciary.

The VICE-PRESIDENT. The Chair hears no objection, and the order will be entered.

ADMISSIONS TO THE FLOOR.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That the sixtieth rule of the Senate be amended by inserting after the words "judges of the Supreme Court" the words "judges of the Court of Claims."

THE CALENDAR.

Mr. ANTHONY. Mr. President, I almost despair of doing anything for our poor Calendar, which is bending beneath the weight of favorable reports; but I will try once more and in another form. I offer the following resolution, and ask for its present consideration:

Resolved, That at the conclusion of the morning business each day after this day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless upon motion the Senate shall at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

The resolution was considered by unanimous consent, and agreed to.

AMENDMENT TO POST-ROUTE BILL.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 850) for the relief of Daniel W. Perkins, of East Saginaw, Michigan;

A bill (H. R. No. 2160) for the relief of the heirs of Samuel P. Todd, deceased, late a purser in the United States Navy;

A bill (H. R. No. 5861) for the relief of the heirs and legal representatives of Israel Dodge, deceased; and

A bill (H. R. No. 4553) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award.

The message also announced that the House had passed the following bills:

A bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico; and

A bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880.

REVISION OF THE PATENT LAWS.

The VICE-PRESIDENT. The Senate will now proceed to the consideration of its unfinished business, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes. The bill is before the Senate as in Committee of the Whole, and the pending question is on the amendment proposed by the Senator from Illinois [Mr. DAVIS] on which the yeas and nays have been ordered.

Mr. WADLEIGH. I withdraw the call for the yeas and nays if it is in order for me to do so.

The VICE-PRESIDENT. The Chair understands that the amendment has been voted on, no quorum appearing, and it is not in order to withdraw the call without unanimous consent.

Mr. CONKLING. What is the amendment?

The VICE-PRESIDENT. That of the Senator from Illinois, [Mr. DAVIS,] which will be reported for information.

Mr. WADLEIGH. I trust unanimous consent will be given to withdraw the call.

Mr. CONKLING. Let us hear the amendment first.

The SECRETARY. It is proposed to add at the end of section 5 the following proviso:

Provided, That it shall not be lawful to grant any reissue of any patent for any invention, except the invention which was embraced in the original patent.

Mr. CONKLING. The withdrawal of the call will leave the amendment adopted?

Mr. DAVIS, of Illinois. Yes.

The VICE-PRESIDENT. It will not.

Mr. DAVIS, of Illinois. It was declared adopted, and then a call was made for the yeas and nays, and there were 25 votes for the amendment and 11 against it.

The VICE-PRESIDENT. No quorum was developed upon that vote.

Mr. CONKLING. So that a withdrawal of the call would leave the amendment, if the Chair will be kind to state, in what condition?

The VICE-PRESIDENT. Pending, as the Chair understands. He was not in the chair at the time.

Mr. CONKLING. Then there is no object in withdrawing the call, I suggest to the Senator.

Mr. WADLEIGH. If that is the case, of course I do not ask to withdraw the call.

The VICE-PRESIDENT. The Secretary will call the roll upon the amendment of the Senator from Illinois, [Mr. DAVIS.]

The question being taken by yeas and nays resulted—yeas 39, nays 0; as follows:

YEAS—39.

Allison,	Dennis,	McCreery,	Ransom,
Armstrong,	Eaton,	McMillan,	Sargent,
Beck,	Edmunds,	Matthews,	Saunders,
Booth,	Gordon,	Maxey,	Spencer,
Bruce,	Grover,	Mitchell,	Voorhees,
Burnside,	Harris,	Morgan,	Wadleigh,
Cockrell,	Hereford,	Morrill,	Wallace,
Conkling,	Hoar,	Paddock,	Windom,
Davis of Illinois,	Johnston,	Patterson,	Withers.
Davis of West Va.,	Kernan,	Plumb,	

NAYS—0.

ABSENT—37.

Anthony,	Coke,	Ingalls,	Randolph,
Bailey,	Conover,	Jones of Florida,	Rollins,
Barnum,	Dawes,	Jones of Nevada,	Saulsbury,
Bayard,	Dorsey,	Kellogg,	Sharon,
Blaine,	Eustis,	Kirkwood,	Teller,
Butler,	Ferry,	Lamar,	Thurman,
Cameron of Pa.,	Garland,	McDonald,	Whyte.
Cameron of Wis.,	Hamlin,	McPherson,	
Chaffee,	Hill,	Merrimon,	
Christiancy,	Howe,	Oglesby,	

So the amendment was agreed to.

Mr. WADLEIGH. I move to amend section 7. The changes proposed are merely verbal and to correct a mistake in the bill as reported. After the word "person," in the second line of the seventh section, I move to insert the words "as sole inventor;" to insert after the word "persons," in the third line, the words "as joint inventors;" to insert after the word "invention," in the fourth line, the word "not;" and to strike out after the word "by," in the fourth line, the words "one or more of them" and insert "all of said persons jointly;" so as to read:

Whenever a patent has been issued to one person as sole inventor for an invention actually made by him jointly with another or others, or a patent has been issued to several persons as joint inventors for an invention not made by all of said persons jointly, and such error has arisen through inadvertence, accident, or mistake, the Commissioner, upon the application and oath of the true inventor or inventors, and with the written consent of all the owners of said patent entered of record, may correct the mistake.

The amendment was agreed to.

Mr. WADLEIGH. I move to add at the end of section 15 the following:

The Commissioner of Patents shall, with the approval of the Secretary of the Interior, prescribe the qualifications of agents and attorneys practicing before the office, and shall admit to practice only such as possess the qualifications prescribed.

Mr. CONKLING. Mr. President, I should like to know what "the qualifications" possessed by attorneys and intended by that amendment are.

Mr. WADLEIGH. The qualifications will be such as are prescribed, and I presume when prescribed they will be reasonable. The evil which this is intended to remove is this: there now being no patent bar admission to which can be obtained on application, any person who can procure a letter of attorney from any inventor has a right to go to the office and handle the papers and look over the files and practice before the Patent Office. This admits of course persons of all characters and persons of no responsibility, and the office incurs the danger of having its files tampered with.

Experience has shown the necessity of some provision of this kind for the purpose of requiring certain qualifications and a certain degree of responsibility on the part of those who have such powers granted to them from the fact that they are able to secure letters of attorney from patentees. I hope there will be no opposition to the amendment.

Mr. CONKLING. Is it designed if some counselor or attorney of a court comes here from a distance to see about a matter relating to a patent, that before he can approach the Patent Office he must go and be admitted as a practitioner?

Mr. WADLEIGH. Not at all, Mr. President. No counselor in such a case as that would be refused leave to practice. It is only to exclude from entering the Patent Office, examining the files, and tampering with the files, any shyster or any man who may be able to procure from an inventor a letter of attorney. I care nothing about the amendment personally.

Mr. CONKLING. We shall all agree, of course, with the object the Senator has in view; and my purpose in calling attention to this is only to invite scrutiny to see whether it does accomplish that object.

The Commissioner of Patents shall, with the approval of the Secretary of the Interior, prescribe the qualifications of agents and attorneys practicing before the office, and shall admit to practice only such as possess the qualifications prescribed.

Of course, on the face of it, if it be applied only to those living in Washington, it is very harmless; but the Commissioner is to find who it is that possesses these qualifications. Of course I assume that every man upon whom this operates must present some proof, must come furnished or must furnish himself with some sort of proof. Here comes a man a considerable distance from home. He has other business in Washington, and some neighbor of his charges him with an errand about his patent. If this means, as I think it does, that before he can do that business he must be admitted regularly to practice in the Patent Office, would have to go through whatever forms are prescribed, having certificates of character or papers, whatever they may be, upon which business is to be done, I should think it might become inconvenient.

I sympathize with the Senator in the object he points out; but why make it a regular matter of admission? If he were to say that the Commissioner of Patents or the Secretary of the Interior or both were in some way to be satisfied of the standing of this man, of the authenticity of the papers that he brings, that he was to be scrutinized in some way, that might be very well; but this seems to require and contemplate a formal admission to practice. That is very easy for those who make it a business, in whose case it is worth while to be admitted, particularly those residing here; but if a man comes casually to Washington to appear before the office, it seems to me this is hedging it about with requirements that might possibly operate as a hardship upon him. I do not mean to oppose the amendment, but simply to call the attention of the chairman to what I have suggested.

Mr. WADLEIGH. It certainly was not the intention of the committee, or the framer of the amendment, I suppose, to require what my friend the Senator from New York seems to fear; but I will admit that in the case of all courts there should be some qualifications for those who are to practice before them; and if there is a necessity for that in the case of any court or any tribunal, there is in the Patent Office. In fact I think there is a greater necessity for a provision of this kind in the Patent Office than there is in any court in this country, because those who are attorneys practicing before the Patent Office have an opportunity to do harm which no attorney would be likely to have practicing before any court of law. I suppose the rules must be so reasonable that in the case to which my friend from New York has referred the fact that a person appeared here who was an attorney in good standing in the courts of any of the States of the United States would be sufficient, and he could prove that at any time in Washington.

Mr. EDMUNDS. This subject of prescribing a kind of arrangement that should make a bar and establish certain securities for the public interests in practicing before the Departments is not a new one. The abuses of existing arrangements have been undoubtedly considerable, not merely in the Patent Office but before other Departments, and for several years past at nearly every Congress there has been presented some bill or proposition to regulate the qualifications and conditions of persons and under which claims, &c., should be prosecuted in the Treasury Department. And yet when we have come to turn our attention to it, as one committee of which I am a member has sometimes been obliged to do, we have found the subject surrounded by so many difficulties, as to where you shall draw the line, as to who may go to the Treasury Department to prosecute a claim or to the War Department or wherever it may be, or who may go to the Patent Office to prosecute a claim, that we have not been able to produce any regulation of law that is satisfactory even to ourselves. There is at this moment pending before the Committee on the Judiciary a bill to regulate the rights of attorneys practicing before the Patent Office, it being asserted to us—I do not say it is true, but that is the allegation—that under a former Commissioner of Patents there was a certain kind of favoritism in the nature of a ring, if one may use such a term as that in the Senate of the United States, that led to very unpleasant results in respect to the rights of persons whose claims and matters were being prosecuted there; and yet there are difficulties in making any provision at all.

Now, the question is whether it is wise in this bill to put the absolute power into the hands of the Commissioner of Patents and the Secretary of the Interior to determine the qualifications of the agents and attorneys in patent matters. That involves the right (because "qualifications" would cover that in my opinion) of declaring that everybody who appears in the Patent Office for any inventor or against any inventor, for any patent or against any patent, should reside in the city of Washington, and to have been previously admitted on the payment of a fee or whatever it may be to carry on affairs in that tribunal.

I am unwilling at this present moment, and without more time to consider it, to repose in the Commissioner of Patents, the Secretary of the Interior approving or disapproving, the power of denying to any citizen of the United States the right to go there with the papers of some poor inventor, or with the papers of some interference claimant or objector and to file those papers and put in his protest. There are evils that exist; but the question is whether in flying from the evils that do exist we do not fly into the possibilities of establishing under some Commissioner of Patents who may come hereafter—I should have entire confidence in the present Secretary of the Interior and the present Commissioner of Patents—but under somebody who may succeed them, of laying down a series of qualifications and rules about this business that would be highly objectionable.

I have no doubt of the power of the Secretary of the Interior and the Commissioner of Patents now to take any necessary steps to guard against either the tampering with papers which naturally never ought to be out of the sight and possession of the officers of the Patent Office, or tampering with clerks who have charge of papers. The Secretary of the Interior and the Commissioner of Patents have exercised those powers. Whether they have exercised them wisely in some cases that have been brought to my attention, is another question; but they have exercised them, because it is a mere regulation of "the administration of" their duties to guard the performance of what the law has imposed upon them.

I appeal, therefore, to my honorable friend from New Hampshire to withdraw this amendment and not to press it; let the law stand as it does, and under it I believe that for all the purposes of protection the Secretary has sufficient present power; but to give him the absolute power as the statute now does in respect to the courts to make rules and regulations for the admission of attorneys, I should be a little afraid to do just now.

Mr. WADLEIGH. Mr. President, I desire to say that this amendment was proposed to me by General Paine, the present Commissioner of Patents, in whose integrity and high ability I have all confidence.

Mr. EDMUNDS. So have I. I hope the Senator does not misunderstand me about that.

Mr. WADLEIGH. He regards it as being of great importance to prevent the evils which have grown up in the office and which have proved very serious. As for myself I have no particular interest in the amendment and no personal desire about it; but my friend, the Senator from Vermont, if he has had any experience of the business before the Patent Office, must have heard complaints of the character of those to which I have alluded.

I shall not ask for a yea-and-nay vote upon the amendment, but I should like to have the question submitted to the Senate.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from New Hampshire.

The amendment was rejected.

Mr. WINDOM. If the committee have no further amendment I wish to offer an additional section.

Mr. BOOTH. The Senator from New Hampshire gave notice of another amendment.

Mr. WADLEIGH. There is an amendment which purports to have been offered by the Senator from Kansas, [Mr. INGALLS,] but which I offered. It has not yet been acted on.

The VICE-PRESIDENT. It will be read.

The SECRETARY. The amendment is in section 19, to strike out from and including the words "but nothing," in line 14, all the remainder of said section, and insert in lieu thereof "but this section shall not apply to any patent which has heretofore expired by operation of existing law."

The amendment was agreed to.

Mr. WITHERS. I submitted an amendment some time ago to the eighteenth section.

The VICE-PRESIDENT. It will be read.

The SECRETARY. In section 18, after line 15, it is proposed to insert:

And provided further, That in all cases where patents have been passed and allowed since July 8, 1870, but have been and are still withheld under the provisions of section 4885 of the Revised Statutes, because of non-payment of the final fee within the time prescribed, the Commissioner of Patents, upon payment of such final fee within six months after the passage of this act, shall issue the said patents, as if the final fee had been paid within the time heretofore prescribed by law, which patents so issued shall bear date of the time of the actual issue of the same: *Provided*, That no person shall be held responsible in damages for having, previous to the issuing of such patents, used or manufactured any article or thing for which any patent may issue under this act.

Mr. WITHERS. I offered the amendment by request, but I have seen a communication from the Commissioner stating that very great disturbance would be created by the adoption of such an amendment, from the fact that there were a very large number of patents which would be affected by it, amounting to several thousand in number. In many cases parties have secured patents which have lapsed by failure of the payment of the last fee, and the inventions have gone into the manufacture of articles under other patents, and if this amendment were adopted the Commissioner thinks their business would be ruined. I therefore move this additional amendment, to come in after the word "act," at the end of the last proviso, to protect them against that injury, as follows:

Nor shall any person now engaged in the use and manufacture of any such article or thing be debarred from continuing such use or manufacture by any patents that may be issued as aforesaid.

This will protect them not only against any damages for having previous to the issuing of the patent manufactured any article or thing for which the patent may be issued, but will also not prohibit their continuing the use and manufacture of such article. I think it will meet the objection urged by the Commissioner.

Mr. WADLEIGH. Mr. President, it would not by any means remove the objection. The parties who applied for patents and to whom they would have been granted upon the payment of the remainder of the fee allowed the two years to elapse before paying the fee, and thereby abandoned their patents. Their inventions have gone into use, perhaps, in other patents; and no proviso like that of my friend from Virginia can, it seems to me, remove the evils that would arise from the revival of so large a number of patents which have expired. I think the Commissioner says the number of patents which have expired and would be revived substantially by this is more than seventeen thousand. In many cases certain parts of the claims in these applications have gone into other patents, and it would occasion an immense amount of confusion and trouble to pass a provision of this kind, which I think is wholly unheard of and unprecedented, and the evils of which would be vastly greater than any benefits that could be derived from it.

Mr. WITHERS. I admit that my understanding of the communication from the Commissioner does not coincide fully with that of my friend from New Hampshire. It does not, as I understand, affect seventeen thousand cases in which patents may be issued; but he simply states that about that number of cases have lapsed under the provisions of the general law by the failure of the payment of the final fee. As to the number which have been subsequently patented the Commissioner is silent, and I assume therefore that his communication on that subject does not materially affect the question, although it is certainly possible and indeed probable that many cases exist in which the patents have subsequently lapsed by failure of the payment of the final fee.

The only object I had in presenting it was to secure some protection, if it were possible to do so, for those cases in which applicants for patents have been deprived of the protection of the law and the benefit of a patent by reason of their inability, their poverty not rendering it practicable for them to pay this final fee; and to give them an opportunity in meritorious cases to procure this benefit I introduced the amendment, and it does seem to me that with the modification I have just offered no persons interested will be prejudiced by the issuance of the patent.

Mr. HOAR. Is there an amendment to this printed amendment?

Mr. WITHERS. The amendment is printed.

Mr. HOAR. Is there an amendment besides what is in print?

Mr. WITHERS. Yes, sir. I offer an additional amendment to come in at the conclusion of the sixteenth line, simply providing that persons now engaged in the use and manufacture of any such article shall not be debarred from continuing such manufacture and use.

Mr. HOAR. The amendment offered by the Senator from Virginia, is not confined to the class of cases which he undertakes to provide for. His argument is that he desires to relieve persons who have been unable to pay the fee from poverty. His amendment revives the right of all persons who made a claim since 1870, who did not pay the fee, whether they did not pay it from poverty or because they thought the patent worthless or for any other reason, so that it would enable speculators in patents to find applications which had been abandoned for any good cause by the owner, revive them, pay the fee on them, and bring them forward as an instrument in litigation. It seems to me that the Senator would hardly desire to accomplish that result; but his amendment as he now offers it is liable to that difficulty.

Mr. WITHERS. The Senator is perfectly right in supposing that such is not my purpose; but I submit that it is not a violent presumption to assume that where applications have failed to be consummated for want of the final fee, where the patents had merit in them, this could only have arisen from inability to meet the payment; that if an invention were meritorious, if there were anything in it likely to make it valuable, nothing but an actual inability to pay the final fee in order to secure to the inventor the right to a patent would have prevented such payment; and in all cases, therefore, in which payment has not been made where the patents are meritorious, I have thought it not illogical to assume that it was for want of means.

Mr. WADLEIGH. The Senator is well aware of the difficulty of securing the passage of an extension bill on this floor. That difficulty arises in every case when an individual has a meritorious claim, and yet almost always those extensions are applied for before the expiration of the patent; and parties have given notice before engaging in any business based on a patent of the hostility they make to extensions. Now, it is proposed by a little amendment to this bill to revive in fact more than seventeen thousand patents.

Mr. WITHERS. No; these are cases where patents have never issued.

Mr. WADLEIGH. Well, to revive them. They have been abandoned. They have been abandoned by the inventors.

Mr. WITHERS. They have lapsed by reason of the provision of the law.

Mr. WADLEIGH. The inventors had two years to pay the final fee, and they have not paid it. They have abandoned their inventions. Now, if there are any individual cases, and possibly there may be some individual cases, in which it is desirable that the patents should be revived, they can secure an act of Congress, upon the examination of the subject-matter, which will authorize such revival; but it seems to me that the passage of this amendment will give the widest and most boundless range to speculators in patents and will involve the public in unbounded litigation and expense. I regard it as being in the highest degree dangerous, and I am surprised that my friend the Senator from Virginia, who can hardly ever vote for the extension of a single patent, is willing to urge here an amendment which may revive several thousand patents, the effect of which he cannot possibly know and we cannot judge.

A measure of this kind is pressed by somebody who is interested. What is that interest? It is for the interest of men who speculate in patents, men who seek to revive old patents, men who obtain reissues fraudulently, that an amendment of this kind should pass. I know my friend, the Senator from Virginia, too well to suppose that he has any such object, and I have no doubt that he presents it as he says by the request of parties in whom he has confidence, but I am satisfied that the result, if the amendment passes, will be in the highest degree disastrous.

Mr. WITHERS. My friend seems to confound the reissue of a patent with the granting of a patent. It is true that I have as a general principle opposed the extension of patents, the reissue of patents, particularly in certain directions in which my constituents have a deep interest. But this is not the case of a reissue of a patent; it is not the case of an extension of a patent; but it is simply a question whether the originator of an invention shall be entitled to secure the issue of a patent for that to which, so far as this amendment is concerned, no patent has ever issued. It is possible that a subsequent patent may have been issued covering part of the same thing, but it does not follow from the amendment I offer that it shall operate as a reissue.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Virginia.

The amendment was rejected.

Mr. WINDOM. I now offer my amendment, to insert as an additional section the following:

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit; and if the plaintiff shall not recover the sum of $50 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant, at the time of such purchase, manufacture, or practical application, had knowledge or actual notice of the existence of such patent, and that such purchase, manufacture, or practical application was an infringement of the rights of the plaintiff.

The question being put, it was declared that the ayes appeared to prevail; whereupon a division was called for.

Mr. WADLEIGH. Mr. President, it is evident from the fact that so few Senators vote upon an amendment which affects the integrity and the existence of the patent system that they are giving no attention to this bill.

The amendment of the Senator from Minnesota provides that certain consequences shall follow in all cases where it cannot be shown by the plaintiff that the infringer or the user of a patent who has no right to use it purchases it on actual notice or with knowledge not only of the existence of the patent, but also with the knowledge that his purchase of the same and the sale of the same to him or his manufacture of the same was an infringement of the rights of the plaintiff.

Now, Mr. President, it will be absolutely impossible to show that in any considerable number of cases. It cannot be shown that the party who buys a patented article knew of the existence of the patent, of its validity, and of the fact that the sale to him or the manufacture

by him was an infringement of the plaintiff's rights. Consequently that part of the amendment of my friend, the Senator from Minnesota, becomes utterly nugatory. It has no effect at all, because what it requires to be proved can hardly ever, if ever, be proved at all.

Then that would leave the law so that if any person illegally used a patented invention he would be obliged to pay no costs unless the damages recovered against him in the suit were more than $50, or the decree against him was more than $50, and he could recover of the plaintiff costs in his own favor where the plaintiff recovered nominal damages only.

Mr. President, in a great many cases the owner of a patent is obliged to bring a suit not for the purpose of recovering damages, but for the purpose of protecting his rights, for the purpose of settling in some tribunal the validity of his patent, or the question of infringement. In such cases he brings suit for that purpose, whether he is likely to obtain any considerable damages or not; and in many cases where such was his object, he would obtain only nominal damages. Now, this amendment of my friend from Minnesota would absolutely prevent, practically at least, the bringing of any suit simply to settle the question of the validity of a patent, or the infringement, where the damages were not considerable.

Then again, in all cases where no more than $50 is recovered the plaintiff is to be compelled to pay his own costs. What patent-rights would that affect? What would be the effect upon the community? That would affect at least ninety-nine out of every hundred, perhaps nine hundred and ninety-nine out of every thousand patents. In the first place, for instance, here is the telephone; it is an invention extremely useful; it is going generally into use. For the use of one of these machines the inventor charges only $5 a year. Under this bill his recovery of damages is limited to the four years preceding the bringing of the suit. Consequently the damages fixed by himself would be only $20. This amendment of my friend, the Senator from Minnesota, gives anybody in the United States whose knowledge of the validity of that patent (and that involves a good many circumstances) cannot be proved, the right to buy or manufacture those machines and use them. That would undoubtedly destroy the value of that patent; it would be good for nothing. Who would pay anything for a patent-right burdened with such a restriction as that?

Then, too, this amendment would apply to improvements in agricultural implements. It would in fact apply to all patented articles which go into general use. For instance a man has a plow; he has invented an improvement in the plow. He cannot hope to obtain from any user of that implement more than $50 damages for four years' use. It applies to nearly all the improvements that have immensely enhanced the capacity of manufacturing machinery. Those improvements are individually very small. They are almost all of them made by workmen in the mills. No workman for most of those improvements could hope to obtain $50 damages for their use for four years.

What would be the result of this amendment? That all invention would cease from want of encouragement with reference to such improvements the use of which would not be likely in four years to give the inventor $50 damages against the infringer. My friend from Minnesota does not want any such result as that to follow. He does not want the result to follow that improvements in manufactured machinery will cease, that all improvements in articles going into general use will cease; and yet nothing can be clearer than the fact that if all encouragement is withdrawn by such an amendment as this from the invention of such improvements they will cease.

Now, I regard this amendment as being hostile to the bill itself. I regard it as being hostile to the patent system, and if the bill were amended as proposed by the Senator from Minnesota, I should be compelled to oppose, instead of advocating it.

The committee started out with the idea of improving, and not destroying, the patent system. They regard it as being of great value to the country. They regard its destruction as highly injurious to the best interests of this people; and there can be no surer mode of destroying it than by the passage of a law which discourages and makes cease all improvements in machinery, all improvements in articles for general use where the inventor cannot hope to get more than $50 for four years' use of them by an infringer, which covers, in my judgment, ninety-nine out of every one hundred patent rights, if not nine hundred and ninety-nine out of every thousand.

There is another question which I wish Senators to consider. Take, for instance, the telephone itself. This Government has promised the inventor of that wonderful invention that he shall have the exclusive right to it for seventeen years. He has disclosed it to the public; he has paid to the Government all that they had asked for his letters-patent; they have taken his money. It is the duty of the Government to furnish him and every other patentee to whom they have granted letters-patent an adequate remedy against infringement. Now, Mr. President, this gives no adequate remedy; it takes away the remedy which the law gives him; it takes away, in my judgment, his constitutional rights, rights which he is entitled to under the Constitution and laws. It is in effect a violation of the contract which the Government has made with him that upon the disclosure of his invention and the payment of a certain sum of money he shall have the exclusive right to it for seventeen years, and that the Government will furnish to him an adequate remedy for the protection of his right.

I am aware that my friend the Senator from Minnesota has certain local grievances of his constituents to remedy. I think this is not the way to remedy them. Those grievances are temporary, and will soon pass away; but if for the purpose of alleviating the hardships of his constituents, hardships which can exist but for a short time, and hardships which perhaps could not have arisen under this law as we propose to amend it, he shall destroy the patent system or affect its vitality, he will have done to the country vastly more harm than he will have done to his constituents good.

Mr. WINDOM. Mr. President, the Senator from New Hampshire seems to have had his fears very much increased since the discussion which occurred on this proposition in December. He then thought it would cripple the patent laws, but I think he had not then come to the conclusion to desert his own bill if this little amendment should be adopted. A proposition much more radical than this was then submitted by myself, a vote was taken indicating that a very large majority of the Senate was in favor of it, but subsequently upon a further discussion of the question and the suggestion being made by several Senators which seemed to have a good deal of force in it that possibly that provision might be unconstitutional, I withdrew it and gave notice of the amendment now proposed. The proposition which the Senate then voted for was that in cases of the kind mentioned in this amendment no damages whatever should be recovered. This section only seeks to prevent the little harassing and vexatious suits which are brought by the thousand all over the country under the sanction of existing laws.

The Senator from New Hampshire says that I am moved by a local grievance. It is true that in the State I have the honor in part to represent there is a grievance, and a very great one, growing out of the present patent system; but it is by no means a local one. It extends into many other States beside my own. It is not that case alone that I complain of; nor would that alone move me to urge as strongly as I shall the amendment now proposed. It is not that in a single case the patent laws have been used to vex and harass the people, but it is because the laws themselves as they now stand seem to have been framed for the express purpose of encouraging such proceedings, and to have become the ready instruments of any set of—to use the language of my friend from New Hampshire—shysters who choose to employ them to plunder the public.

Now, Mr. President, I do not think it would cripple the patent system as the Senator from New Hampshire suggests. The patentee has his remedy, if this amendment shall pass, against the maker and the vender of the patented articles, and he has also his remedy against the purchaser and user wherever that purchaser or user has notice that the patent has been infringed. It seems to me that this is a sufficient remedy.

But, Mr. President, even if some little inconvenience may be suffered by the patentee if this amendment becomes a law, it does not weigh in the scale against the great wrongs which are perpetrated under the law and will be hereafter perpetrated if some such an amendment as this be not passed. If you can so change the jurisdiction in patent cases as to give it to the smaller courts of the States, as in other cases for small amounts, I will consent to it. I am entirely willing that the patentee (if a law can be framed to give him that authority) shall go to a justice of the peace and sue for his one, or five or ten dollar infringements, because then the defendant and the patentee have an equal chance. Perhaps that cannot be done. If so, I can see no way to protect the public but by some such provision as that contained in the pending amendment.

The Senator from New Hampshire makes an earnest appeal in behalf of meritorious patentees. I agree with him as to their merit; but I say that it does not follow because the country has received benefits from inventions, therefore laws shall not be changed which are capable of such perversion and which are being made the instruments of such outrageous abuses as exist to-day under our patent system. I agree that the owner of a patent is as much entitled to his property in it as the owner of anything else, but he is entitled to no higher consideration than the owner of any other kind of property. It is not the patentee who will suffer if this amendment shall pass, if anybody suffers. It is not the patentee who brings these suits; but it is usually a combination of agents and lawyers who find slumbering in your Patent Office some forgotten and worthless patent which, under the advantage given them by your present system, they can use as a means of robbing the people—it is they that bring the suit under some arrangements by which the profits are divided.

Now, sir, while I respect the genius and the talent of the inventor and will protect him as far as I can, I submit that it does not require any more talent or genius to buy or steal a patent than it does to buy or steal a horse, and therefore to the purchaser I would accord no more powers than I would to the man who owns any other kind of property by purchase. Possibly there may be some slight inconvenience growing out of this amendment to some of the patentees, but the inconveniences as I stated a moment ago do not weigh at all as against the great benefits that the people would receive by the protection which it would afford.

The Senator from New Hampshire has told us very eloquently that everybody has been represented, that his committee have considered this bill for a year or more—I do not know how long. Mr. President, I have no doubt that that committee have given it that earnest and faithful consideration which they give to all measures; but I want to suggest to my honorable friend from New Hampshire that while the

interests of the patentees and the interests of the large users of patents, railroad corporations and others, have been represented before his committee, and have been heard, the people themselves, the great mass of the users of patents, have not been heard before that committee at all. I have read most of the arguments that were made upon this subject, and I have not found that anybody yet has represented the interest of the great mass of the people whom I seek to protect by this amendment. I think that they need protection, and I appeal to the Senator from New Hampshire to aid me in protecting them.

Mr. WADLEIGH. Mr. President, the committee have fully considered the hardships which my friend from Minnesota talks about; and the majority of the committee at least, and I might say the whole of them, were in favor of any practical remedy that could be adopted. The committee think that the bill before the Senate, as amended, in two respects at least, suggests a remedy for the difficulty which the Senator from Minnesota complains of. In the first place, there is a provision limiting patent suits to four years. That will compel the patentee to bring his suit within a time when the evidence can be procured by those who oppose his patent and before the invention has in most cases intertwined itself with large business interests.

In the second place, the bill, as amended, provides that the court may limit the costs of the plaintiff, may give costs even to the defeated party and an allowance by the way of counsel fees.

Now if what my friend the Senator from Minnesota says is true, that the suits of which he complains are the result of a blackmailing conspiracy, then there is no question whatever that the court will apply that remedy; there is no question whatever that the court will decide that the plaintiffs shall not recover any costs. The bill authorizes them to do so, and they will be bound to do so under this bill. It seems to me that that of itself would be a sufficient discouragement to suits of that kind.

Mr. President, I hope that no amendment will be put upon this bill which is hostile to the bill and calculated to destroy it. The bill is intended to remove the evils of the patent system while preserving the system itself. As I said, it seems to me that the inevitable effect of this amendment, if adopted, will be to discourage and prevent invention in all articles in general use, in all cotton and woolen machinery, in all shoe machinery, in all agricultural implements, and that if adopted this nation will remain stationary so far as such machinery is concerned.

I do not think my friend, the Senator from Minnesota, intends to effect any such object; I believe that he would be opposed to any provision that would do it; but yet, when he practically takes away from every owner of a patent right the right of bringing a suit where he cannot recover over $50 for four years' infringement of his patent, he discourages and prevents all improvement in the machinery and implements used in carrying on a large portion of the manufactures and the agricultural business of this country.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The question is on the amendment of the Senator from Minnesota, [Mr. WINDOM.]

Mr. ALLISON and Mr. WINDOM called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) On this amendment I am paired with the Senator from California, [Mr. SARGENT,] who was compelled to leave the Senate a few moments ago. If he were present, he would vote "nay" and I should vote "yea."

Mr. EDMUNDS, (when his name was called.) The Senator from Michigan [Mr. CHRISTIANCY] is unfortunately, I am sorry to say, detained from the Senate by illness. He asked me to pair with him on this bill, I not feeling myself able to vote for it as it stands though there are many good features in it I think. I do not know how he would vote on this amendment.

Mr. WADLEIGH. He is against this amendment.

Mr. EDMUNDS. With that statement from the chairman of the committee I vote "nay."

Mr. WINDOM. He was for it the other day.

Mr. EDMUNDS. I think under the circumstances I shall have leave to withdraw my vote on the amendment.

Mr. WINDOM. I think he was for it when I spoke to him on the subject.

The PRESIDING OFFICER. The vote of the Senator from Vermont will be withdrawn.

The roll-call having been concluded, the result was announced—yeas 14, nays 27; as follows:

YEAS—14.

Allison,	Harris,	McMillan,	Saunders,
Cockrell,	Hill,	Matthews,	Windom.
Davis of Illinois,	Howe,	Maxey,	
Davis of W. Va.,	Johnston,	Paddock,	

NAYS—27.

Anthony,	Dawes,	Jones of Florida,	Ransom,
Armstrong,	Dennis,	Kellogg,	Rollins,
Barnum,	Eaton,	Kernan,	Voorhees,
Booth,	Gordon,	Lamar,	Wadleigh,
Burnside,	Grover,	Morgan,	Whyte,
Butler,	Hereford,	Morrill,	Withers.
Conkling,	Hoar,	Patterson,	

ABSENT—35.

Bailey,	Coke,	Jones of Nevada,	Randolph,
Bayard,	Conover,	Kirkwood,	Sargent,
Beck,	Dorsey,	McCreery,	Saulsbury,
Blaine,	Edmunds,	McDonald,	Sharon,
Bruce,	Eustis,	McPherson,	Spencer,
Cameron of Pa.,	Ferry,	Merriman,	Teller,
Cameron of Wis.,	Garland,	Mitchell,	Thurman,
Chaffee,	Hamlin,	Oglesby,	Wallace.
Christiancy,	Ingalls,	Plumb,	

So the amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. Shall the bill be read the third time?

Mr. WINDOM. I move that the bill be temporarily laid aside for the purpose of taking up the Navy appropriation bill.

The PRESIDING OFFICER. The Senator from Minnesota moves that the bill be laid aside for the purpose of taking up an appropriation bill.

Mr. WADLEIGH. I hope that motion will not prevail. It will take but a few moments to pass the bill.

Mr. WINDOM. It will take longer than you think.

Mr. WADLEIGH. I do not think there will be further amendments.

Mr. WINDOM. I know of one or two others that will be offered.

Mr. WADLEIGH. I am aware of none. I trust after the consideration which this bill has had the Senate will not now lay it aside at the very moment when it seems about to pass. If there are amendments, let them be brought forward.

Mr. WINDOM. The naval appropriation bill has been laid aside for the last six weeks waiting for this and other measures. I move that it be taken up, this being laid aside for that purpose.

The PRESIDING OFFICER. The Chair should have stated the question first on concurrence in the Senate in the amendments of the Committee of the Whole. Pending that, the Senator from Minnesota [Mr. WINDOM] moves that the bill be laid aside and the naval appropriation bill taken up.

Mr. WADLEIGH. I inquire if that motion of the Senator from Minnesota is in order at the present time?

The PRESIDING OFFICER. The motion to lay the bill aside temporarily is not in order, but a motion to postpone is.

Mr. WINDOM. I move to postpone this and all prior orders and take up the naval appropriation bill.

The PRESIDING OFFICER. If the Senator from New Hampshire insists on the regular strictness of the motion, the motion now made is the correct one. The Senator from Minnesota moves that this bill be laid aside for the purpose indicated.

The question being put, it was declared that the noes appeared to prevail.

Mr. WINDOM. I call for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The motion is not agreed to. The question is on concurrence in the Senate with the amendments made as in Committee of the Whole.

Mr. EDMUNDS. Let the first amendment be reported.

Mr. WINDOM. I ask a separate vote on each of the amendments.

The PRESIDING OFFICER. The Senator is entitled to a separate vote on each amendment. The Secretary will report the first amendment.

The SECRETARY. The first amendment made as in Committee of the Whole was, in section 1, line 13, after the words "before it," to insert the following:

Provided, however, That if in any suit instituted in any one circuit court of the United States, the validity of a patent shall be determined upon final hearing, any other circuit court may recognize said decision, and, in its discretion, grant injunctions based thereon, to continue pending an appeal to the Supreme Court in the first suit. And if the validity of any such patent has been decreed against in a suit instituted in any one circuit court, any other circuit court may, in its discretion, grant a stay of proceedings in any other suit brought under said patent pending an appeal to the Supreme Court of the United States in said first suit.

Mr. EDMUNDS. May I ask the chairman of the committee if it is possible that that language on the subject of injunctions in one circuit on the authority of the hearing in another, leaving it to the discretion of the judge in the circuit where the injunction is asked for, is to be understood as allowing it in a case where in the circuit where the first suit was instituted no such injunction or decision has been had? We are now dealing by statute with the usual course of judicial proceedings, and if it is possible that this provision can bear the construction that you are now by this language authorizing a judge to grant an injunction under a particular set of circumstances, then you are doing something that is extremely dangerous. If any such implication as that can be drawn out of that language, I respectfully submit that it ought to be guarded against.

Mr. WADLEIGH. The amendment which has just been read is the amendment of the Senator from Illinois, [Mr. DAVIS,] and I hope he will give to the Senator from Vermont the explanation which he desires.

The PRESIDING OFFICER. The question is on concurring in the amendment which has been read.

The amendment was concurred in.

The PRESIDING OFFICER. The Secretary will report the next amendment.

The SECRETARY. Section 2, line 4, after the word "pronounced,"

insert the words "as well as in all such suits hereafter instituted;" so as to read:

In all suits for the infringement of a patent, in which, at the date of the passage of this act, no final verdict has been rendered or no decree for an account or assessment of damages has been pronounced, as well as in all such suits hereafter instituted, the measure of the plaintiff's recovery shall be the same, both in law and in equity.

Mr. WINDOM. I ask for the yeas and nays on that. I want to say in reference to this bill that I do not desire to postpone it for any factious opposition to it. I believe that the bill as it stands is wrong and ought not to pass. Therefore I want the opportunity to prepare an amendment which I think will be agreed to. I cannot do it now. I know that the bill is not in the interest of the great public that ought to be protected, and I want the opportunity to prepare an amendment. It was for that reason, among others, that I moved to lay the bill aside. I shall make no opposition to it if we can have the opportunity to prepare those amendments that are needed, but I am satisfied that the Senate can do something to prevent the grievous wrongs which are now perpetrated under the patent system. I am satisfied the Senate would do it if the opportunity were presented. I am satisfied that on the point I have suggested the committee have made no provision whatever that tends to do that thing, and I hope that the committee may consider it and prepare it. I supposed that the amendment which I offered was agreed to on all sides. In fact, when I offered a more radical amendment in December it was opposed by certain gentlemen, the representatives, I suppose, of the interests that have been consulted in preparing the bill, and it was understood that if that were withdrawn and another proposition made it would not encounter that opposition. But I find that the opposition to this comes from the same interest, the patentee's interest, or the interest of the assignees of patents, the purchasers and speculators in patents; and it seems to be a great deal more intense than was the opposition to a much more radical proposition in December. I want to see if it is not possible to make some amendment that will at the same time that it conserves the interest of the patentees and of the purchaser of patents, conserve the interest of the public also; and I ask that this bill be laid aside in order that I can do that.

Mr. HOWE. Allow me to inquire of the Senator from Minnesota if the purpose is to offer again the amendment which he offered in December?

Mr. WINDOM. I want to suggest another amendment. The Senate is very thin, scarcely a quorum present, and the other amendment, which went to the same ground and was more radical, carried by a very large majority before. I desire to present another amendment, hoping that it may meet the approval of the Senate.

Mr. WADLEIGH. Mr. President, the Senator from Minnesota seems to intimate that this bill is in the interest solely of patentees, and not in the interest of the public. That opinion of his, I think, is not shared by any considerable portion of those who have read the bill and know anything about the present law. It is an attempt, and an honest attempt, on the part of the committee to remove, so far as can practically be done, the evils which press upon the public in connection with the patent system. But, as I said in the first place, they do not propose and have not proposed to abolish the patent system or to destroy it. They regard it as being of too much benefit to the country for that.

Now my friend, the Senator from Minnesota, says that there is nothing in this bill that helps his friends in his own State. He says that there is a blackmailing conspiracy there by which suits are prosecuted. Now, there is in this bill a provision which allows the courts in just such a case as that to impose terms, by way of counsel fees and costs, upon the successful party. It seems to me that that is sufficient for the protection of his constituents.

Mr. President, if this bill is delayed, of course it cannot pass the House at this session. In order to pass the House, it should at once pass the Senate. The delay which my friend the Senator from Minnesota asks will defeat the bill, and defeat the measures which have been taken for the purpose of removing many of the evils which exist in connection with the patent system.

Mr. WINDOM. Allow me to say that I do not desire to delay the bill longer than until to-morrow for the purpose, in good faith, of preparing an amendment and submitting it to see if we cannot accomplish something in the difection I have suggested; I have not prepared any other amendment, for the reason that I had supposed there would be no opposition to the one which has just been voted down; but, if the bill can go over until to-morrow, I will make no further opposition to it if the amendment shall be voted down, or if we cannot agree upon one that will accomplish the object. The Senator says it will defeat the bill. One day more can hardly accomplish that result. It is now nearly half past two o'clock, and it is but a very short postponement that I ask.

Mr. WADLEIGH. It seems that the appropriation bills are already pressing for consideration. Now, let us pass this bill, and I pledge myself if my friend the Senator from Minnesota will draw up any remedy that is practicable to relieve his constituents from the evils under which they are suffering, the committee shall act upon it at once. I am sure they will do so, and it will be returned to the Senate and passed here and go to the other House, because there will be no opposition to it.

Mr. ALLISON. It seems to me that the Senator from Minnesota makes a very reasonable request of the Senator from New Hampshire in charge of this bill. As I understand the Senator from Minnesota, he only asks that the bill be laid aside to-day informally, and in the mean time an appropriation bill can go on, and the bill be taken up to-morrow morning again. If I understand it, that is the proposition the Senator from Minnesota.

Mr. WINDOM. The appropriation bill is ready now, and can be proceeded with at any moment.

Mr. ALLISON. You propose to take up this bill to-morrow again?

Mr. WINDOM. I shall not resist taking it up to-morrow.

Mr. ALLISON. I think by unanimous consent we ought to agree to that and go on with the naval appropriation bill now. It is the only appropriation bill ready.

Mr. BECK. I rise to renew the motion made a short time ago by the Senator from Minnesota, to set aside the present and all prior orders and take up the naval appropriation bill, and I desire while I am up to state the reason why I do so. The motion has been voted down once. I have watched this bill as closely as I could. Of course I am not informed accurately about all its provisions; and while I hold that the bill as a whole is an improvement on the present system of patent laws, yet I am equally sure that the only real, substantial benefit that the people of this country will derive from the passage of this bill will come from the insertion of such an amendment as that offered by the Senator from Minnesota. If the Senate is not going to allow him time until to-morrow to prepare an amendment that will give substantial relief to the people against shysters, to use the expression used both by him and by the Senator from New Hampshire, then I will assume, of course, that the great mass of the Senate do not intend even to allow a proposition to be heard whereby relief can be had to the most oppressed class of people. I want to test the sense of the Senate upon it once more by making the motion that I have submitted, so that the Senator from Minnesota can present to the Senate an amendment which will give substantial relief to the people who most need it. I know that the present patent laws are of such a character that the real inventor rarely gets any benefit from them. His patent passes into the hands of great combinations, and they have their agents all over the country, and they are in every form seeking to oppress the people, and the United States courts are open to them for the smallest possible amounts, while they are closed to all others unless they have $500 involved; and unless they can be controlled by some such amendment as that offered by the Senator from Minnesota you may change your patent laws as much as you please and the great combinations that get hold of patents and get them through in every form will have substantially the same power after the bill passes that they have now. It is because I believe that the Senator from Minnesota is in earnest, and so far as I have seen any amendment his is the only real, earnest purpose to get relief against the oppressions of the patent laws, that I do hope the vote will be reconsidered and he will have time at least to prepare a new amendment.

The PRESIDING OFFICER. Does the Chair understand the Senator from Kentucky to submit a motion?

Mr. BECK. I do, to set aside the present and all prior orders and proceed to the consideration of the naval appropriation bill.

The PRESIDING OFFICER. The Senator from Kentucky moves that the present and all prior orders be laid aside for the purpose he has named.

Mr. EDMUNDS. Mr. President, I wish in this condition of affairs to do what will accomplish the purpose of the Senator from Kentucky and the purpose of the Senator from Minnesota, and for reasons that have been explained to Senators in the proper place I move that the Senate now proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

The motion was agreed to.

WABASH AND MIAMI CANAL LANDS.

The VICE-PRESIDENT laid before the Senate a letter from the Attorney-General, communicating information in response to a resolution of the Senate of March 19, 1878, as to whether the lands, rights, &c., granted by the United States to the State of Indiana, under the act of May 26, 1824, in relation to a canal to connect the rivers Wabash and Miami, have reverted to the United States; which was referred to the Committee on the Judiciary, and ordered to be printed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After one hour and twenty-nine minutes spent in executive session the doors were reopened, and (at three o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 20, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

Mr. WADDELL. I rise to ask unanimous consent——

The SPEAKER. The Chair cannot interrupt the morning hour on Monday; it never has been interrupted.

The morning hour begins at seven minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

Mr. CARLISLE. I ask unanimous consent that the call may be proceeded with, so that all the States and Territories may be called.

There was no objection, and it was so ordered.

SECTION 3469 OF REVISED STATUTES.

Mr. HALE introduced a bill (H. R. No. 5862) to amend section 3469 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ROBERT BOYD.

Mr. JONES, of New Hampshire, introduced a bill (H. R. No. 5863) to restore Commander Robert Boyd, of the United States Navy, to his original position on the Navy Register; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

HARRIET FLAGG.

Mr. JONES, of New Hampshire, also introduced a bill (H. R. No. 5864) granting a pension to Harriet Flagg, widow of the late Lieutenant William Flagg, of the United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FUNDED DEBT OF THE DISTRICT OF COLUMBIA.

Mr. HENDEE introduced a bill (H. R. No. 5865) making provision for the payment of the interest on the funded debt of the District of Columbia and for the gradual redemption thereof; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DELEGATE FROM THE DISTRICT OF COLUMBIA.

Mr. HENDEE (by request) also introduced a bill (H. R. No. 5866) providing for the election to Congress of a Delegate from the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

SAMUEL N. BLAIR.

Mr. JOYCE introduced a bill (H. R. No. 5867) granting a pension to Samuel N. Blair, late a private in Company E, Eighth Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARTHA A. LEWIS.

Mr. JOYCE also introduced a bill (H. R. No. 5868) granting a pension to Martha A. Lewis, widow of William G. Lewis, late a private in Company B, Second Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RHODA L. BARBER.

Mr. JOYCE also introduced a bill (H. R. No. 5869) granting a pension to Rhoda L. Barber, widow of David S. Barber, late a private in Company C and Company H, Ninth Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to printed.

MARY H. FRENCH.

Mr. JOYCE also introduced a bill (H. R. No. 5870) granting a pension to Mary H. French, mother of George A. French, late a private in Company I, Second Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HORACE BROWN.

Mr. JOYCE also introduced a bill (H. R. No. 5871) granting a pension to Horace Brown, late a private in the Second Vermont Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES LARRO.

Mr. JOYCE also introduced a bill (H. R. No. 5872) granting a pension to James Larro, late a private in Company B, Seventh Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MAJOR F. ALLEN.

Mr. JOYCE also introduced a bill (H. R. No. 5873) granting a pension to Major F. Allen, late a private in Company G, Twelfth Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY F. BRINK.

Mr. JOYCE also introduced a bill (H. R. No. 5874) granting a pension to Henry F. Brink, late a private in Company B, Fifth Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AZEM G. ESTY.

Mr. JOYCE also introduced a bill (H. R. No. 5875) granting a pension to Azem G. Esty, late a private in Second Vermont Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BARTON BLACKMER.

Mr. JOYCE also introduced a bill (H. R. No. 5876) granting a pension to Barton Blackmer, late a private in Second Vermont Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY M. FERRIS.

Mr. JOYCE also introduced a bill (H. R. No. 5877) granting a pension to Henry M. Ferris, late a private in Second Vermont Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BEAN.

Mr. JOYCE also introduced a bill (H. R. No. 5878) granting a pension to John Bean, late a private in Company A, Sixteenth Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL DIPLOMATIC SCHOOL.

Mr. JOYCE also presented a joint resolution of the Legislature of the State of Vermont, relating to the national diplomatic school; which was referred to the Committee on Foreign Affairs.

LIEUTENANT-COLONEL CHARLES G. CHANDLER.

Mr. JOYCE also presented a joint resolution of the General Assembly of the State of Vermont in relation to Lieutenant-Colonel Charles G. Chandler, formerly of the Tenth Regiment Vermont Volunteer Infantry; which was referred to the Committee on Military Affairs.

ANIMALS IN TRANSIT.

Mr. JOYCE also presented a joint resolution of the General Assembly of the State of Vermont, relating to the treatment of animals in transit; which was referred to the Committee on Agriculture.

PLATTSBURGH VOLUNTEERS.

Mr. JOYCE also presented a joint resolution of the General Assembly of the State of Vermont, in relation to the claims of the Plattsburgh Volunteers for pensions for services in the war of 1812; which was referred to the Committee on Revolutionary Pensions.

PENSIONS.

Mr. JOYCE also introduced a bill (H. R. No. 5879) to amend section 3 of an act approved March 9, 1878, entitled "An act amending the laws granting pensions to the soldiers and sailors of the war of 1812 and their widows, and for other purposes," providing that in the absence of any records of the service of the soldier in the War Department the record made and kept by a State shall be received by the pension bureau as evidence of the facts contained in it relating to the said service; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

STAFF OF MARINE CORPS.

Mr. BANKS introduced a bill (H. R. No. 5880) to regulate and define the rank of the staff of the Marine Corps; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

AMERICAN REGISTER FOR STEAMBOAT.

Mr. LORING introduced a bill (H. R. No. 5881) authorizing the issue of an American register to the steamboat City of Fredericktown, and to change the name of the same; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REUBEN H. FITTS.

Mr. LORING also introduced a bill (H. R. No. 5882) granting a pension to Reuben H. Fitts, of Haverhill, Massachusetts; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PROBATE BUSINESS IN THE DISTRICT OF COLUMBIA.

Mr. CRAPO introduced a bill (H. R. No. 5883) to amend the law with respect to wills, to regulate the transaction of probate business in the supreme court of the District of Columbia, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

CORCORAN GALLERY OF ART.

Mr. CLAFLIN introduced a bill (H. R. No. 5884) for the relief of the trustees of the Corcoran Gallery of Art; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

C. W. ABBOTT AND W. W. BARRY.

Mr. MORSE introduced a bill (H. R. No. 5885) for the relief of Charles W. Abbott, a pay director, and W. W. Barry, a passed assistant paymaster, in the United States Navy; which was read a first and

second time, referred to the Committee on Naval Affairs, and ordered to be printed.

HERMAN LISSBERGER.

Mr. MORSE also introduced a bill (H. R. No. 5886) for the relief of Herman Lissberger; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

MRS. MARY B. CUSHING.

Mr. MORSE also introduced a bill (H. R. No. 5887) granting a pension of $50 per month to Mrs. Mary B. Cushing, widow of Milton B. Cushing, late of Columbus, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM H. EVERETT.

Mr. MORSE also introduced a bill (H. R. No. 5888) for the relief of Lieutenant William H. Everett, United States Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

LABAN HEATH & CO.

Mr. MORSE also introduced a bill (H. R. No. 5889) for the relief of Laban Heath & Co.; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

AUGUST CONRAD.

Mr. BALLOU introduced a bill (H. R. No. 5890) for the relief of August Conrad, Company D, Sixth Regiment Maryland Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WINDHAM NATIONAL BANK.

Mr. WAIT introduced a bill (H. R. No. 5891) authorizing the Windham National Bank to change its location from Windham Center to the village of Willimantic, in the same town; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

AUSTIN G. DAY.

Mr. WAIT also introduced a bill (H. R. No. 5892) for the relief of Austin G. Day; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

CORRECTION OF AN ARMY OFFICER'S RECORD.

Mr. LANDERS introduced a bill (H. R. No. 5893) to correct an Army officer's record; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DAVID AVERILL.

Mr. PHELPS introduced a bill (H. R. No. 5894) granting a pension to David Averill; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

WASHINGTON MONUMENT.

Mr. WILLIS, of New York, introduced a joint resolution (H. R. No. 212) to facilitate, simplify, and economize the work on the Washington National Monument in the District of Columbia; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

COMMODORE J. W. A. NICHOLSON.

Mr. WILLIS, of New York, also introduced a joint resolution (H. R. No. 213) authorizing Commodore J. W. A. Nicholson, of the United States Navy, to accept a medal from the King of Spain; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MARY LEGGETT.

Mr. WILLIS, of New York, also introduced a bill (H. R. No. 5895) granting a pension to Mary Leggett, widow of Robert Leggett, late lieutenant-colonel Tenth Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LIBRARY OF CONGRESS.

Mr. COX, of New York, introduced a bill (H. R. No. 5896) to provide permanent accommodation for the Library of Congress; which was read a first and second time, referred to the Committee on the Library, and ordered to be printed.

REGULATION OF STEAM-VESSELS.

Mr. COX, of New York, also introduced a bill (H. R. No. 5897) to amend section 4400 of title 52 of the Revised Statutes of the United States, concerning the regulation of steam-vessels; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARINE HOSPITAL SERVICE.

Mr. COX, of New York, also introduced a bill (H. R. No. 5898) to set apart a portion of Bedloe's Island, in New York Harbor, for the use of the marine hospital service; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NAVIGATION LAWS.

Mr. EICKHOFF introduced a bill (H. R. No. 5899) to amend the navigation laws; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

E. F. WENCKEBACH.

Mr. EICKHOFF also introduced a bill (H. R. No. 5900) authorizing the appointment to E. F. Wenckebach to a second lieutenancy in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. WOOD introduced a bill (H. R. No. 5901) to amend section 828 of the Revised Statutes of the United States of America; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CHARLES MARKLEIN.

Mr. STARIN introduced a bill (H. R. No. 5902) for the relief of Charles Marklein, late sutler of the One hundred and seventy-eighth New York Volunteers; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ARMY REORGANIZATION BILL.

Mr. STARIN also presented a resolution of the New York State Assembly instructing Senators and Representatives in Congress to oppose the passage of Army reorganization bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

MARGARET DOYLE.

Mr. CUTLER introduced a bill (H. R. No. 5903) for the relief of Margaret Doyle; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

LUKE M'NEILL.

Mr. CUTLER also introduced a bill (H. R. No. 5904) for the relief of Luke McNeill, of Passaic, New Jersey; authorizing the Secretary of War to issue an honorable discharge and amend the Army rolls, &c.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PENSIONS TO SOLDIERS' WIDOWS WHO HAVE REMARRIED.

Mr. CUTLER also introduced a bill (H. R. No. 5905) to repeal section 4708 of Revised Statutes, and giving pensions to widows of soldiers who are remarried and who may remarry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HERMAN BIGGS.

Mr. PUGH introduced a bill (H. R. No. 5906) for the relief of Herman Biggs; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SCHOONER J. H. DUSENBERRY.

Mr. PUGH also introduced a bill (H. R. No. 5907) to change the name of the schooner J. H. Dusenberry; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHARLES M'ELWEE.

Mr. PUGH also introduced a bill (H. R. No. 5908) granting a pension to Charles McElwee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY BURR.

Mr. PUGH also introduced a bill (H. R. No. 5909) restoring to the pension-rolls the name of Mary Burr; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY A. SHEMELIA.

Mr. PUGH also introduced a bill (H. R. No. 5910) granting a pension to Mary A. Shemelia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT L. HANCOCK.

Mr. PUGH also introduced a bill (H. R. No. 5911) granting a pension to Robert L. Hancock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN RYAN.

Mr. MACKEY introduced a bill (H. R. No. 5912) granting a pension to John Ryan, late a lieutenant of Company F, Sixty-ninth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES PENFIELD.

Mr. MACKEY also introduced a bill (H. R. No. 5913) authorizing and directing the Secretary of the Interior to increase the pension of James Penfield, of Company H, One hundred and fifth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. AMANDA GHEER.

Mr. MACKEY also introduced a bill (H. R. No. 5914) granting a pension to Mrs. Amanda Gheer, mother of L. A. Gheer, late a private in Company C, Fifty-second Regiment Pennsylvania Volunteers;

which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES WELCH.

Mr. MACKEY also introduced a bill (H. R. No. 5915) for the relief of James Welch, Company B, Seventeenth Regiment Michigan Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SCIENTIFIC EXPLORATION OF NORTHERN STATES OF MEXICO.

Mr. MACKEY also introduced a joint resolution (H. R. No. 214) authorizing the establishment of a commission for the scientific exploration of the northern states of Mexico and the territory of the United States adjoining the same; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

THE ADULTERATION OF ARTICLES OF FOOD AND DRINK.

Mr. WRIGHT introduced a bill (H. R. No. 5916) for preventing the adulteration of articles of food and drink; which was read a first and second time, referred to the Committee on Manufactures, and ordered to be printed.

CIVIL ENGINEERS UNITED STATES NAVY.

Mr. WRIGHT also (by request) introduced a bill (H. R. No. 5917) to reduce the number and fix the relative rank of civil engineers in the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CORNELIUS ACKER.

Mr. BRIDGES introduced a bill (H. R. No. 5918) granting arrearages of pension to Cornelius Acker, of Company B, Forty-seventh Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CARLOS BUTTERFIELD.

Mr. BRIDGES also introduced a joint resolution (H. R. No. 215) requiring the Secretary of State to deliver to Carlos Butterfield certified copies of all papers and accounts filed in the State Department by the late joint commission, being proofs of indebtedness of Mexico to the late firm of Carlos Butterfield & Co.; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

WAR CLAIMS.

Mr. MAISH (by request) introduced the following bills; which were severally read a first and second time, referred to the Committee on War Claims, and ordered to be printed:

A bill (H. R. No. 5919) for the relief of Eleanor Guinn, executrix of the estate of George Guinn, sr., late of Adams County, Pennsylvania;

A bill (H. R. No. 5920) for the relief of Edward Menchey, of Adams County, Pennsylvania;

A bill (H. R. No. 5921) for the relief of John Bushman, of Adams County, Pennsylvania;

A bill (H. R. No. 5922) for the relief of Isaac Lightner, of Adams County, Pennsylvania;

A bill (H. R. No. 5923) for the relief of George Arnold, of Adams County, Pennsylvania;

A bill (H. R. No. 5924) for the relief of Samuel Gintling, of Adams County, Pennsylvania;

A bill (H. R. No. 5925) for the relief of Philip H. Redeng, of Adams County, Pennsylvania;

A bill (H. R. No. 5926) for the relief of George Musser, of Adams County, Pennsylvania;

A bill (H. R. No. 5927) for the relief of Samuel S. Moritz, of Adams County, Pennsylvania;

A bill (H. R. No. 5928) for the relief of Nicholas Codori, of Adams County, Pennsylvania;

A bill (H. R. No. 5929) for the relief of John F. Currens, of Adams County, Pennsylvania;

A bill (H. R. No. 5930) for the relief of Alexander Cobeau, of Adams County, Pennsylvania;

A bill (H. R. No. 5931) for the relief of Henry H. Jacobs, of Adams County, Pennsylvania;

A bill (H. R. No. 5932) for the relief of John Munshow, of Adams County, Pennsylvania;

A bill (H. R. No. 5933) for the relief of Jacob Weikert, of Adams County, Pennsylvania;

A bill (H. R. No. 5934) for the relief of George W. Rose, of Philadelphia, Pennsylvania;

A bill (H. R. No. 5935) for the relief of John Horner, of Adams County, Pennsylvania;

A bill (H. R. No. 5936) for the relief of Henry W. Epley, of Adams County, Pennsylvania;

A bill (H. R. No. 5937) for the relief of William Patterson, of Adams County, Pennsylvania;

A bill (H. R. No. 5938) for the relief of John N. Hoffman, of Adams County, Pennsylvania;

A bill (H. R. No. 5939) for the relief of Michael Frey, of Adams County, Pennsylvania;

A bill (H. R. No. 5940) for the relief of Philip Snyder, of Adams County, Pennsylvania;

A bill (H. R. No. 5941) for the relief of Michael Fiscel, of Adams County, Pennsylvania;

A bill (H. R. No. 5942) for the relief of David Blubaugh, of Adams County, Pennsylvania;

A bill (H. R. No. 5943) for the relief of Franklin Swisher, of Adams County, Pennsylvania;

A bill (H. R. No. 5944) for the relief of Ann Maria Bollinger, administratrix of the estate of Jacob Bollinger, late of Adams County, Pennsylvania;

A bill (H. R. No. 5945) for the relief of Jane Ann Clapsaddle, of Adams County, Pennsylvania;

A bill (H. R. No. 5946) for the relief of Jacob Benner, of Adams County, Pennsylvania;

A bill (H. R. No. 5947) for the relief of William H. Houghtelin, executor of the estate of Cornelius Houghtelin, late of Adams County, Pennsylvania;

A bill (H. R. No. 5948) for the relief of Jacob Baker, of Adams County, Pennsylvania;

A bill (H. R. No. 5949) for the relief of Emanuel Wherley, of Adams County, Pennsylvania;

A bill (H. R. No. 5950) for the relief of Adam Bollinger, of Adams County, Pennsylvania;

A bill (H. R. No. 5951) for the relief of Leander Hummelbaugh, executor of the estate of Jacob Hummelbaugh, late of Adams County, Pennsylvania;

A bill (H. R. No. 5952) for the relief of David Zeigler, of Adams County, Pennsylvania;

A bill (H. R. No. 5953) for the relief of William H. Duttero, of Adams County, Pennsylvania;

A bill (H. R. No. 5954) for the relief of Sarah A. Eckenrode, administratrix of the estate of Nicholas Eckenrode, late of Adams County, Pennsylvania;

A bill (H. R. No. 5955) for the relief of Josiah Benner, of Adams County, Pennsylvania;

A bill (H. R. No. 5956) for the relief of Sarah Paterson, of Adams County, Pennsylvania;

A bill (H. R. No. 5957) for the relief of Alexander C. Shorb, of Adams County, Pennsylvania; and

A bill (H. R. No. 5958) for the relief of Catharine Trostle, of Adams County, Pennsylvanta.

MAJOR-GENERAL WILLIAM A. AVERILL.

Mr. MAISH also introduced a bill (H. R. No. 5959) authorizing the retirement of Brevet Major-General William W. Averill, United States Army, with the rank and pay of a brigadier-general; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GEORGE A. BRANT.

Mr. TURNEY, by request, introduced a bill (H. R. No. 5960) granting a pension to George A. Brant, late a sergeant in Company E, Two hundred and eleventh Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

IMPROVEMENT OF THE YOUGHIOGHENY RIVER.

Mr. TURNEY also introduced a bill (H. R. No. 5961) for the improvement of the Youghiogheny River, in Pennsylvania; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HEAD-STONES OVER SOLDIERS' GRAVES.

Mr. WOOD introduced a bill (H. R. No. 5962) making available an unexpended balance of an appropriation of $1,000,000 made by act of Congress of March 3, A. D. 1873, for the purpose of placing head-stones above the graves of soldiers who served in the regular or volunteer forces of the United States during the war for the Union, interred in the national cemeteries, so that said unexpended balance may be used for placing head-stones above the graves of such Union soldiers interred in the private village or city cemeteries; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

CAPTAIN SAMUEL C. SCHOYER.

Mr. BAYNE introduced a bill (H. R. No. 5963) to increase the pension of Captain Samuel C. Schoyer, late of Company G, One hundred and thirty-ninth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ANDREW J. HORTON.

Mr. OVERTON introduced a bill (H. R. No. 5964) granting a pension to Andrew J. Horton, late a private of Company G, One hundred and eighty-eighth Regiment New York State Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY M'CLAIN.

Mr. WHITE, of Pennsylvania, introduced a bill (H. R. No. 5965) granting a pension to Mary McClain; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DUTY ON TIN AND TERNE PLATES.

Mr. WHITE, of Pennsylvania, also introduced a joint resolution (H. R. No. 216) declaring the meaning of section 2504 of the Revised Statutes imposing a duty on tin and terne plates; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JOHN M. M'CLINTOCK.

Mr. KIMMEL introduced a bill (H. R. No. 5966) for the relief of John M. McClintock, of Baltimore, Maryland; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SOPHIA A. MELSON.

Mr. HENRY introduced a bill (H. R. No. 5967) granting a pension to Sophia A. Melson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JESSE T. MEYERS.

Mr. HENRY also introduced a bill (H. R. No. 5968) granting a pension to Jesse T. Meyers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. SOTHORON.

Mr. HENKLE introduced a bill (H. R. No. 5969) for the relief of John H. Sothoron; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

TRANSPORTATION OF MAILS.

Mr. TUCKER introduced a bill (H. R. No. 5970) regulating the compensation for the transportation of mails on railroad routes; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

GEORGE W. FLOOD.

Mr. HUNTON introduced a bill (H. R. No. 5971) for the relief of George W. Flood; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WILLIAM LAVERY.

Mr. GOODE (by request) introduced a bill (H. R. No. 5972) for the relief of William Lavery; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHANGE OF NAME OF STEAMER GEORGE LEARY.

Mr. GOODE also introduced a bill (H. R. No. 5973) authorizing the change of the name of the steamer George Leary, of Washington, District of Columbia, to George H. Plant; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHATTAHOOCHEE RIVER, GEORGIA.

Mr. HARRIS, of Georgia, introduced a bill (H. R. No. 5974) to continue the improvement of the Chattahoochee River, in the State of Georgia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WILLIAM MEHAFFY.

Mr. HARRIS, of Georgia, also introduced a bill (H. R. No. 5975) for the relief of William Mehaffy, of the State of Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

D. K. LOVE.

Mr. HARRIS, of Georgia, also introduced a bill (H. R. No. 5976) for the relief of D. K. Love, of Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN M'GINNIS.

Mr. BELL introduced a bill (H. R. No. 5977) to grant a pension to John McGinnis, of Georgia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS A. ROONEY.

Mr. FELTON introduced a bill (H. R. No. 5978) for the relief of Thomas A. Rooney, postmaster at Acworth, Georgia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SUITORS IN UNITED STATES COURTS.

Mr. SMITH, of Georgia, introduced a bill (H. R. No. 5979) for the relief of suitors and claimants in courts of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FLINT RIVER, GEORGIA.

Mr. SMITH, of Georgia, also introduced a bill (H. R. No. 5980) to continue and complete the improvement of Flint River, in the State of Georgia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TENTS, ETC., FOR SECOND GEORGIA BATTALION.

Mr. BLOUNT introduced a bill (H. R. No. 5981) authorizing the Secretary of War to furnish to the Second Georgia Battalion tents, &c.; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WRITS OF ERROR.

Mr. HERBERT introduced a bill (H. R. No. 5982) to provide for writs of error in certain criminal causes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MILEAGE OF MARSHALS.

Mr. HERBERT also introduced a bill (H. R. No. 5983) to regulate mileage of marshals, and for other purposes; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. HERBERT also introduced a bill (H. R. No. 5984) to amend section 688 of the Revised Statutes of the United States, and a bill (H. R. No. 5985) to amend section 5440 of the Revised Statutes of the United States; which were severally read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BERNHARD SANDERS.

Mr. MONEY introduced a bill (H. R. No. 5986) granting a pension to Bernhard Sanders; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOUTHERN MAIL CONTRACTORS.

Mr. MONEY also introduced a joint resolution (H. R. No. 217) directing the Secretary of the Treasury to pay out of the fund appropriated for that purpose certain mail contractors of the Southern States for services in carrying the mails prior to the late war; which was read a first and second time.

Mr. MONEY. I move to refer the joint resolution just introduced to the Committee on the Post-Office and Post-Roads.

Mr. CUMMINGS. I think that joint resolution should go to the Committee of Claims. A similar bill is now before that committee. In fact I think we have three bills of exactly a similar character before our committee.

Mr. MONEY. I object to that reference. I want it referred to a committee that has jurisdiction of that matter.

Mr. CUMMINGS. We have referred to our committee now by this House three bills on that identical subject. I think all the bills should go together.

The SPEAKER. Does the gentleman move any amendment to the motion to refer?

Mr. CUMMINGS. I move to amend so as to refer the joint resolution to the Committee of Claims.

Mr. MONEY. Can I not be heard a moment on that motion?

The SPEAKER. The Chair will hear a brief statement from the gentleman.

Mr. MONEY. The sum of $375,000 was appropriated by the last Congress for this purpose, and in a short time it will lapse into the Treasury. The Secretary of the Treasury, under his ruling, holds that money, and will not pay any claim, whether audited or not. A great many of these claims have been audited by the Sixth Auditor for the Post-Office Department. Now, this resolution simply directs the Secretary of the Treasury to pay all claims that are audited and adjusted. There is already a bill before the Committee on the Post-Office and Post-Roads having in view the same purpose, but embracing further legislation. This measure simply directs the Secretary of the Treasury to make payment on the claims already audited and adjusted. I know that the Committee of Claims cannot reach this joint resolution for six months, and so does the gentleman who made the motion to refer it to that committee.

Mr. CUMMINGS. This is not a special matter but a general matter. It is a measure which has already been before this Congress, and has been defeated by a vote of the House. After the action of the House three separate bills referring to this identical matter were introduced and by the House referred to the Committee of Claims, before which committee they are pending to-day.

The question being taken on the amendment of Mr. CUMMINGS to refer the joint resolution to the Committee of Claims, there were—ayes 72, noes 86.

Mr. TOWNSEND, of New York, and Mr. CUMMINGS called for the yeas and nays.

The yeas and nays were ordered.

Mr. CUMMINGS. I rise to a parliamentary inquiry. I ask that Rules 78 and 81 may be read. I think the Speaker will then decide that the rules of the House require the reference of this measure to the Committee of Claims.

The Clerk read as follows:

78. It shall be the duty of the Committee of Claims to take into consideration all such petitions and matters or things touching claims and demands on the United States as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereupon, together with such propositions for relief therein as to them shall seem expedient.

81. It shall be the duty of the Committee on the Post-Office and Post-Roads to take into consideration all such petitions and matters or things touching the post-office and post-roads as shall be presented, or shall come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

The SPEAKER. The Chair recognizes the reading of these rules as in the nature of an argument. The practice of the Chair has al-

ways been to give the House an opportunity to determine to which committee a bill should be referred.

Mr. WHITE, of Pennsylvania. I rise to a parliamentary inquiry. Is this the same bill that was under discussion here on a former day?

The SPEAKER. The Chair does not think that is a parliamentary inquiry. It is the duty of the gentleman to know what measures have been under discussion. [Laughter.]

The question was taken on the motion of Mr. CUMMINGS; and there were—yeas 109, nays 115, not voting 64; as follows:

YEAS—109.

Aldrich,	Deering,	Keifer,	Robinson, M. S.
Bacon,	Denison,	Keightley,	Ryan,
Bagley,	Dunnell,	Kelley,	Sampson,
Baker, William H.	Dwight,	Killinger,	Sapp,
Bailou,	Eames,	Lapham,	Sexton,
Banks,	Ellsworth,	Lathrop,	Shallenberger,
Bayne,	Evans, James L.	Lindsey,	Sinnickson,
Bicknell,	Fort,	Majors,	Smalls,
Blair,	Foster,	Marsh,	Smith, A. Herr
Boyd,	Frye,	McCook,	Starin,
Brewer,	Fuller,	McKinley,	Stewart,
Briggs,	Garfield,	Metcalfe,	Strait,
Browne,	Hale,	Mitchell,	Thompson,
Burchard,	Hamilton,	Monroe,	Townsend, M. I.
Burdick,	Hanna,	Neal,	Van Vorhes,
Calkins,	Hayes,	Norcross,	Wait,
Camp,	Hazelton,	Oliver,	Ward,
Campbell,	Hendee,	O'Neill,	Watson,
Chittenden,	Henderson,	Overton,	White, Harry
Claflin,	Hiscock,	Page,	White, Michael D.
Clark, Rush	Hubbell,	Patterson, G. W.	Williams, Andrew
Cobb,	Hunter,	Pollard,	Williams, C. G.
Cole,	Humphrey,	Pound,	Williams, Richard
Conger,	Hungerford,	Price,	Willits,
Cox, Jacob D.	Ittner,	Pugh,	Wren,
Cummings,	James,	Rainey,	
Danford,	Jones, John S.	Randolph,	
Davis, Horace	Joyce,	Reed,	

NAYS—115.

Acklen,	Culberson,	Hunton,	Rice, Americus V.
Aiken,	Cutler,	Jones, Frank	Robbins,
Atkins,	Davis, Joseph J.	Kenna,	Ross,
Banning,	Dean,	Kimmel,	Sayler,
Bell,	Dibrell,	Knapp,	Scales,
Benedict,	Durham,	Knott,	Slemons,
Blackburn,	Eden,	Landers,	Smith, William E.
Blount,	Elam,	Ligon,	Sparks,
Boone,	Ellis,	Luttrell,	Steele,
Bouck,	Evins, John H.	Lynde,	Stephens,
Bridges,	Felton,	Mackey,	Throckmorton,
Bright,	Forney,	Maish,	Townsend, Amos
Brogden,	Franklin,	Manning,	Townshend, R. W.
Buckner,	Garth,	Martin,	Tucker,
Cabell,	Gause,	Mayham,	Turner,
Caldwell, John W.	Goode,	McMahon,	Turney,
Caldwell, W. P.	Gunter,	Mills,	Vance,
Candler,	Hardenbergh,	Money,	Waddell,
Carlisle,	Harris, Henry R.	Morgan,	Walker,
Chalmers,	Harris, John T.	Morrison,	Warner,
Clark, Alvah A.	Harrison,	Morse,	Whitthorne,
Clarke of Kentucky,	Hatcher,	Muldrow,	Wigginton,
Clark of Missouri,	Henkle,	Patterson, T. M.	Williams, Jere N.
Collins,	Henry,	Phelps,	Willis, Albert S.
Cook,	Herbert,	Potter,	Willis, Benj. A.
Covert,	Hewitt, Abram S.	Prideinore,	Wood,
Cox, Samuel S.	Hewitt, G. W.	Rea,	Wright,
Cravens,	Hooker,	Reagan,	Young, John S.
Crittenden,	House,	Reilly,	

NOT VOTING—64.

Bailey,	Dickey,	Jones, James T.	Shelley,
Baker, John H.	Eickhoff,	Jorgensen,	Singleton,
Beebe,	Errett,	Ketcham,	Southard,
Bisbee,	Evans, I. Newton	Lockwood,	Springer,
Bland,	Ewing,	Loring,	Stenger,
Bliss,	Finley,	McGowan,	Stone, Joseph C.
Bragg,	Freeman,	McKenzie,	Stone, John W.
Brentano,	Gardner,	Muller,	Swann,
Bundy,	Gibson,	Peddie,	Thornburgh,
Butler,	Giddings,	Phillips,	Tipton,
Cain,	Glover,	Powers,	Veeder,
Cannon,	Harmer,	Rice, William W.	Walsh,
Caswell,	Harris, Benj. W.	Riddle,	Williams, James
Clymer,	Hart,	Roberts,	Wilson,
Crapo,	Hartzell,	Robertson,	Yeates,
Davidson,	Haskell,	Robinson, G. D.	Young, Casey.

So the amendment of Mr. CUMMINGS was not agreed to.

During the roll-call the following announcements were made:

Mr. MARTIN. My colleague, Mr. WILSON, who is necessarily absent, is paired with the gentleman from Massachusetts, Mr. CRAPO.

Mr. CARLISLE. My colleague, Mr. MCKENZIE, is absent serving on a committee of the House.

Mr. HEWITT, of New York. The gentleman from Pennsylvania, Mr. CLYMER, is confined to his room by illness.

Mr. MAISH. My colleague, Mr. STENGER, is detained at his room by illness.

Mr. HARTZELL. I am paired on all political questions with the gentleman from Kansas, Mr. PHILLIPS.

Mr. ROBINSON, of Massachusetts. I am paired with Mr. ROBERTSON, of Louisiana. This seems to be made a party question, and therefore I shall decline to vote.

Mr. STONE, of Iowa. I am paired with Mr. DAVIDSON.

Mr. RICE, of Massachusetts. I am paired with Mr. FINLEY, of Ohio.

Mr. TIPTON. I am paired with my colleague, Mr. SPRINGER.

Mr. STONE, of Michigan. I am paired on all political questions with Mr. SHELLEY. If he were present, he would vote "no."

Mr. ALDRICH. I am requested to announce that my colleague, Mr. BRENTANO, who is absent by order of the House, would, if present, vote in the affirmative.

Mr. CASWELL. I am paired with my colleague, Mr. BRAGG, on all political questions.

Mr. CRAPO. I am paired with Mr. WILSON.

Mr. BRIGHT moved by unanimous consent to dispense with the reading of the names.

Mr. WHITE, of Pennsylvania, objected.

The vote was then announced as above recorded.

The SPEAKER. The bill accordingly will be referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

NEW ORLEANS, TEXAS AND COLORADO RAILROAD.

Mr. ELAM introduced a bill (H. R. No. 5987) granting the right of way to, and making a grant of land in aid of, the construction of the New Orleans, Texas and Colorado Railway; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

E. D. WHEELER.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 5988) for the relief of E. D. Wheeler, late lieutenant United States Artillery; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

VIOLATION OF PENSION LAW.

Mr. RICE, of Ohio, also (by request) introduced a bill (H. R. No. 5989) to amend pension laws and punish claim agents for violations thereof; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FARAN & M'LEAN.

Mr. SAYLER introduced a bill (H. R. No. 5990) for the relief of Faran & McLean; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

MRS. HANNAH S. COMMAGER.

Mr. COX, of Ohio, introduced a bill (H. R. No. 5991) granting a pension to Mrs. Hannah S. Commager, widow of Henry S. Commager, deceased, late lieutenant-colonel of the Sixty-seventh Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN MANNING.

Mr. MCKINLEY introduced a bill (H. R. No. 5992) granting a pension to John Manning, of Salineville, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANCIS M. COX.

Mr. MCKINLEY also introduced a bill (H. R. No. 5993) granting a pension to Francis M. Cox, of New Waterford, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY MARCOTTE.

Mr. CARLISLE introduced a bill (H. R. No. 5994) for the relief of Henry Marcotte, late first lieutenant in the Seventeenth Regiment United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CIRCUIT AND DISTRICT COURTS, KENTUCKY.

Mr. CARLISLE also introduced a bill (H. R. No. 5995) to prescribe the times for holding the circuit and district courts of the United States in the district of Kentucky; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SUPERVISORS OF ELECTIONS, ETC.

Mr. DURHAM introduced a bill (H. R. No. 5996) to repeal all laws in regard to the appointment and pay of supervisors of elections, and special marshals to aid them; which was read a first and second time, referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

SOMERSET BAPTIST CHURCH, KENTUCKY.

Mr. DURHAM also introduced a bill (H. R. No. 5997) for the benefit of the Somerset Baptist church, in Somerset, Kentucky, being for damages done said church during the late war; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

R. B. WILKINSON.

Mr. DURHAM also introduced a bill (H. R. No. 5998) placing the name of R. B. Wilkinson, late of the Eighth Kentucky Cavalry, on the pension roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

COLONEL SILAS ADAMS.

Mr. DURHAM also introduced a bill (H. R. No. 5999) for the benefit of Colonel Silas Adams, late quartermaster of the First Kentucky Cavalry in the late war; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

GEORGE W. WADDELL.

Mr. DURHAM also introduced a bill (H. R. No. 5960) granting a pension to George W. Waddell, of Company I, Second Kentucky Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARGES FOR PULLMAN CARS.

Mr. TURNER introduced a bill (H. R. No. 6001) to regulate the charges for the use of Pullman palace cars and other sleeping cars patented by the United States Government; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

UNITED STATES COURT IN INDIAN TERRITORY.

Mr. BOONE introduced a bill (H. R. No. 6002) to establish a United States court in the Indian Territory; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ALANSON WILLIAMS.

Mr. CALDWELL, of Kentucky, introduced a bill (H. R. No. 6003) granting a pension to Alanson Williams, of Cumberland County, Kentucky; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REIMBURSEMENT OF INTEREST.

Mr. KNOTT introduced a bill (H. R. No. 6004) to reimburse the several States interest, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

SECTION 3221 OF REVISED STATUTES.

Mr. WILLIS, of Kentucky, introduced a bill (H. R. No. 6005) to amend section 3221 of the Revised Statutes; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

F. STITZEL & BROTHER.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 6006) for the relief of F. Stitzel & Brother; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

JAMES HOPWOOD.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 6007) for the relief of James Hopwood, of La Grange, Kentucky; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

HEIRS OF EDWARD B. CLARK.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 6008) for the relief of the heirs of Edward B. Clark; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

W. L. CAREY.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 6009) for the relief of W. L. Carey, of Louisville, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AMENDMENT OF RULES.

Mr. WHITTHORNE. I submit the following resolution which I send to the desk for reference to the Committee on Rules.

The Clerk read as follows:

Resolved, That the rules of this House be so amended that hereafter, upon expiration of the morning hour on Mondays, it shall be the regular order to proceed to business on the Speaker's table for the purpose only of referring bills, resolutions, &c., thereon without debate to the appropriate committees; and further that said rules be so amended that from and after the first two weeks of any session it shall be the regular order of business to consider bills and resolutions upon the public Calendar on each and every Tuesday of the succeeding weeks of the session in Committee of the Whole on the state of the Union, or otherwise, as the House may determine, but this rule shall not prevent the House by a majority vote from proceeding to the consideration of business on said Calendar on any other day or days of the session.

The SPEAKER. The Chair has admitted this resolution because it is the practice of the House to admit resolutions for the amendment of the rules in the morning hour of Monday and because this gives the one day's notice provided for in the rule.

The resolution was referred to the Committee on Rules.

WILLIAM C. EASTON.

Mr. WHITTHORNE also introduced a bill (H. R. No. 6010) for the relief of William C. Easton; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

TRADE AND MEXICAN DOLLARS.

Mr. BRIGHT introduced a bill (H. R. No. 6011) making the trade-dollar and the Mexican dollar a legal tender; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

TOLLEY & EATON.

Mr. BRIGHT also introduced a bill (H. R. No. 6012) for the relief of Tolley & Eaton, of Lynchburgh, Moore County, Tennessee; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ASSISTANT ATTORNEY-GENERAL FOR POST-OFFICE DEPARTMENT.

Mr. CALDWELL, of Tennessee, introduced a bill (H. R. No. 6013) to further regulate and define the duties and compensation of the assistant attorney-general for the Post-Office Department, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HENDERSON LADY.

Mr. RANDOLPH introduced a bill (H. R. No. 6014) for the relief of Henderson Lady, of Medway, Greene County, Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

S. S. M. DOAK.

Mr. RANDOLPH also introduced a bill (H. R. No. 6015) for the relief of S. S. M. Doak, surgeon Second North Carolina Mounted Infantry Volunteers; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MARY A. CONKEN.

Mr. RANDOLPH also introduced a bill (H. R. No. 6016) for the relief of Mary A. Conken, of Sullivan County, Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLES W. PIPER.

Mr. RANDOLPH also introduced a bill (H. R. No. 6017) for the relief of Charles W. Piper, of Tusculum, Greene County, Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY A. CONKEN.

Mr. RANDOLPH also introduced a bill (H. R. No. 6018) for the relief of Mary A. Conken, of Sullivan County, Tennessee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE S. WILSON.

Mr. BICKNELL introduced a bill (H. R. No. 6019) for the relief of Lieutenant George S. Wilson, of the Twelfth Regiment United States Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN M. HENDERLIDER.

Mr. BICKNELL also introduced a bill (H. R. No. 6020) for the relief of John M. Henderlider, late second lieutenant in the Sixty-seventh Regiment Indiana Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

W. H. H. ADAMS.

Mr. HUNTER introduced a bill (H. R. No. 6021) granting a pension to W. H. H. Adams, of Monroe County, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN W. LITTLE.

Mr. ROBINSON, of Indiana, introduced a bill (H. R. No. 6022) granting a pension to John W. Little; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JEROME B. GERRARD.

Mr. BROWNE introduced a bill (H. R. No. 6023) granting a pension to Jerome B. Gerrard, late assistant surgeon Thirty-fifth Regiment Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NANCY DANE.

Mr. WHITE, of Indiana, introduced a bill (H. R. No. 6024) for the relief of Nancy Dane; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE E. TIFFANY.

Mr. WHITE, of Indiana, also introduced a bill (H. R. No. 6025) for the relief of George E. Tiffany; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN MILLETT.

Mr. SEXTON introduced a bill (H. R. No. 6026) granting a pension to John Millett, of Osgood, Ripley County, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LAND LAWS FOR ALASKA.

Mr. FULLER introduced a bill (H. R. No. 6027) for extending the land laws of the United States over the Territory of Alaska; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INTEREST ON WAR LOANS.

Mr. COBB introduced a bill (H. R. No. 6028) to reimburse the several States for interest paid on war loans, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JAMES MAHONEY.

Mr. HAMILTON introduced a bill (H. R. No. 6029) granting a pension to James Mahoney, of Huntington County, Indiana; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

JAMES B. WHITE.

Mr. BAKER, of Indiana, introduced a bill (H. R. No. 6030) appropriating the sum of $598.48 to reimburse James B. White, of Indiana, for internal-revenue stamps which he was wrongfully required to place on certain tobacco upon which the tax had been previously paid; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM H. WYMAN.

Mr. EDEN introduced a bill (H. R. No. 6031) granting a pension to William H. Wyman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. CATHARINE ODLAM.

Mr. HARRISON introduced a bill (H. R. No. 6032) for the relief of Mrs. Catharine Odlam; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

LIABILITY OF SHIP-MASTERS, ETC.

Mr. ALDRICH introduced a bill (H. R. No. 6033) to make ships, steamers, tug-boats, schooners, and vessels engaged in commerce and navigation between ports of different States, and also between ports of the United States and foreign ports, liable for certain debts contracted by their owners, part owners, masters, clerk, steward, or other agent, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

REMISSION OF PENALTIES, ETC.

Mr. TOWNSHEND, of Illinois, (by request,) introduced a bill (H. R. No. 6034) to authorize the commissioners of the District of Columbia to remit certain charges, penalties, commissions, interest, and other expenses upon payment of the original amounts of the general and special taxes and assessments recited in the act, within ninety days from and after the passage of the act, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JOSEPH H. CROW.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 6035) granting a pension to Joseph H. Crow; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM HAMILL.

Mr. TOWNSHEND, of Illinois, also introduced a bill (H. R. No. 6036) granting an increase of pension to William Hamill, late a sergeant of Company E, One hundred and seventeenth Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BLIND SOLDIERS AND SAILORS.

Mr. KNAPP introduced a bill (H. R. No. 6037) for the relief of soldiers and sailors becoming totally blind in the service of the country; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORRIN L. SHIPPER.

Mr. BOYD introduced a bill (H. R. No. 6038) granting a pension to Orrin L. Shipper; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHARLOTTE T. CLARK.

Mr. FORT introduced a bill (H. R. No. 6039) granting a pension to Charlotte T. Clark, widow of Bela T. Clark, soldier in the war of the rebellion; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LIEUTENANT WILLIAM F. KENAGA.

Mr. FORT also introduced a bill (H. R. No. 6040) granting a pension to Lieutenant William F. Kenaga; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WIDOWS AND ORPHANS OF ARMY OFFICERS.

Mr. MARSH introduced a bill (H. R. No. 6041) for the protection of widows, orphans and heirs at law of officers of the Army of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COIN CERTIFICATES.

Mr. BURCHARD introduced a bill (H. R. No. 6042) to authorize the issue of coin certificates in lieu of gold or silver certificates for deposits in the United States Treasury; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

INDIAN RESERVATIONS.

Mr. LATHROP introduced a bill (H. R. No. 6043) authorizing the President to prescribe suitable police regulations for the government of the various Indian reservations, and to provide for the punishment of the crimes of murder, manslaughter, arson, rape, burglary, and robbery upon the various Indian reservations; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ISAAC GEORGE.

Mr. TIPTON introduced a bill (H. R. No. 6044) granting a pension to the minor heirs of Isaac George, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

J. H. MERRILL.

Mr. BUCKNER introduced a bill (H. R. No. 6045) for the relief of J. H. Merrill, of Washington, District of Columbia; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MISSOURI AND KANSAS RIVERS.

Mr. FRANKLIN introduced a bill (H. R. No. 6046) for the improvement of the Missouri and Kansas Rivers at and near the junction of the same; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

OLIVER C. DENSLOW.

Mr. POLLARD introduced a bill (H. R. No. 6047) granting a pension to Oliver C. Denslow; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH COLCLASIER.

Mr. GUNTER (by request) introduced a bill (H. R. No. 6048) for the relief of Joseph Colclasier, executor of the estate of Jacob Colclasier; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES SELDEN.

Mr. GUNTER also introduced a bill (H. R. No. 6049) for the relief of James Selden; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ENOS RAY.

Mr. GUNTER also introduced a bill (H. R. No. 6050) for the relief of Enos Ray; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

GEORGE L. MACHENHEIMER.

Mr. GUNTER also introduced a bill (H. R. No. 6051) for the relief of the legal representatives of George L. Machenheimer; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

HENRY MARTIN.

Mr. GUNTER also introduced a bill (H. R. No. 6052) for the relief of Henry Martin; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN H. M'CHESNEY.

Mr. GUNTER also introduced a bill (H. R. No. 6053) for the relief of John H. McChesney; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JAMES MULLOY.

Mr. GUNTER also introduced a bill (H. R. No. 6054) for the relief of James Mulloy; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WAR CLAIMS.

Mr. GUNTER also introduced a bill (H. R. No. 6055) to carry into effect the finding of the Army board convened under special order No. 228 of Department at Washington, dated September 13, 1864, and for other purposes; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WHITE, BLACK AND SAINT FRANCIS RIVERS IN ARKANSAS.

Mr. GAUSE introduced a bill (H. R. No. 6056) to improve the White, Black and Saint Francis Rivers in Arkansas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

W. B. JONES AND OTHERS.

Mr. SLEMONS introduced a bill (H. R. No. 6057) for the relief of Maximillian Cook, S. H. Dunaway and William B. Jones, of the State of Arkansas; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ARKANSAS RIVER.

Mr. SLEMONS also introduced a bill (H. R. No. 6058) making an appropriation for the improvement of the channel of the Arkansas River at Pine Bluff, in the State of Arkansas, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

AGNES N. MILES.

Mr. CRAVENS introduced a bill (H. R. No. 6059) to grant a pension to Agnes N. Miles, of Fort Smith, Arkansas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. CRAVENS also introduced a bill (H. R. No. 6060) amendatory

of section 3469 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

BEACON-LIGHT, SAINT MARY'S RIVER, LAKE HURON.

Mr. HUBBELL introduced a bill (H. R. No. 6061) making an appropriation for a beacon-light on Frying-Pan Island, at the mouth of Saint Mary's River, Lake Huron; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

LIGHT-HOUSE, SQUAW ISLAND, LAKE HURON.

Mr. HUBBELL also introduced a bill (H. R. No. 6062) making appropriation for the erection of a light-house on Squaw Island, Lake Michigan; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ALONZO WHITE.

Mr. HUBBELL also introduced a bill (H. R. No. 6063) granting a pension to Alonzo White, of Chase, Lake County, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FREDERICK C. DUNKER.

Mr. BREWER introduced a bill (H. R. No. 6064) granting a pension to Frederick C. Dunker, late a private in Company E, Eighth New Jersey Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WELLINGTON V. HEUSTED.

Mr. BREWER also introduced a bill (H. R. No. 6065) granting a pension to Wellington V. Heusted, captain of Third Michigan Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. BREWER also introduced a bill (H. R. No. 6066) to repeal sections 4771, 4772, and 4773 of the Revised Statutes of the United States, and to add a new section thereto; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM R. MORSE.

Mr. BREWER also introduced a bill (H. R. No. 6067) for the relief of William R. Morse, of Flint, Michigan; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PROTECTION OF LIFE DURING MARINE DISASTERS.

Mr. REAGAN (by request) introduced a bill (H. R. No. 6068) for the better protection of life during marine disasters; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF GALVESTON HARBOR, TEXAS.

Mr. CULBERSON (for Mr. GIDDINGS, absent by order of the House) introduced a bill (H. R. No. 6069) making an appropriation for continuing the work upon the bar at the entrance of Galveston Harbor, Texas; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PENSIONS.

Mr. CUMMINGS introduced a bill (H. R. No. 6070) to carry into effect the act entitled "An act to provide that all pensions on account of death or wounds received or disease contracted in the service of the United States during the late war of the rebellion, which have been granted or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payment of arrears of pensions, and for other purposes," approved January 25, 1879; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENRY S. MORGAN.

Mr. DEERING introduced a bill (H. R. No. 6071) granting a pension to Henry S. Morgan, of Fredericksburg, Chickasaw County, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PENSIONS TO IOWA SOLDIERS.

Mr. CLARK, of Iowa, introduced a bill (H. R. No. 6072) granting pensions to the surviving officers and members of the Thirty-seventh Regiment of Iowa Volunteer Infantry, known as the "Gray-beards;" which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EPHRAIM D. CANNON.

Mr. OLIVER introduced a bill (H. R. No. 6073) authorizing and directing the Secretary of the Interior to place the name of Ephraim D. Cannon on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GREGORIAN CALENDAR.

Mr. OLIVER also (by request) introduced a bill (H. R. No. 6074) to reform the Gregorian Calendar and to establish a uniform measure of time; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

PETER BEAVER.

Mr. CASWELL introduced a bill (H. R. No. 6075) granting a pension to Peter Beaver; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SARAH B. TOPPING.

Mr. WILLIAMS, of Wisconsin, (by request,) introduced a bill (H. R. No. 6076) for the relief Sarah B. Topping; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DANIEL CORNWELL.

Mr. BOUCK introduced a bill (H. R. No. 6077) granting a pension to Daniel Cornwell, of Plainfield, Wisconsin; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message in writing, from the President of the United States, was presented by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved and signed the bill (H. R. No. 5503) to remove the political disabilities of James Chesnut, of South Carolina.

DISTRICT OF COLUMBIA BUSINESS.

The SPEAKER. The hour of two o'clock having arrived, the Chair recognizes the gentleman from Kentucky, [Mr. BLACKBURN,] chairman of the Committee for the District of Columbia.

Mr. LUTTRELL. I ask by unanimous consent that the call of States and Territories for the introduction of bills and joint resolutions be concluded. Members have been waiting here for weeks to introduce bills for reference.

Mr. BLACKBURN. I have no desire to prevent the completion of the call of the States if that be the desire of the House.

The SPEAKER. The Chair will cause the rule to be read.

Mr. BLACKBURN. I know the rule is imperative.

Mr. DUNNELL. I ask by unanimous consent that the call be completed.

The SPEAKER. The Clerk will read Rule 82.

The Clerk read as follows:

The third Monday of each month, from the hour of two o'clock p. m. until the adjournment of that day, shall, when claimed by the Committee for the District of Columbia, be devoted exclusively to business reported from said committee; and said committee shall henceforth be omitted by the Speaker in the regular call of committees.

The SPEAKER. The House will observe the rule says "when claimed," and the Chair understands the gentleman from Kentucky does not make the claim on behalf of that committee, provided unanimous consent of the House be given to complete the call of States and Territories for bills and joint resolutions for reference.

Mr. BLACKBURN. Leaving me with my rights on behalf of the committee to claim the floor?

The SPEAKER. The Chair will see the gentleman is protected in his rights.

Mr. GARFIELD. Is any other business in order except that of the District of Columbia?

The SPEAKER. The Chair is not advised whether the gentleman from Kentucky, after the States have been called under the usual morning hour of Monday, will decline to yield further or not.

Mr. GARFIELD. I should like to know that. I should like to have an answer to that question before we proceed further.

Mr. BLACKBURN. I will answer the gentleman's question if he he will state it.

Mr. GARFIELD. Do you intend to take the day on the business of the District of Columbia, or do you expect to give way for other business?

Mr. BLACKBURN. No, sir; I simply stated if it be the desire of the House to go through with the call of States and Territories for the introduction of bills and joint resolutions for reference, I will offer no objection provided at the conclusion of that call the District of Columbia Committee is left with all its rights unimpaired.

Mr. GARFIELD. What I ask the gentleman is this: does he expect to occupy the whole day, or to yield to other business?

Mr. BLACKBURN. The Committee for the District of Columbia intend to use the day so long as the House will allow in the prosecution of that business.

The SPEAKER. It can only be interrupted by a motion to adjourn.

Mr. GARFIELD. That is all I wish to know.

WILLIAM W. BIRD.

Mr. LYNDE introduced a bill (H. R. No. 6078) for the relief of William W. Bird, of the First Wisconsin Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES P. GARLICK.

Mr. LYNDE also introduced a bill (H. R. No. 6079) granting a pension to James P. Garlick, of the First Wisconsin Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RICHARD C. DURYEA.

Mr. COVERT introduced a bill (H. R. No. 6080) for the relief of Richard C. Duryea, late a captain of the First Regiment of Artillery

United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC LANDS, CALIFORNIA.

Mr. WIGGINTON introduced a bill (H. R. No. 6081) to grant to the State of California 5 per cent. of the net proceeds of the sales of the public lands situate within said State; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

GRANTS TO SOUTHERN PACIFIC RAILROAD.

Mr. WIGGINTON also introduced a joint resolution (H. R. No. 218) to inquire into and define the acts of July 27, 1866, and June 28, 1870, granting lands to the Southern Pacific Railroad Company of California; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HARBOR AT TRINIDAD, CALIFORNIA.

Mr. LUTTRELL introduced a bill (H. R. No. 6082) to appropriate money for the improvement of the harbor at Trinidad, California; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

STATE UNIVERSITY OF CALIFORNIA.

Mr. DAVIS, of California, introduced a bill (H. R. No. 6083) for the relief of the State University of California; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PRE-EMPTION OF PUBLIC LANDS.

Mr. DUNNELL introduced a bill (H. R. No. 6084) to repeal all acts and parts of acts relative to the pre-emption of the public lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM BARNHARD.

Mr. DUNNELL also introduced a bill (H. R. No. 6085) granting a pension to William Barnhard; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOSEPH P. WILSON.

Mr. DUNNELL also introduced a bill (H. R. No. 6086) for the relief of Joseph P. Wilson; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

TIMBER LANDS OF UNITED STATES.

Mr. DUNNELL also introduced a bill (H. R. No. 6087) to regulate the survey and sale of the timber lands of the United States; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PUBLIC LANDS WITHIN RAILROAD LIMITS.

Mr. STRAIT introduced a bill (H. R. No. 6088) to reduce the price of public lands within railroad limits; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PATRICK RYAN.

Mr. STEWART introduced a bill (H. R. No. 6089) granting a pension to Patrick Ryan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISABELLA FAGNAUD.

Mr. STEWART also introduced a bill (H. R. No. 6090) for the relief of Isabella Fagnaud; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

COLUMBIA RIVER CANAL.

Mr. WILLIAMS, of Oregon, introduced a bill (H. R. No. 6091) making an appropriation for the survey and for plans and specifications for the construction of a canal and locks at The Dalles of the Columbia River, in the State of Oregon; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ISAAC PATCH.

Mr. RYAN introduced a bill (H. R. No. 6092) for the relief of Isaac Patch, late private in Company B, Eighty-sixth Regiment Illinois Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JAMES F. ZEDIKER.

Mr. MAJORS introduced a bill (H. R. No. 6093) granting an increased pension to James F. Zediker, late a captain in the Twelfth Regiment Iowa Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GOVERNMENT OF DAKOTA.

Mr. KIDDER introduced a bill (H. R. No. 6094) to amend the act entitled "An act to provide a temporary government for the Territory of Dakota," approved March 2, 1861; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

IMPROVEMENT OF THE MISSOURI RIVER.

Mr. KIDDER also introduced a bill (H. R. No. 6095) to appropriate money for the improvement of the Missouri River between Yankton and Sioux City, in the Territory of Dakota; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

EXPENSES OF INDIAN HOSTILITIES IN 1878.

Mr. FENN introduced a bill (H. R. No. 6096) creating a commission to examine and report on the expenses of the State of Oregon and the Territories of Idaho and Washington, or the citizens thereof, necessarily incurred in the suppression of Indian hostilities in the year 1878; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY ROADS IN IDAHO.

Mr. FENN also introduced a bill (H. R. No. 6097) making an appropriation for military roads in the Territory of Idaho; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MILITARY POST.

Mr. FENN also introduced a bill (H. R. No. 6098) providing for a military post in Lemhi Valley, Idaho Territory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

OPENING OF COLUMBIA RIVER.

Mr. FENN also introduced a bill (H. R. No. 6099) opening the Columbia River to free navigation; which was read a first and second time, referred to the Committee on Railroads and Canals, and ordered to be printed.

CYNTHIA V. OLIVER.

Mr. CLARK, of Missouri, introduced a bill (H. R. No. 6100) granting a pension to Cynthia V. Oliver, widow of Samuel Oliver, a soldier of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. LIGON introduced a bill (H. R. No. 6101) to amend section 1022 of the Revised Statutes of the United States in relation to offenses against the elective franchise; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CHARLES CLINTON.

Mr. GIBSON introduced a bill (H. R. No. 6102) for the relief of Charles Clinton, of New Orleans, late assistant treasurer at New Orleans; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

BENJAMIN JOHNSON.

Mr. EWING introduced a bill (H. R. No. 6103) granting a pension to Benjamin Johnson, of New Lexington, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THEODORE W. TALLMADGE.

Mr. EWING also introduced a bill (H. R. No. 6104) for the relief of Theodore W. Tallmadge; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

ISAAC RENN.

Mr. MARTIN introduced a bill (H. R. No. 6105) for the relief of Isaac Renn, of Frederick County, Maryland; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JACOB D. EAVEY.

Mr. MARTIN also introduced a bill (H. R. No. 6106) for the relief of Jacob D. Eavey; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ABRAM GRIM.

Mr. MARTIN also introduced a bill (H. R. No. 6107) for the relief of Abram Grim, executor of the estate of Jacob Grim, late of Washington County, Maryland; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ESTATE OF JULIANA BARRY.

Mr. MARTIN also introduced a bill (H. R. No. 6108) for the relief of the estate of Juliana Barry; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM W. WENNER.

Mr. MARTIN also introduced a bill (H. R. No. 6109) for the relief of William W. Wenner, executor of the estate of Joseph Waltman; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MICHAEL BARTHOLOW.

Mr. MARTIN also introduced a bill (H. R. No. 6110) for the relief of Michael Bartholow, of Washington County, Maryland; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHARLES W. HOFFMAN.

Mr. MARTIN also introduced a bill (H. R. No. 6111) for the relief of Charles W. Hoffman, executor of the estate of William C. Hoffman, of Frederick County, Maryland; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

AGNES RADELBERGER.

Mr. REILLY introduced a bill (H. R. No. 6112) granting a pension to Agnes Radelberger; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MRS. MARY M'ELROY.

Mr. REILLY also introduced a bill (H. R. No. 6113) granting a pension to Mrs. Mary McElroy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

THOMAS H. LAWRENCE.

Mr. LAPHAM introduced a bill (H. R. No. 6114) to reinstate Thomas H. Lawrence as a third lieutenant in the United States revenue marine; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WIDOW OF WILLIAM BURR.

Mr. METCALFE introduced a bill (H. R. No. 6115) granting a pension to Louisa Burr, widow of the late William Burr, first lieutenant Eighty-sixth Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT CHEATHAM.

Mr. VAN VORHES introduced a bill (H. R. No. 6116) granting a pension to Robert Cheatham, late a private in the First Minnesota Battery; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SALE OF INTOXICATING LIQUORS IN THE DISTRICT OF COLUMBIA.

Mr. ELLSWORTH introduced a bill (H. R. No. 6117) to prohibit the sale of intoxicating and malt liquors in the District of Columbia on the Sabbath day; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

INTOXICATING LIQUORS IN UNITED STATES CAPITOL.

Mr. ELLSWORTH also introduced a bill (H. R. No. 6118) to suppress the sale of intoxicating or malt liquors in the Capitol of the United States or on the public grounds adjacent thereto; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

ORDER OF BUSINESS.

Mr. REAGAN. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. REAGAN. Under the rule in relation to the morning hour of Monday I hold that I have the right to introduce a simple House resolution for reference. That rule says "All the States and Territories shall be called for bills on leave and resolutions every Monday during each session of Congress," &c.

The SPEAKER. If the full hour is not occupied on Monday for the introduction of bills, then the introduction of resolutions, either House or concurrent, is in order.

Mr. REAGAN. The rule says that the hour shall be for the introduction of bills and resolutions.

The SPEAKER. Yes; but if the entire hour is occupied by the introduction of bills there is no time for the introduction of House or concurrent resolutions. The Chair has always been ready on any day to ask leave for gentlemen to offer such resolutions, because, as the Chair thinks, there is really an omission in the rules in that respect.

Mr. REAGAN. The rule says "bills and resolutions;" and I now ask leave to introduce a resolution for reference.

Mr. SAYLER. If the gentleman will read the latter part of the rule he will find that under the regular call it is limited to joint resolutions. As the Chair has stated, there is no provision for the introduction of simple resolutions.

The SPEAKER. The decision of the Chair is in exact harmony with all the decisions of prior Speakers upon this subject. The Chair has uniformly sought to secure unanimous consent to any member who has a House resolution to offer.

COAST GEODETIC SURVEY.

Mr. REAGAN. By instruction of the Committee on Commerce I ask consent to introduce a resolution for reference to the Committee on Printing, to provide for the printing of extra copies of the Coast Geodetic Survey of 1878.

There was no objection; and the resolution was received and referred accordingly.

PROFESSOR HAYDEN'S MAP.

Mr. HUMPHREY, by unanimous consent, submitted a resolution providing for the publication of Professor Hayden's map, to be sold at cost and 10 per cent. additional; which was referred to the Committee on Printing.

MINERAL LAND LAWS.

Mr. MAGINNIS introduced a bill (H. R. No. 6119) to amend the mineral land laws; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

PROTECTION OF MONTANA FRONTIERS.

Mr. MAGINNIS also introduced a bill (H. R. No. 6120) to provide for the protection of Southern and Southwestern Montana against hostile Indians; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MAJOR O'BRIEN.

Mr. DIBRELL introduced a bill (H. R. No. 6121) granting arrears of pension to the widow of Major O'Brien; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DAVID L. PAYNE.

Mr. RYAN introduced a bill (H. R. No. 6122) granting a pension to Captain David L. Payne, late of the Nineteenth Regiment Kansas Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WHEELER'S GEOLOGICAL REPORT.

Mr. MORSE, by unanimous consent, submitted a concurrent resolution directing the printing of additional copies of Wheeler's Geological Report; which was referred to the Committee on Printing.

WILLIAM SCHUCHARDT.

Mr. BRIDGES introduced a bill (H. R. No. 6123) for the relief of William Schuchardt, United States commercial agent at Piedras Negres, Mexico; which was referred to the Committee on Foreign Affairs.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories for the introduction of bills and joint resolutions has now been concluded. This being the third Monday of the month, from two o'clock of to-day the Committee for the District of Columbia is entitled to the floor for the consideration of business from that committee, and the gentleman from Kentucky [Mr. BLACKBURN] is entitled to the floor.

CIPHER DISPATCHES.

Mr. POTTER. I ask the gentleman from Kentucky [Mr. BLACKBURN] to yield to me to offer a resolution for an investigation into the alleged cipher dispatches.

Mr. BLACKBURN. Will it provoke discussion or not?

Mr. POTTER. I did desire myself to say a few words, and some other gentlemen have a like desire. But if the resolution is offered now, I will understand that it must be adopted without discussion.

Mr. BLACKBURN. I am willing to yield to the gentleman from New York [Mr. POTTER] for the purpose indicated, with the understanding that after his resolution shall have been disposed of I shall again take the floor for the business of the District Committee.

Mr. BUTLER. I must object to the introduction of the resolution now, unless there can be some debate upon it.

Mr. POTTER. I desire myself to say but a few words. I understand that the gentleman from Massachusetts [Mr. BUTLER] does not intend to say more than a few words, and the gentleman from Maine [Mr. HALE] has notified me that if there is any discussion upon the subject he would desire to be heard a few minutes. Altogether it will probably take not more than an hour. I therefore would suggest that to-morrow, after the reading of the Journal, I be allowed to introduce the resolution, and that there be an hour's debate upon it.

The SPEAKER. That will require unanimous consent.

Mr. HALE. I hope there will be no objection to that.

Mr. TOWNSEND, of New York. Let the resolution be read so that we may know what it is.

Mr. BUCKNER. Will that interfere with the regular morning hour?

The SPEAKER. The morning hour will come up immediately after the resolution is disposed of.

The resolution was read, as follows:

Whereas certain alleged telegrams in cipher have been published, indicating that attempts were made after the presidential election of 1876 to influence by money or other fraudulent methods the vote of electors or the action of canvassing boards in the States of Florida, South Carolina, and Oregon; Therefore,

Be it resolved, That the committee upon the investigation of the electoral frauds, &c., be directed to inquire into the same (and into any other matter connected with the said election which in their judgment may be proper) and that they have power to send for persons and papers and to sit during the sessions of the House, with leave to report at any time. And that there be paid by the Clerk of the House to the Sergeant-at-Arms out of the contingent fund of the House the sum of $10,000 for the purposes of the committee, to be expended under the direction of the chairman of the committee or of any subcommittee; and that he make report to the House of the manner in which the same has been expended, which report, when examined and approved by the Committee of Accounts, shall be deemed a satisfactory accountability on his part of the same; and that any unexpended balance remaining in his hands be deposited in the Treasury to the credit of the miscellaneous items of the contingent fund of the House.

The SPEAKER. The gentleman from New York [Mr. POTTER] asks unanimous consent that he may have opportunity to report this resolution for consideration to-morrow, immediately after the reading of the Journal. Is there objection?

Mr. HALE. I hope there will be no objection.

Mr. BURCHARD. We understand that this resolution refers to the "cipher dispatches," although it does not say so.

The SPEAKER. The Chair thinks that if the gentleman had listened carefully to the reading of the resolution he would have observed that the dispatches are so designated.

Mr. CONGER. Can we not pass the resolution now under a suspension of the rules?

The SPEAKER. The difficulty is that the Chair could not entertain a motion to suspend the rules while there is already a proposition pending under that order. If the regular order is proceeded with, the gentleman from Pennsylvania [Mr. WRIGHT] would be entitled to the floor on a motion to suspend the rules. The Chair does not understand that the chairman of the Committee for the District of Columbia yields the floor except for action by unanimous consent.

Mr. CONGER. I dislike to have the delay of a single day in acting on this resolution. [Laughter.]

Mr. POTTER. I wish, then, that the gentleman from Michigan would get the objection on the other side of the House withdrawn.

The SPEAKER. The Chair hears no objection, to the latter proposition of the gentleman from New York [Mr. POTTER] and the request is agreed to. The chairman of the Committee for the District of Columbia is now recognized.

EXPENSES OF COMMITTEE INVESTIGATIONS.

Mr. KNOTT. I ask my colleague [Mr. BLACKBURN] to yield to me that I may make a privileged report from the Committee on the Judiciary, which will not take five minutes. The Committee on the Judiciary was charged to carry on two investigations and to make report at any time. They find, however, that there is no fund set apart to pay their expenses. They ask that by the adoption of the resolution I now desire to submit provision may be made for the payment of these expenses.

The SPEAKER. The Chair has no objection to the reporting of this resolution if members of the House have not. The gentleman from Kentucky [Mr. BLACKBURN] does not claim the floor, and therefore the Chair recognizes his colleague [Mr. KNOTT] to make this report.

Mr. BLACKBURN. I desire to have it understood that so far as the Committee for the District of Columbia are concerned, I will yield to no further requests for the postponement of their business.

The Clerk read the resolutions reported by Mr. KNOTT from the Judiciary Committee, as follows:

Resolved, That in order to defray the necessary expenses incident to the investigations ordered to be made by the Judiciary Committee under resolutions of the House of December 13, 1878, and of January 7, 1879, the Clerk of the House be, and he is hereby, directed, with the approval of the Committee of Accounts, to pay out of the contingent fund to the Sergeant-at-Arms of the House such sums as the chairman of the Judiciary Committee or the chairman of a subcommittee thereof shall from time to time, in writing, direct.

Resolved, That any sums which may be received by the Sergeant-at-Arms under the foregoing resolution shall be by him disbursed on vouchers approved by the chairman of the Judiciary Committee or by the chairman of a subcommittee thereof; and any unexpended balance remaining in his hands shall be by him deposited in the Treasury to the credit of the miscellaneous items of the contingent fund of the House for the fiscal year ending June 30, 1879; and the Sergeant-at-Arms is hereby directed to make to this House a report, in writing, accompanied by vouchers in detail, of the manner in which the sums thus received by him have been expended or disposed of, which report, when examined and approved by the Committee of Accounts, shall be deemed a sufficient settlement of his accountability for same.

Mr. GARFIELD. Do we not need to make an appropriation by bill in order to provide a fund for this purpose? It seems to me we can hardly dispose of so large a sum without an appropriation from the Treasury.

The SPEAKER. The Chair is advised that this resolution proposes to take the money from the contingent fund of the House.

Mr. WHITE, of Pennsylvania. What are these investigations?

The SPEAKER. The Chair is advised that the resolution relates to two investigations already ordered by the House, one in the city of New York and the other in the city of Chicago.

There being no objection, the resolutions were considered and agreed to.

Mr. KNOTT moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUTTER AND CHEESE.

Mr. BLACKBURN, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (S. No. 1297) for the protection of dairymen and to prevent deception in the sale of butter and cheese in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That every person who shall manufacture for sale or who shall offer or expose for sale any article or substance in semblance of butter or cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals, not produced from milk, enters as a component part, or into which melted butter or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon every tub, firkin, box, or package of such article or substance the word Oleomargarine, in plain Roman letters, not less than half an inch square, placed horizontally in proper order, thus: OLEOMARGARINE. And in case of retail sales of such article or substance in parcels the seller shall in all cases deliver therewith to the purchaser a written or printed label bearing the plainly written or printed word Oleomargarine, in type or letters as aforesaid; and every sale of such article or substance not so stamped, branded, marked, or labeled shall be void, and no action shall be maintained for the price thereof.

SEC. 2. That every person who shall sell, or offer to sell, or have in his or her possession with intent to sell contrary to the provisions of this act any of the said article or substance required by the first section of this act to be stamped, marked, or labeled as therein stated, not so stamped, marked, or labeled, or in case of retail sale without delivery of a label required by section 1 of this act, shall for each such offense forfeit and pay a fine of $100, to be recovered by indictment in any court of the District of Columbia of competent jurisdiction for the trial of misdemeanors, and the one-half of such fine when paid to go to the informer and the residue to be paid into the treasury of the District of Columbia.

SEC. 3. That every person who shall sell or offer or expose for sale, or who shall cause or procure to be sold or offered or exposed for sale any article or substance required by the first section of this act to be marked, branded, stamped, or labeled, not so marked, branded, stamped, or labeled, shall be guilty of a misdemeanor, and on trial for such misdemeanor proof of the sale or offer or exposal alleged shall be presumptive evidence of knowledge of the character of the article so sold or offered

Mr. HENDEE. Will the gentleman from Kentucky [Mr. BLACKBURN] yield to me for a moment?

Mr. BLACKBURN. Certainly.

Mr. HENDEE. Mr. Speaker, this is a bill of considerable importance, and of course I am in favor of its passage as it is unanimously reported from the Committee for the District of Columbia. Last winter that committee thought the subject of such importance that they requested from the Agricultural Department an analysis of this new kind of butter and also of pure butter. The microscopist and the chemist of the Agricultural Department have both made a report; and for the benefit of the country I ask that these reports which I have in my possession be printed in the RECORD.

There being no objection, leave was granted.

The documents are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, May 29, 1878.

SIR: Your communication of date May 24, referring to me certain samples of butter and asking an analysis of the same, was duly received, and, together with the samples, was referred to the chemist of the Department, Peter Collier, and also to the microscopist, Thomas Taylor, each of whom was instructed to make examination as thoroughly as possible by their respective methods and report as soon as possible. Copies of their reports are herewith submitted, which I hope may afford the information you seek.

Respectfully, your obedient servant,

WM. G. LE DUC,
Commissioner.

H. C. TILLMAN,
Clerk Committee for District of Columbia, House of Representatives.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., May 28, 1878.

SIR: I have made an examination of the two samples of butter, so called, received from the chemist of this Department on the 25th of present month, and by your order of that date have made a microscopic examination of the same, and I herewith respectfully submit the following report:

The butters have not the appearance of prime butters in either case.

No. 1 is pale and of good color, has a slight odor and taste of butter. I consider it to be a poor butter or a mixed butter. When viewed under the microscope, with polarized light or by plain transmitted light, it appears like pure butter. It is wholly free of animal tissues and solid crystalline fats.

No. 2 is a highly colored yellow butter, melts at a lower temperature than No. 1, has very little odor, if any, of pure butter. When viewed under the microscope by either polarized or plain transmitted light it has an appearance of butter, although other tests satisfy me that it is a very finely made oleomargarine butter.

When oleomargarine is not strained animal tissue and crystalline fats are at once detected by the microscope, the tissue by transmitted light, and the crystalline fats by polarized light. There are two kinds in the market, strained and unstrained oleomargarine. I consider that No. 2 is, therefore, a highly purified and strained example.

Since oelin is the oily portion of solid fats and of pure butter we cannot reasonably expect to detect any difference in the respective oil globules of butter or fat. There are chemical methods by which, I believe, other changes may be effected, and give microscopical points and markings for observation and determination. Therefore the microscope can only be used effectively in the detection of oleomargarine when it contains the fatty acids, such as margarine and stearine, with present known tests.

I am, sir, very respectfully, your obedient servant,

THOMAS TAYLOR, *Microscopist.*

To the honorable Commissioner of Agriculture,
General WILLIAM G. LE DUC.

WASHINGTON, D. C., *May 29, 1878.*

SIR: I have the honor to report the following results of my analysis of the two samples of butter recently submitted for chemical examination by H. C. Tillman, clerk Committee District of Columbia.

The two samples consisted of blocks of about a pound weight each, and upon each was a monogram. * * * The one was of a yellow color, appreciably darker than the other, but in other respects no marked difference was observable to the eye.

In the following analysis that which was darkest yellow will be called No. 1, and the lighter one No. 2.

The composition of the material shows no marked deviation from that of ordinary butter as found in the market, and there is no evidence of the presence of anything injurious or abnormal, since sugar is not unfrequently added to their butter by many of our dairymen.

	No. 1. *Per cent.*	No. 2. *Per cent.*
Fat	84.72	86.28
Caseine	.69	.59
Salt	6.21	5.05
Sugar	1.33	1.27
Water	7.19	6.85
	100.14	100.03

As will be observed, there is a very close agreement in the two analyses, quite as close as might be looked for in two commercial samples of a product, varying so much in its composition as does either genuine butter or its imitation.

As to the question whether these samples are really butter or the product known as oleomargarine—an artificial butter prepared from suet chiefly—it is to be determined largely by other evidence than chemical, since there is no reason why the manufacturers may not prepare a compound of exactly the proportions of any given sample of butter.

The character of that constituent given in the analysis as Caseine, and its appearance under the microscope, and the examination of the products under the microscope, will be the chief means by which the real character of these samples may be possibly determined.

During the progress of the analyses it was observed that the color from No. 1 entirely disappeared, while the color of No. 2 remained constant, and so far as this

department goes it seems to indicate that No. 1 was the product of a colorless fat, to which some coloring matter as annratto had been added.

Upon agitating the melted samples with hot water, the water became but little turbid compared with the water shaken up with pure butter, and under the microscope the water from 1 and 2 closely resembled each other, while in the water from pure butter innumerable fat globules were seen, but such globules were absent in Nos. 1 and 2. Besides, a sample of pure butter upon melting gave a uniform mass with finely divided caseine separating, while in Nos. 1 and 2 a very considerable coagulum formed, which was estimated and in the analyses marked Caseine.

Under the microscope a sample of pure butter appeared made up of minute globules, while Nos. 1 and 2 presented far from a uniform appearance, not only in the varying size of the globules, but what probably was cellular tissue, at least something not present in the pure butter examined.

I am therefore of the impression that both samples are specimens of the same material, and that this is not a genuine butter made by churning either cream or milk, but is oleomargarine.

Respectfully,

PETER COLLIER, *Chemist.*

General WM. G. LE DUC, *Commissioner.*

I give below analyses of butter found upon record, not having had time to complete one myself as yet:

Fats	87.15	86.01	85.00
Caseine	.57	.19	.51
Salt	1.03	1.51	.00
Sugar	.00	.00	.70
Water	11.25	12.29	13.67
Ash	.00	.00	.12
	100.00	100.00	100.00

The bill was ordered to a third reading, was accordingly read the third time, and passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. MAYHAM. I move the House now resolve itself into the Committee of the Whole on the state of the Union for the purpose of proceeding with the consideration of the bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; and pending that motion I move all general debate on that bill be limited to twenty minutes.

Mr. EDEN. It is not intended to cut off debate under the five-minute rule?

Mr. MAYHAM. Of course not, but simply to limit the general debate to twenty minutes.

Mr. MAYHAM'S motion was agreed to.

Mr. MAYHAM moved to reconsider the vote by which general debate was limited to twenty minutes; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MAYHAM. I now ask for a vote on the motion to go into committee.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. HARTZELL in the chair.

The CHAIRMAN. The bill pending before the committee is a bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

Mr. MAYHAM. I move that the first reading of the bill for information be dispensed with.

The motion was agreed to.

The CHAIRMAN. The first section of the bill will be read for amendment.

The Clerk read as follows:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive original jurisdiction of, all claims now existing against the District of Columbia which have arisen under the late corporations of Washington and Georgetown, the levy court, the late board of public works, the late corporation of the District of Columbia, the board of health, or the commissioners of the District, prior to January 1, 1878; and said court shall have the same power, proceed in the same manner, and be governed by the same rules in respect to the mode of hearing, adjudication, and determination of said claims, as it now has in relation to the adjudication of claims against the United States.

Mr. MAYHAM. Mr. Chairman, the bill under consideration is intended to commit to the Court of Claims for adjudication and determination all claims against the District of Columbia which have arisen under the late corporations of Washington and Georgetown, the levy court, the late board of public works, the late corporation of the District of Columbia, the board of health, or the commissioners of the District prior to the 1st of January, 1878.

The first section of this bill confers jurisdiction upon the court, makes the proceedings in reference to these claims to conform as nearly as may be to that of claims against the United States, and authorizes the court in a proper case to appoint referees to take testimony and engineers to make measurements and report the same to the court for its information.

The second section of the bill provides that all claims against the District of Columbia shall in the first instance be prosecuted before the Court of Claims, in the same manner and with the same rights of appeal as are by law provided for the prosecution of claims against the United States; and also provides that all such claims shall be prosecuted by the filing of the petition within six months after the passage of this act, except in case of claims held and owned by persons under legal disabilities, and all such claims shall be prosecuted in like manner within six months after the expiration of such legal disabilities.

The third section makes it the duty of the Attorney-General of the United States to defend the District of Columbia against all such claims prosecuted in said court; and on appeal in the same manner as he is required to defend the United States before said court, and with like powers and privileges.

The fourth section makes all laws in force relating to the prosecution of claims in this court against the United States applicable to proceedings against the District of Columbia and provides that in all cases where said court shall render judgment against the District the court shall with the findings of fact find and determine whether said claim arose under a contract payable in current money or in 3.65 bonds of the District. And the judgment shall direct payment in accordance with the facts so found.

Section 5 provides that if no appeal shall be taken from the judgment of the Court of Claims within the time now limited by law for appealing, and in all cases of final judgment in favor of the claimant the Secretary of the Treasury shall pay the amount of the judgment out of any funds not otherwise specially appropriated, and in case the judgment be for the payment in 3.65 bonds the same shall be paid therein, on the certified copy of the judgment, signed by the chief-justice or the presiding judge of said court; and also provides that all moneys paid out of the Treasury on said judgment shall be reimbursed by the Treasurer out of any funds in the United States Treasury belonging to the District of Columbia not otherwise specifically appropriated.

Section 6 provides that the Secretary of the Treasury shall demand of the sinking-fund commissioners of the District of Columbia and the sinking-fund commissioners shall deliver to the Secretary of the Treasury so many 3.65 bonds as shall be necessary to pay the judgments required to be paid in such bonds; provided that the total amount of such bonds so issued, including those already issued, shall not exceed $15,000,000. It will be observed that by section 7 of the act to provide a permanent form of government for the District, the sinking-fund commissioners of the District were abolished, but the Secretary of the Treasury is to perform all the duties required by law of the sinking-fund commissioners.

Section 7 of this act provides for diligent prosecution of said claims so filed with the court, and authorizes the court on motion of the Attorney-General and notice to the claimant to dismiss all claims not diligently prosecuted to final judgment; and all claims so dismissed and all claims adjudicated shall be barred from further prosecution before the Court of Claims or any other tribunal.

Mr. Chairman, I have thus given a brief summary of the provisions of this bill. The chief object of the bill and the end which is sought to be obtained is towfold: first, to provide a judicial tribunal for the adjudication of these claims when the same may be tried and determined upon their merits, so that just claims against the District may be ascertained and paid, and thus the faith of the Government as to this class of claims and of the debt of the District may be met and the honest creditor paid—at the same time to have permanently and forever barred all claims which will not stand the test of a calm, deliberate, and judicial investigation before a court of the country well adapted to administer full and complete justice in the premises; and, secondly, to relieve Congress from the labor and responsibility of acting in a judicial capacity upon an infinite variety of claims not properly cognizable before this body.

The theory of our Government, Mr. Chairman, is that Congress shall possess only legislative power. The Constitution provides that—

All legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

If this provision stood alone, it would plainly enough indicate the extent of the legitimate constitutional power of Congress, and, by fair and just implication, divest it of all judicial functions. And that would be found to be especially true when we come to consider the utter want of adaptability of Congress to the wise and judicious exercise of judicial powers. It needs no argument, I trust, to any gentleman upon this floor to prove that this body is not a safe and satisfactory tribunal to pass judicially, cautiously, and intelligently upon a claim, first involving a patient study of the facts upon which it is founded, and then a careful examination of the contract and the law of the contract under which such claim is made.

Congress as a judicial body cannot, in the nature of things, investigate in detail all the facts and circumstances which go to establish or defeat a claim. The consequence is that the great bulk of this body, if required to pass judicially upon claims, are compelled to vote in the dark, thereby taking the hazard of allowing an unjust claim, to the great detriment of the Government, or of rejecting an honest claim to the utter ruin, perhaps, of an honest creditor of the District. But it may be said that the claims may be satisfactorily investigated before an appropriate committee of Congress, and when so investigated the House may safely follow the determination of the committee, and thus in the main substantial justice may be attained between the individual and the Government. This argument, however plausible in theory, is not sound in practice.

Any gentleman upon this floor familiar with the method of transaction of business before the best regulated committees of this House

cannot fail to have discovered the great laxity and want of method, as well as the absence of a strict application of rules of evidence and law so essential to the due administration of justice in the courts. And if by the want of a rigid enforcement of rules of evidence or principles of law governing a case an erroneous result be reached in Congress, there is no appeal from its determination, and the errors committed are irretrievable unless, indeed, some other Congress is asked to review the act or repeal or modify its effect. But I will not further take the time of this House in an attempt to enumerate the numberless reasons why Congress should not assume or attempt to exercise judicial powers. A reason is furnished in the organic law, which to us who are acting or presumed to act under the obligations of an oath to support that instrument, like Aaron's rod, swallows up all other reasons. That reason is found in article 3, section 1, of the Constitution of the United States, which provides:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish.

Here, then, we find a reason which overrides all other reasons which we, as members of Congress, can offer for or against the exercise of judicial power by this body. It matters little, so far as we are concerned, whether this provision be wise or unwise; we find it written in the charter under which we hold our trust here; to it we have solemnly subscribed, and its provisions we have sworn to support.

We may create courts if the exigencies of the country require it, but we cannot exercise judicial power, for it is written in the Constitution that the judicial power of the United States shall be vested in the courts.

This provision covers the whole ground. It is the *argumentum ad hominem*, and should be conclusive upon this branch of the subject. But the fear is expressed that if Congress let slip its control upon this subject of claims the Government may be defrauded. To act upon such a fear and to withhold from the courts the jurisdiction vested in them by the Constitution upon any such pretense, is to evince a distrust on the part of Congress of a co-ordinate department which I trust is not entertained by this House toward the judiciary of the country; and if any such sentiment is entertained here it will be regarded by the country as an arrogant assumption on the part of Congress of all the honesty of the Government—an opinion which, I fear, will not be fully acquiesced in, either by the people or the co-ordinate departments of the Government. If there be one department of Government more than another which should merit and possess the entire confidence of the people, that department is the judiciary.

It is a mistake, therefore, to assume that these claims if submitted to the Court of Claims under the restrictions imposed in this bill will not receive careful consideration to the end that full and complete justice may be done both to the District and claimant.

Defended against, as these claims will be, by the Attorney-General, and prosecuted, as they will be, according to the forms of law and well-established judicial rules, the real truth of each case will be ascertained, and just and honest claims will be allowed and paid, as they should be, and dishonest and fraudulent claims will be exposed and rejected. Thus truth and justice will be vindicated, and fraud and corruption condemned.

Mr. Chairman, I am not here as the advocate or champion of any claim. I have no personal knowledge that there is an honest claim against this District, nor have I any knowledge that there is a fraudulent or unjust claim which the District is asked to pay. This it will be the duty of this court to ascertain and determine.

But if there be any honest creditors of this District ought they not to be paid? If any man or corporation has performed labor, furnished material, or incurred expense under contract with the officers in charge of this District, within the scope of their authority, and this District is in the enjoyment of the benefits of that labor, materials, and money, who will say that such creditor should not be speedily paid. If it be true as represented that individuals have invested and expended their private fortunes in work and materials lawfully done and furnished, under contracts made with officers of this District, under the authority of Congress, and such individuals and their families are to-day on the verge of bankruptcy and financial ruin, and some even suffering penury and want, is there a man here who will rise in his place and say such creditor, because he has worked for the District of Columbia, the nation's capital, should not be paid?

Much is said here about preserving the faith of the Government, and just anathemas are pronounced by the defenders of the bondholders against anything that looks like repudiating the bonded debt of the Government. Even those who doubt the propriety of not paying it in *fine gold*, and dare talk of paying it in silver, the coin in which it was contracted to be paid, are sometimes charged with bad faith and repudiation.

I do not stop now to discuss these questions, except to call the attention of all the defenders of the honor of this Government on this floor to the propriety of doing justice to every creditor of the Government, whether his claims be represented by millions in Government bonds or by tens or hundreds in claims for honest labor.

Mr. Chairman, it is time that this clamor about the claims against this District and the honesty or dishonesty of such claims was finally and forever settled by some definite and decisive action; and this can never be done so long as the doors of Congress are opened to the presentation and settlement of claims before this body. So long as Congress continues to sit in judgment upon these claims, so long will the charge of injustice and oppression be made on the one hand and the counter charge of fraud and speculation on the other; fraudulent and duplicated claims will by inadvertence and ignorance of facts be allowed by which Congress will be subjected to censure and unjust criticism; and honest claims will be ignored or rejected, and injustice done to the *bona fide* creditors of the District.

I submit, therefore, that every consideration of propriety and good faith concur to demonstrate the necessity of remitting this whole subject of claims to the courts where it appropriately belongs.

Mr. EDEN. I wish to call the attention of the gentleman from New York to the fact that he has consumed half the time allowed for general debate.

Mr. MAYHAM. I would be glad to occupy more time if I had it. I now yield to my friend the gentleman from Illinois, [Mr. EDEN.]

Mr. REAGAN. Before the gentleman from New York sits down I would like to ask if the committee ascertained some probable amount of claims that would be brought against the District under this act?

Mr. MAYHAM. I have not investigated that, and I am not able to answer the gentleman's question. I assume the court will protect the Treasury against everything but honest claims.

Mr. EDEN. I have no doubt there are some claims that are embraced in this bill that ought to be paid; but I think that the first section of the bill is entirely too sweeping and general in its provisions in conferring jurisdiction upon the Court of Claims. It provides:

> That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive original legal and equitable jurisdiction of, all claims now existing against the District of Columbia which have arisen under the late corporations of Washington and Georgetown, the levy court, the late board of public works, the late corporation of the District of Columbia, the board of health, or the commissioners of the District, prior to January 1, 1878.

It will be observed by those who have given attention to this provision that this gives jurisdiction to the Court of Claims to hear and determine every conceivable kind of claim that ever has existed against the District of Columbia from the foundation of the Government down to the present time. There is no limitation whatever as to the kind of claim, or as to the time within which the claim was to be filed. This levy court and the corporations of Washington and Georgetown were abolished February 21, 1871; so that all the claims that may be brought against the District of Columbia arising against those corporations and against the levy court necessarily must have originated prior to the 21st day of February, 1871. I repeat that there is no limitation whatever. This levy court was the corporation that included all of the District of Columbia, except the corporations of Washington and Georgetown, prior to the act of February 21, 1871. I have not time to state in detail the jurisdiction of the levy court; but it had jurisdiction of pretty much everything in the District outside of these two corporations of Washington and Georgetown. Then these corporations had had an existence from the time the seat of Government was established here until they were superseded by the act of February 21, 1871; and any claim that any person has against these two corporations at any time from the foundation of the Government until some time in 1878 can come into the Court of Claims. And if that court finds that there is anything due to that party, no matter how old it is and no matter what the claim is for, unless there is a successful appeal taken to the Supreme Court of the United States, the chief-justice of the Court of Claims gives a certificate to the claimant and he goes to the Treasury of the United States and gets the money.

Now, the jurisdiction of the Court of Claims has been carefully limited and defined. I believe—I may not be precisely correct, but probably I am right—I believe their jurisdiction is confined to cases of contract. I know it is limited. And then it is limited in point of time I believe to six years. They do not take cognizance of questions of damages at all under the jurisdiction that has been conferred upon them. But this bill, I repeat, gives no limitation either as to the cause of action or the time when it accrued, but it opens the Treasury of the United States to claims from the foundation of the District down to the present time. To those provisions I object.

For instance, any liability that accrued under the board of public works, any liability that accrued while we had the District Legislature here, is a claim under this bill that is to be adjudicated by the Court of Claims, and Congress is to have no further voice in it whatever. That will let in all claims for damages for the tearing up of sidewalks and streets. So far as it may affect the rights of adjacent property-holders it will open the entire question as to damages on account of the establishment of the grade by the board of public works; and how many millions upon millions of dollars of damages may be laying back to come up and be adjudicated by this court for injury done to property in this District by this board of public works no one can tell.

Now, I do not pretend to say that there may not be claims for damages to property that ought to be paid; but I do say that this unlimited jurisdiction ought not to be given to the Court of Claims. I have no objection to that portion of the claims against the District arising out of contracts since the 21st of February, 1871, when the new government was established here. I have no objection to the Court of Claims adjudicating upon them. I objected when this matter was formerly before the House because the tribunal that was to adjudicate these questions had no judicial power. In this bill the tribunal does have judicial power; and I am willing that the Court

of Claims may adjudicate in reference to claims against the District of Columbia as far as they are allowed to adjudicate in reference to claims against the United States, and no further.

I am not willing to open the question of damages and allow any man who conceives that he has ever suffered damage from any of the corporations that have existed here to go to the Court of Claims, and, if he succeeds in establishing his claim for damages, to go to the Treasury and get the money on the certificate of the chief-justice of the Court of Claims.

We do not pay any claim in that way. A person who establishes his claim cannot get a certificate from the court to receive the amount found due him. It is not until Congress makes an appropriation for the specific purpose of paying the judgments of the Court of Claims.

If the Committee for the District of Columbia has concluded that the Court of Claims is the best tribunal to determine these questions, why not limit its jurisdiction in reference to these cases as it is limited in other cases against the Government of the United States? We open a wide field, no one can tell how wide—a door which no one can tell when it will be closed.

Unless some important amendments are made to the bill I shall vote against it, and I hope it will not receive the approval of the House.

The CHAIRMAN. The time fixed by the House for closing the general discussion upon this bill has expired. The Clerk will now proceed to read the bill by sections for amendment.

The Clerk read the first section of the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive original jurisdiction of, all claims now existing against the District of Columbia which have arisen under the late corporations of Washington and Georgetown, the levy court, the late board of public works, the late corporation of the District of Columbia, the board of health, or the commissioners of the District, prior to January 1, 1878; and said court shall have the same power, proceed in the same manner, and be governed by the same rules in respect to the mode of hearing, adjudication, and determination of said claims, as it now has in relation to the adjudication of claims against the United States.

The first amendment reported by the committee was to insert in line 4, after the word "original," the words "legal and equitable," and in line 15, after the word "United States," to insert:

When the trial of any claim against the District of Columbia, prosecuted under the provisions of this act, involves the taking and stating of a long account, or the making of measurements or computations involving the services of engineers, said court shall have power to award a reference to a competent referee to take and state such account, or to an engineer to make and report such measurements and computations; and said referee or engineer shall report to the court the evidence taken by him and his conclusions on the same, for the information of said court.

Mr. EDEN. Is it in order to offer an amendment, or must the amendment reported by the committee be first acted upon?

The CHAIRMAN. The amendment offered by the committee will be first acted upon, but it is in order to move to amend this amendment.

Mr. EDEN. It occurs to me that this amendment proposed by the committee makes a provision under which the referee appointed by the court will really decide all the cases. I am not familiar with the practice of the Court of Claims. I suppose they have some mode of taking testimony, and I do not see why the same rules of taking testimony that prevail in other cases should not apply here. The referee reports not only the evidence but his conclusions thereon, and the probability is that the result of this will be that pretty much all of these claims will be substantially decided by the referee or the engineer appointed. I think that whatever rules of evidence the court has adopted in other cases in reference to taking testimony ought to be sufficient in these cases.

Mr. MAYHAM. The object of limiting the taking of testimony to the referee or engineer is to relieve the court from the burden of taking the testimony itself. The referee is not to take the testimony and decide the case, as my friend seems to think, but the object is that he shall report the testimony to the court, and it would be rather a far-fetched idea to say that his conclusions would control the court. He reports the evidence and the facts, and the court then determine for themselves the weight to be given to that evidence, and the mere statement that he reports his conclusions upon it does not in any way bind the court.

There is another provision, however, incorporated in the bill by the amendment, that the district engineer shall be the referee to take the measurements when measurements are required. That amendment was agreed on by the committee, and is one of the amendments reported by them.

Mr. BUCKNER. Would not the facts and findings of the referee be treated by the court the same as would be the findings of a jury?

Mr. MAYHAM. Not necessarily. In very many cases the referee finds the facts and his conclusions. In cases of divorce, for instance, or in equity cases, where a jury is called on to aid the conscience of the court in determining the facts, the court has the power, and frequently exercises it by overriding the verdict of the jury.

Mr. BUCKNER. What is the gentleman's understanding of the words "legal and equitable jurisdiction?" I understand that there are a large number of claims in this District against the District commissioners for damages growing out of the grading of the streets. The Supreme Court have held that that is not a legal claim against the Government of the United States. I desire to know whether, under the view the committee have taken of it, this would include claims for damages growing out of the grading of the streets, and whether that would be included in the jurisdiction conferred by this bill.

Mr. MAYHAM. I can answer the gentleman only by giving my own construction of the language and what I believe was the view of the committee, that that class of claims was not intended to be embraced by the word "equitable."

I think the court will have no difficulty in determining what is the boundary line between legal and equitable jurisdiction, as understood by lawyers and judges. It seems to me that the taking down of a grade opposite a man's house, which the Government has authority to do and which it has done, does not create any equitable claim within any definition of the word "equitable." If it was an equitable claim, then the party might by injunction have restrained the Government from doing the act. That never has been done, and never can be.

Mr. EDEN. Does the gentleman construe the word "claim" as not including a claim for damages, when there is no limitation whatever in the bill itself?

Mr. MAYHAM. Claim for damages for what?

Mr. EDEN. For anything.

Mr. MAYHAM. I construe it as meaning a claim for damages on account of the Government not performing its contract. It does not go into that speculative and imaginative area including anything that a party may conceive is a damage to him; that would not be indemnified under this bill.

Mr. TOWNSEND, of New York. I desire to ask my colleague [Mr. MAYHAM] a question.

Mr. MAYHAM. Certainly.

Mr. TOWNSEND, of New York. I am ignorant whether the Court of Claims, by its general jurisdiction conferred upon it by Congress, has the power to refer questions to referees who shall take testimony and give an opinion. I would inquire if that element is introduced now for the first time?

Mr. MAYHAM. I am not aware that such authority has existed by virtue of any previous law. The supposed necessity for it in this case arises from this fact: there are measurements to be made about which there is a controversy, and it would be absurd to ask the court to go out and make those measurements. There are long accounts to be stated, and it would be a burden upon the court to compel it to take the testimony in regard to those long accounts. This bill authorizes the appointment of referees within the discretion of the court.

Mr. TOWNSEND, of New York. I can see no reason for making an exception to the general rule in regard to claims arising in the District of Columbia for which the Government is said to be liable. In all cases coming before the Court of Claims testimony must be taken. I do not know why testimony of measurements should be excluded or made an exception.

And I doubt very much the propriety of allowing referees (the appointment of which will be very much influenced by the parties in interest) to decide questions of fact, because the opinion of the referee will ordinarily be controlling. I doubt very much the propriety of allowing referees to practically decide these questions of fact as affecting the interests of the Government; I think it is unwise. I hope, therefore, that that provision of the bill will be stricken out.

The CHAIRMAN. Debate upon the pending amendment reported from the Committee for the District of Columbia has been exhausted.

Mr. EDEN. What is the first amendment to be voted upon?

The CHAIRMAN. The Clerk will report the amendment.

The amendment was read, as follows:

In line 4, after the word "original," insert the words "legal and equitable;" so that it will read: "shall have exclusive original legal and equitable jurisdiction," &c.

Mr. EDEN. I have no objection to that amendment.

The amendment was agreed to.

The next amendment was, after the words "United States," in line 15, to add the following:

When the trial of any claim against the District of Columbia prosecuted under the provisions of this act involves the taking and stating of a long account, or the making of measurements or computations involving the services of engineers, said court shall have power to award a reference to a competent referee to take and state such an account, or to an engineer to make and report such measurements and computations, and said referee or engineer shall report to the court the evidence taken by him and his conclusions on the same, for the information of said court.

Mr. KEIFER. Is it in order now to move an amendment to the amendment? If in order, I desire to move to strike out the words "and his conclusions thereon."

The CHAIRMAN. There is an amendment proposed by the committee to their own amendment; the question will first be upon that. The amendment of the committee was to strike out the words "and engineer," and to insert in lieu thereof the words "the engineer commissioner of the District."

The amendment to the amendment was agreed to.

The question was upon the amendment as amended.

Mr. KEIFER. I move to strike out of the amendment the words "and his conclusions on the same."

Mr. MAYHAM. I do not object to that amendment.

Mr. POTTER. If that is adopted, then the referee would only report the evidence taken by him.

Mr. KEIFER. He could report the evidence or state the account, but not give his opinion.

Mr. HARRIS, of Virginia. I do not think the amendment of the gentleman from Ohio [Mr. KEIFER] should be adopted. This is but a simple reference to a master commissioner as it may be termed. Suppose there are but three items between the corporation and an individual, and there may be a dispute as to one of them. Unless they can be referred to a master commissioner to take testimony and report to the court, the court may be compelled to take time for the purpose of hearing evidence to prove these items, about which there may be no dispute. I think the provision as reported from the committee should be adopted in order to economize time and prevent confusion in the court.

Mr. KEIFER. I understand the gentleman from Virginia [Mr. HARRIS] to say that my amendment would prevent the referee stating an account. A careful attention to the provision of the amendment of the committee will show that that is not the effect of my proposed amendment. The provision of the committee reads:

When the trial of any claim against the District of Columbia prosecuted under the provisions of this act involves the taking and stating of a long account, or the making of measurement or computations involving the services of engineers, said court shall have power to award a reference to a competent referee to take and state such an account—

My amendment does not affect that—

or to an engineer to make and report such measurements and computations, and said referee or engineer shall report to the court the evidence taken by him—

Now come the words I propose to strike out—

and his conclusions on the same, for the information of said court.

By the language of this provision the engineer becomes a referee who is to give his conclusions. Although merely a civil engineer he would be called upon under this language, if construed broadly, to arrive at a conclusion of law upon the evidence as presented. Now, whatever facts may be proved in the evidence and whatever conclusions the referee may arrive at, I desire the court to examine the whole case in the light of all the testimony. I agree that there should be a referee to take testimony in the manner usual in courts of equity all over this country. I would have the referee report to the court the testimony for its consideration; but I would not have the finding of the referee considered in the light of a verdict. Let the court have the whole record before it as submitted by the referee, and let it examine the question as an original one. I understand that the gentleman in charge of this bill is willing to accept my amendment.

Mr. MAYHAM. I do accept the amendment, although I do not regard it as at all material.

The amendment of Mr. KEIFER was adopted, and the amendment as amended was agreed to.

Mr. EDEN. I move to amend by striking out all after the word "which," in line 6, section 1, to and including the word "health," in line 9, and inserting the following:

Are predicated on certificates of the late board of audit, and including all claims which were allowed by said board, but for which certificates were not issued; and also including all claims for work done since the 21st day of February, A. D. 1871, upon which certified measurements of the engineer of the District of Columbia have been made and filed prior to the 1st day of January, 1878.

The object of this amendment is to define the jurisdiction of the court in reference to these claims and to limit that jurisdiction to cases in the nature of contracts. The claims which have been pressed upon the consideration of Congress arise mainly out of contracts made by the board of public works and the commissioners of the District of Columbia; and the reason this amendment allows the jurisdiction to extend back to February 21, 1871, is because at that time the old District government was abolished and the new District government, under which these claims originated, was established. The claims embraced in the amendment were in process of settlement before the board of audit which was established, I believe, in 1874. In 1876, before the board had finished their work, Congress abolished the board; and consequently they could not conclude their work. This amendment, if adopted, will simply allow the Court of Claims to go on and adjudicate the class of claims which the board of audit had authority to investigate.

The amendment will do away with all questions about old claims which had their origin anterior to the change of government in this District. It will also make it certain that the Court of Claims will not have jurisdiction in reference to questions of damages from cutting down streets, taking up sidewalks, and all that sort of thing. I think that if the Court of Claims is to have jurisdiction at all its jurisdiction ought to be limited in the manner provided in this amendment.

Mr. MAYHAM. It seems to me that the amendment of the gentleman from Illinois, [Mr. EDEN,] if adopted, will cut off or may cut off claims just as meritorious as any that it proposes to include. It is a matter of history that public works which were going on were by operation of a law of Congress summarily suspended. Some of this work had been measured; and for some, certificates had been issued by the District commissioners; some was in process of measurement; and some had not been measured at all. But in many cases where no measurement had been made, the work was just as faithfully performed as in any other cases.

Now, the effect of this amendment is to give a preference to a class of contractors who were so fortunate as to have their work measured or to receive the certificates of the commissioners, which certificates were, however, stopped before payment had been made. The amendment leaves out—or at any rate it may leave out—a class of claimants whose claims are just as meritorious but who have not had the opportunity to get certificates of the commissioners or certificates of the engineer, or anything of that kind. They have only had the opportunity to put in their work, to expend their money, their operations being stopped before the Government through any of its agencies had furnished any evidence of the work that had been done. It seems to me it would be unjust as to these claimants to adopt this amendment.

So far as the amendment fixes a limitation of time, I am not here to antagonize it. Whatever may be the judgment of other gentlemen, I am not here to oppose a proposition to exclude claims arising prior to 1871. That limitation may be right. It may relieve the court from the burden of examining old stale claims, the evidence of which the Government might not have proper opportunity to meet. But I do object to limiting the jurisdiction of the court exclusively to cases where there have been, in the language of the gentleman's amendment, "certified measurements."

Mr. EDEN. I think the amendment covers the case. I do not seek to include any of that class of claims which comes within the intention of the amendment, that is, claims referred to the board of audit. I think my amendment embraces all the claims referred to the board of audit; that is the intention; it includes not only all which receive certificates, but those which the board of audit passed upon. It includes all of those for which measurement was made by the engineer up to February 21, 1871. If that does not include all it should do so. I am not aware of any claim standing upon an equal footing with those which is not embraced.

Mr. HENDEE. I think the gentleman from Illinois is entirely mistaken as to his amendment. It does not, as I read it, cover claims of parties who have performed work where their measurements have not been made, and they are on the same basis precisely as those who have received certificates.

Mr. EDEN. If the gentleman will draw up an amendment covering that modification I will accept it. I will accept a modification to meet that case he refers to.

Mr. HENDEE. It would be an unjust discrimination against parties who have honest and *bona fide* claims against the District of Columbia to draw the distinction where the gentleman from Illinois has drawn it. I would not myself, as a member of the District Committee, object to an amendment limiting the time when they should go back in the examination of claims, that is February 21, 1871, but I would have the power given to examine claims of persons arising out of contracts made since that date, whether measurements have been made or not. If the court found them to be honest claims they certainly should be allowed, whatever may be their nature. I suggest to the gentleman from Illinois to modify his amendment by confining the investigation to claims which shall have accrued since the date he first named, February 21, 1871, arising out of contracts with the said corporations of the District of Columbia. I think that would be fair.

Mr. EDEN. Not adjudicated by the board of audit.

Mr. HENDEE. I mean that.

Mr. EDEN. If the gentleman will prepare an amendment to that effect I will accept it.

Mr. HENDEE. I offer this, then, as a substitute for that of the gentleman from Illinois.

The Clerk read as follows:

After the word "Columbia," in the sixth line of the first section, insert "arising upon contracts, expressed or implied, made since February 1, 1871, and not heretofore passed upon by some competent tribunal."

Mr. EDEN. February 21 is the date the change of government took place.

Mr. HENDEE. Yes, sir; that is the date.

Mr. EDEN. But the Clerk read "February 1."

Mr. HENDEE. It should be "February 21, 1871."

Mr. EDEN. What was stricken out by the amendment of the gentleman from Vermont; the same I struck out?

Mr. HENDEE. Yes.

Mr. EDEN. Commencing from the word "Columbia" down to the word "eight."

Mr. HENDEE. I am willing to strike out what the gentleman refers to.

Mr. BUCKNER. I think there is some mistake about the words to be stricken out. I do not think the gentleman from Vermont strikes out as much as the gentleman from Illinois did.

The CHAIRMAN. The proposition of the gentleman from Vermont was offered as a substitute for the amendment of the gentleman from Illinois.

Mr. BUCKNER. The proposition of the gentleman from Illinois was to strike out after the word "Columbia" down to the word "health," in the ninth line. Does the gentleman from Vermont mean to strike out the same words and in lieu of what was proposed by the gentleman from Illinois offer what has been read by the Clerk as a substitute?

Mr. HENDEE. That is what I design.

Mr. EDEN. Let it be read as it will be in case the amendment of the gentleman from Vermont is adopted in lieu of mine.

The Clerk read as follows:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall

have exclusive, original, legal, and equitable jurisdiction of, all claims now existing against the District of Columbia arising upon contracts, expressed or implied, made since February 21, 1871, and not heretofore passed upon by some competent tribunal, which have arisen under the late corporations of Washington and Georgetown.

Mr. EDEN. Oh no, that is stricken out down to and including the word "eight," in the eleventh line. The words stricken out are, "which have arisen under the late corporations of Washington and Georgetown, the levy court, late board of public works, the late corporation of the District of Columbia, the board of health, or the commissioners of the District of Columbia prior to January 1, 1878."

Mr. HENDEE. That is right.

Mr. EDEN. I should like to inquire of the gentleman from Vermont, who is familiar with District affairs, being on that committee, whether these contracts we are called upon to provide for were not express contracts?

Mr. HENDEE. They were not.

Mr. EDEN. What is the nature of implied contracts we may be called upon to pay?

Mr. HENDEE. Sometimes work was done without any particular contract, except authorization given to do certain work, and if the result was so and so the payment should be so and so.

Mr. THOMPSON. Was not that an express contract?

Mr. HENDEE. I suppose the gentleman from Pennsylvania might think it was and the Court of Claims might think differently.

Mr. THOMPSON. I hope the expression "implied" will be stricken out. The object of the amendment of the gentleman of Illinois is to define and limit the jurisdiction of this court. When you, in this section, propose the court shall take jurisdiction of contracts both expressed and implied, without limit to the kind of contracts, the subject-matter of contracts, the time when made or how made, I think the purpose of limiting the jurisdiction has been only partially reached. Only claims should be embraced in this section arising upon expressed contracts. There should be no other contracts recognized. The word "implied" should be stricken out. If anything has been done without authority and in violation of law, why should provision be made for recognizing it and making it valid? This section as it now stands does that. Any man who has done work or done anything which can be tortured into assumption on the part of the corporation as an implied contract is embraced in this. One of the great troubles of the court will be in such cases to determine its own jurisdiction and decide the character of cases in reference to which it shall give its decision.

Mr. HENDEE. I suppose, Mr. Chairman, it is not necessary to enter into a discussion on this floor as to the distinction between expressed and implied contracts. Every good lawyer ought to know something about it. I suppose it is a good rule of law that a man may recover under an implied contract. It is a simple question for the Court of Claims to say whether a claim arises under an expressed or implied contract, and if they decide that it is an implied contract, that the party had authority to do the work and had done it and is entitled to his pay, he should have it allowed the same as if under a contract in writing. The object is to protect the Treasury against any invasion of the kind the gentleman speaks of, and I think the amendment is in good form and should pass as it reads.

Mr. EDEN. I think I prefer my own amendment to the substitute offered by the gentleman from Vermont. I do not know where the words "implied contract" would lead to. It certainly would open up a wide field.

Mr. HENDEE. I will strike out the word "implied." The gentleman shall have it as he wants it, and then the gentleman will be hounded if he is here next Congress.

Mr. EDEN. Fortunately I will not be here in the next Congress.

Mr. HENDEE. I shall not be here either, but if we were by striking out the word "implied" we would be hounded by these parties who have these valid claims under implied contracts.

Mr. HUNTON. I suggest to the gentleman from Vermont that if he strikes out the word "implied" he should strike out also the word "express" and simply leave the word "contract."

Mr. HENDEE. I will made that modification.

Mr. THOMPSON. That will mean the same thing.

Mr. HENDEE. Well, it is common sense.

Mr. THOMPSON. That leaves it about where it started.

Mr. TOWNSHEND, of Illinois. Let the section be read as it will be amended if the substitute be adopted.

The Clerk read as follows:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive original legal and equitable jurisdiction of, all claims now existing against the District of Columbia arising upon contracts made since February 21, 1871, and not heretofore passed upon by some competent tribunal, and said court shall have the same power, &c.

Mr. CANNON, of Illinois. I desire to make a parliamentary inquiry. Have the amendments proposed by the committee to this section been adopted?

The CHAIRMAN. They have been.

Mr. HENDEE. They were amended before they were adopted.

Mr. CANNON, of Illinois. I understand they were amended, but I did not understand that they had been adopted.

The CHAIRMAN. They have been adopted, and this is an independent amendment.

The substitute offered by Mr. HENDEE for Mr. EDEN'S amendment was agreed to.

Mr. CANNON, of Illinois. I offer the following amendment:

In line 4 strike out the words "legal and equitable."

The CHAIRMAN. That amendment is not in order. Those words have been inserted by an amendment, and it is not in order to strike them out.

Mr. CANNON, of Illinois. I will modify my motion so as to strike out merely the words "and equitable," in line 4.

The CHAIRMAN. That is not in order. Those words have been inserted by an amendment.

Mr. REAGAN. Mr. Chairman, I desire to say a word on the point of order. A motion to strike out the same thing that has been inserted would not be in order; but under the rules a motion to insert additional matter or to strike out a portion of that which has been inserted is proper.

Mr. MAYHAM. The effect of that would be, if the statement of the rule by the gentleman from Texas is correct, to neutralize or destroy an amendment entirely, and yet to keep within the rule which says that words which have been inserted shall not be stricken out.

Mr. REAGAN. Rule 46 provides:

46. Any member may call for the division of a question, *before or after the main question is ordered*, which shall be divided if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert.

Mr. HUNTON. That does not touch this question.

Mr. REAGAN. I cannot turn to it at this moment, but there is a distinct rule that a motion to strike out a part of that which has been inserted or to make additions to what has been inserted is allowed.

Mr. HUNTON. I think my friend from Texas must be mistaken, because when the motion to insert is made that motion is subject to amendment, and the failure to amend the motion to insert puts it as the judgment of the committee that the words the committee puts in contain the sense of the committee, and it is not in the power of the committee afterward to change that.

Mr. REAGAN. I concede that; but this is to strike out a part, not the whole.

Mr. HUNTON. The time to strike out any portion of the amendment was when the motion to insert was pending.

Mr. REAGAN. I am not sufficiently familiar with the rules to turn to them as I know them to be; but I know the rule to be that after a motion to insert has been voted on the motion may be entertained to strike out any part of it or to add to it, or to strike out the whole if connected with another part of the bill so that it is a different proposition. What we cannot do is to strike out what has been inserted *in toto*, because that would be voting a second time on the same proposition; but anything which enlarges or diminishes what has been inserted may be entertained.

The CHAIRMAN. There is no rule which authorizes striking out except the rule the gentleman from Texas has referred to; and the Chair holds it is not admissible at this time to entertain the motion of the gentleman from Illinois, and therefore rules it out of order.

Mr. CANNON, of Illinois. Then I move to strike out, in line 4, the words "original legal and equitable."

The CHAIRMAN. The Chair will entertain that motion.

Mr. CANNON, of Illinois. I make this motion for the purpose of calling the attention of the gentleman who reports this bill to these words, so that he may make the committee understand, or at least one member of it, what they mean. I for the life of me cannot tell. I cannot conceive, in thinking about it for a little while, of any possible equitable claim that can exist against a municipal corporation where the end of the judgment is a payment of the sum out of the Treasury of the United States. If that be true, then the words mean nothing; and if they mean nothing there is no use in having them there; they are surplusage. On the contrary, if it is intended by these words "legal and equitable" to enable parties to enforce a class of claims that might be conceived of against the District that are not legal claims, then certainly the words do not belong there and should be stricken out.

Mr. MAYHAM. If there are no equitable claims that the court can take cognizance of; if it be true, as the gentleman says, there can be no equitable claims against a municipality, then the words can do no harm because ingenuity will be inadequate to find a case that will come under the word "equitable." However, if there be claims in which a court of equity may be invoked against a municipality, then there is no reason why they should not respond in equity as well as an individual; so that in any aspect of the case the words, if there be such cases, should be incorporated and remain in the bill. If there be none they can do no harm.

Mr. CANNON, of Illinois. Yes; but, Mr. Chairman, the gentleman is reporting a bill here from his committee and asking this committee to recommend its passage to the House. At least, it is reported from that committee.

Now, then, I offer this amendment for the purpose of having the gentleman or some one else from the Committee for the District of Columbia tell me what class of claims is proposed to be covered by the words "legal and equitable claims." I am not informed upon

that point. I get no information by the use of those words; and, as I said before, I cannot conceive what equitable claims they could cover. I think the words ought to be stricken out unless the committee can tell us what class of claims we are giving a status to in the court by the use of those words.

Mr. MAYHAM. There may be equities between the owner of a claim and the man who holds the claim as a trustee for another, and who might be in a position only to enforce his claim as the claim of an agent or trustee. If my friend wants to know what class of equities could arise, there is none, and I do not propose to hunt for any.

Mr. CANNON, of Illinois. The gentleman is not ingenious or happy in that illustration. If there be equities between the parties, there is no necessity for now conferring jurisdiction. They can go into a court of chancery and fight out their rights in equity without this bill or independent of it.

Mr. BURCHARD. If the gentleman will allow me, I would suggest one fact in connection with this bill which occurs to me, and that is that the Court of Claims has no equitable jurisdiction. The Court of Claims as at present constituted, as I understand the law, and it was so decided in a case reported, I think, in 7 Wallace, has no equitable jurisdiction.

I presume that the object of this amendment is to give the court jurisdiction and equity in cases relating to the District of Columbia as well as in law. If that is the intention, this bill does have that effect and the words are not surplusage.

If the court ought not to have the jurisdiction, then the words should be stricken out. As to the facts involved I have not examined them, but I do know that the Supreme Court has decided that the Court of Claims has no equitable jurisdiction.

Mr. HENDEE. Has the gentleman any objection to giving jurisdiction in equity to the court?

Mr. BURCHARD. I have none.

The question was taken upon the amendment offered by Mr. CANNON, of Illinois, and it was not agreed to; there being on a division ayes 14, noes not counted.

The Clerk read the second section of the bill, as follows:

SEC. 2. All claims against the District of Columbia shall, in the first instance, be prosecuted before the Court of Claims in the same manner, and subject to the same rules, and with the same right of appeal, either by the District of Columbia or by the claimant, and subject to the same rules and regulations as are prescribed by law for appeals on behalf of the United States or claimants against the United States from the judgments of the Court of Claims: *Provided*, That the prosecution of all claims shall be commenced in the Court of Claims by the filing of the petition of the claimant, as required by the rules and practice of said court, within six months from the passage of this act; and all claims against the District of Columbia now existing, and not so filed within said time, shall be forever barred, except in cases of claims owned and held by persons under legal disabilities, in which case such claims shall be in like manner barred unless commenced as aforesaid within six months after the expiration of such disability.

Mr. HENDEE. I move to amend that section by adding the word "such" after the word "all," in the first line; also, after the word "all," in the ninth line; and also after the word "all," in the twelfth line.

The amendment was agreed to.

The Clerk read the third section, as follows:

SEC. 3. The Attorney-General of the United States shall have authority, and it shall be his duty, to defend the District of Columbia against all claims against said District of Columbia, prosecuted in said Court of Claims, and on appeal, in like manner as he is now by law required to defend the United States in said court, with the same power to interpose counter claims and offsets against claims, and with like power of appeal as in cases against the United States tried in said court: *Provided*, That all claims predicated on certificates of the board of audit, or claims allowed by the late board of audit, but for which certificates were not issued, or certified measurements of the engineer of the District of Columbia, which certificates have been made and filed prior to the 1st day of January, 1878, shall have preference over other cases against the District of Columbia prosecuted under this act before said court.

The committee reported an amendment to strike out the proviso.

The question was taken upon the amendment; and it was agreed to.

The Clerk read the fourth section of the bill, as follows:

SEC. 4. All laws now in force relating to prosecutions of claims against the United States in the Court of Claims shall apply as far as applicable to the prosecution, practice, hearing, and determination of claims against the District of Columbia, authorized to be prosecuted under the provisions of this act: *Provided*, That in all cases when such Court of Claims shall give judgment in favor of any claimant, said court shall, with their finding of facts, find and determine whether the terms of the contract under which such claim shall have originated required the payment therefor in lawful money or in 3.65 bonds, and the judgment shall direct the payment in accordance with the facts so found.

The committee reported an amendment to insert after the words "this act," in line 6, the following:

Provided, That motions for a new trial shall be made by either party within twenty days after the rendition of the judgment: *And provided further*, That in the trial of such cases no person shall be excluded as a witness in the same because he or she is a party to or interested in the issue tried.

Mr. KEIFER. Is that intended to take the place of the remainder of the section? I would inquire whether it is necessary to make provision in this bill for parties testifying? I understand there is a general law of Congress that would cover that point.

Mr. MAYHAM. I will answer the gentleman. I, too, had understood that there was a general law authorizing parties to be sworn in all cases tried in this District, but I am informed that that law is not applicable to the Court of Claims. In civil or criminal cases before the supreme court of the District or the District court, the parties are by law privileged to be witnesses, but I am told that the construction of the Court of Claims is that that law does not extend to that court.

Mr. KEIFER. The law applies to all the courts of the United States.

Mr. MAYHAM. I suppose so, but I am told that an adverse construction has been put upon it.

Mr. KEIFER. I see no reason why it should not apply to the Court of Claims.

Mr. MAYHAM. Nor do I, but I am told that that is the construction which has been put upon the law.

The question was taken upon the amendment; and it was agreed to.

Mr. KEIFER. I move now to strike out in lines 11 and 12 the words "and the judgment shall direct the payment in accordance with the facts so found."

I offer this amendment because it is unnecessary to say it here. It is not necessary to direct how the judgment shall be paid in 3.65 bonds because if section 5 remains unaltered the effect of the judgment will be just the same, whether these words are in the bill or not; but further I desire to have these words stricken out because I expect to offer an amendment to section 5, and with these words stricken out and my amendment adopted the whole bill will be consistent in all respects.

I do not believe that the judgments in this class of claims against the District of Columbia should stand upon any higher or better ground for payment than the other judgments to be rendered by that court in the cases of claims against the United States. Let them take the same course. Let the condition of the Treasury be looked to. If judgments shall be rendered in favor of claimants under this bill, should it become a law, let them be certified to Congress as in other classes of claims that are now being considered by that court. The condition of the Treasury may be such that Congress should have something to do with directing the payment of these judgments. We will be entering on an entirely new policy if we adopt that proposed to be established by this bill.

Mr. MAYHAM. In reference to the first objection, and to the proposition to modify this section, it seems to me that the proposed modification would work irreparable injury. In the first place, certain contracts were made which were required to be paid in 3.65 bonds. Sometimes those bonds are not at par with the currency of the United States. Now, it is due to the Government of the United States and to the District that such contracts shall be paid in the bonds contemplated by the contracts. Now, if these judgments are to be made as money judgments, they would be a direct bill upon the Treasury either of the District or of the Government of the United States. It is to guard against that contingency and to give contractors what they contracted for that it was deemed necessary and proper to put this provision into the bill.

Mr. KEIFER. I desire to make one further suggestion.

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. CANNON, of Illinois. I move to strike out the last word, and will yield my time to the gentleman from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I do not want to be understood as opposing the policy of paying these contractors in the bonds which they agreed to take; that is not the question. What I desire is that Congress shall have the power after the judgments are rendered of regulating the issuing of the bonds or the payment of the money. My proposition is not to require these judgments to be paid in currency; I have no such object in view. But I want Congress to have the control of the issuing of these bonds after the judgments have been rendered. I therefore have moved to strike out the words in this section which I have indicated, in order that it may be in harmony with what I hope will be done in reference to section 5.

Mr. MAYHAM. Will the gentleman allow me to ask him a question?

Mr. KEIFER. Certainly.

Mr. MAYHAM. How will Congress know, or how can the Treasury know that these judgments are payable in bonds, unless the decree so determines?

Mr. KEIFER. If the gentleman who had charge of the bill had remembered the language of the bill he would not have asked me that question. The bill itself provides that the judgments in favor of the claimants shall "find and determine whether the contract under which such claim shall have originated required the payment thereof in lawful money or in 3.65 bonds."

Mr. MAYHAM. Exactly.

Mr. KEIFER. And I do not propose to strike out any portion of that language.

Mr. MAYHAM. That is, the "court shall with their finding of facts" so determine. Now, I insist that that finding shall also be incorporated in the decree as well.

Mr. KEIFER. It is incorporated in the finding, but I do not want the court to state and direct what I desire to have reserved to Congress, that is, that the judgments shall be paid in bonds or in currency. My object is to put this class of claims in the court upon the same footing that all the other claims against the United States occupy. There may be such a condition of things when these judgments are rendered that the treasury of the District of Columbia can pay them, and thereby will be avoided the necessity of our putting our hands into the Treasury of the United States and paying these claims. I desire

simply and solely to put these claims upon a par and only upon a par with all other claims against the United States.

Mr. BLACKBURN. I desire to give notice now that from this time on I shall insist upon the enforcement of the rules. We are now considering this bill under the five-minute rule. Any gentleman has a right to offer any amendment, even though it be *pro forma;* but he has no right to withdraw such amendment except by unanimous consent. I shall insist upon a vote being taken upon every amendment offered to this bill from this time forward.

The CHAIRMAN. The question is upon the *pro forma* amendment offered by the gentleman from Illinois, [Mr. CANNON,] to strike out the last word.

Mr. CANNON, of Illinois. I withdraw that amendment.

Mr. BLACKBURN. I object. Let it be voted upon.

The amendment of Mr. CANNON, of Illinois, was not agreed to.

The question was then taken upon the amendment of Mr. KEIFER; and it was not agreed to, upon a division—ayes 12, noes 70; no further count being called for.

Section 5 of the bill was then read, as follows:

SEC. 5. If no appeal be taken from the judgment and determination of the Court of Claims in cases provided for in this act, within the term limited by law for appealing from the judgments of said court, and in all cases of final judgments by the Court of Claims, or on appeal by the Supreme Court, where the same are affirmed in favor of the claimant, the sum due thereby shall be paid, as hereinafter provided, by the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated, if the same be payable in money, and if payable in 3.65 bonds, the same shall be issued: *Provided*, That no payments shall be made, either in money or bonds, except upon the presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims and signed by the chief justice, or, in his absence, by the presiding judge of said court.

The Committee for the District of Columbia reported the following as an addition to section 5:

And provided further, That all moneys paid by the Treasurer of the United States on any judgment or judgments rendered by the Court of Claims under the provisions of this act shall be charged by the Treasurer of the United States against the District of Columbia, and said Treasurer shall reimburse the United States Treasury for such payments out of any money in the Treasury of the United States belonging to the District of Columbia not otherwise specifically appropriated.

Mr. EDEN. As a substitute for the amendment of the committee, I move to amend by striking out all after the word "claimants," in line 6, and inserting in lieu thereof the following:

The clerk of the Court of Claims shall transmit to the House of Representatives a list of the judgments of the court, together with all the evidence taken in all the cases, for the further consideration of Congress: *Provided*, That no judgments shall be paid under this act until such judgments shall be authorized by Congress.

The object of this amendment is to bring before Congress the judgments which may be rendered by the Court of Claims under this bill, together with all the evidence taken, so that Congress may determine for itself the merits of the claims. This is the course we pursue in reference to claims examined by the commissioners of claims. All the awards made by those commissioners are certified to Congress, together with all the evidence. These awards, with the evidence, go before the proper committee of the House, who, after examination, make report; and the House then determines whether or not the judgments of the commissioners shall be paid. I think the same rule should be adopted in reference to these District claims which will be passed upon by the Court of Claims.

This is the course pursued also in reference to claims passed upon by the Quartermaster-General and the Commissary-General. The Secretary of the Treasury reports all these cases to Congress, together with the evidence; and as to claims thus reported, as well as to those submitted by the commissioners of claims, it is often found necessary to refuse payment of some of the claims.

No harm can be done by keeping this power in our own hands. If any question of fraud or anything of that sort should arise after the adjudication of the court, it will be within the power of Congress to determine whether these judgments should be paid. As a matter of course, if upon proper consideration payment appears to Congress to be proper, the necessary appropriation will be made.

Unless an amendment of this kind be adopted, just so soon as the Court of Claims has rendered judgment and the chief-justice of the court has certified that judgment to the Secretary of the Treasury, the money will be taken out of the Treasury and the claim paid. I think there is no necessity for such extreme haste in the payment of these claims. It seems to me much safer to allow the claims to be reported to Congress so that, should any question arise as to whether fraud has been perpetrated upon the court, Congress may take suitable action.

Mr. HENDEE. The argument of the gentleman from Illinois [Mr. EDEN] is very peculiar. He likens this proceeding before the Court of Claims to the examination of cases by the southern claims commissioners. But in the latter case the trials are almost entirely *ex parte*. The commissioners send their agents through the country to gather testimony, and then pass upon the claims without any notice of the hearing or anything of that kind. Hence, perhaps it becomes judicious that Congress should exercise a controlling power over the findings of those commissioners.

But the present bill recognizes an existing court and provides for full trials in which both parties will submit their evidence and be heard by counsel; and then this court, a court of competent jurisdiction, is to render judgment. What a curious idea, that Congress should constitute itself a court of appeal from a judicial body which has fully tried a case coming regularly before it.

The gentleman says that he does not see the necessity of haste in this matter. Why, sir, we have kept these parties out of their money for the last seven or eight years; and now what does the gentleman propose? That when the parties have had a full and free trial before a court which is recognized as one of the leading courts of the United States—a court established for the examination of questions of this kind—the findings of the court shall be submitted to Congress, and these men be kept out of their money for two or three years more at the caprice of this body. This appears to me entirely unjust. When a judgment has been rendered by a court of competent jurisdiction and the law provides means by which that judgment shall be paid, Congress should have nothing further to do with the matter.

Mr. EDEN. The gentleman will allow me to suggest that up to 1860—I believe that was the year—all the judgments of the Court of Claims were reported to Congress together with the evidence; and it depended entirely upon the will of Congress whether those judgments were paid or not.

Mr. HENDEE. And at the time mentioned by the gentleman Congress saw the foolishness of such a proceeding and repealed the law which provided for it.

The question being taken on the amendment of Mr. EDEN to the amendment reported by the committee, it was not agreed to; there being—ayes 30, noes not counted.

The Clerk read as follows:

SEC. 6. The Secretary of the Treasury is hereby authorized to demand of the sinking-fund commissioners of the District of Columbia so many of the 3.65 bonds as may be necessary for the payment of the judgments adjudged to be payable in said bonds; and said sinking-fund commissioners are hereby directed to issue and deliver to the Secretary of the Treasury the amount of 3.65 bonds required to satisfy the awards payable in such bonds and no more, which bonds shall be received by said claimants at par in payment of such claims: *Provided*, That the gross amount of such bonds heretofore and hereafter issued shall not exceed in the aggregate $15,000,000.

The CHAIRMAN. An amendment reported by the Committee for the District of Columbia to this section will be read.

The Clerk read as follows:

Strike out the word "commissioners" and insert the word "commissioner," in line 2, page 5.

The amendment was agreed to.

Mr. EDEN. I offer the following amendment, to come in at the close of the section.

The Clerk read as follows:

Provided, That no money shall be paid out of the Treasury under this act where under the law the claimants would be entitled to 3.65 bonds.

Mr. MAYHAM. I have no objection to accept that amendment.

Mr. BLACKBURN. While the Clerk is writing down the amendment, I merely wish to say, Mr. Chairman, that the Committee for the District of Columbia regard that amendment as surplusage. The bill provides for the payment in 3.65 bonds. But the committee offer no objection to it. If it be the pleasure of the committee to adopt it, we are willing to let it go.

The amendment was agreed to.

The Clerk read section 7, as follows:

SEC. 7. In all cases prosecuted under the provisions of this act it shall be the duty of the claimant, after the commencement of said actions, to prosecute them in said court diligently; and in all cases when any case has been reached in its order on the calendar, and the trial thereof has been unreasonably delayed by the claimant, the said court may, on motion of the Attorney-General, on notice to the claimant, or his counsel, attorney, or solicitor, dismiss said claim; and such dismissal or final judgment on any claim shall be a conclusive bar against any further prosecution of such claim before any court or tribunal whatsoever.

The CHAIRMAN. The Clerk will now read the amendment of the committee.

The Clerk read as follows:

After the word "diligently," in line 4, insert the following: "And after any issue of law or of fact shall be joined in any case, the Attorney-General shall have power to place the same on the trial calendar of said court for trial."

The amendment was agreed to.

Mr. MAYHAM. I move now that the committee rise and report the bill to the House with the amendments.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HARTZELL reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration a bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. BLACKBURN. I demand the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

The SPEAKER. If there be no objection the amendments will be read, and members will designate the ones on which they desire a separate vote. Is there objection to that suggestion?

Mr. BLACKBURN. We accept the suggestion of the Chair most willingly.

The amendments were read, and agreed to in gross.

Mr. BLACKBURN moved to reconsider the vote by which the amend-

ments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

The House divided; and there were—ayes 73, noes 20.

Mr. COBB demanded the yeas and nays.

The SPEAKER. The yeas and nays are not ordered.

Mr. REAGAN. No quorum has voted, and I demand tellers on the yeas and nays.

Mr. BLACKBURN. I sincerely hope that point will not be insisted on.

Mr. REAGAN. A quorum has not voted, and it is necessary to have the yeas and nays.

Tellers were ordered; and Mr. REAGAN and Mr. MAYHAM were appointed.

The House divided; and the tellers reported—ayes 16, noes 131.

So (one-fifth not having voted in favor thereof) the yeas and nays were not ordered.

The bill was passed.

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT BUSINESS.

Mr. DURHAM. I move the House adjourn.

Mr. BLACKBURN. I ask my colleague to withdraw the motion for a moment.

Mr. DURHAM. I will yield to my colleague.

Mr. BLACKBURN. I do not intend to trespass further on the patience of the House, but in view of the fact there is but one day more left to the District of Columbia, and not intending to move a recess in order that we may go on with the consideration of that business to-night, which I know gentlemen here do not desire, I wish to ask unanimous consent that Thursday, January 30, be set apart for the consideration of the business for the District of Columbia, after the hour of two o'clock, under the provisions of the rule setting apart to-day after two o'clock for that business.

There was no objection, and it was ordered accordingly.

FORESTRY.

The SPEAKER, by unanimous consent, laid before the House the following:

To the House of Representatives:

In answer to resolution of the House of Representatives of the 16th instant, requesting the Commissioner of Agriculture to forward to the House any facts or statistics in his office on the subject of forestry not heretofore reported, copies of the same, with accompanying papers received from the Commissioner for this purpose, are herewith transmitted.

R. B. HAYES.

EXECUTIVE MANSION, *January* 20, 1879.

The message was referred to the Committee on Agriculture, and ordered to be printed.

NAVAL APPRENTICES.

Mr. KIMMEL. I ask, Mr. Speaker, by unanimous consent that House bill No. 2240, to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes of the United States, relating to the Navy, be made the special order for Thursday, January 30, after the reading of the Journal and before two o'clock, already set apart for the District business.

The SPEAKER. The Chair understands the bill has been reported from the Committee on Naval Affairs.

Mr. WHITE, of Pennsylvania. Let it be read.

Mr. WHITTHORNE. It simply refers to the enlistment of apprentices on training-ships of the United States Navy. That is all there is of it.

Mr. CONGER. Let the bill be read.

The bill was read.

Mr. WHITE, of Pennsylvania. If there be no objection the bill might be passed now under a suspension of the rules.

The SPEAKER. A motion to suspend the rules is not in order, as there is one already pending.

Mr. WHITE, of Pennsylvania. Let it be passed by unanimous consent.

Mr. BURCHARD. Let it go over, and let the special order, as suggested by the gentleman from Maryland, be agreed to.

Mr. KIMMEL. I hope that course will be taken.

Mr. KIMMEL's motion, by unanimous consent, was agreed to.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 109) defining the manner in which certain land-scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880.

WITHDRAWAL OF PAPERS.

On motion of Mr. EVINS, of South Carolina, by unanimous consent, leave was given to withdraw from the files of the House papers in the claim of James L. Barnwell, there being no adverse report thereon.

On motion of Mr. JONES, of New Hampshire, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of James T. Elliott; there being no adverse report thereon.

On motion of Mr. CLARK, of New Jersey, by unanimous consent, leave was given to withdraw from the Committee on Military Affairs papers in the case of William A. Coulter; there being no adverse report thereon.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. CUMMINGS to have printed in the RECORD remarks on the state of the Union; and to Mr. CULBERSON to have printed in the RECORD some remarks on the bill to provide for the organization of the Territory of Oklahoma. [See Appendix.]

BARRACKS AT AUSTIN, TEXAS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to a bill making appropriations for the repair of the Government barracks at Austin, Texas; which was referred to the Committee on Military Affairs.

L. M. BLACK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting papers in the claim of L. M. Black; which was referred to the Committee of Claims.

MOBILE HARBOR.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Captain A. N. Darnell, Corps of Engineers, on improvements to the Mobile Harbor; which was referred to the Committee on Commerce.

COAST AND GEODETIC SURVEY.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the superintendent of the Coast and Geodetic Survey relative to the cost of certain classes of work of the survey; which was referred to the Committee on Appropriations, and ordered to be printed.

OVERFLOW OF DELAWARE RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter of Chief of Engineers relative to estimates of amount required for protection from overflow of sites of fortifications on the Delaware River; which was referred to the Committee on Commerce.

SURVEY OF YELLOWSTONE RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of survey of the Yellowstone River; which was referred to the Committee on Commerce.

FORT SNELLING.

The SPEAKER also laid before the House a letter from the Secretary of War, recommending the appropriation of $100,000 for the construction of buildings for the military headquarters at Fort Snelling, Minnesota; which was referred to the Committee on Appropriations.

CIVIL TRIAL OF HOSTILE CHEYENNES.

The SPEAKER also laid before the House a letter from the Secretary of War, in reply to House resolution asking certain information in relation to the civil trial of hostile Cheyennes; which was referred to the Committee on Indian Affairs.

FORT PREBLE RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the extension of the reservation at Fort Preble, Maine; which was referred to the Committee on Military Affairs.

CERTIFIED CLAIMS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with section 4 of the act of June 14, 1878, schedule of claims certified to be due by the several accounting officers of the Treasury Department; which was referred to the Committee of Claims, and ordered to be printed.

ESTIMATES FOR 1879.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting estimates of appropriations required by the various Departments to complete the service of the fiscal year ending June 30, 1879; which was referred to the Committee on Appropriations, and ordered to be printed.

LOUISVILLE AND PORTLAND CANAL.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Major Godfrey Weitzel, Corps of Engineers, on the superintendence, management, and repair of the

Louisville and Portland Canal for the year ending December 31, 1878; which was referred to the Committee on Commerce, and ordered to be printed.

REPRESENTATION IN HOUSE OF REPRESENTATIVES.

Mr. SPRINGER, by unanimous consent, introduced a bill (H. R. No. 6124) to secure to the people of each State equal and just representation in the House of Representatives; which was referred to the Committee of Elections, and ordered to be printed.

Mr. SPRINGER. I ask unanimous consent that this bill and the accompanying statement be printed in the RECORD.

Objection was made.

Mr. SPRINGER. I ask gentlemen at least to allow the statement to be printed.

Several MEMBERS. No! No!

Mr. SPRINGER. Who objects?

Mr. WHITE, of Pennsylvania. I object, for one.

Mr. DURHAM. I renew the motion that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Finney Brothers and 33 other firms, of Chicago, Illinois, for legislation that will make ships, steamers, and other vessels, liable for certain debts contracted by their owners, masters, clerks, stewards, or other agents; and for the relief of tug-owners, dry-dock owners, ship-chandlers, ship-carpenters, and stevedores—to the Committee on Commerce.

By Mr. BALLOU: The petition of Mary Austin, for a pension—to the Committee on Invalid Pensions.

By Mr. BELL: The petition of John McGinnes, of similar import—to the same committee.

By Mr. BREWER: Papers relating to the pension claim of Willington V. Heusted—to the same committee.

Also, papers relating to the claim of William R. Morse, for additional compensation as an officer in the United States Army—to the Committee on Military Affairs.

By Mr. BUNDY: The petition of Mrs. B. Hathaway and 56 others, of Delaware County, New York, for the enforcement of the anti-polygamy law—to the Committee on the Judiciary.

By Mr. BURCHARD: The petition of William M. Church, for a pension—to the Committee on Invalid Pensions.

By Mr. BUTLER: The petition of James C. Daggett, for increase of pension—to the same committee.

Also, the petition of Francis F. Lunt, for a pension—to the same committee.

Also, the petition of Charles D. Gilmore, of similar import—to the same committee.

Also, the petition of George M. Hobbs and Elizabeth S. Barrett, guardians of Dwight A. Barrett, insane, for arrears of pension—to the same committee.

Also, the petition of Oliver L. Wheeler, for a pension—to the Committee on Revolutionary Pensions.

Also, the petition of George W. Cluff, for compensation for property captured from him by a hostile tribe of Indians, September 23, 1877—to the Committee of Claims.

Also, the petition of Benjamin F. Pike, of Biddeford, Maine, formerly of Company F, Sixteenth Maine Volunteers, for pay due him while undergoing sentence of court-martial—to the Committee on Military Affairs.

Also, the petition of Patrick and Claron Hogan, for the correction of their military record—to the same committee.

Also, the petition of E. E. Stimpson and others, citizens of Haverhill, Massachusetts, for the change of the name of the Canadian steamer City of Fredericton to City of Haverhill, and issue of an American register—to the Committee on Commerce.

Also, the petition of the Women's Christian Temperance Union, of Bellerica, Massachusetts, for favorable action on the Senate bill providing for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of Sarah Blanchard and other women, of Tyngsborough, Massachusetts, for such legislation as will make effective the anti-polygamy law of 1862—to the same committee.

By Mr. CAMPBELL: The petition of women of Cambria County, Pennsylvania, of similar import—to the same committee.

By Mr. CARLISLE: The petition of William Stone Abert, for relief from tax for repaving Pennsylvania avenue, Washington, District of Columbia—to the Committee for the District of Columbia.

Also, the petition of Captain Henry Marcotte, for a higher rank on the retired list United States Army—to the Committee on Military Affairs.

By Mr. CLARK, of New Jersey: The petition of women of White House, New Jersey, for legislation making effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CRAPO: The petition of Joseph B. Macy, Allen Coffin, and 215 others, citizens of Nantucket, Massachusetts, for an appropriation for the improvement of the harbor of Nantucket—to the Committee on Commerce.

By Mr. DIBRELL: The petition of Beverley Kennon, for an appropriation to test the efficiency of a patent for a "counterpoise battery for the protection of cannon in coast defense and the field, also on board iron-clad vessels for river and harbor defense—to the Committee on Military Affairs.

By Mr. DUNNELL: The petition of Louisa C. Williamson and 253 other ladies, of Owatonna, Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of J. E. Cady and others, of Minnesota, for legislation against the adulteration of sweets—to the Committee of Ways and Means.

By Mr. DWIGHT: Resolutions of the assembly of New York, opposing the passage of the Army reorganization bill, or so much thereof as relates to the manufacture of ordnance stores—to the Committee on Military Affairs.

Also, the petition of Mrs. M. W. Stryker and 34 other ladies, of Ithaca, New York, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. EDEN: The petition of Mrs. Sarah Maye and 8 other ladies, of Westfield, Illinois, of similar import—to the same committee.

By Mr. EWING: The petition of George H. Bethard, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. FOSTER: The petition of Simon Lantz and others, of Sandusky County, Ohio, against extending the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. FRYE: The petition of Abbie L. Bodfish, that her war claim be re-referred to the southern claims commission—to the Committee on War Claims.

By Mr. GOODE: The petition of Elizabeth P. Page, widow of Captain Hugh N. Page, formerly of the United States Navy, that a certain sum of money due to her late husband may be paid to her—to the Committee on Naval Affairs.

By Mr. HART: Papers relating to the claim of John Kelly for compensation for the occupation and use of Exchange Hotel, Norfolk, Virginia, and for losses in 1863 and 1864—to the Committee of Claims.

By Mr. HARTZELL: The petition of J. H. Brown and 49 other teachers, of Randolph County, Illinois, for the appointment of a commission to inquire into the propriety of a simplification of English orthography—to the Committee on Education and Labor.

By Mr. HENRY: The petition of citizens of Talbot County, Maryland, for an appropriation to remove obstructions to the navigation of Tread Haven Creek, near Easton Point, Maryland—to the Committee on Commerce.

By Mr. HEWITT, of New York: Resolution of the Chamber of Commerce of the State of New York, in regard to establishing a signal station on Block Island—to the Committee on Appropriations.

By Mr. HUBBELL: The petition of James Lasley, George C. Ketchem, and 500 other persons interested in the navigation of Lakes Huron and Michigan, for an appropriation to construct a breakwater at Mackinac, Michigan—to the Committee on Commerce.

By Mr. JONES, of New Hampshire: The petition of Harriet Flagg, for a pension—to the Committee on Invalid Pensions.

By Mr. JOYCE: The petition of Mrs. L. H. Kellogg and other ladies, of Benson, Vermont, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. LUTTRELL: The petition of Reed & Dougherty, of San Francisco, California, for pay, out of the Japanese indemnity fund, for damages sustained by them by reason of the action of Japanese officials in refusing to allow them to enter one of the ports of Japan, in accordance with the Kanagawa treaty of 1855—to the Committee on Foreign Affairs.

By Mr. MAISH: The petition of 186 women of New Cumberland, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of General William W. Averill, to be placed on the retired list of the Army as a brigadier-general—to the Committee on Military Affairs.

By Mr. McGOWAN: The petition of James S. Upton, William Brown, and Henry M. Strong, composing the Upton Manufacturing Company of Battle Creek, Michigan, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of Mrs. Ann E. Corless and 17 other members of the Latter Day Saints Church, of Branch County, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McKINLEY: The petition of 96 women of Carroll County, Ohio, of similar import—to the same committee.

By Mr. MONEY: The petition of Bernhard Saunders, for a pension—to the Committee on Invalid Pensions.

By Mr. NORCROSS: The petition of Maria Lewis, Mary A. Hall, and other women, of Ware, Massachusetts, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. OLIVER: The petition of Mrs. C. B. Smith and 96 other ladies, of Iowa, of similar import—to the same committee.

Also, the petition of E. J. Hartshorn and 90 others, citizens of Palo Alto County, Iowa, for such modification of the patent laws as that innocent purchasers of patented articles may be protected—to the Committee on Patents.

By Mr. OVERTON: The petition of citizens of Pennsylvania, that

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a pension be granted Andrew J. Horton—to the Committee on Invalid Pensions.

By Mr. POTTER: The petition of ladies of Dobb's Ferry Presbyterian church, Westchester County, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and 33 others of Charles City, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. RANDOLPH: The petition of Enoch Seal, for back pay and bounty—to the Committee on Military Affairs.

By Mr. REAGAN: The petition of Enoch Davies, R. T. Aycock, Robert Keen, and 102 others, for an appropriation of $15,000 to improve the canal connecting Galveston Bay and the Brazos River—to the Committee on Commerce.

By Mr. RYAN: The petition of women of Carbondale, Kansas, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SAPP: The petition of ladies of Cass County, Iowa, of similar import—to the same committee.

Also, the petition of ladies of Tabor, Iowa, and vicinity, of similar import—to the same committee.

By Mr. SMITH, of Pennsylvania: The petition of the Legislature of Oregon, for an appropriation of $350,000 for the improvement of Coos Bay—to the Committee on Commerce.

Also, the petition of G. Westinghouse & Co. and others, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of manufacturers of lasts, citizens of New York, against the extension of the shoe-last patent of Nathaniel Jones—to the same committee.

By Mr. STONE, of Michigan: The petition of Samuel Wooldridge, for remuneration for losses sustained by an alleged unlawful prosecution by United States officials—to the Committee of Claims.

By Mr. TUCKER: The petition of J. D. Tucker, to have refunded to him certain sums alleged to have been improperly collected from him by United States revenue officials—to the Committee of Ways and Means.

By Mr. VAN VORHES: The petition of Colonel Robert E. Phillips and 50 others, of Middleport, Ohio, for the correction of the company rolls of the First Minnesota Battery, to correspond with the affidavits of Captain Clayton and others, now on file in the War Department—to the Committee on Military Affairs.

By Mr. WAIT: The petition of Eliza Bingham and 85 others, citizens of Sprague, Connecticut, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of S. A. Williams and 32 others, citizens of Salem, Connecticut, of similar import—to the same committee.

Also, the petition of Mrs. Alfred White and others, citizens of Groton, Connecticut, of similar import—to the same committee.

Also, the petition of Mrs. Alva A. Hurd and others, citizens of Scotland, Connecticut, of similar import—to the same committee.

By Mr. WIGGINTON: The petition of T. T. Hannah and 185 others, for legislation requiring an inquiry into and definition of the acts of July 27, 1866, and June 28, 1870, granting lands to the Southern Pacific Railroad Company of California—to the same committee.

By Mr. WILLIS, of Kentucky: Papers relating to the bill for the relief of F. Stitzel—to the Committee of Ways and Means.

Also, a paper relating to the bill for the relief of James Hopwood—to the Committee of Claims.

Also, papers relating to the bill for the relief of Edward B. Clarke—to the Committee for the District of Columbia.

Also, papers relating to the bill for the relief of W. L. Carey—to the Committee on War Claims.

Also, papers relating to the pension claim of Mrs. Sallie T. Ward—to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *January* 21, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read twice by their title, and referred to the Committee on the Judiciary:

A bill (H. R. No. 850) for the relief of Daniel W. Perkins, of East Saginaw, Michigan; and

A bill (H. R. No. 4553) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award.

The bill (H. R. No. 2160) for the relief of the heirs of Samuel P. Todd, deceased, late a purser in the United States Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (H. R. No. 5861) for the relief of the heirs and legal representatives of Israel Dodge, deceased, was read twice by its title, and referred to the Committee on Private Land Claims.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, covering a copy of a preliminary report from Captain A. N. Damrell, Corps of Engineers, on the survey being made in accordance with an item in the river and harbor act of June 18, 1878, providing for the improvement of the Mobile Harbor; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and a copy of a report of Major C. R. Suter, Corps of Engineers, on the result of an examination, made in compliance with the requirements of section 2 of the river and harbor act of June 18, 1878, of the Missouri River at and near its junction with the Kansas River, and the estimated cost of its improvement; which was referred to the Committee on Commerce, and ordered to be printed.

COURTS IN COLORADO.

The VICE-PRESIDENT. The Chair will call the attention of the Senator from Vermont [Mr. EDMUNDS] to the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, which was reported from the Committee on the Judiciary and laid on the table some time ago, on which he wished to make some motion.

Mr. EDMUNDS. I think I moved at that time that the Senate disagree to the amendment of the House of Representatives and ask a conference, and I think that was ordered. The message should have been sent. I said that owing to the absence of the Senator from Colorado [Mr. TELLER] I would move a conference, which would bring the matter to a point where it could be disposed of one way or the other without delay. I had the impression that that order was made, and in that case the bill should go back to the House with that action of the Senate in regard to it.

The VICE-PRESIDENT was, by unanimous consent, authorized to appoint the conferees on the part of the Senate; and Mr. CONKLING, Mr. HOWE, and Mr. DAVIS of Illinois were appointed.

PETITIONS AND MEMORIALS.

Mr. HOAR. I present the petition of Dr. H. A. Hagen, professor of natural history at Harvard University; Professor Smith, of Yale College; P. R. Uhler, the president of the Maryland Academy of Science, and several other distinguished entomologists of the United States connected with various universities and the Government, praying that the work of Professor Townsend Glover, illustrating the insects of the North American Continent, may be purchased. This work is offered to the Government by Professor Glover at the price of the engravings which accompany it, without imposing as a condition any compensation to him for his large labor. I can say, from a personal examination of Professor Townsend Glover's work, that it is of the very greatest importance in disclosing the habits and the means of extermination of the insects injurious to vegetation.

I also present Professor Glover's own memorial proposing to transfer the entomological works to the Government at the cost of the engraved plates; and I call the special attention of my friend, the chairman of the Committee on Agriculture, to this matter.

I move that the petition and the memorial which I have presented be printed and referred to the Committee on Agriculture.

The motion was agreed to.

Mr. McPHERSON presented a memorial of the religious Society of Friends of the States of Pennsylvania, Delaware, and New Jersey, remonstrating against the transfer of the Indian Bureau from the Department of the Interior to the War Department; which was referred to the select committee to consider the subject of the transfer of the Indian Bureau to the War Department.

Mr. WHYTE presented the petition of R. H. Flower and others, citizens of Howard County, Maryland, praying for the passage of the bill (H. R. No. 4234) granting arrears of pension; which was ordered to lie on the table.

Mr. PATTERSON. I present a petition of citizens of the Territory of Dakota, praying the passage of the bill providing for an additional associate justice for the supreme court of the Territory of Dakota. I will state that the bill providing for such an additional judge has been reported by the committee favorably, and this petition sets out in full the reasons why the bill should pass. I move that it be printed for the information of the Senate, and lie upon the table.

The motion was agreed to.

Mr. CONKLING. I have just received a petition from numerous citizens in New York, merchants and ship-owners, praying relief in a respect which they state in the legislation to be had touching the so-called Geneva award. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOWE presented additional papers in support of the bill (S. No. 1555) granting a pension to Fannie Lull; which were referred to the Committee on Pensions.

Mr. JOHNSTON presented the petition of Dr. Asa Wall, of Virginia, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred a letter from the Secretary of War, communicating information in relation to the establishment of a military post in the vicinity of El Paso, Texas, and recommending an appropriation for the purpose, submitted a report, accompanied by a bill (S. No. 1662) making an appropriation for the purchase of a site and for the erection thereon of a military post at El Paso, Texas.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the petition of Milton W. Triplett, late corporal of Company F, Fifth Kentucky Cavalry Volunteers, praying indemnity for a horse lost in the military service of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the Committee on Military Affairs, to whom was referred the petition of Isaac F. Moore, late private Company H, Twenty-fourth Regiment Kentucky Volunteers, praying indemnity for a horse lost in the military service of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2472) for the relief of Elias B. Bell, late private of Company E, Third Regiment West Virginia Cavalry, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 174) for the relief of Thomas B. Hunt, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 541) for the relief of William H. Carmen, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4407) for the relief of Andrew Ivory, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 635) for the relief of Moses F. Carleton, late second lieutenant of Company I, Fourth Michigan Infantry Volunteers, submitted an adverse report thereon, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. MORRILL, from the Committee on Finance, to whom was referred the bill (H. R. No. 5808) to facilitate the refunding the national debt, reported it without amendment.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1271) for the relief of Jenkins A. Fitzgerald, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. KELLOGG, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2943) authorizing the Secretary of the Interior to place upon the pension-roll the name of John Bysel, late private Company H, Sixth Regiment Ohio Volunteer Cavalry, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was recommitted the bill (H. R. No. 1304) granting a pension to Anna M. Clippinger, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

CHANGE OF REFERENCE.

Mr. PLUMB. Yesterday the bill (S. No. 1650) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repressing invasions and suppressing Indian hostilities, was introduced by me and by mistake referred to the Committee on Indian Affairs. The bill should go to the Committee on Military Affairs.

The VICE-PRESIDENT. That change of reference will be made.

BILLS INTRODUCED.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1663) for creating a national public health organization; which was read twice by its title, and referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. EDMUNDS. At the request of my honorable friend the Senator from Michigan [Mr. CHRISTIANCY] who is still ill this morning and unable to be here, I present for him and in his name a bill without previous notice.

By unanimous consent, leave was granted to introduce a bill (S. No. 1664) in reference to proof of marriage in cases of bigamy; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1665) to prevent the introduction of contagious or infectious diseases into the United States, and to establish a bureau of public health; which was read twice by its title, and referred to the select committee to investigate and report the best means of preventing the introduction and spread of epidemic diseases.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1666) for the relief of the trustees of the Corcoran Gallery of Art; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1667) to provide for ascertaining and settling private land claims in certain States and Territories; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. JONES, of Nevada, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1668) for the relief of John M. Dorsey and William F. Shepeard; which was read twice by its title, and referred to the Committee on Claims.

Mr. EATON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1669) for the relief of Austin G. Day; which was read twice by its title, and referred to the Committee on Patents.

Mr. HOWE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1670) to regulate and define the rank of the staff of the Marine Corps; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1671) to authorize the commissioners of the District of Columbia to make deeds in certain cases; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 50) relative to ascertaining and determining the amount of money due to citizens of the United States from the government of Nicaragua for injuries inflicted on the 19th of October, 1855, at Virgin Bay; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. CHAFFEE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 51) directing the cancellation of the one and two dollar United States notes; which was read twice by its title, and ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DAVIS, of Illinois, it was

Ordered, That the petition and papers of Charles Robidon be taken from the files of the Senate and referred to the Committee on Claims.

CAROLINE CROXTON.

Mr. BECK. I desire to ask leave to withdraw the papers of Caroline Croxton, widow of John T. Croxton, praying to be allowed a pension, which was reported upon adversely yesterday by the Committee on Pensions because the case had not been before the Commissioner of Pensions. The object of the withdrawal is to lay the papers before the Commissioner of Pensions, and that is in accordance with the report of the committee.

The VICE-PRESIDENT. The order will be granted, under the condition imposed by the rule.

GEORGINE THOMAS.

Mr. VOORHEES. Yesterday I reported a bill (H. R. No. 4687) granting a pension to Georgine Thomas, widow of General Charles Thomas, deceased, adversely, and it was indefinitely postponed. I move to reconsider the vote indefinitely postponing the bill, and ask that it be recommitted to the Committee on Pensions.

The VICE-PRESIDENT. To this the Chair hears no objection, and that order will be entered.

DISTRICT STREET RAILWAYS.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire whether one of the two street railway tracks on the bridge over the east branch of the Potomac River near the the navy-yard should not be removed.

NATIONAL ROAD IN MARYLAND.

Mr. WHYTE. I ask unanimous consent of the Senate to take up House bill No. 4200, reported by the Judiciary Committee, which gives the consent of the United States to the transfer of a portion of the National Road to one of the counties of the State of Maryland.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road. It gives the consent of the United States to an act of the General Assembly of the State of Maryland, passed at the January session, 1878, chapter 158, entitled "An act to transfer to the counties of Allegany and Garrett the control of the National Turnpike or United States Road through said counties, and to provide for the maintenance thereof."

The bill was reported from the Committee on the Judiciary with an amendment to add the following proviso:

Provided, That this consent shall have no effect in respect of creating or recognizing any duty or liability whatever on the part of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

UMATILLA INDIANS—COLVILLE RESERVATION.

Mr. ANTHONY. I ask the Senate to proceed to the regular order according to the resolution passed yesterday.

Mr. MITCHELL. I ask unanimous consent to present an amendment to a bill; and I should like to make a few remarks, not exceeding five minutes, if I can have the unanimous consent of the Senate for that purpose.

Mr. ANTHONY. I have no objection.

Mr. MITCHELL. I will occupy I think not exceeding three minutes.

The amendment I present is in the nature of a substitute for the bill (S. No. 239) providing for the removal of the Walla Walla, Cayuses, and Umatilla tribes and bands of Indians to a permanent reservation, and to open to settlement the Umatilla reservation in Oregon. It is a matter of so much importance and of such pressing interest that I desire to say a word or two and to quote from a document I hold in my hand which treats of this general subject in a very sensible manner.

The treaty the United States has with these Indians expires in April next. I believe it is considered by everybody who knows anything about the matter, certainly by the Indian department, by the Commissioner of Indian Affairs, by all the agents who have investigated the matter, by all the citizens in our country, and by everybody else, that in the interest of peace on our frontiers, in the interest of the preservation of the lives of both whites and Indians, something should be done at once, at the present session of Congress, looking to the removal of these Indians from their present reservation.

The bill has been pending before the Committee on Indian Affairs for some time. Amendments have been suggested by certain members of the committee from time to time, and also by the Commissioner of Indian Affairs. I have prepared an embodiment in the paper I hold in my hand of several amendments suggested.

The object of the bill is to provide that the President of the United States shall treat with these Indians, and with their consent remove them to the Colville reservation in Washington Territory. This amendment also provides that it shall be the duty of the commissioners designated by the President to investigate and report upon the advisability and the practicability of enlarging the present Colville Indian reservation. That, however, is but an incidental matter, but I think it very important that it should be in this bill.

The bill as thus amended, the passage of which I propose to insist on, and to which I call the especial attention of the honorable chairman of the Committee on Indian Affairs and that Committee, provides simply that the President shall designate three commissioners who shall treat with these Indians and with their consent remove them to the Colville reservation.

One word or two in regard to the character of the Colville reservation, and as to what kind of a country it is. I present these views in order that this information may be before the Indian Committee. I read from a statement made by a gentleman who is familiar with that whole country, and who has resided in that valley for fifteen years. He says:

Colville Valley at the present time has comparatively few white settlers owing to the fact that the market for its agricultural and other productions is too remote and the means of transportation too limited and expensive to induce a large settlement there. And the few white and half-breed families now living in the valley could, for these reasons, be induced to sell their possessions for a reasonable price to the Government, in case it should be deemed advisable to make the purchase.

That is, to extend the limits of the reservation. The reservation is very large now.

At its last session the Washington Territory Legislature passed a memorial asking the proper authorities of the United States Government to set apart this section of the country as a general reservation for the Indians in the Columbia Valley. This was after mature discussion and a proper consideration of the whole subject of Indian reservations.

I will state that the people who compose the Legislature of Washington Territory know more about Indian matters in that locality than any Commissioner of Indian Affairs, or any Indian agent on this side can possibly know, no matter how intelligent he may be or how much attention he may have given to the general subject.

Again, he says:

In my judgment, it was a wise conclusion at which that Legislature arrived, and if carried out would be alike beneficial to both, the whites and the Indians. The reasons for this belief I now propose to give. The general face of the country embraced within the limits of the proposed reservation is mountainous and hilly, with portions of it timbered. Game, such as deer, elk, bears, &c., is abundant and not difficult to take. The Columbia, the Akinokane, and the Spokane Rivers, with their hundreds of tributary streams interlacing the whole Territory, would afford an inexhaustible supply of salmon and other fish as subsistence for the Indians. Camas—

My friend from Iowa does not know what camas is, I suppose.

Mr. ALLISON. What is it?

Mr. MITCHELL. It is food, bread for the Indians, a root that the Indians eat and live on very often for months.

Camas and other nutritious roots, as well as berries, have from time immemorial been gathered by the Indians in many localities and in the greatest abundance, within the limits of this Territory. And while the land suitable for cultivation is not large, it is amply sufficient to support a population of twenty-five thousand souls.

The Colville Valley, in which the arable land is chiefly found, is about eighty miles in length, and on an average of from two to five in width; of great fertility, capable of raising wheat, oats, barley, and other kinds of grain and vegetables common to Oregon. These can, by proper cultivation, be raised in the greatest abundance. Everything necessary for the subsistence of the Indians is here at hand. Grain and vegetables and fruit for the tillers of the soil; game for the hunters; and fish for the fishers. To all these there is to be added the fur-bearing animals in great abundance for those who should prefer the life of the trapper. This is shown by the report of the Secretary of the Interior for 1873–'74 by which it appears that the Colville Indians were ninth on the list in the quantity of furs produced by Indian tribes. In short the proposed reservation is capable of affording subsistence for thirty or forty thousand inhabitants without any danger of starvation, even though they live in the manner in which Indians are accustomed to live.

The other advantage it would possess for a reservation is its remoteness from the great thoroughfare of travel and trade. With no highway leading through it and no white settlements likely to be in close proximity, there would be but little intercourse between the different races; and great as are its advantages, this in my judgment would be the greatest of all. Isolated from the white settlers and remote from dissolute and depraved men, discord, dissension, and war would cease to exist between them and the Indians. We have seen the evil effects of this encroachment of white settlers upon the borders of Indian reservations in the Modoc and, more recently, in the Nez Percé and Bannack Indian wars; and even now the growing uneasiness and discontent existing between our people and the Indians on the Umatilla reservation show what a sad mistake it was to locate that reservation where it would necessarily be surrounded by the settlements of thriving and industrious farmers. The cattle and other stock of the whites are liable to stray on the unenclosed land of the Indians, and the bands of wild horses belonging to the latter are continuously trespassing upon the farms of the whites. Civilized is beating against savage life, and the inevitable result is sure to follow, discord, dissension, and strife that may end in war. I have recently seen it stated in the public journals that you have recommended in your last report that the Umatilla Indians be removed from their present reservation. This in my judgment is a wise conclusion. That reservation is traversed by many highways, over which merchandise of all kinds is transported every day in the year. Besides, over it is the great overland way to the Pacific coast, over which the United States mails are daily carried. I beg leave, however, to dissent altogether—

And I will state that the people of Oregon and Washington Territory dissent altogether—

from the proposal to transfer those Indians to the Yakima reservation. Many of the objections now existing in regard to the Umatilla are applicable to the Yakima reservation. It is in like manner surrounded by white settlers, daily liable to misunderstandings and collisions with the Indians on the reservations. Moreover, the facilities for taking fish and hunting game are not to be compared with those on the Colville reservation; and these after all are what the Indians in their tribal state rely upon for food. Again, the Umatilla and Colville Indians hold the same religious views and have been taught in the same religious faith.

I call the special attention of the Committee on Indian Affairs to that. The Yakimas are Methodists; the Umatillas, Cayuses, and Walla Wallas are Catholics; the Colvilles are under the Catholic denomination, and it would be the height of unwisdom, I think, to undertake to locate these Catholics, the fishing and hunting Indians of the Umatilla reservation, on a reservation where the Methodists, the farming Indians, the Yakimas, are now located.

He says further:

I am fully persuaded that if left to the determination of the Indians themselves—

And the bill proposes to do that—

they would far rather be sent to Colville than to the Yakima reservation, and that they would finally be more contented there than in any other place to which they could be sent. This matter of their removal is a matter of most momentous concern as well to the Indians as to the whites.

That is a fact. The war of last year is evidence of this fact. Hundreds of our people have been slaughtered by these very Indians, and occasionally Indians are killed by the whites. Perpetual collisions are occurring there; there is an irrepressible conflict.

Mr. ALLISON. May I ask the Senator from Oregon, who is quite familiar with this reservation, to state the reason or occasion of the collisions between the Indians and the white settlers?

Mr. MITCHELL. It would take some time; but I know of no Indian having been injured on the Umatilla reservation by any white man until after a large number of Umatilla Indians, who had been fed and pampered by the Government for twenty years on the Umatilla reservation, had left the reservation and joined the hostiles and committed depredations upon the white settlements surrounding the reservation. This, I admit, so exasperated the white settlers, and justly, too, all over that country that then and after that certain perhaps unjustifiable assaults, and only a very few at that, were committed in a few instances by the whites. But the fact is as I state it, and no man can controvert it, that no interference upon the part of any white settlers with any of the Indians of the Umatilla reservation was had until long after large bodies of these Indians had left the reservation and joined the hostile Snakes and Bannocks and raided that country, all through Eastern Oregon, murdering citizens with impunity, destroying property, and committing destruction and devastation on every hand. That this would naturally lead to perhaps unlawful acts on the part of the whites must be expected.

I beg pardon for taking the time of the Senate with this matter at this time, but it is a subject requiring the immediate attention of Congress. The treaty is about to expire. It is out, I believe, in April. Whatever may be the cause of these collisions, and I am very sure the whites are not the aggressors, they exist, and it is absolutely necessary that the Government should take some steps in the interest of the peace of the country and in the interest of the Indians themselves.

I move the reference of the amendment that I offer to the Committee on Indian Affairs, and hope for an early report.

The motion was agreed to.

THE CALENDAR.

Mr. ANTHONY. Mr. President, I have felt, since we have returned after the recess, listening every morning attentively and earnestly to my eloquent and industrious friend from the Pacific coast, almost as if I had lost myself—

In the continuous woods
Where rolls the Oregon, and hears no sound,
Save his own dashings.

If the Senator has finished this speech, I move that we proceed to the regular order.

Mr. MITCHELL. I have finished this morning's speech. I may make one to-morrow morning.

Mr. ANTHONY. I cannot help it.

The VICE-PRESIDENT. The Secretary will now call the Calendar under the resolution of the Senator from Rhode Island adopted yesterday, commencing at the point where its consideration was left off on the former call.

The first bill on the Calendar was the bill (S. No. 104) amending section 1661, title 16, (The Militia,) of the Revised Statutes of the United States; which was read.

Mr. EDMUNDS. I think that had better go over, Mr. President. It is a pretty large matter.

The VICE-PRESIDENT. The bill will go over, and the Secretary will report the next bill on the Calendar.

The next bill on the Calendar was the bill (S. No. 320) amendatory of the act to incorporate the Capitol, North O street and South Washington Railway Company.

Mr. DORSEY. Let that bill go over.

The VICE-PRESIDENT. The bill goes over, and the next bill on the Calendar will be reported.

The next bill on the Calendar was the bill (S. No. 458) to authorize and equip an expedition to the Arctic seas; which was read.

Mr. EDMUNDS. Let us hear the report, Mr. President. Fifty thousand dollars will not be a flea bite for such a purpose.

The Secretary proceeded to read the report submitted by Mr. SARGENT, February 13, 1878.

Mr. CONKLING. I think this bill had better go over.

The VICE-PRESIDENT. The bill is objected to.

Mr. CONKLING. One citizen of the United States has just, at his own cost, started on an expedition toward the North Pole, and I do not believe that by a bill of these dimensions we had better duplicate it just now.

The VICE-PRESIDENT. The bill goes over.

INDIAN TRUST FUNDS.

The VICE-PRESIDENT. The next bill on the Calendar will be reported.

The next bill on the Calendar was the bill (S. No. 720) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment; which was considered as in Committee of the Whole.

The bill authorizes the Secretary of the Interior to deposit in the Treasury of the United States any and all sums now held by him, or which may hereafter be received by him, as Secretary of the Interior and trustee of various Indian tribes, on account of the redemption of United States bonds, or other stocks and securities belonging to the Indian trust fund, whenever he is of the opinion that the best interests of the Indians will be promoted by such deposits, in lieu of investments; and provides that the United States shall pay interest semi-annually at the rate of 5 per cent. per annum from the date of deposit of any and all such sums in the Treasury.

The bill was reported from the Committee on Indian Affairs with an amendment; which was, in line 9, after the word "trust fund," to strike out:

Whenever he is of the opinion that the best interests of the Indians will be promoted by such deposits, in lieu of investments.

Mr. EDMUNDS. I should like to hear that bill explained a little before it passes. According to my recollection a good share of these trust funds consists of trusts raised under treaties which provide specifically as to how the investment shall be made and the rate of interest that it shall bear. Now, whether this act would conform to the provisions of those treaties, I should like to know before I am asked to vote for it.

Mr. ALLISON. The bill was reported by the Senator from Kansas [Mr. INGALLS] who is absent. I do not think the bill will conflict with any existing Indian treaty. I know of no treaty that requires specific investments in particular securities. It has latterly been the custom from time to time to invest in United States securities, and a number of investments were made in 6 per cent. bonds. Those bonds, of course, have been called in some instances, and the money is now in the Treasury. Generally the Indian treaties require the Government to pay 5 per cent. interest, and therefore 5 per cent. interest was inserted as the rate to be paid annually to these Indians under treaty stipulations. I know of no instance where a higher rate of interest is required, although it may be possible that there may be some existing treaty where a higher rate of interest is required. If so, the Government would be obliged to pay it.

Mr. WITHERS. Suppose there should be a lower rate?

Mr. ALLISON. There is no lower rate fixed in any Indian treaty.

Mr. BECK. Does not this bill really fix the rate of interest at 5 per cent.?

Mr. ALLISON. It fixes the rate of interest at 5 per cent. I think in nearly every instance where the Government has trust funds of the Indians, and the rate of interest is prescribed by treaty, it is prescribed at 5 per cent.

Mr. BECK. Is this a general provision?

Mr. ALLISON. A general provision. The object is to take money now in the Treasury, which has been put there on account of trust funds arising from an investment in 6 per cent. bonds or, from time to time, from 5 per cent. bonds, which have been called, and instead of reinvesting it in bonds of the United States, that the same shall go into the Treasury and become an annuity, as it were, and the interest only be payable to the Indians from time to time.

Mr. DAVIS, of West Virginia. Where provision is already made for 6 per cent., does the bill propose to reduce it to 5 per cent.?

Mr. ALLISON. I do not so understand the bill. If it does it ought to be amended in that particular. Of course where we have a treaty stipulation with an Indian tribe that we shall invest their funds at 6 per cent., we cannot by law get rid of that obligation, and I take it in such cases there would be no paying the money into the Treasury.

Mr. DAVIS, of West Virginia. This bill would not reach it? Then I submit to the Senator whether, as 4 per cent. is now the fixed rate of interest of the Government and no bond is being issued at 5 per cent., the rate in the bill ought not to be 4 for all future investments and any investments covered by this bill? This bill, as I understand, does not at all affect any treaty stipulation. It is a general bill in regard to funds where there is no stipulation in the treaty with the Indians what amount of interest shall be paid. That being the case, I submit to the Senator whether it would not be proper to make the rate of interest 4 per cent. instead of 5, from the fact that that is the legal interest of the Government to-day or that at which we are selling bonds?

Mr. ALLISON. Of course any funds that come under the operation of this bill must come into the Treasury under treaty stipulations. There is now no provision in any treaty that I know of justifying a rate of interest less than 5 per cent. Of course there are Indian treaties that provide no particular rate of interest, but require us to invest the funds.

Mr. HOWE. Does the Senator know of any treaty which requires the United States to pay 5 per cent. or any other specific rate of interest?

Mr. ALLISON. I cannot of course point the Senator from Wisconsin to any particular treaty at this moment; but I know there are a great number of treaties by which we are specifically required to pay 5 per cent. The Senator from Colorado [Mr. CHAFFEE] just now calls my attention to a recent treaty with the Utes where we have expressly stipulated to pay 5 per cent. for thirty years. I think in nearly all the treaties, or in a great number of them at least, we have stipulated to pay 5 per cent.

Mr. HOWE. Allow me to inquire, would it not be better and safer to amend the bill so as to require the United States to pay 5 per cent. where 5 per cent. is demanded by the existing treaties, and where no specific rate of interest is demanded, than to accept the suggestion of the Senator from West Virginia, and to pay such rate of interest as we get money for from other sources?

Mr. ALLISON. I do not know of any special objection to that amendment; but when this bill was reported to the Senate we were not in the happy financial condition that we find ourselves in now. We were then borrowing money at 4½ per cent. instead of 4 per cent. I think the Committee on Indian Affairs thought it not wise to provide a general rate. If Senators think it is better to make 4 per cent. the rate of interest in cases where treaty stipulations do not require a particular rate, I do not know that I have any objection to it.

I will say that this bill meets the approval of the present Secretary of the Interior, and it met the approval of his immediate predecessor, who prepared it and sent it to the committee for action.

Mr. EDMUNDS. Mr. President, one thing I think we ought to keep in mind about this subject that, if we deal with it as we do sometimes with other matters about the Indians, we are quite likely to forget; and that is that a treaty with an Indian tribe is just as binding upon the honor and good faith and justice of the United States as a treaty with any other body, nation, State, or prince. If I have stated that as an axiom to which everybody will agree, the question is about disturbing these trust funds that are invested and falling in and so forth, whether such a change as this bill proposes will disturb our promises and the duties that we have entered into under any treaty.

I think it will be found on looking up the matter that nearly every one of the treaties that provides for trust funds makes the United States a trustee with the duty of investing these funds which belong to the Indians, their money, and of investing them in safe stocks and securities to the best advantage. If that be so, and I feel quite confident that it is, then it is the duty of the United States to perform this office of trustee faithfully and diligently, and to get the largest interest for the beneficiary, the real owner of the money, that it can get, consistent with the safety of the investment.

I take it that everybody who hears me will agree that I state simply the law, and justice as well, when I say that. It would follow if I am right about that, indisputably follow, that if the United States, through its executive authority, can invest the money of these Indians at a rate of interest above 5 per cent. and have it safe, then the United States ought to do it. In that case the trustee has no business to take the money and say "I will use the money myself and pay a lower interest than I can get from some other safe borrower." I take it that is plain.

I am very much afraid, therefore, that the very structure of the bill which authorizes, and if the amendment be agreed to, requires, the Secretary of the Interior to turn all this money, as fast as these

loans fall in, into the Treasury at 5 per cent., is an infraction of the largest part of these trust treaties, and is such a denial of the right of the beneficiary as if it should occur between private persons or private corporations, would call for and justify the intervention of a court of justice to compel the trustee to perform his duty.

Mr. ALLISON. If the Senator will allow me, the treaties generally provide for 5 per cent. interest to be paid by the Government of the United States. It has been the custom latterly, to invest in United States bonds bearing 5 per cent. interest, and in some instances 6 per cent. bonds were purchased during the years of the war, and the years following the war; but now 5 per cent. bonds are above par. We have stipulated to pay 5 per cent. interest. We cannot invest in bonds; therefore the object of this bill is to provide that in all such cases, and indeed in all cases where we hold trust funds, the rate of interest shall be fixed at 5 per cent., and that there shall be no issuance of bonds in relation to such funds whatever, no opportunity of stealing bonds.

Mr. HOWE. I wish to inquire whether our treaties require the United States to pay 5 per cent. interest, or whether different treaties require an investment in certain bonds? A treaty compact which requires an investment in a 5 per cent. bond of the United States is a very different thing from one which requires the United States to pay 5 per cent. interest.

Mr. EDMUNDS. Yes.

Mr. ALLISON. The Senator will allow me to say that these Indian treaties are almost as varied as their number, in reference to these provisions. The earlier treaties required the Government of the United States to become the trustee of the Indians and to invest their funds in the best possible manner in sound securities; and in the exercise of that power the Secretary of the Interior in 1859–'60 invested some million or more of dollars of these Indian trust funds in worthless State securities—in State securities that to-day are not worth twenty cents on the dollar—and yet the Government of the United States has felt itself bound by treaty stipulations to make that loss good to the Indians; and we have paid interest at the rate of 5 and 6 per cent. upon the principal of the Indian trust funds thus invested for more than twenty years in some cases.

Some of the later treaties provide for a specific rate of interest, namely, 5 per cent. Some others contain the provision of the older treaties, namely, the best possible investment for the Indians. Of course when you put any fund in trust you must see that the principal is preserved, as well as the annual interest paid; and therefore the committee thought that it was for the interest of the Indian tribes that we should provide that their funds should remain in the Treasury of the United States, and that we should pay an annual interest to them.

Now, if there is any defect in this bill I am quite ready to correct it. I will only say to the Senator from Vermont and other Senators that there are considerable sums of money now lying in the Treasury uninvested, and this money ought to be invested from time to time.

Mr. EDMUNDS. If we are bound to pay interest on it at either 5 or 6 per cent., it does not make any difference to the Indians, or to us either, whether you call it invested or what you do with it if it is there. But I thought that I was yielding to a question instead of yielding to my honorable friend to explain the bill, as I had not quite finished what I wanted to say.

Mr. ALLISON. I beg the Senator's pardon for trespassing on his time, which I did not mean to do.

Mr. EDMUNDS. If this is a trust, then, as I have said, the duty of the trustee is plain enough; and that is that, without reference to the private gain and advantage of the trustee, but with reference to the best advantage of the benficiary, the investment should be made at the highest rate of interest that can be got consistent with safety. Now, suppose that the duty is to pay 5 per cent., as in a large majority of the instances under the treaties probably it is. I think fixing the same sum would not be an infraction of the treaty as to the Indians; but the United States can borrow money at less than 5 per cent. If there are States or corporations or private borrowers to whom a trustee can with safety lend money that are willing to pay 5 per cent. or more, then it is for the interest of the United States not to take up this fund and pay 5 per cent. upon it, but to borrow money on its own great credit for less than 5 per cent., and loan out this money for its beneficiary at the best rate it can get, 5 per cent. if you please. In that case the 1 per cent., if we can borrow at 4, does not come out, as a loss, of the Treasury of the United States, but it is money that comes out of the other borrower for the benefit of the Indian, whereas if we borrow it ourselves at a rate of interest which is above the rate that our credit entitles us to borrow at, it is a clear loss to us. That view ought not to be lost sight of.

Mr. ALLISON. If the Senator will allow me right there, we exercised just that discretion in the case of Mr. Thompson, Secretary of the Interior, and under it we lost the principal and have been paying interest for nearly twenty years.

Mr. EDMUNDS. If we lose the principal through the misconduct of any officer of ours, then probably good faith to the Indians would require that it should be made up. If we lose it through the accidents of business and under the exercise of due diligence, which the trustee is bound to exercise, then no moral or legal obligation would rest upon us to make it good. I have not the time just now to go back and try Mr. Secretary Thompson to ascertain whether he was guilty or not guilty of wrong in what he did in lending this money to some State that repudiated, or in running away with the amount, if that was the case. I only venture to speak in the interest of that justice and fair play which we are bound to exercise toward a red man just as much as toward a white man if we have promised to do it; and in that view I wish to ask my honorable friend from Iowa whether he would object to, or whether he would not be satisfied with, an amendment at the end of this bill of this character:

> But nothing in this act shall authorize the infraction of the provisions of any treaty or agreement with any Indian tribe or band.

So that wherever a treaty binds us to do something else, let us do as we have promised we will do.

Mr. ALLISON. I not only will not object to it, but if such a provision is necessary in order to protect the rights of which the Senator speaks, and which the committee have quite as much in view as the Senator from Vermont——

Mr. EDMUNDS. I do not doubt that.

Mr. ALLISON. If that be necessary, I trust the amendment will be agreed to.

The VICE-PRESIDENT. Is the amendment in form offered?

Mr. EDMUNDS. Yes, sir, but there is a preceding amendment.

Mr. CONKLING. I ask the Senator from Iowa to state,—no doubt he can in a word,—what the present difficulty is in acting as custodian of this fund.

Mr. ALLISON. As I understand, there are a number of treaties that require investments which shall bear a certain rate of interest. Now, when a number of the bonds already invested were paid off, it was impossible to reinvest the proceeds at par and thus provide the necessary rate of interest.

Mr. CONKLING. Which was what?

Mr. ALLISON. Five per cent., the 5 per cent. bonds being above par. The object of this bill, which was presented at the last session—and my attention has not been called to it since that time—was to require the Secretary of the Interior to turn that money into the Treasury, and require the Treasury to pay 5 per cent. interest on it, instead of taking the Indian trust funds and investing them in United States bonds—5 per cent. bonds—bearing a premium. That is the object of this bill. If it does not effectuate that object, it ought not to pass.

Mr. CONKLING. I understand the Senator to take the case of a treaty which guarantees to Indians on their trust fund interest at the rate of 5 per cent., and to say that, in order to make that assurance sure, he proposes to cover the money into the Treasury, and then have the 5 per cent. go, absolutely regardless of what may be the rise or the fall of the market in particular securities.

Mr. ALLISON. That is the exact object, and no other.

Mr. CONKLING. I think I may say that if the bill does effectuate that which the Senator states, and does nothing more, every Senator will be for it. It is a very important matter, however, and some of the Senators at least ought to be very sure that it is right before we act upon it. I understand my friend from Iowa to say that although at the last session he knew about this, at this session he has not had his attention directed to it.

Mr. ALLISON. I mean that I knew the exact amount of the funds as they stood then. There was then $400,000 and over of these different funds belonging to half a dozen tribes of Indians. I can never be more accurate in my own judgment that this bill ought to pass in the interest of the Indian tribes and in justice to them. It meets the approval of the Department, the present Secretary of the Interior and his predecessor. It met the unanimous approval of the Committee on Indian Affairs, and it does seem to me there can be no objection to it unless some Senator can make one that I have not yet heard.

I quite agree to the amendment proposed by the Senator from Vermont, and I think it ought to be adopted.

Mr. HOWE. The amendment of the Senator from Vermont, if agreed to, will leave the bill in that shape, as I understand it, that then all funds belonging to the Indians will be in the Treasury, and all the funds where no greater rate of interest is prescribed by treaty than 5 per cent. will draw 5 per cent. Where a greater rate of interest is reserved in the treaty a greater rate of interest will be paid. Now, I agree very heartily with the Senator from Vermont that the United States ought to keep faith with an Indian tribe as much as with one of its own citizens. So I concur with him that when we have agreed to pay 6 or 10 per cent. to an Indian tribe we should pay 6 or 10 per cent. until the debt falls due; but where we have not agreed to pay either 6 or 5 per cent., where is the obligation in law or in ethics which requires us to borrow money of an Indian tribe at a higher rate of interest than we can borrow money of anybody else?

Mr. EDMUNDS. I do not maintain that there is; and I stated distinctly exactly the proposition of the Senator from Wisconsin, but I also said in that case if we were a trustee and the money was not ours we had no business, being the trustee, to borrow this money of our beneficiaries at a low rate of interest because our credit was good, if we could invest at a higher rate of interest in a safe security of somebody else.

Mr. HOWE. Ay, but the bill commands that the money lie in the Treasury and we pay 5 per cent. for it.

Mr. EDMUNDS. I am not favoring that part of the bill.

Mr. HOWE. That part of the bill seemed to stand without objection from the Senator from Vermont.

Mr. BECK. I move to strike out "five" and insert "four," as the rate of interest.

The VICE-PRESIDENT. The Chair will state to the Senator from Kentucky that there is a committee amendment pending to be acted upon before the amendment of the Senator from Vermont.

Mr. BECK. Then, without making that motion now, I desire to say that the Senator from Iowa has expressly told us that this bill is not to interfere with any treaty stipulation and has very properly consented to an amendment to that effect. Therefore it only applies to such moneys as the United States has in its possession and under its control, and the interest provided for applies to that character of funds. It is very obvious that the experiment which we have made to act as trustees and loan out money to States has not been very beneficial either to the United States or to the Indians, and I am not willing to say that the Secretary of the Interior or the Secretary of the Treasury or anybody else shall have the right to loan that money out to corporations, or individuals, or States, as it is suggested may possibly be done. I do not know to whom he would lend it. I know some places where it might be put to do a great deal of good in the estimation of some people, with campaign committees or "visiting statesmen;" but the principal might not be safe and the interest might not be returned. As we have to take care of the money, and have no agent authorized to loan it and no one to whom it is safe to intrust it, certainly not without an order of Congress as to how it shall be loaned and upon what security, and it is not proposed by Congress to loan it at all, why should the United States pay more now for money in the Treasury to Indians with whom she has no treaty requiring a specific amount than she can borrow from all the other people of the United States? We are obtaining from five to six or eight million dollars a day on 4 per cent. bonds at par, and if hereafter the United States cannot obtain money at as low a rate of interest as 4 per cent. changes may be made; but so long as money is worth only 4 per cent., and these funds are deposited in the Treasury and the United States has to take care of them in the absence of any agent whom she can trust to loan them out, she ought not to pay more interest than the money is worth to her and than she can obtain it from any citizen.

Mr. CONKLING. Mr. President, the Senator from Iowa invites any Senator to whom an objection occurs to state it, and, therefore, I will venture upon two suggestions about this bill.

In the first place I do not understand to what fund this money is to go in the Treasury Department. Does the Senator from Iowa understand?

Mr. ALLISON. It is to be covered into the Treasury. I do not know that it belongs to any special fund.

Mr. CONKLING. The honorable Senator says that it is covered into the Treasury. That was my apprehension at first. It is not my understanding after reading the bill, that it is covered into the Treasury, within the meaning of that term as commonly employed in the Senate. It authorizes the Secretary of the Interior "to deposit in the Treasury of the United States any and all sums now held by him." "To deposit;" that is not covering money into the Treasury, and by reason of a distinction which the Senator from Iowa, even better than I, fully understands. If by law you cover money into the Treasury, long practical construction has established the nature of the thing you do; but if you authorize a deposit, whether of money or bonds or swords—for there has been the deposit of swords authorized in the Treasury Department—you authorize a transaction of a different nature. So I think the Senator from Iowa will have occasion to answer to himself to what fund, if to any fund, such a deposit would go. If it is to be a special deposit of dead money, so to speak, in the Treasury Department, on which interest is to be paid, that is one thing. If it is to be covered into the Treasury generally, to be disposable like the other funds belonging to the coffers of the United States, that is quite a different thing. I venture to make that as the first suggestion which occurs to me.

But another thing strikes me which has been already adverted to, in part at least, and strikes me with more force. According to my recollection, the Indian treaties may in this respect be divided into three classes. There are treaties which provide for the payment of 5 per cent. interest on trust funds; that is one class. There are other treaties which I think provide for the payment of interest, but at a different rate than 5 per cent. I am not prepared to be exact or even positive as to the fact now, but I think it will turn out that there are specifications of interest to be paid to Indians which specification is not 5 per cent. My impression is in one or two cases above that, and possibly sometimes below it. There is a third class of treaties in this respect, and my recollection is more numerous than either of the other two classes,—treaties in which the United States engages to invest and keep invested for the interest, or possibly the term is for the best interest of the other party to the treaty, the funds belonging to them. Now, speaking of the latter class of treaties every lawyer will understand the obligation which they create. The United States is bound in that case to do what a prudent individual would do in the investment of his own funds, bound to do what a court of chancery would direct an executor or trustee to do in the interest of his or their *cestui que trusts*. In other words the duty of the Government would be to make that investment which being safe, defensible in that respect, would yield the largest increase of interest. Now by what right one party to this agreement, (for such a treaty is,) without consultation with the other, may set down and determine arbitrarily by an *ipse dixit* that 5 per cent., not only this month and this year, but hereafter in all years shall be that sum which the law would exact in the fulfillment of such a contract, I do not understand. It may be 5 per cent. now; it may be 5 per cent. next year; or as the Senator from Kentucky has suggested next year 4 per cent. may be all that money safely invested can be made to yield; or on the other hand 6 per cent. may be the current value of money ventured in safe investments. But whichever way the variation may be, the rule of law and the rule of ethics all the time exacts one thing from the custodian, one thing from the trustee, that his investment shall be that particular investment, which being safe will pay the largest sum to the ultimate owner of this money.

Mr. ALLISON. May I ask a question now?

Mr. CONKLING. Certainly.

Mr. ALLISON. I have here a treaty provision that comes under one of the heads named by the Senator. I wish to read it to him:

> The residue of said $57,500 on hand after the payments hereinbefore provided shall have been made shall remain as a trust fund, the interest upon which, as well as the interest that may have accrued on the portion drawn out, shall be applied under the direction of the President to educational or other beneficial purposes among the Iowas.

There is a provision for interest, no provision for a rate of interest; but it requires that the interest shall be annually paid. In that case I ask the Senator what injustice would be done?

Mr. EDMUNDS. Here is another of a different character. Here is article 13 of the treaty of 1855 with the Choctaws and Chickasaws, which says on this point:

> The funds now held in trust by the United States for the benefit of the Choctaws under former treaties or otherwise shall continue to be so held, together with the sum of $500,000 out of the amount payable to them under articles 8 and 10 of this agreement, and also whatever balance shall remain, if any, of the amount that shall be allowed the Choctaws by the Senate under the twelfth article hereof. The sums so to be held in trust shall constitute a general Choctaw fund yielding an annual interest of not less than 5 per cent.

Implying just what the Senator from New York has said, that the duty of the trustee was to get more if he could.

Mr. CONKLING. I did not in classifying these treaties include, because I did not remember, any such treaty as the Senator from Iowa has read. There is a treaty provision in the nature of a recital merely; the interest is referred to not there by way of stipulation of amount, but merely for the purpose of giving direction to that interest, of stating what shall become of it; and so it is said of this sum, namely the interest, that it shall under the direction of the President be applied so and so. Of course we all see the distinction between that provision and the other provision in that treaty, if there is one, by which the United States stipulates to pay. That merely recites the interest to state what shall be done with it.

But now the Senator from Vermont reads a provision which does belong to one of the classes of treaties of which I spoke and possibly to two of those classes. He reads a provision which makes 5 per cent. the minimum—not the rate agreed upon, but the minimum. In other words, the United States by that treaty guarantees to the Indians that this trust fund shall yield at least 5 per cent. interest. Now, I infer the Senator from Iowa will say in that case—and I am not disposed to contend with him—that it would be a fair execution of that provision for the United States at this time, for example finding that 5 per cent. is all that money can be made to yield in safe investments, to cover this money into the Treasury and say we will pay as an annuity or whatever you please to call it 5 per cent. There is a case that at this time this provision would fairly hit and fairly meet. But when you come to a future time for this same case, or when you come to one of the other cases we have been speaking of at this time, the question still confronts us whether that is a fair mode of meeting the obligation.

The Senator from Vermont proposes to add to the bill, as I read it:

> But nothing in this act shall authorize the infraction of the provisions of any treaty or agreement with any Indian tribe or band.

It is a good amendment, but I am inclined to think it is too good for the purpose of this bill, because it must operate in every instance where by treaty the United States is bound to pay some different rate to except and reserve that at all events from the operation of the bill, whereas the bill is general in its terms and promiscuous and indiscriminate in including all the cases. So I would suggest that as a mode of making that amendment appropriately a part of the bill the cases, if there are such, in which it would violate a treaty ought not to be upon the face of the measure included and then reserved by a general reservation, and left hereafter to be picked out or scuffled out or contended out by these parties before the Departments or before a court.

I judge from a gesture of the Chair that I am exceeding the time. If I am, I will yield.

The VICE-PRESIDENT. The time within which this call of the Calendar should proceed has expired. The Senate will now proceed to the consideration of its unfinished business.

Mr. ANTHONY. The Calendar has had no day during this session, and I ask my friend from New Hampshire if he is willing to lay aside his bill and go on with the Calendar?

Mr. WADLEIGH. I consent that the Calendar shall be proceeded with.

The VICE-PRESIDENT. The Senator from New Hampshire gives his consent. The Chair hears no objection to the Calendar being proceeded with. The Senator from New York will proceed.

Mr. CONKLING. Having concluded, I will not trespass further.

The VICE-PRESIDENT. The pending question is the amendment reported by the Committee on Indian Affairs, which will be reported.

Mr. ALLISON. I desire to say a word on that amendment. If the amendment of the Senator from Kentucky [Mr. BECK] shall be adopted——

The VICE-PRESIDENT. It has not yet been offered. It was simply suggested.

Mr. ALLISON. I was about to say that if the amendment of the Senator from Kentucky shall be adopted, then the amendment proposed by the committee should not be, because there should be some discretion left then in the Secretary of the Interior whether or not he should invest in 4 per cent. bonds.

I desire to say, while I am up, that this question of the rate of interest is one of no little difficulty, as has been suggested by the Senator from Wisconsin, [Mr. HOWE.] Nearly three years ago this identical bill passed the Senate without material objection, perhaps without very much discussion. It passed the Senate and went to the House during the last Congress, and the House inserted the provision proposed now by the Senator from Kentucky, namely, that the rate of interest instead of being 5 per cent. should be 4; and the bill fell during the last Congress between the two Houses, because the rate of interest could not be agreed upon. Now, if it is the judgment of the Senate that in cases where we are not bound to pay a specific rate of interest we fairly comply with our obligation by the payment of 4 per cent. interest, then so be it. But I do think that it is best for the Government and for the Indian tribes that their trust funds should be invested in funds of the Government, and that no Secretary of the Interior, however wise or able or honest he may be, should be intrusted with the power to go outside of Government securities and make investment for these Indian tribes; because, whether that investment be made carelessly, improvidently, or dishonestly, justice to the Indians will require that hereafter we shall make that investment good. We have done it in every instance. I see now the Senator from Tennessee; before Secretaries of the Interior have invested in securities in his State, supposing that they were safe securities, as they were at the time, but by reason of the insolvency of corporations in which the investments were made the securities have become absolutely worthless. Probably at the time they were regarded as judicious investments, but they failed, and the Government of the United States is to-day paying interest on those investments, and those securities are lying in the vaults of the Secretary of the Interior as so much waste paper.

Now, I think it is wise for us to fix a fair rate of interest that we will pay semi-annually to these Indian tribes, whether it be 5 per cent. or 4 per cent. But let it be understood that the Government itself becomes responsible for these Indian trust funds, and that they are as sacred in the hands of this Government as are any other obligations of the Government. If we do that, I think we shall have no difficulty in the future.

I have read one of the treaty stipulations with reference to this matter, which requires, if it requires anything, that we shall pay interest upon $57,500. Those funds are still in existence, and we are now paying 5 per cent. interest. I believe those funds have been invested in 5 per cent. bonds, though I am not quite clear about that; but if they have been so invested, or if they have been invested in other bonds and those bonds should be paid off, the Government could not reinvest in bonds bearing that high rate of interest. It seems to me that we may reasonably, and that we are bound honorably, to fix a rate which we will pay to those Iowas on those $57,500. Are we not bound? There is no rate specified; yet we have agreed to pay them interest. Certainly in that particular case 5 per cent. is a reasonable rate; or it may be that 4 per cent. is enough, because just at this moment we can borrow money at 4 per cent., but next year we may be obliged to pay 6. But a 5 per cent. rate of interest, it seems to me, is reasonable.

That is the object of this bill. If it has any other object it has been so carefully concealed that I have been unable to see it for three years, although it has come up frequently for the consideration of the Committee on Indian Affairs. I leave it for the judgment of the Senate, having in view our duty under the various treaty obligations to provide these funds and keep them sacred.

Mr. HOWE. Mr. President, all seem to be agreed that where the United States has agreed to pay 5, or 6, or any other given rate of interest, this bill, or any bill upon the subject, should provide for paying that rate of interest. So far all are agreed. I think there will be no substantial disagreement on the proposition just made by the Senator from Iowa that there should not be vested in any officer of this Government discretionary power to loan any trust funds in our possession to anybody. It is a discretion which I think ought not to be given to any officer of the Government. So I think the Senate will conclude, with the Senator from Iowa, that this money, all of these funds, should be in the Treasury. Being in the Treasury, we are agreed that where a specific rate of interest is stipulated for that shall be paid. If we can agree what rate of interest shall be paid where no specific rate is now prescribed by law or treaty, then a simple amendment to this bill, providing that these funds be deposited in the Treasury and that the Treasury pay on such funds as require 5 per cent. or 6 per cent. that rate of interest, and on other funds the rate we agree to, will make the bill conform to what we shall finally conclude is right.

Now, then, what ought we to pay on funds where no specific rate is prescribed? Five per cent. is suggested by the bill. I think that is unreasonable, for the simple reason that we can borrow and are borrowing millions daily at 4 per cent. It is not right. We cannot in justice to the Indians pay off this debt now, because we cannot trust the money in their hands. If we could we could settle that question right here by borrowing the money and paying them. It is not right to require us to keep these funds without limitation of time and to pay a rate of interest above that at which we borrow in all the markets of the world. So it seems to me that if to-day we agree to pay them 4 per cent. where we have already agreed to pay nothing higher, and take care to reserve in the bill precisely upon all other funds what the law now prescribes, we shall have done all that our duty requires of us for the Indians.

Mr. MAXEY. The phraseology of the various treaties, especially those made since 1866, in regard to trust funds differs. The third article of the treaty with the Choctaws, referred to by the Senator from Vermont, requires the fund there provided for to be invested at not less than 5 per cent. I do not remember any other treaty that uses that expression except the Choctaw treaty; and yet all these treaties require the trust fund to be invested at 5 per cent., with the exception of one. I call the attention of the Senate to a clause in the Creek treaty, and I do not see how you can get rid of paying 5 per cent. there:

> The residue of said fund shall be retained in the Treasury of the United States, upon which interest at the rate of 5 per cent. shall annually be paid for the maintenance and support of said school.

There it is fixed in the treaty, and therefore it cannot be reached. The wording of the Cherokee treaty differs from either of the others that I have examined. The Choctaws and Chickasaws are covered together; the Seminoles and Creeks follow the same rule. The Cherokee treaty of 1866, article 23, reads thus:

> All funds now due the nation, or that may hereafter accrue from the sale of their lands by the United States, as hereinbefore provided for, shall be invested in United States registered stocks at their current value, and the interest on all said funds shall be paid semi-annually on the order of the Cherokee Nation, and shall be applied to the following purposes, &c.

There the trust fund must be invested in bonds at their current value at that time, 1866, and the lowest interest then was 5 per cent. As this interest was to be paid annually, and the money was to be invested in those bonds at that time, can the United States, who is the trustee, get rid of that rate of 5 per cent. interest by calling in the very bonds in which that trust fund was invested? It occurs to me that it would be difficult to do that, and more especially when you look at the Creek treaty, which distinctly requires that—

> The residue of said fund shall be retained—
>
> Not invested in bonds of any kind, but—
>
> retained in the Treasury of the United States, upon which interest at the rate of 5 per cent. shall annually be paid for the maintenance and support of said school.

Now, this bill provides:

> That the Secretary of the Interior be, and he is hereby, authorized to deposit in the Treasury of the United States any and all sums now held by him, or which may hereafter be received by him, as Secretary of the Interior and trustee of various Indian tribes, on account of the redemption of United States bonds.

The Cherokee fund was invested in registered bonds of the United States, then drawing 5 per cent. interest. Those bonds have been called in or are liable to be called in. Can the United States get rid of the then rate of interest by calling in those bonds, and would that be equitable to the *cestui que trust* by the act of the trustee? It is a legal question. I should dislike to say that a trustee could do it, especially when you look at another treaty made during the same summer of 1866 with another tribe, in which the money is required to be retained in the Treasury and the interest annually paid to the *cestui que trust*.

I take it that the general theory of all these treaties must be the same, and when you come to examine all of them, wherever a rate of interest is fixed at all it is fixed at 5 per cent. Therefore I think myself that as the United States is required to keep this fund in trust, she is equitably bound to pay the rate of interest which was agreed upon at the date of the treaties when the United States was made the trustee. These people are weak and helpless. As a matter of course Congress has the power to put it down to 4 per cent., but of all people on this earth I would rather deal harshly with the most powerful nation than to deal harshly or inequitably with these people who are struggling to get into a position of civilization. I feel that it would be right, equitable, and just, and would promote good feeling on the part of these people toward the United States, to continue to pay the rate of interest which was incorporated in the treaties, which is 5 per cent.

The VICE-PRESIDENT. The Secretary will report the amendment of the Committee on Indian Affairs.

The SECRETARY. In line 9, after the word "trust fund," it is to strike out—

> Whenever he is of the opinion that the best interests of the Indians will be promoted by such deposits, in lieu of investments.

The question being put, there were on a division—ayes 22, no 1; no quorum voting.

Mr. DAVIS, of West Virginia. I presume it is given up.

The VICE-PRESIDENT. It is an amendment of the Committee on Indian Affairs.

Mr. HOWE. There is a quorum in the Chamber.

The VICE-PRESIDENT. No quorum has voted.

Mr. EDMUNDS. I ask the Chair to count the Senate and see if a quorum is here. That is the shortest way; it will save calling the roll.

The VICE-PRESIDENT. The Chair will count the Senate. [Counting.] There is a quorum present.

Mr. EDMUNDS. Then I give it up. I voted in the negative. Let the amendment be adopted.

The VICE-PRESIDENT. The amendment is adopted. The next amendment is that proposed by the Senator from Vermont, [Mr. EDMUNDS,] which will be read.

The SECRETARY. At the end of the bill it is proposed to add:

But nothing in this act shall authorize the infraction of the provisions of any treaty or agreement with any Indian tribe or band.

The amendment was agreed to.

The VICE-PRESIDENT. Are there further amendments?

Mr. BECK. I move to strike out "five" and insert "four" as the rate of interest.

Mr. DAVIS, of West Virginia. I agree with the Senator from Kentucky and more especially since the adoption of the amendment of the Senator from Vermont, which in fact excludes all treaty stipulations, so that the bill only refers to funds now in the Treasury or hereafter to be invested. Surely, then, there can be no objection on account of treaties stipulating differently. In other words the 4 per cent. will not in any way affect any treaty now in existence.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Kentucky.

Mr. ALLISON. I hope the amendment will not be agreed to. It seems to me that to fix the rate of 4 per cent. is cutting it rather fine for these Indians just at this moment. It is true that that is the rate at which the Government can now borrow money; but most of the treaties provide for 5 per cent. and some of them for not less than 5 per cent. Now to invest in Government bonds at the rate of 4 per cent. in all cases where there is no specific rate provided, it seems to me as hardly fair at this time.

Mr. DAVIS, of West Virginia. I suppose the Senator agrees that wherever the rate of interest is named by treaty or otherwise this amendment does not in any way affect it.

Mr. ALLISON. Of course, where a specific rate is provided, that governs.

Mr. MAXEY. Is there any trust fund held by the United States outside of a treaty?

Mr. ALLISON. None that I know of.

Mr. BECK. The naval pension fund of fourteen millions is an instance.

Mr. ALLISON. That is not held for Indian tribes.

Mr. MAXEY. I spoke of trust funds held for Indians, and asked if there were any such outside of treaty stipulations.

Mr. ALLISON. The naval pension fund I believe is held at 3 per cent. There are a number of treaties that provide for the rate of interest. Now, just at this moment it is proposed that we shall by law provide the lowest rate that the Government is obliged to pay. I confess for myself in the interest of the Indians I think it would be better for the Government to continue to pay the rate it is now paying. The Government is now paying at the rate of 5 per cent. where no other rate is stipulated, and I think that is a fair rate for the Indian tribes and for this Government for one year or taking a series of years. The committee believed that 5 per cent. was a reasonable rate; 4½ might possibly do; but to reduce these Indian trust funds now to the lowest possible rate of interest at which the Government can borrow money, it seems to me, is hardly fair to them.

Mr. BECK. Mr. President——

Mr. HARRIS. I desire to ask the Senator from Kentucky to modify his amendment as I suggest. After the word "at," in the twelfth line, insert:

Such rate as may be fixed by treaty, and where no rate has been fixed by treaty at 4 per cent. per annum.

So as to read:

And the United States shall pay interest at such rate as may be fixed by treaty, and where no rate has been fixed by treaty at the rate of 4 per cent. per annum.

Mr. BECK. I have no objection to that except that the amendment just adopted by the Senate, at the suggestion of the Senator from Vermont, provides precisely what the Senator from Tennessee desires to have inserted in the bill. Then with my proposition it means exactly what the Senator from Tennessee suggests, for we have just adopted an amendment saying that the provision we here make in regard to interest shall not in any way affect any provision which is regulated by treaty, so that we are only dealing with those cases that are not in any way connected with a treaty or provided for by one.

Mr. HARRIS. The Senator from Kentucky will allow me to say that if he is right in his construction as to the amendment just adopted proposed by the Senator from Vermont, then it is perfectly satisfactory to me; but I am not sure that the amendment of the Senator from Vermont, while it will certainly have the effect the Senator from Kentucky supposes it to have, may not go further. I am inclined to think it will also operate on the deposit of the fund itself. For instance, where the treaty requires the investment of the fund at a rate not to be lower than 5 per cent., the amendment we have adopted will so operate as to prevent the deposit of that fund in the Treasury at all, or it may be construed to require the Secretary of the Interior still to invest it in securities as best he may at a rate not below 5 per cent.

Mr. ALLISON. That would be the exact effect if we now adopt the amendment proposed by the Senator from Kentucky.

Mr. BECK. What will be the effect, if the Senator from Iowa pleases?

Mr. ALLISON. That all the 5 per cent. funds will not be touched by the bill.

Mr. BECK. That the 5 per cent. funds provided by treaty will not be affected by the bill. That is precisely what I propose. It is only as to those funds which the United States undertakes to take care of, where no person has any right to a given sum, that I suggest 4 per cent. I hope the Senator from Tennessee understands me as meaning to do just what he supposes the amendment of the Senator from Vermont effects in cases covered by treaty.

Mr. ALLISON. Will the Senator allow me to state a case?

Mr. BECK. Certainly.

Mr. ALLISON. I find here a treaty with the Kansas Indians which provides that a sum of $202,000 "shall be funded at 5 per cent., the interest of which shall be paid annually," &c. There is a requirement to fund the principal sum at 5 per cent. Of course that would allow it to be put in United States bonds, and when they were bought at par that would be the way they would be funded; but now, when those bonds are at a premium, it is impossible for the Government of the United States, without some additional law, to fund this sum at 5 per cent. They must pay a premium in order to do it. Now, under the bill as it is, without the amendment of the Senator from Kentucky, the Government complies with this treaty provision; it does fund the money at 5 per cent. and pays the interest; but under the amendment proposed by the Senator from Kentucky the Government, unless there is a further modification of the bill, would still be entitled to pay a premium in order to get 5 per cent. on this fund. Now, the question is whether that is fair and just to the Indian tribes? Every Senator will judge for himself.

Mr. CONKLING. I should like to ask the Senator from Kentucky a question. I understood him to say that wherever a treaty provision fairly construed requires the payment of 5 per cent., he thinks it right that the amendment of the Senator from Vermont should operate. In other words, he thinks it would be bad faith to apply a 4 per cent. provision to such cases.

Mr. BECK. That is right.

Mr. CONKLING. I agree with the Senator entirely, and upon that concession I found my question. What does the Senator from Kentucky say of the case of a treaty which fixes no rate of interest, but which requires the United States to invest at the best and most profitable rate? Speaking of such case, not for to-day, but as a permanent statute is intended to speak hereafter, does the Senator from Kentucky think it would be a fair execution of the trust to fix 4 per cent. interest to operate and be the measure of interest when the time comes that manifestly an investment for more than 4 per cent. could be made, and if he sees a distinction between the two cases what is the distinction?

Mr. BECK. In answer to that I would say that where we have undertaken to manage this trust fund, when we see that it is impossible to authorize any executive officer to loan it out so as to absolutely secure the principal as well as the interest, and when Congress believes that the true way to give absolute security to the principal, which is quite as valuable as to secure a fair interest, requires us to keep the fund in the Treasury, then at the time we pass the law it is now proposed to pass we ought to pay precisely the same interest to the Indians that we are willing to pay on our own bonds or to any person else from whom we borrow. Four per cent. is admitted to be that amount now. It may be 6 per cent. two years hence. If so I would then change it and give the Indians the same that I gave any person else. It may be 3 per cent., not 6. Congress being in session each year can so change the rate of interest allowed as to do justice to the Indian. I would put them precisely on the same footing that I would any other creditor of the Government, and pay them just the rate of interest the money is worth.

Mr. CONKLING. In other words, as I understand it, the Senator from Kentucky is compelled to maintain two propositions: first, that Congress shall, by legislation watching the money market, legislate from time to time so as to conform to the ebb and flow of money values. I think the argument of convenience, without going further, would be strong against that. But the Senator from Kentucky is compelled to maintain a very difficult position. Reducing the transaction to more familiar form, it is one between two individuals. One individual has become trustee for another, under a decree or covenant to keep the funds of the other invested to the best advantage. The trustee proposes, instead of executing his trust, to take the moneys to himself, to become himself the borrower, to fix the rate of interest himself which he will pay, and do it without consulting the other party.

I ask whether there is a forum of law or a forum of reason on earth in which such a transaction would stand investigation? The rule of law as to a trustee is "touch not, taste not, handle not, but observe absolutely the requirements of your trust." What are they? To keep invested from time to time and always at the best advantage funds with which the trustee has nothing whatever to do except scrupulously to act as the legal custodian. Is there any theory of trusteeship under which the trustee can determine for himself that he will become the borrower; that he will become one of the interested parties, that he by his own act will make himself a contractor, not with the consent of the other party, but upon his own volition, determining everything for himself and saying when complaint is made, "Why if at a future time I judge that I should pay more interest, then I will pay more interest; if at a future time it seems to me I should not pay so much interest, then I will not pay so much interest?"

The vice, as I conceive, in such a proposition is radical. You do not defend it by finding that on a particular day the trustee at that time is doing what he should do in fact as to rendering the amount to the other. You do not defend it in that way, because it is a violation of law, it is a violation of the covenant. The difficulty with it is ethical; it is wrong; and the circumstance that on a particular day an investigation might show that just at that time the trustee happened to be paying out of his own pocket and by his own volition as much as anybody else would pay is no answer.

Mr. President, I want to make one other remark about this bill. The Senator from West Virginia construes the bill as it now stands to mean that it shall take no effect upon treaty moneys, but that it shall operate only on moneys which find themselves or are found, without reference to this law, in the Treasury of the United States, and speaking of such cases it says that the interest paid on them shall be 5 per cent., or 4 per cent., or whatever rate shall be established. Assuming that to be the correct construction of the bill as it now stands, I submit to the Senate that the legislation is unworthy of the Senate in substance and in form, unworthy of the intelligence of the Senate; and lest I may seem to mean some offense, I will endeavor to explain exactly my meaning.

If the purpose of the Senate is to say that certain funds, and not others, shall be disposed of in a certain way, that should be the declaration. We should not say by the general phraseology of a bill that we mean all and all manner of moneys of this general kind, and then trust to a saving clause at the end to declare that we do not mean to violate treaties. We should not say it for two reasons. In the first place, it is a very unintelligible, and if I may so say, an inartificial mode of declaring the meaning of the law-making power. But it is objectionable for a practical and working reason. It commits to departmental officers, to the subordinate departmental officers who in point of fact attend to transactions of this sort, subject of course to the formal approval of their superiors—it commits to them the power, and the duty perhaps, of deciding which is which, among all these cases. Is that fair? Is it fair, first for the Congress of the United States *ex parte* to adjudge what shall be in respect of a transaction to which there is another party, and then to delegate by way of discretion to, we know not whom, whoever may be the subordinate officer in a particular instance who passes upon this, the right to say which is a fund to be covered and saved by the saving clause and which is a fund that would fall within the general scope of the bill? It seems to me not. If you are to assume, despite as I conceive of the right of the case, that the United States may properly exert the power, without consulting the Indians, of saying how much shall be paid upon this trust fund, then you should at least say it, and you should say it in some mode or by some rule of certainty, and you should not employ such general terms as commit to somebody else from time to time the power to determine which is a fund falling within one clause of the bill, a contradictory clause as I think, and which is a fund falling within the bill as the bill still remains as far as it does in spite of this contradictory saving clause.

So, then, I should submit to the Senator from Iowa, although I know another member of the committee reported the bill, as he for the present more especially has charge of it, that if the design is to place upon the statutes legislation to the effect ascribed to this by the Senator from West Virginia we should use apt and appropriate words to say that, and not use such ambiguous and as I think somewhat repugnant words as leave an open question, to be determined we do not know when nor with any certainty by whom.

Mr. BECK. Mr. President, I desire to premise what I have to say in answer to the Senator from New York by the statement that I am not at all responsible for the frame of the bill nor for its general provisions; but I am wholly unable to see how the vice of which the Senator from New York complains as to the fact that the trustee seeks to use the money himself and does not loan it out to other people, but himself undertakes to hold it and to pay interest on it, is cured by paying 5 per cent. interest when there is a vice in paying 4 per cent. or any other rate of interest. And that is a complete answer, I think, to the objection made, so far as the mere question of 4 or 5 per cent. is concerned.

The United States may be a trustee in these cases, perhaps is; but, as has been said by the Senator from Iowa, we all know that whenever an executive officer undertakes to lend out money he can lend it to whom he pleases, unless Congress puts a limitation on him. And if he loans out that fund to the State of Arkansas, to the State of Tennessee, or to any other State, or to a corporation in any State, and the money is lost, we are in good faith bound to make it good. Therefore safety to the Indian, safety to the United States acting as trustee, requires that the money should be held in the Treasury unless some absolute mode can be provided for securing safety otherwise. Congress does not provide any mode by which money can be loaned out with absolute safety to a State, an individual, a corporation, or anybody; and the mere question of what we shall pay comes down to this, what is it worth to us if we are obliged to keep it? We can get all the money we want at 4 per cent., and why should we pay more to these people with whom we have no treaty stipulations—for this only applies to those with whom we have no treaty stipulations—as to the rate and as to whom we are under no obligation except to take care of their interests faithfully, than the money is worth to us? If money is worth to us 6 per cent., we ought to pay that. If it is not worth but 3, we ought not to pay more than 3; but allowing treaty stipulations to hold, admitting that we hold the money as a trust fund, admitting that we cannot authorize an executive officer to loan it out to any State or corporation or individual, so as to secure the interest and principal in all time, occupying the relation of a superior power, dealing alike justly with all citizens, we ought to pay the same interest we pay anybody else. And if it is right in the next Congress to pay 5 or 6 per cent., we ought to pay it, or, if it falls to 3, pay that. We cannot loan it out, and our executive officers cannot be ordered to loan it out, and so, keeping the money, we should pay whatever its use is absolutely worth to the Government of the United States. That is all I say.

Mr. HEREFORD. I desire to say a word or two in reference to this question. It strikes me that there is no objection to the position of my colleague. The Senator from New York has said that a certain amendment to this bill is in violation of good faith, that such conduct as we propose, as indicated by this amendment, would not be tolerated by a chancellor in a trustee having the charge of funds. It seems to me that that position is not tenable. It strikes me that if a trustee before a court should make a report to the chancellor of his conduct, such as we propose to-day, it would be just, and why? The objection made and the ground assumed by the Senator from New York is that the trustee must do the very best he can for his *cestui que trust*. That is true; but no court would compel him to do that to the pecuniary injury of the trustee himself. Now, place a private individual just in the position of the United States in this case, for I take it that we are not to loan this money to any private individual or corporation, but that it is to be loaned by the Government to itself or invested in its own bonds. Now, if a private individual was in the same condition, and there should be an objection made to his investment of the fund by anybody, and the chancellor should be told "this trustee has notes out, some at 6, some at 5, and some at 4 per cent., and therefore he should invest it in the fives or sixes," the trustee would answer "that is true, but I am calling in my larger notes; I am calling in those notes of mine bearing 6 per cent. and 5 per cent.; I can get money at a less rate of interest now, and I am calling in the higher notes, and I propose in calling them in and lending this money out, to lend it at the lower rate of interest not to my disadvantage. I propose to do all I can, the best I can for the *cestui que trust*, but not to my own pecuniary injury; I can get money at 4 per cent., and I am calling in my higher-rate notes for that very purpose; therefore I propose to lend this money at the rate of interest that I can get it at from other parties."

Mr. CONKLING. Will the Senator allow me to interrupt him there for a moment?

Mr. HEREFORD. Certainly.

Mr. CONKLING. His answer would be a good one, it seems to me, but for a very broad distinction which he overlooks. He has accidentally before him now a case in which the trustee and the chancellor is the same person, and he assumes in his argument that, because that is true, the right of the other party is varied, and he says the trustee is not bound to do the best he can for his *cestui que trust* if that so doing injures him, whereas the Senator must perceive that the law and the right takes no note of the fact that the two persons happen to be the same. The United States as trustee in this case ought to do what another trustee should; that is, not to borrow the money itself, nor to decide for itself, but to do that which another trustee would be required to do. What is that? To loan to somebody else; to invest as other people do in the securities the appropriate vehicles of such investment. So the argument which the Senator makes use of, I submit to him, does not arise at all. A trustee has no right to say: "I will borrow this money myself, and, borrowing it, I will not pay any more than I should pay somebody else." The answer is, "You have no business to borrow it; loan it to somebody else and get from that somebody else as much as you can, and then the question does not arise how much you can afford to pay."

Mr. HEREFORD. But that is not the intent. No Senator proposes to lend this money, as I said before, to a private individual, or to an incorporated company. Even the Senator from New York does not propose that. We must take the case just as we find it. As was very properly said by the Senator from New York, in this case we find the chancellor and the trustee the same person, and we must take all the facts as we now find them before us. The Government is the chancellor in this case, and the Government is the trustee in this

case, and the trustee proposes to invest this money, not to lend it as I said to private individuals or corporations, but to invest it in the bonds of the chancellor, to invest it in the very best security that is known to our country. That is to say, if the trustee was a private individual it is conceded that his own notes would be the very best investment; but he says, "I am calling in these notes that are bearing a high rate of interest. I cannot afford to pay that high rate of interest any longer. I am calling them in, and I am now about to make a reinvestment of this fund. I do not propose to violate any contract or any treaty with the Indians, but I am proposing now to reinvest this very fund, or to invest a new fund if you please. Then what shall I do?" The trustee, if a private individual, would say, "Shall I bind myself to give a greater rate of interest in this case than I can get money from other parties at? No." No chancellor in the world would hold him to do that. The chancellor would say, I think, just as we are proposing to do now, "Invest the money in new securities, and if it is to be invested in your own notes invest it in your notes bearing the least rate of interest at which you can get money." No harm then is done to the *cestui que trust*. No harm in that case is done to the trustee. Nobody can complain. Nor has the *cestui que trust* in this case a right to ask of the trustee to lend out his particular money at a greater rate of interest than he can go into the market and borrow it for.

I am opposed to doing anything that would be bad faith to the Indians; I am in favor of keeping most sacred and inviolate every treaty that we have made with them until it may be changed by a new treaty with them; but in this case, as the conservators, as the protectors of the interests of the whole people of this country, we must deal fairly with the people and with the *cestui que trusts*, and I think if a report had been made to a chancellor stating these facts and such an objection should be made as is made to-day by the Senator from New York, the chancellor would say, "The trustee has acted in good faith with the *cestui que trust;* he has made no profit to himself or to any other person; his investment is secure at a rate of interest which is current throughout the land."

Mr. EATON. Mr. President, I think there is a weak point in the armor of my distinguished friend from New York. He forgets that the United States Government, if you call it a trustee, is not amenable to any of the rules, and cannot be made amenable to any of the rules which govern ordinary trustees, and for this reason: I will suppose that a half million dollars was invested by the United States Government in certain bonds, either of the State of New York or the State of Connecticut or the State of Tennessee, and five years hence those bonds should turn out to be worthless; the United States Government would still continue to pay the Indians all the interest that was due them upon those bonds, when the United States would not if in the position of an ordinary trustee, for where the statutes of the States provide that the investments may be made in the bonds of the city of New York or the city of Hartford, or of the State of New York or of the State of Connecticut, if then the bonds should turn out to be worthless, the trustee would not be liable. He has done his full duty in the matter. Now this, if I am right, is an answer to the argument which has been made, and I say that the very best investment that possibly can be made to-day is in the 4 per cent. bonds of the United States. The next best investment is in the British consol which yields but 3 per cent.; and if the United States is to go outside of its own limits in order to invest trust funds, let it invest them in English consols rather than in the bonds of some corporation or State, of which I will not now speak. My own conviction is that the United States 4 per cent. bond is the very best investment. It is better than the 5 per cent. of the United States to-day. We are now speaking of a bond to invest in, not assuming that we will pay 5 or 6 or 7 per cent., but if you have to buy a United States bond, in my judgment the 4 per cent. is the best. Shall we take half a million of the money of an Indian tribe and invest it in a 6 per cent. bond that is worth to-day 120 or 125 or 130, and pay the accruing interest to the Indians, or shall we take the 4 per cent. bond of the United States? In calling that the best investment, I believe that I am entirely right. I do not say that 4 is as much as 5, or that 4 is as much as 6, but I say if the bond is to be purchased with the Indians' money the interest payable on that bond at 4 per cent. is the best investment that can be made.

Mr. CONKLING. Mr. President, I am so rarely able to get advantage of the honorable Senator from Connecticut in an argument that when I have one now I want to be sure to claim it.

The honorable Senator said there was a weak spot in my armor. I did not know which one of the many weak spots he was going to refer to.

Mr. EATON. I saw but one.

Mr. CONKLING. The Senator says in his charity he saw but one. I think I see a weak spot in his argument. It is that an investment in 4 per cent. bonds is the best investment, especially that it is better than an investment in 6 per cent. bonds, because the 6 per cent. bond costs the most. I take issue with the arithmetic of the honorable Senator from Connecticut, and I affirm in the presence of men skilled, as the honorable Senator is, in financial problems, that it makes no difference whatever to an Indian or a white man who owns money whether you invest it at this moment in a 6 per cent. bond or in a 4 per cent bond. Why? Because in the case of the 6 per cent. bond you are compelled to pay a premium, which premium would exactly represent and be compensated by the additional interest but for one fact, which is that the 6 per cent. bond is payable sooner than the 4 per cent. bond, and when it comes to be paid its holder receives only its par value. Taking, then, these two elements of calculation, these two increments of value and loss into the account, the man who takes a given sum of money and invests it in a 6 per cent. bond receives to-day exactly 4 per cent., and the man who invests in a 4 per cent. bond receives exactly 4 per cent. So that it makes no difference either one way or the other in the estimation of a hair, in the minutest fraction, whether you invest one way or invest the other.

Mr. President, I think I am right in that argument. I think the Senator from Connecticut will agree with me on reflection; but if he were right, I submit it would give no support to this bill. If it be true that under the law as it stands the best investment to be made for the Indians is a 4 per cent. United States bond or a 6 per cent. United States bond; then all the authority needed resides now in the custodian of these funds. Therefore you want no legislation.

The honorable Senator made use of one illustration in his argument to which I wish to refer. He said, suppose the investment were in a bond of the State of Connecticut or the State of Tennessee or the State of New York, and those bonds should turn out to be worthless. I object to such a supposition, and I object to it in the case of New York, because not only have her bonds never turned out to be worthless, but when specie payments were suspended and the legal-tender act was passed, the State of New York paid not only interest on her bonds but paid it in gold, and did it by the recommendation of a democratic governor who made the same recommendation as, I think, would have been made by the honorable Senator from Connecticut, knowing him as I do and knowing the strictness with which in his public and private action he always conforms to right. I am glad that he reminded me of this circumstance, because it enables me to object, as I do, to any one suggesting that the bonds of the State of New York could ever be the basis for such a suspicion.

Mr. EATON. My friend thinks he has found a weak point in my argument. Now, I beg to say to him that the best financiers in the country to-day, the people who have in their hands the management of trust funds, to wit, the savings-banks of the country, have been investing immensely within the last three months in 4 per cent. bonds, and they regard them as worth ½ per cent. more than the 6 per cent. bonds. My friend says that all are 4 per cent. bonds. I do not mean to say that he used that language, but I use it for him, because he says that each bond will be reduced to the same value practically on account of the effect of the shortness of the time the 5 and 6 per cent. bonds have to run. As a matter of ordinary financial calculation he is unquestionably right, but as a matter of business transaction he is wrong, because men do not go into this minute figuring with regard to where the point would be where the 4 and the 5 and the 6 percents agreed; and therefore it is that I say that the best financiers that I know of in New England are to-day taking the 4 per cent. bonds as the best investment for the savings of the poor.

Mr. CONKLING. Only because they can get no other safe investment.

Mr. EATON. No matter what the cause, it comes back to my assertion that the best interest the Indian can have to-day is the 4 per cent. bond, because it has the longest term to run.

Mr. PADDOCK. I should like to ask the Senator from Connecticut if he thinks he can satisfy the Indian that it is the best security for him to have when the treaty obligation with him is that he shall have 5 per cent. or 6 per cent.?

Mr. EATON. My friend would not misrepresent me?

Mr. PADDOCK. No, sir.

Mr. EATON. I have not asserted that any agreement, any stipulation, any contract that the United States has entered into with any branch of these people should be violated. Very far from it. If we have agreed to pay them 10 per cent., let us pay it. If we have agreed to pay a dollar to the bondholder who has given but forty-seven cents on the dollar for his bond, let us pay him one hundred cents on the dollar, because we have agreed to do it.

Mr. BECK. We have already amended the bill to do that.

Mr. EATON. But the Indian is our ward. Let us do justice by him. Let us give him all that belongs to him and no more, and the best investment he can have is the 4 per cent. bond of the United States.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) The question is on the amendment offered by the Senator from Kentucky, [Mr. BECK.]

Mr. PADDOCK. Let the amendment be reported.

Mr. WINDOM. There seems to be but little probability of finishing this bill this afternoon.

Mr. ALLISON. It can be finished in five minutes.

Mr. WINDOM. I think the Senate would like to act on the naval appropriation bill. Unless the pending bill can be voted upon at once, I shall ask the Senate to take up the naval appropriation bill.

Mr. ALLISON. We can vote on this in a few minutes.

Mr. ANTHONY. If this debate is to go on, I shall insist that it proceed under the rule, and that each Senator shall speak but "once, and for five minutes only."

The PRESIDING OFFICER. The Chair understands that the debate is proceeding by unanimous consent. It is within the power of

a Senator at any time to stop the debate by asking that the rule be enforced.

Mr. WINDOM. If this bill is to be debated further, I shall ask to lay it aside and take up the naval appropriation bill.

Mr. ALLISON. Will the Senator from Minnesota allow me to say about five words on the pending question?

Mr. WINDOM. Certainly.

Mr. DAVIS, of West Virginia. The pending question is whether 4 per cent. should be inserted in lieu of 5 per cent., I understand.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Kentucky, [Mr. BECK,] proposing to insert "4 per cent." instead of "5 per cent."

Mr. DAVIS, of West Virginia. I have a word to say upon that question before the subject passes from the consideration of the Senate.

Mr. ALLISON. After hearing all that has been said upon this subject, desiring to do justice as fully as I can with reference to these trust funds, and seeing the current of sentiment rather favoring a lower rate of interest than 5 per cent. in cases where there are no treaty stipulations, I believe if the Senator from Kentucky will compromise with me I will compromise with him, and propose 4½ per cent. as the rate of interest.

Mr. BECK. I will withdraw my amendment if that is done, because that is about the average rate.

Mr. ALLISON. We should then pay at the rate of 4½ per cent. upon such funds as are now in the custody of the United States having no specific rate provided for by treaty.

The PRESIDING OFFICER. Does the Chair understand the Senator from Kentucky to withdraw his amendment?

Mr. BECK. I do.

The PRESIDING OFFICER. The amendment is withdrawn, and the Senator from Iowa moves to amend the bill by substituting "4½ per cent." for "5 per cent."

Mr. ALLISON. If that is generally accepted, I want to perfect the bill in accordance with it, because I wish to say that it will be found that in nearly every instance we have provided for 5 per cent. by treaty.

Mr. PADDOCK. I should like to inquire of the Senator from Iowa if the general understanding of the Indians in respect of the funds, where there is no stipulation, is not that in the absence of a stipulation there shall be paid so much as 5 per cent. interest? If we pay less, will it not lead to a misunderstanding? Will it not convey the impression to the Indians in such cases that there is a disposition on the part of the Government to take from them that to which they are entitled under regulations heretofore established? There is the danger in all this business. It is not important to haggle about a half per cent. interest here to be paid to the Indians. The question is whether you are to satisfy them, whether you are to keep them quiet, or whether you are to give to them an incentive to outbreak and the destruction of life and property.

Mr. ALLISON. There are but very few treaties where the rate of interest is not prescribed, and in such cases if the fund is placed in the Treasury of the United States and 4½ per cent. paid regularly, which is ½ per cent. higher than the United States is generally compelled to pay, I think that we do reasonable justice to the Indians.

Mr. HOAR. I should like to ask the chairman of the committee which reported this bill whether his understanding of it is that it is a mere present regulation in so far as it applies to funds which are not at present the subject of treaty stipulation, or whether it is a perpetual promise by the United States? That is a question which will arise hereafter; and it seems to me very desirable that in our dealing with such matters we should not leave for the future debatable questions as to whether the country is bound in honor. Ought not this provision that the United States shall pay interest, &c., to be made either to signify an absolute promise in regard to all these funds now put into the Treasury, if that is what the Indians are to have, or simply a statute regulation, if that is all we are going to enact?

Mr. ALLISON. I will say in response to the Senator from Massachusetts that when this bill was originally reported by the Committee on Indian Affairs it was intended as a present regulation. The Secretary of the Interior found the Department in this condition: he found a treaty requiring the investment of funds bearing 5 per cent. interest, and he also found that in order to make such an investment it was necessary to pay a premium on the bonds purchased. The Secretary of the Interior believed that it was hardly within the spirit of these treaties to be compelled to pay a premium of 9 or 10 per cent., as these bonds were then bearing a premium of 9 or 10 per cent., in order to comply with a stipulation which required a semi-annual interest at the rate of 5 per cent. a year. Therefore he asked the Congress of the United States to permit him, instead of going into the market and buying 5 per cent. bonds at a premium, to put that money in the Treasury and allow it to be used as other moneys are used in the Treasury, and pay the Indians what we had agreed to pay them, namely, 5 per cent. semi-annually. It turns out in an examination of the treaties that there are some treaties which provide no specific rate, and Senators say that 5 per cent. is too high a rate to pay upon funds where no specific rate is prescribed in the treaty. Therefore a proposition has been made to pay 4 per cent. It seems to me that if we pay 4½ per cent. in such cases we fairly comply for the present with our treaty obligations.

There is great force in what the Senator from Massachusetts says, that if we put this now in the form of a statute without some notice to the Indian tribes that it is temporary and may be changed hereafter, it will be regarded in the nature of an obligation binding upon the Government for all time. Therefore it seems to me that it ought to be stated, that this is not intended as a permanent provision; that it is intended as a provision of law regulating the investment of funds by the Secretary of the Interior, rather than a stipulation which shall be binding in all future time between the United States and the Indian tribes with whom the United States may be dealing. The object of this bill is merely to regulate funds which are now in the custody of the Secretary of the Interior, and it is not intended to be permanent.

Mr. HOAR. If the bill goes over, I suggest to the chairman of the committee that he put in some words when it comes up again making that clear. If he does not mean to say that the United States engage to pay by this language, then let him express a reserved right to change the provision in regard to these funds where the Indians have no existing obligation.

Mr. ALLISON. I ask the Senator from Massachusetts if he regards the language as now employed to be a binding obligation, or as fairly construable to be a binding obligation, on the part of the Government to pay for all time the rate of interest fixed by the bill?

Mr. HOAR. I regard it as extremely ambiguous. As it is now, it strikes me that the language is ambiguous, and it might well be claimed that it made a perpetual engagement of the public faith.

Mr. BLAINE. To pay 5 per cent.?

Mr. HOAR. Yes, if that is to be the rate of interest.

Mr. BLAINE. The question may have been answered before, as I have not attended to the debate as I ought to have done, but was not the provision to pay 5 per cent. put in at a time when the Government was paying that as its lowest rate? Was it not the underlying suggestion of the original enactment, that the interest should be fixed at the lowest rate the Government was then paying?

Mr. ALLISON. That was one underlying suggestion.

Mr. BLAINE. Was it not the main one? Was it not legislating in perfect good faith to give that fund the benefit of the lowest rate of interest the Government was paying, and so if we establish now the rate the Government is paying?

Mr. ALLISON. Five per cent?

Mr. BLAINE. Four per cent.

Mr. ALLISON. Oh, no. The object of the bill is to enable these Indian tribes to receive 5 per cent., the treaty stipulation rate, without the Government being compelled to pay a premium for it. That was the object of the legislation originally. Now it turns out that some of the treaties do not fix a rate, and therefore it is thought best to provide for those tribes, and so a rate of 4 per cent. has been suggested.

Mr. BLAINE. I think that is enough. That is what any wise guardian would do for his ward to-day.

Mr. ALLISON. Invest the fund in 4 per cent. bonds?

Mr. BLAINE. Yes; if you want something that can be found when you go after it; if you want something you do not have to watch for.

Mr. ALLISON. It may be that that is fair, but we are paying now 5 per cent. upon every obligation we are under to the Indians.

Mr. BLAINE. Then the United States is simply giving 1 per cent. gratuity, for the simple reason that any money the United States owes to-day it is able to pay in cash by selling its 4 per cent. bonds at par, and therefore whatever it gives beyond that is a gratuity, not an obligation.

Mr. ALLISON. That is a fair question for every Senator to settle according to his own conscience and judgment of what is right and proper. The stipulation was made in some of these treaties when 5 per cent. was the lowest rate at which the Government could obtain money.

Mr. BLAINE. That was the lowest rate at that time the United States was able to obtain money for. Some of the stipulations were made when we had to pay as high as 7.3 per cent.

Mr. ALLISON. Some of the treaties were made when we could have borrowed money at 3½ per cent. where we stipulated to pay 5 per cent.

Mr. BLAINE. I do not know when that period was. On long time?

Mr. ALLISON. I think so.

Mr. BLAINE. When was that interesting period in our history?

Mr. ALLISON. I only know that we paid a large premium for 4 per cent. bonds in order to pay off our debts at one time in our history.

Mr. BLAINE. When?

Mr. ALLISON. In 1828–'29–'30, or 1831–'32—along there.

Mr. BLAINE. I do not think there ever was a 4 per cent. bond of the United States issued and capitalized in that way.

Mr. ALLISON. Perhaps those were bonds bearing 4½ per cent. interest.

Mr. BLAINE. Or 5 per cent.

Mr. ALLISON. We paid 30 per cent. premium for some of them at that time, so that we could obtain money for 3½ per cent. I am perfectly certain that we can borrow money to-day at 3½ per cent. by making the time longer. A great many considerations enter into what we ought to do when we are dealing with the Indian tribes in such a matter as this.

Mr. BLAINE. I think the large premium to which the Senator refers

was that paid on the Mexican war loan under the administration of Mr. Guthrie in the Treasury Department. The war loan of 1812, I think, was never negotiated below 6 per cent.

Mr. ALLISON. I am not speaking of the negotiation of a loan, but I am speaking of outstanding bonds.

Mr. BLAINE. That rate never was paid in borrowing.

Mr. DAVIS, of West Virginia. In addition to what the Senator from Maine has so well said as to the rate of interest paid when these treaties were made, I call the attention of the Senator from Iowa to the fact that 5 per cent. was the lowest the Government had ever paid most probably up to that time; and certainly it was lower than the average of the Government loans at the time these treaties were made. But in addition to that, the Senator from Connecticut and the Senator from Kentucky have both said that 4 per cent. is a fair rate. I think so. Why? I think it is a better investment at that rate in Government bonds to-day than any business investment at 6 per cent.; and that is proven. Every day from one to ten millions or from one to twenty millions (I believe it has been as high as $20,000,000 in some cases) of United States bonds are being taken at 4 per cent., and why? They are exempt from taxation; and that exemption makes them equivalent to more than 6 per cent. ordinarily. In the city of New York probably such an investment at 3 per cent. would be equivalent to 6 per cent.; and so to-day an investment at 4 per cent. in Government bonds in New York and other places is better than an ordinary business operation at 7 per cent. or 6 per cent.

Mr. McMILLAN. Will the Senator from West Virginia allow me to ask him a question?

Mr. DAVIS, of West Virginia. Certainly.

Mr. McMILLAN. Would the exemption from taxation affect these Indian funds at all, beneficially or otherwise?

Mr. DAVIS, of West Virginia. Certainly.

Mr. McMILLAN. Would the Indians receive any benefit from that?

Mr. DAVIS, of West Virginia. Certainly. If the Indian fund was invested in any other stocks; if it was invested in bank stocks, or if the Senator should borrow it, or if it were invested in any other way, it would most surely have to pay taxes. Who would have to pay them? They would have to come out of the income. Certainly it would affect the Indian investment. Although my friend on the left [Mr. BECK] has accepted 4½ per cent., I believe now that 4 per cent. would be the proper rate, because we are to look to the time, as the Senator from Iowa has just said, when the rate at which the United States can borrow money will be 3½ per cent. or perhaps 3, and it will be a more permanent investment and be better for all concerned from the fact, as the Senator from Maine has so well said, that at the time the treaties we are now acting under were made the rate fixed was lower than the Government borrowed money for. The Government paid 6 per cent. on an average then; and for that reason the precedent was set at that time that we should pay the lowest rate of interest that the Government was paying, and being exempt from taxation it was a proper and a fair rate of interest. So the people of the country every day are subscribing largely to the Government loan at 4 per cent., and doing that in preference to investing the money in securities at home.

Mr. CONKLING. Mr. President, if the Senator from West Virginia has before him a treaty justifying his argument, there is no doubt about his conclusion. If he has a treaty binding the United States to pay the Indians at least the lowest rate of interest from time to time, then he has the premise on which he argues.

Mr. DAVIS, of West Virginia. The Senator from New York, I know, will allow me a word.

Mr. CONKLING. Certainly.

Mr. DAVIS, of West Virginia. I said that when treaties cited here to-day were made the rate fixed by them was lower than the average rate of the Government loan. I made no statement such as the Senator now has made.

Mr. CONKLING. I shall not deal with that assertion, because I think it has nothing in the world to do with the question before us. If I have made a contract with the honorable Senator from West Virginia to pay him 5 per cent. interest, the reasons which moved me to make that contract have nothing to do with the question, when the question is whether I am to fulfill it or no. The reason may be that I thought it a better contract than I could make with somebody else. The reason may be that I had such a regard for the honorable Senator from West Virginia that I preferred to make the contract with him, even upon terms not quite so good, than to make it with some less reliable man. But all that has nothing in the world, I repeat, to do with my obligation, when he comes to call upon me for a fulfillment of that contract.

The case before us is that of having made a contract, a solemn contract, known as a treaty, by which contract we agreed to do a certain thing. What was it? To pay from time to time in the future at least the lowest rate of interest then ruling? Not at all. It was to pay so many dollars and so many cents, and to pay it absolutely, not conditioned upon the ups or downs of future advantage. What door is open then to go back and consider why we did this, and whether we might have done something else, and whether at some other time we would have done that. Mr. President, it is the first step that costs. Open the door for that argument, and you can prove a case for repudiation whenever interest or motive demands repudiation.

I heard the honorable Senator from Texas [Mr. MAXEY] saying something a few moments ago of this being a contract with a weak and defenseless party on the other side. I was glad to hear him say it, glad to have the Senate reminded that we ought not to take advantage of the power, of the impunity, growing out of the fact that instead of dealing with one of the great treaty-making powers of the globe we are dealing with the remnants of broken and scattered Indian tribes. I say that so far from lowering the standard and resorting to arguments of profit and loss to evade an agreement, we ought to see to it that even more certainly, even more conscientiously than in another case, we shall fall short in nothing of the honest requirement of our obligation. We agreed to pay 5 per cent. The Senator from West Virginia says that was a low interest at that time. Grant it; and, if he should say it was a high interest at that time, grant it.

My purpose was to try to attract the attention of the Senate to the fact, if it be a fact, that the point in judgment here is not what we would like to do now, not what we wish had been done at another time, not what the reasons were which made past action wise or otherwise——

Mr. MERRIMON. May I ask the Senator from New York for information, whether there was an express rate of interest stipulated for in the treaty?

Mr. CONKLING. Yes, sir.

Mr. DAVIS, of West Virginia. Does not the Senator know——

Mr. CONKLING. Not in some of them, if the Senator from West Virginia will pardon me one moment, and I hear a Senator say "not in some of them," in all of them not. I am talking of those treaties, of which there are a number which, in so many words, guarantee 5 per cent. interest.

Mr. MERRIMON. It seems to me, then, we are bound to pay it.

Mr. BLAINE. Nobody differs on that question.

Mr. DAVIS, of West Virginia. Will the Senator from New York allow me to remark that he misunderstood me to say that I would disturb the treaties now in existence? Whatever I said referred to moneys to be put in the Treasury hereafter or that may be there uninvested now, not to the treaties which stipulate a fixed rate of interest; because, as the Senator understands, the Senator from Vermont has already offered an amendment which provides expressly that the bill shall not affect the present treaties.

Mr. CONKLING. Will the Senator tell me, then, why it was that he so urgently referred to the fact, and repeated it, that when 5 per cent. was fixed as the amount it was lower than the rate of interest which then prevailed?

Mr. DAVIS, of West Virginia. Certainly I will.

Mr. CONKLING. And that therefore we might proceed to make it the lowest rate now?

Mr. DAVIS, of West Virginia. Oh, yes, I will tell the Senator.

Mr. CONKLING. Why was it?

Mr. DAVIS, of West Virginia. The object was to show that at that time the law-making power selected the lowest rate of interest that was then in existence to base these treaties upon; and therefore the conclusion would be with us, now that we are doing the same thing in making a new treaty, that we should follow the precedent that was then established.

Mr. CONKLING. That was the argument then, Mr. President; that because in past times in making treaties they fixed the lowest rate of interest, therefore, if we were going to make a treaty now, it would be wise to do that. I agree to that. I did not know there was any such question before the Senate. I did not know that we were making Indian treaties here now. On the contrary I thought that we were acting upon a bill which proposed to deal with Indian treaties already made, and only with such Indian treaties. If there is really the *projét* of a new Indian treaty before us, then I have been slumbering so much that I did not understand that. Surely in common with other Senators I understood the argument to be that because originally when the rate of interest was fixed that rate was the lowest, or below the lowest current rate of interest, *ergo* it would be a performance of the spirit of that contract if we now paid the rate of interest at the lowest current at present. If that was not the argument, then I greatly misapprehended it; and I find that I am not alone in the misapprehension under which I was laboring. When the Senator returns to the suggestion he made once before, that the bill is to operate only upon moneys which shall in the future come into our hands, subject to engagements which do not exist now, then I have only to say, as I said before, that the bill for such a purpose and with such an interpretation, instead of being what it should be, is, it seems to me, a very roundabout, a very evasive, and a very unintelligible way of expressing such a meaning.

Mr. WINDOM. I move to lay aside the present and all prior orders and to take up the naval appropriation bill.

Mr. DAVIS, of West Virginia. I hope the Senator from Minnesota will allow me a word before he does that.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from West Virginia?

Mr. WINDOM. For a moment.

Mr. DAVIS, of West Virginia. The Senator from New York certainly shot very wide of the mark when he said that I alluded to treaties already made. Many Senators sitting around me who listened to me did not think I said any such thing. The Senator from New

York was far from the mark when he supposed that I had any allusion whatever to treaties already in existence, and his misapprehension may be accounted for from the fact that I think the Senator from New York is usually engaged at something else when a Senator is speaking. Therefore I am not surprised that he did not catch just exactly what I meant. I may have put it unintelligibly to the Senate, but certainly the Senator could not have listened to me or he would not have made his argument if he had, for it is on a different line from what I said altogether.

The Senator from New York said something about repudiation. I do not see what this question has to do with repudiation. I am unable to see what it has to do with it in the most remote degree. Nobody has intimated such a thing here as that we intended to get rid of an agreement, but on the contrary it has been said that all agreements ought to be carried out faithfully. The bill relates to moneys now in the Treasury that must find an investment or moneys that hereafter must find an investment.

The Senator from New York spoke of my referring to an Indian treaty now before us. The Senator knew that I know better than that, and that there is no Indian treaty before us at this moment. Every Senator in the Senate knew that there was no such treaty before us.

Mr. CONKLING. I hope the Senator did not understand me to impute to him a belief that there was an Indian treaty before the Senate.

Mr. DAVIS, of West Virginia. The Senator said as much as though I believed it.

Mr. CONKLING. Oh, no; the Senator from West Virginia is quite wrong.

Mr. DAVIS, of West Virginia. What did the Senator say?

Mr. CONKLING. He is almost as wrong as he thinks I am. I said if we had an Indian treaty, or the *projet* I believe was my expression, of an Indian treaty before us now, then I could understand the force of the argument, but as we had not I could not understand it. That is what I said.

Mr. DAVIS, of West Virginia. Well, that is just about the same thing, and the Senator has not got a great way from saying it now; he reasserts merely what he said before. However, it is hardly worth while to pursue the matter further. But I repeat that I believe 4 per cent. is a proper rate of interest, and I believe it is more than equivalent to 6 per cent. interest in ordinary business transactions; that is, the Government interest of 4 per cent. is better than ordinary business transactions at 6 or at 7 per cent., which is the legal interest, I believe, in New York; and to-day the people of New York are investing largely in Government bonds at 4 per cent. instead of loaning their money at home on the very best security at 7 per cent. That is the argument I attempted to advance, and if the Senator from New York had been listening to me he would have seen what I meant, and he would have known whether or not I said what he imputes to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Minnesota insist on his motion?

Mr. WINDOM. I now submit my motion that the Senate proceed to the consideration of the naval appropriation bill.

The PRESIDING OFFICER. It is moved that the present bill be discontinued, for the purpose of taking up the naval appropriation bill.

Mr. ANTHONY. I do not object to the motion of the Senator from Minnesota, but I give notice that when the Calendar is taken up again under the rule I shall ask the Chair to enforce the rule. The bill has not been discussed under the rule at all to-day. The rule requires that "each Senator shall be entitled to speak once, and for five minutes only." Many of the Senators have spoken ten or fifteen minutes at a time.

The PRESIDING OFFICER. The rule provides for further discussion by unanimous consent, and the Chair considered that the debate was so progressing, and consequently he did not call attention to the rule. It is in the power of a Senator at any time to have the rule enforced by calling attention to it and asking that it be enforced.

Mr. ANTHONY. I shall interpose objection to such a debate at another time.

Mr. HOAR. I wish to inquire if the motion of the Senator from Minnesota is necessary, and if the order does not terminate after the expiration of half an hour on the objection of any Senator under the rule itself?

The PRESIDING OFFICER. That is the construction of the Chair.

Mr. ALLISON. It is not necessary, I submit, for the Senator from Minnesota to make his motion.

Mr. EDMUNDS. He has made it, and it is in order.

Mr. ALLISON. I know, but of course the bill will come up regularly to-morrow when the Calendar is reached again.

The PRESIDING OFFICER. It will come up on the call of the Calendar.

Mr. EDMUNDS. I do not know anything about that.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota to lay aside the present and all prior orders and proceed to the consideration of the naval appropriation bill.

The motion was agreed to.

Mr. BLAINE. That lays aside the patent bill.

Mr. WADLEIGH. Informally, as I understand.

Mr. EDMUNDS. No; it does not lay aside anything informally. It postpones all prior orders.

Mr. WADLEIGH. Is that the object of the Senator from Minnesota?

Mr. HOAR. Of course that is the effect of it.

Mr. WINDOM. My object is simply to get up the naval appropriation bill. I do not desire to postpone the Senator's patent bill at all except for that one purpose.

The PRESIDING OFFICER. The Chair would rule that the effect of the motion is to postpone that bill.

Mr. EDMUNDS. Certainly, but the Senator from New Hampshire can move to take it up to-morrow.

Mr. HOAR. I understood the Chair to sustain what I intended as a point of order on the motion.

The PRESIDING OFFICER. The Chair sustained the point of order that one objection would cause the consideration of the Indian trust fund bill to go over; but that fact, in the opinion of the Chair, does not make the motion of the Senator from Minnesota out of order.

Mr. HOAR. My point was that the rule adopted on motion of the Senator from Rhode Island [Mr. ANTHONY] directs the Senate to proceed with that order of business for the half hour after one o'clock, and after that time that order of business terminates on the objection of any Senator, and a motion to lay it aside is not in order. That is my point.

Mr. ANTHONY. Then the patent bill goes over.

Mr. HOAR. That would be laid aside informally. My point is that the motion of the Senator from Minnesota is not necessary.

Mr. WINDOM. I have no choice, so that the naval appropriation bill be taken up.

Mr. EDMUNDS. The Senate has voted, and the motion has been agreed to. The naval appropriation bill is before the Senate.

Mr. HOAR. I understood the Chair to sustain my point of order.

Mr. EDMUNDS. Oh, no, the Chair only said it was a good point, but that the Senator from Minnesota had a right to make the motion. Let us hear the bill read, Mr. President.

Mr. WINDOM. In the discussion on the patent bill yesterday I said that I would not attempt to postpone it to-day, and as it seems to be the understanding that the motion which I made for another purpose has that effect, if I may have the consent of the Senate, I ask that the vote on my motion be reconsidered.

Mr. EDMUNDS. The Senate can take up the patent bill to-morrow. Let us hear the naval bill read.

Mr. WINDOM. I move to reconsider the vote just taken, and I will then ask consent of the Senate to take up the naval appropriation bill.

Mr. EDMUNDS. I do not object to that.

The PRESIDING OFFICER. Does the Chair understand the motion of the Senator from Minnesota to be to reconsider the vote by which the naval appropriation bill was taken up?

Mr. WINDOM. Yes, because I feel in good faith bound to do that on the statement I made yesterday.

The PRESIDING OFFICER. The question is on the reconsideration of the motion by which the naval appropriation bill was taken up.

Mr. EDMUNDS. On that I should like to hear the naval bill read, to see whether we ought to reconsider the vote, if the Senate wants to pass it.

Mr. HOAR. I trust the Senator from Vermont will not insist on holding the Senate to that vote. The motion was put under a total misapprehension. I understood that the Chair sustained my point of order.

Mr. EDMUNDS. It was not put under a total misapprehension, so far as I am concerned.

Mr. WADLEIGH. I hope my friend, the Senator from Vermont, will not insist upon the Senate doing what the Senator from Minnesota says would be a breach of good faith on his part.

Mr. EDMUNDS. Oh, no, I will not insist on anything; I am too yielding for that. I am willing to reconsider every vote that the Senate has taken this session, so far as I can remember.

The PRESIDING OFFICER. Does the Senator from Vermont insist on the reading of the naval appropriation bill?

Mr. EDMUNDS. Oh, no.

Mr. CONKLING. May I make an inquiry? Is not a motion in order now to reconsider the vote by which the patent bill was postponed?

The PRESIDING OFFICER. The motion has been made to reconsider the vote by which the naval appropriation bill was taken up. The Chair considers the proper motion to be to reconsider the vote by which the further consideration of the patent bill was laid aside and the naval appropriation bill taken up.

Mr. CONKLING. Now the Senator from New Hampshire can make the motion to reconsider because there was no division on the vote; anybody can make it; and I feel bound for one to say that although I do not know that I had an active part in this postponement, the Senator from New Hampshire had a right to suppose that to-day without anybody's objection he would be allowed to go on with the patent bill; and therefore, unless there be something about this that I do

not understand, it seems to me we ought to reconsider this motion by general consent and let him proceed with the patent bill.

The PRESIDING OFFICER. The Chair understands such to be the purpose of the Senator from Minnesota in making his motion. The question is on the motion of the Senator from Minnesota.

Mr. WINDOM. I submitted the motion to reconsider, not to proceed with the patent bill, but to let it go over informally, because I feared it might be construed as not quite coming up to the understanding yesterday.

Mr. EDMUNDS. There is no objection to a reconsideration of the vote, and that will put the patent bill back where it was.

Mr. WINDOM. If the motion to reconsider is carried I shall ask that the present and all prior orders be laid aside informally for the purpose of taking up the naval appropriation bill.

Mr. EDMUNDS. Let us know now what is the pending question, Mr. President.

The PRESIDING OFFICER. The pending question is the motion to reconsider the vote by which the naval appropriation bill was taken up; and that vote having been reconsidered, the question will be whether the Senate will take up that bill.

Mr. EDMUNDS. What is the business before the Senate preceding this present order? What is the prior order before the Senate?

The PRESIDING OFFICER. The continuing order of the Senate, as the Chair understands, is the consideration of the patent bill. The bill proposing to invest the Indian trust funds was taken up after the morning hour by virtue of the resolution submitted by the Senator from Rhode Island. That bill was liable to go over at any time after the half hour should have expired, upon an objection, leaving as the business before the Senate the patent bill.

Mr. EDMUNDS. Then, if I understand the Chair, the patent bill being before the Senate, the motion of the Senator from Minnesota is to lay that order aside informally to take up the naval appropriation bill.

Mr. WINDOM. That is the question.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota to reconsider the vote by which the Senate agreed to take up the naval appropriation bill.

The motion to reconsider was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 613) subjecting the Fort Wayne military reservation in the State of Arkansas to entry as other public lands in said State.

The message further announced that the House had passed the following bills:

A bill (S. No. 1297) for the protection of dairymen and to prevent deception in sales of butter and cheese in the District of Columbia; and

A bill (S. No. 1374) authorizing the chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1880; and

A bill (S. No. 109) defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

PETITION.

Mr. MITCHELL. I present the petition of Alexander R. Shepherd, praying an appropriation for the payment of the rent of premises known as No. 915 E street northwest, in the city of Washington, used and occupied by the Government for the use of the Post-Office Department. As it is brief I ask that it be printed, and referred to the Committee on Claims.

Mr. EDMUNDS. Oh, no, do not print it. We cannot print petitions.

Mr. MITCHELL. I hope there will be no objection to printing it.

The PRESIDING OFFICER, (Mr. WITHERS.) Is there objection to having the petition printed?

Mr. EDMUNDS. I object; not because I object to this particular petition, but it is very expensive to be printing petitions, and I object, every time my attention is called to it, to printing petitions of that character.

Mr. MITCHELL. I move that the petition be referred to the Committee on Claims.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. WINDOM. I now move to lay aside the pending and all prior orders informally for the purpose of proceeding to the consideration of the naval appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes.

Mr. WINDOM. As I intend to ask the Senate to act on the few amendments proposed by the Committee on Appropriations as the bill is being read, I will state briefly what those amendments are.

The total of the bill as it passed the House is $14,018,468.95. The total of the estimates for 1880 was $14,187,381.45. The total of the act for 1879 was $14,152,603.70. The amount added to the House bill by the Senate committee is $86,500, making the total of the bill as reported $14,104,968.95. As reported, the bill is less than the estimates by $82,412.50; and as reported, it is less than the act for 1879 by $47,634.75. The items of increase proposed by the Senate committee are as follows:

For purchase of postage-stamps, $5,000.

For clothing and bedding destroyed, $1,200.

For gratuities and medals, $500.

For repairs to dome of telescope, $300.

For changes in controlling clocks and time signals, $500.

For provisions and clothing, water for ships, &c., $75,000.

For purchase of testing machine and contingencies, $4,000.

Making a total of $86,500 proposed by the Senate Committee on Appropriations. I ask that the amendments of the committee be acted upon in their order as the bill is read.

The PRESIDING OFFICER. The bill will be read, and the amendments of the Committee on Appropriations will be acted upon in their order as they are reached.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, after line 87, to insert:

For the purchase of ordinary postage-stamps for use on official matter, to be sent to foreign countries in pursuance of the requirements of the united postal union, $5,000; to be available on and after April 1, 1879.

The amendment was agreed to.

The next amendment was, after line 92, to insert:

To pay for clothing and bedding of officers and others in the Navy and Marine Corps, destroyed to prevent the spread of disease, $1,200; to be available immediately.

The amendment was agreed to.

The next amendment was, after line 96, to insert:

For gratuities and medals of honor, under section 1407 of the Revised Statutes, $500; to be available immediately.

The amendment was agreed to.

The next amendment was, after line 171, in the appropriations for the Bureau of Navigation, to insert:

For repairs to dome of twenty-six-inch telescope, $300.

The amendment was agreed to.

The next amendment was, after line 173, to insert:

For changing the method of controlling clocks and time-signals, $500.

The amendment was agreed to.

The next amendment was in the appropriations for the Bureau of Provisions and Clothing, in line 310, after the words "one million," to strike out "and twenty-five" and insert "one hundred;" so as to make the clause read:

For provisions for the seamen and marines; commuted rations for officers, seamen, and marines; expenses of inspectors and storehouses; and for purchase of water for ships, $1,100,000.

The amendment was agreed to.

The next amendment was in the appropriations for the Bureau of Steam Engineering, after line 355, to insert:

For the purchase of one testing machine for making tests of plate-iron, &c., $3,000.

The amendment was agreed to.

The next amendment was, after line 357, to insert:

For contingencies, $1,000.

The amendment was agreed to.

The Secretary resumed and concluded the reading of the bill.

Mr. WHYTE. Mr. President, I merely desire to make a change, if the Senate will concur in the suggestion I am about to make, in regard to one or two trivial matters as far as the Government is concerned, but of some importance to individuals. At the Naval Academy the gas-fitter has been reduced from $3.50 to $2.50 a day, which is much lower than a gas-fitter and plumber receives from private employers, and I really think that it is an unjust discrimination against that sort of mechanic who requires a good deal of skill in the performance of his duty. I therefore move to strike out "two," in line 407, page 18, and insert "three." It will not change the general appropriation, because it is calculated on all the days of the year, and probably it will not be absorbed even with this amendment.

Mr. WINDOM. I do not quite understand the amendment of the Senator, because I could not hear him distinctly. If it increases the amount, I raise the point of order that there has been no notice.

Mr. WHYTE. It is not likely that it will increase the amount of appropriation at all, because the appropriation is made upon the basis of all the days in the year, and they are not paid except for the

days they work. Consequently this $1 per day will not increase the whole amount of the appropriation, I am satisfied, and I hope, therefore, my friend, the Senator from Minnesota, will not object.

Mr. WINDOM. It seems to raise the pay from two dollars and a half to three dollars and a half a day. I feel at liberty to make this point of order, because I believe we have appropriated fully up to the estimates, and ought not to exceed them.

The PRESIDING OFFICER. The point of order being raised, the Chair sustains it.

Mr. WHYTE. Suppose I divide the difference and get the point withdrawn. Say $3 instead of $2.50. It is a very unjust discrimination against this man. Personal application was made to me by several gentlemen residing in Annapolis, and I made inquiry and found that no good mechanic can be employed by private people as a plumber and gas-fitter combined, doing both kinds of work, for any such price as $2.50 a day. Three dollars and a half is the usual price. It is certainly the price paid in Baltimore for an ordinary mechanic.

Mr. WINDOM. Another reason why I feel at liberty to insist on the point of order is that last year the Senate tried to increase this but failed to accomplish it, and the sum appropriated is fully up to the estimate of this year, and nobody has complained until the Senator from Maryland.

Mr. WHYTE. I have three or four letters from prominent people of Annapolis——

Mr. EDMUNDS. The rule is against you.

The PRESIDING OFFICER. The point of order being raised, the Chair is bound to decide the amendment out of order.

Mr. WHYTE. There were one or two other amendments that I proposed to offer of a trivial character, but the inexorable manner of the two Senators over there is such that I shall abandon any attempt to rectify these defects.

Mr. EDMUNDS. The appropriations people are very rigorous.

Mr. ALLISON. I offer the following amendment:

In line 158, strike out all after the word "astronomers" down to and including the word "dollars," in line 160, and insert in lieu thereof:

One at $1,500 during first three years of service; one at $1,700 during second three years of service; and one at $2,100 after nine years service; in all, $5,300.

That has the authority of the Secretary of the Navy and Admiral Rodgers.

Mr. WHYTE. I should like to ask whether that increases the appropriation, because I do not think a plumber ought to be rejected and an astronomer put over his head. I am for the plumbers against the astronomers if there is going to be any discrimination.

Mr. ALLISON. In other words, you object now to the astronomers because you cannot get the plumber?

Mr. WHYTE. Precisely. I am perfectly willing to take care of the astronomers if the plumber be taken care of.

The PRESIDING OFFICER. Does the Senator from Maryland raise the point of order?

Mr. WHYTE. I do. I am for equality all around.

Mr. ALLISON. I am willing to take care of the other.

The PRESIDING OFFICER. The point of order being raised, the Chair decides the amendment out of order.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. WINDOM. The Senator from Maine [Mr. BLAINE] desires to address the Senate briefly upon this bill, but does not wish to go on this afternoon at this late hour of the day; I therefore ask that the bill be laid over, and it can be acted on to-morrow.

Mr. ALLISON. I move that the Senate proceed to the consideration of executive business.

Mr. BLAINE. At half past one to-morrow, if it will be agreeable to the chairman of the Committee on Appropriations, I propose to be heard.

Mr. EDMUNDS. We cannot fix certainly the time; but it will be when the bill is up.

Mr. BLAINE. Do I understand that the Senator will object to its coming up to-morrow?

Mr. EDMUNDS. I cannot say that certainly. There may be something else to-morrow that may require immediate attention.

The PRESIDING OFFICER. The Chair understood the Senator from Minnesota to move that the bill be passed over.

Mr. ALLISON. Pending that, I move that the Senate proceed to the consideration of executive business.

Mr. BLAINE. The pending business, the unfinished business, then, will be the naval appropriation bill, which comes up after the morning hour, at half past one to-morrow.

Mr. EDMUNDS and others. That is it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa.

The motion was agreed to.

Mr. BLAINE. Before the doors are closed, I desire to give notice that I wish to have two amendments to the naval bill printed. I submit the amendments now and ask that they be printed. They need not be read.

The PRESIDING OFFICER. The amendments will be received and printed.

Mr. BECK. Will they be subject to any points of order afterward.

Mr. EDMUNDS. Of course.

Mr. BLAINE. Certainly. They are not offered yet. It is merely a notice given that I shall offer them.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at four o'clock and seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 21, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. BURCHARD. I rise to make a correction of the Journal. The bill numbered 2240 was set for consideration after the morning hour. I made that suggestion and it was agreed to.

The SPEAKER. It was so ordered, and the Journal will be corrected accordingly. The Chair now recognizes the gentleman from New York, [Mr. POTTER.]

Mr. POTTER. I yield for a moment to the chairman of the Committee on Appropriations.

INTERIOR DEPARTMENT BUILDING.

Mr. ATKINS. A letter from the Secretary of the Interior in regard to the reconstruction or completion of the Interior Department building was referred to the Committee on Appropriations. I move that the Committee on Appropriations be discharged from the further consideration thereof, and that it be referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

IMPROVEMENT OF MISSOURI RIVER.

Mr. ATKINS, by unanimous consent, from the Committee on Appropriations, reported back the bill (H. R. No. 5738) to appropriate money for the improvement of the Missouri River between Yankton and Sioux City, in the Territory of Dakota; and the Committee on Appropriations was discharged from the further consideration of the same, and it was referred to the Committee on Commerce.

SMITHSONIAN INSTITUTION.

Mr. COX, of New York. I ask general consent of the House to report from the Committee on the Library the bill (S. No. 1374) to authorize the chancellor of the Smithsonian Institution to appoint an acting secretary to sign vouchers.

There was no objection, and the bill (S. No. 1374) authorizing the chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases was taken from the Speaker's table, received its several readings, and was passed.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GOLOID METRIC COINAGE.

Mr. STEPHENS, of Georgia, by unanimous consent, from the Committee on Coinage, Weights, and Measures, submitted a report from that committee in relation to the metrical goloid coinage; which was recommitted to the committee, and ordered to be printed.

COINAGE OF THE GOLOID METRIC DOLLAR, ETC.

Mr. STEPHENS, of Georgia, by unanimous consent, submitted a bill (H. R. No. 6125) to authorize the coinage of the goloid metric dollar, five dollars, and fractions of a dollar, and of metric gold coin of standard value; which was recommitted to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

CENTENNIAL MONUMENT.

Mr. STEPHENS, of Georgia, by unanimous consent, from the Committee on Rules, moved that the committee be discharged from the further consideration of a resolution in relation to a centennial monument and that it be referred to a select committee.

The SPEAKER. That subject is already before a select committee of the House.

Mr. STEPHENS, of Georgia. But this subject was referred to the Committee on Rules, and I move that the committee be discharged from the further consideration of the subject and that it be referred to a select committee.

The SPEAKER. The Chair is quite distinct in his recollection that this subject is before a committee of thirteen.

Mr. STEELE. I beg leave to say that the subject of this resolution is now in the hands of a committee of this House, of which the gentleman from New York [Mr. PATTERSON] is chairman, and that that committee has agreed upon an adverse report.

Mr. STEPHENS, of Georgia. Then I move that the resolution be referred to that committee.

The motion was agreed to.

FORT WAYNE MILITARY RESERVATION.

Mr. GAUSE, by unanimous consent, from the Committee on Public Lands, reported back the bill (H. R. No. 613) subjecting Fort Wayne military reservation, in the State of Arkansas, to entry as other public lands in said State, with the Senate amendment thereto.

The amendment of the Senate was read, as follows:

SEC. 2. *And be it further enacted*, That the Commissioner of the General Land Office be, and hereby is, authorized to issue the instructions necessary to carry the provisions of this act into effect.

Mr. GAUSE. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. GAUSE moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CIPHER DISPATCHES.

Mr. POTTER. I asked the House on yesterday to give permission for the consideration this morning of a resolution which I was instructed to introduce by the committee of investigation of electoral frauds. I then stated that I desired but an hour for the discussion of that resolution. I notice that the Journal has entered no restriction upon the discussion. Various gentlemen have called my attention to that fact, and insisted upon it that I should not allow the discussion to be protracted beyond the hour. The only way in which I can carry out what they consider to have been the understanding of the House is to move the previous question on the resolution, which will leave an hour for debate.

The SPEAKER. The resolution will be read.

Mr. POTTER. Before that is done I desire to make a verbal correction in the resolution.

Mr. CONGER. Before there is any discussion on the subject, I wish to make the point of order that the resolution must receive its first consideration in Committee of the Whole.

The SPEAKER. By unanimous consent the resolution was made a special order immediately after the reading of the Journal.

Mr. CONGER. For consideration subject to the rules of the House, of course.

The SPEAKER. A special order, where the understanding is by unanimous consent that a matter shall be considered in the House, waives all rules that would prevent its consideration in the House. Besides, the resolution does not appropriate money, but directs its payment out of the contingent fund of the House, already or to be hereafter appropriated.

Mr. CONGER. I thought we might facilitate the passage of the resolution by considering it in Committee of the Whole under the five-minute rule, which would give many members an opportunity to speak.

The SPEAKER. The Chair does not think it would facilitate the passage of the resolution to refer it to the Committee of the Whole on the state of the Union——

Mr. CONGER. Then I desire to have it passed as soon as possible.

The SPEAKER. Because in the Committee of the Whole there is no previous question.

Mr. POTTER. The resolution provides that the money shall be expended by the Sergeant-at-Arms under the direction of the chairman of the committee; "and that he make report to the House of the manner in which the same has been expended." It has been suggested that "he" may not necessarily refer to the Sergeant-at-Arms. I therefore desire to substitute the words "the Sergeant-at-Arms" for the word "he;" so that it will read "and that the Sergeant-at-Arms make report to the House," &c.

The SPEAKER. The resolution as modified will be read.

The Clerk read as follows:

Whereas certain alleged telegrams in cipher have been published, indicating that attempts were made after the presidential election of 1876 to influence by money or other fraudulent methods the vote of electors or the action of canvassing boards in the States of Florida, South Carolina, and Oregon; Therefore,

Be it resolved, That the committee upon the investigation of the electoral frauds, &c., be directed to inquire into the same (and into any other matter connected with the said election which in their judgment may be proper) and that they have power to send for persons and papers and to sit during the sessions of the House, with leave to report at any time. And that there be paid by the Clerk of the House to the Sergeant-at-Arms out of the contingent fund of the House the sum of $10,000 for the purposes of the committee, to be expended under the direction of the chairman of the committee or of any subcommittee; and that the Sergeant-at-Arms make report to the House of the manner in which the same has been expended, which report, when examined and approved by the Committee of Accounts, shall be deemed a satisfactory accountability on his part of the same; and that any unexpended balance remaining in his hands be deposited in the Treasury to the credit of the miscellaneous items of the contingent fund of the House.

The SPEAKER. The Chair desires to inquire of the gentleman from New York [Mr. POTTER] whether he wishes to claim his hour after the main question shall have been ordered?

Mr. POTTER. I do; and I now call the previous question, because that is the only way in which I can limit debate on the resolution in accordance with the understanding of yesterday.

Mr. WHITTHORNE. May I ask the gentleman from New York [Mr. POTTER] to allow an amendment to be offered to his resolution before he calls the previous question upon it?

Mr. POTTER. I will answer the gentleman when I have heard it read.

The amendment was read, as follows:

And further, to inquire whether any cipher or other telegrams, relating to the electoral votes of the States of South Carolina, Oregon, Florida, and Louisiana, have been destroyed, suppressed, or concealed by any person; and, if so, under whose authority or instructions the same was done; and to ascertain from whom said dispatches were forwarded, and to whom sent.

The SPEAKER. Does the gentleman from New York [Mr. POTTER] yield to that amendment?

Mr. POTTER. I do not; because the resolution as reported from the committee includes all that subject-matter. I now call the previous question.

The previous question was seconded and the main question ordered.

Mr. POTTER. The resolution which I have sent to the Clerk's desk I offered because I was instructed to offer it by the special committee of investigation. I do not desire to discuss it, nor to say anything except a few words in reply to an attack which was made upon me some days since by the gentleman from Michigan, [Mr. CONGER.] I was not in the House at the time, and when the gentleman's attention was called to that fact he stated that I had left the House to avoid hearing him. If the gentleman really thought so he was mistaken.

I think I listen to the sprightly and amiable utterances of the gentleman from Michigan with as much satisfaction as most gentlemen in this House. But it is not possible for a member to be always in his seat, and the gentleman ought not to infer from my absence that I have any unwillingness to hear him. Had he informed me that he proposed to refer to the cipher dispatches, I should certainly, at whatever inconvenience to myself, have remained and heard him, because I could then have better said in respect of this matter what I have now to say.

I had listened to that gentleman several times during that day when he spoke on the post-office appropriation bill, and it was impossible for me to divine that when next he rose he intended to discuss the subject he did.

The gentleman arraigned me because I had not permitted an investigation of these cipher dispatches. Mr. Speaker, it was as open to the gentleman from Michigan, ever since this session of Congress began, and to every other member of the House as to myself, to propose such an investigation. He did not propose it; no gentleman on that side of the House proposed it, for reasons that are perhaps not difficult to divine, and which at any rate were satisfactory to themselves.

No gentleman on this side of the House had then proposed such an inquiry, and the gentleman from Michigan said that I had not permitted any one on this side to do so. Mr. Speaker, for this statement there was no foundation. I neither had power to prevent, nor had I sought to prevent, any democrat from doing so. The only wish upon the subject that I had expressed was that if such a resolution should be introduced it might be referred to another committee than that of which I was a member. But I neither sought to influence any one nor to prevent any one from acting in respect of the matter. I simply refused to volunteer to introduce such a resolution myself, and for reasons which I am about to state.

During the last Congress I submitted a resolution for the appointment of a committee to inquire into certain alleged and confessed wrongs in Florida and Louisiana which had taken place under the color of State law, and by which the result of the presidential election had been reversed and which had been perpetrated under the influence of Federal visitors and with the protection of Federal troops; and which the electoral commission had decided it was impossible for the States to recall. Such a matter was a proper subject for congressional action; for although Congress could not try nor punish wrongs that had been committed against State laws, it could at least adopt such legislation as would afford the States some opportunity to recall a vote or an act which had been falsely certified to Congress as the act of the State. It was therefore a duty for Congress to investigate the matters alleged. When I introduced that resolution I declined to yield to an amendment offered by the gentleman from Maine [Mr. HALE] proposing to inquire into certain "cipher dispatches" in regard to the electoral vote of Oregon, because I insisted that it was not within the province of Congress to inquire into the individual misconduct of a private citizen which it could neither prevent nor punish, and that at any rate the investigation I proposed ought not to be overslaughed by such an inquiry. I did not then know of, I did not then suspect at all, the dispatches which have since been published; but the analogy between these dispatches and those into which the gentleman from Maine sought to institute an inquiry is complete; and the House having then sustained me in my view of the question it was not for me now to seek to set on foot myself an investigation of the kind; still less to invite one which might break up and prevent the completion of the work that we had in hand.

Beyond that, Mr. Speaker, there were personal reasons why I thought I ought not to propose any such investigation. The House may remember that when I introduced my resolution of inquiry the leading independent journal of my State declared that I did so in pursuance of a bargain between Governor Tilden and myself, for which I was to have his support. There was not the slightest truth in this conjecture. There are gentlemen now in this Chamber who know that when I was called upon on the afternoon previous to the introduction of that resolution to wait upon the joint committee of the democratic caucus, I was absolutely ignorant that I had been

selected for that work, and had no more reason to suspect that I would be connected with it than had any other gentleman in the House.

The truth is not only did I have no bargain with Governor Tilden, but I had none with anybody else. I served simply because I was requested to serve by the joint committee of the caucus, and because in 1875, as a member of a committee of this House, I had visited Louisiana and had formed a very profound conviction alike of the dangers and of the wrongs of returning-board action. I introduced that resolution, therefore, on those accounts, and those alone; and not only had I no understanding nor bargain with any man upon the face of the earth, but I sought for no promise nor assurance from any one; and I had none. Yet, Mr. Speaker, that statement has gone all over the country; and nine-tenths of the people who have any opinion on the subject at all believe that I am the head of the committee of investigation as the confidant and agent of Governor Tilden. Beyond that, sir, although I have endeavored to conduct the investigation with absolute and judicial impartiality and fairness—so much so that I do not believe any man familiar with the record will rise and claim that such has not been the fact—and though, during all the time the committee has been sitting, I have preserved the most entire reticence in respect of the objects and purposes of the committee, as propriety and the rules of this House required, yet there has been no unworthy nor partisan speech which has not been falsely put into my month by the press nor any mean nor outrageous action which has not been falsely attributed to me.

Under such circumstances, for me to volunteer an investigation into the cipher dispatches was to have it said that I was doing so in the interest and for the purpose of protecting and whitewashing those whom the dispatches might affect.

Beyond that there are in my State some persons who think that I or my friends at one time had cause of grievance against Governor Tilden. It would be unavoidable, therefore, that if I volunteered any movement of the kind proposed by the resolution now before the House my action would be ascribed to personal dislike and spite. If gentlemen will look into the New York Tribune of Saturday week they will see it there declared that the most probable cause for the introduction of the resolution I have submitted is the purpose of personally injuring Mr. Tilden.

For these reasons, sir, I did not feel called upon to volunteer any action upon this subject, and I have not volunteered any. I introduce this resolution because, without any wish or request on my part, I have been instructed to do so by the committee which I represent, and I introduce it for no other reason.

Now, Mr. Speaker, I wish to add one word about the amount originally appropriated for the conduct of the committee and its expenditure. The House appropriated for the purpose the sum of $20,000. That has been expended as follows: For the subcommittee to Florida, including, of course, fees of witnesses and all other expenses, $2,400 in round numbers; for the first subcommittee to Louisiana, $5,500; for the second subcommittee to Louisiana, $800; for extra stenographers beyond the official force furnished by the House, $2,500; for expenses of witnesses for the main committee, $6,700; for the salaries of clerks, &c., $700; and for the personal expenses of the gentlemen of the committee, I mean their traveling and hotel expenses and the like, $1,300, which exhausts the sum that the House appropriated and leaves the committee with some unsettled bills, amounting to five hundred or a thousand dollars, yet to be discharged. I thought myself the sum of $5,000 would be quite enough to appropriate for the purpose of this cipher inquiry, but the gentlemen of the minority of the committee who were consulted about it suggested a larger sum, and to that we have agreed.

Now, Mr. Speaker, I yield twenty minutes to the gentleman from Massachusetts.

Mr. BUTLER. Mr. Speaker, I have sought the ear of the House for the purpose of putting before its members the reasons which will influence my vote upon this resolution, let them avail as much or as little as they will.

I have in this matter neither "friends to reward, nor enemies to punish." I look upon it as a question of very considerable gravity as furnishing a precedent hereafter.

The resolution alleges there are certain cipher dispatches which are supposed to show that there were attempts by fraud or bribery to influence the casting or count of the electoral vote in Florida, Oregon, and South Carolina. The resolution does not allege there is any evidence expected to show any vote was influenced by those attempts. Then we have this case before us: we are brought to investigate acts of private citizens which were or were not crimes at the time they were done. If they were then crimes, the law will punish them; if they were not crimes, then we can make no *ex post facto* law which will reach them. What was attempted to be done, but was not done, requires no legislative remedy and no legislative action. Nor do we want to know about these things in order to make a law to prevent like acts in the future. We all know bribery and fraud in electoral counts can be used, and we need no set of inventions of one set of men in order to frame a law for their prevention. Therefore there is absolutely no grounnd for jurisdiction in this House to do what is proposed we shall do.

The only ground upon which this House can take jurisdiction of private persons and their acts, and *a fortiori* of private correspondence, whether by telegrams or the mail, is that the House requires the information in order to guide legislative action. That there can be no other ground I submit to the lawyers of the House, ay, to the good sense of every member of the House, upon which we can found our right to put our hands upon the acts of any private man or the correspondence of any private man; and he is a private man for this purpose who does not hold official United States position.

Now, without jurisdiction to act, what is expected to be got from these telegrams? It is expected that somebody will either be vindicated or be smutted, one or the other, and it is absolutely none of our business to do either, and above all to take the public money for that purpose. Never mind how high in party relations any private citizen may stand, never mind how it may effect any political party anywhere, these acts of private citizens are absolutely beyond our reach and ought to be beyond our reach. And above all we should not take the public money to gratify the prurient curiosity for scandal of anybody in the House or out of it. And in what we propose to do that is all we can accomplish.

It is supposed that a part of these dispatches have been published. I have no doubt supposed copies of some of them may have been published, but of that I have no knowledge. Whatever they may be, whatever has been published had better for the honor of the nation take its place among the emanations of the sensational journalism of the day than be put upon the public records of the Congress of the United States as a disgrace to the nation. A nation and its members should be like a family. Never investigate the private scandals of a family unless there is divorce prayed for on one side or the other, [laughter,] or it becomes necessary for the purpose of justice; and so, when there is no earthly advantage to be reached or gained, except to exhibit to the world the friction of the working of republican institutions to bring them into contempt, had we not better walk backward with the cloak over our shoulders and throw the mantle over what ought not to be seen.

Much has been said about these dispatches. Very wrong intimations have been made against a company which I have no particular reason to love—the Western Union Telegraph Company—of some wrong done on their part. It is due to them I should furnish the House and the country with the cause of the existences of these dispatches outside of their office, as they now exist. When the Senate of the United States ordered an investigation into some portion of this election matter in the winter of 1876–'77, a subpœna *duces tecum* was served on that company, and after they made so much resistance, as I am informed, that the whole executive committee were called under that subpœna, the cipher and other dispatches called for by that subpœna were delivered over to the committee of the Senate, and they examined a portion of them, and published the results of their examination *quoad* Oregon, I believe. But before they finished the Senate adjourned. The chairman of that committee died. The cipher dispatches were suffered to "lie around loose" would perhaps be the best phrase, and everybody dealt with them apparently as they chose to deal with them; and the company having lost jurisdiction over them, did not, and probably could not, resume it. Some of these dispatches unauthorized persons seem to have obtained. Therefore if you go into this investigation it will be but a fragmentary investigation. Although I do not know whether in the bundle of dispatches which I found on my table at the beginning of the sessions of this committee, or what the contents were, because they have never been translated or deciphered by me—and here allow me to say parenthetically, no one of which has been seen or read or copied by mortal man since they came into my hands for the purpose of public disclosure or in any way has been published and disclosed. I say they are only fragmentary, and you will not get the dispatches of both sides or all of the dispatches of one side.

Now, then, by whom is an investigation asked for. I give no secrets of the committee, for I was not present when the investigation was decided upon in that committee; but I am told by the newspapers that the republican gentlemen on the committee did not demand or desire it or take action on it, and that it was the act of the majority, of our friends on the other side. Therefore it is not promoted, I understand, in the interests of the republican party. I cannot conceive how it could be promoted in the interests of the democratic party. Which faction of that party desires to destroy a presidential candidate? [Laughter.] Who is at the bottom of this? Who desires to kill somebody in that party by cipher dispatches? Had we not better let all that alone? To my republican friends let me say, if it should turn out that these dispatches having been in the hands of a republican committee of the Senate, all the republican dispatches have been destroyed, is that a pleasant thing to contemplate, if that should so happen?

Now, I ask this House, in all soberness and fairness: first, have we any right to do this? Why, it was only the other day when a gentleman of this House begged with tears in his eyes that the House should proceed to an investigation and appoint a committee and employ the public money for the purpose of exonerating him from a load of obloquy which he said he did not deserve, and he desired above all things the aid of the House to clear him. The Speaker ruled rightly, and the House sustained the ruling almost unanimously, that in order to relieve one of our colleagues from unjust slander and unjust suspicion and unjust obloquy we had no power to investigate. Now, having no power to investigate for a good object, have we any more power to take the public money to investigate in order to be-

smut and besmirch and bedim somebody who is not even a member of this House, and who cannot be before it unless you bring him by the strong arm of parliamentary power, given only for wise and great purposes? I submit that we ought not to do it, wholly independently of any results that may come from our action.

And the results are to be what? The great result to be gained is to stir up something that had better not be seen, felt or smelled. [Laughter.] That is all. That is all you are to gain by this expenditure of public money. Better give that $10,000 it will cost to some poor workingmen's families to carry them through the winter. [Laughter.]

Now let me say a word further upon this matter, and but a word; for I have given the reasons that will influence my vote; I shall vote against the resolution as a precedent. And I have simply desired this opportunity to put on record my protest so that hereafter if anybody should read about this matter they shall say: "Well, at least there was one man in a position to deal with the question as a lawyer, as a judge, as a member of Congress, and who in such a position was not to be influenced by any party prejudices, or party gain of any kind." Let me say also to you, Mr. Speaker, and to the members of this House, we have thirty-odd working days only before the close of our official term, with the business of the country disordered, its commerce off the seas, its industries paralyzed, its tariff unrevised—which tariff is supposed to paralyze those industries—its system of internal improvements not cared for. And do you not think that we have grander and nobler objects to contemplate in the remaining hours of our official life than stirring up private scandal, or private wrong-doings of private individuals that did not succeed? If they had succeeded, if any fraud attempted had succeeded in putting any man into the executive chair as President, that I think would have been a proper matter to investigate. But as they did not succeed, whoever attempted it took his labor for his pains and has taken nothing by his motion, and we have no business with that nothing which he took.

Mr. POTTER. I yield fifteen minutes to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. Mr. Speaker, there were certain questions revolving around this subject laid over at the last session. When the gentleman from New York presented his resolution at the mandate of his party caucus the objection was made upon this side that it did not present a question of privilege. That question was ruled upon by the Chair; it was decided to be a question of privilege and that the subject-matter was before the House. The subject-matter was the proposition to enter into certain events connected with the last presidential election postdating the election in November, 1876, and antedating the inauguration on March 4, 1877. Representing this side of the House I endeavored to introduce and have acted upon an amendment that extended the inquiry because it had been decided that the inquiry was a proper subject-matter to go into. Upon that I asked a vote and the gentleman from New York, [Mr. POTTER,] acting then I believe upon the dictates of the caucus behind him, declined to admit the amendment. I have examined the amendment lately, since seeing the proposition introduced to-day by the gentleman from New York. It covered almost identically the ground embodied in this resolution now before the House. It asked that the investigation should not be *ex parte;* that all of the ramifications of the events of those hurried and important days upon both sides should be investigated alike by this committee; that Oregon should be inquired into; the dispatches there; the South Carolina affair, and the Florida affair; because at that time there were rumors abroad that there had been a conspiracy the object of which was the corruption and purchase of members of the canvassing boards in the interest of Governor Tilden.

I thought then, as did my friends, that the inquiry should be made broad and ample.

The committee entered upon its duties, and after having adopted a proposition to take up one tale and another, presented by responsible or irresponsible persons, it went to one State or another to take testimony; and, at last, after certain cipher telegraph dispatches had been construed by an expert, and put upon the public mind by one of the leading papers of New York, they found themselves confronted with the questions that they had declined to act upon in the closing days of the last session, and they are not willing to remain longer in the position of refusing an examination which should be made broad and large.

I for one have not changed in my action. I do not understand that my party friends have changed. What they asked was, that when the machine was set in motion it should be permitted to roll on, and that it shall make the investigation upon the one side as well as the other.

I care nothing for the reasons that have been urged at this stage by the gentleman from Massachusetts. Originally when we were upon the threshold of this matter they might have had force, but to-day with me they have no force.

If there are cipher telegraph dispatches which the New York Tribune has not found out; if there is a single scrap of paper bearing upon this subject-matter in any State, which has been for partisan purposes destroyed—which I do not believe—then let this committee never rest day nor night until the parties who have destroyed these dispatches have been brought before the House.

Let them show to us fully, clearly, and explicitly the whole transaction between the time of the election and the time of the inauguration. Enough has been shown to indicate to the public mind the existence of a conspiracy that ought to be brought out. I have some personal sympathies. I do not want this committee to feel, during the trials of its noble life, any failures, or rummage around among the Jenkses, the Webers, and the Andersons. Let them take to themselves some subject where parties are interested of character enough to dignify their noble work.

I have some little sympathy for that simple-hearted old man in New York who by importunity was taken from his business and thrust upon the country as the presidential candidate, and who became the apostle of reform, the embodiment of all that element that has shouted fraud—who during the canvass and at its close awaited in his closet the verdict of the American people, taking no hand, part, or parcel in that notable campaign.

He has found himself surrounded with friends, relatives, conspirators, and nephews, who have attempted to force him upon the American people when he was defeated, and who have attempted to purchase, as these dispatches indicate, electoral colleges and canvassing boards.

The simple-hearted old man has had no opportunity to come before us or before any committee and picture, as he alone can picture, the character of the men close about him, endeavoring to blast his reputation and smirch his character and thrust him into the White House by a practice which no doubt he will come here and deny.

I would not have him miss the opportunity of being allowed to do this, so that he may be given the fullest scope and opportunity, and that the personal sympathies of my friend from Massachusetts, who, I know, when this appeal is made to him, will withdraw his objection, and that there will be unanimous consent given that this may go on, that justice be done and personal vindication may be made.

Allusion has been made to the gentleman from Michigan; and I yield to him the remainder of my time.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] has six minutes.

Mr. CONGER. I expected and have believed for many months that some means would be employed and some measures taken to prevent the investigation of the cipher dispatches, so called. In common with almost the entire body of the American people, I read the exposures made by the New York Tribune; the translations of these mysterious, hidden, Israelitish telegrams, with their Moses, and Adoniram, and Adonibezek, and all the hosts. And my love of scriptural history made me desire that the translations should be verified and the world enlightened.

The world was startled by those revelations, from the old man trembling with palsy as he heard his grandchild read from the Tribune and other papers those translations and exposures which startled his old, worn, weary heart with indignation, to the boy at school who read them. The whole country was shocked, ay, was horrified, at the idea that those dispatches might be true, that they were truly translated, and were connected, as was alleged, with a prominent citizen of the United States who was thought worthy by many to be the Chief Magistrate of this great Republic. If those dispatches had come from him, or had been sent through him or through his intimate friends, through members of his household, through his near neighbors who dwelt on either side of him among the hedges and plants of Gramercy Park, the country wanted to know about it.

I will venture to say that there is not a member in this House who did not for weeks before he came here to the capital believe that on the first opportunity, with a haste that could not be repressed, the gentleman from New York, or if not he then dozens of other gentlemen would spring to their feet at the very first moment when it might be permitted by the rules of the House, and almost in violation of the rules of the House in their eagerness to satisfy the demands of the American people, and offer a resolution of investigation. My friends on this side of the House when we met and the day passed, wondered what paralysis had fallen upon the fierce democracy.

Another day passed, and another, and in our little private talks among ourselves we were given up to wild conjecture as to the meaning of this sepulchral silence of the vast body of investigating democracy of this House. And we wondered and wondered, and were amazed. And yet days passed and weeks passed, and no voice alluded to the matter. We sat here silently, waiting with almost irrepressible impatience, and by a strong effort and constant urging of one another to wait and let the democracy have the honor of developing these great enormities, we kept ourselves quiet for two or three weeks without alluding to it.

The gentleman from New York [Mr. POTTER] says that "the gentleman from Michigan" might have introduced this resolution, or that any other gentleman might have done it. Sir, we would not take from the gentleman from New York that supreme moment of power and of honor which comes but once in the life of a man. I would not deny to him, the chairman of this committee, the opportunity to immortalize himself by prompt, vigorous, earnest action in directing his committee to ask for this investigation, if they already had not the power to make it. At length it was thought that the country would blame the republicans if they did not gently and quietly allude to this subject, and I made a modest allusion in my humble modest way. [Laughter.]

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. CONGER. I would like to have an opportunity to refer to the personalities which were used in reference to myself.

Mr. BUTLER. And I would like to have an opportunity to reply to a portion of the remarks of the gentleman from Michigan, [Mr. CONGER].

Mr. CONGER. And I would like to have an opportunity to reply to the reply. [Laughter.]

The SPEAKER. The gentleman from Michigan [Mr. CONGER] asks an opportunity to reply to the personalities which were used in reference to himself.

Mr. EDEN. Will that be included in the hour allowed for the discussion of this subject?

The SPEAKER. If unanimous consent is given it will not be reckoned in the hour.

Mr. EDEN and others objected.

Mr. CONGER. I give notice that on an other occasion I will continue these remarks.

Mr. POTTER. I now yield to my colleague [Mr. HEWITT] for fifteen minutes.

Mr. HEWITT. Personally I had no desire to take part in this discussion. But I foresaw that something would be said which would make it necessary for me at least to make some explanation of the circumstances which have led to this resolution.

With the position of the gentleman from Massachusetts, [Mr. BUTLER,] as judge, lawyer, and member of Congress, I can take no exception. It will be remembered that when in the Forty-fourth Congress a motion was made in this House to commit the officers of the Western Union Telegraph Company for contempt for not producing the dispatches and telegrams, (probably those now under discussion,) I said to this House that I thought such a proceeding could not be defended upon any principle of justice or of law. But I was compelled to add that, as I had been the chairman of the national democratic committee at that time, I had never sent nor received a dispatch which might not be published, and I then and there authorized the officers of that company to produce them all and lay them before the committee of this House and before the country.

So now in reference to the pending proposition, while I make no controversy with the gentleman from Massachusetts, [Mr. BUTLER,] and can make none, I desire to remind him that there are occasions in life when there is something higher than even judge or lawyer or member of Congress. It is when the sense of manhood strikes into the human heart, and then in spite of law, in spite of precedent, the answer comes, let justice be done.

I stand here now to invite the fullest investigation of these telegrams, those that have been published and those which may not have seen the light, any and all telegrams which may affect the character and standing of any democrat who took part in the late presidential election, either as a candidate for office or as an officer or agent of any recognized democratic organization.

Whether the cipher telegrams published by the New York Tribune are genuine or not I have no means of knowing. I never received one of them. I never was in anywise cognizant of their existence until they were published by the Tribune. Neither do I know, nor have I any means of knowing, whether the alleged translations are correct or not. But this I know that not one of them containing reference to the use of money to influence returning boards or electoral votes was addressed to or received by any officer of the national democratic committee. I am aware that the newspapers have credited one of those persons with having been an officer of the democratic committee; but I say to this House and the country that that is an error. He never held any official connection with the committee. Those dispatches came from and were addressed to persons who held no official position in the organization. That they were zealous democrats, anxious, perhaps too anxious, to secure the fruits of the victory which we had clearly won in a contest of unparalleled effort on both sides, is very evident.

But what they did was action of a purely voluntary and individual nature, without consultation either with me who was charged with the conduct of the campaign or, as I am authorized to state, with the candidate of the democratic party in that memorable struggle. [Derisive laughter on the republican side.] Yes, gentlemen may laugh, because laughter may deafen them to the voice of honor and truth. I tell gentlemen upon the other side that when they laugh in this spirit it is because they fail to appreciate the manhood to which I ventured to call attention when I was replying to what had been said by the member from Massachusetts, [Mr. BUTLER.]

The proposed investigation, if it should be ordered by the House, will establish this fact beyond all controversy; and it is for this reason that I trust it may be allowed to proceed, notwithstanding the plausible arguments of the gentleman from Massachusetts. Justice to Samuel J. Tilden requires that the investigation should be made. Justice to the great democratic party whose chosen leader he was demands it. Justice to the American people who elected him to the highest office in their gift demands it. Justice to the fundamental principles on which free government is founded demands it.

It was intimated that gentlemen on the other side would sit in their seats and not vote upon this question; but I am glad to learn from the gentleman from Maine [Mr. HALE] that we are at length to have the co-operation of the republican party in the vindication of Samuel J. Tilden. I accept it as the first evidence of repentance—[derisive laughter on the republican side]—yes, I accept it as the evidence of repentance, and I trust that hereafter they will bring forth "fruits meet for repentance." Their policy heretofore has been—ever since the award of the electoral tribunal by which the Presidency which rightfully belonged to Samuel J. Tilden was wrongfully awarded to Rutherford B. Hayes—to cover up the crime by which the people were defrauded of their rights by attacks upon the personal character of Mr. Tilden, expecting to overcome the popular sense of wrong by insisting that Mr. Tilden is no better man than Mr. Hayes.

With this object in view they have devoted themselves first to concealing all the traces of fraud on the republican side. Every person who had any connection with its perpetration has had his mouth closed by office, the dignity of which, from that of cabinet officer and foreign minister down to tide-waiter and tax-gatherer, has been carefully adjusted to the services rendered. So far as I can ascertain, not one man, or at most only one, has been omitted from the catalogue of tools, of whom it may be said, "Verily, they have their reward."

Mr. REED. I want to suggest to the gentleman——

Mr. HEWITT, of New York. I decline to be interrupted.

The SPEAKER. The gentleman from New York declines to yield.

Mr. REED. I supposed he would.

Mr. HEWITT, of New York. No; I do not yield. This is the only chance which the democrats have had to bring to the knowledge of this people the facts in this case, and now they will be brought out.

Mr. REED. I wanted to assist the gentleman a little.

The SPEAKER. The gentleman from Maine has no right to interrupt the gentleman from New York without his consent.

Mr. HEWITT, of New York. The avenues of testimony being thus closed, all other evidences of complicity have been destroyed. Republican letters and telegrams have, as it is generally believed—but there may be a mistake about it—alike disappeared, while every scrap of writing or telegraphic communication which could be tortured into evidence of democratic guilt or folly has been carefully hunted up, preserved, and by the agency of an omnipotent press, with almost fiendish ingenuity, made to do duty in the damning work of defaming Samuel J. Tilden and assailing the democratic leaders. The frauds by which the votes of Florida and Louisiana were wrongly counted for Hayes are sought to be offset by the allegation that Mr. Tilden tried to purchase these votes and failed. In other words, the mistaken zeal of some of his indiscreet friends to secure his just rights by wrong methods is paraded as the justification for the transfer to Mr. Hayes of the votes of States which gave an unquestionable majority for Tilden.

They are aware, however, that the common sense of the people of this country will reject all such miserable subterfuges intended to confuse the wrong with the right, unless they can connect Mr. Tilden with these transactions, and the most diligent efforts have been made to show that he had personal knowledge of the operations of his overzealous friends. Now, I stand here to declare that there is not a particle of evidence to connect him with this knowledge. On the contrary, the evidence, as far as produced, (and the production of it has been most skillfully managed to give an opposite impression,) proves conclusively that he had no such knowledge; for in no case was any purchase of votes effected, and in every case it broke down for want of money. Is it to be supposed for a moment that if Samuel J. Tilden had decided to buy these votes the purchase would have failed for want of money? Is it not absolutely clear that when it reached the point where money was required the negotiation failed? And is not the conclusion irresistible that when in the last resort it was necessary to go to him for means he indignantly stamped upon the suggestion as one to which he could give neither approval nor assistance.

Let Mr. Tilden have the opportunity to confront his accusers, traducers, maligners before a competent tribunal. Let the man who of right to-day should occupy the executive chair go upon the witness-stand, if need be, to satisfy the American people and the world that at least one of the candidates of the two great parties, whose existence is essential to the maintenance of free government, is not a miserable trickster, willing to make bargains for the highest office in the gift of the people, every hour's wrongful occupation of which only intensifies the dishonor of its acquisition and the humiliation of its possession.

[Here the hammer fell.]

Mr. GARFIELD. I rise to a privileged motion. I move to reconsider the vote by which the main question was ordered, so that there may be further debate on this subject.

Mr. ATKINS. I move to lay the motion to reconsider on the table.

The question being taken on the motion of Mr. ATKINS, there were—ayes 108, noes 116.

Mr. ATKINS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 124, nays 120, not voting 44; as follows:

YEAS—124.

Acklen,	Bicknell,	Bragg,	Caldwell, W. P.
Aiken,	Blackburn,	Bridges,	Candler,
Atkins,	Bliss,	Bright,	Carlisle,
Banning,	Blount,	Buckner,	Chalmers,
Bell,	Boone,	Cabell,	Clark, Alvah A.
Benedict,	Bouck,	Caldwell, John W.	Clarke of Kentucky,

Clark of Missouri,	Glover,	Luttrell,	Scales,
Cobb,	Goode,	Lynde,	Singleton,
Collins,	Gunter,	Mackey,	Slemons,
Cook,	Hamilton,	Maish,	Smith, William E.
Covert,	Hardenbergh,	Manning,	Sparks,
Cox, Samuel S.	Harris, Henry R.	Martin,	Springer,
Cravens,	Harris, John T.	Mayham,	Steele,
Crittenden,	Harrison,	McMahon,	Stenger,
Culberson,	Hart,	Mills,	Throckmorton,
Cutler,	Hatcher,	Money,	Townshend, R. W.
Dean,	Henry,	Morgan,	Tucker,
Dibrell,	Herbert,	Morrison,	Turner,
Durham,	Hewitt, Abram S.	Morse,	Turney,
Eden,	Hewitt, G. W.	Muldrow,	Veeder,
Eickhoff,	Hooker,	Patterson, T. M.	Waddell,
Elam,	House,	Phelps,	Walker,
Ellis,	Hunton,	Potter,	Warner,
Evins, John H.	Jones, Frank	Pridemore,	Whitthorne,
Ewing,	Kenna,	Rea,	Wigginton,
Finley,	Kimmel,	Reagan,	Williams, Jere N.
Forney,	Knapp,	Reilly,	Willis, Albert S.
Franklin,	Knott,	Rice, Americus V.	Willis, Benj. A.
Fuller,	Landers,	Robbins,	Wood,
Garth,	Ligon,	Ross,	Wright,
Gause,	Lockwood,	Sayler,	Young, John S.

NAYS—120.

Aldrich,	Danford,	Keightley,	Reed,
Bacon,	Davis, Horace	Kelley,	Rice, William W.
Bagley,	Deering,	Ketcham,	Robinson, G. D.
Bailey,	Denison,	Killinger,	Robinson, M. S.
Baker, John H.	Dunnell,	Lapham,	Ryan,
Baker, William H.	Dwight,	Lathrop,	Sampson,
Ballou,	Eames,	Lindsey,	Sapp,
Banks,	Evans, James L.	Loring,	Sexton,
Bayne,	Fort,	Majors,	Shallenberger,
Bisbee,	Foster,	Marsh,	Sinnickson,
Blair,	Fryé,	McCook,	Smalls,
Brewer,	Garfield,	McGowan,	Smith, A. Herr
Briggs,	Hale,	McKinley,	Starin,
Brogden,	Hanna,	Metcalfe,	Stewart,
Browne,	Harmer,	Mitchell,	Strait,
Bundy,	Haskell,	Monroe,	Thompson,
Burchard,	Hayes,	Neal,	Tipton,
Burdick,	Hazelton,	Norcross,	Townsend, Amos
Cain,	Hendee,	Oliver,	Townsend, M. I.
Calkins,	Henderson,	O'Neill,	Van Vorhes,
Camp,	Hiscock,	Overton,	Wait,
Campbell,	Hubbell,	Page,	Ward,
Cannon,	Humphrey,	Patterson, G. W.	Watson,
Caswell,	Hungerford,	Peddie,	White, Harry
Chittenden,	Hunter,	Pollard,	White, Michael D.
Claflin,	Ittner,	Pound,	Williams, Andrew
Clark, Rush	James,	Price,	Williams, C. G.
Cole,	Jones, John S.	Pugh,	Williams, Richard
Conger,	Joyce,	Rainey,	Willits,
Cummings,	Keifer,	Randolph,	Wren.

NOT VOTING—44.

Beebe,	Ellsworth,	Jones, James T.	Stephens,
Bland,	Errett,	Jorgensen,	Stone, Joseph C.
Boyd,	Evans, I. Newton	McKenzie,	Stone, John W.
Brentano,	Felton,	Muller,	Swann,
Butler,	Freeman,	Phillips,	Thornburgh,
Clymer,	Gardner,	Powers,	Vance,
Cox, Jacob D.	Gibson,	Riddle,	Walsh,
Crapo,	Giddings,	Roberts,	Williams, James
Davidson,	Harris, Benj. W.	Robertson,	Wilson,
Davis, Joseph J.	Hartzell,	Shelley,	Yeates,
Dickey,	Henkle,	Southard,	Young, Casey.

So the motion of Mr. ATKINS to lay on the table the motion to reconsider was agreed to.

During the roll-call the following announcements were made:

Mr. ELLSWORTH. I am paired with the gentleman from North Carolina, Mr. DAVIS.

Mr. EDEN. The gentleman from Ohio, Mr. SOUTHARD, is paired with his colleague, Mr. COX. Mr. SOUTHARD would vote "ay;" Mr. COX "no."

Mr. DAVIS, of North Carolina. I am paired with Mr. ELLSWORTH. If he were here, I would vote in the affirmative and he would vote in the negative.

Mr. HARTZELL. I am paired with Mr. PHILLIPS. If he were present, he would vote in the negative and I would vote in the affirmative.

Mr. CARLISLE. My colleague, Mr. MCKENZIE, is absent by order of the House with the committee accompanying the remains of Mr. Schleicher, and is paired with Mr. POWERS, of Maine, who is also absent on the same committee.

Mr. COX, of Ohio. I am paired with my colleague, Mr. SOUTHARD. If he were here, he would vote in the affirmative and I would vote in the negative. My colleague, Mr. GARDNER, is paired with my other colleague, Mr. DICKEY.

Mr. STONE, of Michigan. I am paired on all political questions with Mr. SHELLEY.

Mr. ALDRICH. My colleague, Mr. BRENTANO, is absent by order of the House with the committee attending the remains of Mr. Schleicher.

Mr. ROBBINS. My colleagues, Mr. VANCE and Mr. YEATES, are detained from the House by illness. If they were present, they would vote in the affirmative.

Mr. MARTIN. My colleague, Mr. WILSON, is paired with Mr. CRAPO. If here, he would vote in the affirmative and Mr. CRAPO in the negative.

Mr. HEWITT, of New York. Mr. CLYMER is detained at his room by illness. If present, he would vote in the affirmative.

Mr. STONE, of Iowa. I am paired with Mr. DAVIDSON.

Mr. FREEMAN. I vote in the negative if permitted.

Mr. ATKINS. Was the gentleman within the bar before the last name on the roll was called?

Mr. FREEMAN. I was not, but I ask permission to vote.

Mr. ATKINS and Mr. EDEN objected.

Mr. FREEMAN. I only desire to say I am just recovering from serious illness and could not sooner reach the House. Is there objection to my vote?

The SPEAKER. Objection being made the gentleman's vote cannot be received.

The vote was then announced as above recorded.

The SPEAKER. There is one minute remaining of the time allotted for debate.

Mr. POTTER. I call for a vote on the resolution.

The resolution was adopted.

Mr. POTTER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST-ROUTE BILL.

Mr. WADDELL. Mr. Speaker, I ask by unanimous consent to report from the Committee on the Post-Office and Post-Roads the usual post-route bill. It contains no general legislation, but merely provides for additional post-routes.

The SPEAKER. The chairman of the Committee on the Post-Office and Post-Roads asks unanimous consent to report from that committee the usual post-route bill, under the assurance that it contains no general legislation. Is there objection?

There was no objection.

Mr. WADDELL, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 6126) to establish post-routes in the several States herein named; which was read a first and second time.

The SPEAKER. When assurance has been given by the gentleman reporting the bill it contains nothing but post-routes, and no general legislation of any sort, the reading of the bill is dispensed with. Is there objection?

There was no objection, and the reading of the bill was dispensed with.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. WADDELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CALCASIEU LOG SEIZURES.

The SPEAKER. The morning hour begins at twelve minutes past three o'clock, and the call of committees for reports rested with the Committee on War Claims.

Mr. ACKLEN. I understood, Mr. Speaker, there was a resolution reported from the Committee on the Judiciary by the gentleman from Texas [Mr. CULBERSON] which comes over as the unfinished business.

The SPEAKER. There is that unfinished business of the morning hour. The resolution will be read.

The Clerk read as follows:

Resolved, That the Speaker of the House of Representatives be, and he is hereby, authorized to appoint a select committee of three members who shall employ a clerk, stenographer, and deputy sergeant-at-arms, and proceed to the State of Louisiana at such time as said committee shall determine, with full power to sit during the recess, to send for persons and papers, to administer oaths, and to take testimony. It shall be the duty of said committee to investigate, as far as they may deem necessary, the charges of corruption and malfeasance in office preferred against M. A. Carter, special agent of the Interior Department, and the parties connected with the Calcasieu log seizures.

Mr. SAYLER. What recess is referred to?

Mr. CONGER. I raise the question of consideration.

The SPEAKER. It is unfinished business of the morning hour.

Mr. CONGER. But I raise the question of consideration.

Mr. SAYLER. It is evident this was intended for the Christmas recess.

The SPEAKER. This resolution was introduced on the 4th of June last, as the Chair is informed.

Mr. SPRINGER. There is then no necessity for its adoption now.

The SPEAKER. The Chair will cause to be read a paragraph in the Manual.

The Clerk read as follows:

The question of consideration is not precluded by an affirmative vote on a motion to adjourn. The "unfinished" business pending at the time of the adjournment is still subject to the question of "consideration." The motion to adjourn precluding it on the previous day.

The SPEAKER. By analogy the Chair thinks it is in order to raise the question of consideration.

Mr. CONGER. I raised that question because the Committee on the Judiciary, reporting this resolution, I understood asked for its recommittal.

Mr. ACKLEN. The gentleman from Texas, [Mr. CULBERSON,] who reported the resolution from the Committee on the Judiciary, is now present.

Mr. CULBERSON. I have an amendment to propose which I think

will obviate the objection made to the resolution, so far as the recess is concerned.

The SPEAKER. Does the gentleman from Texas offer an amendment on the part of the committee?

Mr. CONGER. I raised the question of consideration because I understood the committee wished to have it postponed.

Mr. CULBERSON. The committee did informally this morning direct a certain course should be pursued in relation to this resolution, but subsequent to the adjournment of that committee I was requested by a majority of its members to let the resolution take its course, with the amendment I now offer to it.

Mr. CONGER. I raise the question of consideration. I should like to know whether the gentleman moves the amendment from any action taken in the Judiciary Committee?

Mr. CULBERSON. It is not reported from the committee.

Mr. SPRINGER. I rise to a question of order. The point I make is that the question of consideration cannot be raised in the morning hour; that under the rules of the House when the morning hour has begun reports of committees are in order; and this being a report of a committee the House must dispose of it in the morning hour.

The SPEAKER. This is a report of a committee but it comes over as unfinished business; and the gentleman will find a decision made, Journal, 2, 44, p. 252, that the question of consideration could be raised against the unfinished business.

Mr. SPRINGER. In the House, but not in the morning hour.

The SPEAKER. This is in the House.

Mr. SPRINGER. But in the morning hour.

The SPEAKER. That is a part of the time of the House; we are not in committee.

Mr. SPRINGER. That is true, but we are acting under a rule which requires the House to consider at this time reports of committees and reports of committees alone.

The SPEAKER. The Chair thinks the House at all times has power to control its business by a majority. The question of consideration can be raised against this report, which comes over as unfinished business; and if the House should refuse to consider it, it would then proceed to the next order in the morning hour, which would be reports from the Committee on War Claims.

Mr. SPRINGER. We are now in the morning hour, as I understand?

The SPEAKER. Yes, this is the morning hour. This is not a question between unfinished business and something else with which some member might antagonize it, but it is a question of considering this unfinished business; and if the House determines not to consider it, then the House will proceed with the regular order, which is the receiving of reports from the Committee on War Claims.

Mr. SPRINGER. When a question is before the House the rule provides that it may be disposed of by a motion to postpone to a day certain, to commit, to amend, or to postpone indefinitely. But I submit that when a report from a committee is before the House it must pass upon it in some way or other.

The SPEAKER. The Chair thinks the question of consideration can be raised.

The question being put, "Will the House consider the report?" there were—ayes 43, noes 99.

Mr. ACKLEN. I call for tellers. This will not occupy fifteen minutes.

Tellers were not ordered, only sixteen members voting therefor; not one-fifth of a quorum.

So the House refused to proceed with the consideration of the unfinished business.

The SPEAKER. Reports from committees are still in order, and the call rests with the Committee on War Claims.

WILLIAM DADDS.

Mr. REILLY, from the Committee on War Claims, reported a bill (H. R. No. 6127) for the relief of William Dadds, of Annapolis, Maryland; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. M. BRAEG AND OTHERS.

Mr. REILLY also, from the same committee, reported, as a substitute for House bill No. 415, a bill (H. R. No. 6128) for the relief of J. M. Bragg and others, of Tennessee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and with the accompanying report, ordered to be printed.

GEORGE W. SAULPAN.

Mr. CALDWELL, of Kentucky, from the Committee on War Claims, reported back, with a favorable recommendation, the bill (S. No. 1390) for the relief of George W. Saulpan; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ESTATE OF JOHN WATERS.

Mr. CALDWELL, of Kentucky, also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 955) for the relief of the estate of John Waters, deceased; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

GEORGE W. BROWER.

Mr. CALDWELL, of Kentucky. In the absence of my colleague on the Committee on War Claims, the gentleman from Alabama, [Mr. SHELLEY,] I report back from that committee with a favorable recommendation the bill (H. R. No. 1626) for the relief of George W. Brower, and move that the same be referred to the Committee of the Whole on the Private Calendar, and the accompanying report printed.

The motion was agreed to.

JAMES MILLER.

Mr. MARTIN, from the Committee on War Claims, reported a bill (H. R. No. 6129) for the relief of James Miller, of Bourbon County, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ELIZABETH B. HIGGINS AND OTHERS.

Mr. MARTIN also, from the same committee, reported a bill (H. R. No. 6130) for the relief of Elizabeth B. Higgins, Joel Higgins, and Brand Higgins, of Phillips County, Arkansas; which was read a first and second time.

Mr. MARTIN. I ask for the present consideration of this bill.

The bill was read. It refers the claim of Elizabeth B. Higgins, Joel Higgins, and Brand Higgins, children and heirs at law of Richard Higgins, deceased, of Phillips County, Arkansas, for property alleged to have been taken and converted to the use of the Government by the United States Army during the war to the Court of Claims for adjudication, according to the laws as to loyalty and the taking and conversion of property governing the commissioners of claims in like cases.

Mr. CONGER. I raise the point of order that this bill should have its first consideration in Committee of the Whole.

The SPEAKER. The Chair will cause the bill to be read again. The Chair does not see that it appropriates any money.

Mr. MARTIN. It does not.

Mr. RICE, of Ohio. It contemplates an appropriation.

Mr. FRANKLIN. Almost every bill does that.

Mr. BUTLER. We cannot under this bill take any money out of the Treasury until a new appropriation is made.

Mr. CONGER. I think the language of the rule is such as requires the reference of this bill to the Committee of the Whole on the Private Calendar. Otherwise we might send all these claims to the Court of Claims without their being considered in Committee of the Whole.

The bill was again read.

Mr. BUTLER. That bill does not require any appropriation. If the Court of Claims should make an adjudication it cannot be paid until a new appropriation is made.

The SPEAKER. The practice of the House has been not to allow a point of order to rest against claims that are to be sent to the Court of Claims, and the Chair's immediate predecessor decided that where a bill may incidentally involve expense, but does not directly require an appropriation, it does not necessarily go to the Committee of the Whole. The Chair therefore overrules the point of order.

Mr. WHITTHORNE. Let the report be read.

The Clerk read the report, as follows:

The Committee on War Claims, to whom was referred the petition of Elizabeth B., Joel, and Brand Higgins, having considered the same, report as follows:

The petitioners, Elizabeth B. Higgins, Joel Higgins, and Brand Higgins, are the children and heirs at law of Richard Higgins, deceased. They reside in Phillips County, Arkansas, and resided there before and during the war. The property claimed for is live-stock and farm produce valued at $40,045, and 40 bales of cotton valued at $25,000, making $65,045. Richard Higgins, who owned this property in his life-time, died in April, 1862, before any of it was taken. Two of the petitioners, Joel and Brand, were minors during the war, the eldest being about fifteen years of age when the war closed. Josiah Johnson, Isaac Waters, and Harriet Johnson testify to the taking of the property. They each swear that they were present and saw it taken. Their statements are quite full.

The petitioners state that they did not file their claim before the southern claims commission because they did not know of such commission until it was too late to file their claim by reason of the expiration of the time limited for filing claims. They reside eighteen miles southwest from Helena, Arkansas; two of them were minors in 1871, when the commission was created; the third is a female. It is quite likely that the existence of the commission might not have come to their knowledge in time to enable them to file their claim.

It may be observed that the commission did not have jurisdiction of the claim for the cotton. No remedy has been afforded for claims of that kind since the expiration of the two years following the close of the war. The two males, Joel and Brand, were then minors.

Your committee are of opinion that the claim is a *prima facie* one, and that the petitioners ought to be allowed a fair opportunity to present it. They therefore report the accompanying bill referring the same to the Court of Claims for adjudication, and recommend its passage.

Mr. CONGER. I submit of course to the ruling of the Chair in this case, but I would call the attention of the Chair to the fact that there is no one of all the war claims that can be presented but that may be embraced in a bill like this and sent to the Court of Claims without being subject to a point of order.

The SPEAKER. The Chair agrees with the gentleman that they ought to be subject to the point of order and only regrets that he cannot so decide.

Mr. CONGER. I call attention to the fact that this claim if referred to the court would involve an expenditure of money from the Treasury.

The SPEAKER. The Chair may be wrong, but the Chair thinks the gentleman himself knows that when the bill reported by himself,

known as the Dahlgren bill, was pending it was not referred to a committee.

Mr. CONGER. There was no point of order made upon it.

The SPEAKER. The Chair thinks there was, but the Chair will not assert it.

The Chair thinks that this is a defect in the rule, but the majority of the House do not seem to agree with the Chair, and have not changed the rule. The Chair agrees with the gentleman that everything likely to take money out of the Treasury ought to be subject to a point of order, but the gentleman will recollect that money is the motive power in all legislation here. The Chair will cause to be read the decision that was made upon the point of order in the Dahlgren case.

The Clerk read as follows:

Mr. BENJAMIN W. HARRIS also, from the same committee, to which was referred the bill of the House (H. R. No. 5049) authorizing a settlement of the claim of the estate of the late Rear-Admiral John A. Dahlgren, reported the same without amendment.

The House having proceeded to its consideration,

Mr. BRAGG made the point of order that the said bill must receive its first consideration in the Committee of the Whole House.

The SPEAKER *pro tempore* overruled the point of order on the ground that the bill contained no appropriation of money or property, but proposed only a reference of the case to the Court of Claims to determine whether or not the Government was indebted to said claimant.

Mr. HARRIS demanded the previous question; which was seconded and the main question ordered, and under the operation thereof the bill was engrossed and read the third time.

The SPEAKER. The gentleman will see that the point that was made there in that case is similar to the one made now.

Mr. CONGER. There was a special limitation upon the power of the court in that bill.

The SPEAKER. The Chair cannot take cognizance of any limitation. The Chair approves the vigilance of the gentleman from Michigan, but is unable to give him the relief he wants. The Chair regrets that he cannot carry out the views which he honestly entertains, but he will co-operate with the gentleman from Michigan whenever it comes to taking money out of the Treasury.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MARTIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

M. BARRON AND H. P. AND W. GORMAN.

Mr. MARTIN, from the same committee, also reported a bill (H. R. No. 6131) for the relief of Maggie Barron and Henry P. Gorman and Walter Gorman; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill provides that the claim of Maggie Barron, of Maury County, Tennessee; Henry P. Gorman, of Fayette County, Tennessee; and Walter Gorman, of Benton County, Mississippi, for property alleged to have been taken and used by the United States Army during the war shall be referred to the Court of Claims for adjudication, both as to the loyalty of the claimants and the alleged conversion of the property, according to the laws governing the commissioners of claims in like cases.

Mr. MARTIN. I ask that the report accompanying the bill be read.

The report was read, as follows:

The Committee on War Claims, to whom was referred the petition for the relief of Maggie Barron, Henry P. Gorman, and Walter Gorman, having considered the same, report as follows:

The petitioners, Maggie Barron, Henry P. Gorman, and Walter Gorman, are the heirs and legal representatives of George Gorman, deceased. The two former reside, respectively, in Maury and Fayette Counties, Tennessee, and the latter in Benton County, Mississippi. George Gorman owned the property claimed for at the time it was taken. He resided in Marshall (now Benton) County, Mississippi, and died in 1869. The claim is for stock and farm produce alleged to have been taken and used by the United States Army during the war, of the estimated value of $9,870.

The petitioners were all minors during the war, the eldest, Maggie Barron, being less than sixteen years of age when the war closed. George Gorman was about eighty-seven years of age when he died. He took the oath of allegiance to the United States in December, 1862, which is filed with the petition. Richard H. Parham and Littleton H. Wilburn swear to his loyalty. Parham testifies as follows:

"I can say that he was a stanch Union man—one who avowed his sentiments publicly and privately upon all occasions. I have heard him say time and again that the confederacy would not succeed, and that it ought not to succeed. * * * It is my earnest and honest heart-felt conviction that if there ever was a loyal man George Gorman was one."

Wilburn says:

"There was not a more stanch, outspoken man in America. He had no concealment of his opinions and spoke them out at all times and places. He would denounce the war, separation, and the confederate authorities without stint or mercy, and seemed to delight in expressing his contempt for them and his devotion to the Union of the States and the flag of our country. He always said that the confederacy would fail and the United States Government stand for all time," &c.

The first-named witness has been adjudged loyal by the southern claims commission, under the act of March 3, 1871. The last testifies that he has always been a Union man.

Parham, Wilburn, William Gorman, and Henry Gorman testify to the taking of the property by the Federal Army. The testimony of the last two is quite full and circumstantial. They say they were present and saw the various items charged taken.

The reason assigned for not having presented the claim before is that George Gorman placed his claim in the hands of attorneys at Memphis, Tennessee, for prosecution soon after the close of the war; that there was then no jurisdiction for such claims arising in Mississippi; that such jurisdiction was not afforded until the creation of the southern claims commission in 1871; that meanwhile Gorman died, and in the course of the administration of his estate the matter was not brought to the attention of the petitioners until 1874, a year or more after the time limited for the filing of claims had expired.

Your committee are of opinion that the petition and proofs attached present a *prima facie* case, both as to the question of loyalty and the taking of the property. They therefore report the accompanying bill, referring the claim to the Court of Claims, and recommend its passage.

Mr. BRAGG. It seems to me a little strange that with a case where the proofs are so clear and the committee are so thoroughly satisfied of the justice of the claim that there can be no doubt either as to the amount of the claim or the loyalty of the claimant, they should shrink from the responsibility of reporting a bill to this House for paying the claim. The fact that they do so shrink leads me almost to think that this is a new way which has been discovered by which the sense of this House is not to be taken upon claims which may be known as southern war claims, but that the responsibility is to be shifted to somebody else, so that when a verdict may be rendered we may hold up our hands and say, "Thou canst not say I did it." I hope this bill will not pass.

Mr. MARTIN. I am a little astonished at the objection made by the gentleman on my left, [Mr. BRAGG,] for the simple reason that he ought to be able, as the rest of us are I apprehend willing, to trust a court that was instituted for the very purpose of adjudicating matters of this kind. I am surprised when the gentleman objects to the court considering a claim of this kind.

I regard it as infinitely preferable to refer such claims as this to a court than to have them heard and considered here. In the court witnesses may be heard upon both sides; doubtless will be. Here the testimony is only *ex parte*. For the protection of the Government and for the ample vindication of the rights of the claimant, it seems to me proper that this claim should go to the Court of Claims.

Mr. REILLY. As a member of the committee reporting this bill, and in answer to the objection of the gentleman from Wisconsin, [Mr. BRAGG,] I think I can satisfy his mind. It will be borne in mind that all this class of claims before Congress is based upon *ex parte* testimony. The Government is not represented; the witnesses are not cross-examined. The affidavits are simply *ex parte*, taken before a commissioner or some other person authorized to take them in different parts of the country.

In this case the testimony was very strong, considering that it was *ex parte*. It was enough to satisfy the committee looking at it from that stand-point, of the merits of the claim; but we did not think the proof was sufficient to warrant us to report a bill taking money out of the Treasury where the Government itself had not been represented.

Under the provisions of this bill the parties can go into a court regularly constituted, where the Government will be represented, where they will have an opportunity, if they see proper, to present witnesses to antagonize this claim, where they will be represented by counsel, and in that way justice can be much more fully done than here. In our report we refrain from expressing any opinion beyond the fact that this presents a *prima facie* case of such merit that the party should have an opportunity to be heard in a court of justice.

Mr. POTTER. Why did not these parties go before the southern claims commission?

Mr. MARTIN. The original claimant died in 1869, and these parties are his children. The southern claims commission was not established till 1871.

Mr. POTTER. Would the commissioners of southern claims have had jurisdiction of this claim?

Mr. MARTIN. Probably they would have had.

Mr. POTTER. Where was the property taken?

Mr. MARTIN. In Mississippi.

Mr. POTTER. All the property in this case?

Mr. MARTIN. Permit me to remark that it seems to me no injury can be done to any one by passing this bill, which simply proposes to allow these parties to go before the Court of Claims at their own expense. If they fail they will get nothing; if they establish their claim they surely ought to have the money.

Mr. WHITTHORNE. I wish to ask the gentleman from West Virginia whether this House did not at the last session by a nearly three-fourth vote pass a general bill referring all bills of this character to the Court of Claims. I refer now to what is known as the "Potter bill," which has not been acted upon, I learn, at the other end of the Capitol. Such having been the expression of the sense of the House, it seems to me that the position of the gentleman from West Virginia and the gentleman from Pennsylvania is eminently sound. If these parties have been loyal to the Government, if the Government has taken their property, and if under the limitation prescribed by the Government they were not allowed to sue, being debarred by infancy or any other cause, it is but an act of simple justice to refer their claim to the court—justice to the Government and justice to them.

Mr. POTTER. Mr. Speaker, I think this bill is of more importance than the House seems to regard it. First let me say in answer to the gentleman from Tennessee [Mr. WHITTHORNE] that the bill which passed this House at the last session, referring to the Court of Claims the judicial ascertainment of the facts in all matters of private claims, was referred to the Judiciary Committee of the Senate, and by that committee reported adversely to the Senate and there defeated.

Now, my difficulty with this bill is not that it proposes to refer the inquiry of the facts involved to a judicial tribunal. I am always

in favor of that. The bill which I reported covered all cases of private claims, and forbade the consideration by Congress of any claim until the facts had been judicially ascertained by the Court of Claims, instead of by a committee, as now. My difficulty with this bill, I repeat, is not that it provides for a judicial ascertainment of facts, but that it provides for payment to the claimants if the facts be established, while there is not by law any liability to them. Once for all, let it be remembered that where property within the enemy's lines was taken or destroyed by our troops in carrying on the war the Government of the United States is not liable for such property by the laws of nations and of war unless it chose to assume such liability. That it did see fit to do, as regards the property taken from loyal citizens, for a limited time. But its liability for such claims ended with the limitation which Congress provided in the bill establishing the southern claims commission.

Mr. MARTIN. Would the gentleman prescribe or enforce a statute of limitation against infants?

Mr. POTTER. No, Mr. Speaker; but this is not a question of a statute of limitation; it is a question of the restoration of a mere statutory right, of a right which never existed except by positive law, which positive law declared that it must be asserted within a certain number of years, which number of years has expired, so that the right is gone. And the question is whether in this case, or in any case, or in all cases, that right shall be restored. If we are going to give one loyal claimant the right to come in after the limitation originally provided has expired, we ought to give it to every such citizen, and we ought not to begin by referring to the Court of Claims a single one of these war claims and directing that court to adjudicate and allow it in preference to all the rest, or without understanding that this bill is the first step in that road and being prepared to travel it through.

At any rate the House ought to understand that this is one of a mass of claims for losses sustained by men at the South during the war, which claims were for a time allowable, if I may use the term, by the law establishing the southern claims commission, but which are no longer so.

Mr. WHITTHORNE. Will my friend answer me one question?

Mr. POTTER. I will answer with pleasure anything I can.

Mr. WHITTHORNE. Does the gentleman hold that it is right and equitable upon the part of a government seeking to do justice among its citizens or subjects, to give certain rights to adults, and persons who are capable of suing, and to deny the same rights to parties who are unable to sue by reason of infancy, coverture, or insanity? Does the gentleman believe that there is any justice in a proposition like that?

Mr. POTTER. No, Mr. Speaker, but that is not this case. Within the time allowed by law a great many southern loyalists applied to the southern claims commission and had their claims allowed; but others (some because they could not do so in time, some because they did not take the trouble to be in time, and some for other reasons) did not apply. Now it is said that the whole southern country is full of claims of this kind which will be pressed the moment we give the claimants a right and opportunity to enforce them—claims the amount of which will go far to exhaust the Treasury of the United States in their payment. Now we on this side of the House have asserted that we did not intend either to provide payment of these claims nor to establish a tribunal in which they can be enforced; and gentlemen will remember that in the late debate on William and Mary college the gentleman from Virginia [Mr. GOODE] said the South did not expect nor demand that we should do so.

Now, I agree that if this claim is to be considered and allowed at all the place to consider it is a court of justice. But this bill not only directs an ascertainment of the facts of the claim; it provides further that the claim shall be paid when the facts are established. Yes, it does, although the gentleman from Ohio [Mr. KEIFER] shakes his head.

The SPEAKER. If the gentleman could show that the bill contained any appropriation the Chair would hold it to be subject to a point of order.

Mr. POTTER. Oh, there is no provision in it, Mr. Speaker, for a direct appropriation of money; that is not what I mean when I say it provides for payment; but it provides for the judgment of the Court of Claims according to the law governing the southern claims commission; that is, it provides for a recovery against the United States if the facts bear out the claimants. Now, that is simply to renew for the benefit of these parties a jurisdiction that we gave to the southern claims commission, which jurisdiction has now expired. If we renew it for one loyal claimant we should renew it for all. This bill means that we shall provide for paying the hundreds of millions of dollars which the republican journals say the loyal southerners mean to take out of the Treasury. I do not believe the people of the South as a whole want these claims provided for, and I am not going to take the first step which shall open the door to such payment when I do not think we are bound to do it by right, and do not believe it will now be for the advantage of either section to do it by favor.

Mr. KEIFER. Will the gentleman allow me one question?

Mr. POTTER. Certainly.

Mr. KEIFER. I understand the distinguished gentleman from New York to have been in favor of a bill that would pay all these claims in some form or other through the interposition of a court; but as he could not pay them all, he would not now pay any of them.

Mr. POTTER. Oh, no

Mr. KEIFER. That is the gentleman's proposition as I gathered it from his bill, which passed by so large a vote at a former session of this Congress.

Mr. POTTER. That did not provide for the payment of any one of these claims.

Mr. KEIFER. It looked to the payment of all of this class of claims.

Mr. POTTER. No, sir; it did not look to any such thing. It looked to the ascertainment of the facts and reporting them to this House; and had the facts of this claim been ascertained under that bill it would have given an opportunity to Congress to then say whether it be one of those claims which should be paid. If the House means to begin the payment of this class of claims, let it understand what it is doing.

Mr. KEIFER. I of course yield to the gentleman when he insists, but I do insist my statement is correct. He is, however, mistaken about this bill, for it does not provide anywhere for a payment of this claim.

Mr. POTTER. But it provides for the adjudication of the claim in the Court of Claims and for a recovery, a judgment there if established.

Mr. KEIFER. It provides for adjudication by the Court of Claims, applying to it the law which has been made applicable to cases of like character before the southern claims commission. The effect of the adjudication of this claim by the Court of Claims under this bill, should it become a law, will be the same as under the omnibus bill of the gentleman from New York. The latter clause of this bill has been carefully drawn. It was so drawn in order that the Court of Claims should not take the report of this committee as conclusive of the question of loyalty or of the question of the taking or conversion of the property for which the claim is made. The latter clause of the bill was intended to entirely free that court from any action of the committee or Congress, and it was put there for the purpose of guarding against the very thing which the gentleman says we are in danger of doing. I am not satisfied by the *ex parte* testimony which was before the committee that these parties were loyal during the war. I am satisfied so far as there was any evidence, or what possibly might be called evidence, before the committee, that it showed they were loyal, but I am not certain that it is true, and I will not accept it, it being *ex parte* testimony, as conclusive of that question. It frequently turns out when questions of this kind are judicially investigated, when testimony is taken properly, that the parties were not loyal. I know a very noted case. A very distinguished gentleman had a claim before the commissioners of claims——

Mr. BRAGG. Let me ask the gentleman a question.

Mr. KEIFER. Certainly.

Mr. BRAGG. If this bill revives the law and the rule of evidence established for the claims commission in this particular case, does it not in fact revive that legislation and make it applicable to one case, whereas all other cases will be excluded from the benefit of it?

Mr. KEIFER. That is coming back to the same thing I understood my friend from New York to favor; that is, he would not pay one claim, however just, that may come within our consideration here because we could not pay them all. Let me say, Mr. Speaker, we have paid millions upon millions of dollars under the general law and through the interposition of the commissioners of claims, called improperly southern claims commissioners; we have paid, I have said, through their interposition millions upon millions of dollars of claims of like character to this one, assuming these parties to have been loyal and that these goods were taken and used by the United States authorities for the benefit of the Government.

Let me say, sir, that it is not proposed to enter upon the payment of claims generally for property taken or destroyed in the South either to loyal or disloyal parties. That is not the proposition; but if these goods were commissary stores or quartermaster stores which were taken from or furnished by loyal parties to the United States Army, of which the Army had the benefit—used for the benefit of the United States—then we propose to pay for them as we have been paying millions of dollars for like property, even though the claimants happened to live in the South, if we find they were loyal.

Now that is a policy which was entered upon long ago; but there we have stopped, and there I propose to stand so far as I am concerned.

Mr. POTTER. Then I understand the gentleman to say if these parties were loyal and if the goods which were taken were goods of the class he speaks of, then they ought to be paid notwithstanding the expiration of the law establishing the southern claims commission.

Mr. KEIFER. The gentleman states one of the troubles I have had some difficulty with myself all through. There are, however, a great many people, unfortunately, who come here with claims having never heard of this limitation. Some were minors and could not have known or understood the application of the law. It may be we are opening up a statute in this case, possibly, which we ought not to do, but on representations made to us and on the evidence before the committee it thought this was a proper case to open a statute and

let in these parties. That is one reason why we should not like to pass a general law to apply to all cases. If a man knowingly slept on his rights when the statute gave him a remedy he should be permitted to sleep on. Statutes of limitation are for repose as well as in the interest of peace.

Mr. REILLY. I should like to ask a question in regard to the point of payment involved in this bill. Does the gentleman from New York understand under the law that judgments of the Court of Claims are to be paid at once? On the contrary do they not have first to be reported to Congress before there is an appropriation?

Mr. POTTER. I am glad to answer the gentleman. Of course nothing can be actually paid without an appropriation first made by Congress, for the Treasury would otherwise not have the means of payment. Appropriation bills are not bills for ascertaining or declaring what is due, they are bills for providing the money to pay what has otherwise been declared by Congress to be payable. And when a claim has once been established by the judgment of the Court of Claims then all question of the liability of the Government to pay it is ended and it becomes as much the duty of Congress to provide the means to pay it with as to redeem its Treasury notes.

Mr. REILLY. But you said the bill provided for payment.

Mr. POTTER. Yes, I mean the right to payment, not the means of payment; for by the judgment of the Court of Claims the debt against the United States is thereby established and the question of its validity is ended. Now the difference between this particular bill and the general bill I introduced was, that that provided for bringing the claims back to Congress with nothing but the facts in each case ascertained and the recommendation of the court thereon, for Congress to say whether the claim so established as matter of fact should be paid or not. This bill if it becomes a law will authorize the Court of Claims to give a judgment for the amount due, for which an appropriation ought then to be made. I understand this bill like the gentleman from Ohio, [Mr. KEIFER,] to be the revival for this particular claim of the relief afforded by the southern-claims commission bill. There is no such thing as a legal liability on the part of the Government in favor of loyal or disloyal people for property taken by the Army in the enemy's country. Such sufferers have no natural right of recovery for such losses. Congress did see fit to create a special liability for those in the South whom we style loyal citizens. The liability thus created has expired. This bill proposes to revive it. I think it is a dangerous thing to do, and I want it understood that one democrat stands here opposed on that subject to the distinguished republican from Ohio, [Mr. KEIFER.]

Mr. KEIFER. I desire to ask the gentleman from New York a question: whether he is opposed to the general policy of that original law?

Mr. POTTER. Frankly, yes; I am now opposed to its revival. The war has been over for some fifteen years. The loyal men of the South have had an opportunity to present their claims. To now at this late day give them another opportunity would be to open the door to a vast army of claimants, many of whom are without merit. The question of a man's loyalty who was South during the late war is one of the most uncertain and illusive of questions. Proof of some sort indicating that he was dissatisfied at some time with the rebellion or with its leaders can be collected in regard to almost any man there. And the temptation that would be held out to get up pretended claims and for claimants to assume to have been loyal would be very great. From all I can learn from gentlemen from that section, I think the general opinion at the South is that few of these claims are honest; that more injustice than justice would be done by reviving them; that they afford a constant ground for irritation, misconstruction, and mistrust; and that the South would on the whole be better off if it were once for all understood that the opportunity to assert such claims would not be revived.

On the whole, therefore, I think it is better for the South, better for the North, better for the whole country, that the matter should be treated as settled, and that it should be understood that no one of these war claims will be paid, and that we should say, once for all, frankly, that we will not pay them. [Applause from the republican side.] The North does not want these claims paid; the South itself as a whole does not demand their payment, and no step looking to the payment of such claims should be taken by this House now.

Mr. KEIFER. I ask the gentleman from West Virginia to yield to me for a few moments before he calls the previous question.

Mr. MARTIN. I yield to the gentleman.

Mr. KEIFER. I know with what approval members upon this floor may receive remarks made against paying southern claims. The position taken by the gentleman from New York [Mr. POTTER] is a popular one, perhaps, before the country. But before this debate closes to-day, I desire to say that I believe, limited as I have already stated to the payment for property taken from loyal persons by the United States officers or furnished by such persons to the United States officers for the express use of the Army in suppressing the rebellion in the South, the policy of paying these claims is a wise one. I believe it is wise because we will not say to these people down South who were loyal throughout the war, loyal when it cost something to be loyal—we will not say to them that what they furnished to the Army freely, in order that the war might be carried on, they shall now be robbed of. This would be saying to the people down South who had their property there, and tendered it freely to the United States to aid in putting down the rebellion, and who were loyal throughout the entire war, "We will not pay you because you were so unfortunate as to live in a country that was disloyal." Many members fail to distinguish between claims of southern loyal men and what are generally called "rebel claims."

I stand upon the doctrine that was long ago announced in the other end of this Capitol by the distinguished Senator from Indiana, Senator Morton, by Senator Sumner, of Massachusetts, and others, that it was a wise policy to pay certain claims presented by loyal men from whatever section of the country they came. If we fail to do this we put the loyal men in disloyal districts exactly upon a par with the disloyal people in disloyal districts. That is a position which I do not desire to take, popular or unpopular.

For the sake of the future of this country, if even we are to forget the past, I am in favor, in proper cases, of distinguishing between the loyal and the disloyal, and always in favor of the former.

Rebel claims should never be paid. All claims arising out of the general ravages of war should not be paid to loyal or disloyal persons. Supplies furnished by or taken from loyal parties North and South should be paid for as a matter of right, and such has been the policy of this Government from the beginning, and I trust it may ever continue to be.

Mr. MARTIN. I yield for a few moments to the gentleman from Mississippi, [Mr. HOOKER.]

Mr. HOOKER. I desire to say in response to what has fallen from the gentleman from New York, [Mr. POTTER,] on this side of the House, that I think if he understood properly the propositions of his own bill he would not have criticised the one offered by this committee in the way he has done. Every claim against the Government should stand upon its own foundation. As I understand the provisions of this bill, it simply proposes to compensate parties whose goods were taken by the Government of the United States, and who were minors at the time, and who, therefore, were not embraced within the provisions of the former law. Upon every principle which belongs to that law for which the gentleman from New York expresses so much respect, I undertake to assert that neither in the country from which we borrow alike our laws and our language nor in any other civilized community has there ever been a statute of limitations that did not except minors, *femmes convert*, insane persons, and those incapable of taking advantage of the law. The bill introduced by the gentleman from New York himself, to which I gave my assent, proposed to include claims, just and proper in themselves, presented by loyal citizens; and if the gentleman from New York had had the misfortune to go from New York to reside for a year or two in the South and had there had all his property destroyed by the Union Army while he himself was loyal in Mississippi as he had been loyal in New York, would he not have thought it a very hard thing if his Government had said, "We will not pay this debt?"

Why, sir, his own proposition proposes the following:

"*Be it enacted, &c.*, That any person who may have a claim against the United States of which the Court of Claims would not now have jurisdiction, but founded upon equity and justice, and not barred by the statute of limitation provided by the laws of the United States, may file his claim in that court.

The man above all men who stood higher than all others in judicial acumen and legal learning, Judge Story, said that it was a disgrace to this free and enlightened country when in the most despotic governments in the Old World a citizen who had a claim against the government had a right to go to the court and demand his pay.

There was no such right here; and this sentiment thus uttered by this great lawyer and judge was carried out in the Court of Claims.

And now, sir, to-day you have in the Treasury of the United States $34,000,000 of captured and abandoned property. You have $15,000,000 which you acknowledge does not belong to the Government of the United States, and never can be mingled with the other funds in the Treasury, but it must stand there forever as a sacred fund to pay debts you acknowledged that you gathered from those who were loyal in the South.

And while I admit that there are few exceptions to this, yet I know that there were some persons who were loyal there, and if you took their property you did it as a trustee, with the intention and purpose when they came with their claims to return it to them, and this is one of that class of claims.

Mr. CONGER. I call for the regular order.

The SPEAKER. The morning hour has expired and the bill goes over until the next morning hour.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California; and

A bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico.

MARINE CORPS.

Mr. BLISS, by unanimous consent, introduced a bill (H. R. No. 6132) to regulate and define the rank of the staff of the Marine Corps; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CLAIMS OF WORKINGMEN OF THE DISTRICT OF COLUMBIA.

Mr. BLISS. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to furnish the following information:

First. What, if any, additional legislation is necessary to enable the proper auditing officers of the Treasury to audit and allow all claims for work and labor actually performed under the late board of public works of the District of Columbia, and now on file in the Treasury Department, under act of June 20, 1878.

Second. The number, amount, and the nature of the claims, and how much, if any, additional appropriation is necessary to pay and adjust all legal claims now on file.

Third. If anything has been found due to contractors of the late board of public works who have not paid and are still indebted to their laborers.

Mr. CONGER. I object to the adoption of the resolution, but have no objection to its reference.

Mr. BLISS. It is simply a resolution of inquiry, and I am sure if the gentleman understood it he would not object to it.

Mr. CONGER. Is it a resolution of inquiry?

Mr. BLISS. That is all.

Mr. CONGER. Then I will not object.

The resolution was agreed to.

JOHN T. PENNINGTON.

Mr. GLOVER, by unanimous consent, introduced a bill (H. R. No. 6133) granting a pension to John T. Pennington, of Adair County, Missouri; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPORT OF THE SUPERINTENDENT OF THE COAST SURVEY.

Mr. BALLOU, from the Committee on Printing, reported back the following concurrent resolution of the Senate; which was read, considered, and agreed to:

Resolved by the Senate, (the House of Representatives concurring.) That the report of the Superintendent of the Coast Survey for the year ending June 30, 1877, be printed, with 1,000 additional copies for the use of the Superintendent.

Mr. BALLOU moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POWELL'S SURVEY.

Mr. BALLOU also, from the same committee, reported the following concurrent resolution; which was read, considered, and agreed to:

Resolved by the House of Representatives, (the Senate concurring therein.) That there be printed 5,000 copies of the report on the lands of the arid region of the United States, by J. W. Powell; 1,000 for the use of the Senate, 2,000 for the use of the House of Representatives, and 2,000 for the use of the Department of the Interior.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BINDING OF GOVERNMENT REPORTS.

Mr. BALLOU also, from the same committee, reported back the bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878.

The SPEAKER. The Chair thinks that that does not come under the rule which authorizes the gentleman to report at any time.

Mr. BALLOU. The object of the bill is simply to change the law in relation to binding, so as to have the series made uniform.

The SPEAKER. The Chair has no objection to its consideration if no member of the House has. The bill will be read.

The bill provides that the act making appropriations for the sundry civil expenses of the Government for the year ending June 30, 1879, shall be amended by adding to the clause relating to the binding of books for the Departments of the Government, after the words "Congressional Library," the words "nor to the library of the Surgeon-General's Office."

Mr. BALLOU. The object of this bill is to provide that the series of books in the Surgeon-General's Office shall be of uniform binding.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. BALLOU moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WAGON-ROAD, MONTANA.

Mr. BALLOU, from the same committee, reported back the following; which was laid on the table:

Resolved, That the Secretary of the Interior be requested to furnish this House with a copy of Colonel Sawyer's report as superintendent and disbursing officer of the Government expedition to construct a wagon-road from the Niobrara River to Virginia City, Montana, in 1865.

DUTIES ON SUGAR.

Mr. ROBBINS. In response to a communication from the Secretary of the Treasury in regard to the evasion of the duties on sugar, I report a bill from the Committee of Ways and Means and ask that it be made a special order for consideration on Saturday next, after the morning hour, or, if there be no morning hour, at one and a half o'clock.

Mr. WARD. I object to its being made a special order.

Mr. ROBBINS. Then I move that it be printed and recommitted to the Committee of Ways and Means.

The bill (H. R. No. 6134) to regulate the duties on sugar was received, read a first and second time, ordered to be printed, and recommitted to the Committee of Ways and Means.

IN MEMORY OF THE LATE GUSTAVE SCHLEICHER.

Mr. CABELL, from the Committee on Railways and Canals, reported the following; which was laid on the table, and ordered to be printed in the RECORD:

Whereas the death of Gustave Schleicher having deprived the Committee on Railways and Canals of a chairman whose pre-eminent abilities and high character have been its pride, we desire to place on record our deep sensibility of the loss we have sustained: Therefore,

Be it resolved, That we deplore the death of our friend, fellow-member, and chairman, and recognize in it not only a private affliction but also a public loss.

Resolved, That while his recognized superior intellectual attainments and his well-known amiable and noble traits of character will keep his memory ever green in our hearts, his noblest memorial will be those public services to which he devoted himself with unremitting zeal, integrity, and patriotism.

Resolved, That he has left a record of honorable deeds and of duty well performed which might well excite the emulation of the best and wisest of his surviving colleagues.

Resolved, That we extend to his family the assurance of our heartfelt sympathy in their great bereavement.

Resolved, That we fully indorse the recommendation of the Committee on Foreign Affairs that the Committee on Appropriations make the usual and customary appropriation of salary for the benefit of the family of our late colleague.

CLASSIFICATION OF MAIL MATTER.

Mr. WADDELL. I ask unanimous consent that Thursday evening next, at half past seven o'clock, be assigned for the consideration of a bill in which every American citizen is interested—a bill for the classification of mail matter and the fixing of the rates of postage thereon.

Mr. CONGER. No other business for that evening?

The SPEAKER. No business but that bill.

There was no objection, and it was so ordered.

Mr. WADDELL moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY HEADQUARTERS.

Mr. THROCKMORTON. I ask unanimous consent to submit a resolution for consideration at this time calling for information in which the Committee on Appropriations and the Committee on Military Affairs are much interested.

The resolution was read, as follows:

Resolved, That the Secretary of War be requested to report to the House of Representatives the probable cost and continuing expenses of carrying into operation the existing law in reference to the removal of headquarters of military departments from leased buildings into buildings belonging to the United States Government at the following named points: Saint Paul, Omaha, San Antonio, Prescott, and Portland, making a separate statement as to each of the above named places, and stating the relative cost of leasing at said points suitable buildings for said purposes; and to further report in what instances such removal in Government posts will in his opinion be beneficial or injurious to the efficiency of the service.

There was no objection; and the resolution was adopted.

Mr. THROCKMORTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUTY UPON HORN STRIPS, ETC.

Mr. WILLIS, of New York, by unanimous consent, introduced a bill (H. R. No. 6135) imposing a duty upon horn strips and imitations of whalebone; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

CAPITOL GROUNDS.

Mr. WILLIS, of New York. I ask consent to submit for adoption at this time a resolution calling on the Secretary of the Interior for a statement in regard to money spent and labor performed on the Capitol grounds.

Mr. CONGER. Let that resolution be read.

The resolution was read, as follows:

Be it resolved by the House of Representatives of the United States in Congress assembled, That the Secretary of the Interior be, and is hereby, requested to send to this House a detailed statement of the sums of money appropriated for improving the grounds around the Capitol, from the 1st of March, 1874, to the 1st of December, 1878; also an itemized account of the manner in which the money was disbursed; the names of all persons employed as engineers, gardeners, superintendents, firemen, (except laborers,) and the amount of salary paid per day or month; also what amounts have been paid from time to time, specifying the dates, to Frederick Law Olmstead, by what authority he was paid, and what services he has performed; also the aggregate amounts paid for material, and the wages of laborers.

And be it further resolved, That the Secretary of the Interior be, and is hereby, requested to send to this House a detailed statement of the names and number of persons, exclusive of laborers, who are employed under the Architect of the Capitol, what duties they perform, the State they are from, and the salary they receive per diem or month; also what State each of the engineers, gardeners, superintendents, and firemen in charge of the work on the Capitol grounds is from.

Mr. CONGER. I object.

Some time subsequently Mr. CONGER withdrew his objection and it was renewed by Mr. TOWNSEND, of New York.

WILLIAM ARNOLD.

Mr. BUNDY, by unanimous consent, introduced a bill (H. R. No. 6136) granting a pension to William Arnold, a soldier of the Mexican war; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had disagreed to the amendments of the House to the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, asked a conference with the House on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate Mr. CONKLING, Mr. HOWE, and Mr. DAVIS of Illinois.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road.

The message also announced that the Senate had concurred in the resolution of the House for printing 8,000 copies of the eulogies in the Senate and House of Representatives upon Hon. J. E. Leonard, late member from the fifth district of Louisiana.

INTERNAL IMPROVEMENT IN WISCONSIN, ETC.

Mr. POUND, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of War be, and he is hereby, requested to transmit to this House such official reports and correspondence as have been received by him subsequent to the submission of his last annual report as relates to the improvement of the Chippewa River in Wisconsin and the Saint Croix River in Wisconsin and Minnesota, and such as relate to the examination and survey of the headwaters of the Mississippi, Saint Croix, Chippewa, and Wisconsin Rivers, to determine the practicability of creating reservoirs to regulate the volume and improve the navigation of said rivers.

Mr. POUND moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTAIN JAMES M. BEEBER.

Mr. RICE, of Ohio. I ask unanimous consent that the Committee on Invalid Pensions be discharged from the further consideration of the bill (S. No. 19) for the relief of Captain James M. Beeber, and that the same be referred to the Committee on Military Affairs.

There being no objection, the bill was referred accordingly, not to be brought back on a motion to reconsider.

MANUAL LABOR ASSOCIATION.

Mr. COX, of New York. I ask unanimous consent to present the petition of a number of very respectable colored men who desire to have their petition spread upon the record. It is brief, and I hope there will be no objection to printing it in the RECORD without the signatures.

There being no objection, the petition of N. M. Mitchell and others, of the Manual Labor Orphans' Relief School and National Industrial Arts Association, for an act of incorporation and for material aid in establishing institutions of the above title in certain States, was referred to the Committee on Education and Labor, and ordered to be printed in the RECORD.

The petition is as follows:

Petition of Noah Madison Mitchell and others, of the Manual Labor Orphans' Relief School and National Industrial Arts Association, praying for an act of incorporation and material aid in establishing institutions of the above title in certain States to encourage education and industry among the colored race, and for other purposes; accompanied with certificates from the governors of States, mayors and other officials of cities and towns, ministers of churches, principals of public schools, academies, and colleges, judges, members of the bar associations, bankers, and business men of all classes, approving the enterprise and commending it as one of national utility and worthy of national favor and material aid.

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned petitioners, believing that the welfare of the nation and the peace, prosperity, and happiness of our common country depend upon the intellectual, moral, and industrial training of the people who are to constitute the future subjects as well as administrators of government; and

Whereas a large surplus of children of both sexes and races, and especially those whom we have the honor in part to represent belonging to the emancipated race, many of whose parents are suffering from old age and infirmity, and some of whom among your petitioners have lost the results of their most prosperous years of earnings since emancipation by the fall of the Freedmen's National Savings-Bank, thereby greatly discouraging them in their efforts toward moral, social, and intellectual elevation, and leaving their children destitute both of facilities and incentives to such educational improvement as is essential to good citizenship, and therefore an easy prey to ignorance, idleness, vagrancy, and crime; and believing the relief of such a class and the removal of such tendency to vice and consequent danger to the future peace, prosperity, and happiness of the Republic to be a work commended of God and approved by all good men, have organized a Manual Labor and Orphans' Relief School and National Industrial Arts Association for the improvement of the moral, mental, social, and industrial condition of the colored people of the United States of America.

It is proposed to teach our sons and daughters trades, mechanic arts, agriculture, household training, and like pursuits, as well as to instruct them in the common branches of an English education; thereby rendering them honest and useful citizens. And having procured lands and already begun the initial work with great certainty of success, and having the favor of hundreds of the most earnest and intelligent people of the country both in church and state, we, the officers and members of said association therefore, upon the commendations of the many high characters of the land who bespeak for this cause your earnest and favorable consideration, pray your honorable bodies to adopt the following:

A bill to incorporate the Manual Labor Orphans' Relief School and National Industrial Arts Association of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Noah M. Mitchell, Lewis W. Brown, Thomas Hayward, John Baker, Henry Allen, Albert Caldwell, John H. Little, Peter M. Williams, William F. Smith, Dennis C. Curtis, and others, are hereby created, with their associates and successors, a body corporate and politic, with perpetual succession, under the name, style, and title of "The Manual Labor Orphans' Relief School and National Industrial Arts Association of the United States of America," and by that name may contract and be contracted with, sue and be sued, plead and be impleaded with in their corporate name, may have and use a common seal, may alter and change the same at will, and by the name, style, and title aforesaid the said association shall have full power and authority to receive funds and donations, including lands and such effects as may be designed to promote the end for which the association is created.

SEC. 2. That the object of this incorporated association shall be the care of destitute colored people, especially unfortunate and destitute children of the colored race, and the instruction of such persons by teaching them trades, the mechanic arts, agriculture, household training, and like pursuits, as well as to instruct them in the common branches of an English education, thereby rendering them honest, frugal, industrious, and useful citizens.

SEC. 3. That the officers of the association shall be a president, vice-president, recording secretary, corresponding secretary, treasurer, and a board of managers or trustees of not less than five nor more than nine persons, to be elected under such rules and regulations as are prescribed by the constitution and by-laws of the association: *Provided*, That the election of said officers shall take place on the first Monday in January of each year.

SEC. 4. That the said officers shall perform all the duties usually appertaining to their respective offices in similar organizations and as prescribed by the constitution of the association; and they shall give bonds in such sums as shall be regarded reasonable and necessary for the faithful performance of their duty under the provisions of the constitution and by-laws of the association.

SEC. 5. That any person may become a member of the association upon the payment of $10 into the treasury thereof, to whom a certificate of membership, issued by the secretary, shall be given, in accordance with the provisions of the constitution. Life-membership certificates may be obtained upon payment of $25; and all persons holding such certificates shall be entitled to all the rights and privileges of all other members under this act of incorporation and in conformity with the constitution and by-laws aforesaid.

SEC. 6. That the capital stock of the association shall be $150,000, which may be increased by a vote of the association when found necessary, in order to extend branch associations into other States. And the said association shall, by their incorporate name, be capable by law of holding and conveying any real and personal estate whatever which may be necessary in carrying out the object and purposes of the association.

SEC. 7. That the regular meetings of the association shall be held annually on the first Monday in January.

Special meetings may be held at such times and places as may be determined by the regular meetings, or upon call of the president and board of managers, under such restrictions as may be provided in the constitution and by-laws.

SEC. 8. That it shall be the duty of the association authorized by this act to publish annually a full report of its financial condition and showing detailed statements of all its receipts and expenditures of the same.

SEC. 9. That books of subscription to the capital stock of this association may be provided, containing blank certificates, form of subscription, and marginal record, as follows:

M. L. O. R. S. & N. I. A. A. —o— SUBSCRIPTION CERTIFICATE.	No. ..... Incorporated by act of Congress. Shares. ..... UNITED STATES OF AMERICA. Eagle.
No. ..... Place ..... Date. ..... Share ..... Value, $10. I have this day received from ....., Agent of the M. L. O. R. S. & N. I. A. A., the above- named certificate for one share of stock, and have paid ten dollars therefor. Signed, A. B. C. OIL CITY, PA.	Certificate of subscription to the M. L. O. R. S. & N. I. A. A. of the U. S. of America. Capital stock, $150,000. This certifies that ....., of ....., State of ....., has subscribed for and paid ten dollars stock subscription to the M. L. O. R. S. & N. I. A. A. The holder of this certificate is entitled to one vote at all meetings of the association, and to all other rights and privileges enjoyed by members of the association. Dated at ....., this ..... day of ....., 18.. ..... *President.* ..... *Secretary.* Issued by ..... *Agent of the Association.*

SEC. 10. All other rules and regulations necessary for the good government of this organization and not expressly provided for in this act, shall be clearly expressed in the constitution and by-laws, which shall be made public and kept printed for public distribution and always accessible to the members and subscribers of the association.

And we do furthermore pray that 1 per cent. of all revenue accrued from the tax on whisky and tobacco from January 1, 1866, to the 1st of January, 1878, be appropriated as a national donation in aid of the work herein represented, or so much thereof as Congress may within its judgment deem proper, and should you be so humane and generous as to grant this request your applicants will be able not only to carry out to the fullest extent the plan herein set forth, but will by this act of your honorable body be enabled to begin in reality the first practical efforts for the permanent relief of a people who of the many sufferers in the land are the greatest, and we promise that should your honorable bodies comply with this request you will never have any cause to regret your action in the premises. For every dollar so invested we shall endeavor to prove to be worth more than a hundred spent for the arrest, conviction, and punishment of vagrants and criminals.

The entire plan and feasibility of our undertaking and proposed enterprise are set forth in the constitution and by-laws of the association and other accompanying documents and recommendations, herewith transmitted.

Requesting your patient, earnest, and favorable consideration of this important subject, your petitioners will ever pray.

ALBERT V. CONWAY.

Mr. PUCKER, by unanimous consent, reported, from the Committee of Ways and Means, a bill (H. R. No. 6137) authorizing the Secretary of the Treasury to issue bonds to Albert V. Conway, substituted trustee for certain registered United States bonds redeemed or assigned by

the Government upon forged assignments; which was read a first and second time.

Mr. TUCKER. I ask unanimous consent that this bill be considered now.

The SPEAKER. The bill will be read; after which there will be opportunity for objection.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to issue to Albert V. Conway, substituted trustee to John Vanzant, under and according to the will of James Vanzant, deceased, late of Washington City and District of Columbia, registered bonds of the United States, according to the provisions of the act entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, and at the rate of 4 per cent. interest thereon per annum, in lieu of the following certificates of registered bonds, redeemed or assigned upon forged assignments, to wit: No. 7406, act of March 3, 1865, and No. 26273, act of March 3, 1865, consols of 1865, each for $1,000, the property of said Albert V. Conway, trustee substituted in place of said John Vanzant: *Provided, however*, That it shall be stipulated in each of said certificates issued under this act that no interest shall accrue or be payable upon either of them until and except from the death of Mary A. Boyd, who is entitled to a beneficial interest in said original bonds for her life under the will of said James Vanzant, deceased; and the Secretary of the Treasury is directed to require satisfactory proof of the death of said Mary A. Boyd before paying any interest on said bonds issued under this act.

Mr. THOMPSON. I do not want to object to this bill, but I think its form is objectionable, as it not only authorizes but directs the Secretary of the Treasury. If the words "and directed" are omitted I have no objection to the bill; otherwise I must object.

Mr. TUCKER. Mr. Speaker, if the gentleman will allow me a single moment I will state the circumstances of this case. These are bonds held by a trustee for certain parties under the will of James Vanzant. The Government issued bonds to the assignee named in forged assignments; but the rights of the original parties could not be divested by the Government issuing new bonds upon forged assignments. This bill merely gives to the original party the right to bonds under the refunding act at 4 per cent. interest instead of 5-20 bonds, which bear 6 per cent. interest.

Mr. THOMPSON. I understand that perfectly; but my objection is that the bill leaves to the Secretary of the Treasury no discretion in the matter.

Mr. BUTLER. The word "authorized" will be enough.

Mr. TUCKER. Very well.

Mr. WHITE, of Pennsylvania. What becomes of the other bonds?

Mr. TUCKER. Why they have gone into the hands of the assignee named in the forged assignment, and the Government must lose them. When the Government has issued new bonds to a man on a forged assignment the right of the original party cannot be divested.

Mr. WHITE, of Pennsylvania. But the bonds are all registered.

Mr. TUCKER. Certainly.

Mr. WHITE, of Pennsylvania. Then the Government can stop payment.

Mr. TUCKER. I will say to the gentleman that there is a precedent for this bill in a bill reported a year or two ago from the Committee of Ways and Means and passed by this House. There can be no question about the right of the original parties to have these bonds issued to them.

Mr. WHITE, of Pennsylvania. I do not controvert that, but as I understand, the other bonds which were issued to a party upon a fraudulent power of attorney or forged assignment are registered bonds; and there ought to be some provision prohibiting the Government from paying these bonds.

Mr. TUCKER. They have been redeemed by the Government. They are not outstanding.

The SPEAKER. The gentleman from Virginia, [Mr. TUCKER,] as the Chair understands, assents to the modification suggested by the gentleman from Pennsylvania [Mr. THOMPSON] striking out the words "and directed." The Chair hears no objection to the consideration of the bill as thus modified.

Mr. TOWNSHEND, of Illinois. What is the amount of these bonds?

Mr. TUCKER. There are two bonds of $1,000 each.

The bill was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN B. LUTE.

Mr. WHITE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 6138) for the relief of John B. Lute; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. THOMPSON, for five days;

To Mr. DAVIS, of North Carolina, for five days, on account of important business; and

To Mr. PHILLIPS, for ten days.

And then, on motion of Mr. MILLS, (at four o'clock and forty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLISS: The petition of J. N. Falwell and others, residents of Brooklyn, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BOYD: The petition of Jenny Alter and others, of Fulton County, Illinois, of similar import—to the same committee.

Also, the petition of Louisa S. Mills and others, of Canton, Illinois, of similar import—to the same committee.

By Mr. BRIDGES: Memorial of the representatives of the Religious Society of Friends in Pennsylvania, New Jersey, and Delaware, against a transfer of the management of the Indians from the Interior to the War Department—to the Committee on Indian Affairs.

By Mr. BRIGGS: The petition of Mrs. James Wells and 94 other ladies, of Dunbarton, New Hampshire, of similar import—to the Committee on the Judiciary.

By Mr. CAIN: The petition of Charles L. Bradwell, of Savannah, Georgia, for compensation for cotton surrendered by him to the United States troops under command of General Sherman in 1865—to the Committee on War Claims.

By Mr. CLARK, of Iowa: The petition of Mrs. Mattie Merritt and others, of Victor, Iowa, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CORLETT: The petition of Mesdames J. R. Gibson, J. M. Montgomers, S. P. Ferris, J. W. Bubb, J. B. Babcock, and E. P. Davis, wives of United States Army officers stationed at Fort D. A. Russell, Wyoming Territory, of similar import—to the same committee.

Also, a communication from Rev. Jeremiah Porter, chaplain United States Army, of similar import—to the same committee.

By Mr. COX, of Ohio: The petition of Charles Heath, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. DANFORD: The petition of Martha L. B. McDonald and 173 others, citizens of Belmont and Monroe Counties, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. DEERING: The petition of citizens of Butler County, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of citizens of Bremer County, Iowa, of similar import—to the same committee.

By Mr. HARRIS, of Virginia: The petition of John Thornley, medical director United States Navy, for arrears of pay—to the Committee of Claims.

By Mr. HENDEE: The petition of Luther B. Hunt and 60 others, citizens of Fairfax, Vermont, that the name of James W. Ryan be placed on the pension-roll—to the Committee on Invalid Pensions.

By Mr. KIDDER: The petition of John H. McCutchen and others, for the amendment of the organic act of Dakota, increasing the jurisdiction of the probate judge in Lawrence County—to the Committee on the Territories.

By Mr. LOCKWOOD: The petition of Miller, Greiner & Co. and others, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. LORING: The petition of C. J. Brockway, for the payment of a French spoliation claim—to the Committee of Claims.

By Mr. McGOWAN: The petition of Mrs. H. L. Porter, Mrs. W. H. Warren, and 304 other ladies, of Olivet, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. E. Marble and 55 other ladies, of Concord, Michigan, of similar import—to the same committee.

By Mr. McMAHON: The petition of George W. Parris, for arrears of pension—to the Committee on Invalid Pensions.

Also, the petition of Christiane Ellermire, of similar import—to the same committee.

By Mr. MORRISON: Memorial of the Kentucky State Medical Society, favoring the passage of the Morrison "free quinine" bill—to the Committee of Ways and Means.

By Mr. ROBERTS: The petition of citizens of Northeast, Cecil County, Maryland, for an appropriation for dredging Northeast River—to the Committee on Commerce.

By Mr. SINNICKSON: The petition of John D. Sargent, for a pension—to the Committee on Invalid Pensions.

By Mr. SPARKS: The petition of 30 ladies of the Presbyterian church of Vandalia, Illinois, for restrictive legislation against polygamy—to the Committee on the Judiciary.

By Mr. STENGER: The petition of 197 women of Alexandria and Porter Townships, Huntingdon County, Pennsylvania, of similar import—to the same committee.

By Mr. STRAIT: The petition of Mrs. Mary A. Loudon and 44 others, of similar import—to the same committee.

Also, the petition of Mrs. T. Montgomery and others, of Saint Peter, Minnesota, of similar import—to the same committee.

By Mr. WALKER: The petition of Ashland Grange, No. 113, of the Patrons of Husbandry, State of Virginia, for the reduction of the tax on tobacco—to the Committee of Ways and Means.

By Mr. WATSON: Memorial of manufacturers of Erie, Pennsylvania, opposing the passage of certain sections of the bill (H. R. No. 1612) to amend the patent laws—to the Committee on Patents.

By Mr. WILLIS, of Kentucky: Papers relating to the claim of J. A. Briggs, executor of the estate of C. M. Briggs, deceased, for compensation for cotton taken by the United States military authorities during the late war and sold—to the Committee on the Judiciary.

IN SENATE.

WEDNESDAY, *January* 22, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, was read twice by its title, and referred to the Committee on the District of Columbia.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the Senate of the 8th instant, the information in that Department respecting an arrangement made between the Commissioner of Indian Affairs and the Lawrence University, at Appleton, Wisconsin, for the education of Indian children; which, on motion of Mr. HOWE, was ordered to lie on the table, and be printed.

SUPPLY OF WATER ON CAPITOL HILL.

The VICE-PRESIDENT laid before the Senate a communication from the commissioners of the District of Columbia, in compliance with a resolution of the Senate of the 17th instant, directing them to report to the Senate "what action by Congress, if any, is necessary to secure to the residents of Capitol Hill, and other elevated portions of the city of Washington, a proper supply of water," &c.

The Secretary proceeded to read the communication.

Mr. DORSEY. That is quite a long document, and I suggest, as it relates to a matter of much importance, that it be printed.

Mr. EDMUNDS. It ought to be printed, but I should like to hear it read.

Mr. BECK. I hope it will be printed in the RECORD. The reading will take but a little further time.

Mr. EDMUNDS. I should like to hear it read, as it is a question which affects so largely the city.

The VICE-PRESIDENT. The reading will proceed.

The Secretary resumed and concluded the reading of the communication, as follows:

OFFICE OF THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 21, 1879.

SIR: In compliance with the following resolution of the Senate of the 17th instant, "That the commissioners of the District of Columbia be, and they hereby are, directed to report to the Senate what action by Congress, if any, is necessary to secure to the residents of Capitol Hill, and other elevated portions of the city of Washington, a proper supply of water; what appropriation of money, if any, is required for this purpose; and to transmit to the Senate such facts relating thereto as they may deem important," the commissioners have the honor to report:

Numerous considerations enter into this question of water supply, to most of which anything more than brief mention would involve a length of report and degree of elaboration for which there is no time and probably no occasion. The commissioners are not prepared to state details, and so reported in their report to Congress at the opening of the present session.

Either of two measures for improving the water supply may be resorted to: first, increasing the amount brought to the city; second, repressive measures designed to control the waste of the supply already delivered.

To give more than crude estimates of cost, or of the amount of labor and time involved in carrying into execution any plan for an increase of supply that Congress might adopt, would call for extended examinations by competent engineers.

There are two methods of increasing supply: first, to lay an additional main from the distributing reservoir; second, to extend the conduit to the high lands north of the city.

The cost of the main and proper distributing connections would be, say, $460,000. The extension of the conduit and additional reservoir would cost much more, but would bring a permanent supply to the immediate vicinity of the city.

The first consideration presenting itself with a question of this nature is the financial condition and ability of the water department itself, which, under the present rate of water rents, has a yearly income of about $94,500, derived from a scale of rents which has remained unchanged from that originally established at the time of the introduction of Potomac water. The Legislative Assembly authorized the levy of a tax for distributing mains amounting to one and a quarter cents per square foot contained in each lot fronting upon the street in which such mains are laid, payable in five yearly installments. The same property can be taxed but once to pay for such mains. Of this tax there is now an uncollected balance of $112,284.82.

The department is burdened with a bonded debt of $423,000, bearing 7 per cent. interest, the interest and sinking fund together involving a yearly payment at this time of $44,610. The debt was created by authority of the Legislative Assembly, July 20, 1871, to pay for the thirty-six-inch main, which has now been laid about six years. Deducting the amount of interest and sinking fund there remains of water-rent receipts about $49,890 to pay all the expenses of the water department, including present payment of the greater part of the cost of distributing mains, and also all repairs and the cost of pumping water in Washington and Georgetown, &c.

The water-main taxes are largely delinquent and the revenues of the department are inadequate to meet current demands. It is therefore manifestly not in condition to enter into an expensive outlay for an additional main, to do which would involve a large increase of the bonded debt of the water department and an addition to present water rents much beyond what the commissioners have had in view.

The main, (not yet one-fifth paid for,) laid but six years since, has a capacity much larger than the combined capacity of both those in use prior to that time. Yet within six years the supply, then more than doubled, has again become inadequate, not by a doubling of the population, for that has not happened, but in larger part by increase in the lavish use and waste of water. Were an additional main now to be laid, it is evident from past experience that within five or six years we would find ourselves in the same difficulty. Another main would be required, and if laid the water debt would be increased a second time, some years even before the final payment of the debt now existing.

In addition to these facts is the further serious one that the mains now laid are becoming old and must within a limited time be replaced, involving an expense as great as their original cost. There has been no legislation in the past, as a wise policy would have dictated, to provide a fund to meet these recurring heavy outlays. The Legislative Assembly imposed upon the water department many burdens without making provision by change in the water rates to meet them. The commissioners now find it absolutely necessary to ask authority to do what was thus neglected. They are of opinion that the foregoing financial statement shows that the time has arrived to adopt rather a repressive system, and by controlling waste remove the necessity for increasing the supply. They consider this a wiser policy than to enter upon an increase of debt which will, it is thought, rather encourage a greater waste and a corresponding increase *per capita* in the future demand.

There are now pumped into the stand-pipe at the head of Sixteenth street two million gallons of water daily, or all the supply at present reaching the pumps. About fifteen hundred houses are attached to the pipe. At present the two million gallons does not afford a sufficient supply. Thus between two hundred and three hundred gallons (say eight barrels) *per capita* is daily consumed in that section, and the supply is inadequate to the demand. The best known authorities upon water supply estimate sixty gallons *per capita* as a liberal and ample allowance in a city. At this rate the stand-pipe would supply thirty-three thousand people with water. Such a waste is unreasonable, and not to be justified upon any theory of health, comfort, or utility. The commissioners know of but one way to prevent this waste, and that is by measurement of the water used. They propose to test this system first upon the high service, and do not doubt that then the stand-pipe will be found to amply supply the two districts of the city for which it was designed, namely, the northwest section and Capitol Hill.

It is contemplated to carry an additional supply to the pumps; and if the need arises additional pumps can be erected without large expenditures.

It will be thus seen that the commissioners favor the idea of checking the increasing tendency to waste, a tendency that experience shows to have been rapidly growing, to improve the present distribution of water within the city, and to husband the resources of the water department to enable it eventually, and when the actual need comes, to bring the conduit itself to the high grounds in the vicinity of the city, which is doubtless the best plan for the future increase of supply, but one that with its connections will involve an outlay probably of $1,000,000.

The commissioners propose to have examinations and estimates made with a view to inform Congress at its next session more fully and exactly in respect to the future water supply.

Besides the connection of Capitol Hill with the stand-pipe, the general service of that section and South Washington can be increased by running a twelve-inch main from the thirty-inch main on K street along Fifteenth street west to re-enforce the Pennsylvania avenue main, and from Fifteenth street below Pennsylvania avenue to Ohio avenue, and thence down Fourteenth street, along South B street, to connect with the twenty-inch main on that street from which South Washington draws its supply, now coming to it by a circuitous route. This will enable the department to cut off partially the twenty-inch main leading from the intersection of New Jersey avenue and North B street, which main is now relied upon for the South Washington supply. At the junction referred to on New Jersey avenue a twenty-inch main (see map herewith) leads up to the high grounds of East Washington for its supply. The thirty-inch and thirty-six-inch mains unite upon New Jersey avenue and extend in a single main along it to B street, where the two twenty-inch mains branch off as above stated.

It is proposed also to cut off certain low ground in the northwest section now drawing upon the stand-pipe.

The estimated amounts required for the various purposes indicated are as follows:

Twelve-inch main stand-pipe to Capitol Hill	$25,000
Twelve-inch main to re-enforce the Pennsylvania avenue main, &c	12,500
Six-inch main to cut off low ground, northwest section, from stand-pipe	2,500
Two thousand meters, complete and erected	20,000
Additional pumps	5,000
Additional supply of water and pumps	5,000
	70,000

The uncollected water-main taxes, amounting to $112,284.42, represent the amount advanced from the water rents to lay water mains which have not been refunded from the taxes for mains. In addition to this deficiency there are large demands for new mains which the commissioners are unable to lay, and the expense of the department is increased by the pumps for the stand-pipe. So that an augmentation of rents is necessary.

It is respectfully recommended that Congress authorize an advance of the above estimated amount required for the purposes set forth to be refunded from the water-main taxes.

The present water rents are based upon the width and height of houses, measurements that have no relation whatever to the consumption of water. A house sixteen feet wide of two stories pays $3. Those of greater width and height pay twenty-five cents per foot of additional width and $1 for each story, a finished basement being regarded as a story.

It is the purpose of the commissioners to fix rates dependent upon the use made of water in houses—in other words, that, as near as circumstances will allow, water-takers shall pay in proportion to what they get. For these reasons, and because of the need to increase the receipts of the water department, the commissioners ask that authority be given them to regulate the water rates.

The inclosed bill, as amended, is designed to cover the foregoing recommendations.

By order of the board.

S. L. PHELPS, *President.*

Hon. WILLIAM A. WHEELER,
President United States Senate.

The VICE-PRESIDENT. The communication will be printed and, with the accompanying papers, referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. BOOTH presented the petition of W. T. Glenn and others, citizens of Fresno County, California, praying for an amendment to the timber-culture act so as to give title to those who will keep ten acres of trees growing for five years not more than sixteen feet apart each way; which was referred to the Committee on Public Lands.

Mr. ALLISON. I present the memorial of Fred. Litton and a large number of others, citizens of Iowa, remonstrating against the passage of the bill reviving the patent granted to John C. Birdsell for improvement in combined clover-threshers and hullers, so called. As the bill is on the Calendar, I move that the memorial lie upon the table.

The motion was agreed to.

Mr. MERRIMON presented the memorial of John S. Long and others, citizens of New Berne, North Carolina, remonstrating against the removal of the Federal courts from that city to the city of Goldsborough, in that State; which was referred to the Committee on the Judiciary.

He also presented the petition of Edward Haile, surviving partner of Haile & Savage, of Alabama, praying for the passage of a law referring his claim for compensation for certain cotton alleged to have been seized and appropriated by United States military authorities at Savannah, Georgia, in December, 1864, to the Court of Claims for adjudication and settlement; which was referred to the Committee on Claims.

Mr. DORSEY presented the petition of William Forsyth, late surveyor of the District of Columbia, praying compensation for certain services rendered the District government while in that office; which was referred to the Committee on the District of Columbia.

Mr. COCKRELL. By request of the Committee on Claims, I present a supplemental memorial in behalf of the heirs of the claimants of the late United States private armed brig General Armstrong, and I move that this supplemental memorial be printed for the use of the committee and referred to the Committee on Claims.

The motion was agreed to.

Mr. BAILEY. I presented a few days ago the petition of Landsford P. Yandell and wife, and others, sureties on the bond of Henry L. Norvell, late collector of internal revenue for the second district of Tennessee, praying that they may be relieved from responsibility as such sureties; and it was referred to the Committee on Finance. I now present additional evidence in the case, and move its reference to the same committee.

The motion was agreed to.

Mr. WHYTE. I present the memorial of the Baltimore Yearly Meeting of Friends, signed by Henry Janney, clerk of that body, representing their concern on account of the evils of intemperance, and praying Congress, by appropriate legislation, to eradicate permanently this evil. Inasmuch as not only the evil of intemperance is to be grappled with in this inquiry, but a very important legal question, I think that it ought to go to the Judiciary Committee; and I therefore ask its reference to that committee.

Mr. EDMUNDS. I wish to suggest to my friend that I think it is the Committee on Finance, which is supplied with plenty of judicial talent, which has had this subject for a session or two under consideration by very numerous petitions; and as the Committee on the Judiciary is, to use a western phrase, "swamped" with the number of subjects which have already been sent to it, I hope the Senator will consent that the memorial go to the Committee on Finance.

Mr. WHYTE. The only objection to it is that the petitions heretofore have been directed to the traffic in alcohol more particularly, rather than the moral question of temperance, to see whether it cannot be eradicated by some legislation; and therefore I think it is a very important inquiry for the Judiciary Committee to take charge of.

Mr. EDMUNDS. If my friend puts it upon moral grounds, I shall have to submit.

Mr. WHYTE. Precisely.

The VICE-PRESIDENT. The memorial will be referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (H. R. No. 3853) for the relief of William F. Wheeler, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 5800) for the relief of Mrs. Julia Elliott, widow and administratrix of Newell D. Elliott, deceased, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. GARLAND. I wish to submit from the Committee on Public Lands a minority report in the matter of the claim of William McGarrahan. The majority report was presented and filed in my absence.

The VICE-PRESIDENT. The minority views will be received and ordered to be printed.

Mr. GARLAND. When that order of business is reached I shall ask leave to introduce a bill to carry out the views of the minority report.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the bill (S. No. 32) for the relief of J. N. Micow and others, submitted a report thereon, accompanied by a bill (S. No. 1672) for the relief of N. C. Blonton.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of Campbell County, Tennessee, praying compensation for the alleged use and occupancy of public property belonging to that county at Jacksborough by United States military forces during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 716) for the relief of Huff Jones, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MORGAN, from the Committee on Claims, to whom was referred the bill (S. No. 956) for the relief of W. P. Grace, as the administrator of W. B. Gosa, submitted a report thereon, accompanied by a bill (S. No. 1673) for the relief of James Trabue.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Henry F. Lines, praying compensation for services rendered as cipher clerk and military telegraph operator in the years 1864 and 1865, submitted a report thereon, accompanied by a bill (S. No. 1674) for the relief of Henry F. Lines.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BURNSIDE, from the Joint Select Committee on the Reorganization of the Army, presented a tabular statement in relation to the present and proposed organization of the Army, to accompany the report of the committee on the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which was ordered to be printed.

BILLS INTRODUCED.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1675) for the relief of Samuel A. Lowe; which was read twice by its title, and referred to the Committee on Claims.

Mr. DAVIS, of Illinois, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1676) to prevent and punish the counterfeiting within the United States of notes, bonds, or other securities of foreign governments; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. HEREFORD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1677) making an appropriation for the improvement of Big Sandy River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1678) making an appropriation for continuing the improvement of New River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1679) making an appropriation for the improvement of Elk River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1680) making an appropriation for the improvement of Guyandotte River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1681) making an appropriation for continuing the improvement of the Great Kanawha River, in the State of West Virginia; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1682) relating to the rank of certain retired Army officers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GARLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1683) in relation to the Rancho Panoche Grande, in California; which was read twice by its title, and ordered to lie on the table.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 52) to correct an error in the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes; which was read twice by its title, and referred to the Committee on Appropriations.

COLVILLE INDIAN RESERVATION.

Mr. MITCHELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to furnish the Senate with a statement of the extent of the present area of the Colville Indian Reservation in Washington Territory, with the boundaries thereof, the date when such reservation was established, and in what manner, whether by Executive order or act of Congress; also the number of Indians now occupying such reservation.

REFUNDING THE NATIONAL DEBT.

Mr. MORRILL. I desire to call up the bill (H. R. No. 5808) to facilitate the refunding the national debt.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. EDMUNDS. Let it be read for information.

Mr. MORRILL. I will say that it has received the unanimous assent of the Committee on Finance.

The VICE-PRESIDENT. The bill will be read, subject to objection.

The bill was read; and by unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider it. It authorizes the Secretary of the Treasury, in the process of refunding the national debt under existing laws, to exchange directly, at par, the bonds of the United States bearing interest at 4 per cent. per annum, authorized by law, for the bonds of the United States commonly known as five-twenties, outstanding and uncalled; and whenever they shall

have been redeemed, the provisions of this section and all existing provisions of law authorizing the refunding of the national debt shall apply to any bonds of the United States bearing interest at 5 per cent. per annum or a higher rate, which may be redeemable. In any exchange made under the provisions of this section interest may be allowed on the bonds redeemed for a period of three months.

Mr. MORRILL. Mr. President, as I have already said, this bill has met the unanimous approval of the Committee on Finance. It simply provides that private parties may exchange their 5 and 6 per cent. bonds directly with the Treasury at par, and receive the interest for three months, the same as national banks and syndicates have done heretofore, which is a necessity under the existing provisions of positive law. I do not suppose there will be any objection in any quarter to having a bill of this kind for the promotion of the exchange of a bond bearing a higher rate of interest for one of a lower rate of interest. The object is to facilitate the popular loan.

Mr. CONKLING. What does the conclusion of the bill mean, if the Senator will state? It provides that—

In any exchange made under the provisions of this section, interest may be allowed, on the bonds redeemed, for a period of three months.

Mr. MORRILL. It means to follow simply the practice of the Treasury ever since any loans have been refunded, for the last ten years.

Mr. CONKLING. What is that practice, may I inquire?

Mr. MORRILL. The practice is that bonds must be called in advance of their payment, and an interest of three months has been allowed in all cases except one. There was one loan, I think, under Secretary Bristow, that was negotiated at par; but at that time the loan itself, that is the bonds, were worth at least from 1½ to 2½ per cent. premium. This bill will effect the same thing; or it permits an exchange at par with the loss of three months' interest.

Mr. CONKLING. This is an allowance of 1½ per cent.?

Mr. MORRILL. Yes; 1½ on six percents and 1¼ on five percents.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE CALENDAR.

The VICE-PRESIDENT. The business of the morning hour is concluded, and the Senate will resume the consideration of the bill (S. No. 720) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment, under the resolution for the consideration of the general Calendar.

Mr. ALLISON. I ask unanimous consent that that bill may be passed over for a moment.

The VICE-PRESIDENT. To this the Chair hears no objection; and the Secretary will report the next business on the Calendar.

The next business on the Calendar was the joint resolution (H. R. No. 47) authorizing Rear-Admiral John J. Almy, United States Navy, to accept a decoration from the King of the Hawaiian Islands.

Mr. MITCHELL. The Senator from California [Mr. SARGENT] objected to that joint resolution the other day, and I ask that it lie over until he returns to the Chamber.

The VICE-PRESIDENT. The joint resolution will go over without prejudice; and the next business on the Calendar will be reported.

Mr. EDMUNDS. The same may be said of the next joint resolution on the Calendar. It is of a class to which the Senator from California has objected hitherto.

The VICE-PRESIDENT. It will be passed over, and the next bill on the Calendar reported.

The next bill on the Calendar was the bill (S. No. 777) to organize a life-saving and coast-guard service.

The VICE-PRESIDENT. In the absence of the chairman of the Committee on Naval Affairs, [Mr. SARGENT,] who reported this bill, it will be passed over without prejudice; and the next bill on the Calendar will be reported.

PACIFIC RAILROAD LANDS.

The next bill on the Calendar was the bill (S. No. 195) to declare certain lands subject to taxation. It provides that all the lands granted by the act of July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the act amendatory thereof, approved July 2, 1864, to the several railroad companies therein named, and to which the companies would have become entitled upon payment of the cost of surveying, selecting, and conveying the same, as provided by section 21 of the amendatory act of July 2, 1864, shall be subject to all legal taxes imposed under authority of any State or Territory in which such lands are located, to the same extent as they would have been had such costs been paid and the lands conveyed to the railroad companies. But this is not to be construed as applying to lands already forfeited by the railroad companies, or either of them; nor shall it operate to relieve any such company from any forfeiture heretofore incurred.

The VICE-PRESIDENT. This bill was before the Senate, April 18, 1878, and considered as in Committee of the Whole, and the amendment of the Committee on Public Lands was agreed to, adding a proviso.

Mr. EDMUNDS. I should like to hear the report read. It is a very important subject as respects the rights of the United States, and we ought to go a little slowly about this business.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. BOOTH, February 25, 1878:

The Committee on Public Lands, to whom was referred the bill (S. No. 195) to declare certain lands subject to taxation, have had the same under consideration, and submit the following report:

An act of Congress of July 1, 1862 (vol. 12, p. 492, Statutes at Large,) granted to the railroad companies therein named five alternate sections per mile on each side of their respective roads.

An amendatory act of July 2, 1864 (vol. 13, p. 358, Statutes at Large,) doubled the grant of lands, but required the companies to pay the cost of surveying before receiving patents for the lands.

It has been held by the Supreme Court of the United States that these lands are not subject to taxation until the cost of surveying, selecting, and locating are paid.

The railroad companies under this law, by declining to pay these costs, hold large bodies of their lands free from local taxation, converting what was intended as a burden into a benefit.

The companies can and do mortgage their lands, sell them, and exercise absolute ownership over them, but they are exempt from taxes. In many instances they have sold them with the stipulation that the payment of the cost of survey should be deferred, that the purchaser may hold and improve them without liability for the taxes to which all other similar property is subjected. This bill is designed to remedy this injustice, and the committee recommend its passage with an amendment.

The following table exhibits the amount of lands granted and the amount patented or certified to the respective companies:

Name of road.	Estimated quantity embraced in the grant.	Number of acres certified or patented up to June 30, 1877.
Union Pacific	12,000,000.00	1,857,792.12
Kansas Pacific	6,000,000.00	531,261.71
Central Pacific	9,100,000.00	1,116,757.17
Burlington and Missouri River	2,441,600.00	2,374,090.77
Sioux City and Pacific	60,000.00	40,678.23

Mr. EDMUNDS. There are two or three questions, Mr. President, that naturally arise about this bill, to which the notice of the Senate ought to be called; and I refer to it particularly from the circumstance that the Committee on the Judiciary in exploring the subject, when it had under consideration what is known as the Thurman bill which was enacted into a law, had its attention drawn to the condition of these lands. I think there cannot be much doubt that the companies ought to be compelled to take their patents where they have become entitled to them, and when they do, all responsibility on the part of the United States as a public body toward the States and Territories will have been discharged and the lands will be subject to taxation, as other lands are, undoubtedly, unless the statutory mortgage of the United States upon these lands, the condition of their sale, should have been broken, which would produce a forfeiture.

I should be sorry to have the Senate led into taking a step which is going to cost hereafter; but it is open to some question inasmuch as these lands now are not taxable by law, being legally the property of the United States; and inasmuch as the United States has by statute authorized a pledge of the lands while still the property of the United States, if we provide by an affirmative act, as the bill provides, that they shall be subject to taxation under the authority of the States and Territories, and they should be sold for these taxes as against the railway and its first mortgages, whether we shall not have a claim presented to Congress by and by upon the part of the people who held a right under the statutes of the United States to these lands free from taxation to make good to them the lands that have been lost from under their security by force of this affirmative and direct tax act of the United States. I do not express any opinion as to what the law would turn out to be; I only say that there is considerable danger of our getting into a difficulty upon that subject.

Then, in the next place, as everybody knows, the United States has a lien upon these lands; and as long as the lands are in the United States, so far as the title goes, of course that lien is perfect, subject to the right of the prior mortgagee. When the lands are disposed of in pursuance of the mortgage, then there is a trust which follows the proceeds of the lands into the proper assets of the companies, so that the United States and the prior mortgagee are secured on the money in the place of the lands.

It is said, and it is not at all clear that it is not true, that the United States need every acre of these lands and every dollar of money that is to come from them to be applied to the payment of the prior mortgage and of the enormous mortgage, so to call it, that the United States has. Everybody remembers that no interest is paid to us upon these advances of bonds of the United States. The United States pays the interest all the time. The companies do not return it; and the Supreme Court has decided that the companies, as the law then stood, were not bound to return the interest until at least the end of the time when the payment of the principal would be due, and it is left an open question perhaps whether they are bound to return it then. In that way there is running up continually an augmentation to a tremendous amount of the interest of the United States in all this property of these companies.

Now, if we provide by statute that these lands, although not patented though they ought to be perhaps, shall be subject to State and territorial taxation as well, the result will be that a considerable part of these lands will be disposed of for taxation, and the title and se-

curity of the United States will be gone unless we make a provision by law authorizing some Department of the Government, an authority that probably no Department now possesses, to pay the taxes and so redeem the lands.

It is a pretty grave question whether, when its own interests are so largely involved in these lands which it now has the legal title to, the United States owes any duty by comity or good morals or friendship or justice, any kind of a duty to the States and Territories in which these lands lie in respect of subjecting them to burdens, when the real interest of the United States for its own security is greater than the whole value of the lands themselves. In that state of the case, I should considerably prefer that this bill should not be acted upon in a hurry, for it ought to be very carefully considered.

The VICE-PRESIDENT. It goes over under objection.

Mr. BOOTH. Do I understand the Senator to make an argument against the bill and then object to its consideration?

Mr. EDMUNDS. I do not object to its consideration at this moment.

Mr. BOOTH. That is the ruling of the Chair.

Mr. EDMUNDS. I do not object at this moment to the consideration of the bill. My friend from California no doubt would desire to be heard.

Mr. BOOTH. It is not my bill, although I reported it, and I have no personal desire to be heard. There is no doubt, Mr. President, that there is a palpable wrong and the only question in my mind is how the remedy shall be applied. This bill does not by any means render the whole of the land grants to these railroads taxable. It applies to a very small portion of them, only to such lands as the United States Government has paid the cost of surveying, and for which the railroad companies refuse to take patents. Under the provisions of the law, if I understand it rightly, no further surveys will be made of these lands until these payments have been made by the railroad companies for surveys already perfected.

The first decision of the Supreme Court that held these lands were exempt from taxation was in the case of the Railway Company *vs.* Prescott, 16 Wallace, 603. It was there held that the lands sold by the United States may be taxed before patents have issued, but not until the right to a patent is completed, and that the right of the railroad company is not completed until the costs of surveying, selecting, and locating are paid.

Now, I understand the Senator from Vermont to say that it would be good legislation to compel them to take their patents; but you cannot compel them to take their patents until they choose to make payment of the costs of the survey, and this they decline to do for the reason that these lands may be held exempt from taxes; and, as is stated in the report, they have sold very many valuable lands which have passed into the hands of their assignees; improvements have been made upon them, the railroad companies simply giving bonds to perfect the title, so that these improved lands are held exempt from State taxation.

I think a practical wrong of this kind ought to be remedied, even if the far-seeing Senator from Vermont can see some possible, remote, contingent, improbable injury that may arise to the General Government. None such will arise to bear any comparison to the evils the States are suffering, even if the honorable Senator supposes there ought to be no comity and no obligation on the part of the United States Government to do justice to the States.

Mr. PLUMB. I desire to say a word. The United States, in reserving to itself the legal title to these lands until the cost of surveying should be paid, certainly had no intention whatever, or if it had, that intention was not expressed by the statute, thereby to exempt the lands from taxation. No such purpose was manifest. It not only did not intend to reserve them from taxation, but it did not intend to prevent their being sold, whereby it might, as the Senator from Vermont seems to indicate, retain the lien for the money which it had advanced to build the railroad. That is quite manifest from the fact that the Government stipulated with the railroad companies that the railroad companies should sell the lands within three years of the time when they completed their roads. Therefore it did not intend to hinder the railroad companies from disposing of the lands, and by such disposition defeat the lien of the Government, but it intended to impose it on them as an obligation to sell the lands, and that is stated specifically by the court in the decision of Railway Company *vs.* Prescott. At page 609 of 16 Wallace the court say:

> It is wisely provided that these lands shall not be used by the company as a monopoly of indefinite duration.

This undoubtedly, whatever the covert intention of the framers of the bill might have been, shows an intention on the part of the Government simply so to reserve to itself the right of receiving the cost of surveying these lands. Now, under the shelter of that section the railroad companies, as is stated by the Senator from California, sell the land on ten, twelve, or perhaps fifteen years' time, giving a bond for a deed, and do not pay the cost of surveying, and do not take out a patent, whereby these lands not only become untaxable at present, but that quality of not being taxed pertains to them during all this long period of time, and some of the most valuable tracts of land in the State which I in part represent are to-day, as they have been for many years, exempt from taxation under this rule.

The title of the General Government is simply a naked legal title, without any beneficial interest except to the extent of about $3 to a quarter section which it reserves to itself the right to compel the railroad company to pay before it parts with that legal title. That is the only beneficial interest the Government has. For the purpose, then, of obtaining that $3 to a quarter section, it imposes upon the several States and Territories in which these lands lie an annual burden amounting to many times that upon each quarter section of land by reason of this exemption from taxation. I claim with the Senator from California, as I think every person must admit who has had this subject under consideration, that that is not only unjust, but was entirely without the purview of the intention of Congress in reserving to itself this right to receive this amount of money, to wit: the cost of survey.

The fact is, besides, as to the possible interest the Government may have in these lands, that they are mortgaged for all they are worth. That is evident from the fact that they have not only had a first mortgage put upon them as a rule, but also a second mortgage, and those second-mortgage bonds are selling in the market for very much less than their par value, which would not be the case if the lands were of sufficient value, known and recognized as being of sufficient value to take up and discharge the mortgage. That is not the case. They are mortgaged for more than they are worth. This mortgage title or claim is a title which the Government has permitted to be made upon these lands. If the mortgagees do not want to have the lands on which they hold this lien go to sale, then it is within their power, under the statute, to pay the taxes and thereby add to the lien they already have the amount thus paid for taxes, and that is what they ought to be compelled to do.

I do not think there can be any possible ground for saying that the Government of the United States reserved or intended to reserve any interest in this matter for the benefit of the persons who might hold the mortgage, so that they might come back at some future day and say we had placed a burden on their property which we were obliged to respond to in damages. There could not be any purpose of that kind. The whole purpose apparent on the face of the statute was that the Government should have a right to receive the two three or four dollars a quarter section which it cost to survey the lands, and there was no other purpose; but under the shelter of that the railroad companies decline to take out the title and thus defeat the taxation of the lands.

The VICE-PRESIDENT. Does the Chair understand the Senator from Vermont to object to the further consideration of the bill?

Mr. EDMUNDS. I dislike very much to object, but at the same time in any aspect of the case this bill ought to be amended to protect the interest of the United States, so far as that is a direct money interest, at the very least. Now Senators say that this bill only applies to lands that the railroad companies have got a title to except that they have not paid the cost of surveying, but in all other respects the title of the railway has become perfect; the railway does not pay the cost of surveying, which is the only step left to entitle them to the land. I am very much afraid that the first branch of this bill on reading it over again, does not stand in such a way as to limit the operation of the act to that class of land. It says that all the lands granted by the act of July 1, 1862, and the act of July 2, 1864, "to which said companies would have become entitled upon payment of the cost of surveying," &c. Now all the lands granted they would have become entitled to on paying the cost of surveying. The grant was a complete one upon the building of the road, which has been done.

Mr. BOOTH. How could they become liable for the cost of the surveys before the surveys were made?

Mr. EDMUNDS. Most plainly they could not; but that is the language. The bill says "all the lands granted that the companies would have become entitled to upon payment." It seems to me at first blush that there is not a single acre of the land granted on the first day that the act passed that the companies would have become entitled to on the payment of the cost of survey and the building of the road, which has been completed. So there may be under that language a large mass of unsurveyed lands that would fall within the scope of this act, on account of the insufficiency of the exclusion of that class of lands. Some words can be found undoubtedly that will exclude them and yet meet the purpose.

Then I think also that it is plain—(and in that I feel sure the Senator from Kansas and the Senator from California will agree with me)—that if the States wished to sell these lands for taxes they ought to pay the cost of the survey that the railroad ought to have paid. It is very easy to fix that by inserting after the word "shall" in line 14 the words—

> After payment to the United States of all such costs—

That is the cost of surveying named before—

> be subject to all legal taxes.

So that the State and territorial authorities can go and pay the cost of surveying, and then dispose of the land for taxes. That it is easy enough to make secure; but the descriptive part of this bill, I submit, with great respect to my honorable friends, is liable to a construction which will carry it over quite a larger area and class of lands than the Senators intend to have it go. I should be glad to have it laid aside for a few moments without prejudice until I shall suggest the necessary amendments. I dislike to object to a bill after discussing it.

The VICE-PRESIDENT. The bill will go over without prejudice. The Secretary will report the next bill on the Calendar.

P. P. G. HALL.

The next bill on the Calendar was the bill (S. No. 420) for the relief of Major P. P. G. Hall; which was considered as in Committee of the Whole.

Mr. ALLISON. Let the report be read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. SPENCER on the 28th of February, 1878:

The Committee on Military Affairs, to whom was referred S. No. 420, "A bill for the relief of Major P. P. G. Hall," have had the same under consideration, and submit the following report:

This is a bill directing the refundment to Major P. P. G. Hall, a paymaster in the Army, the sum of $3,141.39, being the amount paid by him into the Treasury, January 15, 1872, in liquidation of a deficiency in his accounts as paymaster, caused by the criminal acts of a clerk named James Thomas, occurring in 1869, and of which said Thomas was duly convicted.

This matter was thoroughly investigated by the committee of the second session of the Forty-fourth Congress, and a favorable report, accompanied by a bill for relief, made to the Senate. (See Report No. 604, second session, Forty-fourth Congress, January 23, 1877.) The bill was not reached before the final adjournment of the Forty-fourth Congress, and now comes up by identical bill. Inasmuch as the facts and record are the same as those submitted to the consideration of the committee heretofore, your committee adopt the report of the previous committee, as hereinafter set forth, and recommend passage of the bill.

"[Forty-fourth Congress, second session, Senate Report No. 604.]

"Mr. SPENCER submitted the following report, to accompany bill S. No. 1175:

"The Committee on Military Affairs, to whom was referred the petition of Major Peter P. G. Hall, praying to have refunded certain money he was obliged to pay in consequence of the embezzlement of a clerk, have had the same under consideration, and submit the following report:

"The record shows that the petitioner, a paymaster in the Army of the United States, was stationed in the years 1868 and 1869 at Vicksburgh and Jackson, in the State of Mississippi, where, in addition to his duties of payments to the officers and soldiers of the Army stationed in the various parts of the military district, and which required him to travel over parts of the States of Mississippi, Louisiana, Tennessee, and Alabama to perform the same, he was also charged with the arduous and responsible payment of what is known as "reconstruction vouchers," the funds of which were separate from those furnished for the payment of the Army.

"The additional duty imposed upon the petitioner a vast amount of labor, in the performance of which, in addition to his regular clerk, he was allowed by the proper authorities other clerks, and also enlisted men, from time to time, as occasion required, to the number of fifteen or twenty, for the purpose of assisting in the work of preparing for payment the said reconstruction accounts. Among the number of clerks so employed to meet the exigencies of this extra service was one James Thomas.

"The said James Thomas, while thus employed as a clerk, and engaged in the preparation of the vouchers on which said reconstruction accounts were paid, at various times between March 1, 1868, and February 1, 1869, without petitioner's knowledge, fraudulently and feloniously altered a large number of reconstruction vouchers which had been approved and ordered paid by the proper military authorities, so as to largely increase the amount of money due on the same, and raised and altered checks signed by the petitioner for their payment, by means of which felonious practices he obtained the money on said vouchers and checks, and embezzled of the money of the United States the sum of $3,409.62 before he was detected thereof.

"During this period the petitioner was engaged in the discharge of his regular duties of paymaster, which necessarily called him frequently away from his headquarters into various parts of the military district where troops were stationed, and he therefore had no knowledge of the frauds committed by said Thomas until they were discovered by the accounting officers of the Treasury. Upon the discovery of these facts, the said Thomas was, at the request of the petitioner, immediately arrested by order of General A. C. Gillem, commanding the military district, and on the 19th of October, 1869, he was arraigned before a general court-martial convened at Jackson, Mississippi, by order of General Ames, the department commander, charged with the following crimes:

"First. Making claims against the Government of the United States, knowing the same to be fictitious and fraudulent, in violation of the act of Congress of March 2, 1863.

"Second. Making and using false vouchers, knowing the same to contain false and fraudulent statements and entries, for the purpose of obtaining the approval of false claims, in violation of the same act.

"Third. Knowingly and willfully appropriating to his own use money belonging to the United States, in violation of the same act.

"Fourth. Conduct to the prejudice of good order and discipline.

"On the 28th of January, 1870, after a full investigation by the court-martial convened for that purpose, the said Thomas was declared guilty upon all the charges, and sentenced to forfeit to the United States all pay then due or that may become due, to pay a fine of $3,299.01, and to be confined at hard labor for the period of five years; which proceedings were approved by General Ames, and the said Thomas was incarcerated in the penitentiary at Jackson, Mississippi.

"In consequence of this embezzlement, there was found to be due, upon settlement of petitioner's accounts by the proper officers of the Government, a deficiency of $3,141.39, which amount was made a charge against him. Thereupon the petitioner was suspended from duty and pay until he should pay over and reimburse to the Government the amount of said deficit, a refusal to comply with the same rendering liable to be court-martialed and dismissed the service as a defaulter. Accordingly the petitioner did pay over to the United States the said sum of $3,141.39, the amount of the moneys so embezzled by the said Thomas.

"After the said payment and liquidation by said petitioner of the amount so charged against him, he filed, on the 29th of October, 1873, his petition for relief in the Court of Claims, under the act of May 9, 1866, by which said court is invested with jurisdiction to grant relief in cases of this character; and whenever said court shall have ascertained the facts of any such loss to have been without fault or neglect on the part of the officer suffering a loss of the public funds, it is provided by said act that a decree shall be made, setting forth the amount thereof, upon which the proper accounting officers of the Treasury shall allow to such officer the amount so decreed as a credit in the settlement of his accounts.

"On demurrer to the said petition, the Court of Claims held 'that petitioner could not recover, for the reason that his liability for the defalcation had been discharged by the payment of the money. The court held that an officer entitled to the relief contemplated by the act must not only have been, but must still be, held responsible to the Government for that which is lost. "If the responsibility has been discharged, he is no longer entitled to relief. His account has by his own act been settled and closed, and there is therefore no unsettled account upon which a credit decreed by this court could be allowed.'

"Therefore the petitioner was denied the relief he sought, because he had under the orders of his superiors previously paid over the deficit charged against him. The record shows that the petitioner had no time to present his case to the Court of Claims previously to the payment of the deficit. Although petitioner made application for delay for the purpose of endeavoring to obtain relief, the record shows such delay was peremptorily refused, and by Special Order No. 139 of the War Department, dated August 4, 1870, which was issued immediately upon settlement of his account by the Second Auditor of the Treasury, the petitioner was ordered to repair without delay for duty in the Department of Texas. It also appears in the record that, by letter of the Adjutant-General of date August 16, 1870, petitioner's request for delay was denied, and the order to proceed at once to Texas was reiterated.

"A letter from the then Paymaster-General is in the record, from which it appears that officer, in suspending petitioner and threatening him with court-martial unless he paid over the deficit, disclaims all intention of barring petitioner from his legal remedy in the Court of Claims. But it is proper to remark, the effect of the Paymaster-General's acts was to debar petitioner, and therefore to force him to seek congressional relief. Had the exigencies of the public service and the consideration of his superior officers so permitted, there can be no reasonable doubt he would have been relieved by the Court of Claims under the broad and equitable provisions of the act of May 9, 1866, had he not in obedience to orders previously paid the amount of the deficit so charged against him.

"Hon. E. B. French, Second Auditor of the Treasury, and the officer charged with the settlement of paymasters' accounts, certifies 'that, with the exception of the reconstruction accounts, wherein fraud was alleged to have been committed by a clerk, the petitioner's accounts have been rendered in an acceptable and satisfactory manner, and his payments appear to have been made with care and ability.'

"Thus far the case presents unquestionable merit, and the remaining point for consideration is, whether the petitioner had exercised proper care and caution and such reasonable prudence as is required of a disbursing officer. The Secretary of War, being addressed on this subject, submits the following report:

"WAR DEPARTMENT,
"*Washington City, January 22, 1877.*

"SIR: Returning your letter of the 19th instant, requesting information in the matter of defalcation of Major P. P. G. Hall, paymaster, United States Army, through his clerk, James Thomas, I have the honor to invite your attention to the report of the Paymaster-General, dated the 20th instant, (indorsed on your letter,) and accompanying papers.

"Very respectfully, your obedient servant,

"J. D. CAMERON,
"*Secretary of War.*

"Hon. GEORGE E. SPENCER,
"*Of Committee on Military Affairs, United States Senate.*

"UNITED STATES SENATE CHAMBER,
"*Washington, January 19, 1877.*

"SIR: Referring to the petition of Major P. P. G. Hall, paymaster, United States Army, praying to be reimbursed on account of certain defalcations occurring through the criminality of a clerk named James Thomas, while said petitioner was charged with the duties of paying vouchers under the reconstruction act, which petition is now pending before the Senate Committee on Military Affairs, I have the honor to request such information as may be within the province of the War Department to afford, touching the question whether Major Hall exercised, under the attendant circumstances, such care and due diligence as a disbursing officer as would be reasonably and justly required by the precedents and practice of the Department. As the committee desire to determine this case on Tuesday next, please direct an early reply.

"Very respectfully,

"GEO. E. SPENCER,
"*Of Senate Committee on Military Affairs, Acting Chairman.*

"Hon. J. D. CAMERON,
"*Secretary of War.*

[Indorsement.]

"Respectfully referred to the Paymaster-General for report.
"By order of the Secretary of War.

"H. T. CROSBY,
"*Chief Clerk.*

"*January 19, 1877.*

[Second indorsement.]

"Respectfully returned to the Hon. Secretary of War.

"As these transactions occurred several years before I arrived here, I have to make a statement derived from a variety of sources, mostly from the records of this office. These embezzlements by James Thomas, clerk to Major P. P. G. Hall, occurred when he was stationed at Vicksburgh, Mississippi, from September, 1868, to February 1, 1869, from funds on "reconstruction account" deposited with the assistant treasurer at New Orleans. The vouchers were paid by check on that depository, printed as payable to "bearer." It was customary to pay them (after the approval of each voucher by Brigadier-General Ord, commanding the fourth military district) by checks to the order of the claimant. Thus the word *bearer* on the check was erased, and the word *order* substituted. It appears that Thomas would write the word *order* on the check by a black-lead pencil when presented to Major Hall, who has the misfortune to be near-sighted, which facilitated the crime of the offender. With a rubber he would erase the pencil-marks, and thus as the check would become payable to bearer he was able to appropriate the money to his own use. As no complaint of non-payment ever reached this office, Thomas must have first passed to Major Hall a correct voucher, duly countersigned by General Ord, and obtained a correct check to the order of the claimant, which was sent to him. Afterward he would alter and raise the amount of the voucher and present a new check for the increased amount, as he performd the duty of preparing the voucher and the check necessary to pay it.

"When these vouchers were critically examined in this office, these alterations became apparent, and were disallowed.

"A careful overhauling in this office, and afterward in the office of the Second Auditor, led to a disallowance in this manner amounting to $3,141.39. This amount was made good by Major Hall, being deposited with the United States depositary at San Antonio, Texas.

"I do not doubt that Major Hall, as stated in his report on the subject of the 19th instant, addressed to this office, was in the habit of comparing carefully the total amount of the voucher with the amount of the check before signing the latter—his near-sightedness, as in case of the check, rendering less obvious to him than to most disbursing officers the changes and alterations of the vouchers. He had severe work imposed upon him at Vicksburgh, being required to make these reconstruction disbursements in addition to his ordinary duty of paying the troops. His disbursements on the latter account, during the five months from September, 1868, to January, 1869, were $185,623.97; on account of reconstruction, $79,445.60.

"The vouchers (true amount) were often small, varying from $10 up to $60, and a few over $100.

"The general reputation of Major Hall for industry, fidelity, and accuracy of his accounts has been very good; and he appears to have made these disbursements at a time when extraordinary labor was imposed upon him.

"I inclose herewith Major Hall's letter of 19th instant, and copy of General Or-

der No. 4, of February 5, 1870, from headquarters military district, by which it will be seen that James Thomas was tried by a general court-martial, found guilty, and sentenced to five years' imprisonment for the offense, and to pay a fine of $3,299.01.

"I also inclose a statement of Major T. F. Barr, judge-advocate of said court-martial, whose duty it was to thoroughly investigate the case, and who expresses an opinion favorable to the present claim of Major Hall.

"BENJ. ALVORD,
"*Paymaster-General, United States Army.*

"PAYMASTER-GENERAL'S OFFICE,
"*January* 20, 1877."

"WASHINGTON, D. C., *January* 17, 1877.

"SIR: I am a petitioner to Congress for reimbursement in the matter of the embezzlement of Thomas, my clerk. As you prosecuted this case on behalf of the United States Government, and are conversant with it, will you be so kind as to favor me with your views, based on your knowledge of the case, regarding the manner in which my business was transacted, and if there was the necessary care and diligence exercised on my part.

"Very respectfully, your obedient servant,

"P. P. G. HALL,
"*Paymaster, United States Army.*

"Col. THOMAS F. BARR,
"*Judge-Advocate, U. S. A.*

[Indorsement.]

"WASHINGTON, *January* 17, 1877.

"Respectfully returned, through the Secretary of War.

"In the spring of 1869 I was ordered by the Secretary of War to proceed to Jackson, Mississippi, in response to a telegram received from General Ames asking for a judge-advocate to prosecute a case of embezzlement.

"Upon arriving at Jackson, I found that a Mr. Thomas, clerk to Major P. P. G. Hall, paymaster, was in the guard-house in Vicksburgh, charged with embezzlement of public funds, and that a writ of *habeas corpus* had issued from the United States district court (Judge Hill) for his release.

"I made an investigation of the case and satisfied myself of the man's guilt, and then made a return to the writ, and argued the case successfully, the petitioner being remanded to military custody. He was subsequently tried by military court for embezzlement of public funds, and sent to the penitentiary for a term of years.

"I could not at the time conceive that Major Hall would be held responsible for the money embezzled by Thomas. With the arduous duties imposed on him in the administration of the reconstruction laws, in addition to his regular official labors, the administration of his office appeared to me commendable in every way.

"That he should have been held pecuniarily responsible for the criminal act of a subordinate has ever appeared to me a great injustice.

"THOMAS F. BARR,
"*Judge-Advocate, United States Army.*

"From these reports it appears that petitioner exercised such reasonable prudence and diligence as could be fairly required under the circumstances, and that the defalcation of Thomas was not owing to any want of care or diligence on the part of the petitioner.

"Your committee also believe that where public funds have been lost by disbursing officers by robbery, accident, or the default of subordinates, without any fault or want of care on their part, it has been customary not to hold such officers liable for the sums thus lost, or, in cases where the money has been paid into the Treasury, as in the case of this memorialist, authorizing the Secretary of the Treasury to refund the same. Believing that this case comes within the principle established by the precedents referred to, your committee report herewith an act for the relief of the memorialist."

Mr. PLUMB. I move to amend by striking out all after the enacting clause of the bill and inserting:

That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow and pay to Major P. P. G. Hall, of the United States Army, such sums as they may deem just and equitable, not to exceed the sum of $3,141.39, on account of a former deficiency in his accounts as paymaster, caused by the criminal acts of his clerk, James Thomas, in 1868 and 1869, and of which the said clerk was duly convicted.

Mr. SPENCER. There is no objection that I know of to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SARGENT. I understand the principle on which the bill is recommended by the committee is that the clerk was not selected by the officer but was assigned to him. It was the clerk's default and he was punished therefor. On that principle I am willing the bill should pass without objection, if that is the ground on which it is based.

Mr. SPENCER. The Senator from California is correct about that. This officer was assigned to pay the reconstruction accounts in Mississippi, and this clerk was detailed to do that work.

Mr. SARGENT. Were this otherwise, had the officer the selection of his clerk, for fear that collusion might spring up between a bad officer and a bad clerk, I should be opposed to the passage of the bill.

Mr. MAXEY. On the principle stated by the Senator from California the committee recommended the bill. The clerk was not selected by the officer, but was a detailed clerk and he had to take him.

The bill was passed.

ROSA VERTNER JEFFREYS.

The next bill on the Calendar was the bill (S. No. 819) for the relief of Rosa Vertner Jeffreys.

Mr. McMILLAN. Let the report be read in that case.

The Secretary proceeded to read the report submitted by Mr. McMILLAN, from the Committee on Claims, on the 27th of February, 1878.

Mr. EDMUNDS. I think I must object to that bill.

The VICE-PRESIDENT. The bill goes over.

Mr. EDMUNDS. Now I ask to have taken up the bill that was passed by at my request.

Mr. BECK. I did not hear what the Senator from Vermont said.

The VICE-PRESIDENT. He objected to the consideration of the Jeffreys bill.

Mr. BECK. I will say to the Senator from Vermont that it is only a question of amount. All agree that something ought to be paid. There was no war at the place where the property was taken. The Forty-third Congress passed a bill for $5,000, both Houses agreeing, and there is now no question except whether she shall have $800 or $5,000. That is all there is in the case.

Mr. MITCHELL. There is no question in my mind that she is entitled to $5,000, and I examined it carefully.

Mr. BECK. So I supposed. It is only a question of the amount that ought to be paid. If the bill be passed over now, this lady will have no chance at this Congress.

Mr. EDMUNDS. The Forty-third Congress was I believe a republican Congress, and we ought to look with a little care to the acts it passed. I will look at this bill with the Senator's permission.

In justice to Senators who had up a previous bill they ought to have their bill considered as it was laid aside for the moment.

Mr. BECK. I have no objection to that, but I do not want it to lose its place.

Mr. EDMUNDS. I do not want it to lose its place. It may be considered as a bill on the Calendar. I want the bill in regard to taxing lands taken up.

PACIFIC RAILROAD LANDS.

The Senate resumed the consideration of the bill (S. No. 195) to declare certain lands subject to taxation.

Mr. EDMUNDS. I move to amend by inserting after "named," in line 10, the words "which have been surveyed," and in the same line striking out "would," and in line 11, after the word "entitled," inserting "to patents;" so as to read:

Which have been surveyed and for which said companies have become entitled to patents upon payment of the cost of surveying, selecting, and locating the same, &c.

The amendment was agreed to.

Mr. EDMUNDS. I move further to amend by inserting in line 14, after the word "shall," the words "after payment to the United States of all such costs by or under the authority of such State or Territory."

The amendment was agreed to.

Mr. KERNAN. I desire to make an inquiry. As I am informed, whatever title is or ever was in the railroad corporations to the lands granted by the United States is covered by the two mortgages. Am I right? If that be so, then it seems to me there is great danger that the United States, to protect itself under its large mortgage, which is the second one, if the railroad companies do not pay the taxes, will have to pay them. There will be, therefore, lands here which the States and Territories will tax, and the taxes will not be paid, and the Federal Government will have to pay them to protect its mortgage, which really covers all this property. It seems to me a mode of having the money run from the United States Treasury into the State treasuries, because the railroad companies and the first mortgagees may not pay the taxes, and then the United States will have to pay them. I may be wrong in the facts; but if not, the suggestion I make is entitled to consideration.

Mr. BOOTH. Does the Senator from New York contend that because there is a mortgage on land in favor of the United States, or anybody else, that land ought to be exempt from taxation? The decision of the Supreme Court is expressly on the ground that this lien is reserved, not for the benefit of the mortgagee, but to compel the railroad companies to pay the costs of survey, which do not amount on an average to six cents an acre, and in the two decisions of the Supreme Court not a single reference is made to the lien held by the Government or by any other mortgagee.

Now is it to be asserted here that because the Government of the United States holds a lien on land which may at some remote day be of value, the land shall be made exempt from taxation? As a matter of fact that lien has no real value. The lands are sold by the railroad companies under the terms of the act and pass out from under the Government mortgage. They are sold, and sold by wholesale. Scarcely one acre of valuable land in the original grant, except on the Southern Pacific line, remains in the hands of the railroad company to which they were granted.

Mr. KERNAN. I am not in favor as a rule of exempting land that is subject to mortgage from taxation. In my State such lands are all taxed and the mortgagee has to look out that he does not lose his title by paying the taxes himself if his mortgageor does not. But here is a case where, as I understand the bill, a title has not yet passed to the railroad companies, but they have an equitable right to have the land patented when they pay the costs of the survey. To some extent that is the condition of things. But supposing they had passed to the railroad companies, should the Government be put in a position where to save its rights under the mortgage it will have to pay the State taxation on the lands which it never got one cent for, which it holds only as a pledge from the railroad companies? If the States can collect their taxes out of the personal property of the railroad companies, or anything else but the lands that the Government has as a lien on, I shall be very willing to see it done.

Mr. PLUMB. I think the Senator from New York is under some misapprehension as to the facts of the case.

Mr. KERNAN. That may be. I say that is the way I understand the facts, and I want to be put right if I am wrong.

Mr. PLUMB. The Government mortgage is as a rule not a second mortgage on these lands. There are already I think two mortgages to private individuals, and whatever lien the Government has is at least a third lien; and it is a lien which the Government never heretofore has attached any value to, because it imposed on the railroad companies the obligation to sell the lands, thereby discharging whatever lien the Government might have upon them.

In the next place, as soon as the railroad companies pay this $3 or $4 to the quarter section, then the Government patents it, and that discharges the lien also. So that there is no lien reserved to the Government for any beneficial interest which the Government has or expects to have in the lands except as to the cost of the surveying, and that we provide for the payment of. So the Government when this bill passes will be in precisely the same condition with reference to its beneficial interest that it was before. We only prevent the postponement of the taxation of these lands for an indefinite period, as is now the case.

Mr. KERNAN. If the Senator is right, and I assume that he is because he is familiar with the subject, then we have really got no lien on these lands that is worth anything.

Mr. PLUMB. That is it.

Mr. KERNAN. The Senate might as well know that these lands were got from us without pay and without security. If that is so, of course I do not want to prevent them being taxed.

Mr. EDMUNDS. There is one other amendment I should like to suggest which has occurred to me from this discussion. On the second page I wish to strike out the word "shall" where it says "shall be subject" and insert "may," so as merely to give the consent of the United States.

Mr. PLUMB. There is no objection to that.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. EDMUNDS. I move to postpone the present and all prior orders and take up the resolutions I had the honor to offer to the Senate some days ago on the subject of the constitutional amendments.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont.

The resolutions were read, as follows:

Resolved, as the judgment of the Senate, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified, and are as valid and of the same paramount authority as any other part of the Constitution; that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union, and that it is alike the right and duty of Congress to enforce said amendments, and to protect every citizen in the exercise of all the rights thereby secured by laws of the general character already passed for that purpose, and by further appropriate legislation, so far as such enforcement and protection are not secured by existing laws; and that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution, and of Congress to appropriate all moneys needful to that end.

Resolved further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States, legally qualified, in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report, as soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

Mr. BECK. I desire to ask whether the naval appropriation bill does not come up as the unfinished business now, unless we set it aside?

The VICE-PRESIDENT. It will come up as unfinished business at half-past one o'clock. The motion of the Senator from Vermont will then be in order. It will be for the majority of the Senate to determine.

Mr. BLAINE. The naval bill has been postponed a little on my request as a member of the Committee on Appropriations. I had some observations to submit on the bill before its passage, and I thought the understanding in the Senate was that I might go on at half-past one to-day. I will keep myself inside of an hour, and I shall not delay the public business much by anything I have to say. I wish the Senator from Vermont would postpone his motion until I can have that privilege.

Mr. EDMUNDS. Mr. President, when the Senator from Maine spoke of having the naval bill postponed yesterday for the purpose indicated, I, if I correctly remember, notified him that I had informed our friends on the other side of the Chamber, some of them, that I expected to move this matter to-day, which has been lying a good while—it is a matter of a good deal of public importance—and that I must do so. Of course it is for a majority of the Senate to determine. I hope the consideration of these resolutions will not take long, and then we can take up the naval bill and hear my honorable friend and dispose of the naval bill by voting on his amendments, and so on, which will take some time.

Mr. BLAINE. I do not know that it will. Of course I shall have to submit to the pleasure of the Senate. I should be very glad to go on now.

Mr. THURMAN. If the Senator from Vermont expects to speak upon his resolutions, of course there will be none to object to his doing so. If, on the other hand, it is not his purpose to speak at all, then it will be a matter for the consideration of those that have to vote on the resolutions and on the substitute for them which has been laid on our tables to decide whether they will be silent or whether they will submit their views. I should not like myself, without any opportunity for consultation among Senators who favor the substitute of the Senator from Alabama, to be compelled this morning to vote without debate. Therefore, I ask the Senator from Vermont whether he proposes to speak to the resolutions or whether he wishes to have a vote without debate? If he will state that, we can determine what course we shall take. I do not know that I shall take any part in the debate, but there are others who may wish to debate the question. I hope the Senator from Vermont will express his purpose. Of course, after we have heard him make his remarks—and we shall listen with pleasure to his remarks—we can then determine what course we shall take.

Mr. CONKLING. Mr. President, is the naval bill the unfinished business?

The VICE-PRESIDENT. It is.

Mr. CONKLING. And it will prevail except for the motion of the Senator from Vermont?

The VICE-PRESIDENT. It will.

Mr. CONKLING. If I heard aright, the Senator from Maine [Mr. BLAINE] said that he wished to speak upon the naval bill and was ready to speak now, and intended, when the hour came, to proceed with his remarks. I have heard no reason, absolutely none, why his convenience should not prevail, and, therefore, I shall vote against the motion to displace the naval bill. These resolutions are important, as the Senator from Vermont says, but I can conceive no possible advantage in considering them to-day rather than to-morrow; and I think it is a custom, as old as any custom in the Senate, when a Senator has expected to address the Senate upon a topic actually pending, not to displace it when the time for it arrives, and particularly in order to consider something else not urgent in time.

Mr. EDMUNDS. I ought to say in reply to the Senator from New York, that when it was proposed yesterday that the naval bill should go over for a speech of the Senator from Maine in respect of the amendments he intended to offer, I stated then that this matter had been lying so long that I felt it to be my duty to move it this morning; but, nevertheless, the Senate allowed the naval bill to go over, and, as I understood it, subject to the question which the Senate preferred to take up. So I do not feel that I am violating any understanding.

Mr. BLAINE. Not at all; I did not so state. Of course, it is a matter for the Senate to decide.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont.

The motion was not agreed to.

The VICE-PRESIDENT. The Senate will proceed to the consideration of the unfinished business, the naval appropriation bill.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives;

A bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878;

A bill (H. R. No. 6130) for the relief of Elizabeth B. Higgins, Joel Higgins, and Brand Higgins, of Phillips County, Arkansas; and

A bill (H. R. No. 6137) authorizing the Secretary of the Treasury to issue bonds to Albert V. Conway, substituted trustee for certain registered United States bonds redeemed or assigned by the Government upon forged assignments.

The message also announced that the House had passed the bill (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army.

The message further announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes.

The message also announced that the House had concurred in the resolution of the Senate for the printing of additional copies of the report of the Superintendent of the Coast Survey for the year ending June 30, 1877, for the use of the Superintendent.

The message further announced that the House had passed a concurrent resolution providing for the printing of 5,000 copies of the report on the lands of the arid regions of the United States by J. W. Powell; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico;

A bill (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California;

A bill (S. No. 1297) for the protection of dairymen, and to prevent deception in sales of butter and cheese in the District of Columbia;

A bill (S. No. 1374) authorizing the chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases; and

A bill (H. R. No. 613) subjecting the Fort Wayne military reservation, in the State of Arkansas, to entry as other public lands in said State.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes.

Mr. DAWES. Before the Senator from Maine [Mr. BLAINE] proceeds I desire to offer an amendment, which, I suppose, will not involve any debate. The Senator from Maine prefers that it be adopted, if at all, before he proceeds. I offer this amendment to come in after line 567:

Provided, That if the amount appropriated for any item of the pay or quartermaster's department of the Marine Corps for the fiscal year ending June 30, 1879, shall prove insufficient for its purpose, the excess in any other item or items of the respective departments may, with the written consent of the Secretary of the Navy, be applied thereto: *Provided*, That the excess in the items of one department shall not be used for any insufficiency in the items of the other department, and that the total amount appropriated for the respective departments for said fiscal year shall not be exceeded.

Mr. DAVIS, of West Virginia. If I understand the amendment correctly we had just as well appropriate all that is in the bill in bulk for general uses without any specification of items whatever.

Mr. DAWES. The Senator does not quite understand the scope of the amendment. It only authorizes the transfer of any balance of one item in one department to a deficiency in another item in that department of the Marine Corps appropriations, but not from one bureau or department to another. I will state that it is precisely the language of the Army bill of last year, and it is not an unusual provision in an appropriation bill, as I happen to know. It has been considered also by the committee, and I believe meets with their approval.

Mr. WINDOM. I see no objection to the amendment.

Mr. DAVIS, of West Virginia. I certainly shall have to understand the amendment more correctly than I do now, or I must object to it. If I understand this amendment to the naval appropriation bill, it is to allow transfers from one department to another. I do not know whether it covers the bureaus or not; I should like to have it read again, and then the Senate will see what it is. It is certainly objectionable to me to provide that when money is appropriated for a particular purpose it may be changed and go to some other purpose in a wholesale way. It is not right in principle.

The VICE-PRESIDENT. The amendment will be read.

The Secretary read the amendment.

Mr. EDMUNDS. Why is that necessary?

Mr. DAWES. I will read the provision of law as it exists in the Army bill of last year:

Provided, That the appropriations under the head of "Pay department" in this act, amounting to $11,589,287.18, shall be accounted for, * * * and in case any item of the said appropriations shall prove insufficient for its purpose, the excess in any other item or items thereof may, with the written consent of the Secretary of War, be applied thereto: *Provided, however*, That the total amount appropriated under this head shall not be exceeded.

Precisely the same provision this amendment applies to the Marine Corps of the Navy; so that, if there should happen to have been an insufficient sum appropriated for any particular item like the clothing, for instance, and more than enough for some other particular item in the Marine Corps, with the written consent of the Secretary of the Navy the balance over and enough to pay that particular item may be taken to pay the other item without exceeding the whole for that corps. That is the provision.

Mr. DAVIS, of West Virginia. I dislike to interfere with the Senator from Maine if he is ready to go on, and I therefore hope that this will be laid aside until he has concluded.

Mr. DAWES. I have no objection. I do not desire to interfere with the Committee on Appropriations on the Navy appropriation bill, but this usual provision seemed to have been omitted by oversight rather than intentionally.

Mr. BLAINE. I should like to have the two amendments read of which I gave notice last evening.

The VICE-PRESIDENT. The Secretary will report the amendments of the Senator from Maine.

The Secretary read as follows:

That a board of three naval officers, from either the active or retired list, be appointed by the President, whose duty it shall be to consider and report to the next session of Congress the number of officers, line, staff, and warrant, needed for a navy with 7,500 men; and that, until hereafter directed by law, promotion in the Navy above the grade of ensign shall cease: *And further*, That the same board of officers shall consider and report whether any of the present navy-yards may be dispensed with, and whether, in any other way, the expenses of the naval establishment may be decreased without impairing its efficiency.

Mr. EDMUNDS. So as to save the point; I make the point of order that this is against the rule about legislation on appropriation bills; and so as to the other, I do not ask to have the point of order decided now, as I do not wish to cut off the observations of my friend.

The Secretary read the other amendment of Mr. BLAINE, as follows:

That from and after July 1, 1883, only such number of the graduates of the United States Naval Academy in any one year shall be entitled to appointment as midshipmen in the Navy as are required to fill vacancies of that grade existing on the 1st day of July in each year; those entitled to appointment to said vacancies to be determined by the academic board on the basis of their standing in the graduating class. And if the number of midshipmen shall not have been previously fixed and limited by law, it shall be the duty of the Secretary to so fix and limit it on or before July 1, 1883.

Mr. BLAINE. Mr. President——

Mr. BECK. I desire to reserve the point of order on that also.

Mr. BLAINE. It was reserved by the Senator from Vermont. I take no advantage.

Mr. BECK. The point ought to come from the Naval Committee, perhaps.

Mr. BLAINE. In any remarks I shall make on the naval appropriation bill, Mr. President, I desire to say in advance that neither in word nor spirit do I intend to criticise the administration of the Navy Department either present or past, and still less do I intend by the remotest possible implication to make any reflection upon the gallant corps of officers that make up the Navy of the United States. I have no desire nor have I any grounds to reflect on either, and if I reflect on any department of the Government it will be on that of which I have had the honor to form a part for a considerable number of years. If there be any fault to be criticised, if there be any practice to be reformed, if there be any reorganization that is desirable and demanded, it is for Congress to do it; and if it should have been made before, it is the fault of Congress not to have made it, and not the fault of either Secretary, or bureau chief, or line, or staff, or warrant officer in the Navy.

At the same time, Mr. President, I must speak my mind very freely about what I consider the present condition of the Navy, and first and especially about the large number of officers the Navy contains. We have limited the Navy by law to 7,500 men, and for those 7,500 men, taking in commissioned officers of staff and line and warrant officers, and not counting the retired list, of course, which should not be brought into the discussion, we have a total of 2,020 officers, or we have to-day one officer to three men and a fraction in the Navy. That is excessive. I should infer so without any knowledge on the subject, and of course as to the organization of the Navy I do not profess to know much; but I should infer on the mere statement that it was excessive; and to prove that it must be excessive, I have here the last register of the British navy. Our Navy, as I have said, is limited to 7,500 men. We have in all in the Navy to-day 91 vessels. We have 38 to-day, I believe, in commission, as the term is, and we have, as I have already remarked, 2,020 officers. Take the British navy, which has 320 steam-vessels of war and a total, including all that belongs to the navy, of 494 vessels. They have 4,990 officers, with something over 60,000 men, in the navy. They have available for naval service more than five times the vessels in number and far more than that proportion in effective force; and while they have between nine and ten times as many sailors as we have, they have less than twice and a half the number of officers. Or, if you choose to take it in another form, throwing out the warrant officers and taking simply the officers of the line, rejecting the staff, we show a total of about 800, and counting the cadets, who are counted also in the British computation, we show about 1,000, and the British show against that about 2,300.

The comparison is quite as discouraging if we look at the French navy, which has a total number of line officers of 1,529; and I also hold the French naval register in my hand, or a book which contains the statistics. The French navy in point of number of vessels is almost as large as the British navy. Of course we all know that it is not so effective, but it is many times as large as ours, and yet the line officers of the navy of France are not more than double the line officers of the Navy of the United States, possibly a shade more than double. I infer that these facts are worthy of our attention. I infer that we are having a navy far more numerous in the department of officers than we require to the number of ships or the number of men to which we have limited it by law.

Take the navy-yards. For the immense navy of Great Britain, the largest and most effective in the world, there are in the whole island two great navy-yards, Chatham and Portsmouth, and two subordinate ones at Sheerness and Devonport, making in all four. The French navy has three principal yards, Cherbourg, Brest, and Toulon, and two subordinate ones at Rochefort and Lorient. We have on this coast, from latitude 37° to latitude 43°, on six degrees of coast latitude, seven navy-yards. We have one at Washington, one at Norfolk, one at Philadelphia, one at New York, one *in posse* if not *in esse* at New London, one at Charleston, and one at Kittery or Portsmouth. Of course that is beyond all possible requirement of our Navy. We have one at Pensacola, which it is presumed is necessary to retain for the Gulf uses, and certainly the one on the Pacific coast is absolutely essential; but that any person can infer that on six degrees of our coast latitude we need seven navy-yards is a vast stretch of imagination.

I might have said when I was disclaiming any possible intention of either arraigning the civil department of the Navy or the line officers themselves, that I have no intention of making any partisan accusation, and still less any intention of making any partisan con-

fession. I do not desire to inculpate either party or to exculpate either, and so far as all these navy-yards except the shadowy one at New London are concerned, they come down to us from "the good old days of democratic economy." We inherited them, and we inherited one more which we have abandoned; that is the one at Memphis. That was a brilliant streak of economy, of course, to put a navy-yard at Memphis, 800 or 1,000 miles from the mouth of the Mississippi River. The old story went that the navy-yard at Memphis was put through Congress because the two rival candidates for governor in Tennessee, preceding the great contest of 1844 between Mr. Clay and Mr. Polk, both came here, and the democrat said to a democratic Congress "if you do not put this navy-yard through, I am dead," and the whig candidate said "if you whigs do not vote for it it will kill us at home." And so they got a pretty nearly unanimous vote for the Memphis navy-yard. They might as well have put one above the Falls of Saint Anthony. It went on in a sort of sickly condition for 10, 15, or 20 years, not being finally dismantled until the war.

There is of course a vast and useless expenditure in the navy-yards, a very large and overwhelming expenditure in that department which we do not in any event need.

And when you come to the pay of the Navy, of course it shows just this proportion. If you have officers you must pay them, and the pay of Navy officers in the bill which is now before the Senate is for officers in commission $3,822,875, for retired officers $645,400, and for some other civilian attachés that come under the head of officers embraced in the fifty-third line and lines following $475,000, making a total of $4,943,275, or in round numbers five million dollars. Next as to the men. For the petty officers, seamen, ordinary seamen, landsmen, and boys, including men in the engineer force and for the Coast Survey service, for all that are included in any form direct or indirect in the Navy, we pay $2,300,000; so that of what is called the pay of the Navy more than two-thirds, nearly five-sevenths, are required for officers, showing of course the top-heavy condition that the register shows in regard to the Navy.

From the Naval Academy for the last fourteen years since the war we have added an average of fifty officers per annum to the Navy, and we are continuing to do it. The rule now is the very same that it is at West Point or was until last year we had some legislation upon the subject, that any boy who graduates at the Naval Academy after being duly appointed shall be commissioned as an officer in the Navy. That was so in regard to West Point until the legislation of last year. Congress by a pretty nearly unanimous vote in both branches has decided in regard to the graduates at West Point that those only shall be appointed to offices in the Army for which there are vacancies at the time of graduation. I think that ought to be the case in regard to the Navy. If not, you are liable to add from fifty to seventy-five officers annually to your Navy, and there is no limit now fixed by law at all to the lower grade. We fix the limit down to ensigns, but for midshipmen there is no limit at all, and you may pile in midshipmen until they are there by the thousand for that matter if you take time enough, and at the rate at which retirement or death thins out the upper grades of the Navy you will find such a disparity between the incoming and the outgoing as must lead to a steady annual increase in the officers of the Navy.

Now, I ask simply that after 1883 graduation at the Naval Academy shall not of itself entitle a man to be commissioned in the Navy, but that only such number shall be commissioned for which there are vacancies in the Navy at the time, leaving the academic board to determine that on the merit of the graduates. I put it at 1883, just as last year the legislation respecting West Point was put at 1882, for the simple reason that the boys who have been appointed to the Naval Academy, just as those who were appointed to West Point, went there with the understanding, and, if you choose, with the pledge from the United States, that upon graduation they should be appointed to office, and I certainly would not break the faith of the United States to the naval cadet, but let every one who has been entered with that understanding under the law have its full benefit; but if you make the law now for the next year, the naval cadet who enters understands from that day that his entrance upon the naval list of the United States depends upon the merit of his graduation, and that only those shall be selected from the graduating class for whom there are vacancies at the time.

It seems to me that this is entirely just, and in the case of West Point, and of the Naval Academy also, I do not think it will be any harm to graduate a very large number who are not entered in the Navy or Army. They will have no ground to find fault certainly. They will have received great educational advantages as a gratuity from their Government; they are equipped for the battle of life, and if ever the Government has need of their services, as it unfortunately did in a recent era, they will come in the future as they did in the past—for there was a very small number of graduates of West Point that did not find their way into the Army, on one side or the other, during the late war—and so it will be in the future. You will have a military knowledge spread throughout the country, and, no matter how many shall graduate there at the public expense under the present organization, let only those be put upon the regular Army list who stand highest, and who are for the time being needed to fill vacancies actually existing.

Mr. President, of course I would not do a harsh thing to the naval officers. I have no proposition to make except that a naval board composed of officers themselves shall tell us what we ought to do. I would not turn out an officer who had a good record, and who had devoted the best years of his life to the service of the United States, but by retirement, made larger than it now is by some form which is easily to be devised by men who take the subject into consideration, we can bring down our Navy to the proper proportion of officers and men; and we can, by dispensing with the surplus number, and by dispensing with useless navy-yards, and in other ways, reduce the naval expenses of this country by a very large figure.

And then, Mr. President, connected with this, and of more interest to me than any other part of it, is the fact that we are trying the impossible experiment of building a navy from the top.

Mr. EATON. If you build from the top it will go down.

Mr. BLAINE. I accept what my honorable friend from Connecticut says, if you keep on building it from the top it will go down to the bottom. We are trying to build a navy from the top, I repeat. It never has been done, and it never will be done in this world. You cannot make a navy by graduating cadets at Annapolis. It is in that respect different from an army. Our experience in the last war, on both sides, shows that men make good soldiers in three months, and in a year they are veterans. That is not the case with a navy. You cannot improvise a sailor any more than you can improvise a mountain. He has to grow, and you cannot grow him as an exotic. You cannot grow a sailor in your Navy unless there is a surrounding commercial atmosphere, unless there is a great mercantile marine that shall continually replenish it and build it up from the bottom. There never has been a navy in this world worth anything that did not grow out of a mercantile marine. There never will be.

And now in regard to our mercantile marine the contrast since some of us here entered Congress, the contrast since the beginning of the war with the present time is very startling. When we needed a blockade from the mouth of the Rio Grande to the capes of the Delaware we had 70,000 sailors on board our ships. Eight thousand sailors were enlisted in one town in my own State, the city of Portland; twenty-two thousand sailors were enlisted at Boston. I should like any man to get 8,000 sailors enlisted at Portland or 22,000 at Boston to-day. They are gone. Our mercentile marine by a variety of causes is swept away, and of the causes leading to its destruction too much has been attributed, in my judgment, to the effects of the war. The war had a great deal to do with it; but had that been simply the cause we would have recovered from it, for its effect was in its nature temporary. But the real cause was deeper and far more serious than the four years' war, however serious that was.

The war only gave an opportunity to our rivals. If there had not been new conditions, we should have been able after the war to have recovered ourselves. But those new conditions were and are to-day, as has been repeated here over and over again on this side of the Chamber and on that, those conditions are that the commerce of the world has entirely changed, and you might just as well attempt to arm your soldiers with bows and arrows as to rebuild the mercantile marine of the United States by a mere increase of sailing vessels. The marine of the future, more and more every day, is a steam marine, and we who stand here furnishing a larger amount of freight than any other country in the world—I was going to say any other two countries; I doubt if there be any two countries in the world that furnish as large an amount of ocean freight as the United States—we stand here to-day gaining nothing whatever out of that, or so little that it only serves to "point the moral." We furnished last year 13,000,000 tons of ocean freight, and the profit on carrying that and the passengers that belong to the sea was $115,000,000.

Mr. THURMAN. Does that include the coasting trade?

Mr. BLAINE. No; wholly foreign. It all went from our shores and came back. That which goes of course is more bulky when you measure it by tons than that which comes.

Mr. EATON. Over $80,000,000 in gold was paid into the pockets of foreign ship-owners.

Mr. BLAINE. My friend anticipates me in that. Nearly $89,000,000 out of $115,000,000 was so paid into foreign hands; I believe only $26,000,000 into ours; and that has been going on and is going on and will continue to go on unless the United States does something that shall change it. And we cannot afford not to change it. I say to the honorable chairman of the Committee on Finance that unless conditions that we dare not anticipate should continue to favor us, it is not a possible thing in this country to maintain over a long series of years specie payment here with that draught made upon our resources, and with that draught stopped specie payment will maintain itself. Gentlemen here remember the panic of 1857, how it smote the country, how it went over the continent with the force and violence of a tornado, prostrating great mercantile houses and manufacturing and commercial interests, and yet inside of ninety days from the suspension of specie payment the banks of New York, Baltimore, and all the great cities of the country resumed. Why were they able to resume specie payment after that disastrous panic? Simply because the freight moneys that lay to the credit of American commerce in London were gold to be called on by those who here needed it for the resumption of specie payments, and the gold that was deposited in London to the credit of American ship-masters and American ship-owners was the very gold on which the banks of this country resumed in 1858, and that is the gold that we do not have to-day. We should have had no need, we should have been under no necessity of

selling bonds to buy gold to resume specie payments if our fair share of the freight moneys on our own commerce had been coming into our coffers. Eighty-nine million dollars went last year into the coffers of Europe on American freight; less than $26,000,000 came here. Give us our fair share, and specie payment, I repeat, will maintain itself.

In the last ten years—and that seems a very short period to most of us—we have sent and brought, fetched and carried between this country and foreign countries from eleven to twelve thousand million dollars' worth of products, and the freights on that with the passengers attached to the trade were over $1,100,000,000, and out of that $1,100,000,000 the European nations got nearly $900,000,000, and that was drawn right from us, and we go on here appropriating for our Navy to protect a commerce that does not exist.

I am not finding fault with this naval bill, understand me. The existing naval establishment requires that we should appropriate the amounts it contains. We can do nothing else but appropriate this money as we stand to-day; but I am asking, for I can ask nothing else, in the name of American commerce that you will give to its revival the sum you are wasting on the Navy. You can take four to five million dollars out of the naval expenditure, in my judgment, without impairing the efficiency of the Navy, and if you will give four or five million dollars per annum to building up American commerce in this country you will turn $50,000,000 per annum of gold coin into your coffers; you will employ countless thousands of men on the sea and on the land, and you will change the whole commercial and mercantile character of the continent. Oh, yes, but, says my friend from Kentucky, [Mr. BECK,] "Let us have free ships; let us have a right to bring in free ships and we will do it." How? What possible advantage do you give to any man to-day by enabling him to get an American register for a foreign ship? Mr. Vanderbilt, the great capitalist and head of the New York Central Railway, is just establishing, in connection, it is said, with foreign capital, a line of steamships to run in connection with his road. The ships are foreign-built. Every spike that was driven, every hammer that was sounded upon them, went to build up a foreign mechanic. Every sailor, stoker, fireman, engineer on board, is a foreigner; every officer is a foreigner; and that is a line of American steamships; and that is precisely such a line of American steamships as the Senator from Kentucky [Mr. BECK] and the Senator from Connecticut [Mr. EATON] would establish by allowing the free registry of foreign vessels. Why?

Mr. EATON. At the proper time we will discuss that.

Mr. BLAINE. This is the proper time.

Mr. EATON. I do not think it is.

Mr. BLAINE. I said that the bill proposed would enable just that thing to be done and nothing else, and I say to the honorable Senator from Connecticut that he certainly would be departing from all the policy that has made his own little Commonwealth a great one if he advocates that policy.

Why take a $500,000 ship; a ship of about 3,000 or 3,500 tons, and a steamship of that size first class, fully equipped for freight and passengers costs just about a half million of dollars. There is not a single thing that goes into that ship from the time her keel is laid until she is ready for sea that cannot be produced in this country and that is not produced in this country except tin, the few dollars' worth of tin in her.

Mr. DORSEY. We have tin in California.

Mr. BLAINE. I am corrected. I am told that California produces tin. But you may take all the hundred things that go into that vessel and they are all produced in this country from the tree in the forest to the ore in the mine; and what does my honorable friend from Connecticut, who knows more of statistics than I do, say is the value of the raw material, and when you get that $500,000 ship ready for the sea what part of her represents actual material and what part labor? There is five thousand dollars' worth of material in her, and four hundred and ninety-five thousand dollars' worth of labor. Begin with the iron in the ore and the wood in the tree, and you have only five thousand dollars' worth of material in a thirty-five-hundred-ton ship, and every particle of the remainder has been produced and inwrought and upbuilt by American labor, and I understand my friend from Connecticut to insist that we had better have that $495,000 expended on the other side.

Mr. EATON. I will simply say to my friend from Maine, that when the Committee on Commerce report, as they will very soon I trust either one way or the other in regard to free ships, I propose to discuss that question, but not on the naval bill.

Mr. BLAINE. Well, it is connected with the naval bill. Three-fourths, I do not know but I may overstate it, but certainly one-half the report of the Secretary of the Navy is devoted to the commerce of the country, and a very able report it is. It does him honor. I certainly am not out of order in discussing on the naval bill that to which the head of the Department himself devotes so large a portion of his report. I say again, that what may be saved out of the naval appropriation will do that which I have already adverted to for American commerce. We do not show any of this, can I call it stinginess, in any other department. We have given 200,000,000 acres of public land to railroads; we have given $60,000,000 in money; and taking the value of those lands and the value of that money, and adding them together, it is safe to say that we have endowed railroads in this country with $500,000,000.

From 1846 to 1871 the Congress of the United States passed ninety-one acts for promoting the building of railroads. There has not been much legislation since 1871. There has been a reaction against the policy, but from 1846 to 1871, I repeat, a period of twenty-five years, the Congress of the United States passed ninety-one different acts and endowed the railroad system of this country with $500,000,000 of money, and that $500,000,000 of money produced more than $5,000,000,000 of money in this country. My judgment is that the Congress of the United States in everything they did in that respect did wisely. They cheapened freights. Clinton's ditch, as it used to be called, was sneered at when it was an experiment, but the minute the water was let into it it reduced the freights that had been $100 from Buffalo to New York down to $7 a ton; and it is not an exaggeration to say that at that day, before railroads were among us, the water that was let in from Lake Erie to that canal added $100,000,000 to the value of the farms west of it.

As individuals, cities, towns, counties, States, a nation, we have exerted ourselves to the utmost point of enterprise and vigor to build up railroads. We have a system that outruns all the world, and with great trunk lines threading the continent north, south, east, and west, in every direction. The very moment we reach the ocean limit, we seem to think we have done our duty, and that when we have got transportation to that point it no longer interests us, and we can safely give that over to the foreigner. Why, from Chicago to Liverpool is one direct line. I wonder how it would sound if Mr. Vanderbilt, who is running a line of steamships manned by foreign men, commanded by foreign officers, built in foreign yards, whose money earnings go entirely outside of this country, were to apply that to the New York Central Railroad and select all the brakemen and switchmen and conductors and tenders and officers on the Central Railroad from foreigners; to put all the locomotives on it that are made in England; to let all its earnings be exported. Such a policy would not be one particle more detrimental and destructive to the interests of this country than for us when that Central Railroad had touched salt water with all the countless products of the fertile West to give up all the profits of participation in the transportation of them beyond. From Chicago to Liverpool is a route of four thousand miles. We operate one thousand miles of it and give three thousand miles to the foreigner.

Mr. President, our ancestors of the last generation were not so sequeamish on this subject. They were not afflicted with theories; they were intensely practical, and after the peace of 1815 following the war of 1812 our commerce ran ahead of Great Britain's to such an extent that absolute alarm seized England. During the administration of John Quincy Adams, in a single year of the commerce between this country and Europe, one hundred and forty-five millions were carried in American vessels and only fourteen millions in those of other nations. The commerce amounted to about one hundred and sixty millions, and American vessels carried one hundred and forty-five millions of it; and I beg the Senator from Connecticut to remember that then in Parliament, and then through all their chambers of commerce, and then throughout all the commercial agencies of Great Britain an agitation was made that they would import free ships from America. They did not do it. They concluded that that would be their utter and final ruin, and that they never could catch up with us if they did that, and they resisted it, and they resisted it up to the point and until the time when they had got so far ahead by aid from Government, by the upbuilding of a great commerce, that they could successfully defy and laugh at competition. Then came in their free shipping act; and the policy which the Senator from Connecticut invites us to to-day is precisely that which the free-traders in this country on looking at England will find that she took into consideration and condemned and rejected in 1827 and 1828, and the English marine would never have been what it is to-day had they not at that time stood just where we ought to stand to-day.

I referred to 1817, to the generation that immediately preceded us; and I address my remarks to that side of the Chamber, because they claim a more distinct inheritance from the Jefferson and Madison and Monroe era. Mr. Monroe in 1817 had just come to the Presidency. We had passed an act which, if it were passed to-day, would revive American commerce with such a rapidity and thrill as would astonish people on both sides of the water. We passed an act providing that the products of no country should come into the United States except in American vessels or in the vessels of the producing country, and we held it there for years and years. These triangular voyages that sap the life out of our commerce could not be made under that law.

Mr. EATON. Will my friend allow me to state that there is now a bill before the Committee on Commerce making differential duties in favor of American shipping?

Mr. BLAINE. I am very much delighted to hear it, and I am sure the committee that should report that bill is in no possible danger of reporting that we had better abandon the art of ship-building in this country and get our ships in Europe.

Mr. EATON. That is another question.

Mr. BLAINE. Not at all; it is the same question, if my friend will permit me.

Mr. EATON. Not by any means.

Mr. BLAINE. It is exactly the same question. If you intend to encourage American commerce by giving differential duties in favor of American ships it would be highly improbable that the bill should

say in the next section that we do not want ship-building in the country, and if anybody sent over their old rubbish and trash and sold it at a low price we would take that and give it the benefit of an American register. Of course I do not use the phrase in any offensive sense, but I cannot conceive of a greater fraud than to call a ship of that kind an American ship. There is nothing in the history of the Government, there is nothing in any of its developments in which pride inheres more than in the ship. It carries the flag before all nations of the earth. It is the manifestation of our national power and our national existence.

Mr. EATON. One would suppose from the present reasoning of the Senator from Maine that that good ship over which the American flag floated, commanded by Paul Jones, was not an American ship because it had not been built in this country.

Mr. BLAINE. Ah, necessity knows no law. Paul Jones was fighting, and he had to take whatever he could fight with. We are not talking about what is the necessity of war; we are talking about what ought to be the policy of peace. If we are in a fight with a nation and can seize any ship that will whip the enemy, of course we will take her; and that is what Paul Jones did.

The Senator advocates the policy that should take up any ship built anywhere and put an American flag on her and employ her as an American ship. I say, and I repeat without any intention of offense in using the word, it is a fraud. It is against all the traditions and instincts of the American people. It is putting on a false trade-mark. The statute should be against it if the common law is not.

Mr. EATON. I am afraid my friend is not a lawyer.

Mr. BLAINE. It is a false trade-mark that you put on it.

Then again, when you say that we are not able to build an American ship in competition with foreign ships, and that we can get other ships cheaper if we will throw open the registry, do not my friends from Connecticut and Kentucky both see that if that be the necessity of to-day it will be far more the necessity to-morrow? It will be a much greater necessity the next day; and it will continue to be so much a necessity that in the course of a very short time the art of ship building in this country will have been lost.

Senators talk to us about what the nations of Europe do, and say that Germany gets her ships from England and that other nations get them from abroad. There are but two great naval powers in the world, or able to be great naval powers. The United States and Great Britain are the naval powers of this world; and the idea that with a continent containing the resources we have, with a population possessing the skill we do, with all the traditions and all the inducements that surround and govern the case, a Senator can rise in the American Senate and propose that the American flag be struck and that foreigners be invited to build our ships, and that we in turn agree to be dependent on them for a navy as well as for commerce, is a most extraordinary spectacle, if I may use the phrase.

I remind the Senator from Kentucky that the bill which I have read here was supported if not drawn by the illustrious man who then represented Kentucky in the other House, and who was its Speaker. I am not surprised, as the political developments have been made in the last few years, that from the Southwest this proposition should come, but my friend from Connecticut will excuse me if I say that I never expected to live to see the day when a New England Senator should uphold that policy.

Mr. EATON. I am glad the Senator has lived long enough to see it. [Laughter.]

Mr. BLAINE. I hope I shall still live long enough to see my honorable friend repent and reform. [Laughter.] I hope his length of days will be sufficient to make him repent and reform, and even to forget that he erred.

Mr. President, I will state my views on this subject, and I shall take the privilege of bringing the Senate to some vote that will test its sense on that question. My idea is that the Government of the United States should give to any man or company of men aid from the Treasury of the United States if he or they shall establish and maintain a line of steamships to any foreign port, or I might limit it to European, South American, and Asiatic ports. I would invite competition from San Francisco, from Portland, Oregon, from Galveston, from New Orleans, from Mobile, from Savannah, Charleston, Wilmington, Norfolk, Baltimore, New York, Boston, Portland, and everywhere. I would let all come in who can sustain it. The touchstone is what will be sustained by the trade, and that you can safely leave to the instinct and to the knowledge of American commercial men.

There is no reason in the world why Savannah, that caused the first ship by steam to be sent across the Atlantic, I believe, going from her port and bearing her name, should not be a great sea-port. There is certainly no reason why a very great foreign trade should not be concentrated at New Orleans. Some might try that could not probably sustain the enterprise, but there are various points throughout the country on our ocean front that would maintain with vigor, with success, and with pride to themselves and the country great lines of steamships to all the foreign ports of the world. I am radical on the question. I do not suppose the American Congress would go so far as I would, for I would certainly vote directly for the revival of the act of 1817, and I would write as the law of America for the present that the products of any country should come to the United States either in the vessels of the exporting country or in our own. If that sounds like unfriendly legislation, if it sounds like extreme legislation, if it involves some contradiction of the policy of the last twenty-five or thirty years, let it be said that we are legislating for an extreme case, and extreme cases require extreme remedies.

We carried five-sevenths of the American commerce when the war broke out. We do not carry one-quarter to-day, and if we come out of the deep abyss of humiliation that we are in we will come out of it by vigorous and strong-nerved and daring legislation, if you please. I would open it to all the business of the country, but I would put the race between American skill and the skill of all the world, with the utmost possible confidence that, sustained by this Government in the race, we would win. It is in our people. With an equal chance we can beat them. But, with the present condition of things, a hope for the revival of American commerce is as idle a hope as ever entered the brain of an insane man. Our trade is falling off 1 or 2 per cent. per annum as we stand to-day. It was less this year than it was last. It was less last year than it was the year before. It will be less next year than this.

I know no question that can in any manner engage the attention of the American Senate that is more worthy of their serious consideration and their deep deliberation than this. It is more far-reaching than any question before us, for I repeat, as I intimated, that with this steady drain out of us, this drain of $85,000,000 a year, in gold coin, this country cannot expect with confidence to maintain a specie basis. An adverse crop, a bad year, a balance of trade against us, and with the whole commercial marine in the hands of foreigners, we put specie payment and American solvency and American prosperity to a test that I shall grieve to see applied, and the result of which would be, I fear, most disastrous.

We voted $1,500,000 for the Navy without thinking. Anything that gets in the rut of an appropriation goes easily. You voted money this year because you did last; we will vote it next year because we did this. Bayard Taylor used to tell a funny story to the effect that in the Russian budget there appeared every year fifty rubles for goose-grease for the prince's nose. He said that one hundred and fifty years ago there was a sore nose on one of the princes, and goose-grease was prescribed for it, and so fifty rubles came into the budget; and although a sore nose has not since been known in the royal family the fifty rubles have been annually appropriated. Our appropriations run on in the same rut, and we need a stirring up from the bottom and a wholesome change.

When I speak thus I speak, I am sure, as a friend of the Navy. I come from the portion of the country that feels great interest in and great sympathy with the Navy. But a navy cannot be maintained as a fancy attachment to the Government. The Navy must have uses. The United States steam-frigate Tennessee has just returned from a three years' cruise. I sent to the Navy Department, and regret that I cannot have it in time to read it here to-day, for a statement of the expenses of that three years' cruise. I might be wild probably if I should venture to give the figures without the data; and therefore I will not do so; but I venture to say that it will surprise every member of the Senate. And I venture to say that on all that long three years' cruise, in all the waters, in all the oceans, on all the shores, the rarest thing the Tennessee met in her travels was an American ship, and almost the only flag she saw bearing the Stars and Stripes was at her own mast-head.

We want a navy, but we want something for it to do. We want a navy to protect the commerce, but we want a commerce in advance for the Navy to protect, and we want a commerce that shall not be one of favoritism; a commerce that shall not benefit one section at the expense of another, but one that shall be equal and just and generous and profitable to all. You will never get it by making this nation a tributary to Great Britain. You will never get it by banishing the art of ship-building from among our people. You will never get it by discouraging all possible aspirations for maritime and commercial supremacy, by a public proclamation from Congress that after nearly a century of gallant struggle, in which more than three-quarters of the time we were ahead in the race, on account of an accidental mishap that put us behind we of to-day, not having the nerve or the sagacity of those who went before us, sank before the prospect and asked other nations to do for us what we have lost the manhood and the energy to do for ourselves.

Mr. BECK. Mr. President, I confess to some amazement that a bill which I introduced some time ago and which is now before the Committee on Commerce for consideration, which I have had no opportunity even to state the reason I had for introducing, should have been made the text for such a tirade as the Senator from Maine [Mr. BLAINE] has seen fit to indulge in to-day. But before I speak of that let me say as to the naval bill. He and I are members of the Committee on Appropriations. He is a member also of the Committee on Naval Affairs. He knows as well as I do that in a bill like that now under consideration no new legislation can properly be had. It is because efforts are often made such as he is making to-day to insert new legislation into appropriation bills by Senators not on the committee that much of the confusion growing out of our appropriation bills so often follows.

Although an influential member of the Naval Committee and fully informed as to all wrongs that may exist, he has failed to lay before the Appropriation Committee any of the grievances of which he now complains. Therefore he has no right now to seek to introduce new

legislation into this bill without giving the Committee on Appropriations a chance to consider the questions. I made the point of order against his amendment on that ground; but I will now say to him that whenever he as a member of the Committee on Naval Affairs to which he belongs, or on his individual responsibility, introduces any measure looking to a reform of the Navy, looking to the reduction of expenditures, or looking to any of the improvements he seeks to attain, I will go as far as he will or can in seeking to bring about all legitimate improvements and amendments of the present system of management of naval affairs.

I do not know why the present bill has been selected as the subject of attack. It is not my special province to defend either it or the Secretary of the Navy; but I have this to say, that the Senator from Maine was a member of the House of Representatives during the same time that I was, for eight years, when flagrant abuses were being perpetrated in the Navy Department which were known to him and known to all his party; which were exposed by me and by others, yet he never raised his voice against them.

For example, we had nearly six hundred ships in the Navy when the civil war closed and they are reduced down to ninety-one. They were sold many of them as old scrap, sold under every pretext, disposed of in ways that Congress knew nothing about and the proceeds used in all sorts of ways. If that action did not meet the approval of the Senator from Maine it never received his reprobation. I fear his trouble is that we have now, for the first time, a Secretary of the Navy who obeys the law, whether he likes it or not; a Secretary of the Navy who, in my judgment, is willing to unite with the good men of all parties in removing whatever wrongs can be found in his Department. The highest tribute that could be paid to the integrity of the Secretary is the fact that a democratic committee, a committee politically hostile to him, in the lower House of Congress, reported the bill now under consideration almost word for word as he suggested it, and a democratic House of Congress passed it without crossing a *t* or dotting an *i*. When he came before the Committee on Appropriations of the Senate and we had the bill under consideration, the few alterations that we made in it were made at his suggestion, because we were satisfied, upon full consultation, that there was nothing in it that did not comply with existing law and which was not required by the good of the service.

The Senator from Maine was a member of that committee as well as myself, and he could find no fault with what a democratic House had done and what the Secretary of the Navy had recommended. The Secretary, it is true, said in his report a great deal about our lost commerce, said it well, and said it truly; and when I come to speak relative to the bill that I introduced, which the Senator from Maine attacks so fiercely, by which I seek to allow our citizens to buy ships wherever they please, I shall ask the careful consideration of the Senate to what the Secretary says about our lost commerce. Before touching that subject, however, I propose to show that the Secretary is not creating deficiencies; on the contrary, that he is endeavoring in good faith to comply with the obligations imposed upon him as Secretary. I will read what he says in his report about the workings of his bureaus; and I will say further that he is the first Secretary we have had that I know of in the last ten or fifteen years who has been able to report balances of appropriations ready to be paid back into the Treasury, instead of coming in asking for deficiencies by the million which they themselves created.

It is due—

Says the Secretary:

> It is due to the bureaus of the Department that special attention should be called to their several reports, wherein the details of the work done by them during the year are given. They show an amount which could not have been accomplished without the utmost watchfulness and care on the part of the officers in charge of these bureaus. And the economy practiced in their disbursements cannot fail to arrest attention. The total balance standing to their credit at the close of the fiscal year ending June 30, 1878, as previously stated, was $501,272.10, made up in favor of each bureau as follows:

Yards and Docks	$40,685 84
Equipment and Recruiting	238,879 20
Navigation	24,750 21
Ordnance	18,586 88
Construction and Repair	37,863 73
Steam Engineering	28,230 09
Provisions and Clothing	102,736 93
Medicine and Surgery	9,539 22
Total	501,272 10

> It is also due to the Bureaus of Construction and Repair and Steam Engineering to refer to the amount of work they have respectively done in repairing ships, engines, boilers, &c., all of which is especially set forth in their reports. Seventy-five vessels have been more or less repaired, according to their condition, and ten of them have been thoroughly repaired, together with engines and boilers, and made ready for sea. Two others, the Nipsic and Galena, are in rapid progress toward completion. The machinery of every vessel repaired has been thoroughly overhauled and put in the best condition, and the policy of substituting four-bladed screw propellers for the various types of two-bladed and patent screws has been initiated. These changes have been attended with the best results, an increased speed of from one to two and a half knots per hour having been obtained, without increase of engine-power developed. It is designed to continue these changes until all our vessels are fitted with this type of propeller.

Mr. President, it is gratifying to be able to state that with the smallest appropriation made in the last twelve years the present Secretary of the Navy has a balance of over half a million of dollars in his hands instead of calling upon us for deficiences. The present bill, that he is now content with, which the House passed and the Committee on Appropriations recommend, is smaller than any that has been passed since the war. Turn to the finance reports. It is admitted that our Navy has been reduced down almost to nothing, that we sold hundreds of the ships that we had on hand and expended the money in ways that Congress knows nothing of, and we have been making up deficiencies year by year in the face of enormous expenditures, all at least meeting with the silent acquiescence of the Senator from Maine. The annual expenditures for the Navy in 1867, (see Finance Report for 1877, page 16)—I read in round numbers—were $31,000,000; in 1868, $25,000,000; in 1869, $20,000,000; in 1870, $21,000,000; in 1871, $19,000,000; in 1872, $21,000,000; in 1873, $23,000,000; in 1874, $30,000,000; in 1875, $21,000,000; in 1876, $18,000,000; in 1877, the year to which I allude, $14,000,000; and we are now making an appropriation of $14,000,000.

Therefore, there can be no serious fault, as I think, found with this bill. I have felt it necessary to say this much in regard to the action of the House of Representatives and of the Committee on Appropriations to show that, having no power to change the law, no right to cavil with it, in fact nothing to do except to pass upon the laws as we find them, and examine the workings of the Department to see that everything is fairly and honestly done, we are able to say, and men of all parties I think agree, that if the other Secretaries and executive officers of this Government should obey the law as carefully and be as economical in their offices as the Secretary of the Navy is in his, a genuine civil-service reform would be inaugurated. So much for that. But the burden of the Senator's speech——

Mr. BLAINE. Before the Senator leaves that point, will he allow me to ask him, if I do not interrupt him, whether the deficiency bill, which was passed last year, and which cleared up all the points in dispute in regard to money, was not supported by him about as frankly and as cordially as by me?

Mr. BECK. What does the Senator say?

Mr. BLAINE. Did not the Senator support the deficiency bill of $3,200,000 to pay all the deficits?

Mr. BECK. On that question I desire to say that the Senator from California [Mr. SARGENT] had charge of the House deficiency bill, which embraced hundreds of items which I thought were of doubtful propriety, but they were payments to men who it was known had done the work; and, whether the former Secretary of the Navy had acted legally or illegally in making the contracts, the Senator who had charge of the bill said to the committee that the men themselves ought not to suffer. That official was under investigation in the House of Representatives, a bitter quarrel was going on there, as the Senator from Maine knows, the House had passed that deficiency bill and I did not want to drag the quarrel into the Senate.

Mr. BLAINE. But the Senator seems to have dragged it in to-day.

Mr. BECK. One word further. As the House of Representatives had acted upon and passed those claims I consented that the Senator from California should report the deficiency bill as it came from the House without renewing the investigation, especially as it was obvious that the men had done the work.

Mr. BLAINE. If I understand the Senator, not to interrupt him, he with me, and he and I, with every other Senator on this floor—for there was not an objection; the bill was passed without the dot of an *i* or the cross of a *t*—all voted that that money was due, and that if there was any dispute as to the precise legal authority for making the contract there was no doubt that the Government of the United States got all the benefit of the money expended. He and I on that ground voted to pay the money, and during our service in the House of Representatives, to which the Senator has referred, it would be pretty hard to find in the Globe or RECORD any particular vote on which he and I differed——

Mr. BECK. Oh, yes.

Mr. BLAINE. On this point. On a good many others I should hope there would be a great difference.

Mr. BECK. My record in the House is well known. I was explaining why the deficiency bill of last session was passed. I do not care to take more time about it; I only repeat that there is no ground of attack against the present bill.

Mr. BLAINE. I have not attacked the present bill.

Mr. BECK. And I have shown that it cannot be attacked successfully under existing law, and that the proposed amendments or changes of law ought to come from the Committee on Naval Affairs as independent propositions, and cannot properly be tacked on to an appropriation bill.

But what I wish to say more particularly in reply to the Senator is that the bill which I introduced in order to allow the American people to buy their ships wherever they see fit, to buy them as they have a right to buy everything else they need and must have except ships, where they can get them cheapest, is in my judgment not only a bill that cannot be "whistled down the wind," but the more it is considered the better the Senate will think of the measure. My proposition is not, as the Senator assumes, to have ships so purchased run by foreigners, owned by foreigners, officered by foreigners, but to be used under all the limitations of our navigation laws, which require every officer to be a citizen of the United States. I only seek to allow the men of this country who do our carrying trade to buy their ships as they buy their wagons and everything else they use, where they can buy them cheapest, so that we can compete success-

fully with the citizens of other nations for the great ocean-carrying trade of the world.

The Senator from Maine says that I seek to pull down the American flag when I advocate that policy. That is not true. It is because the American flag is now trailing in the dust, and because, as he says, that on a cruise of three years a ship-of-war of the United States failed to see the American flag except at her own masthead, when after years and years of sad and disgraceful experience we have been wasting $100,000,000 a year upon foreign nations for the use of foreign-built ships, having none of our own, enriching them and impoverishing ourselves, I seek to enable our citizens to own their own ships as all other nations of the world own theirs, buying them where they can buy them cheapest, so that they can carry on foreign trade in them as cheap as any other people. We must either do this or cease all efforts at competition. Is it more disgraceful to pay our own citizens for the use of a foreign-built ship than it is to pay foreigners for the use of it, as we are doing now.

Is the ship less an American ship because she was bought where she could be bought cheapest? Are the ships now run by the Germans and Italians less German or Italian ships because they were bought somewhere else, because these nations found that some other people build ships cheaper than they can? No. Is the coat upon the back of the Senator from Maine less an American coat because it was made in Paris, as I have no doubt it was? No. The ships once bought would belong to our own people, under the bill I introduced, and every dollar that they earned would be owned by American citizens, spent at home, and used at home instead of going to build up foreign nations, as is now doing by obstinately refusing to allow our citizens to buy while we are unable to build the ships we are compelled to use.

The confession is made and mourned over by the Senator that our commerce is gone; that we are getting worse and worse off every year; and the confession is also made that the war had less to do with it than was generally supposed. The official record shows that there were but seven steam iron vessels built in the United States during the fiscal year ending June 30, 1877, and the total tonnage of those seven vessels thus built scarcely exceeded the tonnage of one White Star steamer, being under 6,000 tons. That is our condition. A more deplorable one could hardly be imagined. I am glad even the Senator from Maine realizes it. That has been substantially our condition for years past. We are, I admit, going on from bad to worse. Out of all the great ships that leave the port of New York for all nations beyond the Atlantic not one carries the American flag. Must not something be done? What causes this? If we can build ships, why do we not build them? All agree that we do not build, cannot build, and yet must use them. It is because everything is protected by an infamous protective tariff to such an extent that whatever goes into a ship, from the first nail that is driven to the bunting at her masthead, makes her cost a third more than if built anywhere else in the world.

Mr. BLAINE. The Senator must be aware that everything going into a ship can be imported free, and, with all the variety of things that are used coming in free, with that privilege, the ship-builders have not asked for a hundred thousand dollars' worth a year. They find it more profitable and more advantageous to use American material.

Mr. BECK. The fact remains that with all those privileges we have built less than six thousand tons of iron steamships in the last year, and iron steamships alone can compete for European trade. The delusion, I was about to say the fraud, of the suggestion just made is this: the ship built out of materials on which the drawback is allowed must be used in foreign trade forever; she never can enter the coastwise trade of the United States; that is left as a monopoly for the ships of Maine and New England. Our people cannot afford to build a ship upon such terms, because her life as a foreign steamer will perhaps be five years, while her life as a steamer for all purposes would be twenty years, and the very moment she ceases to live as a foreign steamer she cannot run as a coastwise steamer, nor can she enter into competition with the ships that are run by the monopoly granted by Congress to the States along the New England coast. Hence the privilege of allowing free material has never been worth anything; that fact is proven, because none are built, although we need them so badly. The necessity for their existence is so great that the Senator from Maine is appealing now to Senators to put their hands into the Treasury and impose further burdens of taxation upon the people to subsidize every line everywhere, and help to build ships for everybody, because they cannot build them without subsidy. I should like to know where the money for all these subsidies is to come from. I should like to know where new burdens of taxation can be imposed, for subsidy means taxation and nothing else. Can you increase your protective tariff and obtain more revenue? No man will dare to say so. Can you add more taxation by internal revenue? On what? You may put it upon the incomes of the rich. I think you will find in the pension bill which you passed the other day (the amount appropriated was called twenty millions, but it will turn out to be a hundred millions, to be expended in paying back pensions) that 5 per cent. upon all the incomes of this country will hardly pay the additional pensions you have provided for. At what point or in what way is the Senator from Maine going to get in the pockets of the great impoverished mass of the people to obtain subsidies? He will not allow us to buy our ships where we can buy them cheapest. He will not allow us to do what every other nation on the face of the earth is doing, and none of them, so far as I ever heard, feel any degradation by having bought their ships any more than they would if they had bought their horses or wagons or anything else abroad. They are delighted at our folly in giving up our great trade to them because we are too patriotic to do our own work in foreign-built ships.

No, it is our restrictive policy which has prevented us from having ships on the ocean. True, the distinguished gentleman alluded to by the Senator as from my State, who occupied a far more illustrious position than I or perhaps even the Senator from Maine does on this floor, favored in his early days the protective policy. There may have been some sense in it then. All other nations maintained it, and it may be that it was a proper thing for us then to do. Now times are changed. We are no longer a feeble nation struggling into existence. We will never be again invaded by a foreign foe. England in the days of Cromwell maintained prohibitory navigation laws, and, as the Senator from Maine said, in 1817 refused to repeal them, and suffered for her folly as we are doing now. Her commerce never increased and her ships never increased until 1849, when she did repeal her restrictive navigation laws; she even repealed her coastwise trade monopoly, going further than I propose, and did buy ships from America and did carry on her traffic in American ships from 1849 on. We sold ships to foreign nations up to and during the year 1860. We had in that year a profit of $23,000,000 in the carrying trade of the country, much of it by selling ships to England. England never thought she had pulled down her flag and trailed it in the dust when she bought our ships and waved her flag from their mastheads. She bought them, as I said, from 1849 up to 1860, when we were her principal competitor, and when our tonnage was almost as great as hers and was as great as that of all the other nations of the earth combined. She bought them; she manned them with her own officers and sailors, just as I propose we shall do now; she pocketed the profits they made, because she could buy them cheaper from us than she could build them, and her commerce grew and doubled and quadrupled while she was doing so.

There is no romance or foolish sentiment about business. England understands that. The illustration drawn by the Senator from Maine as to the action of England therefore not only falls to the ground but shows the fallacy of his argument, as during the most profitable years of England's commerce we were furnishing England with ships. Now, when it is shown that we have no carrying trade, and have no ships, and do not, and of course cannot build them, and cannot impose additional taxes upon our people without breaking down all their interests, neither by internal revenue nor by direct or indirect taxes, we are told that we must furnish more subsidies. Give! give! give! is the patriotic cry. Who is to give? Who can afford to give? Why should we give? when we are taxed to death already, when we can buy all the ships we need in open market for less than we could after all the taxation sought for as subsidies is imposed.

Mr. President, what I seek to do is *not* to trail the American flag in the dust; it is to make the American flag supreme on every sea. I would wipe out all the protective tariff restriction upon trade and commerce, all restrictions upon buying ships or anything else that were obstacles in our way, and let our people do what every other people are now doing, sell where they can sell highest and buy what they need where they can buy cheapest. Until that is done substantially we will have no prosperity in this country, and every donation you make, every subsidy you give is simply a tax upon the labor of the country and an oppression upon the great industries of the people. You cannot subsidize lines of ships anywhere without creating a monopoly. You destroy free trade and fair competition, because the subsidized corporations relying on their subsidy will drive from the ocean their unsubsidized competitors. You cannot protect American labor in the present state of the law. You protect American machinery by tariffs and by patents as the Senator from New Hampshire [Mr. WADLEIGH] is now struggling by his patent bill to do, so as to compete on equal terms with the best machinery in the world. For that reason we pay to encourage inventors. He perhaps properly insists that inventors should be protected so that we may be equal to any country by increasing the power of machinery to create products cheaply. But who or what law protects labor? The Senator from Maine and all who are in favor of high protection will take a Chinaman or a man from any other part of the world, and employ him to run that machinery, and turn off the American native-born laborer if the Chinaman or other foreigner will do the same work for one cent a day less than the American laborer demands. All the paupers on earth compete in American workshops on equal terms with the American laborer. There is no tariff for him, but there is a tariff piled mountain high upon everything that he eats, drinks, wears, tastes, or touches. That is the protection that the Senator from Maine and those who think with him are now clamoring for. Protection for machinery which belongs to the rich; free trade in labor from the Chinese up; with enormous taxes on property to protect wealth.

The Senator from Maine said in answer to the Senator from Connecticut that Paul Jones had a right to seize a ship wherever he could and fight an enemy with it. We are fighting a great commercial enemy now. We are in a fight where our existence as a great commercial nation is at stake. Being in a contest with England, France,

and Germany, I would, as Paul Jones did, seize the necessary ships wherever we can get them on the best terms, and run them to the best advantage to break down our opponents in that competition. There are other wars besides battles where blood is shed. The life-blood of the nation is being drawn from us because we do not use the means at our command nor allow our people to go into a fair competition with other people, and this is done merely for the benefit of a few men in one corner of the country. The coastwise trade is an enormous monopoly to-day. That I do not seek to interfere with.

Mr. BLAINE. If the Senator will allow me, why does he not seek to interfere with it?

Mr. BECK. Because I am willing to give you that much to keep you quiet if I can. If I can only maintain the great ocean carrying trade I am willing to pay that tribute, great as it is, for we pay tribute to everything in that corner of the Union. We paid five millions and a half the other day for their fisheries.

Mr. BLANE. You did not pay it at my request.

Mr. BECK. I beg pardon, we paid it for the benefit of your people.

Mr. BLAINE. You did not pay it at the instigation especially of New Englanders. Do not charge that to us.

Mr. BECK. If the fisheries we were protecting are not for the benefit of New England, I do not know for whose benefit they are. They are not for the benefit of the balance of the country. I suppose the eight or nine millions now being scrambled over from the Geneva award, is to go in the same way. One hundred per cent. has been levied on the salt of the western farmer and given gratis to the fishermen to encourage that corner. The coastwise trade must be maintained, I suppose, for the same purpose, so that if a foreign ship, or a ship built here, even with the privileges the Senator from Maine speaks of, should undertake to carry cotton from New Orleans to New York for a dollar a bale, and a ship from Maine demanded $5, the man who owns the cotton is compelled to pay the ship from Maine $5, because under the navigation law no ship built in a foreign country can load in one port of the United States and land its cargo in another. All these monopolies will have to be endured a while longer. We will be fortunate if we can only reach the great markets of the world. The Senator may as well understand that the men of the West and of the South and of the great producing regions, insist that they have paid tribute to New England long enough, and if they can buy ships anywhere else cheaper, they insist that they have a right to do so, and that Congress in the present condition of the world is not treating them justly if it prevents it.

Something was said about the balance of trade. My friend [Senator DAVIS, of West Virginia] suggested, how about internal revenue? I turned to the finance report this morning, and I find that the State of Kentucky paid $9,800,000 of revenue last year. The State of Maine paid $79,000, less than $\frac{1}{8}$ of 1 per cent. of what Kentucky paid. But Kentucky wants nothing except fair play and a free contest with other people, free ships, free trade, free everything, so that we can sell what we produce and buy what we need without being taxed to death for the benefit of a few.

The Senator from Maine boasts of our present balance of trade. I have heard that before. The President of the United States at Saint Paul last summer boasted that we were on the highway to prosperity because of the balance of trade in our favor; that seems to be the hobby now. The Senator from Maine says that the balance of trade is all that now saves us from being poor. I have thought upon that subject and beg the attention of the Senate for a little while in regard to it, as I differ widely from the Senator from Maine and the statesmen of his school.

I appreciate fully the importance of having an honest balance of trade in favor of the people of the United States in their dealings with the people of other countries. I understand that a man or a nation whose expenditures exceed his or its income from production will in time become bankrupt; and I have steadily advocated all measures that tend to enable us to keep our means at home instead of enriching foreign nations. To that end I want our own people to own the ships which carry our commerce on the high seas, so that the $100,000,000 now paid to foreign nations annually for freights and passage money may be owned and spent at home. I desire to see all our bonds in the hands of our own people, so that the interest on our national debt, like that of England and France, may be retained and spent here instead of abroad. Still I insist that the men who trade and who own the bonds shall have the benefit of the profits, subject only to the portion they ought to contribute to the support of the Government which protects them and their property.

The present balance of trade in our favor about which we hear so much, which is heralded in high places so ostentatiously as conclusive evidence of returning prosperity, is a forced and fictitious balance under our present unjust, oppressive, and, I might say, iniquitous protective tariff. If we were allowed to sell what we produce where we could sell it highest, and buy what we need where we could buy it cheapest, and retain the present balance of trade under these conditions in our favor, each citizen obtaining the benefit of his transactions abroad, we would be on the highway to prosperity; but when the balance of trade is in our favor as it is now simply because our people are prohibited by law from buying what they need and must have where they can buy it cheapest, and are forced to pay at home to those protected by the tariff monopoly more than the people of any other country have to pay for like articles, the balance of trade thus coerced is a delusion and a fraud, injurious alike to the Government and the people. It only requires another step to be taken so as to make the highly protective tariff absolutely prohibitory, and not only the balance but all the foreign trade of the country will be in our favor. If that result could only be produced, the statesmen of New England would be able to congratulate the country on the perfection of a system where trade was all profit and no loss. Their claim would be: exports, $700,000,000; imports, nothing; America the richest country in the world—which means that a few men along the eastern seaboard who have been invested by law with power to compel forty-six millions of people to pay them any price they see fit to demand for all that their machinery can produce, which the mass of the people must have, have become the peers in wealth of the Rothschilds or the Marquis of Westminster, while the producers and consumers alike outside of the charmed circle have become paupers and serfs.

Perhaps I can make my idea of the working of the present balance of trade clearer by illustration than by argument. Assume that a Louisville or Cincinnati merchant or large western farmer ships a cargo of wheat to Liverpool; it is worth in that market $100,000; he meets there a ship from some port on the Mediterranean with which England has free trade laden with a cargo precisely similar to his own; he must sell in sharp competition with the European. No American tariff helps him there. The Englishman puts his hand into the bags of each and finding them alike pays the same price for each. The European pauper gets as much as the highly protected American, indeed has a decided preference over him. Why? Because he is willing to take in exchange for his wheat what the Englishman has to sell, and the American cannot. All trade is barter. People must sell in order to be able to buy. Both owners of the cargoes of wheat need and must have equal supplies to carry on their operations for another year; each needs machinery, clothing, and other things, and each is offered all he wants for $60,000. The European buys or takes in exchange sixty thousand dollars' worth of English products, loads his ship, and returns home to prepare for competition with the American in the Liverpool wheat market next year; and, mark you, he brings his wheat and takes back his supplies in his own or his country's ship, and has the profits both ways to spend at home, while the American has to pay freights to a foreign ship at such rates as combinations of foreign ship-owners may demand, as neither he nor his countrymen can afford to build and are not permitted to buy ships to carry their produce to foreign markets. I said the American could not buy in Liverpool what he needed, though anxious to do so, at $60,000. Why? Because he would have to pay $49,000 more at the New York custom-house before he could land his goods in his own country. He could buy the same goods in New England for $90,000, as the protected American manufacturer takes care to fix the price of his products lower than the foreign price with the tariff tax added. What is the result. The ship that carried the wheat of the American returned back empty so far as he was concerned. The Government of the United States received no revenue; that is, the people of the United States received no relief from taxation. The owner of the cargo of wheat had to pay $30,000 more for the supplies he needed than his European competitor and had to enter into competition with him in the production of another year's crop for the same market with an outlay of $90,000 against an outlay of $60,000 by his so-called pauper competitor. Nobody is benefited but the tariff-protected monopolist, and he does not pay one cent more to support the Government because of the gains he has made by the monopoly Congress has given him than his coachman does. Indeed he may invest his profits in United States bonds and escape all taxation, Federal, State, and municipal.

That is a plain illustration of the present system: each transaction is just like it. It must not be forgotten that seven-eighths of our exports are agricultural products which must be sent abroad and sold at whatever price they will bring. Our capacity for production is so great and our surplus is so large that it is impossible to consume it at home or retain it for higher prices; and, when ready for market, fat cattle, hogs, grain, cotton, tobacco, provisions, &c., cannot be held for a higher price, nor can the producer of them change his business to suit the markets. He must produce and sell or his farm goes to waste, and the foreign price regulates the price in the home market, as dealers in cotton, wheat, tobacco, and other staples well know. It is equally obvious that all freights, commissions, insurance, interest, and other charges, as well as intermediate profits, are deducted from the foreign market prices when the producer sells, so that each item of charge comes out of him, and he is the real competitor with the European pauper, without protection or the possibility of protection under our tariff laws; so that he is robbed both ways by the increased cost of production and the still greater increase of cost of all he consumes, while the men who get all the profits pay nothing out of their wealth thus obtained to relieve him from the burdens of Government taxation. Yet the mass of the people are persuaded to applaud the statesmanship which produces these results. In the case I have used as an illustration the custom-house books are produced with ostentatious parade, and make the following exhibit: "United States of America export from Louisville wheat of the value of $100,000 to Liverpool; import nothing; United States $100,000 richer by the transaction"—a glittering falsehood. The facts are, the United States have not received one cent, nor has the tax-payer been relieved from any burden. Foreign ships and commission merchants have pocketed

the profits of transportation. The American owner of the wheat has had to compete at disadvantage with his European pauper competitor, and has been compelled by Congress to pay for the supplies necessary to carry on next year's business $30,000 more than they were worth in open market—$30,000 more than his European rival paid for the same things. Nobody has made anything but the protected monopolist in the eastern corner of the Union, who pays nothing for his privileges, has ostensibly nothing to do with the transaction, but is made by congressional tariff laws a secret partner who absorbs all the profits.

Bastiat, a very clever Frenchman, put two pertinent questions to the French ministry some years ago when they were talking the same nonsense about the balance of trade under protection that our republican managers are now. He said in substance that he had a friend, a merchant in Paris, France, who shipped to New Orleans, Louisiana, $200,000 worth of French manufactured goods and sold them there for $250,000, after paying all expenses of the ventures. He invested the $250,000 in American cotton as a return cargo and sold it in Paris, after paying expenses, so as to net him $300,000. The French custom-house books showed: France exports $200,000; imports $300,000; France $100,000 poorer by the balance of trade against her. But the Paris merchant had the $100,000 in his pocket and was richer by that amount than he was before the custom-house books impoverished his country to the extent of his profits. That was the first conundrum, which so far as I know the ministry never answered. The second was: The Paris merchant, encouraged by his success, invested the $300,000 in another cargo of French manufactured goods and started them to New Orleans. Unfortunately for him the ship and cargo were lost in a storm in the English Channel. The French custom-house books made the following entry of the transaction: France exports $300,000; imports nothing; France $300,000 richer. But the Paris merchant was a bankrupt. That is a fair illustration of the nonsense of our statistics as to the present balance of trade in our favor, which is so much lauded by our political savans.

I might elaborate this view more fully, but I have consumed much more time than I intended. One word only on another subject: I agree with the Senator from Maine that all the money that has been expended and the lands given for our great railways, as to which the Senator spoke so well, has been thrown away, so far as the country is concerned, as long as the present condition of things exists. You may extend the Southern Pacific to San Diego and the Northern Pacific to Portland, and you may pay all the bonds issued to the Central and Union Pacific, and do no public good. The people of this country expected when those roads were built that they would have a right to reach by the Pacific Ocean and by those roads the eastern world, and have the products of China, Japan, Australia, and the east brought back to them cheaper than they could raise them at home, and in return send our products to them; but you have by your navigation laws and your high protective tariff absolutely excluded the people of this country from the benefit of all that great commerce almost as effectually as if the Pacific Ocean were a sea of fire instead of being, as it should be, a great free highway for all the nations of the earth.

As long as we have such protection and such tariff laws our manufacturers are compelled to sell only to our own people and cannot reach anybody else. We cannot go upon the high seas, either to South America or to any of the great nations whose trade actually belongs to us, and sell our products to them, for we are not permitted to buy what they have and bring it home to start our own manufactories and keep them at work. Our mechanics, our laborers, and everybody else suffer because of this restrictive tariff. We must learn to work for small profits as other people do, and deal freely with all the nations of the earth, giving them what we have and taking in return what they have. That done, we will be what the Senator from Maine says we ought to be, and what I agree we ought to be, the greatest power in the world. It is to attain that position, it is in order to have our flag at the masthead of our own ships everywhere, with our people owning and running them, spending their profits at home, that I desire our people to be allowed to buy ships, as we cannot build them. That conclusion is irresistible from the fact that for twelve years, ever since the war, we have been growing worse and worse and losing year by year more and more, and as we cannot afford to be taxed any more for subsidies, and ought not to pay such tribute if we could, I desire to do the only practical thing that remains to be done, what all other people do, buy ships where we can buy them to the best advantage, take our products in them to the market where we can get the most for them, load them abroad with what we need, and land them here, subject only to such taxation as is necessary to support the Government. That done, we can manufacture cheaply and compete sharply with other nations; that alone can make us what we ought to be, a prosperous commercial people.

I beg pardon of the Senate for this rambling sort of argument. I had no idea of speaking this morning. I have been thinking about these questions, of course, and have been hoping they would come up at some time. I had no idea that they would on an appropriation bill, but I could not, after what was said, especially as to my motives in introducing the bill referred to, allow the argument of the Senator from Maine to pass without saying something.

Mr. BLAINE. Mr. President, I am sorry my friend from Kentucky was surprised into an *ex tempore* speech from a manuscript, but he has gone off and carried the discussion into the regions of the tariff. I think, Mr. President, one of the happy things that comes out of the distress of England, if any happy thing could come out of a misery so deep and so profound as afflicts that kingdom, is that it gives a crushing answer to what I may call the free-trade rhodomontade of the Senator from Kentucky. England exists under every condition that he points out as desirable for us. She has been there for thirty years. She has carried the same notions about the balance of trade that the Senator from Kentucky has done. There is not the same amount of territory on God's green earth to-day that is suffering so terribly and apparently so incurably as England—real suffering, suffering such as we know nothing of in this country. There are very few people in the United States, even in the pressing stringency of the last five years, that have starved. Is there one? Does any man know of one human being that has been reduced to death by starvation? If the accounts that come to us from free-trade England, which the Senator from Kentucky so lauds, be true, there are thousands of the artisans of Great Britain staring starvation in the face, or having starvation stare them in the face. I point to the Senator from Kentucky as a more conclusive answer than I can give to him, this crushing reply to all his theories about the balance of trade and absolute free-trade in this country.

More than that, Mr. President. The Senator gave us a fancy sketch about a wheat merchant that found himself in an English market with 100,000 bushels of wheat competing with a wheat importer from some part of Europe, and showing how remorselessly the wheat-grower of this country was ground down in that competition. If the Senator from Kentucky means anything by his argument, if he is willing to follow it to its logical sequence at all and face its results manfully, he means that if all the people of this country would drop mechanical pursuits, which have been built up under the protective policy and turn wheat-growers, that would be an immense advantage to the western wheat-grower to-day. He says we have stimulated the production in this country of mechanical products by protective tariffs. Then, have we not stimulated also an immense production of agricultural products? and I repeat if the Senator follows his argument to its legitimate conclusion, it is that the millions in this country who are engaged in mechanical pursuits should be turned into followers of agricultural pursuits, and if that were so, I should like his one-hundred-thousand-bushel wheat or grain merchant to appear in London or Liverpool with his cargo, and have it competed with, not from simply the cargoes of Europe, but from an overwhelming over-production at home.

Now I drop the general points and come directly to the amendments. Shall I understand the Senator from Kentucky to object to these amendments?

Mr. BECK. I said I thought they were not germane to the bill.

Mr. BLAINE. I admit that. I admit that a single objection under the rules can keep them out; but the Senator from Kentucky must not base his position on that ground, because there is not an appropriation bill scarcely of the last two years that has not contained very radical legislation from the House, and the Senator from Kentucky, in my judgment, speaking now from memory, has supported in every instance the legislation that has come up from the House. Therefore the Senator cannot take refuge in the fact that he objects to legislation on appropriation bills.

Mr. BECK. I only desire to say to the Senator from Maine——

Mr. BLAINE. I did not yield the floor, but I am ready to hear the Senator.

Mr. BECK. I thought the Senator asked for an answer.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The Chair understood the Senator from Maine had yielded temporarily to the Senator from Kentucky.

Mr. BLAINE. Certainly.

Mr. BECK. The Senator from Maine said I could not with propriety make any objection because the amendments were not germane to the bill, I having at other times supported things that were not germane. I will say now that the Senator from Vermont [Mr. EDMUNDS] objected to one amendment because it was new legislation, and I objected to the other, and I think both objections are good.

Mr. EDMUNDS. I objected to both of them in the lump; to the first one the moment it was read lest I should lose my point of order by allowing it to be read.

Mr. BECK. That relieves me. The appropriation bills are loaded frequently with so much outside legislation that it is very hard to manage them or to get fair legislation. I know that, and desire now to say as to both propositions the Senator has made that if he will introduce them or report them from a committee they shall receive my support at once.

Mr. BLAINE. What I mean to say is, that while the Senator from Kentucky reserves his objection to legislation here, he has uniformly supported independent legislation that came from the House on these bills, and that leads me to say that the present attitude of the two Houses in that regard is wholly to the disadvantage of the Senate. The Senate by its new rules has absolutely and peremptorily restricted its own discretion, and the House has vastly enlarged its discretion, and I am at liberty to speak of that because it is a joint matter. Now, I maintain that either legislation on the appropriation bills should be a matter of joint rule, so that each branch shall know what

the power of the other is, or we should not sit here and be spoon-fed by the House with whatever it chooses to administer to us, without any power whatsoever to regulate ourselves or do as we might wish to.

What I offer in regard to the Naval Academy is just what the Senator from Kentucky supported himself last year in regard to West Point. I want that read now, the first amendment in regard to the naval cadets. It was supported last year unanimously by the Senate, including the Senator from Vermont.

Mr. EDMUNDS. The Senator is mistaken as to me.

The PRESIDING OFFICER. The Chair understands that the attitude of this matter is that the pending question is on the amendment of the Senator from Massachusetts, [Mr. DAWES.]

Mr. BLAINE. That was withdrawn.

The PRESIDING OFFICER. The amendment referred to by the Senator from Maine, the Chair understands he has merely given notice of.

Mr. BLAINE. The amendment of the Senator from Massachusetts was withdrawn until mine should be disposed of. I merely want it read now.

The PRESIDING OFFICER. The Chair understands the Senator from Maine has given notice of his purpose to offer an amendment.

Mr. BLAINE. Now I desire the first one read.

The PRESIDING OFFICER. It will be read.

The SECRETARY. The amendment is to insert:

That from and after July 1, 1883, only such number of the graduates of the United States Naval Academy in any one year shall be entitled to appointment as midshipmen in the Navy as are required to fill vacancies of that grade existing on the 1st day of July in each year, those entitled to appointment to said vacancies to be determined by the academic board on the basis of their standing in the graduating class. And if the number of midshipmen shall not have been previously fixed and limited by law, it shall be the duty of the Secretary to so fix and limit it on or before July 1, 1883.

Mr. BLAINE. That, Mr. President, is literally a copy, *mutatis mutandis*, of the amendment which was adopted last year for the Military Academy at West Point; and I think I am correct in saying that as a Senator consents to that which he does not object to, the Senator from Vermont was consenting, and sat in his seat and let it go without protest or disclaimer.

Mr. EDMUNDS. The Senator is greatly mistaken both in his premises and his conclusiens.

Mr. BLAINE. In what respect?

Mr. EDMUNDS. I will tell you presently.

Mr. BLAINE. I will wait now to hear.

Mr. EDMUNDS. Keep on waiting, then.

Mr. BLAINE. I repeat that if the Senator made any objections to this when it was reported back from the Committee on Appropriations it has escaped my memory. I repeat also that, I will not say every one, but a very large majority of the appropriation bills of the past two years have had legislation upon them from the House, which the Senate has concurred in; and when the Senator from Kentucky offers to support an independent bill of that kind, he knows very well, and quite as well as I know, that the chances of an independent bill of that kind going through are as one against a hundred; that the only way to make it at this stage of the session an effective piece of legislation, is to treat it as I propose to treat it here.

The other has nothing in the world in it but a *projét* for some form of reduction of the expenses of the Navy; and when the honorable Senator from Kentucky asks me where I will find the money to do something for the encouragement of the American commercial marine, I point him to those two amendments. If he will give to that the amount which will be saved by those two amendments, I will guarantee him results far greater than he promises us by following the free-trade theories, which leave England to-day in deep and widespread distress.

Mr. BECK. I hope the Senator from Maine is not of opinion that the repeal of the corn law, so that the English people could buy our bread cheap, makes them now in a starving condition. Many of them may be starving, but their condition would have been much worse but for that repeal.

Mr. BLAINE. I am not going into that. I only point out to the Senator that the German Empire, which is free-trade, and the British Empire, which is free-trade, are not as prosperous nations to-day by an incalculable distance as the French Republic and the United States, which are protective countries, and the Senator may theorize to the end of time; I give him two large facts to chew upon and contemplate.

Mr. EDMUNDS. Mr. President, I merely wish to say in reply to my honorable friend from Maine, that he entirely misapprehends the attitude that I have occupied in relation to legislative amendments upon appropriation bills. I think for more than ten years—I will not state the exact number because I do not study up my own record of actions as people do who are more justly prominent in affairs and who have larger expectations—I think for the last ten years, while the party to which I belong was in a large majority in both Houses, the Journals of the Senate and the records of debates will show that, in season and out of season, I have resisted legislation upon appropriation bills that did not relate specifically to the moneys expended.

In saying that, lest it be found like other very virtuous people that I have had an occasional slip in my behavior, I will add that it may be possible that in some time of emergency I may have been tempted by myself or by some unnameable persons into supporting some amendments on appropriation bills on the theory that they related directly to the expenditure of the moneys appropriated, that on sober reflection may hardly stand fire. There may be some occasions of that kind.

Mr. BLAINE. Where you proposed them yourself?

Mr. EDMUNDS. Very likely. I do not profess to be much more virtuous than other people.

Mr. BLAINE. I thought as the Senator was making a confession he had better include all his sins in that regard.

Mr. EDMUNDS. Oh, no, Mr. President; there would not be time for that. [Laughter.] There would not be time to include all my sins. If we are to make a confession that can be terminated in a day and include very few sins, I must wait for the Senator from Maine to make it. [Laughter.]

But, Mr. President, apart from all questions of personal consistency, and which are of the smallest concern to me whatever they may be to other people, and I respectfully submit of very slight weight as an argument to the calm judgment of this body, is not the principle of the rule of the Senate against loading bills for the mere appropriation of money to carry out existing laws with all sorts of legislation, because it must be all sorts if you have any, according to the views of various gentlemen who have it to move, a sound principle? Nobody can say no to that; nobody has said no.

The Senator from Maine says this puts the Senate at a disadvantage in respect to the House of Representatives. I do not see it; and if it did it would merely be a disadvantage in not being able to perpetrate so much mischief as the House of Representatives may be able to perpetrate. But it is competent for the Senate of the United States, if it believes in the propriety of this principle, to reject every clause in an appropriation bill from the House of Represensatives that contains independent and general legislation, and to stick to that rejection, and to say to the House of Representatives, as we have often done, and with success, "You propose to appropriate money to carry on this Government; you propose to add to that a provision changing the laws; we are not able to see that the laws ought to be changed in that respect or on this bill; you therefore must take the responsibility of saying that you will not carry on the Government at all by appropriations of money under existing law unless a co-ordinate branch of the national legislature will assent to your views about importing into that bill new provisions of law;" and every time the House of Representatives in public opinion, which affects that body more suddenly than it does this, will go down. There is, therefore, no disadvantage in the just sense, and there is every advantage I believe for public interest, for purity in legislation, for consideration in legislation that changes your organic law, in sticking rigorously and with fidelity to this rule of the Senate, which prohibits us from going into amendments of this kind.

That is all I wish to say, Mr. President. I did not get up to defend my own consistency in the past if it needs defense, but only to invite every Senator to consider how much better it is to pass our appropriation bills as appropriation bills and nothing else, and to pass our other laws in the ordinary way as these propositions might have been passed, if they should turn out to be good measures, if the Senator from Maine had exercised his right on the first Monday in December to have introduced them as a bill, had them considered and reported by a committee, and taken the judgment of the Senate upon them.

I insist upon the point of order, Mr. President.

Mr. BLAINE. Mr. President, it would be all very well if the practice were such as the Senator from Vermont intimates.

Mr. EDMUNDS. Let us make it so.

Mr. BLAINE. But it is entirely to the contrary. If the Senate will adopt a rule as rigid as the practice of the House is in another particular, then it will be effective. If the Senate infringes in the slightest degree upon what the House regards its constitutional right to originate bills of revenue, forthwith the bill comes back here and we have to sit and contemplate on the folly of sending it down.

Now, if we will pass a rule here saying peremptorily and without exception that an appropriation bill that comes here from the House with any legislation upon it shall immediately be returned to the House, that will be effective; but, as a matter of fact, the Senator from Vermont knows as well as I do that such is not the practice. Nearly every bill comes up here laden with legislation, some of it probably known to Senators, some of it probably put on at the request of Senators down there. I have known such cases, not in this Senate, of course, but in the earlier and better and purer days of the Republic, but within the memory of men still living, even within the time the Senator from Vermont has served in the Senate. When that comes here, if objection is made to it, it goes to the Appropriation Committee, and the courtesy of the Senate does not enable us to reject it, because that is the *projét* or proposition of the House. Now, it is mere nonsense for the Senator from Vermont to say that the attitude we hold on this question is in the least degree tending to prevent legislation on appropriation bills. I undertake to say that there has not been in twenty years—and I wish the Senator from Vermont to hear me on that point——

Mr. EDMUNDS. I am hearing you all the time.

Mr. BLAINE. I undertake to say that in twenty years there has not been as much legislation on appropriation bills as has been put upon them since this rigid rule of the Senate, because the House has it all its own way.

Mr. EDMUNDS. The Senator is mistaken about that.

Mr. BLAINE. The House can propose; we can assent; and uniformly propositions have come from the House, legislative propositions on appropriation bills, uniformly so far as my observation goes—probably the Senator from Vermont is an exception, the yeas and nays will show that—but uniformly, I repeat that legislation is decided here upon the judgment of the Senate whether it is a good or whether it is bad legislation, and altogether regardless of the point of order.

Now, if the Senator from Vermont means to be consistent on this matter, if he means that this shall be an actual verity in legislation, let him propose a rule—he has proposed a great many—that shall make it imperative on the part of the Senate to send back with a respectful message every appropriation bill that comes here with a legislative provision upon it. Then we shall know precisely where we stand. As it is, I repeat the Senate is entirely at a disadvantage; it can only take that legislation which the House proposes. It has destroyed all power on its own part to propose any which it may think expedient.

Mr. THURMAN. Mr. President, I do not see the chairman of the Committee on Appropriations in his seat.

Mr. WINDOM. He is here.

Mr. THURMAN. If he wishes a vote on this bill I will withhold the motion I propose to make.

Mr. WINDOM. Nothing would gratify the chairman of the Committee on Appropriations more. I think the discussion has closed and I have no doubt we can take the vote at once.

Mr. BLAINE. I have no more to say.

Mr. THURMAN. If the chairman asks for a vote now I shall not make the motion I rose to make.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Massachusetts, [Mr. DAWES.]

Mr. EDMUNDS. I merely wish to say in answer to the Senator from Maine, and then I shall have done with this matter, that he does in my opinion injustice to the Senate when he says that every question of order is determined according to the opinion of individual Senators as to whether the thing proposed would be a right thing or not if it were not hampered with the question of order. That appears to me to be equivalent to saying that the minds of Senators are so incapable of performing their duties under the rule that they allow the prejudice of their wishes about a particular measure to lead them to violate the plain rule of the Senate. I have not such a poor opinion of Senators as to lead me to think that is a correct statement of the votes of Senators.

Mr. BLAINE. Then will the Senator from Vermont permit me to ask him how an exactly similar provision to that which he makes the point of order on was put last year on the West Point appropriation bill?

Mr. EDMUNDS. I cannot tell because I do not remember anything about it.

Mr. BLAINE. The Senator did remember enough about it to deny that he had voted for it.

Mr. EDMUNDS. That I think was safe enough. I could speak for myself. I could deny.

Mr. BLAINE. That requires a good deal of memory.

Mr. EDMUNDS. Not much, not half as much as the Senator from Maine has. The Senator from Vermont has several other things to do besides watching every clause in an appropriation bill. Perhaps he is wrong in doing the other things; I am not going into that question.

Mr. BLAINE. I did not know anything occurred in the Senate that the Senator from Vermont did not watch.

Mr. EDMUNDS. The Senator is mistaken about that. I do not even watch the Senator from Maine, because I know it is perfectly safe to let him run wild. [Laughter.] Whether in a particular instance there may be a clause in an appropriation bill as the one to which the Senator from Maine refers, as to the method of administration or whatever it may be, that goes through without objection by unanimous consent or when Senators are doing something else in committee-room or elsewhere, I do not care.

Mr. BLAINE. Does the Senator from Vermont have any recollection of the following provision on last year's Army bill:

> From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus* or otherwise—

And the section running on?

Mr. EDMUNDS. I have a very strong recollection of that.

Mr. BLAINE. Does the Senator from Vermont not agree with me that that was decided on the vote in the Senate by the supposed political predilections and judgments of the Senate, and utterly regardless of the point of order?

Mr. EDMUNDS. I do not know for the simple reason that I was sick in my bed at my house when the thing was decided. That is the only answer I can give to that. The Senator must blame the providence that rules the universe——

Mr. BLAINE. The Senator was paired.

Mr. EDMUNDS. If the Senator will be good enough to hold on until I am through, it may be a benefit to him if it is not to me. If the providence that rules diseases more or less is to make a Senator responsible for not speaking to a point of order when he is sick in bed at home, then I must take the consequences of that; but the Senator from Maine ought to remember that when the question came up while the Senator from Vermont was able to be here, he with the Senator from Maine resisted the proposition as hard as he could.

Mr. BLAINE. Yes, and the Senator from Vermont made a point of order against it and was opposed to the thing independent of the point of order.

Mr. EDMUNDS. Yes.

Mr. BLAINE. But what I wanted to call the Senator's attention to was that when the vote came—if he was not here I am sure he was paired, and if he was not paired he was guilty of great dereliction, because it only got into the law by one vote, and if he was not paired, his one vote might have saved the question—when the vote came, the Senate decided it without the slightest regard whatever to whether it was apposite and appropriate legislation. They divided upon it on the party line as they do on everything that comes up, I repeat. If the Senator from Vermont wants further illustrations of this I could detain him until the sun sets to-day and rises to-morrow; and when he tells me the Senate here will reject House propositions of independent legislation on the ground of this rule of ours I point him to the practice against such a high theory as that. The practice of the Senate is directly the reverse. The honorable Senator from Ohio I think, and all on that side which he so ably leads, stood up for this part of the Army bill last year.

Mr. THURMAN. Why, Mr. President——

Mr. EDMUNDS. Now if both these Senators will be good enough to let me go on, it would be a great satisfaction to me. I cannot say how much the Senate has been demoralized since we have had the pleasure of the presence of my friend from Maine, [laughter,] but I do say that with the exception that I stated before of occasional gusts of prejudice and of passion, the Senate has without regard to party stood up for holding on to its rules; and I say in addition to that—for it is useless to go into a discussion of how much deviltry the Senate has perpetrated heretofore—the question is whether if we have been doing wrong heretofore we ought to do wrong now. That is the question.

Mr. BLAINE. No; the question is whether having——

Mr. EDMUNDS. The Senator will be good enough to wait until I am through.

Mr. BLAINE. One moment right there.

Mr. EDMUNDS. Not one single moment. [Laughter.] I know, Mr. President, how much better my speech would be if it was all made by the Senator from Maine; but the little part of it that I am making myself I would rather should stand by itself so that a discriminating public may see how much better what he says is than what I say, and if it was all put in I might get the credit of the whole performance. [Laughter.]

Now, to leave joking apart, for my friend from Maine well understands that it is the farthest from my purpose to get into any dispute with him about a matter of substance—the question is, not what the Senate has done heretofore, be it right or wrong, but whether sound principles of legislation are not embodied in this rule that I invoke on this point of order. That is what the question is; and if the Senate has been in the practice through party prejudice or any other kind of prejudice or misjudgment of violating this rule, I appeal to my honorable friend with considerable confidence that if the rule is a sound one the sooner we abandon that practice the better, without regard to party lines or wishes about particular amendments. That is all there is to it. The fact that this amendment is plainly in violation of the rule I believe is not disputed by even my honorable friend from Maine, although I do not know that that particular statement is justified.

Now I will yield to everybody, for I think I have said the last thing.

Mr. THURMAN. I am not at all disposed to interfere with this family quarrel or this encounter of wits; but as the Senator from Maine saw fit, without any reason that I can see, to allude to me and to say that I was leading the democracy on this side of the Senate into a violation of the rule to which he attaches so much importance, I wish to remind him, for though he was not in the Senate then I cannot suppose that it escaped his attention, that it is not very wonderful that we should not have paid much attention to this rule after the example set by the republican majority in this body in 1871, if I am not mistaken as to the year, in putting the famous election law on to an appropriation bill——

Mr. BLAINE. Of course against the wish of the Senator from Vermont that was done.

Mr. THURMAN. I will not undertake to say, because the Senator from Vermont can speak for himself.

Mr. BLAINE. I infer that of course it was.

Mr. THURMAN. And I am not fond of personal controversy.

Mr. BLAINE. What I was going to say, without any personal controversy, was this: I had the honor of serving in the House for some years while the Senator from Vermont preceded me in the Senate, and all the members of this body who were then in the House will remember that one of the things the House was continually ready to complain of was that the Senate would load the appropriation bills with very large amendments. They persisted in doing it. The Senator from Vermont seems to intimate that he had no part or lot in that; but he qualified that by saying that he had a very bad memory, and I am afraid the files of the Congressional Globe and of the RECORD itself will show that the Senator not only voted for these, but

occasionally, to use a familiar phrase, took a large hand in framing them and in offering them.

I have here another one right on the naval appropriation bill of last year, an amendment far more radical than either one I have offered now, which was supported by the Senator. I do not think any division was made upon it, and wherever there was no division made upon it I am sure that my friend from Vermont was *particeps criminis*.

Mr. EDMUNDS. No.

Mr. BLAINE. If he was not here to object he was a consenting party, and when he did object it will be found, I think, that his strenuous points of order were most loudly and persistently enforced upon those provisions which, on the merits, he was opposed to, as in the case of the amendment to the Army bill.

Mr. WINDOM. Now, Mr. President, can we not have a vote on this bill?

Mr. DAVIS, of West Virginia. The question, I believe, is on the amendment offered by the Senator from Massachusetts, [Mr. DAWES.]

The PRESIDING OFFICER. That is the pending question.

Mr. DAVIS, of West Virginia. Mr. President, in my mind there are half a dozen objections to that amendment. First, the bill, I notice, gives four or five pages of details of how the money appropriated for the Marine Corps shall be expended, a million dollars probably; and in one sweeping clause at the end it is now proposed that it shall all be at the discretion of the Secretary of the Navy. That is a radical change, and one that ought not to occur, in my judgment.

Another objection is that there has been no necessity shown for the amendment. There has been nothing coming from the Department that I know of, nothing coming from the committee that I have heard of, and in no way is the amendment intended for good as far as I know.

There is another question about it to me. I doubt very much whether it is in order if there is an objection made to it. A Senator near me asks that the amendment be read. I have no objection.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. At the end of line 567 it is proposed to add:

Provided, That if the amount appropriated for in items of the pay or quartermaster's department of the Marine Corps for the fiscal year ending June 30, 1879, shall prove insufficient for its purpose, the excess in any other item or items of the respective departments may, with the written consent of the Secretary of the Navy, be applied thereto: *Provided*, That the excess in the items of one department shall not be used for any insufficiency in the items of the other department, and that the total amount appropriated for the respective departments for said fiscal year shall not be exceeded.

Mr. DAVIS, of West Virginia. While I believe it is subject to objection on a point of order, I will not make the objection now, but will wait to hear from the Senator from Massachusetts whether there is an actual necessity for it.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. DAVIS, of West Virginia. I do not think the Senator from Massachusetts understood what was asked, or certainly he would not treat it the way he does.

Mr. DAWES. I am not here undertaking to interfere with the Committee on Appropriations. This proposition was before the committee, and I was informed by a member of the committee that it was agreed to by them. He requested me to offer it because he could not very well attend to it himself. I went and submitted it to the chairman of the committee and he said it was proper, and it did not occur to him just then why they had not adopted it, but he consented to my offering it, which I did at the request of a member of the committee on the other side of the Chamber. I have had some experience in regard to appropriation bills, enough to make me dislike to have members who do not understand much about them interfere with them, and I was reluctant to do this, and I did it only after having consulted with the members of the committee on both sides, and offered the amendment at the request of a member of the committee on the other side.

The apparent necessity is this: a quantity of clothing of the Marine Corps has been destroyed, burned accidentally. The officers were afraid that the item for marine clothing was not quite sufficient here, and there were other items for that corps which they said would leave a little surplus, and following precisely the same words that are in the appropriation of last year for the Army, copying them in so many words, it was suggested that if the Secretary of the Navy consented in writing to take from a single item its balance to make up a deficiency in another item, no infringement would be made upon that wise provision of appropriations that a sum appropriated for one purpose shall not be perverted to another.

Mr. EDMUNDS. Why do you put in the pay department?

Mr. DAWES. The pay department of the Marine Corps.

Mr. EDMUNDS. Why put that in?

Mr. DAWES. I did not draw it; it was drawn in the committee-room of the Committee on Appropriations, and I offered it as I have said before. I shall not stand here undertaking to make up appropriation bills against the committee; and if no member of the committee supports the amendment the Senate will, I trust, vote it down; and, although I have had some sort of experience about appropriation bills, I will not undertake to help them make their appropriation bills again.

Mr. WINDOM. The Senator will allow me a moment? I think the only object of this amendment is to save a deficiency for certain portions of the service mentioned in the amendment. There is enough money appropriated for the purposes; but there is a little balance here and another there, and a little deficiency at some other point and it was desired to avoid a deficiency bill and to give the Department the use of this fund at once. I care nothing about it, whether it is passed or not. A deficiency bill can supply it hereafter if there be any sort of objection to putting it here.

Mr. EDMUNDS. That is the best way.

Mr. BECK. The Secretary of the Navy and some of the officers of the Marine Corps, I am not sure whether it was Major Goodloe or Colonel McCauley, handed me that paper which I handed to the chairman of the committee, who believed it could do no harm, being a very small matter. We were about to recommend it when it was lost in some way or other. The Senator from West Virginia [Mr. DAVIS] perhaps asked to look at it. If it is any departure from the rule I do not care about it, but it is an extremely small matter, some $7,000 or $8,000 at most. It is to make two things meet so as not to call for a deficiency.

Mr. DAVIS, of West Virginia. The offering of the amendment in the Senate to-day was the first I heard of it. Therefore there must be some mistake about its having originated in the committee-room by the committee. I have attended all the meetings of the committee. It may be a small thing or may not. Of course, if the Senator from Kentucky or any other Senator says it is, I must accept it as such; but I think a million dollars under that provision might be transferred from one object to another. I think there are about four pages of details of the appropriation of this money, and nearly a million dollars is covered probably. I take it, of course, there cannot be a transfer of anything like the full amount. If the members of the committee and the Senator from Massachusetts think it necessary, I shall withdraw all objection; but I believe that it is subject to the objection that it increases the amount, that it takes from one item and increases another, and therefore it is subject to a point of order. But as at least two members of the committee, especially the chairman and my friend from Kentucky, have said they have heard of the amendment before and believe it right, I shall withdraw all objection. But I think in principle it is wrong and ought not to be done.

Mr. DAWES. The Senator from West Virginia is no more earnest than I have been heretofore, and am still, in confining appropriations to the specific object for which they are made. If there is a million dollars surplus in one particular item in, say, the pay department or the supply department of the Marine Corps——

Mr. DAVIS, of West Virginia. The Senator knows that this involves about a million.

Mr. DAWES. For the pay and the supply departments of the Marine Corps! If there is any surplus of a million appropriated in this bill for any one of these items, the bill does not come from the committee with that care and scrutiny which I have given the committee credit for. I suppose there are a few hundred dollars (and the Senator from Kentucky, who is better posted on it than I am, so assures me) that may be taken in this way, just precisely as was done in the Army bill last year and put in under the eagle eye of the distinguished Senator from West Virginia.

I wish, however, Mr. President, to relieve the Senator from all anxiety caused by my rashly rushing into this bill of naval appropriation, and I therefore respectfully ask leave of the Senate to withdraw an amendment which I rashly proposed to offer at the suggestion of a member of the committee to relieve them of a little deficiency hereafter. If the Senate will consent I will withdraw it. I have not the slightest desire to push it. No desire on my part was inspired by the request of the committee that I should offer it rather than themselves.

Mr. DAVIS, of West Virginia. I hope the Senator has not taken offense at anything I have said.

Mr. DAWES. Certainly not.

Mr. DAVIS, of West Virginia. It was only the principle I thought was wrong; and that I now state to the Senator. I have not the least objection to him or any other Senator offering an amendment. He has a perfect right to do so. But I did state that the first I heard of it was to-day when it was offered in the Senate.

It appears to be right so far as the Senators who have looked into it are concerned. I have not examined it. I shall not insist upon objecting to it; but I now say that all future transfers of this kind I shall be particular in trying to prevent. I believe the principle a wrong one and it ought not to go out, and if it was in last year's bill it was wrongly there.

The PRESIDING OFFICER. The question is on the amendment.

Mr. EDMUNDS. I thought it was withdrawn by the Senator from Massachusetts.

The PRESIDING OFFICER. He said he would withdraw it if the Senate gave its consent.

Mr. EDMUNDS. It does not require any consent; no yeas and nays have been ordered on it.

Mr. DAWES. I insist on my right to withdraw the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws his amendment.

Mr. WINDOM. Cannot the vote now be taken on the bill?

Mr. BLAINE. I hope that withdrawal will operate as a warning hereafter to all members of the Senate not to meddle with the appropriation bills.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time, and passed.

BILL INTRODUCED.

Mr. BLAINE. I ask leave now to introduce a bill embracing the provisions I tried to get on the naval bill, and which everybody is in favor of.

By unanimous consent, leave was granted to introduce a bill (S. No. 1684) to regulate promotion in the Navy, and for other purposes; and it was read twice by its title, and referred to the Committee on Naval Affairs.

ORDER OF BUSINESS.

Mr. EDMUNDS. Mr. President, I move that the Senate proceed to the consideration of the resolutions I had the honor to offer in regard to the constitutional amendments.

Mr. THURMAN. I move that the Senate adjourn.

Mr. DAVIS, of Illinois. I wish to have a bill referred first.

The PRESIDING OFFICER. The Senator from Vermont moves to postpone the patent bill.

Mr. EDMUNDS. The patent bill does not come up by law. That bill was displaced yesterday by the naval bill going over as unfinished business.

The PRESIDING OFFICER. The Chair is informed otherwise at the desk, that the patent bill was laid aside temporarily.

Mr. EDMUNDS. It was laid aside yesterday temporarily, and this other bill came over as unfinished business. The patent bill therefore has lost its place.

The PRESIDING OFFICER. The patent bill is the regular order, in the opinion of the Chair.

Mr. EDMUNDS. Then I move to postpone the present and all prior orders and take up the resolutions.

The PRESIDING OFFICER. The Senator from Vermont moves to lay aside the present and all prior orders for the purpose of taking up the resolutions he has indicated.

Mr. THURMAN. I move that the Senate adjourn.

The PRESIDING OFFICER. The Senator from Ohio moves that the Senate adjourn.

Mr. PADDOCK. I ask the Senator from Ohio to give way to a motion for an executive session.

Mr. THURMAN. Let us try an adjournment first.

The PRESIDING OFFICER. It is moved that the Senate do now adjourn.

The question being put, there were on a division—ayes 23, noes 20.

Mr. EDMUNDS called for the yeas and nays; and they were ordered, and the Secretary proceeded to call the roll.

Mr. MATTHEWS, (when his name was called.) I am paired on this question with the Senator from Indiana, [Mr. MCDONALD.]

Mr. PADDOCK, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.]

The roll-call was concluded.

Mr. EDMUNDS. I wish to announce that the Senator from Michigan, [Mr. CHRISTIANCY,] who is absent on account of illness, is paired on all political questions, as he tells me, with the Senator from South Carolina, [Mr. BUTLER.] Mr. TELLER, and Mr. KIRKWOOD, and Mr. CAMERON of Wisconsin are paired with certain Senators whose names I have in my desk, upon all political questions.

Mr. GARLAND, (who had voted in the affirmative.) I suppose I have voted improperly, as I am paired with the Senator from Iowa, [Mr. KIRKWOOD,] who is now absent. If this is a political question, I ask leave to withdraw my vote.

The PRESIDING OFFICER. The Senator from Arkansas withdraws his vote.

Mr. BUTLER. I am in the same predicament. I did not suppose a question of adjournment was a political question, and therefore I voted "yea;" but if it is to be a political question, of course I withdraw my vote, as I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.]

Mr. MAXEY. The Senator from California [Mr. SARGENT] and my colleague [Mr. COKE] are paired. I am requested to announce that fact.

Mr. MERRIMON. On all political questions I am paired with the Senator from Kansas, [Mr. INGALLS.] As this is treated as a political question, I shall not vote.

Several SENATORS. It is not political.

Mr. MERRIMON. I am paired with the Senator from Kansas. If the gentlemen on the other side of the Chamber think this is a political question, I feel constrained to keep my pair, but I hear one gentleman on the other side of the Chamber say that he does not regard this as a political question at all, and he has voted.

Mr. EDMUNDS. Did the Senator address himself to me?

Mr. MERRIMON. I am paired with the Senator from Kansas when any political associate of his shall request me to do it on a political question. If this is treated as a political question, I am ready to observe that pair, but I find there is a difference of opinion about that. One gentleman on the other side of the House has suggested that he does not regard it as a political question, and has voted for the motion.

Mr. EDMUNDS. I certainly cannot interfere in a question of personal pairs between the Senator from North Carolina and the Senator from Kansas; but a Senator of one party moved to take up what may be regarded as a political question; a prominent Senator of another party moved immediately to adjourn, and thereupon the parties have apparently divided pretty nearly upon equal lines. I have nothing to advise of course on the question. Everybody must judge for himself.

Mr. MERRIMON. I believe I shall decline to vote.

Mr. HARRIS. Mr. President I should like to inquire of the Senator from Maine [Mr. BLAINE] if his colleague [Mr. HAMLIN] left with him any statement as to his pair. I remember that the senior Senator from Maine [Mr. HAMLIN] before he started for Texas asked me to pair with him upon a specific question; I am not inclined to think that anything was said about political questions; but if the Senator from Maine has left a statement, or if he understood that I was paired with him upon political questions, I shall certainly observe it.

Mr. KERNAN. Allow me to state that I have a memorandum given me by Senator BAYARD that he and the senior Senator from Maine [Mr. HAMLIN] were paired on all political questions and they both went down to Texas together.

Mr. BLAINE. I was going to say that I knew nothing whatever about it.

Mr. KERNAN. Mr. BAYARD said he was paired with some other gentleman on one particular question.

Mr. BAILEY. This question seems to take a political form, and as such I decline to vote. I am paired with the Senator from Wisconsin [Mr. CAMERON] on all political questions.

Mr. EDMUNDS. I wish to say in correspondence with the statement of the Senator from Tennessee [Mr. HARRIS] that I have been informed that Senator HAMLIN and Senator BAYARD, who have both gone together, are paired on political questions, so that the Senator from Tennessee appears to be free from it.

Mr. WITHERS. I am aware of it. I was present when the arrangement was made.

Mr. CHAFFEE, (who had voted in the negative.) I am paired with the Senator from Louisiana [Mr. EUSTIS] on political questions. It did not appear to me that a question of adjournment could be so regarded, and I voted; but as it is so regarded, I withdraw my vote.

Mr. BOOTH. As explanation seems to be in order, I will say that I have voted in favor of the motion to adjourn because I understood the motion of the Senator from Vermont would supersede the patent bill, and I consider that practical legislation. However important the resolutions may be, it is at least of equal importance, and paramount in my mind to-day.

The Secretary read the list of yeas and nays.

Mr. BAILEY. I announced a moment ago that I had paired with the Senator from Wisconsin [Mr. CAMERON] on all political questions; and as this question seemed to take a political shape, for that reason I withdrew my vote; but I notice that the Clerk has recorded it.

The PRESIDING OFFICER. The Senator's vote will be withdrawn.

The roll-call having been concluded, the result was announced—yeas 24, nays 19; as follows:

YEAS—24.

Barnum,	Dennis,	Jones of Florida,	Morgan,
Beck,	Eaton,	Kernan,	Ransom,
Booth,	Gordon,	Lamar,	Thurman,
Cockrell,	Harris,	Maxey,	Voorhees,
Davis of Illinois,	Hereford,	McCreery,	Whyte,
Davis of West Va.,	Hoar,	McPherson,	Withers.

NAYS—19.

Allison,	Dawes,	Kellogg,	Rollins,
Anthony,	Dorsey,	McMillan,	Saunders,
Blaine,	Edmunds,	Mitchell,	Sharon,
Bruce,	Ferry,	Morrill,	Windom.
Burnside,	Howe,	Patterson,	

ABSENT—33.

Armstrong,	Conkling,	Jones of Nevada,	Sargent,
Bailey,	Conover,	Kirkwood,	Saulsbury,
Bayard,	Eustis,	Matthews,	Spencer,
Butler,	Garland,	McDonald,	Teller,
Cameron of Pa.,	Grover,	Merrimon,	Wadleigh,
Cameron of Wis.,	Hamlin,	Oglesby,	Wallace.
Chaffee,	Hill,	Paddock,	
Christiancy,	Ingalls,	Plumb,	
Coke,	Johnston,	Randolph,	

So the motion was agreed to; and (at four o'clock and twenty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 22, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

CORRECTION.

Mr. FREEMAN. I desire to ask a correction of the RECORD of yesterday's proceedings. When I asked permission to record my vote upon the motion of the gentleman from Tennessee [Mr. ATKINS] to lay on the table the motion to reconsider made by the gentleman from Ohio, [Mr. GARFIELD,] I stated that if permitted to vote I would vote in the negative. In the RECORD I am represented as saying directly the contrary—that I would vote in the affirmative. I would like to have that correction made.

The SPEAKER. As some criticisms have been made in reference to the roll-call to which the gentleman from Pennsylvania [Mr. FREEMAN] refers, the Chair will state that a critical examination shows, what the Chair knew at the time, that the second roll-call which was taken did not exhibit any change in the result as appearing by the first roll-call. In the first list, down to the letter C, those members voting in the affirmative were marked in the negative, and those voting in the negative were marked in the affirmative; but the result of the vote was not changed upon the second roll-call. The Chair desires to say further, in his own behalf, that the error was discovered by reason of the caution of the Chair in sending down to the floor to have some member object to dispensing with the reading of names.

REMOVAL OF INDIAN TRIBES, ETC.

Mr. SCALES, by unanimous consent, reported from the Committee on Indian Affairs, as a substitute for a bill heretofore referred to that committee, a bill (H. R. No. 6139) authorizing the Secretary of the Interior to negotiate with the Warm Spring, Umatilla, Chippewa, Ute, and certain other tribes of Indians in the United States for the extinguishment of their title to lands now occupied by them, and for their removal to and consolidation upon certain other reservations established by law; which was read a first and second time, ordered to be printed and recommitted, not to be brought back on a motion to reconsider.

CURRENCY.

Mr. STEPHENS, of Georgia, by unanimous consent, introduced a bill (H. R. No. 6140) to define and prescribe the duties of the Secretary of the Treasury in certain cases, and for other kindred purposes; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

MEMORIAL EXERCISES IN HONOR OF PROFESSOR HENRY.

Mr. STEPHENS, of Georgia. I submit a resolution upon which I ask immediate action.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the memorial exercises in honor of Professor Henry, held in the Hall of the House of Representatives on the 16th of January, 1879, be printed in the CONGRESSIONAL RECORD, and that 15,000 extra copies of the same be printed in a memorial volume, together with such articles as may be furnished by the Board of Regents of the Smithsonian Institution, 7,000 of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 5,000 copies for the use of the Smithsonian Institution.

Mr. STEPHENS, of Georgia. I ask the previous question upon the adoption of this resolution.

The SPEAKER. The Chair suggests that the resolution does not designate the proper proportion of copies as between the Senate and the House. The House ought to have four times as many as the Senate.

Mr. BURCHARD. Should not the resolution be referred to the Committee on Printing?

The SPEAKER. The Chair does not suppose that the expense contemplated in the resolution would reach $500; but if it would, then under the law the resolution must go to the Committee on Printing.

Mr. STEPHENS, of Georgia. This is precisely similar to the resolution adopted in the case of the memorial exercises of Professor Morse.

The SPEAKER. Of course the printing in the CONGRESSIONAL RECORD is not taken into consideration in determining this question of expense. The Chair is not advised whether these 15,000 extra copies to be published in book-form would cost $500. If they would, then, under the requirement of the law, the resolution must be referred to the Committee on Printing. The Chair is advised it would cost over $500, and therefore it had better go to the Committee on Printing under the law. That committee has a right to report at any time.

Mr. STEPHENS, of Georgia. Let it take that reference.

The resolution was accordingly referred to the Committee on Printing.

COMPANY COOKS IN THE ARMY.

Mr. BANNING, by unanimous consent, from the Committee on Military Affairs, reported back a bill (S. No. 1242) to repeal section 1233 of the Revised Statutes; which was read a first and second time.

The bill, which was read, provides for the repeal of section 1233 of the Revised Statutes.

Mr. BRIGHT. Had not the section better be read, so that we may know what is to be repealed?

Mr. BANNING. I send up a copy of the Revised Statutes and ask the Clerk to read section 1233.

The Clerk read as follows:

Cooks shall be detailed, in turn, from the privates of each company of troops in the service of the United States, at the rate of one cook for each company numbering less than thirty men, and two cooks for each company numbering more than thirty men; and they shall serve on each detail ten days.

Mr. McCOOK. Mr. Speaker, I do not wish to interpose any objection to the passage of this bill, but I think the chairman of the Military Committee ought to make some explanation so we may understand exactly what will be its effect.

Mr. BANNING. I will say in one word that the Committee on Military Affairs have agreed to this unanimously. Under the law at present, cooks have to be detailed every ten days. It has been found this gives very bad cooks to the Army, and that in about every ten days it destroys the suit of clothes of the cook. Therefore it has been recommended by Army officers, by the General of the Army, by the Surgeon-General of the Army, by the Secretary of War, by the Military Committee of the Senate, and by the Military Committee of the House, of which the gentleman from New York is a member, that this bill be passed.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BANNING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRANSPORTATION OF COIN AND BULLION.

Mr. HALE, by unanimous consent, from the Committee on Appropriations, reported a bill (H. R. No. 6145) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and for other purposes; which was read a first and second time.

The bill, which was read, provides that to enable the Secretary of the Treasury to meet the expense of the transportation of coin and bullion $60,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated; provided this appropriation be made available on and after the passage of this act, and the charges for the transportation of gold coin from San Francisco to New York shall not exceed one quarter of 1 per cent., and for the transportation of silver 1 per cent., and for intermediate points at proportionate rates corresponding to the distance.

To meet the miscellaneous expenses of the House of Representatives, to be disbursed by the Clerk of the House, the sum of $40,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available after the passage of the act.

Mr. HALE. Mr. Speaker, I will briefly explain the bill. It is important that it should go through now, because on one clause depend vital and critical operations of the Treasury, and upon the remaining clause depends the working of certain committees of this House now "hung up" for want of funds.

The first provision of the bill gives to the Secretary of the Treasury an appropriation for transporting gold and silver bullion from the mints and assay offices to the East, where it may be needed and paid out.

Under section 3545 of the Revised Statutes the Secretary of the Treasury is directed to keep in mints and assay offices such amount of public money or bullion as he shall judge convenient and necessary to pay depositors of bullion at said mints and assay offices the value thereof in coin or bars. By section 254 the Secretary of the Treasury is authorized in certain cases to issue certificates representing coin in the Treasury in payment of deposits of bullion. By the statute of last winter, which will be found on pages 191–2 of the acts of last session, it is declared that the provisions of section 3545 shall apply hereafter to mints and assay offices, and the Secretary of the Treasury is authorized to issue, as far as he may deem it proper and expedient in payment of deposits of bullion in mints and assay offices, certificates representing coin in the Treasury, to be issued under the provisions of section 254. So when this is done it gives to the Secretary of the Treasury the control of this bullion from the time of its deposit for coinage. Instead of being paid back, this act "authorizes," not "directs," the Secretary of the Treasury, in his discretion, to issue coin certificates, and, of course, the coin has to be transported from the mints to the eastern subtreasuries, where it will be paid out when needed.

That transportation of course is an item of expense to the Government. It is an additional item from what before occurred because of this change authorized by the act of last winter. The Secretary might undoubtedly in his discretion have disregarded this act, and instead of taking the control of this gold which had been deposited in mints and assay offices, might have left it there to be paid in coin to depositors; but if he had done that he would not have obtained the control he desired in the process of resumption of the large coinage coming in.

So, acting upon that discretionary authority given to him by the statute of last winter, the Secretary of the Treasury has issued from time to time coin certificates. Nobody will dispute his right to do that. Some question may possibly be raised as to the prudence or wisdom of that course. I have no doubt about it myself. I have no doubt that it was a wise thing to do to incur this extra expense, not large, for the purpose of giving the Secretary the control where most needed of this coin. That is the ground on which the appropriation is asked for.

Now, it will be noticed in the bill that there is a provision which limits the charges which shall be made by certain express companies for the transportation of this gold. The Secretary has found that certain express companies connected with and controlled by the Pacific Railroad Companies have been disposed to exact and have exacted high rates, more than the eastern companies have done; they have claimed the money and have received it. And it cannot be offset in the account with the Pacific Railroad Companies, because these express companies, although actually in fact controlled by the railroad companies, are technically express companies and do not come under the

provisions applicable to the accounts of the railroad companies. The Secretary has found that these companies will charge a larger sum for transporting from Ogden to Omaha than from Omaha to New York. It is provided that the aggregate rate shall not exceed two and a half mills per dollar for gold, or 1 per cent. for silver from San Francisco to New York, and proportionate rates for shorter distances along the line.

Mr. MAGINNIS. I would like to ask the gentleman from Maine whether this limitation upon the charges for transportation applies to the assay offices at Helena and Boisé as well as the others? I notice that the language of the bill is between "San Francisco and New York and intermediate points." Now, Helena is four hundred and fifty miles north of the line of the road, and Denver over one hundred and sixty miles south. Are these offices embraced in the terms of this bill?

Mr. HALE. I asked the same question and found the construction that will be given at the Department. At all those branch offices between the Pacific and Atlantic the rates will be fixed proportionately according to what is fixed here, whether on the direct line or not. The rate is fixed on the whole distance from San Francisco to New York, and the rates for shorter distances will be fixed proportionately to that.

Mr. MAGINNIS. I asked the question because a prominent express company, Wells, Fargo & Co., after reaping a rich harvest from our Montana miners for a number of years, opposed the passage through Congress of laws to allow us to deposit our bullion at the United States assay offices on the same terms as the more favored citizens of the Republic who live in the great commercial centers and are provided with mint facilities which are denied to the producers of bullion. After passing three times through this House and being smothered in the other, justice was finally secured, and Congress by law directed the Secretary to issue coin certificates for and to purchase our bullion. In attempting to carry out the law, the Secretary found himself confronted by exorbitant demands from the express company, $21 per thousand for gold and $36 per thousand for silver, and, as Congress had provided him with no transportation fund, he was obliged to deduct the cost of transportation from the depositors of bullion, which the law did not contemplate. I hope that a transportation fund will be furnished and the Secretary enabled to curb the rapacity of express companies.

Mr. HALE. And this bill is intended to protect the Treasury.

Mr. MAGINNIS. But this is deducted from the depositors of bullion.

Mr. HEWITT, of New York. Oh, no!

Mr. WADDELL. Will the gentleman from Maine permit me to ask him a question?

Mr. HALE. Yes, sir.

Mr. WADDELL. I ask the question for information. Are not large quantities of coin put up in four-pound packages and packed in iron safes now transported from the Pacific coast in the postal-cars?

Mr. HALE. I was coming to that. Of course the limitations put upon this bill to protect the Treasury from the exactions of express companies cannot be carried out unless both sides agree. If the express companies round up and say, "We will not carry at those low rates," then the Secretary proposes to go to the mails; he will then transport this by mail, and the rates fixed here are the rates that will be covered by the cost of transporting by mail in postal cars or otherwise. The companies are given the benefit if they choose to transport this coin of transporting at the same rate as the Government can in its mail cars.

The other provision of the bill increases the contingent fund of the House $40,000. That has become necessary because the contingent fund is exhausted. Some of the expenses of the different committees that have gone off lately upon their mournful errands to the different States I believe are now remaining unpaid. There are other committees and subcommittees of the House that have been appointed to investigate certain matters in different cities of the United States, and they cannot proceed because there is no money. The investigation that yesterday was set on foot by the House cannot, I believe, move unless the contingent fund is replenished. It was thought that the sum here was not too large. I do not think it is large enough. I think the Clerk will be obliged before the session is closed to come here and ask, it may be, as much more money as is provided here; that the $40,000 will be too little. But at present the estimate is that $40,000 will do. That amount will at any rate cover immediate wants.

Mr. DUNNELL. Why is this appropriation from the contingent fund of the House made a part of this bill?

Mr. HALE. Because the Committee on Appropriations always reports the appropriations for the different branches of the service of the House. We generally appropriate them in a regular bill, but this is in the nature of a deficiency.

Mr. DUNNELL. The first section of this bill appropriates money to be used by the Secretary of the Treasury for a specific purpose indicated in the title of the bill, but in the second section, as if to cover up that fact, there comes in an appropriation of $40,000 as a contingency of the House of Representatives.

Mr. HALE. I do not see how the gentleman can say that I have covered that up, because I have volunteered an explanation. The House itself and the committee may put a half dozen other things in an appropriation bill and the title show nothing.

Mr. DUNNELL. In looking over the index of bills passed at this session no one could suppose that in this bill there was an appropriation for contingent expenses of the House.

Mr. HALE. Neither did any one ever imagine that the titles of the different appropriation bills cover the different items in them.

Mr. DUNNELL. The Indian appropriation bill would suggest the fact that the items of the bill were for the Indian service.

Mr. HALE. This is an appropriation to pay the expenses of certain committees of the House, and is included in the title words "and for other purposes."

Mr. DUNNELL. The title does not indicate that.

Mr. HALE. It may not to the gentleman's mind, but it puts him on search for "other things."

Mr. BUTLER. Will the gentleman allow me to make a suggestion? This discussion shows that there may be a difference of opinion as to the first appropriation to the Secretary of the Treasury. As to the second there can be no doubt, either in the House or in the Senate. There are two or three committees which are waiting to go upon their duties and cannot do so until their expenses are provided for. I would suggest to the gentleman that he divide the two sections into two bills. Nobody in the House would object to the last section of the bill, and certainly no one in the Senate would upon the other. They may come to a discussion and reference to a committee, and that will lead to a delay if you put the two items together.

Mr. HALE. I certainly should not be willing to follow the course suggested by the gentleman from Massachusetts, because while I can understand that some question may be raised about the first section, indeed I have been notified that it would be raised about the course the Secretary has pursued, I cannot consent to divide the bill or delay the progress of the first section, because it is just as necessary to the operations of the Treasury Department, in the business which has been set on foot and is now going on, as are the provisions for the committees of this House, for whom the other appropriation is required.

The Committee on Appropriations reported this bill through me because both of these items are in the nature of pressing emergencies, and the necessity of the case requires each one of them; one of the Treasury Department and the other of the House of Representatives, and the needs of the one are as great as the needs of the other.

The transportation of this gold coin from the mints and assay offices to the East is necessary, and surely the gentleman would not object to it.

Mr. BUTLER. I do not object to either item, but I do not know but that some one else will object. Why should you join the two together so as to let the one delay the other. If there are two emergencies let each one stand upon its own bottom.

Mr. HALE. The gentleman knows the difficulty of multiplying appropriation bills. The items of an appropriation bill must necessarily be multifarious.

Mr. BUTLER. Not at all; because the ordinary appropriation bill does not take effect immediately, whereas this is to take effect at once. I only speak in reference to the exigencies of the House of Representatives, which is to expire on the 4th of March, while the Treasury is likely to live on forever, or until it is depleted.

Mr. HALE. It is because of the deficiency that I am pushing this bill now. It will not do to wait and let either item go into another bill.

Mr. BUTLER. Then put the items into separate bills.

Mr. CONGER. Does the gentleman think that investigating committees will not live forever?

Mr. BUTLER. There will be new investigations.

Mr. HALE. I was notified that some question would be raised about what the Secretary has done, but I did not know that any gentleman would oppose the passage of the bill.

Mr. HUBBELL. Does this transportation apply to gold bullion as well as coin?

Mr. HALE. That is all in the Revised Statutes. If the gentleman will read section 3545 and section 254 of the Revised Statutes he will find provisions as to gold bullion and certificates therefor which necessitate transportation.

Mr. CANNON, of Illinois. I would like to ask the gentleman a question. I notice that this bill provides that the rate for the transportation of gold bullion is not to exceed ½ of 1 per cent. Now, I believe that it takes something over $200 in gold to make a pound, and that would be at the rate of fifty cents per pound or over. I ask the gentleman if it is not true that gold bullion is now transported in the mails of the United States at the rate of one cent an ounce or sixteen cents per pound, and whether it is proper for us to make an appropriation to pay over fifty cents per pound when they are carrying for private individuals at the rate of sixteen cents per pound?

Mr. HALE. Allow me to explain. If the Government has to go into this business to any large extent it must not simply send packages of four pounds' weight and trust to the accidents of the mail, but it must exercise some care over the packages; it must put up in larger quantities this gold coin and send messengers or guards with the cars.

The Secretary of the Treasury has made a calculation as to what the transportation of a car-load of coin will cost, and has found that it will be just about what he has fixed here as the rate which he is willing to pay these express companies. I do not know but what if packages were sent of different weights—four pounds in one package,

twelve pounds in another package, twenty-four in another, and sixty pounds in another, the different packages simply going along with the mail-bags—they would go cheaper than the rates here proposed. But I do not suppose the Secretary would be willing to send any large amount of coin in that way. He has reckoned what the cost would be if the packages were aggregated and a guard sent with them for security, saving other expenses which the express companies now assume.

Mr. CANNON, of Illinois. Will the gentleman allow me to ask him one other question?

Mr. HALE. Certainly.

Mr. CANNON, of Illinois. The statistics show that of the great many hundred valuable packages carried in the mails during the last twelve months there has been lost, as I recollect now, but ten of them. Under the system of registration I think it is almost absolutely safe to use the mails for this purpose. I would suggest to the gentleman that perhaps it would be better to so amend the law as to allow the utilizing of mail transportation for packages of larger size than four pounds when the service is done for the Government, and then through the system of registration it can be done with safety.

Mr. HALE. Of course if anything of that kind is required and is desirable it should come in due time from the proper committee, the Committee on the Post-Office and Post-Roads, of which the gentleman himself is a member.

Mr. EDEN. I would like to ask the gentleman a question.

Mr. HALE. Very well.

Mr. EDEN. I understand that gold bullion is now carried in the mails. If that is practicable, why, then, is it not practicable to carry silver bullion in the same manner?

Mr. HALE. The gentleman can see, of course, that silver of the same value being so much heavier than gold, it would be a more difficult matter to transport it by mail. A large amount to be transported by mail would soon clog the mails, and the only way to do it, if it is to be transported by mail, would be to carry it by the car-load rather than in small packages.

Mr. EDEN. Can it not be done cheaper in that way than the express companies carry it?

Mr. HALE. Undoubtedly it could be carried cheaper than the express companies now carry it, but not cheaper in large quantities than the rates fixed by this bill. I now yield to the gentleman from New York, [Mr. HEWITT.]

Mr. HEWITT, of New York. My friend from Maine [Mr. HALE] is mistaken in saying that coin could not be transported cheaper by mail than the rates prescribed in this bill. It could undoubtedly be done cheaper by mail. But there is involved the question of insurance, which is a very serious matter when you recollect that a car-load of gold would be worth several millions of dollars.

The express companies undertake to insure. While this specie has been coming through the mail the Secretary of the Treasury has been compelled to provide military guards to protect it. I have no doubt that even with the guard it is cheaper to carry it by mail. Nevertheless it is perhaps without warrant of law, but nobody will arraign the Secretary for the exercise of such a discretion as that; the risk is too great.

I wish to say that the gentleman from Maine [Mr. HALE] has carefully and correctly stated the provisions of law which apply to this case. The Secretary has exercised a discretion in regard to paying for bullion deposited in the mints and assay offices for which coin certificates have been given, a discretion confided to him by law. It is in reference to the exercise of that discretion that I take exception to the remarks of the gentleman from Maine. He thinks that the discretion has been wisely exercised; I think it has been an unnecessary expenditure of the public money.

It is necessary to recall the attention of this House briefly to the history of the provisions of law in regard to the coinage of gold and silver. Originally there was a mint charge of $\frac{1}{2}$ of 1 per cent. for the coinage of gold. By the resumption law of January, 1875, this mint charge was abolished, so that the holder of gold bullion could go to the mint or to the assay office in New York, deposit his bullion, and receive a coin certificate, which being receivable for duties was equivalent to gold coin. That was the first step.

Then that provision of law was enlarged so as to apply to all the mints and assay offices of the United States, so that it became possible for any holder of gold bullion to take his bullion to the mints and assay offices and not only get his coin free of charge for coinage, but in addition to that to obtain a coin certificate which was good for coin in the city of New York, thereby saving the cost of transportation of the coin, if it should become necessary to send it from the East to the West, or *vice versa*.

It was in a provision of the sundry civil appropriation bill of last year that this additional concession to the holders of gold bullion was made. That provision did not originate with the Committee on Appropriations; it originated in the House. The gentleman from Colorado whom I see now standing before me [Mr. PATTERSON] offered an amendment applying to the mint at Denver, which was adopted, and which provision, I believe, was subsequently enlarged by the Senate so as to apply to all the mints and assay offices of the United States.

When that amendment was offered, the chairman of the Committee on Appropriations [Mr. ATKINS] said:

I would ask the gentleman if any additional expenditure is required by that amendment. The charges upon depositors, I suppose, will be deducted from the expenses?

The chairman of the Committee on Appropriations undoubtedly confused in his own mind gold coin with gold bullion which was to be parted. There is no charge on gold coin. The gentleman from Colorado [Mr. PATTERSON] replied:

The gentleman asks me if any additional expenditure is required by the amendment. On the contrary, it will result, I think, in a reduction of the expenditures, because it will produce a new revenue; and this new revenue is used for the purpose of defraying the expenses of the mint.

I infer also that the gentleman from Colorado misunderstood the application of the amendment, for instead of producing any new revenue, it has compelled the Secretary of the Treasury to come to this House and ask for an additional appropriation of $60,000 for this year and $150,000 for next year.

Mr. PATTERSON, of Colorado. Will the gentleman yield to me for a moment?

Mr. HEWITT, of New York. Certainly.

Mr. PATTERSON, of Colorado. The amendment which I offered a year ago is much broader in extent than the few lines which the gentleman has quoted. But with reference to the additional cost, I would state that certainly no additional cost has been imposed upon the Government by the amendment; because at the mint in Denver the cost of transportation is deducted from the market value of the gold, and the party bringing his bullion to the mint for sale receives from the Government only its market value in gold coin less the cost of transportation.

Mr. HEWITT, of New York. To what point?

Mr. PATTERSON, of Colorado. To whatever point the Government sees fit to transport it—to Philadelphia, to New York, or elsewhere. Hence there can be no additional burden imposed upon the Government by the amendment.

Mr. HEWITT, of New York. I beg to say that the gentleman is quite in error as to the operation of the law. The law is clear and explicit in the provision that whoever brings bullion to the Treasury shall have without charge, at the rate of 25.8 grains to the dollar, coin certificates which are receivable for customs dues in any port of the country.

Mr. MAGINNIS. No doubt that is the law; but certainly the gentleman from Colorado correctly states the practice; for at the assay office at Helena the Secretary deducts $21 per thousand as the transportation charge on gold, and $36 per thousand on silver.

Mr. PATTERSON, of Colorado. This is done, too, under instructions signed by the Secretary of the Treasury which were duly published in the public prints; so that there can be no mistake whatever about the proposition.

Mr. HEWITT, of New York. I am not disposed to dispute in regard to the regulations of the Department; I do not know what they are. I think it very likely that the Department does make these charges of $21 per thousand on gold and $36 on silver, as stated by the gentleman from Montana, [Mr. MAGINNIS.] But I say that there is no warrant of law for such a charge; and I do not know to what fund any such charge can be appropriated. It does not belong to the expenses of transportation; otherwise, the Secretary of the Treasury would not come to this House and ask us to make an appropriation for that purpose. It must go somewhere else.

Mr. BUTLER. I would like to know whether any appropriation has ever been required to transport the Government greenbacks? [Laughter.]

Mr. HALE. Yes, every year.

Mr. HEWITT, of New York. The Government treats the greenback just as it does the gold: it fabricates both for nothing.

Mr. PATTERSON, of Colorado. I think that in justice to the Secretary of the Treasury I should make one statement which will occupy but a moment. At the mint in Denver (and I suppose the case is the same at Helena) the Government does not issue coin certificates for gold bullion. It pays for the gold in cash—either in silver dollars or in legal-tender currency; and it deducts from the cash that is paid to the owner of the bullion the cost of transportation, there being no coin certificates issued. If coin certificates were issued, I presume the Secretary of the Treasury would be compelled to live up to the law, and to issue the certificates, dollar for dollar, computing each dollar according to the regulation number of grains.

Mr. HALE. I hope the gentleman from New York [Mr. HEWITT] will go on and finish what he has to say, because I wish to bring this matter to a conclusion. The hour is rapidly running, and other matters are pressing. I do not wish to take too much time.

Mr. HEWITT, of New York. I will close in one or two minutes.

Mr. HALE. Take your own time.

Mr. HEWITT, of New York. Now, Mr. Speaker, what I want mainly to say is that in no country of the world except the United States is bullion coined free for the depositor. To get the gold coin without charge for coinage, is concession enough. When a man receives his coin in exchange for bullion, why should this Government take upon itself the cost of transportation, known among merchants as the exchange between different places, so that a depositor of bullion in San Francisco or Denver may draw the gold in New York or Philadelphia? When the Government has delivered the gold coin to the depositor at the place of deposit, it has not only discharged its full duty, but it has done all that is necessary in order to make that coin available for the purposes of commerce.

The gentleman from Maine said the Secretary of the Treasury

thought it desirable to control the gold coin of the country in order that he might put it where the place of redemption of legal-tender notes should be. Mr. Speaker, the place where gold coin should be is beyond the power of the Secretary of the Treasury; it is beyond the power of this Congress or of any Congress whatever. Money seeks the place where it is wanted, and if it is worth more in New York than in San Francisco it will go there, and if it is worth more in San Francisco than in New York it should stay there, and the Secretary of the Treasury should not exercise any discretion which even for a day is intended to frustrate and nullify the laws of trade. And what I have to say to the House is this: this provision of the statute which crept into the bill during the last session under misapprehension should be promptly repealed, and I only regret the Committee on Appropriations did not report a repeal of that statute. The truth is, all we should do is to coin the bullion and give the depositor the amount of coin it represents. Beyond that we should not go one step. After it is coined the money will distribute itself freely without cost to the Government, and any attempt to interfere with its natural flow will only result in mischief and can be productive of no good whatever.

Mr. HALE. Only one word in reply, Mr. Speaker, and then I will call for the previous question. It makes no difference whether it is a fact or not that the Secretary of the Treasury deducts at the time he receives the bullion the amount necessary to pay for its transportation. Whether he deducts from what he pays over in certain cases or not I do not care; but it is true that he does need in transporting it afterward an appropriation by Congress to pay the expense. There is no fund to pay for that transportation. Such appropriation is under the control of Congress, and must be made here, and that is the reason this bill has been reported from the Committee on Appropriations.

I do not understand that anybody claims—the gentleman from New York does not claim—the Secretary has exercised any power wrongfully in this regard.

Mr. HEWITT, of New York. Not wrongfully, but unwisely.

Mr. HALE. Yes; the gentleman thinks if he had been in the place of the Secretary he would not have done it. Yet the Secretary in the direction he has taken—and it is precisely the direction aimed at by the gentleman from New York himself on the great question of resumption—has transported the coin to the East where it is needed, and where everybody knows it is wanted, and is being paid out. The Secretary therefore is confronted with the necessity of asking for an appropriation from Congress to carry on this transportation for the rest of the year; and that, sir, is all there is of it. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DUNNELL. I move to amend the title of the bill by striking out the words "for other purposes" and in lieu thereof inserting "to appropriate $40,000 for miscellaneous expenses of the House of Representatives."

Mr HALE. That is all right.

The amendment was adopted.

Mr. HALE. I should like to have printed as part of the discussion the letters which I send up.

There was no ojection, and it was ordered accordingly.

The letters are as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., December 10, 1878.

SIR: I have to call the attention of your committee to the provisions of the act of June 8, 1878, (20 Statutes, 102,) authorizing the Secretary of the Treasury to constitute any superintendent of a mint or assayer of any assay office an assistant treasurer of the United States to receive coin or bullion on deposit; and, also, to section 3545 of the Revised Statutes, as amended by the act of June 19, 1878, (20 Statutes, 191, 192,) providing for a bullion fund for the purchase of bullion by mints and assay offices to enable returns to be made to depositors with as little delay as possible.

While these provisions of law were intended to secure to the producers of bullion more speedy payment, therefore it is believed they will bring into the mints and Treasury the great body of the precious metals mined in the United States, and will tend greatly to the easy and steady supply of bullion for coinage.

As stated in my annual report, page 24, the burden of transporting this coin and bullion thus received is thrown by law upon the Government, and to meet in part the expense of such transportation the regulations under the act last mentioned provide a charge against the depositors of an amount sufficient to pay the transportation to the nearest or most convenient mint, leaving to the Government the expense of transportation from the mints to such Treasury offices as may be found necessary to meet the demands for disbursement.

To meet this latter expense I have to ask an additional appropriation for transportation of coin and bullion for the present current year of $60,000. In this connection your attention is called to the suggestion made in my annual report that the rate for shipping this coin over the Pacific Railroads be prescribed by Congress, the proceeds to form a part of the sinking funds of such roads.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
January 8, 1879.

SIR: I have the honor to call your attention to a matter which I am well convinced should receive official correction.

The usage has been to send Government securities, currency, &c., by the Adams Express Company to be forwarded through other express companies outside of territory covered by contract, and the result has been that the most exorbitant and irregular rates have been fixed at the caprice of such companies and to the injury of the United States.

An examination of vouchers herewith transmitted will show that the charges are excessive, and, I am inclined to the opinion, are without authority of law, so far as the charges of the Union Pacific Railroad Express are concerned. It will be seen that two express companies, namely, "The Adams" and "The American," charge $3.60 for a package containing $6,000 from Washington to Omaha, whereas the Union Pacific Railroad Company's express charges $15 on the same amount from Omaha to Ogden, Utah, and the Wells Fargo & Co.'s Express charges $36 from Ogden to Portland, Oregon.

The following will show the relative charges to Omaha and from Omaha west:

Amount.	Charges to Omaha.	From Omaha west.
$361,000	$217 20	$902 50
100,650	60 60	251 60
60,000	36 60	390 00
12,000	7 20	30 00
6,000	3 60	51 00
2,000	1 20	12 60
2,000	1 20	5 00

It will be observed that in some cases over ten times the amount is charged for transportation beyond Omaha as is charged to that point, while in the aggregate fully five times as much is charged; and nearly one-half of this excessive charge is made upon a railroad line which was built by Government subsidy under provisions which are entirely ignored by the corporation when organizing an express agency over its lines.

I respectfully ask instructions in relation to audit of these accounts already rendered, and would recommend that, unless lower rates can be secured, all moneys hereafter sent west of Omaha should be sent by registered mail, even if the Government should pay insurance.

The fact that the Post-Office Department transports nearly $100,000,000 annually without loss would strongly suggest this method when rates of transportation asked are excessive.

The great disproportion of payment demanded to actual service rendered constrains me to report these cases to you for instructions; and I am more inclined to call your attention to the matter from the fact that you refer to the same subject in your annual report, (page 24,) and arrive at the conclusion that, to fix rates, further legislation is needed.

Awaiting your instructions in the matter of these accounts, I am, sir, very respectfully, your obedient servant,

R. M. REYNOLDS, *Auditor.*

The honorable the SECRETARY OF THE TREASURY.

REDUCTION OF EXPENSE OF PRINTING AND BINDING.

Mr. SINGLETON. I am directed by the Committee on Printing to report a bill (H. R. No. 6142) to reduce the expense of the public printing and binding, and for other purposes, and to move the bill be printed and recommitted.

Mr. CONGER. Has that committee the right to report at any time?

Mr. SINGLETON. The Committee on Printing has the right to report at any time.

The SPEAKER. But they have not the right to report general legislation at any time. They have the right to report resolutions referred to them.

Mr. SINGLETON. This is a subject which was presented and referred to that committee.

Mr. COX, of New York. The Committee on Printing can report in reference to current business at any time.

The SPEAKER. The Committee on Printing has no more right than any other committee.

Mr. COX, of New York. The Speaker did not hear what I said. I said that they have no right to report at any time except on current business, and not in reference to general legislation.

The SPEAKER. That is what the Chair has decided.

Mr. COX, of New York. It has been so decided before very often.

Mr. SINGLETON. I ask by unanimous consent that I may have an hour on Saturday next for the consideration of this bill.

Mr. CONGER. Let the bill be read.

The bill was read *in extenso.*

Mr. CONGER. I object to the consideration of the bill at the time stated.

Mr. SINGLETON. I will, then, withdraw the bill.

The SPEAKER. The gentleman had better let the matter remain as it is, for then the bill will be ordered to be printed and it will be in the exact situation it would be if the gentleman should withdraw it.

Mr. SINGLETON. Can I call it up after it is printed at any time?

The SPEAKER. Only when the committee is called for reports in its regular order. It might be taken up and considered under a suspension of the rules.

Mr. CONGER. I am opposed to its having any rights which it does not possess under the rules.

The bill was read a first and second time, ordered to be printed, and recommitted.

INDIAN APPROPRIATION BILL.

Mr. SPARKS. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1880, and for other purposes, with amendments by the Senate, and to move that the Senate amendments be non-concurred in.

Mr. CONGER. Let them be read.

Mr. SPARKS. There are a great many of them. The Committee

on Appropriations have unanimously instructed me to make this report.

Mr. CONGER. Sometimes there are very excellent Senate amendments which we might like to adopt.

Mr. SPARKS. I have no objection to their being read, but it will take considerable time.

Mr. CONGER. The report being a unanimous one from the Committee on Appropriations, I will not insist on the reading of the amendments.

The amendments of the Senate were non-concurred in.

Mr. SPARKS moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MARTIN. I now insist on the regular order.

The SPEAKER. The regular order is the morning hour, which commences at thirty minutes past one o'clock, and the business before the House is the bill reported from the Committee on War Claims, which was under consideration at the time the morning hour expired yesterday.

Mr. ACKLEN. I desire to ask the Chair whether the unfinished business of the morning hour which the House refused to consider yesterday does not now come up for consideration?

The SPEAKER. It does not; but after the disposition of the bill under consideration, the unfinished business which the House refused to consider yesterday would come up again. The House on yesterday refused to consider the report and it is still unfinished business in the morning hour. Then the House proceeded to the consideration of other subjects; and the moment this bill is disposed of the gentleman from Louisiana can test the sense of the House again.

Mr. ACKLEN. Then, as I understand the decision of the Chair, the present unfinished business takes precedence of the former unfinished business?

The SPEAKER. It does. The Chair may also state that the vote against the gentleman's bill yesterday under ordinary circumstances would be considered an unfavorable decision on the part of the House.

Mr. ACKLEN. The failure of the House to consider it yesterday does not necessarily imply that the House will not consider it to-day.

The SPEAKER. The House very properly has the right under the rule in almost all cases—there are exceptional cases of course—to say by a majority whether it will proceed with the consideration of any question or not.

Mr. ACKLEN. Then I understand the Chair to rule that as soon as the present business is disposed of the other comes up as unfinished business?

The SPEAKER. The Chair will then recognize the gentleman from Louisiana.

M. BARRON AND H. P. AND W. GORMAN.

The House resumed as the unfinished business of the morning hour the consideration of the bill (H. R. No. 6131) for the relief of Maggie Barron and Henry P. Gorman and Walter Gorman.

Mr. MARTIN. I yield to the gentleman from Illinois, [Mr. EDEN.]

Mr. EDEN. The only apology that I make for occupying any time whatever in the discussion of this bill is that I desire to correct some erroneous impressions that seem to prevail in the House in reference to the action of the Committee on War Claims. This bill proposes to give a hearing in the Court of Claims to certain heirs of a gentleman who resided, I believe, in the State of Mississippi during the war, and who died in 1868 or 1869. The bill embraces only that class of claims of which the commissioners of claims have had jurisdiction in the insurrectionary States ever since the 3d of March, 1871.

The Committee on War Claims have not adopted a rule and do not intend to adopt a rule to remove the bar of the statute of limitations in every case where parties entitled to relief under that act did not file their claims within two years, but only in such cases as the claimants can satisfy the committee that they were prevented from some cause over which they had no control from filing their claims within the two years.

This claim is on behalf of parties all of whom were minors during the war, and all of whom but one I believe were minors at the time of the passage of the act of March 3, 1871. I repeat that the Committee on War Claims has in no instance within my knowledge reported a bill to this House to give a hearing to any person who had a right to a hearing before the commissioners of claims, and who failed to assert that right, unless they had presented some good and sufficient reason to the committee for taking such action.

Mr. WHITE, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. EDEN. I have but ten minutes, and prefer not to be interrupted.

Mr. WHITE, of Pennsylvania. I want to know something about this bill.

Mr. EDEN. I am trying to tell something about it.

Mr. WHITE, of Pennsylvania. I want to know the facts about it, not the law.

Mr. EDEN. If the gentleman will read the report, which is printed in this morning's RECORD, he will find there all the facts I can give him.

It has been said in the discussion upon this bill that we propose by it to pay a class of claims that the Government is under no responsibility to pay. I take issue with the gentlemen who have taken that position. I state, and the laws of Congress will bear me out in the statement, that during the war and ever since the close of the war it has been the policy of the Government of the United States to pay every loyal citizen for supplies furnished to the Army and Navy of the United States, or supplies taken and used by the Army and Navy of the United States.

The Government of the United States never has taken the position that loyal claimants who had furnished supplies were not entitled to pay, but, on the other hand, by numerous acts of legislation, to which I would refer if I had time, the Government has recognized the right of every loyal claimant, North and South, who furnished supplies to the Army and Navy of the United States. The act of July 4, 1864, which took away from the Court of Claims jurisdiction of all claims arising during the war, expressly conferred upon the Quartermaster-General and the Commissary-General jurisdiction to consider the claims of loyal citizens in States not in rebellion for supplies furnished, and upon report made by the Quartermaster-General and the Commissary-General, approved by the accounting officers of the Treasury, every citizen not living in an insurrectionary State had a right to go before these tribunals, and until June, 1874, upon the report of the accounting officers of the Treasury and the favorable action of these accounting officers, this class of claims was paid without any further legislation.

Now, there is no statute of limitation to-day and there never has been any statute of limitations. Persons living in a State that had not been in rebellion can go there with their claims for supplies furnished during the war, and upon proper proof their claims are reported to Congress for its approval, and Congress approves and pays those claims at each session. But it is said that loyal men in the insurrectionary States have no right to be paid for supplies furnished to the Army during the war.

Such has not been the action of the Government of the United States, but, on the other hand, on the 3d of March, 1871, the Congress of the United States passed an act recognizing the right of every loyal man in the insurrectionary States who had furnished supplies for the Army or Navy or whose property had been taken or used by the Army or Navy to have his claim considered and paid.

Mr. POTTER. The right as given has expired.

Mr. EDEN. The right has not expired, but the remedy has. The right exists. We paid nearly half a million of dollars of these claims last year and we will pay three or four hundred thousand this year. But here come these minors provided for in this bill who had no opportunity to go before the commissioners of claims and assert their rights to compensation, and my distinguished friend from New York pleads the statute of limitations against these minors which is something which I undertake to say you cannot do in any other court in America except this court sitting for the purpose of deciding claims.

Mr. POTTER. If the gentleman will allow me, I do not do any such thing.

Mr. EDEN. If I misunderstood the gentleman I wish to be corrected, but I have very little time to be corrected in. Now, my friend from New York is entirely willing to have a tribunal established for the purpose of examining and considering the claims and ascertaining whether they are good and valid claims, but when it comes to the payment of the claims he backs out, if I understood the speech he made yesterday.

Now, this bill gives to these minors no more right than every other loyal citizen in the Southern States had under the law of 1871. The Court of Claims are to consider and pass upon their loyalty and upon the justice of their claims under this bill in precisely the same way in which the commissioners of claims have proceeded in all such claims in the South.

There need be no apprehension upon the part of the House that the Committee on War Claims are going to open the door to men in the South who willfully neglected to go before this commission within the two years that the statute gave the people of the eleven States to file all their claims, all of them to be filed here in the city of Washington. It was a pretty harsh statute of limitations. Well, this is not a case where a party who had a claim for supplies furnished failed to make that claim within the time prescribed by law. It is the case of parties coming here with a petition who have not had an opportunity of making such application; and when they show that their failure was the result of no laches on their part, I am in favor of letting them go before the Court of Claims and have their claims adjudicated.

Mr. JONES, of Ohio. Mr. Speaker, I do not understand why there appears to be such objection to the application of the statute of limitations to claims against the Government. It is true that this statute which limited the time for the collection of these southern claims (known as the act establishing the southern claims commission) was in one sense of the term a statute of limitation. Statutes of limitations, however, strictly speaking are enacted to cut off legal rights. But in these cases there never was any legal right. This must be conceded by all who understand the law applicable to southern war claims. Therefore the lapse of time does not cut off the legal right of anybody. There never was any legal right to terminate. The policy of the republican party was that if these claims were to be considered, they must be presented before so much time should

elapse that they could not be paid without opening the door to fraud, and thus creating a tenfold greater evil than the one they were trying to remedy.

When the act of 1871 was passed, establishing the southern claims commission, it contained a section which provided absolutely that in no case should ever any of these claims be paid unless presented to this commission. I call attention to section 4 of that statute. It is as follows:

That said commissioners shall make report of their proceedings, and of each claim considered by them, at the commencement of each session of Congress, to the Speaker of the House of Representatives, who shall lay the same before Congress for consideration; and all claims within this act and not presented to said board shall be barred, and shall not be entertained by any department of the Government without further authority of Congress.

Further than that, afterward the southern claims commission was continued for four years, and the act contained this section:

That the commissioners of claims shall not receive any petition for the allowance of any claim or claims unless such petition shall be presented to and filed with them on or before the 3d day of March, 1873; and all claims not so presented shall be deemed to be barred forever thereafter.

This section was intended to be an absolute bar to any further presentation of southern claims after March 3, 1873. The object of the establishment of the southern claims commission was to sift these claims so as to provide for the payment of such as were proper before so much time should elapse that their justice could not be determined. But does it follow that, because it was the policy of the republican party, at the close of the war, when the facts could be ascertained, when witnesses were alive and could be examined, to pay claims that were not stale, it is wise or safe for Congress to open the door again for claims that have been barred, to provide for readjusting stale claims? Yet that is the proposition now advocated.

If we are to follow the policy that was adopted by the republicans after the close of the war—which was to establish a commission and to provide that no claim should ever be considered by any Department of the Government unless presented to this commission and presented within a certain time, and if not presented within a certain time they should be forever barred—we must keep the door shut by adhering to the limitations that were contained in the law establishing the southern claims commission, placed there by the republican party. Is it not going back upon that policy and turning our backs upon the precedent set by our side of the House to reopen this question now and to undertake to adjust these stale claims years after the parties have died, witnesses scattered, and evidence destroyed?

One thing further, which I think must address itself with force to the other side of the House. At the last session of Congress we had some striking experience in regard to the adjustment of stale claims which illustrated the wisdom and policy of a statute of limitation, to cut off their consideration. I refer to what was known as the southern mail contracts.

Nearly $400,000 had been appropriated for the payment of what was known as southern mail contract claims by the democratic party in the Forty-fourth Congress, to pay for carrying the mail in the seceded States from the dates between which the States seceded and the date of the proclamation of the president of the confederacy that the confederate government would assume payment. On investigation it was found that of sixteen claims filed by parties to obtain that money fourteen had already been paid by the confederate government, and their receipts were found in the archives of the southern confederacy by the very able and industrious member from Michigan, [Mr. WILLITS.]

We found that notwithstanding these claims had been presented to the confederate government and paid, notwithstanding two written reports had been made by the confederate postmaster-general recommending that the confederate government pay the claims, notwithstanding appropriation after appropriation had been made by the confederate congress to pay them, all had forgotten it. There were eleven States here represented by as honorable gentlemen as ever sat in a legislative assembly, men against whose honor no word of suspicion could be proved or exists; yet all those gentlemen had forgotten all those facts.

Now, does not that illustrate the wisdom and necessity of providing limitations within which claims against the Government should be presented or be barred? If the Government attempts to adjust stale claims, the memories of men are so defective, evidence is so liable to be destroyed or forgotten, that the Treasury will be plundered by fraud. It has always been the settled policy of wise legislators to enact statutes of limitation to apply even against legal claims, if not presented within certain limits, usually six years; this, I think, is the usual limit on contracts not in writing in nearly all the States.

How much more strongly does that doctrine apply to claims against the General Government, where the parties have died, where witnesses have been scattered, and where the evidence in the case cannot be obtained. When these claims were insisted upon by men in the South who claimed to be loyal, we said we would establish the southern claims commission. When we did so we wisely provided that it should be limited to a certain time; and when we subsequently extended it we then provided that all claims which were not presented to the commission by March 3, 1873, should be forever thereafter barred.

Mr. RANDOLPH. Then you think it right for the Government to plead the statute of limitation against loyal men?

Mr. JONES, of Ohio. Certainly I do; the Government should plead it just as much as an individual. I illustrated that by what we witnessed here at the last session of Congress in regard to the southern mail contracts; the result of that proved the correctness of the doctrine. No elementary authority on law can be found anywhere that will not say that the statute of limitations should apply as strongly in regard to claims against the Government as in regard to claims against individuals. In the case of individuals contending with each other they are there face to face and each can meet the evidence presented by the other. But in the case of the Government the evidence is entirely *ex parte*, and the Government is more liable to be imposed upon than is an individual.

But aside from that we are not proposing to apply the statute of limitation. We made an honest effort to adjust these claims while the facts were fresh; we undertook to do justice to these claimants; but it does not follow that it is within our power to do justice now after claims have become stale. This was the position taken by the leader of the democratic party in the last presidential contest. His letter which I sent to the Clerk's desk to be read at the last session is, I will say to the honor of the gentleman who wrote it, one of the most statesman-like documents ever penned upon the subject of southern claims.

Something was said yesterday in regard to the bill introduced at the last session by the gentleman from New York, [Mr. POTTER.] Because he opposed the pending bill the argument *ad hominem*—always a fallacy—was made that he was in favor of paying all claims of this character at the last session. Why, sir, the bill introduced by the gentleman from New York at the last session contained this provision:

That any person who may have a claim against the United States of which the Court of Claims would not have jurisdiction, but founded on equity and justice, and *not barred by any statute of limitation provided by any law of the United States*.

Now, I would like to ask any gentleman how such a claim as this, or any claim belonging to the class of which this is a representative, could be allowed or paid under the bill of the honorable gentleman from New York? That bill was, I think, a wise measure, and it provided in express terms that no claim should be considered or allowed that was barred by any statute of limitations of the United States, and it provided further that no claim should be considered unless presented within six years after it originated; and in any event, under that bill, the court could only certify the facts, after they were judicially ascertained, to Congress, to be paid or not to be paid as Congress might see proper.

Mr. Speaker, this whole subject is in a nutshell. Shall the policy inaugurated by the republican party, which meant to adjust these claims while the facts were fresh, and meant to bar them after a certain date, be adhered to? In other words, shall this door which was shut by the legislative action of the Government be opened? That is the whole question. If we open it for one, we must open it for all. If we adhere to the policy already established, and decide that the door which has been shut shall remain shut, that ends the matter. So far as I am concerned I am in favor of keeping that door shut. I say now, as I have always said, that this is not simply a party question. We find men on both sides of this House honestly believing that this door ought to be opened; we find men on both sides honestly believing that this door ought to be shut. Those men who believe that the door should be kept shut ought not to vote for such a measure as this, because if passed it will be like the little droppings of water under a dam, which, if not promptly observed and arrested, will finally undermine and break through and become a sweeping and devastating flood.

The ingenious devices resorted to for the purpose of getting this whole subject again opened are perfectly astounding. Nothing but a determination upon the part of Congress to set its face like flint against the opening of this door can prevent mischief that will be beyond calculation.

Mr. RANDOLPH. Does the gentleman think it would stir up mischief for the Government to pay an honest debt?

Mr. JONES, of Ohio. Well, sir, that is begging the question. I say it will stir up mischief for the Government to open this door so that claims may be presented to this House and pushed through without our knowing whether these claims are honest or dishonest, and when by reason of the lapse of time the justice of which it is absolutely beyond the power of the Government to ascertain.

[Here the hammer fell.]

Mr. MARTIN. I propose now to yield to the gentleman from New York, [Mr. COX.]

The SPEAKER. The gentleman from West Virginia has but a minute or two remaining, but the Chair is perfectly willing to recognize the gentleman from New York in his own right.

Mr. COX, of New York. Very well; I will take the floor in my own right.

The gentleman who just sat down said that this question was in a nutshell. So it is; and I wonder that it required so many trip-hammers to open it. I believe that all laws are revocable. The Constitution itself is revocable in the prescribed mode. Congress under the Constitution has no right to establish a statute of limitations which cannot by law be repealed. Who on the other side or on this side proposes to make here a law which shall not be revocable? And when the question is as to repealing any law, whether in the nature of a statute of limitations or otherwise, in order to get at an honest

equitable claim, my vote is due to the claimant. When it is proposed, as in this case, to refer a claim to a court to decide it—to decide it, perhaps, better than we of this body can do—I am in favor of such a reference of an honest claim. I will not prejudge the claim so far as to say that it is honest, but I will send it to a proper tribunal for examination.

This is not a new question in this House; it is an old question. I remember that when I was chairman of the Committee on Revolutionary Claims claims came in here hampered by statutes of limitations—statutes which were proper perhaps in one regard, for it was the intent of those statutes to exclude stale claims and to close the coffers of the Treasury against their payment. But in cases like this, where the claim is fresh, in cases of minors or widows, or where people are beyond the seas, and therefore could not present their claims, I would not throw impediments in the way of honest adjudication and prompt payment. I care not for the letter of Governor Tilden or any other person on this subject. It is my right and my duty here to pass on all just claims. No doubt his letter was wise in many regards, but it is no direction to me in my duty. I will not plead the statute of limitations, sir, to prevent justice or to condone fraud or wrong. There is no rest, we are told, for the wicked, and there should be no rest in pursuit of righteousness. The more we pursue wrong either in politics or in courts of justice, the more we pursue right in our legislation irrespective of these limitations by statute, the better it will be for the country and the more honestly we will act in our relations to Congress.

[Here the hammer fell.]

Mr. BRAGG obtained the floor.

Mr. MARTIN. I cannot yield any further.

The SPEAKER. But the gentleman's time has expired.

Mr. MARTIN. I do not wish to dispute with the Chair, but I have only yielded ten minutes and then two minutes, and I should like to know how my time has expired.

The SPEAKER. Because the gentleman had more than half an hour yesterday. The Chair recognized the gentleman from West Virginia as having control of the bill. There seems to be some misunderstanding. This bill may run for weeks in the morning hour—may occupy many morning hours. The committee is only restricted to two hours in making reports. The bill is in the control of the House.

Mr. BRAGG. Mr. Speaker, I was inquired of yesterday, when I stated my opposition to this bill, whether I had any fears it would be not fairly dealt with in the courts; whether I did not feel assured in a judicial body this bill and claims akin to this would receive a fairer discussion and disposition than in a legislative body. I answer by saying to the gentleman that I have no fears of some judges upon some questions, neither have I any fears of some courts upon some questions; but when there are questions which are not purely judicial but quasi-political, a judge, however pure he may be, and he may be as unbiased as one of the distinguished members of the electoral commission, yet his decision may be such as the honest judgment of mankind cannot approve. Judges are but men. When they are translated from legislative halls or from the forum to the bench they act with precisely the feelings that actuated them when they were legislators. They are men still. They are subject to the same bias and the same prejudice and the same political predilections, and sometimes, unconsciously to themselves, to the feeling of the community which is brought to bear upon them in the shape of public opinion.

This bill seems to be regarded as a proposition which is to give a remedy to certain parties for rights which they have, but which have been cut off by a statute of limitations, that it is in furtherance of some natural or legal right which existed in the party. I say to the gentlemen who make such claim that no right exists in any party who lives in an insurrectionary territory, who is part of the people in insurrection against the Government or who are at war against the Government, to make claim against the conqueror after the war shall have ended for any injury which may have been done while the war was going on.

The argument goes as well against loyal people as disloyal. The war was not against individuals. The war was against the belligerent party, the South, and the difficulty is, although there may be men, there may be women, there may be children who have claims which we feel ought to be paid, yet when we open the door for the payment of such claims it is impossible for the Republic to determine between the good and the bad, and while we are attempting to do what will be a solitary case of good we throw open the door to evil which bids fair, if we take bills introduced into this House as earnest of what is to come, to hasten the hour when bankruptcy shall come upon the Government by reason of the payment of claimants under the guise of loyalty.

This is the proper outcome, perhaps, of the southern claims commission. That commission I always regarded as an evil. That commission I always regarded as a political expedient for the purpose of building up a party in the South in accord with the Administration. Instead of being a judicial court, it was a political court. Instead of being a court where justice was done, it was a court that spread fraud and perjury all over the land.

Mr. EDEN. Will the gentleman let me ask him a question?

Mr. BRAGG. Certainly.

Mr. EDEN. I understand the gentleman to state these parties never had any legal claim on the Government. Under the second section of the act of March 3, 1871, loyal claimants of the South were authorized to go before the commissioners of claims and prove their claims, and upon proof the commissioners were to report them to Congress, and Congress was to pay them. I ask the gentleman whether they did not under the limitations of that law have the right to go to that commission and recover the value of this property?

Mr. BRAGG. I was just reaching that point. I will give my views on that subject, which will be an answer to the gentleman from Illinois. I said the southern claims commission was an evil. Without it no claim existed on the part of any one. With it a right to a claim was extended upon certain conditions. It was not a claim, a right against the Government, which existed independently of that particular law. Therefore when persons failed to take advantage of the privileges of the law and to bring themselves within the law—which was wrong, I assert, in itself—they cannot now make a claim. They are barred of any legal, natural right. It was a conditional right extended them. They failed to avail themselves of it; and the question now is, among those who thought that commission was an evil and that the reopening of it will be a renewal of the evil, whether it shall be opened with an isolated case which will furnish a precedent for opening it for every other isolated case that may be presented.

But we are told, (and it is a plausible argument,) that we ought to pay for supplies that were furnished to our Army, to our starving soldiery. Is there anything in this report to show that these supplies were actually furnished to the Army?

Mr. EDEN. Unless that is proved, these parties cannot recover a cent under this bill.

Mr. BRAGG. I say that when the committee report a bill to this House and make an argument that this claim for supplies furnished the Army should go to the Court of Claims, that committee ought to have proof before it that those supplies were furnished, by whom they were furnished, for what they were furnished, to whom they were furnished, when they were furnished, and the reason why the parties did not receive a quartermaster's certificate.

Mr. EDEN. We had that identical proof, but as it was *ex parte* we thought it would be better to refer the case to the court, where the other side could be heard.

Mr. BRAGG. I have heard a great deal of *ex parte* testimony. Does not the gentleman from Illinois know that the Court of Claims takes all its testimony by depositions; that A, B, and C, as commissioners, may take depositions in some part of Louisiana from Tom, Dick, and Harry, with no opportunity for rebuttal unless the United States Attorney-General's Department shall make itself a traveling attorney-general's office to hunt up facts as to the character of the witnesses?

Mr. EDEN. That court tries cases from all parts of the United States.

Mr. BRAGG. And it is a most remarkable result that in nineteen cases out of twenty the judgment goes against the Federal Government because there is no sufficient test as to what is the loyalty to be proved by depositions before the court.

Loyalty is a sentiment. There are gentlemen upon this side of the House who served in the confederate army who can furnish more proofs probably that they were loyal to this Government than we could who fought upon the Federal side, because they can prove by witnesses that what they fought for and what they sought to maintain was a government upon the principles of our fathers and that we northern men had seen fit to attempt to tear down the structure that our fathers left us, and they were loyal and we were disloyal. [Laughter.]

Loyalty is a sentiment; and when you undertake to prove by depositions that this man was loyal or that that man was loyal you can bring up one of his field-hands to swear that he heard old massa say when he did not get proper pay for stores that the confederates had taken from him, or when his son was refused furlough, that he would like to see that southern government go down and that such tyrants as old Bragg, who shot down soldiers for visiting their homes when passing on the march, should not be upheld as representatives of the government. You can prove by that negro how he heard massa say that day he was opposed to the confederates. Now that is *ex parte* testimony. The affidavits do not cover the whole ground, and it is not in our power to sift such evidence.

Only the other day I heard a gentleman, a member of this House from North Carolina, say he knew of a woman from North Carolina who had proved a large claim in the court of commissioners of southern claims and had established her loyalty; while, if they had called upon him, he could have proved to the court conclusively that she and all her family and friends were heart and soul friends of the confederacy.

Mr. WADDELL. You may say that of 95 per cent. of the population of the South.

Mr. BRAGG. I say it of 99 per cent. And the only recommendation that woman had for her loyalty, and which carried her claim through the court, was that her brother-in-law was a member of the convention which nominated a recent President of the United States. [Laughter.]

The gentleman from North Carolina says that 95 per cent. of the population of the South were true to the confederacy. That recalls to my mind the very eloquent remarks made yesterday by the gen-

tleman from Mississippi, [Mr. HOOKER.] I was astonished that a claim so exceedingly loyal as this should find the gentleman from Mississippi as its champion. When did the Vicksburgh district before send a man here who represented the loyal people of that district, who should stand here and sing praises and chant pæans in honor of the loyal Southerners. [Laughter.] Ay, when I heard that speech, and saw in my mind's eye the long array of loyal claimants, and thought of their antecedents, I felt like saying to them what the mouse said when it saw the old cat hanging up against the wall: "Oh, you are there, my old friend, are you? You may stay there, for I would not trust you though your skin was stuffed with straw." [Laughter.]

Mr. CHALMERS. I would like to say to the gentleman that my colleague [Mr. HOOKER] is now out. He kept quiet the other day when my colleague was present. I do not think he should assail him behind his back.

Mr. BRAGG. It is not my purpose to assail any man; but if the gentleman says that I say behind his back what I would not say to his face, he mistakes the man whom he calls to order.

I beg pardon of the House if I have improperly alluded to the speech which the gentleman from Mississippi made yesterday in support of this claim; but I have got tired of seeing claims come here in one form, which, when this House expresses its sense upon them, are suddenly diverted into another channel, and of hearing persons talk about judicial examining and making laws fixing the rules of evidence to tie up the court, and then send the matter to accounting officers to determine what the value of the property taken was.

I would like to remind the gentleman from Ohio [Mr. KEIFER] how he quoted in his famous speech against the William and Mary College the well-settled law that no nation is responsible for the torts of its officers or soldiers, for the destruction of property in the course of war in insurrectionary territory; but, as I said, there has been in this House repeatedly a taunt thrown at us, and I regret to say that it comes from Mississippi.

We have been taunted with the $34,000,000 in the Treasury that belong to some one unknown or to the Government as proceeds of abandoned property and ought to be distributed in the South.

I would ask these gentlemen to take their eyes off from the $34,000,000 for a moment if they want to appreciate how we feel. Let them turn the glass over and look at another view—a sea of blood—thousands and tens of thousands of the best men in the land, North and South, weltering in their gore. Let them hear the cries of the wounded man from the battle-field as the cold chill of death strikes him, and by the cessation of the groans you knew that one more soul had gone to his final account.

Let them go and hear the piteous moans from the hospitals; let them go to the hill-sides and mountain-tops, and to the valleys where thousands and hundreds of thousands are in mourning.

Then let them look at what is of the least account in the reckoning, the thousands of millions, the billions of money that were spent to put down this war; and when they place all these on the debtor side of the account, I would like to have them strike the balance—show, if they can, that the $34,000,000 of credit which belongs to somebody, they do not know whom, overcome the entries on the debit side.

I am not willing to sit here as the Representative of my constituents and allow these measures to be brought up in one form or another; from one member and another; from one committee and another, for the purpose of getting money out of the Treasury on the plea of loyalty.

These loyal men of the South are so few that the evil that will be done by leaving them out is nothing in comparison with the great evil that will be done if we open the door and allow the $17,000,000 for claims upon our Calendar to be passed and appropriations made for the benefit of men on the plea that they were loyal people of the South.

I have here time and again heard a threat thrown to the democracy upon this side of the House which I have thought for a long time needed an answer, and it came from Mississippi. I have heard it said here upon the floor of the House that unless the democracy of the North is more liberal, that unless they would open their hands and give out money more lavishly from the Treasury, the solid South would soon go over to the other side.

I say, as one of the Representatives of the democracy of the North, that if there are any men in the South who propose to belong to the democratic party simply for the reason that the doors of the Treasury are to be opened to them, the sooner they go over the better for them, the better for our party; and when the people of this country see and feel, as they are beginning to do, that they can trust the interests of the country with the democratic party of the North and South, then we can make recruits in the Northern States that will fill up our ranks to the maximum.

We have no need of that class of gentlemen that we can only hold to party allegiance by golden ties, by giving them the promise of everything which they may ask out of the Treasury.

Mr. MARTIN. I must now insist upon the previous question.

Mr. ELLIS. I ask the gentleman to yield to me for five minutes. [Cries of "Yield!" "Yield!"]

Mr. MARTIN. I will yield to the gentleman for that time.

Mr. ELLIS. Upon the general features of this bill I do not know that I desire to say anything now. What I am about to say is called forth by that portion of the extraordinary speech of the gentleman from Wisconsin [Mr. BRAGG] in which he alluded to certain "taunts" made by southern members in reference to money now in the Treasury collected illegally and unconstitutionally; ay, and he might have well said with the robber's hand. In the course of my speech upon the Mississippi levee bill I did allude to the fact that $86,000,000 were in the Treasury of the United States collected without the semblance of law or justice from the impoverished South.

Now, I agree with the member from Wisconsin [Mr. BRAGG] that the percentage of "loyalty" in the Southern States during the war was a great deal less than 1 per cent. I undertake to say that the southern man who was born there, who was reared there, and who was identified with the southern people, could only have been *loyal* when he entered the confederate army and did his full duty as a soldier in the armies of the South. Such men were the only loyal men in the South. They were *loyal* to their country; they were *loyal* to their God; they were loyal to the noblest and highest and holiest emotions that ever animated the human heart.

Mr. CONGER. I wish to ask the gentleman—— [Cries of "Regular order!"]

The SPEAKER. Does the gentleman from Louisiana [Mr. ELLIS] yield?

Mr. ELLIS. I do not yield.

The SPEAKER, (rapping with his gavel.) The gentleman declines to yield.

Mr. CONGER. The Chair need not rap me down while I am asking the gentleman a question.

The SPEAKER. The Chair wants the gentleman to rap himself down. [Laughter.]

Mr. CONGER. The Chair seems——

The SPEAKER. The Chair is bound to protect the gentleman holding the floor if he declines to yield.

Mr. CONGER. I addressed the Chair, and I addressed the gentleman speaking, and he nodded assent to me.

Mr. ELLIS. I positively decline to yield to the gentleman from Michigan.

Mr. CONGER. I know the gentleman does now, with the assistance of the Chair.

The SPEAKER. The gentleman from Michigan [Mr. CONGER] will be kind enough to take his seat.

Mr. ELLIS. Here and there, scattered over the South, there may have been some individual who from his heart and from his conviction did espouse the cause of the Union, but I do not know in all the limits of my acquaintance in my own State more than three or four men who I believe were loyal to the Union in the proper sense and usual acceptation of that term. Before hostilities began there were in the South thousands and tens of thousands of men who deprecated and deplored the gathering strife and who sought by every means to avert war and disunion, but when war came more than 99 per cent. of the men of the South, every man almost worthy the name of man, forgot individual opinion and entered the ranks and fought the battles and suffered the calamities and death of the confederacy. As regards the claims which are forever being urged by "loyal" claimants and known as war claims, let me say that I for one am willing here and now to vote for a constitutional amendment which shall close the books and forever settle the accounts between those loyal men and the Government. I do not stickle for their allowance or urge their payment. Some few of them are just, no doubt, and ought to be paid. I know, personally, of a few cases of this character; but in order to achieve peace, in order to silence the tongue of slander, in order to ease the hearts and minds of the people of the North who are jealous lest some rebel be paid, I am willing to end all this matter by a constitutional amendment forbidding forever the payment of every claim growing out of the war. In this, at least, am I agreed with the member from Wisconsin.

Now as to the lecture which in questionable taste he has seen fit to read to members of this House, southern democrats, I tell him that it comes with rather a bad grace from him. When I alluded to the fact that there was in the Treasury of the United States $86,000,000 illegally and unconstitutionally wrung from the products of the South—products singled out for illegal and unconstitutional taxation, so decided by a decree of our highest court—when I alluded to moneys wrung from Southern States and property by means and processes which no man dares now vindicate, I did but allude to these facts by way of appeal for justice from the North to the South. We of the South were claiming a mere pittance, in all some $5,000,000, for the improvement of the Mississippi River, in which the gentleman from Wisconsin and the people he represents are interested. I cited the fact, hoping perchance that hearts like the members from Wisconsin might be a little softened toward a measure we deemed so just.

Mr. BRAGG rose.

The SPEAKER. The gentleman declines to yield.

Mr. ELLIS. Now, sir, no democrat to my knowledge in the South has proposed to desert the democratic party, or the democrats of the North——

Mr. BRAGG. I simply desire to say——

The SPEAKER. The gentleman declines to yield.

Mr. ELLIS. No southern democrat has intimated a desire to desert the democratic party. [Cries of "Louder!" "Louder!"]

Mr. TOWNSEND, of New York. We want to hear what the gentleman is saying.

The SPEAKER. The Chair hopes the gentleman will not be interrupted.

Mr. ELLIS. Mr. Speaker, I hope I will be allowed to proceed and to speak in my own way and manner.

The people of the South believe that they are as democratic and as true to the democratic party as the gentleman from Wisconsin and his constituents. We went to war, it is true; but let the truth be told. It was in obedience to what we conceived to be the teachings of democracy that we accepted the call to war. From Jefferson and Calhoun we had learned that the States were sovereign. Believing this, a majority of our people believed that under the Constitution the States had a right to secede. We exercised the right; war was the result. At last, then, the war was one for the construction and application of the Constitution. We were defeated, and our theory, which we sought to vindicate by arms, was swept away. We now recognize as the result of war a great and radical change in the spirit of our Government. Especially is this so with regard to the question of internal improvements. Originally southern democracy held that the States being sovereign and the powers of the General Government limited and specified, the power of the Government to aid in works of internal improvement was narrow and limited.

The doctrine that opposed works of internal improvement by the General Government rested upon the doctrine of State sovereignty; in other words, of the right of secession. We of the South sought to vindicate that theory by arms. Democrats of the North like the gentleman from Wisconsin took up arms to destroy it. They succeeded. And now having destroyed by the bayonet the basis, the foundation upon which rested the old democratic doctrine of non-internal improvement by the General Government, they contend that the superstructure still exists, and constantly and bitterly oppose Government aid to internal improvements which the crying needs and wants of the impoverished South demand. To our demand for aid they respond, "The Constitution does not allow Congress to aid you;" and we who warred and were overthrown in our attempt to vindicate and maintain that view of the Constitution are told by the men whose swords and bayonets defeated us that the construction of the Constitution which we fought for, and which they overthrew, still prevails. What nonsense!

[Here the hammer fell.]

Mr. MARTIN. I now insist upon the demand for the previous question.

Mr. POTTER. I desire to offer an amendment to the bill.

Mr. MILLS. Southern members have been reflected upon, and I appeal to the House to give us a little more time.

The previous question was not seconded.

Mr. MILLS obtained the floor.

Mr. EDEN. Has not the morning hour expired?

The SPEAKER. It has.

Mr. EDEN. Then I call for the regular order.

Mr. MILLS. Can the gentleman take me from the floor?

The SPEAKER. The regular order being called for, the Chair must announce the close of the morning hour.

Mr. MILLS. I ask for five minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent to occupy the floor for five minutes.

Mr. MILLS. If I can have the floor to-morrow, I do not press the request.

The SPEAKER. The gentleman will be entitled to the floor in the next morning hour.

Mr. HOOKER. I rise to make a parliamentary inquiry. As debate is now cut off after allusions have been made to me during my absence, which I wish and intend to reply to, allow me to inquire whether this question will be the first thing in regular order to-morrow?

The SPEAKER. The morning hour, if called for, will be the first business in order immediately after the reading of the Journal.

Mr. HOOKER. And this bill will be the unfinished business, I understand?

Mr. CONGER. Has not this committee now had its two days?

The SPEAKER. It has had its two days to make reports, but this bill, not being yet disposed of, must remain in the morning hour until finally acted on. Under the rules of the House a single bill may thus run in the morning hour for weeks.

Mr. CHALMERS. I rise to a question of privilege. I understand that the remarks made by the gentleman from Wisconsin [Mr. BRAGG] were intended directly for me, and not for the gentleman from Louisiana, [Mr. ELLIS.]

The SPEAKER. The Chair thinks this is not a question of privilege. The gentleman in the due course of the business of the House will no doubt obtain the floor.

Mr. CHALMERS. Very well, sir; I am ready whenever the time comes.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 613) subjecting the Fort Wayne military reservation in the State of Arkansas to entry as other public lands in said State;

An act (S. No. 1374) authorizing the chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases; and

An act (S. No. 1297) for the protection of dairymen, and to prevent deception in sales of butter and cheese in the District of Columbia.

MISSISSIPPI LEVEE BILL.

The SPEAKER. This evening was set apart by consent of the House, amounting practically to a suspension of the rules, for the consideration of what is known as the Mississippi levee bill; but the memorial services of Mr. DOUGLAS, late a Representative from Virginia, are about to take place, according to the notice given by the gentleman from Virginia, [Mr. GOODE;] and as these will be followed by the customary adjournment of the House, the session of to-night will necessarily be dispensed with. The Chair therefore asks that next Tuesday evening be assigned for the consideration of the Mississippi levee bill. If there be no objection, this bill will be in order next Tuesday evening, at half-past seven o'clock, with all the rights that would appertain to its consideration this evening.

There was no objection, and it was ordered accordingly.

DEATH OF HON. B. B. DOUGLAS.

Mr. GOODE. Mr. Speaker, on the 8th of the present month my colleague [Mr. HUNTON] announced that he would to-day submit for the action of the House appropriate resolutions of respect to the memory of our late colleague, Hon. B. B. DOUGLAS. Mr. HUNTON is unavoidably absent to-day, and by his request I offer the resolutions which I send to the desk.

The Clerk read as follows:

Resolved, That this House has heard with deep regret of the death of Hon. BEVERLY B. DOUGLAS, a Representative from the State of Virginia.

Resolved, That the House do now suspend the consideration of all other business in order to pay appropriate respect to the memory of the lamented deceased.

Resolved, That in token of regret the members of this House do wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House do communicate these resolutions to the Senate of the United States.

Resolved, That as a further mark of respect to the memory of the deceased the House do now adjourn.

Mr. GOODE. Mr. Speaker, after the adjournment of the two Houses of Congress on Friday, the 20th of December, and while the members were busily engaged in making preparations to return to their families and their homes to enjoy the Christmas holiday, the friends of Hon. BEVERLY B. DOUGLAS, of Virginia, were startled by the announcement that he was lying at the National Hotel, in this city, in a very critical condition. Hastening to his bedside, his colleagues found him completely prostrated, and it was painfully apparent that his days upon earth were numbered and that he could not long survive. His family and friends were immediately summoned from Virginia by telegraph and arrived in this city on Saturday evening. If the faithful ministrations of a skillful physician, or the constant attention of sympathizing friends, or the tender nursing of a fond and affectionate daughter could have availed to stay the hand of the destroyer, our deceased friend would have still lived; but, alas, at such a time how vain is the help of man! He lingered through the night, and at an early hour on Sunday morning, the 22d of December, while the city was still wrapped in repose, his spirit left its earthly tabernacle and ascended to the God who gave it. His mortal remains were placed in charge of a congressional committee and conveyed to the family burial-place in the county of King William, in Virginia, where, on Monday afternoon, in the presence of his sorrowing and grief-stricken family and friends, they were committed to their final resting-place, and the solemn words, "earth to earth, ashes to ashes, dust to dust," were pronounced over his grave by a venerable clergyman of the Episcopal church.

BEVERLY B. DOUGLAS was, in many respects, a very remarkable man, and it is eminently proper that the Representatives of the people upon this floor should pause for a time in their customary avocations to review the history of his life, to recount his private virtues and public services, and to render a proper tribute of respect to his memory. He was born at Providence Forge, in New Kent County, Virginia, on the 21st of December, 1822. He received a liberal collegiate education at William and Mary College and the famous University of Edinburgh. He was graduated from the law school of Judge Beverly Tucker in 1843, and having been admitted to the bar in 1844 he practiced his profession for a short time in the county of New Kent and also in the city of Norfolk. Having married the daughter of Robin Pollard, a prominent citizen of King William, he located in that county in 1846 with as flattering prospects of success in life as any young man could reasonably desire. He rose rapidly to distinction in his profession, and soon occupied the front rank as an able practitioner and eloquent advocate. He was thoroughly versed in all the intricacies of the law, and enjoyed an enviable reputation as a safe, reliable counselor; but it was in the trial of causes before the jury that his great talents shone most resplendently. His power over the juries in the circuit where he practiced was truly wonderful. He was engaged in many important and exciting trials, and however eminent the counsel associated with or arrayed against him, it was always conceded that his was the speech of the occasion. Such was his acknowledged ability and so extensive was his popularity that when the convention to remodel the constitution of the State was

called in 1850 he was chosen with great unanimity a member of that body from the district composed of the counties of King William, Hanover, Spottsylvania, and Caroline. His colleagues were Francis W. Scott, Corbin Braxton, Eustace Conway, and Edward Morris. After the ratification by the people of the new constitution, in the formation of which he had borne a conspicuous part, he was elected a member of the senate of Virginia in 1852, and served continuously in that body until 1865.

Among his colleagues in the General Assembly during that period were such men as A. H. H. Stuart, Robert A. Coghill, Joseph Christian, Henry W. Thomas, James Nelson, James F. Johnson, Alexander Rives, Robert Saunders, R. T. L. Beale, Frederick W. Coleman, George W. Randolph, John Robertson, Benjamin Rush Floyd, Hugh W. Sheffey, Allen T. Caperton, James L. Kemper, James Barbour, John Seddon, John B. Floyd, Muscoe R. H. Garnett, John C. Marye, and others not less prominent. Amid that galaxy of distinguished names, whose fame is not confined to the Commonwealth of Virginia but is coextensive with the limits of the American Union, it is no exaggeration to say that BEVERLY B. DOUGLAS was regarded as a "bright, particular star." He was not only esteemed as a worthy associate of those great men who have reflected so much luster upon the State which gave them birth, but he was an acknowledged leader, as is evidenced by the fact that from 1853 to 1858 he served as chairman of the committee on finance in the senate, and as chairman of the committee on military affairs from 1861 to 1865—four memorable years in the history of the Commonwealth, during which she was swept throughout all her borders by the besom of destruction and every foot of her soil was trampled by the red, fiery hoof of war.

Although a member of the General Assembly and therefore exempt from military service in the field, Mr. DOUGLAS was not content to serve his State only in her legislative halls during that trying ordeal through which she was called to pass. He loved his native State and all her traditions. He had been reared in the State-rights school which taught him to believe that his paramount allegiance as a citizen was due to her. When, therefore, her soil was invaded by hostile armies and Virginia called upon her sons to come to her defense, BEVERLY B. DOUGLAS responded to her call with a heart as unfaltering and a courage as lofty and unflinching as ever animated the breast of his illustrious progenitor in the Highlands of Scotland, whose crest was the lion's head, and whose family motto was "Do or die." He entered the army as first lieutenant of "Lee's rangers," a company commanded by W. H. F. Lee. He became the captain of his company, and was afterward promoted to be major of the Fifth Virginia Cavalry, in which capacity he served until the close of the war. He was an ardent, enthusiastic, and consistent democrat, and for the last thirty years has rendered valuable and conspicuous service in all the political conflicts which have occurred in Virginia. He was chosen by a State convention of his party a presidential elector on the ticket of Breckinridge and Lane in 1860; a delegate to the democratic national convention which assembled in New York and nominated Seymour and Blair in 1868, and canvasser for the State at large in the celebrated campaign which resulted in the election of Gilbert C. Walker as governor of Virginia in 1869.

No man of his day excelled Mr. DOUGLAS in the discussion of political questions before the people. As a popular debater he was pre-eminently distinguished for his extensive, accurate information, his logical, compact argument, his keen, pungent wit, his scathing, withering invective, and his burning, impassioned oratory. Whenever it was announced that DOUGLAS was to speak the people would come together in great crowds to hear him, and the many brilliant triumphs which he achieved on the hustings will long be remembered with pride and pleasure by his political friends and admirers. In November, 1874, Mr. DOUGLAS was elected from the first congressional district of Virginia a member of the Forty-fourth Congress, and again in November, 1876, he was elected a member of the Forty-fifth Congress. He did not take an active part in the proceedings of the House, and very rarely participated in its debates. Hence it may not be inappropriate to remark that the members of this body who have only known him here can form no proper conception of the forensic powers and intellectual vigor which have rendered his name a household word in Virginia. The most valuable service which he rendered here was as chairman of the select committee of nine in the Forty-fourth Congress to investigate the affairs of the Freedman's Savings-Bank, to ascertain all matters relating to its management, the causes of its failure, and the names of the parties responsible therefor. He undertook this work with a determined purpose and prosecuted it with commendable industry. His report, submitted on the 19th of May, 1876, is a valuable contribution to the history of the times, showing clearly the origin and structure of the Freedman's Bank, how grossly it was mismanaged, how its funds were misapplied by the officers and agents, and how the poor freedman was deceived and betrayed by those to whom he confided the investment of his small, hard-earned savings.

I have thus, Mr. Speaker, given a very imperfect sketch of the life and public services of my departed colleague and friend. No man of his generation in Virginia had a more vigorous intellect, a more courageous temper, or a more generous disposition. That he had his faults and frailties it would be uncandid to deny. These were known to the public generally; but his intimate friends and associates only knew how to appreciate properly those rare magnetic qualities of the heart which drew around him and attached to him so warmly all who came within the circle of his personal acquaintance. I know that I utter a sentiment which will touch a responsive chord in the breasts of those who knew him best when I say that as a citizen no man was more patriotic and public spirited; as a friend no man was ever more unselfish and true; as a husband and father no man was ever more tender and devoted. That mother Commonwealth which he loved so well and upon whose bosom his mortal remains now calmly repose will long mourn him as one of the noblest and brightest of her sons, and among her people the name of BEVERLY B. DOUGLAS will long be held in grateful and affectionate remembrance. It is not for me, Mr. Speaker, to teach the moral lesson to be drawn from this sad and afflictive bereavement. In the presence of such a solemn event I feel that silence would be more eloquent than words.

Since the organization of the Forty-fifth Congress seven members of the House of Representatives have been stricken down by the hand of death. As these notes of warning are ever and anon falling upon our ears it would be well for us all to pause in the midst of these busy and exciting scenes to reflect upon the shortness and uncertainty of human life, and to remember "what shadows we are and what shadows we pursue."

Mr. POLLARD. Mr. Speaker:

I come to bury Cæsar, not to praise him.

Shakspeare in his day recognized the fact that in delivering the funeral orations of men their unrestricted praise was common. From his day to ours this practice has not changed. It is indeed a pleasant task to recount the kind acts and good qualities of our departed friends, but duty to the living and justice to the dead require that a man's eulogist truthfully narrates his prominent characteristics; for no man in this life is all good—none perfect—and the biographer who only writes of his hero's merits is set down a failure and his works unread.

I come to bury Mr. DOUGLAS. "He was my friend, faithful and just to me." A friend was he indeed in all that the word means, although we never met till the Forty-fifth Congress assembled in October, 1877; but then, being on the same committee and hence often together, strong ties of friendship rapidly formed. He was warm-hearted, generous, hospitable, brilliant as a conversationalist, eloquent, ardent in his friendships, and eager to resent any affront offered his friends. He was an earnest advocate for what he believed to be right, and his errors were always toward the weak and erring. On our committee work, where so many cases came from poor broken-down patentees for an extension of their patents, he was always in sympathy with those who had been pecuniarily unfortunate in their inventions, and was always ready to bend the rigid rules of the committee to assist them out of their misfortunes, and on more than one occasion did he eloquently and vehemently urge his fellow-committeemen to but that once give the poor applicant the benefit of another term of his patent.

What nobler quality can a man possess—a mind constantly on the alert to alleviate the miseries of the unfortunate? Such qualities of the heart bring hosts of friends and admirers. Mr. DOUGLAS was loved and admired by all who knew him well.

He was a liberal-minded man, as are all men of education and travel.

It is he who thinks all Christendom is bounded by his horizon, that the whole boundless universe is inclosed within his immediate neighborhood, who is your narrow-minded fellow who *knows* he is right and who cannot be convinced that he, his family, or party ever did or ever could do wrong. He it is who always strictly follows the bidding of his party leaders and never concedes any good by the opposition.

Such was not Mr. DOUGLAS. He was a stanch democrat, but felt always that there were many good men in the republican party and that that party had done much good.

I remember the last conversation I had with him. It was in walking from his hotel to the Capitol but a few days before he died. In that conversation he referred to Virginia and the progress made in those localities where immigration had come since the war, and said the old State needed new blood; in fact that whole conversation showed the breadth of his views and the liberality of his mind. The world needs more men of his ideas and we should cultivate them.

Thinking men have come to the conclusion that a country has more to fear from the ignorance of its own people than the assaults of its outward foes; and to-day, if our Government has special ground to fear, it is because our citizens do not familiarize themselves with the people, their manners and customs, the habits, thoughts, and wishes of portions of our country remote from where they reside.

A man who, like Mr. DOUGLAS was, is a leader in his neighborhood and who shapes its tone and feeling is of more service in this direction than scores of those who follow. Mr. DOUGLAS had one other quality for which he was noted—truthfulness—and whatever faults a man may have if he possess the jewel truth they sink into insignificance. If we can implicitly rely upon every word a man utters we instinctively admire him, and in this regard at least we bid our boys to pattern after him; but let a man be untruthful, and the world shrinks from him; and though he have the brain of a Web-

ever, the logic of a Calhoun, or the eloquence of a Clay, he is nothing; his life is a waste, and strive he never so hard, he cannot rise.

Truth is in each flower,
As well as in the solemnest things of God.
Truth is the voice of nature and of time;
Truth is the startling monitor within us.
Naught is without it; it comes from the stars,
The golden sun, and every breeze that blows.
Truth! It is God, and God is everywhere.

Still, Mr. DOUGLAS had faults, and what man possessing such strong social qualities has not? Yet no man who knew him would for once think of him other than as a brilliant, noble, kind, generous man, thoroughly well-bred and hospitable, with a large, warm heart, always on the alert to do some good to poor, suffering humanity. *Requiescat in pace.*

Mr. HOOKER addressed the House. [His remarks will appear in the Appendix.]

Mr. WALKER. Mr. Speaker, again are we called upon to mourn the death of an honored member of this House. It should admonish us all that "in the midst of life we are in death."

The exemplifications of this solemn truth have been fearfully frequent in this body during the past few weeks. Four of its members have gone down to the tomb, and the tomb never received within its somber walls four nobler or braver spirits. Each possessed all those high and commanding attributes of both head and heart which combine to form that noblest work of God, an honest man.

Him whose memory and merits we to-day commemorate by these public and appropriate proceedings I first met in Virginia in the gubernatorial campaign of 1869. The acquaintance then begun in the midst of the heat and excitement of that memorable struggle soon ripened into a warm and devoted friendship, which continued to the day of his death unabated and unmarred by a single estrangement. In that contest he acted a conspicuous part. Clearly comprehending the perils which environed his native State, he abandoned a lucrative business and the comforts of home, and, entering the political arena, by his sturdy eloquence and unanswerable logic contributed much to the achievements of that grand triumph which restored civil government to his beloved State and placed her once more in harmony with the Federal Union. But his patriotic services to the Commonwealth were not confined to this one great struggle. Years before and in his early manhood, by the force and vigor of his intellect and his unswerving integrity of character and purpose, he rose rapidly in public confidence and esteem, until he came to be regarded as one of the foremost men of the State and among the ablest debaters who ever graced the halls of the Virginia General Assembly.

Brave and chivalrous in spirit, honest and independent in thought and action, as prompt to resent an insult as to forgive an injury, earnest in his convictions and sincere in his friendships, BEVERLY DOUGLAS commanded alike the confidence of his friends and the respect of his foes. Doubtless he had his faults, but who has them not? From the day when Adam was driven forth from the garden of Eden to the present moment the pages of recorded history, either sacred or profane, are illuminated with the name of but One of spotless humanity. And what a fitting rebuke that One—the despised Nazarine—administered to the Pharisees, (a sect not yet extinct,) who would stone a woman because she had sinned, when he said unto them:

He that is without sin among you, let him first cast a stone at her.

There are faults of the head and there are faults of the heart. The former may sometimes be excused, while the latter may always be atoned. My late colleague possessed few faults of the head and none of the heart. His great heart ever beat responsive to all that was manly, generous, true, and sincere.

But, sir, I did not rise to pronounce a panegyric upon my deceased friend, but rather, in the briefest manner possible, to attest my own appreciation of his noble qualities and rare worth. A careful survey of these would suggest many useful lessons, but none more pointed and expressive, perhaps, than that—

He lives most who feels most, acts the noblest, lives the best.

Mr. SPRINGER. My acquaintance with BEVERLY B. DOUGLAS began with the first session of the Forty-fourth Congress. Of his life previous to that time I know but little, and will leave to his colleagues from Virginia, who have known him from his youth up, the task of speaking appropriately of his earlier years.

An examination of the RECORD of the Forty-fourth Congress, the first of which Mr. DOUGLAS was a member, will reveal the fact that he began his congressional career with a zeal and industry and sustained himself in debate with an ability that gave assurance of a brilliant future. His constituents were not slow to recognize in him a faithful and able representative.

He was the chairman of a special committee for the investigation of the affairs of the Freedman's Bank, and conducted the matter with untiring industry and remarkable success.

He was an earnest advocate of retrenchment of public expenditures and of reform in the civil service of the country. On one occasion, in March, 1876, he moved an amendment to the legislative, executive, and judicial appropriation bill, reducing the salaries of members. In the course of the debate he said:

In that section of the country which I in part represent, standing in the presence of a diminishing revenue and the paralyzed industries all over the country, with a constant decline in the expense of living, the people did demand, in a voice that must be heard here and elsewhere, that there should be a retrenchment in the expenditures of this Government. My equanimity will not be at all disturbed by any taunts about my sincerity. I will let that question be tested by my acts. I will respond to the demand of my constituents and of the people of this country for retrenchment in this Government, in every branch of it, the legislative as well as the others.

Those who knew Mr. DOUGLAS never for a moment doubted his sincerity. He was not a demagogue; he tried to deceive no one; he was always truthful and sincere. In advocating the reduction of his own salary he evinced his unselfish devotion to the interests of his constituents. He never thought of self, of his own interests or ambition, but moved forward fearlessly in the advocacy of what he believed to be the right. He had a delicate sense of honor; he did not impugn the motives of others, and he resented with indignation the slightest reflection upon himself or his friends. He was broad and liberal in his views, and adhered with unmoved purpose to his principles. He was generous to a fault, kind to friends, loving to his wife during her life-time, and devoted to his children to the hour of his death.

Mr. Speaker, I will not speak of his frailties. *De mortuis nil nisi bonum;* yet he wronged no man but himself. Who of us will be able to claim as much in the last day?

In the death of BEVERLY B. DOUGLAS Virginia has lost a faithful Representative, those who knew him a firm friend, and his children a kind and loving father. Living, he "loved his fellow-men," and dead, his memory is cherished by them. May he rest in peace—

Let the lifeless body rest!
He is gone who was its guest.
Gone as travelers haste to leave
An inn, nor tarry until eve.

Traveler! In what realms afar,
In what planet, in what star,
In what vast aerial space,
Shines the light upon thy face?

In what gardens of delight
Rest thy weary feet to-night?"

Mr. DUNNELL. Mr. Speaker, we are in session at this hour that we may appropriately honor the memory of a fellow-member of this House. At your request, sir, on the 22d day of last month, with other members, I accompanied the remains of Hon. BEVERLY B. DOUGLAS from this city to their final resting-place, in his native State. Mr. DOUGLAS was born in New Kent County, Virginia, December 21, 1822. King William County, where we saw him buried, was his home, and in it he passed the greater part of his life. Thither he went shortly after he had completed his academic, collegiate and professional training, and a few months subsequent to his admission to the bar in 1844, when he was twenty-two years of age.

He was carefully prepared for his chosen profession. The courses of study to which he was subjected for discipline in the institutions of learning, in Virginia and in the University of Edinburgh, in Scotland, had not failed in their offices. They had thoroughly fitted him for an honorable and useful life. The marked enthusiasm and ability, of which he furnished early and abundant evidence, very soon gave him a foremost place among the best lawyers in King William and the adjoining counties. Many honorable incidents and triumphs in his early and later career as a lawyer, in the scene of their occurrence, are there remembered and fondly cherished. They had their birth in a mind well cultured, in great personal integrity and honor, and in a heart full to overflowing of true kindness. They could not fail, as they did not, to make for him many and steadfast friends. They furnished a reason for the unmistakable regard and esteem in which he was held by his neighbors and friends. They overtopped faults and found expression in tears as his remains reached these friends and his home.

At the age of twenty-eight, Mr. DOUGLAS was a member of the constitutional convention of Virginia. At that early period in his life, he was classed among the number concerning whom the Commonwealth entertained large expectations. Immediately succeeding this public service in the constitutional convention, he commenced one of twelve years' duration in the Senate of the State. He here held an honorable rank among his colleagues. He was a ready and forcible debater.

I refer more especially to the life of Mr. DOUGLAS between the years of 1844 and 1861, because in this time he founded and built up a reputation so honorable to himself and to which his many friends now unite in pointing with just pride. It was during this period that he won for himself, by faithful labor in professional and public life, the strong attachments which remained to him, even to the grave. He had the personal characteristics which made him popular with the people. He was eminently generous. He will long live in the memory of many a humble person in King William County for some act of kindness which will have no record, save in the faithful memory of those upon whom he bestowed his beneficent acts.

As the funeral procession was moving from the church to the grave, a colored man, of middle age, approached me and said: "Will not the

coffin be opened? Mr. DOUGLAS was my friend; I want to see him once more." For what reason this poor citizen thus felt and spoke I cannot tell. He knew the reasons. Beyond doubt he had received some aid, some encouragement, some generous treatment from his lost friend.

Human history, Mr. Speaker, is always at fault because never complete. So the published life of an individual will be at fault, for it will leave out many an act of private beneficence, many a noble deed, many a great effort for the good of others. These acts may have no record save in the books kept by God himself.

Though the life of our friend may teach the truth that—

> 'Tis wondrous difficult, when once beset,
> To struggle through the straits, and break th
> Involving net;

yet it has been my pleasure to find in that life the fruits and achievements of a liberal mental culture, and especially the deeds wrought from the impulses of true kindness, for I remember that

> Kind hearts are more than coronets.

Mr. PRIDEMORE. Mr. Speaker, solemn and imposing ceremonies cannot stay the hand of death, nor alleviate the distresses of the living. Yet the common consent of mankind justifies the erection of monuments to the memory and the recording of the deeds of the illustrious dead. Deeply impressed with the sad rite accorded our distinguished and lately departed brothers, I was moved to see as the mournful panorama passed before me men whom the world calls great—grave and reverend Senators, foemen in the ambitious contests for political supremacy—moving down these aisles, arm in arm, like children. There, too, was the President of the United States, and distinguished judges who sit to pass in the last resort upon the most sacred rights of man; all bowed to the triumphs of the conquering hand of death, before whose victories their wisdom was turned into folly, their ambition into humiliation, and their fame into forgetfulness. A moment and they pass on, each to resume his journey in life—a journey that in its turn must end in death. Amid the solemnity of these scenes my eyes fell upon the vacant seat of my distinguished colleague, the late Hon. BEVERLY B. DOUGLAS. Memory recalled the men and the times when, more than a quarter of a century ago, he came first upon the theater of public life. At no period had Virginia presented to the world a greater array of her gifted sons or distinguished men. Major DOUGLAS at an early age contended with these his countrymen for the prize of political and forensic supremacy, and won for himself a name second to no man of the times.

Devoted to the history and traditions of his native land, he worshiped at the shrine of her past glory and rising greatness. While yet in the prime of life and advancing fortune war sounded her dread trump, and called to arms. Differing with many of his countrymen, but sharing the views of his own people he joined them in the conflict, and asserted amid the sulphuric flames of battle what he and they believed to be the constitutional rights and sacred honor of Virginia. He bore without spot or blemish the colors committed to his hands, and won from strife and death distinguished honors as a soldier. He had seen and served the old State in the pomp and power of her prosperity. He now followed her fortunes in the dangers and perils of adversity; beheld her devastated fields, desolated homes, and fatherless children; ay, more, he saw the triumphs of war blot her from the galaxy of States, and himself and comrades disrobed of the sacred rights of citizenship; saw strangers giving laws and claiming dominion over the land of the Berkleys, Henrys, and Randolphs. To this common fate he bowed in silence and awaited—it may be impatiently—the hour of her redemption. The shackles at last cleft from his hands, his comrades and countrymen again crowned him with honors and clothed him with the powers of a Representative upon this floor.

But of his services here others can more fittingly speak. With a mind more than ordinarily gifted by nature, strengthened by a classical education, humorous and genial, he lent a charm to social life that made him the idol of the society in which he moved. Through his long and varied services as a citizen, soldier, and public man no blot or stain ever approached the sacred precincts of his fair name. May the sod rest lightly upon his bosom and Virginia ever hold his distinguished services in grateful remembrance; for of all the great and good now resting in her soil there sleeps not one who loved her more than DOUGLAS.

Mr. CLARK, of Iowa. Mr. Speaker, I rise with some hesitation to speak of our deceased fellow-member, Hon. B. B. DOUGLAS, as I have not had that personal acquaintance which would admit of my speaking of him from a stand-point of acquaintanceship. Although I saw and knew Mr. DOUGLAS frequently upon the floor of this House, I was never brought in contact with him. I knew not of his sickness until I heard of his death.

Death has inexorably added many to his list from this House. Nothing has been so gratifying to the friends of each as the sincere regret for the loss and sympathy for the mourning relatives—as the impressive ceremonies observed by the House.

The entire absence of personal knowledge of Mr. DOUGLAS on my part will compel me to be very brief. Others will have spoken of his life and personal qualities at greater length. I can only speak of him as a member of this House, except as I have learned of him from others who have known and admired him in earlier years and to the time of his death; and I honor that great heart in human nature which, while it forgets the faults of the dead, remembers the virtues and all good qualities.

I am able to speak of our deceased member with more particularity because of the fact that I was one of the committee appointed by the Speaker of this House to escort the remains to their "last house." I did not feel at liberty to neglect that duty, notwithstanding many other duties.

The immediate friends of Mr. DOUGLAS spoke of him in the highest terms. At his old home his funeral received every evidence of the confidence, not to say devotion, of the community to his name. The love for him and admiration for his memory were manifest everywhere in his district. He was brilliant as a senator of the State and as a lawyer at the bar—called the Nestor of the bar—and his ability was recognized and acknowledged until death claimed him.

In the chilling excursion across the country to the home of Mr. DOUGLAS the committee appointed by the Speaker received every evidence of esteem and honor. No pains were spared to have us understand that we had come as the committee attending the remains of Mr. DOUGLAS and therefore as friends of his people. No higher evidence of the devotion to the deceased or reverence for his services and memory could have been shown than were during the visit of the committee.

At the time expected by the friends we met them at the village of Mr. DOUGLAS's residence and attended his remains to the church. The entire community seemed to be present to attest their respect for his memory. Impressively Mr. DOUGLAS was buried, near his deceased wife, and near his old home, and there "may his ashes rest in peace."

I am told, Mr. Speaker, that Mr. DOUGLAS was brilliant and able, and regarded by his constituents as one of the most promising and really able men of Virginia.

Mr. Speaker, if Mr. DOUGLAS had faults or frailties (and who is free of all our human kind) we cast the mantle of Christian charity over them, after the example of the Great Master. The immediate friends of the deceased member testify also to his goodness of heart and openness of hand. I commend his excellencies and "leave his short-comings to his Saviour."

Not much can be said to remove or alleviate the article of death. There are those who feel this affliction more than we, those who feel that "the silver cord is loosed, and the golden bowl broken." And now when the night and shadow of death have settled upon our brother, and the veil has been dropped between him and us, and when the "mortal has put on immortality," we commend to the guardian care of the all-wise Father the orphan little ones of the household. And, too, nothing which may be said by human tongue can lift the burden which the death of a father rests upon the hearts at the hearthstone. We can only recognize these visitations with that awe which knows no power of resistance.

Mr. TUCKER. Mr. Speaker, the advent of a new member to this Hall is sometimes under circumstances which place him in a relation to public business not congenial to his tastes nor suited to the exhibition of his peculiar powers. It is thus not possible for his associates to appreciate his merits or to estimate the grade of his capacity. Especially is this the case with one from the South, the relations of which to this Government for many years have made southern men much less familiar with the general policy of the administration of public affairs than are gentlemen from the North.

The members of this House from one cause or another have had no adequate opportunity to understand why the people of his district selected my late friend and colleague, Hon. BEVERLY B. DOUGLAS, as eminently worthy to represent them in this House. It is therefore the duty, not only customary but imperative, of his friends to present in its proper light the character of Mr. DOUGLAS and to delineate in truthful lines the noble qualities of his heart and the splendid endowments of his intellect as he was known to us; because he never found the appropriate occasion for manifesting them in the discussions upon this floor.

I knew him in boyhood, for we were schoolmates at the Richmond Academy, an institution well fitted to prepare a student for his collegiate career. Its teachers in the classics and in mathematics were eminent in talents and character and possessed of large acquirements.

I remember him at that early period as distinguished for his talents as a debater—talents which shone so splendidly in his after life. He was educated liberally at William and Mary College and at Harvard. He studied medicine at the University of Edinburgh, Scotland, and afterward the law in the school of William and Mary. He gave rich promise as a collegiate of future eminence.

He was a planter as well as a lawyer, and thus his professional life was developed according to a type so peculiar in Virginia and other parts of the South—that of the country lawyer.

This is a character which is now fast passing away, whom I would fain rescue from oblivion. Such a lawyer lived upon his farm, which he cultivated, and attended the courts, without any strict devotion to business in his office. His library was not measured by the number but the weight of his books. He read and mastered Bracton, Coke, Hale, and Blackstone. His reports were few—my Lord Coke's, Salkeld, Saunders, Atkyns's, Equity Cases, and the like. He read history much, and studied the human heart profoundly. Amid the moun-

tains, hills, valleys, forests, and fields about his country home, he meditated much upon natural law. The principles of right and justice implanted in the instincts of our nature and deducible from observation and experience, he evolved from his own native intuitions and reason. He wrought out by original thought what law ought to be, without learning much from the decisions of the judges, and thus in ninety-nine cases in a hundred he found what was the law in any special controversy. He was less technical than the city lawyer, skilled by ample practice and full libraries in the infinitely varied phases of social contacts and contracts. He was less scientific, but more philosophic; his views were less astute probably, but more broad and fundamental; and his generalizations less accurate, because deduced from a less number of particulars.

The law he learned was that whose "seat is the bosom of God and whose voice is the harmony of the world:" *Nec enim alia lex Romæ, alia Athenis, alia nunc, alia posthac, sed et omnes gentes, et omni tempore, una lex et sempiterna et immutabile continebit.*

It was by this self-discipline, by this evolution of law as a system of real right, of absolute justice, in the political, social, and domestic relations of men, from the profound study of human nature and of the records of human history, that Patrick Henry was enabled, the country lawyer of Hanover, to write upon the fly-leaf of his Coke upon Littleton those resolutions of 1764, proposed in the Virginia house of burgesses, which challenged George III to remember Cæsar's fate and the bloody scaffold of Charles Stuart; to strike the key-note of religious emancipation when he pleaded for the people against the parsons, and to forge the thunderbolt of revolution in the proclamation of his sublime dilemma of "Liberty or Death," to the colonies struggling in the military grasp of British despotism.

I do not doubt that John Marshall, the most illustrious of the Chief-Justices of the United States, under the classic shades of his country-seat at Oak Hill, framed the inexorable logic of his argument in the case of Jonathan Robbins, and constructed those canons of interpretation in that series of marvelous judgments, which laid the foundation of his fame as the greatest expounder of our Federal Constitution.

Time fails me to tell of the judges who were trained in this school of natural law for the science of jurisprudence. Pendleton and Wythe, Jefferson and Madison, John Taylor and Roane, and a host of others, are a galaxy of great men who were thoughtful jurists, though not case lawyers, taught by a profound knowledge of human nature and a large and varied experience in human affairs, to rear the temple of a sound jurisprudence, upon the deep foundations of natural justice and upon the law of God.

In my own life I have known scores of such men whose broad and comprehensive views of right and wrong, and whose acute and powerful minds thus trained, made them the equals and frequently the superiors of other lawyers, learned in cases and trained by the reading of law books and reports without end.

Mr. DOUGLAS was such a lawyer. Far less well read in reports than many of his cotemporaries, but with an acute and powerful mind, analytic in its processes and clear and intuitive in the detection of a fallacy; logical and cogent in reasoning, full of satire, sarcasm, and humor; overwhelming in invective, with literary taste and culture to add grace and ornament to his argument, he was the peer of any of his associates at the bar, and the superior of most of them in his genius as an advocate before the courts and the most intelligent juries of his country.

But there was another arena upon which he attained an excellence even higher than at the bar.

The hustings of Virginia from an early period has been the scene as well as the school for the highest powers of debate.

The county courts of Virginia, meeting every month, have been the occasions for the assembling of the people. On court-day the representatives of opposing political parties met upon the hustings to discuss public affairs. The people heard both sides, quietly and fairly.

The debaters divided time—opened, answered, replied, and rejoined. In the olden time the country people listened in dignified silence. The clap-trap of the demagogue was but little heeded. With sound sense and true eloquence, principles were expounded and facts were arrayed which carried the day. All the resources of reason, oratory, wit, humor, invective, and satire were called into play; misrepresentation was corrected by the adversary, detraction was subjected to censure, and fallacy in reasoning to exposure.

This institution of our society was a discipline to the gladiators and a school of instruction to the people. It begat fairness, candor, and sound reasoning in the debaters, and furnished the people with the materials of a just decision upon the great questions of the day. I may be excused for saying that one of the most memorable debates which authentic tradition has given us occurred upon the hustings at March court, 1799, of Charlotte County. The greatest orator of America made his last, and his successor to the confidence of his people made his first speech; and thus as the sun of Henry sank below the horizon in its evening splendor, that of his youthful friend rose into the firmament in its morning glory.

On the hustings Mr. DOUGLAS had no superior, and few if any equals. He met foemen worthy of his steel, and I have in my possession a letter from one of the present judges of the court of appeals of Virginia, so long a distinguished party rival and yet warm personal friend of Mr. DOUGLAS, in which he says with generous praise:

> I knew him and felt him in the full flush of his intellectual powers and transcendent genius. I have met him at the bar, in the senate and on the hustings, and I can truly say, after no small experience, that he was the equal, if not the superior in these different arenas of any man I ever heard speak.

Mr. DOUGLAS was for many years a member of the senate of Virginia. As a debater in that body he was, if not the first, in the very first line. A distinguished statesman of Virginia, and a political opponent then, has often said that he regarded him as able a man as his great namesake of Illinois, (with whom the narrator had served in Congress,) and a better speaker.

If I may venture to criticise Mr. DOUGLAS's intellect I would say that his powers were rather analytic than synthetic, more able to detect and expose error in an adversary than to build up a theory of his own, more destructive than constructive in its powers. He labored for the truth, which he loved, but he worked with more vigor to destroy falsehood, which he detested in the depths of his soul.

Having thus spoken of the mental power of my friend, it remains to speak of his character. That he had infirmities and faults I do not deny. Let him who has no beam in his own, seek to pluck the mote out of his brother's eye! Let charity and the grave hide them from our view; while his virtues bloom in fragrant memory about his tomb.

He was brave and generous—"A Douglas tender and true." "The Douglas in his hall" was hospitable, kind, and liberal to rich and poor. His nature was benevolent and charitable. Quick to resent a wrong, he was placable and easy to forgive if none was intended; and, when assured he had wronged another, his magnanimity in redressing it was prompt, noble, and conspicuous. Ardent and constant in his affections, he was tenderly devoted as a husband and father; a loyal, liberal, and unselfish friend that did not follow wealth and fame, nor leave the wretch to weep.

As a private citizen and neighbor he was just, kind, and public-spirited. His integrity and honor were beyond question. As a public man he was incorruptible, honest, sincere in his opinions, and broad and catholic in his views.

Can we wonder that his people loved such a man, and trusted him as their Representative, and clung to him with fond admiration of his genius and of the noble qualities of his nature? And will not the Representatives of this great Union join with us of Virginia in mourning the loss of so much of genius, ability, public honor, and private virtue to his family and friends, to his State and to our common country?

Death has of late been busy in laying his icy hand upon our comrades in this Hall. Among them all, I scruple not to say that the grave has closed upon no one whose genius and noble characteristics merit more richly our sympathy and our honorable sorrow than my life-long friend and colleague, BEVERLY DOUGLAS. While we pay our tribute to his mental endowments and moral worth, let us reach out with the warmest sympathy of our hearts to his bereaved and orphan children, whose only solace will be found in human love and in the tender mercies of the God of the fatherless.

The question being taken on the resolutions submitted by Mr. GOODE, they were adopted unanimously: and then, in accordance with the last resolution, (at four o'clock and five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLAIR: The petition of Angie L. Eastman and 65 other ladies, of Oxford, New Hampshire, for the enforcement of the law against polygamy—to the Committee on the Judiciary.

By Mr. BREWER: The petition of W. H. Moore and 25 others, citizens of Pettysville, Michigan, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of C. Dunning and 29 others, citizens of Livingston County, Michigan, of similar import—to the same committee.

By Mr. BURCHARD: The petition of Anna Wilson and other women, of Garden Plain, Illinois, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. J. T. Foster and other women, of Illinois, of similar import—to the same committee.

Also, the petition of Mrs. H. M. Kuhn and other women, of Albany, Illinois, of similar import—to the same committee.

By Mr. CALDWELL, of Kentucky: The petition of J. H. Ewing and others, citizens of Kentucky, for legislation forbidding the adulteration of sweets—to the Committee of Ways and Means.

Also, the petition of Dr. N. P. Allen and others, citizens of Kentucky, of similar import—to the same committee.

By Mr. CANDLER: The petition of Campbell Wallace, Alfred Anstell, R. C. Robson, and others, citizens of Atlanta, Georgia, for the enactment of a law conferring authority upon the United States Court of Claims or some other impartial tribunal to hear and determine the rights of claimants to their respective interest in the fund created by the sale of property taken during the late war by United

State authorities from citizens of the South, under the denomination of captured or abandoned property—to the Committee on War Claims.

By Mr. CARLISLE: The petition of W. W. Hanes, for an extension of patent No. 36295, for improved percussion projectiles—to the Committee on Patents.

By Mr. DEERING: The petition of citizens of Worth County, Iowa, for the amendment of the patent laws—to the same committee.

By Mr. DWIGHT: The petition of Mrs. Marie K. A. Beuchley, for the removal of her political disabilities—to the Committee on the Judiciary.

By Mr. FENN: Papers relating to the public buildings in the Territory of Idaho—to the Committee on Public Buildings and Grounds.

By Mr. FORT: The petition of Mary E. Marsh and others, for the enforcement of the law against polygamy—to the Committee on the Judiciary.

By Mr. HARMER: The petition of Elizabeth McFarland, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. HUBBELL: The petition of Mrs. James Ross, Mrs. E. R. Stiles, and 120 other ladies, of Hancock and Houghton, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. JOYCE: The petition of Loren H. Baker, for restoration to the pension-roll—to the Committee on Invalid Pensions.

By Mr. KEIGHTLEY: The petition of Cornelia U. Parrey and 189 others, of Three Oaks, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KELLEY: The petition of William H. Richardson, for a pension—to the Committee on Invalid Pensions.

By Mr. LINDSEY: The petition of Elizabeth F. Chaffee and other women, of Winslow, Maine, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McKINLEY: The petition of M. V. B. King and 20 others, citizens of Canfield, Ohio, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. McMAHON: The petition of William L. Johnson, for a pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, Rev. B. F. W. Crozier, and 30 others, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. STRAIT: The petition of Mary J. Ward and others, of Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. WARNER: The petition of Julia M. Benedict and 14 others, of similar import—to the same committee.

IN SENATE.

THURSDAY, *January* 23, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives—to the Committee on Appropriations.

The bill (H. R. No. 6137) authorizing the Secretary of the Treasury to issue bonds to Albert V. Conway, substituted trustee for certain registered United States bonds redeemed or assigned by the Government upon forged assignments—to the Committee on Finance.

The bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878—to the Committee on Printing.

The bill (H. R. No. 6130) for the relief of Elizabeth B. Higgins, Joel Higgins, and Brand Higgins, of Phillips County, Arkansas—to the Committee on Claims.

POWELL'S REPORT ON ARID REGION OF UNITED STATES.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of the House of Representatives; which was read and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 5,000 copies of the report on the lands of the arid region of the United States, by J. W. Powell; 1,000 for the use of the Senate, 2,000 for the use of the House of Representatives, and 2,000 for the use of the Department of the Interior.

INDIAN APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. WINDOM, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS as the conferees on the part of the Senate.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and a report of Major Godfrey Weitzel, Corps of Engineers, relative to the transfer by the State of Michigan to the United States of the Saint Mary's Falls Canal; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a report from Major W. P. Craighill, Corps of Engineers, on the survey of New River, Virginia; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, reports from Captain W. H. H. Benyard, Corps of Engineers, on examinations of the Big Sunflower, Coldwater, and Tallahatchie Rivers, Mississippi, the Upper Red River, Louisiana and Texas, and of the Little River and Fourche la Féve River, Arkansas; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with section 229 of the Revised Statutes, statements showing the contracts made by the bureaus of the War Department on behalf of the United States during the year 1878; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MATTHEWS presented the petition of Mrs. Mary H. Thistle, widow of the late Captain Hezekiah L. Thistle, a soldier in the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of Mrs. Harriet Ross, widow of Thomas R. Ross, praying for a pension on account of services rendered by her late husband during the war of 1812; which was referred to the Committee on Pensions.

Mr. MITCHELL. I present a joint memorial passed by the Legislative Assembly of the State of Oregon, at the tenth regular session, 1878, in which they represent that the Umatilla Indian reservation is one of the most valuable and fertile portions of the State of Oregon; that it contains about five hundred thousand acres, and is now occupied by only about four hundred Indians; that if it were thrown open to settlement by the whites, it could sustain a population a hundredfold greater than it now does; that the Indians residing on it have lately been acting in a hostile manner toward the whites, and that they are deteriorating by contact with the large white population by which they are now surrounded. Twenty years nearly have expired, during which, by the terms of the treaty made with them, they are to draw annuities from the Government, and the memorialists affirm that the best interests of humanity and civilization demand that the Indians should now be removed to some more secluded portion of the country; wherefore they most respectfully pray that measures may be taken to extinguish the title to the lands which the Indians now occupy, and to remove them to a suitable place in some Indian Territory. I move the reference of the memorial to the Committee on Indian Affairs.

The motion was agreed to.

Mr. MITCHELL presented the petition of the mayor and common council of the city of Seattle, Washington Territory, praying for an appropriation for the construction of a steamer for the revenue marine service for service in the Alaska waters, and for the passage of a law providing a civil government for the Territory of Alaska; which was referred to the Committee on Commerce.

He also presented the petition of Robert C. Corbaley and others, citizens of Oregon, praying for an appropriation for the improvement of the entrance to Coos Bay and harbor; which was referred to the Committee on Commerce.

Mr. MAXEY presented the petition of Peter Eldridge, a soldier and pensioner of the war of 1812, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. WITHERS presented the petition of Mrs. Jane Dulany, widow of the late Colonel William Dulany, of the United States Marine Corps, praying for an increase of pension; which was referred to the Committee on Pensions.

WATER SUPPLY OF WASHINGTON.

Mr. DORSEY. I present a communication from Colonel Casey, of the Engineer Corps, in relation to the Washington Aqueduct, which I shall be glad to have read and printed.

The VICE-PRESIDENT. It will be read at length.

The Secretary read as follows:

OFFICE OF WASHINGTON AQUEDUCT,
Washington, D. C., January 22, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant informing me that the Senate Committee on the District of Columbia have instructed you to call my attention to the following resolution, adopted by the Senate on the 17th instant, and to request me to submit to them my views on the subject contained therein:

"*Resolved*, That the Commissioners of the District of Columbia be, and they hereby are, directed to report to the Senate what action by Congress, if any, is necessary to secure to the residents of Capitol Hill and other elevated portions of the city of Washington a proper supply of water, what appropriation of money, if any, is required, and to transmit to the Senate such facts relating thereto as they may deem important."

In compliance with the request of the committee I submit the following statement:

The Potomac water that is supplied to the cities of Georgetown and Washington is brought by the conduit of the Washington Aqueduct from the Potomac River, above the Great Falls, to the distributing reservoir.

This conduit is circular in section, nine feet in diameter, and has an uniform grade of nine and one-half inches to the mile. Its length from Great Falls to the distributing reservoir is twelve miles, and it can discharge into the reservoir about eighty million gallons in twenty-four hours.

The distributing reservoir, situated two miles west of Washington, is a basin of forty-four acres, and its flow line is one hundred and forty-five feet above tide-water at the Navy-Yard, an elevation sufficient to supply by gravity any point in Washington.

From the distributing reservoir the Potomac is brought to Georgetown and Washington by three iron mains of twelve, thirty, and thirty-six inches in diameter respectively.

The twelve and thirty inch mains were furnished and laid by the United States. The thirty-six inch main was furnished and laid by the District of Columbia.

The mains distribute about twenty-five million gallons every twenty-four hours. The population of Georgetown and Washington is about one hundred and forty-six thousand, and if the supply of water were equally distributed, the daily consumption per head would be one hundred and seventy-one gallons; which is more in proportion to the population than that of any other city in the United States. But the supply is not equally distributed, and with the present system of mains and pipes, it cannot be.

When the Potomac water was first introduced the supply was abundant, and but little attention was given to distributing it equally. In Georgetown four-inch pipes and in Washington six-inch pipes were connected here and there with the nearest mains, without reference to a well-planned system, and it has resulted in a net-work of pipe-connections delivering the water without uniform pressure.

Comparatively uniform distribution of water would have been insured if each city had been divided into districts, each district mapped in reference to altitude and provided with a main proportionate to its area.

The simplest and easiest method of increasing the pressure in the pipes upon the high grounds is to lay another main from the distributing reservoir to Capitol Hill.

This main should be connected with the present system of pipes only on Capitol Hill and other portions of Washington of equal or higher altitude. It should be three feet in diameter, and located on a route to be determined from a careful survey. It would convey to Capitol Hill, at an elevation of one hundred and twenty-five feet above tide, ten million United States gallons in twenty-four hours.

The taking of water from this main to supply the northwest portion of Washington, which is higher than Capitol Hill, would not materially diminish the pressure and, consequently, the supply on Capitol Hill.

The following is an approximate estimate of the cost of furnishing and laying a cast-iron main, three feet in diameter, from the distributing reservoir to Stanton Place, on Capitol Hill, a distance of about twenty-eight thousand feet:

12,040,000 pounds of cast-iron, at 1¾ cents	$210,700
Hauling and distributing, laying and jointing, including excavation and back-filling, lead and gaskets, stop-valves, masonry, &c	132,680
Engineering and superintendence	15,000
Advertising, rent of wharf, and miscellaneous	4,300
	362,680
Add 10 per cent. for contingencies	36,268
And the total will be	398,948

The furnishing of this additional quantity of water to Washington in the manner herein recommended would render the completion of the Potomac dam at Great Falls a necessity.

The dam is now built only across the Maryland channel of the Potomac River, and for several years past the consumption of water in Washington and Georgetown has amounted to more than the minimum flow of the Maryland channel.

During the season of drought, when the river is at its lowest stage, the supply of water to Washington cannot be materially increased until the Potomac dam is built entirely across the river to the Virginia shore.

I inclose with this a map of the Washington Aqueduct, extending from Great Falls to the Washington navy-yard.

Respectfully submitted,

THOS. LINCOLN CASEY,
Lieutenant-Colonel of Engineers,
in charge of the Washington Aqueduct.

To Hon. S. W. DORSEY,
Chairman Senate Committee on District of Columbia.

The communication was referred to the Committee on the District of Columbia, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1054) to authorize the United States to secure a title to certain military and timber reservations, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Education and Labor, to whom was referred the bill (H. R. No. 4228) to promote the education of the blind, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5180) to abolish the volunteer Navy of the United States, reported it with an amendment.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the expediency of enacting that the selection of the chiefs of the Bureaus of Steam Engineering, Provisions and Clothing, and Medicine and Surgery, be made from officers whose relative rank is not below that of captain, submitted a report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the subject.

He also, from the same committee, to whom was referred the bill (S. No. 578) for the relief of Edwin M. Hart, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 884) for the relief of William H. Varney, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Surgeon George F. Winslow, United States Navy, praying that the date of his commission may be changed from the 2d of April, 1875, to May 27, 1871, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. SARGENT. The subject of the bill (S. No. 1622) appropriating money for payment of bounty to officers and men of Flag-Officer Farragut's fleet, which was referred to the Committee on Naval Affairs, is pending by previous reference before the Committee on Appropriations. I report the bill back, therefore, and ask that it be referred to the Committee on Appropriations.

The VICE-PRESIDENT. The Committee on Naval Affairs will be discharged from its further consideration and the bill will be referred to the Committee on Appropriations.

Mr. MORRILL, from the special Committee on the Tenth Census, to whom the subject was referred, reported a bill (S. No. 1685) to provide for taking the tenth and subsequent censuses; which was read twice by its title.

Mr. MORRILL. I desire to give notice that I shall endeavor to call the bill up on Tuesday next after the morning hour, with a view to its passage on that day.

Mr. DAWES, from the Committee on Finance, to whom was referred the bill (S. No. 1263) to provide for the adjustment and settlement of certain internal-revenue taxes erroneously assessed and collected from the Cumberland Valley Railroad Company, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1292), for the relief of Elias D. Brunner, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1497) to authorize the President to appoint George Glass a master in the Navy, not in the line of promotion, reported adversely thereon, and recommended its indefinite postponement.

Mr. WITHERS. I ask that the bill be placed on the Calendar. The precedent has already been established in such cases. One or two persons have been appointed under precisely similar circumstances, and it would be a hard measure to make a discrimination against this man. I hope to bring the bill before the Senate for its favorable action for these reasons.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CAMERON, of Pennsylvania, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1624) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island, reported it without amendment.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations, and ordered to be printed.

BINDING FOR THE DEPARTMENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878, have had the same under consideration, and instructed me to report it favorably, and I ask for its present consideration.

Mr. EDMUNDS. Let us hear the bill read for information. I reserve the right to object.

The bill was read.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. ANTHONY. Mr. President, the act to which this is an amendment provided that all binding at the Government Printing Office should be in plain sheep or cloth, except record and account books; but it excepted from the provisions of that law the Congressional Library. The object of this bill is also to except the library of the Surgeon-General's department.

Mr. EDMUNDS. Why?

Mr. ANTHONY. Because there are a number of series in the library; there are about six hundred series there; and they have been bound in a peculiar way, that is, in half binding, with morocco backs and tips in red, which is the best color for resisting insects and gas. It is desirable to have the series continued in the same way. These books are for permanent use and preservation, and not for distribution.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. BURNSIDE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1686) for the relief of Sarah E. Rose; which was read twice by its title, and referred to the Committee on Claims.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1687) authorizing the appointment of E. F. Wenckebach to a second lieutenancy in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1688) for the relief of the Menomonee Indians in the State of Wisconsin; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1689) granting the right of way and depot grounds to the Sioux City and Pembina Railroad Company through the public lands of the United States, from Beloit, in the State of Iowa, to the Missouri River, in the Territory of Dakota, at or near the mouth of White River; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1690) to provide for the distribution of land patents to certain States where the local land offices have been closed; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1691) giving the consent of Congress to an agreement or compact entered into between the States of Virginia and Maryland respecting the boundary between said States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1692) authorizing the President to nominate Herman Biggs to a second lieutenancy in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1693) to grant to the American Ocean Cable and Telegraph Land Wire Association, of Philadelphia, the right of way and privilege to lay, land, and operate submarine telegraph cables on the Atlantic and Pacific coasts of the United States and establish telegraphic communication between the United States, Europe, and Asia; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1694) to guarantee to the people of the several Territories the right to elect certain territorial officers; which was read twice by its title, and referred to the Committee on Territories.

AMENDMENTS TO POST-ROUTE BILL.

Mr. COCKRELL and Mr. ALLISON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

AMENDMENT TO RIVER AND HARBOR BILL.

Mr. PADDOCK submitted amendments intended to be proposed by him to the bill making appropriations for the construction, repair, preservation, and completion of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

SENATOR FROM SOUTH CAROLINA.

On motion of Mr. WADLEIGH, it was

Ordered, That 100 copies of the minority report of the subcommittee on Privileges and Elections in the case of Messrs. BUTLER and Corbin be printed for the use of the committee.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. WINDOM. I submit a report from the conference committee on the consular and diplomatic appropriation bill.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 39 and 44.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 45, 46, 47, 48, and 50, and agree to the same.

That the Senate recede from its amendment numbered 12, with an amendment striking out lines 8 and 9, page 2 of the bill; and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment striking out lines 24 and 25, page 12 of the bill; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment adding, after the word "Hong-Kong," "Ottawa;" and the Senate agree to the same.

WILLIAM WINDOM,
W. B. ALLISON,
R. E. WITHERS,
Managers on the part of the Senate.
O. R. SINGLETON,
EUGENE HALE,
Managers on the part of the House.

Mr. WINDOM. I ask that the report lie upon the table for one moment until I ascertain whether the original bill is here. It is possible that the report should be presented first in the House of Representatives.

Mr. EDMUNDS. If I correctly understand the Senator from Minnesota, the Senate asked a conference on this bill. That being so, the report with the bill should go to the House of Representatives for their action, and we have no regular possession of the bill at this time in that case.

Mr. WINDOM. I have ascertained the fact that the report should be made in the other House first, and I ask leave to withdraw the report.

The VICE-PRESIDENT. The report will be withdrawn for the present.

Mr. WINDOM. It can be presented again after we hear from the House of Representatives.

ROSA VERTNER JEFFREYS.

The VICE-PRESIDENT. The Senate will resume the consideration of the calendar of general orders at the point where its consideration was left off yesterday, under the resolution of the Senator from Rhode Island, [Mr. ANTHONY.] The bill under consideration yesterday was the bill (S. No. 819) for the relief of Rosa Vertner Jeffreys.

The Senate, as in Committee of the Whole, resumed the consideration of the bill. It directs the Secretary of the Treasury to pay to Rosa Vertner Jeffreys $844, the balance in full compensation for the use and occupation by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865, of certain property in Lexington, Kentucky, devised to her, and formerly owned by Daniel Vertner, now deceased.

Mr. EDMUNDS. The report was read yesterday, I believe.

Mr. BECK. The report was partly read yesterday.

Mr. EDMUNDS. I do not ask to have it read. I read it myself afterward. What I should like to ask, in order to be perfectly sure about this business, is whether the evidence was absolutely complete before the committee that this lady has the legal title to this money? The property it appears was the property of some other person while the United States used and occupied it.

Mr. BECK. Only for the first month or two. The property belonged to Daniel Vertner who was a very old man and died in 1861, leaving by his will the property for life to his wife, a very old lady also, with the reversion to Mrs. Jeffreys, their adopted child. On the 1st of January, 1863, Mrs. Vertner made a conveyance of all her life estate to Mrs. Jeffreys, and from that time on she was the absolute owner of the property. These papers were all before the committee. The Senator from Oregon [Mr. MITCHELL] had them before him a year or two ago I remember. The reversion was in Mrs. Jeffreys from the time of Mrs. Vertner's death, and the life estate was transferred to her on the 1st of January, 1863, and she held it until May, 1865.

Mr. EDMUNDS. What period of time was covered by the occupation of the United States before this lady's title accrued?

Mr. BECK. From October, 1862, until the spring of 1865 the property was occupied by the Government, so that for the first two months of the occupation the life estate was in old Mrs. Vertner, but all rights, rents, and everything reverting to Mrs. Jeffreys after the death of old Mr. Vertner were transferred by his widow to Mrs. Jeffreys on the 1st of January, 1863.

Mr. EDMUNDS. Was the widow the executrix of the will?

Mr. BECK. I think she was. I have not the will before me.

Mr. EDMUNDS. Of course the Senator, being a good lawyer, is perfectly aware of the fact that this claim for the use and occupation of land would not descend to the heir, but would be personal assets and would have to be disposed of by the executor. If the committee are satisfied that we are perfectly secure on that point, I have nothing else to say.

Mr. BECK. I am perfectly satisfied.

Mr. MITCHELL. I will state that I examined this matter very carefully when it was before me at a former Congress. I reported a bill on the same subject over a year ago, having examined the points carefully. I do not report the bill now and cannot state the facts, but at that time I gave it special attention and am satisfied the claim is correct.

Mr. BECK. I desire to amend the bill by striking out "844" and inserting "5,000" before the word "dollars." I think that is the amount which ought to be paid; and if the Senate will allow me a moment I will state the reason why. The property of Mrs. Jeffreys was worth $20,000 at the time of the occupation. It was one of the largest and handsomest residences in Lexington, and furnished completely. The personal property was shown by the valuation of our most intelligent and respectable persons to be worth at least $9,000. The real estate alone, the personal property being all gone, either taken or destroyed by use during its occupation by the Federal officer, was sold immediately after the war for $9,000. The use and occupation of the premises by the Army for the three years that they had it, furnished as it was, not holding them responsible for damages, could not have been less than $2,500 a year. That would be a reasonable rent for the house and furniture, used as it was, for the ordinary wear and tear of the premises, real and personal. In the Forty-third Congress this matter was carefully considered, and the Senator from Oregon [Mr. MITCHELL] made a very careful report upon the

case. Mr. Scott, of Pennsylvania, who was then a very prominent republican member of the Committee on Claims, made the following statement to the Senate in regard to the bill for the relief of Mrs. Jeffreys then pending:

MR. SCOTT. I can state very briefly about this claim. The house occupied was one of the finest in the city of Lexington, and it was filled with a library, plate, very fine furniture, and many other appliances of luxury used by the family to which it belonged. If it were possible to allow for the whole extent of valuation that was destroyed in that property $20,000 would not pay the owner, and I regret very much that it was not in the power of the Committee on Claims to allow the full amount, and I regret just as much that the War Department has not seen proper in many instances to take the shoulder-straps from some officers who permitted such spoliations as the evidence showed were permitted in that house and on that property, where very valuable carpets, libraries, &c., in a house occupied as the headquarters of a high commanding officer, were permitted to be despoiled and carried away. The amount allowed, after very great contest in the committee, is not more than one-fourth of the damages suffered, and all such items were excluded. This amount is for rent and actual damages, and it was the result of a very protracted consideration in the committee. I think the claim is entirely just and ought to be paid.

That was on a report for the payment to this claimant of $5,000. The bill passed the Senate without any serious opposition. It also passed the House; but it passed the House within ten minutes of the time of the final adjournment. If it reached the President before the House adjourned he had not time to look at it, and therefore it did not become a law. The report on the bill now before us was made by the Senator from Minnesota [Mr. MCMILLAN] and agrees in all the facts stated by the Senator from Oregon in the former report. The Senator from Minnesota in his report says the testimony establishes the fact "that when the property was abandoned, about April, 1865, the house was greatly injured, wholly unfit for a residence, and its furniture, library, and other property almost entirely destroyed or gone, and that all this damage was done while in the possession of and under the control of the United States authorities." But at the end of his report he says that, as the commanding officer agreed to allow $1,000 a year for rent, therefore the committee would not go beyond that amount. I hardly think the Senate, when it is very evident that the use and occupation alone was worth at least $6,600, and only $1,600 were paid, will fail to do what a former Congress did, and what I understand a minority of the committee think ought to be done now, and what the Senator from Oregon in a very able report set forth, and Mr. Scott and Mr. Pratt, and all the other members of the Committee on Claims of the Senate, as well as the House, awarded. Therefore I hope the amendment I suggest will be adopted.

I do not seek to make myself a personal witness, but the house is within a few hundred yards of where I live, and it is known to my colleagues as well as myself to be what Mr. Scott says it is—one of the finest residences there. The premises were used not in connection with active war, not during the occupation of the city of Lexington, which I think after 1863 never was invaded by any hostile forces, as I remember, except that some raiding party was in there occasionally for a short time. Occupied as the town was, the United States was compelled to provide a furnished house for the accommodation as headquarters for the officers of the staff stationed there, and pay at least as much as $6,600 therefor, and Mrs. Jeffreys will not get, if she is allowed $5,000, more than one-fourth of what was lost by her by the occupation and use of her property as proved.

Mr. EDMUNDS. I see that the chairman of the committee who made this report is absent; and if it is to be proposed to upset the report, then I object to the consideration of the bill. I do not think it right to go on in his absence and upset the report.

The VICE-PRESIDENT. The bill goes over.

Mr. BECK. I did not observe that the Senator from Minnesota was absent, but I hope the Senator from Vermont will not insist that it shall lose its place after he comes in. He asked me to go on with it yesterday, but not in his absence. I did not observe his absence. I hope it will only go over temporarily, subject to be called up again when the Senator from Minnesota comes in.

Mr. EDMUNDS. That we shall have to determine afterward, Mr. President.

The VICE-PRESIDENT. The call of the Calendar will proceed.

ASBURY DICKINS.

Mr. MITCHELL. I desire to submit a motion by unanimous consent of the Senate in relation to a claim that is not on the Calendar but ought to be on it. On November 15, 1877, the honorable Senator from Massachusetts [Mr. HOAR] submitted a report of the majority of the Committee on Claims in the case of the heirs and legatees of Asbury Dickins. There was a minority report from the committee, but for some reason the bill was not presented with the minority report. For that reason the case was not put upon the Calendar. I now ask to have it placed on the Calendar *nunc pro tunc*.

Mr. EDMUNDS. It may be placed at the foot of the Calendar; but otherwise I insist on the regular order.

Mr. MITCHELL. I hardly think that would be fair. The report was presented on the 15th of November, 1877.

The VICE-PRESIDENT. Accompanied by a bill?

Mr. MITCHELL. The bill did accompany the minority report, or was not noticed perhaps by the Clerk. The bill is printed with the minority report in full. It seems to me it ought to go on the Calendar.

Mr. HOAR. I do not understand that that requires a direction of the Senate. It is simply a matter of order of the Calendar. As I understand, it belongs on the Calendar.

Mr. EDMUNDS. That depends. If the bill was not reported from the committee it does not belong to the Calendar.

The VICE-PRESIDENT. The Chair is informed by the Secretary that the bill was appended to the minority report at the end of it.

Mr. MITCHELL. At the end of the minority report.

The VICE-PRESIDENT. It was not reported as a separate measure.

Mr. EDMUNDS. A minority report is no report at all.

Mr. HOAR. I should like to inquire of the Senator from Vermont, who is of course very much more experienced than I am in these matters, whether if an adverse report is made in the Senate and objection is made to its consideration at the time it is made it does not go on the Calendar under this rule?

Mr. EDMUNDS. That depends on whether a bill is reported. No mere report goes on the Calendar; bills go on the Calendar. If a committee has a bill before it that has been referred to it, and reports adversely on that bill, the bill goes on the Calendar as a matter of course unless everybody consents to have it indefinitely postponed.

Mr. HOAR. But this was a bill, as I understand.

Mr. MITCHELL. There was a bill before the committee.

Mr. HOAR. And the report was adverse on the bill.

Mr. EDMUNDS. Let that be reserved until we see what bill it was, and whether it was ever introduced by anybody, or whether it was the recommendation of a minority of the committee.

The VICE-PRESIDENT. The Chair has before him the minority report, and at the end of that minority report is this bill.

Mr. MITCHELL. That is the fact; but there was a bill before the committee; the judgment of a majority of the committee was against the bill, and so it was reported adversely, but the understanding of the committee was that the bill should go on the Calendar for consideration.

Mr. HOAR. Let me see the majority report.

The VICE-PRESIDENT. The bill would have no right on the Calendar without an order of the Senate.

Mr. HOAR. I see the report is on a petition, not on a bill.

Mr. EDMUNDS. Let it stand undisposed of for the present.

Mr. MITCHELL. Very well.

Mr. ANTHONY. There was a bill before the committee; my recollection is that I introduced it myself and that it was referred to the committee. If it was reported back from the committee adversely, it should have gone to the Calendar except by unanimous consent.

Mr. EDMUNDS. The report itself states that it is on a petition. At this Congress I am informed there never has been any bill introduced into this body by anybody for the relief of these parties. It was a petition and the report so states:

The Committee on Claims to whom was referred the petition of the legatees of Asbury Dickins, deceased.

Then the minority, as a part of their report, say that "a bill of the following character ought to be passed."

Mr. ANTHONY. I may be mistaken. I know I introduced the bill at a previous session of Congress at any rate.

Mr. EDMUNDS. That was it as I am told.

The VICE-PRESIDENT. It has no right on the Calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6126) to establish post-routes in the several States herein named; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H.R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

DEATH OF REPRESENTATIVE BEVERLY B. DOUGLAS.

The message further announced that the House had passed resolutions in regard to the death of BEVERLY B. DOUGLAS, late a member of the House from the State of Virginia.

Mr. JOHNSTON. A message has come from the House in regard to the death of Mr. DOUGLAS. I ask that the resolutions of the House lie on the table, subject to be called up by me hereafter.

The VICE-PRESIDENT. That course will be pursued. The call of the Calendar will be resumed.

NEW RIVER CANAL.

The next bill on the Calendar was the bill (S. No. 820) to authorize the Secretary of War to purchase from the New River Canal Company, for military purposes, the free use of an inland canal and water-route between Pamlico Sound, North Carolina, and Charleston, South Carolina, paying for the same by installments, as the work is completed between certain navigable bodies of water.

Mr. MERRIMON. I ask that that be passed over.

The VICE-PRESIDENT. The bill goes over.

TERRITORY OF LINCOLN.

The next bill on the Calendar was the bill (S. No. 144) for establishing the Territory of Lincoln, and to provide a temporary government therefor.

Mr. EDMUNDS. I think that may as well go over.

Mr. SAUNDERS. I hope that bill will not go over.

The VICE-PRESIDENT. The bill is objected to, and goes over under the terms of the order.

Mr. SAUNDERS. How does it go over?

The VICE-PRESIDENT. On the objection of the Senator from Vermont.

Mr. SAUNDERS. I had not heard the objection. I was in hopes the Senate would allow a vote to be taken on the bill, at least.

Mr. EDMUNDS. It requires discussion.

Mr. SAUNDERS. It has been thoroughly discussed. It was brought up on the last night of the session, and on account of the lateness of the hour it was asked by some that it be postponed until the first Monday in December. This is the first opportunity we have had to get it up at this session. We have not asked to take it up out of its order; it comes up now in regular order, and I hope the Senate will allow a few minutes to be devoted to it.

Mr. EDMUNDS. Nothing would give me greater pleasure than to oblige my honorable friend from Nebraska; but the object of this rule allowing objection and five minutes' debate is to take up those cases that may pass by unanimous consent, matters of private right and claim that everybody agrees to. Now the propriety of establishing a Territory, which means a future State, is a matter of grave public importance that ought to be considered in time. I unhappily was ill on the 19th of June when the matter was up and did not hear the discussion. That was my only reason for objecting now.

Mr. SAUNDERS. That is the very reason I have for asking either for action now or the fixing of a time. If the Senate would fix a time for considering it, I certainly should not insist on action this morning.

Mr. EDMUNDS. The Senator can move any day to take it up.

Mr. SAUNDERS. There is, I think, a great necessity for this bill or some other bill of this kind. There are more than twenty thousand people in the Black Hills country that have to go by the way they travel over eight hundred miles to get to their capital. They could go in about three hundred miles if they could pass through the Indian reservations; but they would have to pass by the Red Cloud and Spotted Tail reservations. The people will not do that, and consequently they travel about eight hundred miles to get to the capital of the Territory. It is settling up rapidly. The people ask for a separate territorial organization. We have agreed generally on lines for the Territory, and a very fair boundary, I think—about two hundred miles one way and three hundred and sixty the other, containing about one hundred and eight thousand square miles.

If there were any real objections to this bill being taken up now, I would not insist on it; but I think a few minutes spent on it would not be time lost to the Senate looking to the interest of our people and the whole country.

The VICE-PRESIDENT. The Secretary will report the next bill.

Mr. SAUNDERS. Inasmuch as objection is made to taking up the Lincoln bill this morning, if I can get the consent of the Senate to take it up on Tuesday or Wednesday of next week after the morning hour, and give a short time to it, I will let it go now.

Mr. PADDOCK. I would suggest to my colleague to name Wednesday. There is already a special order for Tuesday.

Mr. EDMUNDS. We ought not to make any more special orders; but if the Senator gives notice that he will move to take up that bill then, he will get the floor for that purpose and will get ahead quite as fast as he can by having a special order.

Mr. SAUNDERS. Inasmuch as there are other bills pressing I do not wish to be captious about this matter at all, and therefore I am disposed to be liberal and let other bills come up; but I give notice now that on Wednesday next after the morning hour I will move to take this bill from the table.

The VICE-PRESIDENT. The Chair will recognize the Senator at that time for that purpose. The Secretary will resume the call of the Calendar.

BILL INTRODUCED.

Mr. ANTHONY. I ask permission to introduce a bill for the relief of the heirs of Asbury Dickins; and I ask that it be put on the Calendar.

The VICE-PRESIDENT. Is there objection to allowing the Dickins bill to be placed on the Calendar without a reference?

Mr. EDMUNDS. Let it have its first reading.

The bill (S. No. 1695) for the benefit of the legal representatives of Asbury Dickins was read the first time by its title.

The VICE-PRESIDENT. Shall the bill be read the second time?

Mr. EDMUNDS. Only once now. We will look into it.

CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. WINDOM. As the Calendar has been suspended for a moment, I ask leave to make a report from the committee of conference on the consular and diplomatic appropriation bill, which has already been read, but a little prematurely.

The VICE-PRESIDENT. The report was read at length on a former occasion. The question is on the report.

Mr. WINDOM. I will state very briefly the result of the conference. The bill, as it passed the House, appropriated $1,045,735; the amount added by the Senate was $82,100; making a total, as it passed the Senate, of $1,127,835.

The amendments of the Senate were all agreed to in conference, with amendments striking out from the bill the following items, namely:

For charges d'affaires *ad interim* and diplomatic officers abroad	$20,000
For diplomatic and consular service, to be expended in the discretion of the President	20,000
Total	40,000

Making total of bill, as agreed to, $1,087,835—an increase over act of 1879 of $10,200.

The increase is made up of the following additional items, namely:

For salaries of second secretaries of legation at Great Britain, France, and Germany, at $2,000 each	$6,000
For clerk to legation at Spain	1,200
For revising and editing Consular Regulations	3,000
Total	10,200
Deduct from this amount $10,000, in sundry civil act for 1879, for expenses of foreign intercourse and all missions abroad, &c	10,000
And this bill exceeds act for 1877	200

Mr. President, the bill as agreed to by the conference is precisely the appropriation for the current year, except the little additions I have named.

The report was concurred in.

JOHN C. BIRDSELL.

The bill (S. No. 501) for the relief of John C. Birdsell was announced as next in order on the Calendar.

Mr. JOHNSTON. I object to that bill.

The VICE-PRESIDENT. Objection is made.

Mr. WHYTE. I hope the Senator from Virginia will withdraw his objection.

The VICE-PRESIDENT. The bill is objected to and goes over.

NATIONAL CAPITAL INSURANCE COMPANY.

The next bill on the Calendar was the bill (S. No. 502) repealing the charter of the National Capital Insurance Company.

Mr. DORSEY. The Senator who has had charge of that bill, and who is familiar with all the facts relating to it, the Senator from Kansas, [Mr. INGALLS,] is not in his seat. I suggest that it go over.

The VICE-PRESIDENT. The bill will be passed over.

WARREN MITCHELL.

The next bill on the Calendar was the bill (S. No. 855) for the relief of Warren Mitchell, which was considered as in Committee of the Whole. It provides for the payment to Warren Mitchell, out of any moneys in the Treasury derived from the proceeds of captured and abandoned property, of $128,692.22, being the proceeds of cotton taken from Mitchell at Savannah, Georgia, which proceeds have been paid into the Treasury.

Mr. EDMUNDS. Let us hear the report read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. MCMILLAN on the 6th of March, 1878:

The Committee on Claims, to whom was referred the memorial of Warren Mitchell, of Louisville, Kentucky, praying to be refunded the amount of proceeds of certain cotton seized and held by the Government of the United States and paid into the Treasury, have considered the same, and submit the following report:

The memorialist, Warren Mitchell, is a resident of Louisville, Kentucky. At and prior to the commencement of the rebellion he was engaged in business in said city and was a partner in two firms doing business there, namely, Armstrong & Co. and Mitchell & Armstrong; the first-named firm consisting of Charles Q. Armstrong, Warren Mitchell, and Isaac Russell, the last-named firm being composed of Charles Q. Armstrong and Warren Mitchell. The firm of Mitchell & Armstrong dissolved on the 1st of November, 1861. The firm of Armstrong & Co. continued until Armstrong's death, in 1862. At the commencement of the rebellion there was due to these two firms from southern debtors $116,421 or about that sum. Armstrong, whose sentiments were with the South in the rebellion, went South into the confederate lines early in 1861, and died, as it is believed, at Atlanta, Georgia, in 1862.

In July, 1861, Mitchell procured from General Anderson, the commander of the department of Kentucky, a military pass permitting him to go through the United States military lines into the insurrectionary district. The purpose of his going South, as represented to General Anderson, was to collect debts due to the firms above mentioned, of which he was a member. Under the pass thus obtained he went into the insurrectionary States in July, 1861, and remained within the military lines of the confederacy until the latter part of the year 1864, when, after the capture of Savannah, he returned to his family at Louisville.

While within the confederate lines he collected debts in confederate money, and was engaged principally in trading in the currency of the country and investing his means in cotton for himself and his Louisville firms. (*Vide* affidavit of Charles Estes.) In October, November, and December, 1864, Mitchell purchased and had in store in Savannah 738 bales of cotton, with marks and weights given, all of which was seized by General Sherman upon the surrender of Savannah to him, and was afterward sold; the net proceeds of which, after deducting the expenses, amounted to $128,690.22, and were paid into the Treasury of the United States.

On the 3d of July, 1865, Mitchell received from the President of the United States a full pardon and amnesty for all offenses by him committed, arising from participation, direct or implied, in the rebellion. The pardon was granted upon certain conditions which were complied with by Mitchell.

Mitchell brought an action in the Court of Claims to recover the proceeds of this cotton. The court was equally divided in opinion as to his right to recover, and dismissed the case. Thereupon Mitchell removed the case by appeal to the Supreme Court of the United States.

The Supreme Court, affirming the judgment of the Court of Claims, held that Mitchell was domiciled in a loyal State when he bought the cotton in question; that the laws of war applied to all intercourse between the inhabitants of the loyal and disloyal States, and that, according to the law of nations, all contracts of the inhabitants of the loyal States with the inhabitants of the insurgent States were illegal and void; the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States was illegal and void and consequently he acquired no title to it.

At the first session of the Forty-fourth Congress, Mitchell presented his claim

to Congress, and the Committee on Claims having considered the same, reported it back recommending the disallowance of the claim.

The claim was again presented at the second session of the same Congress, and a report was made recommending the payment of $128,622.62 to the claimant.

It appears from the journal of the committee that but five members of the committee were present when this action was taken, of whom one opposed the report and two others concurred in the direction to report, but without committing themselves upon the merits of the case. The report was recommitted by the Senate to the Committee on Claims March 2, 1877.

In urging the recommittal of the claim the Senator from Wisconsin, [Mr. CAMERON,] a member of the Committee on Claims, said:

"It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee, and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently the bill was recommitted to the committee. It was again considered by the Committee on Claims, and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Conner Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky, and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the confederate government, at Nashville, prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the confederate government. He had a contract with the confederate government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the confederate government, and retain the rest of the hog for his pay."

The report having been recommitted, no further action was taken at that session of Congress.

At the present session of Congress, Mitchell again presented his claim, accompanied by additional affidavits of himself, Thomas M. Morgan, John B. Lewis, and a letter from V. McKnight, in support of his claim. Mr. Mitchell, in his additional affidavit, referring to the above statement made in the Senate, says:

"The commissary of the confederate government had made a contract with one R. F. Wilson of the character above stated; the said Wilson had made a subcontract with E. M. Bruce & Co., and in my absence and without my knowledge or consent, Mr. Armstrong, my Louisville partner, who was at Nashville, entered into a contract with said E. M. Bruce & Co., in relation to the business aforesaid. At this time I was in Memphis, Tennessee, engaged in making collections of indebtedness, for which purpose I had gone south under a permit from General Anderson, given me for that purpose, with a full knowledge of the object of my going, as in the papers already before you more fully set forth.

"It was not until a considerable time after the contract last named had been entered into that I returned to Nashville, and I had no knowledge of it whatever until my return. Upon being informed that it had been entered into I objected to it, and protested against it, and at first refused to have anything to do with it; but Mr. Armstrong insisted that we would be compelled to carry it out, and in pursuance of it I did for about six weeks assist in its execution by purchasing hogs and superintending a slaughter-house at Clarksville, Tennessee. I give this statement as to my relation to said contract with this particularity to the end that the committee and Congress shall know the precise facts, whatever may be the consequences. My connection with that transaction never was concealed or attempted to be. It was mentioned, as will be seen, in the testimony in the Court of Claims. The assertion that I followed the confederate army south from Nashville when it went is an entire mistake, nor did I accompany it. I was not at Nashville when it left, nor was I at any time at Nashville while that army was there. I never was with it at any time during my stay in the South, except passing through it in going from place to place, and only went to such places as my business of collecting called me. I went from Nashville to Huntsville, and thence to Atlanta by rail, where I found my old partner, Armstrong, who died in April, 1862.

"In making collections I received cotton for debts; also purchased cotton as a mode of ultimately getting good money, and as the cotton thus acquired could not be taken through the Federal lines, I sold, bought, and sold again from time to time. I sold some in the interior, and repurchased in Savannah, and some I shipped to Savannah. These transactions continued until I had accumulated at Savannah the cotton that was seized and for which this claim is presented."

Mr. Thomas S. Morgan in his affidavit states:

"In the fall of 1861 I was cashier and book-keeper for E. M. Bruce, at Nashville, Tennessee. I know that Warren Mitchell did not have a contract with the so-called confederate government to pack meat—beef and pork. Mr. R. F. Wilson had the contract to pack meat for the said confederate government, and I know he (Wilson) made a subcontract with E. M. Bruce & Co. to pack some meat at Nashville and Clarksville. Mr. C. Q. Armstrong, Mitchell's copartner, while he was absent in the Southern States on a collecting tour, took an interest in the subcontract with E. M. Bruce & Co., in the firm-name of Mitchell & Armstrong, of three-twelfths, and I do not think Mitchell had been consulted or knew anything about said contract until he returned to Nashville, some time after the subcontract had been made with Armstrong for or in the name of Mitchell & Armstrong. I also know that Mr. C. Q. Armstrong died in April, 1862, at Atlanta, Georgia. I know that Mitchell was at no time, directly or indirectly, connected with the army of the confederate government nor with said government, but that Mitchell was occupied in attending to the collection of his own and his firm's claims, and in looking after and attempting to secure the cotton he had taken and had on hand."

Of the cotton seized by General Sherman's army at Savannah, Mr. Mitchell, in October, 1864, shipped to D. H. Baldwin, at Savannah, four hundred and eighty-seven bales from Griffin, Georgia, to be sold on his account and others; in this cotton Mr. A. L. Tyler, superintendent of the Macon and Western Railroad, was interested in the profits to pay him for his aiding in the transportation to Savannah. (Baldwin's affidavit, page 8 of proofs.)

From the proofs submitted it appears that Mr. Mitchell passed through the confederate lines soon after the breaking out of the war, and remained within the insurrectionary States until the war practically closed, passing from State to State collecting debts in money or cotton, buying and selling cotton, and shipping it from place to place, as his convenience required, on his own account and on joint account with others, adherents of the insurrectionary government. It appears that during this time Mitchell not only collected the entire amount of the indebtedness due to both firms of which he was a member, but secured cotton the net proceeds of which at New York amounted to $128,692.62, or $12,000 more than the entire indebtedness to both firms. To have accomplished such a result as this under such circumstances casts much doubt upon the loyalty of the claimant.

The transaction at Nashville, however, puts the matter beyond doubt. Mr. Armstrong, the partner of Mitchell, was, without doubt, a secessionist and sympathizer with the confederacy. Mitchell not only recognized but by his personal labors assisted in the execution of the subcontract to supply the confederate government with pork. He knew what the contract was, and is too intelligent not to have known his rights and duties in the premises. That the execution of this contract was an act of disloyalty there can be no doubt.

Robert Floyd, in his affidavit submitted in this case, speaking of the claimant, Mitchell, says:

"I regarded him as a true Union man and supporter of the Government until the leading public men of Kentucky published an address to the people announcing a neutral position. After that I think Mr. Mitchell held that doctrine, but was quiet and unobtrusive. I so regarded him when he left for the South."

Hon. Bland Ballard, in a letter submitted among the papers, dated May 30, 1876, addressed to Hon. John W. Stevenson, then a Senator from Kentucky, says:

"I do not know what were Mr. Mitchell's views of the rebellion. If he sympathized with it, and I have heard and believe he did, I regret it."

The decision of the Supreme Court that the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States, was illegal and void, and that he acquired no title to such cotton, settles the question that Mitchell has no legal claims whatever against the Government. The testimony submitted shows that claimant was not loyal to the Government, but being permitted to pass into the confederate lines by the order of a general of the United States Army, that he rendered aid and sympathy to the confederate government. There are no equitable circumstances in the case upon which the claim should be allowed.

The committee therefore recommend that the claim be disallowed and that this report be adopted by the Senate.

Mr. EDMUNDS. Now let the views of the minority be read.

The Secretary read as follows:

VIEWS OF THE MINORITY.

At the beginning of the war, in 1861, the memorialist was, and for years had been a merchant and resident citizen of the city of Louisville and State of Kentucky, having large transactions with, and large debts due to the firms of which he was a member, from the people of the Southern States.

The said firms with which he was connected were largely indebted to the Bank of Kentucky and other banks in Louisville.

In this condition of affairs he consulted Virgil McKnight, president of the Bank of Kentucky, and other creditors, who advised him to go South and endeavor to collect or secure the debts due said firms, as the only means of enabling said firms to pay their creditors.

For this purpose the said McKnight went with petitioner to General Anderson, then in command at Louisville, introduced him to that officer, and procured for him a pass to go South, explaining to General Anderson fully at the time the object and purpose for which the petitioner proposed to go South.

Under this pass the petitioner went into the States in insurrection in the latter part of the month of July, 1861, and remained there until the latter part of the year of 1864. During this period he collected a large amount of debts due said firms, and purchased seven hundred and thirty-four bales of cotton, which were delivered to him, and then stored in the city of Savannah. The cotton was purchased in the months of November and December, 1864. When Savannah was captured by the United States Army under General Sherman, this, with a large amount of other cotton, was seized by the military authorities, turned over to the agents of the Treasury, and then sold. The net proceeds of the petitioner's cotton, after deducting all expenses of sale, shipment, &c., as appears from the books of the Treasury, amounts to the sum of $128,692.22.

That petitioner devoted his time while in the South to collecting and securing, and in efforts to collect and secure, the debts due to his said firms, with the exception of about six weeks, which were devoted to superintending a slaughter-house at Clarksville, in the State of Tennessee, under the following circumstances:

One R. T. Wilson had made a contract with the commissary-general of the Confederate States to slaughter and pack meat. Said Wilson made a subcontract with E. M. Bruce & Co., and in the absence and without the knowledge of petitioner, one Armstrong, who was one of petitioner's Louisville partners, entered into a contract with said E. M. Bruce & Co., in the name of the firm, to take an interest of three-twelfths in said subcontract.

When this contract was made by Armstrong with Bruce & Co. petitioner was at Memphis, engaged in the collection of the debts he had gone South to collect, and had no knowledge of this contract until some considerable time after, when, in the course of his business, he went to Nashville, where he met Armstrong and was by him informed of it. Petitioner "objected to and protested against it and refused to have anything to do with it," but Armstrong had made the contract in the name of the firm, and assured petitioner that they were bound and would be compelled to carry it out. Upon that assurance he did, for the six weeks aforesaid, assist in its execution.

He then proceeded to the States of Alabama and Georgia upon his original mission of collecting and securing the debts due his firms, and in the latter part of the year 1864, as before stated, he invested his collections in cotton, as the surest if not the only means of making said collections available to his creditors who resided beyond the limits of the Confederate States.

After his said cotton was seized by the officers of the Government, under the advice of Hon. James Speed, then the Attorney-General of the United States, and an old and valued friend of petitioner, he applied for, and on the 3d July, 1865, received from the President of the United States, a full pardon for all offenses committed by him by reason of any participation on his part in the insurrection.

He then instituted suit in the Court of Claims to recover the proceeds of the sales of his cotton from the Government, but that tribunal being equally divided in opinion upon the question as to whether his contract of purchase vested the title to the cotton in him because of his residence in a loyal State, and the technical enemy relation existing between him and his vendors, who were citizens of the Confederate States, his case was dismissed and he appealed to the Supreme Court.

That court found that he had purchased the cotton, that it was captured by the officers of the Government, and that the proceeds of its sale were in the Treasury, but decided that he acquired no title by his purchase, because his domicil was in Louisville, in a loyal State, while that of his vendors was in the insurrectionary States, and that a contract made under such circumstances was void. (See 21 Wallace, p. 350.)

In arriving at this conclusion, the court held that the permit given to the claimant by General Anderson conferred no rights upon him; but your committee are constrained to think, without questioning the law as laid down by the court, that no advantage ought to be retained by the Government which resulted from the void and illegal act of its own officer. Admitting to the fullest extent the unauthorized and illegal character of the pass given to the claimant by General Anderson, after a full disclosure of the object of the former's mission, is it not plain that Mr. Mitchell would not have gone to the South at all if the pass had not been given to him? The circumstances under which the application was made and the permit granted show most conclusively that the officer and claimant were both ignorant, the one of his power, the other of his duty. General Anderson represented the Government in a high military station. The claimant was a loyal citizen, anxious to save the bulk of his fortune, about to be lost, as he thought, by the civil war then commenced. The law of nations, which was applied by the court very rigorously in this case, is founded on wise and just principles. It prohibits all commercial intercourse between the citizens or subjects of countries at war with each other, because it would tend to strengthen and increase the power of the public enemy, which it is ever the object of war to destroy.

But the object of the petitioner in this case was to collect and draw from the public enemy rather than to furnish the sinews of war, or in any manner strengthen him, and to save from destruction what had been honestly earned and accumulated before hostilities began.

Why is it that the most enlightened writers on the laws of war have landed the humane usage which permits the citizens or subjects of one nation to withdraw their property from another on the eve of hostile relations? And has it not always been an object of importance, on the conclusion of peace, to save to the subjects of the belligerent power their rights of property which were suspended during the heat of battle? We know, too, that when the private property of a citizen or subject is recaptured from an enemy by the forces or cruisers of that nation to which

such subject belongs, that it is restored to him. The principles which uphold this practice spring from the reciprocal duties of allegiance and protection which constitute the most important relations in the state.

It is clear, and not disputed, that petitioner purchased and took possession of the cotton. It is equally clear that by the officers of the Government it was seized, taken from his possession, sold, and the net proceeds of the sale, amounting to $128,692.22, paid into the Treasury.

The ground, and the only ground, upon which he lost his case in the Court of Claims and the Supreme Court is, that his purchase and payment failed to vest the legal title in him, because the laws of nations prohibit all commercial transactions and intercourse between belligerents. He, a citizen of a loyal State, having purchased from citizens of a disloyal State, the contracting parties, each taking character from the State of which he was a citizen, were, in legal contemplation, enemies, and, therefore, could not legally contract. For this reason his purchases failed to vest in him such legal title as he could enforce in a court.

This contract failing to vest title in the petitioner, because it was void, certainly did not vest it in the Government, because, to make the property confiscable, it must have been purchased "*with intent to use or employ the same, or to suffer the same to be used or employed, in aiding, abetting, or promoting such insurrection.*" (See section 5308, Revised Statutes.)

So far from any such *intent* appearing in this case, it clearly appears that he purchased the cotton for the purpose and with *intent* to send it to a loyal State to pay debts due to his loyal creditors.

Neither the purchaser nor the Government having acquired title to the cotton, the title remains with the vendors, who may, under the rulings of the Supreme Court, recover the proceeds now in the Treasury, but for the statute of limitations.

If the petitioner had been a citizen of a disloyal instead of a loyal State, his contract of purchase would have been legal, valid, vested title in him, and he would have recovered in his suit, without regard to the loyalty of either the vendor or vendee, because, in that case, the technical enemy relation would not have existed.

Contracts made between citizens of the Confederate States, even though payable in confederate treasury-notes, are held valid unless they are designed to aid the insurrectionary government.

(See Confederate Note Case, 19 Wallace, 556; Hanauer *vs.* Woodruff, 15 Wallace, 448; Thornington *vs.* Smith, 8 Wallace, 1.)

To withhold from the petitioner the proceeds of the sale of this cotton, will apply to him, whose sympathies and influence the proof shows to have been from the beginning to the end of the struggle entirely with the Union cause, a harsher and more rigorous rule than can be applied to the commanding generals of the confederate armies, under the law as interpreted by repeated decisions of the Supreme Court, and upon the sole ground that he was a citizen of a loyal State.

For, if the confederate general, being a citizen of one of the Confederate States, had brought this action at the same time it was brought by the petitioner, for the proceeds of this identical cotton, on precisely the same facts, he must have recovered.

In the case of Pargoud *vs.* United States, the court says:

"We have recently decided in the case of Armstrong *vs.* United States that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieves claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States."

(13 Wallace, 157, 158; Armstrong *vs.* United States, 13 Wallace, 154; United States *vs.* Kline, 13 Wallace, 128.)

The minority of the committee are of opinion that the Government cannot afford to avail itself of a harsh technical rule of law to appropriate to its own use the property of its citizens, which appropriation has not, and cannot have, the sanction of equity, justice, or moral right.

For it is not pretended by any one that the Government has any title to this cotton or the proceeds of its sale. Hence, if the Government holds it, it is simply because there is no power to compel its surrender to the rightful owner.

The petitioner's contract of purchase being void, leaves the title in the persons of whom he bought the cotton. They, having been fully paid for it by the petitioner, do not complain or seek to defeat his title, and in justice and good morality no one else has a right to do so.

The minority of the committee, therefore, report the accompanying bill for the relief of Warren Mitchell, and respectfully recommend its passage.

ISHAM G. HARRIS.
FRANK HEREFORD.
JOHN H. MITCHELL.

The VICE-PRESIDENT. The time within which the Calendar of general orders is to be considered under this special order of the Senate has expired, and the Senate resumes the consideration of its unfinished business, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, pending which the Senator from Vermont [Mr. EDMUNDS] moves that the further consideration of the bill be laid aside, and that the Senate now proceed to the consideration of the resolutions introduced by him.

Mr. EDMUNDS. Mr. President, I find by the vote last night that a majority of the Senate appears to be adverse to considering my resolutions, and as it is useless to waste the time of the Senate in insisting upon the motion, I withdraw it.

The VICE-PRESIDENT. The motion is withdrawn.

REVISION OF THE PATENT LAWS.

The Senate resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The Secretary will report the pending amendment.

The SECRETARY. The question is on concurring in the amendment made as in Committee of the Whole: in section 2, line 4, after the word "pronounced," to insert "as well as in all suits hereafter instituted;" so as to read:

In all suits for the infringement of a patent, in which, at the date of the passage of this act, no final verdict has been rendered or no decree for an account or assessment of damages has been pronounced, as well as in all such suits hereafter instituted, the measure of the plaintiff's recovery shall be the same, both in law and in equity.

The amendment was concurred in.

Mr. WINDOM. Are amendments in order until the committee's amendments are acted upon?

The VICE-PRESIDENT. They are not, strictly.

Mr. WINDOM. I will then reserve the amendments I desire to offer until the amendments of the Committee of the Whole are disposed of.

The VICE-PRESIDENT. An amendment made as in Committee of the Whole can be amended.

Mr. WINDOM. It is not an amendment to an amendment that I desire to offer. It is an independent matter.

The Secretary read the next amendment made as in Committee of the Whole, which was, in section 2, to strike out from line 30 to line 35, inclusive, and in lieu thereof to insert:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct or of such infringement such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

The amendment was concurred in.

The next amendment was, at the end of line 13, section 3, to insert:

Provided, however, Where an appeal is allowed from an interlocutory decree establishing the validity of a patent or its infringement, the complainant may be permitted, in the discretion of the court, to go on and take his account, subject to payment of costs and counsel fees, if the decree is reversed, and on giving security therefor.

Mr. WINDOM. I believe that separate action on each of the amendments of the Committee of the Whole was ordered at my request.

The VICE-PRESIDENT. It was.

Mr. WINDOM. Or at least on my objection. I desire to withdraw that objection so that the amendments may be acted on as a whole.

The VICE-PRESIDENT. Is a separate vote demanded on any of the further amendments made as in Committee of the Whole? If not, will the Senate agree to them in gross?

The amendments were concurred in.

Mr. WINDOM. Now, Mr. President, I propose an amendment, to come in at the end of the second section. I will say, with the permission of the Senate, before it is read that it is the amendment offered the other day with material modifications. As the amendment was proposed the other day, the plaintiff could recover no costs unless his judgment for damages exceeded $50. This amendment reduces it to $20. And also the provision which required that the defendant should have actual knowledge that he was infringing the patent is stricken out; so that it is very materially modified, and I hope in this form it may meet the approval of the Senate. It will accomplish the results desired, and I think will not be objectionable.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. It is proposed to insert after the second section:

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit; and if the plaintiff shall not recover the sum of $20 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant, at the time of such purchase, manufacture, or practical application, had knowledge or actual notice of the existence of such patent.

Mr. HOAR. I move to amend the amendment by adding after the words "purchased the same" the words "in good faith." I presume there will be no objection on the part of the gentleman offering the amendment.

Mr. WINDOM. Not at all.

Mr. HOAR. So that the purchase shall appear to be in good faith.

The VICE-PRESIDENT. The Senator from Minnesota accepts the modification. The question is on the amendment as modified.

Mr. WADLEIGH. I move to amend the amendment of the Senator from Minnesota by adding:

Or unless the court shall certify that the suit was brought in good faith and upon reasonable cause, for the purpose of trying the validity of the patent or the question of infringement, and that such question was actually in issue considered by the court or jury and determined

Mr. WINDOM. I hope that amendment will not be agreed to. I think it substantially invalidates the amendment proposed by myself, and I think there is no necessity for it. The patentee or his assignee has ample opportunities to test the validity of the patent as against the manufacturer or the vendor; and I think that this would substantially destroy the amendment proposed by myself. I hope it will not be agreed to; but this bill has been debated so much that I will not take any more time to discuss it at present.

Mr. WADLEIGH. I will state the object of my amendment. It is to provide a means whereby the patentee may be able to settle his rights and the validity of his patent or the question of infringement by any given machine or any other invention, without paying the costs of that proceeding himself. Under the amendment proposed by the Senator from Minnesota, if the plaintiff in perfect good faith brought a suit for the sole purpose of determining his rights, he would be compelled to pay the costs of that suit although he was successful.

Mr. BECK. I agree with the Senator from Minnesota that the amendment offered by the Senator from New Hampshire to his amendment would virtually destroy all the beneficial effect of the amendment proposed by the Senator from Minnesota. The object of the amendment of the Senator from Minnesota, as I understand it, is to prohibit the great multiplicity of suits which are being brought all over the country against persons who are in good faith using patented articles which they have purchased in good faith, many of them

of very insignificant character. If the amendment now proposed by the Senator from New Hampshire be adopted it allows all the character of suits Senator WINDOM wishes to guard against to be continued, because in every case the party will of course be able to show that he was trying to maintain the validity of his patent.

The other day when the question was up and just after the vote was taken, a letter was received by the Senator from Pennsylvania [Mr. WALLACE] and handed to me with authority to read it, stating that it was from one of the most intelligent men in Pennsylvania, setting forth fully the evils of which the Senator from Minnesota complains, and which I think can alone be removed by his amendment. It is this:

JANUARY, 18, 1879.

DEAR SIR: I notice that there is at present some discussion in Congress relating to the patent laws. I would like to see our laws relating to patents changed in one particular, namely, relieving the innocent purchasers of articles made in violation of a patent from suits for infringements, or, in other words, make the actual manufacturer and vendor of articles made in violation of the patent laws liable, but not the persons who use or consume such articles when they are purchasers from others, excepting machinery, &c.

The people in the oil-producing section of Pennsylvania would profit greatly by such a law. About one-half of the oil production is the result of the use of nitro-glycerine torpedoes. They are used very extensively in all the oil counties, and there has been about a dozen different patents granted by the Patent Office department for torpedoes, but Roberts, of Titusville, has succeeded in getting injunctions on all of them from time to time as infringements on his patent, but as a general thing does not enforce his injunctions, but lets the different patentees go on, under color of law, and sell and explode torpedoes, and after the producers have settled or paid for these torpedoes Roberts then sues every man in the United States courts who has used torpedoes other than his, and compels them to pay over again to him, and thus he gets the money without any service or the use of any material. The records at Pittsburgh show really thousands of suits of this kind—a species of blackmail.

Roberts's patent is only on the fluid in the bottom of the oil-well. This may seem ridiculous, but it is true that his patent has been superseded on every point but the explosion of the shell under the natural incoming fluid. Now, the amendment that I suggest would protect the producer and leave the litigation among the patentees themselves.

The producers of our State have been robbed out of thousands of dollars by this duplicate patent business. I might say safely that not one has escaped, and a law to protect them would be hailed with joy. There are a thousand contemptible things about patent robbery as applied here.

* * * * *

Hon. W. A. WALLACE,
United States Senate, Washington, D. C.

That letter presents forcibly the objection I have to the present bill unless it is amended by the amendment of the Senator from Minnesota; and I have no doubt that the patentee spoken of and others of that sort go into combination with other patentees, and rather than contest with them and determine who has the true valid right they allow the other patentees, spurious patentees, if you please, to go on and sell to private parties all over the country; and those fellows, when they get their pay, furnish the original patentee with a list of all they have sold to, and he sues them again and makes them pay double, with costs and expenses of suit if they refuse. There is no effort on the part of the original patentee to sue the other patentees as infringers, but he goes into partnership with them and thus avoids all costs of litigation between them, and robs the people by combinations, and requires them to pay penalties, or sues them and drags them into the courts all over the country. It is no uncommon thing for men claiming to have patents to go over whole districts, get all the money they can out of the people, and the moment they disappear with the money in their pockets another man comes claiming to be the real patentee, and, showing an injunction against the other fellows from some court, requires them all to pay over again; and the information on which he gets his double pay comes from the very men who have robbed the people in advance. They give him information on which he can sue. They prove the facts for him and he lets them keep the money they have stolen. That is the working of it. The amendment of the Senator from Minnesota deprives these men of the power of forming combinations like this, and, as I said, it is the only amendment I have seen that is in the interest of the honest purchaser of a patent, who believes that he holds it in good faith, that he has bought it in good faith, and does not seek to sell it to anybody else.

When this question was up the other day I was amazed that the Senate of the United States should vote down an amendment like that, intended for no other purpose than to give relief, leaving to the genuine patentee the right to sue all manufacturers, vendors, and all other inventors; in short, all men who used his patent for merchandise, all the known violators of law. Let him deal with the vendors and manufacturers, instead of oppressing the mere user of things, and making combination with men whom he ought to sue. There are so many complicated suits and so many technicalities and so many unnecessary patents and so many fraudulent patents covering the same thing that these various patentees are afraid to sue each other. Perhaps they are all wrong, and somebody else has a better right than any of them have; and they avoid all this by following the thing into the hands of the person who uses it, and dividing the profits among themselves. That is the main reason why I favor the amendment of the Senator from Minnesota, and hope it will not be embarrassed by any other amendment.

Mr. WADLEIGH. Mr. President, I have but a word to say in answer to the remarks of my friend the Senator from Kentucky. The letter which my friend has read shows that one-half the produce of the oil region is due to the inventions to which he refers.

Mr. BECK. There are twelve different patents for this thing.

Mr. WADLEIGH. But one-half the produce of the oil region, which is immense in value, not only to the individuals concerned in it but also to the country, is due to some dozen patented inventions; and that is spoken of as a very annoying thing to those gentlemen who could not get any oil at all but for those inventions. All the oil they get is due to patents. Now, this amendment of the Senator from Minnesota permits any one of those oil companies to go into the business of manufacturing these patented articles and using them themselves without paying a cent for them. The provision of the amendment applies to any case where the infringer "manufactured or applied the same for and to his own use." That is when an inventor has by years of toil and great expense accomplished an invention which gives to this country and to these oil-well owners millions upon millions of dollars annually, the Congress of the United States is asked to pass an amendment which allows the oil men to manufacture that invention and use it in their wells without paying a cent for it. Nothing could more forcibly show the injustice of the amendment in very many cases than a simple statement of this fact.

Another thing, Mr. President. If there is any such understanding or combination between the owners of patents as the Senator from Kentucky has charged, (and I presume that neither he nor the correspondent of the Senator from Pennsylvania would charge it if it could not be proved,) that is a complete defense to any suit the patentee may bring. Such a conspiracy would operate as a license, and proof of it would furnish a complete answer to any suit by the patentee. More than all that, such an arrangement would constitute a criminal conspiracy punishable at common law and by statute in nearly all the States of this Union. If proved, an indictment would lie for it and the conviction of the guilty parties could be secured.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New Hampshire [Mr. WADLEIGH] to the amendment of the Senator from Minnesota, [Mr. WINDOM.]

Mr. WADLEIGH. I call for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. ALLISON, (when Mr. KIRKWOOD'S name was called.) On this question my colleague, who is absent, [Mr. KIRKWOOD,] is paired with the Senator from Maryland. [Mr. DENNIS.] My colleague would vote nay and the Senator from Maryland would vote yea.

The roll-call having been concluded, the result was announced—yeas 19, nays 24; as follows:

YEAS—19.

Anthony,	Conkling,	Kernan,	Sargent,
Barnum,	Davis of Ill.,	Morgan,	Voorhees,
Booth,	Eaton,	Morrill,	Wadleigh,
Burnside,	Garland,	Patterson,	Whyte,
Chaffee,	Hoar,	Rollins,	

NAYS—24.

Allison,	Grover,	McCreery,	Mitchell,
Bailey,	Harris,	McMillan,	Ransom,
Beck,	Hereford,	McPherson,	Saulsbury,
Cockrell,	Hill,	Matthews,	Thurman,
Davis of W. Va.,	Howe,	Maxey,	Windom,
Ferry,	Johnston,	Merrimon,	Withers.

ABSENT—33.

Armstrong,	Conover,	Jones of Florida,	Randolph,
Bayard,	Dawes,	Jones of Nevada,	Saunders,
Blaine,	Dennis,	Kellogg,	Sharon,
Bruce,	Dorsey,	Kirkwood,	Spencer,
Butler,	Edmunds,	Lamar,	Teller,
Cameron of Pa.,	Eustis,	McDonald,	Wallace.
Cameron of Wis.,	Gordon,	Oglesby,	
Christiancy,	Hamlin,	Paddock,	
Coke,	Ingalls,	Plumb,	

So the amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Minnesota.

Mr. WINDOM. Before the amendment is acted upon, I should like to propose an amendment to it, which I know will meet the concurrence of my friend from New Hampshire, to add to the end of the section:

This provision shall not apply to purchases from foreign manufacturers or dealers.

Mr. WADLEIGH. Let me ask the Senator from Minnesota to accept this instead:

Provided, That nothing contained in this section shall apply to articles manufactured outside of the United States.

Mr. WINDOM. I accept the amendment proposed by the Senator from New Hampshire.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Minnesota as modified.

Mr. KERNAN. I wish to favor the amendment of the Senator from Minnesota, and yet before I sit down I desire to suggest one amendment that I hope he will accept.

I think this amendment as now modified will to a large degree protect innocent purchasers who buy an article patented, for their own use and not for sale, from those petty litigations which are complained of. The amendment is quite in the spirit of the laws of many of the States, my own included, whereby persons are protected from trifling assault and battery suits, trifling slander suits, and other suits of that character, which cannot be brought in the courts that are not courts of record, and yet our laws provide that if they

do not recover $50 or more they do not get what are called costs. Where they recover nominal damages they get no more costs than damages by those State laws. If a man sues for an assault upon his person which is of a trifling character, and the jury give him six cents, as they must give something, he gets no more costs than damages. In a word, he has to pay his own costs; and that relieves us from a great deal of litigation.

So I think here that we may justly enact that where a man buys a machine or an article patented in public market, buys it from those who are selling it in business, merely for his own use, if the patentee sees fit to sue that man and does not get $20 damages he should not get any costs at all, and if he gets merely nominal damages, I think he can very well be made to pay the costs. Yet I desire to call the attention of the Senator from Minnesota to an amendment which I desire to have made to his amendment, and it is to strike out from and including the word "or," in the sixth line, to and including the word "or," in the seventh line, after the word "manufactured." You will observe that it stands now that if a man finds that his neighbor has invented a very valuable machine and got a patent for it he may build one for his own use, and use it and defy him. I do not think that is quite right. I will read it both ways. It now reads:

In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or—

Where he makes one himself—

applied the same for and to his own use.

If you strike that out—

Mr. WINDOM. Let me understand the Senator distinctly. I do not know what words he wishes to strike out.

Mr. KERNAN. I propose to strike out from the word "or," at the end of line 6, to and including the word "or," in line 7, striking out "or that he manufactured or." It will leave it, then, I think, protecting everybody that ought to be protected, because I do not think a man, where his neighbor has invented a machine, should be shielded if he builds one of these expensive manufactured articles for himself and escape paying costs. So it seems to me; and with that clause left out I think this amendment will protect all who buy in the market for their own use. I will read it as it would read if this were stricken out:

Where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, and—

Inserting the word "and" in place of the words stricken out—

and applied the same for and to his own use, and not for sale nor for making a product for sale.

Then the costs shall be as specified. In a word, I desire to protect not a man who will manufacture for his own use a patented article, but one who buys it for his own use in the market from those manufacturing and selling it openly. I think he should be protected, as the amendment does protect him, from petty litigation for the infringement. Therefore I suggest the amendment in the interest of making this section so that it will protect all those who buy in the market for their own use against costs.

Mr. WINDOM. I rather think the Senator is right.

Mr. KERNAN. I hoped the Senator would agree with me. With that amendment I feel that I can very properly, as I shall, vote for the Senator's amendment.

Mr. WINDOM. I accept the amendment.

Mr. WADLEIGH. I am glad that amendment is proposed and accepted. It removes the objection I just now made in the case of an oil-well owner. It also prevents the manufacture by large companies engaged in manufacturing patented articles that they use in their business, while the amendment as it was originally drawn would protect them.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The amendment of the Senator from Minnesota is modified accordingly. The question is on the amendment as modified.

Mr. ALLISON. I should like to hear the amendment read as it now stands.

The PRESIDING OFFICER. The Secretary will report the amendment as modified.

The Secretary read as follows;

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same in good faith from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, and applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit; and if the plaintiff shall not recover the sum of $20 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant at the time of such purchase, manufacture, or practical application had knowledge or actual notice of the existence of such patent: *Provided*, That nothing contained in this section shall apply to articles manufactured outside the United States.

The PRESIDING OFFICER. The question is on the amendment just read.

The amendment was agreed to.

Mr. WHYTE. Mr. President, I desire to offer an amendment which in no way conflicts with the integrity of the bill and will not affect any other branch of the subject disposed of in all the sections of this bill. It is in reference solely to the matter of limitation. Under the law as it now stands, there is no period of time which bars the right of a party to recover for an infringement upon a patent during the life of the patent. After the expiration of the patent there is by the act of 1870, I think, a provision that no suit shall be brought at the end of six years. Under the act of 1870 there was a provision that no suit should be brought after six years subsequent to the expiration of the patent, but my friend from New Hampshire informs me that that is one of the *casi omissi* of the Revised Statutes. It is left out, so that there is to-day no limitation whatever to the period of time when a party can bring a suit for an infringement of his patent. The committee have therefore introduced a new element in the patent system, that of a statute of limitations. Probably that is correct; but the difficulty with me is as to the period; the time seems to be too short—four years.

The committee recognize the necessity of allowing a sufficient length of time for a party to maintain his patent in the circuit court; but that does not strike me to be ample enough to protect him. He may have his case tried in the circuit court after two or three years of effort; it may be decided against him, and he may be compelled to take the case to the Supreme Court of the United States. Well we know that in the crowded condition of that court's docket it takes a man at least two years to get a case tried there, so that it will require at least, in a thoroughly contested case, six years for the final adjudication of the patentee's right. I move, therefore, to give the party ample time to maintain his patent, that on line 6 of the first section the word "four" be stricken out and "six" inserted in lieu of it.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The question being put, there were on a division—ayes 11, noes 17; no quorum voting.

Mr. WHYTE. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 25; as follows:

YEAS—15.

Barnum,	Dennis,	Lamar,	Voorhees,
Burnside,	Eaton,	Morrill,	Wadleigh,
Butler,	Edmunds,	Rollins,	Whyte.
Davis of Illinois,	Kernan,	Sargent,	

NAYS—25.

Allison,	Dawes,	McCreery,	Saunders,
Beck,	Ferry,	McMillan,	Sharon,
Booth,	Garland,	Maxey,	Windom,
Cameron of Pa.,	Gordon,	Merrimon,	Withers.
Chaffee,	Grover,	Mitchell,	
Cockrell,	Harris,	Morgan,	
Davis of W. Va.,	Hereford,	Ransom,	

ABSENT—36.

Anthony,	Conkling,	Johnston,	Paddock,
Armstrong,	Conover,	Jones of Florida,	Patterson,
Bailey,	Dorsey,	Jones of Nevada,	Plumb,
Bayard,	Eustis,	Kellogg,	Randolph,
Blaine,	Hamlin,	Kirkwood,	Saulsbury,
Bruce,	Hill,	McDonald,	Spencer,
Cameron of Wis.,	Hoar,	McPherson,	Teller,
Christiancy,	Howe,	Matthews,	Thurman,
Coke,	Ingalls,	Oglesby,	Wallace.

So the amendment was rejected.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REORGANIZATION OF THE ARMY.

Mr. BURNSIDE. Mr. President, I now call up the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

Mr. SPENCER. I suggest to the Senator from Rhode Island that the bill had better be read. It has not been read yet.

Mr. BURNSIDE. It has not been read. I simply want it taken up for consideration, and I agreed with the Senator from Rhode Island, who is not now in his seat, my colleague, [Mr. ANTHONY,] that I would yield the remainder of the day to the Calendar, and to-morrow morning I will ask the Senate to proceed with the consideration of the bill. I merely want to get it up to-day and have it left as unfinished business for to-morrow.

I will now, in the absence of my colleague, move that this order be laid aside temporarily and that the Calendar be taken up.

The PRESIDING OFFICER. If there be no objection such will be the order of the Senate. The bill is laid aside temporarily and will come up as the unfinished business for to-morrow.

WARREN MITCHELL.

Mr. BURNSIDE. I now move that the Senate proceed to the consideration of the Calendar.

The PRESIDING OFFICER. The Senator from Rhode Island moves to take up the Calendar. Is there objection? There is no objection made.

Mr. BURNSIDE. Under the rule of my colleague, of course, allowing five minutes' debate and objection.

The PRESIDING OFFICER. That is the understanding. The bill (S. No. 855) for the relief of Warren Mitchell is first in order.

Mr. McMILLAN. I move that that bill be indefinitely postponed.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota that the bill be indefinitely postponed.

Mr. McCREERY. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. HOAR. What is the pending motion?

The PRESIDING OFFICER. The pending motion is to indefinitely postpone the bill.

Mr. HOAR. Is the bill before the Senate in any parliamentary way?

The PRESIDING OFFICER. It came up regularly.

Mr. HOAR. I understand that the majority report was a report to indefinitely postpone a petition, and that there is no bill before the Senate except that the minority have moved to substitute one for the majority report.

The PRESIDING OFFICER. The Chair understood from the Secretary that it is a bill which is before the Senate.

Mr. DAVIS, of West Virginia. I believe a single objection carries the bill over. If so, I object, and that will carry over this question. Let us go on with the Calendar.

Mr. McCREERY. If the Senator from West Virginia insists upon that objection, I shall move for the postponement of all other orders and that the Senate proceed to the consideration of this bill. It has been delayed four or five years. We have now reached it upon the Calendar.

Mr. DAVIS, of West Virginia. I made the objection in the interest of the Senator from Kentucky. If I am mistaken, of course I will withdraw it. The Senator from Minnesota, I understood, had moved the indefinite postponement of the bill.

Mr. McCREERY. We want that motion rejected.

Mr. DAVIS, of West Virginia. Then let me say to my friend from Kentucky that if the Senator from Minnesota or any other Senator makes an objection that carries the bill over.

Mr. McCREERY. It will have that effect unless I make the motion I have indicated and get the concurrence of the Senate.

Mr. DAVIS, of West Virginia. I am with the Senator from Kentucky and do not want to interfere with him. So if he prefers to take the vote, I withdraw my objection.

Mr. McMILLAN. I understood the bill was before the Senate for its action.

Mr. HARRIS. The bill is before the Senate according to the regular rule and order of business. It was reached upon the Calendar. The majority and minority reports were read, and the hour expired, when the Senate proceeded to the regular order of business of the day. I understand the Senate has now taken up the Calendar again. If so, Senate bill No. 855 is the pending question.

The PRESIDING OFFICER. The Chair so understands.

Mr. McMILLAN. And under those circumstances I interposed the motion to indefinitely postpone the bill.

The PRESIDING OFFICER. The motion is entirely in order, and the yeas and nays have been ordered on that motion.

The question being taken by yeas and nays, resulted—yeas 14, nays 30; as follows:

YEAS—14.

Cameron of Pa.,	Edmunds,	Morrill,	Wadleigh,
Christiancy,	Ferry,	Rollins,	Windom.
Davis of Illinois,	Hoar,	Sargent,	
Dawes,	McMillan,	Saunders,	

NAYS—30.

Beck,	Eaton,	Kernan,	Morgan,
Booth,	Garland,	Lamar,	Sharon,
Bruce,	Gordon,	McCreery,	Spencer,
Burnside,	Grover,	McPherson,	Voorhees,
Butler,	Harris,	Matthews,	Whyte,
Chaffee,	Hereford,	Maxey,	Withers.
Davis of W. Va.,	Jones of Florida,	Merrimon,	
Dennis,	Kellogg,	Mitchell,	

ABSENT—32.

Allison,	Cockrell,	Howe,	Patterson,
Anthony,	Coke,	Ingalls,	Plumb,
Armstrong,	Conkling,	Johnston,	Randolph,
Bailey,	Conover,	Jones of Nevada,	Ransom,
Barnum,	Dorsey,	Kirkwood,	Saulsbury,
Bayard,	Eustis,	McDonald,	Teller,
Blaine,	Hamlin,	Oglesby,	Thurman,
Cameron of Wis.,	Hill,	Paddock,	Wallace.

So the Senate refused to postpone the bill indefinitely.

Mr. EDMUNDS. Let the bill go over, Mr. President.

Mr. McCREERY. I did not hear the motion of the Senator from Vermont.

Mr. EDMUNDS. I did not make any motion. I objected to the further consideration of the bill at the present time.

Mr. McCREERY. I move to postpone all prior orders and proceed with the consideration of the claim of Warren Mitchell.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Kentucky moves to postpone all prior orders and proceed with the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. EDMUNDS. First I make the point of order that he can only move to postpone all prior orders under the rules, and then what the Senate will take up next remains to be determined.

The PRESIDING OFFICER. The Chair thinks the Senator from Vermont is right.

Mr. EDMUNDS. I think I am, sir.

Mr. McCREERY. I submit the motion according to the ruling of the Chair, to postpone all prior orders.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BURNSIDE. I ask that the question be stated. I do not understand what it is.

The PRESIDING OFFICER. The Chair was about to state the question. The motion is that the Senate postpone all prior orders.

Mr. EDMUNDS. The intention being then to move to take up the Mitchell bill.

Mr. BECK. I wish to understand the exact position of affairs. Is there any objection to proceeding with the present matter?

Mr. WHYTE. Yes; the Senator from Vermont objected.

Mr. BECK. I did not hear that. The objection is simply to taking it up. Is that it?

Mr. EDMUNDS. The objection was made under what is called the Anthony rule, under which one objection carries a bill over. That being the effect and we going on with the Calendar, the Senator from Kentucky, the colleague of my honorable friend, as he had a perfect right to do, moves to postpone all pending orders. That being done he gives notice he intends to move to take up this bill. He has a right to do that.

Mr. BECK. Would an objection, therefore, generally to the consideration of any further business on the Calendar dispose of the Calendar? I think if we are going on in this way, if we cannot act on cases when we reach them, I shall make a general objection to every other case on the Calendar and then go back and begin again.

Mr. BURNSIDE. I suggest to the Senator from Kentucky that his motion be to lay aside temporarily.

Mr. EDMUNDS. That motion is not in order.

Mr. BURNSIDE. If it was in order I think it would be better. I shall oppose this motion of the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky has moved to lay all prior orders on the table, and on that motion the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

The roll-call having been concluded, Mr. MITCHELL asked that his name be called, and voted in the affirmative.

Mr. McMILLAN. I think the Senator from Colorado [Mr. TELLER] was paired with the Senator from Oregon [Mr. MITCHELL] on this question. A memorandum of the pair was left with me.

Mr. MITCHELL. I did not so understand it; but if the Senator says so of course I shall so consider it. He spoke to me about it, but I understood the arrangement was not concluded. I will, however, withdraw my vote.

Mr. MATTHEWS, (after having voted in the negative.) On this question I am paired with the Senator from Indiana [Mr. McDONALD] who is absent. I am informed he would vote "yea" if he were here; I therefore withdraw my vote.

The result was announced—yeas 25, nays 20; as follows:

YEAS—25.

Bailey,	Garland,	Lamar,	Sharon,
Beck,	Gordon,	McCreery,	Voorhees,
Booth,	Grover,	Maxey,	Whyte,
Bruce,	Harris,	Merrimon,	Withers.
Chaffee,	Hereford,	Morgan,	
Davis of W. Va.,	Jones of Florida,	Ransom,	
Eaton,	Kellogg,	Saulsbury,	

NAYS—20.

Allison,	Conkling,	Hoar,	Plumb,
Anthony,	Davis of Illinois,	Howe,	Rollins,
Blaine,	Dawes,	Kernan,	Sargent,
Burnside,	Edmunds,	McMillan,	Wadleigh,
Cameron of Pa.,	Ferry,	Morrill,	Windom.

ABSENT—31.

Armstrong,	Conover,	Jones of Nevada,	Patterson,
Barnum,	Dennis,	Kirkwood,	Randolph,
Bayard,	Dorsey,	McDonald,	Saunders,
Butler,	Eustis,	McPherson,	Spencer,
Cameron of Wis.,	Hamlin,	Matthews,	Teller,
Christiancy,	Hill,	Mitchell,	Thurman,
Cockrell,	Ingalls,	Oglesby,	Wallace.
Coke,	Johnston,	Paddock,	

The PRESIDING OFFICER. All prior orders are postponed.

Mr. HARRIS. I move that the Senate now proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. EDMUNDS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. McMILLAN, (when Mr. TELLER's name was called.) The Senator from Colorado [Mr. TELLER] is absent in South Carolina. He is paired on this question with the Senator from Oregon, [Mr. MITCHELL.] If the Senator from Colorado were here, he would vote "nay."

The Secretary resumed and concluded the call of the roll.

Mr. ALLISON. I wish to say before the result of the vote is announced that my colleague [Mr. KIRKWOOD] is absent on public business and is paired on political questions, I believe, with the Senator from Arkansas, [Mr. GARLAND.] I merely make this statement with reference to the absence of my colleague.

Mr. GARLAND, (who had voted "yea.") I am paired with the Senator from Iowa, [Mr. KIRKWOOD,] as stated by his colleague, on all political questions; and if the Senator now on the floor will an-

nounce before the Senate that this is a political question, I shall withdraw my vote.

Mr. ALLISON. I only wished to state as to my colleague that he is absent and paired on political questions with the Senator from Arkansas.

Mr. GARLAND. I do not see any politics in this question, Mr. President, but if the Senator from Iowa now on the floor or any other Senator on the other side, or who has voted against the motion will say it is a political question, I shall withdraw my vote.

Mr. MERRIMON, (who had voted "yea.") I will state that I am paired with the Senator from Kansas [Mr. INGALLS] on political questions. If this is to be treated as a political question, I will observe my pair. I cannot conceive that it is a political question, for I think it is very probable I shall vote against the measure myself.

The result was announced—yeas 25, nays 22; as follows:

YEAS—25.

Bailey,	Gordon,	Lamar,	Sharon,
Beck,	Grover,	McCreery,	Voorhees,
Booth,	Harris,	Maxey,	Whyte,
Butler,	Hereford,	Merrimon,	Withers.
Davis of W. Va.,	Hill,	Morgan,	
Dennis,	Jones of Florida,	Ransom,	
Garland,	Jones of Nevada,	Saulsbury,	

NAYS—22.

Allison,	Conkling,	Howe,	Sargent,
Anthony,	Davis of Illinois,	Kernan,	Saunders,
Blaine,	Dawes,	McMillan,	Wadleigh,
Burnside,	Edmunds,	Morrill,	Windom.
Cameron of Pa.,	Ferry,	Plumb,	
Chaffee,	Hoar,	Rollins,	

ABSENT—29.

Armstrong,	Conover,	Kirkwood,	Randolph,
Barnum,	Dorsey,	McDonald,	Spencer,
Bayard,	Eaton,	McPherson,	Teller,
Bruce,	Eustis,	Matthews,	Thurman,
Cameron of Wis.,	Hamlin,	Mitchell,	Wallace.
Christiancy,	Ingalls,	Oglesby,	
Cockrell,	Johnston,	Paddock,	
Coke,	Kellogg,	Patterson,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. EDMUNDS. Mr. President, I should like to hear the Senator from Tennessee [Mr. HARRIS] who has charge of this bill, it never having been referred to a committee, explain to us at length the grounds upon which he thinks the bill ought to pass.

Mr. HARRIS. Mr. President, I have endeavored to explain to the Senator from Vermont and other Senators the ground upon which I think the bill ought to pass in the minority report which is printed and on the table of the Secretary. But in addition to what I said in that report, or in repetition of it, I will say that the books of the Treasury Department show that there is a fund there, the net proceeds of the sale of a lot of cotton that was taken from the possession of Warren Mitchell, this claimant, at Savannah, Georgia, in 1864. The papers in the case show that Warren Mitchell bought and paid for this cotton; that it was seized by the agents of the Government, it was shipped to New York, it was sold and a large proportion of it consumed in the expenses of shipment, commissions, and other charges. The net proceeds, however, are in the Treasury of the United States.

The claimant brought suit in the Court of Claims to recover the proceeds of the sale of this cotton. The Court of Claims were equally divided upon the question as to whether or not the purchase and payment for this cotton vested a legal title in the claimant, it being alleged as the claimant at the time of the purchase was a citizen of a loyal State and his vendors were citizens of confederate States disloyal the enemy relation existed. The Court of Claims were equally divided upon that question, which resulted in the dismissal of the petition; from which the claimant appealed to the Supreme Court. The Supreme Court decided that Warren Mitchell being a resident citizen of the State of Kentucky, a loyal State, having purchased this cotton from citizens of Georgia, a disloyal State, the enemy relation existed between the vendor and vendee, and under the laws of nations no title was communicated by reason of the fact that the contract was void. Hence, the Supreme Court affirmed the decision of the Court of Claims. The claimant then presented his petition here.

Mr. HOAR. Will the Senator from Tennessee allow me to call his attention to a fact? As he is making a statement of the case I ask him to make it full. He stated that the Court of Claims were equally divided upon the legal question involved. Is it not true that the Supreme Court determined the question against the claimant without division?

Mr. HARRIS. I have stated the fact that the Supreme Court decided the one single question that the enemy relation existed between vendor and vendee, and, by reason of that fact, the contract of purchase and of payment for this cotton was void. That was the decision of the Supreme Court of the United State, and no more than that.

I undertake to say that there is not a Senator on this floor who will deny these facts. Warren Mitchell bought and paid for the cotton. It was his by every consideration of justice, equity, and of moral right. The earnings of his life are to-day wrapped up in the proceeds of the sale of the cotton which was seized and taken from his possession, shipped to New York and sold, and the proceeds are in the Treasury of the United States to-day. That he bought it, that he paid for it, that the money is now in the Treasury, no Senator will deny.

I will venture to say in addition that there is not a Senator upon this floor who will controvert the conclusion that, under the rulings of the Supreme Court of the United States in a number of cases, if Warren Mitchell had been the commanding general of the confederate armies at the time of this purchase and a resident of one of the Confederate States——

Mr. EDMUNDS. Instead of furnishing them with pork.

Mr. HARRIS. I am obliged to the Senator from Vermont for his kindly suggestion and the kindly manner in which it is made. In reply to the kindly suggestion of the Senator from Vermont, I beg him to look to the decision of the Supreme Court, and to answer as to whether or not the question of loyalty or disloyalty is a consideration that is weighed under the policy of this Government as expounded by its laws, when decided by the Supreme Court. The question of loyalty or disloyalty is wholly immaterial as a question of right, as held by the Supreme Court in the case of Pargoud *vs.* the United States, cited in the minority report.

But I was going on to say, when the Senator from Vermont made his kindly suggestion, that if Mr. Mitchell had been the commanding general of the confederate army and had brought this suit in the Court of Claims at the precise time that he did, and under the same circumstances, and upon exactly the same facts, the Supreme Court would have been bound to have decided and would have decided the case in his favor. The only reason that it was decided against him in the Court of Claims and in the Supreme Court was because he was a resident of a loyal State and technically held to be a loyal man, while the resident of a disloyal State was technically held to be a disloyal man, and hence the enemy relation existed between them.

The plain question in the case, for I do not propose to detain the Senate, narrows itself down to this: Can this Government afford to rest itself upon the cold technical question that notwithstanding this citizen has put the earnings of his life into this particular property and it is now in the Treasury of the United States, yet the enemy relation existing between him and the other contracting party at the time he bought the cotton he acquired no such legal title as he can enforce in the courts? Will any Senator claim that the Government has any title to the cotton; that there is a single fact or circumstance in the case that gives to the Government the title to one single pound of that cotton, or to a cent of the proceeds of its sale? I venture to say that there is not a Senator on this floor who will undertake to assert the title of the Government to the money that is now in the Treasury, the proceeds of the sale of this cotton, or its right to one pound of the cotton that resulted in those proceeds? If the contract of purchase was void because of the existence of the enemy relation between the contracting parties, it left the legal title in the vendor. The vendor has received the money of this claimant for the cotton. He asserts no title, presents no claim; he is satisfied, having been fully paid by the claimant for it. Yet, under the strict rule of law the legal title is in him, and but for the statute of limitations, under the rulings of the Supreme Court of the United States, the vendors could to-day go into your Court of Claims and compel the payment of the proceeds of the sale of the cotton to them, notwithstanding the fact that they had sold to this claimant and received payment. I do not think the Government can afford to stand upon that cold technical rule and to withhold from a citizen the earnings of his whole life. For myself I will say that I will certainly vote to return to the claimant this money because it justly and rightfully belongs to him.

Mr. McMILLAN. Mr. President, this claim received the very careful consideration of the Committee on Claims of the Senate, to which the petition of the claimant was referred at a former session. From the examination of the facts touching the claim which I was then called upon to make as a member of that committee, and which I did make, my conclusion is that if there has been a claim presented to Congress which should be rejected it is this one. The claim is a large one, the amount claimed being $128,692.

The facts upon which the claim is based are stated in the report of the committee recommending that the claim be disallowed. Mr. Warren Mitchell, the claimant, was a member of two mercantile firms, doing business prior to the war in the city of Louisville, Kentucky; the firm of Mitchell & Armstrong, and the firm of Armstrong & Co. Charles Q. Armstrong, Warren Mitchell, the claimant, and Isaac Russell constituting these firms. The business of these firms seems to have been largely with the extreme Southern States, principally the Gulf States. The indebtedness in the South to these two firms at the time of the breaking out of the rebellion amounted to not more than $116,421. In pursuing the history of these firms it is found that Mr. Armstrong turned up first during the rebellion in Tennessee, engaged as a subcontractor under a party who had made a contract with the southern confederacy to supply it with certain provisions—pork and other articles. The next heard of him is in one of the Gulf States, where he died; and the next event noticed is his death. At what time he passed through the lines of the United States Army nowhere appears, but one fact is clearly inferable, that his sympathies before and at the breaking out of the war were with the southern confederacy; and the subsequent fact of his presence fulfilling a contract with the confederate government to furnish it supplies of pork for

its army proves that he was disloyal at the very commencement of the war.

Mr. Mitchell obtained a pass from General Anderson to go through the lines of the armies of the United States shortly after the breaking out of the rebellion, early in the summer of 1861. It was nothing but a simple pass, no permit in any way, although it is stated that there was a verbal understanding that it was the purpose of Mr. Mitchell's visit to the South to collect debts due the firms of which he was a member.

Mr. EDMUNDS. That is what he professes?

Mr. McMILLAN. That is the profession, but the fact does not appear in the papers, as I understand. Mr. Mitchell proceeded through the lines and engaged, as he alleges, in the collection of the debts due these two firms. But shortly after his exodus from the North he is found in Nashville, Tennessee, superintending actively and engaged in the performance of the subcontract entered into by his partner, Mr. Armstrong, to supply the confederate government with pork and other articles. He alleges that he was informed that this contract having been made by his partner he was bound to fulfill it, and under that impression, although personally he was not in favor of the contract, he rendered his services under the contract in the performance of its terms.

Mr. Mitchell is supposed to be an intelligent merchant, and in the presence of such a contract, with his knowledge that an act of that kind upon the part of a citizen of a northern State was an act of treason, he yet undertook to perform this contract, and he sets up here as a defense that he supposed it would have to be performed because his partner had made it. It is utterly preposterous to suppose that Mr. Mitchell did not understand the character of his act in the performance of that subcontract, and to suppose that he did not by so doing lend aid and support to the rebellion then flagrant in the country. It is true that subsequently, when he returned to the North, a pardon was granted to him, a general pardon, for any act he might have committed during the rebellion. But that does not alter his relation to this claim, nor does it alter the attitude of this question as it is presented to us in the Senate to-day. Besides, Mr. Mitchell did not return to the North, so far as appears by the papers, until after the rebellion closed. Having with this pass from General Anderson passed into the Confederate States, he remained there during the whole period of the war, engaged, as he says, in collecting debts due to the two firms of which he was a member. It appears, as I have already stated, that the indebtedness to those two firms amounted to $116,000, and the cotton which he alleges was taken, and for which his claim is here presented, amounts in value to $128,000, $12,000 more than the whole indebtedness which he claims and which the papers show was due to both the firms of which he was a member.

This cotton, then, could not have been taken merely in the collection of debts. The evidence shows that Mr. Mitchell spent that whole time in trading, in going from point to point, passing from Louisiana around through the Gulf States, and into Savannah, before he came North, engaged all that period in exchanging cotton or in buying and selling cotton and in making profit on cotton during the war. Yet he claims here to be a loyal man!

The proof shows that in the transportation of a portion of this cotton from one point to another in the South the officials of the railroad corporations had an interest in the cotton. It is plainly inferable from the facts and the testimony here that Mr. Mitchell spent that whole period in transacting business for his own profit, in buying and selling cotton, and in giving aid to the confederacy in the war which was then transpiring; and he made a profit, according to his own statement, upon this amount of cotton alone, of more than $12,000, taking the whole as having been collected in the payment of the indebtedness; but it is reasonable to suppose that a large portion of this cotton was purchased by him, and was not received in the payment of debts.

Mr. President, the Senator from Tennessee has stated the history of this case in the courts. It is true that this claim was before the Court of Claims, and that the question passed upon there was whether Mitchell acquired a title to this cotton, he being nominally a resident of a loyal State and having procured the cotton from those who were in rebellion. The Court of Claims equally divided upon that question and the case was taken to the Supreme Court of the United States. The Supreme Court, that high tribunal, as we should reasonably anticipate, decided without division that no title passed to Mitchell. But it is claimed by the Senator from Tennessee that that is a mere technical question. The Senator remarked, if I recollect his words aright, that by all the principles of justice, equity, and morality the cotton was Mitchell's and that the question of title was a mere technical one, because under the law of nations he being a citizen of a loyal State could not trade with the enemy. Upon what principle is that law based? It is based upon the principle that a loyal citizen has no right to deal with an enemy; but here the application of the law is not as between foreign nations, for this was a rebellion in which the citizens of this country were involved on either side. If the rebellion was right, then the armies of the South were right. If it was treason, then the citizen of the North who would deal with the enemy violated all the principles of honor, all the principles of patriotism, and the technical question is resolved into one of great moral right. The man who lent his aid to the southern army was committing treason against his country, and the fact that no title passed shows that the principle of the law is sound and that there is no merit in the claim of Mitchell as he presents it here.

We had recognized the southern confederacy as a belligerent power and the principles of the law of war applied to it as such; but the relations of the citizens of the same country were qualified greatly by the fact that this was a war between portions of the same country and not a war between this nation and a foreign nation. Mr. Mitchell knew that the existence and welfare of the country under whose benign laws he had been protected and aided in accumulating a fortune were about to be destroyed, and, nominally a loyal citizen, he deserts his own country and goes over to those who are in rebellion. Property acquired under those circumstances is said by the Senator from Tennessee to be property a title to which Mitchell had a right in justice, in equity, in morality. I apprehend that the law affirmed by the courts is in accordance with all the principles of equity, justice, and morality.

Mr. EATON. Will my friend allow me to ask him a question or two, for I have not determined how I shall vote on this bill, and his answer may have some effect on my vote? I ask him, first, if he objects to the payment of this claim because of the fact that after Mitchell had permission to enter the confederate lines he became somewhat in league with the confederate authorities? Is that the reason why the Senator opposes the claim?

Mr. McMILLAN. I oppose the claim because——

Mr. EATON. Perhaps I ought to ask one other question. Suppose my friend, the Senator from Minnesota, who was a loyal man, about whose loyalty there can be no question, had a claim against my friend, the Senator from Tennessee, [Mr. BAILEY,] for $50,000. It formed his estate. He was desirous if possible to get that money. He received permission to go into the confederate lines from the Federal authorities. He received permission from the confederate authorities to remain within the lines of the confederacy. He found his debtor. He received from him the sum of $50,000 in gold, I will say, instead of cotton. On his return the Federal Commander-in-Chief took from him his gold. Now, then, I beg to ask if that could be held in that case by the courts to be a valid seizure?

Mr. McMILLAN. The case stated by the Senator from Connecticut is wholly different from the case under consideration.

Mr. EATON. I ask the Senator's opinion on that case.

Mr. McMILLAN. I am replying now to the position of the Senator from Tennessee, [Mr. HARRIS.]

Mr. EATON. I should like to have an answer to my question. If my friend had received this permission from the Federal authorities and had received payment for his claim, would the Federal commander of the department have the power to take from him that money?

Mr. McMILLAN. That is a case not in point at all, and upon which there is no necessity or propriety in expressing an opinion at this time.

Mr. EATON. I think it is in point, and thinking it in point I should like a reply.

Mr. McMILLAN. The Senator will observe that Mr. Mitchell in this case passed through the lines, and, as I have endeavored to show, engaged in giving aid and support to the southern confederacy by actually engaging in the performance of a contract to supply the confederate government with pork and other supplies, his partner, who was also in the South, having made the contract. The case the Senator from Connecticut supposes is totally different. In this case all the *indicia* go to show that so far as Mr. Mitchell did anything in the South at all it was in aid of the southern confederacy. The fact is plainly inferable, it seems to me, not that he engaged in the South in collecting his debts merely, but that he engaged in the sale and in the purchase of cotton, because he passed from one part of the South to the other. The cotton seized was all in Savannah, and if he received any cotton in the payment of his debts it was not this identical cotton which was seized by the Government. It appears, as I have already said, that the amount of cotton for which he claims payment is greater in value than the whole amount of indebtedness due to both the firms, so that he must have engaged in trading with the enemy.

This case was before the Senate at a prior Congress. A favorable report was made upon it by the Committee on Claims, and it came before the Senate for action. Before the case was finally disposed of, however, in the examination of another claim before the same committee, the fact of Mitchell's engaging actively in the performance of a contract to supply the confederate government with pork was developed. That was the first information the Committee on Claims had upon that subject; and, upon that state of facts, after considerable discussion upon the matter, the bill was referred again to the committee for re-examination, and so disposed of for that Congress.

The Senator from Tennessee attempts to illustrate the mere technicality, as he terms it, in this case as to the title of the cotton by saying that if the cotton had belonged to a member of the confederacy his title to it would have been complete. In that case the transaction would have been wholly different. The citizens of the South were recognized enemies. They had a right to do what they pleased with their cotton. So far as the law of nations is concerned affecting this question, they had a right to render allegiance to the government which they claimed to have set up, and there was no disloyalty to

that government on their part, there was no treason to their government in purchasing cotton or in trading between their own citizens. We had recognized them as belligerents and given them the rights of war. But Mitchell left his own country, he left the Government that had protected him, and went to render aid and comfort to the enemy. In various forms, at various times through the whole war, he spent his time in aiding that confederacy, and when it terminated against the government there attempted to be set up, when this cotton was seized by the Federal Army, then he comes in and claims to be a loyal man. Why, Mr. President, a claim so utterly without foundation I think cannot be pointed to in the annals of the Senate.

Mr. HARRIS. Will the Senator from Minnesota allow me to ask him a question?

Mr. McMILLAN. Certainly.

Mr. HARRIS. Where is the legal title to that cotton or to the proceeds?

Mr. McMILLAN. It is not in Warren Mitchell.

Mr. HARRIS. Will the Senator be kind enough to tell me where it is?

Mr. McMILLAN. The Government of the United States has seized that property as a prize of war. Mr. Mitchell not only has no title to it technically, but he has no title to it under any view of the case you can take.

Mr. BOOTH. Will the Senator allow me to ask him a question for my own enlightenment?

Mr. McMILLAN. Certainly.

Mr. BOOTH. Would this cotton have been liable to seizure and confiscation if it still remained in the hands of Mitchell's vendors?

Mr. McMILLAN. No, sir; because his vendors were engaged in supporting the rebellion; they were citizens of the confederacy. That is the difference between his vendors and himself. They were doing acts which we recognized as being proper on their part to their own government.

Mr. BOOTH. But the question that I asked went to this effect: Would the United States have derived any different title by the seizure of the cotton in the hands of Mitchell's vendors from what they did by its seizure in Mitchell's hands?

Mr. HOAR. Will my friend from Minnesota allow me to propound a question to the Senator from California which perhaps will be an answer to his? Would he apply the same rule to a loyal citizen who went down and engaged in contraband trade with the enemy, and confirm a title gained by such a trade, in all cases where he would not have seized the property in the hands of a rebel? That is the point in this case.

Mr. BOOTH. I am not answering questions. I put one.

Mr. HOAR. This petitioner asks Congress to confirm a title which is void, because he was engaged in a contraband trade with his country's enemy, and he says, "You would not take the property away from an enemy under the circumstances, therefore confirm my illicit trade."

Mr. EDMUNDS. You always would take contraband of war from an enemy if you could take it, as Sherman did with his army after considerable trouble.

Mr. HOAR. That is another thing.

Mr. McMILLAN. Mr. President, in any view I can take of this claim, if I have correctly understood the facts here, (and I have given diligent attention to them,) it is utterly without foundation; and if this relief is granted to this claimant it is a reward for treason. There can be no doubt of his duty to the Government of the United States. There is no doubt that if he performed these acts he was lending aid to the enemies of his own country, and property acquired by him in the very act of treason it is claimed here is his by all the rules of justice, equity, and morality! I am unable to see the subject in any such light, and I trust the Senate will refuse to pass this bill.

Mr. HOAR. Mr. President, I think this whole case is in a nutshell, where it is properly understood, and it seems to me that it presents one single point, a point not presented, if I am right in my view, in the very ingenious and earnest argument of the Senator from Tennessee, [Mr. HARRIS.] He has undertaken to discuss the question whether the United States would have taken and held under the circumstances disclosed in the report the property of a rebel, and he says if they would not certainly they ought not to take and hold the property of this petitioner, concerning whom at least all you can say is that it is in doubt on the facts whether he was a rebel or not, and concerning whom the Senator from Tennessee affirms his belief that he was a loyal citizen.

Now, it seems to me that question is not presented by the case before the Senate. A citizen of a State not in rebellion got a pass—as it turned out an unauthorized pass, but that is not very important—from a general commanding a military district to go South and collect debts, and thereupon on that pass he went South, remained three years, traveling about in the rear of the rebel armies, as much at home within the rebel lines as the general of the confederate forces, and dealt, buying at one end of the confederacy and selling at the other, or selling at one end of the confederacy and buying at the other, in cotton, which was contraband of war, every one of those dealings being in violation of the law of war and the law of nations.

Mr. EDMUNDS. And of the statute law of the United States.

Mr. HOAR. And of the law of the United States in such cases made and provided. Now, to violate the law which prohibits the citizen of a State from dealing with citizens of States at war with his own, has been for the first time within my knowledge spoken of as a technicality. It is not a technicality. It is one of the most important and necessary rules of public conduct for the the safety of States in time of imminent peril and danger.

This man acquired by that illegal course of business one hundred and twenty-eight thousand dollars' worth of cotton, or thereabouts, and when General Sherman captured Savannah he captured that cotton and took it as booty or prize of war, and its proceeds were paid into the Treasury of the United States, and now this petitioner comes in and says, "Pay me the proceeds of that cotton; you would not have taken it away from a rebel at war with you under the circumstances;" which I by no means admit, but that is his claim; "now pay it over to me." To which the reply is, "You have not the least title to it in the world and never had. The laws of your country and the laws of all civilized countries at war prohibited you getting any title to it by such a transaction;" and the petitioner says: "I know it; that is true; I do not pretend to dissent from that proposition the least in the world. This was a prohibited transaction; it was in violation of the laws of war; it gives me no title whatever to the cotton; but I was led to think I had got a title or might get one, and to enter upon this course of trade, by a pass which I got from General Anderson, under which I went down for the purpose of collecting these debts and paying them over to my northern creditors." Well, the reply in the first place is, "General Anderson never had any authority to grant you such a pass," and so says the court. The reply in the next place is, "The pass that he did grant you was simply a pass to go within the rebel lines, and did not purport to be a pass even to collect your debts or give you any authority to that; and further, if you had done and rightfully done all that, General Anderson never contemplated that you were to engage in this course of trading which the evidence discloses."

Mr. EDMUNDS. It is the same pass he would have given to an enemy to go to his own country.

Mr. HOAR. It is the same pass he would have given an enemy to go home to visit his wife and children or to visit his plantation, and that is all. But he says "I was a loyal citizen meaning well to my Government, and I was a loyal citizen who got into this difficulty which I admit I am in, and who did not get any title to this property, as I admit I did not, by means of a mistake which it is not becoming a great government to insist upon." The answer to that proposition, even if it had weight and if the Government could undertake to correct mistakes of that kind in time of war with any safety to anybody, is "We do not believe one word of that story." It is not credible that a man living in Kentucky, where men knew whether their neighbors desired that this rebellion should succeed, or desired that this rebellion should fail, was permitted to spend three years trading in cotton within the confederate lines, he being in heart and soul loyal to this Government all the time. It is one of those stories not to be taken by sane men as true upon evidence, that that man did these things which the evidence discloses—a Kentuckian, an eminent, influential Kentucky merchant at the beginning of the war, and the men in authority and in power within the confederate lines did not know whether he was a loyal Union-loving citizen or not!

In the next place "it is inconsistent with your own conduct, Mr. Mitchell, because while you were down there you were engaged for money, for profit, in giving aid and comfort to the rebellion, in providing provisions under a contract for the support of its army in the field." Now what has Mr. Mitchell to say in reply to that? Why, he says, "I did execute a very large and lucrative contract to supply pork to the confederate armies; but I did it because my partner, who was a rebel at heart, had taken the contract in my name and his own, and I found that I was bound by it in law, and thought I had better carry it out. We should lose money, we should be held to damages if we did not." In other words he says, "I, the Union-loving citizen, the intelligent merchant loving my country and hating rebellion all the time, helped feed those armies for pay, because I was afraid I should lose some money if I did not by being held to have broken a contract which my partner had undertaken to make in my behalf."

Sir, I do not think that the fear of losing some money by being adjudged to have broken his contract with the confederate government is an excuse for treason, for giving aid and comfort to the rebellion, on the part of the citizen of a loyal State to be made to the representatives of men who were not only willing to lose their property, but to lose their lives to put down that rebellion.

Mr. President, if a southern man on a like pass from a southern general had come north out of their lines and into ours, and had done these same acts for the Union Government, he would have been shot or hung within twenty-four hours after he got back, if he had gone back while the rebellion had its head erect; and, although this Government has considered that if it be not a justification it is at least an excuse to a man that he went with his State, that he stood by his neighbors, that he believed he was right in making war upon the Government, I do not think we have until now been even asked from that side of the Chamber to say that for a loyal man, belonging to a loyal State, professing to be loyal in sentiment, it is a good justi-

fication or even a tolerable excuse that he was afraid he would lose a little money if he did not give aid and comfort to the enemies of his country and its flag!

Mr. WINDOM. Mr. President, I ask that this bill may be temporarily laid aside in order to appeal to the Senate to pass a little appropriation bill which the House is extremely anxious to have acted on to-day. I think it will not take five minutes, perhaps not three.

Mr. HARRIS. I have no objection to yielding to the desire of the Senator from Minnesota.

Mr. EDMUNDS. Mr. President, this is too good a bill, it seems to me, to be laid aside informally. There is so much of justice and honor, and high considerations in it, that it is rather a pity. I wish my friend from Minnesota could wait. I do not mean to interpose an objection, but this is one of the occasions when we can show our forgetfulness of what has passed, and act for all the future, that I think we ought to go on with it. It is rather too good to be lost just now.

Mr. DAVIS, of Illinois. I do not think this appropriation bill will occupy any time. It is absolutely necessary to pass it.

Mr. CONKLING. What is the appropriation bill?

Mr. DAVIS, of Illinois. The portion I feel interested in is to get money appropriated so that the committee appointed by the other House may go to Chicago to make an investigation.

Mr. WINDOM. I think there is no objection. The Senator from Vermont does not object; he only thinks he ought to object, to carry out his convictions this time.

Mr. EDMUNDS. This bill ought not to be delayed by any such thing as appropriations.

The VICE-PRESIDENT. Does the Chair understand the Senator from Vermont to object?

Mr. EDMUNDS. No, I do not object to the Committee on Appropriations at any time.

MISCELLANEOUS APPROPRIATIONS.

Mr. WINDOM. I am instructed to report back the bill with amendments which I shall offer after the bill is read.

By unanimous consent, the bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives was considered as in Committee of the Whole.

To enable the Secretary of the Treasury to meet the expense of the transportation of coin and bullion $60,000 is appropriated. That the charges for the transportation of gold coin from San Francisco to New York shall not exceed one-fourth of 1 per cent., and for the transportation of silver 1 per cent., and for intermediate points at proportionate rates corresponding to the distance.

To meet the miscellaneous expenses of the House of Representatives, to be disbursed by the Clerk of the House, the sum of $40,000 is also appropriated.

Mr. WINDOM. The committee move to strike out the word "charges," in line 5, and insert "amount paid;" so as to read:

And that the amount paid for the transportation of gold coin, &c.

The amendment was agreed to.

Mr. WINDOM. I submit from the Committee on Appropriations an amendment to be added to the bill. We have ascertained from examination at the Secretary's office that there will be a deficiency to the extent named there in the last two cases, and that the amount mentioned in the first item will probably be needed before the close of the session, and this is probably the only opportunity we shall have to provide for it. The amendment is to add to the bill:

That the sum of $10,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated; which sum shall be placed to the credit of the contingent fund of the Senate, to be applied toward defraying the expenses of such investigations and inquiries as have already been, or may hereafter be, directed by the Senate duting the Forty-fifth Congress.

For expenses of the joint committee to take into consideration the subject-matter of reform and reorganization of the Army, $232.67.

For expenses of the joint committee to take into consideration the expediency of transferring the Indian Bureau to the War Department, $953.60.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

On motion of Mr. WINDOM, the title was amended by adding "and for other purposes."

RECOMMITTAL OF A BILL.

Mr. BRUCE. I desire to ask unanimous consent of the Senate to recommit to the Committee on Pensions the bill (H. R. No. 3575) granting an increase of pension to Josephine Da C. Thomas.

The VICE-PRESIDENT. Is there objection? The Chair hears none and the order will be entered.

EXECUTIVE SESSION.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; there being, on a division—ayes 26, noes 15; and the Senate proceeded to the consideration of executive business. After nine minutes spent in executive session the doors were reopened, and (at four o'clock and five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 23, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read.

CORRECTION.

Mr. STEPHENS, of Georgia. I wish to correct the Journal. In the title of the bill which I introduced yesterday to define and prescribe the duties of the Secretary of the Treasury, in certain cases and for other kindred purposes, the word "for" is omitted before the words "other kindred purposes." I also observe that in the RECORD the words "Secretary of War" are inserted in the title, instead of "Secretary of the Treasury."

The SPEAKER. The necessary corrections will be made.

The Journal, as corrected, was approved.

SESSION FOR BUSINESS OF JUDICIARY COMMITTEE.

Mr. KNOTT. I ask unanimous consent that there be a session of the House to-morrow evening at half past seven o'clock for the consideration of reports from the Committee on the Judiciary.

Mr. HALE. Let it be understood that all points of order are reserved.

The SPEAKER. That is a matter of course. If this session be ordered, the business from the Judiciary Committee will be considered subject to all the rules of the House. If there be no objection, the session as requested by the gentleman from Kentucky [Mr. KNOTT] will be ordered.

There was no objection, and it was ordered accordingly.

USELESS PORTS OF ENTRY.

Mr. LUTTRELL, by unanimous consent, submitted the following resolution; which, without being read, was referred to the Committee of Ways and Means, and ordered to be printed in the RECORD:

Whereas the report of the Register of the Treasury shows receipts from customs at small ports during the fiscal years ending June 30, 1873, 1875, and 1878, and cost of collecting the same, as follows:

Custom-house collections and expenses for—	Receipts.	Cost of collection.
1873.		
Aroostook, Maine	$13,117 01	$11,720 00
Machias, Maine	3,048 56	6,868 72
Frenchman's Bay, Maine	36 45	6,783 00
Castine, Maine	376 54	8,562 25
Waldoborough, Maine	7,356 81	10,114 17
Wiscasset, Maine	653 61	4,074 47
Saco, Maine	53 10	1,318 00
Kennebunk, Maine	6 29	1,279 00
York, Maine	Not a cent.	368 39
Belfast, Maine	7,368 55	7,936 00
Gloucester, Massachusetts	5,662 36	18,911 00
Marblehead, Massachusetts	588 14	1,657 79
Barnstable, Massachusetts	2,855 38	8,095 60
Edgartown, Massachusetts	678 01	6,050 07
Nantucket, Massachusetts	Nothing.	1,866 28
Fernandina, Florida	1,650 24	6,218 15
Saint Mark's, Florida	592 16	7,540 00
Saint John's, Florida	581 83	6,341 65
Apalachicola, Florida	331 00	2,912 15
Saint Augustine, Florida	Nothing.	6,741 63
Bridgeport, New Jersey	Nothing.	849 39
Annapolis, Maryland	Nothing.	2,246 64
Town Creek, Maryland	Nothing.	165 00
Crisfield, Maryland	28 81	4,555 00
Cherrystone, Virginia	Nothing.	4,729 52
Wheeling, West Virginia	Nothing.	1,849 70
Parkersburgh, West Virginia	Nothing.	384 28
Bristol, Rhode Island	338 00	1,805 67
Newport, Rhode Island	2,350 82	7,462 12
Middletown, Connecticut	2,364 12	4,055 85
Stonington, Connecticut	1,719 50	1,980 86
Perth Amboy, New Jersey	892 65	7,915 43
Burlington, New Jersey	302 20	534 00
Newark, New Jersey	2,187 79	4,128 31
Georgetown, District of Columbia	6,584 64	7,010 28
Norfolk, Virginia	31,926 60	34,648 50
Tappahannock, Virginia	137 97	892 08
Alexandria, Virginia	4,555 06	5,503 68
Albemarle, North Carolina	80 08	5,873 22
Pamlico, North Carolina	2,137 39	7,964 65
Beaufort, North Carolina	131 90	2,391 72
Georgetown, South Carolina	422 79	2,889 50
Saint Mary's, Georgia	1,030 41	3,117 15
Pearl River, Mississippi	4 46	2,330 73
Sag Harbor, New York	Nothing.	2,739 14
Little Egg Harbor, New Jersey	Nothing.	4,394 00
Great Egg Harbor, New Jersey	Nothing.	1,656 58
1875.		
Bangor, Maine	754 72	10,725 96
Machias, Maine	1,873 96	3,923 00
Castine, Maine	1,113 00	7,473 00
Frenchman's Bay, Maine	4 40	6,124 00
York, Maine	30 28	373 00
Aroostook, Maine	5,935 33	6,889 18
Wiscasset, Maine	159 54	3,463 00
Newport, Rhode Island	433 51	3,483 58
Stonington, Connecticut	245 10	1,282 60
Dunkirk, New York	80 65	3,553 06

Custom-house collections and expenses for—	Receipts.	Cost of collection.
1875.		
Little Egg Harbor, New Jersey	$30 50	$4,537 22
Great Egg Harbor, New Jersey	118 66	2,438 65
Albemarle, North Carolina	543 91	5,912 45
Beaufort, North Carolina	485 35	1,945 07
Georgetown, South Carolina	52 20	2,675 00
Saint Augustine, Florida	46 72	5,815 00
Key West, Florida	33 24	27,405 71
Saint Mark's, Florida	46 52	7,769 56
Apalachicola, Florida	56 34	2,178 62
Pearl River, Mississippi	587 48	7,025 14
Paso del Norte, Texas	13 29	18,960 00
Evansville, Indiana	561 22	6,419 05
Burlington, Iowa	310 72	450 00
Alaska	405 89	13,018 59
1878.		
Belfast, Maine	1,445 02	4,569 00
Wiscasset, Maine	600 47	3,672 00
Waldoborough, Maine	900 10	6,656 00
Castine, Maine	888 82	5,849 11
Saco, Maine	32 40	776 00
Machias, Maine	449 18	3,035 00
Frenchman's Bay, Maine	85 76	4,497 60
Nantucket, Massachusetts	90 41	2,064 30
Barnstable, Massachusetts	922 97	3,012 29
Edgartown, Massachusetts	975 85	4,730 60
Newport, Rhode Island	210 16	4,123 90
Middletown, Connecticut	7,428 81	2,995 33
Stonington, Connecticut	206 42	1,513 00
Dunkirk, New York	107 92	1,564 00
Newark, New Jersey	1,916 50	3,931 17
Little Egg Harbor, New Jersey	7 00	2,221 00
Erie, Pennsyvalnia	786 50	3,894 59
Georgetown, District of Columbia	539 20	3,645 77
Cherrystone, Virginia	134 50	2,334 63
Beaufort, North Carolina	21 88	1,473 00
Georgetown, South Carolina	123 10	1,860 59
Saint Augustine, Florida	36 64	4,304 28
Fernandina, Florida	5 48	1,429 00
Teché, Louisiana	27 36	7,086 07
Galena, Illinois	2 88	889 00
Burlington, Iowa	14 60	477 00
Dubuque, Iowa	1 95	264 00

showing that vast sums of money are expended to maintain useless ports of entry, that the Treasury is depleted in millions annually to maintain these ports of entry at the expense of the tax-payers of the country: Therefore,

Be it resolved, That the Committee of Ways and Means be, and are hereby, requested to report at the earliest day practicable a bill suspending or abolishing all ports of entry that are not self-sustaining.

DOCUMENTS IN HOUSE DOCUMENT-ROOM.

Mr. MONEY, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That hereafter no documents shall be delivered from the document-room of the House except upon the order of a member of the House or of the Senate.

BUSINESS FROM THE COMMITTEE ON FOREIGN AFFAIRS.

Mr. SWANN. By instruction of the Committee on Foreign Affairs I ask unanimous consent that Tuesday, February 4, after the reading of the Journal, may be devoted to the consideration of reports from the Committee on Foreign Affairs.

Mr. DUNNELL. I object.

Mr. HALE. I call for the regular order of business.

Mr. BRIDGES. I ask the gentleman who objected to withdraw his objection. There are some bills of importance before the Committee on Foreign Affairs which ought to be considered, among others the Japanese question.

Mr. DUNNELL. It is true that every committee of the House has a large amount of business in its hands. The Committee on Commerce could occupy two or three evening sessions; but if we assign so many special orders, there will be no regular call of committees for reports.

Mr. SWANN. I will state for the information of the gentleman who opposes this resolution that the Committee on Foreign Affairs will be able to dispose of the whole business before that committee in a very short time, and will not occupy more than one evening session.

Mr. DUNNELL. I do not withdraw my objection.

Mr. HALE. Then I insist on the regular order of business.

CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON. I submit the following privileged report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 39 and 44.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 45, 46, 47, 48, and 50, and agree to the same.

That the Senate recede from its amendment numbered 12, with an amendment striking out lines 8 and 9, page 2 of the bill; and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment striking out lines 24 and 25, page 12 of the bill; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment adding, after the word "Hong-Kong," "Ottawa;" and the Senate agree to the same.

O. R. SINGLETON,
EUGENE HALE,
Managers on the part of the House.
WILLIAM WINDOM,
W. B. ALLISON,
R. E. WITHERS,
Managers on the part of the Senate.

Mr. SINGLETON. One word of explanation and then I am done. This conference report gives us the bill of last session and the law as it was passed, with the exception of an amendment, which was put on by this House, retaining the second secretaries of legation at Paris, Berlin, and London. The Senate requested there might be allowed transfer of clerks of certain consulates from one to another, but it does not increase the expense. So it is the bill of last session with the amendment the House made to it. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the conference committee was adopted.

Mr. SINGLETON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The Chair asks unanimous consent to present certain executive and other communications.

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of a bill (H. R. No. 5808) to facilitate the refunding the national debt, without amendment, and a bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes, with amendments; in which concurrence was requested.

The message further announced the passage of the following bills; in which concurrence was requested:

A bill (S. No. 420) for the relief of Major P. P. G. Hall; and

A bill (S. No. 195) to declare certain lands subject to taxation.

ORDER OF BUSINESS.

Mr. MILLS. Is not the morning hour the regular order of business?

The SPEAKER. The Chair was granted unanimous consent to present certain executive and other communications, which will not take long. Besides, the morning hour is not the first business in order this morning, as the gentleman from Virginia has notified the Chair he would press the special order to-day.

ANTI-POLYGAMY LAW.

The SPEAKER laid before the House the memorial of Emmeline B. Wells and Zina Young Williams, of Salt Lake City, Utah Territory, asking for the repeal of the anti-polygamy law of 1862 and for legislation to protect the women and children of Utah Territory.

Mr. CLARK, of Missouri. I ask that the paper be read.

The paper was read, as follows:

To the Senate and House of Representatives
of the United States in Congress assembled:

Whereas a recent decision of the Supreme Court of the United States has declared the anti-polygamy law of 1862 to be in accordance with the Constitution; and

Whereas we, and Mormon women generally, previous to that decision implicitly believed that this law was in violation of the Constitution, which says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" and

Whereas under our present civilization we have a peaceful, prosperous, and healthful condition of society, our children are owned and supported by their fathers and are equally recognized as heirs to their father's estate, and our women are protected from the temptation to infanticide and kindred crimes; and

Whereas the enforcement of the law of 1862 would imprison our husbands, despoil and destroy our homes, render our children illegitimate before the world, and leave ourselves and many thousands of women desolate and unprotected; and

Whereas this example set by the United States would encourage mobs to violently assault and afflict us as in times past, when we were driven from State to State far out beyond the pale of this Republic; and

Whereas we went far out into the wilderness by the advice and at the suggestion of eminent leading American statesmen, that we might worship God according to the dictates of our own consciences, without fear or molestation, and at the same time extend to all, of whatever faith, the same precious privilege; and

Whereas, after the United States had taken possession of the land which our people had redeemed from the desert and made prosperous, and which the Mormon battalion under Colonel Philip St. George Cooke had, together with what is now known as California, Nevada, New Mexico, and Arizona, helped to conquer, President Fillmore, "by the advice and consent of the Senate," appointed Brigham Young, then a practical polygamist, governor of Utah, we had good reason to believe the Government would continue to protect us in our religious faith and its practice; and

Whereas harsh measures toward our people, such as destruction of families and homes, will have a tendency to drive many to desperation, while just and humane treatment will foster and strengthen love and affection for the Government, thereby securing a more peaceful issue of affairs now pending; and

Whereas we ourselves and a majority of our people are native-born citizens of the United States and desire to live in obedience to the laws of our country: Therefore

We pray your honorable body to repeal the anti-polygamy law of 1862; and

We further pray you to enact such legislation as will securely legitimatize our

children and protect our names from dishonor by preserving unbroken the existing relationship of families which are already bound together by the strongest ties of affection and whose lives would be forever wrecked through separation; and

We further pray that in any future legislation concerning the marriage relation in any Territory under your jurisdiction you will consider the rights, the hearts, and the consciences of the women to be affected by such legislation, and that you will consider the permanent care and welfare of children as the sure foundation of the state.

And your petitioners will ever pray.

EMMELINE B. WELLS,
ZINA YOUNG WILLIAMS.

Mr. CANNON, of Utah. I move that the memorial be referred to the Committee on the Judiciary, with leave to report at any time.

Mr. TOWNSEND, of New York. I object to leave being given to report at any time. I do not object to the reference.

The memorial was referred to the Committee on the Judiciary.

ENFORCEMENT OF ANTI-POLYGAMY LAW.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a number of petitions for the enforcement of the anti-polygamy law referred to that Department by the President; which was referred to the Committee on the Judiciary.

PRODUCTS OF FISHERIES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a draught of a joint resolution for securing reports of the products of the fisheries; which was referred to the Committee on Commerce.

DEFICIENCY ESTIMATES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury supplementary to the deficiency estimates heretofore submitted; which was referred to the Committee on Appropriations.

SURVEY OF FLUSHING BAY, NEW YORK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Lieutenant Colonel John Newton, Corps of Engineers, of the result of a survey of Flushing Bay, New York; which was referred to the Committee on Commerce.

SUSPENDED LAND ENTRIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting two lists of suspended entries of lands under the pre-emption laws acted on by the board established by section 2451 of the Revised Statutes; which was referred to the Committee on Public Lands.

SURVEYS OF SALEM RIVER, ETC.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Colonel J. M. Macomb, Corps of Engineers, on the surveys of the Salem River, Woodbridge Creek, Elizabeth River, and Rahway River; which was referred to the Committee on Commerce.

REPORTS OF GEOLOGICAL AND GEOGRAPHICAL SURVEYS.

The SPEAKER, by unanimous consent, laid before the House a message from the Senate, that the Senate agreed, with amendments, to the resolution of the House of Representatives for the printing of volumes 3, 8, and 13 of the final reports of the geological and geographical surveys of the Territories with the necessary illustrations.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

REPORT ON FISH AND FISHERIES.

The SPEAKER also laid before the House a concurrent resolution of the Senate for printing 15,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877–'78, with illustrations; which was referred to the Committee on Printing.

NARRATIVE OF POLARIS EXPEDITION.

The SPEAKER also laid before the House a concurrent resolution of the Senate for printing 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer, under the direction of the Joint Committee on Printing, at the cost of publication with 10 per cent. added thereto; which was referred to the Committee on Printing.

WALKER'S STATISTICAL ATLAS.

The SPEAKER also laid before the House a concurrent resolution of the Senate that the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress be bound by the Public Printer; which was referred to the Committee on Printing.

REPORTS OF GEOLOGICAL AND GEOGRAPHICAL SURVEYS.

The SPEAKER also laid before the House a message from the Senate, that the Senate had agreed, with amendments, to the resolution of the House of Representatives to print 3,000 copies of the Report of the Geological and Geographical Surveys of the Rocky Mountain Region, relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

The SPEAKER also laid before the House a message from the Senate, that the Senate had agreed, with amendments, to the resolution of the House of Representatives to print 3,000 copies of the Geographical and Geological Surveys of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT, from the Committee on Appropriations, reported a bill (H. R. No. 6143) making an appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BLOUNT. I give notice that after the reading of the Journal on Saturday I shall make an effort to bring up this bill for action.

Mr. CONGER. I reserve all points of order on the bill.

FEDERAL CENSUS.

Mr. COX, of New York, from the Select Committee on the Census, reported a bill (H. R. No. 6144) to provide for taking the Federal census; which was read a first and second time, recommitted to the same committee, and ordered to be printed.

Mr. RYAN. I ask leave to present an amendment, which, when the bill just reported is considered, I propose to offer as the views of the minority. I ask that the amendments be printed with the bill.

There was no objection, and it was so ordered.

DOCTOR JUNIUS L. POWELL.

Mr. BANNING. I ask unanimous consent to report at this time a Senate bill from the Committee on Military Affairs.

Mr. GOODE. If it will take time, I must object.

Mr. BANNING. I think it will not take more than a few minutes. I ask leave to report back the bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

The bill was read.

Mr. BREWER. I object to that bill.

Mr. BANNING. If the gentleman will allow me to explain for a moment, I think he will withdraw his objection.

Mr. BREWER. I understand what it is, and I object.

CHANGE OF REFERENCE.

Mr. HUBBELL, from the Committee on Commerce, reported back papers of the following titles, and asked that the committee be discharged from the further consideration of the same, and that they be referred to the Committee on Appropriations:

A memorial of the Legislative Assembly of Washington Territory, asking an appropriation for a steam fog-whistle at Foulweather Bluff;

Also, a report to accompany House bill 647, making an appropriation for the erection of a light-house at Little Traverse Bay, Michigan;

Also, a report to accompany House bill 5461, making an appropriation for the purchase of a site for the erection of a fog-signal on Sandy Point, Puget Sound, Washington Territory.

DOCTOR JUNIUS L. POWELL.

Mr. BREWER. I wish to withdraw my objection to the bill offered by the gentleman from Ohio, [Mr. BANNING.]

Mr. TOWNSEND, of New York. I renew the objection.

PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

Mr. GOODE. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the bill to apply the proceeds of the public lands to aid in the education of the people.

Mr. MILLS. I raise the question of consideration.

The SPEAKER. The Chair will cause the order of the House upon the subject to be read.

The Clerk read as follows:

JANUARY 10, 1879.

On motion of Mr. GOODE, by unanimous consent,

Ordered, That Thursday, January 23, immediately after the reading of the Journal, be assigned to the consideration of the bill from the Committee on Education and Labor, to apply the proceeds of the sales of the public lands to the education of the people.

The SPEAKER. The gentleman from Texas now raises the question of consideration, and the Chair states that it is not competent for the gentleman to raise the question of consideration on this bill for the reason that the rule which gives him that right has been suspended by a vote of the House in fixing the consideration of this bill for to-day.

Mr. HOOKER. I rise to a point of order. It is decided by the Speaker that a prior order of the House fixing the time for the consideration of a bill cannot be antagonized by any other order.

The SPEAKER. The order made by the House can be got rid of in two ways, either by laying the bill upon the table or by a motion to adjourn.

Mr. TOWNSEND, of New York. I desire to withdraw the objection I made to the motion of the gentleman from Ohio, [Mr. BANNING.] I made it under a misunderstanding of the nature of the bill.

The SPEAKER. The Chair will at the first opportunity recognize the gentleman to withdraw it.

Mr. CALKINS. Do I understand the Chair to hold that the rules were suspended by reason of the order made?

The SPEAKER. The Chair understands that the fact is as the gentleman states it.

Mr. CALKINS. That the rules were suspended by unanimous consent.

The SPEAKER. They were suspended by unanimous consent; at least the order was made by unanimous consent, and that has always been held to be equivalent to a suspension of the rules, only with more force than when the rules are suspended by merely a two-third vote, because it was a unanimous vote.

Mr. MILLS. I want to know under what rule of the House the consideration of this bill will be conducted.

The SPEAKER. The bill is before the House under a suspension of the rules.

Mr. MILLS. Then what rules have we for the consideration of a bill and for debate upon it?

The SPEAKER. The ordinary rules of the House would apply after the House got into Committee of the Whole.

Mr. MILLS. My understanding has always been that when a day was appointed for the consideration of a certain bill we suspended all the rules in the way of having that appointment made.

The SPEAKER. The bill will be considered under the rules of the House in Committee of the Whole.

Mr. GOODE. Pending my motion that the House resolve itself into Committee of the Whole on the state of the Union, I move that all general debate be limited to one hour.

Mr. DUNNELL. I hope that more time than that will be given for the discussion of so important a measure.

The SPEAKER. What limit does the gentleman from Minnesota suggest?

Mr. DUNNELL. I think two hours will be the least time that should be allowed.

Mr. GOODE. I accept that as an amendment.

Mr. MILLS. What is the amendment?

The SPEAKER. To allow two hours.

Mr. MILLS. I move to limit the debate to ten minutes.

The question was taken on Mr. MILLS' amendment; and it was not agreed to.

Mr. HALE. I presume that the motion to limit does not affect the five-minute debate?

The SPEAKER. Certainly not; the motion is to close the general debate.

Mr. CONGER. Will it be in order to move to postpone the consideration of this question?

The SPEAKER. Not while this motion is pending.

Mr. BURCHARD. If the motion to go into Committe of the Whole were voted down would not that bring up the morning hour?

The SPEAKER. It would.

The question was taken; and upon a division there were—ayes 85, noes 100.

Mr. EDEN. I call for the yeas and nays.

The yeas and nays were ordered; 66 members voting therefor.

The question was taken; and there were—yeas 125, nays 108, not voting 55; as follows:

YEAS—125.

Aiken,	Davidson,	Jones, Frank	Sayler,
Atkins,	Dean,	Jones, James T.	Scales,
Banning,	Dibrell,	Kenna,	Singleton,
Bell,	Durham,	Kimmel,	Slemons,
Benedict,	Eden,	Knott,	Smith, William E.
Bicknell,	Eickhoff,	Landers,	Southard,
Blackburn,	Elam,	Lockwood,	Sparks,
Bliss,	Ellis,	Loring,	Springer,
Blount,	Evins, John H.	Luttrell,	Steele,
Bouck,	Ewing,	Mackey,	Stenger,
Bragg,	Felton,	Maish,	Stephens,
Bridges,	Finley,	Manning,	Throckmorton,
Bright,	Forney,	Martin,	Townshend, R. W.
Buckner,	Franklin,	Mayham,	Tucker,
Cabell,	Fuller,	McMahon,	Turner,
Caldwell, John W.	Garth,	Mills,	Turney,
Caldwell, W. P.	Gause,	Money,	Vance,
Candler,	Gibson,	Monroe,	Veeder,
Carlisle,	Glover,	Morgan,	Waddell,
Chalmers,	Goode,	Morrison,	Walker,
Clark, Alvah A.	Gunter,	Morse,	Warner,
Clark of Missouri,	Hamilton,	Muldrow,	Whitthorne,
Clarke of Kentucky,	Hardenbergh,	Patterson, T. M.	Wigginton,
Cobb,	Harris, Henry R.	Phelps,	Williams, James
Collins,	Harris, John T.	Potter,	Williams, Jere N.
Cook,	Harrison,	Pridemore,	Willis, Albert S.
Covert,	Hatcher,	Rea,	Wilson,
Cox, Jacob D.	Henry,	Reagan,	Wright,
Cravens,	Herbert,	Rice, Americus V.	Yeates,
Crittenden,	Hewitt, Abram S.	Robbins,	Young, John S.
Culberson,	Hewitt, G. W.	Robertson,	
Cutler,	Hooker,	Ross,	

NAYS—108.

Acklen,	Blair,	Chittenden,	Dwight,
Aldrich,	Brewer,	Claflin,	Eames,
Bacon,	Briggs,	Clark, Rush	Errett,
Bagley,	Brogden,	Cole,	Evans, James L.
Bailey,	Bundy,	Conger,	Fort,
Baker, John H.	Burchard,	Cummings,	Foster,
Baker, William H.	Burdick,	Danford,	Freeman,
Ballou,	Cain,	Davis, Horace	Garfield,
Banks,	Calkins,	Deering,	Hale,
Bayne,	Cannon,	Denison,	Hanna,
Bisbee,	Caswell,	Dunnell,	Harmer,
Hayes,	Ketcham,	Peddie,	Starin,
Hazelton,	Killinger,	Pollard,	Stewart,
Hendee,	Lapham,	Pound,	Strait,
Henderson,	Lathrop,	Price,	Tipton,
Hubbell,	Lindsey,	Randolph,	Townsend, Ames
Humphrey,	Majors,	Reed,	Townsend, M. I.
Hungerford,	Marsh,	Rice, William W.	Van Vorhes,
Hunter,	McCook,	Robinson, G. D.	Wait,
Ittner,	McKinley,	Robinson, M. S.	Ward,
James,	Mitchell,	Ryan,	Watson,
Jones, John S.	Neal,	Sampson,	White, Harry
Jorgensen,	Oliver,	Sapp,	Williams, Andrew
Joyce,	O'Neill,	Shallenberger,	Williams, C. G.
Keifer,	Overton,	Sinnickson,	Williams, Richard
Keightley,	Page,	Smalls,	Willits,
Kelley,	Patterson, G. W.	Smith, A. Herr	Wren.

NOT VOTING—55.

Beebe,	Ellsworth,	Ligon,	Sexton,
Bland,	Evans, I. Newton	Lynde,	Shelley,
Boone,	Frye,	McGowan,	Stone, Joseph C.
Boyd,	Gardner,	McKenzie,	Stone, John W.
Brentano,	Giddings,	Metcalfe,	Swann,
Browne,	Harris, Benj. W.	Muller,	Thompson,
Butler,	Hart,	Norcross,	Thornburgh,
Camp,	Hartzell,	Phillips,	Walsh,
Campbell,	Haskell,	Powers,	White, Michael D.
Clymer,	Henkle,	Pugh,	Willis, Benj. A.
Cox, Samuel S.	Hiscock,	Rainey,	Wood,
Crapo,	House,	Reilly,	Young, Casey.
Davis, Joseph J.	Hunton,	Riddle,	
Dickey,	Knapp,	Roberts,	

So the motion of Mr. GOODE was agreed to.

During the roll-call the following announcements were made:

Mr. LIGON. I am paired with Mr. PUGH, of New Jersey. If he were present, I would vote "ay." I do not know how he would vote.

Mr. MILLS. With the expectation that there will be a morning hour to-morrow or the day after, I vote "ay."

Mr. STEELE. I desire to announce that my colleague from North Carolina, Mr. DAVIS, is absent by leave of the House.

Mr. STONE, of Michigan. I am paired with Mr. SHELLEY, of Alabama.

Mr. METCALFE. I am paired with my colleague, Mr. BLAND.

Mr. DUNNELL. I desire to state that Mr. PHILLIPS, of Kansas, is paired with Mr. HARTZELL, of Illinois. If present, Mr. PHILLIPS would vote "no."

Mr. ELLSWORTH. I am paired with Mr. DAVIS, of North Carolina. If he were present, I would vote "no."

Mr. HALE. I desire to announce that Mr. CLYMER and Mr. EVANS, of Pennsylvania, are absent and paired.

Mr. JONES, of Ohio. My colleagues, Mr. GARDNER and Mr. DICKEY, are paired.

Mr. CALDWELL, of Kentucky. My colleague, Mr. BOONE, is sick and unable to be in the House.

Mr. REILLY. I am paired with my colleague, Mr. THOMPSON. I do not know how he would vote, if present. I therefore decline to vote.

Mr. EDEN. I desire to announce that my colleague, Mr. KNAPP, is absent on account of illness.

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas. If he were here, I would vote "ay." I presume he would vote "no."

Mr. ATKINS. My colleague, Mr. HOUSE, is detained at his room by illness.

Mr. BLACKBURN. My colleague, Mr. BOONE, is absent on account of serious illness.

Mr. HENDEE. I desire to announce that Mr. STONE, of Iowa, is confined to his room by sickness.

Mr. SPRINGER, (entering the Hall.) I desire to vote. I was absent on a committee that has leave to sit during the sessions of the House.

Mr. TOWNSEND, of New York. I think I must object.

Mr. WHITE, of Pennsylvania. Will it change the result?

The SPEAKER. It will not.

Mr. SPRINGER. I do not desire to vote unless I have the right to vote.

The SPEAKER. That is a question of fact which may as well be settled now as at any time. The Clerk will read the resolution under which the committee is authorized to act.

The Clerk read as follows:

Be it resolved, That the committee upon the investigation of the electoral frauds, &c., be directed to inquire into the same (and into any other matter connected with the said election which in their judgment may be proper) and that they have power to send for persons and papers and to sit during the sessions of the House, with leave to report at any time, &c.

The SPEAKER. The Chair decides that the committee having leave to sit during the sessions of the House, the gentleman from Illinois [Mr. SPRINGER] is entitled to vote, although not present in the House when the last name on the roll was called.

Mr. GARFIELD. The gentleman was absent on the committee?

Mr. SPRINGER. I was.

The SPEAKER. The gentleman has the right to vote.

Mr. SPRINGER. I vote "ay."

Mr. POTTER. I was not within the bar of the House when the last name on the roll was called. I was absent on the committee to which reference has just been made. I vote "ay" on this question.

Mr. HISCOCK. On this question, I am paired with Mr. HUNTON,

of Virginia. If he were present, I would vote "no" and he would vote "ay."

The result of the vote was then announced as above stated.

MESSAGE FROM THE PRESIDENT.

A message from the President was communicated to the House by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed bills of the House of the following titles:

An act (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes; and

An act (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

EDUCATION OF THE PEOPLE.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. HOOKER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the special order, being the bill (H. R. No. 3542) to apply the proceeds of sales of public lands to the education of the people, &c. By order of the House all general debate upon this bill has been limited to two hours.

Mr. DUNNELL. I ask that the bill be read.

The bill was read, as follows:

Be it enacted, &c., That the net proceeds of sales of public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands, or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain, or interfere with granting bounty-lands.

SEC. 2. That the Secretary of the Interior shall cause an account to be taken upon the close of each fiscal year, and ascertain the total receipts from the sale or other disposition of the public lands of the United States, including all fees received at the general and district land offices during such year, and the amount of expenditures during said year incurred or occasioned by the survey, sale, location, entry, or other disposition of such lands, including appropriations for the expenses of the said officers, for said year, and shall certify to the Secretary of the Treasury the amount of the net cash proceeds from the sale, entry, location, or other disposition of such lands as aforesaid, after deducting expenses and expenditures.

SEC. 3. That upon the receipt of such certificate the Secretary of the Treasury shall, on or before the 31st day of July of each year, apportion to the several States and Territories and to the District of Columbia, upon the basis of population of the said States and Territories between the ages of five and twenty-one years, the net proceeds of sales of public lands for the previous year: *Provided*, That after five years one-half of said net proceeds, and after ten years the whole of the same, shall be set apart as an educational fund, which said funds shall be invested in the bonds of the United States bearing a rate of interest not less than 4 per cent. per annum, both principal and interest payable in coin, the interest on such educational fund only to be appropriated as above provided: *And provided further*, That for the first ten years the distribution of said net proceeds, and the interest on said fund, to and among the several States, Territories, and District of Columbia, shall be made according to the numbers of their respective population, of ten years old and upward, who cannot read and write, as shown, from time to time, by the last preceding published census of the United States.

SEC. 4. That the first apportionment under this act shall be made on or before the 31st day of July, 1878; and each of said States and Territories shall be entitled to receive its distributive share of each apportionment, to be paid by the Secretary of the Treasury to its treasurer or other officer authorized by its law to receive the same, whenever thereafter it shall file with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act, and undertaking that the funds provided by the same, whenever paid over to it as above provided, shall be faithfully applied to the free education of all its children, and to the endowment and support of such colleges as have been or may be hereafter established in accordance with the act of Congress approved July 2, 1862: *Provided*, That the Legislatures of said States and Territories shall have the power to determine whether any of said funds shall be given to said colleges and institutions of learning, and what amount thereof, the amount in no case to exceed one-half. The distributive share of the District of Columbia shall, from time to time, be paid over to the commission of said District created by act of Congress approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes," or other officer or officers provided by law, and shall be applied in the same manner as above provided for the States and Territories.

SEC. 5. And if any State or Territory shall misapply, or allow to be misapplied or in any manner appropriated or used other than for the purposes herein required, the funds, or any part thereof, received under the provisions of this act, or shall fail to comply with the conditions herein prescribed, or to report, through its proper officers, the disposition thereof, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof until the full amount so misapplied, lost, or misappropriated shall have been replaced by such State or Territory, and applied as herein required, and until such report shall have been made. And all apportionment so forfeited and withheld shall be added to, and become part of, the principal of the educational fund hereby created.

SEC. 6. That nothing contained in this act shall be so construed as to affect in any manner the existing laws and regulations in regard to the adjustment and payment to States of the per centum of the proceeds of the sales of the public lands within their respective limits, as provided in section 3689 of the Revised Statutes of the United States.

The amendment reported from the Committee on Education and Labor was read, as follows:

In the fourth section strike out the following:

Provided, That the Legislatures of said States and Territories shall have the power to determine whether any of said funds shall be given to said colleges and institutions of learning, and what amount thereof; the amount in no case to exceed one-half.

And insert the following:

Provided, That one-fourth of the moneys appropriated by this act to the several States and Territories shall be given to the said colleges and institutions of learning, unless in any case the State Legislatures shall otherwise direct.

Mr. GOODE. Mr. Chairman, the provisions of this bill are very plain and simple; and if the House will give me its attention for a few moments I will endeavor to explain them. The first section provides that the proceeds of the sales of the public lands shall be forever dedicated and set apart for the education of the people; but nothing in this section is to have the effect to repeal or impair or suspend any law now authorizing the pre-emption of the public lands or their entry for homesteads, or in any manner to limit or abridge the power of Congress over the public domain, or to interfere with the power of Congress to grant bounty lands.

The second section provides that the Secretary of the Interior shall take an account of the net cash proceeds from the sales of the public lands upon the close of each fiscal year. The third section provides that this fund shall be distributed to the several States and Territories and the District of Columbia upon the basis of population between the ages of five and twenty-one years. For the first five years the whole of the fund is to be distributed, after five years one-half thereof, and after ten years the whole is to be invested as a permanent educational fund in bonds of the United States bearing 4 per cent. interest, the interest only to be distributed. It is provided further that instead of a distribution upon the basis of population for the first ten years it shall be made upon the basis of illiteracy; that is, upon the basis of the number of persons ten years old and upward who are unable to read and write.

The fourth section provides that this fund shall be distributed to each of the States and Territories upon their filing with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act and stipulating that the fund so received shall be faithfully applied to the free education of all the children and to the endowment of the agricultural and mechanical colleges established under the act of Congress approved July 2, 1862. But a proviso is offered by the committee to the effect that one-fourth of this fund shall be given to the said agricultural and mechanical colleges, unless in any case the State Legislature shall otherwise direct.

The fifth section provides that if any State shall misappropriate or allow to be misappropriated the fund dedicated for this purpose, it shall forfeit its right to any subsequent apportionment until the amount so misappropriated shall be replaced and a report made that it has been disposed of as required by this law.

The sixth section provides that nothing in the act shall interfere with existing rules and regulations in regard to the adjudication and payment of the per centum of the proceeds of sales of the public lands to the different States and Territories as provided for by section 3689 of the Revised Statutes.

The following statement, furnished at my request by the Bureau of Education, will show the amount which would accrue to each State and Territory if the distribution should be based upon the number of illiterate persons ten years old and upward, as reported in the census of 1870:

Statement of the amount accruing to each State and Territory from the proceeds of the sales of public lands under the bill introduced by Hon. John Goode.

[Five amounts are divided pro rata.]

States and Territories.	Illiterate persons, ten years and over, 1870.	Amount for each State and Territory if there be distributed—				
		$500,000	$750,000	$1,000,000	$1,500,000	$2,000,000
Alabama	383,012	$33,846 08	$50,769 12	$67,692 16	$101,538 24	$135,384 32
Arkansas	133,339	11,782 93	17,674 39	23,565 85	35,348 78	47,131 71
California	31,716	2,802 69	4,204 03	5,605 37	8,408 06	11,210 74
Colorado	6,823	602 94	904 40	1,205 87	1,808 81	2,411 74
Connecticut	29,616	2,617 11	3,925 67	5,234 22	7,851 33	10,468 45
Delaware	23,100	2,041 31	3,061 96	4,082 61	6,124 92	8,165 22
Florida	71,803	6,345 10	9,517 65	12,690 20	19,035 31	25,380 41
Georgia	468,593	41,408 72	62,113 08	82,817 44	124,226 16	165,634 88
Illinois	133,584	11,804 58	17,706 87	23,609 16	35,413 74	47,218 32
Indiana	127,124	11,233 72	16,850 58	22,467 44	33,701 16	44,934 88

Statement of the amount accruing to each State and Territory from the proceeds of the sales of public lands—Continued.

States and Territories.	Illiterate persons, ten years and over, 1870.	Amount for each State and Territory if there be distributed—				
		$500,000	$750,000	$1,000,000	$1,500,000	$2,000,000
Iowa	45,671	$4,035 86	$6,053 80	$8,071 73	$12,107 59	$16,143 46
Kansas	24,550	2,169 44	3,254 16	4,338 88	6,508 32	8,677 76
Kentucky	332,196	29,353 79	44,030 69	58,707 59	88,061 39	117,415 18
Louisiana	276,158	24,403 59	36,605 38	48,807 17	73,210 76	97,614 34
Maine	19,052	1,683 59	2,525 39	3,367 18	5,050 77	6,734 36
Maryland	135,499	11,973 80	17,960 70	23,947 61	35,921 41	47,895 21
Massachusetts	97,742	8,637 29	12,955 93	17,274 57	25,911 86	34,549 14
Michigan	53,127	4,694 74	7,042 11	9,389 47	14,084 21	18,778 95
Minnesota	24,413	2,157 33	3,236 00	4,314 67	6,472 00	8,629 33
Mississippi	213,310	27,686 64	41,529 96	55,373 28	83,059 92	110,746 56
Missouri	222,411	19,654 06	29,481 09	39,308 12	57,962 18	78,616 24
Nebraska	4,861	429 56	644 34	859 12	1,288 67	1,718 23
Nevada	872	77 06	115 59	154 11	231 17	308 23
New Hampshire	9,926	877 14	1,315 71	1,754 29	2,631 43	3,508 57
New Jersey	54,687	4,832 59	7,248 89	9,665 18	14,497 77	19,330 37
New York	239,271	21,143 95	31,715 92	42,287 89	63,431 84	84,575 79
North Carolina	397,690	35,143 15	52,714 72	70,286 30	105,429 45	140,572 60
Ohio	173,172	15,302 90	22,954 35	30,605 80	45,908 69	61,211 59
Oregon	4,427	391 21	586 81	782 41	1,173 62	1,564 82
Pennsylvania	222,356	19,649 11	29,473 67	39,298 22	58,947 33	78,596 44
Rhode Island	21,921	1,937 12	2,905 68	3,874 24	5,811 36	7,748 47
South Carolina	290,379	25,660 27	38,490 40	51,320 54	76,980 81	102,641 08
Tennessee	364,697	32,227 62	48,341 43	64,455 23	96,682 85	128,910 47
Texas	221,703	19,591 49	29,387 24	39,182 99	58,774 48	78,365 98
Vermont	17,706	1,564 65	3,346 97	3,129 29	4,693 94	6,258 59
Virginia	445,893	39,402 76	59,104 15	78,805 52	118,208 29	157,611 05
West Virginia	81,490	7,201 12	10,801 68	14,402 25	21,603 37	28,804 70
Wisconsin	55,441	4,899 22	7,348 83	9,798 44	14,697 66	19,596 89
Total	5,559,311					
Arizona	2,753	243 27	364 92	486 55	729 83	973 11
Dakota	1,563	138 12	207 18	276 24	414 36	552 48
District of Columbia	28,719	2,537 85	3,806 77	5,075 69	7,613 54	10,151 39
Idaho	3,388	299 39	449 09	598 78	898 17	1,197 57
Montana	918	81 12	121 68	162 24	243 37	324 49
New Mexico	52,220	4,614 59	6,921 88	9,229 17	13,843 76	18,458 35
Utah	7,363	650 65	975 98	1,301 31	1,951 96	2,602 62
Washington	1,307	119 97	179 96	239 94	359 92	479 89
Wyoming	602	53 20	79 80	106 40	159 59	212 79
Total	98,833					
Grand total	5,658,144					

Now, Mr. Chairman, it will be seen that the sole object of this bill is the dedication of the proceeds of the sales of the public lands to the education of the people; and I assume that the bill must receive the indorsement and support of every gentleman on this floor if it can be made satisfactorily to appear that we have the constitutional power to do what the bill proposes, that the distribution provided for is a just and fair one and made in a proper manner, and that the object contemplated by this bill is wise and beneficent. Let us examine these propositions very briefly.

The Constitution provides that Congress shall have power—

To dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States.

This language is too broad and comprehensive to admit of any doubt whatever as to its proper interpretation. The history of the Government shows that from its foundation down to the present time the policy of making liberal donations of the public lands for educational purposes in the new States has been uniformly adhered to.

In the report of the Commissioner of Education for 1876 is to be found a full and complete review of the action of the General Government in extending aid to education. He says:

The policy of extending aid to education by grants from the General Government dates from a period anterior to the adoption of the Federal Constitution.

In 1785 Congress established "An ordinance for disposing of the lands in the Western Territory," which contained the following provision: "There shall be reserved the lot No. 16 of every township for the maintenance of public schools within the said township."

The "ordinance for the government of the territory of the United States northwest of the river Ohio," was adopted July 13, 1787. Article 3 contains the following clause: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be forever encouraged." What Congress meant by this clause is clearly defined in the act dated the twenty-third of the same month, empowering "the board of treasury to contract for the sale of western territory." Referring to the ordinance of 1785, it continues: "The lot No. 16 in each township, or fractional part of a township, to be given perpetually for the purposes contained in the said ordinance; * * * not more than two complete townships to be given perpetually for the purposes of a university, to be laid off by the purchaser or purchasers, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the Legislature of the State." In the same year contracts which contained the above conditions were made under the above act for the sale to the Ohio company and to John C. Symes of large tracts of land within the limits of the present State of Ohio.

The policy thus inaugurated was not confined to the Northwest Territory. In the act approved March 3, 1803, providing for the disposal of lands belonging to the United States south of Tennessee, the reservation was made of lot No. 16 of each township and of an entire township for purposes of common-school and university education.

From that time until 1848, on the organization of each new Territory similar provisions were made for public education. In that year, on the organization of the Territory of Oregon, the quantity of land reserved for the benefit of common schools was doubled; and to each new Territory organized and State admitted since, except West Virginia, the sixteenth and thirty-sixth sections of every township, one-eighteenth of the entire area, have been granted for common schools.

To each State admitted into the Union since the year 1800, except Maine, Texas, and West Virginia, and to the Territories of New Mexico, Utah, and Washington, have been granted two or more townships of land, to endow a university. The States that received more than two townships, or 46,080 acres are Ohio, 69,120 acres, Florida and Wisconsin, 92,120 acres each, and Minnesota, 82,640 acres.

In 1862 the law granting lands to each State to endow colleges of agriculture and the mechanic arts was enacted. The lands granted to the several States under this act aggregate 9,600,000 acres.

The State of Texas, on her admission into the Union, retained the title to her public land, and is consequently excepted from the grants to endow common schools and universities; but she shared the benefits of the act endowing colleges of agriculture, receiving as her share land scrip representing 180,000 acres.

Besides the general grants, there have been special grants of land and buildings to institutions of learning in several States and Territories, as follows:

	Acres.
Alabama.—Lafayette Academy	480
Connecticut.—Asylum for the education of the deaf and dumb	23,040
Dakota.—Holy Cross Mission	160
Florida.—Chattahoochee arsenal, buildings, land, &c., to State.	
Georgia.—Dahlonega arsenal, grounds, buildings, &c., for agricultural college	10
Kentucky.—Asylum for the education of the deaf and dumb; benefit transferred to Centre College	22,400
Louisiana.—Pine Grove Academy, (quitclaim by United States)	4,040
Michigan.—Public schools, Sault de Ste. Marie	1.26
Michigan.—Public schools, Mackinac, lot and building.	
Minnesota.—Domestic and Foreign Missionary Society of the Protestant Episcopal Church	80
Mississippi.—Jefferson College, outlot at Natchez	30
Tennessee.—Fisk University, Nashville, land and buildings	3.25
West Virginia.—Storer College, four lots and buildings at Harper's Ferry.	
Missouri.—Under acts of June 13, 1812, May 26, 1824, and January 27, 1831, confirming to inhabitants of certain towns certain outlots, commons, &c., for purposes of education, as follows:	
Portage des Sioux	298.38
Saint Charles	68.79
Saint Louis	394.86
Saint Ferdinand	33.30
Villa A. Robert	12.39
Carondelet	37.10
Sainte Geneviève	561.68

The quantity of land thus granted, aside from lots the area of which is unknown, is 51,651.01 acres.

By an act of September 4, 1841, 500,000 acres of land were granted to each of the following States, for the purpose of internal improvement, namely: Alabama, Arkansas, Illinois, Indiana, Louisiana, Michigan, Mississippi, and Missouri; and the same grant has been made to each State since admitted into the Union, except Texas and West Virginia. The quantity of land thus granted is 9,000,000 acres. Six of the States since admitted into the Union—California, Iowa, Kansas, Oregon,

Nevada, and Wisconsin—have set apart the proceeds of the sales of these lands, by provisions in their respective constitutions, for the benefit of free schools.

By an act dated April 18, 1806, the following grants of land for educational purposes were made to the State of Tennessee:

1. For two colleges, one to be established in East and one in West Tennessee, 100,000 acres. 2. For academies, one in each county, 100,000 acres.

It was provided that one thirty-sixth of the above grants should be reserved for the purposes of common schools in the limits of the reserved tracts.

Grants in aid of education from proceeds of sales of public lands.—At an early period Congress inaugurated the policy of granting a portion of the net proceeds of the sales of public lands to the several States in which they were situated. Thus in 1803 an act was passed granting 3 per cent. of such net proceeds to the State of Ohio for "laying out, opening, and making roads within the said State, and to no other purpose whatever; and an annual account of the application of the same shall be transmitted to the Secretary of the Treasury." Similar grants (in some cases of 3 and in others of 5 per cent.) have been made to the States admitted into the Union since Ohio, except to Maine, Texas, and West Virginia, in none of which did the General Government possess any public land. In some States the grants were dedicated to purposes of internal improvement, in others to education. The terms of the grant to Illinois are as follows:

"SEC. 1. *Be it enacted, &c.*, That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public moneys of the several land offices shall be settled, pay 3 per cent. of the net proceeds of the lands of the United States lying within the State of Illinois which, since the 1st day of January, 1819, have been or hereafter may be sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may be authorized by the Legislature of the said State to receive the same; which sums, thus paid, shall be applied to the encouragement of learning within said State, in conformity to the provisions on this subject contained in the act entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 18, 1818, and to no other purpose; an annual account of the application of the same shall be transmitted to the Secretary of the Treasury by such officer of the State as the Legislature thereof shall direct; and, in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sums that may then be due, or which may thereafter become due, until a return shall be made as herein required.

"Approved, December 12, 1820."

By the act of April 18, 1818, it was provided that one-sixth of the sums derived from the 3 per cent. of net proceeds of public land sales should "be exclusively bestowed on a college or university."

From 1821 to 1869 Illinois received under this law $713,495.45.

The whole amount paid to the several States as percentages on the net proceeds of sales of public lands was $6,508,819.11. How much of this sum has been devoted to educational purposes has not yet been ascertained; but the States named below have received the amounts named, respectively, which (either by the terms of the grant by Congress or by State constitutional enactment) are to be applied for the benefit of public education:

Illinois, from 1821 to 1869	$713,495 45
Florida, from 1847 to 1872	28,098 07
Wisconsin, from 1850 to 1875	195,423 98
Iowa, from 1849 to 1874	630,627 38
Oregon, from 1866 to 1876	25,927 60
Kansas, from 1868 to 1876	53,626 15
Nebraska, from 1869 to 1876	113,591 90
Nevada, from 1872 to 1874	3,648 81
Making a total of	1,764,439 34

Besides this, the State of Arkansas has received from the same source $224,473.15, which sum, by a provision of the State constitution adopted in 1868, was to be devoted to education, but respecting which the later constitution of 1875 is silent. Missouri has in like manner received under two acts, dated respectively March 6, 1820, and February 28, 1859, the sum of $1,008,321.86. The constitution of Missouri adopted in 1875 establishes a school fund, one of the components of which is, in the words of a clause of section 6: "Also any proceeds of the sales of public lands which may have been, or may hereafter be, paid over to this State, (if Congress will consent to such appropriation.)"

Several of the States have devoted the net proceeds of the sales of swamp and saline lands to public education, but the amounts derived from these sources have not been generally ascertained.

In Ohio the amount realized from the sale of the saline grants and added to the common school fund was reported in 1850 at $41,024; in Indiana the State school fund realized from the same source $85,000.

The constitutions of the States of Louisiana, Mississippi, (with some unimportant reservations,) and Indiana contain provisions requiring that the net proceeds of the sales of swamp lands shall be used for the benefit of public education; and in several other States, as, for example, Missouri, Ohio, and Wisconsin, the same disposition has been made under general laws, without a specific constitutional enactment.* The constitution of Alabama once contained this provision; the amendment of 1875 abrogated it. It appears from the report of the State superintendent of public instruction for 1875 that up to that date the sum of $27,340.31 had been received into the State treasury on account of sales of swamp land, but it does not appear that this amount or the income thereof had ever been used for the benefit of public education.

The amount of swamp lands granted and patented to each of the States from the date of the first grant to June 30, 1876, is as follows:

	Acres.
Ohio	25,640.71
Indiana	1,256,631.96
Illinois	1,453,611.67
Missouri	3,185,479.44
Alabama	392,719.61
Mississippi	2,681,383.16
Louisiana	8,468,964.93
Michigan	5,864,669.55
Arkansas	7,059,827.68
Florida	10,735,403.21
Wisconsin	3,059,572.62
Iowa	1,166,917.34
California	1,308,295.65
Minnesota	1,143,153 63
Total	47,802,271.16

Official reports of the amounts received from sales of these lands and of the distribution of the proceeds are not easily accessible, and it is impracticable to present at this time any statement on these heads.

Other aid to public education by the General Government.—In 1836 there was a large sum in the Treasury of the United States, largely derived from the sales of public lands, which was not needed for the current expenses of the General Government, and a law was approved on June 23 which provided for a distribution of the surplus among the twenty-five States of the Union on the basis of their respective representation in Congress. Afterward, the benefit of the act was extended to Michigan, which had just been admitted into the Union. This fund, amounting to $28,101,644.91, has since been held by the several States admitted into the Union prior to 1837, subject to call by the General Government. Several of them have devoted a part or the whole of the income realized from this fund to public education.

The State of New York received as her allotment in the distribution the sum of $4,014,520.71. The entire income of this fund, amounting to about $236,000 yearly, has been bestowed on education. By a provision in the State constitution of 1846, after adding $25,000 to the capital of the common-school fund each year, the remainder of the income is expended for the benefit of common schools and academies, apportioned as follows:

Support of common schools	$165,000
Dividend to academies	28,000
Teachers' classes in academies	18,000

The average yearly income of the common-school fund of New York exceeds 5 per cent. of the principal, so that there have been realized from that portion of the fund derived from the income of the surplus revenue fund about $600,000 in thirty-one years, and the present capital of the common-school fund is partly composed of the yearly sums set apart from the income of the revenue fund, which sums amount to $775,000. Thus it appears that from this fund of about $4,000,000 set apart by the United States for the benefit of the single State of New York that State has been able to realize for the benefit of public education the munificent sum of about $7,916,000, of which more than three-quarters of a million form a permanent capital, bearing interest.

Aid to colored schools.—The General Government, on the organization of the bureau of refugees and freedmen in 1865, began to aid schools for the education of colored children. This aid amounted, so far as can be ascertained, to $3,711,225.47. But this sum, large as it appears, does not include all, as some thousands of dollars paid out for the transportation of teachers and for other expenses connected with the schools cannot be separated from other items with which they are charged.*

Libraries, publications, and promotion of science.—The amount expended and separately reported by the General Government for libraries up to and including the year 1874, was $1,573,948.03. Besides this, large sums have been expended from time to time from general appropriations, the amount of which cannot be determined.

It is still less possible to show the much greater amounts that have been expended in conducting scientific explorations and surveys, and publishing the results, and in collecting and publishing other material covering a wide range of subjects. The amount so far as ascertained for the period above mentioned was $1,752,549.67, but this is but a small fraction compared with the aggregate.

Aid to Indian schools.—The first appropriations to aid Indian schools by the United States were made under the government of the continental congress in 1776. In 1819 a law was enacted granting $10,000 a year for the purpose of maintaining Indian schools and other agencies of civilization. This law was repealed in 1873. There was expended under its provisions while it remained in force, including an extra appropriation for the years 1856, 1857, and 1858, the sum of $561,027.15.

This amount represents but a small fraction of the whole sum expended for Indian education since the policy of making treaties with the Indian tribes was inaugurated; but these expenditures are not included here, for the reason that, with other sums paid to the Indians under treaty stipulations, they formed the consideration given for certain concessions granted by the Indians, and not a gratuity to them.

Cost of military and naval schools.—As an item of interest in this connection, the following statement of the cost of maintaining the Military Academy at West Point to June 30, 1871, and the Naval Academy at Annapolis up to June 30, 1876, is included. The amounts cover all the expenditures from the date of organization, including buildings, libraries, instruments, instruction, &c. They are as follows:

United States Military Academy, West Point	$6,801,482 73
United States Naval Academy, Annapolis	3,518,880 63

RECAPITULATION.

I.—*Land grants.*

	Acres.
Sixteenth and thirty-sixth sections for common schools	67,983,914
Seminary lands	1,082,880
Colleges of agriculture and mechanic arts*	9,600,000
Special grants	54,651
Internal improvement grants, devoted to education in six States	3,060,000
For common schools and academies in Tennessee, act April 18, 1806	200,000
Swamp and overflowed lands bestowed on education by State action, so far as known	13,784,710
For Indian schools in Mississippi†	34,560
Total	95,737,714

II.—*Grants of money.*

Percentages of net proceeds of public lands	$1,764,439 34
Surplus revenue, act of 1836, income of which can be used by States at their pleasure for education	28,101,644 91
Schools for freedmen	3,711,225 47
For libraries and sundry publications	3,326,497 70
Indian schools, excluding all appropriations under treaty stipulations	561,027 15
United States Military Academy, West Point	6,801,482 73
United States Naval Academy, Annapolis	3,518,880 63
Total	47,785,197 93

Now, Mr. Chairman, let us inquire in the next place if the distribution provided for in this bill is made in a just and proper manner. How is it made? The bill provides that for the first five years the whole fund is to be distributed; for the next five years one-half and after the expiration of ten years the whole of it is to be converted into a permanent educational fund and invested in the bonds of the United States bearing 4 per cent. interest, and the interest only to be distributed. It is provided further that for the first ten years the distribution shall be made upon the basis of illiteracy; that is according to the number of persons ten years of age and over who are unable to read and write, and after that time upon the basis of population.

We have an immense national domain—not less than 1,150,000,000 acres. But, sir, notwithstanding the immensity of that domain, it is not inexhaustible. Judging the future by the past and remembering how this public domain has been squandered in grants to mon-

* Report of the Commissioner of the General Land Office, 1876.

* Not including any grant to Colorado, which, under the rule adopted in the cases of West Virginia, Nevada, and Nebraska, is entitled to 90 000 acres.

† American State Papers, Public Lands, vol. 5, p. 889.

ster railroad corporations, we cannot shut our eyes to the fact that the time may come when there will be no public domain from which to draw any revenue whatever.

Hence the committee thought it wise not to continue the expenditure from year to year in all time to come. But inasmuch as there is now a pressing necessity in many States in this Union for educational aid, we would give for the first five years the whole of this fund, and for the next five years one-half, and after the expiration of ten years the interest only of the fund.

Mr. FRYE. I should like to ask the gentleman a question.

Mr. GOODE. Certainly.

Mr. FRYE. I have not seen the bill and was not present when it was read. I understand the gentleman states it is to be distributed in proportion to illiteracy.

Mr. GOODE. For the first ten years.

Mr. FRYE. I understand that would give a larger amount to the South perhaps than to the North or to the Northeast, and the reason it would is because the colored people are as a general thing illiterate. Now are there provisions in this bill by which the white people of the South, if they should perhaps be unwilling, shall be compelled to give the black people their proportion of the money for the education of the black people?

Mr. GOODE. There is no provision compelling it; but let me assure the gentleman from Maine, and I know he is usually fair, that there is no disposition in any Southern State to discriminate in any way whatever between the white and colored children in regard to education. None, sir; but on the contrary the State constitutions, so far as I know, expressly provide there shall be no such discrimination.

One other word. Let me say to the gentleman this bill has been maturely considered. We have had the benefit of the labors of the National Educational Association. We have had in conference with the committee men of learning, college professors interested in this question, and on full consultation the committee were of opinion it would be unwise and unsafe to interfere in any manner whatever with the exclusive control of the State governments over their own local systems of education.

Mr. MONROE. Will the gentleman yield for a minute to me?

Mr. GOODE. Yes, sir.

Mr. MONROE. I wish to say in reply to my friend from Maine that I think the gentleman from Virginia, in his reply, has not done full justice to this bill. As the gentleman from Maine will see on reading it, there is a provision copied from like bills introduced in this House in former Congresses, for which he as well as I voted, that before any of this fund shall be paid over by the General Government to any State that State shall file with the Secretary of the Treasury a certified copy of a law by a previous Legislature whereby the State accepted the grant of money on condition of establishing free schools for all the children of the State of school age. Without a just and impartial law like this no State can obtain its share of the money.

Mr. FRYE. I hope the gentleman from Virginia will allow me to ask a question of the gentleman from Ohio.

Mr. GOODE. Certainly.

Mr. FRYE. I wish to ask him, he having examined the bill as a member of the committee, whether or not he is satisfied with the provision of which he speaks? If he is, then it satisfies me.

Mr. MONROE. I will say, Mr. Chairman, I understood the provision covered the ground which the gentleman from Maine states, and I the more readily so understood it because it was copied from former bills for which Mr. GEORGE F. HOAR, of Massachusetts, and myself had voted, believing it to be sufficient. But if it is not sufficient I want to make it so. That is all.

Mr. GOODE. And so do we. But I will state to the gentleman from Maine that while there was a strong sentiment in the committee that it would be unsafe and unwise on the part of Congress to undertake to control the educational systems of the States; or, in other words, the great interest of education would be better and more efficiently cared for by leaving it to the local and municipal power of each State; yet the committee recognized the fact that in making the grant the Congress of the United States had power to prescribe its conditions. If the gentleman will refer to the tenth and eleventh lines of section 4, on page 3, he will find it is provided this fund when distributed shall be faithfully applied to the free education of all the children, and each State is required to file with the Secretary of the Treasury a certified copy of the law accepting the provisions of this act and stipulating the fund so provided shall be faithfully applied and distributed in the manner herein required.

And furthermore, we provide if any State shall violate the provisions of this law, shall misapply this fund, or shall allow it to be misapplied or misappropriated in any way, it shall forfeit its right to any subsequent apportionment until the amount so misapplied shall be replaced.

Mr. KEIFER. Will the gentleman permit me to make an inquiry?

Mr. GOODE. Certainly.

Mr. KEIFER. Will the gentleman have any objection to have inserted at the proper place the words "without distinction of race or color?"

Mr. GOODE. I have no objection to that unless the gentleman means to provide for mixed schools. I am unalterably opposed to them, but I am willing to make it as plain as language possibly can that this fund is intended to be dedicated to the free education of all the children, white and colored; and if the gentleman is not satisfied he may say both white and colored. But I repeat, I would oppose any proposition coming from any quarter to establish mixed schools in any part of this country, because I believe it would be ruinous alike to the colored and to the white, and so far as my information goes the most intelligent colored people are opposed to mixed schools.

Mr. KEIFER. I do not understand this bill is intended to regulate the school system of any of the States, and I agree with the gentleman so far as that is concerned.

Mr. GOODE. We have expressly provided against that. I wish to refer to one other statement made by the gentleman from Maine. He said it might possibly be that on the basis of illiteracy some of the Southern States might get an apparent advantage under the provisions of this bill. I beg the gentlemen of this House to remember that those States have been completely ruined and impoverished by the results of the late war, and that immense loads of public debt have been heaped upon them since. If the gentleman will examine the statistical tables on this subject which I propose to incorporate in my remarks he will see the unfortunate condition in which eleven of the Southern States were left by the results of the war; that from 1860 to 1870 they lost more than half their wealth; that during those ten years their losses amounted to about three billions; that during that decade the people of the North had their individual wealth doubled, while pecuniary ruin has been visited upon the people of the South. That notwithstanding their immense losses they have bravely undertaken the work of educating all their children of school age, without regard to race, color, or previous condition. But how is it possible for them to accomplish the herculean task without help? And why should not the Government extend to them the aid contemplated by the provisions of this bill?

Mr. FRYE. I ask the gentleman to allow me one moment, as I do not wish to be misrepresented. I know the gentleman does not mean to misrepresent me. I do not wish to be understood at all as reflecting in the slightest degree upon the South by the statement that there might be more illiteracy there. I explained it in the words which followed. I certainly desire this money to go, if it goes anywhere, where it is most needed. I did not mean to cast the slightest reflection on the South.

Mr. GOODE. I am glad I misunderstood the gentleman, and I re-echo the sentiment he has just uttered; the money, if it goes anywhere, should go where it will do the most good. I know the gentleman from Maine, and every intelligent gentleman on this floor will respond to the sentiment that when the curse of ignorance afflicts any part of the body-politic it exerts a deleterious influence upon the whole. I believe the interest of the Southern States in this respect to be the interest of all the States.

Permit me, in this connection, to introduce the tables to which I have already referred, which have been prepared by Dr. William H. Ruffner, superintendent of public instruction in Virginia:

TABLE I.—*Showing population of Northern and Southern States.*

Population.	White.	Colored.	Total.
Whole population—			
In eleven Southern States	5,544,488	3,939,032	9,487,386
In Kentucky, Maryland, Missouri, and West Virginia	3,731,318	533,653	4,265,213
	9,275,806	4,472,685	13,752,599
School population—			
In eleven Southern States	2,245,784	1,595,850	3,841,634
In Kentucky, Maryland, Missouri, and West Virginia	1,476,545	219,725	1,696,270
	3,722,329	1,815,575	5,537,904
Whole population in Northern States	23,927,272	362,422	24,363,027
School population in Northern States	8,673,643	127,751	8,837,394

Per cent. of illiterates from 10–21 to population of same age.

In Southern States (including Kentucky, Maryland, Missouri, and West Virginia)	44.08
In Northern States (including Western)	6.11

Per cent. of illiterate males, 21 and over, to male population of same age.

In the fifteen Southern States	33.19
In the twenty-two Northern States	7.43

And the painful fact must be stated that even among *the whites*, in the eleven Southern States proper, the percentage of illiteracy increased from 7.1 in 1860 to 9.8 in 1870—owing no doubt to the war.

THE COST OF THE EDUCATIONAL WORK NEEDED.

Twenty-four per cent. of the whole population of the Northern States proper are enrolled in their public schools. To educate 24 per cent. of the population of the Southern States, for eight months in the year, at the rate of seventy-five cents per month for the tuition of each scholar enrolled, would cost annually as follows:

Alabama	$1,435,668 48
Arkansas	697,638 24
Florida	270,357 12
Georgia	1,705,116 96
Louisiana	1,046,757 60
Mississippi	1,192,207 68
North Carolina	1,542,759 84
South Carolina	1,016,872 64
Tennessee	1,812,268 80
Texas	1,178,753 76
Virginia	1,764,234 72
Total	13,661,835 84

TABLE III.—*Value of property in the Southern States in 1860 and in 1870.*

States.	1860.				1870.			
	Assessed.			True.	Assessed.			True.
	Real estate.	Personal estate.	Total.	Real and personal estate.	Real estate.	Personal estate.	Total.	Real and personal estate.
Alabama	$155,034,089	$227,164,673	$382,198,762	$495,237,078	$117,223,043	$38,359,552	$155,582,595	$201,855,841
Arkansas	63,254,740	116,956,590	180,211,330	219,256,473	63,102,304	31,426,539	94,528,843	156,394,691
Florida	21,722,810	47,206,875	68,929,685	73,101,500	20,197,691	12,283,152	32,480,843	44,163,655
Georgia	179,801,441	438,430,946	618,232,387	645,895,237	143,948,216	83,271,303	227,219,519	268,169,307
Louisiana	280,704,988	155,082,277	435,787,265	602,118,568	191,343,376	62,028,514	253,371,890	323,125,666
Mississippi	157,836,737	351,636,175	509,472,912	607,324,911	118,278,469	59,000,430	177,278,899	209,197,345
North Carolina	116,366,573	175,931,029	292,297,602	358,739,399	83,322,012	47,056,610	130,378,622	260,757,244
South Carolina	129,772,684	359,546,444	489,319,128	548,138,754	119,494,675	64,418,662	183,913,337	208,146,989
Tennessee	219,991,180	162,504,020	382,495,200	493,903,892	223,035,375	30,746,786	253,782,161	498,237,724
Texas	112,476,013	155,316,322	267,792,335	365,200,614	97,186,568	52,546,361	149,732,929	159,052,542
Virginia	384,483,876	532,633,976	917,117,852	1,270,830,426	279,116,017	86,323,900	365,439,917	409,588,133
Total	1,821,445,131	2,722,409,327	4,543,854,458	5,679,746,652	1,456,247,737	567,461,809	2,023,709,546	2,738,689,037

NOTE.—The counties now composing West Virginia were excluded from the calculation for 1860. Kentucky, Maryland, and Missouri are omitted because of the almost equally divided interests of the people during the decade under consideration.

To whom do the public lands belong and how have they been acquired? They belong in common to all the people. They have been acquired partly by cession, partly by purchase, and partly by conquest. The Government holds them in trust for the common use and benefit of all the people of all the States. But how has that responsible trust been administered? Has equal and exact justice been done to all the States of the Union? Have the older States, which made such liberal cessions for the common good and to sustain the waning credit of the Government in the beginning, received their just and fair proportion of this common fund? Nearly one hundred million of acres of the public lands have been donated to the new States and Territories for educational purposes, and more than two hundred millions of acres have been donated to monster railroad corporations existing within the limits of the same States. I submit the time has now arrived when something should be done by Congress to correct this great inequality and injustice. The great need of the South to-day is educational aid. Her people are doing all in their power to educate the rising generation, but they are too much impoverished to accomplish the work single-handed and alone. One of the results of the war was the emancipation of about four million of colored people. Was it right for the Government to enfranchise them, make them citizens and voters, without some adequate provision to qualify them for the proper discharge of the responsible duties incident to the new station to which they were suddenly elevated? Can the Government bestow civil and political rights upon these "wards of the nation" and at the same time avoid the solemn obligation to provide for their mental and moral improvement? This duty has been strongly urged by many prominent Northern gentlemen upon this floor during the last few years. The same recommendation has been made by the National Educational Association; and Rev. Henry Ward Beecher, in a speech delivered in New York before the American Missionary Association, enforced this obligation in the following emphatic terms:

> We have done much for the freedmen of the South, but we have not done one tithe of what we should have done. * * * The work of educating, and thereby elevating, the poor freedmen of the South is imperative. It must be done. We may labor for this from motives of benevolence or not, but we must do the work. Suppose we allow the element of selfishness to influence our action? The peace and order of the nation demand that every man shall be educated.

So much, Mr. Chairman, for the manner of this distribution among the several States and Territories. It is proposed to make it for the first ten years upon the basis of illiteracy, because in that way the greatest good will be accomplished and the most urgent need will be supplied. I am sure that neither the wealthy Northern States of the old thirteen, nor the new States which have been favored with such magnificent endowments, will interpose an objection.

Again, Mr. Chairman, I wish to call special attention to the fact that we do not propose by this bill to disturb in any degree the exclusive control of the State governments over their own local systems of education. Accordingly, this bill proposes to donate the proceeds of the sales of the public lands directly and at once to the States, upon the single condition that they will hold the fund and administer it as a sacred trust in the interests of education. This is a reasonable and proper condition, which Congress in making the grant may rightfully impose. I have no doubt the State governments would gladly accept the donation upon this condition, and that the trust devolved upon them would be faithfully and honestly administered.

Mr. REAGAN. I would like to ask the gentleman if it is intended to limit the powers of the Government to the disposition of the lands for the purposes mentioned in the two provisos alone.

Mr. GOODE. None whatever. We intend to leave the power of Congress over the public domain entirely unlimited. All we mean to say is that the net cash proceeds shall be dedicated to this purpose.

Mr. REAGAN. Is it understood by the committee that under those provisos the Government would have the power to appropriate the public lands to aid public improvements?

Mr. GOODE. Unquestionably, for any purpose. We only take the money received from the sales of public lands and apply it to this purpose.

Mr. BUCKNER. What is the amount thus received from those sales?

Mr. GOODE. It has varied for several years past, and for the last decade the net receipts have been about $1,500,000. Some years it amounted to $3,000,000, some years to $2,000,000, but my information is that for the last decade the total receipts have averaged about $1,500,000 per year.

Mr. BUCKNER. The net proceeds?

Mr. GOODE. Yes; the net proceeds.

Now, ought not this bill to pass? I will not detain the committee much longer. I have shown that we have the constitutional power to do it. I have shown that the manner of distribution proposed is fair and just.

Now, the only question for gentlemen to consider is this: Is the object contemplated by the provisions of this bill a wise, humane, and beneficent one? In my humble judgment the proceeds of the sale of the public lands could not possibly be dedicated to any higher, nobler, or more beneficent purpose than for the free education of all the children.

Look at the census. I beg gentlemen upon this floor to look at the census of 1870, and see the appalling amount of ignorance in this country which is disclosed by it.

One-fifth of our population, or six millions of our people over ten years of age, are not able to read and write. Twelve millions of children, between the ages of five and eighteen, are growing up in ignorance and without any educational advantages whatever, and of the eight millions of the voters of this country who march up to the ballot-box from time to time and control our destinies politically and socially sixteen hundred thousand are unable to read what is printed upon the ballot which they cast into the ballot-box.

Sir, I will not insult the intelligence of this honorable body by enlarging upon the benefits of universal popular education. It is my deliberate judgment that upon it depends not only the prosperity but the perpetuity of the Republic.

I adopt the sentiment of that great German "reformer" Martin Luther, when he said that the prosperity of a State does not consist in its treasures, its strong walls, its beautiful mansions, and its brilliant decorations. The wealth of a State, its safety, and its force consist in an abundance of citizens who are honest, instructed, and educated. Ignorance is a more dangerous foe to any people than an army with banners.

Sir, I might occupy the time of the committee further upon this question, but there are other gentlemen who wish to speak.

We want a vote upon this question to-day if possible, and I hope that after the two hours' discussion shall have been had the members of the committee will remain and vote, because after to-day it is no longer a special order.

For the present I yield a portion of the time allotted to me to the gentleman from Georgia, [Mr. BELL.]

Mr. BELL. Mr. Chairman, the bill under consideration forever consecrates and sets apart the net proceeds arising from the sale of the public lands for the education of the people. It does not change, nor affect in any way whatever, any law now in force authorizing the preemption of public lands, nor the entry of public lands for homesteads, nor does it interfere in any manner with the power of Congress over the public domain. It provides, after paying the expenses of sale, that the whole of the net proceeds shall be distributed among the several States, Territories, and the District of Columbia upon the basis of population, between the ages of five and twenty-one years. For the

first five years the whole of said proceeds, and for the next five years one-half, to be apportioned to the several States and Territories and the District of Columbia according to the numbers of their respective population of ten years old and upward who cannot read and write, as shown from time to time by the last preceding published census of the United States. It further provides that one-fourth of the money appropriated by this act shall be given to the colleges known as agricultural colleges, established or hereafter to be established in accordance with the act approved July 2, 1862, unless in any case the Legislature of a State or Territory shall otherwise direct.

In a word, it gives three-fourths of the amount to the cause of popular education and one-fourth, subject to the control of the State and territorial Legislatures, to the aid of agricultural education. It provides that after ten years the whole amount shall be invested in bonds of the United States bearing a rate of interest at 4 per cent. per annum, principal and interest payable in coin. The interest thereon to be applied to free education in conformity with the provisions of the bill.

This bill contains ample provisions to secure the application of the fund to the object intended and appropriate penalties for its misapplication.

I apprehend that no great difference of opinion exists and that no controversy will arise upon the details of this measure. Nor can any question of constitutional power arise.

The second clause of section 3, article 4, of the Constitution declares that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

This provision grants plenary power to Congress to dispose of the public domain. No one will hazard his reputation for intelligence by denying that the power to dispose of the territory necessarily includes the power to dispose of the proceeds of the territory. The ownership of the territory necessarily involves the right and power, in the absence of any constitutional qualifications or limitations, to dispose of it and its proceeds.

But the question upon which a difference of opinion may exist is whether the disposition proposed by this measure is wise. And to the consideration of this great question the attention of the country is invited, and upon it the favorable action of Congress invoked. It has passed into a maxim that the preservation and perpetuity of our institutions depend upon the virtue and intelligence of the people. The question of man's capacity for self-government is still an unsolved problem. Every effort hitherto made has resulted in failure. We are now making the world's last experiment under conditions more favorable to success than any that history records. The recognition of power, of sovereign political power in the people, is the distinguishing attribute, the very genius of our system. The rights, duties, and powers of executive, legislative, judicial, and ministerial officers are all defined, prescribed, and limited by law. The untrammeled ballot—the sole peaceful instrument of original, inherent, political power—is the power behind the throne that is greater than the throne. Every ballot is a vital factor in determining the destiny of millions. It therefore follows that upon the intelligent and wise exercise of this power all the great moral, social, and civil interests of society in this country depend. This question is not ephemeral in its nature, sectional in its character, nor local in its influence. It is as wide in its range as the wants of humanity, enduring as the quenchless fires of intellect, and deals with the destiny of races. There is no question of public expenditure, except the expenses of administering the government and payment of the public debt, so purely national in its object as this.

All expenditures for railways and canals, the improvement of rivers and harbors, the erection of public buildings, &c., contain local as well as national elements, and not unfrequently engender local and sectional prejudices and animosities. But every State, every section, and every individual in the Republic is deeply interested in the qualifications of every citizen to discharge the obligations and meet the high responsibilities of American citizenship.

The public domain was acquired by the common blood and the common treasure of the people, and it seems to me that there is a peculiar fitness in devoting it to their education. Then the basis of distribution is one of perfect equality—illiteracy for ten years and population thereafter. It may be urged that the basis of illiteracy is unequal because it gives the larger portion of this fund to the South for ten years. It is true that the South would get the larger portion for that period, but it does not follow that the distribution is unequal for that reason. Equality and justice consist in meeting the necessities of the case. The education of the illiterate is the object, and this distribution recognizes the right of every illiterate child to an equal participation in this benefaction. But this issue of inequality or injustice is an unfortunate one for the opponents of this bill to raise. While Georgia and Virginia, receiving only an equal amount *per capita* for their illiterate with all the other States, would receive in the aggregate more than any of the others, it may be interesting to inquire what contributions to the national Treasury these two States have made by the cession of their territory, and how they compare with the contributions of the other States, and also what States have been the beneficiaries of the Federal Government in the way of internal improvements and public works.

From 1789 to 1873 the Federal Government expended in public works, railroads, canals, and wagon-roads the sum of $207,999,664.77. Of this $18,594,049.46 was expended in the sixteen Southern and border States, $174,885,371.21 in the Northern and Western States and Territories, and $15,520,224 in the District of Columbia. Of the aggregate sum of $207,999,664.77, $103,294,501.35 were appropriated in bonds and money to public works from 1865 to 1873; the remaining $104,705,163.43 to railroads, wagon-roads, and canals from 1789 to 1873. Of this sum neither Georgia, Texas, nor West Virginia received one dollar. Virginia, North Carolina, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, Kentucky, and Missouri received $5,480,172.94, while the other States and Territories received $99,224,990.49.

Georgia ceded to the Federal Government the territory now constituting the States of Alabama and Mississippi with the express stipulation in the deed of cession that "it should be considered as a common fund for the use and benefit of the United States, Georgia included." The Government realized from this magnificent domain $40,000,000 in cash, while in the distribution of $104,705,163.43 for works of internal improvement among the other States Georgia did not receive one cent. Besides, the United States this day owe her $36,000 for money she expended for the common defense in the Revolutionary war. The State of Virginia ceded to the Government the territory comprising the greater part of Ohio, Kentucky, Indiana, and Illinois, containing an area of 137,860 square miles, property worth $10,329,669,974, while she has received of the $104,705,163.43 only $57,538.27. The Government had received up to 1850 from the sale of public lands ceded by Virginia $80,000,000.

This grand old Commonwealth, after having given away an empire, stands "like royalty in ruins," struggling with misfortune, poverty, and debt, with elevated crest and unbroken spirit. She urns in her heart the ashes of her heroes and statesmen; the lofty device of *sic semper tyrannis* still emblazons her shield. Wrapped in the imperial robes of her ancient sovereignty, she stands not at your door a mendicant asking alms, but the mother of States and of statesmen, demanding for her illiterate children an equal participation in the treasure her bounty bestowed.

Georgia shelters her two hundred and seventy-five thousand illiterate under her arch supported by wisdom, justice, and moderation, and in the calmness of conscious dignity points to the magnificent domain of Alabama and Mississippi and the forty millions the Government received from the gift as the evidence of her right to an equal share of this treasure. In the presence of these facts avarice itself must stand abashed, and no whisper of inequality or injustice be heard or breathed.

The last census discloses the humiliating fact that there are nearly six millions of children in the United States over ten years of age who can neither read nor write. Every chapter of our legislative history recognizes the constitutional power of Congress to aid the education of the people. Many laws have been passed and a vast amount of the public lands donated for this purpose. Individual effort and parental affection and solicitude have contributed much toward the intellectual development and cultivation of the people of this country. The different religious sects throughout the country, stimulated by a legitimate denominational pride, animated by a generous emulation and inspired by the loftier sentiment of Christian philanthropy, have employed all their energies and exhausted all their resources to promote the cause of education and advance the standard of a Christian civilization. Eight hundred and thirty-four thousand four hundred and eleven noble men and women, worthy to wear "the red wreath by martyrs won," instruct weekly in Sunday schools over six millions of children. States have endowed and maintained colleges and universities.

Every section and every State bristles with the spires of colleges, male and female. I believe every State in the Union now has established by organic law a system of free public schools supported by taxation; still the deplorable fact meets us everywhere, and at all times, that there are six millions unblessed by any and all of these agencies, with the light of learning, who are starving at a banquet and famishing at a fountain. And yet these children are soon in part to bear the ark that contains the oracles of popular liberty and the covenant of free institutions. The education of the masses in this country, at least in the rudimentary principles of learning, is demanded by every consideration that patriotism, philanthropy, and religion can urge. Neither denominational church enterprise nor private effort, much as they have done, can accomplish this most desirable object. Experience has shown that some system established by law, harmonious in its machinery, universal in its operation, and perpetual in its duration, is required. Experience has also demonstrated that the establishment and maintenance of such a system is an undertaking of the greatest difficulty, involving the utmost exercise of patience, the largest share of liberality, and the highest order of statesmanship; for the reason that its establishment and successful operation depend upon so many conditions rarely found to exist in combination.

The people of the Southern States are engaged in a heroic struggle with these difficulties, which are numerous and formidable. The system encountered at the threshold the opposition of enemies, the fears of the timid, the doubts of the faithless, the apprehension of friends, and the poverty of all. Every step taken discovered some new obstacle in the way of success. There are but comparatively few large towns and cities in the South; the greater part of that section of the

Union is rural, the people are engaged in agricultural pursuits, the population in the country is sparse, and great difficulty was found in the location of school-houses so as to accommodate the largest number and equally distribute the benefits of instruction. But the greatest difficulty with which they had to contend, and which it is the object of this bill to obviate, to some extent at least, was the want of means. All will readily recognize money as an indispensable element of success; and that we do not possess. The losses resulting directly and indirectly from the war, the overwhelming burden of debt, public and private, with which the people are crushed, and the enormous taxation necessarily imposed upon them, make it doubtful whether the system of free public schools in the Southern States, so courageously inaugurated, will not have to be abandoned in despair or left to languish and ultimately perish for want of support unless timely aid come from some quarter. Those who have not taken the trouble to examine into the extent of these losses have but little conception of their magnitude. Take, for illustration, the State of Georgia:

The taxable property in Georgia was valued under oath by the tax-payers in 1860 at	$672,322,777
In 1868 it was valued at	191,235,520
A loss of	481,087,257

This includes 450,000 slaves, valued at $302,694,833. The losses, aside from the slaves, amounted to $188,392,424, an amount nearly equal to the whole taxable property in 1868. It will be borne in mind that this property was valued at a time when cotton brought a high price, when the volume of the currency was large, before the contraction policy of Secretary McCulloch was inaugurated and before the war values had shrunk to a normal condition. If we add to these losses the duplication of the public debt, the consequent increase of taxation, the subversion of our labor system, and the revolution in our modes, habits, industries, and economies, not only of a life-time but of time immemorial, some just judgment can be formed of our poverty and condition to commence and prosecute an expensive system of popular education. And yet Georgia probably suffered less than most of the Southern States. I have purposely refrained from any allusion to the crucifixion of reconstruction through which we passed. I have no fancy for rekindling the fires of hate and passion that deluged a continent in blood, nor have I any respect for the man who ignores the vital issues of the living present and coming future to indulge in crimination and recrimination for the low purposes of party or for any other purpose.

Under these circumstances of discouragement and difficulty we have inaugurated this system of public education, and are now struggling to maintain it and make it a success. It has in every Southern State the sanction of organic law. The provision upon this subject in the constitution of Georgia is as follows:

> There shall be a thorough system of common schools for the education of children in the elementary branches of an English education only, as nearly uniform as practicable, the expenses of which shall be provided for by taxation or otherwise. The school shall be free to all children of the State, but separate schools shall be provided for the white and colored races. Authority may be granted to counties upon the recommendation of two grand juries, and to municipal corporations upon the recommendation of the corporate authority, to establish and maintain public schools in their respective limits by local taxation; but no such local law shall take effect until the same shall have been submitted to a vote of the qualified voters in each county or municipal corporation and approved by a two-third vote of persons qualified to vote at such election, and the General Assembly may prescribe who shall vote on such questions.

Emancipation has immensely swelled the number to be educated, and therefore increased the demand for means. This increase in number occurred precisely at the time when the means were most diminished. The additional number brings no material aid, except perhaps the single item of poll tax levied upon the colored people. Under the educational system of every Southern State the colored people are entitled to an equal participation with the whites in the school fund. There is no distinction, except that the white and colored schools are separate.

Whatever differences of opinion may have existed, or whatever theories may have been advanced or speculations indulged respecting the capabilities of the negro race for intellectual development and distinction, with proper facilities for culture, it is clear that the truth can be ascertained by the test of trial. This experiment the white people of the South have determined, if possible, shall be made. In making it they discharge an obligation while they dispense a benefaction. The history of the negro race is a sad one. It has been the sportive plaything of capricious fortune. Its destiny has been wrought by agencies over which it had no control. Hugging for countless ages the torrid zone, the influences of habit and climate developed the animal nature and emasculated the intellectual and moral powers, leaving barbarism as the result. The contact of the negro with the white race has hitherto been, in the main, under conditions that confined the means of their advancement to imitation and observation. Neither history nor tradition brings from them any contribution to civilization in the achievement of arms, the discoveries of science, or the inventions of art. I have said that the white people of the South are but discharging an obligation to the negroes in their effort to educate their children. They served us before emancipation, they were faithful to us in the dark days of the war, and they have, under the circumstances and temptations surrounding them, demeaned themselves well since the surrender.

What were the circumstances surrounding them? They were suddenly transformed from slaves to freedmen; they did not and perhaps never will know who was responsible for their enslavement. They would naturally hold their former masters responsible and regard the agents of the Federal Government as their deliverers; and thus the avenues to their confidence and credulity were opened. The Freedman's Bank was established to be plundered by knaves, and the Freedman's Bureau organized to control their political affiliations under the pretext of managing their affairs. Artful villains appealed to their communistic instincts by false promises of an agrarian division of property. Infamous adventurers swore them to deadly hostility to the whites in secret conclaves in the darkness of midnight, and aroused their superstition by administering the oath over skeletons and coffins. Newly clothed with the rights, privileges, and immunities of citizenship, they were marched and countermarched on election days to the stirring music of drum and fife around the polls in the presence of disfranchised patriotism and ostracised virtue and intelligence. They were elevated from prison cells to legislative halls, and converted from sweating convicts into pompous legislators, exchanging the humbler occupation of bearing burdens for the loftier business of making constitutions. And at last Federal legislation undertook to bridge the social gulf separating the races, established by nature and extending "down to earth profound and up to heaven," and invite them over to perfect social equality with the superior race.

Yet with all these powerful influences pressed upon them, let it be said to the infinite credit of the great mass of the colored people that they have conducted themselves with a propriety and exhibited a capacity for usefulness in society that has more than met the expectations of their most judicious friends. If occasional riots have attended or preceded elections, they have been instigated and manipulated outside of the South, or by the agents of parties outside, to inflame and control public opinion pending closely contested elections in other States, with the view of controlling important elections. And thus the colored people have been made the unwitting instruments of occasional disorders which have their conception in foul conspiracies outside of the South, and for which the white people of the South are falsely held responsible. The relations of friendship existing between the races in the South are not at all surprising; it is but the legitimate effect of obvious causes and results from traditional family attachments not in any wise incompatible with superior and subordinate relations. The races are identified in interest and in neighborhood. The dealings of the white race with the black have been characterized by the strictest justice, fairness, and honesty; the colored people have received from them sympathy in their sorrow, assistance in their misfortunes, and encouragement in their struggles; all of their political rights have been conceded with cheerfulness and enforced with fidelity; an upright and learned bench always assigns for the defense of the accused who are unable to employ counsel the ablest lawyers the bar supplies; and now, in almost hopeless poverty, the white people are paying heavy self-imposed taxes to test the experiment of their education.

If the colored people are the "wards of the nation," if the Federal Government is the guardian of these people, this bill and this occasion furnish the finest opportunity it will ever have to discharge the most important duty of the guardianship—the education of the wards. They stand here by the millions through their representatives and insist that the Government will at least aid their late owners in this humane effort to improve their condition; and this appeal they emphasize with the pathos of helplessness, of poverty. How far their general education, if it can be accomplished, would affect their inclination to manual labor and impair their capacity for its performance, is a question that may well excite serious apprehension. Living as they do in a purely agricultural section, and adapted as their labor is to the climate and productions of that section, their manual labor is not only indispensable to their own support, but of the first importance to the prosperity of the whole country. But the consideration of this question is foreclosed by the general judgment of the country that the experiment shall be made. The practical question now is, how to secure the means to make it. Since the organization of the Government, Congress has donated to the cause of education, under different acts, land amounting in the aggregate to 95,737,714 acres, and the sum of $47,785,197.93 in money. The greater portion of the land was given to the Northwestern States by setting apart for educational purposes, in that section, sections 16 and 36. Upon her annexation to the Union the State of Texas reserved her public lands, and has therefore ample resources for the support of her educational system. But she stands the solitary exception among the Southern States, who have received only a trifling sum compared with the amount received by other States, Virginia and Georgia less than almost any of them, although each ceded to the General Government an empire in extent and wealth, and now in the extremity of their poverty, when the number of their illiterate population has been doubled, they invoke the aid which this bill proposes to extend. They do so in common with the other Southern States, not only to educate the white children within their borders, but to educate the ignorant colored race in which one-eighth of the sovereign political power of the Republic is vested by the Constitution and laws of the United States. Thirty-five Representatives of the American people on this floor symbolize the power of the

negro race, two-fifths of which—fourteen in number—accrued from emancipation; to say nothing of the improvement of their intelligence, their morals, and their elevation in the scale of civilization. Does not the qualification for citizenship, which education alone supplies, demand imperatively that speedy and ample provision be made for that education?

Are not the institutions of this country imperiled by the ignorance of so large a number with whom political power is deposited, whose votes, from ignorance, are liable to be controlled by prejudice or purchase? Is not the Government under some obligation to furnish the means to qualify these people for the enjoyment of the right and the exercise of the power which is so unceremoniously and so bountifully thrust upon them? This bill provides that one-fourth of the money appropriated by it shall be given to the agricultural colleges unless the Legislatures of the States and Territories shall otherwise direct; thus devoting one-fourth of the sum to agricultural education. The judgment of Congress and the country has been made up upon the wisdom and propriety of fostering intelligence in the cultivation of the soil of this country. That judgment is recorded in the act establishing these colleges and appropriating a part of the public land to support them, and in the acts of the various Legislatures accepting the donation. The success of these institutions vindicates their claim to liberal support.

I but state what all know to be true when I assert that the agricultural is the paramount interest of this country, the basis of all prosperity, and the only original source from which subsistence and clothing come. There can be no reason why its votaries should not be as well educated as those of any other art or science, and there can exist no reason why cultivated intellect should not be employed in the discovery and the development of the resources of the soil. The North Georgia Agricultural College, established by the act of 1862, has accomplished more good in the few years of its existence than any two schools in the State within the same period: unfortunately its buildings were recently destroyed by fire.

To the products of the soil are we mainly indebted for the balance of trade in our favor, amounting for the last year to $309,309,741. It is the labor employed in agriculture and the products of that labor that enable us to dispute commercial supremacy with Great Britain. This labor is productive in the proportion that it is guided by intelligence.

If experience should show that one-fourth of this money could be more usefully employed in other departments of education, then it is perfectly competent for the Legislatures of the States and Territories so to employ it. It is within the control and subject to the direction of the State and territorial authorities. There can therefore, as it seems to me, be no well-founded objection to the bill because it gives a part of the money to this particular class of institutions. While this is truly a national question, still, regarding it from a local and sectional stand-point; in view of the necessities for aid to public education in the South, it is important to inquire what amount this measure will supply. Assuming, as estimated by the Commissioner of Education, that the sales will amount annually to $1,500,000, the amount that each of the Southern States would receive is exhibited in the following table:

Alabama	$101,534 56
Arkansas	35,347 50
Florida	19,034 61
Georgia	124,221 66
Kentucky	88,058 19
Louisiana	73,208 10
Mississippi	83,056 90
Missouri	58,960 03
North Carolina	105,425 63
South Carolina	76,978 02
Tennessee	96,679 35
Texas	58,772 35
Virginia	118,203 99
West Virginia	21,602 58
	1,061,083 47

It will be seen that the State of Georgia would annually receive upon this basis $124,221.66, one-fourth of which, or $31,055.41, for five years would amount to $155,277. This would endow the agricultural college, leaving to the cause of popular education in this State each year $93,166.25, which amount would vary of course with the amount of the sales of the public land. We can form some estimate of the aid which this bill will render to the education of the people of the United States when it is remembered that the public domain, surveyed and unsurveyed, amounts to 1,154,471,762 acres. Whether this domain shall be wisely and humanely devoted to the education and elevation of the masses of the people of this country, distributed upon the basis of necessity and equality, or given to rich and powerful corporations, and thus increase their means of fixing the price of labor and controlling legislation, is not a debatable question.

Mr. Chairman, the first century of our national existence vindicates the wisdom that founded our institutions and the beneficence that distinguishes their operation. Our career is the wonder and admiration of the world. We have extended our domain from a narrow strip along the Atlantic coast across a hundred degrees of longitude to the Pacific Ocean, increased the number of States from thirteen to thirty-eight and our population from three millions to fifty millions. We have a country that possesses every variety of climate and production, soil and scenery. It combines in prodigal profusion every element of individual and national wealth. It opens an inviting field to every industrial enterprise and bestows the richest rewards upon the efforts of labor. It has given to immortality the names of Franklin, Fulton, and Morse, and bequeathed to mankind the triumphs of their genius. Its discoveries in science and inventions in art have revolutionized the industries and commerce of the world. Her iron ships float upon every sea and bear to every port the treasures of her mines, her fields, and her forests.

Our skill has unlocked the arcana of nature and utilized her physical forces in constructing the temple of freedom, and American genius has brought its trophies of sculpture, painting, and poetry to adorn its columns and festoon its arches. American orators have eclipsed the famous masters of antiquity. American literature has attained a range of thought, a felicity of expression, and a purity of sentiment unknown to other ages and countries. We have sent back to the birthplace of civilization the inspiration of a new national life and aroused the east from the slumber of ages. Hoary systems are dissolving in the blaze of the star of empire that "westward takes it way." Vitalized by contact with us, China and Japan have adopted systems of popular education abreast with the demands of the age that rival the best models of modern times. But while we are dazzled with the splendor of these achievements that cultivated intellect has done so much to secure, we are confronted with the melancholy fact that six millions of American children are unable to read and write the language in which the historian records and perpetuates them.

If so much has been accomplished in the brief period of a century under existing disadvantages, what hopes are the least sanguine not authorized to indulge of the future grandeur and glory of our common country? Each conquest in this aggressive march to national destiny enlarges the desire and augments the power for new and grander results, and each new acquisition imposes additional obligations.

Next in importance to the obligation to preserve public liberty is the duty of providing the means for popular education. These will be the two great agents of advancement in the future, as they have been of success in the past. The possibilities of our future promise more than the realization of Utopian dreams. They spread out over the vast West a population numbered by hundreds of millions, combining the strength of the Roman with the culture of the Greek, uniting the chivalry of Bayard with the benevolence of Howard, and exhibiting in blended harmony the best elements of the puritan and the cavalier; a wilderness reclaimed from primeval solitude, yielding to industry harvests that fill the marts of the world with commerce and appease the hunger of nations with bread; great national highways substituting the dim trail of the receding Indian, magnificent cities occupying the place of abandoned wigwams, and the light of council-fires paling before the superior light reflected from galleries of art, halls of learning, and temples of worship, realizing the fulfillment of prophetic prediction:

> The wilderness shall be glad for them, and the desert shall rejoice and blossom as the rose.

This population under the protection of and this progress fostered by a Government under a written constitution, that explicitly defines the powers of the Government and expressly secures the rights of the people, we may here expect to witness the highest physical, social, moral, and political development of which the race is capable.

It was during the thousand years of darkness and blood, when cloistered monks monopolized the learning of Europe and Asia, leaving the masses in ignorance, that barbarous conquerors and ambitious prelates fastened upon the world the despotism of the feudal system and the horrors of the inquisition. Against this stupendous crime upon humanity its mind, heart, and conscience have never ceased to utter their protest. The revival of letters and the general diffusion of knowledge relaxed the grasp of the tyrant and broke the spell of tyranny; and cultivated intellect, inspired by patriotism, at the expense of blood has erected and consecrated upon American soil the sacred temple of liberty, rebuilt her ruined altars, installed her banished priestess, and restored the worship of her divinity. And here, under the patronage of republican institutions and universal education, liberty finds its freest expression, religion its purest model, and humanity its highest type.

MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

The message further announced that the Senate insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, and asked a conference upon the disagreeing votes of the two Houses, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS conferees on the part of the Senate.

The message further announced that the Senate had passed with-

out amendment the bill (H. R. No. 5655) to amend an act entitled "An act making appropriation for the sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878.

PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

The Committee of the Whole then resumed its session.

Mr. DUNNELL. Mr. Speaker, I ought to have known that this bill had been assigned for this day, but I confess that I did not know the fact, and hence I am not prepared to express the opposition which I have to the bill as clearly and as fully as I otherwise might have done.

No one can feel a deeper interest in the question of free public education than I do myself. My experiences in connection with public schools in the past have given me a very deep interest in free education; and yet, sir, I have been one who has always believed that the common-school education of a State should be the creature of the State, should be fostered by the State, and that it is not the province of the General Government to foster or build up a system of public education in any State.

I remember, in the Forty-second Congress, a very elaborate, able, and convincing speech made by Mr. Kerr, of Indiana, afterward Speaker of the House. I sympathized with the arguments in that speech, because I believed that the system of public education in a State should be built up by the State itself, should be fostered by the State, and there should be a public sentiment in the State in harmony with a system of free education, otherwise the General Government may give and give, and yet there will be no healthy and vigorous school system in the State.

If the State of Virginia, for instance, at any time desires to have a public-school system as good as that of the State of Michigan, there must be in Virginia the same public sentiment that there is in the State of Michigan. They must as freely vote money in the one State as in the other; they must provide as liberally for the supervision of the schools in the one State as in the other; they must do as much for the cause of public education in the one State as in the other, else there will be no good system of public education in that State.

Now, sir, the friends of this bill very greatly overestimate the amounts that would come to the several States if it should become a law. The amount that would come to a State would be but a mere pittance. I intend to show that before the first five years have elapsed, during which time it is possible for the States to spend all the money to be derived under this bill, there would be substantially no money coming into the Treasury from the sales of the public lands.

I insist that we have reached almost the outer limit in the sales of public lands and in the receipt of revenue from the sales of public lands. While receipts were quite large last year, I shall be able from statistics to show that the receipts from the pre-emption law have been and are gradually and rapidly lessening; and that at the end of the five years there would be nothing left to go into this fund, and the amount distributed from year to year during those five years would be so very small that the States would get no benefit at all from this pretended or intended benevolence.

I am opposed to this bill because it will interfere with a free, untrammeled system of legislation in regard to the public lands. If this bill shall become a law it will be absolutely impossible to secure an amendment of the land laws of the United States such as I insist the interests of the country to-day call for. I allude now to the pre-emption laws.

For the last six or eight years the Commissioner of the General Land Office has repeated the recommendation of that department that the pre-emption laws of the United States should be repealed, and that the remaining arable agricultural lands of the United States should be open only and solely to homestead settlers. There is a bill now pending that provides that all acts and parts of acts relative to the pre-emption laws of the United States shall be repealed, and that henceforth and hereafter all the agricultural lands of the United States shall be open only to entry under the homestead and tree-culture acts.

Now, if we could get at the real statistics—and I certainly would have had them here if I had known beforehand of this discussion to-day—you would find that not one-twentieth part of the remaining public lands of the United States are agricultural lands; not one, twentieth part. And I desire to show that at the present time not simply in the West, but in the East and throughout the country there is a large demand for the unoccupied and unentered agricultural lands of the United States.

I insist that we shall interfere with what is a grandly hopeful outlook at the present time, if we enact this bill into a law. We shall interfere with legislation that would open up this agricultural domain to actual settlement. I wish to show from statistics (a single page of which has been brought to my attention since this debate commenced) the entries of the last year.

Mr. DWIGHT. From what is the gentleman now reading?

Mr. DUNNELL. From the Land Office Report of 1878. It will be noticed that the cash entries last year were in round numbers 877,000 acres; while the entries under the homestead laws amount to 4,418,000 acres, and under the tree-culture law to 1,870,000 acres. And there were other public lands entered.

Now, while this record shows that the entries under the pre-emption laws amounted to 877,000 acres, it must be remembered by the committee that parties entering under the pre-emption law are allowed at any time to change their entry to one under the homestead law or even under the tree-culture law.

But my objection to this bill is because of the fallacy of the sentiment that upholds this measure, which is that this law establishes a fund for education. Even if you let the pre-emption law remain, all or by far the greater part that will come to us under the operation of the existing law will have been received during the next five years; and that the entire amount would not exceed $5,000,000. The amounts alluded to by the gentleman who spoke on the other side were gross receipts and not net receipts.

Therefore this fund which somebody speaks of as a great fund to be built up in the interest of popular education is a thing of the imagination entirely. It would never reach the amount of $5,000,000. Divide that $5,000,000 among all the States of the Union, and bear in mind that after five years the whole amount is to be expended, and then after another five years one-half of the amount is to be expended, and at the end of ten years you will find that there is no fund for investment. Two millions of dollars would certainly be fully equal to the fund that shall remain.

Invest that sum in 4 per cent. bonds and scatter the interest throughout all the States of the Union, to be subject to local legislation, and you will find that there will be no benefit at all to be derived from the fund. If the General Government ought to do something for the States in the South, as I have said once before on this floor, let us go directly to the Treasury. Our great material interests ought not to be jeopardized by this kind of legislation.

There are some interesting facts in connection with our agricultural development during the last two or three years. The great bulk of our exports last year over our imports were agricultural.

The sufferings in the East are being lessened and lightened by this outflow of extra population from it to the West. Will you close up these lands and leave them as now to be pre-empted? I hold and insist that all the remaining agricultural lands of the Republic, almost all of which have been taken up, shall be left for homestead entry by actual settlers seeking homes from the over-crowded cities and the over-populated States of the East. It is in the interest of the whole Republic. No great good can come from this attempt on the part of the Government to make provision for the great common school interest of all the States of the Union.

I wish again to call attention to some of the statistics which I have before me, as showing the increase during the past year in the entries. There was during the last year an increase over the previous fiscal year of 1,348,760 acres. It is this demand for public agricultural lands which I insist ought not at all to be interfered with by this kind of legislation; because I insist, Mr. Chairman, that when Congress shall have made provision in this way for a national educational fund it will be very unlikely to repeal the only way by which that fund can ever be made or increased. We get substantially no money into the Treasury now except under the pre-emption law. It is now proposed to create a fund growing out of the receipts of that item. Then Congress will say "We will keep that law unrepealed." The same votes that appropriated this fund in this way would vote against the repeal of the pre-emption law. I insist that the pre-emption law ought to be repealed. The very small quantity of public lands remaining to be taken up for agricultural purposes would surprise the gentleman from Virginia if I were to present the figures. Hon. George W. Julian caused to be published a year or two ago a statement with regard to the small remaining quantity of public lands adapted to agriculture. That statement startled the country. In Kansas, in Nebraska, and in Minnesota almost all of the lands have been taken up, and forty thousand or fifty thousand or sixty thousand people have under the homestead law gone to the Territory of Dakota during the last twenty-four months. When this agricultural portion of the frontier is occupied you have only the rocky and mineral lands of the country remaining.

When gentlemen picture to themselves a large fund for the purpose of popular education growing out of this measure, they are terribly mistaken; they terribly deceive themselves. The fund could never reach $3,000,000, especially if you allow the whole fund to be spent for five years and one-half for the next five years. When ten years shall have rolled aroundd, Mr. Chairman, if you and I are then cognizant of affairs going on in this country we shall find that the agricultural lands of the country have been taken up and that there is no longer any income from the sale of public lands. I venture to affirm that within ten years from this date thousands instead of millions will cover all returns from the Land Office.

Mr. Chairman I do not wish to speak further at present. Of my remaining time I yield ten minutes to the gentleman from Colorado, [Mr. PATTERSON.]

Mr. PATTERSON, of Colorado. Mr. Chairman, while I am not opposed to the principle of the bill, yet, representing in part the interests of the public domain west of the one hundredth meridian, I would be false to that interest if I failed to call the attention of the Committee of the Whole, and particularly of the Committee on Education and Labor, to amendments that are necessary if justice is to be done to the section of the country of which I speak.

The gentleman from Minnesota [Mr. DUNNELL] who has preceded me well stated that the limits of revenue from the sales of public lands had been reached years ago, and that from this time forward the annual proceeds must sensibly decrease. The reason of it is ap-

parent. It is that eight-tenths of the public lands remaining undisposed of cannot be successfully cultivated until large sums of money have been expended to place them in a condition to produce crops, by means of water brought upon their surface. The only practicable measure by which this vast area of arid lands can be made productive is by treating them as Congress in 1850 treated the swamp lands of the South, West, and Northwest; that is, by donating them to the several States within which they lie, that they may be made the means and agency of their own redemption. If a law is now passed which irrevocably disposes of this portion of the public domain so that the State may never through them have the means of constructing the works of which I speak, the traveler will find one hundred years from to-day the same vast extent of desert domain that now greets the eye from the Missouri River to the shores of the Pacific as we take the trip across the continent.

Why should not these arid lands be donated to the States before all of the lands are given for purposes of education? If this is not done, no person has the motive and no community has the incentive to furnish the means by which this vast extent of lands may be made productive. Certainly the Government of the United States will not make appropriations for the purpose of constructing canals, ditches, and reservoirs, and certainly the educational interests cannot afford to do it, because to do so would take from the fund the profits from which the good is expected to flow.

Mr. Chairman, under laws passed heretofore upward of fifty-one million acres of swamp lands have been donated to the States for the avowed reason that those lands could not be made productive without the expenditure of vast sums of money for drainage purposes. For the same reasou, before the proceeds of the public lands are expressly set apart for any purpose, and before the lands are disposed of in such a way that the States containing arid lands have lost the hope of obtaining the proceeds by which this desert may be made a garden, by which this arid land may be made the best agricultural area upon the continent, it is due to the entire people, it is right and just that these lands should be granted to the States as I shall request.

Why, Mr. Chairman, in the State I represent, and in other States and Territories, on account of the peculiar nature of our lands and climate, we will be left practically without a school fund unless this and some other propositions I shall propose are adopted. You all know the small proportion of minors to adults in new countries. Men emigrate from the East, leaving behind their wives and children, and come to the West for the purpose of subduing the wilderness and preparing homes to receive them, and this is only accomplished after the lapse of years; and the result of this fact must inevitably be that while South Carolina, New York, Alabama, and other of the older States will receive large sums of these proceeds for the education of their children, Colorado, Nebraska, and Nevada, and the States yet to be carved out of the public domain will not only be left without a proper school fund, but they will be robbed of that which at least the spirit of our institutions has declared shall be set apart for this sacred purpose.

And, Mr. Chairman, I am safe in predicting that if these lands are not given to the States in which they are situated, that a part may be sold and the proceeds applied to the construction of the great irrigating works I have mentioned, the present arid and unproductive plains will continue for a century hence a monument to the ignorance and want of foresight and practical knowledge of the American Congress. And I give notice now that when this measure is being discussed by sections, I shall offer amendments which will exempt from the operations of this bill the arid lands west of the one hundredth meridian, lands which are absolutely worthless without irrigation, that would not bring for school or any other purpose five cents an acre if they were placed on the public market to-day. I shall ask these lands be given to the States, and to be set apart in the Territories to be given to them when they shall become States, so that those who emigrate to the West in future years may, instead of meeting a vast wilderness of non-agricultural lands, find homes prepared for them through the proper expenditure of the proceeds of these arid lands by the governments of the States in which they are situated.

Mr. DUNNELL. I yield now for five minutes to the gentleman from Ohio, [Mr. SOUTHARD.]

Mr. SOUTHARD. Mr. Chairman, I rise more for the purpose of stating as a member of the committee I object to the bill than for the purpose of stating my objections. It will be utterly impossible for me to do that in the limited time allowed me.

I am opposed to the bill upon principle and upon policy, and I am opposed to it because the distribution is not equitable and just, even if we agree to the principle. The system of common-school education is one which belongs to the States, to be kept up by the States, to be perpetuated by the States, and not to be interfered with by the General Government. This bill does so interfere with it. It requires the States to file in the office of the Secretary of State of the United States a copy of the law setting forth the fact the State has undertaken to make a faithful application of this money, thereby creating on the part of the General Government a supervision over the application of the school fund appropriated to the States.

But the bill, sir, has many other objections. It provides in the distribution in the first place that after ten years it shall be upon the basis of illiteracy of those between the ages of five and twenty-one years. For the first ten years the basis is not between those ages, but all those who cannot read and write over the age of ten years extending to all the illiterate population, young and old, above the age of ten. Here, then, is an appropriation of money out of the public Treasury for the purpose of educating a man to discharge the duties of citizenship to-day a hundred years of age if you please. If the appropriation is to be made to the States on the basis of illiteracy the age should be between five and twenty-one instead of ten and a hundred or any other limit.

But in addition to that this bill appropriates directly out of the public Treasury some amount of money. It is called the proceeds of the public lands, and the quantity therefore is uncertain. It may be one million, and it may be ten millions. I find the sales of the public lands have ranged from $24,000,000 in 1836 to one million and one million and a half in later years. This revenue might as well be taken from the receipts from internal revenue or from customs duties as from the proceeds of the sales of the public lands, for it is none the less a direct appropriation of the money of the people.

There is in some instances a liberal system of education supported by liberal taxation and munificent appropriation on the part of the people for the support of the public schools. I venture the prediction, while I have not the statistics before me to prove it, that many of those States which will be compelled to contribute by taxation to this fund are now paying a school-tax of twice or thrice the amount of those States which will receive the benefit of this fund. It is therefore a premium for neglect and ignorance instead of a premium for greater effort in the direction of education. I do not wish to say anything against those States which have failed to educate, or whose people by misfortune remain ignorant, but I do say when we come to appropriate money out of the public Treasury to a school-fund we ought not to require one man in one section of the country who pays two mills on the dollar to pay an additional mill to educate men who do not pay as much in the way of taxation in another section.

For these reasons, or suggestions, which I have not the time to elaborate, I am utterly opposed to the passage of this bill, and being a member of the committee I have deemed it fit to state them at this time.

Mr. GOODE. Before the gentleman from Ohio sits down I wish, with his permission, to correct one of his statements. He has fallen into an error. If he examines the statistics he will see that since the war, up to 1870, and from that time to this, for every 1 per cent. on his property that the northerner has paid for public education, the citizen in the most impoverished Southern State has paid 2 per cent.

Mr. DUNNELL. I yield five minutes to the gentleman from Illinois, [Mr. BURCHARD.]

Mr. BURCHARD. In previous Congresses when this subject was under consideration I have supported measures which contained the principle on which this bill is framed, but I think there is great force in the objections which are urged by the gentleman from Minnesota, [Mr. DUNNELL.] I am not satisfied that the bill will be practicable as it is framed and presented by the committee. So far as the constitutional question is concerned, as to the right of Congress to appropriate the proceeds of the public lands or donate the public lands for the encouragement of schools, I think that question is settled by precedent if not by logic, and it is unnecessary to discuss it.

There is one feature of the measure that commends it to favorable consideration and was urged very forcibly in the Forty-first Congress. Every part of this nation is interested in the education of every other part. The right of suffrage, which is now universal, determines the character of the National Congress and the policy and public measures that shall control the nation. Legislation that concerns every part of the Union will be affected by the intelligence and culture of the people who select the Representatives. We therefore are interested in education in South Carolina, in the education of the freedmen of that country, in the education of the freedmen of the South, and of the youth of the country all over the land. And if a practical measure were proposed not to take in hand the education of the youth of the country, but to encourage each State under State law to commence a system of free schools for the free education of all the children in the State, I would be glad to support it. Such I believe was the proposition first introduced in the House in 1870 contained in a bill presented by myself and referred to the Committee on Education and Labor. Its sole purpose was to aid and encourage the establishment of free schools in portions of the country that failed to appreciate or were struggling to maintain a free-school system. The cash sales of public lands for the preceding year had amounted to over $4,000,000. Distributed to school districts only that should maintain free schools for all their children for six months of the year, it would be an inducement for every district to tax itself, build school-houses, and engage teachers, so that it could obtain a portion of this fund. But this bill abandons these important features and the main object of the original plan. It gives the money to the State, one-fourth to be appropriated for agricultural colleges or for such other purpose as the State may direct. The remainder can be applied by the State for the free education of all its children in such manner as it sees fit. At the end of five years one-half, and at the end of ten years all of this fund, instead of being applied as it accrues to start these feeble schools, is to be put at interest, and the latter only applied. But 4 per cent. of the fund could be annually used, a sum too small to be of practical benefit at a time when most needed.

There are serious objections to the bill. One-fourth of the amount is to be appropriated, not for the support and maintenance of free schools and their encouragement, but for the colleges, those institu-

tions that ought to and can support themselves. Then again, as was said by the gentleman from Minnesota, the net cash receipts from the sale of the public lands amounts to nothing at the present time. I have before me the report of the Secretary of the Treasury, and gentlemen will find at page 12 the statement that the proceeds of the sales of the public lands for the last year amounted only to $1,079,743. Out of that, by this bill, comes very properly the expense for surveys and the expense of the surveyor-general's and the subordinate surveyors' offices, amounting to $362,000. Deduct that and the expense of the Land Office, for which $245,680 was appropriated for the present fiscal year, and you will have about $600,000 expenses to be deducted, leaving less than $500,000 net cash receipts, while the fund is growing less and less. Put that $500,000 at interest at 4 per cent., and you have $20,000. Give one-fourth of it to the agricultural colleges and you have $15,000 left; then divide that, and how much would each of the States receive? How much would any one of the twenty thousand school districts in Illinois receive annually? Not ten cents each.

Mr. DUNNELL. I yield five minutes to the gentleman from Montana, [Mr. MAGINNIS.]

Mr. MAGINNIS. The object of this bill, Mr. Chairman, is to derive a fund from the public lands in the West with which to educate the illiterate of the South. Under its provisions the States and Territories in which the public lands lie will get practically nothing, although whatever value the public lands have is given them by the efforts of our people, by the labor which has reclaimed and developed them. The gifts of vast bodies of territory by two at least of the older States to the General Government is extensively dwelt on as a reason that the proceeds of the public lands should now be given largely back to those States. What value had those territories at the time they were so granted? How much would the shadowy title derived from the kings which the colonies had just repudiated have brought in any market? Filled with Indians, it would have impoverished the States that claimed them to defend or develop them. Settlers went in, drove out the savages, conquered the country, and reclaimed it from its wild condition. To-day it is valuable; but reckon the labor and money that has been used to make it so, and you will find that the sum will equal the value of the land to-day, leaving very little margin for any value in the musty patents of kings who granted away continents that did not belong to them and lands which never had even been explored.

The old States and colonies all had the benefit of all the land within their own borders. Its proceeds they used for purposes of development, to build roads, bridges, schools, and to pay the expenses of the State, all of which has to be borne by the new States and Territories to-day, while the proceeds of the land within their borders, land deriving its only value from their settlement and their labor, goes into the coffers of the General Treasury.

If any general grant of this land and of its proceeds is to be made, let it be given to the States and Territories in which it lies. Especially should this be done in the Territories where all the lands are arid, where they must be brought under irrigation before they can be cultivated, and where, as my friend from Colorado has so ably shown you, they are not likely to be redeemed by any other disposition of them.

So far as the Territories are concerned, the school lands that are reserved cannot be utilized to assist their struggling communities to educate their people. They are tied up until we shall become States, and there is a growing disposition against the admission of new States. The Delegates have in several Congresses introduced bills to utilize our school lands, to make them yield us some revenue, no matter how small, but this scheme of general distribution now under consideration has stood in their way, and its advocates in and out of Congress have antagonized our modest demands.

This bill is only an indirect way of doing that which the Government should do directly, if at all. If we want a national educational fund, let it be voted directly from the Treasury, so that you can depend on a stated and reliable sum. By what rule of computation, by what statistics, by what means can you definitely and correctly calculate the net proceeds of the public lands? You deduct the cost of surveys; you deduct the expense of the Land Office; but is that all? Why, sir, here is your Indian appropriation bill of $5,000,000 a year. What does that represent? Upon what ground are you called upon to vote that gratuity to the Indians? Upon the ground that it is an equivalent for the purchase money for their lands, and the sum that you appropriate amounts to vastly more every year than not merely the net but the gross annual proceeds of the whole public lands of the United States. Therefore it would seem that if the proceeds of the public lands are to be devoted to any specific purpose whatever, that fund has in the practice of the Government already been set aside to pay the treaty obligations incurred in regard to the purchase money of the lands themselves.

Upon what ground is this source of revenue selected for this purpose more than any other? Why is it selected rather than the tax on tobacco or the tax on beer? I suppose, as the friends of the bill would seem to argue, it is because the Government has already set an example in this direction by setting apart at its public land sales a certain amount of lands as school lands in the West. And we are told of the vast educational fund which these Western States have been blessed with by having lands thus appropriated, demanding that the old States should have an offset. Why, sir, if the Government set apart two sections of land in every township for this purpose, for what reason did it do this? In order to sell the rest of the township. It was an inducement to purchasers, a part of the plan by means of which the Government was enabled to dispose of its lands. And we are reminded that the West was built up because Government has given lands to endow and promote and aid our railway corporations in that way. Well, then, who has paid for this land? Has the Government paid for it, or lost anything by such grants? No, sir; not at all. When you make a grant to a railroad what do you do? On every alternate section you double the price; so that the same amount of money comes into the public Treasury; and it is not the Government, but the western settler on these alternate sections who pays for the construction of the railroad. If you owned the land on one side of Pennsylvania avenue and gave away every second lot to any man who would build a house, and then doubled the price of the remaining lots, would that be giving away anything to anybody? It would be part of the means by which you disposed of your property. And the setting aside of these two sections in each township for school purposes and of doubling the price on alternate railroad sections are the means by which the Government has disposed of its property in these Western States. In all its grants it has been very careful to get value received for its gifts to the West.

Now, sir, let us look at the basis upon which the proceeds of these lands are about to be divided under this bill. They are to be divided upon the basis of illiteracy. In my Territory, from which perhaps a million of revenue will soon be derived every year, although lands are classed as arid and are only made valuable by the work we put upon them on irrigating and redeeming them, what do we get under this bill? There are, as I think the last census showed, an extremely small percentage, a very few hundred people in that whole Territory, who cannot read and write. So that our entire proportion of dividends would not amount to $50 a year. We have no school lands that are available. Our reserved school sections are not certified up to us. We levy the highest rate of taxation in any community in this country, higher than in any State except one, in order to educate the young people of the frontier, in order to educate the children, without getting any revenue from our school lands, and those struggling communities will derive no benefit under this act; although it is their enterprise and labor that gives the public land its only value.

If this Congress wants to meet this question, let it meet it manfully. Let it appropriate an annual sum from the public Treasury for educational purposes. If it is for the purpose of educating the freedmen, let it say so. I think it is due to the South that the General Government should assist in the education of the freedmen. When they were liberated and enfranchised they should have been educated. But let the Government do it directly, and not at the expense of the Western Territories. All the States had the full heritage of their own lands, and the proceeds, if there are any, of the public domain go into the public Treasury, where we have not even a vote on its disposition.

The vast domain of the United States ought not to be looked upon as a source of revenue. You are debating changes in your land laws, in your surveys, in your method of disposing of the public lands. You have added to your land laws the desert-land act, which works well enough in some cases, but under the provisions of which lurk excellent opportunities for monopoly; so that capitalists and speculators by taking up lands next the creeks and rivers will in the new Territories soon control all the lands and stop the progress of settlement. New restrictions should be added to that law to prevent that result. But the best disposition that you can make of your lands is to grant them to the States and Territories in which they lie, under such guards as will insure that the farming lands shall be held as homes for the people, the grazing lands leased or otherwise utilized by the Territories, and the timber lands kept and nurtured for the common good; the school lands made a source of revenue to educate the young; so that each Territory should have, as all the older States and colonies did have, the benefits arising from the control of its own lands.

Then you can dispense with an army of office-holders who eat up the revenues arising from their sale. But if this seems too radical I hope the committee which reports this bill will take up the bill which the Territories have had before it in three Congresses, to allow us to dispose of part of our school lands, invest the money in good securities, and apply the proceeds to assist our struggling schools. New countries have heavy expenses, bridges to build, school-houses, court-houses, jails, and asylums to erect, roads to open, governments to inaugurate, and they should not be at their utmost need deprived of that governmental aid which is granted to older communities in less need of assistance. But if this bill is to pass I shall move to amend so that the distribution will be made upon the basis of population instead of the basis of illiteracy. Even on the basis of population our share would be small, but under the bill as it is while our lands would furnish the funds our schools would get absolutely none of the proceeds.

Mr. DUNNELL. I yield five minutes to the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. WHITE, of Pennsylvania. I was very much impressed with the observations of my friend from Minnesota in antagonism to the general policy of this bill. Few measures have come before the American Congress—certainly no measure has come before the Forty-fifth Congress—more important in its general policy than the pending measure. Gentlemen by a careful reading of the law on the subject of the disposition of the public lands and of the provisions of this bill

will discover that this bill if enacted into a law will institute a radical, a marked change in the existing disposition of the public lands.

What is the thought of this bill in a word, for I have not time for discussion? The thought of this bill in a word is that the provisions of the existing pre-emption system to regulate the disposition of the public lands, instead of devoting the proceeds to the ordinary expenses of the Government they are to be appropriated exclusively to education in the different States. That would change the policy of the American Congress for which so many of us have contended to popular audiences throughout the country. It is very well known that one of the most beneficent measures of the nineteenth century which the American Congress offered to the people of the country was what is known as the homestead law, and if you enact this bill into a law you change that policy entirely and instead of opening the vast acres of the West as an invitation to the people in the overcrowded cities, you will put them immediately in the market. It is probably the case that while this measure does not invade the pre-emption system to-day, yet it is but the commencement of further legislation that will lead ultimately to the adoption of a land-scrip policy, such as was authorized by the act of 1862 which appropriated thirty thousand acres of the public lands for each congressional district in the different States and for each Senator to be devoted to a certain policy.

Now, it is very well known as a matter of experience that that resulted in the formation of rings and circles and combinations, and the practical advantage of that legislation was withdrawn from education in general and inured to the benefit of certain individuals who, by combinations, enriched themselves. Gentlemen talk of benefiting the people at large and lightening their burdens. The other day I was delighted to hear the liberal sentiments expressed by gentlemen on the other side of the House, who were advocating the improvement of the Mississippi River and the bill for the improvement of the Mississippi levees. Sir, that is a great question that affects the industries of the country, and it will press itself in some shape or form upon the attention of the American Congress, and I should like for one, as living upon some of the streams that are tributary to the Ohio and the Mississippi, to use a portion of the proceeds of the public lands to aid in those improvements in this way, and so subserve the material industries of the country. I have not time to discuss the general policy of this measure, or the particular features in detail of the bill. It is obnoxious generally as a matter of discrimination, and I think I am not affected by any mere local prejudices in this behalf.

It is very well understood that the States which have the largest proportion of illiterate population will be the largest beneficiaries under this bill. Now I submit, with all deference to the South, with all deference to the States lately in insurrection and which are so unfortunate as to have so large a proportion of their population illiterate and uneducated, that it is unfair to give them the advantages resulting from this bill to the prejudice of other sections of the country. The State which I have the honor in part to represent upon this floor has been one of the most liberal-minded States upon the subject of education in the Union. The Commonwealth of Pennsylvania was the pioneer in the great cause of education, under the lead of Thaddeus Stevens and Governor Wolf. The free-school system was established in Pennsylvania in 1835. Gentlemen may talk about the burdens of taxation, about the weight of 2½ per cent. of taxation resting upon them for educational purposes. Why, sir, in some portions of my State to-day I can tell you that they pay 2½ per cent. for school taxes, for school-buildings, and for educational purposes; and they have borne and borne and borne this taxation and built up an educational system there without the aid of the General Government that excites the admiration of every intelligent man.

Mr. DUNNELL. I will now yield for five minutes to the gentleman from New York, [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. Mr. Chairman, I am really afraid that this bill has failed to create within me an amiable spirit. We have had for the last week but one run, one unvaried run, of discussion, but one run of attempted legislation. The whole course of things during the week has been for using the public money for the benefit of one portion of this Union. It was, first, the Mississippi levees—$4,000,000 for Louisiana; secondly, an announcement from the same State of a demand for $80,000,000 more; thirdly came the Fairfax Seminary; fourthly, we have had a war claim from somewhere down in Tennessee; and fifthly, to-day we have a proposition to give away the proceeds of the entire national domain which shall be sold to one section of the Union, and to the same section that has been consuming all our time and claiming all our money for a week past.

Ah, but this is for a holy purpose; this is for the cause of education; this is for the cause of improvement! Sir, I was educated in the true old-fashioned school of national democracy, that believed that the business of education belonged to the State and not to the National Government, and that the burden of education rested upon the State and not upon the General Government; and I have not given up that faith. I do not believe that the National Government has any right to engage in the business of education in the States. I believe, so far as the National Government is concerned, that every State has a State right to have as much illiteracy as it chooses. [Laughter.] I would guarantee, as we all conceded before the war that desolated our country, that every State has a right to be as ignorant as it has a mind to be. [Continued laughter.] I do not believe in taking fifty millions of the future proceeds of the sales of the public lands, when this country is looking about to see how we can raise revenue enough to carry on the Government and pay the interest upon our debt, and giving it away to anybody, even to ourselves.

I am compelled to say that it is past all human patience to be compelled to sit here and see these calm and adroit and oily propositions to rob the loyal States of the Union, those that were loyal in our great controversy, of their interest in the public lands.

Let me put this question: how much will Vermont get under this bill of the proceeds of the public lands? Scarcely a cent. Why? Because from the time the little Mountain State was organized she has educated her people at her own expense. The poor men in Vermont are not only protected by the legislation of the State, but their children are educated by the State. And some of the sons of the poor men of Vermont are sitting in this House to-day. So it is in my own native State of Massachusetts, so it is with Maine, and so it is with all the New England States, and I am proud to say so it is with New York.

Now because we taxed ourselves to educate our people we are to be thimble-rigged and cajoled out of our interest in the great public domain of the country. Sir, I am not ready for it, [here the hammer fell,] and I end as I began by saying that the proposition does not put me into a good humor. [Great laughter.]

Mr. DUNNELL. I began my remarks at the commencement of the time allowed me by alluding simply and solely to this question from a material stand-point. I have not been disposed to bring in the war, or the South, or the North. Nor have I been disposed to discuss the question except upon the position which I assume that it was a policy which we could not at this time afford to inaugurate; that the granting of the proceeds of the public lands for this purpose would and must necessarily interfere with the free legislation of the country touching the use of the public lands and their appropriation for the public good; that these public lands belonging to the whole country ought not now to be looked upon as a sort of revenue either for the Treasury of the United States or for any specified purpose.

The lands now remaining we ought carefully to take care of, that they may contribute to our material development, to our growth, to our enlargement, and to our enrichment. I am opposed to such a disposition of these public lands as will prevent Congress from freely legislating concerning them so that they may be used for the extension of the country itself.

I insist again that if the real facts of the case could be brought before the House it would at once appear evident how small a quantity of agricultural lands there are remaining, and how absolutely useless and fruitless would be the results of a bill like this.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. DUNNELL] has expired. The gentleman from Virginia [Mr. GOODE] has twenty minutes of his time remaining.

Mr. GOODE. I yield ten minutes of my time to the gentleman from Massachusetts, [Mr. LORING.]

Mr. LORING addressed the committee. [For his remarks see the Appendix.]

Mr. GOODE. I yield the remainder of my time to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Chairman, I voted this morning to take up this bill for consideration by the House. I voted against taking up, or virtually did so, the reports in favor of war claims. The reason of my vote was simply this: I am in favor of this bill and opposed to the bills providing for the payment of war claims. This was the stand-point from which I voted. Others doubtless had a different stand-point. I state this to explain my own position. I voted in favor of taking up the bill which I wished to pass.

I have listened with great interest to the remarks made in opposition to this bill. I hope I have listened with candor. I was not able to hear all that has been said against it. I did happen to hear, I believe, all the points made by my friend from Minnesota, [Mr. DUNNELL.] I always listen to him with interest, and I feel great sympathy with him in some of the things he said on this subject.

The gentleman from Minnesota, and perhaps some others, have stated that this is a question for the States and not for the General Government. I admit that the principal responsibility for the education of the youth of a State must rest upon the people of that State. With that opinion I entirely agree; but it does not and should not prevent the General Government in certain emergencies from rendering the State some encouragement. May not the General Government come forward as a helper of education in the States? Why, sir, to ask the question is to answer it. We have a great number of precedents in favor of it. The National Government has repeatedly applied its property for the benefit of education in the States, and it is too late to call in question either its constitutionality or its propriety.

Thus, while I admit that the principal responsibility in regard to education must rest upon the States, there is a certain degree of responsibility resting upon the Government.

And I would say, Mr. Chairman, that I first became in favor of a bill like this when I first became in favor of adopting the fifteenth amendment to the Constitution of the United States. I was heartily in favor of that amendment. I sustained it with all the influence I had. I was glad when that amendment was adopted. I wished to make voters of the men to whom liberty had been given in the South, and when I became in favor of giving the right of suffrage to all the adult colored population of the country, from that moment I also became in favor of having the National Government do something to help in the work of their education.

Why, Mr. Chairman, I suppose this Government must have conferred the right of suffrage upon nearly a million of voters by a single act, and that at least the large majority of these voters could neither read nor write. My view of duty and propriety for the National Government, in connection with that matter, may be summed up in a single sentence. I do not believe this Government has a right to make voters of a million of men and then leave them in a state of such black ignorance that they can neither read nor write. I do not believe this Government has any right to do such an act as that, and ever since I went with all my friends here in support of the fifteenth amendment I have held it to be one of my first duties as a citizen, and especially as a citizen supporting that amendment, to try to do something toward helping to educate these hundreds of thousands of men whom we clothed in a day with the sovereignty of suffrage and to whom in a large measure we committed the destinies of this great empire.

And, as one man, bound to act on my conscience and honest judgment in this House, I cannot and I will not, I dare not refuse to vote for a measure that proposes to help, although it be only in some very humble degree, toward fitting those men for the discharge of the solemn responsibilities we have put upon them. It is cruel to them, it is cruel to ourselves, it is cruel to the whole people to give this multitude the right of suffrage and then leave them in darkness.

My friend from Minnesota remarked that each State would get but a small sum under this bill. I admit it is smaller than I could wish. I was surprised my friend did not find some consolation in this from his stand-point, because if the States are to get so very little out of the bill it cannot work the mischief which he fears may come from it.

The CHAIRMAN. The gentleman's time has expired.

Mr. MONROE. I ask for a moment more.

There was no objection.

Mr. MONROE. The amount each State would receive would be small; but it would furnish some welcome aid, it would impart stimulus and inspiration to a good cause, and its moral effect would be great.

I am sorry it would be so small. I have said in the presence of a large State convention of my own State I would cheerfully vote for an appropriation of $3,000,000 a year out of the Treasury for the purpose of common-school education in the States, such was my sense of the nation's peril from the illiteracy of a portion of its citizens.

I would be willing to accept the proposition of the gentleman from Minnesota to vote money out of the Treasury instead of passing such a bill as this. But as public sentiment has never run in that direction and as our people seem more favorable to applying the proceeds of the public lands for that purpose, I have cheerfully voted for that.

I want to say that although the State of Ohio would perhaps profit as little as most Northern States under this bill, I have yet to find any neighbor or acquaintance of mine at home who has objected to my giving my hearty and earnest support to a proposition of this kind. The people of Ohio feel that ignorance, in whatever State it may exist, is the common enemy of the whole country. They feel that ignorance among the voters of Mississippi is as really an evil which they must deal with, and the ruinous effects of which may fall upon them, as ignorance in Ohio.

The gentleman from Minnesota found some fault with this bill on account of its connection with the homestead question. Of course he is aware that the bill is most carefully guarded in that respect. Language could not be employed with greater clearness or force than the language that is used in this bill to keep the homestead act sacred and intact. There is no interference whatever under this bill with any of our existing legislation in regard to the public lands of the United States. Everything is left exactly as it has been. My friend from Minnesota says that the pre-emption law ought to be repealed; but, Mr. Chairman, it has not been repealed. We have gone on year after year selling the public lands. Now, this bill does not undertake to decide what ought to be done with the pre-emption law. It merely comes in and proposes that as it has been for a long time the fixed custom of the United States to sell their public lands and to pay the money into the Treasury, that money shall be applied for the benefit of all the children of all the States in proportion to their educational needs.

The CHAIRMAN. The time allowed by the House for general debate has expired. The Clerk will now proceed to read the bill by paragraphs for amendment.

The Clerk read the first section of the bill, as follows:

That the net proceeds of sales of public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain or interfere with granting bounty lands.

Mr. REAGAN. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding at the end of section 1 the following:
Or grants in aid of public improvements.

Mr. REAGAN. I wish to say a word in reference to this amendment. It will be seen that the first proviso in the bill, as a limitation on the first clause, is:

Provided, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands.

This is followed by another proviso:

And provided further, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain, or interfere with granting bounty lands.

To that, I propose to add:

Or grants in aid of public improvements.

I called the attention to this point of the gentleman who reported the bill, and his impression, as well as the impression of the committee, is that the right of Congress to appropriate lands for the purposes contemplated in the amendment is contained in the second proviso, which says:

That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain.

Upon examining the section I find it may be possible that such a construction could be reached, but it would not be the natural construction, as it seems to me, of the bill to assume that that reservation is contained in the clause referred to. The exemption here in the two provisos points to the purposes over which the power of Congress shall be exercised with reference to the public lands. The words which it is thought reserve to Congress the power asked for by the amendment might be construed to refer to the exceptions expressly named in the two provisos. Supposing that that may be so, and as the amendment simply renders plain and certain the opinion of the gentleman who reports the bill, and of the committee, it can do no harm to the bill to adopt it and will certainly make it clear of criticism and of doubt upon that subject; and I trust it will be the pleasure of the House to adopt it.

Mr. EDEN. Will the gentleman yield to me for a question?

Mr. REAGAN. Yes, sir.

Mr. EDEN. How can this bill affect the lands that have been granted for public improvements unless the grant has lapsed?

Mr. REAGAN. I do not think the gentleman from Illinois apprehends the point I am making. My object is to make an amendment which will authorize the Congress without doubt, if it sees proper to do so, in the future to make an appropriation of public lands for the purpose of making public improvements.

Mr. GOODE. I will say that I am not authorized by the committee to accept any amendments, but for my own part I see no objection to this one.

Mr. HARRISON. I rise to oppose the amendment.

Mr. REAGAN. I have not yielded the floor and I desire to use the balance of my five minutes. No one will doubt that the efforts of the Government to secure a great line across the continent has been of incalculable benefit to the United States. I mean the line of the Union Pacific Railroad. Whatever may be said of the large grants of land and the large amount of money given to that great enterprise, to-day the United States is better off for it than if it had not been carried out. Although a good deal of it may have been improvidently done, no one can well estimate its vast importance to the people of the United States. We may want a competing line or two across the continent in order that we may better carry out the purposes of the Government, secure more perfectly the public defense, and promote the interests of commerce and the general welfare of the country. No one can doubt the necessity now, great as that enterprise is, of having competing lines that shall secure in the interest of the Government and the people the reduction of the cost of transportation; and I do not wish to see the hands of Congress tied so that it cannot aid in the accomplishment of that purpose.

[Here the hammer fell.]

Mr. HARRISON. I had no intention, Mr. Chairman, to say a word upon this bill; but, sir, the amendment of the gentleman from Texas strikes out one of the very best features of the bill, and that is, the placing of the public domain in such a position that corporations will not always be knocking at the doors of Congress for it to give to them a part of what belongs to the people. It is one of the doctrines of the democratic party to-day not to give subsidies for any improvement of this sort either in money or in lands. Sir, it is a part of the doctrine of the democratic party that we will hold the public domain for the people.

We may say that to give it for educational purposes will take it from the people; but an amendment based upon the very position that we may want to give it to private corporations is one that the democratic party in this House cannot sustain.

One of the very best features, as I said, in this whole bill is that we will array always in the future the Congressmen from every State against any such claims upon Congress for assistance to private corporations when it is given to the people.

I do not say that I will vote for this bill; but, sir, if this bill passes and becomes a law it will place every Congressman upon the one side of taking care of this property for the education of the children of their constituents, and therefore they will always be hard to be reached when corporations come and ask them to give it to them.

I oppose the amendment. If there is any doubt upon this subject I would rather see an amendment excepting from this provision the capacity of Congress to give to any private enterprise, be it a railroad, be it a canal, or be it a river, in the future.

Mr. MILLS. I simply rise to ask some questions. If I understand the bill, it gives $1,500,000 of the public lands to be distributed in a certain manner among several States for educational purposes. Now, I want to know if that $1,500,000 does not have to be supplied again to the Treasury for the payment of the necessary expenditures of the Government, and if it has we are simply robbing Peter to pay Paul. We have no revenue to give away. The Secretary of the Treasury

informs us that there will be a deficiency and that we shall have to increase taxation.

If we take this $1,500,000, where are you going to impose the taxation necessary to supply it? Where do you propose to supply this $1,500,000 which you are to take from the revenues of the Government? By indirect taxation of the people.

You will have to impose this taxation upon the blankets, sheets, shoes, hats, socks, and all those things.

You will have to increase the taxation upon these articles in order to supply this $1,500,000, and the people are seduced by a sham and not the reality.

We are to take this $1,500,000 from the sale of the public lands, and then lay the heavy hand of taxation on labor, for capital will pay not a dollar of it.

The first tax relieved by the Congress of the United States is the tax that falls upon the wealth of the country.

When the war was over, what did you release from taxation? What tax did you release that the poor man pays? Did you release the taxation upon the articles that protect from the chilly blasts of winter? Did you release the taxation on cotton goods?

You released the tax on incomes. You stipulated that the bonds should not pay any tax.

You released the tax upon the insurance companies and the railroad companies, and put the burden of supporting the whole Government upon the laboring class.

You propose now to give this money for educational purposes that you may make further exactions upon the poor, toiling, tax-ridden, persecuted people of the United States. [Applause in the gallery.]

Mr. HENDERSON. Mr. Chairman, I move to strike out the last word.

I do not propose to discuss the merits of this bill. I simply desire to say a few words explaining why I am opposed to its passage. I deeply sympathize with every effort to promote the education of the people and all classes of the people in all sections of the country, but I am opposed to this bill because for a good many years I have had a strong conviction that all our public domain ought to be reserved for the benefit of the people in securing to actual settlers homesteads. I would give to every man who would go upon the public lands a certain quantity of the public domain, and let him make for himself and his family a home upon it. It would make him a better citizen, more deeply interested in the Government and in its prosperity and preservation.

While I would gladly aid education in the North and in the South and every part of the country, I believe that if any mistake has been made in our Government in the management of its public domain it has been in allowing large bodies of our public lands to be appropriated to corporations and purchased by individuals, when they ought to have been reserved for the people for homesteads.

Mr. Chairman, I would think it far better for the country and for our people, and especially if the proceeds are to be given away, not to sell an acre of the public lands, but give them to actual settlers who would enter upon them in good faith and make homes for themselves and their families; and, believing this to be a better disposition of the public domain than to sell it and give away the proceeds for any purpose, I am opposed to this bill. I withdraw my amendment.

Mr. KEIFER. I move to strike out the last word.

I understood the distinguished gentleman from Illinois [Mr. HARRISON] to say that it was the policy of the democratic party to favor the preservation of the public lands for the people of the country. Let me say that I congratulate that party and the country if that is now its policy, for when we remember the history of our country we know that among the last acts of the last democratic President of the United States (Buchanan)—and I trust he will ever be the last—was the veto of a homestead bill. He vetoed the bill because, as he said, "the granting of homesteads was a boon exclusively conferred upon the cultivators of the soil" that ought not to be granted. He vetoed the bill because, as he said, it would "prove unequal and unjust in its operation, because from its very nature it is confined to one class of persons;" and that in his opinion it was not expedient to proclaim to all nations of the earth that all foreigners "shall receive a farm of one hundred and sixty acres of land;" and that it is agrarian in principle. He did it because he said it was a charity to the poor that he did not favor. The gentleman will find that memorable veto message dated the 22d of June, 1860.

I rose for the purpose of stating and putting in the RECORD as a part of my remarks the great things that have grown out of the republican homestead law, a law passed by a republican Congress; a law which had the approval of Abraham Lincoln, a republican President. It was passed upon the 20th of May, 1862, and under that law there have been 384,848 homestead entries made, covering a territory in extent, if you deduct 10 per cent. of the whole number for canceled and abandoned entries, exceeding the whole of England, Scotland, and Wales. It exceeds by 10,000,000 of acres the whole of the territory of the New England States. The area in acres of New England is 43,742,720; the area of land taken up by actual settlers under a republican homestead law, after making the deduction mentioned, is 55,418,112 acres.

It exceeds more than twice the area of my own State, the State of Ohio. The area of Ohio is 25,576,960 acres. After due allowance for canceled and abandoned entries, under the homestead law 350,000 heads of families have acquired homes. Such are the fruits of the policy of the republican party in relation to the public domain, and in spite of the policy of the democratic party of old. I congratulate that party that it has been educated up to-day by the republican party, though it has taken nearly twenty years to do it, to a point where it is in favor of homesteads.

Mr. HARRISON. I want to ask the gentleman what bill did any republican President ever veto granting millions upon millions of acres of the public lands to private corporations?

Mr. KEIFER. I am frank to say that the great champion of democracy in the State of Illinois initiated the policy of granting public lands to railroad corporations; I refer to Stephen Arnold Douglas, of Illinois.

Mr. HARRISON. I would like to have the gentleman answer my question. And then I would like to have him answer the question whether Mr. Douglas did not have these lands given to the State of Illinois and not to a corporation? Read history and you will find that the democratic party has not been the one to set the example of giving the public lands to private corporations.

Mr. KEIFER. The gentleman is entirely wrong in his statement. The land was granted to the State of Illinois in trust for railroad purposes.

Mr. SPARKS. Still it was granted to the State and not to a corporation.

Mr. KEIFER. It was granted to the State of Illinois for the benefit of the Illinois Central Railroad; there is where it went.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KIEFER. The following is the table to which I referred:

Statement showing the number of homestead entries made in each State and Territory from the passage of the original homestead act, May 20, 1862, to June 30, 1878, inclusive.

States and Territories.	1863.	1864.	1865.	1866.	1867.	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	1877.	* 1878.	Total.
Alabama				29	1,426	1,769	2,779	1,709	1,580	1,552	1,723	1,527	1,505	1,266	1,532	825	19,222
Arkansas				184	1,578	2,555	3,326	4,030	4,238	3,205	4,984	1,754	1,345	1,525	2,585	2,351	33,660
Arizona									4	4	5	21	23	32	32	26	147
California	735	269	360	304	508	460	376	944	1,127	906	1,521	1,572	3,400	1,995	1,746	923	17,146
Colorado	134	252	172	200	85	36	445	567	605	342	568	524	429	371	413	370	5,493
Dakota	126	100	76	309	255	677	563	635	900	1,022	1,819	1,470	825	1,554	1,154	4,128	15,513
Florida				828	1,217	1,603	738	539	379	522	459	541	1,766	1,855	1,612	564	12,023
Indiana							2		2				8		3	4	19
Illinois	3	2	1	1						1		3	6		25	21	63
Iowa	302	463	765	1,084	521	855	2,236	1,985	2,264	1,760	635	471	180	146	70	59	13,796
Idaho						53	81	87	90	61	91	130	72	137	232	127	1,161
Kansas	1,619	366	747	1,495	1,175	1,695	2,593	6,530	11,105	5,809	7,586	4,721	2,356	3,132	4,185	5,320	61,034
Louisiana					260	255	729	740	1,381	1,000	854	427	583	531	508	170	7,438
Missouri	84	271	2,026	2,899	1,874	2,612	3,264	3,376	2,177	1,442	925	529	506	454	490	398	23,327
Michigan	2,526	994	1,355	2,051	1,716	1,739	1,275	1,412	1,456	1,490	1,206	1,235	1,746	984	996	640	22,821
Minnesota	3,644	3,364	4,726	3,139	2,915	3,146	3,278	2,915	4,165	3,820	3,229	2,754	2,034	2,419	2,465	3,562	51,575
Mississippi					1,652	948	1,047	958	1,095	928	923	404	503	450	484	204	9,596
Montana						21	126	240	282	202	19	41	36	81	60	52	1,160
Nevada		44		3	12	18	15	51	70	84	82	70	55	61	41	26	672
New Mexico						5	5	94	61	10	19	7	50	27	20	21	314
Nebraska	796	623	1,123	1,463	2,178	2,895	4,083	4,878	6,866	6,168	5,509	4,106	1,769	1,851	1,375	2,279	47,962
Ohio	58	1	8	9	6	12	6	9	12	17	2	9	15	1	1	1	167
Oregon	271	175	333	509	512	501	497	688	783	714	442	436	592	526	689	357	8,025
Utah							735	268	252	529	130	200	381	358	561	461	3,875
Wisconsin	2,316	332	1,049	1,404	1,372	1,493	1,460	1,244	1,302	1,385	1,503	1,839	1,707	1,024	1,057	550	21,437
Washington	742	165	227	162	207	194	395	542	480	538	422	365	309	473	672	582	6,473
Wyoming								2	18	3	14	25	29	33	28	12	164
Grand totals	13,356	7,921	12,968	15,973	19,369	23,542	30,054	34,443	42,694	33,514	34,670	25,179	22,230	21,886	23,036	24,013	384,848

* Fractional.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *July 20, 1878.*

J. A. WILLIAMSON, *Commissioner.*

Mr. LUTTRELL. Mr. Chairman, I had hoped that we could discuss this issue without running it into politics. I had hoped that the time had come when we could take up a great national measure in which every man, woman, and child in our country feels a common interest, and discuss it without dropping down into the political issues of the day. But it seems that some of my friends on the other side of the House cannot do this thing.

The lands of the United States belong to the whole people. They are the common inheritance of all the people, purchased by the blood and treasure of the people of all the States of the Union. Even the cost of surveying these lands is paid from the taxes collected from all the people of the country. I contend, therefore, that the public domain of this country belongs to the people of the State of Maine as well as to the people of the State of Colorado. We have a common interest in these lands.

I will say to the gentleman who has just taken his seat, and who has seen fit to ring politics into this discussion, that it was the democratic party that acquired the great Northwestern Territory, that made the Louisiana purchase: that it was the democratic party that acquired Texas, New Mexico, Colorado, Nevada, and California.

And what has the republican party acquired? It has acquired the little, far-off, worthless Territory of Alaska, and that you have given to a corporation, although the people of the whole United States paid for it.

Mr. KEIFER. Does the gentleman——

Mr. LUTTRELL. I do not yield to the gentleman. When I am through the gentleman can answer me.

Mr. KEIFER. I understood the gentleman to ask me a question, and I want to answer it.

Mr. LUTTRELL. If the gentleman will keep still now he can have the floor after I am through. The democratic party acquired all this vast domain; they paid for it. The people of the States of Maine and New York and Alabama and Mississippi and of all the States of this Union contributed their portion toward paying for it; yet the republican party during the last few years has given away nearly three hundred million of acres of the public lands to railroad monopolies, and has taken from the public Treasury nearly $40,000,000 to pay the interest on the bonds of those corporations. A friend near me says that it will require $150,000,000 before we get through with it. Now, we of the democratic party hope to save what few acres of the public domain are left for the benefit of the whole people of the United States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDEN. I wish to offer a substitute for the amendment of the gentleman from Texas, [Mr. REAGAN.]

Mr. JONES, of Ohio. Will the gentleman from Illinois [Mr. EDEN] wait until I can answer the questions which were put to me?

Mr. EDEN. I wish to have my amendment read.

Mr. JONES, of Ohio. It can be read afterward. Will the gentleman yield now?

Mr. EDEN. I decline to yield now. I do not want a political discussion; I want business.

The Clerk read the proposed substitute, as follows:

And provided further, That all the public lands which have been granted by Congress to aid in the construction of railroads and telegraph lines, which have not been earned under such grants, and which have lapsed by reason of the failure to complete such roads and telegraph lines within the time limited by law, are hereby declared forfeited to the United States, and shall hereafter be disposed of as other public lands of the United States, and shall be subject to the provisions of this act.

Mr. EDEN. I offer this amendment in the utmost good faith. Early in the last session I introduced a bill and had it referred to the Committee on Public Lands, providing that these lapsed land grants should be restored to the public domain of the country and made subject to entry under the homestead and pre-emption law, in order that they might be for the benefit of the whole people of this country, instead of for the benefit of a few great corporations.

I understand that about one hundred million acres of public lands that have been granted to railroad corporations have lapsed by reason of a failure of the companies to complete the roads within the time limited by law. But, under the construction of the law, until there is some action on the part of Congress those lands are not restored to the public domain of the country, but are still subject to the use of those corporations as fast as they shall complete their work.

If we intend to devote any portion of the public domain or the entire remainder of it to the cause of education, I desire that there shall be from this source a sum of money that will be of some value. This can only be obtained by restoring to the public domain this great empire that has been granted to railroad corporations. When this is done, we shall have in our Treasury something out of which can be realized a fund to educate the people of this country.

I do not say that I am in favor of the provisions of this bill; but if my amendment be adopted it will go a long way toward reconciling my constitutional scruples upon this subject. From the sale of these one hundred million acres of the people's land heretofore granted to these private corporations, the Government will not only obtain a fund from which to aid the people of this country in obtaining an education, but it will benefit the poor men of the country by enabling them to settle upon the public lands under the homestead and pre-emption laws.

I think it time that we should legislate in the cause of the laboring people of this country; and I know no means by which we can do this so well as by restoring these one hundred million acres to the public domain, and allowing the hard-fisted working people of the country to settle on these lands under the provisions of the homestead and pre-emption laws. I hope the amendment will be adopted.

Mr. ELAM. Mr. Chairman, I doubt whether there is any great virtue in this bill. I predict that the children of the United States of educable age will not get under this measure a dollar a year each. In short, I am inclined to think that this bill is a farce. The States will still have to support their own schools. I have always been in favor of a system of free public education. As a public man and as a private citizen I have always advocated liberal appropriations for the education of the youth of my State.

I have risen, however, mainly for the purpose of opposing the amendment of the gentleman from Illinois, [Mr. EDEN.] I think, sir, that there has been (to use a vulgarism) a "great cry and very little wool" about these donations to railroads. Look at the great Western States, that raise nothing but wheat and corn; how would the people of these States get their products to market without these railroad conveniences? Railroads as means of transportation have almost entirely taken the place of even the greatest rivers in the United States. The tonnage on the Mississippi River is not one-fifth what it was twenty years ago, notwithstanding the immense increase of population on the upper part of that river.

Now, sir, other States have been richly endowed with grants of public lands; a munificent grant was made to the State of Illinois in 1856 to enable her to build the Illinois Central Railroad. The Southern States, or at least some of them, have not enjoyed similar advantages, my own State in particular. Although grants of land have been made, yet only about seventy miles of road have been built under those grants. I think it unfair that my State (and perhaps others are in the same situation) should not be permitted to participate equally in this sort of legislation.

Mr. SPARKS. Will the gentleman allow me to ask him a question?

Mr. ELAM. Yes, sir.

Mr. SPARKS. What did the National Government lose by the grant of lands to the State of Illinois?

Mr. ELAM. I do not believe it lost a cent. On the contrary, by reason of this grant the reserved sections were sold at double minimum price.

Mr. SPARKS. Yes, sir; the alternate sections were doubled in price, and those lands were all sold.

Mr. ELAM. I understand that.

Mr. MAGINNIS. That is the way with every railroad grant.

Mr. THROCKMORTON. I ask the gentleman from Illinois [Mr. SPARKS] what the Government has lost in any State or Territory by granting lands for railroads?

Mr. SPARKS. It has lost the lands; and by the grant to the Union Pacific Railroad it has lost I do not know how many million dollars; I have not the exact figures at hand.

Mr. EDEN. Sixty-four million dollars besides the interest.

Mr. SPARKS. At the same time I know that the Government lost no dollar and no cent by its grant of lands made to the State of Illinois—not to the Illinois Central Railroad Company, as gentlemen say. Those lands were granted to the State.

Mr. ELAM. I cannot yield for further interruption. I apprehend that these great arteries of commerce that have been built up in this way by donations of the public lands have been of incalculable value to the States in which they have been constructed, especially to the Northwestern States.

Now, sir, I say it is not fair that the grant which has been made, for instance, to the State of Louisiana by the act of 3d June, 1856, shall be rendered null and void. Those lands were conveyed to the Vicksburgh and Shreveport Railroad; and though according to the construction put upon these grants by the Supreme Court of the United States, and which has been followed by the Land Office, nevertheless those lands still belong to the State to be devoted to the purposes for which they were originally granted; if I understand the scope of the amendment it would repeal all such grants except where the lands have been earned by the construction of a certain number of miles of railroad. I am opposed to it and shall vote against it.

[Here the hammer fell.]

Mr. CAIN. Mr. Chairman, I would not trouble the House at this late hour of the evening were it not there were very important considerations involved in the pending subject, which seriously affect not only my own constituents, but the constituents of many other gentlemen. The opposition to this bill and the object of the amendment now offered is to prevent, if possible, the grant of the proceeds of the sales of any public lands for the purpose of carrying on the general education of the people. If there can be one reason above another demanding the recognition of education on the part of Congress it must surely be in the vast number of those who are illiterate, and who can neither read nor write. That fact should at least attract some attention on the part of this great assembly. No one can turn to the statistics embraced in the ninth census and see the illiteracy prevailing not only in Southern States, but in Eastern States and Western States, without recognizing the importance of providing some measure of remedy to do away with the vast evil stalking in the land in consequence of this vast ignorance of some portions of the people.

I regard the pending measure, Mr. Chairman, as of vital importance. Day after day we listen to the objections urged against a particular class of people who have been a disturbing element in the Union ever since emancipation took place. I desire, if possible, at this time to be regarded as non-partisan. If you please, cut me loose from the republican party and from the democratic party, from both parties, and let me stand here only in vindication of a great principle, and in behalf of the rights of five million people whose voice is seldom heard in the halls of legislation. The education of the nation is paramount, and should not be neglected. We should recognize the absolute necessity of elevating our citizens of whatever class or condition from ignorance, from degradation, from superstition, from pauperism, from crime. It is an accepted axiom, I believe everywhere, that the more intelligent the citizen is the better citizen he is.

The objection urged to reconstruction, the objection to the condition of the South by all parties has been, there was such a large amount of dense ignorance. We were told the negro would become an incubus upon the advancing civilization of the age. If to educate the citizen is to make him more intelligent, and thereby more able to discharge the duties of a citizen of this Republic, then it must be apparent to every gentleman upon this floor, it must be apparent to the whole country, it is time some measure should be devised to supply this great want of education on the part of certain classes in the country, in order that all should be elevated to the level where they can better discharge the rights of suffrage conferred upon them.

The CHAIRMAN. The gentleman's time has expired.

Mr. RAINEY. I will take the floor and yield my five minutes to my colleague.

Mr. CAIN. I desire to state, Mr. Chairman, that a nation which educates its people is on the sure road to become powerful and great. It has been alleged on the floor in opposition to this bill that if we pass this bill the greater proportion of illiteracy in the South will be found to exist on the part of the colored population. I think if you refer to statistics you will reach a different result. For illustration, let us refer to those statistics in order to bring this matter practically to the attention of the House. If you run your eye down the long lines of figures in the ninth census you will see that not alone is illiteracy confined to the emancipated colored people, but it pervades to a great extent the white people of the South. For instance, here is the great State of Louisiana. By the ninth census I find the number of illiterate people in that State to be as follows: Blacks who cannot read, 11,076; whites who cannot read, 30,183. [Laughter and applause.]

If you take the State of Maryland, you will find the same thing. The number of those who are illiterate whites who cannot read is 97,661; that is, those who cannot; and blacks, 7,674. So I might go on. Here is Mississippi as another illustration, and I want to go into those States where they do business in their own style. [Laughter.] Take, for instance, Mississippi, and we find Mississippi has 5,38[illegible] negroes who cannot read or write, and 33,403 whites who cannot read. [Laughter.] Take Alabama—92,059 whites who cannot read; but the proportion who neither read nor write is very much larger.

Sir, we need education all over this country, and especially in Mississippi and Louisiana and South Carolina. We have in the State which I have the honor in part to represent 480,000 colored people and over 270,000 white people; and if you take the illiteracy of that State you will find a very great difference. I take my own State as an illustration. [Here the hammer fell.] I am looking for the figures, that I may give them accurately, so as not to misrepresent the matter.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Pennsylvania [Mr. WRIGHT] is recognized.

Mr. HASKELL. I ask unanimous consent that the gentleman from South Carolina be allowed to read the figures from the table before him.

Mr. CAIN. If my time has expired, I ask consent to print the remainder of my remarks.

Mr. COX, of New York. I hope the gentleman will be allowed to proceed. I am sure no one will object.

The CHAIRMAN. There is no power in the committee to extend the time.

Leave was given to Mr. CAIN to print the remainder of his remarks. They are as follows:

Total colored in different States who cannot read.

State.	Number.	State.	Number.
Alabama	15,815	Kansas	2,127
Arkansas	5,784	Kentucky	7,702
Arizona Territory	(*)	Louisiana	11,076
California	373	Maryland	7,674
Colorado Territory	19	Maine	186
Connecticut	1,144	Massachusetts	1,848
Dakota Territory	(*)	Michigan	1,483
Delaware	1,193	Minnesota	25
District of Columbia	5,122	Mississippi	5,738
Florida	4,524	Missouri	9,080
Georgia	10,355	Montana Territory	(*)
Idaho Territory	8	Nebraska	48
Illinois	2,324	Nevada	8
Indiana	3,089	New Hampshire	48
Iowa	661	New Jersey	3,337

Total colored in different States who cannot read—Continued.

State.	Number.	State.	Number.
New Mexico Territory	3	Utah Territory	9
New York	5,588	Vermont	95
North Carolina	11,419	Virginia	11,048
Ohio	9,844	West Virginia	1,212
Oregon	28	Wisconsin	286
Pennsylvania	7,880	Wyoming	1
Rhode Island	618	Washington Territory	29
South Carolina	16,873		
Tennessee	10,391	Total	172,779
Texas	2		

* Not reported.

Total whites in different States who cannot read.

State.	Number.	State.	Number.
Alabama	61,324	Montana Territory	499
Arkansas	56,788	Nebraska	17,900
Arizona Territory	149	Nevada	2,884
California	90,638	New Hampshire	65,776
Colorado Territory	2,597	New Jersey	154,742
Connecticut	98,488	New Mexico Territory	1,877
Dakota Territory	1,128	New York	841,157
Delaware	18,770	North Carolina	53,856
District of Columbia	14,819	Ohio	635,780
Florida	8,254	Oregon	18,049
Georgia	67,142	Pennsylvania	717,219
Idaho Territory	458	Rhode Island	32,292
Illinois	545,897	South Carolina	24,692
Indiana	392,140	Tennessee	110,341
Iowa	305,490	Texas	61,610
Kansas	60,791	Utah Territory	14,616
Kentucky	173,504	Vermont	70,104
Louisiana	30,183	Virginia	59,792
Maryland	97,761	West Virginia	80,967
Maine	154,944	Wisconsin	260,298
Massachusetts	285,534	Wyoming Territory	363
Michigan	262,361	Washington Territory	3,563
Minnesota	96,686		
Mississippi	33,403	Total	6,412,240
Missouri	315,260		

Total whites in different States who cannot write.

State.	Number.	State.	Number.
Alabama	92,059	Missouri	161,763
Arkansas	64,095	Montana Territory	643
Arizona Territory	2,731	Nebraska	4,630
California	26,158	Nevada	653
Colorado Territory	6,564	New Hampshire	9,831
Connecticut	27,913	New Jersey	46,386
Dakota Territory	914	New Mexico Territory	51,140
Delaware	10,280	New York	228,424
District of Columbia	4,876	North Carolina	166,397
Florida	18,904	Ohio	152,383
Georgia	124,939	Oregon	3,411
Idaho Territory	486	Pennsylvania	206,458
Illinois	123,624	Rhode Island	21,031
Indiana	118,761	South Carolina	55,107
Iowa	44,145	Tennessee	178,727
Kansas	16,975	Texas	60,895
Kentucky	203,077	Utah Territory	7,097
Louisiana	50,749	Vermont	17,584
Maryland	46,792	Virginia	123,538
Maine	18,874	West Virginia	71,493
Massachusetts	95,576	Wisconsin	54,845
Michigan	48,649	Wyoming Territory	467
Minnesota	23,941		
Mississippi	48,028	Total	2,842,065

Total colored in different States who cannot write.

State.	Number.	State.	Number.
Alabama	290,897	Nebraska	205
Arkansas	68,222	Nevada	21
California	916	New Hampshire	93
Colorado Territory	917	New Jersey	7,677
Connecticut	1,675	New Mexico Territory	136
Dakota Territory	31	New York	10,700
District of Columbia	23,843	North Carolina	230,606
Florida	52,897	Ohio	20,766
Georgia	343,647	Oregon	91
Indiana	8,155	Pennsylvania	15,893
Illinois	9,910	Rhode Island	879
Iowa	1,524	South Carolina	235,064
Kansas	7,213	Tennessee	185,950
Kentucky	131,000	Texas	150,617
Louisiana	224,993	Utah Territory	22
Maryland	88,687	Virginia	321,330
Massachusetts	2,148	Vermont	116
Michigan	2,655	West Virginia	10,197
Minnesota	102	Wisconsin	360
Missouri	60,622	Wyoming Territory	49
Montana Territory	68	Delaware	11,820
Mississippi	264,904		
Maine	174	Total	2,788,575

COLORED PERSONS.

Illiteracy in the State of Maryland: Ten to fifteen years old—males, 7,143; females, 6,502. Fifteen to twenty-one—males, 7,075; females, 8,278. Twenty-one and over—males, 27,123; females, 32,582.

Illiteracy in the State of Massachusetts: Ten to fifteen years old—males, 29; females, 30. Fifteen to twenty-one—males, 76; females, 147. Twenty-one and over—males, 822; females, 1,044.

Illiteracy in the State of Michigan: Ten to fifteen years old—males, 170; females, 199. Fifteen to twenty-one—males, 169; females, 161. Twenty-one and over—males, 1,015; females, 941.

Illiteracy in the State of Minnesota: Ten to fifteen years old—males, 2; females, 4. Fifteen to twenty-one—males, 11; females, 4. Twenty-one and over—males, 44; females, 37.

Illiteracy in the State of Mississippi: Ten to fifteen years old—males, 24,076; females, 22,606. Fifteen to twenty-one—males, 23,216; females, 26,867. Twenty-one and over—males, 80,810; females, 87,327.

Illiteracy in the State of Missouri: Ten to fifteen years old—males, 5,364; females, 5,133. Fifteen to twenty-one—males, 5,355; females, 6,181. Twenty-one and over—males, 18,002; females, 20,587.

Illiteracy in the Territory of Montana: Ten to fifteen years old—males, 2; females, 2. Fifteen to twenty-one—males, 2; females, 13. Twenty-one and over—males, 34; females, 15.

Illiteracy in the State of Nebraska: Ten to fifteen years old—males, 16; females, 10. Fifteen to twenty-one—males, 15; females, 21. Twenty-one and over—males, 93; females, 50.

Illiteracy in the State of West Virginia: Ten to fifteen years old—males, 861; females, 804. Fifteen to twenty-one—males, 844; females, 860. Twenty-one and over—males, 3,186; females, 3,442.

Illiteracy in the State of Wisconsin: Ten to fifteen years old—males, 12; females, 7. Fifteen to twenty-one—males, 25; females, 16. Twenty-one and over—males, 185; females, 115.

Illiteracy in the Territory of Wyoming: Ten to fifteen years old—male, 1; female, 0. Fifteen to twenty-one—males, 3; female, 0. Twenty-one and over—males, 33; females, 12.

This is the end of all the illiteracy of colored persons in all the States from Georgia to Wyoming Territory.

Illiteracy in the State of Texas: Ten to fifteen years old—males, 14,323; females, 13,366. Fifteen to twenty-one—males, 13,070; females, 15,040. Twenty-one and over—males, 47,235; females, 47,583.

Illiteracy in the Territory of Utah: Ten to fifteen years old—males, 2; female, 1. Fifteen to twenty-one—female, 1. Twenty-one and over—males, 8; females, 10.

Illiteracy in the State of Vermont: Ten to fifteen years old—males 3; females, 3. Fifteen to twenty-one—males, 16; females, 12. Twenty-one and over—males, 45; females, 37.

Illiteracy in the State of Virginia: Ten to fifteen years old—males, 29,723; females, 27,710. Fifteen to twenty-one—males, 26,161; females, 31,047. Twenty-one and over—males, 97,908; females, 109,687.

Illiteracy in the State of Pennsylvania: Ten to fifteen years old—males, 401; females, 450. Fifteen to twenty-one—males, 719; females, 1,096. Twenty-one and over—males, 5,758; females, 7,469.

Illiteracy in the State of Rhode Island: Ten to fifteen years old—males, 26; females, 20. Fifteen to twenty-one—males, 63; females, 49. Twenty-one and over—males, 291; females, 421.

Illiteracy in the State of South Carolina: Ten to fifteen years old—males, 20,887; females, 19,918. Fifteen to twenty-one—males, 20,329; females, 25,176. Twenty-one and over—males, 70,850; females, 77,924.

Illiteracy in the State of Tennessee: Ten to fifteen years old—males, 16,407; females, 15,225. Fifteen to twenty-one—males, 16,299; females, 18,835. Twenty-one and over—males, 55,938; females, 63,248.

Illiteracy in the State of Nevada: Ten to fifteen years old—male and female, not given. Fifteen to twenty-one—male and female, not given. Twenty-one and over—males, 15; females, 6.

Illiteracy in the State of New Hampshire: Ten to fifteen years old—males, 4; females, 3. Fifteen to twenty-one—males, 10; females, 8. Twenty-one and over—males, 32; females, 38.

Illiteracy in the State of New Jersey: Ten to fifteen years old—males, 432; females, 443. Fifteen to twenty-one—males, 4,811; females, 551. Twenty-one and over—males, 2,281; females, 3,509.

Illiteracy in the Territory of New Mexico: Ten to fifteen years old—males, 5; females, 4. Fifteen to twenty-one—males, 7; females, 11. Twenty-one and over—males, 58; females, 24.

Illiteracy in the State of New York: Ten to fifteen years old—males, 371; females, 366. Fifteen to twenty-one—males, 585; females, 622. Twenty-one and over—males, 3,912; females, 4,874.

Illiteracy in the State of North Carolina: Ten to fifteen years old—males, 21,313; females, 19,642. Fifteen to twenty-one—males, 21,341; females, 23,464. Twenty-one and over—males, 68,669; females, 76,177.

Illiteracy in the State of Ohio: Ten to fifteen years old—males, 1,274; females, 1,115. Fifteen to twenty-one—males, 1,372; females, 1,398. Twenty-one and over—males, 7,531; females, 8,076.

Illiteracy in the State of Oregon; Ten to fifteen years old—males, 3; females, 4. Fifteen to twenty-one—males, 4; females, 3. Twenty-one and over—males, 42; females, 28.

Illiteracy in the State of Georgia: Ten to fifteen years old—males, 33,364; females, 31,253. Fifteen to twenty-one—males, 31,295; females, 34,813. Twenty-one and over—males, 100,551; females, 112,361.

Illiteracy in the Territory of Idaho: Ten to fifteen years old—male, 1; female, 0. Fifteen to twenty-one—male, 1; female, 1. Twenty-one and over—males, 4; females, 9.

Illiteracy in the State of Indiana: Ten to fifteen years old—males, 347; females, 348. Fifteen to twenty-one—males, 550; females, 650. Twenty-one and over—males, 3,182; females, 3,181.

Illiteracy in the State of Illinois: Ten to fifteen years old—males, 335; females, 325. Fifteen to twenty-one—males, 620; females, 619. Twenty-one and over—males, 3,969; females, 4,082.

Illiteracy in the State of Iowa: Ten to fifteen years old—males, 32; females, 38. Fifteen to twenty-one—males, 71; females, 75. Twenty-one and over—males, 635; females, 673.

Illiteracy in the State of Kansas: Ten to fifteen years old—males, 342; females, 314. Fifteen to twenty-one—males, 449; females, 497. Twenty-one and over—males, 2,772; females, 2,839.

Illiteracy in the State of Kentucky: Ten to fifteen years old—males, 12,891; females, 12,067. Fifteen to twenty-one—males, 12,157; females, 12,769. Twenty-one and over—males, 37,889; females, 43,277.

Illiteracy in the State of Louisiana: Ten to fifteen years old—males, 16,978; females, 16,375. Fifteen to twenty-one—males, 15,873; females, 19,718. Twenty-one and over—males, 76,612; females, 79,437.

Illiteracy in the State of Maine: Ten to fifteen years old—males, 13; females, 3. Fifteen to twenty-one—males, 17; females, 14. Twenty-one and over—males 69; females, 57.

Illiteracy in the State of Alabama: Ten to fifteen years old—males, 24,391; females, 22,615. Fifteen to twenty-one—males, 25,615; females, 28,915. Twenty-one and over—males, 91,017; females, 98,344.

Illiteracy in the State of Arkansas: Ten to fifteen years old—males, 5,352; females, 4,982. Fifteen to twenty—males, 5,863; females, 6,655. Twenty-one and over—males, 22,681; females, 22,689.

Illiteracy in the State of California: Ten to fifteen years old—males, 24; females, 21. Fifteen to twenty-one—males, 30; females, 24. Twenty-one and over—males, 468; females, 339.

Illiteracy in the Territory of Colorada: Ten to fifteen years old—males, 24; females, 21. Fifteen to twenty-one—males, 30; females, 34. Twenty-one and over—males, 468; females, 339.

Illiteracy in the State of Connecticut: Ten to fifteen years old—males, 69; females, 62. Fifteen to twenty-one—males, 83; females, 130. Twenty-one and over—males, 627; females, 704.

Illiteracy in the Territory of Dakota: Ten to fifteen years old—male, 1; female, 1. Fifteen to twenty-one—males, 3; females, 8. Twenty-one and over—males, 6; females, 12.

Illiteracy in the District of Columbia: Ten to fifteen years old—males, 972; females, 1,160. Fifteen to twenty-one—males, 1,117; females, 2,238. Twenty-one and over—males, 7,599; females, 10,757.

Illiteracy in the State of Florida: Ten to fifteen years old—males, 4,190; females, 3,513. Fifteen to twenty-one—males, 4,957; females, 5,376. Twenty-one and over—males, 16,809; females, 18,052.

EDUCATION.

Alabama.

From report of Hon. Joseph Hodgson, State superintendent for the scholastic year commencing January 1, ending September 30, 1871, the school-fund for the scholastic year, as certified to the Bureau of Education by the State auditor, was derived as follows:

Interest on sixteenth section fund, from December 1, 1869, to October 1, 1870	$115,268 85
On valueless sixteenth section fund, from December 1, 1869, to October 1, 1870	6,472 75
Interest on surplus revenue	44,605 78
One-fifth aggregate revenue	232,462 25
Poll tax	82,579 66
From revenues derived under section 957 of the revised code	100,000 00
Total	581,389 29

The school fund for the scholastic year commencing October 1, 1871, and ending September 30, 1872, as certified to the Department by the State auditor, amounts to 604,978 50

Statement of the school attendance, number of schools, pupils, and teachers in the State of Alabama for 1871.

	White.	Colored.
School attendance:		
Number of pupils enrolled—male	45,436	27,512
Number of pupils enrolled—female	41,580	26,824
Total number of pupils enrolled	86,976	54,336
Average number of male pupils in attendance	34,180	21,069
Average number of females in attendance	32,178	20,240
Total average attendance	66,358	41,309
Increase in attendance since last year	30,395	25,311
Number of schools:		
Number of primary schools	544	751
Number of intermediate schools	792	144
Number of grammar schools	812	26
Number of high schools	251	2
Total	2,399	923
Number of pupils indifferent branches:		
Pupils studying orthography	76,015	46,823
Pupils studying reading	52,572	23,789
Pupils studying writing	38,931	13,162
Pupils studying arithmetic	32,924	10,729
Pupils studying geography	14,449	7,631
Pupils studying grammar	14,107	1,127

Statement of the school attendance, number of schools, &c.—Continued.

	White.	Colored.
Teachers:		
Number of teachers—male	1,573	745
Number of teachers—female	924	228
Total	2,497	973
Average monthly pay of teachers	$42 15	$43 06
Average duration of schools, 3 months 8½ days.		

Recapitulation.

Total enrollment, 1871	141,312
Total average attendance	107,666
Total increase in attendance since last year	55,606
Total number of schools	3,321
Total number of teachers	3,470

SKETCHES FROM THE REPORT OF THE COMMISSIONER OF EDUCATION—FACTS FROM THE UNITED STATES CENSUS.

Population.—In 1870, Alabama was the sixteenth State in population, having 996,992 inhabitants, 521,384 whites, 475,510 negroes. Of the natives, residents of the State, there were 369,635 whites, 374,418 blacks.

The school attendance.—According to table 9, volume 1 of Census Report, 77,139 persons of all ages attended school in the State in 1870, there being only 48 foreign born. The white male scholars numbered 31,098, and the white female scholars, 30,226; the colored male, 7,502, and the colored female scholars, 8,313.

Illiterates.—The number of persons of all races, ten years old and over, unable to write, was 383,012, of whom only 870 were foreign-born.

Age, sex, and race of illiterates.—Of the white illiterates ten to fifteen years old, 13,214 were males and 11,016 were females; of those from fifteen to twenty-one years old, 9,642 were males and 9,757 were females; of those twenty-one years old and over, 17,429 were males and 31,001 were females; of the colored illiterates ten to fifteen years old, 24,391 were males and 22,615 females; of those fifteen to twenty-one years old, 25,616 were males and 28,915 were females; of those twenty-one years old and over, 91,017 were males and 98,344 were females.

Educational institutions, amount and source of educational income.—The total income of all the educational institutions was $976,351, of which $39,500 were derived from endowments; $471,161 from taxation and public funds; and $174,470 from other sources, including tuition. Eight colleges reported, containing 1,026 pupils, and had a total income of $108,800; forty-six academies with an income of $142,750 from tuition; none of which was appropriated to the education of negroes; also, the income appertaining to the public—normal, high, grammar, graded and ungraded—common schools, for educating 67,263 pupils, was $629,626; of which $8,000 was derived from endowments, $447,156 from taxation and public funds, and $174,470 from other sources including tuition, none of which was appropriated to colored schools.

GENERAL SKETCHES OF EDUCATION IN DIFFERENT STATES.

North Carolina has lost prestige generally, educationally, the Legislature last winter having removed the clerical force of the superintendent and reduced his salary, thus leaving the office with little capacity for hopeful and vigorous action. The severe proscription of colored people in the State has greatly discouraged their efforts for themselves. The bright spot is Wilmington; the colored schools in that city have been well attended and efficient. Of the schools of South Carolina very little favorable can be said. The friends of education struggle against overwhelming odds. In Charleston the schools are closed for months before the usual time for want of funds. In Georgia the colored people have hardly been permitted to do what they would for themselves freely. Kentucky is very far from establishing a sufficiently efficient system of schools for the education of the whites, and apparently refuses to recognize the desirableness or necessity of the education of the colored children. In Tennessee the colored people are most emphatic in the statement of the difficulties encountered by them in their efforts to educate their children. In Mobile, Alabama, in spite of great difficulties, the colored people are making great progress. While the Swayne School at Montgomery and the Emerson Institute at Mobile and other institutions in the State are doing good service for the colored people of the State, yet in other counties they encounter great difficulties, or it is impossible for them to secure any school privileges.

Education—Arkansas.

It is estimated that there are at least two hundred and fifty deaf mutes in this State under thirty years of age. There is also a large number of colored deaf mutes in the State, entitled to the same privileges of education as the white, for whom no provision has been made, and with the present accommodations of the institute it is impossible to receive them. There are no hospital accommodations, and should an epidemic break out, there is no place to which the sick can be removed.

The population.—In 1870 Arkansas was the twenty-sixth State in population, having 485,471 inhabitants, consisting of 362,115 whites, 122,169 negroes. Native residents of the State: whites, 170,398; blacks, 62,463.

School Attendance.—According to table 9, volume 1 of Census Report, 62,562 persons of all ages attended school in the State in 1870; of these only 26 were foreign born. The white male scholars numbered 30,138; the white female scholars, 26,650. The colored male scholars numbered 2,920, and the colored female, 2,584.

Illiterates.—The number of persons of all races unable to write was 133,339. White illiterates: males, 7,985, and 6,814 females. Of the colored illiterates 5,352 were males, and 4,982 were females.

Educational Institutions.—According to table 12, volume 1 of Census Report, the total number of educational institutions was 1,978; these had 1,653 male, and 644 female teachers; and 41,939 male, and 39,587 female pupils. The public institutions numbered 1,744, with 1,458 male, and 508 female teachers; 37,103 male, and 34,942 female scholars. No division is stated as to races. The total income of all the educational institutions $681,962, of which $7,300 were derived from endowments, $555,331 from taxation and public funds, and $119,331 from tuition and other sources. No division mentioned in this statement in reference to races. The total income appertaining to the public schools was $552,461. Three colleges reported contained 235 pupils, with an income of $7,700; academies (thirty) with 2,144, an income of $25,387. (Nothing said in reference to races.)

EDUCATION OF COLORED CHILDREN.

In Kentucky, the superintendent declares himself uncompromisingly opposed to mixed schools, or to any invasion of the school fund raised by the taxation of the whites; but he favors the inauguration of a separate system, supported by taxes *ad valorem* and poll, imposed upon the colored people themselves. It is to be regretted the dominant feeling of our legislative sentiment is adverse to the policy of educating the colored population, even though they have petitioned for nothing more than a modified and practical law to be taxed themselves independently for the education of their own children. Surely no one can object to a policy of such simple justice and humanity, unless the prejudice of race has seared and blunted his sensibilities beyond the touch of sympathy. Freed and turned loose among us after a life-time of abject and arbitrary servitude, they must in some way be digested and assimilated as an active and real element in the body-politic. From the necessities of the past and from causes uncontrollable, they are but partially civilized in our midst and can hope to do but little toward materially improving the adult colored population of to-day; but do any want the next generation to be of the the same class and character? Is it to the interest or pride of any citizen that we should foster and perpetuate from generation to generation a barbarous element in our civilized society? But this result is inevitable, unless provision is made to guarantee education to the growing generation. Common schools for the colored population are the only agencies through which there is the remotest hope of qualifying them for higher spheres of action and duties in our political and industrial system for the future. They have never failed with any people as yet, when rightly applied; they will not with any people who are teachable. Let us give the negro honest trial. The Legislature last winter passed the following act:

An act to repeal an act entitled "An act for the benefit of the negroes and mulattoes of this Commonwealth," approved March 9, 1867.

1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act entitled "An act for the benefit of the negroes and mulattoes of this Commonwealth," approved March 9, 1867, be and the same is repealed.

2. That the same tax *per capita* and the same rate of taxation on real and personal estate (except taxes for common-school purposes) should be collected of all the negroes and mulattoes in this Commonwealth as of the white population and no other.

3. This act shall take effect and be in force from and after its passage.

In Georgia.

The subject of schools for colored children in the city has long excited the interest of the board, but as the State has as yet contributed no funds to the county for educational purposes the board has been utterly unable to accomplish anything in this direction. According to table 9, volume 1, of Census Report, 77,495 persons attended school, and of these 143 were foreign-born. The white scholars numbered 67,142; the colored scholars numbered 10,351, of whom 4,898 were males and 5,453 females. The number of inhabitants of all races unable to write was 468,593, of whom 1,090 were foreign-born. Of 343,637 colored illiterates reported, 64,617 were from ten to fifteen years old, and of these 33,364 were males and 31,813 were females. There are no colored schools in Georgia except in Thomasville, Quitman, Savannah, Bainbridge, and one school in Liberty County. These are all under the care of the American Missionary Association.

In Delaware.

Twenty-one teachers were employed, all females except one, and all colored except the principal of the Howard School, Wilmington.

Number of schools.

In the month of January, 1872, the total enrollment in all our schools was 984 and the average attendance 858. Of the total enrollment 824 were reading and spelling, 756 writing, 445 studying arithmetic, 445 studying geography, grammar 63, and only 160 were in the alphabet and primer. Estimating the changes which have occurred in our rolls, we find that about 1,500 different pupils have been taught in our schools the past year. Of this number about two-thirds were males, and nearly one-half were over sixteen years of age. Except in a single case the actuary has visited each school at least once during the term. Those most convenient have been seen more frequently. The amount collected and expended by the colored people for the

board and salaries of teachers and the purchase of school-books has been about $2,400, which does not include incidental expenses of fuel, repairs on school-houses, &c., the total expenditure for the year in the prosecution of the work being over $5,000.

Increased interest in schools as shown by colored people.

The colored people have manifested an increased willingness and ability to assist in the support of their schools, the amounts voluntarily contributed by them toward the salaries of teachers having shown a gradual increase. At the commencement of the association's labors in 1867 they paid nothing toward salaries and in some cases not the teachers' board. They now, in all cases, pay the board and a part of the salary, their contributions having risen from a range of $6 to $9 per school per month in 1870–'71 to a present range of $6 to $15. Throughout the State there is a marked decrease of unfriendliness toward our work exhibited by the white people. This is evident from the more friendly feeling manifested toward our teachers and by an increased disposition to assist the colored people in securing their portion of the funds necessary.

Area and population: In 1870 Delaware was the thirty-fourth State in population, having 125,015 inhabitants within an area of 2,120 square miles, an average of 58.97 persons to the square mile. This population consisted of 102,221 whites and 22,794 colored. Of the native residents of the State 74,540 white and 20,214 colored persons were born within its borders; while of the foreign residents 1,142 were born in Germany, 1,421 in England, and 5,907 in Ireland.

SCHOOL ATTENDANCE.

According to table 9, volume 1 of Census Report, 19,965 persons attended school, and of these 205 were foreign-born. The white male scholars numbered 9,862, and the female 8,908; an aggregate of 18,770 white scholars. The colored male scholars were 663, and the female 532; an aggregate of 1,195.

Relation between education and pauperism.

Institutions or States.	Number of poor-houses.	Number of persons.	White.		Colored.	
			Male.	Female.	Male.	Female.
Connecticut	7	64	27	33	3	1
Maine	9	100	47	53	.....	.....
Massachusetts	33	754	404	337	2	11
New Hampshire	5	124	49	74	1	.....
Rhode Island	2	12	3	4	1	.....
New York	31	2,279	1,220	1,015	25	19
New Jersey	2	359	158	194	4	3
Ohio	23	1,410	680	626	53	51
Ohio, Cleveland	1	465	257	208	5	2
Ohio, Erie County infirmary	1	60	29	29	2	.....
Ohio, Columbiana County infirmary	1	84	39	43	2	.....
Ohio, Toledo infirmary	1	51	51	.....	.....	.....
Ohio, Richland County infirmary	1	73	27	46	.....	.....
Indiana	18	390	179	198	5	8
Illinois	28	746	392	346	4	4
Illinois, almshouses	71	1,602	912	708	27	15
Michigan	10	263	156	94	9	4
Minnesota	1	76	47	23	1	5
Pennsylvania	27	2,222	1,246	939	31	6
Maryland	1	571	205	246	39	81
Virginia	2	274	53	83	73	65
West Virginia	1	120	70	46	.....	4

PAUPERISM AND CRIMINALS.

The paupers reported in Alabama numbered 687, of whom 354 were native whites, 327 native blacks, and 6 foreigners. Criminals: Of the 593 prisoners, 149 were native whites, 436 native blacks.

Pauperism in Arkansas.—The paupers numbered 538, of whom 288 were native whites, 202 native colored, and 48 foreigners. Criminals: Of the 362 prisoners reported, 137 were native whites, 184 native colored, and 40 foreigners.

Pauperism in Georgia.—There were 1,816 paupers reported, of whom 1,270 were native whites, 507 native colored, and 39 foreigners. Crime: Of 757 persons in prison, 126 were native whites, 597 native colored, and 14 foreigners, 1,775 persons having been convicted during the year.

RELATION BETWEEN CRIME AND EDUCATION.

The statements following give partial returns from seventeen States, all of them but three from the Middle and the Western States. The aggregates in regard to education sum up as follows, namely:

Aggregate of prisoners	110,538
Aggregate of whites	91,427
Aggregate of blacks	6,296
Aggregate of foreign-born	57,824
Aggregate of native-born	41,942
Aggregate of those who can read and write	82,812
Aggregate of those who can read only	5,931
Aggregate of those who have no education	21,650

In regard to the above aggregate facts it may be observed, first, that the whole number of those who can "read only" is described in the reports as in fact "very ignorant." To have learned to spell out words and read a little gives no real knowledge. Secondly, that the prison reports almost uniformly speak of the great number of those who can read and write as very deficient in education. The general conclusion is that the great mass of prisoners is very ignorant. In the meanwhile the general conclusions of the aggregates above, including the observations of the prison-keepers, are as follows:

The totally ignorant, as shown by those having no education, are 22 per cent. The totally ignorant and very ignorant 25 per cent. The very deficient, including these and a large share of those who can read and write, 50 per cent. In the majority of cases in crime it is shown beyond doubt or controversy that ignorance is one great cause of crime, and that in elevating the education of society, both religious and intellectual, we advance the interest of society by diminishing crime. Just so far, therefore, as society neglects to educate the people just so far does it prepare the crime which the criminal commits. Let us now examine our statistics in detail in regard to color, nativity, and religious education. In regard to sections of the country, taking the State prisons and jails of New York and Pennsylvania (deducting the metropolitan police reports) as representatives of the Middle States, we have these results, namely:

Aggregate number	12,772
Aggregate number of whites	11,268
Aggregate number of colored	1,465
Aggregate number of foreign-born	4,658
Aggregate number of native-born	8,003
Aggregate number of those who can read and write	8,501
Aggregate number of those who can read only	1,774
Aggregate number of those who have no education	2,360

The proportions are:

Totally ignorant, 19 per cent.; totally and very ignorant, 33 per cent.; very deficient, at least 60 per cent.

Let us now take the prisons and jails of the Central Northwest, which includes the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. Here we have the statistics of thirty penitentiaries, workhouses, and jails, a sufficient number and variety to give a complete view of the subject in those States. The results are as follows, namely:

Aggregate number	18,931
Aggregate number of whites	14,362
Aggregate number of colored	1,524
Aggregate number of foreign-born	4,078
Aggregate number of native-born	4,851
Aggregate number of those who can read and write	8,722
Aggregate number of those who can read only	935
Aggregate number of those who have no education	6,565

The proportions are:

Totally ignorant	40 per cent.
Totally and very ignorant	46 per cent.
The very deficient, at least	75 per cent.

Let us now take the States west of the Mississippi to the Pacific. Of these we have the reports of four State prisons. In the States of Minnesota, Iowa, Kansas, and California the results are:

General aggregate	1,957
General aggregate of whites	1,187
General aggregate of colored	205
General aggregate of foreign-born	503
General aggregate of native-born	696
General aggregate of those who can read and write	1,333
General aggregate of those who can read only	221
General aggregate of those who have no education	403

The proportions are—

Totally ignorant	21 per cent.
Totally and very ignorant	31 per cent.
The very deficient, at least	50 per cent.

Now let us take the only States that we have of those formerly slave States, where the negro population prevails, namely, Maryland, Kentucky, Tennessee, Georgia, South Carolina. In these States the results are:

Aggregate number of prisoners	4,087
Aggregate number of whites	1,997
Aggregate number of colored	2,090
Aggregate number of foreign-born	267
Aggregate number of native-born	3,485
Aggregate number of those who can read and write	965
Aggregate number of those who cannot read and write	1,435

The States of Georgia and Tennessee, having 1,124 prisoners, made no return of the state of education, and were otherwise defective. In the 2,400 returned the following are the proportions of educated and uneducated, namely, totally ignorant, 60 per cent; very deficient, fully 85 per cent. Thus we see that in the midst of the South, where the colored population is almost totally ignorant, we have the first approach in the United States to the educational condition of France in 1832 and of much of Europe now. Comparing the several sections of the country as presented in the above tables, and including those that can read only (and that is usually very little) among the totally ignorant, we have these proportions. Those called very deficient are put down in a low estimate made from universal testimony of prison-keepers: Totally ignorant, very deficient, in New York and Pennsylvania, 33 per cent. to 60 per cent.; Central Northwest, 46 per cent. to 75 per cent.; West and Pacific, 31 per cent. to 50 per cent.; the South, 60 per cent. to 85 per cent. The returns from the "West and Pacific" are deficient, and, therefore, not a fair test. This and the fact that the great body of miners are really intelligent men make the reasons why that section seems to have less ignorance among criminals.

Proportion of criminals to illiterate population in regard to education.

Here we come to test-facts in regard to the influence of ignorance

in producing crime. If the proportion of ignorant criminals to the whole number should prove greatly above that of the illiterate to the whole population it will be a fact conclusive that ignorance is one great cause of crime. Fortunately the returns of education and illiteracy embodied in the census of 1870 will enable us to examine this question and obtain reliable results. Taking the returns of the census of 1870, in connection with the tables I have above given, we have the proportions below, premising, however, that as all prisoners are above ten years of age, so we have taken from the illiterate in the census only those above ten years of age: Illiterate criminals in New York and Pennsylvania, 4 per cent. to 33 per cent.; in Central West, 3½ per cent. to 46 per cent.; in West and Pacific, 3 per cent. to 31 per cent.; in the South, 22 per cent. to 60 per cent. It appears, therefore, that in the Middle States the proportion of illiterate criminals is eightfold the proportion of illiterate people; in the Central West it is thirteen-fold; and in the West and Pacific States it is tenfold. In the South it is only threefold: but this is caused by the great mass of colored people, who make up a large portion of the whole people and, being nine-tenths wholly ignorant, furnish the great mass of criminals. When the still larger white population is counted in it makes the disproportion of the illiterate criminals less; as to colored people only it is very great; but we see in the above proportions the great fact that ignorance is one of the great causes of crime. I do not seek to exaggerate that fact. The figures I give show it in its naked deformity, and I leave the fact to the contemplation of my hearers. But in the mean time let us look at how this fact will operate in an intelligent American community. Let us see exactly how it will operate in New York or Pennsylvania. Let us take ten thousand people as the unit of measure, the result will be, according to the above proportions—

People	10,000
Illiterate	400
Estimated prisoners	40
Prisoners illiterate	35
Others	5

The "others" means only a very common education. What, then, is the practical result? That because 400 persons out of 10,000 have been kept totally ignorant the county or municipality has seven times as many criminals as it need have and seven times as much expense and evil of all kinds resulting from it. Having thus established certain general principles by the incontrovertible testimony of statistics it will not be inconsequential or uninteresting to give the testimony of some of those who are engaged in the actual management of prisons.

The following statement, made by the superintendent of the Detroit house of correction, gives the general facts and causes of crime nearly as correctly as can be obtained from the general averages of the most extended table of statistics: Of the 8,744 prisoners 44 per cent. were under 30 years of age; 60 per cent. acknowledged themselves habitually intemperate; 65 per cent. were living out of the family relation; only 57 per cent. claimed to be able to read and write, 43 per cent. acknowledging themselves without any education at all.

No one can read the above and not conclude that there is a great need of some great national effort to stay the flood of ignorance and crime which is now sweeping over our land. Is it any wonder that the daily papers teem with accounts of murders, cold-blooded, in the Northern and of red-handed kukluxing and night-ridings in the Southern States when the better natures of mankind are undeveloped?

Sir, this state of things calls loudly upon the wise statesmen of our country to stand forth above and beyond the narrow partisan boundaries which have actuated their legislation.

The country needs some new element of strength to awaken new energies of a higher moral sentiment in this nation. This Government can do no greater deed than to dedicate a part of the revenues accruing from the sale of public lands to the education of the people. There are millions of the citizens of this Republic who will not receive that education which every one ought to have to make them worthy citizens unless the Government shall secure it to them. This should not be left entirely to the States, because they will not fully do this work.

I take the higher ground that every child of this Republic should be compelled to attend school at the age of five, and remain till it shall have obtained a liberal education, qualifying it to know the duties of common life. Education in the South will be more effective than a standing army. Educate the masses of the people, and you open up the means for their higher and grander development; you find a panacea for the ills of the South; you lift the dark cloud from the enfranchised millions and establish peace and good-will among the people; you make all classes better citizens, and give new life to enterprises, quickening the latent energies which await the touch of a quickening hand to make them useful to the nation. With an educated peasantry you secure tranquillity to the country, security to property and life, with all the accumulating grandeur of a great, prosperous, free, happy, and contented people. No North, no South, no East, no West, no race antagonisms, but a united nation, respected at home and honored by all the nations of the earth.

Mr. WRIGHT. Mr. Chairman, I not only believe that every inch of the public domain of this Government belongs to the people of the country, but I also believe that famine should be provided for before you erect school-houses. I say FAMINE! Every dollar that you take from the National Treasury under the pretext of railroads or institutions of learning is so much taken from that fund which should give comfort and repose to the toiling men of this land.

It is therefore an act of gross injustice. It puts class before the general welfare, and leaves the helpless in destitution and places the favored ones in high positions.

I am not narrow in my views about education. I would go as far as any man who occupies a seat upon this floor to protect and advance education. But, sir, when I see the distress there is in this country at this time, I say it becomes us all to look to general measures of relief before we talk about future advancement in education and the erection of colleges and seminaries of learning. As a gentleman beside me [Mr. SPARKS] remarks, "we should provide for the stomach before the head." That is as true a sentiment as was ever uttered. It is the noblest charity.

It may be all well enough to talk of what may be done at another time and upon a future occasion; but if there ever was a time in the history of this country when the wisdom of Congress should be concentrated upon a single point, that time is now, this moment; and that single point is the relief of your suffering millions. Why not do something for the relief of the laboring-man out of employment? Not that he and his dependent family may prosper, but live. Life is what the unemployed men of the land ask you in humiliating prayer to sustain. You reply, educate. Educate! Sore is the school of adversity in which the laboring-men of the land are being instructed. God help them; there is no hope that Congress will.

I do not consent that a dollar shall be taken from the National Treasury for any purpose whatever so long as you have hungry men, women, and children thronging your streets and thoroughfares. Your penitentiaries—yes, sir, and your mad-houses—are full. In the State of Pennsylvania to-day there are five thousand people confined in lunatic asylums, driven there from madness caused by starvation. This takes them there. [Laughter.] Yes, sir, want and destitution. You laugh—it is the same laugh that issues from the cell of the madman, with his wild eyes glaring from behind the bars. Had you not better exchange places? Laugh again! You are in ease; they in the depths of misery. You talk about taking money from the National Treasury to build up institutions of learning, when want everywhere is depicted on the faces of the toiling men of the land. You may laugh about the lunatic asylums of Pennsylvania if you please; but perhaps if some of you who are here were there, it would be better for the welfare of the nation. You might fill their place with more credit to yourselves than the seats you occupy. [Laughter.] Vote your money for class, and let the laboring poor fight the great battle of human existence as best they may; if they gain the victory in sustaining life, dear life, they will not be your debtor.

[Here the hammer fell.]

Mr. GOODE. I move that the committee rise for the purpose of obtaining an order from the House to limit debate.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HOOKER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3542) to apply the proceeds of the sales of public lands to the education of the people, &c., and had come to no resolution thereon.

Mr. GOODE. I move that the House resolve itself into Committee of the Whole for the further consideration of the bill to apply the proceeds of the sales of public lands to the education of the people; and pending that, I move that debate on the amendments which may be offered be limited to ten minutes.

Mr. EDEN. I make the point of order that debate can only be limited on the pending paragraph and the amendments thereto.

Mr. SPARKS. Let us not stifle discussion.

The SPEAKER. The Clerk will read a portion of Rule 60.

The Clerk read as follows:

Provided further, That the House may, by the vote of a majority of the members present, at any time after the five minutes' debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or at their election upon the pending amendments only.

The SPEAKER. The Clerk will also read Rule 104.

The Clerk read as follows:

The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House and the Committee of the Whole House on the state of the Union from the further consideration of any bill referred to it, after acting without debate on all amendments pending and that may be offered.

The SPEAKER. The Chair thinks the practice has been to limit debate only on the pending proposition.

Mr. GOODE. Then I move that debate be limited to one minute on the pending paragraph and amendments thereto.

Mr. ELLSWORTH. I move that the House take a recess until half past seven o'clock.

The SPEAKER. The Chair reminds the House that there is an evening session to-night and the gentleman from Michigan [Mr. ELLSWORTH] moves that the House now take a recess.

Mr. WILLIAMS, of Oregon. What is the business assigned for consideration to-night.

The SPEAKER. It is the bill reported by the gentleman from

North Carolina, [Mr. WADDELL,] from the Committee on the Post-Office and Post-Roads, providing for the classification of mail matter and the rates of postage thereon. The Chair will state that if the House takes a recess now that will be quite injurious to the consideration of the pending bill in charge of the gentleman from Virginia, [Mr. GOODE.]

Mr. CASWELL. I wish to inquire whether any other business will be in order at the evening session except the bill of the gentleman from North Carolina.

The SPEAKER. No other business will be in order.

The question being taken on the motion of Mr. ELLSWORTH, there were—ayes 94, noes 64.

The SPEAKER. Before announcing the result of the vote, the Chair desires to recognize the gentleman from New York, [Mr. HEWITT,] who rises to make a report from the Committee on Appropriations.

ARMY APPROPRIATION BILL.

Mr. HEWITT, of New York, from the Committee on Appropriations, reported a bill (H. R. No. 6145) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HEWITT, of New York. I give notice that I will call up this bill for consideration immediately after the disposal of the post-office appropriation bill.

Mr. PAGE. I reserve all points of order on the bill.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878;

A bill (H. R. No. 5808) to facilitate the refunding the national debt; and

A bill (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BALLOU, indefinitely, on account of sickness in his family;

To Mr. O'NEILL, for three days, on account of important business;

To Mr. HENRY, for one week, on account of important business; and

To Mr. DURHAM, for this evening's session.

SURVEYOR-GENERAL OF CALIFORNIA.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting estimate for $32,209 additional appropriation for the office of the Surveyor-General of California; which was referred to the Committee on Appropriations.

EXPENDITURES IN WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting reports of clerks and others employed in the respective bureaus of the War Department; which was referred to the Committee on Expenditures in the War Department.

ST. MARY'S FALLS CANAL, MICHIGAN.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Major Godfrey Weitzel, Corps of Engineers, relative to the St. Mary's Falls Canal, Michigan; which was referred to the Committee on Commerce.

INDIAN SUPPLIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to a deficiency in the appropriation for Indian supplies; which was referred to the Committee on Appropriations.

SURVEY OF THE KENTUCKY RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Major W. E. Merrill, Corps of Engineers, of the survey of Kentucky River and its navigable tributaries; which was referred to the Committee on Commerce.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying report, was referred to the Committee on Foreign Affairs:

To the House of Representatives:

In answer to a resolution of the 25th of May last, requesting information respecting the claim of Messrs. Carlos Butterfield & Co. against the government of Denmark, I transmit herewith to the House of Representatives a report of the Secretary of State and its accompanying papers.

R. B. HAYES.

WASHINGTON, *January* 23, 1879.

DEPARTMENT OF STATE,
Washington, January 23, 1879.

In response to a resolution of the House of Representatives of the 25th of May, 1878, requesting the Secretary of State, if not incompatible with the public service, to furnish that House with a statement of the claim of Carlos Butterfield & Co. against the government of Denmark, for depredations committed against property of said Carlos Butterfield & Co. at the island of Saint Thomas by officers of the said government in the years 1854 and 1855, and to report what progress has been made in the settlement of the claim, and to communicate to the House of Representatives a copy of all correspondence with the authorities and government of Denmark on the subject, I have the honor to lay before the President the correspondence referred to in the subjoined list which contains the information called for by the resolution.

Respectfully submitted.

WM. M. EVARTS.

To the PRESIDENT.

Mr. MONROE. Would it not be proper to ask that those papers be printed?

The SPEAKER. It would.

Mr. MONROE. I move that the message and the accompanying papers be printed.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

The SPEAKER appointed as the conferees on the part of the House on the disagreeing votes of the two Houses upon the amendments of the Senate to the Indian appropriation bill Mr. SPARKS, Mr. SINGLETON, and Mr. BAKER of Indiana.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. FINLEY, for the session of to-night, on account of indisposition.

THOMAS P. BELL.

Mr. BICKNELL, by unanimous consent, submitted a resolution in favor of Thomas P. Bell: which was referred to the Committee of Accounts.

TARIFF.

Mr. BICKNELL also submitted a joint resolution of the General Assembly of the State of Indiana, in relation to the placing of certain articles of medicine on the free list; which was referred to the Committee of Ways and Means.

SPEAKER PRO TEMPORE.

The SPEAKER. The Speaker will necessarily be absent this evening, and the chair will be occupied by Mr. CARLISLE as Speaker *pro tempore*.

COMMERCE BETWEEN UNITED STATES AND CANADA.

Mr. COX, of New York, introduced a bill (H. R. No. 6146) to regulate commerce between the United States and the Dominion of Canada in articles the growth, production, or manufacture of said countries, and to provide for reciprocal navigation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILSON for the session of this evening.

The result of the vote upon the motion to take a recess was then announced; and accordingly (at four o'clock and twenty-five minutes) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m., Mr. CARLISLE in the chair as Speaker *pro tempore*.

CLASSIFICATION OF MAIL MATTER.

The SPEAKER *pro tempore*. By order of the House, the session of this evening is for the consideration of the bill reported from the Committee on the Post-Office and Post-Roads, providing for the classification of mail matter and the rates of postage thereon.

Mr. WADDELL. Mr. Speaker——

Mr. CANNON, of Illinois. Before the gentleman from North Carolina [Mr. WADDELL] commences his remarks, I would like to find out, if possible, if some arrangement cannot be made as to how long general debate shall continue upon this bill. I would suggest that by general consent the bill be considered in the House as in Committee of the Whole.

Mr. WADDELL. A reference to the proceedings in the CONGRESSIONAL RECORD will show that the motion I made to assign this bill as the special order for this evening was that its consideration should take place in the House, not in Committee of the Whole, nor in the House as in Committee of the Whole. But I will say to my friend and colleague on the Committee on the Post-Office and Post-Roads [Mr. CANNON, of Illinois] that I have no disposition whatever to throw any obstacle in the way of the fullest and freest discussion of this measure, or of any amendment that any gentleman, either a member of the Committee on the Post-Office and Post-Roads or any other member of the House, may desire to offer to the bill.

If any member of the House can offer an amendment which will add anything to the efficiency of the provisions of the bill as they have been considered, not only by the Post-Office Department and by the Committee on the Post-Office and Post-Roads of this House, but also by the publishers of the country, so far from objecting to it I shall be most happy to receive it. I am perfectly willing to agree to any proposition of that sort coming from the gentleman from Illinois, [Mr. CANNON.]

I would like to have this bill considered with all due rapidity; I will not say haste, and perhaps I ought not to say rapidity. But I

want the bill considered and disposed of as quickly as it can be with regard to thorough consideration.

The SPEAKER *pro tempore*. The Chair understands the proposition of the gentleman from Illinois [Mr. CANNON] to be that a certain time be allowed for general debate on this bill, with the understanding that at the expiration of that time the bill shall be considered in the House as in Committee of the Whole, with a view to taking it up by sections for amendment.

Mr. WADDELL. What time does the gentleman from Illinois desire?

Mr. CANNON, of Illinois. I think that a bill of this character should have full time for its consideration. I do not know how much time the gentleman in charge of the bill desires. I would like myself from twenty to thirty minutes; thirty at the outside, and possibly not more than twenty, by way of general debate.

Mr. WADDELL. I would be very happy to have the gentleman take half an hour if he desires. I do not myself desire to take up much time, but I will accede to any proposition the gentleman may make.

Mr. CANNON, of Illinois. What does the gentleman say, then, to having general debate limited to one hour and then at the end of that time allowing the bill to be considered in the House as in Committee of the Whole under the five-minute rule?

Mr. WADDELL. I have no objection to an arrangement of that kind.

Mr. KEIFER. Will the Chair please state just what the proposed arrangement is?

The SPEAKER *pro tempore*. The Chair was about to do so. It is proposed by the gentleman from Illinois, [Mr. CANNON,] and, as the Chair understands, agreed to by the gentleman from North Carolina, [Mr. WADDELL,] the chairman of the Committee on the Post-Office and Post-Roads, that general debate on this bill shall continue for one hour; and that at the expiration of that time the bill shall be considered in the House as in Committee of the Whole by sections under the five-minute rule. Is there objection to that arrangement?

There was no objection, and it was so ordered.

Mr. WADDELL. I am instructed by the Committee on the Post-Office and Post-Roads to offer as a substitute for the bill on the Calendar (which is House bill No. 3850, providing for the classification of mail matter and the rates of postage thereon) that which I send to the Clerk's desk and which is in substance House bill No. 5735 of the same title.

This bill has been twice recommitted to the Committee on the Post-Office and Post-Roads, and the substitute which I offer is House bill No. 5735 with some modifications. Before the substitute is read I desire to make a general statement in explanation of the proposition of the Committee on the Post-Office and Post-Roads.

The need for a reclassification of the matter sent through the mail and for a readjustment of the rates of postage thereon has for a long time been recognized, not only by the Post-Office Department but by the publishers of the country of all classes and by all classes of the people. For several years this matter has been pressed upon the attention of Congress, and the committee of which I have the honor to be chairman has for more than a year past desired to effect the necessary changes in the law, but up to the present hour we have been unable to accomplish them.

The bill which we now present for the consideration of the House I believe has received as mature consideration as any proposition which has ever been submitted to Congress. It is approved not only by the Post-Office Department, but by the publishers of the country of all kinds of publications, and it has been carefully considered for the past eighteen months by the Committee on the Post-Office and Post-Roads of this House.

More than a year ago, Mr. Speaker, appreciating the necessity for a change in the law, and recognizing the fact that some responsibility rested upon me in connection with this subject as chairman of that committee, I visited the city of New York and invited the leading publishers, not only of quarterly and monthly publications but of daily and weekly publications of all kinds, to meet me in consultation at the office of the postmaster in that city—a gentleman whom I have had occasion heretofore in a report to this House to characterize as the peerless postmaster of New York City.

The result of that conference was to give a new impulse to the movement in favor of postal reform in this country; and it was succeeded by a number of conferences on the part of leading publishers of the country, the outcome of which is contained in the provisions of the bill which I now submit to the House.

Inasmuch as many members of the House, not feeling any special interest in this subject, are not very well informed upon it, (and I am very sorry to see illustrated to-night the fact that night sessions are not generally very favorable to the consideration of legislation,) I would state that under the existing postal regulations all matter sent through the mails is divided into three classes, first, written matter; second, printed matter of a certain kind; and, third, miscellaneous printed matter, which latter class also embraces merchandise.

The first change we propose in the law is to make a reclassification and to divide all mailable matter into four classes: first, written matter; second, periodical publications under registration, (which I will explain in a moment;) third, miscellaneous printed matter; and, fourth, merchandise. Thus we make a radical change in the classification of mail matter. There is no change in the rates of postage on first-class matter.

Mr. BLOUNT. How do the rates of postage upon merchandise, as defined in this bill, compare with the present rates?

Mr. WADDELL. We make no change whatever in that respect. The sum and substance of this substitute is a readjustment and better arrangement of the bill which we had on the Calendar. Our provision with reference to fourth-class matter limits the weight to four pounds, "except in case of single volumes weighing in excess of that amount, and except also for books and documents published or circulated by order of Congress, or official matter emanating from any of the Departments of the Government or from the Smithsonian Institution, or which is not declared non-mailable under the provision of section 3893 of the Revised Statutes, as amended by the act of July 12, 1876"—that is, the provision relating to obscene matter—"or matter appertaining to lotteries, gift-concerts, or fraudulent schemes or devices: provided, that when so requested by the postmaster at the office of mailing, any person presenting matter of the fourth class for mailing shall write upon the package his name and address, preceded by the words 'mailed by.'" Upon this class of matter the rate is one cent an ounce.

Now, Mr. Speaker, it has been objected, and probably will be objected in this debate, that all classes of printed matter are now carried by the Government at a loss; that they do not pay the cost of transportation; and therefore the change we propose ought not to be made. Our proposition is to make a uniform rate for weeklies, dailies, monthlies, and quarterlies, while under the present law dailies and weeklies pay two cents a pound, and monthlies and quarterlies three cents a pound. The objection has been made that there ought not to be an alteration of the law in this respect, because all printed matter is now carried at a loss—does not pay the cost of transportation. Admitting the force of this argument as applicable to all classes of printed matter, and ignoring entirely the argument in favor of the policy of disseminating intelligence among the people even at a pecuniary loss to the postal service, it is to be remembered that these weekly papers weigh in the aggregate at least four times as much as the monthlies and quarterlies do, and that if any discrimination be made at all, it ought to be in favor of the less bulky and therefore less costly class of mail matter. But under existing law (being exactly the reverse of the law applicable to written matter) monthlies and quarterlies are required to pay 50 per cent. more postage than the dailies and the weeklies do. The reason and justice of the case are on the other side entirely.

Let me illustrate. The Harpers publish a monthly magazine, and also two weekly papers—Harper's Bazar and Harper's Weekly. The monthly magazine weighs about nine ounces. Each of the weekly publications weighs about three ounces. These three publications have a circulation of about one hundred thousand copies each. Thus, of the monthlies there are circulated annually about twelve hundred thousand copies, and of the two weekly publications about ten million copies annually. The aggregate weight of the yearly circulation of the monthly is about six hundred and seventy-five thousand pounds, and of the weeklies about eighteen hundred thousand pounds. Yet the monthlies are required to pay 50 per cent. more postage than the weeklies; and this is directly against reason and justice.

I want to say in brief that this bill which we offer as a substitute for the Calendar bill has not only been maturely considered by the Post-Office Department, by all the leading publishers of the country, and by the Post-Office Committee of this House, but it must strike every one who reads its provisions as embracing the fairest and most just arrangement for the classification of mail matter and rates of postage that has ever been presented to the country.

Mr. BLOUNT. I should like the gentleman to state what change it makes in the revenue?

Mr. WADDELL. I state in answer to the gentleman from Georgia that the effect of the adoption of this bill——

Mr. BLOUNT. I mean as to the subject you are discussing now, monthly and weekly publications, putting them on the same basis.

Mr. WADDELL. Our idea is as contained in the bill, to make a uniform rate for all class of registered matter; and for fear the term "registered" might be misunderstood, let me say to gentlemen it is not in the sense as applied to registered letters and registered third-class matter as now adopted by the Post-Office Department. But the whole theory of registration as connected with this class of publication was to draw a line of distinction between the legitimate publications and those called illegitimate. The whole effect of the bill, if it is passed, will be at first sight to reduce the revenue $70,000, but the effect after the first year will be to increase the revenue. We are satisfied after the mature deliberation we have given to this measure that it is not only for the benefit of the revenues of the Government, but entirely to the satisfaction of all the publishers of the country. Of course there are individuals who are not satisfied with every provision in it.

Mr. HAYES. I should like to ask the gentleman a question while he is on that point. What is the object to be secured by this registration? If you will give us your idea on that point I will be much obliged.

Mr. WADDELL. The object to be secured by the registration is, as I said a moment ago, to draw more distinctly than has been done

heretofore the line between what are called legitimate periodical publications and those which are illegitimate passing through the mails without paying probably any postage.

Mr. HAYES. I see in section 6, in the beginning of that section, these words: "Publishers of newspapers and periodicals, who may desire to have their publications registered through the mails, &c., may have them registered." That includes all publications of newspapers and periodicals, and I do not see where the line of distinction is.

Mr. WADDELL. "Except as hereinafter provided." If the gentleman will finish the reading of the bill he will see it. The difficulty was to get these paragraphs together in proper connection, and that is why we have offered a substitute for the bill on the Calendar. I will call the attention of the gentleman to the fact that section 4 in the bill has been entirely "wiped out" and another section substituted for it.

Mr. HAYES. That is where I made the mistake, I suppose. I have not that section here.

Mr. WADDELL. Perhaps we had better have the bill read by sections, and then I can explain section by section.

Mr. HAYES. I hope that will be done.

The SPEAKER *pro tempore*. The original bill or the substitute?

Mr. WADDELL. The substitute.

Mr. CANNON, of Illinois. Does the gentleman ask the substitute be read for action now?

Mr. WADDELL. I ask the substitute be read by section so I may explain it.

Mr. CANNON, of Illinois. For consideration at this time?

The SPEAKER *pro tempore*. That cannot be done under the order of the House until after the expiration of one hour. That is, it cannot be read for amendment until after one hour.

Mr. HALE. It might be well to have section 4 read as it is there, as most of us have the House bill No. 5735. I understand the only change is blotting out section 4 and substituting something else for it.

Mr. WADDELL. Yes, sir.

The SPEAKER *pro tempore*. Does the gentleman from North Carolina desire to have the whole substitute read?

Mr. WADDELL. I do not. I prefer of course to have it read only by section.

The SPEAKER *pro tempore*. That will be in order after one hour has expired.

Mr. WADDELL. I do not wish the bill read as a whole, and that is the reason I made the motion I did, that the first reading should be dispensed with and that the substitute should be read by sections.

The SPEAKER *pro tempore*. That will be done at the expiration of one hour.

Mr. CANNON, of Illinois. If the gentleman has closed his remarks I will ask him to yield to me.

Mr. WADDELL. I wish to state before my colleague proceeds that I have not yet finished my general explanation of the provisions of the bill and I only stopped because I supposed the gentleman wished it to be taken up by section.

Mr. HAYES. I hope, then, the gentleman will make his objection now.

Mr. WADDELL. I have only a few more words to say. I have no speech to make. The propositions we make are three: first, a uniformity of rate for all periodical publications of two cents a pound, changing the present law of two and three cents, and making it uniform at two cents a pound.

The next point is to make the rates at all post-offices uniform, because, as my colleague on the committee, the gentleman from Illinois, [Mr. CANNON,] will have occasion no doubt to say to the House, there is now a very great distinction between the delivery of mail matter at offices where the free-delivery system exists and at offices where it does not exist. And the third general principle we have presented covers the case of specimen copies of newspapers sent.

I do not know that it is necessary to go into an explanation of all these several provisions, and I might content myself with simply recapitulating and stating to the House that while the present law makes a distinction between daily and weekly newspapers and monthly and quarterly publications that pass through the mails, subjecting the former to a rate of two cents and the latter to a rate of three cents a pound, we propose to make them uniform at the rate of two cents a pound. In the next place we propose to make the rates at all post-offices, free-delivery offices, and all others the same. And in the third place we propose to allow specimen copies to go through at the same rates as those to regular subscribers. I believe that is all I want to say at present.

Mr. CANNON, of Illinois. This bill has received, as the gentleman in charge of it says, pretty thorough consideration by the committee by whose direction it was reported. It is an effort made, if possible, to distinguish more clearly between different classes of matter that pass through the mails of the United States.

I cannot say, sir, that many sections of the bill in my opinion are an improvement upon the law as it now is. I think that in most respects the postal code is in pretty good shape, and I am not at all clear but that in an effort to produce greater harmony a door may be opened that will produce greater confusion. The law as it now is, to which I desire to call the attention of the House for a moment, is as clear perhaps as language can make it; and this law has been in force since 1874. The practice of the Department is fixed under it; many precedents have been made; postmasters throughout the country and the country are familiar with its provisions; and I want to be assured before we adopt this system of registration that is proposed in this bill that it will be an improvement. So I will call attention very briefly to section 5 of an act passed in 1874 touching this subject, which reads:

> That on and after the 1st of January, 1875, on all newspapers and periodical publications mailed from a known office of publication or news agency, and addressed to regular subscribers, or news agents, postage shall be charged at the following rates: On newspapers and periodical publications, issued weekly and more frequently than once a week, two cents for each pound or fraction thereof; and on those issued less frequently than once a week, three cents per pound or fraction thereof.

Then subsequent sections of this law determine the manner in which the postage shall be paid and prescribe the form of the affidavit which publishers shall make that their publications are sent to genuine subscribers, and so forth. In 1876 an amendment to this act was made marking out very plainly the distinction between a newspaper that goes to regular subscribers and transient papers and advertising sheets. I read from the act of July 12, 1876, a part of section 15:

> That transient newspapers and magazines, regular publications designed primarily for advertising purposes or for free circulation or for circulation at nominal rates, and all printed matter of the third class except unsealed circulars shall be admitted to and transmitted in the mails at the rate of one cent for every two ounces or fraction thereof.

So the House will observe that the law as it now is marks out plainly the difference between a newspaper which has a regular list of subscribers and between an advertising sheet which is issued primarily as an advertising sheet and supplied free or at a nominal rate; and I say again I doubt if the English language can make the distinction plainer than it now is made in the law.

This bill now proposes, in section 1, to divide mailable matter instead of into three classes, first, second, and third, into four classes, first, second, third, and fourth. It defines what shall constitute a newspaper, it defines what shall constitute an advertising sheet, it defines the rates proposed, as plainly as they are defined in the law at this time. But for the purpose of having the evidence of the class of publication that shall constitute a newspaper, and that shall go through the mails at these privileged rates, the bill in section 6 provides that the publishers of a newspaper shall register his paper with the postmaster in the United States wherever the paper is published, paying a fee of $1 annually therefor; and when it is examined and ascertained by the postmaster to come within the definition of the law as a regular newspaper, that then the postmaster shall give him a certificate of that fact, and that he shall print the word "registered" on each newspaper that he prints, and that it shall go through the mails at the uniform rate of two cents a pound.

Now it is not provided in this act that each paper so registered shall be sent to the central office, but the bill leaves it, as the law now leaves it for that matter, with each postmaster to determine what paper comes within the definition of the law as proposed to be amended, so that I do not see wherein any more or less discretion is granted to a postmaster than is now granted to him. I do not see where anything is to be gained by the proposed bill and the additional machinery therein provided as a part of the scheme of registration. If a newspaper is not admitted in the mail under the privileged rate, as the law now is, an appeal can be made to the Postmaster-General. The bill provides for practically the same appeal to the Postmaster-General and then provides as follows, (I read from section 6:)

> In case of the refusal by the postmaster to issue a certificate of registration, an appeal may be taken by the publisher to the Postmaster-General and the proprietor of any publication refused registration under this act or in cases where a certificate of registration has been revoked may apply to the district court of the United States in which his office is situated for a mandamus to compel the issue of such registration, and jurisdiction is hereby conferred on such court.

That perhaps may be a wise piece of legislation connected with the registration system. I doubt it, however; I would much sooner that the whole bill should fail than that both these provisions in this section should be adopted. This bill is ostensibly reported to secure uniformity. Now, it secures the very opposite, for the reason that any one of the forty thousand postmasters applied to may reject the application and the applicant can resort to the district court in whatever district the office may be situated and apply for a mandamus to compel the postmaster to receive his paper as published. The result is that each district court in the United States has exclusive original jurisdiction without appeal, and it will be seen at once that this will not give uniformity.

I doubt the policy of resorting in the first instance to a court to compel an executive officer belonging to a co-ordinate branch of the Government to do any act of this nature.

Section 9 of the bill provides that all matter of the second class shall go through the mails at a uniform rate—at two cents a pound. I do not believe that that section is right in this, and if the House will give me its attention for a few minutes I will state why.

I hold in my hand a letter of the superintendent of railway mail service, (the late Mr. Bangs,) written in 1875, showing the cash revenues and comparative profit and loss of carrying the different classes of mail matter for the fiscal year 1874; that the letters—first-class matter—weighed in round numbers 13,500,000 pounds, and constituted 12.1 per cent. of all the mail matter carried, and yielded $19,597,000

revenue, while the second-class matter (newspapers and periodicals) weighed 55,783,000 pounds, and constituted 50 per cent. of all mail matter carried, and yielded $976,217. The total postal revenues for that year were $25,213,000, while the total expenditures were $32,126,000. Estimated by weight, the cost of service for carrying second-class matter was $16,063,000; revenue from postage on same, $976,217—cost exceeds revenues $15,087,783.

The proportion of matter of different classes carried and revenues from same is substantially the same now as in 1874, as shown from the Postmaster-General's report.

The Postmaster-General's Report for 1878, page 7, shows that the postage on second-class matter during the last fiscal year was $1,025,180.98; of this on papers published weekly and more frequently at two cents a pound the postage was $817,673.26, while upon papers and periodicals published less frequently than weekly, at three cents a pound, the postage was $207,507.72. Now, this bill lowers the postage on periodicals from three to two cents a pound, and would make the revenues $69,169.24 less than now received. In other words, estimating by weight, here is mail matter that it costs the Government per annum to distribute at the rate of $17,000,000, and yields a revenue by way of postage of $1,000,000, leaving a deficit of $16,000,000; and now it is proposed to further decrease the postage per annum, $69,000. The proposed decrease is in the interest of a few publishers of periodicals. To illustrate, say the weight of the magazines average five ounces per copy, twelve copies per year aggregate in weight sixty ounces, or three and two-thirds pounds; the postage at three cents a pound is eleven cents per annum; the proposed reduction to two cents a pound makes it seven and a half cents per annum. Does any one suppose the price of subscription will be lowered to the reader? If not, the $69,000 per annum goes into the pockets of the publishers of the magazines.

The truth is all of the second-class matter, substantially, is franked through the mails, paying, estimated by weight, only one-seventeenth of its cost. I do not complain, as this is a means for information and education of the people. I only claim that, if we keep the machinery for collecting postage from this class of matter, the rate is now as low as it should be. I am not sure, however, but the time has almost, if not quite, arrived when second-class matter should include strictly newspapers and periodicals as contradistinguished from papers primarily intended for advertising, and let them go in the mails without postage and charge all other matter that passes through the mails the cost of distribution. I am certain that such legislation would vastly increase the revenues of the Post-Office Department.

But as a matter of revenue it is a mere farce to say that you charge postage on this matter, and then turn around with all these facts staring you in the face and further reduce the revenue from this source by $70,000 per annum.

Mr. WADDELL. Will my colleague on the committee allow me to ask him a question right here?

Mr. CANNON, of Illinois. Certainly.

Mr. WADDELL. My colleague, as I understand, objects to the change proposed by this substitute because it establishes a uniform rate of two cents per pound on all classes of legitimate publications. He says that these publications have now practically the franking privilege; that so far as the expense of transportation is concerned they do not pay it, and therefore it is practically a franking privilege. I now ask my colleague to state to the House if he can give any just or good reason why a monthly or a quarterly publication should pay three cents a pound while a daily or weekly publication should pay two cents a pound, when the aggregate of the daily or weekly amounts to four times as much as that of the quarterly or monthly for the same time.

Mr. CANNON, of Illinois. I will answer the question to the best of my ability. First as to the matter of revenue when compared with the expenditures which this matter involves, I will say that the rate of postage on both classes is too low, but I apprehend you cannot raise the postage in this country.

Mr. WADDELL. You cannot.

Mr. CANNON, of Illinois. And it is no good argument because two cents a pound is too low and three cents a pound is too low to say you should reduce it all to two cents a pound. That is one reason. Now for another. The newspapers published weekly and more frequently than once a week go to the masses of the people throughout the country, to the poor people, to the laboring people; everybody takes them. It is the exclusive few as a rule who take the monthlies. The same argument would apply in this case that would apply in favor of supporting the common schools at public expense, and not the colleges.

Now, the Postmaster-General does not recommend this legislation proposed in section 9. I desire to call the attention of the House to pages 33 and 34 of his last report, in which he says:

> If the revenues of the postal service were equal to its expenditures, no severe system of economy would be so necessary for its administration. Many of my predecessors have urged the establishment of higher rates of postage or the exclusion from the mails of such matter as did not pay the expenses of its transportation, in order to make the department self-sustaining. Time and again it has been shown that matter of the second and third class does not pay its way through the mails, and Congress has been urged to increase the rates of postage thereon.

And so on.

Mr. WADDELL. Yes: please read "and so on."

Mr. CANNON, of Illinois. Certainly, I will read the rest of it:

> The question has been considered time and again by the appropriate committees and discussed by both branches of Congress, and the results have shown that it was not expected that the Department should be self-sustaining, but that the deficiencies in its revenues should be met by appropriations from the general Treasury.

Mr. WADDELL. Yes, that is so.

Mr. CANNON, of Illinois. That is enough, I suppose, and it shows what has been the policy of the Department. I need not call the attention of gentlemen again to the fact that the monthlies, magnificent and readable as they are, do not reach the masses of the people who pay these taxes to make up these deficiencies.

Now, there is another objection to this section 9. It contains some more legislation that I do not believe to be judicious. As the law now stands all mail matter of the second class originating at a letter-carrier office cannot be delivered within the delivery of that office except at the rate of one cent per each two ounces or fractions thereof. This section 9 proposes to repeal that provision of law, and to allow matter originating in these offices to be delivered at the rate of two cents a pound through the carriers. Now, sir, I do not believe that is a wise provision.

It has been said on the other side in argument of this question, and no doubt will be said again, that under the law as it now is a newspaper may be mailed in San Francisco to a subscriber in New York, and delivered by the carrier in New York to that subscriber, at the rate of 2 cents per pound, and that it is not good policy to say that a newspaper mailed in New York for a subscriber in New York may not be delivered to that subscriber at the same rate.

Now, that is a pretty strong case. But mind you there are not a great many newspapers delivered in that way. If the whole issue of a paper published in San Francisco, or any very great number of that issue, was sent to the subscribers in New York, then I think that the right to have it delivered at the rate of 2 cents per pound should be curtailed. But the fact is that there are very few of the issues of a paper published in San Francisco delivered to subscribers in New York.

My objection to this modification is, that if you allow the great dailies, or the weeklies, or the tri-weeklies, or the periodicals published in these great letter-carrier cities, to be delivered at the rate of two cents a pound they will burden the carriers so that they cannot deliver promptly letters and other classes of matter, and you will either break down the system or will have to increase it from 50 to 100 per cent.

Let me illustrate. In the city of New York last year there were nine million newspapers—I mean nine million different pieces—delivered by the carriers at the rate of one cent for two ounces and each fraction thereof. Now, suppose you open the mails to the New York papers and periodicals in New York City at the rate of two cents a pound, would it be too much to say that of the morning and evening dailies, the weeklies and the monthlies, the total amount that would be delivered each day through the carrier system would be twenty-five thousand pieces? I think not; I think that estimate quite reasonable. Multiply twenty-five thousand by three hundred and sixty-five and you have ninety-two million pieces to be delivered annually. "But," says somebody, "why not, provided it pays expenses?" There is the rub. These publications now pay the expenses of carrying them in letter-carrier cities because the rate is one cent a paper and sometimes two cents; but this proposition is to deliver these publications at the rate of two cents a pound. To deliver these additional ninety-two million pieces annually you would have to increase your letter-carrier force, in my opinion, at least 50 per cent., with no appreciable increase of revenue.

I do not live in a letter-carrier city; there is none in my district; I have no interest in that system except for the general good of the service. At last this free-delivery system has become self-sustaining; in other words, what is earned in four great cities in excess of the expenditures is more than enough to make up what is lost in the other cities. I ask the House to pause long before taking a step to break down this system which after twelve or fifteen years has been brought to the position of being self-sustaining.

Mr. LATHROP. Will my colleague allow me a question?

Mr. CANNON, of Illinois. Certainly.

Mr. LATHROP. I wish to call the gentleman's attention to a provision contained in the sixth section. The bill there provides for an appeal, in case of refusal of registration, to the Postmaster-General. Then follows this language:

> The proprietor of any publication refused registration under this section, or whose certificate of registration has been revoked under section 7, may, on proper notice, apply to the district court in the district in which the office of publication is situated for a mandamus against the postmaster to compel the allowance of such registration.

I wish to inquire whether the right of application for a mandamus is given to the publisher after his appeal has been made to the Postmaster-General and refused, and whether the mandamus is to be directed to the local postmaster?

Mr. CANNON, of Illinois. I suppose that by a fair construction of the section the right to apply for a mandamus is given after the appeal has been taken to the Postmaster-General; and there can be no question, I take it, from the reading of the section, that the mandamus is to be against the local postmaster. Now, I desire to submit a question to my colleague whether he thinks there is any necessity

that the press of the United States, extended and powerful as it is, with its thousands of strong arms reaching out through the country, should be given a remedy which is not given in cases similar in principle to the humblest and poorest private citizen in the United States.

Mr. LATHROP. I supposed that the gentleman, as a member of the committee reporting this bill, would understand what its provisions were intended to reach; and it struck me as exceedingly improper that the local postmaster, after his action had been affirmed by his superior, should be drawn into court at his own expense in a proceeding to compel him to disobey orders.

Mr. CANNON, of Illinois. I think the gentleman's criticism is very apt; and in putting my question to him my design was not so much to elicit an answer as to bring out more clearly the provision of this section.

Mr. WADDELL. If the gentleman from Illinois will allow me, I will say to the gentleman who propounded the question [Mr. LATHROP] that the committee, in preparing the paragraph to which he has referred, understood that in case the publisher made an appeal from the local postmaster to the Postmaster-General and was by the latter denied his right, he should be protected in his right to the utmost extremity by allowing him to demand from the court a mandamus compelling the Postmaster-General to admit the publication to registration.

Mr. LATHROP. But no provision is made for protecting the local postmaster in defending the action of the Department.

Mr. WADDELL. The idea of the committee was that only after the publisher had taken an appeal from the local postmaster to the Postmaster-General should the remedy of mandamus against the higher officer, the Postmaster-General, apply, and that the local postmaster would then be exempted from all further responsibility.

Mr. LATHROP. This provision seems to give the right of mandamus not against the Postmaster-General but against the local postmaster.

Mr. WADDELL. The committee may have been unfortunate in their phraseology; but unquestionably their intention was to give the right of mandamus against the Postmaster-General, the officer to whom the appeal is to be made.

Mr. LATHROP. One word more. Is it not very singular to give every district court in the United States jurisdiction over the Postmaster-General; to draw him to Oregon, California, Louisiana, Maine, or Florida—to the extremest parts of the country—to answer in a proceeding of this kind?

Mr. WADDELL. It was only intended out of extreme regard for the publishers of the country. So far from being a neglect of the rights of the humble citizen, as has been said, the intention of the committee was to protect him to the extremest limit of the law in the preservation of his rights by giving him a mandamus. I will frankly say I have no objection to a change in the phraseology, but I may say, speaking for the committee of which I am chairman, our only idea was to protect the publisher in his rights in case injustice has been done, either by the local postmaster or the Postmaster-General.

Mr. TOWNSEND, of Ohio. I ask the gentleman whether it is not the fact a mandamus is to issue compelling the postmaster to receive mail matter as registered pending the decision of the Postmaster-General.

Mr. WADDELL. That is provided in another section of the bill which has not been discussed, where it is provided he shall enter into bonds to pay third-class rates pending the appeal.

Mr. LATHROP. Is not the matter of mandamus a questionable provision to introduce?

Mr. WADDELL. We do not think so or we would not have put it in the bill.

Mr. CANNON, of Illinois. I will say to my colleague I think it is, and I have been trying to give the reason why I think so.

There are other objections of a minor character to several sections of this bill, which I will not take the time of the House now to discuss, but to which I will call attention as the bill is considered under the five-minute rule.

Mr. MONEY. Mr. Speaker, the object of the Government in establishing a postal service was for the dissemination of useful knowledge for the public good and to promote communication between its citizens in the several sections of the country. I should like to have the attention of the gentleman from Illinois and gentlemen on that side of the House generally.

Mr. CANNON, of Illinois. Certainly.

Mr. MONEY. I was about to say, Mr. Speaker, this bill was prepared by officers of the Post-Office Department, and was introduced by me, referred to this committee, has been considered for eighteen months, and has been twice recommitted with amendments, and printed. It has been submitted to a number of conventions of publishers in Philadelphia, New York, Boston, and other places. It has met their approval in every instance, and I have on my table now a large number of letters from these publishers, not only of books, but of leading daily journals of the country and postmasters of the leading post-offices of the country, in which they express their approval. My colleague of the committee from Illinois is mistaken when he states the Postmaster-General did not recommend this feature of registration.

Mr. CANNON, of Illinois. I should be pleased if the gentleman would call attention to the recommendation. On the contrary, I read from his report showing he did not ask it—that is for that section of the bill decreasing postage on second-class matter.

Mr. MONEY. I will come to that in a minute. The object of this bill is simply to secure three or four more desirable things in order to promote the efficiency of the postal service—first, uniformity; second, simplicity; and third, justice to the different publishers. In this question of registration which has engaged the attention of the publishers who have considered the bill at all there was once an objection made by the convention of Philadelphia publishers which was afterward withdrawn. My friend from Illinois states it does not secure a uniformity of decision on these points. He is certainly mistaken about it. I think I can show it clearly to the House. As the law now stands every postmaster in the United States passes his judgment upon the paper applying for registration, not only the postmaster who mailed the paper but every postmaster in the United States to whose office the paper comes in the course of delivery. The object of this bill is to take from postmasters receiving this paper the rate of second judgment on the publisher. In other words, when a publisher is admitted to registration under the bill as contemplated in this section, the postmaster receiving that paper must deliver it. You can imagine very readily the embarrassment which attends the publisher of a journal having a large circulation. He applies to the postmaster at the office of publication, and he admits his paper to the mail as coming within the limits prescribed by the law. It is carried through the mail all over the United States. Probably ten thousand postmasters will receive it and deliver it to subscribers, while ten thousand more will put their judgment in opposition to the office of publication and refuse to deliver it. There is a conflict at once, and before it can be settled by reference to the proper office in the Post-Office Department, the publisher is under the embarrassment of having half of the edition refused to subscribers.

That at least is one of the difficulties obviated by the bill under consideration, and I think it is important enough to warrant the adoption of the bill by the House.

The SPEAKER *pro tempore*. The hour has expired.

Mr. MONEY. I will now speak in my own right.

The SPEAKER *pro tempore*. General debate was limited by the House to one hour, after which the bill was to be read by sections under the five-minute rule.

Mr. CANNON, of Illinois. I hope there will be unanimous consent to the gentleman's proceeding.

There was no objection, and Mr. MONEY's time was extended.

Mr. MONEY. Now, Mr. Speaker, in this matter of reducing the postage on periodicals published less frequently than once a week, the law as it exists to-day is not only illogical, but absurd; and not only absurd, but foolish; and more than that, it is unjust. As I stated in the outset of my remarks, the object of the establishment of the postal service is for the dissemination of useful knowledge among the people and to promote private correspondence. This being the object, we ought to adopt those means and appliances which will best subserve that end. The Post-Office Department, looked at in that light, may be considered as a great educator of the people in all parts of the country. Now that class of publications which is least entitled to be called an educator is admitted to the most privileged rates; and that highest class of literature, in which are ranked all the monthly, bimonthly, and quarterly publications, is excluded from the privileged rate, although they are in their very nature the highest educators that reach the people in that way. Take, for instance, the Missionary Herald, the oldest monthly in the United States, with over one hundred thousand subscribers. From the fact that that journal is published monthly it is compelled to pay the extraordinary rate of three cents a pound. Take all the monthlies of the country, and I say if you examine the character of those monthlies you will find more than two-thirds of the monthlies of this country are not the mere vehicles of literature to the people, but are instructors in the highest sense of the term. You may take every school-teacher's journal in the country; you may take every engineer's journal; you may take every law journal, and every medical journal, and every religious journal, and almost all the agricultural and live-stock journals of the country, including those referring to bee culture and other special industries in which the people are interested—they all come within this class, and are compelled to pay the extraordinary rate of three cents a pound.

Now, I ask, considering the fact that the Post-Office Department is to disseminate useful information, do you not see this law as it exists to-day and in the manner in which it is to be remedied by this bill is not only unjust, but absurd? It is absolutely cheating the people out of the advantage which the law proposed to give them by reducing the rate on publications.

That point cannot be gainsaid, for there is no dispute about that in the world that every journal in this country, almost without exception, that can be called an instructor and educator is to-day cut out from the privileged rate and is transmitted at the higher rate, while the mass of ephemeral dailies that furnish the gossip and the scandal of the hour are admitted at the privileged rate. I have nothing to say against the daily journals, because we could not exist without the morning paper; I am an editor myself; that is my profession, and I have a friendly feeling toward all the craft.

The reduction of revenue by this change in postage on that class

of publications is estimated at about $70,000. Now, to promote the efficiency of the service we must simplify its operations as much as possible; and in simplifying the operations you always reduce the expense; you cannot help it.

Let me say another thing. Is it worth while for a country like this, that has undertaken to carry the mail and the correspondence of its citizens without compensation—for it has never been proposed to make the post-office a source of revenue—is it becoming in a great nation like this, which has voluntarily assumed this duty for its people, its citizens, to sacrifice the great principles of justice and uniformity for the paltry sum of $70,000? But, as has been stated by the chairman of the committee, that would be only for the first year; and after a while the machinery of the post-office would get into such a position that it would not be open to the objections made by the gentleman from Illinois.

The gentleman from Illinois made the objection, also, that this bill provides for cutting down the rates in the cities of free delivery. I can show the House, in one sentence, that in that respect the law as it stands now is a more palpable absurdity than it is in the respect I have just explained. In the first place, the objection my colleague raised as to the duties of the letter-carriers being increased cannot hold good, for he will remember it was the testimony of the representative of every daily paper that came before our committee that they did not trust their paper to the hands of the post-office at all; because the demand for the daily paper must be met promptly. I do not want my daily paper unless I get it at my breakfast-table. It is put in the hands of newspaper-carriers; it does not go through the post-office; so that the gentleman's argument falls to the ground.

Now, here is the absurdity. As the law now stands, I publish a paper in New York or Boston or any other great center of population. I cannot have that paper delivered to a solitary subscriber in the city of publication by a letter-carrier without paying a double rate of postage; but I can send that paper three thousand miles away and at the end of that route I can put it in the hands of a letter-carrier and have it delivered free in Portland or San Francisco.

Mr. ROBINSON, of Massachusetts. May I ask the gentleman a question?

Mr. MONEY. Yes, sir.

Mr. ROBINSON, of Massachusetts. Did it appear in the testimony before the committee as a fact that that course was pursued by publishers of newspapers?

Mr. MONEY. It did.

Mr. ROBINSON, of Massachusetts. Then I understand as a fact that newspaper publishers are in the habit of sending their newspapers a distance of three thousand miles in order to get them at the end of the route into a post-office.

Mr. MONEY. No, sir; the gentleman has misunderstood me. Perhaps I was unfortunate in making myself understood. As the law now stands the publisher of a newspaper at Boston or Washington can send his paper through the mails to a point at a distance of three thousand miles. There it is put in the hands of the letter-carriers and they deliver it free, the charge of transmission being two cents a pound. But he cannot deliver it free in his own town by a letter-carrier without being subjected to the same expense. In other words, the Government undertakes to carry it three thousand miles, and then delivers it free; but refuses to deliver it free in the city of publication without a charge for transportation the same as for the three thousand miles. Now, that absurdity shows itself at once to every mind that considers the question at all.

Mr. DEERING. I would like to ask the gentleman a question.

Mr. MONEY. I will hear the gentleman.

Mr. DEERING. My question relates to section 4 of the bill. Under existing law, Mr. Speaker, postmasters are required to forward letters for one full rate——

Mr. MONEY. If the gentleman will allow me to anticipate him, I will say that we have amended that section. We have stricken out that section in the printed bill and offer an amendment which meets the objection which the gentleman was about to urge.

Mr. DEERING. Where is that amendment?

Mr. MONEY. It is here in the bill which has been substituted. It will be read when we get to consider the bill by sections. I will now read that amendment to section 4. It is as follows:

That all mail matter of the first-class upon which one full rate of postage has been prepaid, shall be forwarded to its destination charged with the unpaid rate, to be collected on delivery—

As at present—

but postmasters before delivering the same or any article of mail matter upon which prepayment in full has not been made, shall affix or cause to be affixed and canceled as ordinary stamps are canceled one or more stamps equivalent in value to the amount of postage due on such article of mail matter, which stamps shall be of such special design and denomination as the Postmaster-General may prescribe, and which shall in no case be sold by any postmaster or received by him in prepayment of postage. That in view of the commission now allowed to postmasters at offices of the fourth-class, &c.

In other words, the bill as amended allows the same liberty in forwarding matter that has received only part of the postage necessary, but provides, by the affixing of a special stamp, for the collection of the overdue postage.

Mr. DEERING. Then, as I understand, the letter is to be forwarded and the deficit collected.

Mr. WADDELL. Yes; by special stamps.

Mr. MONEY. Let me revert now to this registration matter again. There is this easy avoidance of the law as it stands to-day, and the ease with which it is avoided more clearly demonstrates its absurdity. Take the city of Boston, which covers part of two counties. The little town of Brookline is just outside the line of delivery. The publisher of a magazine can take his whole issue for a month and mail them at the office at Brookline, and they will come back to Boston and be delivered free.

Mr. CANNON, of Illinois. Will my colleague allow me a question?

Mr. WADDELL. If my colleague, the gentleman from Mississippi, will permit me, I desire to make an explanation to the House. I find there is among gentlemen a misapprehension as to what the committee has recommended. The fourth section of the bill which gentlemen have sent for, No. 5735, since the bill was recommitted to the Committee on the Post-Office and Post-Roads, has been changed, and the bill introduced by Mr. HAMLIN, in the Senate, has been substituted for the fourth section requiring prepayment of postage by a special class of stamps.

Mr. PRICE. Then the bill which is in our hands is not the bill that is now before the House for consideration?

Mr. WADDELL. It is the same bill with a few amendments.

Mr. PRICE. Is the fourth section a part of the bill?

Mr. WADDELL. That section, as it appears in the bill No. 5735, is stricken out and another is substituted.

The SPEAKER *pro tempore*. The gentleman from Mississippi [Mr. MONEY] is entitled to the floor. Does he yield further?

Mr. WADDELL. I do not desire to take my colleague, the gentleman from Mississippi, off the floor, but I think, for the information of the House, it would be better to have the bill read by sections with all the amendments as they stand in the bill as now reported.

Mr. MONEY. If the House desires that that course be adopted, I have no objection.

The SPEAKER *pro tempore*. The hour allowed for general debate on the bill has expired, but by unanimous consent the gentleman from Mississippi was allowed to proceed. If the gentleman from Mississippi has concluded his remarks the bill will now be read by sections for amendment.

Mr. MONEY. I have not concluded; but I find there is a general demand for the reading of the bill by sections. To that I have no objection.

The SPEAKER *pro tempore*. The Chair can only have the bill read by sections now by unanimous consent unless the gentleman from Mississippi yields the floor.

Mr. MONEY. Now, Mr. Speaker, in reference to the appeals of the circuit court of the United States to which such objection has been made by the gentleman, he will remember that in committee I combated that very proposition. I do not believe that the Post-Office Department would yield to such an ignoble feeling, even in times of high excitement, as to suppress newspapers because they did not agree with it in politics. I give the Department credit for intending to carry out its duties in a proper spirit in that regard, and I desire to say that while I opposed that section of the bill in committee, I do not recollect that my colleague did.

Mr. CANNON, of Illinois. If it would be in order to state what took place in committee I can correct the gentleman?

The SPEAKER *pro tempore*. It is not strictly in order.

Mr. MONEY. I have no personal vanity whatever in reference to this bill, but I believe it to be a measure which gives simplicity, uniformity, and justice. I believe that it will give satisfaction to the whole country. I do not see a single line to which objection can be taken, and I will say to this House that there is not a member of the committee that has not given days' and nights' toil to the consideration of this matter. I have corresponded with publishers in every part of the country. I have talked with the publishers of daily newspapers. I have a number of letters from publishers which I will not inflict upon the House, and also from leading postmasters. The Post-Office Department itself approves the bill.

It says that the classification of the mail matter and the rates of postage thereon are correct. Now there may be some objection urged as to the admission of merchandise to the mails, and I will be very glad to see that part stricken from all our postal laws, because I do not believe that the Post-Office Department should perform the functions of a common carrier. I do not think it one of the provinces of the Government to go into the express or carrying business; but we found that in the laws, and a portion of the people are not willing to give it up. I think it was a foolish law that reduced the rate upon newspapers to two cents a pound, because that matter is carried at a dead loss to the Government. At the same time there was such a popular demand for the continuance of the law that stands in preference to the amendment offered by the committee that it was impossible for the committee to have acted otherwise and to have yielded to the voice of the people on recommendation of the Department.

Sir, I have no speech to make upon this question; though if there be any objection to be made to any individual clause I will be glad to hear it.

Mr. WADDELL. I will say before the debate closes, and I hope that it will close very soon, that my friend from Illinois, my colleague of the committee, is the only gentleman I have been able to discover out of the forty-five million of the American population, including Indians not taxed, and without regard to race, color, and previous

condition of servitude, who has raised any objection to the bill. I hoped he would not raise any objection, and I know he has peculiar notions about such things; but he is the only gentleman I have found who has raised any objection to the bill, because for the last eight months it has been carefully considered by the Department and by all the leading publishers.

We have had conference after conference between the committee of the House of which he is a member, but I will say, in order to do him perfect justice, that I honestly believe that if the ten commandments were offered as a code of morals, if my friend was not allowed to offer an amendment, he would object to them.

[Here the hammer fell.]

Mr. CUMMINGS. Would it be in order to test the sense of the House by moving to lay the bill upon the table?

Mr. WADDELL. Can that motion be entertained?

The SPEAKER *pro tempore*. It can, for the bill is being considered in the House and not in the Committee of the Whole.

Mr. CANNON, of Illinois. I desire to make a parliamentary inquiry. Am I in order in calling the attention of my colleague of the committee from North Carolina to the fact that there are other contrary members here beside, myself?

The question was taken upon the motion made by Mr. CUMMINGS; and upon a division there were—ayes 14, noes 76.

Mr. EAMES. No quorum has voted, and every member of the House knows that there is no quorum here.

Mr. COX, of New York. Is the matter debatable?

The SPEAKER *pro tempore*. It is not. The gentleman from Rhode Island has a right to object to proceeding without a quorum but not to debate, and the Chair will therefore appoint tellers.

Mr. EAMES. I withdraw the objection.

The question was taken on the amendment; and it was not agreed to.

The Clerk read the first section of the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That mailable matter shall be divided into four classes:

First, written matter;
Second, periodical publications under registration;
Third, miscellaneous printed matter;
Fourth, merchandise.

Mr. CANNON, of Illinois. I ask unanimous consent that we may hereafter turn back to the first section of the bill for the purpose of striking out the words "under registration," in case the subsequent section providing for registration is stricken out.

Mr. WADDELL. I object; of course it requires unanimous consent?

The SPEAKER *pro tempore*. It does.

Mr. CANNON, of Illinois. I move to strike out the words "under registration."

Mr. MONEY. Are not the amendments of the committee to be first acted upon?

The SPEAKER *pro tempore*. The committee has not reported any amendments to this section.

Mr. WADDELL. I will withdraw my objection.

The Clerk resumed the reading of the bill, and read the second section, as follows:

SEC. 2. That mailable matter of the first class shall embrace letters, postal cards, and all matters wholly or partly in writing, except as hereinafter provided.

No amendments being offered the Clerk read the third section, as follows:

SEC. 3. That on mailable matter of the first class, except postal cards and drop-letters, postage shall be prepaid at the rate of three cents for each half ounce or fraction thereof; postal cards shall be transmitted through the mails at a postal charge of one cent each, including the cost of manufacture; and drop-letters shall be prepaid at the rate of two cents per half ounce or fraction thereof, including delivery at letter-carrier offices, and one cent for each half ounce or fraction thereof where free delivery by carrier is not established. The Postmaster-General may, however, provide, by regulation, for transmitting unpaid and duly certified letters of soldiers, sailors, and marines in the service of the United States to their destination, to be paid on delivery.

Mr. AIKEN. I call the attention of the House to the second line, and I ask for information whether that requires the entire postage upon every letter, and is not that a change of existing law?

Mr. WADDELL. If the gentleman will be patient for a moment and read section 4 he will see that that is all provided for.

Mr. MONEY. The object of the bill is to change the existing law.

Mr. WADDELL. The whole idea of this provision is to secure the payment of the postage.

Mr. AIKEN. In full?

Mr. WADDELL. Yes, sir.

Mr. EAMES. I move to amend the section just read by striking out in line 3, before the words "cents for each half ounce," &c., the word "three," and inserting the word "two"; so that it will read:

That on mailable matter of the first class, except postal cards and drop-letters, postage shall be prepaid at the rate of two cents per each half ounce or fraction thereof, &c.

I desire to say a few words upon that proposition to the members of the House, and I wish I could have had the attention of all the members of the House upon this proposition.

Mr. Speaker, this amendment proposes to reduce the postage on letters from three to two cents for the half ounce or any fraction thereof. In no other respect does it change the existing law as to letter postage. If it is adopted it will be a direct benefit to every one who has occasion to write a letter.

It has been recommended by both of the great political parties in their political conventions. The only objection, if it is one, to the adoption of this amendment is that it may increase the deficiency in the postal service. It is not probable that such would be the effect of the change. If it would, this is no reason why it should not be adopted, as under the existing law the deficiency between the postal receipts and the postal expenses is the most equitable and just tax on the people for the expense of the postal service. In only seven or eight States are the receipts equal to the expenditures. There is no justice or equity in the charge of three cents without regard to distance.

But if this amendment is adopted I think the deficiency will rather be diminished than increased. In England the letters carried through the mails in 1837 were 82,000,000. The penny postage in that country went into operation in 1840, and in 1859 the number of letters had increased to 545,000,000. The postal revenue in 1835 which was less than the expenses was about $8,000,000, and in 1859 was $15,000,000, an amount in excess of the postal expenses. Now it may be truly said that because such was the effect of a reduction of postage on letters in England it does not follow that such would be the result in this country. I assent to this, but since the Government has had the control of the postal service in this country great changes have been made in the rates of letter postage.

And nearly all changes which have been made have been in the direction of reducing postage on letters, and the deficiency has been but slightly if any increased. The first law fixing the postage on letters was based on distance, and the rate varied from six cents to twenty-five cents. In 1845 a change was made to five cents under and ten cents over three hundred miles.

In 1844, the year previous to this change, the receipts were $4,237,287.83 and the expenditures $4,296,512.70. In 1845, the next year after the change, the receipts were $4,289,841.80 and the expenditures $4,320,731.99, showing a small increase of expenditures over the receipts; but in 1849 the receipts were $4,705,176.28 and the expenditures $4,479,049.13, showing an excess of receipts of more than $200,000.

In 1851 the law was again changed, and a distinction was made between a letter prepaid and a letter unpaid, three cents if prepaid and five cents if not prepaid.

The receipts in 1850, the year before this change, were $5,499,984.86 and the expenditures $5,212,953.43; and in 1851, the year after the change, the receipts were $6,410,604.33, and the expenditures $6,278,493.68, showing under this change an excess of receipts over expenditures.

In 1855 the letter postage was three cents under and ten cents over three hundred miles. Under this law, which was an increase on the rates of letter postage, the deficiency was increased.

By the act of March 3, 1863, the rate was fixed at three cents for the half ounce or any fraction thereof, without regard to distance.

The receipts in 1862, the year before this change, were $8,299,820.90 and the expenditures $11,125,364.13. In 1863, the first year after this change, the receipts were $11,163,789.59 and the expenditures $11,314,296.84. In 1864, the receipts were $12,438,253.78 and the expenditures $12,644,786.20, showing a great increase of receipts and a great reduction of the deficiencies in these years; and in 1865 the receipts were nearly equal to the expenditures. Since 1865, under this law, the receipts have increased from about $14,000,000 to about $29,000,000 and the deficiency has been from $4,000,000 to $7,000,000.

These figures demonstrate that the reduction of letter postage as heretofore made has resulted in a large increase of the revenue, and that the deficiency has been but slightly increased, notwithstanding the great extension of postal facilities.

The law of March 3, 1863, at the uniform rate of three cents without regard to distance, is now the law, and no change has been made for nearly sixteen years. Is it wise, in view of the facts which I have stated, to make this change now? I think that it is.

The past legislation shows that the reductions which have been made have not much increased the deficiency between receipts and expenses, and this deficiency has arisen not from letter postage, but from the second and third class of mail matter, which has been reduced about four millions by the excess of receipts on letter postage.

Since the law of March 3, 1863, the postal card has been introduced. There is no reason why it should pay less than letter postage. It weighs as much and costs as much to send it through the mails. The result of reducing postage on letters will be to diminish the receipts of one cent on postal cards, and increase the receipts of two cents on letters, and thus the deficiency would not be increased, but probably would be diminished.

I repeat, even if this deficiency should be increased there is no more equitable mode to meet it than under the general law for raising revenue.

If this Congress wishes to pass a bill which will be a direct benefit to the whole people there is no better mode of doing it than by the adoption of this amendment.

This proposition is one of great importance to every citizen. It can be made, I think, without increasing the deficiency between the receipts and expenditures of the postal service. But if there should be such increase, the deficiency would be more justly met by the gen-

eral tax under the existing revenue laws than under the present rate upon letter postage.

Mr. Speaker, I am politically in the minority of this House, but the amendment which I propose is one which is neither political nor sectional. It will, if adopted, be a direct benefit to the people of all parts of the country. Why not, then, agree to this amendment, especially as it is not probable that it will increase the deficiency in the postal service? And, even if it does, it will apportion this increase more equitably than under the existing law.

Congress can do no wiser act upon the subject of the postal service than to adopt the amendment which I have proposed. I have for many years endeavored to secure the adoption of this proposition, and I hope now the time has come when this House will approve it.

[Before Mr. EAMES concluded his remarks the five minutes expired. Mr. WADDELL took the floor and yielded his time to Mr. EAMES, who concluded his remarks as above.]

Mr. MONEY. I move to strike out the last word. I am sorry to say that I could not hear all the arguments of my friend from Rhode Island, [Mr. EAMES;] and I am very sorry that I could not. But I did hear his amendment, and understand that it is a proposition to reduce the rate of letter postage from three cents to two cents for each half ounce or fraction thereof.

Now, it is a well-known fact that we are called upon every year to make up a deficit of from four to six millions of dollars for the purpose of carrying on the postal service of the Government. There is no complaint from any part of the country in regard to the present rates of letter postage. The gentleman from Rhode Island [Mr. EAMES] gets his idea I suppose from the penny postage of Great Britain, where the longest mail-route does not extend over four hundred and fifty miles. It is possible for letters to be carried in such a territory as that for two cents where they are carried for not more than four hundred and fifty miles at the farthest, when it would not be equally advisable to carry letters in this country even for three cents for three or four thousand miles. England is largely a commercial country and its longest mail-route does not extend over four hundred and fifty miles.

There has not been a man from any part of the country who has ever come before the Committee on the Post-Office and Post-Roads of this House, except my honorable friend from Rhode Island, [Mr. EAMES,] and urged the adoption of such a proposition as he has now submitted. No recommendation has come from the Post-Office Department to that effect. No application for such reduction has been made by the publishers of any papers, who have the largest correspondence by letter possibly of any persons in this country. No such proposition has been urged by the great lawyers of the country, who have extensive correspondence by letter. The proposition has come from no solitary individual, except my friend from Rhode Island. Now, I ask the House to entertain no proposition of that sort.

Mr. WADDELL. I call for a vote.

Mr. MONEY. I will withdraw my *pro forma* amendment.

Mr. EAMES. Before the gentleman takes his seat will he allow me to ask him a question?

Mr. MONEY. With pleasure.

Mr. EAMES. The gentleman from Mississippi says that before his committee there have been the publishers of newspapers and magazines and persons interested in that class of matter. Has he had before that committee anybody from the people to advocate this proposition?

This is a proposition that interests everybody throughout the country. Hence I say that no appearance in behalf of this proposition has been made before the committee.

Mr. MONEY. I will say that we have had an "appearance" in the person of my honorable friend from Rhode Island [Mr. EAMES] who argued this question very eloquently before the committee; but I am sorry to say that he did not succeed in convincing us—not from a lack of strength in his argument but because the committee saw that it would be impossible, without absolute detriment to the service, that this reduction in the rate of postage should be made. If the deficit of the Post-Office Department be increased from $6,000,000 to $12,000,000 annually, it must necessitate a curtailment of the postal facilities now enjoyed by the country. It is not expected that the postal service should be a source of revenue, but it is expected that it should be administered upon sound business principles so as to be as small a tax as possible upon the revenues of the Government, while at the same time furnishing such facilities as will meet the approbation of the people.

The question being taken on the amendment of Mr. EAMES, it was not agreed to; there being—ayes 11, noes not counted.

Mr. HARRISON. I move to amend by inserting, after the word "established," in line 9, the following:

Whenever any person in course of his business has had or may hereafter have printed matter printed upon postal cards, and the same shall not be sent through the mails, then such person may have blank postal cards furnished him in lieu of those so printed upon, on payment by such person of the cost of manufacture of the same.

Mr. Speaker, I think this amendment ought to receive the support of the House. In all our large commercial centers many business firms buy large quantities of postal cards, upon which they print their business cards or other advertising matter, to be transmitted through the country. From one cause or another they may not use these cards, and under the present law they have to lose them. This amendment proposes simply that any person who in course of business has postal cards printed may, upon returning them to the post-office, receive new cards in lieu thereof, provided he repays to the Government the cost of the manufacture.

This is a matter of no small moment to a very large number of business firms. It frequently happens that these firms get from the post-office cards to the amount of hundreds of dollars, which, after they have been printed upon in connection with the business of the firm, are never sent through the mails. The firm changes its business; or there is no longer need for advertising in the particular manner. My proposition is that in such cases business men may return these cards upon which matter has been printed and receive from the Government new postal cards on paying the actual expense to the Government. Under this provision the Government will lose nothing, and I think there can be no objection to it. A large number of business men have written to me asking that this provision be inserted in the postal law.

Mr. MONEY. Mr. Speaker—[cries of "Vote!" "Vote!"]—if there is any danger of this amendment being adopted I would like to say something; but I do not believe there is.

The amendment was not agreed to.

The Clerk read the next section, as follows:

SEC. 4. That all mail matter of the first class upon which one full rate of postage has been prepaid shall be forwarded to its destination charged with the unpaid rates, to be collected on delivery; but postmasters, before delivering the same or any article of mail matter upon which prepayment in full has not been made, shall affix or cause to be affixed and canceled, as ordinary stamps are canceled, one or more stamps equivalent in value to the amount of postage due on such article of mail matter, which stamps shall be of such special design and denomination as the Postmaster-General may prescribe, and which shall in no case be sold by any postmaster nor received by him in prepayment of postage. That in lieu of the commission now allowed postmasters at offices of the fourth class upon the amount of unpaid letter postage collected, such postmasters shall receive a commission upon the amount of such special stamps so canceled, the same as now allowed upon postage-stamps, stamped envelopes, postal cards, and newspaper and periodical stamps canceled as postages on matter actually mailed at their offices. That any postmaster who shall collect the postage due upon any article of mail matter, which he may deliver without having previously affixed and canceled such special stamps as hereinbefore provided, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of —— dollars.

Mr. OLIVER. I move to amend by inserting after the word "postage," in the fourteenth line of this section, the following:

Letters on which one rate is not prepaid shall be forwarded and double rates collected thereon at the office of delivery in the manner herein provided.

The amendment was not agreed to.

The Clerk read the next section, as follows:

SEC. 5. That mailable matter of the second class shall embrace all newspaper and other periodical publications which have been duly registered as hereinafter provided, and which shall comply with the following conditions:

First. It must be regularly issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second. It must be issued from a known office of publication.

Third. It must be formed of printed paper sheet or sheets, without board, cloth, leather, or other substantial binding such as distinguishes printed books for preservation from periodical publications.

Fourth. It must be published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and have a legitimate list of paid subscriptions, or orders from news-agents: *Provided, however*, That nothing herein contained shall be so construed as to admit to the second class regular publications designed primarily for advertising purposes.

Mr. KEIFER. I move to amend by inserting, after the word "publications," in line 19, the word "specially;" by striking out, in line 20, the word "primarily;" and by inserting at the end of the section the words "and not for dissemination to regular paying subscribers;" so that the proviso will read:

Provided, however, That nothing herein contained shall be so construed as to admit to the second class regular publications specially designed for advertising purposes and not for dissemination to regular paying subscribers.

Mr. WADDELL. I do not know that the committee have any objection to this amendment. It is a mere question of phraseology. I suppose the gentleman from Ohio is trying to arrive at the same result which the committee sought.

Mr. KEIFER. I do not wish to delay the progress of this bill, but it is perhaps proper that I should state very briefly why I offered this amendment. I believe it is reported that under a clause similar to that contained in this section a man who was so unfortunate as to be at the same time the regular publisher of a paper and also the owner of a saw-mill in the same county, inserted in one corner of his paper a notice in regard to sawing logs at his saw-mill, whereupon the Post-Office Department decided that his paper, although published regularly in all other respects, was primarily an advertising sheet and therefore could not be circulated at the ordinary rates of second-class mail matter.

Mr. WADDELL. I accept the amendment.

Mr. MONEY. I object to the amendment.

Mr. KEIFER. The object of my amendment is not to get into the law a provision which will allow any kind of publication merely for the purpose of advertising sent out under any guise whatever, to advertise the business or occupation of the men publishing it. I have drawn my amendment to guard this from any evil of that kind. I know of many publications, and other members tell me the same thing, I know notably of one publication, I have the copy of the paper here before me, that has over fifty thousand subscribers, I am told over two thousand in the State of Texas alone, which has very little

advertising patronage, paid or unpaid, very little indeed as compared with another paper I have in my hand, and I am told the Department is disposed to rule this paper with regular subscribers does not come within the rule of second-class mail-matter because it happens the publishers of the paper have another occupation if you please. They are manufacturers; but if you will read the paper you will hardly find I think—it is impossible to find a reference to their own manufacturing business in it anywhere, and there are nine-tenths of the entire print of general news for the people. If they should happen to get in a reference to the business of their own, according to the present law it will be held that it should be paid at the rate of third-class matter, as I read it.

I hold in my hand what I picked up this evening, what I would call an advertising sheet; it is called the New York Daily Commercial Bulletin. There are two or three columns that might be called general news matter; all the rest, with the exception of some little commercial quotations, is advertising matter. I have seen the Commercial Advertiser of New York with less than a column of general news in it and all the rest paid matter that may go all over the country as second class mail matter, while another paper is to be excluded on a simple technicality. The word "primarily" is in this bill, and I do not wish to mislead anybody, but I understand it is substantially the language of the present law which is unjustly applied to publishers.

Mr. WADDELL. If my friend will allow me to interrupt him I will call his attention to the broad distinction between the paper from which he has read and a paper like Baldwin's Monthly, of New York.

Mr. KEIFER. If this is published for the purpose of circulating with a regular list of subscribers my amendment excludes it.

Mr. WADDELL. Baldwin's Monthly has a large amount of really interesting literary matter.

Mr. KEIFER. If it is merely to cover up, if the gentleman will pardon me, general advertising business to be advertised by sending this out to persons not regular subscribers, then it is excluded in the mails as second-class matter under the amendment I propose.

Mr. WADDELL. It is excluded under the amendment we propose.

Mr. KEIFER. I want to still exclude it.

Mr. WADDELL. Publications of that kind which contain a great deal of valuable literary matter, but which are sheets published for advertising purposes, are excluded under our bill from the privileges of this rate.

Mr. KEIFER. My amendment excludes all publications specially designed for advertising purposes and not for dissemination of news to regular paying subscribers.

[Here the hammer fell.]

Mr. MONEY. I move to strike out the last word. Now, Mr. Speaker, the object of the amendment as provided in this bill is not to exclude the legitimate journal from getting as much advertising matter as they can. The character of the journal must be first fixed as one for the dissemination of useful knowledge. This bill says distinctly if a newspaper is devoted to some special industry it can be admitted to the privileged rate, but when it is devoted primarily, as expressed here, to advertising purposes, it is not entitled to the privileged rate, nor should it be. If a gentleman or a company have a large business and they publish a newspaper it is *prima facie* for the purpose of advertising that business, and it makes no difference how much general matter there may be to cover up that design, it cannot be concealed.

Well, the design of this bill is to exclude from the privileged rates such matter as that, because no honest business man ought to come before Congress and ask the Government to circulate advertisements at a rate which everybody knows is a dead loss to the Government.

If a man is not able to conduct his business and pay for advertisements, he ought to close his shop. But to come and ask a special rate by which the Government may promote his business is a thing that ought not to be tolerated a moment by the House.

I desire to say one word about the decisions of the Post-Office Department. So far as I know, and I have inquired particularly into this matter, the effort has been made to give a logical and just decision upon this matter; a decision that cannot be attributed to any design on the part of the Department to misconstrue the law so as to oppress the men who publish papers, because the men who attempted to get it were not covered by the provisions of the law.

The question was taken upon Mr. KEIFER'S amendment; and, on a division there were—ayes 13, noes 49.

No further count being insisted upon, the amendment was not agreed to.

The Clerk read section 6 of the bill.

Mr. BLOUNT. I move to amend the section by striking out, beginning in line 19 with the words "in case of refusals," down to and including "order thereon," in line 29, as follows:

> In case of refusal by a postmaster to issue such certificate of registration, an appeal may be taken by the publisher to the Postmaster-General. The proprietor of any publication refused registration under this section, or whose certificate of registration has been revoked under section 7, may, on proper notice, apply to the district court in the district in which the office of publication is situated for a mandamus against the postmaster to compel the allowance of such registration; and jurisdiction is hereby conferred upon the said court to hear such application and make the proper order thereon.

Mr. WHITTHORNE. I rise to oppose the amendment offered by the gentleman from Georgia, for this reason, that I am opposed to the entire section, and I am apprehensive that if the Congress of the United States commits itself to the idea that the newspapers of this country must depend upon the will of anybody before their circulation can become complete and reach the people, they will be opening the door to the establishment of a censorship in the United States; and if we are to have a censorship existing in the village postmasters or in the Postmaster General, we should concede to the citizen the right of applying to the courts of the country to enforce whatever his rights might be.

It may be that you are protecting the public revenue by this step. It may be that you are making a classification which is necessary to the revenues of the country; but I fear that you are taking a step and establishing a precedent that may lead no man to-day can tell where, and under that apprehension I shall vote to strike this entire section from the bill; but so long as it remains in the bill I shall claim for the citizen the protection of the judiciary of the country.

Mr. BLOUNT. The gentleman may strike out the section, yet this power would remain with the Postmaster-General still. It is simply a question of administration, that and nothing more. He has now the right, and it ought to be continued in him. The right to have questions of this sort tried before the courts is entirely unnecessary. I think we may trust the Postmaster-General with this power as we have always done.

Mr. SPRINGER. I move to strike out the whole section.

The SPEAKER *pro tempore*. The vote must be first taken upon the amendment to the section offered by the gentleman from Georgia, [Mr. BLOUNT.]

The question was taken upon Mr. BLOUNT'S amendment; and upon a division there were—ayes 22, noes 37.

No further count being insisted upon, the amendment was not agreed to.

Mr. SPRINGER. I move now to strike out the entire section. I am opposed to this section for the reason that it will open the way for the establishment of a censorship over the press. These publications are to be admitted to the mails under such regulations as may be prescribed, and are to be subjected to the investigation of whom? Of the postmaster at the place where the newspaper is published in the first instance, and if he should be moved by the arguments of the publisher so that he would allow his newspapers to be put into the mails, all right; but if the local postmaster should decide otherwise he must go to the Postmaster-General, and there prosecute an appeal for permission to send his paper through the mails.

Mr. BLOUNT. I would like to ask the gentleman if that is not done now; if the Postmaster-General has not the power of deciding that question now?

Mr. SPRINGER. If the Postmaster-General has the power to prohibit matter from going into the mails, that power should be taken away from him.

Mr. TOWNSEND, of Ohio. If this section is stricken out, how can a postmaster detect what is obscene literature?

Mr. SPRINGER. I do not understand that it is the duty of the postmaster to read everything which passes through the mails in his office to see whether it is obscene or not.

Mr. TOWNSEND, of Ohio. It is his duty to see that no obscene matter passes through the mails.

Mr. SPRINGER. There is a criminal law which punishes persons for sending such matter through the mails, and whenever you can determine that a man has been guilty of that offense you can punish him.

I do not propose to open the door and authorize the postmasters of this country to determine what newspapers shall be admitted into the mails and what shall not be. I prefer to provide by criminal statutes against using the mails improperly, and to punish those who do use them improperly. But to establish a censorship over the mails, which will require the publishers of newspapers all over the country to go to the postmasters in order to obtain permission to put their newspapers into the post-office, is against the free spirit of our institutions. I am opposed to the whole section and hope it will be stricken out.

Mr. MONEY. I desire to meet the objection urged by the gentleman from Illinois, [Mr. SPRINGER.] I am sure that if he were at all familiar with the law as it now exists he would not have moved this amendment, because the censorship of which he complains already exists.

I would like to know of the gentleman how the newspapers are to-day admitted into the mails, unless the postmaster has power to examine a newspaper and see whether it is a mere advertising circular or not? It is a fact that this censorship exists to-day, and the object of this section is that it may be applied logically by postmasters all over the country. Now a postmaster in California may decide that a paper is admissible to the mails, and one in Maine may decide that it is not admissible; and the one in Maine may refuse to deliver the paper after it has been carried in the mails for three thousand miles. This section is for the protection of every legitimate newspaper in the United States, and will operate only against those that are not in any proper sense entitled to have this privilege. I hope the motion to strike out will not prevail.

Mr. WADDELL. I wish to say one word, Mr. Speaker, and then I will move that the House adjourn. This subject has been under consideration by almost every publisher in the United States, by the Post-

Office Department, and by the committee of which I have the honor to be the chairman, for the past eighteen months. And now at the last moment, when everybody interested in it seems to be satisfied with it, this bill is talked to death by chin music. I move that the House now adjourn, and I insist upon my motion.

The question was taken; and upon a division there were—ayes 49, noes 30.

Before the result of this vote was announced,

Mr. CALDWELL, of Tennessee, called for tellers.

Tellers were not ordered, there being but 22 in the affirmative—not one-fifth of a quorum.

So the motion was agreed to; and accordingly (at ten o'clock p. m.) the House adjourned.

IN SENATE.

FRIDAY, *January* 24, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 6126) to establish post-routes in the several States herein named was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting an estimate of $32,200 for additional appropriations for the office of the surveyor-general of California, together with letters from the Commissioner of the General Land Office to the surveyor-general of California, explanatory thereof; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to a deficiency of $5,000 in the appropriation for telegraphing and purchase of Indian supplies; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting the indorsement of General Pope, on a communication of the commanding officer of the district of New Mexico, on the subject of the location of a post at Pogosa Springs, and indorsements of Generals Sheridan and Sherman; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a report of an inspection of the military prison at Fort Leavenworth, Kansas, by Brigadier-General R. B. Marcy, Inspector-General of the United States Army; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Elizabeth Cady Stanton, Matilda Joslyn Gage, and Susan B. Anthony, officers of the National Woman's Suffrage Association, praying for the passage of Senate joint resolution No. 12, providing for an amendment to the Constitution of the United States protecting the rights of women citizens, and also that the House Judiciary Committee be relieved from the further consideration of a similar resolution.

Mr. FERRY. If there be no objection, I ask that the petition be read at length.

The VICE-PRESIDENT. The Chair hears no objection, and it will be reported by the Secretary.

The petition was read, and referred to the Committee on Privileges and Elections, as follows:

To the Senate and House of Representatives
of the United States in Congress assembled:

Whereas more than forty thousand well-known men and women, citizens of thirty-five States and five Territories, have petitioned the Forty-fifth Congress, asking for an amendment to the Federal Constitution prohibiting the several States from disfranchising United States citizens on account of sex; and

Whereas a resolution providing for such constitutional amendment is upon the Calendar, (Senate resolution No. 12, second session Forty-fifth Congress,) and a similar resolution is pending upon a tie vote in the Judiciary Committee of the House of Representatives; and

Whereas the women citizens of the United States are joint heirs with men of this Republic, constitute one-half of the people, and have an inalienable right to an equal voice with men in the nation's councils; and

Whereas this Republic is governed by opinions, and not by force of arms; and

Whereas women citizens, being denied the right to have their opinions counted at the ballot-box, are compelled to hold all other rights subject to the favor, passions, and caprices of men; and

Whereas in answer to the appeals of so large a number of peaceable, law-abiding, honorable petitioners, it is just and courteous that the Forty-fifth Congress should express its opinion and leave its record upon this grave question of human rights: Therefore,

We pray your honorable body to take from the Calendar and pass Senate resolution No. 12, (second session Forty-fifth Congress,) providing for an amendment to the Constitution protecting the rights of women citizens; and

We further pray you to relieve the House Judiciary Committee from the further consideration of the sixteenth amendment woman suffrage resolution brought to a tie vote in that committee February 5, 1878, that it may be submitted to the House of Representatives for immediate action.

And your petitioners will ever pray.

ELIZABETH CADY STANTON,
President.
MATILDA JOSLYN GAGE,
Corresponding Secretary.
SUSAN B. ANTHONY,
Chairman Executive Committee.

Mr. SHARON. I present resolutions of the Legislature of Nevada, in favor of the passage of a law prohibiting alleged discriminations, exactions, and extortions by the Central Pacific Railroad.

Mr. President, I desire to make a single remark upon this subject. The evils complained of in these resolutions have existed for a long time and are of a very grievous character. The only power possible to control this matter of the freights and fares as between States rests with the National Legislature. Our people have a particular and a peculiar right to ask for the modification of these rates. The Congress of the United States has subsidized these roads by money and lands, the property of the people. The bounty of the Government in favor of these roads has been largely extended. When the prerogative of the Government is exercised by way of subsidy for the benefit of a corporation it assumes a quasi-public character, and I think the people have certainly a right to demand that the legislative bodies who have made this grant of moneys and lands shall see to it that they are not imposed upon by these corporations, the creatures of their creation. In other words, the creature cannot rise above the creator. We look to the power of the General Government to regulate these freights and fares, and we think on behalf of the people we have a right to demand it. I cannot too earnestly direct the attention of the Committee on Railroads and of the Senate to the wrongs complained of by the people of Nevada through both her legislative bodies now in session. They have already existed too long. I move the reference of the resolutions to the Committee on Railroads.

The motion was agreed to.

Mr. MORRILL. I present the petition of A. J. Copeland, S. P. Hebard, and a large number of other persons, of Chelsea, Vermont, praying that the bill for arrears of pensions shall pass.

The VICE-PRESIDENT. The petition will lie on the table.

Mr. MORRILL. As the bill has already passed, I desire to say that I think many of the persons who signed this petition would have hesitated about signing it if they had known the amount that would be involved, and perhaps the injustice of some portions of the practical operation of the law. I am very sure that I should have hesitated in voting for the bill if I had known the vast amount which is now reported by the Commissioner of Pensions as the probable amount that will be required to pay these pensions the next and succeeding year.

Mr. CONKLING. What is that amount?

Mr. MORRILL. It is very large. I have understood that it is something like $80,000,000.

Mr. DAVIS, of West Virginia. We cannot hear the Senator on this side of the Chamber. Did the Senator name the amount that it would probably take to carry out the provisions of that act?

Mr. CONKLING. He spoke of the amount required to execute the bill.

Mr. DAVIS, of West Virginia. I ask the Senator from Vermont whether he has information on that subject?

Mr. MORRILL. I understand that the Department are making an accurate computation of the amount, and as a rough estimate I have understood it to be asserted by the Pension Bureau that it will require $80,000,000.

Mr. DAVIS, of West Virginia. It will be recollected that it was stated here that the highest amount estimated was $20,000,000; now it is eighty million.

Mr. BLAINE presented the petition of James B. Hitchcock and others, of Bath, Maine, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. HILL presented the petition of D. H. Baldwin and others, citizens of Savannah, Georgia, praying for the passage of the bill (H. R. No. 5125) to amend an act entitled "An act for the relief of Robert Erwin;" which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BRUCE presented the petition of Adolph Feininger, of Columbia, South Carolina, praying compensation for property destroyed and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. McPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1446) for promoting the efficiency of the corps of chaplains of the United States Navy, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

AMENDMENT TO AN APPROPRIATION BILL.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

EDWARD RICE.

Mr. DAWES. I am instructed by the Committee on Finance to report back for present action, if it does not cause any debate, a small bill which provides simply for authorizing the issue of duplicate bonds for lost bonds to the amount of about $5,000. I presume it will not cause any debate.

By unanimous consent, the Senate, as in Committee of the Whole,

proceeded to consider the bill (S. No. 1660) for the relief of Edward Rice. It directs the Secretary of the Treasury to issue to Edward Rice, of Chicago, Illinois, formerly of Worcester, Massachusetts, duplicates of certain coupon bonds issued under the act of March 3, 1865, known as consols of 1867, which are specified, together with duplicates of the coupons of these bonds maturing after July 1, 1868.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. SAULSBURY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1696) directing the removal of obstructions from the harbor at the Delaware breakwater; which was read twice by its title.

Mr. SAULSBURY. I desire to be indulged by the Senate one moment while I call the attention of the Committee on Commerce, to which I shall move the reference of the bill, to the importance of action upon it. By conference with the Engineer department I find there is no authority in that department to remove these obstructions and no money by which they could remove them if there were authority to do it. I have drawn up the bill with a view to meet that condition of affairs, and I ask the committee to take it into early consideration, as these obstructions are a serious impediment to commerce. I move the reference of the bill to the Committee on Commerce.

The motion was agreed to.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1697) to restrict the immigration of Chinese to the United States; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. EDMUNDS. I ask leave, without previous notice, and at the request of gentlemen interested in such matters, to introduce a bill.

By unanimous consent leave was granted to introduce a bill (S. No. 1698) providing for security on appeals or writs of error; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. McPHERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1699) extending the limits of the port of New York; which was read twice by its title, and referred to the Committee on Commerce.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1700) to incorporate the Spanish-American Commercial Company; which was read twice by its title, and referred to the Committee on Manufactures.

WITHDRAWAL OF PAPERS.

On motion of Mr. GORDON, it was

Ordered, That the papers in reference to the claims of the State of Georgia be withdrawn from the files of the Senate and be delivered by the Secretary of the Senate to Hon. W. O. Tuggle, agent of the State of Georgia.

AMENDMENTS TO POST-ROUTE BILL.

Mr. BECK and Mr. MERRIMON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

MOBILE AND OHIO RAILROAD COMPANY.

Mr. THURMAN. I move to recommit to the Committee on the Judiciary the bill (S. No. 468) to extend the operation of the act of February 27, 1875, entitled "An act to provide for settlements with certain railway companies," for one year.

The VICE-PRESIDENT. The bill will be recommitted, the Chair hearing no objection.

WATER SUPPLY OF WASHINGTON.

Mr. DORSEY. I ask that the bill (S. No. 1529) to authorize the Commissioners of the District of Columbia to adjust and fix the water rates within said District, which I reported the other day, be recommitted to the Committee on the District of Columbia.

The VICE-PRESIDENT. The Chair hears no objection, and it is so ordered.

TRANSACTIONS OF THE TREASURY DEPARTMENT.

Mr. SAULSBURY. I desire to call up the resolution which I submitted on the 17th instant, being Miscellaneous Document No. 35.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate of the amount of commissions or other compensation paid to bankers, brokers, firms, companies, syndicates, and individuals for services in negotiating the sale of bonds and other obligations of the United States, from the year 1862 until the present time; when and to whom such commissions or compensation was paid; and, when paid to syndicates, firms, corporations, or companies, to state the names of the persons composing the same. And also to inform the Senate whether any, and, if any, what amount of commissions or other compensation has been paid to bankers, brokers, firms, companies, syndicates, and individuals for services rendered in refunding any of the bonds of the United States; and if any such payments have been made to state when and to whom made; and also whether interest has been paid on called bonds at the same time that interest was accruing on the bonds sold to redeem the same, and whether such double interest has been uniformly paid while the refunding operation has been in progress, or on bonds sold for resumption purposes, specifying whether there has been any exception to such payments of double interest, and who was Secretary of the Treasury at the time of such exception, and how much double interest has been paid on each class of bonds, and the total amount thereof; and whether the money received for bonds sold by any bank or syndicate has, in all cases, been allowed to remain on deposit with the national banks acting as Government depositories pending this call of bonds, specifying the names of the banks and the length of time during which the proceeds of the bonds sold have been left on deposit with each bank; and whether at any time any gold coin has been delivered by the Treasury to any parties concerned in the negotiation of United States bonds or otherwise in exchange for or upon the security of United States bonds, or in advance of the payment thereof, pending any call of bonds on which interest was allowed or paid up to the date of the maturity of the call; and also whether any money in the Treasury held for the payment of overdue called bonds has been left on deposit without interest in any Government depository, and what was the largest amount thereof at any one time, stating the names of the banks in which such money was deposited, and what security the Treasury held for the payment thereof when demanded.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. MORRILL. I offer the following amendment, to come in at the end of the resolution, to which I think my friend from Delaware has no objection:

Provided, That information heretofore communicated to either House of Congress shall not be repeated, but references to the documents where the same is to be found shall be made; and names of subscribers to popular loans since June, 1877, to whom no commissions have been paid or allowed, may be omitted.

Mr. SAULSBURY. I have no objection to the first clause of the amendment proposed by the Senator from Vermont; but the latter clause refers to a matter about which there is no inquiry in the resolution. That part of the amendment provides that the names of subscribers to the bonds need not be given. I have made no such inquiry in the resolution itself. I am sure the Senator from Vermont does not wish to obstruct the full inquiry which is proposed by my resolution, but I can conceive how his amendment if agreed to may do so. It may be that some syndicate or bank has subscribed for the bonds and the Government at the same time allowed commissions for the sale of the bonds.

Mr. MORRILL. But the Senator will see that I have provided that the response shall only exclude those to whom no commissions have been paid.

Mr. DAVIS, of West Virginia. Let the amendment be reported again.

The amendment was read.

Mr. SAULSBURY. I observe it does omit those to whom no commission or compensation has been allowed.

Mr. MORRILL. I merely desire to say that the amendment is simply intended to obviate an immense amount of labor on the part of the clerks in reporting a great many thousand subscribers for very small sums, fifty and one hundred dollars.

The VICE-PRESIDENT. The Chair understands the Senator from Delaware to accept the modification proposed by the Senator from Vermont.

Mr. SAULSBURY. Yes, sir.

The VICE-PRESIDENT. As thus amended, will the Senate agree to the resolution?

The resolution, as amended, was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the act (S. No. 1374) authorizing the chancellor of the Smithsonian Institution to appoint an acting secretary in certain cases.

ADJOURNMENT TO MONDAY.

On motion of Mr. THURMAN, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

POST-ROUTE BILL—REVENUE LEGISLATION.

Mr. FERRY. Mr. President, at the close of the last session the conference committee on the part of the Senate made a report upon the bill (H. R. No. 4286) to establish post-roads in the several States herein named, and for other purposes. I ask that that report, as it was not adopted at that time, be taken up for action with a view to asking for a further committee of conference.

The report was read, as follows:

The committee of conference on the resolution of the House of Representatives, dated June 15, 1878, as follows:

"*Resolved*, That House bill 4286 'to establish post-roads in the several States herein named,' with the Senate amendments thereto, be returned to the Senate, as a part of said amendments are in the nature of and constitute a revenue bill," have met, and after full and free conference have been unable to agree "touching the matters of difference between the two Houses" indicated by said House resolution.

The conferees upon the part of the Senate proposed to waive all discussion as to the questions of privilege at issue between the two Houses and to take up the House bill No. 4286 with the Senate amendments thereto, and consider them for the purpose of making a report upon the several matters embraced therein.

The conferees upon the part of the House decline to agree to this proposition for the reason that they do not, in their opinion, possess any power, under the resolution of the House, to consider the bill or amendments, without an enlargement thereof.

S. J. KIRKWOOD,
A. S. PADDOCK,
S. B. MAXEY,
Managers on the part of the Senate.

J. G. CANNON,
J. G. CARLISLE,
A. M. WADDELL,
Managers on the part of the House.

The VICE-PRESIDENT. What action does the Senator desire?

Mr. FERRY. I ask that the report be concurred in.

Mr. WHYTE. I should like to inquire how many conferences there have been upon this bill?

Mr. FERRY. There have been two conferences. This is the report of the second conference. I will state to the Senator from Maryland that I understand there is perhaps a possibility of an agreement between the two Houses at the present time, and with that understanding the Committee on Post-Offices and Post-Roads have instructed me to ask for a further committee of conference, for the purpose of testing whether the two Houses can agree upon the measure.

Mr. KERNAN. I desire to ask whether one of the disagreeing amendments put upon that bill by the Senate was not what is known as the subsidy for steamship lines? If so, I do not think the bill should go back to a conference, as that amendment was passed by the Senate in the hasty hours at the close of the last session. I prefer that that proposition should come up in the regular way.

Mr. FERRY. I will state to the Senator from New York that in the conference committee the merits of the amendments to the bill were not fully considered, because the conference did not reach to them; but I will answer directly the question put by the Senator from New York by saying that the amendments do include a provision for what is called a subsidy. The object of another conference is to see whether the two Houses cannot agree to the bill in the main either by striking out that or other objectionable features.

It is the desire of the committee to suggest to the Senate that a further effort be made on the part of the Senate for an agreement between the two Houses. After that shall have been done by the appointment of a third committee of conference, the Senate will have done its duty.

Mr. HAMLIN. Mr. President, I want to invite the attention of the Senate to the condition of this question, because I think there is a great deal more in it than Senators will suppose, unless they have given to the subject more attention than they give to ordinary questions. The House of Representatives have declared, according to the report of the conference committee, that some of our amendments to this bill are in the nature of a revenue bill, and upon that ground they refuse to consider them at all. It is very clear that if there is an amendment in the nature of a revenue bill, the House is right and the Senate is wrong. I do not believe the Senate as a body or any of the members that compose this body has the slightest disposition on earth to intrench upon the privileges of the House or to seek to originate a revenue bill. What is the objection? It may be right, it may be wrong; it is necessary to settle a question of right or wrong in our action. We added an amendment to the bill providing for mail service between the United States and Brazil. If that be a revenue measure, if the spending of money is the raising of money and if the House is to take that ground, when we pass a bill that calls for an expenditure of money, folding their arms in dignity around them and saying "this is a revenue bill and we will not consider it," it is a matter which challenges the attention of the Senate and we must not, unless we are unfaithful to the trust reposed in our hands, seek to avoid it. If it be a revenue measure to add an appropriation for mail service between Brazil and the United States because it appropriates money, there is hardly a bill that originates in this body but may be taken as a revenue measure just as much as that.

Mr. PADDOCK. Will the Senator allow me a word?

Mr. HAMLIN. Certainly.

Mr. PADDOCK. I desire to state that the question of this being a revenue bill was not raised in connection with the appropriation the Senator speaks of. It was raised in connection with the subject of changing the rates of postage, which was considered to be a change of the revenue laws in reference to the support of the Post-Office Department.

Mr. FERRY. If the Senator from Maine will allow me a moment, I desire to call his attention to the fact that more especially was the objection raised upon the point of the admission of books free of duty that were admitted by the other members of the postal union. A clause in the bill permits books that are admitted free in the foreign mails to be admitted free in the mails of the United States, and on that point the House said it was an interference with the revenue, and therefore beyond the province of the Senate.

Mr. HAMLIN. I was not present at the time of the action of the committee, but I gathered the objection which I supposed I was making from one of the members of the conference committee, having myself been absent. I understood that the distinct ground taken by the House was that the appropriation was in the nature of a revenue bill. I suppose I may be allowed to refer to the records of that body, and the records of that body show that they absolutely refused to vote upon that proposition. Hence I drew the inference that that was the clause to which they objected. But if you place it upon the other clause, to wit the admission of books from a foreign country free of duty, the answer I think is equally clear and plain that under the treaty-making power a treaty was negotiated by which such books were to be admitted as stipulated free of duty; and the law which we propose does not seek to vary the existing law, but to make it susceptible of being carried out properly and harmoniously by proper provisions of law. It was upon the other point, however, that I was mainly interested, and if I was wrong in that, as I am now told by members of the committee of conference I was, I then will say I have no objection that there shall be another conference.

Mr. KERNAN. The difficulty alluded to by the Senator from Maine, whether the appropriation of money, as is done by this bill, belongs to a bill which must originate in the House, I hope will not be settled upon the bill in question. The bill in question is one to establish post-routes. There were put upon that bill in this body provisions in reference to running two lines of steamers under a contract, with a large subsidy to each, from the ports of New York and New Orleans. That proposition should come up as a distinct and separate measure. That has been the practice in the past. In 1865, when the experiment was tried by a contract for a line of steamers under a subsidy of $150,000 a year from New York to Rio, it was done by a distinct bill covering that subject. As that is a question that ought to be settled upon its merits I object to any action which will have it settled on a bill relating to post-routes, where men may be forced to vote for other reasons than upon the merits of so important a measure as these subsidies, involving as they do the expenditure of three millions of money. Therefore, I hope we shall not take it up now. If there are merits in these subsidies for steamship lines we have half the session before us to have a distinct bill on that subject brought in and acted on upon its merits.

There was in this post-route bill also that went to the conference committee put on here, if I remember aright, a provision by which the franking privilege as to all matters substantially was restored. I, for one, do not wish to have that put on as an amendment to the post-route bill, and acted upon in that way. I trust, therefore, we shall not send this conference report back; but if there is a question on which the Houses differ, important as I conceive that to be which was mentioned by the senior Senator from Maine, let us raise a committee and have that acted upon and settled by itself. At the very last hours of the last session these amendments were put on the bill. I hope now it will not be sent back to have those questions come up again as a part of the report of a conference committee to be voted on as a whole. Let those two measures stand on their merits, particularly the subsidy feature, which is very important.

Mr. FERRY. The Senator from New York is laboring under a misapprehension when he says the restoration of the franking privilege was a feature embodied in this bill.

Mr. KERNAN. I said it was an amendment put on in the Senate, as I understood.

Mr. FERRY. An amendment was added extending it to certain officers, so as to treat the officers of the Government alike, but not a general franking privilege.

Mr. KERNAN. Then I withdraw that remark. I thought we put on a general franking privilege.

Mr. BLAINE. I think the Senator from New York is correct in that. A general franking privilege is upon the bill by an amendment of the Senate.

Mr. KERNAN. I think we put it on as to all official correspondence. I do not want to have to define what is official and what is not, but that is a minor matter. The other was a thing that I think should not now at this stage of the session or at any other stage be sent to a conference committee. It is important legislation in itself as a precedent as to giving subsidies to steamship lines, and it should not be on such a bill, but should come up in a distinct measure, as was the case I know in 1865, when a subsidy measure was passed on its merits, and I hope this will be.

Mr. FERRY. I spoke from recollection; I may be incorrect or I may be right. The matter stands thus: The Senate adopted several amendments to the House bill providing for certain post-routes. The House, instead of considering the amendments, refused to act upon them, and acceded to a committee of conference asked on the part of the Senate. When the conference met the House managers were unwilling to consider the merits of the amendments, it being near the last day of the session. There was not in fact time perhaps to consider the merits of the whole question. Therefore the conference committee agreed to report that which is now pending for adoption.

The object of asking for a third conference is to see whether the two Houses can now agree; whether, in other words, the conference committees can agree to act on the merits of the question submitted to them in the amendments and not on a question of the privileges of the two Houses. That is my object, and none other. It may be found, if another conference committee is appointed and the conferees meet, that the House managers may be disposed to meet the Senate managers and consider the amendments, and may be willing to suggest to the two Houses the rejection or adoption of modifications to the bill. If that should be accomplished, then the object of the Senator from New York perhaps might be reached. Until that is tested we cannot understand whether there can be any agreement whatever between the two Houses. It has been intimated very directly that there might be an agreement between the two Houses if another conference committee was appointed, and I trust the Senate will be disposed to adopt the report. At least they should act on the report made by their conferees and then try a third conference, when my impression is that some agreement will be reached.

Mr. KERNAN. I desire that the Clerk shall read the amendment we put on this bill about the franking privilege, so that it may be seen whether I was right or wrong in regard to that matter.

The VICE-PRESIDENT. The Secretary will report that particular amendment to the bill.

The Secretary read as follows:

Provided, That the President and Vice-President of the United States, Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send free through the mail written or printed

communications not exceeding two ounces and a half in weight, and the name of the President, the Vice-President, and of each Senator, Representative, Delegate, Secretary of the Senate, or Clerk of the House of Representatives shall be written on the letters or communications which they shall respectively send through the mail.

Mr. KERNAN. That was according to my recollection.

Mr. FERRY. I stand corrected from the record. My impression was that the amendment offered covering that entire ground was rejected by the Senate. I find it was adopted. The Senator from New York was correct.

Mr. SAULSBURY. I was not at the meeting of the Committee on Post-Offices and Post-Roads when the chairman was directed to call the attention of the Senate to this conference report of the last session. If I had been present I should have voted against bringing it before the Senate. It seems to me to be entirely unnecessary. If I understand the case it is simply this: At the last session we passed a certain bill having certain features upon it in reference to subsidies and the franking privilege and sent it to the House of Representatives. They declined to consider our bill and so informed the Senate, whereupon a committee was appointed to confer with a committee on the part of the House to see whether the matter could not be arranged so that the bill could be considered by the House. That conference committee, as it is termed, failed to bring about an arrangement whereby the House would consider the bill sent to them by the Senate; but I apprehend that it is competent for the House now, if they think proper, to take up the bill which we passed at the last session and consider it without any action of the Senate in reference to this conference report. The bill, I suppose, is either on the files of the House or on the files of the Senate. If on the files of the House they can take it up at once; and if it is on the files of the Senate, then it is here in the Senate.

Mr. FERRY. If my colleague on the committee will allow me, I will say that is all true enough, but I do not suppose the Senator desires to relieve the Senate of its duty and obligation to try to its fullest extent to reconcile the disagreement between the two Houses; and it is with that view that I have made this motion. My colleague on the committee was not at the last meeting of the committee or he would know that I am acting under instructions of the committee. The committee thought another committee of conference might gain the object sought by the former one, that we being now in a different session, with perhaps a different temper of the two Houses, an agreement might be brought about.

Mr. SAULSBURY. As I understand, a bill has passed the House on this same subject.

Mr. PADDOCK. I should like to ask the Senator a question.

Mr. SAULSBURY. I only propose to occupy a moment.

Mr. PADDOCK. I ask him if he means to say that this bill having been returned from the House to the Senate after disagreement by a conference committee can yet be considered by the House? This bill is in the possession of the Senate.

Mr. SAULSBURY. The House, I suppose, by resolution could obtain the consent of the Senate to have it returned to that body, if it sees proper to act on it.

Mr. PADDOCK. Possibly the House might adopt a resolution requesting the Senate to return it; but is it not more proper, the Senate having possession of the bill, and there having been a disagreement of one conference committee, that the Senate itself should now take the initiative?

Mr. SAULSBURY. It is common in legislative bodies, when bills have been sent from one body to the other, for the latter to allow the previous body to send and get them, if it wishes to take further action.

Mr. PADDOCK. It is an exception.

Mr. SAULSBURY. But I was about to say that a new post-route bill has come to this body from the House. Why not take up that bill, amend it, if amendments are necessary, and act on that bill without raising this question, which caused unpleasantness between the two Houses at the last session? As far as I am concerned, I wish to deal in practical legislation, and not engage in discussion about abstract matters of privilege between the two Houses. Let us take up the post-route bill just sent to us, pass it, and send it back to the House; and, if we deem it proper, amend it. Why raise this question of privilege between the Senate and the House? Nothing practically can result from it, in my opinion.

Mr. FERRY. I answer my colleague on the committee by saying that there are other matters besides the two that have been mentioned, namely the franking privilege and the Brazilian subsidy as it is called, or rather the proposition to establish a line between the United States and Brazil. There is the transportation question and there is the question of the rates of postage and that of the reclassification of mail matter, which are very important measures, deemed so by the Department.

Now, it seems to me that the surest and most direct method of arriving at an agreement upon any proposition on this bill is to appoint another committee of conference and test the House whether they are willing to meet the Senate upon the merits of the questions of disagreement now pending between the two Houses. It is with that view, and that seeming to be the most direct way, that instead of taking up the bill which now lies here merely covering post-routes, I have moved to appoint another conference committee, so as to test the House. If upon making the attempt it is found that they are unwilling to consider the merits of the question, the conference committee can report to the Senate, and the Senate can take such action as it deems proper.

Mr. HAMLIN. I want to say one word in relation to this latter bill that came from the House, and I think that is a matter to which the Senate ought to give its attention.

We have here to-day a bill embracing a variety of subjects. It is first called a post-route bill, and then there are added to it sundry other matters, and all of those matters have received the favorable action of the Senate. It went to the House. The House refused to consider it and returned the bill to us. We have therefore now before us the original post-route bill of the House, to which the Senate made its amendments; and now, while the bill is in conference and while it is pending between the two Houses on the disagreeing votes, the House deliberately extracts from that bill a part of it in the very words in which it stands in this bill and incorporates that part into a new bill, passes it in the House, and sends it up to us.

I hold that that is improperly here, and whenever we can get at that bill I shall submit a motion to return it to the House. We can do no other way and maintain our own self-respect. What becomes of your committees of conference? Here is a bill as to which we solemnly believe and record our votes that a certain thing should be done, and we amend it accordingly, and we return it to the House with those amendments. A committee of conference is appointed, and then, to avoid voting upon what the Senate believes right and just and which may affect all of the States, the House simply takes their original bill and re-enacts it and sends it to us. This is unparliamentary; it is disrespectful to this body; and I think there can be in all the history of this Government found but one example like it, and in that case the Senate refused to act upon the bill that was sent to it.

There is therefore no way out of this matter that I can see but to take up this bill and act upon it in a sensible way, and invite the attention of the House to the consideration of it; and as the chairman of the Committee on Post-Offices and Post-Roads has suggested, there have been such intimations made to him as lead him to believe that a result may come out of our present difficulty, but never in propriety can we take a bill which is a part of the bill upon which we have acted when it has gone to a conference and consider it here subsequent to the action which we had on the original bill.

The VICE-PRESIDENT. The morning hour has expired. Is there objection to this subject being finished?

Mr. WHYTE. I object.

The VICE-PRESIDENT. Objection is made.

Mr. FERRY. I move that all prior orders be laid aside.

The VICE-PRESIDENT. The Senator from Michigan moves that the pending and all prior orders be laid aside for the further consideration of this conference report.

Mr. FERRY. I ask for the yeas and nays to test the Senate.

The yeas and nays were ordered.

Mr. MERRIMON. I beg the Chair to state the question.

The VICE-PRESIDENT. The question is whether the pending and all prior orders shall be laid aside in order that the Senate may now dispose of the conference report on the post-route bill.

Mr. BLAINE. One single moment, although it may not be in order. I apprehend from what is said by the chairman of the Post-Office Committee that there is no intention of debating it. It is not to occupy time. It is a mere question as to whether the Senate will order a new conference.

Mr. WHYTE. It will occupy a good deal of time.

Mr. HAMLIN. Then let us have it now.

Mr. BLAINE. We might as well take the time now as at any other period. It need not occupy time.

Mr. MATTHEWS. On this question I am paired with the Senator from Indiana, [Mr. McDONALD.] I therefore decline to vote.

The question being taken by yeas and nays, resulted—yeas 31, nays 22; as follows:

YEAS—31.

Allison,	Conkling,	Howe,	Plumb,
Blaine,	Dawes,	Johnston,	Rollins,
Burnside,	Dorsey,	Jones of Nevada,	Sargent,
Butler,	Ferry,	McMillan,	Sharon,
Cameron of Pa.,	Garland,	Maxey,	Spencer,
Chaffee,	Hamlin,	Merrimon,	Windom,
Christiancy	Hill,	Mitchell,	Withers.
Cockrell,	Hoar,	Paddock,	

NAYS—22.

Bailey,	Eaton,	Kernan,	Thurman,
Beck,	Gordon,	Lamar,	Voorhees,
Booth,	Grover,	McCreery,	Wadleigh,
Davis of Illinois,	Harris,	McPherson,	Whyte.
Davis of W. Va.,	Hereford,	Morgan,	
Dennis,	Jones of Florida,	Saulsbury,	

ABSENT—23.

Anthony,	Coke,	Kirkwood,	Randolph,
Armstrong,	Conover,	McDonald,	Ransom,
Barnum,	Edmunds,	Matthews,	Saunders,
Bayard,	Eustis,	Morrill,	Teller,
Bruce,	Ingalls,	Oglesby,	Wallace.
Cameron of Wis.,	Kellogg,	Patterson,	

So the motion was agreed to.

The VICE-PRESIDENT. The question is, will the Senate agree to the report of the committee of conference and grant a new conference?

Mr. WHYTE. Mr. President, I desire to say but a word to the Senate upon the question involved in the adoption of the report of the committee of conference. I did hope when the Nestor of the Senate announced to the Senate that this question involved the dignity of this body, that he intended to stand upon that dignity and repel the insinuation of the House that we were not conscious when we were violating the Constitution. I did hope that the Senator from Maine [Mr. HAMLIN] would arouse that spirit in this body which would compel us to stand upon our rights, and to feel that we had been treated with indignity by the other branch of Congress; but I was sorry to find before the distinguished Senator from Maine concluded his remarks that he was disposed to treat again with the House upon a subject which involved our dignity. I was sorry to find him willing to consent to a committee of conference when we had reached a point in the interviews between the two Houses when our dignity forbade any further discussion of the subject between the two branches of Congress.

The House of Representatives sent us a post-route bill in the ordinary course of legislation. The Senate attached to that bill various amendments, one of which revived the franking privilege; another introduced some different rule in regard to books in the mail; and another contained a donation to one John Roach, of Chester, Pennsylvania, for doing us the honor to fly the American flag. Those amendments were sent to the House of Representatives. They refused to accede to them. A committee of conference was the result. A conference was had. The conferees disagreed and so reported to the Senate. The Senate appointed a second committee of conference. That committee met a committee of like character from the House. They had no discussion of the amendments at all. No effort was made to reconcile the disagreements between the two branches of Congress. No discussion in regard to the different views which prevailed in the two branches was had—nothing whatever looking to a settlement of these controversies and the passage of a bill which would be a reconciliation of the disagreement.

Mr. FERRY. Will the Senator allow me?

Mr. WHYTE. Certainly.

Mr. FERRY. Having been a member of the conference committee, I would inform the Senator from Maryland that the conferees on the part of the Senate were not only desirous of considering the merits of the amendments and the bill, but insisted upon it; and there was discussion upon the merits generally and specifically. But the House conferees took the ground, as stated in their report, that they were unwilling then to consider and act upon the merits of the bill and the amendments.

As I stated before, if the Senator will allow me a word or two more, my only object now was to secure an agreement, having understood that the House perhaps might be disposed at this day of the session to consider the merits of the bill and amendments inasmuch as they include matters of importance to the country. I thought perhaps the most direct, effectual, and early method of reaching an agreement would be by another conference, and the fact of two conferences having been appointed does not prevent the appointment of a third or a fourth or a fifth, if by repeated conferences an agreement can finally be had between the two Houses.

Mr. WHYTE. I am much obliged to the Senator from Michigan, as I am to all Senators for any light that can be thrown on a subject under discussion; but I was speaking from the record, and I insist that according to the record there was no official discussion of this question of disagreement between the two Houses. What conversation took place between the individual members, of course I know nothing of; that belongs to the breasts of the gentlemen who composed the conference committee from the two Houses. I speak of the Journal; I speak of what appears upon the face of the public papers; and I assert that according to the report of the conference committee there was no discussion in regard to the special amendments about which it was supposed there was disagreement. On the contrary, the managers of the conference on the part of the Senate were met *in limine* by the barrier to discussion of those special measures by the resolution adopted by the House of Representatives. They were told at the outset: "We cannot entertain with you any discussion as to the merits of your amendments, as to whether they will promote the commerce of the country or be beneficial to the people or not. The merits of your amendments cannot be inquired into. We meet you at the outset with a resolution of the House of Representatives which tells you that by your amendments, or some of them, you have infringed their right under the Constitution. You have interfered with their power to originate revenue measures, and therefore it is not a subject open for discussion between the two Houses, involving as it does the dignity of the House of Representatives."

What is the use of talking about a conference when that is the answer made to our proposal for consideration, for discussion of these amendments? Why should we go down upon our knees and beg the House of Representatives to give us audience? Why should we, when they send back to our table here with discourtesy our amendments to their bill and tell us "We want no consideration of your amendments; we do not mean to consider them; you have violated our rights; you have put amendments on a bill that you had no right to put upon it, and we send it back and tell you to read your Constitution to learn the powers which belong to the Senate; confine yourselves to the strict limits set for your legislative duties"—why should we propose to confer with them further?

Mr. PADDOCK. In view of the fact just stated by the Senator from Maryland, I would like to call his attention to this other fact, that it is shown by the record that this bill as sent to the House was not read at all in the House. The House itself could not take knowledge of the fact that there was any such attempt on the part of the Senate to infringe its rights. The bill was not at all considered in the House, was not read even by its title. It was assumed that there was something in the bill which the House might not agree to, and therefore arbitrarily they adopted this resolution and sent it back to the Senate.

Mr. WHYTE. I thank my friend from Nebraska for that suggestion. It only shows you how strong was the feeling in the House when they would not allow the bill to be read, even with its amendments, by the Clerk at the table.

Mr. PADDOCK. I should like to ask the Senator from Maryland if he considers that to be due courtesy and propriety on the part of the House in the consideration of a matter sent to it from the Senate?

Mr. WHYTE. On the contrary, I am standing up for the dignity of the Senate.

Mr. PADDOCK. And that is all the question there is before the Senate to-day.

Mr. WHYTE. Certainly it is, and we ought to stand on our dignity and not allow the House to treat us in this way; let their bill lie forever on that table.

Mr. FERRY. Will the Senator from Maryland allow me a moment? The Senator stated, I think, that in the conference committee, as far as the record disclosed, there had been no discussion upon the merits of the bill. Of course the discussion does not appear, neither does it appear in the record of any conference committee; the results are merely submitted to the respective Houses. Now, as corroborative of what I stated I call the Senator's attention to the report, which says:

> The conferees upon the part of the Senate proposed to waive all discussion as to the questions of privilege at issue between the two Houses, and to take up the House bill No. 4286, with the Senate amendments thereto, and consider them, for the purpose of making a report upon the several matters embraced therein.

Showing by the report on the part of the conferees of the Senate a disposition on their part to waive the question of privilege and take a vote on the merits of the amendments to the bill. So I think upon the record, the Senator's attention being called to it, it appears that the Senate through its committee was disposed to consider the merits of the bill and amendments and waive the question of privilege between the two Houses.

Mr. WHYTE. Why, Mr. President, I did not say a word about the Senate branch of the committee of conference. On the contrary, I have no doubt they did everything in their power to induce the managers on the part of the House to look at the question; but they refused to look at it at all. That was what I said. I am not corrected at all. The Senator only confirms me in what I have already asserted. Now, what did the managers on the part of the House say to the managers on the part of the Senate?

> The conferees upon the part of the House decline to agree to the proposition.

It is perfectly true that the managers of the conference on the part of the Senate did all in their power to induce the managers on the part of the House to listen to reason, to hear argument.

Mr. PADDOCK. Will the Senator allow me one word?

Mr. WHYTE. Certainly.

Mr. PADDOCK. I happened myself to be upon the last conference committee. There was a disposition on the part at least of two of the House conferees to consider the bill upon its merits, but they felt themselves precluded from doing so because of the resolution of the House. The House itself never having considered the question at all in any of its aspects, its resolution precluded them absolutely from considering any branch of the question.

Mr. WHYTE. Now, Mr. President, all this testimony, which I knew nothing about, which is being furnished by the managers on the part of the Senate in that conference, is only confirming what I have said, that in another conference committee no managers appointed upon the part of the House, with the resolution of the House standing not reconsidered and standing as the law for their guidance, can discuss this subject.

Mr. CONKLING. Will the Senator from Maryland allow me to gain some information from him? I have listened with some surprise to the statements of what took place in the House as to refusing to hear the bill read and so on. I am not one of the members of this body especially tender-footed about referring to what goes on in the House. If I were I should submit to the Chair and to at least two Senators that the Senate has a right to know and to know only what the House says to us, namely whether it agrees or disagrees to our amendments, but it has no right to know what they refused to do in the House or what the other incidental proceedings may have been, or as my friend from California [Mr. SARGENT] naturally adds what is done by conference committees except so far as the report made to the Senate shows?

However, waiving all that, I understand the Senator from Maryland to address a very earnest and lucid argument to the point that the House having refused on the ground of its own privilege to consider the amendments of the Senate, thereby it becomes, even improper I think he argues, certainly not worth while, for the Senate to propose a further conference. Now, I inquire of the Senator from Maryland in what respect this case differs from the very numerous

cases during my term in the Senate in which conference committee after conference committee has been appointed on this very topic, namely, the privileges of the two Houses. I remember that the Senator from Indiana [Mr. VOORHEES] who a moment ago was in his seat—he is not now—was one of the managers on the part of the House on an occasion when as one of the managers on the part of the Senate I devoted not only days but nights to an attempt to agree upon a report which should settle that a certain bill was not a money bill within the meaning of the parliamentary law, the House having in that case in very strenuous language denied that the Senate had any right whatever over the subject which it had assumed, and conference committee after conference committee was appointed, and the then Senator from Pennsylvania, Mr. Scott, made at last a report, a very elaborate and able report, on that subject.

If my friend from Maryland is right, if I understand him, all that was quite outside the purpose, if not beneath the dignity of the Senate, the House having risen with some animation and said that it declined to consider at all amendments or a bill which had been passed by the Senate because the legislation was in the nature of a money bill, as they say in the British Parliament, a bill for raising revenue as the Constitution of the United States says, the whole matter was a usurpation on the part of the Senate, they would not entertain any such thing. That is what they said then; that is what they have said several other times; and it is to reconcile that difference between the two Houses, to come to an agreement so that the two Houses may be at one, that conference committees are appointed, not only in such cases, but in all cases whatsoever of a difference between the two Houses; and the parliamentary law, like the rules of the Senate, incessantly enjoins upon us to remember that the duty of two parliamentary bodies is to come together if they can, and therefore a motion to concur always takes precedence of a motion to adhere, and every motion and every step tending to bring the two Houses together is preferentially considered as against every motion tending to leave the two Houses apart.

The honorable Senator from Massachusetts [Mr. DAWES] is kind enough to hand me the report, to which I venture to draw the attention of the Senator from Maryland. It is dated the 2d of March, 1871:

Mr. Scott, from the committee of conference appointed by the two Houses to consider the question as to the power of the Senate to originate the bill (S. No. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes and for other purposes," as continues the income tax after the 31st day of December, 1869, submitted the following report.

And then follows an argument which I venture to say in the absence of its author might be read by every Senator who has forgotten it with instruction and with profit, because it presents with great ability and in very lucid terms the law on this subject. There is an instance, and I ask the Senator from Maryland why it is that in this case the same proceeding, so customary, here falls so far below the dignity of the Senate or else so entirely beside the ordinary purpose and custom of our action?

Mr. WHYTE. Mr. President, if I have failed to incite any enthusiasm on the part of the distinguished Senator from New York toward the preservation of the dignity of this body, I must confess that I have been certainly very remiss in the effort to make myself understood. I do not know that it is within my power to explain satisfactorily to the Senator from New York the distinction between the class of cases to which he refers and this particular case; but it strikes me that this case presents a very different one from any he has had to deal with in this body since he has been a member of it. Every parliamentarian who has spent any portion of his life in almost any legislative body I presume understands the object and the necessity of conferences. Everybody knows that a committee of conference is a parliamentary device to reconcile disagreements between two branches of a legislature. Everybody knows that when a conference committee is appointed, it is appointed for the purpose of discussing the question involved by the amendment which has been put upon a bill in either House. Conferences of that character are always favored; there may be one, two, three, four, or five, the last being, as they are called in parliamentary bodies, full and free conferences, giving the widest latitude to the managers on the part of either House, so that there may be some reconciliation of conflicting view and a law be the outcome of the discussion in the two branches. I understand that, and I understand perfectly the question which was involved and which was decided by the Senate under that report made by the Senator from Penhsylvania, [Mr. Scott.] In that case a bill originated in this body; it was taken up in the Senate and passed here. It was sent to the House, discussed in the House; it was considered in the House; and the House took the ground that it was a revenue measure, and ought to have originated in that body, and the House appointed a committee to discuss that question with a conference committee on the part of the Senate. The disagreement there was upon a bill considered in both Houses; considered here where it originated and found its form and first existence; considered in the House, deliberately considered; the point made that it was a revenue measure, the point discussed, and it then sent back here, the House making that point for the Senate to discuss; the Senate appointed a committee of conference, the House a committee, and they discussed it thoroughly because that was the disagreement upon the bill.

Now, if the Senator from New York who asked me a question will allow me to answer it in his hearing, I will show him—and his aptness, I think, to appreciate a distinction will in this case come to my aid—the distinction between this case and any other case of conference with which he has had to deal.

This bill came from the House proposing a vast number of new post-routes. The Senate considered it. The Senate made sundry amendments as to post-routes; it added an amendment in regard to the franking privilege; it added an amendment in regard to the postage upon books; it added an amendment in the nature of a subsidy to the Brazilian steamship line of John Roach. Those two amendments with the bill went back to the House of Representatives. Now, I ask my friend to give me his entire attention.

Mr. CONKLING. I hear every word the Senator says.

Mr. WHYTE. The Senator possesses the power of reading and hearing at the same time probably, but I want to call his attention to this particular point. When the bill went back to the House and was taken up for consideration by the House, the House refused to consider these amendments at all. The House did not consider them at all. The House refused to inquire whether they were for the good of the people, whether it would conduce to the honor and the glory of our country to subsidize this line or not. The merits of the amendments never came into discussion, never were considered by the House at all. The subject was never, therefore, in the deliberation of the House of Representatives at all, not even for a moment. On the contrary, without considering the amendments, refusing to concur in them, sending them back to us, thereby making the basis on which should arise a committee of conference between the two Houses, the House took the bill *in solido*, without reading the amendments, and by a solemn resolution, passed by a majority of its members, returned the bill to the Senate with this declaration; this is the resolution:

Resolved, That House bill No. 4286, to establish post-roads in the several States herein named, with the Senate amendments thereto, be returned to the Senate, as a part of said amendments are in the nature of and constitute a revenue bill.

Therefore they did not consider the amendments, and to-day not one manager in this Senate can rise in his place and point out which one of our amendments the House disagreed to.

Mr. CONKLING. Does the honorable Senator reach the time when it is proper for me to ask him whether that is the distinction on which he insists? He has stated it very clearly, and I perceive his point. Is that the distinction which he says should prevail?

Mr. WHYTE. That is one of them. If my friend from New York will allow me to get through, I will give him another.

Mr. CONKLING. Of course I will allow the Senator to permit me to speak when he concludes; but if it be agreeable to him I should like at this point, as to that distinction which he has stated, to show him, if I can, that if the cases differ, the difference is in favor of the Senate in this instance, not against the Senate, in favor I mean of proceeding to a conference and not of refusing it. But if I incommode the Senator, I shall not proceed.

Mr. WHYTE. Not at all. I will hear the Senator with pleasure.

Mr. CONKLING. Then I remind the Senator from Maryland that in the case of the income tax the action of the House, as I will read it to him, was exactly the action of the House in this case as he has read it to the Senate. I read now from the report submitted by Mr. Hooper, one of the managers on the part of the House:

On the 26th of January, 1871, the Senate passed a bill (S. 1083)—

In reference to the income tax.

Believing this bill, thus originating in the Senate, to be one which the first clause of the seventh section of the first article of the Constitution required to originate in the House of Representatives, and therefore an invasion of the privileges of the House, when it came over from the Senate on January 27, 1871, the House immediately adopted the following resolution:

Resolved, That the Senate bill (S. 1083) "to repeal so much of the act approved July 14, 1870, entitled 'An act to reduce internal taxes, and for other purposes,' as continues the income tax after the 31st day of December, A. D., 1869," be returned to that body with the respectful suggestion on the part of the House that section 7, article 1, of the Constitution vests in the House of Representatives the sole power to originate such measures.

The action of the House in this case was the imitation of the action of the House there. Doubtless whoever drew that resolution took this or some other customary form which has become by use stereotyped for such occasions. Thus there is no distinction so far; but the Senator from Maryland will say, because he is too astute ever to forget to say what properly belongs to his case, that he points out to me that here is not a bill originated by the Senate as in the instance of the income tax, but a bill originated by the House which the Senate has proceeded to amend. I insist upon that distinction because it carries back the mind of the Senator and of myself to the source of all these distinctions and the great volume of instructions upon them; it carries us back to the practice of that Parliament which existing for eight hundred years has by precedent made up that body of practice called the parliamentary law. By the constitution of England, unwritten but exact in that regard at least as it is, money bills were always committed exclusively to the Commons. It was said that the Crown could lay no taxes in England, that taxes so called or revennes were the voluntary tribute, the chosen rendition of the subjects of the British Crown; and therefore philosophically the Commons, and never the Lords, could raise revenue or impose taxes. But even with that special reason growing out of the circumstance that England was a monarchy with all its intendments, there came very early to

exist in the British Parliament, before our fathers wrote our Constitution, this understanding:

> That all aids and supplies * * * * * ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed by the House of Lords.

There was the understanding entered upon the orders of the two Houses of Parliament, very early fixing a rule at least as stringent as the Constitution ordains, and yet long, long ago and ever since it was held in the British Lords that the Lords could amend money bills, those bills having originated in the Commons and come up to the Lords.

Now, then, apply that distinction to this case. The House originated this bill. It came to the Senate for treatment. The Senate was summoned to act upon it. The Senate did act upon it. The Senate amended it, not proceeding to the assertion of any prerogative so radical as that which was asserted when we originated a bill to repeal the income tax, and thus standing within narrow limits, standing within more confessed rights in this instance, the Senate proceeded to amend a bill sent here from the House. Upon our amendments being returned the House readopted in substance the resolution which I have read to the Senator adopted in the case of the income tax.

I stop to ask of the Senator and of the Senate, is there a distinction? None I conceive which the Senator has pointed out except that not only the House but the Senate has found a case now in which the elements of disagreement are fewer and narrower than they were in the case of the income tax, because here according to the understanding of the House the bill has originated where it should have done, and all the Senate has done is to attempt to amend it; and thus in place of having the whole broad question dividing the two Houses, it presents itself only in respect of one narrow application of it. So that I submit to the honorable Senator from Maryland this case, more than the case of the income tax, is that case which the parliamentary law speaks to when it says, that so long as it is possible to reconcile and compose differences between the two Houses, and especially touching questions of the respective rights of the Houses, neither House should desist from the effort to bring the two Houses together.

Mr. WHYTE. Mr. President——

Mr. HOAR. Before the Senator from Maryland replies to the Senator from New York, I desire to call his attention to one fact instead of interrupting him again. I desire to ask him if it is not true that in regard to all the great appropriation bills it is the usage of the House, when they go down with the Senate amendments, sometimes hundreds in number, to at once, without reading or commitment, vote to nonconcur in the amendments in a lump, and ask for a committee of conference?

Now the point of this question is this: I understand the Senator says that he knows somehow that the House has been guilty of a discourtesy to the Senate in refusing to read our amendments to this bill, and pronouncing a certain opinion in regard to them, and asking a committee of conference. I ask him if that is not almost the uniform custom in the House in regard to the great appropriation bills when they come up late in the session?

Mr. WHYTE. Yes, Mr. President, I answer the Senator from Massachusetts promptly, that is the uniform custom, but it was "more honored in the breach" upon this occasion "than in the observance," for they did not vote not to concur and ask for a committee of conference; on the contrary, they did not consider the amendments at all, but refused peremptorily to consider them, and sent the bill back to us to eliminate our unconstitutional amendments before we should again send it back to them. That was the action of the House.

Mr. HOAR. My question was not whether the custom was not to concur, but whether the custom was not to read but to ask a committee of conference without reading or consideration. His point I understand is, not that we should not confer with the House because the House maintains a certain privilege, but that we will not concur with the House in regard to that privilege if it has declared its opinion before it reads the bill or amendments. My question to him is, if he does not know that in regard to all the great appropriation bills the House declares its non-concurrence before it reads the bill?

Mr. WHYTE. Mr. President, I made no such fine point as that. I made the point that the House of Representatives met our amendments with a formal resolution. I do not know except from what I am informed by the Senator from Nebraska whether they read the amendments or not. He has stated that they did not read them. But I say they did not act upon them; they did not vote upon them; the record shows that they sent them back to us as not worthy of their consideration because they violated the constitutional privileges of that body. That is what I say.

Now, the Senator from New York does not, in my judgment, answer me by reading the resolution adopted by the House in 1871. The Senator from New York begs the question when he presents that resolution on that revenue bill as an answer to my objection. That resolution passed on the revenue bill was a direct invitation to the Senate to treat with the House upon the subject, and when the Senate determined to treat with the House and appointed its committee of conference and the House responded, the House took the pains to say in its responsive resolution that it did so merely out of courtesy to the Senate, the House reserving its right. Now look what the resolution was—and it is not copied verbatim——

Mr. CONKLING. I did not say it was copied verbatim.

Mr. WHYTE. On the contrary, the milk is left entirely out of the cocoanut in this resolution. The first resolution makes a respectful suggestion to the Senate to consider whether inadvertently, whether, as I am sorry to say too often is the case in this body, we are passing the compliments of the season and so agreeably in social life that sometimes bills slip through here without our knowing anything as to what they are unless the lynx eye of the Senator from Vermont is put upon them, and then he wakes us up every now and then with an objection; but when he goes out, God help the people! [Laughter.] The resolution of the House in regard to that bill which originated in the Senate, Mr. President, you will see, embodies these words which my friend from New York cannot find in the resolution now before us in this report of the committee of conference:

> *Resolved*, That the Senate bill (S. No. 1083) "to repeal so much of the act approved July 14, 1870, entitled 'An act to reduce internal taxes, and for other purposes,' as continues the income tax after the 31st day of December, A. D. 1869," be returned to that body, *with the respectful suggestion* on the part of the House that section 7, article 1, of the Constitution vests in the House of Representatives the sole power to originate such measures.

Said the House respectfully, with the proper dignity which became that body in addressing its colleagues in this branch of the legislature, "Allow me to suggest that in some moment of excitement in the Senate or in the cloak-rooms, this bill has passed your body; we respectfully suggest to you to give it a new consideration and to bear in mind, though we tell you so respectfully, that you are infringing upon the privileges of this co-ordinate branch of the legislature."

Mr. CONKLING. I infer that the Senator lays stress on the word "respectful."

Mr. WHYTE. "Respectful" is a very proper word, and I admire it wherever I meet with it, more especially when it comes from the Senator from New York.

Mr. CONKLING. But the Senator emphasizes it in such a way that I infer it cuts a large figure.

Mr. WHYTE. It does cut a large figure, because when a man respectfully suggests a thing to you and does not do it as a bully you consider it, while on the other hand if it is presented to you as a suggestion with clinched fists and shaking head you are very apt to stand upon your dignity. Now I want to see the Senator from New York stand upon his dignity when the House has not respectfully suggested to us that this bill infringes its right.

Mr. CONKLING. Has the House put on the gloves?

Mr. WHYTE. Certainly. I was going to say when the Senator from New York interrupted me, and no man better understands than he does what it is to have the gloves on and to be ready for the fray [laughter]—I was going to say that the resolution came with the bill to the Senate. The Senate then asked for a committee of conference on the resolution, with which the House at once complied as a courtesy, the question involved being the privilege of the House. That is not this case.

Mr. FERRY. If the Senator will allow me——

Mr. WHYTE. I am afraid the Senate will come to the conclusion that I want to occupy the whole day; but they will see that I am only making detached remarks and injected sentences in the midst of others' speeches. [Laughter.]

Mr. FERRY. I was about to suggest to the Senator from Maryland that his remarks involve a wider scope than it was my intention by the motion I offered to open.

Mr. WHYTE. That is exactly what I thought. I thought it was a much wider question and so suggested to the Senator from Maine [Mr. BLAINE] when he said it would only take a moment or two.

Mr. FERRY. For that reason I recall the attention of the Senator from Maryland to the report.

Mr. BLAINE. I said it only need take a moment.

Mr. FERRY. The report simply declares the fact that the two Houses cannot agree; that their conferees "have met, and, after full and free conference, have been unable to agree touching the matters of difference between the two Houses indicated by said House resolution."

Accompanying this is the statement on the part of the conferees of the Senate that they were disposed to waive the question of privilege raised on the part of the House and desired to discuss and act upon the merits of the bill and amendments. The House conferees indicated on their part that unless the resolution could be enlarged in its scope they had not the power to discuss the question of the merits of the bill and amendments.

Now, I say the question before the Senate is simply the adoption of the report, to wit, the fact that the conferees disagreed upon that resolution. If the Senator had observed the resolution I offered he would have seen that it asks simply that the Senate adopt this fact expressed in these few words with the explanation of the respective conferees, and that the Senate insist upon its amendments to the bill and ask for another committee of conference. I cannot understand how the Senate can reach the question otherwise. And I did not intend, neither do I intend now, to raise the question of privilege between the two Houses. The Senator from Maryland has addressed all of his remarks, or substantially all, to the question of privilege, which, I think, is not the question now before the Senate. It is sim-

ply the question of the adoption of the report, merely declaring what the conferees came to—that they disagreed.

Mr. WHYTE. Mr. President——

Mr. BECK. With the consent of the Senator from Maryland, will the Senator from Michigan allow me to ask him a question, really for information?

Mr. FERRY. Certainly.

Mr. BECK. The House passed this resolution:

Resolved, That House bill No. 4286, to establish post-roads in the several States herein named, with the Senate amendments thereto, be returned to the Senate, as a part of said amendments are in the nature of and constitute a revenue bill.

And in the conference report the conferees both of the House and Senate say that "the conferees upon the part of the House decline to agree to the proposition" of the Senate to waive those things, because they "do not, in their opinion, possess any power under the resolution of the House to consider the bill or amendments without an enlargement thereof."

Now, as that resolution of the House still stands, and as the conferees on the part of the House, with that resolution still standing, deny that they have any power to confer with the Senate upon anything that contravenes that resolution, what good can a new committee of conference do, meeting the House conferees limited as they are by that resolution? That is the first branch of my question and the other is this: ought we not, in view of that resolution, if we desire to go on at all, respectfully request the House to reconsider the resolution they have passed and indicate a desire for a further conference, so that that conference may be free and full, as they are embarrassed by such a resolution?

Mr. FERRY. I answer the Senator from Kentucky by this statement: a resolution on the part of the House does not bind the Senate; the House takes its own course of expression, and it has been stated here—I have not stated it, but the Senator from Maryland has seen fit to state that the House was in the attitude of clinching its fists and shaking its head——

Mr. WHYTE. Oh, no; it was the Senator from New York who suggested that, and I merely accepted it.

Mr. CONKLING. Oh no; I decline the compliment entirely.

Mr. FERRY. The Senator from Maryland alluded I think to the Senator from New York as perhaps in that attitude toward the Senator from Maryland, but he followed that by stating that the course of the House put them in that attitude. That was substantially the remark of the Senator from Maryland, and I would say to him in passing that I do not know, on the principle upon which he criticised the conference committee, how he has a right here to step outside of the record and say that the House put itself in that attitude of clinching its fists and shaking its head at the Senate.

Mr. THURMAN. Will my friend——

Mr. FERRY. I desire to answer the Senator from Kentucky, and then I will yield to the Senator from Ohio.

Mr. WHYTE. I want the floor after the Senator from Michigan. [Laughter.]

Mr. FERRY. The Senate have observed that I have taken but very little time on this question, and I desire the attention of the Senate to this point, that my object is to reach the second question put by the Senator from Kentucky. Since the House have, without reading the amendments proposed to the bill by the Senate, sent it back with this restricted resolution, and two conference committees have attempted to reconcile the two Houses upon this resolution and they report that they have disagreed, and the Senate is now asked to concur in that report, with the expression of the cause of disagreement on the part of the respective Houses, namely, that the House conferees consider the resolution too narrow in its scope to cover the merits of the question, and those on the part of the Senate have shown a disposition all through to consider the merits, as the record discloses, I now, following out the suggestion of the conferees on the part of the Senate, ask that this report be adopted, and that then a new committee of conference be appointed on the merits of the question, we insisting upon our amendments. That, I suggest to the Senator from Kentucky, will bring the point at issue to the notice of the House of Representatives. Then, if the House with a better temper than that in which it passed the resolution shall waive its resolution and meet us in a conference on the merits of the question, I think we shall be able to settle the whole matter and arrange the bill satisfactorily.

Mr. BECK. What I desired more particularly from the Senator from Michigan was to know whether it is not indispensable before we appoint a new committee of conference to disembarrass it by asking the House to remove or repeal the resolution they have already adopted, so that they too may appoint conferees who may consult with the Senate fully, freely, and fairly, without embarrassment? So long as that resolution remains no conference can be appointed on the part of the House who can consider the question. Is it not, therefore, preliminary to the appointment of any new conferees that we should ascertain whether the House will or will not rescind the resolution, for if it does not, no conference can be had?

Mr. FERRY. I remind the Senator from Kentucky, who has great knowledge of parliamentary law, that the only method by which the two Houses can meet each other on questions of difference is through conference committees, and it seems to me it would be a reflection on the House if the Senate should pass a resolution asking the House to modify a resolution it had passed as a deliberative body. The object of the conference committee now asked is to reach that very question, and to suggest in this indirect method the will of the Senate and the disposition of the Senate, inviting the House to modify that resolution so far as to waive it and meet us with a committee of conference on the merits of the questions.

The Senate through its conferees has been disposed all along to consider the merits of the amendments, reject such as the House disagreed to if in their judgment they thought it wise to do so; and yet the House conferees have stood upon the resolution, saying that the resolution narrowed them down and they had no authority to travel beyond its bounds. Viewing it in that light the conference committee deemed it its duty to report the disagreement and ask for a further conference committee, that the House might under a different resolution and with a wider scope meet us upon the question of the merits.

Mr. WHYTE. Mr. President——

Mr. THURMAN. I ask my friend from Maryland to allow me to put a parliamentary question to the Chair. I do not wish to speak at all. Would it be in order pending the question now before the Senate to move that the Senate recede from any of the amendments it made to the bill? I think it would be.

The PRESIDING OFFICER, (Mr. DAWES in the chair.) The present occupant of the chair is inclined to think it would be.

Mr. EDMUNDS. I hope that will not be decided in a hurry. You cannot do it.

Mr. FERRY. I would suggest to the Senator from Ohio that it would hardly be in place to move to recede from the amendments when a report is pending declaring that the conference committee disagree. They do not disagree upon the merits, but simply upon the resolution of the House raising the question of privilege.

Mr. THURMAN. I think the Senate can unlock this difficulty whenever it sees fit. However, I will not take time now as the Senator from Maryland has the floor.

Mr. WHYTE. I was about concluding my remarks when the Senator from New York interrupted me. My friend the Senator from Kentucky has called the attention of the Senate to the answer made on the part of the conferees of the House. The Senator from Michigan is in error when he supposes that the House desires to enlarge the power of the managers on the part of the House. When the proposition was made to consider these different amendments with a view to a reconciliation of the differences, the conferees on the part of the House "declined to agree to this proposition for the reason that they do not, in their opinion, possess any power under the resolution of the House to consider the bill or amendments without an enlargement thereof."

Now, Mr. President—and I ask the attention of the Senator from Vermont [Mr. EDMUNDS] to this branch of this case if he takes any interest in the question—the Senator from Michigan stated that the conference committee had indicated that they could not consider these different amendments in the absence of an enlargement of their powers by a change of the form of the resolution under which the House was then acting, and the Senator from Michigan led us to believe that there was a hope in that direction by the statement which he made. Now, so far from it, an effort was made in the House of Representatives on the same day, June 18, 1878, on which this report was made to the Senate. The managers on the part of the House made their report, and Mr. WADDELL, representing those managers, asked for a suspension of the rules that he might offer this resolution:

Resolved, That in accordance with the suggestion of the conference committee just read, a conference committee be appointed with power to consider the Senate amendments to House bill No. 4286 as though the same had been disagreed to by the House—

Putting it in the position of the cases to which the Senator from New York referred—

as though the same had been disagreed to by the House, and that the Senate be requested to appoint a like committee for the same purpose.

Mr. CARLISLE made the point of order that the said resolution was not in order, for the reason that it was not competent for the House, even by a suspension of the rules, to empower a committee of conference to consider and report upon any matter except such as the two Houses had actually disagreed upon; that the Journal showed that the House had never disagreed to the Senate amendments to the said bill, but had refused to consider them because in the opinion of the House they involved an invasion of its constitutional privileges, and that therefore the only matter which the committee of conference could be authorized to consider and report upon was the question of privilege now pending between the two Houses.

By unanimous consent, the said point of order was waived, and the question being put on the motion of Mr. WADDELL to suspend the rules, the same was not agreed to, (two-thirds not voting in favor thereof.)

So the rules were not suspended to enable him to get an enlargement of that power. The vote stood on that 130 to 99, with 62 absentees.

Then, Mr. President, understanding that we have had two conferences, that both of these conferences have ended exactly in the same way, the managers on the part of the Senate being met by the managers on the part of the House with the resolution of the House that they could not consider these amendments at all because they were acting under direction of the House by a deliberate resolution, where is there any hope or expectation, where is there any call upon us in the discharge of public duty to send back again to the House and appeal to them as a matter of courtesy to us to waive the question of privilege which they have raised in their own branch? I submit, Mr. President, that we have done all that it behooves us to do in the

interest of proper legislation by having had two conferences upon this subject, and it is now for the House to make the first movement toward a reconciliation of the differences between the two branches of Congress.

Mr. THURMAN. Mr. President, I inquired of the Chair whether it be in order to submit a motion to recede from any of these amendments, and I did not hear whether the Chair decided that question or not.

The PRESIDING OFFICER. The Chair is of opinion that it is always in order to put such a motion as will bring the two Houses together.

Mr. EDMUNDS. Then let the Senator submit his motion in writing, so that the matter can be discussed and the sense of the Senate taken upon it.

Mr. THURMAN. I think I shall get rid of all trouble of that kind. Is the motion now pending in writing?

Mr. EDMUNDS. I think it is.

Mr. THURMAN. I ask that it be read.

The PRESIDING OFFICER. The Clerk will report the resolution.

The SECRETARY. The pending resolution is:

Resolved, That the Senate agree to the second report of the committee of conference made by Mr. KIRKWOOD, June 18, 1878, insist upon its amendments to the bill, and ask a further conference on the disagreeing votes of the two Houses thereon.

Mr. THURMAN. So far as that resolution asks the Senate to agree to that report, I do not know what there is for the Senate to agree to. The report states the fact that the conference committee could not agree, and I do not know that it is necessary for us to affirm that they could not agree when they tell us that they could not agree. But that is not material. I move now to amend that resolution by adding:

And that the conferees on the part of the Senate be instructed to recede from the Senate amendment to the bill, relating to the franking privilege, contained in the proviso to the eleventh section of the bill.

Mr. EDMUNDS. Let the amendment be reduced to writing, and then we shall see what it is.

Mr. THURMAN. I will reduce it to writing in a moment. [A pause.] My amendment to the resolution is this:

And that the conferees to be appointed on the part of the Senate be instructed to recede from the Senate amendment in relation to the franking privilege added to the eleventh section of the bill.

Now, Mr. President, I want to know whether that is in order.

Mr. EDMUNDS. I want to have it reduced to writing and read at the desk, and then we shall see how the whole thing will read.

I want to make a suggestion while the Senator is reducing it to writing. As this involves difficult questions of order and proper procedure perhaps, as well as the constitutional question, I wish to make the suggestion that the subject be referred to a select committee of five Senators, composed of the gentlemen who have given attention to this subject, my honorable friend from Michigan, [Mr. FERRY,] the Senator from Maryland, [Mr. WHYTE,] the Senator from Maine, [Mr. HAMLIN,] the Senator from Ohio, [Mr. THURMAN,] and some other Senator to consider, so that quietly they can endeavor to disentangle this knot; see, first, what there is in the claim of the other branch of Congress in respect of this constitutional question of privilege, and also what the Senate ought to do about it, not only in respect to the substance of the thing itself, but to the proper mode of relieving the difficulty; and if I do not interfere with anybody, I will make that motion.

The PRESIDING OFFICER. It is moved by the Senator from Vermont that the whole subject-matter be referred to a select committee of five.

Mr. FERRY. I do not want to antagonize the Senator from Vermont on that proposition, but it seems to me that the simplest method is to appoint another committee of conference to meet a similar one on the part of the House. I understand that it is the disposition of the House to meet the Senate and see whether we cannot agree.

Mr. EDMUNDS. Very well; I withdraw the motion.

Mr. BLAINE. I hope that is so, too. I sympathize very much with the suggestion made by the Senator from Ohio. Am I taking him from the floor?

Mr. THURMAN. I had not quite done.

Mr. BLAINE. I beg pardon.

Mr. THURMAN. As I understand it, there are two amendments made by the Senate to that bill which give rise to this difficulty. I do not know that I am entirely right in that statement, but that is what I have understood. One is the amendments in regard to the franking privilege, and the other what is called the Brazilian subsidy. I believe those are the two amendments that give rise to this trouble. I would prefer very much at once to move to recede from the franking-privilege amendment. I am perhaps induced to that because I was opposed to that at the outset, and I think the Senate would do well to recede from it. But, it is said that would be out of order, that we have no bill before us, that the bill has gone to the other House, and that we must have the bill before us before we can recede. So it is said around me.

The PRESIDING OFFICER. The Chair is informed that the bill is in fact here.

Mr. EDMUNDS. It must be, because the House declined to receive it, returned it to us, they declining to entertain it. But the difficulty, if my friend will pardon me——

Mr. THURMAN. I shall be glad to hear the Senator.

Mr. EDMUNDS. The difficulty that occurs to my mind is that the House having declined to receive or consider this bill thus amended, and having sent it back to us, it is here just as it stood the moment the amendments were agreed to, except that time has gone by. Here it is, although we have had conferences about it; but the conferences were not on the disagreeing votes of the two Houses, which are the ordinary cases of conference, but they were conferences upon the question of whether the House ought to receive and entertain the amendments.

Mr. THURMAN. I understand the Senator's point.

Mr. EDMUNDS. That being the state of the case, we are now beyond the period of reconsideration on the amendments that we agreed to; and if the bill, as I think it does, stands just as it did a week after the period of time or just as it would have stood if a motion to reconsider the vote agreeing to these amendments had been put and lost, then the question is whether the Senate (before the House has taken any action upon the amendments at all) can recede, that is reconsider and back out, except upon the ground that we are wrong in our constitutional right, the resolution stating that the Senate recedes because the House is right in saying that we have invaded its constitutional privileges. That is unquestionable because it merely takes it out as an irregularity.

Mr. THURMAN. The point of the Senator from Vermont——

Mr. FERRY. The Senator from Ohio will allow me.

Mr. THURMAN. I decline to be interrupted.

Mr. FERRY. Just at this point the Senator from Vermont has raised——

Mr. THURMAN. I think I understand it, it can be stated in one sentence, that until the House has disagreed to our amendments we cannot recede from them. That is all there is in it, and possibly that is right. I do not pretend to say but that that may be right; still, I think there ought to be some way to get out of this dead-lock between the two Houses, and I did suppose that we could get out of it by a direct motion to recede, but, no doubt for the reason stated by the Senator from New York, as is suggested by Senators around me who are very well versed in parliamentary law, that cannot be done, but the right way to do it is to instruct our conferees to agree to recede: and therefore I have proposed to amend the resolution in that particular, so far as the franking privilege is concerned. So far as the subsidy provision is concerned, I said nothing and do not intend to say anything.

Mr. EDMUNDS. Mr. President, I should agree with the Senator from Ohio that his amendment to this resolution is perfectly in order, although the Senate of the United States decided in 1873 when what is called the salary grab was put on an appropriation bill, against my vote and whatever argument I could produce, that the Senate could not instruct its own committee of conference. I think that notion to be nonsense, and I am very glad to be able to vote for any proposition that will reverse it. But then comes the difficulty. Supposing that we all agree that it is in order to make this motion, and I think it is myself, and I should be very glad as I say to reverse the judgment of the Senate taken upon that other occasion, I am afraid the House of Representatives will say and will have a right to say that the instruction to recede implies a jurisdiction just as much as an instruction to insist; and therefore if they let us out on that ground that we recede from our amendments they have yielded the constitutional question they have stood upon, and so we should not get ahead. I am perfectly willing to try it, however.

Mr. FERRY. I think if the Senator from Ohio will reflect a moment he will see that it is necessary for the Senate to act upon this report. I have no disposition to embarrass the Senate in reaching the point indicated by the Senator from Ohio. I will therefore modify my motion by asking for the adoption of the report. Then I will move that the Senate insist upon its amendments and ask for another conference. It will then be proper for the Senator from Ohio to move to recede, which motion has priority.

Mr. THURMAN. Move to adopt the report! What is there to adopt? The conferees have reported that they cannot agree. The committee of conference has made no recommendation. What is there to adopt?

Mr. FERRY. If the Senator is technical about the language of my motion I will move that the Senate agree to the report. The report must be disposed of in some way. The Senator cannot move to recede when the difference between the two Houses is not upon the merits of the question, because the Houses must differ through their conferees on that very question of the merits of the measure. The difference here between the two Houses is on the scope of the House resolution, the House conferees deeming that they have not scope enough under it to consider the merits of the bill and amendments, and the Senate on its part, through its conferees, believing that there is scope enough, and they desire to consider the amendments of the Senate *seriatim*. Upon that disagreement, reported here by the conference committee, the Senate should agree to the report, and then either insist upon its amendments or recede from them. If the Senator from Ohio desires to recede from any amendment or all the amendments, that motion will have priority, and if agreed to the Houses will then be brought together; but if, on the other hand, a majority of the Senate prefer to insist upon its amendments, there will be a disagreement requiring a committee of conference in order to agree. I have coupled the two in my motion; but if that will embarrass the Senate I will withdraw the motion and ask for an agreement on the

report, intending to follow it up by a motion to insist on the amendments of the Senate and ask for another committee of conference.

The PRESIDING OFFICER. The Senator from Michigan modifies his motion as he has indicated.

Mr. EDMUNDS. Let us hear it reported as modified, so as to know exactly what it is we are called upon to vote on.

Mr. FERRY. I modify it so as to move that the Senate agree to the report indicated, and that the committee be discharged.

Mr. EDMUNDS. Let us hear it read from the desk, so as to know exactly what we have before us.

The PRESIDING OFFICER. The resolution as modified will be reported.

The Secretary read as follows:

Resolved, That the Senate agree to the second report of the committee of conference made by Mr. KIRKWOOD, June 18, 1878, and the committee be discharged.

Mr. BLAINE. I do not agree, and in that respect I differ from the Senator from Vermont, that it is at all competent to instruct a conference committee, and I think the Senate has decided properly when it refused to do so. A conference cannot be a full and a free conference, as the language of parliamentary law has it, if one side of it meets under instructions to do or not to do a thing which the other side of the conference is entirely at liberty to do.

It is a misnomer, it is a contradiction to say that a full and free conference can be a conference bound down by instructions. I agree with the Senator from Vermont that under any parliamentary law it is too late to recede from the amendment upon any question of discretion, excepting it be one affecting the privilege of either House; but, as suggested by the honorable Senator from Ohio, if it does trench upon the privilege of either House, then of course it is competent at any time to recede from it.

I have certain views about this question which probably were derived from long service in the House. I have observed that the zeal of gentlemen who have served in the House and who have stood with great particularity and great emphasis for the privileges of the House seems to die out a little when they get in the Senate. I am going to prove an exception to that. I believe frankly that the two portions of this bill do infringe the privileges of the House. I believe we have no right to change the duties on imported books. I believe we have no right to change the revenues of the Post-Office Department by declaring that that which has heretofore paid postage shall not pay postage hereafter. If I were to put what I think in a resolution I should put it in about this form, as the Senator from Vermont insists on having everything in writing:

Resolved, That the amendments of the Senate to the pending bill changing the rate of duties on imported books and affecting the revenues of the Government by declaring certain mail matter free which now pays postage, being in the judgment of the House—

I will put it delicately for the nerves of the Senators—

an infringement on the constitutional rights of that body, they are hereby withdrawn from the bill.

That seems to me to be entirely competent.

Mr. EDMUNDS. I think that is in order——

Mr. BLAINE. That is entirely competent, and I have so drawn it that we place it upon the judgment of the House, not asking any Senator to change his judgment; but it "being in the judgment of the House an infringement on the constitutional rights of that body."

Mr. EDMUNDS. But it is a surrender just the same.

Mr. SAULSBURY. How does the Senator from Maine derive the information that those are the particular points on which the House insist that there has been an infringement of their privileges? It has been rumored that those are the points, but I want to know whether there is any record on the files of the Senate to show that those are the particular points which the House deem to be an infringement of the privileges of that body?

Mr. BLAINE. They have objected that certain amendments did infringe, and I have included the two that seem to me justly chargeable with overstepping the powers of the Senate.

Mr. SAULSBURY. So far as I understand we have no intimation on the part of the House as to the particular amendments of the Senate which they consider an infringement of their privileges. They have sent us a resolution declaring that they consider that we have trenched upon the prerogative of the House. What may have occurred between the managers of the conference between the two Houses I do not know. It may have been intimated there, but there is nothing on the files of the Senate to show what are the particular matters objected to by the House.

Mr. BLAINE. I will say to the honorable Senator from Delaware that if I should frame the resolution as I should desire it myself to be passed I would put it "in the judgment of the Senate," but thought that probably I might have some very sharp differences with gentlemen who know more about the privileges of the Senate than I do; and, therefore, I placed it on the other ground.

Mr. HOAR. I desire to say, though it is not suggested by the remark of the Senator from Maine, that at the conclusion of a very memorable discussion between the two branches upon this general question of the extent of the constitutional prerogative of the House Mr. Webster declared it to be clear, in his judgment, that under the Constitution the House must be the final judge of the extent of its privilege.

Mr. BLAINE. Undoubtedly. I think the Senator from Massachusetts when a member of the House so maintained himself on a discussion of the funding bill.

Mr. HOAR. Therefore that opinion of Mr. Webster is a very high senatorial authority for the form suggested by the Senator from Maine in his resolution.

I wish to say one other thing in regard to this general question which arises every few years between the two branches. It is as capable of demonstration as any proposition, it seems to me, that upon the question between the two branches of comparative legislative power, under our parliamentary usages, the legislative power of the House is diminished by the assertion and the extension of this constitutional privilege on the part of the House, and the legislative power of the Senate is increased by the abandonment to the House of the exclusive power of originating this class of bills. Therefore if the Senate is seeking, as a good judge is said to seek, to enlarge its jurisdiction and to diminish the jurisdiction of the House, the Senate should decide all doubtful questions in favor of the claim of the House.

It is true that this power in the House to originate bills for raising revenue was suggested as a make-weight or equivalent in that branch to the large States for yielding the equality of representation in this body to the small States. But even then the wisest statesmen and the most experienced parliamentarians in the convention that framed the Constitution expressed the opinion that the privilege would be of no value to the House whatever. Mr. Madison declared that it was the result of the experience of the States which had a similar provision in their State constitutions that nothing of legislative power was gained to the popular branch, and that the claim only was a source of wrangling between the two branches. General Washington made upon this point the only speech which he made during the entire deliberations of the constitutional convention, and he declared in his speech that he was personally of opinion that the exclusive power of originating legislation upon revenue bills would not tend to increase the dignity or the power of the House in legislation, and he only assented to the proposition, representing as he did the large State of Virginia, in deference to the judgment of other delegates in the constitutional convention.

Mr. President, look at the question. The House of Representatives originates a revenue bill or one of the eleven great appropriation bills which we pass every winter. Under its rules such a bill must go to the Committee of the Whole, in which the freedom of debate and the power to offer amendments is absolutely unrestricted except that the House has power to limit debate by a vote, a power which is very charily exercised, before the House goes into committee. But there is no power to prevent the offering of amendments at the will of every member of that numerous body. In regard to every other subject-matter of legislation ordinarily in the House, the question who shall speak, the question how long that person shall speak, the question how long the debate shall continue, the question whether any amendments and what amendments shall be offered and voted upon, are in the absolute discretion of the organ of the committee that introduces the bill. The revenue and appropriation bills are an exception.

Mr. CONKLING. Will the Senator allow me to ask him a question? I want to understand his meaning. Shall I understand the Senator to say that under the rules of the House or in his apprehension an appropriation bill is a revenue bill?

Mr. HOAR. No, sir; I did not say anything of that point at all. I am speaking of the parliamentary usages.

Mr. CONKLING. I misunderstood the Senator.

Mr. HOAR. I said in illustrating the kind of legislation which under the rules of the House was first considered in Committee of the Whole, the revenue bills and the great appropriation bills were the bills of that character. Practically the Senate has yielded to the House the claim, and I think without any constitutional warrant whatever, that the appropriation bills are revenue bills. At the time of the long struggle when General BANKS was elected Speaker of the House, which occupied a great part of the winter, the Senate undertook to save time by introducing some of the great appropriation bills, but the House refused to permit that to be done and insisted upon its prerogative.

Mr. BLAINE. The Senator from Massachusetts does not mean to imply that appropriation bills are as exclusively within the power of the House as revenue bills?

Mr. HOAR. Not in the least, but I am speaking of the usage.

Mr. BLAINE. There is here no inhibition, for instance, upon appropriating money for any object the Senate sees fit and sending that down to the House; and it is the every-day practice.

Mr. HOAR. I understand that perfectly well. That is entirely foreign to the point which I was making. The point which I was endeavoring to make to the Senate is that under the parliamentary usage of Congress the extension of this claim of a right to originate revenue bills to appropriation bills or to all other matters of dispute, is an abridgement of the legislative power of the House and an increase of the legislative power of the Senate. If the Constitution were to enact affirmatively that revenue bills and appropriation bills should always first be introduced in the Senate, the legislative power of the Senate would be diminished and the legislative power of the House of Representatives would be enlarged by that constitutional change. That is the point I was making.

Now, how is this the case? An appropriation bill, practically one

of the great appropriation bills, is originated in the House always, or a revenue bill is originated in the House of Representatives. It goes to the Committee of the Whole. Every member has his full opportunity to debate, with very little restraint; every member without restraint has his full opportunity to offer such amendments as he chooses, and to bring about a vote upon them. Then that bill comes to the Senate, and it has no more or less weight, importance, or dignity when it comes up here, proposed by the House of Representatives, than any proposition made in the Senate by any one of the seventy-six members of this body. The Senate entirely remodels it at its pleasure. All agree with the Senator from Maine that our rule excluding general legislation is practically a dead letter against the will of a majority of this body in earnest and determined to accomplish a legislative result. But, however that may be, the bill is modified and remolded in the Senate. There is full debate in this body in Committee of the Whole; there is full opportunity to amend; there is full debate in the Senate, and full opportunity to amend. Then the bill goes back to the House, at the close of the session usually, and what happens? Sometimes there are from twelve to fifteen hundred amendments on one of these great appropriation bills.

The chairman of the Committee on Appropriations of the House rises in his place and moves to non-concur in those amendments in a lump, and that is always done, and then the matter goes to a committee of conference, consisting of the two leading members of the Committee on Appropriations or the Committee of Ways and Means, as the case may be, and one member of the minority in the House, and that committee of conference meeting the committee of conference of the Senate, makes up a bill, based on the amendments which have been proposed in the Senate and the amendments which have been non-concurred in by the House, and the original bill so far as it has met the assent of the Senate; and then that report being made to the House the one parliamentary question in that body is, Will the House agree to the report? although it may contain fifteen hundred subjects of legislation.

At what price does the House refuse to agree to that report? It is at the price of an extra session of Congress, if the Senate insists permanently on its opinion, and what is that? Every other year it is at the price of having the bill go out of the consideration of the particular House of Representatives then dealing with it to a new one, because the constitutional life of that body is over. Every alternate year it is not at that price but it is at the price of an extra session of Congress held here in the heat of the summer. Practically, as we all know on these great appropriation bills, which not only involve the whole expenditure for carrying on the Government but large numbers of enactments of general legislation, and on the revenue bills when we have them from the Committee of Ways and Means, the House votes on the conference reports without even having in print what they are, without having had an opportunity to utter a word except the particular member of the Appropriation Committee who makes the report, and without any one of its members having an opportunity to propose any amendment.

Suppose, instead of that course being pursued, the reverse were the case, and that the appropriation bill or the revenue bill originated here, what would happen? The Senate's proposition for legislation would then go down to the House, and stand before the House simply with the weight of a proposition made by a single member of that body; and that bill would be remolded at pleasure, with the opportunity of every member of the House to speak upon it, to move amendments to it, to have a vote upon it at his discretion, and it would go into a committee of conference with the full knowledge of the conferees on the part of the House of the opinion of the body they represented disclosed in debate and disclosed by vote on every single proposition that the bill contains. Then the result of the labors of the conference committee would be presented to both branches alike, at the close of the session, and their concurrence in a lump to the views of the conference committee would be exacted at the price of an extra session.

Mr. President, under the present claim of its privileges by the House of Representatives in regard to the bills to which that claim applies, legislation in this country is not by the House of Representatives and the Senate, with the approbation of the President; it is by the Senate, the conference committee of the House of Representatives, and the President. Of course there are great matters which stir the public heart and in regard to which men have earnest and impassioned political beliefs, where the opinion and the purposes of this great body ride over and overcome the fetter which is placed upon itself by its own claim as to its constitutional privilege and its own rules; but I speak of the ordinary usual matters of legislation. So I say, looking simply at a grasp of political power, if we could be disposed to disregard our desire for the due constitutional equality between these two bodies, without regard to the question of which one we belong to, it is not in the interest of the Senate to differ from the doctrine laid down by Mr. Webster. The question of the extent of this constitutional prerogative must be left to the House, and it is not in the interest of the House of Representatives to extend, by construction or by claim, this prerogative beyond the point where the Constitution has left it.

Mr. THURMAN. Mr. President, I do not rise to make a speech, but simply to show, as I think I can, that the amendment proposed by me is in order; and I invite the attention of the Senator from Maine [Mr. BLAINE] to what I say. He thinks the Senate decided correctly on the celebrated proposition to increase the salaries that it could not instruct its managers on a committee of conference. I think that the Senate decided wrong on that occasion, and I think it has been since demonstrated completely that it decided wrong, and decided against all the precedents that have been set in the Senate on that subject, so far as they have been found. For the purpose of showing that I am right in this view, I send to the Clerk's desk, and ask that a portion of a speech delivered by the Senator from Vermont nearest me [Mr. EDMUNDS] on the 6th of January, 1874, may be read. The Senator from Vermont, after referring to the decision of the 3d of March, 1873, on the salary bill, and saying that in his opinion that decision was wrong, then proceeded to make the remarks which I ask may be read, and to read the paper containing a statement of the previous decision of the Senate, which I ask may also be read as they are part of his remarks. I especially ask the attention of the Senator from Maine to the decision of his colleague [Mr. HAMLIN] who occupied the chair at the time when one of these decisions to which reference is there had was made.

The PRESIDING OFFICER. The paper will be read by the Secretary.

The Secretary read as follows:

I think, Mr. President, that we acted under a grave misapprehension; and I have had a very competent person, whose knowledge of the history of parliamentary law and the course of parliamentary precedents is almost perfect, look back only for a few years to see what our practice has been on that subject. You remember, Mr. President, that the Senate determined, upon an appeal by the then Senator from Illinois, [Mr. Trumbull,] who has now withdrawn to the quiet of private life and who is no more vexed with questions of this kind, that it was not in our power to instruct our own committee to insist that our salaries should not be increased—that we felt ourselves compelled to follow, and in spite of our wishes and our will that our salaries should not be increased in that way then and there, we found ourselves compelled by what we then thought to be parliamentary law to vote that they should be increased. That, it turns out from an investigation, was an error; and I ask that the Clerk may read the congressional history which I send to the desk on that point.

The Chief Clerk read as follows:

"An examination, extending back but a few years, shows two instances in direct opposition to the ruling of the Senate on the 3d of March last.

"At the first session of the Thirty-eighth Congress, the committee of conference upon a bill 'to increase the internal revenue and for other purposes' having reported on the 1st of March, 1864, to the House of Representatives their inability to agree, a resolution was offered by Mr. Washburne, of Illinois, as follows:

"'*Resolved*, That the House insist upon its disagreement to the Senate amendments to House bill No. 122, and that the House request of the Senate another committee of conference on the said bill; and it is hereby declared to be the judgment of this House that in an adjustment of the differences between the two Houses on the said bill, there should be an additional duty of not less than twenty nor more than forty cents per gallon imposed on spirits on hand for sale.' (Cong. Globe, p. 892, pt. 1, 1st sess. 38th Cong.)

"A question of order being raised, the decision of the Speaker [Mr. Colfax] was as follows:

"'The SPEAKER. The Chair holds that the House of Representatives has the power to instruct any committee which it authorizes to be appointed. It is a judicious check upon the power of the Speaker in appointing committees. They have a right to instruct a committee of conference as they have a right to instruct a standing or a select committee. The gentleman from Illinois moves this himself as a resolution. It seems, however, susceptible of division, first, upon asking another committee of conference, and, secondly, upon the instructions. As to the right to move instructions the Chair has no doubt.' (Cong. Globe, pt. 1, 1st sess. 38th Cong., p. 892.)

"The decision of the Speaker was acquiesced in by the House, no appeal being taken, and the resolution of Mr. Washburne was agreed to.

"On the following day, the action of the House of Representatives having been communicated to the Senate, the Senator from Ohio, Mr. Sherman, offered the following resolution:

"'*Resolved*, That the conference requested by the House of Representatives be agreed to; and that the conferees heretofore appointed by the Senate be instructed to agree to proper amendments to the Senate amendments disagreed to by the House, providing for a tax of not exceeding twenty cents a gallon on spirits on hand for sale.' (*Ibid.*, p. 900.)

"The late Senator from Maine, Mr. Fessenden, at once suggested a doubt as to the resolution being in order; to which the Senator from Ohio replied, as follows:

"'I have not examined for precedents, but I think there can be no doubt of the power of the Senate to instruct its conferees on any point. It is a question of discretion. Ordinarily it would not be done; but there have been two conferences on this disagreement, which has all grown out of one difference. The House of Representatives have now expressed their opinion on that difference, and I think the Senate ought also to do so.' (*Ibid.*, p. 900.)

"Mr. Fessenden then raised the question of order directly for the decision of the Chair, and the Vice-President, who is now Senator from Maine, [Mr. HAMLIN,] gave his decision in the following words:

"'The VICE-PRESIDENT. The Chair can have no doubt that the resolution proposed by the Senator from Ohio is in order. Conferences are of two characters—free, and simple. A free conference is that which leaves the committee of conference entirely free to pass upon any subject where the two branches have disagreed in their votes, not, however, including any action upon any subject where there has been a concurrent vote of both branches. A simple conference—perhaps it should more properly be termed a strict or a specific conference, though the parliamentary term is "simple"—is that which *confines* the committee of conference to the *specific instructions* of the body appointing it. The Chair therefore rules that the resolution is in order.'

"In the discussion which ensued, the Senator from Ohio said:

"'The Senate might very properly object to any action by the Senate conferees which was not strictly within the parliamentary rule, but the Senate itself may, by its instructions, enlarge the power of the committee. There is no doubt about that. There is no limit to the power of the Senate over its committees. It may authorize its conferees to agree to amendments to its amendments, which might not be in order if those amendments to the amendments came directly from the conferees without the action of the Senate. That is the view all the conferees took, although they differed on the question of parliamentary law.' (*Ibid.*, p. 900.)

"In the course of the debate, Mr. Hendricks, of Indiana, said:

"'I agree with the decision of the President of the Senate that it is competent to instruct a committee of conference on the part of the Senate.' (*Ibid.*, p. 902.)

"Again he said:

"'In respect to the question of disagreement, the Senate may instruct its part of the committee, but outside of the questions of disagreement the Senate cannot instruct that committee, for the reason that that is not one of the modes of legislation

known to parliamentary usages. * * * The Senate may instruct the committee upon all the questions that were referred to that committee, but not upon other questions.' (*Ibid.*, p. 902 and 903.)

"From this view of parliamentary law no Senator dissented, although the debate on the subject-matter extends over many pages of the Congressional Globe.

"The result of the debate, which was quite protracted, was the rejection of the resolution of the Senator from Ohio, although no one doubted the right of the Senate to instruct the conferees, and the adoption of the following resolution offered by Mr. Conness, of California:

"'*Resolved*, That the Senate disagree to the resolution of the House of Representatives, of the 1st instant, proposing instructions to the conferees, and ask another free conference on the disagreeing votes of the two Houses on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.' (*Ibid.*, p. 907.)

"The House of Representatives having agreed to a further free conference, the conferees on again meeting were unable to agree, and the bill was disposed of by the Senate receding from its amendments.

"The proceedings in this case, as in that which follows, are recorded in the Journal, but the Congressional Globe is quoted from, because it contains the details of the points raised, with the decisions made and the debate thereon, instead of the Journal, which merely records the votes.

"At the first session of the Thirty-ninth Congress an amendment was added by the Senate to the sundry civil expenses appropriation bill increasing the pay of Senators and Representatives and taking effect retroactively from the beginning of that Congress. This amendment was disagreed to by the House of Representatives, but they amended other Senate amendments by the addition of a provision granting bounties to the soldiers of the war of the rebellion. Two committees of conference were unable to agree upon the disagreeing votes of the two Houses, and when the second disagreement was recorded the Globe shows these proceedings occurred:

"'Several SENATORS. What shall be done?

"'Mr. SHERMAN. There is but one point of difficulty. The Senate conferees proposed to recede from the amendment in regard to the pay of members, but found that that was not at all in the way; that could be laid out of view: the only difficulty is in regard to the question of bounties. The House insist upon some legislation being had in regard to the bounties, and their conferees submitted a proposition which we did not feel at liberty to accept. I will say that the proposition submitted is much more moderate and much more reasonable than any I have yet seen: but we considered that the action of the Senate did not leave us at liberty to accept it.' (Cong. Globe, Thirty-ninth Cong., 1st sess., pt. 3, p. 4246.)

"And subsequently the Senator from Ohio suggested:

"'The Senate may instruct the conferees.' (*Ibid.*, p. 4247.)

"Whereupon Mr. Trumbull, then a Senator from Illinois, moved—

"'That the committee of conference be instructed to agree to that proposition of the House.' (*Ibid.*, p. 4247.)

"Meaning the proposition which had been stated in detail by Mr. Sherman as having been made by the House conferees.

"A modification of the terms of the proposition having been suggested by Mr. Doolittle, Mr. Trumbull said:

"'The proper motion, I suppose, would be to recommit the report to the committee, with instructions to agree to that proposition.' (*Ibid.*, p. 4247.)

"No point of order was raised, no doubt was suggested by any Senator as to the power of the body to instruct the conferees; and the motion having been stated, amendments to the instructions were moved, and finally, the question recurring on the motion of Mr. Trumbull, it was agreed to by a vote of yeas 28, nays 5. (*Ibid.*, page 4248.) And on the very same page of the Globe it appears that the conferees immediately made a report conformably to the instructions of the Senate, and it was agreed to and the bill disposed of."

Mr. EDMUNDS. Mr. President, I have had this short congressional history, going back only a few years, read in order to show, as I think it ought to show, that both Houses had habitually instructed their conferees to insist upon or to agree to particular things. In this body it was done in form in that way. (Congressional Record, Forty-third Congress, first session, vol. 2, pt. 1, pp. 402, 403.)

Mr. BLAINE. Mr. President, I submit to the honorable Senator from Ohio that what he has produced here proves, and proves very conclusively, that I was right. The case which he cites from the House I think was pending a tax bill upon whisky; and if the Senator from Ohio will give me his attention he will observe that the resolution passed by the House was not a resolution of instruction at all. A point of order was made upon it that it was, but there being some doubt about what the conference would do, and there being a little doubt about how they might think the judgment of the House was, the House, when the conference committee was appointed, passed a declaratory resolution; and it coming up here under the decision of the Speaker that they were an instructed conference, what did the Senate do? The Senate refused to join.

Will the honorable Senator please remember then that when an instructed conference was proposed from the House the Senate refused to join, and there was no conference until the House had receded from that position and a free conference was had? It seems to me that the matter runs down very rapidly to the *reductio ad absurdum*. Here is a single point of difference perhaps between the two Houses, as often happens. There is a disagreement. The Senator from Vermont and the Senator from Ohio maintain that you can have a conference absolutely instructed not to yield or change a hair. Then, what is the need of the conference?

It is exactly in the position of an old client who went to his lawyer and said he was very much in need of advice, and said he, "the kind of advice I want you to give me is that which a man likes who has made his mind up." That is precisely what is proposed here, that an absolutely free conference can be had under explicit and absolute instructions from the other side.

The only other case that the Senator from Vermont cites in this long line of illustrious precedents that broke down at two, neither of which was a case in point, was when a conference committee was instructed to surrender to the House and not longer to stand out. There had been several conferences, and the conferees themselves had been somewhat stubborn in really representing the wishes of the Senate, and finally they simply went and surrendered the point to the House under a vote of the Senate intimating that such a course would be approved.

Mr. THURMAN. Will the Senator read the remarks of his colleague?

Mr. BLAINE. My colleague, then Vice-President, from whom I should certainly be sorry to differ, stated very distinctly that there were two kinds of conferences, "simple and free." My honorable colleague was using a phrase no longer familiar to the two Houses, but he drew a distinction on which his decision might very properly be based. The binding phraseology, however, employed between the Senate and House, which has become ingrained in the whole parliamentary law of the two bodies, is "a full and free conference." I undertake to say that the Senator from Vermont has not shown and he cannot show where any proposition for a restricted and instructed conference on the part of one branch while it was to be "full and free" on the part of the other. Certainly the two precedents do not show it at all, but they show just the reverse.

Mr. CONKLING. Mr. President, I am not sure that I have learned yet the motive exactly of the Senator from Ohio in having read again the very long paper prepared, I believe, by the then Chief Clerk, to which four or five years ago we all listened in the Senate. I remember very well the occasion which gave rise to that paper. It was the addition of a provision for back pay, as it was called, to an appropriation bill, and the attempt made here to instruct a conference committee what it should do. I was among the Senators who opposed that instruction. I did it, not misunderstanding the odium which might rest upon those who assumed that position, because of the liability of being represented to favor the increase of salary, which happened to be the particular subject involved at the moment. As the question is reproduced now, I am unwilling to lose the opportunity of recording myself again in opposition to the idea, by whomever advanced, that whether a salary bill or any other bill, however hateful, is the topic of consideration, it is anything but a monstrous violation of parliamentary law and as I think of common sense, to undertake to instruct a committee of conference.

I do not remember what distinction between conference committees may have been drawn in the past by the honorable Senator from Maine by my side [Mr. HAMLIN] at the time presiding officer of this body, nor have I freshly in recollection the distinction to which he must have referred; but in general terms I venture to assert that very old and very new and very constant in the parliamentary law is a difference found between a special conference, (possibly that is not the favorite term of late years but I will call it a special conference,) deputed by one House to carry to another a special message, and that customary conference which has always been known as a full and free conference. That distinction I say exists, although I may not give to the respective committees the technical appellation which heretofore they have earned. But I venture to repeat, as I wish never to be silent in doing when it behooves me to speak, that I believe nothing to be more utterly repugnant and impossible to the idea of a full and free conference committee than that either House after appointing one should send along instructions, "Now, you are to agree to this, and you are to maintain this, and you are instructed accordingly, and you are forbidden to agree to anything else." I say, with great respect to all Senators who may differ with me, that such a proposition to my mind is simply nonsensical. The idea of appointing an agent to act in the domain of discretion and then telling him he has no discretion at all except to say hit or miss on a given point, is very much like an election which was once held in the Empire of France where the ballots were to this effect: "Louis Napoleon. Yes or no." That was an election, but it was not that full and free election which especially in the State of Connecticut is supposed to prevail.

Mr. EATON. I wish you had in New York also full and fair elections. [Laughter.]

Mr. CONKLING. Mr. President, I hope that such ignorance does not prevail in many parts of New England as must exist in Connecticut if they suppose there that we have anything in New York but a full and fair election. [Laughter.] I hope a delusion like that is confined to the State of Connecticut, and I am shocked to find that it prevails there.

Mr. EATON. I make no question but that the elections in New York are *full* enough. [Laughter.]

Mr. CONKLING. Yes, we have on some recent occasions found them very full, and that where there was not only a full but a free conference of all the citizens of that State, without respect of race or color; and if the honorable Senator from Connecticut is satisfied, as I judge he is, with those, I beg to agree with him enthusiastically in the satisfaction he finds.

May I have read the pending amendment, Mr. President?

The PRESIDING OFFICER. The resolution of the Senator from Michigan, [Mr. FERRY,] as modified by him, will be reported.

The Secretary read as follows:

Resolved, That the Senate agree to the second report of the committee of conference, made by Mr. KIRKWOOD, June 18, 1878, and the committee be discharged.

Mr. CONKLING. Is there no amendment pending?

The PRESIDING OFFICER. The Senator from Maine [Mr. BLAINE] suggested an amendment, but the Chair did not understand him to formally present it.

Mr. CONKLING. Is there no amendment to that original resolution pending?

The PRESIDING OFFICER. The Secretary will report the amendment suggested by the Senator from Ohio, [Mr. THURMAN.]

The SECRETARY. It is proposed to add to the resolution:

And that the conferees to be appointed on the part of the Senate be instructed

to recede from the amendment of the Senate relating to the franking privilege, added by way of proviso to the eleventh section.

Mr. THURMAN. I beg leave to modify the phraseology of the amendment so as to read that the conferees "be instructed to agree to strike out" instead of "to recede from" the amendment of the Senate.

Mr. CONKLING. I do not see why the Senator from Ohio should be so tender about the word "recede." If we are going to pass a resolution in violation, as I think, and as a majority of the Senate has heretofore declared, of all parliamentary law, why not delegate to this committee of conference the power to recede? It belongs not to them but to the Senate; but I do not think it would make it much worse to delegate to them that option. However, the Senator has control of his own amendment. It is, then, to instruct the committee to strike out? Is that the only amendment pending, if I may ask?

The PRESIDING OFFICER. The Senator from Maine [Mr. BLAINE] has suggested an amendment. The Chair does not understand it to be pending.

Mr. BLAINE. I had not liberty to offer it at the time I read it, but I shall present it at the proper time.

Mr. CONKLING. May I hear that read, Mr. President?

The PRESIDING OFFICER. The Secretary will report the amendment to be proposed by the Senator from Maine.

The Secretary read as follows:

Resolved, That the amendments of the Senate to the pending bill, changing the rate of duties on imported books and affecting the revenues of the Government by declaring certain mail matter free which now pays postage, being in the judgment of the House an infringement of the constitutional rights of that body, they are hereby withdrawn from the bill.

Mr. CONKLING. Mr. President, one, perhaps two of these amendments enables me to make a remark which I would gladly commend to the attention of the Senate. The latter amendment read recites, if I caught it aright, that the judgment of the House being in one direction, therefore the Senate proceeds to take action. I submit that that is rather a dangerous criterion for the Senate to adopt, particularly in a case like this; for the Senate would say, not because the Senate holds a certain ground but because the House holds that ground, therefore it will or will not proceed to insist upon its views of legislation. Waiving that, however, if the conference committee is to be instructed to strike out, or the Senate is to declare that it recedes from an amendment adopted, some ground, I take it, should be assigned for that action. What is the ground assigned here? That the Senate has originated by an amendment something, if I am correctly informed, in the nature of a money bill. Has it occurred to any member of the Senate to inquire whether in any sense these amendments are in the nature of a money bill? It is alleged that because the Senate, dealing with a post-route bill, has added provisions which affect the rate of postage, therefore it has been originating money provisions. Is that true? A money bill is a revenue bill. Is the regulation of the rate of postage a bill dealing with the revenue? It may be said, doubtless it will be said, that postage goes into the Treasury, particularly surplus postage; postage beyond the expense of carrying on the Post-Office Department becomes revenue. Yes, sir, it does; and in that point of view it would affect the revenue. But let us see whether the Senate is prepared to accept that as the test of a revenue bill. Only yesterday, without division, the Senate adopted a bill rearranging and amending the patent laws. It originated here.

Mr. EDMUNDS. And the Judiciary Committee reported a bill arranging the fees of marshals, clerks, and other judicial officers, which passed.

Mr. CONKLING. Yes. That bill amending the patent laws originated here. It was a Senate bill. It was long discussed, discussed industriously to waste time, I think, if the suggestion now made be tenable. Why? Among other things, the bill changes entirely the sums, the items, the rates, and the totals to be paid at the Patent Office; and I heard the chairman of the Committee on Patents state what the revenue had been during a series of years from the emission of patents. The sums had paid all the expenses of the Patent Office, and had yielded a large revenue besides. Very well; taking up the very gist of the whole matter, the fees to be paid by applicants for patents and the avails of transacting the business of the Patent Office, the Senate proceeded radically to change the law in those respects. Was that legislation a money bill in English phrase? Was it a revenue bill or a bill for raising revenue within the meaning of our Constitution? If it was, we violated the privileges of the House; if it was, we wasted some weeks, I take it, now and again, in debate over the measure; and yet so we did if the point aimed at this bill is well taken, unless there be some distinction which I do not understand.

Under the provision of the Constitution authorizing Congress to establish post-offices and post-roads, the two Houses were engaged, in legislating, engaged upon a bill apt and fit in that regard, and so legislating the Senate adopted a provision, the Senator from Maine usually nearest me [Mr. HAMLIN] insisting it to be the simple requirement of a treaty; but, however that may be, a provision merely touching the rate at which postage matter might pass through the mails. If I understand it, the House says, "Because, if there is a deficiency in the Post-Office Department money must be appropriated to make up that deficiency; because, if there is a surplus from the postal service, that surplus goes into the Treasury, *ergo*, legislating on the subject affects the revenue and thus the legislation becomes a bill for raising revenue within the construed meaning of the parliamentary law and the practice of the two Houses." I am not ready for one to assent to any such doctrine.

The Senator from Vermont [Mr. EDMUNDS] reminds me of the practice of the Senate in fixing the salaries and fees of marshals, of clerks of courts, of district attorneys, and of other officers belonging to the judicial staff of the country.

Mr. EDMUNDS. And requiring the money to be paid into the Treasury.

Mr. CONKLING. And making the usual adjunct provision that all received above a maximum is to be paid into the Treasury and all below that is to be devoted otherwise. Well, again, if there is a deficiency, appropriations must be made to fill up the deficiency and carry on the judicial business of the country. If there is a surplus, again that surplus is carried into the Treasury and becomes a part of the national fund, goes into the national account. So that, for aught I see, in that case as much as in this, the Senate has been violating the privileges of the House by originating a money bill or dealing with a bill to raise revenue.

Mr. President, I deny it. I deny it upon principle and upon reason, and I deny it upon the immemorial practice of the Senate, and I might add the necessity of convenient legislation; and therefore, apart from what I conceive to be the wholly inadmissible doctrine that you may appoint a committee of conference to confer with the House, and compare differences, and in the same breath forbid them to do any such thing by instructions, I am not at all prepared to say in any form that because the House of Representatives inadvertently or intentionally, as the case may be, deals with a post-route bill, which we have amended, as if it was a revenue bill, and sends us such a resolution, we are to turn around and say, "very well, because the House takes this position, or for some other reason, we admit it; we admit at least in this instance that we have no right to say anything about the rate of postage, because consequentially and indirectly it may affect the revenue, and therefore we give up" what I need not at this moment call one of the privileges of the Senate, but "we give up one of the most customary and one of the most necessary functions of the Senate in dealing with all matters of this sort."

Mr. FERRY. Mr. President, I suggest to the Senator from Ohio that his amendment would better apply to the second motion that I propose to make, and that is that a new committee of conference be appointed on the merits of the amendments to the bill.

Mr. THURMAN. Is not that motion pending?

Mr. FERRY. I divided it, supposing the Senator wanted to reach the judgment of the Senate on the question whether it would agree to those amendments which he has pointed out as objectionable. I therefore, to disembarrass the Senate, divided my proposition and asked simply for an agreement to the report and a discharge of the committee for this reason. This committee of conference was appointed to meet a committee of conference on the part of the House upon a resolution. In that conference on that resolution the judgment of the conferees on the part of the House was that its scope was not large enough to cover the consideration of the merits of the bill and amendments. Therefore there would be no object reached; in fact it would be a defeat of the object to instruct this committee, if the Senate deems it fit to instruct the committee of conference. The only way in my judgment by which it can be reached is to agree to the report and then insist upon the amendments, and if the Senator from Ohio then excepts certain amendments he can move to recede from them and insist on the remainder, and thus the new committee will be charged with the judgment of the Senate upon the merits of the case.

Mr. THURMAN. Mr. President, of all the questions that ever arise in the Senate, questions of order are those that I dislike most to tackle. We have had an illustration of the danger of tackling such questions to-day. Here is the senior Senator from Maine, [Mr. HAMLIN,] whose experience in both branches of Congress extends over a greater period of time, I believe, than that of any man now in the public service, and who was once presiding officer of this body, who ruled after debate that it is in order to instruct a conference committee. The Senator from Vermont, [Mr. EDMUNDS,] who is known to be one of the best informed Senators on the subject of parliamentary law there is in this body, affirms that such an instruction is perfectly competent. On the other hand the junior Senator from Maine, [Mr. BLAINE,] who has presided with so much distinction in the other branch of the legislature, says that it is not in order, and the Senator from New York [Mr. CONKLING] says it is nonsensical.

Mr. CONKLING. I think so, though I may not have said so.

Mr. THURMAN. Yes, sir, undoubtedly the Senator does think so. However, I should think that a proposition which had been sustained as this proposition has been sustained, which has such great names in support of it, and which has had the usage of the Senate, or did have the usage of the Senate up to the celebrated salary-grab decision in its favor, ought not to be charged to be a nonsensical proposition.

Mr. CONKLING. If the honorable Senator will allow me, he probably does not mean to do injustice to me. I deny as matter of fact what he assumes. I deny that it ever was the practice or the judgment of the Senate. I deny the application of the precedents cited. And I affirm, after a careful examination made some years ago, that the judgment of the Senate always, with the reasons given for that

judgment, authorizes me in saying that it is utterly repugnant to the idea of a conference committee.

Mr. THURMAN. Mr. President, denial does not amount to much unless some one produces some evidence in support of his denial. I think that any one who will read what I had read by the Secretary will find that the Senate has again and again instructed a conference committee; and if there has been any case in which the Senate ever refused to do it, or ever decided that it had no power to do it, until its decision upon the celebrated back-salary bill, I never saw it.

Mr. BLAINE. Will the Senator allow me?

Mr. THURMAN. No, I believe not. I do not want to talk on this matter long, and therefore prefer to get through.

Mr. President, I said I disliked to talk upon these questions of order and parliamentary law. I never gave any attention to them, and God helping me I never will; I prefer to think about something else. But I have one thing that governs me—I believe in the rules of common sense, and I do not think much of any parliamentary law that violates the rules of plain common sense; and if anybody thinks he is bound by parliamentary law when it is found to be in violation of the rules of plain common sense, I think he is mistaken in his law.

Mr. President, what is the common sense of the position in which we are now placed? The Senate passed a bill, the post-route bill, with amendments. In those amendments were contained two provisions, one in reference to a subsidy for a steamship line, the other setting up the franking privilege again. The House returned the bill to us saying the Senate had infringed the privileges of the House in the passage of that bill with those amendments by inserting provisions in it that could only originate in the House. I do not give the exact language of the message of the House, but that is the substance of it. The House did not specify what were the particulars wherein we had violated the privileges of the House or arrogated a right to ourselves that we did not possess.

Mr. EDMUNDS. This is the exact language if the Senator would like to hear it.

Mr. THURMAN. No, I do not care about it now, because I want to get through. I have stated the substance of it. The House returned the bill, asserting that the Senate had arrogated to itself a right that did not belong to it in certain provisions of its amendments. A committee of conference followed. The House would not agree to consider the provisions that were objected to upon their merits, because the managers at the conference on behalf of the House considered themselves bound by the opinion of the House that those provisions ought not to be in the bill at all and could not be put in it by the Senate. Another committee of conference followed, I believe, and with precisely the same result, or substantially so. Now the question comes, What are we to do—as men of common sense what are we to do?

We are told by the Senator from Vermont, and on reflection I am inclined to think he is right, that we cannot recede from these provisions in the bill until the House disagrees to them, and the House does not disagree to them; it refuses to consider them at all. Therefore we cannot come to any agreement by receding from them in the ordinary way. What, then, can we do except to lose the bill or to take the course that I suggest? The Senator from Michigan suggests a course which it does not seem to me is at all admissible if the Senator from Vermont is right, for he proposes that we shall in the end recede from these provisions in the bill.

Mr. FERRY. The Senator misapprehends me. My proposition was that the report be agreed to, and that the Senate insist on its amendments and ask for another conference. I stated, however, as the Senator from Ohio desired to reach certain amendments and to reject them, I would divide my motion and simply ask first for an agreement to the report, and then follow it by a motion to insist on the amendments and ask for a new committee of conference, when the proposition of the Senator from Ohio to instruct the committee would be, in my judgment, in place.

Mr. THURMAN. Very well, so that it is in place, I do not care whether it is divided or not.

Mr. FERRY. But I desire to say in this connection to the Senator from Ohio that it would be useless to instruct the present committee, as the House conferees have decided that under its resolution they cannot travel beyond the resolution.

Mr. THURMAN. I have not proposed to instruct the present committee. My amendment is to instruct the managers to be appointed. That is my proposition, and that is the point I am upon.

We could recede from our amendments provided the House had disagreed to them; but the Senator from Vermont says, and I am inclined to think truly, that we cannot recede from them until the House does disagree. But the House will not consider them at all. Now, what is more plain common sense than to instruct our conferees to agree to strike out these provisions from the bill? The House says that they must be stricken out because we have no right to put them in. The House has told us so. What is more plain common sense and a more plain, practical way of getting out of this dead-lock than for us to tell our conferees "we agree that you may strike those provisions out of the bill?"

Mr. FERRY. How does the Senator from Ohio know that those two features of the amendments are the only ones to which the House disagree?

Mr. THURMAN. I shall assume that they are. I have named one of them; some other Senator who thinks there is another can name another; and if there is a third one, some Senator who thinks that is involved may move to include that. I content myself with naming one.

Mr. FERRY. Let me state to the Senator from Ohio that the conferees on the part of the Senate suggested the rejection of one or more of the features to which the Senator has alluded; and yet with that proposition on the part of the conferees of the Senate, the House through their conferees declined to act.

Mr. THURMAN. But if we pass a resolution now for a committee of conference and with instructions to these conferees to agree to strike out these provisions of the bill which the House says cannot originate in the Senate, who can doubt for a moment that the committee of conference would come to an agreement? I say that is the common sense of the thing; and if common sense is nonsense then the Senator from New York is right; if common sense is not nonsense, then I am right.

Mr. BLAINE. Mr. President, I found this paper in very fine type, and a little too fine for my eyes. I have got the aid of a neighbor's glasses, and I should like to ask the Senator from Ohio to listen while I read this great precedent which the Senate set in instructing a committee of conference.

Mr. THURMAN. I wish the Senator would address himself to the Senator from Vermont; that is his speech.

Mr. BLAINE. The Senator from Ohio introduced it. I address myself to both those Senators and to all fair-minded men, and I want to show this great precedent of instructing a committee of conference on the part of the Senate! The House passed this resolution on the 1st of March, 1864. There are several gentlemen on this floor who in common with myself were present and took part in those proceedings:

Resolved, That the House insist on its disagreement to the Senate amendments to House bill No. 122, and that the House request of the Senate another conference between the committees of conference on the said bill.

Then they add:

And it is hereby declared to be the judgment of this House that in the adjustment of differences between the two Houses on the said bill there should be an additional duty of not less than twenty nor more than forty cents per gallon imposed on spirits on hand for sale.

That was not a direct instruction to the committee, as will be readily observed; it was merely a declaration of what was the sense of the House. It came to the Senate. It was elaborately debated. Mr. Sherman, the present Secretary of the Treasury, moved to join in the conference with instructions to the Senate conferees, and after a protracted debate the Senate, on a vote by yeas and nays, by 15 yeas to 25 nays, refused to join it, and immediately afterward, according to this very record, passed the following resolution:

Resolved, That the Senate disagree to the resolution of the House of Representatives of the 1st instant, *proposing instructions to the conferees*, and ask another *free* conference on the disagreeing votes of the two Houses on the bill (H. R. No. 122) to increase the internal revenue, and for other purposes.

That is what the Senator from Vermont calls a precedent showing that conference committees have been instructed by Congress.

Mr. HOAR. I should like to ask the Senator from Maine if it is not true that in the English Parliament practically conferees are instructed where the conferees are appointed merely to communicate to one house the proceedings of the other house or to insist on certain usages?

Mr. BLAINE. Undoubtedly.

Mr. HOAR. So much so that it is laid down as a rule in English parliamentary treatises that it is not proper to ask for a free conference at all until two instructed conferences have been held.

Mr. BLAINE. The same thing is embodied in Jefferson's Manual; and the decision which my honorable colleague, who was then Vice-President, made, was that, drawing the proper distinction between a simple and a free conference, the motion was in order. That was all. The decision of the Vice-President was right, entirely right.

Mr. EDMUNDS. That is all I contended for.

Mr. BLAINE. That it might be in order if you made a distinction between a simple and a free conference. It has not been the habit, however, to use these phrases in our parliamentary law and practice of late years, and this very precedent itself ended by the Senate itself rejecting, by a vote of 25 to 15, a proposition for an instructed conference.

Mr. EDMUNDS. Mr. President, we have at last got, through the aid of my honorable friend from Massachusetts, the Senator from Maine down to the point, and that is that a motion to instruct a committee of conference proposed to be appointed by this body is in order.

Mr. BLAINE. No, I do not say so. I did not say any such thing.

Mr. EDMUNDS. I think that is what the Senator said in substance. I may be mistaken. If the Senator says I am, then I take it that I am. Then I do not understand and I am sure I must have misunderstood what the Senator from Massachusetts said and what the Senator from Maine replied to.

Mr. BLAINE. I agreed with him that there was a practice in the English Parliament to that effect.

Mr. EDMUNDS. And so he said that his colleague, then the Vice-President of the United States sitting in that chair, decided rightly. Now if you turn to the record you will find that the honorable Senator then the Vice-President decided in terms, the point being made, that a motion to instruct a conference committee was in order in

totidem verbis. Now what is the sense of this thing as well as its history? First its history. I undertake to say with considerable assurance that until we came to the back-salary question, called the grab, there never was an instance in all the parliamentary history of the English Parliament or of the Congress of the United States in which when a motion was made to instruct a conference committee a point of order was raised against it or being raised was sustained, and the short examination of the records made by our talented and capable Reporter (not by the late Chief Clerk of the Senate) which was embodied in what I stated on the succeeding day showed it.

My honorable friend says that the one precedent referred to in this Chamber—he calls it one, there are two—showed that that was not the case. Why? Because the Senate declared its judgment as to what its agents ought to do instead of putting it in the technical form of a command. That is a distinction without a difference. You might just as well say that a foreign ambassador, one of our ministers sent to a foreign country could not have a free conference with the minister of the nation to which he was accredited, because he was conferring under instructions. To borrow a phrase from my honorable friend from New York but changing it a little,—I think he said it was absurd to consider it; I should say to maintain such a proposition was nonsense. The mistake into which Senators fall, with great respect, as it seems to me, is simply this: they think that an agent cannot confer freely and urge the views of his principal if he is under any instructions at all as to what he ought to insist upon. I do not understand the term "free conference" or free anything in any such sense; perhaps I may be wrong.

But there was another Senate precedent, when the honorable Senator from Illinois, (Mr. Trumbull,) who made the point of order on the salary bill and carried it, only a few sessions before had himself moved in distinct terms to instruct a committee of conference of this body, and it was done.

So, Mr. President, as far as there is any precedent in respect of this matter, the only one adverse to the right of the Senate to pass any vote as to what any of its committees shall do is found on the salary bill—nowhere else that anybody can find or refer to. But, as I say, what is the sense of it? The two committees of conference are merely the agents, the representatives of their principals behind them. They are appointed to represent and insist upon the views of those principals and convince the other side if they can, and instruction to them is only a guide which they are in honor and duty bound to follow, a guide to the points they should insist upon, leaving them the fullest scope for bringing forward the reasons of what they shall do. That is what the theory of it is; and therefore even a free conference in the technical sense, which I think is not proposed here as such in name, is not a conference where either House or its agents have a right to back out of the whole bill, but it is only a conference which in respect to the urgency of the occasion is not foreclosed as to the views that either side is to present and the reasons for trying to persuade the other that it ought to yield. But that is a criticism that it is entirely unnecessary to go into here. This resolution is to have a conference. The proposition of the Senator from Ohio is to instruct the agents of this body to say to the agents of the other side "we are willing to withdraw from our insistence upon certain propositions." That is all there is to it.

Mr. FERRY. Will the Senator allow me to put him a question?

Mr. EDMUNDS. Certainly.

Mr. FERRY. If a committee of conference is appointed on the part of the Senate, and they be instructed in the two particulars or on the two propositions suggested by the Senator from Ohio, is it not an implication that the conferees are prohibited from yielding upon any other point of disagreement between the two Houses? In other words, if they find that they can agree by surrendering the two propositions pointed out by the Senator from Ohio, and a third one besides, will they not fail to agree because the Senate have instructed them in the two particulars to yield and in all the rest to insist?

Mr. EDMUNDS. That is a question of interpretation and not of order. That addresses itself to the question of whether it is right to instruct them, whether it is wise. That is quite a different question, which I am not now discussing at all; but I should say no to my honorable friend. I should think they would be just as free to recommend to the Senate that it recede from something else or agree to something else with modifications as they were before. I should have no doubt upon that point.

Now I will leave this question of order and come to the precise question that is now before us, and that is the first division of the motion of the Senator from Michigan, and that is to agree to the report made on the 18th of June, 1878. Now let us see what there is to agree to, whether it is at all necessary or proper, I do not mean in the sense of order——

Mr. FERRY. If the Senator will allow me I desire to restore the other portion of my proposition, and put it as I originally presented it, inasmuch as the Senator from Ohio desires to instruct the committee and take the sense of the Senate. I therefore offer it as originally presented by myself.

Mr. WHYTE. Then let it be reported.

Mr. EDMUNDS. Let it be reported over again, so that I shall know what it is I am talking about.

The Secretary read as follows:

Resolved, That the Senate agree to the second report of the committee of conference on the resolution of the House returning the bill of the House with the amendments of the Senate, made by Mr. KIRKWOOD June 18, 1878, further insist upon its amendments to the bill, and ask a further conference on the disagreeing votes of the two Houses thereon.

The PRESIDING OFFICER. The Senator from Ohio [Mr. THURMAN] proposes an amendment, to add what will be read.

The Secretary read the proposed amendment, as follows:

And that the conferees to be appointed on the part of the Senate be instructed to agree to strike out from the amendments of the Senate the amendment of the Senate relating to the franking privilege added by way of proviso to the eleventh section.

Mr. EDMUNDS. The difficulty about the resolution of the Senator from Michigan, it appears to me, is, first, as to the part of it which agrees to the report of the committee of conference, (which is perhaps of no practical consequence except as a precedent in the future,) that there is no report which calls for any action of the Senate. They simply recite what they have done; that they have met the other party and have come to no conclusion about it because they could not agree. Now it does not require any vote of the Senate, and it is quite unnecessary and would be a bad precedent, in my opinion, although it is not of great consequence,—in this instance none at all,—to adopt that proposition.

Then we come to the second part, which is of consequence, and that is a statement to the House of Representatives that we insist upon our amendments, upon the disagreeing votes. Well, there has not been any disagreeing vote, as I understand the history of this thing and as all others understand it, on these amendments. The House of Representatives have simply returned to us as irregular a bill of their own that we sent back to them with a particular amendment, because they said we had invaded their constitutional rights by proposing such an amendment to that bill, and they would neither receive the bill nor the amendment, although they are on separate pieces of paper. So, as it appears to me, the resolution of the Senator from Michigan does not state the case as it is; and that is one difficulty with me in voting for it. There is no disagreement in respect of these amendments between the two Houses on the amendments themselves. The point of difference between the two Houses is an entirely separate matter, and that is that we have proposed to them a kind of legislation which they decline to receive and consider at all. They neither agree to it nor disagree to it. They decline to act upon it because they say we have no business to send them such a paper. And therefore if we wish to interchange views with the House of Representatives on the point that they make, our resolution should be addressed to that point, and should ask the House of Representatives to confer further upon the subject of their resolution that returned these amendments as irregular, or else we must adopt the suggestion of the Senator from Maine and send them a resolution on that very point, that they making this point and we yielding to it, because it amounts to that, these things are to be taken as being irregular, and then leaving the bill to proceed.

Mr. CONKLING. Mr. President, I wish to repair a wrong which I have done to myself as the Senator from Ohio [Mr. THURMAN] seems to understand. In some observations I made a few moments ago, I said of something of which I was speaking that it seemed to me nonsensical. The honorable Senator from Ohio evidently understood that I applied that word to his amendment. I wish now to say to him in all frankness that having been called for a moment out of the door when his amendment was read, I not only did not know the nature of his amendment, but I did not know that he had offered an amendment at all. Therefore I could not have intended to characterize his amendment as nonsensical.

I had listened, not for the first time because several times before this memorandum has been read which it turns out is the work of our accomplished Reporter—I agree that he is very accomplished—I speak of it now, however, with the more freedom because it seems to be the work of one living and not as I supposed the work of one dead. It has been read in my hearing several times before and read for the purpose of proving a proposition which I did not know the Senator had embodied in his amendment; and speaking of that proposition, it was that I said it seemed to me nonsensical. I cannot withdraw that remark in conscience, because I do sincerely believe that few things more grotesque can be presented to the mind of a man who knows anything about parliamentary law than the notion that you can have not only a conference but a full and free conference and in the same breath say that it shall not be any such thing.

I agree with the Senator from Vermont,—I did on the occasion referred to when we had a debate in the Senate and have always since I knew anything about this question,—that it is entirely regular to have a simple or special conference and instruct it to go and do a specific thing. All I meant to deny was and is that you can have a full and free conference as understood and as existing, and at the same time so instruct it that it ceases to be full and free. It was only so much that I intended to say, and I beg to assure the honorable Senator from Ohio that I had not in the employment of that term the remotest reference to him because he had expressed no opinion on the point, and certainly none in his amendment, for I did not then know that he had offered any amendment, and of course not the amendment which it turns out had come from him.

Mr. HOAR. Mr. President, I desire simply to make one observation because it seems to me that the affirmations made by the Senator from Maine and the Senator from New York on the one side, and the

Senator from Vermont and the Senator from Ohio on the other, while they are apparently in conflict, are not really so. They are speaking really of different things. There is no doubt whatever that there are two kinds of conferences known to parliamentary usage both in this country and in England. One is a conference to communicate by one legislative body its action or its reason or its desire to the other, or to persuade the other by conveying to it certain arguments to do something which the co-ordinate body desires. That is a simple conference, and of course for a conference of that class instructions are not only usual but are necessary. On the other hand there is a free conference, in which the agents of the two legislative bodies seek to reconcile upon a common platform differences in regard to what it is expedient to do in legislative or other action of the body. That is a free conference.

Now, the fundamental and practical distinction for our purpose to-day between these two classes of conferences is in the power which the conferees are clothed with in reference to their own body. The instructed conference has no right to recommend legislation or amendment or modification of legislation to the body which it represents. It can simply convey a message and report it, or receive a message and report it. That is the limit of its power. The free conference on the other hand has full jurisdiction over the bill which is committed to it, so far as the differences of opinion between the two branches go, to reconcile those differences by new provisions or modified provisions, or by adopting the purpose or desire of one or the other, as it pleases. Now, the question between an instructed and a free conference comes up as a question of order when they make their report. If this conference goes down to the House instructed, if the only instruction it has is to convey to the House the fact that the Senate has receded from an amendment, that may be done by the committee of conference as well as by the Clerk; and in England it is done by a committee of conference instead of being done by an officer or member of the body; that is all. They cannot then report any new legislation. I presume that it would be in the power of the House or the Senate to combine the two, and that there being three amendments in regard to which the two branches differ, we might instruct our conferees to inform the House that we receded from one where they differed from us, and proposed a free conference in regard to the other two.

It does not seem to me there is any substantial difference of opinion between the Senator from Maine and the Senator from Ohio in regard to this matter.

Mr. BLAINE. I know this discussion is rather a dry one, but I merely want on a question of fact to settle one other point which the Senator from Vermont has brought up. This long paper to which reference has been made only contains two cases. The Senator spoke of numerous precedents, and he had an expert at work to go over the records of the Government and he only found two. The first I have spoken of. Now what was the second? A conference was had on a salary bill in 1866, and there was also a provision in it about bounty. Mr. Sherman, the present Secretary of the Treasury, was chairman of the conference on the part of the Senate. He comes in and states to the Senate that the conferees come very near agreeing with the House, but they could not do it because they did not feel at liberty to give way on a certain point. Mr. Trumbull got up and moved that they be instructed to give way, and the Senator from Vermont calls that instructing a committee of conference, and they went out and yielded to the House.

After all this search these are the only two cases the Senator adduces, and neither of them comes within a thousand leagues of establishing any thing else than the direct reverse of what he has asserted.

Mr. ALLISON. Mr. President, I wish to make an inquiry or two. I have listened as attentively as I could to this debate all day, and I desire to ascertain the condition of the question. I understand the Senator from Michigan now to propose to agree to a report, which is simply a report of a disagreement, and then to suggest another conference. Another conference about what? This bill, as amended by the Senate, I understand has never yet been considered by the House of Representatives at all. Now, the Senator from Ohio proposes to instruct the new committee of conference that they shall recede from two amendments. In what condition will that leave us supposing the House agrees to this new conference? The House has not yet disagreed to a single amendment proposed by the Senate. Am I right or wrong about that?

Mr. CONKLING. They have not considered the amendments at all.

Mr. ALLISON. They have not agreed to or disagreed to a single amendment in this bill, and we propose in advance to instruct our conferees, assuming that we can instruct them, that they shall recede from two of these amendments.

Mr. BLAINE. To recede on the part of the Senate—not to instruct the conferees at all.

Mr. ALLISON. Well, take either view of it. The customary way is to number the amendments made in the Senate to House bills, and the reverse. When these two committees of conference get together what will be the character of their jurisdiction? That is what troubles me. It certainly will not be claimed that the House committee of conference, if appointed, can go into the details of this bill when the House itself has not acted upon those details. Therefore it seems to me that the only possible question we can raise now with the House is the question of privilege which they have suggested, and that we should treat with them with reference to this question of privilege. I have understood from the run of the debate that this bill has not been itself before either of the committees of conference. Whether it has or not, they had no right to have the bill.

Mr. WHYTE. It has not been officially before them.

Mr. ALLISON. The House of Representatives returned the bill to the Senate of the United States, and it must lie upon that table until it is considered. The question that was submitted to these two committees of conference was the question of difference, to wit, the question of privilege raised by the House of Representatives. We have never submitted this bill to a committee of conference. It does not seem to me that the House committee can consider the questions involved in this bill itself until the House has acted on those questions. Therefore, it seems to me, with all due deference to other gentleman, that the motion originally made by the Senator from Vermont [Mr. EDMUNDS] was the true motion, that a committee of Senators be appointed, who shall take up these questions of difference between the Senate and the House and brush them aside, and then take up the bill and decide the question whether we shall recede from our amendments here in the Senate, or whether we shall insist upon them and ask for a conference with reference to them.

Mr. FERRY. I remind the Senator from Iowa that the Senate is not responsible for the action of the House. The House have seen fit to return this bill to the Senate. The Senator from Iowa can construe the action of the House as he sees fit; it is substantially a declaration of non-agreement on the part of the House, and the bill has come back to the Senate. No matter for what reason, the House has seen fit to act as it pleases, and the Senate cannot criticise its action. The conferees appointed on the part of the Senate were instructed to consider a resolution passed by the House which involved the question of disagreement between the two Houses, on the votes of the respective Houses, which were on the original bill as passed by the House and the amendments on the part of the Senate. I state to the Senator from Iowa that the questions of disagreement on the different amendments were considered in the conference of the two committees, and there was a disposition on the part of a portion of the conferees of the House to consider in a proper temper the disagreement upon those votes, but the majority finally were not willing to take a vote upon the merits, were not willing to agree to or consider the merits of the disagreement. Therefore, they joined in the report that is now before the Senate for its action.

It seems to me that there is no other course for the Senate to pursue. As the Senate has made two trials on the question of privilege, and failed to reconcile the two Houses on that question, the proposition now is to accept or agree to the report made by the Senate committee, and to ask for a new committee of conference on the disagreeing votes upon the amendments made on the part of the Senate. The Senator from Iowa will see that the Senator from Ohio with that view proposes to instruct the committee on two of the propositions involved in the amendments adopted by the Senate.

Mr. ALLISON. Now, may I ask the Senator from Michigan a question?

Mr. FERRY. Certainly.

Mr. ALLISON. Am I correct in understanding the Senator to state that this bill with the amendments was before the committee of conference?

Mr. FERRY. It was.

Mr. ALLISON. Properly before the committee?

Mr. FERRY. It was before the committee.

Mr. ALLISON. The House insisted that certain amendments in this bill made by the Senate were in the nature of revenue measures, and, therefore, could not originate in the Senate. Was that the point? Did they point out those amendments?

Mr. FERRY. They were pointed out, a portion of them. On the part of the Senate, the Senate conferees proposed to surrender some, but the Senate would not surrender all, to which the House took exception.

Mr. ALLISON. Very well; the Senate agreed to surrender a portion of those amendments.

Mr. FERRY. Did not agree, but proposed.

Mr. ALLISON. I mean proposed to do so, and the House was not willing to accept that concession unless others should be surrendered. It seems to me that perhaps if another committee of conference was agreed to on this question of privilege the next committee could agree.

Mr. FERRY. That is the very point I suggested to the Senator from Ohio, that if the Senate appoints a new committee of conference on the disagreeing votes of the two Houses—the House will doubtless follow in meeting the Senate in appointing a committee of conference—that new committee may be able to consider the merits of the different amendments. If we can do so, in my judgment there will be an agreement or a flat disagreement on the amendments that are pending between the two Houses.

Mr. WHYTE. Mr. President——

Mr. WITHERS. Will my friend from Maryland yield to me a moment? I wish merely to suggest to the Senate that the rules which are laid down in our Manual, as it seems to me, provide for exactly the condition of things in which we find ourselves now. It is certainly true that there has been no disagreement by the committee of conference on the details of the bill which was submitted to them from the

House. They refused to consider the merits of the question entirely, but declared that there had been an invasion of their privileges, and consequently took no notice whatever of the amendments of the Senate. That being the case, it strikes me that the only remedy for it under parliamentary law is to call a committee of conference, a simple conference, not a full and free conference, but a conference whose functions shall be restricted precisely to a consideration and settlement of the question of the privileges of the two bodies. I find in the Manual that committees of this kind are called for various purposes, and among those enumerated is:

When a conference is asked the subject of it must be expressed, or the conference is not agreed to. (Ord. H. Com., 89; 1 Grey, 425; 3 Grey, 31.) They are sometimes asked to inquire concerning an offense or default of a member of the other house, (6 Grey, 181; 1 Chand., 304;) or the failure of the other house to present to the king a bill passed by both houses, (8 Grey, 302;) or an information received and relating to the safety of the nation, (10 Grey, 171;) or when the methods of Parliament are thought by the one house to have been departed from by the other a conference is asked, to come to a right understanding thereon.

The latter is precisely the case now under consideration. There is a difference of opinion between the two Houses as to their respective rights, one House believing that they have been departed from by the other; and it strikes me that the only mode of settlement now is to ask for a conference upon that specific question, and let the conferees examine it and report upon it.

Mr. WHYTE. Mr. President, if a resolution of that character were offered, I should make no objection to it, because that would be to consider this question of privilege. The other proposition, that of the Senator from Vermont, is the most common one in parliamentary usage; that is, when a question of this sort arises, to submit it to a select committee of the body; and that I should vote for in preference to any other proposition.

But, Mr. President, let me call the attention of the Senate back to the exact condition of this question. Without taking up time, the Senate remembers that the bill came here, was amended here, went to the House, the amendments were not considered, the House passed a resolution sending the bill back and raising the question that our amendments to it infringed the privileges of the House. We thereupon insisted upon our amendments. We requested a committee of conference. We appointed a committee of conference. The House did likewise. Those committees met. They could not agree, and they asked for another committee of conference in the hope of an agreement. On their request, a second committee of conference was appointed and it met the managers on the part of the House, and the managers on the part of the House stood upon the resolution of June 14 of the House, which limited the inquiry to the question whether we had not invaded its privileges. They stood upon that. They would discuss nothing else; they had no power whatever to consider any other question but that single question raised by the resolution of their House. Consequently a disagreement on that subject took place between the two committees. Both committees reported to their respective Houses their failure to agree, and neither committee of conference asked for a new committee; neither one of them recommended any action on the part of the body which they represented. Consequently, the proposition before us now is to agree that there can be no agreement. That is the report. They do not ask for any further conference. They report that they cannot agree, and there ends the whole case. That report was made to the House of Representatives on the 18th of June. The House agreed to that report, and considered therefore that the proposition between the two Houses was at an end, was not to be further discussed. That report was concurred in.

Then, Mr. President, as you will see, a resolution was offered with a view to raise a new committee of conference, offered by Mr. WADDELL. The point of order was made distinctly, the very point of order which the Senator from New York considers to have nothing in it, that the House not having disagreed to the amendments of the Senate there were no amendments before them upon which a conference committee could be raised. Mr. CARLISLE made that very point, and Mr. BANKS, the former Speaker of the House, concurred that it was a good point. Then a motion was made to suspend the rules to offer a resolution reopening this question, so that it could be conferred upon between the two Houses, and upon the motion to suspend the rules to enlarge the powers of the committee what was the vote? I ask the attention of the Senate to that fact to show what a delusive hope that is of the Senator from Michigan when he holds out to us the idea that the House is going to recede from the position it has taken in regard to its privilege. When that motion to suspend the rules was voted on, two-thirds did not vote for it; and by mistake on account of my eyesight I before gave the wrong vote. I supposed there was more than a majority for the motion, but not two-thirds. I find, however, on looking at the record where the vote is given that I accidentally had taken another vote. The House divided, and the ayes were 67 and the noes were 85. So not only did not the motion to suspend the rule and take up the resolution get a two-third vote, but by a majority of twenty-odd the House refused to suspend the rule; and now we are told that we ought to send over there again and ask for a committee of conference upon a question which has been met with a final order by such gentlemen as Mr. BANKS, the former Speaker of the House, upon the very ground that there is nothing to confer upon except that single question of privilege. Until we send a resolution asking for a conference upon that question, we lower ourselves by proposing any consideration of the amendments which the House has refused even to look at.

Now, Mr. President, the hour is late and this subject will give latitude to greater discussion. I move that the Senate do now adjourn.

Mr. FERRY. I hope not. I hope we shall take the vote.

Mr. EDMUNDS. I wish to appeal to the Senator from Maryland to allow me before the vote is taken either way to say that as soon as I can get the floor for that purpose I shall move to proceed to the consideration of the resolutions that I presented on the subject of the constitutional amendments.

Mr. WHYTE. I do not yield my motion.

CHOCTAW CLAIM.

The VICE-PRESIDENT. Before putting the motion of the Senator from Maryland the Chair will lay before the Senate a message from the President of the United States.

The Secretary read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, copies of a report and accompanying papers, received from the Secretary of the Interior, upon a communication addressed to the President of the United States in behalf of a certain claim of the Choctaw Nation, arising under the provisions of the Choctaw and Chickasaw treaty of June 22, 1855.

R. B. HAYES.

EXECUTIVE MANSION, *January 24, 1879.*

The message was referred to the Committee on Indian Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road;

A bill (H. R. No. 5052) to amend section 3835 of the Revised Statutes of the United States; and

A bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives.

The message further announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. W. A. J. SPARKS of Illinois, Mr. O. R. SINGLETON of Mississippi, and Mr. JOHN H. BAKER of Indiana managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878;

A bill (H. R. No. 5808) to facilitate the refunding the national debt;

A bill (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army; and

A bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

REPORTS OF COMMITTEES.

Mr. WHYTE. I insist upon my motion.

Mr. EDMUNDS. Will the Senator from Maryland allow me to make a report in order to get a matter to another committee?

Mr. BURNSIDE. Will the Senator yield to me for a moment?

Mr. WHYTE. I yield to the Senator from Vermont.

Mr. EDMUNDS. I report from the Committee on the Judiciary the petition of Eli Ayres, of the State of Texas, praying the passage of a law to quiet titles to certain lands alleged to have been purchased by him under the Chickasaw treaty of May 24, 1834, or that he may be reimbursed the amount of money, with interest, alleged to have been paid for said lands. This petition, in the opinion of the committee, presents a matter that strictly and appropriately belongs to the Committee on Private Land Claims. I therefore move that the Committee on the Judiciary be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims.

The motion was agreed to.

Mr. BURNSIDE, from the Joint Committee on Army Reorganization and Reform, submitted an amendment intended to be proposed to the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. OGLESBY. I ask unanimous consent to be allowed to present six petitions on the subject of the arrears of pension bill that ought to have been presented some days ago, but owing to my absence have not been. I now present these petitions, signed by some six hundred of the soldiers of Illinois, and ask that they be received and lie on the table, as the bill has passed during my absence.

The petitions were ordered to lie on the table.

Mr. HOAR. I have several petitions of the same character that I should like to present to go to the table.

The VICE-PRESIDENT. The petitions will be received and lie on the table.

BILLS INTRODUCED.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1701) to carry out the stipulations of certain treaties; which was read twice by its title, and referred to the Committee on Territories.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1702) to permit E. C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1703) granting $2,000 to G. E. W. Sharretts as compensation; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1704) to make rules for the government and regulation of the land forces of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO POST-ROUTE BILL.

Mr. MERRIMON submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

POST-ROUTE BILL—REVENUE LEGISLATION.

Mr. WHYTE. I insist on my motion.

The VICE-PRESIDENT. The Senator from Maryland moves that the Senate do now adjourn.

Mr. WHYTE. I will yield for an executive session if any one wants it.

The Senate refused to adjourn; there being on a division—ayes 19, noes 24.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. FERRY. I hope not.

The motion was not agreed to; there being on a division—ayes 20, noes 24.

Mr. FERRY. I hope the vote will be taken on my motion. I have made some modification of the resolution since it was up.

The VICE-PRESIDENT. Will the Senate agree to the amendment proposed by the Senator from Ohio, [Mr. THURMAN,] which will be read.

Mr. ALLISON. I ask that the whole resolution be read also.

The VICE-PRESIDENT. The resolution as modified will be read.

The Secretary read as follows:

Resolved, That the Senate agree to the report of the second committee of conference made by Mr. KIRKWOOD, June 18, 1878, on the resolution of the House of Representatives returning to the Senate the bill of the House (No. 4286) to establish post-routes in the several States herein named, and further insist upon its amendments to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

The amendment of the Senator from Ohio is to add:

And that the conferees to be appointed on the part of the Senate be instructed to agree to strike out the amendment of the Senate relating to the franking privilege added by way of proviso to the 11th section.

Mr. EDMUNDS. Mr. President, after hearing the discussion and after reflection I think it a duty to move that this resolution with all its amendments be referred to a select committee of five Senators, of whom I shall not be one, but of course I do not make that a part of the motion.

Mr. BLAINE. Is that in order pending a motion for a conference. Can a motion of as high a privilege as that for a conference be superseded in this way?

The VICE-PRESIDENT. The Chair holds that it may be referred under the rules of the Senate.

Mr. EDMUNDS. We can refer the resolution, certainly.

Mr. FERRY. I hope the Senate will vote down the motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont that the whole subject-matter be referred to a select committee of five.

The motion was agreed to; there being on a division—ayes 30, noes 21.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the resolutions I have referred to that I offered on the subject of the constitutional amendments.

Mr. THURMAN. I move that the Senate adjourn.

The VICE-PRESIDENT. It is moved that the Senate adjourn.

The question being put, a division was called for; and the ayes were 27 and the noes 21.

Mr. EDMUNDS called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. HAMLIN. I refrained from voting when the Senate divided, as I shall when the yeas and nays are called. The Senator from Delaware [Mr. BAYARD] and myself are paired upon political questions, and I am rather inclined to think this is one.

The roll-call was concluded.

Mr. GARLAND. What is the question, Mr. President?

The VICE-PRESIDENT. The motion is that the Senate do now adjourn.

Mr. GARLAND. That is right. I vote "nay."

Mr. MATTHEWS. Mr. President, on this question I am paired with the Senator from Indiana, [Mr. MCDONALD.]

Mr. MITCHELL. I refrained from voting from the fact that the Senator from North Carolina [Mr. MERRIMON] asked me to pair with him on this question. He now informs me that he is paired with the Senator from Kansas, [Mr. INGALLS.] Therefore I vote "nay."

Mr. MERRIMON. This seems to be regarded as a political question, and I therefore feel constrained to observe my pair with the Senator from Kansas, [Mr. INGALLS.]

Mr. EDMUNDS. I wish to announce that the Senator from Colorado, [Mr. TELLER,] who is absent under order of the Senate on business, is paired on all political questions with the Senator from Oregon, [Mr. GROVER,] and the Senator from Wisconsin, [Mr. CAMERON,] who is absent under a similar order of the Senate, is paired with the Senator from Tennessee, [Mr. BAILEY,] and the Senator from Iowa [Mr. KIRKWOOD] is paired with the Senator from Arkansas, [Mr. GARLAND.] The Senator from California [Mr. SARGENT] is paired with the Senator from Texas, [Mr. COKE.]

Mr. GARLAND. We have got to a point where I want to know whether this motion to adjourn is a political question. I voted against the adjournment.

Mr. EDMUNDS. You vote the same way that Mr. KIRKWOOD would have voted; so you are not in any danger of violating the pair.

Mr. GARLAND. If it is a political question I will withdraw my vote.

The VICE-PRESIDENT. It is not the province of the Chair to determine that.

Mr. GARLAND. I voted against adjournment.

Mr. CAMERON, of Pennsylvania. I am paired with my colleague, [Mr. WALLACE.]

Mr. DAWES, (who had voted in the negative.) I am paired on political questions with the Senator from Connecticut, [Mr. BARNUM,] and if this has taken that turn I beg leave to withdraw my vote.

Mr. BUTLER. If this is a political question I am paired with the Senator from Florida, [Mr. CONOVER,] and therefore shall not vote.

Mr. BAILEY. On all political questions I am paired with the Senator from Wisconsin, [Mr. CAMERON.] I do not regard this as a political question, but apprehensive that others may so consider it I have declined to vote and still decline.

Mr. PADDOCK. On all political questions I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] I have refrained from voting for that reason.

Mr. EATON. I have voted but I ought to say here that the Senator from Vermont asked me whether I would not pair with the Senator from Michigan, [Mr. CHRISTIANCY.] I was paired with the Senator from Michigan by request of the Senator from South Carolina, [Mr. BUTLER,] the day before yesterday and yesterday, but I understand from the Senator from South Carolina that the pair was broken by him this morning, and, therefore, I voted.

The result was announced—yeas 24, nays 24; as follows:

YEAS—24.

Armstrong,	Eaton,	Kernan,	Ransom,
Beck,	Gordon,	Lamar,	Saulsbury,
Cockrell,	Harris,	McCreery,	Thurman,
Davis of Illinois,	Hereford,	McPherson,	Voorhees,
Davis of West Va.,	Hill,	Maxey,	Whyte,
Dennis,	Jones of Florida,	Morgan,	Withers.

NAYS—24.

Allison,	Conkling,	Howe,	Plumb,
Anthony,	Dorsey,	Jones of Nevada,	Rollins,
Blaine,	Edmunds,	McMillan,	Saunders,
Booth,	Ferry,	Mitchell,	Spencer,
Bruce,	Garland,	Morrill,	Wadleigh,
Burnside,	Hoar,	Oglesby,	Windom.

ABSENT—28.

Bailey,	Christiancy,	Ingalls,	Paddock,
Barnum,	Coke,	Johnston,	Patterson,
Bayard,	Conover,	Kellogg,	Randolph,
Butler,	Dawes,	Kirkwood,	Sargent,
Cameron of Pa.,	Eustis,	McDonald,	Sharon,
Cameron of Wis.,	Grover,	Matthews,	Teller,
Chaffee,	Hamlin,	Merrimon,	Wallace.

So the motion to adjourn was not agreed to.

Mr. EDMUNDS. The question recurs now on the motion pending to proceed to the consideration of my resolutions.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont.

Mr. EATON. I move that the Senate now proceed to the consideration of executive business.

The VICE-PRESIDENT. The Senator from Connecticut moves that the Senate now proceed to the consideration of executive business.

The question being put, there were on a division—ayes 24, noes 24.

The VICE-PRESIDENT. The motion is lost.

Mr. EATON. I move that the Senate do now adjourn.

The question being put, there were on a division—ayes 25, noes 25.

The VICE-PRESIDENT. The motion is lost. The question recurs on the motion of the Senator from Vermont.

Mr. McCREERY. Is that proposition amendable?

Mr. EDMUNDS. No, sir. A motion to proceed to the consideration of particular business cannot be amended.

Mr. McCREERY. I would appeal to the courtesy of the Senator from Vermont and the courtesy of the Senate if it is not proper under the circumstances to proceed with the consideration of the claim of Warren Mitchell which was before this body yesterday. Various speeches have been made in opposition to it, and it was superseded by a motion to take up the business we have just transacted. I think in all fairness the Senate at this time ought to accord to this claim the privilege of being proceeded with. I hope the Senator from Vermont will under the circumstances consider this matter and make a favorable reply.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont.

Mr. McCREERY. I move to lay that proposition of the Senator from Vermont on the table in order to take up the bill for the relief of Warren Mitchell.

The VICE-PRESIDENT. The Senator from Kentucky moves that the motion of the Senator from Vermont be laid upon the table.

Mr. EDMUNDS. I make the point of order that that motion is not in order. A motion to proceed to the consideration of a bill cannot be laid on the table.

The VICE-PRESIDENT. The Chair understands the Senator from Kentucky to move to lay this motion on the table. The Chair rules that that is in order.

Mr. VOORHEES called for the yeas and nays, and they were ordered.

The VICE-PRESIDENT. The question is on the motion of the Senator from Kentucky.

The Secretary proceeded to call the roll.

Mr. MERRIMON, (when his name was called.) On this question I am paired with the Senator from Kansas, [Mr. INGALLS.]

The roll-call was concluded.

Mr. MATTHEWS. I desire to say that on this question I am paired with the Senator from Indiana, [Mr. McDONALD.]

Mr. DAWES. On this question I am paired with the Senator from Connecticut, [Mr. BARNUM.] Otherwise I should have voted "nay."

Mr. CAMERON, of Pennsylvania. I am paired with my colleague, [Mr. WALLACE.]

Mr. PADDOCK. I am paired with the Senator from New Jersey, [Mr. RANDOLPH.]

Mr. MAXEY. I was requested to announce the pair of the Senator from California [Mr. SARGENT] with my colleague, [Mr. COKE.] If present, my colleague would vote "yea" and the Senator from California "nay."

The result was announced—yeas 25, nays 24; as follows:

YEAS—25.

Armstrong,	Garland,	Lamar,	Thurman,
Beck,	Gordon,	McCreery,	Voorhees,
Cockrell,	Harris,	McPherson,	Whyte,
Davis of Illinois,	Hereford,	Maxey,	Withers.
Davis of W. Va.,	Hill,	Morgan,	
Dennis,	Jones of Florida,	Ransom,	
Eaton,	Kernan,	Saulsbury.	

NAYS—24.

Allison,	Dorsey,	Kellogg,	Plumb,
Anthony,	Edmunds,	McMillan,	Rollins,
Blaine,	Ferry,	Mitchell,	Saunders,
Bruce,	Hoar,	Morrill.	Spencer,
Burnside,	Howe,	Oglesby,	Wadleigh,
Conkling,	Jones of Nevada,	Patterson,	Windom.

ABSENT—27.

Bailey,	Chaffee,	Hamlin,	Paddock,
Barnum,	Christiancy,	Ingalls,	Randolph,
Bayard,	Coke,	Johnston,	Sargent,
Booth,	Conover,	Kirkwood,	Sharon,
Butler,	Dawes,	McDonald,	Teller,
Cameron of Pa.,	Eustis,	Matthews,	Wallace.
Cameron of Wis.,	Grover,	Merrimon,	

The VICE-PRESIDENT. The yeas have it. The motion of the Senator from Vermont is laid on the table.

Mr. EDMUNDS. Now, Mr. President, I move that the Senate proceed to the consideration of the resolutions I had the honor to offer the other day. The former motion having been laid on the table, I move it again.

Mr. WHYTE. I move that the Senate do now adjourn.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maryland.

Mr. WHYTE. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CAMERON, of Pennsylvania, (when his name was called.) On this question I am paired with my colleague, [Mr. WALLACE.]

The roll-call was concluded.

Mr. MERRIMON. This seems to be treated as a political vote. I therefore feel constrained to observe my pair with the Senator from Kansas, [Mr. INGALLS.]

Mr. PADDOCK. On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] The Senator from Ohio [Mr. MATTHEWS] is paired with the Senator from Indiana, [Mr. McDONALD.]

The result was announced—yeas 25, nays 24; as follows:

YEAS—25.

Armstrong,	Garland,	Lamar,	Thurman,
Beck,	Gordon,	McCreery,	Voorhees,
Cockrell,	Harris,	McPherson,	Whyte,
Davis of Illinois,	Hereford,	Maxey,	Withers.
Davis of W. Va.,	Hill,	Morgan,	
Dennis,	Jones of Florida,	Ransom,	
Eaton,	Kernan,	Saulsbury,	

NAYS—24.

Allison,	Conkling,	Jones of Nevada,	Plumb,
Anthony,	Dorsey,	McMillan,	Rollins,
Blaine,	Edmunds,	Mitchell,	Saunders,
Booth,	Ferry,	Morrill,	Spencer,
Bruce,	Hoar,	Oglesby,	Wadleigh,
Burnside,	Howe,	Patterson,	Windom.

ABSENT—27.

Bailey,	Christiancy,	Ingalls,	Paddock,
Barnum,	Coke,	Johnston,	Randolph,
Bayard,	Conover,	Kellogg,	Sargent,
Butler,	Dawes,	Kirkwood,	Sharon,
Cameron of Pa.,	Eustis,	McDonald,	Teller,
Cameron of Wis.,	Grover,	Matthews,	Wallace.
Chaffee,	Hamlin,	Merrimon,	

So the motion was agreed to; and (at four o'clock and forty-six minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 24, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

WILLIAM BAIN.

Mr. DIBRELL, by unanimous consent, introduced a bill (H. R. No. 6148) directing the pension agent at Knoxville, Tennessee, to pay William Bain his pension under the act of March 9, 1878; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM BRAUNINGER.

Mr. DIBRELL also, by unanimous consent, introduced a bill (H. R. No. 6149) for the relief of William Brauninger, late private Company H, Twentieth Regiment New York Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PETER A. ALLENDORF.

Mr. TOWNSEND, of New York. I am directed by the Committee of Claims to report back the bill (H. R. No. 4008) for the relief of Peter A. Allendorf, which was referred to that committee by mistake, and to ask to be discharged from its further consideration, and that the bill be referred to the Committee on War Claims.

The motion was agreed to.

ARCTIC EXPLORATION—THE SHIP JEANNETTE.

Mr. WOOD, by unanimous consent, introduced a bill (H. R. No. 6150) authorizing the Secretary of the Navy to accept, for the purposes of a voyage of exploration by way of Behring Strait, the ship Jeannette, tendered by James Gordon Bennett for that purpose; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

DR. JUNIUS L. POWELL.

Mr. BANNING, from the Committee on Military Affairs, by unanimous consent, reported back, with a favorable recommendation, Senate bill No. 1435, authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

The bill authorizes the President to appoint, by and with the advice and consent of the Senate, Dr. Junius L. Powell an assistant surgeon in the United States Army, with the rank of first lieutenant, to date from June 6, 1878; said Powell to be relieved from the operation of the twenty-eighth section of the act of July 28, 1866, fixing the military peace establishment of the United States

The bill was ordered to a third reading, read the third time and passed.

Mr. BANNING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LANDON C. MILLER.

Mr. CALDWELL, of Kentucky, by unanimous consent, introduced a bill (H. R. No. 6151) granting a pension to Landon C. Miller, of Monroe County, Kentucky, late a private of Company H, Ninth Kentucky Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EQUALIZATION OF INTERNAL TAXES.

Mr. FULLER, by unanimous consent, submitted the following preamble and resolution; which were read, and referred to the Committee of Ways and Means:

Whereas the burdens of the internal tax are so distributed as to impose upon five States of the Union, to wit: Indiana, Ohio, Illinois, Kentucky and Virginia, nearly one-half of the entire tax, by an unjust and onerous discrimination: Therefore,

Be it resolved, That the Committee of Ways and Means be, and are hereby, directed to consider the feasibility of the enactment of a law which shall equalize the internal-revenue tax among all the States of the Union.

JOSEPH LAUNDRIE.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 6152) granting a pension to Joseph Laundrie; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALBERT Z. NORTON.

Mr. STEWART also, by unanimous consent, introduced a bill (H. R. No. 6153) granting a pension to Albert Z. Norton; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES B. WHITE.

Mr. SOUTHARD, by unanimous consent, introduced a bill (H. R. No. 6154) granting a pension to James B. White, of Zanesville, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM CHRISTY.

Mr. CUMMINGS, by unanimous consent, introduced a bill (H. R. No. 6155) for the relief of William Christy, late of the Eighth Iowa Cavalry Volunteers; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SESSION FOR BUSINESS OF COMMITTEE ON COMMERCE.

Mr. REAGAN. By direction of the Committee on Commerce, I ask unanimous consent that Wednesday evening next, at half past seven o'clock, be set apart for the consideration of reports from that committee.

Mr. LUTTRELL. Does the gentleman intend then to report the river and harbor bill?

Mr. REAGAN. No, sir; this is for the ordinary business of the committee.

The SPEAKER. If there be no objection, the request of the gentleman from Texas [Mr. REAGAN] will be agreed to.

There was no objection, and it was ordered accordingly.

DUTIES ON SUGAR.

Mr. ROBBINS. On behalf of the Committee of Ways and Means, I ask consent that to-morrow after the morning hour be set apart for the consideration of the bill which has been agreed upon by that committee to regulate the duties on sugar.

The SPEAKER. The post-office appropriation bill has been set for to-morrow. The gentleman had better say "subject to appropriation bills."

Mr. ROBBINS. This bill will take some time; and I will say Wednesday next at half past one o'clock.

The SPEAKER. The gentleman from North Carolina, [Mr. ROBBINS,] under instruction from the Committee of Ways and Means, asks consent that Wednesday next after half past one o'clock be set apart for the purpose of enabling the Committee of Ways and Means to report and have considered a bill to regulate the duties on sugar.

Mr. BANKS. I must object to that.

Mr. MILLS. If we make this order, will the bill be considered in the Committee of the Whole or under what rules will it be considered? I understand the Chair to hold that by making an order of this kind we suspend all rules.

The SPEAKER. The bill at the time appointed for its consideration would be considered subject to the ordinary rules of the House; but when the House by unanimous consent (which is equivalent to a suspension of the rules) votes to consider a bill at a particular time, it is absolutely required of the House to consider it then; and if it desires to get rid of the bill it must take some other method than by raising the question of consideration.

Mr. ROBBINS. I hope nobody will object to assigning a time for the consideration of this bill.

The SPEAKER. Does the gentleman from Massachusetts [Mr. BANKS] insist on his objection?

Mr. BANKS. I do.

Mr. ROBBINS. I hope the gentleman will withdraw his objection and allow the subject to be considered.

Mr. BANKS. At present I will not withdraw my objection. I am opposed to the passage of the bill.

Mr. ROBBINS. Then let us consider and pass, if a majority of the House so desires, the proposition of the minority of the committee.

Mr. BURCHARD. It has been understood in the Committee of Ways and Means that any proposition may be offered as an amendment to the bill.

The SPEAKER. The gentleman from Massachusetts, a member of the Committee of Ways and Means, objects to the request of the gentleman from North Carolina, [Mr. ROBBINS.]

SAMUEL KELLY.

Mr. EDEN. I ask unanimous consent that the Committee on War Claims be discharged from the further consideration of the bill (H. R. No. 2092) for the relief of Samuel Kelly, of Harper's Ferry, West Virginia, and that the same be referred to the Committee on Military Affairs.

There being no objection, it was ordered accordingly.

HEIRS OF GEORGE V. NEAL.

Mr. EDEN, by unanimous consent, introduced a bill (H. R. No. 6156) to amend an act for the relief of the heirs of George V. Neal; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CLASSIFICATION OF MAIL MATTER.

Mr. WADDELL. Mr. Speaker, by the adjournment of the House last night without disposing of the bill for the classification of mail matter and the rates of postage thereon, that bill has lost its place; and I desire to ask unanimous consent for another assignment for the consideration of that bill on the earliest possible day. It is hardly worth while to have a night session, for nobody attends such sessions. I would like a day session for the consideration of this measure. I therefore ask that Thursday next, after the reading of the Journal, be assigned for that purpose.

The SPEAKER. Subject to appropriation bills?

Mr. WADDELL. Of course.

Mr. HAYES. I object.

Mr. WADDELL. Does the gentleman object to any special assignment for this bill.

Mr. HAYES. I do; I am opposed to the bill.

DEFICIENCIES IN THE POSTMASTER'S ACCOUNTS.

Mr. WADDELL. I ask unanimous consent that an amendment of the Senate to the bill (H. R. No. 5052) to amend section 3835 of the Revised Statutes of the United States be taken up and concurred in. There is merely a verbal amendment to the title.

There being no objection, the following amendment of the Senate was read and concurred in:

Amend the title of House bill No. 5052, so as to read: "An act to amend section 3835 of the Revised Statutes of the United States relating to deficiencies in Postmaster's accounts."

Mr. WADDELL moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

A bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives.

SAMUEL C. REID.

Mr. BRIGHT. I ask unanimous consent that the Committee of Claims be discharged from the further consideration of the memorial of Samuel C. Reid in behalf of the heirs of claimants for compensation for the destruction of the private armed brig General Armstrong by the British fleet during the war of 1812; and that the same be referred to the Committee on the Judiciary.

There being no objection, it was ordered accordingly.

ROBERT H. YOUNG.

Mr. BRIGHT also, from the same committee, reported back papers relating to the claim of Robert H. Young; and the same was referred to the Committee on Military Affairs.

WILLIAM LAVERY.

Mr. BRIGHT also, from the same committee, reported back a bill (H. R. No. 4433) for the relief of William Lavery; which was referred to the Committee on War Claims.

EVENING SESSIONS FOR PRIVATE CALENDAR.

Mr. BRIGHT also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That Friday and Saturday evenings of next week be set apart for the consideration of the Private Calendar, the same to be considered as objection days.

Mr. BRIGHT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JURISDICTION OF DISTRICT COURTS.

Mr. SEXTON, by unanimous consent, introduced a bill (H. R. No. 6157) to amend section 563, paragraph 15 of title 13 of the Revised Statutes of the United States, concerning the jurisdiction of district courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JURISDICTION OF CIRCUIT COURTS.

Mr. SEXTON also, by unanimous consent, introduced a bill (H. R. No. 6158) to amend paragraph 10 of section 629 of title 13 of the Revised Statutes of the United States, concerning the jurisdiction of circuit courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ELISHA FRANKLIN.

Mr. PATTERSON, of New York. Mr. Speaker, if I can have the attention of the House for a few moments I have a favor to ask and I hope there will not be any objection on either side of the House to granting it. There has been referred to the Committee on Revolutionary Pensions and the war of 1812 a claim of a gentleman from the State of Virginia, and that committee has not been called to report since last May, and I do not know whether they will be reached during the remainder of the present session or not. But, sir, I have a short report here which I desire to make and I hope there will be no objection to receiving it and passing the bill. The claimant is now one hundred years old.

There was no objection.

Mr. PATTERSON, of New York, from the Committee on Revolutionary Pensions, reported a bill (H. R. No. 6159) granting a bounty land warrant to Elisha Franklin, a survivor of the war of 1812; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Interior to issue a land warrant for one hundred and sixty acres of land to Elisha Franklin, of Russell County, Virginia, a survivor of the war of 1812, in accordance with the act of March 3, 1855.

Mr. MACKEY. I ask for the reading of the report.

The Clerk read the report, as follows:

The standing Committee on Revolutionary Pensions, to which was referred the petition of Elisha Franklin, of the county of Russell, and State of Virginia, would respectfully report: that the petitioner sets forth that he served as a private in Captain Thomas Burwell's company, Virginia militia, in the war of 1812; that he was enrolled and called by the name of Elijah, Lijah, or Lige Franklin, and is known by said name by his neighbors in Virginia where he was raised and is still known by said name by the older class of citizens up to the date of his petition, but his correct name is Elisha Franklin; that his application is for one hundred and sixty acres of bounty land under the act of March 3, 1855. There is no doubt he served as a private in the war of 1812, and would long since have been the owner of one hundred and sixty acres of land but for the error in his name. That when he applied to Congress for a grant of land in 1872 he was ninety-three years old, and if we add seven years since the date of his application it will bring him at this time to the good old age of one hundred years, and the committee think if the old gentleman wants to clear and cultivate the land and make a farmer of himself he cannot well afford to put off the time much longer, and they therefore ask leave to report a bill granting the petitioner one hundred and sixty acres of land agreeably to the prayer of the petition.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM H. RICHARDSON.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 6160) granting a pension to William H. Richardson, of Philadelphia, Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

Mr. EDEN called for the regular order of business, but subsequently withdrew the call.

DES MOINES RAPIDS CANAL.

Mr. DUNNELL, by unanimous consent, from the Committee on Commerce, reported back, with an adverse recommendation, the bill (H. R. No. 3366) to authorize the Canal Dry-Dock and Manufacturing Company to construct and operate dry-docks in connection with the Des Moines Rapids Canal, and for other purposes, and moved that it be laid on the table and that the accompanying report be printed.

The motion was agreed to.

JOHN H. SCOTT.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 6161) for the relief of John H. Scott, of Knox County, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL ROAD IN MARYLAND.

Mr. TOWNSEND, of Ohio. I ask that by unanimous consent the bill (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road, which has been returned by the Senate with an amendment, be taken from the Speaker's table, that I may move concurrence in the Senate amendment.

There was no objection; and the bill was taken from the Speaker's table, and the amendment of the Senate read, as follows:

At the end of line 7 insert:

Provided, That this consent shall have no effect in respect of creating or recognizing any duty or liability whatever on the part of the United States.

The amendment of the Senate was concurred in.

Mr. TOWNSEND, of Ohio, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES J. MURPHY.

Mr. VEEDER, (by request,) by unanimous consent, introduced a bill (H. R. No. 6162) for the relief of Charles J. Murphy; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SECTION 829, REVISED STATUTES OF 1878.

Mr. ALDRICH, (by request,) by unanimous consent, introduced a bill (H. R. No. 6163) to amend section 829, title 13, of the Revised Statutes of 1878; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SECTION 4458, REVISED STATUTES OF 1878.

Mr. ALDRICH also, (by request,) by unanimous consent, introduced a bill (H. R. No. 6164) to amend section 4458, title 53, of the Revised Statutes of 1878; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

SECTION 4585, REVISED STATUTES OF 1878.

Mr. ALDRICH also, (by request,) by unanimous consent, introduced a bill (H. R. No. 6165) to amend section 4585, title 53, of the Revised Statutes of 1878; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CLAIMS UNDER INDIAN TREATIES.

Mr. THROCKMORTON. I am instructed by the Committee on Indian Affairs to ask that the bill (H. R. No. 5047) to extend the jurisdiction of the Court of Claims to all claims growing out of treaties between the United States and Indian tribes and the laws pertaining thereto be made a special order for Wednesday, the 5th day of February.

The SPEAKER. Is the bill in committee?

Mr. THROCKMORTON. The bill is on the Calendar in Committee of the Whole on the state of the Union.

Mr. EDEN. I object.

Mr. THROCKMORTON. Let me make a single statement, after hearing which I am sure the gentleman will not object. The committee has unanimously instructed me to make this request. If the bill passes Congress it will take from Congress all these claims which are continually coming up for its action and transfer them to the Court of Claims.

Mr. EDEN. The same action in reference to all other sorts of claims would result in the same way. I must object.

ACCOMMODATION OF LIBRARY OF CONGRESS.

Mr. COX, of New York. I am instructed by the Committee on the Library to report back the bill (H. R. No. 5896) to provide permanent accommodation for the Library of Congress and to ask that it be assigned as a special order for the first Tuesday of February after the morning hour.

The SPEAKER. That day is disposed of.

Mr. COX, of New York. Very well; say Thursday.

The SPEAKER. Subject to appropriation bills?

Mr. COX, of New York. Yes, sir. I desire also to suggest that any amendments which it is proposed to offer to this bill ought to be sent in and printed. I hope leave will be given for that purpose.

Mr. SAYLER. Let the assignment be after the morning hour.

The SPEAKER. The Chair thinks there will be no morning hour on Thursday next, on account of the position of the business of the Committee on Appropriations. The Chair thinks the gentleman from New York had better take a later day.

Mr. COX, of New York. Very well; I will say the first Saturday in February.

Mr. EDEN. I would like to hear the title of the bill again read.

The title of the bill was again read.

Mr. EDEN. Will that bill be open to amendments?

Mr. COX, of New York. Certainly; and I ask unanimous consent that any amendments sent to the desk may be printed, and that they be voted on subject only to points of order.

Mr. EDEN. Will the order which is proposed by the gentleman from New York suspend the rules, so that points of order will not lie?

The SPEAKER. The gentleman has stated he is willing that all points of order be reserved.

There being no objection, the bill was made the special order for the first Saturday in February after the morning hour; and leave was granted for printing proposed amendments to the bill.

Mr. COOK and Mr. HALE submitted amendments to be printed under the order just made.

RECORDS AND FILES OF THE UNITED STATES COURTS IN TEXAS.

On motion of Mr. REAGAN, the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire, returned from the Senate with amendments, was taken from the Speaker's table, and referred to the Committee on the Judiciary.

TENTH CENSUS.

Mr. COX, of New York. I rise to a question of privilege. I desire to report back from the Committee on the Census a bill to provide for taking the Federal census, and I desire to have it set down for a particular day, the second Tuesday of February, and continued from day to day until disposed of.

The SPEAKER. Subject to the appropriation bills?

Mr. COX, of New York. I may want to raise the question of consideration upon them.

The SPEAKER. Then the House will understand the fact that the gentleman from New York asks unanimous consent that on the second Tuesday in February he be allowed to report from the Committee on the Census for consideration, after the reading of the Journal, a bill to provide for the taking of the next census. Is there objection?

Mr. HALE. All points of order are reserved.

Mr. PRICE. It is not to interfere with or antagonize the appropriation bills.

The SPEAKER. The gentleman from New York does not say that.

Mr. COX, of New York. It is a more important bill than any appropriation bill, and I will test the sense of the House upon it. I am sure the House will give consent to the committee to make this report.

Mr. BURCHARD. There is a reservation of all points of order upon the bill.

The SPEAKER. The request which the gentleman from New York now makes would require unanimous consent.

Mr. COX, of New York. I see that, and that is my embarrassment.

The SPEAKER. The Chair thinks the gentleman had better allow the appropriation bills to be exempted from the effect of the order.

Mr. COX, of New York. Very well; I suppose that is the best I can do.

Mr. SAYLER. I hope the gentleman will make the order come up after the morning hour.

The SPEAKER. The Chair thinks the gentleman has obtained the same right, excepting perhaps as to the day. The Chair will state the proposition again. The gentleman from New York asks consent that upon the second Tuesday in February he be allowed to report from the Committee on the Census the bill that that committee desires to report in reference to the taking of the next census, immediately after the reading of the Journal, subject, however, to the consideration of the appropriation bills.

Mr. HALE. I reserve the same point of order which I might make now, which would send the bill to the Committee of the Whole.

Mr. COX, of New York. I desire to report the bill now.

The bill (H. R. No. 6144) to provide for taking the Federal census was read a first and second time.

Mr. BURCHARD. What is done with the bill which was set down for consideration? I understood the gentleman to say that he reported it now.

The SPEAKER. It is reported now, and will come up for consideration on the day fixed.

Mr. CONGER. I understand that the gentleman from New York [Mr. COX] has already reported the census bill.

The SPEAKER. The gentleman from Maine [Mr. HALE] has reserved all points of order.

Mr. BURCHARD. I thought the permission was to report it on the day fixed for its consideration.

The SPEAKER. The Chair thinks that the reporting of the bill gives it no advantage; certainly none is intended.

FOLKES & WINSTON, AND OTHERS.

Mr. CABELL, from the Committee on War Claims, reported, as a substitute for House bill No. 1654, the bill (H. R. No. 6166) for the relief of Folkes & Winston, and others, for compensation for property taken and destroyed during the late war; which was referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

STATE WAR CLAIMS.

Mr. ROBINSON, of Indiana, from the same committee, reported back the bill (H. R. No. 3288) to declare the intent and meaning of an act approved July 27, 1861, entitled "An act to indemnify the States for expenses incurred by them in defense of the United States;" which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. EDEN. I call for the regular order.

The SPEAKER. The regular order being demanded, the morning hour commences at seven minutes to one o'clock.

EXPENSES OF INVESTIGATING COMMITTEES.

Mr. HALE. I have a bill in which the House is interested, providing for the expenses of investigating committees, that has come back from the Senate, and I would like to have it passed; I think the House would like to have it passed.

Mr. EDEN. I withdraw the call for the regular order absolutely.

Mr. HALE. Then I report from the Committee on Appropriations the bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for miscellaneous expenses of the House of Representatives, and for other purposes, with the amendments of the Senate.

The amendments of the Senate were read, as follows:

Strike out the word "charges" in line 5 and insert "amount paid."

After line 3 insert:

That the sum of $10,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated; which sum shall be placed to the credit of the contingent fund of the Senate, to be applied toward defraying the expenses of such investigations and inquiries as have already been, or may hereafter be, directed by the Senate during the Forty-fifth Congress.

After line 13 insert:

For expenses of the joint committee to take into consideration the subject-matter of reform and reorganization of the Army, $232.67.

For expenses of the joint committee to take into consideration the expediency of transferring the Indian Bureau to the War Department, $953.60.

Amend the title by adding at the end thereof the words, "and for other purposes."

Mr. HALE. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. HALE moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LANDS IN SAN MATEO COUNTY, CALIFORNIA.

Mr. ATKINS. I call for the regular order.

The SPEAKER. The regular order being called for, the morning hour will now begin at four minutes before one o'clock. The first business in the morning hour of to-day, being Friday, is the unfinished business coming over from last private bill day. The Clerk will report the pending bill.

The bill (H. R. No. 4886) to authorize the correction of boundaries of certain lands in San Mateo County, California, was taken up, and is as follows:

Be it enacted, &c., That any and all persons claiming land the title of which was derived through the grant of the Mexican authorities to Juan Coppinger, known as the Cañada de Raimando rancho, situated in San Mateo County, in the State of California, and which lands are alleged to have been erroneously included in the survey, location, and patent of the Pulgas rancho, in said county, contrary to the boundaries originally designated by the decree of the Supreme Court of the United States rendered at the December term, 1855, of said court, shall have the right to contest the said location in their own names, without leaving the State, by suit in chancery in the circuit court of the United States, with the right of appeal to the Supreme Court; and said courts are hereby given jurisdiction of the same and authorized to correct the said boundaries and to reform the patents to either or both of said ranchos, if they shall be found not to be in conformity with the decree of the Supreme Court, and to give such other and further relief as equity and justice may require.

The United States and all persons having an interest in the subject-matter of said suit or in the adjustment of the lines of the patents, if determined upon by the court, shall be made parties defendant; and any party defendant may rely upon any legal or equitable defense except the lapse of time during which the opposite party had, under existing laws, no remedy in the courts; and either party may appeal to the higher Federal courts and on up to the Supreme Court of the United States in the manner now provided by law.

Mr. PAGE. The committee from which this bill was reported has already had two morning hours.

The SPEAKER. That does not make any difference. This bill not being disposed of might run for twenty morning hours.

Mr. PAGE. Is this the unfinished business?

The SPEAKER. It is. The gentleman from California [Mr. PAGE] moved to lay the bill on the table, and the gentleman from Arkansas [Mr. GUNTER] called the previous question upon the bill.

Mr. PAGE. How does that make it unfinished business?

The SPEAKER. The gentleman will state why it is not.

Mr. PAGE. The previous question has not been sustained.

The SPEAKER. That does not matter; it has been demanded, and the gentleman himself has made the only motion pending which could interfere with the previous question, and that was a motion to lay the bill on the table.

Mr. PAGE. If the parties having charge of this bill will permit the discussion on its merits to go on until the expiration of the morning hour, and then move the previous question——

The SPEAKER. The Chair recollects that the gentleman from Arkansas [Mr. GUNTER] made the proposition that one-half of the hour after the previous question was ordered on the bill should be given to the opponents of the bill.

Mr. GUNTER. That is correct.

Mr. PAGE. My colleague [Mr. DAVIS] desires to offer an amendment to the bill. If the gentleman having charge of the bill will allow it to be offered——

The SPEAKER. That is a matter within the control of the House.

Mr. PAGE. It cannot be offered after the previous question has been ordered.

Mr. DAVIS, of California. I appeal to the gentleman from Arkansas [Mr. GUNTER] to withdraw the demand for the previous question. This is a matter of great importance. This bill involves to a certain extent all the land titles in California, and directly involves property to the amount of over $2,000,000. It cannot be adequately discussed in thirty minutes.

Mr. LUTTRELL. I deny that it involves all the land titles in California, except perhaps incidentally.

Mr. PAGE. I made the motion to lay the bill on the table. I will withdraw it in the hope that the previous question will be voted down.

Mr. DAVIS, of California. I hope the gentleman from Arkansas [Mr. GUNTER] will allow me to move an amendment.

The SPEAKER. The Chair understands the gentleman to decline to yield for that purpose.

Mr. DAVIS, of California. Then I hope the previous question will be voted down.

The question was taken; and upon a division there were—ayes 66, noes 80.

So the previous question was not seconded.

Mr. DAVIS, of California. I move to amend the bill by adding that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That no question heretofore settled by adjudication of the courts of the United States and the State of California, conformably to the laws thereof respectively, shall be again opened for consideration under the provisions of this bill.

The SPEAKER. The Chair understands that the gentleman from Arkansas [Mr. GUNTER] now calls the previous question upon the bill and amendments.

Mr. CONGER. The gentleman from California [Mr. DAVIS] has not yet yielded the floor.

The SPEAKER. The Chair understood that the purpose of the House in voting down the call for the previous question was to allow an amendment to be offered.

Mr. HALE. And also to allow debate; that was the understanding with which we voted against the previous question.

The SPEAKER. The Chair has no objection. The practice of the House has been that where the purpose was plainly indicated, by voting down the previous question, of allowing an amendment to be offered, then when offered the possession of the bill by the committee is not lost.

Mr. BURCHARD. The gentleman who had charge of the bill loses control of the floor.

The SPEAKER. Yes; but at the end of the hour the bill will go back to him again.

Mr. HALE. And for the present the gentleman from California [Mr. DAVIS] would control the floor.

The SPEAKER. The Chair recognizes the gentleman from California [Mr. DAVIS] as entitled to the floor.

Mr. DAVIS, of California. This is a bill which involves simply a dispute in reference to the boundaries of two ranchos in the State of California. It is an effort to destroy a United States patent to land which was issued in 1857, twenty-two years ago.

The grant to the original parties was made by the Mexican government in the year 1835. It was litigated in 1853 before the land commissioner of California. In 1854 it passed through the district court of the United States, and in 1855 it was finally confirmed by the Supreme Court. In 1856 it was surveyed by the United States surveyor-general, and a petition was made to the district court to enjoin the issuance of the patent on the ground that the boundaries were incorrectly laid out by that survey. The petition for injunction was refused. A patent was then issued and a suit for ejectment was brought in the United States district court, which was decided in favor of the patentees. That suit was appealed to the Supreme Court of the United States, which confirmed the action of the district court in 1860. Upon that suit was again brought by the patentees in the State courts to quiet title. It was decided in their favor in the district court of the State, was appealed to the State supreme court, and finally adjudicated there in the year 1864, the court affirming the decision of the lower court. This question passed through no less than nine different litigations and in every case the decision was in favor of the patentees and in favor of the grant.

Shortly after this the matter was brought into Congress. It has been reported upon adversely in the Forty-third and the Forty-fourth Congress. In the last Congress, the Forty-fourth, a very able report was made upon this subject by the gentleman from Georgia, [Mr. CANDLER,] from the Committee on Private Land Claims, which I ask to have read as a portion of my remarks.

Mr. WIGGINTON. The gentleman will allow me to correct him. He is certainly mistaken in saying that this measure was reported against in the Forty-third Congress. The House committee in the Forty-third Congress reported in favor of it.

Mr. DAVIS, of California. In the Forty-third Congress there was an adverse report in the Senate. I ask the Clerk to read the report submitted in this House in the Forty-fourth Congress.

The Clerk read as follows:

The Committee on Private Land Claims, to whom was referred a bill (H. R. No. 1308) to authorize the correction of the boundaries of certain lands in San Mateo County, California, have considered the same, and make the following report:

On the 27th of November, 1835, the Mexican government granted to the children of Louis Arguello a tract of land called "Los Pulgas," situate in what is now the county of San Mateo, in California, the boundaries of which were specified in the grant in the following words:

"On the south the creek of San Francisquito; on the north, that of San Mateo; on the east, the estuaries; and on the west, the Cañada de Raimando."

In a subsequent part of the grant are these words:

"The tract of which mention is made is of four leagues of latitude and one of longitude."

Under the act of Congress of March 3, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," the Arguello children, on the 21st of January, 1852, filed their petition with the commissioners under said act, in which they claimed confirmation of their title to a rancho situated in the county of San Francisco and State of California, the quantity unknown, but supposed to contain about twelve square leagues, lying on the bay of San Francisco, between the creeks called San Mateo and San Francisquito, and extending back to the Sierra, or range of mountains.

On the 12th of October, 1853, the commissioners aforesaid confirmed the claim of the Arguellos substantially in the language of the Mexican grant, and added the words "said grant being of the extent of four leagues in length and one in breadth, be the same more or less."

From this decree the case was removed to the district court of the northern district of California, where the decree of the commissioners was confirmed. Afterward an appeal was taken to the Supreme Court of the United States, and in that court, at December term, 1855, (18 Howard Reports, 544,) it was adjudged that the judgment of the district court was correct, and that the claim of the petitioners was valid as to that portion of the land described in their petition, bounded as follows: "On the south by the arrejo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern borders of the valley known as the Cañada de Raimando; said land being of the extent of four leagues in length and one in breadth, be the same more or less." And then it was further decreed that as to the portion of the premises described in said petition which is not included within the boundaries above mentioned, the claim of the petitioners is adjudged not to be valid. The land included in the petition and thus excluded by this judgment is that extending west from the eastern borders of the valley of Raimando to the Sierra, or range of mountains, or the valley of Raimando.

After this judgment of confirmation by the Supreme Court the land was surveyed by the surveyor-general for California, and the survey having been returned to and approved by the General Land Office on the 2d day of October, 1857, a patent in the usual form was issued to the confirmers, describing the land as surveyed and as described in the final decree of confirmation on the north, south, and east; and the west side the line is along the western base of the hills which bound on the east the valley of Raimando.

On the 4th day of August, 1840, there was granted by the Mexican government to Juan Coppinger the place known as Cañada de Raimando, bordering on the west by the Sierra Morena; on the east by the Rancho de los Pulgas; on the south by that of Señor Maximo Martinez, and on the north with the lagoon. This grant was made on the petition of Juan Coppinger for "a small valley which lies in the Sierra, in the same place where there now is a timber-cutting establishment; which place is about two and one-half leagues in length and about three-quarters of a league in breadth at the most; said valley borders on the rancho of Dn. Solidad Ortega and that of Maximo Martinez, and also on the Sierra, at the extremity, as it appears from the accompanying sketch."

Juan Coppinger having died, leaving as his heirs at law an infant child, Manuela Coppinger, and his widow, Maria Louisa Coppinger, who afterward became the wife of John Greer, they filed their petition with the board of land commissioners in California, praying that the title to the Cañada de Raimando might be confirmed to them as the heirs at law of the said Juan Coppinger. On the 29th of November, 1853, confirmation was made by the land commissioners to the petitioners, Maria Louisa Greer and Manuela Coppinger, to the land as described in the original grant to Juan Coppinger.

On appeal to the district court for the northern district of California, on the 14th day of January, 1856, the claim of petitioners was again confirmed, describing the land as known as the Cañada de Raimando, "bordering to the west on the Sierra Morena; to the east on the rancho de los Pulgas; to the south on the rancho of Marino Martinez; and to the north on the great lagoon."

This decree became final and was officially surveyed, and on the 19th day of July, 1859, a patent issued to the confirmers for the land as surveyed, the eastern line being coterminous with the western line of the survey and patent of Los Pulgas.

It is now alleged by certain persons claiming portions of the land included in the Los Pulgas survey and patent, under titles derived through the grant by the Mexican authorities to Juan Coppinger, known as the Cañada de Raimando rancho, that the lands claimed by them were erroneously included in the survey and patent of the Pulgas rancho, and is contrary to the boundaries as designated by the decree of the Supreme Court of the United States confirming said Los Pulgas grant; and the bill referred to is to authorize the said persons to contest in the courts of the United States the location of the said Los Pulgas grant, and to correct its surveyed and patented boundaries if not in conformity to the decree of confirmation by the Supreme Court.

It is claimed that the said survey and patent does not conform to the final decree of confirmation in this, that, by the terms of said decree, the western limit of the survey should have been located at the distance of one league from the waters of the bay of San Francisco, and should only have included an area of four square leagues, whereas, in fact, the said western line is much more than one league from the waters of said bay, and includes more than seven square leagues.

The Arguella children, in their petition, asked to be confirmed in their title to about twelve square leagues of land, extending from the bay of San Francisco west to the Sierra or range of mountains which would include the valley of Raimando. Under the decree of confirmation by the Supreme Court, the claim to the valley of Raimando was declared to be invalid, and the boundaries of the grant were fixed by natural objects; that on the west by the eastern borders of that valley, and in the use of the words, "said land being of the extent of four leagues in length and one in breadth, be the same more or less," intended the same as descriptive of the land, and not as a limit of its quantity.

If these words had been intended to limit the quantity to four leagues in length and one in breadth, it is to be presumed the court, instead of negativing that intention by the qualifying words, "be the same more or less," would have so declared in express terms.

The western lines of the Los Pulgas survey, which is the eastern line of the Coppinger survey, is along the base of the hills east of the valley Raimando. So that if the construction of the Supreme Court decree, which fixes the western boundary at the uniform distance of one league from the waters of the bay of San Francisco be true, then the call for the western boundary as being along the eastern borders of the Cañada Raimando made in this decree yielded, and the eastern boundary of the Coppinger grant, survey, and patent is moved west nearly one league, and the grant is put west of the valley of the Raimando, and can only include it by covering a tract of land nearly five leagues in length and two in breadth; whereas by the petition of Juan Coppinger, upon which the grant was made, the granting of a small valley about two and a half leagues in length and about three-quarters of a league in breadth, was asked for, and, under a grant to the place known as the Cañada de Raimando, would include a hill country west of it greater in quantity than that valley.

If the boundaries of the land described by the distances mentioned in the grant, the gratifying words, "be the same more or less," being omitted, did not correspond with those prescribed by the natural and permanent object named, then they would have to yield under that rule, founded in reason and settled by authority, that when land is described in a grant by permanent objects as its boundaries and also by courses and distances, with a mention of the quantity, the description by courses, distances, and quantity must yield to those boundaries if they do not agree.

The question as to the boundary-line between those grants has been adjudicated adversely to the claimants under the Coppinger grant in every forum having jurisdiction.

Section 13 of the act of March 3, 1851, provides if a confirmed claim has been surveyed by the surveyor-general, "and the title to such lands shall be contested by any other person, it shall and may be lawful for such person to present a petition to the district judge of the United States for the district in which the lands are situated, plainly and distinctly setting forth his title thereto;" and "that it shall and may be lawful for the district judge of the United States, upon the hearing of such petition, to grant an injunction to restrain the party at whose instance the claim to said lands has been confirmed from suing out a patent for the same until the title thereto shall have been finally decided; a copy of which order shall be transmitted to the Commissioner of the General Land Office; and thereupon no patent shall issue until such decision shall be made, or until sufficient time, in the opinion of said judge, shall have been allowed for obtaining the same; and thereafter the said injunction shall be dissolved." Under this section, claimants, under the Coppinger grant, instituted proceedings to restrain the issuing of the patent to the confirmers of the Los Pulgas grant, and the injunction was denied, and from the decision no appeal was taken.

Upon the patent issued by the United States to the confirmers of the Los Pulgas

grant, according to the survey as made by the surveyor-general, an action of ejectment was brought in the circuit court of the United States for the northern district of California against parties in possession of a portion of the lands included in the Los Pulgas survey, who claimed title under the Coppinger grant; and a judgment was had for the plaintiffs, in the year 1858, and possession given to the proprietors of the Pulgas grant to all the lands covered by its survey and patent.

Afterward, the claimants under the Cañada de Raimando grant continuing to assert that they had some right or title to that portion of the Pulgas grant lying east of the alleged one-league line of the Pulgas grant, the owners of the latter grant, on the 22d day of January, 1862, brought suit in one of the district courts of California, under the two hundred and fifty-fourth section of the practice act of that State, against all the claimants of the Cañada de Raimando rancho, for the purpose of determining their adverse claim and for the quieting the possession and title of the plaintiffs, the Pulgas patentees.

The defendants, answering this complaint, admitted the possession of the plaintiffs to the lands covered by their survey and patent, and asserted their title to all that portion of the same lying and being westward of a line running from the creek of San Mateo to the creek of San Francisquito, at a distance of one Spanish league westerly from the waters of the bay of San Francisco, and averred that the survey of the Los Pulgas was erroneous in respect to the quantity of land embraced therein; and at most the said western line should not have been located at a greater distance than one league from the waters of the bay of San Francisco.

Upon this complaint and answer, and upon an agreement by the parties as to the facts involved in the pleadings, a judgment was rendered November 16, 1863, as follows:

"That the plaintiffs be quieted in their possession of and title to all that tract of land described in the complaint, and against any and all claims of the defendants to the same or to any part thereof: The said tract of land being all that part of the Pulgas ranch as surveyed and patented by the United States to the plaintiff and to Louis Antonio Arguello by a patent dated October 2, 1857, recorded in book 1 of patents in the office of the recorder of the county of San Mateo, at pages 1 and 12, which tract of land is bounded southwardly by the San Francisquito, westwardly by the westward line of the Pulgas ranch, as shown by said United States survey and patent; northwardly by the San Mateo Creek, and eastwardly by a line running from the San Mateo Creek to the San Francisquito Creek, at the distance of one league westwardly from the estuaries of the bay of San Francisco, and that the defendants and all claiming under them be forever barred from all claims to said tract of land or any part thereof; and it is further ordered, adjudged, and decreed that the adverse claims set up by the defendants in their answer herein be determined against the defendants and be dismissed, and that they be forever barred and perpetually enjoined from setting up and asserting said claim to the premises claimed by them or any of them, and to any part thereof; and that the plaintiffs be forever quieted in their possession of and title to the same and the whole thereof against the said claim of the defendant."

Upon appeal by the defendants to the supreme court of California this judgment at the October term, 1864, was affirmed.

Nearly twenty years have elapsed since the survey, location, and patent of the Los Pulgas grant. Commencing in the year 1857 in the courts of the United States, before the Commissioner of the General Land Office, and in the courts of the State of California, ending in the Supreme Court of the United States in the year 1869, the dividing line between the Raimando and Los Pulgas grants has been contested by claimants under the Raimando grant, and everywhere decisions adverse to their claim have been rendered. Since these decisions many hundred persons have purchased lands which are part of the Pulgas grant, the assessed value of which is more than two millions of dollars.

While it is not believed that if these claimants were again allowed to go into the courts according to the provisions of the bill referred to your committee, and contest the correctness of the survey and patent of this grant, that its boundaries would be changed, still, the effect of reopening litigation which has long since been settled would be to disturb the title to many thousand acres of land, to greatly lessen its value—now estimated at millions of dollars—and at the same time to disquiet and unjustly to subject to heavy expense many hundreds of purchasers who have given faith to the judgments of the courts, and the patents of the Government issued under them, and generally to cloud land titles in California originating in Spanish and Mexican grants, greatly to the detriment of the State's prosperity. Wherefore your committee recommend that this bill do not pass.

Mr. LUTTRELL. Now, I ask the gentleman to have read in this connection the views of the gentleman from New York [Mr. LAPHAM] and others upon this same subject.

Mr. DAVIS, of California. The gentleman can have that document read in his own time.

Mr. LUTTRELL. Very well. The gentleman has not the courtesy to allow a hearing to both sides.

Mr. GUNTER. I will ask the gentleman from California [Mr. DAVIS] whether he intends that the morning hour shall be divided equally with our side of this question.

The SPEAKER. The gentleman from California at present has control of the hour, but the committee do not lose possession of the bill. The next hour will be assigned to the gentleman from Arkansas or some one on his side of the question.

Mr. DAVIS, of California. We will use this hour, and the gentleman from Arkansas can control the next hour.

The point is sought to be made in defense of this bill that the question of boundaries has never been fairly adjudicated in the courts. Now, that question has been brought up in every trial that has been had. In support of the correctness of the present boundaries as now maintained by the patent, I ask the Clerk to read from the decision of the California State supreme court in 1864, as alluded to in the report just read.

The Clerk read as follows:

Admitting this construction of the language of the description contained in the original grant of the Los Pulgas and in the decree of confirmation to be correct, the defendants claim that the valley of the Cañada de Raimando, by fair construction, comprehends the slope of the hills forming its eastern boundary, and that as the western limit of the Los Pulgas was declared to be the Cañada de Raimando, the line between the two ranchos was at the top of these hills. Whatever force there might be in this position of the defendants, if the eastern line of the Cañada de Raimando were not already established by Government authority, is overcome in the present state of things by the fact that the Government, in a proceeding to which the defendants, or those under whom they claim, were parties, has determined the eastern boundary of the Cañada de Raimando to be at the base of the hills on the eastern border of the valley. It does not appear that any objection was made to the Government survey fixing this boundary so as to make it coincide with the western boundary-line of the Los Pulgas, as surveyed and patented. If they did so object at the proper time and before the proper authority, their objections did not prevail. The survey of the Cañada de Raimando was approved and confirmed on the part of the Government, as appears by the patent issued; and this must be regarded as conclusive upon the defendants who were parties or privies to the proceeding, and became bound by this action of the Government.

Mr. DAVIS, of California. It will be seen by the language of this decision that the supreme court of California passed expressly upon the question of boundaries, and that whatever question there might have been on that point was adjudicated by this decision, and this adjudication should be final.

But, as a last resort, this case is sought to be brought before Congress by special legislation setting aside the statute of limitations of the State and allowing this case to be placed upon a peculiar and solitary basis of its own in the courts, setting aside the rights of all parties that have accrued during twenty years of peaceful possession, and tearing up by the roots all the rights, all the titles and possessions that have grown up upon this United States grant.

Mr. LUTTRELL. Will my colleague allow me one question?

Mr. DAVIS, of California. The gentleman will have plenty of time by and by, and he can avail himself of it.

During this period of twenty-two years this land has passed from hand to hand. It has been given away; it has been deeded; it has been sold to parties, who have purchased it in good faith, investing their earnings or savings upon their faith and trust in the patent of the United States. It has been bequeathed by dying men as the sole support of their widows and children. The homesteads that are scattered over this property are held in many cases as the sole supports of the occupants. The men who have settled there have improved this property; they have cleared the land; they have constructed roads and fences; they have built houses and barns, until to-day the value of the property is vastly greater than it was at the time of all this litigation. To-day the value of the property is fairly estimated at $2,000,000. Even if there had been any wrong in the beginning a much greater wrong would now be committed by setting aside all these vested rights. The statute of limitations of the State has run against those who would disturb these rights.

This bill proposes to set aside the State statute of limitations. Whatever may have been the opinion of the courts in former days in reference to the statute of limitations, it has certainly increased in favor during the last few years, and is regarded everywhere as a statute of repose. It is believed the rights of real property should be settled permanently and that adverse possession for a certain number of years should constitute indefeasible title. Under the bill it is proposed to set aside all those rights and allow these parties to supervene after a lapse of twenty-two years and upset vested rights.

Worse than all is the ultimate result, for if you pass this bill you disturb the title to more than one-half of the arable land in California. More than one-half of the arable land there is held under Spanish grants. They have all been passed through the courts and been adjudicated and their boundaries determined, and now by one stroke of the pen you are asked to initiate a course of proceeding that will shake to the foundation the title to real property on the Pacific coast. I ask you to beware. I ask you to reflect on the result of this action. I ask you to have respect for these men who relied on the patents of the United States, who have placed their faith and trust in the title derived from that great source. I ask you to consider the condition of the men who invested their property, of those who have mortgages on it, of those who have trusted all they have upon the faith of title derived from the United States, which you now are asked to set aside. I hope for the sake of the sanctity of property, for the sake of the rights of settlers, from considerations of conservatism and the need of repose in landed titles the House will refuse to pass the pending measure.

I now yield for fifteen minutes to the gentleman from Georgia, [Mr. CANDLER.]

Mr. CANDLER. Mr. Speaker, the report which was made from the Committee on Private Land Claims, drawn by myself, in the Forty-fourth Congress, distinctly states all of the material facts involved in this case. There is no fact in that report which is not sustained by record evidence. So far as I know, it is the only report ever presented to this House or to any committee of this House that gives all the material facts connected with the case.

This bill authorizes the correction of a disputed boundary between two tracts of land in the State of California. It is predicated, first, on the idea that great wrong has been done to the petitioners in this case by depriving them of land to which they had a grant. It is claimed that a wrong has been done in a survey and patent of a grant of land in California adjoining that in which these petitioners are interested, and they have had no opportunity to correct the wrong as against them in any court or other tribunal. That is the whole alleged equity in this case.

It is said in this report, and I repeat it here, that in every forum having jurisdiction, by the Commissioner of the General Land Office, through all of the courts of the United States and in the courts of California, this question has been fairly met and everywhere adjudicated against these petitioners. They are two adjoining Mexican grants; they are grants described by natural boundaries. The grant of the survey and patent, of which complaint is made, was made in 1835. The grant to these petitioners was made in 1840. Both of these grants have been ascertained and settled by a commission provided for ascertaining and settling private land claims in the State of California. Both of these grants have been patented by the United States, and in both cases, according to the distances mentioned as descriptive of the lands granted, contain a much larger quantity of

land than was granted, but according to the natural boundaries specified in the grants the right quantity. For instance, in the Los Pulgas grant, if the grant was for a certain number of leagues in length and a certain number of leagues in width, more than twice the number of acres have been granted than those distances would cover.

So in regard to the grant to Juan Coppinger. If either grant is to be fixed by distances then they have five thousand acres of land more than was granted to them. But the fact is, neither of these grants was for land described by distances. They were grants of land fixed by natural boundaries. The grant which was made in 1835 is a grant of land lying between the bay of San Francisco and the mountains, west, extending from a creek on the north called San Mateo to a creek on the south called San Francisquito, estimated to contain four leagues in latitude and one league in longitude. In fact the distance from these creeks, from San Mateo on the north to San Francisquito on the south, is more than five leagues. This body of land conveyed between the bay of San Francisco and the mountains is in some places three leagues in width, in the center one and four-tenths, and at one end one and eight-tenths, owing to the irregular line of the bay of San Francisco.

The grant to Juan Coppinger, made in 1840, is not a grant of land three-fourths of a league in width and two and a half leagues in length, but it is a grant of a valley called the Cañada de Raimando, estimated by the petitioner for the grant to be at the most three-fourths of a league in width and about two and a half leagues in length; but for both of those grants, and in the same way and in the mode provided for ascertaining these Mexican titles, there has been a survey and patent by the United States.

Mr. LUTTRELL. I desire to ask the gentleman a question right there. Does not the original grant of the Mexican government to the Arguellos, made at Monterey on the 27th November, 1835, grant to them the Los Pulgas tract; and is not that grant described as four leagues in latitude and one league in longitude?

Mr. CANDLER. No, sir.

Mr. LUTTRELL. Here is the law. If that is not correct, I agree to abandon the case at once.

Mr. CANDLER. Then you will abandon the case.

Mr. LUTTRELL. Here is the law, 18 Howard, 542, as quoted by the Supreme Court of the United States:

> The land herein mentioned is four leagues in latitude and one in longitude.

And here is the language in the decision of the Supreme Court, page 274, 21 Howard.

Their grant, as confirmed by this court, is bounded on the north by the arroyo of San Francisquito, on the south by that of San Mateo, on the east by the estuary, and on the west by the cañada or valley of Raimando, being four leagues in width and one in length.

Mr. CANDLER. I will quote the identical language of the grant itself. It is as follows:

> Whereas citizen José Estrada has petitioned, in the name of his minor wards, José Ramon and Luis, and the girls Maria Concepcion and Maria Josefa, legitimate children of the late citizen Luis Arguello, the tract known under the name of Los Pulgas, the boundaries of which are: On the south the creek of San Francisquito; on the north that of San Mateo; on the east the estuaries; and on the west the Cañada de Raimando.

The very tract of land conveyed to these petitioners they have had confirmed to them, for which a survey has been made and a patent issued; and in that patent and survey instead of getting a valley of about eight thousand acres of land they have a survey and patent covering more than twelve thousand acres of land.

Mr. LUTTRELL. The gentleman has evaded my question altogether.

Mr. GUNTER rose.

The SPEAKER. Does the gentleman yield further?

Mr. CANDLER. I do not yield. I have but fifteen minutes. There were two grants presented by the claimants of the Los Pulgas grant; the grant of the valley of Cañada de Raimando and a grant to the land on the bay of San Francisco. The court rejected the claim for the lands in the valley and confirmed the other.

Mr. LUTTRELL. The gentleman has not read the portion embraced in the decision of the court. He has only read a portion of it.

Mr. CANDLER. I have read the entire description of the land conveyed. In a subsequent part of this grant are these words:

> I have concluded to declare to him the ownership of the same by the present letters, said concession being understood to be in entire conformity to what is ordered by law, reserving the approval of the most excellent territorial deputation. The tract of which mention is made is of four leagues of latitude and one of longitude.

Mr. LUTTRELL. That is exactly what I said was confirmed, and no more.

Mr. CANDLER. The words used in the grant are words not limiting the quantity of land conveyed, but are words descriptive of the lands conveyed. And this is the construction placed upon these words in this grant by the Supreme Court of the United States; for in the judgment affirming the judgment of confirmation of this grant, to the words describing the lands granted as so many leagues in latitude and so many in longitude, the qualifying words, "be the same more or less," are added. If they intended to say the claimants were only entitled to four leagues in latitude and one in longitude, then it was foolish to use the qualifying words "more or less," as they negative precisely what the court had confirmed as being within certain specified natural boundaries.

The other proposition is that these parties have had no opportunity anywhere to test the correctness of the survey and patent. I affirm that everywhere, before the United States land commissioner, before the United States district court in California, before the State courts of California, and in the Supreme Court of the United States, everywhere, before the departments and in the courts, the identical question made here has been presented and has been considered with the evidence and adjudicated adversely to these petitioners.

Under the act of 1851 there is a remedy provided for parties contesting the validity of any confirmation of a grant. Under the thirteenth section of that act parties who contest the correctness of a survey are authorized to petition the United States judge of the district in which the lands are situated for an injunction restraining the parties interested from applying for a patent until a decision of the contested title shall have been made or sufficient time for such decision shall have passed.

These parties sought the remedy there provided, and petitioned the United States judge of the district in which lies this land. The injunction was refused upon a petition making this identical question, that the survey was erroneous; that is, that the survey covered a greater number of acres of land than granted; that the survey extended to the Cañada de Raimando, whereas it ought to have been confined to one Spanish league in longitude, measuring west from the bay of San Francisco. With these alleged facts shown to the district judge the injunction was refused.

Afterward, these petitioners claiming and being in possession of a part of the land covered by the Los Pulgas patent, an action of ejectment was brought in the United States circuit court to recover the lands covered by the Los Pulgas patent and in the possession of these petitioners, Dennis Martin and others. In this action of ejectment, and in the Supreme Court, where the case was finally decided, there is an adjudication adverse to the claim as now made, it is said, because they were not allowed to prove their equitable right. The decision was that this Los Pulgas patent covered all the land in dispute, and that the Coppinger grant, under which these petitioners claim, did not cover them. These men had a patent for all the land, a grant of which was petitioned for by Juan Coppinger to the Mexican authorities.

They had a title to the land that had been granted to them, but not to the lands covered by the surveys of what is called the Los Pulgas grant, and they were not allowed to prove that there was anything erroneous in the survey, for the reason that they had no interest in it; and afterward, when the judgment of the ejectment suit against these petitioners was to be enforced, a bill before the circuit judge to enjoin the putting the plaintiffs into possession of the Los Pulgas grant was filed, and the identical complaint that we have here was the equity upon which this relief was asked. This bill was brought in pursuance of a suggestion made in the Supreme Court, in the opinion rendered and reversing the judgment of the circuit court in the ejectment suit, that the complainants might have a remedy in equity. They sought the equity jurisdiction of the court to correct this wrong that had been done them as the same of which complaint is here made. In that way the whole case and the facts were heard, and the judge of the circuit court refused to grant the injunction; and so by a court having rightful jurisdiction of the question was there a judgment adverse to the claim of petitioners.

Mr. WIGGINTON. Why did the court refuse it?

Mr. CANDLER. They refused it because the parties had no right to the land covered by the judgment. I have no time to read it, but I have the judgment here, and it is cited in the report of the Committee on Private Land Claims in the Forty-fourth Congress, to-day read. Again, a bill was filed in one of the district courts of California, under section 284 of the practice act of that State, against these parties for the purpose of determining their adverse claim and for quieting the possession, and to the plaintiffs, the Los Pulgas patentees. In answer to this bill the parties here and Dennis Martin and others admitted the possession of the Los Pulgas grantees, alleged the erroneous survey of the grant in covering all the land west of the line, one league from the bay of San Francisco. Upon this bill and answer, the facts involved by the pleadings having been agreed upon by the parties, a judgment was rendered by the court adverse to the complaint made in the answer of error in the survey of the Los Pulgas grant.

Mr. WIGGINTON. Why did the court do that?

Mr. CANDLER. They decided the case upon its merits. Upon an appeal by the defendants to the supreme court of the State of California this judgment was affirmed at the October term, 1864. This judgment was carried by writ of error to the Supreme Court of the United States, and was there pending until March, 1871, when it was dismissed.

[Here the hammer fell.]

Mr. DAVIS, of California. I yield to the gentleman all the further time he requires.

Mr. CANDLER. I have followed this complaint wherever it has been a matter of litigation in the courts, and whenever litigated it has been held without merit, thus in the courts constituted alone to determine disputes between citizens in more than ten years of litigation this complaint finding no favor. It is found first in the Forty-first Congress, in search of help from the Federal legislation, and is favored in the report by the distinguished gentleman from New York,

[Mr. MAYHAM,] in which it is adopted as the report of the Committee on Private Land Claims in this House. It is here presented for favorable action in a report showing an investigation so partially made that they do not know the member who introduced the bill, and refer to the report made by Mr. MAYHAM, of New York, to a Congress of which he was not a member.

The truth is that this is a bill the object of which is to afford another hearing of a case finally adjudicated in the State and Federal courts at the instance of parties who have become interested in the matters adjudicated pending this litigation. There can be by this proposed legislation no good to anybody, not even to these parties, unless some illegitimate good is to be had to them by threatening those who have had possession of these lands for over twenty years with suits such as they have been compelled to prosecute or defend in all the courts from 1853 to 1871.

It has been well said that the titles to more than seventeen thousand acres of land within twenty miles of the city of San Francisco, now owned by hundreds of persons, worth millions of dollars, are to be put in a state of uncertainty. The rights of the parties are to be questioned who became purchasers of these lands, long after final judgments were rendered by the courts in denial of the complaints of the petitioners for relief to this Congress. There never was more objectionable legislation than that proposed in this bill. It is legislation in favor of particular parties. It is legislation in favor of men who have acquired an interest either pending or subsequent to the adjudication of all these questions in the courts. It is an appeal to the legislative power of the Government for help after the courts have decided that the complainants have no rights in the premises to be vindicated. It is an effort again to put in question the title to a large and very valuable body of land by parties who can have no legal claim to or interest in the lands and whose equitable claim has been adversely determined by competent authority of their choice.

The original grant to Juan Coppinger only covered a small valley known as Cañada de Raimando. They have all that valley, and between this valley and another valley lying east of it there is a great hill country in which there are more than seventeen thousand acres of land covered by the grant to the Arguello children, part of the Los Pulgas grant, to which they have no claim legal or equitable.

Sir, the legislation proposed is wrong—wrong in principle, wrong upon the facts, and wrong because the question has been adjudicated finally more than ten years ago in favor of the parties now in possession of the lands.

Mr. BRIGHT. I would inquire if the morning hour has expired?

The SPEAKER. It has.

Mr. BRIGHT. I move that the House now resolve itself into Committee of the Whole on the Private Calender.

Mr. PAGE. Is the amendment of my colleague [Mr. DAVIS] pending?

The SPEAKER. It is, and he has eight minutes of his hour remaining.

CHOCTAW CLAIM.

The SPEAKER laid before the House the following message from the President:

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress copies of a report and accompanying papers received from the Secretary of the Interior upon a communication addressed to the President of the United States in behalf of a certain claim of the Choctaw Nation arising under the provisions of the Choctaw and Chicasaw treaty of June 22, 1855.

R. B. HAYES.

EXECUTIVE MANSION, *January* 24, 1879.

Mr. SCALES. I move that the communication from the President, with the accompanying papers, be referred to the Committee on Indian Affairs, and printed.

The motion was agreed to.

JOHN C. LANDREAU.

The SPEAKER also laid before the House the following:

To the House of Representatives:

In answer to a resolution of the House of Representatives of the 7th instant, I transmit herewith a report from the Secretary of State with its accompanying papers.

R. B. HAYES.

WASHINGTON, *January* 24, 1879.

The SPEAKER. This communication relates to the claim of John C. Landreau against the government of Peru.

The communication, with accompanying papers, was referred to the Committee on Foreign Affairs, and ordered to be printed.

AMENDMENT OF PATENT LAWS.

Mr. AIKEN. I am instructed by the Committee on Patents to ask consent of the House that Senate bill No. 300, to amend the statutes in relation to patents, and for other purposes, now on the Speaker's table, be printed for the use of the House.

There was no objection, and it was so ordered.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the House of the following title; when the Speaker signed the same:

An act (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

PRIVATE CALENDAR.

Mr. BRIGHT. I now call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Tennessee [Mr. BRIGHT] that the House now resolve itself into Committee of the Whole for the purpose of considering the business on the Private Calendar. To-day, being the fourth Friday of the month, is objection day.

The motion of Mr. BRIGHT was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. BELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the business on the Private Calendar. To-day being objection day, the Clerk will report the first bill upon the Calendar, commencing where the committee left off on the last objection day.

BILLS OBJECTED TO.

The first business on the Private Calendar was the bill (H. R. No. 4135) for the relief of Joseph R. Shannon; reported from the Committee on War Claims by Mr. EDEN.

Objected to by Mr. SMITH, of Pennsylvania.

The next business on the Private Calendar was the bill (H. R. No. 4136) for the relief of Lucie A. Jameson, of Shelby County, Tennessee; reported from the Committee on War Claims by Mr. CALDWELL, of Kentucky.

Objected to by Mr. WHITE, of Pennsylvania.

The next business on the Private Calendar was the bill (H. R. No. 4137) for the relief of E. P. McNeal, of Hardeman County, Tennessee; reported from the Committee on War Claims by Mr. CALDWELL, of Kentucky.

Objected to by Mr. BRAGG.

The next business on the Private Calendar was the bill (H. R. No. 4138) for the relief of John T. Stratton, Edgar McDavitt, and Samuel H. Dunscomb, of the city of Memphis, Tennessee; reported from the Committee on War Claims by Mr. SHELLEY.

Objected to by Mr. LATHROP.

The next business on the Private Calendar was the bill (H. R. No. 4139) for the relief of W. R. Boice, of Danville, Kentucky; reported from the Committee on War Claims by Mr. SHELLEY.

Objected to by Mr. CONGER.

The next business on the Private Calendar was the bill (H. R. No. 2462) for the relief of Samuel M. Blair, of Boston, Massachusetts; reported from the Committee on War Claims by Mr. SHELLEY.

Objected to by Mr. BRAGG, Mr. ELLSWORTH, and Mr. WHITE of Pennsylvania.

The next business on the Private Calendar was the bill (H. R. No. 4140) for the relief of Henry S. French, of Nashville, Tennessee; reported from the Committee on War Claims by Mr. OLIVER.

Objected to by Mr. BRAGG.

The next business on the Private Calendar was the bill (H. R. No. 4141) for the relief of A. H. Herr; reported from the Committee on War Claims by Mr. OLIVER.

Objected to by Mr. BRAGG.

The next business on the Private Calendar was the bill (H. R. No. 4142) for the relief of Harriet C. Hill and James N. Hill, heirs at law of Joshua Hill, deceased; reported from the Committee on War Claims by Mr. OLIVER.

Objected to by Mr. BRAGG.

JOHN ADAMS AND OTHERS.

The next business on the Private Calendar was the bill (H. R. No. 4143) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased; reported by Mr. OLIVER from the Committee on War Claims.

The bill was read. It authorizes the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to the following persons the following sums, in full for services in the United States naval service during the late war:

To John Adams, for services as mate, the sum of $810.

To William B. Clift, for services as pilot, the sum of $4,050.

To David Dunseath, for services as pilot, the sum of $4,050.

To William Killinger, for services as watchman, the sum of $675.

To J. F. Scott, administrator of the estate of Obediah Scott, for services as engineer, the sum of $2,075.

To Davis C. Peak, for services as engineer, the sum of $1,012.50.

To Charles Linderman, for services as cook, $1,350.

To James Linnane, for services as deck-hand, the sum of $607.50.

To Patrick Carey, for services as deck-hand, the sum of $607.50.

To John McMahon, for services as deck-hand, the sum of $607.50.

To James Gorman, administrator of the estate of Patrick Gorman, deceased, for services as deck-hand, the sum of $607.50.

Mr. ELLSWORTH called for the reading of the report; which was read, as follows:

The Committee on War Claims, to whom was referred the bill (H. R. No. 3353) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, Obediah Scott, David Peak, Charles Linderman, James Linnane, Patrick

Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased; the bill (H. R. No. 3087) for the relief of John Adams, of Franklin County, Indiana; the bill (H. R. No. 2589) for the relief of Davis C. Peak, of Kenton County, Kentucky; the bill (H. R. No. 2590) for the relief of William B. Clift, of Campbell County, Kentucky; the bill (H. R. No. 2591) for the relief of David Dunseath, of Campbell County, Kentucky; the bill (H. R. No. 2592) for the relief of Obediah Scott, of Kenton County, Kentucky; the bill (H. R. No. 2593) for the relief of William Killinger, of Campbell County, Kentucky, report:

That said John Adams was mate and said William B. Clift was pilot on the steamboat Champion No. 3; and that said David Dunseath was pilot; said Obediah Scott, first engineer; said Davis C. Peak, second engineer; said William Killinger, watchman; said Charles Linderman, cook and steward; and said James Linnane, Patrick Carey, John McMahon, and Patrick Gorman were deck-hands on the steamboat Champion No. 5; that said Obediah Scott is now deceased, and J. F. Scott is administrator of his estate; and said Patrick Gorman is deceased, and James Gorman is administrator of his estate.

The facts in these cases are in all material respects the same as in the case of John C. Ray, H. R. 1855. The vessels Champion No. 3 and Champion No. 5 were engaged in company in the same service and were impressed under the same order, at the same time, and for the same expedition, and proceeded thereon under the same command, and were destroyed while attempting to run the same battery one on the 26th of April, 1864, and the other the day following. The claims are for payment of wages during the same captivity, and were presented in the same manner for payment, and rejected for the same reasons. In that case, your committee reported as follows:

"In April, 1864, said Ray was employed, at a salary of $400 per month, as pilot of the steamboat Champion No. 3, then employed in towing barges of coal for the Army and Navy of the Lower Mississippi. When the boat reached the mouth of Red River, about the 15th of April, she was ordered and compelled, against the protest of her officers and crew, to proceed up that river to Alexandria, about one hundred and twenty miles, and report to Commodore D. D. Porter with one barge of coal, and when she did so, she was then required and compelled, against the protest of officers and crew, to proceed about one hundred and twenty miles farther up the river to assist in raising the sunken United States vessel Eastport.

"Commodore Porter accompanied the expedition in his flag-boat and commanded it. On the return, they came to a confederate battery of nineteen guns, meantime erected near the mouth of Cain Creek, and in running the same, under the orders of Commodore Porter, the boiler of the Champion No. 3 was exploded by a shot, and only seven persons out of one hundred and seventy on board escaped with their lives. The Champion No. 5 was also totally destroyed, and the survivors of both crews made prisoners of war, and confined at Camp Ford, Texas, where they suffered privations and exposures scarcely paralleled in the history of the war. The claimant asks to be paid his wages during the time he was a prisoner.

"This claim was presented to the accounting officers of the Navy for payment, and rejected for want of authority to allow it, as it appears by the following extract from a letter of the Second Comptroller of the Treasury, in reply to a request on behalf of your committee for information:

"'I entered upon the examination with reluctance, for I had already become impressed that the claimant, as a survivor of the terrible disaster referred to and the dangers of the long and irksome incarceration, deserved substantial recognition at the hands of the Government, and I know of no law that authorized the adjustment of his claim by the accounting officers of the Treasury. After examination of the case it was with regret that I came to the conclusion that this case is *casus omissus*.

"'Congress has directly provided (Revised Statutes, section 3483) that one who sustains damage by the destruction by an enemy of a vessel, while such property is in the military service, shall be paid the value of the vessel. And section 4693, Revised Statutes, has been construed to authorize the payment of a pension in a case where the terms of employment were the same as that under which claimant was engaged at the time of the disaster. I have examined carefully the regulations of the Army and of the Navy and the acts of Congress, together with the authorities cited by the claimant's attorney, and I am unable to find any like provision that would authorize the accounting officers of the Treasury to sustain this claim without further legislation.

"'I am, very respectfully,

"'W. W. UPTON,
"'*Second Comptroller.*'

"Your committee fully concur with the Second Comptroller as to the justice and merit of this claim.

"Under the laws above referred to the owner of the vessel has been paid its value and the widows of the killed have been pensioned. No good reason exists why the survivors should not be paid wages during the time of their captivity. If their comrades who lost their lives were in the service of the United States so as to entitle their widows to pension, surely the survivors were in the service and entitled to pay. If the owner of the vessel, who risked his property in the service of the United States, was entitled to compensation for its loss, then *a fortiori* (as life and liberty are dearer than property) he who risked his life and lost his liberty in the service of the United States should at least have pay for the time lost in captivity. And such is the ruling and practice in auditing accounts for services in the Quartermaster's Department of the Army in precisely similar cases, as appears by the following letter received by your committee in reply to an inquiry addressed to the Third Auditor of the Treasury, who has charge of that duty in Army accounts:

"'TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
"'*Washington, D. C., January 24, 1878.*

"'In response to your letter of the 22d instant, asking as to the practice of this office in reference to claims filed by employés of the Quartermaster's Department for compensation as such employés while held as prisoners of war, you are informed that it has not been the custom of this office to make any allowance to such persons merely as damages for detention while in captivity. The action of the office has been founded on the theory that persons hired by the Quartermaster's Department and carried on the rolls of that Department continue to be the servants thereof during captivity, and are entitled to be paid at the rate of hiring until discharged from the service.

* * * * * * *

"'The favorable action of this office has not, however, been confined to persons in the service of the Quartermaster's Department under express contract, but has been extended to the crews of boats which have been impressed into the military service, which crews have been subsequently captured, upon the theory that by the impressment of the boat the Government make the employés of the owners its servants.

"'There is no special statute authorizing these allowances, but the act of 1817 (section 277, Revised Statutes) imposing upon the Third Auditor the duty of examining all accounts of the Quartermaster's Department, has been deemed to confer ample authority for the action taken.

"'In reference to compensation the rule has been to continue to an employé the pay he was receiving from his employer at the time of the capture and to continue the same while he is actually held as a prisoner of war—that is to say, up to the time of his parole—allowing, in addition, a reasonable time for his return to the port of shipment.

"'I am, sir, very respectfully, your obedient servant,
"'HORACE AUSTIN, *Auditor.*'"

It would thus seem that in precisely similar cases pay is allowed in the Army and disallowed in the Navy. Your committee do not question the correctness of the ruling in either case. It is probably *casus omissus* in the case of the Navy, as the Second Comptroller suggests; but it is evident that the Government should be prompt to mete out the same justice to the gallant men who do the same services in the time of danger, whether done in the Army or the Navy. Whether an act be performed under the orders of a general or a commodore can make no possible difference either in its merit or its worth.

These men were all captured on the 26th and 27th days of April, 1864, and were exchanged on the 27th day of May, 1865, and reached Cincinnati on their return on the 11th day of June, 1865. Although the wages for like service on Red River were much greater than they were receiving for services on the Mississippi, yet your committee feel bound by the rule of the Department as above stated, and recommend the payment of the same wages they were receiving when impressed from the time of their capture up to the time of their return to Cincinnati, and report the following substitute for all of said bills and recommend its passage.

There being no objection, the bill was laid aside to be reported favorably to the House.

Mr. DURHAM. Mr. Chairman, I came in just as the last bill was laid aside. I intended to object, and will do so now if it is not too late.

Mr. OLIVER. I insist that the gentleman is too late.

Mr. DURHAM. If I am not too late I object, because a bill reported a little while ago, proposing to pay a claim as just as any other man's, the claimant being from my own town, was objected to.

Mr. OLIVER. I must insist that the objection comes too late.

The CHAIRMAN. In the opinion of the Chair the objection comes too late.

WILLIAM FALLS.

The next business on the Private Calendar was the bill (H. R. No. 4144) for the relief of William Falls, of Alexandria County, Virginia; reported by Mr. ROBINSON, of Indiana, from the Committee on War Claims.

Objected to by Mr. WHITE, of Pennsylvania.

PAYMENT OF INTERNAL-REVENUE OFFICERS.

The next business on the Private Calendar was the joint resolution (H. R. No. 105) authorizing the Secretary of the Treasury to pay certain officers of the internal-revenue service the amounts due them for their services as such officers previous to the time of executing their bonds and taking the oath of office as prescribed by law; reported by Mr. BURCHARD, from the Committee of Ways and Means.

The joint resolution was read. It provides that in the cases of John C. Cartwright, of the collection district of Oregon; Clark Waggoner, of the tenth collection district of Ohio; Ellery M. Brayton, of the collection district of South Carolina; W. H. Wheeler, of the fifth collection district of North Carolina; William M. Woodcock, of the fifth collection district of Tennessee; Otis H. Russell, of the third collection district of Virginia; and Burt Van Horn, of the twenty-eighth collection district of New York, who were respectively appointed collectors of internal revenue for the districts mentioned during the recess of the Senate, which existed until the 15th day of October, 1877, and duly entered upon the discharge of the duties of such appointment, and were during the session of the Senate which begun on the last-mentioned date nominated and, upon confirmation by the Senate, appointed and commissioned as collectors for their respective districts, and continued in the discharge of their official duties, without having delivered the official bonds or taken the oaths prescribed by law, under the last-mentioned appointment, until subsequent to the adjournment of said session of the Senate, the Secretary of the Treasury is authorized to pay such collectors the compensation and expenses belonging to their respective offices, and which would, according to law, have accrued to them had they, before entering upon the discharge of their duties under their last appointment or before the expiration of the said session of the Senate, given the bonds and taken the oaths prescribed by law, provided that bonds shall have been given and such oaths taken prior to the passage of this resolution.

An amendment reported by the Committee of Ways and Means was read and agreed to, as follows:

Add to the bill the following:

And all acts of such persons as collectors of internal revenue during such times as they severally performed the duties of said office, after the close of said session of the Senate and before they were duly qualified under their regular appointment, shall be held to be as valid as if they had duly qualified as collectors before entering upon the performance of such duties.

There being no objection, the bill, as amended, was laid aside to be reported favorably to the House.

SAMUEL B. STAUBER AND OTHERS.

The next business on the Private Calendar was the bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others; reported by Mr. ROBBINS from the Committee of Ways and Means.

The bill was read. It requires the Secretary of the Treasury to refund and repay to Samuel B. Stauber, J. J. Petree, and William Shouse, to each of them, $262.50, which sum each of said parties has been required to pay and has paid into the Treasury of the United States as special tax upon brandy, although they were released and discharged from the payment thereof by chapter 48 of the private acts of the Forty-fourth Congress.

The following amendment reported by the committee was agreed to:

In line 5, before the words "William Shouse," insert the words "Adaline M. Shouse, widow of."

There being no objection, the bill, as amended, was laid aside to be reported favorably to the House.

WILLIAM C. EDMONSTON.

The next business on the Private Calendar was the bill (H. R. No. 1346) for the relief of William C. Edmonston; reported by Mr. ELLSWORTH from the Committee of Claims.

Objected to by Mr. BRAGG.

ESTATE OF HENRY K. SANGER.

The next business on the Private Calendar was the bill (H. R. No. 4240) for the relief of the estate of Henry K. Sanger, late United States depositary at Detroit, Michigan, and for other purposes; reported by Mr. ELLSWORTH from the Committee of Claims.

Objected to by Mr. CALDWELL, of Kentucky.

N. BOYDEN.

The next business on the Private Calendar was the bill (S. No. 685) for the relief of N. Boyden; reported by Mr. ELLSWORTH from the Committee of Claims.

Objected to by Mr. BRAGG.

D. G. AND D. A. SANFORD.

The next business on the Private Calendar was the bill (H. R. No. 4241) for the relief of D. G. and D. A. Sanford; reported from the Committee on Indian Affairs by Mr. MORGAN.

Objected to by Mr. SPARKS.

EASTERN BAND OF CHEROKEE INDIANS.

The next business on the Private Calendar was the bill (H. R. No. 228) to authorize and enable the eastern band of Cherokee Indians to institute and prosecute a suit in the Court of Claims against the Cherokee Nation; reported by Mr. MORGAN from the Committee on Indian Affairs.

Objected to by Mr. CONGER and others.

S. T. MARSHALL.

The next business on the Private Calendar was the bill (H. R. No. 1614) for the relief of S. T. Marshall, of Lee County, Iowa; reported from the Committee on Indian Affairs by Mr. BOONE.

The bill was read. It directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to S. T. Marshall, of Lee County, Iowa, whatever sum may be found to be due him on account of beef-cattle furnished the United States for the use of the Indian Department in California in 1851, upon a fair and equitable settlement of his accounts, as assignee of G. M. Marshall, with the Secretary of the Interior.

Mr. EDEN called for the reading of the report; which was read, as follows:

The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 1614) for the relief of S. T. Marshall, have had the same under consideration, and beg leave to report as follows:

This claim was considered by the Committee on Indian Affairs, at the first session of the Forty-fourth Congress, and submitted their report thereon, which is as follows:

"Mr. BOONE, from the Committee on Indian Affairs, submitted the following report, to accompany bill H. R. No. 2695:

"The Committee on Indian Affairs, to whom was referred the bill (H. R. No. 118) for the relief of S. T. Marshall, have had the same under consideration, and beg leave to report as follows:

"As the purchasing and disbursing agent of the commission which was sent to California in 1850 to make treaties with the hostile Indians in California, Reddick McKee made a contract with General Estill to furnish beef-cattle for the escort of United States soldiers which accompanied said McKee and party; that said Estill did furnish a large number of cattle under the contract, in which the claimant seems to have been interested. In December, 1850, at San Francisco, the accounts of Estill and Marshall were settled, and the agent McKee gave to them a certificate of indebtedness showing that there was due them on the beef contract the sum of $6,598.49, which said McKee said, and still says, he had not the money to pay, in consequence of the appropriation for the service in California having been reduced much below what he supposed it would be. As evidence of said indebtedness, however, said McKee gave to G. M. Marshall a certificate of indebtedness. A copy, as sworn to by said McKee, is herewith submitted, together with the other evidence in the case. And, confirmatory of this, said McKee, in his official report to the Committee on Indian Affairs, states that this amount is due to said Marshall, but qualified by an indorsement in these words, 'Subject to credit.' But your committee have not been able to ascertain the amount of the 'credit' to which said claim is 'subject,' nor on what account. Your committee are satisfied, however, that a part at least of this claim is just, and ought to be paid.

"It may be, and your committee believe it is, true that the contract made by said McKee with Estill and Marshall to furnish beef to the expedition was made without authority of law; but the evidence shows very clearly that said McKee was the accredited agent of the Government, and that these parties contracted with him under the belief that he had authority to contract with them for and on behalf of the Government, and that he himself believed he had authority to make the contract with them; and also that these parties, in good faith, furnished the beef-cattle for the use of the Government, and that the Government got the benefit of them. It seems but just and equitable, therefore, that these parties should be paid a fair compensation for their property so furnished the Government. Your committee therefore recommend the passage of the accompanying bill, as a substitute for House bill No. 118, referred to them."

Your committee have again considered the claim, and fully concur in the foregoing report, and hereby adopt the same, and recommend the passage of said bill.

There being no objection, the bill was laid aside to be reported favorably to the House.

WILLIAM G. HALPINE.

The next business on the Private Calendar was the bill (H. R. No. 1015) for the relief of William G. Halpine for losses sustained while serving in the United States Army in 1862 and 1863; reported from the Committee on Military Affairs by Mr. BRAGG.

Mr. CONGER. I think this bill had better be discussed a little. I object to its passage now.

JAMES D. WOOD.

The next business on the Private Calendar was the bill (H. R. No. 3958) for the relief of James D. Wood, late captain and assistant adjutant-general; reported from the Committee on Military Affairs by Mr. BRAGG.

Objected to by Mr. CALDWELL, of Kentucky.

CEMETERY LOT, MONTGOMERY, ALABAMA.

The next business on the Private Calendar was the bill (H. R. No. 3434) releasing the title to a certain cemetery lot to the city of Montgomery, Alabama; reported from the Committee on Military Affairs by Mr. CLARK, of New Jersey.

The bill was read. It recites that by deed dated July 14, 1866, the city of Montgomery, Alabama, voluntarily granted to the United States a certain lot of land in the cemetery of that city, to be used for the burial of United States soldiers, and for no other purpose; that the United States, having removed the bodies of soldiers buried therein to Atlanta, have no longer need of the same; and that the lot is now needed by the city of Montgomery, Alabama, for burial purposes. The bill therefore provides that all right, title, and interest of the United States in and to said cemetery lot is hereby released and forever quitclaimed to the said city of Montgomery.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHN J. MANUEL AND CHILDREN.

The next business on the Private Calendar was joint resolution (H. R. No. 157) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri; reported from the Committee on Military Affairs by Mr. CLARK, of New Jersey.

The bill was read.

The preamble states that John J. Manuel, of White Bird, Idaho County, Idaho Territory, was twice wounded and permanently disabled by the Nez Percé Indians, on the 14th day of June, 1877, and his wife and infant child killed about the same time, and an infant daughter of seven years twice wounded, and his property almost wholly burned and destroyed, leaving him and his infant daughters, Maggie and Julia, aged respectively seven and ten years, without means of support, and that the mother of John J. Manuel resides at Flint Hill, Saint Charles County, Missouri, and he is desirous of being removed to Flint Hill, that himself and daughters may have the care and attention of his mother.

The bill then empowers and directs the Secretary of War to furnish military transportation to said John J. Manuel and his two daughters from Camp Howard, Idaho Territory, to Saint Charles, in the State of Missouri, and appropriates $200, or so much thereof as may be required for that purpose, to be expended under the direction of the Secretary of War.

The report was read, as follows:

Mr. ALVAH A. CLARK, from the Committee on Military Affairs, submitted the following report:

Your committee beg leave to submit the substitute herewith in place of the original resolution, and recommend that the same do pass.

The matters set forth in the resolution are supported by sufficient proof to recommend this action.

This man, John J. Manuel, was a settler on the frontier. His life was not only jeopardized, but he was wounded so that he will never recover; his property destroyed and taken from him; his wife ravished and killed, and children, one murdered, the others maimed; and in that condition he asks that he, with his two children remaining, may be carried by the Government back to his mother, to die. Humanity speaks loudly in his behalf, and the government that cannot render aid under such circumstances is not the government to encourage emigration to settle our lands on the frontiers.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

THOMAS BLAIR.

The next business on the Private Calendar was the bill (H. R. No. 4005) for the relief of Thomas Blair, Fifteenth United States Infantry; reported from the Committee on Military Affairs by Mr. MCCOOK.

Objected to by Mr. EDEN.

PRIVATE WILLIAM HINES.

The next business on the Private Calendar was the bill (H. R. No. 4007) for the relief of Private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina; reported from the Committee on Military Affairs by Mr. MCCOOK.

The preamble of the bill states that Private William Hines, Company F, Eighteenth United States Infantry, on or about the 11th day of October, 1876, at Aiken, South Carolina, did lose his trousers and blanket by fire; that a gratuitous issue was suggested by a board of survey, and afterward made to said Hines, which issue appears to have been unauthorized by law or regulation; and that said Hines, relying upon said suggestion, did accept and wear said trousers and use said blanket, contrary to the statute, and in consequence the money value of said articles has been charged to him.

The bill then authorizes the Secretary of War to credit Private William Hines, of Company F, Eighteenth United States Infantry, with the sum of $8.65, being the money value of the trousers and blanket issued to him in consequence of loss by fire, and which amount has been charged against him.

Mr. BRAGG. Let the report be read.

Mr. McCOOK. The report is quite lengthy, and I do not see the necessity for taking the time of the House in reading it.

Mr. BRAGG. Yes, there is; let it be read.

The report was read as follows, and it was frequently interrupted with laughter and applause:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 4007) for the relief of Private William Hines, Company F, Eighteenth United States Infantry, having had the same under consideration, submit the following report:

The evidence is conclusive that Hines was a member of the company and regiment referred to, and that he lost his trousers and blanket by fire on or about the 11th day of October, A. D. 1876, while serving with his command at Aiken, South Carolina.

The time, place, and circumstances under which this loss occurred deserve much more than a mere passing notice. It was the year of the presidential election, and but one brief month prior to the time when the freemen of the Republic were called upon to cast their ballots for the men, or rather the electors of their choice. The air was filled with the eloquence of orators both North and South, who spoke and labored for the success of their candidates. The propriety, not to say the constitutionality, of the presence of Federal troops in the southern section of our beloved country was a question that entered largely into the discussion of the day. Upon this subject there was then as now great difference of opinion; and without committing themselves upon this disputed point your committee find unanimously that Hines was there by order of the legally-constituted authorities; that he wore the usual and ordinary uniform of the private soldier; that he lost his trousers and blanket as set forth in the bill for his relief; that the loss occurred by fire; that a board of survey was called upon them, and that, in the language of that tribunal, "they were damaged to their full value," amounting to $8.65.

Your committee also find that this same board expressed the opinion that the fire was accidental; "that it originated at the top of the tent," and "that no one was to blame." There is no direct testimony upon this point, but it is fair to assume that Hines was lying down in his tent enjoying needed repose after a day's labor in asserting and maintaining the sovereignty of the General Government. It is true that those who seek to hold him responsible refer to the general and careless use of the pipe by our weary warriors; and others have attempted to account for the catastrophe by calling attention to the dangerous habit of soldiers carrying matches in their trousers' pockets. Both of these theories, although plausible, are rejected by your committee; and after patient investigation they are of the opinion that the fire originated in some unaccountable manner. If, as is altogether probable, Hines was recumbent in his tent, the conclusion is almost irresistible that he had disrobed and placed his blouse and trousers on the convenient and useful cracker-box; the progress of the flames from the top of the tent, where they originated, to his soldierly couch, doubtless aroused him from his reverie or sleep; and while the evidence is not entirely satisfactory on this point, your committee are of the opinion that Hines in his zeal to fight the fire and save Government property lost both trousers and blanket.

With this view of the case your committee accept the finding of the board of survey and discharge him from responsibility. No specific recommendations appear in their report, but through some misapprehension a gratuitous issue of trousers and blanket was made to him. As events proved, this was a fatal mistake. His commanding officer, misconstruing a mere suggestion, and perhaps unwilling that Hines should appear before the people of Aiken trouserless, or, concluding that the honor and dignity of the United States would be put in jeopardy by his appearing on duty in a pair "damaged to their full value," made proper haste to rehabilitate him.

From this time Hines vanishes from the scene. How he disported himself in his new trousers nowhere appears. Unconsciously he had performed a great service to the Army and the country by causing an authoritative decision on a matter that had been involved in doubt. The question of a gratuitous issue of clothing is now settled, and while Hines may be indifferent to the trouble he has given captains, colonels, major-generals, a Secretary of War, and a congressional committee, he can content himself with the reflection that he has neither worn nor lost his trousers in vain.

In conclusion, your committee desire to call attention to the fact that they have devoted much time and thought to this case. The papers are voluminous, containing no less than seven distinct indorsements, commencing with a captain and concluding with the Secretary of War, who, in a communication to the Speaker of the House of Representatives, asks for the relief of Hines; or, to use his own well-chosen words, "requests the sanction of Congress for the issuing of said clothing to said Hines."

This communication is marked "A" and made a part of this report.

It is in no vainglorious spirit that your committee state that whatever delay there has been in this matter the blame does not attach to them.

The trouble with Hines began nearly eighteen months since, and the papers only reached the hands of your committee a few days ago; and in placing the final determination of the question with the Representatives of the people, they feel that they are discharged from further responsibility. They cannot, however, dismiss the subject without calling attention to the almost perfect system of checks and guards thrown around the issuing of Government property. The thoughtless may call it "red-tape," or circumlocution, but without it, Hines to-day would be in undisputed possession of a pair of trousers and a blanket to which he would have no legal title. As it is, the system has been vindicated, the right of the United States to Hines's trousers fully established, and his personal and pecuniary responsibility determined.

Under all the circumstances, your committee recommend the passage of the bill.

A.

WAR DEPARTMENT,
Washington City, February 25, 1878.

The Secretary of War has the honor to transmit to the House of Representatives a copy of papers in relation to a gratuitous issue of clothing made on the authority of the department commander to Private William Hines, Company F, Eighteenth Infantry, to replace certain articles lost by the burning of his tent at Aiken, South Carolina, and respectfully to request the sanction of Congress for the issue of said clothing.

GEO. W. McCRARY,
Secretary of War.

To the SPEAKER
Of the House of Representatives.

MCPHERSON BARRACKS,
Atlanta, Georgia, August 11, 1877.

SIR: I have the honor to state that Private William Hines, Company F, Eighteenth Infantry, suffered a loss of one pair of trousers and one woolen blanket by the burning of his tent in Aiken, South Carolina. A gratuitous issue was made to him of these articles on the authority of the department commander on the recommendation of a board of survey. This issue was disallowed by the Quartermaster-General for want of the approval of the Secretary of War. These articles have accordingly been charged against him on his clothing account.

I would respectfully ask authority of the honorable Secretary of War to credit him with the money value of the same.

Very respectfully, your obedient servant,

THOS. J. LLOYD,
Captain Eighteenth Infantry, Commanding Company F.

ADJUTANT-GENERAL, U. S. A.,
Washington, D. C.

[First indorsement.]

ADJUTANT-GENERAL'S OFFICE, *August 14, 1877.*

Respectfully returned to the commanding officer Company F, Eighteenth Infantry, McPherson Barracks, Atlanta, Georgia, (through headquarters Department of the South,) inviting attention to paragraph 451, Revised Army Regulations of 1863.

There is no authority for a gratuitous issue of clothing, except as provided in General Orders No. 98 of 1867 and No. 23 of 1868 from this office.

E. D. TOWNSEND,
Adjutant-General.

[Second indorsement.]

HEADQUARTERS DEPARTMENT OF THE SOUTH,
Atlanta, Georgia, August 17, 1877.

Respectfully transmitted to commanding officer Company F, Eighteenth Infantry, through commanding officer McPherson Barracks, Atlanta, Georgia.

The records at these headquarters do not show that the department commander authorized any gratuitous issue of clothing to Private William Hines, Company F, Eighteenth Infantry, on the recommendation of a board of survey. The board of survey in question made no recommendations whatever, but simply found the facts of the case, and that no blame should be attached to any one.

By command of Colonel Ruger, brevet brigadier-general, United States Army.

C. McKEEVER,
Assistant Adjutant-General.

[Third indorsement.]

POST OF MCPHERSON BARRACKS,
Atlanta, Georgia, August 18, 1877.

Respectfully referred to the commanding officer Company F, Eighteenth Infantry, with reference to the second indorsement. This paper to be returned with remark.

By order of Captain T. J. Lloyd.

C. P. PAUL,
First Lieutenant Eighteenth Infantry, Post-Adjutant.

[Fourth indorsement.]

ATLANTA, GEORGIA, *August 21, 1877.*

Respectfully returned, with the explanation that the request to make a gratuitous issue was made in the letter of transmittal of the proceedings of the board of survey. It was my impression that it had been made in an indorsement approving and forwarding the proceedings, in which case it would have been a part of the proceedings, and the letter of October 13, 1876, from headquarters Department of the South, approving the proceedings of the board, was, by this misapprehension taken as authorizing the gratuitous issue. General Order No. 23, of 1869, has no reference to the issue of clothing. I would respectfully request that these papers be forwarded to the honorable Secretary of War, with a view to having the case brought to the attention of the proper committee of Congress, in order that Private Hines, Company F, Eighteenth Infantry, may be reimbursed for the loss of one pair trousers and one woolen blanket, total money value $8.65. Copy of proceedings of board of survey and letter approving same are forwarded herewith.

THOS. J. LLOYD,
Captain Eighteenth Infantry, Commanding Company F.

[Fifth indorsement.]

POST OF MCPHERSON BARRACKS,
Atlanta, Georgia, August 21, 1877.

Respectfully forwarded, and attention invited to fourth indorsement.

THOS. J. LLOYD,
Captain Eighteenth Infantry, Commanding Post.

[Sixth indorsement.]

HEADQUARTERS DEPARTMENT OF THE SOUTH,
Atlanta, Georgia, August 22, 1877.

Respectfully forwarded to the Adjutant-General of the Army, through headquarters Division of the Atlantic, and attention requested to the fourth indorsement with reference to the suggestion that Congress be solicited to pass an act authorizing the issue of clothing. The statement made by Captain Lloyd in letter of August 4, that the issue of clothing referred to in that letter was made on the authority of the department commander, on the recommendation of a board of survey, was incorrect. No such authority was granted by the department commander. His explanation of the misapprehension is contained in the fourth indorsement.

THOS. H. RUGER,
Colonel Eighteenth Infantry,
Brevet Brigadier-General, U. S. A., Commanding.

[Seventh indorsement.]

HEADQUARTERS DIVISION OF THE ATLANTIC,
New York, August 24, 1877.

Respectfully forwarded to the Adjutant-General of the Army, asking attention to the indorsements of Captain Lloyd, Eighteenth Infantry, and the commanding general of the South thereon (fifth and sixth.)

WINF'D S. HANCOCK,
Major-General, Commanding.

ADJUTANT-GENERAL'S OFFICE,
February 8, 1878.

Respectfully submitted to the Secretary of War, inviting attention to the indorsement of Captain Lloyd, Eighteenth Infantry, of August 21, 1877, hereon.

E. D. TOWNSEND,
Adjutant-General.

[Copy of inclosure No. 1 to fourth indorsement.]

Proceedings of a board of survey convened at Abbeville, South Carolina, by virtue of the following order.

ABBEVILLE, SOUTH CAROLINA, *October 11, 1876.*

[ORDERS No. 3.]

A board of survey is hereby ordered to convene at this camp at ten o'clock a. m. to-day, or as soon thereafter as practicable, to report upon and fix the responsibility

for the loss by fire of one common tent, the property of the United States, and one woolen blanket and one pair of trousers, the property of Private William Hines, Company F, Eighteenth Infantry.

Detail for the board.—First Lieutenant C. R. Paul, Eighteenth Infantry; Second Lieutenant F. H. Barnhart, Eighteenth Infantry.

T. J. LLOYD,
Captain Eighteenth Infantry, Commanding Detachment.

ABBEVILLE, SOUTH CAROLINA, *October* 11, 1876.

The board met pursuant to the above order.

Present: All the members.

The board then proceeded to examine into the condition of one common tent, the property of the United States, and for which Captain T. J. Lloyd, Eighteenth Infantry, is responsible; also one woolen blanket and one pair of trousers, the property of Private William Hines, Company F, Eighteenth Infantry, and find the condition of said articles to be as stated below.

One common tent, damaged beyond repair; one woolen blanket, damaged its full value, $4.55; one pair of trousers, damaged to their full value, $4.10.

The board find the damages aforesaid were caused by the tent taking fire; the board, however, after careful inquiry are unable to obtain any data as to the origin of the fire, but it is believed by the board that as the fire began at the top of the tent, near the ridge-pole, and in the day-time, that it was accidental. The board, therefore, is of the opinion that no blame should be attached to any person for the damage stated. There being no further business before the board, it adjourned *sine die*.

C. R. PAUL,
First Lieutenant Eighteenth Infantry, President.

FRANK H. BARNHART,
Second Lieutenant Eighteenth Infantry, Recorder.

Approved.

THOMAS J. LLOYD,
Captain Eighteenth Infantry, Commanding Detachment.

A true copy.

C. R. PAUL,
First Lieutenant Eighteenth Infantry.

[Copy of inclosure No. 2 to fourth indorsement.]

HEADQUARTERS DEPARTMENT OF THE SOUTH,
Atlanta, Georgia, October 21, 1876.

[Through the chief quartermaster of the department.]

SIR: The department commander instructs me to say that the proceedings of the board of survey convened by Order No. 3, current series, from your headquarters, to fix the responsibility for the loss of certain clothing, camp and garrison, are approved.

Very respectfully, your obedient servant,

WM. B. ROCHESTER,
Paymaster United States Army, Acting Assistant Adjutant-General.

COMMANDING OFFICER, *United States Troops, Abbeville, South Carolina.*

[First indorsement.]

OFFICE CHIEF QUARTERMASTER DEPARTMENT OF THE SOUTH,
Atlanta, Georgia, October 23, 1876.

Respectfully forwarded.

JAMES A. EKIN,
Deputy Quartermaster-General U. S. A.,
Chief Quartermaster Department of the South,
By WM. B. ROCHESTER,
Paymaster United States Army, Assistant Adjutant-General.

A true copy.

C. R. PAUL,
First Lieutenant Eighteenth Infantry, Post Adjutant.

[Copy of inclosure No. 3 to fourth indorsement.]

CAMP DETACHMENT EIGHTEENTH INFANTRY,
Abbeville, South Carolina, October 13, 1876.

SIR: I have the honor to forward proceedings of a board of survey, convened at this camp October 11, 1876, and respectfully request authority to make a gratuitous issue to Private William Hines, Company F, Eighteenth Infantry, of one woolen blanket and one pair trousers to replace those lost by the fire.

Very respectfully, your obedient servant,

THOMAS J. LLOYD,
Captain Eighteenth Infantry, Commanding Detachment.

ASSISTANT ADJUTANT-GENERAL,
Department of the South, Atlanta, Georgia.

A true copy.

C. R. PAUL,
First Lieutenant Eighteenth Infantry, Post Adjutant.

Mr. BRAGG. I object.

Mr. McCOOK. I hope the gentleman from Wisconsin will withdraw his objection. He objected once before, and this certainly cannot be considered one of the war claims in relation to which he is so sensitive.

Mr. BRAGG. I would be happy to withdraw my objection, but I cannot consent to allow the bill to pass because it is a little ludicrous.

Mr. CONGER. One objection will not suffice to prevent the passage of this bill. It was objected to once before on one of the hottest days of last June, when members of the House were indifferent to blankets or trousers. [Laughter.] It now requires five objections.

Mr. EDEN. I think it had better go over until we can have an opportunity to hear the gentleman from Michigan and the gentleman from Wisconsin discuss it. [Laughter.]

Mr. McCOOK. I hope the objection will be withdrawn.

Mr. COX, of New York. This report ought to appear in the RECORD whether the bill is objected to or not.

Mr. RICE, of Ohio. The bill was objected to once before, and this being the second time it is called it now requires under the rules five objections.

The CHAIRMAN. That is so.

Not more than one member objecting, and the rules requiring five objections, the bill was laid aside to be reported to the House with the recommendation that it do pass.

JOSEPH R. PRATT.

The next business on the Private Calendar was the bill (H. R. No. 1173) for the relief of Joseph R. Pratt; reported from the Committee on Military Affairs by Mr. STRAIT.

The bill directs the Secretary of the Treasury to pay to Joseph R. Pratt, late first lieutenant of Company L, Fourteenth Kansas Cavalry, $400, being the value of two horses lost by him in the service of the United States during the late rebellion.

The report was read, as follows:

Mr. STRAIT, from the Committee on Military Affairs, submitted the following report:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 1173) for the relief of Joseph R. Pratt, have had the same under consideration, and report it back to the House with amendment. Strike out the words in fifth line, to wit, "four hundred dollars," and insert in lieu thereof "two hundred dollars;" and, as amended, they recommend that it do pass.

The affidavits in this case show that Joseph R. Pratt, late first lieutenant of Company L, Fourteenth Kansas Cavalry, was a commissioned officer of said regiment, and that he was mounted on a private horse belonging to himself, and for which it appears he had paid $360; that on or about the 5th day of August, 1864, he was stationed at Fort Smith, Arkansas; that his command was attacked on said day by confederate troops, and that during said engagement the horse of said Pratt, upon which he was mounted, was killed; and that, in the opinion of your committee, the horse was well worth the sum of $200, for which sum the said Pratt should receive compensation.

Your committee, in conclusion, find all the foregoing facts are fully substantiated by a mass of evidence from credible persons, and there can be no just reason why the said Pratt should not be paid the sum recommended.

The amendment of the committee was read, as follows:

Strike out $400 and insert in lieu thereof $200.

The amendment of the committee was agreed to.

There being no objection, the bill was laid aside to be reported to the House with the recommendation that it do pass.

WILLIAM S. HANSELL & SONS.

The next business on the Private Calendar was the bill (H. R. No. 4290) for the relief of William L. Hansell & Sons; reported from the Committee on Military Affairs by Mr. STRAIT.

The bill, which was read, appropriates the sum of $901.57, out of any moneys in the Treasury not otherwise appropriated, to repay to William S. Hansell & Sons, of Philadelphia, the amount of a certain judgment recovered against them by O. E. Woods, in the United States circuit court for the eastern district of Pennsylvania, affirmed on appeal to the Supreme Court of the United States, and the suit defended by the Government; the said judgment being for a royalty agreed to be paid by the Government on certain knapsacks furnished by said William S. Hansell & Sons, the terms of their accepted bid having been omitted from the written contract.

The report was read, as follows:

Mr. STRAIT, from the Committee on Military Affairs, submitted the following report:

The petition of William S. Hansell & Sons, of Philadelphia, for payment of about $900 royalty, which they were compelled by suit to pay on knapsacks of a certain pattern ordered by and furnished to the Quartermaster-General's Department, has been referred to the Committee on Military Affairs.

By the report of the Third Auditor it appears that the bid of Hansell & Sons, which contained the proviso that "should there be a royalty the United States to pay it," was accepted by the Government.

The United States defended the suit against Hansell & Sons for this royalty, which they paid after a decision on appeal by the Supreme Court of the United States, the War Department having advised the Attorney-General and Treasury that "good faith" required the Government to reimburse Hansell & Sons.

As it was not certain when the contract was made that any royalty whatever was due, the assistant quartermaster-general at Philadelphia left the proviso that the Government should pay the royalty out of the written contract, assuring Hansell & Sons that the Quartermaster-General's letter, shown to them, and the agreement made would protect them. The accounting officers of the Treasury, asserting that the money should be repaid to Hansell & Sons, express a doubt whether they can do this act of justice because the written contract omitted the proviso for payment of the royalty, and the Third-Auditor in his report urges that Congress shall be sought for the remedy.

The bid of Hansell & Sons, and its acceptance by the Government, are written documents contemporaneous with and part of the contract, which it appears so far from being varied by the United States have been constantly asserted by it as binding on them, and the omission to insert the proviso in what is called the contract appears to have been a mistake of a subordinate officer and not in accordance with his written instructions.

By sections 3744 and 3745, Revised Statutes, the Secretary of War must file in the Interior Department not only the contract paper, but all bids and proposals, and the officer making the contract shall swear "that the papers accompanying include all those relating to the said contract."

The committee believe that these clauses were enacted mainly for the purpose of ascertaining the contract in case of dispute, and believing also that the bid and its acceptance in the present case are part of the written papers to be considered in determining what the contract was, they adopt the suggestion of the Third Auditor, concurred in by the Second Comptroller of the Treasury, and recommend the passage of the accompanying bill.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

LIEUTENANT-COLONEL JAMES MONROE.

The next business on the Private Calendar was the bill (H. R. No. 3852) for the relief of the legal representatives of the late James Monroe, lieutenant-colonel Virginia State Line, war of the Revolution, and President of the United States; reported from the Committee on Revolutionary Pensions by Mr. MACKEY.

Objected to by Mr. BREWER.

ABIGAIL S. TILTON.

The next business on the Private Calendar was the bill (H. R. No.

1870) granting a pension to Abigail S. Tilton, reported from the Committee on Revolutionary Pensions by Mr. MACKEY.

Mr. LOCKWOOD. I object

Mr. RICE, of Ohio. This bill has been objected to before, and five objections are now required.

Mr. EDEN. It was attempted to get it up by unanimous consent when objection was then made.

Mr. RICE, of Ohio. My recollection is that it was objected to in a night session when we were considering bills as of objection day. This is the relict of an old revolutionary soldier——

Mr. CONGER. It requires five objections under the rules.

The CHAIRMAN. Debate is not in order. The record fails to show that any objection has been made hitherto to this bill. Does the gentleman from New York still insist on his objection?

Mr. LOCKWOOD. I do.

Mr. CONGER. My recollection is distinct that this bill was objected to before, and now under the rules it requires five objections to prevent its being reported with the recommendation that it do pass.

Mr. RICE, of Ohio. My recollection is precisely the same as that of the gentleman from Michigan.

Mr. LOCKWOOD. I object to debate.

The CHAIRMAN. Objection being made, the bill is passed over for the present.

MARY J. SEARS.

The next business on the Private Calendar was an adverse report made by Mr. MACKEY, from the Committee on Revolutionary Pensions, on the petition of Mary J. Sears, praying for a pension.

The petition was laid aside, to be reported to the House with the recommendation that it do lie upon the table.

FRANKLIN PAINE.

The next business on the Private Calendar was the bill (H. R. No. 1641) granting a pension to Franklin Paine.

Objected to by Mr. BRAGG.

GENERAL JAMES SHIELDS.

The next business on the Private Calendar was the bill (H. R. No. 4369) granting an increase of pension to General James Shields.

Objected to by Mr. BREWER.

MARTIN RAFF.

The next business on the Private Calendar was the bill (H. R. No. 707) granting a pension to Martin Raff; reported adversely from the Committee on Invalid Pensions by Mr. RIDDLE.

Mr. RICE, of Ohio. That is an adverse report; let it be reported to be laid upon the table.

Mr. PRICE. I have received a letter——

Mr. EDEN. I object to debate.

Mr. PRICE. I am satisfied if the House will hear this letter read they will not find it to be debate.

The bill was laid aside, to be reported to the House with the recommendation that it be laid on the table.

ALBEMARLE AND CHESAPEAKE CANAL COMPANY.

The next business on the Private Calendar was the bill (S. No. 18) for the relief of the Albemarle and Chesapeake Canal Company.

Objected to by Mr. ELLSWORTH.

ADVERSE REPORTS.

The next business on the Private Calendar was adverse reports from the Committee on Naval Affairs, by Mr. WILLIS, of New York, on the petition of H. H. Doty and on the petition of Mrs. C. A. Von Cort; which were laid aside, to be reported to the House with the recommendation that they be laid on the table.

JOHN D. M'GILL.

The next business on the Private Calendar was the bill (H. R. No. 4418) for the relief of John D. McGill.

The bill, which was read, appropriates the sum of $102, out of any money in the Treasury not otherwise appropriated, to pay John D. McGill for advertising the sale of the property known as the Philadelphia navy-yard in the Georgetown Courier, in November, 1875.

Mr. EDEN. Let the report be read.

The report was read, as follows:

Mr. HARMER, from the Committee on Naval Affairs, submitted the following report:

By act of Congress approved March 3, 1875, a commission was created to make sale and conveyance of the property known as the Philadelphia navy-yard. Authority was given to advertise the sale, and of the newspapers selected for that purpose the Georgetown Courier was included. The expenses of the commission were to be paid out of the money received from the sale of the property, which included the advertising. All the bills were received and paid except for advertising in the Georgetown Courier, which was not presented for payment until after all the funds in the hands of the commissioner had been expended, and the amount due Mr. McGill remains unpaid.

The Secretary of the Navy says the claim is just, the charges reasonable, and recommends the payment of the amount due.

Your committee recommend that the bill do pass.

There being no objection, the bill was laid aside to be reported favorably to the House.

Mr. TOWNSEND, of New York. I move that the committee rise.

Mr. BRIGHT. If the gentleman will withdraw that motion for the present I will renew it after a few more bills have been called.

Mr. TOWNSEND, of New York. I withdraw the motion.

PETER MEAGHER.

The next business on the Private Calendar was the bill (H. R. No. 4419) for the relief of Peter Meagher.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Peter Meagher, out of any money in the Treasury not otherwise appropriated, the sum of $170, for labor performed in unloading coal from the schooners My Rover, Althea, and Jonathan May, and the bark David G. Wilson, at Long Key, Tortugas, Florida.

There being no objection, the bill was laid aside to be reported favorably to the House.

JAMES G. HARRISON.

The next business on the Private Calendar was the bill (H. R. No. 4554) for the relief of James G. Harrison.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to James G. Harrison, late assistant assessor in the second internal-revenue district of Indiana, the compensation payable to assessors in said district, from the 4th day of March, 1867, to the 14th day of April, 1869, during which time he acted as assessor, first deducting from the amount which would be due him as assessor the sums paid him as assistant assessor during the same period.

Mr. SMITH, of Pennsylvania. Let the report be read.

The report was read, as follows:

Mr. WARNER, from the Committee of Claims, submitted the following report:

The petitioner, James G. Harrison, was assistant assessor of internal revenue for the second collection district of Indiana from the 1st day of September, 1862, to the 13th day of April, 1869; that during two years, one month, and nine days of that period, to wit, from the 4th day of March, 1867, to April 13, 1869, there being no assessor in and for said district, he, by the direction of the Commissioner of Internal Revenue, and while assistant assessor of said district performed all the duties pertaining to the office of assessor of said district; that during the time he was acting assessor of said district he received only the compensation allowed by law to assistant assessors, to wit, $5 per day. He now asks the payment of such balance as will realize to him the full pay of an assessor for the period during which he discharged the duties of that office. A letter from the Fifth Auditor to a previous committee of this House, dated March 19, 1874, states that such balance is $1,555.90.

Your committee believe that the petitioner, having performed the duties of the office of assessor, should receive the full pay provided by law for the services he has rendered, and therefore report to the House the accompanying bill, and recommend that it do pass.

There being no objection, the bill was laid aside to be reported favorably to the House.

J. M. DORSEY AND W. F. SHEPEARD.

The next business on the Private Calendar was the bill (H. R. No. 4555) for the relief of John M. Dorsey and William F. Shepeard.

The bill was read.

Mr. EDEN. I call for the reading of the report.

The report was read.

Mr. EDEN. I object to this bill.

Mr. PAGE. Does it not require five objections, this bill having been objected to formerly?

The CHAIRMAN. The Chair is not informed that the bill was objected to before.

Objection having been made, the bill was passed over.

Mr. BRIGHT. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BELL reported that the Committee of the Whole House had had under consideration the Private Calendar and had directed him to report sundry bills and petitions with various recommendations.

The SPEAKER. The Chair will first cause to be read three bills which were reported by the Committee of the Whole on last Friday and were left unacted on by the House.

BILLS PASSED.

The following bills reported from the Committee of the Whole with the recommendation that they do pass were severally ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed:

A bill (H. R. No. 796) for the relief of Jenkins A. Fitzgerald, assistant surgeon United States Army;

A bill (H. R. No. 4143) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased;

A bill (H. R. No. 1614) for the relief of S. T. Marshall, of Lee County, Iowa;

A bill (H. R. No. 3434) releasing the title to a certain cemetery lot to the city of Montgomery, Alabama;

A bill (H. R. No. 4007) for the relief of Private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina;

A bill (H. R. No. 4290) for the relief of William L. Hansell & Sons;

A bill (H. R. No. 4418) for the relief of John D. McGill;

A bill (H. R. No. 4419) for the relief of Peter Meagher; and

A bill (H. R. No. 4554) for the relief of James G. Harrison.

Mr. FENN. I ask unanimous consent that for the joint resolution (H. R. No. 157) which has been reported from the Committee of the Whole there be substituted the Senate joint resolution, (S. No. 27,) which is identical in its language, and which is now on the Speaker's table.

There was no objection; and the joint resolution (S. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri, was taken from the Speaker's table, read three times, and passed; and the joint resolution (H. R. No. 157) was laid upon the table.

The following bills were reported from the Committee of the Whole with amendments. The amendments were severally agreed to, and the bills as amended were engrossed for a third reading, read a third time, and passed:

A bill (H. R. No. 1562) for the relief of Ella P. Murphy;

A bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others;

A bill (H. R. No. 1173) for the relief of Joseph R. Pratt; and

A joint resolution (H. R. No. 105) authorizing the Secretary of the Treasury to pay certain officers of the internal-revenue service the amounts due them for their services as such officers previous to the time of executing their bonds and taking the oath of office as prescribed by law.

Motions were made to reconsider the votes by which the various bills reported from the Committee of the Whole on the Private Calendar were passed, and the motions to reconsider were laid upon the table.

ADVERSE REPORTS.

The following bills and petitions, reported adversely by the Committee of the Whole on the Private Calendar, were severally laid upon the table:

A bill (H. R. No. 1854) for the relief of W. Jesse Buchanan, late first lieutenant Third Michigan Cavalry Volunteers;

A bill (H. R. No. 707) granting a pension to Martin Raff;

The petition of Mary J. Sears, praying for a pension;

The petition of H. H. Doty; and

The petition of Mrs. C. A. Von Cort.

Motions were made to reconsider the votes by which the above bills and petitions were laid on the table, and the motions to reconsider were laid on the table.

ORDER OF BUSINESS.

Mr. WHITE, of Pennsylvania. I move that the House do now adjourn.

Mr. BRIGHT. I move that the House take a recess until half past seven o'clock. I understand the House has ordered an evening session.

The SPEAKER. But the House has the power to adjourn.

Mr. WHITE, of Pennsylvania. I call for the regular order.

Mr. TOWNSHEND, of Illinois. At half past four o'clock the House has to take a recess.

The SPEAKER. That was not the order of the House. The order of the House was that there should be an evening session at half past seven o'clock, but the House can sit until the very moment in the evening when that hour arrives.

The session for to-night is for reports from the Judiciary Committee for action. The Clerk will read the order.

The Clerk read as follows:

On motion of Mr. KNOTT, by unanimous consent,

Ordered, that there be a session of the House to-morrow evening, commencing at half past seven o'clock, for the consideration exclusively of reports from the Committee on the Judiciary.

The SPEAKER. That is an extract from the Journal of Thursday, and the order applies to to-night.

Mr. BRIGHT. Then I move that the House take a recess until half past seven o'clock.

The SPEAKER. The motion to adjourn is pending, and the House has the matter within its power. It has a right to adjourn if it so desires.

The question was taken upon the motion of Mr. WHITE, of Pennsylvania; and on a division there were—ayes 22, noes not counted.

So the House refused to adjourn.

REORGANIZATION OF THE ARMY.

Mr. BANNING. I desire to report a substitute for the bill reported by the Joint Committee on the Reorganization of the Army, which I shall offer when that bill comes up for consideration. I ask that it be printed.

Mr. CONGER. Is the bill to be recommitted?

The SPEAKER. The object of the gentleman is that when the bill which he has had made a special order comes up he may offer this substitute. In other words, he gives notice that he will offer this as a substitute for that bill. The effect of what he asks is merely that the substitute may be printed, so that the House may understand it.

No objection was made; and the motion to print Mr. BANNING's substitute was agreed to.

AMENDMENT OF REVISED STATUTES.

Mr. SAYLER, by unanimous consent, introduced a bill (H. R. No. 6167) to amend section 2990 of the Revised Statutes of the United States; which was read a first and second time.

Mr. SAYLER moved that the bill be referred to the Committee of Ways and Means.

Mr. CONGER. To what subject does this bill relate?

The SPEAKER. The Chair is unable to answer.

Mr. SAYLER. I introduced it in compliance with the petition that I have just received from Cincinnati, asking that some extension be given to their privilege as a port of entry.

Mr. CONGER. I think the title of the bill ought to state its purport.

The bill was referred to the Committee of Ways and Means, and ordered to be printed.

ICE HARBOR AT CINCINNATI, OHIO.

Mr. SAYLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be instructed to transmit to the House of Representatives the report of the board of engineers convened to report upon the subject of an ice harbor at Cincinnati, Ohio, together with an estimate of the probable cost of carrying out the plan proposed, and such other facts and recommendations as he may deem advisable.

Mr. SAYLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOTION TO ADJOURN.

Mr. COX, of New York. Have I a right to make a motion to adjourn now? For if not the time may be up before the recess.

The SPEAKER. The recess was not fixed for any particular hour; the order only provided that there was to be a session of the House at half past seven o'clock.

Mr. COX, of New York. I want to make a motion to adjourn.

The SPEAKER. That would cut off the night session.

Mr. COX, of New York. That is what I want.

Mr. CONGER. May I make one remark with regard to the order of business?

The SPEAKER. The gentleman may.

Mr. CONGER. The Committee on the Judiciary in their investigations will after to-day be absent from the Capitol for some weeks, and the only time they can report is to-night, by the permission of the House. [Loud cries of "Regular Order!"]

Mr. CONGER. I have but a word further to say.

The SPEAKER. The Chair has listened as long as he dare.

The question was taken upon the motion of Mr. COX, of New York; and on a division there were ayes 12, noes not counted.

So the House refused to adjourn.

Mr. BRIGHT. I now move that the House take a recess until half past seven o'clock this evening.

The motion was agreed to; and accordingly (at four o'clock and forty minutes) the House took a recess until half past seven o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

Mr. RAINEY, from the same committee, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road;

An act (H. R. No. 5052) to amend section 3835 of the Revised Statutes of the United States, relating to deficiency in postmasters' accounts; and

An act (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives, and for other purposes.

ORDER OF BUSINESS.

The SPEAKER. By order of the House this evening is assigned exclusively for reports from the Committee on the Judiciary, and the gentleman from Kentucky [Mr. KNOTT] is entitled to the floor.

SUPREME COURT, DISTRICT OF COLUMBIA.

Mr. BUTLER. I ask the gentleman from Kentucky [Mr. KNOTT] to yield to me to report a bill which I think will give rise to no discussion.

Mr. KNOTT. I will yield to the gentleman for that purpose.

Mr. BUTLER. As the House is now quite thin, I desire to report a bill to which I think nobody will object. It is a simple bill to appoint a judge for this District.

The bill (S. No. 36) to create an additional associate justice of the supreme court of the District of Columbia, and for the better administration of justice in said District, was then received.

The question was upon ordering the bill to be read a third time.

The bill was read, as follows:

Be it enacted, &c., That there shall be appointed by the President, by and with the advice and consent of the Senate, one additional associate justice of the supreme court of the District of Columbia. That the said additional associate jus-

tice shall have the same power, authority, and jurisdiction as now or hereafter may be exercised by any of the associate justices of the said supreme court, and shall be entitled to receive the same salary, payable in the same manner.

SEC. 2. Two of the justices, sitting at general term, shall constitute a quorum for the transaction of business; but when the two justices shall be divided in opinion, the same shall be noted upon the minutes of the court, and thereupon and within four days thereafter either party in such cause may file with the clerk of the court a motion in writing to have such cause reargued before three or more justices; but no justice shall sit in general term to hear an appeal from any judgment or decree or order which he may have rendered at the special term.

SEC. 3. The general term may order two terms of the circuit court to be held at the same time, whenever in their judgment the business therein shall require it; and they shall designate by an order of the court the time and places of holding the same and the justices by whom they shall, respectively, be held; and shall make all necessary orders for a division of the docket between the justices holding such terms; and petit juries shall be drawn therefor, in the same manner as is provided for in such circuit court, at least ten days before the commencement of any such sitting.

SEC. 4. The final judgment or decree of the supreme court of the District of Columbia in any case where the matter in dispute, exclusive of costs, exceeds the value of $2,500, may be re-examined and reversed or affirmed in the Supreme Court of the United States, upon writ of error or appeal, in the same manner and under the same regulations as are provided in cases of writs of error on judgments or appeals from decrees rendered in a circuit court.

SEC. 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Mr. EDEN. I raise a point of order upon the bill.

The SPEAKER. The gentleman will state it.

Mr. EDEN. The bill makes an appropriation to pay for an additional judge, and should therefore be first considered in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

Mr. BUTLER. Will the Chair hear me a moment on that point of order?

The SPEAKER. Certainly.

Mr. BUTLER. The providing an additional judge by no means gives him any salary until the money for the salary is appropriated.

The SPEAKER. Creating a new office is certainly creating a new obligation and indebtedness on the part of the Government; that has always been so ruled.

Mr. BUTLER. Then I move to go into Committee of the Whole for the purpose of considering this bill.

Mr. EDEN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. EDEN. If the House now goes into Committee of the Whole I suppose the public Calendar will be taken up, and the bills upon it considered in their order.

The SPEAKER. The session of this evening being set aside by a suspension of the rules for the purpose of considering reports from the Committee on the Judiciary, of course that order carries with it the power of the House to go into Committee of the Whole to consider those reports.

Mr. EDEN. Then I hope that a quorum will be developed on the motion to go into Committee of the Whole.

The SPEAKER. The bill reported from the Committee on the Judiciary by the gentleman from Massachusetts [Mr. BUTLER] has gone to the Committee of the Whole on a point of order. That gentleman now moves that the House resolve itself into Committee of the Whole.

Mr. HAZELTON. I shall call for a division on that motion. This bill is not understood generally and we ought to have an opportunity to consider it.

Mr. BUTLER. That is why I want to go into Committee of the Whole. I want the bill thoroughly understood.

The SPEAKER. The bill is not now before the House. A point of order was raised upon the bill which the Chair sustained, and therefore the bill went to the Committee of the Whole. The gentleman from Massachusetts now moves to go into Committee of the Whole for the purpose of considering the bill.

Mr. KNOTT. It is the desire of the Committee on the Judiciary to present this evening such measures as will give rise to little discussion in order that they may take up as little time as possible and be enabled to transact as much of their business as they can. It is my impression that this bill had better be withdrawn.

Mr. BUTLER. Very well; if that is deemed best I will withdraw the bill.

The SPEAKER. The Chair will entertain the motion to go into Committee of the Whole. This evening's session having been assigned for the consideration of reports from the Committee on the Judiciary, the business will be subject to similar rules as in the case of Mondays devoted to the consideration of business from the Committee for the District of Columbia. Surely the House would not put itself into the inconsistent position of saying that reports should be considered at this evening's session, and leave itself without any remedy, or any power on the part of the majority to consider such business under the rules, either in the House or in Committee of the Whole.

Mr. COX, of New York. The gentleman from Massachusetts withdrew his motion.

Mr. BUTLER. No; I did not. There is a quorum here.

Mr. COX, of New York. I heard the gentleman withdraw it.

Mr. BUTLER. I did not.

The SPEAKER. The gentleman has a right to change his mind.

Mr. BUTLER. What I proposed was to withdraw the bill. But I now insist upon the motion to go into Committee of the Whole.

The question was taken; and upon a division there were—ayes 41, noes 51.

Mr. BUTLER. I ask for tellers. No quorum has voted.

Tellers were ordered; and Mr. BUTLER and Mr. KNOTT were appointed.

The House divided; and the tellers reported—ayes 45, noes 70.

Mr. BUTLER. I make the point of order that no quorum has voted.

The SPEAKER. The gentleman from Massachusetts makes the point that no quorum has voted. The Chair will entertain a motion for a call of the House or to adjourn.

Mr. CUMMINGS. I move a call of the House.

Mr. EDEN. I move that the House adjourn.

The question being taken on the motion of Mr. EDEN there were—ayes 40, noes 70.

Mr. BUTLER. I call for tellers.

Tellers were ordered; and Mr. EDEN and Mr. KNOTT were appointed.

The House divided; and the tellers reported—ayes 33, noes 86.

The SPEAKER. The House refuses to adjourn; and the next motion in order is the motion of the gentleman from Iowa [Mr. CUMMINGS] that there be a call of the House.

The motion for a call of the House was agreed to, there being—ayes 67, noes 32.

Mr. HUMPHREY. I desire to state—[cries of "Regular order!"]—I desire to make excuse for a member who is sick—Mr. VAN VORHES.

The SPEAKER. That is not now in order.

The roll was called; and the following-named members failed to answer:

Bacon,	Eickhoff,	Jones, Frank	Rice, William W.
Baker, John H.	Ellis,	Jones, James T.	Riddle,
Baker, William H.	Ellsworth,	Jorgensen,	Roberts,
Ballou,	Errett,	Keifer,	Ross,
Bayne,	Evans, I. Newton	Kelley,	Sayler,
Beebe,	Evans, James L.	Ketcham,	Shelley,
Benedict,	Ewing,	Kimmel,	Smalls,
Bicknell,	Finley,	Knapp,	Southard,
Blair,	Fort,	Landers,	Stephens,
Bland,	Freeman,	Lindsey,	Swann,
Blount,	Frye,	Lockwood,	Thompson,
Boone,	Gardner,	Loring,	Thornburgh,
Boyd,	Garfield,	Luttrell,	Turner,
Brentano,	Gause,	Manning,	Vance,
Bridges,	Gibson,	McGowan,	Van Vorhes,
Browne,	Giddings,	McKenzie,	Veeder,
Bundy,	Glover,	Mitchell,	Wait,
Cain,	Goode,	Money,	Walsh,
Caldwell, W. P.	Gunter,	Monroe,	Ward,
Calkins,	Hale,	Morgan,	Watson,
Campbell,	Harmer,	Morse,	White, Michael D.
Caswell,	Harris, Benj. W.	Muller,	Wigginton,
Chalmers,	Harris, Henry R.	O'Neill,	Williams, Andrew
Chittenden,	Harrison,	Patterson, Thos. M.	Willis, Albert S.
Clark, Alvah A.	Hart,	Phelps,	Willis, Benj. A.
Clymer,	Hendee,	Phillips,	Willits,
Crapo,	Henry,	Potter,	Wood,
Crittenden,	Hewitt, Abram S.	Pound,	Wren,
Davis, Horace	Hooker,	Powers,	Wright,
Davis, Joseph J.	House,	Randolph,	Yeates,
Dickey,	Hubbell,	Rea,	Young, John S.
Dwight,	Hunter,	Rice, Americus V.	

The SPEAKER. The roll-call develops the fact that there are 161 members present.

Mr. EDEN. I wish to announce that my colleague, Mr. KNAPP, is detained from the House by illness.

Mr. ROBBINS. My colleagues, Mr. YEATES and Mr. VANCE, are absent on account of sickness.

The SPEAKER. A quorum being present, the Chair is ready to entertain a motion to dispense with further proceedings under the call.

Mr. HARRIS, of Virginia. I make that motion.

The motion was agreed to.

Mr. BUTLER. I suppose that now the question upon the motion to go into Committee of the Whole again comes up.

Mr. KNOTT. I hope that my colleague on the Judiciary Committee will not insist on that motion. The committee desires to get rid of as much business as possible that will not lead to discussion. It is very evident that this proposition of the gentleman from Massachusetts is to be discussed.

Mr. BUTLER. Will my colleague, the chairman of the committee, say that he has in charge any more important bill than this?

Mr. KNOTT. The comparative importance of bills is not now the question.

The SPEAKER. Debate is not in order. When the question was taken on the motion of the gentleman from Massachusetts to go into Committee of the Whole, no quorum voted. As there is now a quorum present, the Chair will again submit the motion.

The question being again taken, there were—ayes 28, noes 99; no quorum voting.

Tellers were ordered; and Mr. BUTLER and Mr. KNOTT were appointed.

The House divided; and the tellers reported—ayes 60, noes 89.

So the motion of Mr. BUTLER that the House resolve itself into Committee of the Whole was not agreed to.

SOLDIERS' HOME, HARRODSBURGH, KENTUCKY.

Mr. KNOTT, from the Committee on the Judiciary, reported back,

with a recommendation that it pass, the bill (H. R. No. 4116) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home.

The bill was read, as follows:

Be it enacted, &c., That the board of commissioners of the Soldiers' Home be, and they are hereby, authorized to sell the property belonging to the Soldiers' Home situated at Harrodsburg, Kentucky, and known as the Harrodsburg Spring property: *Provided*, The same shall sell for a sum not less than $10,000.

SEC. 2. Said property shall be sold on the premises, and to the highest and best bidder, on a day to be fixed by the board of commissioners, after they shall have advertised the time, terms, and place of sale for thirty days in the Louisville Commercial, the Louisville Courier-Journal, and two other papers published in the vicinity of the property.

SEC. 3. The said board of commissioners shall sell said property for one-third cash in hand, one-third in six months, and the other third in one year; they shall take notes from the purchaser for the unpaid portion, payable to the board of commissioners, bearing interest at the rate of 6 per cent. per annum, and having the force and effect of judgments; and when all the purchase-money shall have been paid to said board of commissioners, they are directed to make to the purchaser a deed of conveyance for said property; and when said deed shall have been made and properly acknowledged, the United States shall be divested of the title to said property, and the purchaser shall be invested with the full title to the same.

Mr. KNOTT. I simply desire to say to the House, this property has not been used as a soldiers' home for a number of years. The building has been burned, and the farm is going to waste generally; and this bill is introduced in compliance with the request of the Surgeon-General of the Army of the United States.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT COURT IN DAKOTA TERRITORY.

Mr. KNOTT also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 3378) to change a term of the district court in the county of Pennington, in the Territory of Dakota.

The bill was read, as follows:

Be it enacted, &c., That there shall hereafter be a term of the district court held within and for the county of Pennington, in the Territory of Dakota, on the third Tuesday in April of each year, instead of the term authorized by law to be held on the fourth Tuesday of May in each year.

SEC. 2. All writs, processes, and legal papers whatever, made returnable to, and all recognizances, bonds, and other legal papers taken, holding persons to appear before said court at the said term holden on the fourth Tuesday in May, shall be considered returnable to the term of said court created by this act; and all indictments, informations, complaints, actions, and suits pending before said court are hereby declared to be pending before the said court at the term thereof created by this act. And said court is hereby authorized to take cognizance of all and singular the legal proceedings not disposed of, but heretofore pending in said court.

SEC. 3. This act shall take effect and be in force from and after its approval.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SECTION 688 OF THE REVISED STATUTES.

Mr. SAYLER also, from the same committee, reported a bill (H. R. No. 6168) to amend section 688 of the Revised Statutes of the United States; which was read a first and second time.

The question was on ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That section 688 of the Revised Statutes of the United States be, and the same is hereby, amended by striking out in the second and third lines of said section the words "in the district courts when proceeding as courts of admiralty and maritime jurisdiction;" so that said section shall read, when amended, as follows:

"SEC. 688. The Supreme Court shall have power to issue writs of prohibition and writs of mandamus in cases warranted by the principles and usages of law to any courts appointed under the authority of the United States, or to persons holding office under the authority of the United States, where a State or an embassador or other public minister or a consul or vice-consul is a party."

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KNOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SECTION 5497 OF REVISED STATUTES.

Mr. LYNDE, from the same committee, reported back, with the recommendation that it do pass, the bill (S. No. 1151) to amend section 5497 of the Revised Statutes.

The bill was read, as follows:

Be it enacted, &c., That section 5497 of the Revised Statutes of the United States be, and the same is hereby, amended by adding at the end thereof the following, to wit: "And any officer connected with or employed in the internal-revenue service of the United States, and any assistant of such officer, who shall embezzle or wrongfully convert to his own use any money or other property of the United States, and any officer of the United States, or any assistant of such officer, who shall embezzle or wrongfully convert to his own use any money or property which may have come into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or assistant, whether the same shall be the money or property of the United States or of some other person or party, shall, where the offense is not otherwise punishable by some statute of the United States, be punished by a fine equal to the value of the money and property thus embezzled or converted, or by imprisonment not less than three months nor more than ten years, or by both such fine and imprisonment.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CONGER. I move to amend the title by adding the words "relating to embezzlement by officers of the United States."

The motion was agreed to; and the title of the bill was amended accordingly.

TWENTY-SECOND OF FEBRUARY A HOLIDAY.

Mr. LYNDE also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 623) to amend section 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d day of February a holiday within said District.

The bill was read, as follows:

Be it enacted, &c., That section 993 of the Revised Statutes of the United States relating to the District of Columbia be, and the same hereby is, amended by adding to the days therein declared to be holidays within the District the 22d day of February; and such day shall be a holiday for all the purposes mentioned in said section: *Provided*, That this act shall not apply to the 22d day of February, 1878.

Mr. PATTERSON, of New York. The year should be 1879.

Mr. TUCKER. I move to amend by striking out "1878" and inserting "1879."

The amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDICIAL DISTRICTS IN ALABAMA.

Mr. LYNDE also, from the same committee, reported back with a favorable recommendation the bill (S. No. 418) to amend section 532 of the Revised Statutes of the United States relating to the division of the State of Alabama into judicial districts.

The bill was read, as follows:

Be it enacted, &c., That section 532 of the Revised Statutes be amended so as to read as follows:

"SEC. 532. The State of Alabama is divided into three districts, which shall be called the southern, middle, and northern districts of Alabama. The southern district includes the counties of Mobile, Washington, Baldwin, Barbour, Butler, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Greene, Hale, Henry, Marengo, Monroe, Pickens, Pike, Sumter, Tuscaloosa, and Wilcox. The middle district includes the counties of Montgomery, Autauga, Chilton, Bibb, Bullock, Chambers, Clay, Coosa, Dallas, Elmore, Lee, Lowndes, Mason, Perry, Randolph, Russell, Shelby, Talladega, and Tallapoosa. The northern district includes the remaining counties of said State."

SEC. 2. That no suit or proceeding, civil or criminal, pending in the circuit or district courts of either of said districts shall be affected by the provisions of this act; and all process in cases commenced before the passage of this act, issued from either of said courts, shall be completely executed and returned according to the mandate thereof, as if this act had not passed. And said circuit and district courts shall have the same jurisdiction in reference to any crimes committed before the passage of this act as if this act had not passed.

Mr. HEWITT, of Alabama. I would like to inquire of the gentleman from Wisconsin [Mr. LYNDE] why Tuscaloosa County is transferred by this bill from the middle to the southern district of Alabama?

Mr. LYNDE. It is a Senate bill. I have conferred with the Senators from Alabama and with several members of the House, and have understood that it is their desire the bill should pass.

Mr. HEWITT, of Alabama. I do not know any reason why the county of Tuscaloosa should be transferred from the middle district to the southern. I know Montgomery is much more convenient to the people of Tuscaloosa County than Mobile, and I hope the bill will not pass unless it is amended so as to transfer Tuscaloosa back to the middle district. I move to amend the bill by striking out "Tuscaloosa" from the southern and inserting it in the middle district.

Mr. HERBERT. I was not aware, Mr. Speaker, that such a bill as this was introduced, and for one I shall oppose it. This bill proposes to redistrict the State of Alabama. By its provisions the counties of Butler, Coffee, Crenshaw, and Dale, which are now in the middle district and which are much nearer and more accessible to Montgomery than Mobile, are taken from the Montgomery district, the middle district, and put into the southern district. I can see no reason for this change and I do not know the purpose of the bill. So far as I know no member on this floor from Alabama has been consulted in relation to this change, and I therefore think it ought not to pass.

Mr. TOWNSEND, of New York. Move to lay it on the table and we will stand by you.

Mr. RICE, of Ohio. No, move to recommit it.

Mr. HERBERT. I move, then, that the bill be recommitted to the Committee on the Judiciary.

The motion was agreed to.

Mr. HEWITT, of Alabama, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT AND CIRCUIT COURTS OF FLORIDA.

Mr. LYNDE, from the Committee on the Judiciary, reported back a bill (S. No. 1277) to extend the jurisdiction of the district and circuit courts of the United States for the southern district of Florida.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the southern judicial district of the State of Florida shall embrace the counties of Hernando, Hillsborough, Polk, Manatee, and Monroe, in said State; and all the territory within the remaining counties shall constitute the northern judicial district.

SEC. 2. That a term of the district and circuit courts of the United States shall be held in each year at Tampa, in said district, commencing on the first Monday in March: *Provided*, That nothing herein contained shall be construed to impair or affect the jurisdiction of the district courts of the United States for the northern district of Florida in any case, civil, or criminal, pending therein at the time of the passage of this act. But the same shall be proceeded in to final disposition as if this act had not been passed.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDICIAL DISTRICTS IN GEORGIA.

Mr. LYNDE, from the same committee, reported back, with a substitute, the bill (H. R. No. 248) to divide the southern judicial district of Georgia into two divisions, and for other purposes.

The bill was read.

Mr. BELL. I move that that bill be recommitted to the Committee on the Judiciary. I do so for several reasons. In the first place, I knew nothing of its pendency; neither were my colleagues advised that such a bill was pending.

I do not see the necessity for the passage of this bill. In addition to this there is a county specified in the bill, when there is no county of that name in the State of Georgia—the county of Darby.

I trust the House will recommit it to the committee so that we may have an opportunity of looking into the matter.

Mr. LYNDE. The original bill was, I think, introduced by Mr. BLOUNT, and Mr. BLOUNT and Mr. SMITH both appeared before the committee and recommended its passage.

The question was taken upon recommitting the bill to the Committee on the Judiciary, and it was agreed to.

Mr. BELL moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT AND CIRCUIT COURTS OF TENNESSEE.

Mr. LYNDE, from the Committee on the Judiciary, reported, as a substitute for House bill No. 411, a bill (H. R. No. 6169) to provide for holding the two terms of the United States district and circuit courts at Chattanooga, Tennessee.

The substitute was read a first and second time.

The bill reported as a substitute was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be two terms of the United States district and circuit courts for the eastern district of Tennessee held at Chattanooga, in the county of Hamilton, in said district, in each year, on the first Mondays of April and October after the passage of this act.

SEC. 2. That the clerks of the district and circuit courts for the eastern district of Tennessee, the marshal and district attorney for said district, shall perform the duties appertaining to their offices respectively for said courts. And the said clerks and marshal shall each appoint a deputy, to reside and keep their offices in the city of Chattanooga, and who shall, in the absence of their principals, do and perform all the duties appertaining to their offices respectively.

SEC. 3. That all process issued to or against parties residing in the counties of Hamilton, James, Polk, McMinn, Bradley, Meigs, Rhea, Marion, Sequatchie, Bledsoe, Grundy, Cumberland, Overton, Fentress, Scott, Morgan, and Roane shall be issued from and be returnable to said district and circuit courts at Chattanooga, and all issues of fact in such cases triable by a jury shall be tried at Chattanooga unless otherwise ordered by the court for cause shown.

SEC. 4. That each of said courts shall be held in a building to be provided for that purpose by the State or municipal authorities, and without expense to the United States.

The bill reported as a substitute was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT AND CIRCUIT COURTS OF KANSAS.

Mr. LYNDE, from the same committee, reported back, with an amendment, the bill (H. R. No. 5300) to provide for the holding of terms of the district and circuit courts of the United States at Fort Scott, Kansas.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be two terms of the United States district and circuit courts for the district of Kansas held in the city of Fort Scott in each year from and after the passage of this act, the time and length of the terms to be fixed by the judges of said courts respectively.

SEC. 2. That the clerk of the district court for the district of Kansas, the marshal, and district attorney for said district, shall perform the duties pertaining to their offices respectively for said courts; and said clerk and marshal shall appoint a deputy to reside and keep their offices at Fort Scott, and who shall, in the absence of their principals, do and perform all the duties appertaining to their said offices respectively.

SEC. 3. That each of said courts shall be held in a building to be provided for that purpose by the county or city authorities without expense to the United States.

The amendment proposed by the committee was to strike out, in the third line of the first section, the words "two terms" and insert in lieu thereof "one term."

The amendment was agreed to.

Mr. RYAN. I have no objection to that amendment, but I desire to offer an amendment to come in at the end of the first section. I move to amend the first section of this bill by adding to it the following:

But no cause, action, or proceeding shall be tried or considered in the courts respectively herein provided for unless by consent of all the parties thereto or order of the court for cause.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM H. WATERMAN.

Mr. LYNDE, from the same committee, reported back with a favorable recommendation the bill (H. R. No. 5822) for the relief of Henry T. Fuller and others, sureties upon the official bond of William H. Waterman.

The bill was read, as follows:

Be it enacted, &c., That Henry T. Fuller, Thomas Dickenson, Albert G. Knight, H. T. Taylor, John Elkins, and the estates of John Heath and Thomas Falvey, deceased, be, and they and each of them are hereby, released and discharged from any and all liability as the sureties upon the official bond of William H. Waterman, formerly superintendent of Indian affairs for Washington Territory, and upon the judgment rendered and docketed on the 4th day of January, A. D., 1879, in the circuit court of the United States for the eastern district of Wisconsin, in favor of the United States of America, plaintiff, and against the said Henry T. Fuller, Thomas Dickenson, Albert G. Knight, H. T. Taylor, and John Elkins, defendants, for the sum of $5,662.92 damages, and $32.05 costs, as taxed; the said release and discharge to take effect upon the payment of the legal costs as taxed in said judgment: *Provided*, That all the rights and remedies of the Government on said bond as against the estate and representatives of said William H. Waterman, deceased, shall in no manner be affected hereby, but remain in full force and effect in law.

Mr. WHITE, of Pennsylvania. I would like to hear some explanation of this bill.

Mr. LYNDE. There is a written report accompanying the bill.

Mr. WHITE, of Pennsylvania. Let it be read.

The report was read, as follows:

The Committee on the Judiciary, to whom was referred House bill No. 5822, and the petition of Henry T. Fuller and others, sureties, asking to be relieved from liability on the official bond of William H. Waterman, late superintendent of Indian affairs for Washington Territory, and the judgment rendered thereon, report as follows:

In the month of May, A. D. 1864, William H. Waterman, then of the city of Racine, in the State of Wisconsin, was appointed superintendent of Indian affairs for Washington Territory, and on the 27th day of May, 1864, gave his bond in the penal sum of $80,000, with Henry T. Fuller, Thomas Dickenson, Albert G. Knight, H. T. Taylor, John Elkins, Thomas Falvey, and John Heath as sureties, and thereupon the said Waterman took the oath of office and entered upon the discharge of its duties and continued to discharge the duties thereof at Olympia, Washington Territory, until the 6th day of January, A. D. 1867, on which day, he then being sick and unable to discharge the duties of said office, turned over at Olympia aforesaid, to one T. G. McKinney, the duly authorized Government agent, the said office and all the moneys, property, and effects belonging to the said office and to the Government. In October, 1866, Waterman was taken sick, and on the 18th day of January, 1867, died at Olympia, Washington Territory, some twelve days after he had turned the office over to McKinney. The sureties, all of whom resided in Racine, Wisconsin, were not informed of Waterman's death until some eight months after the occurrence, and then only by general rumor, his family consisting of a wife and several children, having in 1864 removed from the city of Racine to reside with or near by the father of Mrs. Waterman, in the State of Vermont.

It appears that after the death of Waterman one C. A. Huntington, signing himself as chief clerk, assumed to act for Waterman or his estate and made reports to the Government without the knowledge or approval of either of the sureties who signed said official bond, and without any authority whatever, he, the said Huntington, never having been appointed administrator or executor of said Waterman's estate, and such accounts so rendered by said Huntington show that in the month of December, 1866, and the first six days in January, 1867, disbursements were made to the amount of $46,965.42, and the Government accepted and acted upon the said reports made by said Huntington without requiring him to show any authority.

It appears that the sureties upon said official bond believed that the accounts of said Waterman had been settled and adjusted satisfactorily to the Government, and that they had no notice or information to the contrary until about nine years after the death of Waterman, when, on the 25th day of August, 1875, the Government commenced suit in the United States circuit court for the eastern district of Wisconsin against the surviving sureties for an alleged deficiency in Waterman's accounts of $11,656.67.

It further appears that at the time of Waterman's death, January 18, 1867, each and all the sureties to said official bond were living and solvent, and each possessed considerable property, amounting to more than $5,000 exclusive of exemptions; that at the time suit was commenced by the Government two of the sureties had died: John Heath, on the 8th day of January, 1871, whose estate was wholly consumed by losses and in the support of the surviving family. Thomas Falvey died on the 16th day of January, 1875, whose estate proved to be insolvent, and some of the other sureties had become insolvent and all very much reduced in their circumstances pecuniarily, and are compelled to rely principally upon their personal labors and efforts to support their families.

It further appears that the property which Waterman had or possessed at the time of his death has been expended in the support of his family, who are now supporting themselves by their personal labor and exertions. Immediately after the suit was commenced, the sureties, all of whom resided in Wisconsin, endeavored to ascertain the true condition of Waterman's accounts, which only could be done by procuring testimony from Washington Territory and California and by the examination of the records and papers in the Department at Washington.

It was with the greatest difficulty that the sureties procured any testimony from Washington Territory owing to the length of time which had elapsed since Waterman's death and the death of some of the witnesses and the removal of others to parts unknown, and also the inability of the sureties to find some of the books and papers necessary to show the true state of Waterman's accounts. With all these difficulties the surviving sureties succeeded in finding vouchers which satisfied the Department that the amount of the deficit claimed was erroneous, and twice it ordered the accounts opened and readjusted, and the balance claimed was reduced by the Department, on vouchers presented by the sureties and errors discovered, from $11,656.67 to $4,977.48.

At the July term, in 1878, the suit was pressed to trial, while the said sureties were still pursuing their investigations and were earnestly exerting themselves, by corresponding with parties residing in Washington Territory and California, in learning new facts showing the claim to be unfounded; and on such trial, upon evidence introduced, the court further reduced such claim in the sum of $262.96; and finally, on the 4th day of January, 1879, judgment was rendered against the surviving sureties for principal ($4,714.52) and interest, ($948.40,) amounting in all to $5,662.92.

The committee believe that the collection of this judgment, under the circumstances, from the surviving sureties would be inequitable and unjust; that the failure of the Government to notify the sureties of the deficit in Waterman's accounts until after the death of the principal and two of the co-sureties and some of the witnesses, thereby placing it out of the power of the survivors to procure the testimony necessary for the defense or to indemnify themselves from the estate of the principal, is a sufficient reason for the discharge of the judgment; and they therefore report in favor of the passage of the bill.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. LYNDE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GERMAIN H. MASON.

Mr. CONGER, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4123) for the relief of Germain H. Mason, of Michigan.

The bill directs the Secretary of the Treasury to pay to Germain H. Mason, of Michigan, the sum of $192.65, the balance due him for services as United States circuit court commissioner, performed in and during the seven years prior to 1871, as shown by the records of the Treasury Department.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. CONGER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TESTIMONY IN PRIVATE CLAIMS BEFORE CONGRESS.

Mr. FRYE, from the same committee, reported back, with a favorable recommendation, Senate bill No. 43, to provide for taking testimony to be used before Congress in cases of private claims against the United States.

The bill was read, as follows:

Be it enacted, &c., That any committee of either House of Congress, before which any private claim against the United States may at any time be pending, being first thereto authorized by the House appointing them, may order testimony to be taken, and books and papers to be examined, and copies thereof proved, before any standing master in chancery of the circuit of the United States within the judicial district where such testimony or evidence is to be taken. Such master in chancery, upon receiving a copy of the order of such committee, signed by its chairman, setting forth the time and place when and where such examination is to be had, the questions to be investigated, and, so far as may be known to the committee, the names of the witnesses to be examined on the part of the United States, and the general nature of the books, papers, and documents to be proved, if known, shall proceed to give to such private parties reasonable notice of the time and place of such examination, unless such notice shall have been or shall be given by such committee or its chairman, or by the attorney or agent of the United States, or waived by such private party. And such master shall issue subpœnas for such witnesses as may have been named in the order of such committee and such others as the agent or other representative of the United States hereinafter mentioned shall request. And he shall also issue subpœnas at the request of such private party or parties for such witnesses within such judicial district as they may desire: *Provided*, That the United States shall not be liable for the fees of any officer for serving any subpœna for any private party, nor for the fees of any witness on behalf of such party. Said committee may inform the district attorney of the United States for the district where the testimony is to be taken of the time, place, and object of such examination, and request his attendance in behalf of the Government in conducting such examination, in which case it shall be his duty to attend in person, or by an assistant employed by him, to conduct such examination on the part of the United States, or such committee may, at its option, appoint an agent or attorney or one of its own members for that purpose, as they may deem best; and in that event, if the committee shall not be unanimous, the minority of the committee may also appoint such agent or attorney or member of such committee to attend and take part in such examination.

SEC. 2. It shall be the duty of the marshal of the United States for the district in which the testimony is to be taken to serve, or cause to be served, all subpœnas issued in behalf of the United States under this act, in the same manner as if issued by the circuit court for his district; and he shall, upon being first paid his fees therefor, serve any subpœnas that may be issued at the instance of such private party or parties. And the said master may, in his discretion, appoint any other person to serve any subpœna. Such master shall have full power to administer oaths to witnesses, and the same power to issue attachments to compel the attendance of witnesses and the production of books, papers, and documents, as the circuit or district court of his district would have in a case pending before it; and it shall be his duty to report the conduct of contumacious witnesses before him to the House of Congress appointing such committee. The compensation of such master in chancery, and of marshals and deputy marshals, and of any person appointed to serve papers, shall be the same as for like services in equity cases in the circuit court of the United States; and the compensation of witnesses shall be the same as for like attendance and travel of witnesses before such circuit courts; and all such fees and compensation of officers and witnesses on behalf of the United States, and other expenses of all investigations which may be had under the provisions of this act on the part of the United States, shall be paid out of the contingent fund of the branch of Congress appointing such committee. Said master, when the examination is concluded, shall attach together all the depositions and exhibits, and attach thereto his certificate setting forth or referring to the authority by which they were taken, any notices he may have given, the names of the witnesses for whom subpœnas or attachments were issued, the names of witnesses who attended, with the time of attendance and mileage and fees of each witness on behalf of the United States, which he may require to be shown by affidavit, his own fees, the fees of the marshal, his deputies or other persons serving papers, giving the items, and such other facts in relation to the circumstances connected with the taking of the depositions as he may deem material. He shall then seal up such depositions and papers securely, direct them to the chairman of such committee at Washington, stating briefly on the outside the nature of the contents, and place the same in the post-office, paying the postage thereon; and said package shall be opened only in the presence of such committee. The chairman of any committee ordering testimony to be taken under this act shall, at least ten days before the time fixed for such examination and within two days after the adoption of such order, cause a copy thereof to be directed and delivered to the Attorney-General of the United States, or sent to him by mail at the Department of Justice, to enable him to give such instructions as he may deem best to the district attorney of the district where such testimony is to be taken, who may, and, if required by the Attorney-General, shall, though not requested by the committee, appear for the United States in person or by assistant and take such part in such examination as the Attorney-General shall direct.

Mr. EDEN. I should doubt very much, just from hearing that bill read, the policy of enacting it into a law. It occurs to me that it will increase enormously the amount of claims that will be brought before Congress for adjudication, and that it must necessarily increase the number of deputy marshals and assistant district attorneys, if the Government of the United States is to be represented in the taking of this testimony in such a manner as to be at all safe for the Government.

It occurs to me that if we intend to have judicial or quasi-judicial investigation of claims that are to come before Congress we had better establish a tribunal for the purpose of ascertaining the facts in reference to those claims.

Some of the committees of this House have thousands of claims pending before them. I presume that the Committee on War Claims have two or three thousand claims of one sort and another pending before them. The Committee of Claims probably have as many more, as have the Committee on Indian Affairs and various other committees of this House.

Mr. FRYE. I have not yielded the floor at all to the gentleman from Illinois, [Mr. EDEN.] I would like to know how long a time he wishes to occupy.

Mr. EDEN. This is a very important bill, and there ought to be considerable time occupied by some one upon it.

Mr. FRYE. I have not yielded the floor.

The SPEAKER *pro tempore*, (Mr. SPRINGER.) The gentleman from Maine [Mr. FRYE] is entitled to the floor.

Mr. EDEN. I raise a point of order on the bill.

Mr. FRYE. It is too late to make a point of order after discussion has proceeded.

The SPEAKER *pro tempore*. The point of order is too late.

Mr. BUCKNER. I move to lay the bill on the table.

Mr. FRYE. I have not yielded the floor for that purpose.

Mr. BUCKNER. Well, when we get the chance, we will do it.

Mr. FRYE. I do not desire to cut off the gentleman for any reasonable length of time he desires to occupy, if he will only indicate what time he wants.

Mr. EDEN. I had occupied only about a minute. I think I was cut off rather abruptly.

Mr. FRYE. How long a time does the gentleman desire?

Mr. EDEN. I am not disposed to insist upon any time at all.

Mr. FRYE. I was simply looking for my rights and the rights of the rest of the Committee on the Judiciary, who have some reports to make here to-night. I did not intend any insult to the gentleman from Illinois, [Mr. EDEN,] not the least.

Mr. EDEN. Certainly not.

Mr. FRYE. Having had a little experience, both on the Committee of Claims of the Forty-second Congress, and also on the Committee of the Judiciary, I have for a long time been satisfied that some provision of law was absolutely necessary for the safety of the United States, by which in certain cases, now and then a case, perhaps not more than half a dozen in an entire Congress, the committees could provide for taking testimony at a distance from the Capitol, for examining books, and compelling papers to be produced without going through all the paraphernalia of coming into the House, and having the authority conferred by an order of the House.

When this bill came from the Committee on the Judiciary of the Senate with its unanimous indorsement, and was passed by the Senate and sent to the House and referred to our committee, it was handed to me to examine. I became satisfied that the bill met an existing necessity. I cannot conceive how on earth it can increase the number of claims presented; I cannot see how it can increase the number of district attorneys or assistant district attorneys or otherwise add to the expenses of the Government. I can see how it may save the Government thousands and hundreds of thousands of dollars by securing a careful examination of witnesses by affidavit or deposition before a master in chancery.

I have no pride of opinion about this measure; I care nothing about it personally; but in order to save time, I demand the previous question.

Mr. HANNA. The gentleman will allow me to ask whether the taking of testimony under this bill is not limited to cases in which a committee may order such examination?

Mr. FRYE. It is strictly limited to cases where a committee may order an examination.

The previous question was seconded and the main question ordered; which was upon ordering the bill to a third reading.

Mr. EDEN. As there has been no discussion on this bill, and as it is a very important one, I move that it be laid on the table.

The motion of Mr. EDEN was not agreed to; there being—ayes 7, noes 115.

The bill was then ordered to a third reading, read the third time, and passed.

Mr. FRYE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOCIETY OF JESUIT FATHERS OF NEW MEXICO.

Mr. FRYE, from the Committee on the Judiciary, reported back, with a favorable recommendation, the bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of the Territory of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses, over the veto of the governor of said Territory.

The bill was read. It provides that an act of the Legislative Assembly of the Territory of New Mexico entitled "An act to incorporate the Society of the Jesuit Fathers of New Mexico," which passed both houses of said Legislative Assembly on or about the 18th day of January, 1878, over the veto of the governor of said Territory, being in violation of section 1889 of the Revised Statutes of the United States, which declares, "The Legislative Assemblies of the several Territories shall not grant private charters or especial privileges," said bill being a grant of a private charter or act of incorporation, with the "especial privileges" of an unlimited power to acquire, hold, and transfer all kinds of property, both real and personal, and the exemption from taxation of all the effects and property of said corporation, be disapproved and declared null and void.

Mr. HALE. I wish to ask my colleague [Mr. FRYE] a question. Is it a rule generally enforced in the Territories that the territorial Legislatures shall not grant corporate privileges?

Mr. FRYE. It is the rule that they shall not grant privileges of such a character as those sought to be conferred by the territorial act which this bill proposes to annul.

Mr. KNOTT. If my colleague on the committee [Mr. FRYE] will yield to me a moment I think I can explain this matter to the satisfaction of the gentleman from Maine, [Mr. HALE.] The organic act of the Territory of New Mexico expressly prohibits the territorial Legislature from passing any such act as that which this bill proposes to annul. There is a special prohibition against the granting to private corporations of any special privileges or franchises whatever.

Mr. HALE. I do not object to the bill; but from hearing it read, it occurred to me that it might go further than was intended. It seemed to me to deny to the territorial Legislatures the power of granting ordinary corporate privileges which I supposed was done every day.

Mr. FRYE. The territorial Legislature of New Mexico granted an act of incorporation to the Jesuit fathers, and by that act authorized them to take and hold property to an unlimited amount, and also exempted the whole of such property from taxation. Such legislation was clearly beyond the power of the territorial Legislature under the Revised Statutes. The governor vetoed the bill; but it was repassed over his veto by a heavy vote; and the only way to prevent its becoming a law is for the Congress of the United States to disapprove and annul it. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. FRYE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. FRYE. I have here another bill which I was very desirous to report; but, in accordance with the understanding which I believe exists among members of the committee that only matters of a certain class shall be reported on the first call to-night, I yield the floor to the chairman of the committee.

Mr. BUTLER. I would like to present a bill. If it provokes any discussion I will not press it.

Mr. KNOTT. I yield to the gentleman.

ANN GREGORY.

Mr. BUTLER. I ask that the bill which I now report be read; and before any point of order is raised upon it (I admit that it is liable to a point of order) I desire to make a very brief explanation.

The bill (H. R. No. 1545) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased, was read, as follows:

Whereas, by a decree of condemnation of the United States district court for the eastern district of Virginia, one certain tenement and lot of land situate, lying, and being in the city of Alexandria, State of Virginia, being the property of William N. McVeigh, was condemned as forfeited to the United States, under the general confiscation act of July 17, 1862; that thereupon the said lot of land was sold, and conveyance thereof made by John Underwood, as United States marshal for the eastern district of Virginia, to Charles N. Gregory, deceased, and that the said tenement and lot of land was conveyed by the said United States marshal, by deed bearing date the 11th day of April, 1864, to the said Charles N. Gregory, deceased, for the consideration of $1,500, which was paid into the Treasury of the United States; and

Whereas, also, by the judgment of the Supreme Court of the United States, rendered at its October term, A. D. 1876, the sale of the said premises so made to the said Charles N. Gregory was declared void, and the said William N. McVeigh declared entitled to recover possession of the said premises, notwithstanding the sale thereof by the United States under the said decree of forfeiture and confiscation; and

Whereas the said William N. McVeigh, under the judgment of the said Supreme Court, has recovered possession of the said premises so as aforesaid sold by the United States to the said Charles N. Gregory, deceased: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed and required to pay to Ann Gregory, widow of Charles N. Gregory, deceased, out of any money not otherwise appropriated, the said sum of $1,500, with interest thereon at the rate of 6 per cent. per annum from the date of the sale of the said premises by the United States to the said Charles N. Gregory, deceased.

Mr. BUTLER. I think everybody will agree that this bill ought to pass. It merely proposes to pay back money that was paid for a bad title. There are twenty precedents for it.

Mr. BUCKNER. How about the allowance of interest?

Mr. BUTLER. Interest ought to be paid, because the husband of Mrs. Gregory had to pay for the use and occupation of the property in the shape of mesne profits, besides losing the purchase-money that had been paid. The report of the committee cites four cases in which interest has been allowed under similar circumstances. The money was paid for a void title.

Mr. BUCKNER. I understand that, and I see the propriety of refunding the money; but I do not see on what principle the Government should depart from the well-established rule not to pay interest in matters of this kind.

Mr. BUTLER. The Government never pays interest on any contract; but when it restores money which has been improperly received it does pay interest. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading, read the third time and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RESTORATION OF COURT RECORDS.

Mr. CULBERSON. I am instructed by the Committee on the Judiciary to report back the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas lately destroyed by fire, with amendments by the Senate, and to ask the House to concur in those amendments.

The amendments of the Senate were read, as follows:

Strike out all after the enacting clause and insert:

That section 902 of the Revised Statutes of the United States is hereby amended so as to read as follows:

In any proceedings in conformity with law to restore the records of any court of the United States which have been or may be hereafter lost or destroyed, the notice required may be served on any non-resident of the district in which such court is held anywhere within the jurisdiction of the United States or in any foreign country; the proof of service of such notice, if made in a foreign country, to be certified by a minister or consul of the United States in such country, under his official seal.

SEC. 2. That section 903 of said Revised Statutes is hereby amended so as to read as follows:

A certified copy of the official returns, or any other official paper of the United States attorney, marshal, or clerk, or other certifying or recording officer of any court of the United States, made in pursuance of law, and on file in any department of the Government, relating to any cause or matter in which the United States was a party in any such court, the record of which has been or may be lost or destroyed, may be filed in the court to which it appertains, and shall have the same force and effect as if it were an original paper or other document made to or filed in such court; and in any case in which the names of the parties and the date and amount of judgment or decree shall appear from such returns, paper, or document, it shall be lawful for the court in which they are filed to issue the proper process to enforce such decree or judgment, in the same manner as if the original record remained in said court. And in all cases where any of the files, papers, or records of any court of the United States have been or shall be lost or destroyed, the files, records, and papers which, pursuant to law, may have been or may be restored or supplied in place of such records, files, and papers, shall have the same force and effect, to all intents and purposes, as the originals thereof would have been entitled to.

SEC. 3. That section 904 of said Revised Statutes be amended so as to read as follows:

That whenever any of the records or files in which the United States are interested of any court of the United States have been or may be lost or destroyed, it shall be the duty of the attorney of the United States for the district or court to which such files and records belong, so far as the judges of such courts respectively shall deem it essential to the interests of the United States for such records and files to be restored or supplied, to take such steps, under the direction of said judges, as may be necessary to effect such restoration or substitution, including such dockets, indices, and other books and papers as said judges shall think proper. Said judges may direct the performance, by the clerks of said courts respectively and by the United States attorneys, of any duties incident thereto; and said clerks and attorneys shall be allowed such compensation for services in the matter and for lawful disbursements as may be approved by the Attorney-General of the United States, upon a certificate by the judges of said courts stating that such claim for services and disbursements is just and reasonable; and the sum so allowed shall be paid out of the judiciary fund.

Amend the title so as to read: "An act to amend the Revised Statutes of the United States relating to the records and files of district and circuit courts of the United States lost or destroyed."

The amendments of the Senate were concurred in.

Mr. CULBERSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FREDERICK CARLISLE.

Mr. CULBERSON also, from the same committee, reported back, with an amendment, the bill (H. R. No. 4054) for the relief of Frederick Carlisle, of Pontiac County, Michigan.

The bill was read.

Mr. EDEN. I reserve all points of order until some explanation is made by the gentleman from Texas.

Mr. CULBERSON. If a point of order is made the bill will have to go to the Private Calender.

The SPEAKER *pro tempore*, (Mr. SPRINGER.) The point of order has not been made. The gentleman from Illinois has intimated that he reserves the right to make the point of order until an explanation is made by the gentleman from Texas.

Mr. WHITE, of Pennsylvania. I make the point of order.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and, with the amendment, ordered to be printed.

JESSE TURNER AND OTHERS.

Mr. CULBERSON also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent.

The bill was read, as follows:

Be it enacted, &c., That Jesse Turner, James M. Brown, Charles F. Brown, and the estates of S. M. Hays, Hiram Brodie, S. F. Cottrell, P. H. White, and Joseph J. Green, deceased, be, and they and each of them are hereby, released from any and all liability as the sureties upon the official bond of George W. Clarke, formerly Indian agent; the said release to take effect upon the payment of the legal costs heretofore accrued in the prosecution of said claim by the United States: *Provided*, That all the rights and remedies of the Government on said bond as against said George W. Clarke shall in no manner be affected hereby, but remain in full force and effect in law.

Mr. WHITTHORNE. I make the point of order on the bill.

The SPEAKER *pro tempore*. The Chair is of opinion that the bill is not subject to the point of order, as it does not make any appropriation or require any appropriation of money out of the Treasury.

Mr. EDEN. Then I move that it be referred to the Committee of the Whole on the Private Calendar.

Mr. BUTLER. The bill is for the release of sureties, and that surely takes money out of the Treasury.

The SPEAKER *pro tempore*. A suit on the sureties' bond might bring money into the Treasury; but the money is not now in the Treasury, and the bill does not propose to take any money now in the Treasury out of it.

Mr. EDEN. I do not think the bill should pass without some examination.

Mr. FRANKLIN. Is not this a unanimous report of the Committee on the Judiciary?

Mr. CULBERSON. It passed the Judiciary Committee unanimously.

Mr. FRANKLIN. And it was thoroughly discussed in the Senate. I think it ought to pass.

Mr. CULBERSON. I think if the gentleman from Illinois will hear the report read he will have no objection to the passage of the bill.

The report was read, as follows:

The Committee on the Judiciary have had under consideration the Senate bill No. 1038, for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent, and beg leave to make the following report:

George W. Clarke was appointed Indian agent and gave bonds as such August 19, 1854, in a penalty of $40,000, with S. M. Hays, Phineas H. White, Charles F. Brown, S. F. Cotterell, Hiram Brodie, James M. Brown, Joseph J. Green, and Jesse Turner as sureties; all of the sureties are dead except James M. Brown, Charles F. Brown, and Jesse Turner.

The agent, Clarke, was found to be in default and relieved from duty on December 31, 1856. The amount of the defalcation is found to be $1,245.77.

No further action was taken in this case until December 15, 1875, when each of the parties living was notified.

Suit was instituted March 6, 1877, in the United States district court for the western district of Arkansas.

The above are the facts as gathered from a letter of Hon. K. Rayner, Solicitor of the Treasury, bearing date February 7, 1878, in response to a letter from a member of this committee, to whom the subject had been referred. The following is an affidavit in the case, which is substantiated by several others:

STATE OF ARKANSAS, *Crawford County, ss:*

I, Augustus I. Ward, of Crawford County, State of Arkansas, do state upon oath that I have resided at Van Buren, Crawford County, for the last thirty-four years; that I was well acquainted with George W. Clarke and Samuel M. Hayes, P. H. White, S. F. Cotterell, Hiram Brodie, J. J. Green, Charles F. Brown, James M. Brown, and Jesse Turner, his securities upon his bond as Indian agent, upon which his now reported defalcation occurred in December, 1856. I know that George W. Clarke was the owner of real estate at that time of considerable amount, but do not know what incumbrances, if any, existed against it. His family resided here during most of the time he was in Kansas as Indian agent. Clarke was an energetic man to raise money. All the persons who are named as the securities upon his bond were in solvent circumstances in December, 1856. Since that time up to the time of the breaking out of the late war the sum of $1,500 could have been made out of any one of them. Since then the results of the late war and other causes changed the circumstances of all the persons named as Clarke's securities, and most of them are unable to pay who survived the war.

P. H. White died about 1857. He was a merchant, engaged in business at this place. His estate was closed by administration since the war, and did not pay the creditors in full.

Joseph J. Green died in the spring of 1863. His estate was administered upon. After paying his debts but little was left, which was used or expended for the support of his children. The administration has been closed long since.

Samuel M. Hays, one of the securities upon Clarke's bond, died in 1871. His estate has been administered upon; not yet closed. He left some property, both real and personal, but, after the payment of the debts probated against the estate, I think there will be but little left.

Hiram Brodie, one of the securities on Clarke's bond, died in February, 1875. The estate is being administered upon, and I am informed and believe that after the payment of the debts probated against said estate there will be but little left; the property of the estate was small in amount.

Sutton F. Cotterell, another of the reported securities, died about November, 1875, at Little Rock, Arkansas. His estate was insolvent. Had no property, as I am informed

Charles F. Brown, another of the named securities upon Clarke's bond, is insolvent; has no property; took the benefit of the bankrupt law since the war, and has been discharged; paid his debts in that way.

James M. Brown left this county in 1862; had property in negroes and mules at the time he left here, and some real estate, long since sold. His present circumstances I have no means of knowing, as he resides in the State of Texas.

Jesse Turner I have known intimately for thirty-four years. He is a practicing attorney at this place, advanced in life, has some real estate; and should he have this debt to pay, it will greatly embarrass him, and he can only pay it at a great sacrifice of his small amount of property.

I have been engaged in the business of a merchant, most of the time at my residence, at Van Buren, Crawford County, for the past thirty-four years, and have, as I believe, the means of knowledge of the matters hereinbefore stated by me.

AUGUSTUS J. WARD.

Sworn to and subscribed before me this 15th day of February, A. D. 1878.

JOHN B. OGDEN,
Notary Public.

From the letter of the Solicitor of the Treasury and this affidavit we obtain the following facts:

George W. Clarke, the Indian agent, became defaulter, and his defalcation was known the Government December 31, 1856. No further action was taken in the matter until December 15, 1875, a space of nineteen years lacking fifteen days, the sureties being uninformed of the defalcation for that space of time. Suit was brought March 6, 1877, which is more than twenty years after the right of action had accrued. If the Government had used proper diligence, it is quite probable all or a good portion of the amount could have been made out of the principal; certainly the other securities could have all been compelled to pay their pro rata of the amount, and these securities relieved to that extent. The Government, by its own laches, has lost a part of its security, and to that extent has damaged the other remaining securities.

In a case in England it was declared by one of the judges "that long dormant claims have more of cruelty than justice in them, and that Christianity forbids an attempt at enforcing the payment of a debt which time and misfortune have rendered the debtor unable to discharge." (See A'Lourt *vs.* Cross, 3 Bing. R. 329.)

Of the original eight sureties five are dead and three living, and possessed of very limited means, perhaps none worth anything, unless it be Jesse Turner, who is a practicing attorney, advanced in years, and owning a small amount of real estate.

Under the circumstances the committee believe that great injustice has been done to the sureties by the delay on the part of the Government, and think that the remaining sureties should be relieved from liability on said bond, and therefore report the bill to the House and recommend its passage.

Mr. WHITE, of Pennsylvania. That is all right.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. CULBERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. EDEN. As the Judiciary Committee seems to have nothing to report but private claims, I move that the House adjourn.

Mr. CULBERSON. I desire further to report from the Judiciary Committee a substitute for the bill (H. R. No. 2493) for the better organization of the district courts of the United States within the State of Louisiana.

Mr. EDEN. Is not a motion to adjourn in order?

The SPEAKER *pro tempore*. The motion to adjourn is now in order.

Mr. SPARKS. Then I make the motion that the House do now adjourn.

ADDITIONAL JUDGE FOR THE DISTRICT.

Mr. BUTLER. I desire to move to reconsider the vote by which the bill for the appointment of an additional judge for the District of Columbia was sent to the Committee of the Whole House.

Mr. EDEN. I move to lay the motion to reconsider on the table.

Mr. SPARKS. I have moved that the House adjourn. I do not yield.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. SPARKS] moves to adjourn. Pending that, the gentleman from Massachusetts [Mr. BUTLER] enters a motion to reconsider the vote by which the bill for the appointment of an additional judge for the District of Columbia was referred to the Committee of the Whole House. That motion cannot be considered at this time; but it is a privileged question to move to reconsider any action of the House within the time prescribed in the rules, and the making of that motion takes precedence of a motion to adjourn. The motion of the gentleman from Massachusetts will be entered, and its consideration may be called up hereafter.

Mr. EDEN. I move to lay the motion to reconsider on the table.

The SPEAKER *pro tempore*. It is not in order to make that motion, as the motion to adjourn takes precedence of the consideration of the motion to reconsider.

ORDER OF BUSINESS.

The question being taken on the motion to adjourn, there were—ayes 75, noes 47.

Mr. ACKLEN. I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 18, noes 86; the affirmative not being one-fifth of the whole vote.

Mr. ACKLEN. I call for tellers on the yeas and nays.

Tellers were ordered; and Mr. ACKLEN and Mr. SPARKS were appointed.

The House again divided; and the tellers reported—ayes 30, noes 85. So, the affirmative being more than one-fifth of the whole vote, the yeas and nays were ordered.

Mr. CULBERSON. Before the roll is called I desire to make this proposition to the House: it is known that six members of the Judiciary Committee, in compliance with the order of the House, have to leave the city to-morrow or next day. I have several bills in which gentlemen are particularly interested, and which they press me to report. The one I have sent to the desk was introduced by the gentleman from Louisiana, [Mr. ELAM.] He is especially anxious that it should be reported; and if the House will allow me to report it and have the previous question ordered on it, so that it may go over as unfinished business, I will then yield for a motion to adjourn, as it seems that the House does not desire to entertain other business to-night.

The SPEAKER *pro tempore*. The gentleman from Texas asks unanimous consent that the previous question may be ordered on the bill he has indicated, that it may be pending as unfinished business to-morrow morning.

Mr. ACKLEN. I give notice that I will offer an amendment at the proper time.

The SPEAKER *pro tempore*. That would be in the nature of an objection.

Mr. BURCHARD. I desire to ask the gentleman if this is the unanimous report of the Committee on the Judiciary?

Mr. CULBERSON. It is.

Mr. BURCHARD. Then I move to reconsider the vote by which the yeas and nays were ordered.

The question being put, there were—ayes 85, noes 10.

So the order for the yeas and nays was reconsidered.

The question then recurred upon ordering the yeas and nays.

Mr. BURCHARD. I hope the motion to adjourn will be withdrawn and opportunity given to the gentleman from Texas to report his bill.

Mr. SPARKS. I withdraw the motion.

DISTRICT COURTS IN LOUISIANA.

Mr. CULBERSON, from the Committee on the Judiciary, reported back House bill No. 6170 as a substitute for the bill (H. R. No. 2493) for the better organization of the district courts of the United States within the State of Louisiana, and moved the previous question thereon.

The previous question was seconded and the main question ordered.

And then, on motion of Mr. SPARKS, (at ten o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Colby & Wirts and 50 other firms and citizens of Chicago, Illinois, for legislation to provide by law for regimental and depot bands of the United States Army—to the Committee on Military Affairs.

By Mr. ATKINS: The petition of W. M. Tyler, for compensation for property destroyed during the late war—to the Committee on War Claims.

By Mr. BAGLEY: The petition of citizens of Alexandria, New York, for the exemption of steam pleasure-boats from annual inspection and license fees—to the Committee on Commerce.

Also, the petition of J. C. Kingston and 22 others, last manufacturers of Buffalo, New York, against renewing the patent of Nathaniel Jones for lasts—to the Committee on Patents.

Also, the petition of Mrs. A. E. Sawyer and 117 other ladies, of Carthage, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BAKER, of New York: The petition of Mrs. G. W. Porter and 28 other women, of Hamilton, New York, of similar import—to the same committee.

By Mr. BANNING: The petition of Calvin Bronson, to have refunded to him certain sums of money illegally assessed and collected from him as taxes by United States revenue officials—to the Committee of Ways and Means.

By Mr. BAYNE: Papers relating to the pension claim of Samuel C. Schoyer—to the Committee on Invalid Pensions.

Also, resolution of the councils of the city of Pittsburgh, Pennsylvania, recommending a liberal appropriation for the completion of Davis Island Dam—to the Committee on Commerce.

By Mr. BLAIR: The petition of Mrs. Frank N. Russell and others, citizens of Plymouth, New Hampshire, for an amendment to the Constitution relating to woman suffrage—to the Committee on the Judiciary.

By Mr. BUNDY: The petition of Mrs. R. M. Bennett and others, of Delaware County, New York, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

Also, the petition of Mrs. J. M. Bradley and 25 others, of New Berlin, New York, of similar import—to the same committee.

By Mr. BURCHARD: The petition of citizens of Illinois, that a pension be granted Captain John Slaughter—to the Committee on Invalid Pensions.

Also, the petition of citizens of Illinois, that a pension be granted William M. Church—to the same committee.

By Mr. CALKINS: A resolution of the General Assembly of Indiana, respecting certain articles which it is asked shall be placed upon the free list—to the Committee of Ways and Means.

By Mr. CLAFLIN: The petition of Julia M. Wright and others, of South Natick, Massachusetts, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CLARK, of Iowa: The petition of Mrs. E. A. Walker and other ladies, of Deep River, Iowa, of similar import—to the same committee.

Also, the petition of ladies of Benton County, Iowa, of similar import—to the same committee.

Also, the petition of Mrs. R. D. Stephens and other ladies, of Marion, Iowa, of similar import—to the same committee.

Also, the petition of Charles I. Vail and others, citizens of Benton County, Iowa, that the patent laws be so amended as to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. CLARK, of Missouri: Papers relating to the war claim of John McLaughlin and William South—to the Committee on War Claims.

By Mr. CONGER: The petition of Mrs. George McIntyre and 120 other women, of Lakeport, Michigan, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. H. D. Rood and 40 other women, of Lapeer City, Michigan, of similar import—to the same committee.

Also, the petition of Mrs. Miller and 52 other ladies, of Tuscola, Michigan, of similar import—to the same committee.

By Mr. DENISON: The petition of Eaton & Co., of Bradford, Vermont, that papyrographic matter may be classed by the postal laws as printed matter—to the Committee on the Post-Office and Post-Roads.

By Mr. DUNNELL: The petition of Mrs. E. A. Hotchkiss and 92 other ladies, of Winnebago City, Minnesota, for legislation that will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. FINLEY: The petition of citizens of Wyandot County, Ohio, for the passage of the arrears-of-bounty bill—to the Committee on Invalid Pensions.

By Mr. GARFIELD: The petition of Caroline L. Stanley, of Linwood, Ohio, for a pension—to the same committee.

Also, papers relating to the petition of T. P. McCoy, for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. GOODE: The petition of masters, owners, and agents of vessels engaged in the coasting trade, for the erection of a breakwater at the mouth of Chincoteague Inlet, Accomack County, Virginia—to the Committee on Commere.

By Mr. HART: The petition of Mrs. J. M. Babcock and others, for making effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. HENRY: The petition of W. T. Vickers, E. T. Bonner, Charles E. Hayward, and others, citizens of Dorchester County, Maryland, for an appropriation for the improvement of the channel leading into Cabin Creek—to the Committee on Commerce.

By Mr. HERBERT: The petition of Olive B. Jones, Lucy Davis, and other ladies, of Conecuh County, Alabama, for the enforcement of the anti-polygamy law—to the Committee on the Judiciary.

Also, the petition of Mrs. Sarah Vickrey, Mrs. Nancy Watkins, and other ladies, of Shackleville, Butler County, Alabama, of similar import—to the same committee.

By Mr. HUNGERFORD: The petition of Jennie Woolever and 20 other women, of Arkport, New York, of similar import—to the same committee.

By Mr. JACOBS: Five petitions signed by 195 voters of Washington Territory, for the restoration of the branch lands of the Northern Pacific Railroad to the public domain—to the Committee on Public Lands.

By Mr. JONES, of Alabama: The petition of the Board of Trade and citizens of Mobile, Alabama, for the improvement of Mobile Harbor—to the Committee on Commerce.

By Mr. KELLEY: The petition of 62 citizens of Erie, Pennsylvania, for liberal appropriations for public improvements—to the Committee of Ways and Means.

By Mr. KETCHAM: The petition of R. M. Brown and J. F. Hume, of Poughkeepsie, New York, against the expenditure of any money in the construction of public buildings at Kansas City, Missouri, while the citizens of said city are in default on their bonded obligations—to the Committee on Appropriations.

By Mr. KIDDER: The petition of S. G. Mayland and others, for post-routes from Lake Village to Fountain, Dakota Territory, and from Fountain to Canby, Minnesota—to the Committee on the Post-Office and Post-Roads.

By Mr. LORING: The petition of Mrs H. A. Tyler and others, of Middleton, Massachusetts, for the enforcement of the laws against polygamy—to the Committee on Territories.

Also, the petition of Mrs. Mary H. Silverthorne and others, of Rock Port, Massachusetts, of similar import—to the same committee.

By Mr. MAISH: The petition of 69 inhabitants, of Airville, York

County, Pennsylvania, of similar import—to the Committee on the Judiciary.

Also, the petition of 79 women, of Cumberland County, Pennsylvania, of similar import—to the same committee.

Also, the petition of 49 women, of the Dickinson, (Pennsylvania) Presbyterian church, of similar import—to the same committee.

By Mr. MARTIN: The petition of P. B. Borst, president of the Washington, Cincinnati and Saint Louis Railroad Company, for legislation to aid the construction of said road—to the Committee on Railways and Canals.

By Mr. MAYHAM: The petition of the ladies of Ashland, Greene County, New York, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. McKINLEY: The petition of 65 women, of Congress, Wayne, and Chester Presbytery, of Wayne County, Ohio, of similar import—to the same committee.

By Mr. NEAL: The petition of Mrs. H. W. Biggs and 75 other women, of Chillicothe, Ohio, of similar import—to the same committee.

Also, the petition of Mrs. E. K. Mick and 143 other women, of Chillicothe, Ohio, of similar import—to the same committee.

By Mr. O'NEILL: The petition of women of Pennsylvania, of similar import—to the same committee.

Also, resolutions of the executive committee of the Board of Trade of Philadelphia, Pennsylvania, urging specific instead of *ad valorem* duties on imported kid and leather gloves—to the Committee of Ways and Means.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, and 25 others, of Clarinda, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of the Women's Christian Union, and 40 others, of Cresco, Iowa, of similar import—to the same committee.

Also, a paper relating to the pension claim of Thomas H. Canfield—to the Committee on Invalid Pensions.

By Mr. REA: The petition of Susan M. Holland, for a pension—to the same committee.

By Mr. REED: The petition of Mrs. J. M. Pease, Mrs. E. A. Holden, and others, of the town of Otisfield, Maine, for a law against polygamy—to the Committee on the Judiciary.

Also, the petition of Harriet Thompson and others, of Acton, Maine, of similar import—to the same committee.

By Mr. RICE, of Ohio: The petition of Greenville D. Shannon, for an increase of pension—to the Committee on Invalid Pensions.

Also, the petition of Frank S. Marsh, for a pension—to the same committee.

Also, the petition of Mrs. Margaret R. Colony, for arrears of pension—to the same committee.

By Mr. RYAN: The petition of women of Augusta, Kansas, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SAYLER: The petition of citizens of Cincinnati, Ohio, for the amendment of section 2990, Revised Statutes, so as to include wines and liquors among the merchandise allowed to come to inland ports without examination and appraisement at the original port of entry—to the Committee of Ways and Means.

By Mr. SHALLENBERGER: The petition of Mrs. Mattie E. Martin and 16 other women, of Petersburgh (Ohio) Presbyterian church, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. R. S. Morton and 47 other women, of Little Beaver, Pennsylvania, of similar import—to the same committee.

By Mr. STEWART: Memorial of the Chamber of Commerce of Duluth, Minnesota, asking an appropriation to improve the harbor and establish a light-house at Grand Marais, Lake Superior, Minnesota—to the Committee on Commerce.

Also, papers in relation to the claim for compensation of the Delegate from the Territory of Dakota, claimant of a seat in the Thirty-sixth Congress—to the Committee of Elections.

By Mr. SWANN: Memorial of the Baltimore yearly meeting of Friends, for legislation to prevent intemperance—to the Committee on the Judiciary.

By Mr. TUCKER: The petition of citizens of Buckingham County, Virginia, for a total repeal of the tax on tobacco—to the Committee of Ways and Means.

By Mr. WIGGINTON: The petition of A. Morse and 110 others, for the establishment of a post route from Sonoma to Petaluma, California—to the Committee on Post-Offices and Post-Roads.

By Mr. WILLIAMS, of Delaware: Two petitions of citizens of Delaware and Maryland, for the survey of the Nanticoke River—to the Committee on Commerce.

By Mr. WILLIAMS, of New York: The petition of Betsey M. Goss and 25 other women, of Lewis, Essex County, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Sylvia S. Lee, Letitia S. Boynton, and 80 others, of similar import—to the same committee.

By Mr. WILLITS: The petition of Charles H. P. Stowe and 39 others, of Monroe and Wayne Counties, Michigan, against such a tariff as will check importation of sugars—to the Committee of Ways and Means.

Also, the petition of A. M. Salliotte and others, of Ecorse, Michigan, of similar import—to the same committee.

By Mr. WRIGHT: The petition of Mrs. Melissa J. Wyckoff and 87 other women, of Olyphant, Pennsylvania, for the enforcement of the anti-polygamy law of 1862—to the Committee on the Judiciary.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 25, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill (S. No. 1660) for the relief of Edward Rice; in which he was directed to ask the concurrence of the House.

JUDICIAL DISTRICTS IN LOUISIANA.

The SPEAKER. The unfinished business on which the main question was ordered is the bill (H. R. No. 6170) for the better organization of the district court of the United States within the State of Louisiana, reported as a substitute for House bill No. 2493.

The bill was read, as follows:

A bill for the better organization of the district court of the United States within the State of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the more convenient transaction of business in the courts of the United States within the State of Louisiana, the said State shall be, and the same is hereby, divided into two judicial districts in the manner following, to wit: The parishes of Sabine, De Soto, Caddo, Natchitoches, Bossier, Rapides, Claiborne, Jackson, Catahoula, Caldwell, Ouachita, Union, Morehouse, Franklin, East and West Carroll, Madison, Tensas, Concordia, Avoyelles, Calcasieu, Vernon, Grant, Winn, Bienville, Red River, Richland, Webster, and Cameron shall compose one district, to be called the western district of Louisiana, and all the remaining part of the said State shall compose another district, to be called the eastern district of Louisiana; and all criminal prosecutions or civil suits, either in law or equity, which have arisen in the western district, or against persons residing therein, or concerning lands situated therein, together with all process, writs, recognizances, and records belonging thereto, shall be transferred to the western district; and all civil suits hereafter instituted against persons residing in said western district, or suits concerning lands situate in the same, in the courts of the United States, shall be in said district; and there shall be held semi-annually in said district two stated sessions of the court, at each of the following places, to wit: At Alexandria, on the first Monday of January and June, for the parishes of Calcasieu, Rapides, Avoyelles, Grant, Vernon, and Cameron; at Natchitoches, on the third Monday of January and June, for the parishes of Natchitoches, Winn, Sabine, and Red River; at Shreveport, on the second Mondays of February and July, for the parishes of Caddo, De Soto, Bossier, Claiborne, Bienville, and Webster; at Monroe, on the first Mondays of March and August, for the parishes of Ouachita, Jackson, Union, Morehouse, Franklin, Catahoula, East and West Carroll, Madison, Tensas, Concordia, Lincoln, and Richland; and a person learned in the law, residing in said western district, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, judge thereof, with a salary of $4,000 per annum, payable quarterly on his own warrant, with the same powers and duties as the district judge of the United States for the district of Louisiana as it now exists, and such as are conferred on him or required of him by this act, who is required to hold said terms, and authorized and required to hold special sessions of the said court in the said western district for the trial of civil or criminal cases whenever he may deem it expedient; that all process, writs, and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, which relate to causes to be tried at said special sessions, shall be considered as belonging to such sessions in the same manner as if they had been issued or taken in reference thereto; that any special session may be adjourned to any time or times previous to the next stated meeting of the district court for said districts; that all business pending for trial at any special court shall, at the close thereof, be considered as of course removed to the next stated term of the court; that the district court in said western district shall perform all the duties and possess all the powers of circuit courts of the United States for the State of Louisiana, except in cases of appeal and writs of error. And the said judge shall appoint a clerk of the court in the western district for each place where the court sits, who shall reside and keep the records of the court at that place, and shall receive for the services performed by them the same fees and compensation that are allowed to the clerk of said court holding its sessions in New Orleans, in the same State, and shall be subject in every respect to the same restrictions and responsibilities; and the district court for the eastern district shall be held in New Orleans, as heretofore. And it shall be the duty of the clerks of the district and circuit courts of the United States in New Orleans to transmit, by some safe conveyance, or deliver to the clerks of the western district, or their order, the original papers in all such cases as properly belong to the court in the western district by the provisions of this act, together with a transcript of the proceedings had therein.

SEC. 2. That the President of the United States, by and with the advice and consent of the Senate of the United States, be, and hereby is, authorized to appoint one person as marshal and one as district attorney for the said western judicial district of the United States within the State of Louisiana created by this act; and that the terms of appointment and service, together with the duties and responsibilities of the said marshal and district attorney, respectively, for the district aforesaid, be in all respects the same within their said district, as to the terms of appointment and services, the duties, and responsibilities of the marshal and district attorney, respectively, of the eastern district of the State of Louisiana; and said marshal shall receive such fees and emoluments as are received by the marshal of the United States for the State of Louisiana, and said attorney an annual compensation of —— hundred dollars, to be paid quarterly on his own warrant, and the same fees and emoluments as are allowed to the attorney of the United States for the district of Louisiana.

Mr. ACKLEN. I ask consent to offer the amendment which I send to the Clerk's desk, which I understand is agreed to.

The Clerk read the amendment, as follows:

Strike out the names of the parishes Calcasieu and Cameron wherever they appear in the bill as belonging to the eastern district of Louisiana.

Mr. CULBERSON. We are willing to consent to that amendment.

The SPEAKER. It requires unanimous consent.

There being no objection, the amendment was entertained and agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MILLS. I call for the regular order.

The SPEAKER. The regular order is the special assignment for this morning.

Mr. BLOUNT. I desire to make a motion to go into Committee of the Whole.

The SPEAKER. The regular order is the consideration of the post-office appropriation bill.

Mr. MILLS. I understand that that has not been made the special order. The gentleman having charge of the bill only gave notice that he would move to go into Committee of the Whole for the purpose of considering it.

The SPEAKER. Rule 119 will be read.

The Clerk read the rule, as follows:

General appropriation bills shall be in order in preference to any other bills of a public nature unless otherwise ordered by a majority of the House.

And the House may, at any time, by a vote of a majority of the members present, make any of the general appropriation bills a special order.

Mr. MILLS. Then I raise the question of consideration.

The SPEAKER. The gentleman can reach the object he has in view by voting down the motion of the gentleman from Georgia.

Mr. BANKS. What is the proposition?

The SPEAKER. That the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the post-office appropriation bill.

Mr. BLOUNT. And pending that motion I move that all general debate be limited to one hour and a half.

Mr. HOOKER. I hope the House will vote down that motion and let us have a morning hour.

The SPEAKER. Gentlemen who desire to make that issue need not make it upon the first motion, which is simply to close debate.

Mr. HALE. What antagonizes this motion?

The SPEAKER. The morning hour.

The question was taken upon the motion to close debate, and it was agreed to.

Mr. BLOUNT moved to reconsider the motion just adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred upon the motion to go into Committee of the Whole; and being put, there were on a division—ayes 99, noes 63.

So the motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. COX, of New York, in the chair,) and proceeded to the consideration of the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes.

The CHAIRMAN. By order of the House general debate is limited to one hour and a half. If there be no objection the first reading of the bill will be dispensed with.

There being no objection, it was so ordered.

Mr. BLOUNT. The amount proposed to be appropriated by this bill is $34,960,343; the estimates of the Department were $36,571,900. The amount appropriated by the bill below the estimates is $1,611,557. As compared with the appropriation for the fiscal year ending June 30, 1879, this bill exceeds that of 1879 by $1,253,970.

It will be observed that for the first time since this House has come under the control of the democratic party there is an increase in the appropriations proposed for the postal service. I propose for a short time to occupy the attention of this committee by a comparative statement of the expenditures and growth of the postal service for a period of years, in order to show that much has been done in the way of reducing the expenditures of this branch of the service, while its growth has been unparalleled.

In 1871 the expenditures for the Post-Office Department were $24,390,104.08. In 1872 there was an increase of nearly three millions, or $26,658,192.31. In 1873 the expenditures were $29,084,945.67—again an increase of nearly three millions. In 1874 the expenditures were $32,126,414.76: in 1875, $34,078,610.87, and in 1876, $33,960,004.36. The reduction in the last year arose from a reduction of what is known as the star service. The first post-office appropriation bill passed by a democratic House, in the Forty-fourth Congress, was for $32,612,941.14, for the fiscal year ending June 30, 1877. In 1878 the expenditures for the Post-Office Department were $33,874,647, and for the year ending June 30, 1879, with the deficiency which we have already appropriated, the amount is $33,706,373. Therefore, notwithstanding the immense increase in the railway service, the star service, and the postal-car service, there has been a reduction of the expenditures in the Post-Office Department. And but for the legislation which has been had the amount appropriated by this bill would be between three and three and a half millions more than is here proposed.

Under the act of 1876 there was a reduction of the compensation to railroads of nearly nine millions of dollars, and under the act of 1878 of nearly five millions. Under the act of 1876 there was a reduction in the compensation of postmasters of $370,000, and under the the act of 1878 of about $1,250,000

The Committee on Appropriations found that during the last fiscal year there was a very great increase in the postal-car service. In the report of the Second Assistant Postmaster-General the increase for 1878 over 1877 is stated at 5.66 per cent. for transportation of mails by railroads. Being so far beyond the calculations of the Committee on Appropriations they undertook to analyze the cause of this large increase—an increase far beyond that of the preceding year.

During the discussion on the post-office deficiency appropriation bill the House sought to obtain from the Department some information as to the growth of the postal-car service; they were unable to do it. There was some vague information given to the House, but it was almost entirely conjectural. Since that time the Committee on Appropriations, after a labor of three weeks in the Department, have been enabled to obtain some accurate information.

They find that for the fiscal year of 1876–'77 the expenditure for the postal-car service was as follows: For the first quarter, $175,379.92; for the second quarter, $155,412.85; for the third quarter, $186,359.87; and for the fourth quarter, $193,235.05. For the next fiscal year, when there was this large increase, the cost was as follows: For the first quarter, $203,364.54; for the second quarter, $206,994.37; for the third quarter, $255,822.04; and for the fourth quarter, $261,591.38. That shows an increase for the postal-car service of $217,384.64. This shows that the Department has forced forward the postal-car service far beyond what it has the railway mail service, and thereby created a deficiency of about $44,000 during the last fiscal year.

In view of these facts the Committee on Appropriations thought it wise that the postal-car service should be separate from the other railway service where we pay by weight; they thought so for several reasons. In the first place, when we came to seek information, there was not an officer in the Post-Office Department, from the Postmaster-General down, who could give to the House of Representatives any statement whatever as to the growth of the postal-car service. There is nothing in the reports of the Postmaster-General, from the beginning of the service down to this day, indicating the growth of that service. We are blindly, from year to year, voting an increase of appropriations for that service, without knowing what we are doing. The whole question is simply in the hands of a subordinate officer in the Post-Office Department, the superintendent of the railway service, who is permitted to say what the amount of this service shall be throughout the country and where it shall be.

The committee hoped that by separating this service hereafter we would have a statement of the accounts, a statement of the roads upon which the service was placed, together with estimates for the service, and that thus we would be in a position to determine how far the increase of expenditures was right and restrain it or regulate it as we saw fit.

Furthermore, Mr. Chairman, there had been, as appears, an appropriation amply sufficient for the railway transportation of this country, and more than ample; yet a deficiency appears for the railway service of $44,000 for the year 1878. By simply proceeding more slowly in the increase of this postal-car service this deficiency would have been avoided, and the Postmaster-General would not have made himself liable to any complaint for violating the laws in relation to deficiencies.

It is the right of this House to say how much money shall be appropriated for any given service for any given year; and it is its bounden duty to do so. With the view, therefore, of giving the history of the service from year to year, of anticipating its growth and providing for it in detail, we have thought best to separate it from other railroad service. The committee therefore propose an appropriation of $1,250,000 for transportation by postal-cars as apart from the appropriation for railway mail service.

In the course of the consideration of this bill under the five-minute rule I shall offer two amendments. The first authorizes the Postmaster-General to transfer any portion of the appropriation not needed for postal-car service to the payment of railroads for transportation by weight. This is founded on an intimation that perhaps the whole sum proposed to be appropriated may not be needed.

I shall likewise offer an amendment providing that the expenditure of any given quarter of the fiscal year shall not, if taken at that rate per annum, exceed the amount appropriated. The reason for this amendment will appear from an examination of the history of the increase during the last fiscal year. The increase may be small the first quarter, and small the second quarter, while on the fourth quarter it may be twofold what it was on the preceding quarters. Thus the postal service, instead of being increased by the use of that amount 3 per cent., might be increased 10 per cent. or 16 per cent. according as the increase occurred in the first or the fourth quarter.

In the matter of railroad transportation the committee have seen fit to recommend to this House an appropriation of $8,715,310. This sum has been reached by an examination of the rate of increase in the postal-car service during the last fiscal year, the increase for railroads being about 2.66 per cent. Our appropriation of $8,715,310 will allow an increase of 3½ per cent. Assuming that the annual increase on new railways would be about one thousand miles more than heretofore, we have added about $50,000 to that, making about 4 per cent., and then deducted the sum of $97,000 (which the Department failed to notice either in the annual report or in any communications to the subcommittee) as the sum which will be deducted at the beginning of the next fiscal year on account of the contracts which are to expire, and which because of there being existing contracts with the Government at the time of the passage of the act of 1876, reducing compensation to railroads, have never been subjected to that reduction. Hence there is a difference to the extent of $97,000 in the amount needed for that service. In this way by a liberal allowance, as we conceive, for increased mileage we have reached the sum proposed in the bill.

In the matter of steamboat service——

Mr. CANNON, of Illinois. Before the gentleman leaves the subject of railway mail service, I wish to make a suggestion.

I do not know that it is objectionable—on the contrary I think it is probably praiseworthy—to separate the appropriation for postal mail cars from the appropriation for railway mail transportation, provided a sufficient sum be appropriated for the postal-car service. If you give the Postmaster-General a liberal allowance for this service he may upon one of the great trunk lines mass mail trains as was done with regard to the fast mail service upon the New York Central road a few years ago. This would increase the pay for the car; yet largely more than this increase of pay for the car would be saved in the decrease of pay by weight. All the weight exceeding five thousand pounds a mile per annum is carried at the rate of $20 a ton, whereas for amounts less than five thousand pounds down to two hundred pounds a mile per annum the rate is from three to ten times more.

Mr. BLOUNT. I will not enter into a discussion on that question with my friend except to state that while the pay is less per pound where the amount of mail is increased, yet the increase of the postal-car service brings in an item for the space in the postal cars.

But there is no need of any disagreement between my friend from Illinois and myself on this subject. In the first place the information the committee has is that the Department pride themselves greatly on the service. They say they have now the best service in the world; that the appropriation in this bill for 1880 is quite all they want. They do not ask any more; they take no issue with us on this subject. So, then, conceding my friend is right in his proposition, they should have all they want. I take pleasure in saying to him our information is the Department is satisfied, and I think the appropriation here is a liberal one.

Mr. CANNON, of Illinois. And that the amount appropriated for postal-car service is proper?

Mr. BLOUNT. Yes, sir; and I am glad the gentleman directed my attention to that subject.

Mr. WADDELL. Will the gentleman yield to me for a moment?

Mr. BLOUNT. Certainly.

Mr. WADDELL. I wish to ask the gentleman from Georgia whether under his amendment in reference to the postal-car service the Postmaster-General will not have absolute discretion to put on postal-car service in any part of the country he pleases and to take it off in any part of the country he pleases, and whether, that being the case, under his amendment the report of the Postmaster-General will or will not show where that service has been put on and where it has been taken off, and where and how it has been increased?

Mr. BLOUNT. It will not. The suggestion my friend from North Carolina makes is a good one, to wit, that the report of the Postmaster-General ought to show each year exactly where this postal-car service is. This House when it appropriates money should know in detail exactly how that money has been expended by the officers of the Executive Department. There is at this time absolute discretion in reference to the whole matter of postal-car service. It has been exercised to such an extent that during the last fiscal year railroads were denied service and stage-coaches were running alongside those railroads in order that this money might be taken for the purpose of putting postal cars on great lines of railways.

Mr. WADDELL. In order there might be some provision in that regard was the object of my question.

Mr. BLOUNT. We could not in an appropriation bill hope to get up a code on this subject. The Committee on the Post-Office and Post-Roads undoubtedly would feel they could do it much better than we could, and that, too, is the opinion of the Committee on Appropriations. Therefore we have left it to that committee, trusting they will attend to it. So far as I am concerned I shall make no point of order on any legislation which the chairman of the Committee on the Post-Office and Post-Roads or any other member of it may propose in the line just suggested. I do not suppose any other member of the Committee on Appropriations will raise the point of order, because we are all anxious to get at what is right in the prosecution of this important branch of the public service.

In the matter of the steamboat service the Department asked for the sum of $5,900,000.

Mr. REAGAN. I wish to ask the gentleman from Georgia a question—and perhaps it will be as well to ask it here as in any other place—and that is whether the committee are able to state the amount per mile being paid for postal-car service by the Department?

Mr. BLOUNT. The statute provides exactly what it shall be, and the gentleman from Texas, by reference to the Revised Statutes, can have the information he seeks. For a given length so much per mile per car per annum is paid, the price being as the road is longer or shorter. The exact figures I do not have in my mind just now, but my friend can obtain them by reference to the Revised Statutes.

Mr. REAGAN. In view of the enormous increase of this class of service it seems to me the committee should be able to state exactly how much we are now paying on the leading lines of railway at least.

Mr. BLOUNT. I desire to say to my friend the committee did inquire and were anxious to know, but this service has been conducted in such a way, so commingled with railroad transportation, that no such information as that which he seeks is to be found in the report. There was no time in this short session for the Department to gather that information, and that is an additional reason why we desire this service separated in order to provide for detailed statements in reference to every branch of the postal service to be presented in reports hereafter to be made, so we may legislate more intelligently.

Mr. REAGAN. If the gentleman will allow me, I will say one word. By the act of Congress of 1873, this service sprang forward in one year a million and a half of dollars, and this increase goes on. At that time the maximum that could be paid was $375 a mile. By that act over a thousand dollars a mile was allowed, and still it goes on increasing.

Mr. BLOUNT. It goes on increasing, notwithstanding this House during the Forty-fourth Congress cut down the pay 10 per cent., and it is cut down this Congress 5 per cent. In order that I may answer the gentleman's question, I will send to the Clerk's desk to be read the provision of law in reference to the pay of postal-car service.

Mr. REAGAN. If the committee would advise the House why it is the service is increased so largely while appropriation bills reduce the pay, it would be a matter of useful information.

Mr. BLOUNT. It grows out of the fact that we are yearly increasing in population, adding constantly to our material interests, increasing in business year by year, because we do not stand still but are ever pushing forward. During the last year there were about twenty-five hundred additional miles of railroad transportation. In 1880 the Department tell us they will have four thousand miles of new railroad, and an increase of about several thousand miles of star-route service.

If my friend will look the matter up he will find that every year from the beginning of the Government almost, except the interruption during the war and the withdrawal of the service South, the railway service has been steadily increasing, and in the nature of things must increase in extent as we increase in wealth and population.

Mr. REAGAN. I do not think I have been rightly apprehended by the gentleman. I did not mean to inquire whether the aggregate of postal service increased or not, but I wanted to submit the inquiry, how it is that this enormous expense on any given route—not on the general service, but how this enormous increase of expense on any particular route has arisen when the committee informs us year by year, it is reducing the rate of expense.

Mr. TOWNSEND, of Ohio. Is it not by the increase of mail matter—the increase of the number of pounds?

Mr. BLOUNT. If the gentleman from Texas will take the reports for any given year and examine the railroads where the pay has been readjusted, he will find an increase of several hundred thousand dollars on account of the increased weight of the mails.

I will say this here, Mr. Chairman, that for one I do not believe we have yet reached the rate that we ought to reach in the compensation of railroads. I have in my hand the report of the special commission on railway mail transportation, in which, after summing up the great railroads of the country, they say, referring to the statistics they have accumulated, those statistics show that the profit above operating expense on all business is 60 per cent., on passenger business 43 per cent., and on freight business 67 per cent.

Mr. REAGAN. I do not quite comprehend that.

Mr. BLOUNT. The gentleman was referring to the cost of transporting the mail. I say that the Government is paying higher rates than individuals are for freights; that in the report of the special commission on railway mail transportation, after gathering together a great mass of statistics, the following conclusion is reached:

> These statistics show that the profit above operating expenses on all business is 60 per cent., on passenger business 43 per cent., and on freight business 67 per cent.

The report says that the roads from which they have no returns are mostly small roads. The calculation is on the great body of the railroads of the country. And I am quite satisfied that Congress might go further in the reduction of the expense of railway mail transportation; but the session is short; there was but little time to consider it; and for one I did not care to precipitate such a question on the House.

I come now to the matter of the steamboat service. On the 27th day of March, 1878, the Second Assistant Postmaster-General sent a communication to this House containing a comparative exhibit of

the steamboat and star services for the fiscal year ending June 30, 1879, on new letting, as compared with that of 1878. According to this communication the amount for the steamboat service for 1878 was $717,619.24. That same service done in the year 1879, by virtue of better contracts, costs $684,803.24.

This service has been for many years varying slightly; sometimes a little more, at other times a little less; but about the same now as it was in 1871. The committee, determining to be liberal in that matter, increased the appropriation to the amount of $700,000. As compared with the nominal amount of the previous year it was from $717,000 to $700,000; but as compared with the actual cost by virtue of better contracts, $684,803.24 to $700,000; our increase in 1879 was a large increase over previous years.

In the next fiscal year the committee have recommended the largest increase for steamboat service that we have had for the last eight or ten years; the amount of increase being $50,000, and still larger when we come to consider the fact that there is a reduction in the value of all commodities and a reduction in the cost of the transportation of mails by steamboat and by star service in proportion to the general decrease of prices. The Committee on Appropriations have therefore seen fit to content themselves with this large increase.

Sir, I have found, as I have been informed by gentlemen who have been long in the service, that the only sure guide in reference to appropriations is an examination of the history of the service and the studying of the growth of that service. And from that stand-point the steamboat service has had a large increase, much larger than it has had for a long period of time.

Now, sir, we reach the star service, and I call the attention of the House to a statement in the report of the Second Assistant Postmaster-General, which is to me a singular one, and which certainly must have been carelessly made. He says, on page 263:

> The cost of service on star routes, on the 30th of June, 1878, was $5,714,943. The estimate for 1880 is $5,900,000, an increase of $185,057.

Now, Mr. Chairman, the proposition made here is that the increase of the service in 1880 over that of 1878 is represented by the figures $185,057. Is that true? In the very report sent by the same officer to this House during the last spring we find that while as he states the star service amounted to $5,669,132.56, a little less than he has asked, he at that time, in the spring of 1878, made his contracts for the different sections of the country for four years resulting in the change shown by the following figures. The star service for 1878 under the contracts then existing was $5,669,132.56. The present cost of the same service is $4,456,603.45, making a saving under this condition of things in new contracts on the steamboat and star service of $1,245,000 by virtue of new contracts. Deducting the amount saved by new contracts on the steamboat service there is a balance saved of over $1,100,000, by reason of having made better contracts on the star service.

Therefore, sir, instead of this service exceeding, as the Second Assistant Postmaster-General reports, I desire to say to this House that not since star service existed has there been anything like an approach to the increase in the appropriation for the star service during the last fiscal year, and I ask gentlemen who are interested in that star service if they should not at least understand well what the difference is between us before an issue is made.

Mr. MONEY. Will the gentleman allow me to ask him a question, simply for information?

Mr. BLOUNT. Certainly.

Mr. MONEY. Upon what did the committee base their estimate for the star service?

Mr. BLOUNT. I will answer my friend directly; I propose to take up that matter of increase.

Mr. Chairman, I have taken the cost of the service during the year, and taken the increase. These figures are taken from the several reports of the Postmaster-General: In 1872 the increase over 1871 was $262,155; in 1873 the increase over 1872 was $288,872; in 1874 the increase over 1873 was $394,890; in 1875 there was a decrease over 1874; the matter was reversed, of $520,669; in 1876 there was still a reduction, as compared with 1875, of $401,180; making in the years 1875 and 1876 altogether a reduction in the appropriation for star service of $900,000; and, sir, while this was done, this economy, this reduction, simply meant the withdrawal of this amount of money from the great masses of the people and transferring them to the great trunk lines to have what are known as fast mails.

Mr. LUTTRELL. If you will examine carefully you will find that at that time the Post-Office Department broke up what is known as the system of straw bidding. You will find all over the Western Territories that the bidders are carrying daily mails for what it cost before for them to carry the mails weekly.

Mr. BLOUNT. My friend is mistaken there.

Mr. LUTTRELL. I happen to know something about this.

Mr. BLOUNT. I have no doubt of that.

Mr. LUTTRELL. On one route from Reading to Roseburgh, in California and Oregon, where they had received $221,000 for service they now perform it for $75,000.

Mr. BLOUNT. If we were to take up the details of every star-route service in this country I do not know where it will end.

Mr. LUTTRELL. That is one of the heaviest in the United States.

Mr. BLOUNT. But to end the discussion on that service I want to say to him that if he will inquire of the gentleman who is at the head of inland transportation he will tell him that it grew out of the reduction of the star service. There are gentlemen in the House on both sides who are aware of it.

Mr. LUTTRELL. We have increased the service all over the Western States and Territories.

Mr. BLOUNT. That is true. I have just referred to the reduction and the great improvement under the new contracts. In 1877 there was an increase in the appropriation of $612,429; in 1878 there was an increase over the appropriations of 1877 of $50,000. The gentleman from North Carolina [Mr. WADDELL] moved an increase during the year of $500,000 in the appropriation, but it was said that the term of service was so short that that amount of money could not be used and there was therefore an increase of only $50,000.

We have, then, for these eight years a total increase of $1,608,346; deducting the decreases and you have a total increase in these seven years of $1,186,497.

Mr. MONEY. What was the date of the reductions?

Mr. BLOUNT. They were made in 1878.

Mr. MONEY. That was the year when the new contracts were made.

Mr. BLOUNT. Yes; they commenced with that fiscal year and the next fiscal year received the benefit of these new contracts. There was therefore, Mr. Chairman, an average increase during the eight years of $26,642.42. The Committee on Appropriations, in the year 1879, added during that single year for increase of the star service $934,070—I mean that the appropriation for 1879 was an increase over that for 1878 of $934,070. An examination had been made into the cost of the service, into the number of trips per week, into the railroad system, into the star service in each State and Territory of this Union, the result of which is as follows:

Statement showing the average number of trips per week on each mile of star, steamboat, and railroad mail service in the States and Territories for the fiscal years ended June 30, 1860 and 1877.

States and Territories.	Number of trips per week, 1860.			Number of trips per week, 1877.		
	Star.	Steamboat.	Railroad.	Star.	Steamboat.	Railroad.
Maine	2.8	.....	8	4.4	3	9.4
New Hampshire	2.6	3	8.3	4.7	2.9	13.2
Vermont	3	.....	6.3	4.9	.....	10
Massachusetts	3.9	5	10.3	6.5	3.3	14.5
Rhode Island	3.7	6	10.9	4.9	6.6	17
Connecticut	4.3	6	9.5	5.3	.....	16.8
New York	3	5.6	13	5	4.8	14
New Jersey	3	8	11.3	5	12.3	13
Pennsylvania	2.4	6	9	3.8	6	14.7
Delaware	3	.....	10.8	4.5	.....	8.3
Maryland	1.8	.....	14	5	4.5	10
Virginia and West Virginia	2	5.6	7.3	2.5	3	10.9
North Carolina	1.8	3.5	8	1.7	2.7	8.6
South Carolina	1.5	1.5	10.7	1.3	1.9	9.8
Georgia	2	2	8.3	1.5	2	9
Florida	2	1.4	6.9	1.4	1.4	9
Alabama	2	7	8	1.7	.....	9.8
Mississippi	2.4	2	7.4	1.8	1.4	7
Louisiana	2	2.8	7	2	2.6	8.7
Texas	1.9	1.5	7.3	2	1.9	7.9
Arkansas	1.8	1.9	6	2.6	1.7	6.3
Missouri	1.9	3.5	9	2.6	3	9.6
Tennessee	2	6	8	1.8	3	10
Kentucky	2.6	3	9.8	2.5	3	9.9
Ohio	1.9	4	8.9	3.5	5.5	15
Indiana	1.6	.....	9.5	2.6	.....	11.6
Illinois	2	3	11	3	.....	11
Michigan	1.8	1.3	10.9	3	2.3	12
Wisconsin	1.8	3.5	9.9	2.6	.....	9
Iowa	2	3	7.2	2.8	.....	7
Minnesota	1.5	6	.....	2	.....	7.3
Nebraska	2	.....	.....	2.5	.....	6.7
Kansas	1.3	.....	.....	2.6	.....	7.4
Nevada	.....	.....	.....	4	.....	6
California	1.8	1.4	12	3.3	2.4	7.5
Oregon	1	2	.....	1.8	6	6
Washington	1.3	1.7	.....	2	*0.64	6
Idaho	.....	.....	.....	2.7	.....	.....
Montana	.....	.....	.....	3.3	.....	.....
Dakota	.....	.....	.....	2.7	.....	6
Wyoming	.....	.....	.....	4	.....	.....
Utah	†0.8	.....	.....	4	.....	6.4
Colorado	.....	.....	.....	2.7	.....	6.8
Indian Territory	.....	.....	.....	2	.....	.....
New Mexico	1	.....	.....	4.4	.....	.....
Arizona	.....	.....	.....	1.9	.....	.....

*About 2½ trips per month. †About 3 trips per month.

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., January 3, 1878.

SIR: Herewith you will receive a statement of the average number of trips per week on each mile of star, steamboat, and railroad mail service for the years 1860 and 1877; also the postal receipts and expenditures for the same years.

The number of trips, &c., is arrived at by dividing the length of routes into the total annual transportation; the results are shown in trips and tenths of a trip.

The postal receipts, &c., are compiled from the Auditor's reports for the said years. Items of a general nature, such as amounts paid for foreign mails, mail-

bags and catchers, expenses of postage-stamps, stamped envelopes and postal cards, mail depredations, and special agents, &c., are not embraced in this statement.

Very respectfully,

THOS. J. BRADY,
Second Assistant Postmaster-General.

Hon. JAMES H. BLOUNT,
Committee on Appropriations, House of Representatives.

We found that there were many States in which there was not service enough, not the service that there was before the war, and therefore the committee came up entirely to the demands of this House. The able gentleman whose loss we now mourn, from the State of Texas, (Mr. Schleicher,) insisted that the committee should give not only the increase incident to the natural growth of the service, but that we should go beyond that and make an increase of $1,000,000 in order to have an increase in the number of trips in States and sections that did not have it. The committee came up entirely to the wishes of this House. They came up entirely to the wants of the country.

Now, sir, the Postmaster-General asks for a very large increase, more than was thought necessary, about $410,000.

The committee, inquiring around into many sections, found that where these complaints had existed in a great many of the States the desired service had been given them. The increased cost of the service last year amounted to about $50,000. While there is an increase of the service in the Territories and in some of the States, in the older States of New York, Pennsylvania, and other States the star service has been decreased to the extent of hundreds of miles.

The committee, therefore, have hoped that the large increase during this year would be accepted by this House, not as a natural increase of the service from year to year, but as intended to give the sections that have been neglected for a long period of years the service which they need. The committee took it that the House would not understand that this was a natural increase, but would consider that the committee had been liberal when they gave an increase of $300,000 for 1880, especially when you come to consider the fact that the cost of the service is to be so large a percentage below what it has been heretofore.

Now, in reference to the star service; there has been no branch of the service under the Post-Office Department in which this House is more interested. Wherever there is a railroad, under the law, the mails are carried on it. The gentleman may live in a district traversed by railroads where the mails are carried by the railroad companies, and yet the only request made is for the establishment of post-routes. We therefore find ourselves pressed in relation to this matter.

There must be some intelligent consideration of expenditure; there must be more examination of this question. The Committee on Appropriations have made it carefully from the very best information they could get, and have been influenced by reasons which I trust will appear liberal to this House.

During that time when this large increase was given with a view to increasing the number of trips, a great many of the States had more trips than was contemplated. Even the little Territory of New Mexico had 4.04 trips per week. Wyoming had four trips per week, Dakota had four trips per week, and the little State of Nevada had four trips per week. This scarcity of service did not exist in all the States. This is to be regarded in any action which the House may see fit to take as to this service.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WHITE, of Pennsylvania. I ask unanimous consent that the time of the gentleman may be extended.

The CHAIRMAN. The House has by its order fixed the limit of general debate upon this bill; it cannot be extended by the committee even by unanimous consent.

Mr. BAKER, of Indiana. The bill now under consideration touches the interests of the people more directly and intimately than any other bill that comes before the House for consideration. I am not one of those who sympathize with the theory sometimes advanced that it ought to be the policy of the General Government to make the postal service of the country self-sustaining. I believe that there ought to be but two general considerations taken into view by Congress when deliberating upon this subject. One is the efficiency of the service, and the other is that the service should be made in the highest degree attainable commensurate with all the just wants of the people of the country.

Whatever sum of money shall be found necessary to be appropriated out of the Treasury in order to supplement the ordinary revenues of the Post-Office Department ought to be most cheerfully granted in order to accomplish the end I have indicated. We appropriate large sums of money for the purpose of maintaining other branches of governmental service in the highest degree of efficiency. At the same time those branches do not in any degree so vitally concern the material interests and wants and business and prosperity of the country as this service does.

I desire to say that whenever I find myself compelled to differ from the distinguished gentleman from Georgia [Mr. BLOUNT] in reference to the amount that he may think sufficient for the complete and adequate service of the post-office in any department, recognizing as I do the ability and diligence which he brings to the consideration of such questions, I hesitate long before I feel like entering my dissent to the conclusions he has reached. I am, however, compelled to-day to dissent from some of his conclusions. I trust I may say here, without unduly exciting the sensibilities of any gentleman on either side of the House, that when the post-office appropriation bill was under consideration last year I had occasion to declare that the amount recommended by that bill would prove insufficient to meet the necessary wants of the service, and would result in a deficiency. I also predicted that in addition to resulting in a deficiency it would also result, in a greater or less degree, in crippling the necessary operations of the service in its different departments.

Mr. BLOUNT. I do not like to interrupt the gentleman on that point, but my recollection is that we agreed as to the amount necessary for railway transportation, but disagreed as to the amount for the postal-car service.

Mr. BAKER, of Indiana. I shall not stop for the purpose of entering into a statement of the items in regard to which I declared that there would be a deficiency. I went on that occasion into an analysis of the items at the last session of Congress, in which I predicted that there would prove to be a deficiency. That prediction has been verified by the experience of the service. In reference to one branch of the service, the post-office clerks, route agents, and local messengers, I declared then that the bill as it was reported would result in a deficiency which would impair the efficiency of the service. The event has justified that prediction. I find by a letter that lies on my table that the Department has already been compelled to discharge ninety-six clerks of various classes, and that during the course of the fiscal year it will be compelled to drop sixty more. This, too, in the face of the fact that to-day there are more than a thousand miles of railroad lines on which there is no postal car, no route agent, no mail agent, and no possibility, without an additional deficiency appropriation beyond the $450,000 which we voted early in the session, of putting any man upon this service. Why should such an injury be done to the postal service when many times the amount needed is spent yearly in paying claims of a questionable character? No reason can be offered as a justification for crippling this service.

The annual average increase of the population of this country is a fraction over 3 per cent. The observation of every member in his own immediate locality will bear out the statement that the post-office business of the country increases almost twice as rapidly as does the population of the country. When we take these facts into consideration I think we must all agree that the estimate of the Postmaster-General giving 8 per cent. as the average annual increase in the expenses of the post-office service is not at all too large. And I want to predict here on the basis of these facts that if this bill, as brought into the House by my distinguished friend from Georgia, should become the law, whoever may happen to be on the Appropriations Committee upon the republican side in the next Congress and in the coming year will be able to make the same statement which I now make with reference to the appropriation bill of last year—that there has been a deficiency found as actually predicted.

Mr. Chairman, the history of the growth of the post-office service in this country is a marvelous one. The service itself, when contrasted with the service of the post-office department of other countries, presents a degree of efficiency that is a matter of just pride to the American people. This service is one in which every man in this country feels a profound interest. It is a great promoter of business and disseminator of intelligence. I sometimes hear it said here that this or that branch of the post-office service especially deserves the fostering care of Congress. I heard it said a few moments ago, by my friend from Georgia, that the star service, so-called, is a service peculiarly dear to the hearts of members. While the star service is important, it is not so important as some other branches of the service.

Mr. Chairman, the postal railway-car service, the star service, and the steamboat service are so interblended that you cannot impair the efficiency of one without, to a greater or less extent, paralyzing the whole.

The heart and center of the whole post-office system for the transportation of mail matter is the post-office railway-car system. It sprang into existence from the necessities and wants of the business community. It started in the great centers of the trade and business of the country. It now radiates over fifty-nine great trunk-lines of railway. It has an annual service over 16,980 miles of railroad line, an actual daily service of 49,134 miles, and an annual service of 17,933,910 miles. It serves as the great distributing center that sends out the mail matter which goes to the other railroads and to the steamboats and to the star lines. If you do anything that shall impair the efficiency of this service you injure the efficiency of every other branch of the service.

The growth of the railway postal-car service of this country is a matter of interesting study. It marks a new epoch in the growth and development of the country. Why, sir, it has existed only about fifteen years. It was started during the fiscal year of 1863-'64, by detailing a few clerks from the post-offices and putting them on the railroad cars as a mere experiment for the purpose of seeing whether it was possible to assist the great post-offices of the large cities in their crowded condition in the distribution of mail matter. This feeble beginning gave little promise of its subsequent growth. The great ability of General Bangs gave maturity and efficiency to the system first set on foot by Armstrong. In the year 1865 there were sixty-four clerks employed in this service, at an expense of $75,000. Without going too much into detail, I desire to call attention to the

growth of this service because it is the center, the heart, that sends out into the extremities the mail matter of the country.

During the last year there were deposited in the post-offices of this country about 1,200,000,000 different packages, amounting of course to many times that number of separate pieces of mail matter. Of these 1,200,000,000 packages, 720,000,000, or about two-thirds, passed through the railway postal cars of the country, and were handled on an average three times, being equivalent to 2,215,000,000 pieces handled once, and this by less than twelve hundred clerks. And this was done with but few mistakes and but little delay.

Such efficiency, such rapidity in the dispatch of business is unparalleled in any other department of the public service. To cripple this service or to impair its efficiency would be a crime against the business wants and the intelligence of the country, a crime against those people who submit to the pecuniary burden of supporting this service.

In 1866 the service had grown to eighty-three clerks, at an annual cost of $96,200. In 1867 it was extended to eighteen railroads, having an aggregate length of 4,435 miles. Service was had twice a day on 879 miles, making an aggregate daily service equal to 5,314 miles of railroad line. There were one hundred and sixty clerks employed, at an annual compensation of $187,900. The Postmaster-General makes an estimate to show the comparative cost of this service. He estimates that the mail matter distributed on the postal cars could have been handled without distribution by eighty-six route-agents, costing annually $92,880, making the cost of the postal-car service exceed the other service by $95,020. But it reduced the clerical force in the great distributing offices of the country at least sixty. The annual compensation of these clerks would have amounted to $60,000, thus showing an actual annual increase in the cost of the postal-car service over the old service of $35,000. The gain in the time of carrying mail matter was from twelve to forty-eight hours in favor of the postal-car system. Who can doubt that the value of the service far outweighs the trifling increased cost?

In 1868 the number of railroads on which postal-car service had been placed was twenty-six. The length of the railroad lines was 7,019 miles. The number of clerks was 279, receiving an annual compensation of $329,700.

In 1869 service had been placed on thirty-seven lines of railroad, having an aggregate length of 7,201 miles. The number of clerks employed was 324, receiving an annual compensation of $384,300.

In 1870 the number of railroads on which post-office railway cars had been placed was forty-one, having an aggregate length of 8,252 miles. The number of clerks was 375, receiving an annual compensation of $442,600.

In 1871 service had been placed on forty-seven lines of railroad, having an aggregate length of 11,208 miles. The number of miles of actual daily service was 27,596, and the actual annual service was 10,072,540 miles. The number of clerks employed at $1,400 per annum was 212, at $1,200 per annum was 258, at $1,000 per annum was 43, making the total clerical force 513, receiving an annual compensation of $649,400.

In 1872 there was service placed on fifty-seven railroads, having an aggregate length of 14,117 miles. The number of miles of actual daily service was 33,690. The number of miles of actual annual service was 12,296,850. The number of clerks employed was 267 at $1,400 per annum, 329 at $1,200 per annum, and 53 at $1,000 per annum, making the aggregate clerical force 649, receiving an annual compensation of $821,600.

In 1873 this service was placed on two additional railroad lines, making fifty-nine railroads having postal-car service during this fiscal year. The aggregate length of the railroads was 14,866 miles, having an actual daily service of 34,925 miles and an annual service of 12,747,625. The number of clerks employed was 283 at $1,400 per annum, 379 at $1,200 per annum, and 90 at $1,000 per annum, making the total clerical force 752. The annual compensation was $941,000.

In 1874 the service had been placed on sixty-three railroads having an aggregate length of 16,416 miles. The actual daily service was 39,199 miles, and the actual annual service was 14,307,635. The number of clerks employed was 288 at $1,400 per annum, 465 at $1,200 per annum, and 97 at $1,000, making a total clerical force of 850, with an annual compensation of $1,058,200.

In 1875 the number of railroad lines having post-office railway service was sixty-two. The aggregate number of miles of these lines was 16,932. The actual daily service was 40,109 miles, and the annual service was 14,637,785 miles. The number of clerks employed was 326 at $1,400 per annum, 457 at $1,200 per annum, 117 at $1,000 per annum, and 1 at $840 per annum, making the total clerical force 901. The annual compensation was $1,122,640.

In 1876 the number of railroad lines having railway postal service was sixty-three, and the aggregate length of these lines was 17,713 miles. The actual daily service was 41,671 miles, and the annual service was 15,207,915 miles. The number of clerks employed was 361 at $1,400 per annum, 463 at $1,200 per annum, 216 at $1,000 per annum, 1 at $500 per annum, and 1 at $840 per annum, making the total force 1,042. The annual compensation was $1,278,340.

In 1877 service was placed on one additional route making sixty-four lines, having postal service with an aggregate length of 17,761 miles. The actual daily service was 46,370 miles and the annual service was 16,924,050. The number of clerks employed was 42 at $1,400, 313 at $1,300, 411 at $1,150, 283 at $1,000, and 1 at $500, and 1 at $840, making an aggregate of 1,051. The annual compensation was $1,222,690.

In 1878 postal service was in operation on fifty-nine railroad lines and the aggregate length of the lines having this service was 16,980. The actual daily service was 49,134 miles and the annual service was 17,933,910 miles. The number of clerks employed was 39 at $1,400, 343 at $1,300, 419 at $1,150, 275 at $1,000, and 1 clerk at $900, 1 at $840, and 1 at $500, making an aggregate of 1,081. The annual compensation was $1,260,590.

Such is a brief epitome of the growth of a service which has already revolutionized all the old methods of mail transportation and distribution. Its beneficial influence upon the growth of business and the dissemination of intelligence no one can tell. Let no ruthless hand be laid upon it.

Mr. Chairman, I have no complaint as the bill is now presented in reference to the amount of money appropriated for the post-office railway service. The sum of $1,250,000 is recommended by the bill. The Post-Office Department express the belief, and in that I concur as the result of my judgment and investigation, that this sum will prove sufficient for the next year.

The first item on which there will be a deficiency or else a crippling of the service is in reference to the compensation of clerks in the post-offices of the country. The amount estimated by the Department for that service is the sum of $3,600,000. The amount recommended by the pending bill is $3,460,000. The amount appropriated last year was $3,465,000, $5,000 more than is recommended by the present bill for the next fiscal year. The expenditure for the year 1876 was $3,480,730; for 1877, $3,233,151.60; for 1878, $3,325,498. Notwithstanding the fact that the amount appropriated for the present fiscal year is $5,000 larger than the sum recommended for the next fiscal year, it is insufficient to meet the wants of the service and will operate to the detriment of the public.

There are already more than six hundred meritorious applications for additional clerical service on the files of the Postmaster-General, which he cannot grant by reason of the fact that the appropriation of $3,465,000 for the current fiscal year is insufficient to justify it. Many of these additional clerks are needed at local distributing offices, and the inability to employ them delays the distribution of mail matter and prevents letters and other mail matter reaching their destination as early as they would if an adequate sum of money were appropriated to employ additional clerks.

The next item on which there will be a deficiency and one which cannot be avoided in my judgment is for the transportation of mails by railroads otherwise than by post-office railway-cars. This bill recommends for that purpose $8,715,310. The amount estimated as necessary for that service is $9,000,000. I desire to say, gentlemen of the committee, that you gain nothing in point of economy by hampering the Department by an insufficient appropriation for this service. The law requires the Postmaster-General to carry all mail matter of certain classes fixed by law which shall be deposited in the post-offices. The law requires that compensation shall be paid to railroads for the mail matter they carry, and the rate of compensation for that service is fixed by law. The result is if you make an insufficient appropriation a deficiency must of necessity arise, and while the deficiency arises it has this effect, it hampers and straitens the Postmaster-General in the administration of his office and is an injury to the people who are interested in the postal service.

I have a letter, which in the five-minute debate I shall take occasion to send to the Clerk's desk and have read, giving the data which, in my judgment, demonstrate beyond doubt that the amount recommended by the bill for this item is insufficient to meet the wants of the service for the fiscal year ending June 30, 1880.

The next item I desire to call attention to is the one for steamboat service. There need not necessarily be a deficiency created here. I desire to say, Mr. Chairman, that to-day the steamboat service of the country is costing at a rate equal substantially to the amount recommended for the fiscal year ending 30th of June, 1880, so that during the next eighteen months it will be utterly impossible to make any enlargement or permit any growth of this branch of the service. It seems to me it needs no argument to demonstrate that this method of treating the postal service of the country by allowing nothing for the increase of that service on the great rivers and lakes during the next eighteen months is a method and treatment unjust to the Department and injurious to the business interests of the country. My own judgment is if we do not put on the fast steamship line between the keys of Florida and Havana, as the Post-Office Department desire, and as I think would be wise, still it will be necessary to increase this item to $800,000 in order to provide even for an increase of less than 8 per cent. in the growth of that service during the fiscal year of 1880.

For route agents the amount recommended by the Department was $1,125,000. The amount recommended by this bill is $1,075,000, $50,000 less than the estimate of the Department. In view of the fact, Mr. Chairman, that already ninety-six men have been discharged from the railway mail service of the country, and in view of the fact that sixty more must be discharged, it seems apparent that the Department speak simply words of truth and soberness when they assure us the service will not bear the cutting down of their estimates by the amount of a single dollar, unless it is the desire of

Congress to cripple this branch of the postal service. Such surely cannot be the wish.

For local agents the estimate of the Department is $150,000. This bill recommends $120,000, a very large diminution on the small amount asked, and it is for a service of the very highest importance to the speedy and safe delivery of the mail.

The object of this item, Mr. Chairman, is to employ agents at the more considerable towns along the various lines of railroad carrying mail matter, who shall take charge of the mail-pouches on their delivery from the cars and see to their speedy delivery at the various post-offices to which they are sent.

Unless there is a sufficient sum of money for this service it must be intrusted to the hands of some indifferent, perhaps irresponsible person around the depot, who may be in the service of the railroad company and who feels no interest and no especial responsibility in seeing to the prompt and efficient dispatch of this sort of business.

There is one further item, namely, for mail messengers, to which there ought to be an addition. All the additions that I would recommend to this bill would not amount to more than $500,000. It would, in my judgment, greatly aid the Department in the efficient performance of the various and important services committed to its care. Without the increase I ask for the service will be clogged and fettered. With it the service will move along smoothly and promptly meet every public want. And I submit, reaching as this service does into every city and town and hamlet of the country; reaching every man, woman, and child of the country, it is hardly consistent with the importance of the subject to be haggling in reference to making an appropriation sufficiently large so as that this vital interest of the country shall not be crippled in any direction. I know that there is no other subject for which the people would more gladly see their representatives vote every dollar that is needed in order that this service may be fostered and enlarged to meet every want of the business men of the country. And while we are making large appropriations in other directions we can afford here, I submit to gentlemen of the committee, to add half a million of dollars to this bill, so that we shall not be confronted on the one hand with a deficiency next year, and on the other hand that we shall not be met with the constant complaint of the head of this great Department that he is hampered and tied down so that he cannot make this great service as efficient as the business interests of the country demand. Let us save in other places where the most vital interests of the people will not suffer by our false economy.

MESSAGE FROM THE PRESIDENT.

Here the committee informally rose; and the Speaker having resumed the chair, a message from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries, informing the House that the President had approved bills of the following titles:

An act (H. R. No. 4234) to provide that all pensions on account of death, or wounds received, or disease contracted in the service of the United States during the late war of the rebellion, which have been granted, or which shall hereafter be granted, shall commence from the date of death or discharge from the service of the United States; for the payments of arrears of pensions, and other purposes; and

An act (H. R. No. 5808) to facilitate the refunding the national debt.

POST-OFFICE APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The CHAIRMAN. The time appointed for general debate by order of the House has expired. The Clerk will now read the bill by paragraphs for amendment.

The Clerk proceeded to read the bill, and read the following paragraph:

For compensation to clerks in post-offices, $3,460,000.

Mr. BLOUNT. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "$3,460,000" and insert "$3,515,000;" so that it will read:
For compensation to clerks in post-offices, $3,515,000.

Mr. BAKER, of Indiana. I desire to offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Georgia has offered an amendment and is entitled to the floor. The Chair will recognize the gentleman from Indiana hereafter.

Mr. BLOUNT. When the gentleman from Indiana was discussing this portion of the bill I sought to interrupt him, as I thought he might not understand that there is an error here in the bill in the appropriation for clerks in post-offices. As printed in the bill the amount is $3,460,000, being $5,000 less than the amount for the current year. The committee added the sum of $50,000 to the expenditure for the past fiscal year. The previous year there had been a decrease, and this had grown to a certain extent out of the fact that there had been a decrease in the salaries of employés of the Government, a decrease in the price of labor, a decrease in the price of everything. But we especially declined to increase it beyond this amount, because we found a very large proportion of the mails which had been in the hands of clerks of post-offices heretofore for the purposes of distribution were now distributed in the postal cars themselves. The committee thought this increase was quite ample. I hope, therefore, the House will confine the increase to the amendment, which is simply a correction of the bill as printed.

Mr. BAKER, of Indiana. I offer as an amendment to the amendment what I send to the desk.

The Clerk read as follows:

Strike out "$515,000" and insert "$600,000;" so that it will read:
For compensation to clerks in post-offices, $3,600,000.

Mr. BAKER, of Indiana. I desire to say a word upon that amendment. That is the amount estimated for by the Post-Office Department, and the estimate is made very close. We appropriated last year the sum of $3,465,000.

There are now more than six hundred meritorious applications for clerical service on the files of the Post-Office Department. Many of these clerks are needed at post-offices in various sections of the country that are charged with the distribution of the mails. The result of the inability of the Department to furnish this clerical service is an actual delay in the distribution of mail matter.

On that subject I send to the desk and desire to have read a portion of a letter which I received on yesterday from the honorable the Postmaster-General, addressed to him by the First-Assistant Postmaster-General. I ask the Clerk to read the portion I have marked.

The Clerk read as follows:

The estimate for clerks in post-offices is $3,600,000, while the amount proposed by the committee is said to be $3,540,000. The current appropriation is $3,465,000. This item has been for the past two or three years one of much concern to the Department. Postmasters in various parts of the country have, during this time, complained that their allowances for clerical service were insufficient, and have applied for additional sums. Other postmasters, who have no allowances for separating purposes, have urged the absolute necessity of small amounts being granted them to enable them to properly dispose of the business of their respective offices. The number of meritorious applications of this nature now on the files of this office, not acted upon for want of sufficient means, is believed to be at least six hundred. In addition to these ordinary requests, within the past few months many applications have been received from the larger post-offices for special allowances for clerical service in order to dispose of the constantly increasing business caused by the registration of third-class mail matter. The most of these requests have been so urgent that they could not be refused; and, as a consequence, the bureau already finds its resources for the current fiscal year in this regard seriously crippled. I am confident that justice cannot be done this branch of the service with the amount proposed by the committee. This part of the postal business can, no doubt, be performed, with the amount named; but, if so, it would subject the Department to constant complaints that the postal interests were not properly cared for, as well as embarrass the bureau in its efforts to provide the public with the postal facilities in this respect which it is considered they are entitled to. In my opinion not less than $3,600,000 should be appropriated for this item for the next fiscal year.

Mr. BAKER, of Indiana. I do not desire to add anything further in support of the amendment.

Mr. BLOUNT. The committee have added $50,000, which makes an addition of about one hundred and fifty men, the average pay of the men being about $300 a man.

The committee have already seen a very large increase of the postal-car system, and a disposition to transfer the work from the post-offices to the postal cars. Moreover, there is a great pressure always for more employés. I do not suppose there is hardly a post-office to be found in the country where there would not be a disposition to increase the clerical force. There is a disposition to employ friends; to yield to importunity; to increase the separating offices by the indirect method of giving them more clerk hire.

When you come to the matter of employés, all the reasons that can be used for increasing the number are brought to bear. The increase is already beyond what it has been for several years past, especially when you come to compare it with the increased postal-car facilities. I hope the amendment will not prevail.

Mr. CANNON, of Illinois. I move to strike out the last word.

The CHAIRMAN. There are two amendments already pending.

Mr. CANNON, of Illinois. I believe a substitute is in order.

Mr. BAKER, of Indiana. I will withdraw my amendment if the gentleman will renew it.

Mr. CANNON, of Illinois. I renew it. I only wanted to say a single word about the proposed amendment.

In the main I think the bill reported by the gentleman from Georgia from the committee is a very good one. In this particular, however, I believe that the amendment offered by the gentleman from Indiana should be adopted by the committee.

A year or two ago I co-operated very cheerfully with other members of the House in reducing the salaries of postmasters—they were very materially reduced—but this is burning the candle at both ends. The truth is that clerk hire can only be allowed at offices of the first and second class; and in most of the offices in my State, and I apprehend that it is so generally throughout the country, the allowance for clerk hire under these limited appropriations is not sufficient to pay the absolutely necessary clerk hire.

I have in my mind several post-offices where the postmaster has to draw largely from his reduced salary to pay clerk hire to run his office.

It is the rule and not the exception, and therefore I think that this amendment should be adopted.

Mr. FOSTER. I desire to say, Mr. Chairman, that generally I can co-operate with the majority of the committee in the amount recommended in this bill. There are exceptions, however, where I think the appropriations are too small, and this is one of them.

The Department this year and, in fact, all the Departments have been exceedingly careful in the estimates they have made to Congress.

This is especially true of the Post-Office Department. My friend having the bill in charge does not seem to appreciate the fact that this service is constantly growing and that we cannot afford to cripple the Post-Office Department and to deprive the people anywhere of the privilege of the Post-Office Department.

I feel, therefore, from the investigation that I have given this subject, and it has been considerable, that the Postmaster-General is right when he says that he requires $3,600,000.

The question was taken on the amendment offered by Mr. BAKER, of Indiana, as renewed by Mr. CANNON, of Illinois; and on a division there were—ayes 88, noes 45.

Mr. BLOUNT. I call for tellers.

Tellers were not ordered, only 21 members voting therefor.

So the amendment to the amendment was agreed to.

Mr. BLOUNT. I give notice that I shall ask for a yea-and-nay vote on this amendment in the House.

The amendment, as amended, was then agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For payment to letter-carriers, $1,900,000.

Mr. PAGE. I move to strike out the word "one" and insert "two."

This, Mr. Chairman, is in accordance with the estimate made by the Post-Office Department for $2,000,000. It is well known that this service is rapidly increasing, and I believe it is well known that it more than pays for itself, in fact that it adds revenue to the Government. I hope that the amendment will be adopted for the reason that this service is becoming very popular and is one which the people of the whole country are more or less interested in.

So far as my own State is concerned, I believe that there are but two cities having a population of over forty thousand as now provided for by law, and if the service is to be extended at all I do not think this increase is extravagant. There is only a difference between it and the amount appropriated by the bill of $100,000, and therefore I hope the amount asked for by the Department will be voted for by the House.

Mr. TOWNSEND, of Ohio. This is a new branch of the service, and during its existence, which has been only I believe for fifteen years, it has grown to be self-sustaining, and is about the only branch of the service that actually pays a revenue into the Treasury. It is to be extended. The cities are demanding it, and it cannot be extended without increased facilities, and as I said wherever the system is adopted and established we find that the revenue increases from year to year, and this year it is estimated to pay an actual profit of half a million dollars into the Treasury; and so long as that is the case the carriers should have a fair compensation and be sufficiently numerous to do the work properly, and the new towns and cities that desire to have the system should be provided for. I send to the Clerk's desk a communication to be read as a part of my remarks.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
Washington, D. C., January 23, 1879.

SIR: I have the honor to state, in compliance with your instructions, that the estimate of $2,000,000 submitted to Congress for the free-delivery service of this Department for the next fiscal year is urgently needed to meet the business requirements of the public in the eighty-eight cities where this service is now in operation, and to extend it to several other cities having the population entitling them to it under the law.

The necessity for enlarged appropriations will be apparent from the following statement of facts: The appropriation for the fiscal year ending June 30, 1875, was $1,900,000; for the year 1876, $2,000,000; for the year 1877, $1,900,000, (a reduction of $100,000;) for the year 1878, $1,825,000, (a reduction of $75,000;) for the year 1879, (present year,) $1,875,000, an increase of $50,000 over the preceding year, but still $125,000 less than for the year 1876, and $25,000 less than for the year 1875.

The year 1878 as compared with 1875 presents the following exhibit: The number of free-delivery offices, 87, same as in 1875; number of carriers, 2,275, against 2,195 in 1875; whole number of pieces of mail matter handled by carriers, 715,782,150, against 574,201,474 in 1875; cost of service in 1878, $1,824,166.96, against $1,880,041.99 in 1875, ($55,875.03 less than in 1875;) amount of postage on local matter alone, $2,452,251.51, against $1,947,559.54 in 1875, (an increase of $504,691.97;) excess of postage on local matter alone over the cost of the service, $628,084.55 in 1878, against $67,517.55 over cost of the service in 1875.

The increase in the service and reduction in the expenses were reached by the diminished appropriations, which obliged the Department to reduce the number of carriers or their salaries. The latter alternative was adopted on two occasions to preserve the efficiency of the service and meet the demands of the public; but, in my judgment, the pay of carriers should not be further reduced.

It must be expected that the wants of the service will increase year by year with the growth of cities and the multiplication of business enterprises, and that the requirements of the public cannot be met without increased appropriations.

Very respectfully, &c.,

R. W. GURLEY,
Superintendent Free-Delivery System.

Hon. D. M. KEY,
Postmaster-General.

[Here the hammer fell.]

Mr. TOWNSEND, of Ohio. Surely my time has not expired.

The CHAIRMAN. The gentleman's time has more than expired, and the Postmaster-General had five minutes.

Mr. HARRISON. I move to strike out the last word for the purpose of obtaining some information. I wish to ask the gentleman who reports this bill whether in making the appropriation the committee has taken into consideration the fact that this House late in the last session by an overwhelming majority passed a bill increasing the pay and providing for the classification of carriers? That bill is now pending in the Senate, and may at any time come up, and will very likely be passed.

Mr. BLOUNT. I will say to the gentleman that we have not taken that bill into consideration. We have not anticipated the action of the Senate on that bill. Whenever the law is changed we will take the change into consideration.

Mr. HARRISON. Then I hope the amendment of the gentleman from California [Mr. PAGE] will be adopted. Last year this House, when it had this question under consideration, passed by an almost unanimous vote a bill to increase and not lessen the compensation and number of letter-carriers. It was then argued and it is well known that the postal revenue of those States composing the belt through which the carrier system runs was from one and a half to two millions of dollars more than the amount expended in the service for those States.

This letter-carrier system in the large cities is becoming a profitable thing. The extension of it is but following in the line of every enlightened government of Europe that is affording postal facilities, extending the carrier system wherever practicable. In England it is not simply in the large cities but even in the small ones and in the closely inhabited counties that letters are delivered, even to every hamlet.

We living in the belt of States extending from Massachusetts to Iowa, that belt which brings into the Treasury a vastly increased revenue from the carrier system, certainly claim that we ought to have a right to say something on that question. Last year there were petitions presented here, to the number of one hundred thousand I think, to increase the pay of carriers. Those petitions were signed by the best men in our towns and cities. I think that the Committee on Appropriations, instead of running counter to the wish of the people, instead of trying to cut down what we by a vote under a suspension of the rules declared should be increased, ought at least to give what the Department has estimated for. I therefore hope the amendment will be adopted.

[Here the hammer fell.]

Mr. BLOUNT. One would think from the earnestness with which gentlemen speak concerning the profits of the free-delivery system that the great city of Chicago, for instance, was actually making money for the Government by that system. The fact is that the Government is expending in Chicago forty-odd thousand dollars more than it receives. Out of over ninety cities of this Union where the free-delivery system obtains but four pay a revenue. The profits from those four cities, distributed among all the others, made the whole system pay. And because the four cities out of ninety-odd pay a profit to the Government, gentlemen from those cities that do not pay are continually parading the fact that with the help of the others the whole system pays.

Mr. TOWNSEND, of Ohio. Will the gentleman yield to me for a question?

Mr. BLOUNT. Having but five minutes I cannot yield. The Postmaster-General has cited the fact that in 1877 and 1878 the amount appropriated for this purpose was less than the amount appropriated in 1876. Now, if gentlemen will take the trouble to go through all these Departments and look at the salaries of all the officials, they will understand that there has been a less amount appropriated for all of the Departments.

The idea of the House in reducing the appropriations was not only because there ought to be a less number of men employed but because a smaller sum of money would supply a larger number of men than was furnished them. A distinguished gentleman from Massachusetts told me only a day or two since that he could obtain laborers for $1 a day now where he was compelled to pay the same laborers $2 a day only last year.

Gentlemen get up here and claim to be full of sympathy for the letter-carriers. Sir, they have my sympathy; but I cannot consent to the principle that because a man is employed in the service of the Government he therefore should be paid a larger amount than the man who is fighting the battle of life in the midst of its necessities.

[Here the hammer fell.]

Mr. CHITTENDEN. I am in favor of the amendment of the gentleman from California, [Mr. PAGE.] I believe it is time for this Congress to stop legislating as if the intelligence and prosperity of the country were going backward. We are to-day the most prosperous and aggressive people under heaven. We are constantly needing new facilities, more this year perhaps than in any previous year.

I believe we have gone far enough in cutting down salaries and paring down the compensation of honest people employed by the Government. We have gone far enough in tempting disreputable persons to seize upon or seek Government places with the expectation that they may secure some hidden uncovenanted compensation.

In my judgment the letter-carriers are not fairly paid to-day. Gentlemen who do not live in the large cities cannot realize the hardships they suffer and the work they accomplish.

Neither do they realize in discussing this question here the fact that as a rule and in general, the free-delivery system is a great success. I think that this free-delivery system must be extended with the coming prosperity of the country. Moreover, we have at the head of the Post-Office Department a man—not a radical, not a partisan, not a man that our friends on the other side of the House will distrust—to superintend this business. His recommendations should, in my judgment, be considered and adopted in respect to a matter of this sort. He has had experience in this matter of cutting down expenditures; and he comes to Congress to-day and in the letter which has been

read explains in language simple and forcible and, in my judgment, unanswerable, the necessity for this increase of money for the payment of the letter-carriers.

Mr. BLOUNT. The gentleman will allow me to ask him how many times daily the mails are delivered in the city of New York?

Mr. CHITTENDEN. Four or five times or more; and the more frequent the delivery the greater the profit.

[Here the hammer fell.]

Mr. CHITTENDEN. I withdraw my *pro forma* amendment.

Mr. TOWNSEND, of New York. Mr. Chairman, I renew the amendment. I shall be very happy to see the day arrive when there shall be no antagonism to the post-office interest in any part of the country. I call this House to witness that the men who live in the great cities, those whose interests are connected with the sections of the country where the revenue of the post-office is mainly earned, have never for the last four years raised a hand or uttered a word against the extension of the mail service in those sections of the country where it is a heavy burden upon the public purse. On the other hand, there has been a constant outcry against the mail service from those sections, and especially from those States where the revenue of the Post-Office Department is not earned.

The gentleman from Georgia, [Mr. BLOUNT,] for whose notions of economy I have profound respect, asks my friend from Brooklyn [Mr. CHITTENDEN] how many times a day the mail is delivered at his door. I say to the gentleman from Georgia that the more frequently the mail is delivered the more three-cent pieces, or their equivalent, the Treasury receives. It is the frequency and abundance of the mail service, the rapid extension of this means of supplying the public necessities, that makes the service in certain portions of the country pay. Men write oftener, receive letters oftener, and extend their business in particular directions because they can have frequent mail service.

I call my friend from Georgia to witness not only that my voice has never been heard against the extension of the mail service in those parts of the country where it is a burden upon the public purse, but that on the contrary I have spoken in favor of such extension. The mails should go to every cottage in this vast land; and those sections of the country where frequent deliveries increase the revenues to help the Government bear the burdens of the mail service should not be discouraged, but on the contrary they should be dealt with liberally.

Those persons who serve the Government as letter-carriers or other post-office employés are among the hardest-worked men in America. The amount of labor which is performed every twenty-four hours by the clerks in the larger post-offices of this country and by the men who have charge of the mails upon our mail cars is perfectly wonderful. Look into one of those cars and see the work going on. See the rapidity with which the motions of these men are kept up.

[Here the hammer fell.]

Mr. TOWNSEND, of New York. I withdraw the amendment.

Mr. BLOUNT. I renew the amendment. The gentleman from New York [Mr. TOWNSEND] will pardon me for saying that the view which he takes is a narrow one. He says that complaints are made from sections of the country where the mail service does not pay its expenses against sections where it does. Now, that might be replied to by the suggestion that there are other sources of revenue besides the receipts from the mails. The gentleman might institute a comparison between certain States in regard to the internal-revenue service, or in regard to the tariff, or in reference to the various other sources of income. If the public service is to be adjusted in each State on any such consideration as that, this question must take much more scope than the remarks of the gentleman from New York would imply.

But, Mr. Chairman, only a few nights ago the Committee of Ways and Means were seeking to bring in a bill for the purpose of suspending the operation of the sinking-fund act. The report of the Secretary of the Treasury shows that but $6,000,000 have gone to the sinking fund within the past year. The pension bill which has been signed will draw heavily from the Treasury. The expenditures of the Government are growing year by year. The time is at hand when we must use every effort to reduce expenditures, practicing in the public service the same economy and self-denial that are being practiced in the private pursuits of life. Unless we do this we shall be compelled to burden the people of this country with additional taxation.

While the expenditures of the Government are increasing, how about the receipts? Last year they were lower than they were the year before; this year the increase is but small. The expenditures are increasing at a much more rapid rate than the receipts. Unpleasant as it may be, we must in the affairs of Government do as people are doing in the private business of the country; we must apply ourselves to a careful consideration of expenses and reduce them as much as we reasonably can.

If there is any branch of the public service where a reduction can be made, it is certainly this free-delivery system. Labor is less expensive than it was; and for the expenditure which we are now making upon this service we can employ a larger number of men than have heretofore been employed. The reduction on the past year came from an amendment on the other side of the House. I do not desire to make war on any section; but I do think it is the duty of this House to do whatever it can to retrench expenditures.

[Here the hammer fell.]

Mr. BLOUNT. I withdraw the amendment.

Mr. CANNON, of Illinois. I renew the amendment. Mr. Chairman, I may not be able, by any remarks, to influence the action of the Committee of the Whole on this question; and I would not say anything but that I think perhaps the committee is laboring under a mistake as to the facts touching this service. I agree with the gentleman from New York that we have a magnificent service, and the better the service the greater the revenue. But it does not follow that all branches of this service are perfect. It does not follow because we have a good service therefore every proposition to spend money on it is right and proper. I have no war to make on the free-delivery system. In many respects it is admirable. I believe, however, there are some abuses in it. While the general statement has been made, from the Postmaster-General down, that there is a profit from this service, yet that statement is not exactly fair; because in seventy-five or eighty free-delivery offices where the profits amount to $600,000, the members of this committee should take notice that in the city of New York the profit over and above all expenses is over $900,000, so that the other free cities where the free-delivery system exists not only do not pay, but on the contrary consume $300,000 of the profit made in New York City.

The truth is, Mr. Chairman, that the free-delivery service in the larger cities is indispensable. In cities of seventy-five thousand population and upward it is necessary and indispensable, but in cities with a population of twenty-five thousand or thirty thousand there is no more use for it than for a fifth wheel to a wagon.

As to the salaries paid to letter-carriers, I have nothing to say. The average salary paid in the United States is over $800. Everything considered, they are better paid than route agents or postal clerks. They are better paid, everything considered, by 50 per cent. than people are generally throughout the United States. I have no desire to cut down their salaries. Perhaps they are as low as they ought to be. Perhaps with better times and returning prosperity they may be with propriety increased, but I do not think it is right and proper to increase salaries at this time by taxing men who are not half as well paid throughout the country. That not being the issue, I will not multiply words about it. My opinion is that the recommendation of the Committee on Appropriations is sufficient, $1,900,000, and therefore I shall vote against the amendment.

Mr. TOWNSEND, of Ohio. I move to strike out the last two words. Mr. Chairman, as it has been charged the free-delivery system does not pay in all of the offices, I should like to ask the attention of my friend from Georgia and the committee to this fact: In how many States of this Union does the mail service more than pay for itself? I think in not more than four or five, and in all the other States mails are supplied at the expense of the States in which the service does pay for itself. Yet no one complains of that. It is right; it grows out of the nature of things; they do not pay for any more service in the four or five States than they receive, and for which they are willing to pay. Apply the same rule to the free-delivery system. There are four cities which pay, and pay largely, but they receive the service, and they are willing to pay, and they do not pay for any more service than they receive. Does it follow, therefore, a city in Illinois of thirty thousand or forty thousand population that wants the free-delivery system shall not have it simply because it does not there pay the entire cost of the service?

But as a rule, Mr. Chairman, this free-delivery system pays, and pays handsomely. A moment ago I said the profits approximated half a million of dollars. It really pays over $600,000 above and beyond all expenses. There is no risk in the extension of that service. I venture the prediction that in the cities which do not pay to-day the service will in a few years more than pay its cost. There is no risk, therefore, in extending a service which pays more than it costs. This addition of $100,000 is intended to carry the system to smaller cities and to increase the efficiency in cities where the system is already established. It is not money thrown away, but a good investment.

Mr. LUTTRELL. The gentleman from Ohio withdraws his amendment and I renew it for the purpose of saying a word or two. I do not believe, Mr. Chairman, we pay our letter-carriers a sufficient sum for the service they render. They are required to perform responsible duties. They handle valuable letters. They carry them from door to door in all our large cities, going to work in the morning at five and six o'clock and remaining until as late as eight, nine, ten, and eleven at night. They not only work during these long hours every day of the week, but they are compelled to work on Sunday as well. They are compelled to work seven days in the week. I do not believe a man is paid for the value of his service who performs eight, twelve, fourteen, or sixteen hours a day of labor when he gets only $1.56 a day. The laboring-man, the mechanic, gets more. The clerk in the Department works only seven or eight hours a day and only six days in the week. The postal clerk and letter-carrier work from daylight until many hours after the sun has gone down.

The letter-carrier has to supply himself with a uniform, he must pay rent, he must pay the gas bill, he must pay his board, he must pay all the expenses a man is required to pay for the support of his family, and beside, what time has this poor man for rest? A few days ago when I was passing through Philadelphia leaving the Girard House at eleven o'clock at night, I met a postal clerk who had gone on duty that morning at five o'clock and was then only on his way home which he would reach at half past eleven, having worked during the

entire day and evening for $1.56. I am in favor of paying the laborer every dollar he is worth. I would gladly see the salary of these men increased to a thousand dollars a year. I do not believe any one would begrudge it to them who looked at the subject in a proper light. They certainly perform more responsible service than any one who sits at the clerk's desk. Not one of those clerks perform more responsible duty than these letter-carriers. They work more hours than any member of Congress. They work more hours than any clerk of the Departments. Then, why not pay them all their services are worth? I withdraw the amendment.

Mr. BLOUNT. I move to strike out the last word.

I desire to say that for the present fiscal year for this service we appropriated $1,875,000. While this is true, the expenses for this fiscal year in reference to letter-carriers are at the rate of $1,845,000; we propose in this bill $1,900,000.

Mr. DANFORD. Will the gentleman from Georgia allow me to ask him a question?

Mr. BLOUNT. With pleasure.

Mr. DANFORD. Is not the pay of letter-carriers fixed by law at a certain amount?

Mr. BLOUNT. It is not.

Mr. DANFORD. How is their pay arranged?

Mr. BLOUNT. It is provided that their pay shall not exceed a certain sum; and it is in the discretion of the Postmaster-General to say what they shall be paid, with that limitation.

Mr. McCOOK. Do I understand the gentleman from Georgia to mean that the pay of letter-carriers may be involved in this very amendment; that if this amendment be not adopted there may be a reduction of their pay?

Mr. BLOUNT. I cannot say that will be the result. The committee never intended anything of the sort.

Mr. McCOOK. If the pay is not fixed by law it may by the failure to adopt this amendment be reduced? May not that happen?

Mr. DANFORD. This additional amount may be used to increase the pay of the letter-carriers or to extend the service.

Mr. BLOUNT. The additional amount, as I understand, is for an extension of the service.

Mr. DANFORD. Or it may be applied for an increase of pay, according as the Postmaster-General may determine.

Mr. BLOUNT. He may use it in either way according to his discretion. I take it he would use it for an extension of the service. I have before me the postal-laws and regulations, and will read what applies to this matter if the gentleman from Ohio desires it.

Mr. DANFORD. I think I understand it.

The question being taken on Mr. PAGE's amendment to strike out "$1,900,000" and to insert "$2,000,000," there were—ayes 93, noes 68.

Mr. BLOUNT. I call for tellers.

Tellers were ordered; and Mr. PAGE and Mr. BLOUNT were appointed.

The committee again divided; and the tellers reported—ayes 78, noes 69.

So the amendment was adopted.

Mr. BLOUNT. I give notice that I will ask for a yea-and-nay vote on this amendment in the House. I move that the committee do now rise.

The question being put, there were—ayes 74, noes 100.

So the motion that the committee rise was not agreed to.

The Clerk resumed the reading of the bill, and read as follows:

For wrapping-paper, $18,000.

Mr. WADDELL. I have an amendment here which should have been offered at a point in the bill a few lines back. I think the gentleman in charge of the bill will not object to it. It does not affect the revenues at all.

Mr. BLOUNT. I think it very likely I may agree to the amendment, but I reserve the right to object until I hear it read and explained.

Mr. WADDELL. Then I ask unanimous consent to offer the amendment which I send to the desk, to be added to the clause in reference to compensation to postmasters.

The Clerk read as follows:

At the end of line 32 insert the following:

Provided, That from and after April 1, 1879, the post-office employés on railroads who receive mail matter and cancel the stamps thereon, shall keep an account of the stamps so canceled by them, and the same shall be credited to the postmasters at the stations where such mail matter is placed on the cars respectively in making a basis for fixing the salaries of said postmasters.

Mr. WADDELL. The House will recollect that last year we changed the system by which certain postmasters were compensated by paying them according to the quantity of stamps canceled, not according to the quantity of stamps sold, the former system having been grossly abused and having resulted in robbing the revenue. But since we made that change, as I know by letters from various parts of the country, at small offices on railroads where the postmaster will sell one hundred dollars' worth of stamps in a quarter he does not really cancel more than twenty-five dollars' worth, because people putting off the mailing of their letters to the last moment will run with them to the postal car and hand them to the clerk, there to be canceled. If the postmaster sells as much as one hundred dollars' worth of stamps in a quarter he loses his commission, because, for the reason I have explained, he does not cancel them.

I propose by this amendment to require the postal clerks who receive that stamped matter to keep an account of the matter they cancel and to credit the local postmasters therewith.

The CHAIRMAN. The committee can only go back by unanimous consent.

Mr. BLOUNT. I do not propose to object. I desire to say that the Committee on Appropriations have had no opportunity to consider this amendment, but, speaking for myself only, I think the amendment a proper one.

Mr. REAGAN. It seems to me that the keeping the accounts required by this amendment would cost more than the money that would go to the postmasters thereby. The labor involved in keeping accounts and rendering the reports on the part of the postal-car clerks would be very considerable. It is only to the smaller offices that this would apply, and the amount is so small that it seems to me scarcely necessary to introduce so much machinery to afford compensation for the small number of stamps which might by possibility be canceled on the cars.

The amendment offered by Mr. WADDELL was adopted.

The Clerk resumed the reading of the bill, and read as follows:

For inland mail transportation, namely: For transportation on star routes, $5,690,633.

Mr. MONEY. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 51 and 52, strike out "$5,690,633" and insert "$5,900,000."

Mr. MONEY. The object of this amendment is to place the appropriation at the estimate made by the Postmaster-General. I think that the estimate of the committee was made upon the last quarter's payment, which is an uncertain guide. Many deductions and fines for failures and irregularities in that quarter were remitted and about $100,000 of accounts were not audited. In addition, the committee has not considered that.

We have passed two postal-route bills, adding fifteen hundred and thirty-three new routes to this number in the Southern and Western and far Western States, and the estimate made by the Postmaster-General will be necessary to put those routes in operation. There is reason to expect that by the first session of the next Congress probably seven hundred or eight hundred new routes will be established, for at the first session of the last Congress we made seven hundred and eight new routes. It must be borne in mind that we have ceased to settle our Territories by pioneers, but by colonies. In the course of a single year the valleys of some western rivers are settled from head to mouth; hamlets and villages spring up in the wilderness as if by magic, and these new communities must be supplied with mail facilities, whether the appropriation is sufficient or not.

In other States, especially in the South and West, extensions of routes are necessary and new ones must be operated to meet the growing demand. In one county in my district, a county fifty miles long, there are only three post-offices. A new route has been established, which will give two more offices, but unless provision be made it will be impossible to put them into operation.

I hope the gentlemen of the committee will agree to this amendment because of its necessity to a class of people who are very little cared for by the Government, and who will be cut off from all communication with the world unless we provide for these new routes in this bill.

Mr. PAGE. I hope the amendment offered by the gentleman from Mississippi will be adopted.

This is the amount asked for by the Postmaster-General, and I am satisfied that it will be hardly adequate to meet the necessity for the increase of the mail service during the next fiscal year.

Every western man on the floor can appreciate the necessity for the star service. The men who have left their eastern homes and gone to the West for the purpose of settling up a new country desire a mail service, and only a few days ago the House passed a post-route bill to establish some fifteen hundred new routes. This sum is necessary to put the service on those routes.

I am informed by the Second Assistant Postmaster-General that it will be impossible to increase the postal service or establish routes unless the appropriation is made in accordance with the estimates of the Postmaster-General.

This is a question that appeals directly to every southern and western Representative on this floor. While I have always been willing to vote for whatever the House or the Postmaster-General deems necessary for the purpose of carrying the mails upon cars and upon steamboats, I now ask this House to stand by the section of the country that will be benefited by this appropriation. We have stood by you upon the votes before taken, and we now ask the members from New York and Pennsylvania to stand by the West and South in this matter, which I believe to be necessary in order to extend mail facilities to the West and South.

Mr. BLOUNT. The gentleman from Mississippi asks an increase of this appropriation because of the fact, as he says, that fourteen hundred new routes were established by the two post-route bills that have been passed. The gentleman is unable to tell this House how many miles of railroad service there are; no figures are given by him except just this loose statement.

It is stated here by the gentleman from California [Mr. PAGE] that the Second Assistant Postmaster-General says that the amount reported in this bill is not enough for this purpose; and yet no calcu-

lation has been made and no information given to the House as to the increase of the service. I undertake to say that no approximation can be made from any information given us by the Department or coming from any other source.

Mr. PAGE. Will the gentleman allow me to interrupt him a moment?

Mr. BLOUNT. No; I have not time. The gentleman has appealed to this House to stand by him; he has appealed to sections to stand by him on account of his previous votes. I have shown that when his own party was in power in this House and had control of these expenditures the increase per annum for eight years was but little over $20,000. Last year the Committee on Appropriations gave an increased appropriation for this purpose of $900,000, nearly as much as had been given by the republican party in eight years. Yet an appeal is made to this House now to give the service all that the Postmaster-General has demanded.

We propose in this bill to give an additional $300,000. In two years we give an amount far beyond what the other side of the House saw fit to give in eight years. This side of the House having the responsibility upon itself is asked to increase this bill to the fullest amount demanded by the Postmaster-General.

To me it is an ungracious service; to the Committee on Appropriations it is an ungracious duty. Yet, disagreeable as it may be, I shall urge this House to stand by the committee, and, at least, not wipe out the record that we have made here after a hard struggle for years. We give this year $300,000 additional; last year we gave $900,000, or $1,200,000 in two years. I urge this side of the House to stand by the committee in what I conceive to be a liberal increase of the service.

Mr. REAGAN. I sympathize with the gentleman from Georgia, [Mr. BLOUNT,] who is always engaged in a struggle for economy and for a limitation of the appropriations. There should, however, be a discrimination in judgment as to where the limitation upon our appropriations should be made.

We are advised by the gentleman from Georgia that there has been a great increase in the appropriations for the star service during the last two or three years. It was but last year, if I remember, that repeated applications were made to the Department for the establishment of lines of star service, which were indispensably necessary to the convenience of the people, and we were told by the Department that it could not be done for want of money.

Mr. BLOUNT. There were hundreds of thousands of dollars last year unexpended.

Mr. REAGAN. Let the gentleman take the floor after I get through and make his speech then. I am referring to facts which we all know affect the interest of our people. We were refused the establishment of new routes of star service, which were necessary for the convenience of the country, for the want of money.

If the gentleman is anxious for economy, there is an item in this bill immediately following the one under consideration which appropriates for railroad service $8,715,310. That is not all that is in this bill for that branch of the service. I have aggregated the items contained in this bill connected with that service, and they amount to $13,565,310. There is no decrease proposed in the appropriation for that branch of the service. Whatever amount is demanded by the Department of Congress in favor of that branch of the service which has strong counsel and able advocates is sure to be given. But the people in sections of the country rapidly settling up on the remote frontiers who want mail service once a week are to be deprived of it because of the necessity for economy. They are to be denied service on post-routes, although it will cost but a trifling sum in order to give them the mails once a week, because of the necessity for economy.

I am inclined to think that it is better that the Department should not be crippled as it was last year, and that we should adopt the amendment offered by the gentleman from Mississippi, [Mr. MONEY.]

Mr. LUTTRELL. I dislike to differ with the Committee on Appropriations when they have investigated a subject and made a unanimous report upon it. But I believe the Postmaster-General and his assistants after years of study understand the wants of the people as well as our committee does. The Department understands this matter thoroughly. It has devoted years of study to it. Why should we call upon the Department for information and then repudiate that information when we have received it?

I am in favor of the amendment offered by the gentleman from Mississippi, [Mr. MONEY.] We of the Post-Office Committee understand this matter; we have made it a study; we believe this increase is necessary. I think the members of our committee are a unit on that point.

Mr. ATKINS. What reason has the gentleman for accepting the opinion of the Postmaster-General without question?

Mr. LUTTRELL. My reason is that the Postmaster-General has come here to this House and recommended certain appropriations for the postal service, and I do not think the Committee on Appropriations without any reason should cut down the amount which he asked for.

I want to say this much; but a few years ago you in this section of the country had your star service. But time and progress and the ingenuity and industry of the American citizen have crowded out your star service from this part of the country until now it is far out on the frontier.

This star service is for the benefit of the far-off States and Territories like Texas, New Mexico, Oregon, Colorado, Dakota, and Wyoming. Those pioneers of the western frontier who are to be benefited by this appropriation have within the last few years added to the commerce of the world over $2,000,000,000. Our sons and our brothers have gone forth and built up their settlements, and are inviting the people of the older States to join them. Why should we deny to them the privileges of the mail service?

We expect that a few years hence our section of country will have grown in population to such an extent that we shall be justified in coming here and asking you for an extension of the letter-carrier system. We expect then to have all along the Rocky Mountains cities where we now have the star service. As Alexander of old had no more worlds to conquer, so we expect that in a few years there will be no more countries to discover; and for Heaven's sake, until that time comes, give us an opportunity to receive our letters and our newspapers.

[Here the hammer fell.]

Mr. FENN. Mr. Chairman, I wish to say a few words in behalf of the interests of the settlers in my Territory and other Western Territories. I believe it to be absolutely necessary that this appropriation should be increased as proposed beyond the recommendation of the committee. In the Territory of Idaho, that I have the honor to represent, there is a town of Gibbonsville, established last year as a mining camp. I have gone to the Second Assistant Postmaster-General asking for special service for forty miles to accommodate that new settlement. It has one hundred and thirteen people, and last summer there were between two hundred and three hundred there. By next May there will be over four hundred people there. They are now paying, and have been for the last three months, a contribution of $90 a month, raised among themselves, in order to have their mails brought to their neighborhood once a week. A post-office has been established there, but there is no money to put on the special service and they have had to make this contribution out of their hard earnings.

You gentlemen who live in the cities must have your mails delivered three or four times a day by letter-carriers; and this advantage you enjoy without any expense beyond the two or three cents postage on your letters sent. But these people in the Territory of Idaho must pay from a half dollar to a dollar a month because you are unwilling to extend the star service to meet their wants.

This is but one case among many that I might mention in our Territory. We are asking for special star service from Oneida to Molall, a distance of thirty-five miles. We want special service there to accommodate a large county of five thousand inhabitants. We want the service extended thirty-five miles from Oneida on the railroad to the county seat, which is now served by a long semi-weekly route from Corinne, Utah. The situation of the people of my Territory is the situation of almost all the settlers in the newer portions of our country.

[Here the hammer fell.]

Mr. CHALMERS. This effort at economy seems to me to be parsimony; and it reminds me of something I read in the story of the Missing Bride. A husband, after spending the night in drunkenness, gambling, and carousing, goes home and finds his wife sewing by the light of two tallow candles. He blows out one of them and says: "Retrenchment must commence somewhere." [Laughter.] Sir, this seems to me to be tallow-candle retrenchment. [Laughter.]

I yield the remainder of my time to my colleague, [Mr. MONEY.]

Mr. MONEY. Mr. Chairman, I have so much confidence in the judgment of the Committee on Appropriations that I differ from them with a great deal of reluctance; but I feel so deeply the necessity for increasing the amount of this appropriation beyond the recommendation of the committee that I should regard myself as remiss in my public duty if I did not urge the amendment I have offered.

The gentleman from Georgia [Mr. BLOUNT] has intimated that I did not know exactly what I was talking about in advocating this amendment; but, if he will excuse me, I claim to be somewhat familiar with the subject under consideration. He says that I did not say whether these new routes to which I referred belonged to the star service. Now, the gentleman knows that they could not belong to any other; for by law every railroad and every navigable river is already declared a post-route; therefore these routes which have been established by route bills must of necessity belong to the star service.

As to how many miles are comprehended in these more than fifteen hundred new routes I am unable to say, nor can anybody else; because no information has been furnished from any quarter on which we can base an estimate. But from the fact that these routes are in the newer portions of the country we may infer with reasonable certainty that they are at least as long as the average star routes.

I have nothing further to say, except that with my knowledge of the postal necessities of the country, derived from my connection with the Committee on the Post-Office and Post-Roads, I would have made the amount of this amendment larger but for the fact that I did not think it proper for me to go beyond the estimate of the Post-Office Department.

Mr. CHITTENDEN. Mr. Chairman, I favor this amendment for two reasons. First, because the Postmaster-General (who is not a republican, who is not in political sympathy with this side of the House which is charged with imposing upon the country all sorts of

extravagance in years past, but is a democrat) has after due consideration recommended an appropriation to this amount for the star service. I favor the amendment for another reason. It is time for us to stop croaking both as a people and as a Congress. The wheels of this country's prosperity have taken a new turn, and we have plenty of evidence that Congress cannot block them. We have tried to do it and failed. We have railroads increasing by thousands of miles, and wherever there is a railroad there is necessity for the carriage of the mails.

I believe the Postmaster-General has vindicated his character as a competent, patriotic, and loyal citizen, whose judgment on this subject is worthy of being accepted by us. I wish I had time to discuss this question from a commercial point of view, but I am only to treat it as all these questions are treated here, in the most casual way. All these arguments about economy, to which I have listened, seem to me to have mainly a political foundation. I am sorry to see the gentlemen on that side of the House in legislating on this question and in making economic propositions here have more reference to their reputation as economists than they have to the grand, expanding, glorious, irresistible progress of our great country. [Applause and cries of "Vote!" "Vote!"]

Mr. DURHAM. There is no politics in this question, as intimated by my friend who has just taken his seat.

A MEMBER. It was first started by the gentleman from Georgia.

Mr. DURHAM. Even if it were started by the gentleman from Georgia there is no reason why it should be responded to. [Laughter.]

Now, Mr. Chairman, what is sufficient for the star service? As a member of the Committee on Appropriations I want to do justice to the railroad service and star service; but my opinion is, and I so voted in the committee, that the estimates sent in by the Postmaster-General, accurate as my friend from New York takes him to be, were too high for both services. So far as my own immediate people are concerned they are interested in both services. They are more interested in the star service than they are in the railroad service, there being no steamboat service in my district; and I hope I can look over this whole broad land and do equal justice to all just as well as I can to my own district.

The trouble about the star service, Mr. Chairman, is simply this: that a vast deal of this money is expended in high contracts just as I believe you pay your railroads too much now for the transportation of the mails. I would that I could give every post-office two mails a day throughout the length and breadth of the land, if the business of the country demanded them. You have the delivery of the mail seven times a day in Brooklyn and New York. They are very glad in some portions of the country if they can get it once a week. I wish I could increase it. It could be increased if the Department would exercise more discretion and prudence in letting out the contracts.

While I am in favor of the star service, I do believe the amount recommended by this committee is ample for that service, as I believe that which has been recommended by this committee for the railroad and steamboat service is ample for that service. I do not want to cripple it. Not at all; I want information to go everywhere and go often. But simply because the head of a Department comes in and asks you for a larger appropriation, I cannot subscribe to the doctrine of my friend from California [Mr. LUTTRELL] that therefore he knows more about it than anybody else, and grant the same. If that were the case, where would our party (if you are going to refer to politics) have been if we had voted appropriations up to the estimates sent in from the various Departments during the last four or five years since the democratic party came into power in the House of Representatives?

Mr. LUTTRELL. Where would the democratic or any other party be that deprived the people of mail service?

Mr. DURHAM. Mail service! There is extravagance in the mail service just as well as in everything else. It is the duty of this House to give what the public service requires, but not a dollar more, and that is what this committee proposes to do.

Mr. BLOUNT. The gentleman from Texas [Mr. REAGAN] some moments ago, when on the floor, said he went last year to the Post-Office Department and asked for star service and could not get it because they said they did not have the money. Now, if the gentleman will examine the report of the Postmaster-General he will find there is now to the credit of the star service, unexpended, $344,419.18. That amount remains unexpended, and is a larger sum than has been given for one year until the last session.

Mr. REAGAN. I wish to say, Mr. Chairman, that my experience is not singular——

Mr. BLOUNT. I cannot yield to the gentleman. He refused to be interrupted in his five minutes. Now, Mr. Chairman, I have called attention to that fact to show to the gentleman and to this House upon what reasoning he seeks to ask this House to increase this appropriation.

Then, too, comes my friend from Idaho [Mr. FENN] making complaint. Why, Mr. Chairman, his Territory has more service and more frequently than many of the States of the Union. That little Territory, sparsely settled, far out on the frontier, has more service than many of the States, and yet the Delegate comes here and becomes furious over the economy of the Committee on Appropriations. In answer to what he has said I have only to refer to the existing facts.

Mr. FENN. Will the gentleman yield to me?

Mr. BLOUNT. No, I have not time. Such is the character of opposition to this bill which the facts will show is entirely unfounded. Now, in reference to the star service we have made the appropriation in this bill upon what has been expended before. The appropriation is $5,390,673 for this year, and yet up to this time only $4,968,000 have been expended. There is nearly $400,000 yet remaining unexpended for the star service, and to that we have in this bill added $300,000, and notwithstanding this liberal appropriation on the part of the Committee on Appropriations, gentlemen cry out against it. I take it for granted the House will agree the committee has reported an ample appropriation for this service. In addition to the three hundred thousand dollars and odd by which the appropriation is increased, there is to-day unexpended of the appropriation for this year nearly $400,000. We have not proposed to disturb that, and we add to it the sum of $300,000.

Now, Mr. Chairman, this is the sort of economy that the gentleman from Mississippi [Mr. CHALMERS] sees fit to meet with an anecdote. The appropriations are more liberal than have been made for years; and I take it for granted if the gentleman had been better informed he would have seen that his anecdote was not applicable.

Mr. RYAN. I offer a *pro forma* amendment to strike out the last word.

It is true, as has been said by the gentleman from Texas, [Mr. REAGAN,] that the Department has recently refused in many instances, and perhaps in all cases, to increase the star service. It has refused to do so since it has been admonished by the Committee on Appropriations of a purpose to cut down its estimate for the next fiscal year. The Department foresees that it will not do to increase the star service; that it will not do to put service twice a week upon a route that has had it but once a week unless an appropriation is made that will maintain that increase of service; and that is one reason why, with a credit of $300,000 to the star service, we are now unable to get any increase.

I desire only to state so much in reply to that point made by the gentleman who has charge of this bill. I want now to say one word in reply to what was stated by the gentleman from Kentucky [Mr. DURHAM] when he said that a large proportion of the amount of funds appropriated for this service went to pay fraudulent contracts.

Mr. DURHAM. I did not say that.

Mr. RYAN. I think that was implied in what the gentleman said. If the contracts for carrying the mails are now at a fair rate, the expenditure is legitimate and proper; if they are at an undue, exorbitant, and unnecessary rate, and it is the fault of the Department that such is the case, then that can be remedied and it ought to be. But the fact is that at the last letting the rates for carrying the mails were very much below any former rates, and they are as low, perhaps, as a whole, as it is possible to carry the mails of this country.

Most of those who are carrying the mails under existing contracts are to-day carrying them at a loss. This grows out of the increase in competition; and I think we are in no danger of any improper expenditure of money in that direction under the system employed at present by the Department in letting contracts to carry our mails. And there can be no danger resulting from giving the Department what it has asked for this service, so important to every part of this country and especially to that portion of the country that is developing rapidly in business and population.

Mr. BLOUNT. I rise to oppose the formal amendment. I wish to say a word in reply to the statement of the gentleman from Texas [Mr. REAGAN] a while ago in relation to the railroad service, which I had not an opportunity to answer. Gentlemen ought to know that we have made every effort to cut down this service. It was largely increased in 1877 by reason of the importunities of a Senator from the gentleman's own State to carry the mails for hundreds of miles not then supplied; not by reason of insufficient appropriations on the part of the Forty-fourth Congress but by reason of insufficient appropriations on the part of the Forty-third Congress.

The gentleman from Kansas [Mr. RYAN] has just stated that the Departments say that they will not give any additional service because of the action of this committee. Why, sir, it has been so every time we have had up an appropriation bill. The alarm was sounded in this House; the attempt was made to create a panic; war was made on the report of the committee; and notwithstanding this you find for 1877-'78 hundreds of thousands of dollars unexpended at the end of the year. Now, again, the attempt is made to alienate the House from this committee by suggestions of this sort; this and nothing more.

There is no reason, the Second Assistant Postmaster-General himself can give no reason why he will not give the additional service; because he has now about $400,000 for that purpose; we do not disturb that, but add to it $300,000, making $700,000.

Mr. ATKINS. I move that the committee rise.

The question being taken, there were—ayes 67, noes 107.

Mr. ATKINS. I call for tellers.

Tellers were not ordered; only 23 members voting therefor, not one-fifth of a quorum.

So the motion was not agreed to.

The question being taken on Mr. MONEY's amendment, it was agreed to—ayes 106, noes 69.

Mr. EDEN. I give notice that I shall demand a vote in the House on that amendment.

Mr. MILLS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

WITHLACOOCHEE RIVER.

Mr. DAVIDSON, by unanimous consent, introduced a bill (H. R. No. 6171) making an appropriation for the improvement of the navigation of the Withlacoochee River, in the State of Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

NAVAL WHARF AT KEY WEST.

Mr. DAVIDSON also, by unanimous consent, introduced a bill (H. R. No. 6172) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MARTHA W. CHUBB AND OTHERS.

Mr. McCOOK, (by request,) by unanimous consent, introduced a bill (H. R. No. 6173) for the relief of Martha W. Chubb and Mary H. Chubb, and Martha W. Chubb as administratrix of her father, Thomas J. Chubb, deceased; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

HERMAN BIGGS.

Mr. McCOOK also introduced a bill (H. R. No. 6174) authorizing the President to nominate Herman Biggs to a second lieutenancy in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

GEOLOGICAL AND GEOGRAPHICAL SURVEY OF THE TERRITORIES.

Mr. SINGLETON, from the Committee on Printing, reported the following concurrent resolution of the House, with the amendments of the Senate thereto, and with the recommendation that the amendments of the Senate be concurred in:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office, 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories, in quarto form, with the necessary illustrations; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Department of the Interior; the illustrations to be made by the Public Printer under the direction of the Joint Committee on Public Printing.

The amendments of the Senate were read and concurred in, as follows:

Line 8, strike out "500" where it first occurs and insert "750."
Line 8, strike out "500" where it occurs the second time and insert "375."
Line 9, strike out "500" and insert "375."

Mr. SINGLETON moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEOGRAPHICAL AND GEOLOGICAL SURVEY OF ROCKY MOUNTAINS.

Mr. SINGLETON also, from the same committee, reported the following concurrent resolution of the House, with the amendments of the Senate thereto, and with the recommendation that the amendments of the Senate be concurred in:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution.

The amendments of the Senate were read and concurred in, as follows:

Line 8, strike out "500" and insert "750."
Line 9, strike out "500" and insert "375."
Line 10, strike out "500" and insert "375."

Mr. SINGLETON moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURVEY OF ROCKY MOUNTAIN REGION.

Mr. SINGLETON also, from the same committee, reported the following concurrent resolution of the House, with the amendments of the Senate thereto, and with the recommendation that the amendments of the Senate be concurred in:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the High Plateau of Utah, in quarto form, with the necessary illustrations and charts; 1,500 copies of which shall be for the use of the House of Representatives, 500 for the use of the Senate, 500 for the use of the survey, and 500 for the use of the Smithsonian Institution; the illustrations and charts to be made by the Public Printer under the direction of the Joint Committee on Public Printing.

The amendments of the Senate were read and concurred in, as follows:

Line 8, strike out "500" and insert "750."
Line 9, strike out "500" and insert "375."
Line 10, strike out "500" and insert "375."

Mr. SINGLETON moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PROFESSOR HAYDEN'S SURVEY.

Mr. SINGLETON also, from the same committee, reported back, with a favorable recommendation, the following concurrent resolution of the House:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed and bound at the Government Printing Office, for the use of the Department of the Interior, 2,000 copies of Professor Hayden's tenth annual report of the Geological and Geographical Survey of the Territories for 1876, uniform with the edition ordered by Congress.

The resolution was adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COAST AND GEODETIC SURVEY.

Mr. SINGLETON also, from the same committee, reported back, with a favorable recommendation, the following resolution:

Resolved, That there be printed 1,500 extra copies of the report of Carlile P. Patterson, Superintendent of the Coast and Geodetic Survey, showing the progress made in the survey of the Atlantic, Gulf, and Pacific coasts during the year ending June 30, 1878; and that the said copies be placed at the service of the said Superintendent for distribution.

The resolution was adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MEMORIAL EXERCISES OF THE LATE PROFESSOR HENRY.

Mr. SINGLETON also, from the same committee, reported back, with a favorable recommendation, the following concurrent resolution of the House:

Resolved by the House of Representatives, (the Senate concurring,) That the memorial exercises in honor of Professor Henry, held in the Hall of the House of Representatives on the 16th day of January, 1879, be printed in the CONGRESSIONAL RECORD, and that 15,000 extra copies of the same be printed in a memorial volume together with such articles as may be furnished by the Board of Regents of the Smithsonian Institution; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 for the use of the Senate, and 5,000 for the use of the Smithsonian Institution.

Mr. SINGLETON. I will state that that is the same number of copies that was printed in the case of the Morse memorial services, and we followed that resolution as nearly as we could.

The resolution was adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HAYDEN'S MAPS.

Mr. SINGLETON also, from the same committee, reported back, with amendments, the following concurrent resolution of the House:

Resolved by the House of Representatives of the United States, (the Senate concurring,) That the proper officer having charge thereof shall cause to be published 1,000 copies of Professor Hayden's maps to be sold at the cost thereof and 10 per cent. additional.

The amendment reported by the committee was read, as follows:

Strike out all after the enacting clause and insert instead thereof:

That whenever the proper officer having charge thereof shall have received a sufficient number of orders for Professor Hayden's Atlas of Colorado, accompanied by the cost price thereof with 10 per cent. additional, to warrant, in his opinion, the expense of putting the plates to press, he shall cause an edition thereof to be published: *Provided, however*, That the number thus printed shall in no case exceed the number actually ordered and paid for in advance of said publication.

Mr. ATKINS. What will these maps sell at?

Mr. SINGLETON. That depends upon the cost.

Mr. ATKINS. What do you think will be the cost?

Mr. SINGLETON. Oh, I cannot tell that.

Mr. ATKINS. I suppose the gentleman has some estimate of it.

Mr. SINGLETON. It does not matter to the Government what the cost may be; the Government gets the whole cost with 10 per cent. upon it.

The amendment was agreed to; and the resolution, as amended, was adopted.

Mr. SINGLETON moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NARRATIVE OF POLARIS EXPEDITION.

Mr. SINGLETON also, from the same committee, reported back, with an amendment, a concurrent resolution of the Senate to print the Narrative of the Polaris Expedition.

The resolution was read.

Mr. SINGLETON. The amendment is the same as in the case of the maps; but it may be necessary to say one word about it.

Gentlemen will see that the Public Printer is only authorized to receive money on deposit until he gets enough to indemnify the Government for putting the work to press, and then he charges 10 per cent. over the cost. The Government loses nothing by it, and no harm is done, whatever the cost may be.

Mr. WHITE, of Pennsylvania. Can the gentleman give us any idea what the cost will be?

Mr. SINGLETON. I believe about one dollar and a half.

Mr. MILLS. This is too important a matter to be disposed of in so thin a House, and I move that the House adjourn.

MOTION TO RECONSIDER.

Mr. BLOUNT. Before the gentleman presses that motion, I desire to move to reconsider the vote by which the bill (H. R. No. 248) to divide the southern judicial district of Georgia into two divisions, and for other purposes, was recommitted to the Committee on the Judiciary.

The SPEAKER. The Chair desires in this connection to say that by inadvertence a motion was entered last night to reconsider the commitment by the Speaker of a bill to the Committee of the Whole on a point of order. In the opinion of the Chair it is not competent for the House to act upon such motion.

Mr. GARFIELD. I wish the Chair would state the point a little more fully. It is a new point, and the members of the House should fully understand it.

The SPEAKER. The Chair will restate it. The Chair would have waited until the gentleman from Massachusetts [Mr. BUTLER] was present, but for the fact that the Chair did not feel that it should be permitted to go further without the attention of the House being called to it.

Last night the gentleman from Massachusetts, [Mr. BUTLER,] from the Committee on the Judiciary, reported a bill upon which the point of order was raised by the gentleman from Illinois [Mr. EDEN] that the bill created an office and contemplated an appropriation, and therefore, under the rule, must receive its first consideration in Committee of the Whole. The Chair sustained the point of order, and the bill went to the Committee of the Whole.

Subsequently, (after the present occupant of the chair had left the chair,) and by inadvertence, as the Chair thinks he is authorized to state, the then occupant of the chair entertained the motion of the gentleman from Massachusetts [Mr. BUTLER] to reconsider the reference of the bill to the Committee of the Whole, and that motion was entered upon the Journal. The Chair maintains that it is not competent for such a motion to be made and entertained. The Chair holds that a bill which has been sent to the Committe of the Whole under a rule administered by the presiding officer of the House on a point of order cannot be brought back into the House on a motion to reconsider. The House may at the proper time suspend the rule under which the bill was sent to the Committee of the Whole, and discharge the committee from consideration of the same, but in no other way can the bill be brought out of the Committee of the Whole, unless by action of the committee, had therein.

Mr. GARFIELD. If the Chair will allow me to add a word, for I think what the Chair has stated is entirely correct. If a bill could be brought out of the Committee of the Whole in the way indicated, then the right of a minority to send a bill to the Committee of the Whole on a point of order could always be defeated by the majority reconsidering the reference after it had been sent to the Committee of the Whole, and in that way the entire force of the rule would be nullified.

The SPEAKER. The Chair maintains (and he is glad to have the concurrence of the gentleman from Ohio [Mr. GARFIELD] in the view he takes) that it is not competent for the House to, as it were, reconsider a rule of the House. The only way to vacate the operation of a rule is to suspend it in manner as provided for in the rules.

Mr. COX, of New York. What becomes of the motion of the gentleman from Massachusetts, [Mr. BUTLER?]

The SPEAKER. The Chair thinks it is nugatory. The Chair was discharging a ministerial duty in sending that bill to the Committee of the Whole. It cannot be competent for the House, no vote or action ever having been taken upon it in the House, to reconsider.

Mr. GARFIELD. The House cannot reconsider an order of the Speaker which the rules compel him to make.

The SPEAKER. That is exactly the point in a nutshell.

Mr. GARFIELD. The House can reconsider its own action, but not the action of the Speaker.

Mr. BURCHARD. If no point of order is made on the motion to reconsider, and the House by unanimous consent entertains it——

The SPEAKER. The Chair does not think that a ruling of the Chair upon a point of order can be overturned in that way. The remedy is by an appeal from the decision of the Chair, which is provided for by the rules. No such appeal was taken last night when the Chair ruled upon the point of order.

Mr. BURCHARD. The House can do anything by unanimous consent.

Mr. COX, of New York. It cannot overturn a rule by unanimous consent.

Mr. BURCHARD. Oh, yes; we do it every day.

Mr. COX, of New York. Well, that was wrong.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. CLARK, of New Jersey, for three days;

To Mr. WARD, for two days, on account of important business;

To Mr. BROWNE, for one day, on account of important business; and

To Mr. KEIFER, for five days, on account of important business.

WITHDRAWAL OF PAPERS.

Unanimous consent was given for the withdrawal of papers, as follows:

To Mr. COLE: The papers accompanying House bill No. 2459, for the relief of Jean Louis Relliet; no adverse report.

To Mr. SWANN: The papers in the case of Howard E. D. Stone; no adverse report.

ORDER OF BUSINESS.

The SPEAKER. The question recurs upon the motion of the gentleman from Texas [Mr. MILLS] that the House do now adjourn.

Mr. SINGLETON. I hope the House will vote down that motion.

The question was taken, and it was not agreed to; upon a division—ayes 28, noes 32.

Mr. MILLS. No quorum has voted.

The SPEAKER. It does not require a quorum to decide a motion to adjourn.

Mr. MILLS. Then I move a call of the House.

The motion was not agreed to.

Mr. EDEN. I renew the motion that the House now adjourn.

Mr. SINGLETON. I hope the House will vote down that motion. There is but one more resolution from the Committee on Printing besides the one now under consideration, and that is a resolution to authorize the Public Printer to bind the Statistical Atlases, which are now issued in sheets.

The motion to adjourn was not agreed to; upon a division—ayes 30, noes 43.

POLARIS EXPEDITION.

The question recurred upon the amendment reported from the Committee on Printing to the Senate concurrent resolution in relation to printing the Narrative of the Polaris Expedition.

The amendment was to strike out all after the enacting clause and insert the following:

That whenever the Public Printer shall have received a sufficient number of orders for copies of the Narrative of the Polaris, accompanied by the cost price thereof with 10 per cent. additional, to warrant in his opinion the expense of putting the plates to press, he shall cause an edition thereof to be published: *Provided, however*, That the number of copies thus at any time printed shall not exceed the number ordered and paid for in advance of said publication.

Mr. SINGLETON. If the House will hear me for a moment I will explain this resolution, so that no man can misunderstand it unless he is determined to do so.

The Senate passed a resolution authorizing the printing of 1,000 copies of the narrative of the Polaris expedition as soon as there should be paid in a sufficient amount of money to defray the expenses with 10 per cent. additional. Our committee find that there is a great demand for this work, (although I consider it of very little value myself,) and hence have concluded that it is best to allow the Public Printer to put the work to press at any time, and for any number of copies, whenever he may have received from those who wish copies sufficient money to pay all the expenses and 10 per cent. additional. Thus the Government can lose nothing; it runs no risk whatever.

Mr. MILLS. I move that the resolution and amendment be laid on the table. There is no quorum present; and we cannot transact business properly.

The question being taken on the motion of Mr. MILLS, there were—ayes 4, noes 54; no quorum voting.

The SPEAKER. The Chair will appoint tellers.

Mr. MILLS. I do not think that the House, with the present sparse attendance, is in a proper condition to do business. This House under the Constitution and laws is constituted of two hundred and ninety-three members.

Mr. SINGLETON. The gentleman from Texas is getting exceedingly fastidious. I am sorry to see that sort of disposition on his part.

Mr. MILLS. I suppose I might have learned economy and fastidiousness from the gentleman from Mississippi, who has given us lessons enough on things of that kind.

Mr. SINGLETON. The gentleman deserved all he ever got. [Laughter.]

Mr. GARFIELD. I hope the gentleman from Mississippi [Mr. SINGLETON] will consent to an adjournment.

Mr. SINGLETON. As there is a disposition just now to obstruct the business of the House, I will not press a vote on the resolution at present.

Mr. HUMPHREY. I move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BURCHARD: The petition of William Young, for arrears of pension—to the Committee on Invalid Pensions.

By Mr. DUNNELL: The petition of Mrs. E. H. Bowman and 10 others, citizens of Heron Lake, Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. George Williams and 25 others, citizens of Lanesborough, Minnesota, of similar import—to the same committee.

Also, the petition of Mrs. H. W. Chandler and 70 others, citizens of Jackson County, Minnesota, of similar import—to the same committee.

By Mr. FINLEY: The petition of 25 members of the Richland (Ohio) County bar, against attaching Richland County, Ohio, to the Toledo subdivision of the Northern Ohio judicial district—to the same committee.

Also, the petition of George R. Hosler and 32 others, for a post-route from Galion to Fredrickton, Ohio—to the Committee on the Post-Office and Post-Roads.

By Mr. FORT: The petition of J. H. Moor, for safety appliances to be attached to steam-engines—to the Committee on Commerce.

By Mr. GARFIELD: The petition of M. M. Boothman and other soldiers, of Bryan, Ohio, for the modification of the pension laws—to the Committee on Invalid Pensions.

By Mr. HATCHER: The petition of the Royal Purple Temperance Club, Cape Girardeau, Missouri, numbering 330 members, for the passage of the Senate bill providing for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of Olive Tree Lodge, No. 241, Independent Order of Good Templars, of Cape Girardeau, Missouri, of similar import—to the same committee.

By Mr. HENDEE: The petition of Charles Felton and 42 others, members of Franklin Good Templars' Lodge of Vermont, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of H. G. Vail and 55 other women, of Underhill, Vermont, and vicinity, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

Also, the petition of Mrs. J. W. Guernsay and 30 other women, of Franklin, Vermont, of similar import—to the same committee.

By Mr. LATHROP: The petition of Mrs. W. H. Durham and 100 other ladies, of Belvidere, Illinois, of similar import—to the same committee.

By Mr. McKINLEY: The petition of 41 women of the Methodist Episcopal church of Wellsville, Ohio, of similar import—to the same committee.

Also, the petition of 196 women, of Salineville, Ohio, of similar import—to the same committee.

Also, the petition of Rev. Louis Paine and the official board of the Methodist Episcopal church of Wellsville, Ohio, for early and favorable action upon the Senate bill to provide for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

Also, the petition of 64 citizens of Ohio, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. MORSE: The petition of William M. Jenks, for an award for services on board the transport Western Metropolis in capturing the blockade runner Rosetta Havana and cargo in 1864—to the Committee on War Claims.

By Mr. REILLY: The petition of women of Port Carbon, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of Mrs. E. R. McClusky, A. M. Noble, A. L. Mott and 50 other ladies, of Paulding, Ohio, of similar import—to the same committee.

By Mr. RICE, of Massachusetts: The petition of Mrs. L. A. Johnson and other ladies, of Oxford, Massachusetts, of similar import—to the same committee.

By Mr. RYAN: The petition of 151 ladies, of Arkansas City, Kansas, of similar import—to the same committee.

By Mr. SAMPSON: The petition of Mrs. Asa Turner and 50 other women, of Oskaloosa, Iowa, of similar import—to the same committee.

By Mr. SHALLENBERGER: The petition of Mary R. Dickey and 100 other women, of Beaver County, Pennsylvania, of similar import—to the same committee.

By Mr. STONE, of Iowa: The petition of citizens of Louisa County, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the same committee.

By Mr. SWANN: The petition of Mary Miller, for a pension—to the Committee on Invalid Pensions.

By Mr. TOWNSHEND, of Illinois: The petition of tax-payers of the District of Columbia, for the suspension of the sale of property for special assessments until the same are corrected—to the Committee for the District of Columbia.

By Mr. WADDELL: The petition of citizens of Bladen and Robeson Counties, North Carolina, for an appropriation for the removal of obstructions in a tributary of Peedee River—to the Committee on Commerce.

By Mr. WATSON: The petition of 100 women, of Waterford, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WIGGINTON: The petition of N. H. Beal and 542 other women, of California, of similar import—to the same committee.

IN SENATE.

MONDAY, *January* 27, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Friday last was read.

CORRECTION.

Mr. MORRILL. Mr. President, I desire to state that in the RECORD of Saturday in the statement of the vote on the final adjournment on Friday my name is recorded among the absent. I was present and voted in the negative. The omission makes no difference in the result, but at the same time I desire to have the roll corrected. I suppose that in the Journal it is entered in the same way; I am informed that it is.

The VICE-PRESIDENT. The Journal will be amended in that respect. The RECORD will be corrected by the Reporter.

CONGRESSIONAL LIBRARY BUILDING.

Mr. HOWE. I ask indulgence to say now that to-morrow, if I can get the floor, I shall ask the Senate to proceed to the consideration of the bill (S. No. 1591) to provide additional accommodations for the Library of Congress, which was reported some time since from the Committee on the Library. I wish that Senators who have propositions to submit by way of amendment would prepare them and be ready to submit them.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of James Shields, chosen by the Legislature of Missouri a Senator from that State to fill the vacancy caused by the death of Lewis V. Bogy.

The credentials were read.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from John W. Hoyt, relative to the inadequacy of the compensation now paid him as governor of Wyoming Territory; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from Major-General John M. Schofield, of the United States Army, commanding the department of West Point, recommending that in case action is not taken during the present session of Congress upon the general subject of the reorganization of the Army a proviso be introduced into the Army appropriation bill creating a professorship of modern languages at the United States Military Academy; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Postmaster-General, recommending that an appropriation be made to make up certain deficiencies in the Post-Office Department; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Mary E. Thomas and 132 other women, of Gibson County, Indiana, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. CHRISTIANCY presented the petition of Margaret Kelly and other women, of Millard County, Utah, and the petition of Elizabeth S. Cole and other women, of Oakland, California, praying for the passage of an act making effective the anti-polygamy law of 1862; which were referred to the Committee on the Judiciary.

Mr. FERRY presented the petition of Mrs. Anna B. Crispell and 103 other women, of Holland, Michigan, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. KERNAN presented the petition of James Buchan & Co., of New York City, praying for the passage of the bill (S. No. 1561) for the interchange of subsidiary silver coins and United States notes; which was referred to the Committee on Finance.

Mr. GARLAND presented resolutions of the city council of Fort Smith, Arkansas, in favor of the passage of the bill now pending in the House of Representatives, providing for the sale and disposition of the military reservation adjoining that city; which were referred to the Committee on Public Lands.

Mr. GARLAND. I present the petition of B. F. Overton, delegate from the Chickasaw Nation of Indians, praying that a 5 per cent. Indian trust-fund bond may be issued to fund all other trust-fund bonds and stocks. As Senate bill No. 720 on that subject is now on the Calendar, I ask that this petition be printed and lie upon the table to be called up when that bill is considered.

The VICE-PRESIDENT. That order will be entered.

Mr. WITHERS presented the petition of Bernard Wagner, of Evansville, Indiana, praying compensation for property lost during the late war, at Memphis, Tennessee; which was referred to the Committee on Claims.

Mr. WITHERS. I present the petition of John Murphy, of Virginia, praying for the establishment of a post-route from Pope's Creek to Kenmore, Westmoreland County, Virginia. I move its reference, together with the accompanying papers, to the Committee on Post-Offices and Post-Roads, there being among the papers the draught of

an amendment to the post-route bill to carry out the object of the petitioner.

The motion was agreed to.

Mr. SARGENT presented the petition of Mrs. S. D. E. Dowling and other women, of San Diego, California, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. MITCHELL. I present a memorial of the Chamber of Commerce of the city of Astoria, Oregon, in which they represent the urgent necessity for some improvement of the bar at the mouth of the Columbia River. As this is a matter of a very great deal of importance, I ask to have it read. It is short.

Mr. MORRILL. I hope we shall not consume this morning in reading memorials.

Mr. MITCHELL. I shall have to insist on its reading. Some five hundred vessels have entered the mouth of this river from all parts of the world in the last two years, and the Chamber of Commerce of the city of Astoria, shows the necessity of some small improvement, not a large improvement, to be made at once. I ask to have the memorial read.

The VICE-PRESIDENT. The Secretary will report the memorial.

The memorial was read, and referred to the Committee on Commerce and ordered to be printed, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The Chamber of Commerce of Astoria, Oregon, would respectfully ask of your honorable body an appropriation of $50,000 to be made by Congress for continuing the survey and improvements of the bar at the mouth of the Columbia River.

Five thousand dollars was appropriated last year for this purpose and the preliminary survey made.

By this survey it was ascertained that the bar was shoaling and there is not now the depth of water in the channels as formerly.

Immediate action is necessary to protect the shipping at this point and to prevent great damage to Oregon and the whole Columbia River basin.

Two hundred and seventy thousand dollars have been spent by the Government to improve the river from Astoria to Portland, and all vessels that can cross the bar without delay during the most favorable times can go to Portland.

During that same time, however, only the $5,000 above spoken of have been expended on the bar, with the exception of one or two surveys for the purpose of making charts, and the bar has gradually shoaled. The harbor inside the mouth is deep enough for the largest vessels that float, and being sheltered would without any improvements except deepening the channel at the entrance make a harbor of refuge.

But it is principally on account of the needs of the commerce of the river that the present appropriation is asked.

Last year one vessel loaded with grain struck the bar going out and sunk at sea, a total loss of vessel and cargo. Another touched in going out and leaked so badly that she put into San Francisco. Other vessels were delayed weeks for a favorable time to get to sea for fear of striking. Vessels are now lying in port loaded waiting for perfectly smooth water to get out, not daring to cross with the least swell on. The American ship R. B. Fuller, 1,360 tons register, has been ready for sea and waiting six weeks. How much longer she will have to wait we do not know. Other vessels are here ready for sea which have waited already a long time.

The delay to a ship is worth from one hundred to one hundred and fifty dollars per day, and to the owners of the cargo $25 per day. The Fuller having been delayed forty-five days, has occasioned a loss of over $4,500 alone. High freights and scarce tonnage will soon result if the bar is not improved, while the farming and whole commercial interests of the Columbia basin will be hampered and injured.

The number of vessels arriving from sea in the space of two years ending August 31, 1876, was four hundred and seventy-four, and the total value of exports for the two years was $11,845,590.27. During the last two years ending August 31, 1878, the number of vessels to arrive, four hundred and ninety-seven; the total value of exports for the same period being $19,105,100.10, an excess of only twenty-three vessels, with nearly double the amount of exports, showing a much larger class of vessels with a much deeper draught of water, and also going to show not only a large business but a rapidly increasing commerce, one that should be fostered and encouraged. The Chamber of Commerce would recommend that the appropriation be so made as to allow the deepening of the south channel by the "scouring process," either directly to sea or by way of the north channel below Sand Island.

That the observations of the currents be continued, if thought necessary by the Secretary of War.

JOHN Q. A. BOWLBY,
President Chamber of Commerce.
ANDREW W. BERRY,
J. H. D. GRAY,
E. S. LARSEN,
Committee.

Mr. MORRILL presented the petition of E. A. Smith and others, citizens of New York, praying for the passage of the bill (S. No. 1561) for the interchange of subsidiary silver coins and United States notes; which was referred to the Committee on Finance.

Mr. PADDOCK presented the petition of John C. Lawton and others, postal clerks upon the various railways of the country, praying for the passage of a law fixing the grades of their salaries, first rate at $1,400 per annum, and second rate at $1,200 per annum; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HAMLIN presented the petition of John Winslow Jones, of Portland, Maine, praying for the extension of letters-patent granted to Isaac Winslow, for a process in packing green sweet corn; which was referred to the Committee on Patents.

Mr. HAMLIN. I present a petition, numerously signed by merchants and ship-owners residing and doing business in Bangor, in the State of Maine, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers, which has passed the House and is now before the Committee on Commerce of the Senate. The petitioners respectfully pray that the bill may be speedily passed by this honorable body. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. DORSEY presented the petition of Frank Jones, of Washington, District of Columbia, praying for the passage of a law refunding erroneous taxes paid by him during the years 1872–'75; which was referred to the Committee on the District of Columbia.

Mr. HOWE presented the petition of Mrs. Rev. W. B. Dada and other ladies, of Wayne County, New York, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. BUTLER presented the petition of J. W. Stribling, A. W. Addington, and others, citizens of South Carolina, praying for the passage of a law relieving them from responsibility as sureties on the bond of J. R. W. Johnson, late postmaster at Walhalla, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CONKLING. I present a petition signed by a large number of residents of the city and State of New York, praying the passage at the earliest day of a bill for the interchange of subsidiary silver coins and United States notes. It is a bill which was introduced by the honorable Senator from California on my right, [Mr. BOOTH.] I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. CONKLING. I have received, and I suppose it is proper still to present, a petition of citizens of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions. I move that it lie upon the table.

The motion was agreed to.

Mr. COKE. I present the memorial of James Masterson, of Houston, Texas, praying for the passage of a law conferring authority upon the United States Court of Claims, or some other tribunal, to hear and determine the rights of claimants to their respective interests in the proceeds of the sale of captured or abandoned property taken from citizens of the Southern States during the late war. I ask that it be read and referred to the Committee on the Judiciary.

The VICE-PRESIDENT. The memorial will be read.

The memorial was read, and referred to the Committee on the Judiciary, as follows:

To the honorable Senate and House of Representatives of the United States in Congress assembled:

The undersigned, citizens of the United States, respectfully represent that whereas a very large amount of private property was taken during the late war by the authorities of the United States from citizens of the South, under the denomination of captured or abandoned property, the proceeds of which, after paying all expenses of seizure, transportation, and sale, were paid over to the United States Treasury, to be held as a trust, and not the property of the United States: and

Whereas this fund, which has been decided by the highest tribunal of the land, to be held in trust for the owners from whom it was taken, and over fourteen millions of dollars of the fund are still in the Treasury, but no remedy afforded to the owners to establish their rights of property therein by adjudication in court:

Therefore, the undersigned respectfully petition and pray for the enactment of a law conferring authority upon the United States Court of Claims, or some other impartial tribunal, to hear and determine the rights of claimants to their respective interests in said fund and for the recovery of their rights therein, &c.

Mr. ALLISON presented the petition of Miss D. F. Gibbs and other ladies, of the city of Dubuque, Iowa, praying for the passage of an act making effectual the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

He also presented the petition of A. Bliedung and others, citizens of Clayton County, Iowa, praying for a modification of the patent law so as to protect purchasers of articles who have purchased them in open market; which was referred to the Committee on Patents.

Mr. PLUMB presented a resolution of the Kansas City Board of Trade, in favor of opening up the Indian Territory to settlement; which was referred to the Committee on Indian Affairs.

Mr. McCREERY presented the petition of William Stone Abert, of Washington City, praying that the tax paid by him for repaving D street and Pennsylvania avenue, be refunded; which was referred to the Committee on the District of Columbia.

He also presented the petition of William B. Reed, executor of G. A. W. Randall, deceased, late of Washington City, praying that the tax paid by him for repaving D street and Pennsylvania avenue be refunded; which was referred to the Committee on the District of Columbia.

Mr. COCKRELL. I present resolutions adopted by the Board of Trade of Kansas City, Missouri, on the 20th of January, 1879, in favor of the opening of the Indian Territory in pursuance of the treaties and the passage of the bill introduced in the House by Hon. B. J. FRANKLIN. I ask that these resolutions be read. They are very short.

The VICE-PRESIDENT. They will be reported.

The resolutions were read, as follows:

Whereas in our judgment it conclusively appears from the provisions of existing treaties that the Indian Territory can be legally opened to settlement, and that such settlement would tend to the material and moral advancement of the Indians and to the better protection of the rights of persons and property within the limits of the Territory, and that the intelligent and educated portion of the Indians favor such legislation, and that such legislation will not destroy or disturb the autonomy of the tribal organization of the Indians, and that it will the better subserve the preservation of the funds and lands belonging to and owned by them; and

Whereas the dedication of this country to barbarism not only *bars* inter-communication between the people, commerce, agriculture, and industry of the great West and the citizens of Texas and the southern sea-board, but hermetically shuts out from the softening and enlightened influences of civilization one of the richest, most beautiful and productive regions on the continent; and

Whereas the almost unanimous voice of the citizens affected by this stoppage of interstate commerce protests vigorously against its longer continuance: Now, therefore,

Be it resolved by the Board of Trade of the City of Kansas, Missouri, That the bill introduced into Congress by Hon. B. J. FRANKLIN for the foregoing purposes is

specially meritorious and praiseworthy, and that we do heartily indorse the said bill as being wisely in the public interest.

And further, That we are earnestly of the opinion that such legislation as in said bill is proposed would inure to the benefit and advantage of the Indians, to the interest of the citizens of the United States at large, and especially to the inhabitants of the States of Missouri, Arkansas, Colorado, and Texas, and to the development of the material wealth of this vast region of country.

Therefore we do hereby earnestly commend to the attention of our Senators and Representatives in Congress this most important matter, as well as to the Senators and Representatives of neighboring States, and urge upon them the almost imperative necessity of prompt action by the passage of the bill introduced by Hon. B. J. FRANKLIN, or some similar measure, whereby the general interest of the public may be advanced.

H. M. HOLDEN, *President.*

H. H. MILLER, *Secretary.*

The VICE-PRESIDENT. What disposition does the Senator from Missouri desire shall be made of the memorial?

Mr. COCKRELL. I ask that it be referred to the Committee on Territories.

Mr. ALLISON. I do not like to antagonize the wish of my friend, but my impression is that the memorial should go to the Committee on Indian Affairs.

Mr. COCKRELL. If the Senator from Iowa is anxious to consider it I have no objection to its going there, and I hope its consideration will prove very profitable to that committee.

Mr. ALLISON. I am not anxious to have the Committee on Indian Affairs consider it at all. Probably it will not be considered if it goes to that committee.

The VICE-PRESIDENT. The resolutions will be referred to the Committee on Indian Affairs.

Mr. ROLLINS. I present the memorial of A. H. Cragin and others, owners of property in Washington, District of Columbia, and I desire to have it read; it is but one page.

The VICE-PRESIDENT. The memorial will be read.

The Secretary read as follows:

To the honorable Senate and House of Representatives:

The undersigned, owners and persons interested in the grounds and improvements opposite the park east of the Capitol, respectfully represent that we have suffered great loss, inconvenience, and injury by reason of the cutting down of the park and First street and the streets leading east therefrom, leaving, in some instances, the foundations of the buildings above the present grade of the streets and wholly without sewerage on First street east, thereby largely reducing the rents and profits from property purchased before the grade was changed.

We therefore respectfully pray that Congress may at its present session grant us relief by providing for proper sewerage on First street east, and for removing the high terraces and embankments upon which our property is situated, and for making safe and secure the foundations of buildings situated in the squares thus injured fronting on First street east and the East Capitol Park.

We would respectfully suggest that Congress has already granted relief to Major McDonald, former assistant secretary of the Senate, on the north side of the park, and to the society owning the colored church on the south side of the park, for similar injuries and damages.

In view, therefore, of these precedents, we respectfully and earnestly request that our grounds be taken for the public use, or that adequate damages be allowed us and improvements made as herein set forth.

A. H. CRAGIN.
R. B. FERGUSON.
DANIEL A. CONNOLLY.
A. C. VAN PATTEN.
N. G. ORDWAY.

The VICE-PRESIDENT. The memorial will be referred to the Committee on the District of Columbia.

WATER SUPPLY OF WASHINGTON.

Mr. BARNUM. I present a letter from General Meigs in relation to the water supply of Washington City, and ask that it be read, printed, and referred to the Committee on the District of Columbia.

The VICE-PRESIDENT. It will be read at length.

The Secretary read as follows:

WAR DEPARTMENT, QUARTERMASTER GENERAL'S OFFICE,
Washington, D. C., January 24, 1879.

DEAR SIR: I submit the following in connection with reports from the commissioners of the District of Columbia and of the engineer in charge of the Washington Aqueduct, which within a few days have been printed in the CONGRESSIONAL RECORD, upon remedying the difficulties in the present distribution of water to Washington.

The commissioners are of opinion that the best remedy for the deficiency will be to extend the Washington Aqueduct itself by tunnel under Georgetown and the bluffs north of Washington to some point on the northern boundary line of the city; but they apprehend, without surveys, that this would cost $1,000,000.

The engineer in charge of the aqueduct recommends, as the simplest and easiest method of increasing the pressure upon the pipes upon the high grounds, the laying of another thirty-six-inch iron pipe, twenty-eight thousand feet long, from the distributing reservoir to Capitol Hill, which he estimates to cost $398,948, say $400,000, or $14.24 per lineal foot laid. The thirty-six-inch pipe laid six years ago cost, the commissioners report, $426,000.

I have again examined an estimate which I made in May, 1876, of the cost of extending the Washington Aqueduct itself to the bluffs north of the city of Washington by tunneling, and have procured information from the engineers of the new Baltimore water-supply, which was begun in 1875 or 1876, and is now under construction. That supply is by a tunnel twelve feet in diameter and seven and one-half miles in length from the Great Gunpowder Falls to Baltimore. In 1876 I estimated, from the contract prices at which the Baltimore tunnel had been let, that the Washington Aqueduct extension would cost $25 per lineal foot.

I learn that the present actual cost of the Baltimore tunnel, twelve feet in diameter, estimating its average depth below ground at two hundred and seven feet, the shafts in use being from one hundred and twenty-five to two hundred and sixty feet in depth, is $5.05 to $5.50 per cubic yard.

The twelve-foot tunnel, requiring excavation of 4.18 cubic yards of rock, generally hard blue gneiss, costs $23 per lineal foot.

The tunnel for the extension of the Washington Aqueduct would pass through a similar formation. If made eleven feet in diameter, which is the size of the several tunnels through which the Washington Aqueduct now passes and is large enough to permit any part of it to be lined with masonry a foot thick where the rock is too soft to stand without lining it, would require the excavation of 3.52 cubic yards of rock per lineal foot, which, at $5.50 per cubic yard, should cost $19.30 per lineal foot. Seventeen thousand feet of such tunnel would bring the aqueduct from the distributing reservoir to the line of Fourteenth street, and would cost therefore $328,100, or $70,848 less than a thirty-six-inch pipe to Capitol Hill.

Wherever the rock proves so soft as to require lining with masonry it may be presumed that its excavation will be so much cheaper that the saving in these places, which will be few, will suffice to pay for the masonry which should be built of the hard rock furnished by the excavation of the tunnel itself.

The $71,000 saved from the cost of the proposed thirty-six-inch main would build all of the small terminal reservoir necessary, and would lift and relay such portions of the twelve and thirty-inch mains between Georgetown and the distributing reservoir as would be rendered unnecessary in their present position by the construction of this tunnel, which would bring the aqueduct itself to the hill on the city boundary, delivering with a head of one hundred and forty feet, which is thirteen and a half feet above the highest street grade in Washington at Boundary and Fourteenth street, about ten millions of gallons every three hours, while the thirty-six-inch main is estimated to deliver on Capitol Hill, at one hundred and twenty-five feet above tide, only ten millions of gallons in twenty-four hours.

The information I have as to the present actual cost of the Baltimore twelve-foot tunnel, comes from the resident engineer of one of its sections under construction.

An extension of five thousand feet further east will take the aqueduct to the north end of New Jersey avenue at an additional cost of $96,500. But probably it will not be desirable to make this extension for many years yet.

A reservoir at Fourteenth street, near the Columbia College grounds, will have a commanding position, and the pipes already laid will, under this additional pressure, near the city, give a greater supply than now and at a higher level.

I am, very respectfully, your obedient servant,

M. C. MEIGS,
Quartermaster-General, Brevet Major-General United States Army.

Hon. S. W. DORSEY,
Chairman Senate Committee on the District of Columbia,
Washington, D. C.

The VICE-PRESIDENT. This communication will be referred to the Committee on the District of Columbia, and printed.

REPORTS OF COMMITTEES.

Mr. MORRILL. I am instructed by the Committee on Finance, to whom was referred the bill (S. No. 1584) for the relief of James L. Williams, to report it back. It was evidently referred to that committee by mistake. I move its reference to the Committee on Private Land Claims.

The motion was agreed to.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, to which was referred the joint resolution (H. R. No. 201) proposing an amendment to the Constitution prohibiting the payment of claims of disloyal persons for property injured or destroyed in the late war of the rebellion, to report it with an amendment, and to state that the committee on a careful investigation think that the joint resolution as it passed the House is totally inadequate to the objects that the title indicates, and our effort has been to make it complete. I shall move to take it up as soon as I conveniently can.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1583) for the relief of William H. Everett, reported adversely thereon, and the bill was postponed indefinitely.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the bill (S. No. 1554) relating to printing impressions from portraits and vignettes, reported it with an amendment.

Mr. KELLOGG, from the Committee on Pensions, to whom was referred the bill (H. R. No. 830) granting a pension to Elizabeth Teagarden, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 529) granting a pension to Daniel Middough, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4793) granting a pension to James Mahew, late private in the Twenty-third Battery of Indiana Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4697) granting a pension to Philip Thoen, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James C. Daggett, late private Company E, United States Signal Service, granting an increase of pension, submitted a report thereon, accompanied by a bill (S. No. 1705) granting an increase of pension to James C. Daggett.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 754) granting a pension to James W. Crowley, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. WITHERS. I am also instructed by the Committee on Pensions to make an adverse report upon the petition of Elisha M. Luckett, praying to be allowed arrears of pension claimed to be due for services rendered during the Mexican war. This is reported adversely because it is provided for by the general law granting arrears of pension.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the petition.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (H. R. No. 475) granting a pension to William Black,

late a private in Company K, First Indiana Heavy Artillery, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 1602) granting a pension to Louisa Bainbridge Hoff, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Patrick Bolton, praying to be restored to the pension-roll, asked to be discharged from its further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1706) authorizing the retirement of Colonel William H. French, Fourth Artillery, brevet brigadier-general United States Army, late major-general volunteers, with the rank and pay of a brigadier-general; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1707) for the relief of William Talbert; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1708) granting the right of way through the public lands of the United States in the State of Florida to the Tampa, Peace Creek and Saint John's River Railroad Company of Florida; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BARNUM (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1709) for improving the Potomac River, the drainage and sewerage of Washington and Georgetown; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1710) to replace the name of Laurence A. Williams, late major Sixth Cavalry, United States Army, upon the rolls of the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1711) to reorganize and discipline the militia of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. DORSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1712) making an appropriation for the improvement of the Fourche la Feve River, Arkansas; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1713) to establish an additional land district in the Territory of New Mexico; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1714) for the relief of the State University of California, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1715) providing for the ascertainment of and compensation for patented inventions used in the Springfield breech-loading system by the United States; which was read twice by its title, and referred to the Committee on Patents.

Mr. PLUMB asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1716) granting a pension to David L. Payne; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1717) for the relief of the legal representatives of George Coggan, late of Oregon, deceased; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1718) to provide for the erection of a public building at Brooklyn, New York, for use as a post-office and United States court and for the accommodation of United States internal-revenue officials, and for other Government purposes; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 25th instant approved and signed the following acts:

An act (S. No. 893) to authorize the Secretary of the Treasury to examine the evidence of payments made by the State of Missouri since April 17, 1866, to the officers and privates of the militia forces of said State for military services actually performed in the suppression of the rebellion, in full concert and co-operation with the authorities of the United States and subject to their orders, and to make report thereof to Congress; and

An act (S. No. 1297) for the protection of dairymen and to prevent deception in the sales of butter and cheese in the District of Columbia.

AMENDMENTS TO BILLS.

Mr. FERRY submitted an amendment intended to be proposed by him to the bill (H. R. No. 6143) making an appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. ROLLINS submitted an amendment intended to be proposed by him to the bill (S. No. 1342) concerning street railroads in the District of Columbia; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also submitted an amendment intended to be proposed by him to the bill (S. No. 1343) relating to the taxation of street railroads in the District of Columbia; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also submitted an amendment intended to be proposed by him to the bill (S. No. 1479) relating to assessments for special improvements in the District of Columbia; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. BECK, Mr. BUTLER, Mr. CHAFFEE, Mr. DORSEY, Mr. JOHNSTON, Mr. MITCHELL, Mr. PLUMB, and Mr. WITHERS submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. HARRIS (by request) submitted an amendment intended to be proposed to the bill (S. No. 1412) to provide for improving the navigation of the Mississippi River and for the reclamation of the lowlands of the States bordering thereon; which was referred to the Committee on Commerce, and ordered to be printed.

PRINTING OF TESTIMONY.

Mr. GARLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the testimony taken and to be taken by the select committee appointed under the resolution of the Senate of December 17, 1878, to inquire into the subject of alleged frauds in the recent elections, be printed.

NATIONAL OBSERVATORY.

Mr. SARGENT submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That so much of the report of the Secretary of the Navy as refers to the subject of a new site and buildings for the Naval Observatory, and the report of the commission thereon, be referred to the Committee on Naval Affairs.

Mr. PADDOCK. I move that the joint resolution (S. R. No. 16) authorizing the appointment of a commission of scientists to investigate and report upon the establishment and location of an additional national observatory be taken from the table and referred to the Committee on Naval Affairs in connection with the resolution just submitted by the Senator from California, [Mr. SARGENT.]

The motion was agreed to.

POST-ROUTE IN MAINE.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be directed to inquire into the expediency of establishing a post-route from East-Booth Bay to South Bristol, in the State of Maine.

REVISED STATUTES.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Revision of Laws be instructed to inquire into the expediency of making provision for publishing a revision of the statutes of the United States adopted since the date of the existing revision.

MILITARY POST AT EL PASO.

Mr. MAXEY. I ask unanimous consent to take up and put on its passage the bill (S. No. 1662) making an appropriation for the purchase of a site, and for the erection thereon of a military post, at El Paso, Texas. All the military authorities urge its passage, and the bill is reported unanimously by the Committee on Military Affairs. It will take no time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $40,000 for the purchase of the necessary grounds and the erection thereon of a military post, at El Paso, Texas, to be expended under the direction of the Secretary of War.

Mr. MAXEY. The bill is reported upon the recommendation of all the military officers and upon plans and specifications, and, as I stated, it is the unanimous report of the Committee on Military Affairs.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ABOLITION OF VOLUNTEER NAVY.

Mr. SARGENT. I ask the Senate to consider the bill (H. R. No. 5180) to abolish the volunteer navy of the United States.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Naval Affairs with an amendment, to strike out all after the enacting clause and to insert in lieu thereof the following:

That it shall be the duty of the Secretary of the Navy to organize a board of five line officers of the Navy, none of whom shall be below the grade of captain, whose duty it shall be to make an examination of the line officers now composing the volunteer navy of the United States, which examination shall be such as is required in the examination of officers for promotion; and, further, that it shall be the duty of the Secretary of the Navy to organize a board of five medical officers of the Navy, none of whom shall be below the grade of lieutenant-commander,

whose duty it shall be to make an examination of the eighteen acting and three acting passed assistant surgeons now in the service, should they desire to present themselves, which examination shall be such as is required in the examination of medical officers for admission as assistant surgeons; and in all cases where said board shall find that such officers are professionally, morally, and physically qualified to perform the duties of their position, and shall so report to the Secretary of the Navy, it shall and may be lawful for the President of the United States to appoint such officers assistant surgeons in the regular Navy of the United States. And in the cases of officers who may not be found to be either professionally, morally, or physically qualified to discharge the duties of their position, then said officers shall be mustered out of the service of the Government within six months from the passage of this act, with either six months' or one year's pay, as the President may determine: *Provided*, That in the event of physical disqualification which occurred in the line of duty such officer may, upon the recommendation of a retiring board, be placed upon the retired list, with the pay of officers of like designation in the regular Navy.

SEC. 2. That from and after the passage of this act the Secretary of the Navy shall not appoint acting assistant surgeons for temporary service, as authorized by section 1411, Revised Statutes, except in case of war.

Mr. SARGENT. Mr. President, the passage of this bill will be a great reform in the Navy. It will save a very considerable amount of money each year, and will dispense with officers for whom there is no necessity whatever, but for whose discharge there is claimed to be no law. They were appointed under legislation by which Congress intended that they should be employed on temporary duty; but they have been kept on from year to year until it has become a habit to keep them. They are all, with one exception, medical officers, many of them on waiting orders, and all of them superfluous, as reported by the Secretary of the Navy. The bill provides that these officers shall be examined, if they desire it, and that those who have the professional, moral, and physical qualifications may be received in to the Navy of the United States, the others to be discharged after six months' or one year's pay. It is a House bill, and the substitute which the committee propose makes this difference: by the House bill it is provided that there shall be a board of officers convened. As they are all with one exception medical officers we provide that there shall be a board of medical officers convened in order that it may be strictly ascertained that those who are received into the Navy of the United States have the professional qualifications necessary, and this could only be ascertained by such a board.

The VICE-PRESIDENT. The question is on the amendment reported by the Committee on Naval Affairs.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

It was ordered that the amendment be engrossed and the bill read a third time.

The bill was read the third time, and passed.

PROVIDENCE CUSTOM-HOUSE LOT.

Mr. BURNSIDE. I move that the Senate proceed to the consideration of the bill (S. No. 1624) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to purchase, by contract or condemnation, all that part of the block of land, not already owned by the United States, bounded by South Main street, Crawford street, South Water street, and Custom avenue, if in his judgment the necessities of the public service require, and for this purpose a sum not to exceed $125,000 is appropriated.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SENATOR FROM MISSOURI.

Mr. COCKRELL. The credentials of my colleague having been presented to the Senate I ask that he be now sworn in.

The VICE-PRESIDENT. The Senator-elect will advance to the Chair for that purpose.

Mr. SHIELDS advanced to the Vice-President's desk, escorted by Mr. COCKRELL, and the oaths prescribed by law having been administered to him, he took his seat in the Senate.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DAWES, it was

Ordered, That the papers on file in the office of the Secretary of the Senate in the case of Laban, Heath & Co. be taken therefrom and referred to the Committee on Claims.

CATHARINE AND SOPHIA GERMAIN.

Mr. PLUMB. I ask the Senate to proceed to the consideration of House bill No. 2153.

Mr. ANTHONY. Mr. President, I feel constrained to call for the regular order.

The VICE-PRESIDENT. The Senator from Rhode Island calling for the regular order, the Chair must observe it, and the Senate will proceed with the Calendar of general orders, commencing at the point left off at the last call. The Chair will recognize the Senator from Kansas on the first opportunity.

The bill (H. R. No. 1679) for the relief of Catharine and Sophia Germain was considered as in Committee of the Whole. It directs the Secretary of the Interior to reserve from that portion of annuities due, or to become due, to Cheyenne Indians, $2,500 for Catharine Germain, aged eighteen years, and $2,500 for Sophia Germain, aged thirteen years, two white children, who were captured in Kansas by the Cheyenne Indians while *en route* from Georgia to Colorado, and cause the same to be placed to their credit on the books of the Treasury of the United States, to bear interest at the rate of 5 per cent. per annum, and use from time to time the income from the same in such manner as he may deem expedient for their maintenance, education, and support until they attain the age of twenty-one years, when the principal and all unexpended interest shall be paid to them.

The bill was reported from the Committee on Indian Affairs with an amendment, in line 18, after the words "provided, that if," to insert "before attaining the age of twenty-one years;" so as to make the proviso read:

Provided, That if, before attaining the age of twenty-one years, either said Catharine Germain or Sophia Germain should die without issue, the whole sum due the decedent shall revert to the survivor; and should both die without issue, the whole sum shall revert to the United States; but if either said Catharine Germain or Sophia Germain, or both, have lawful issue, then, at the death of either parent, the amount due to her in her own right, or which she may have inherited, shall become the inheritance of her own issue.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

WARREN MITCHELL.

Mr. HARRIS. Mr. President, when the Senate passed from the consideration of the Calendar on Friday last Senate bill No. 855, for the relief of Warren Mitchell, was under consideration. I suppose by the subsequent order of the Senate postponing all previous orders for the consideration of another matter on Friday that bill has lost its place as the unfinished business.

The VICE-PRESIDENT. It resumed its original place on the Calendar.

Mr. HARRIS. I hope the Senate will consent, inasmuch as it is so far in the consideration of this bill, to go on with its consideration to a final conclusion. It certainly cannot take much time now to finally dispose of it, and whatever may be the judgment of the Senate I should be very glad to have that judgment pronounced.

The VICE-PRESIDENT. The proposition in that form will require unanimous consent. Unanimous consent is asked that the Senate now proceed to the consideration of the bill for the relief of Warren Mitchell.

Mr. ANTHONY. I cannot consent to have that bill taken up now, because it will occupy the whole of the time that should be devoted to the Calendar.

The VICE-PRESIDENT. Objection is made. The Secretary will proceed with the call of the Calendar.

CAMP DOUGLAS MILITARY RESERVATION.

The bill (S. No. 740) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah, was announced to be the next on the Calendar.

The bill was read.

Mr. MORRILL. Let the report be read.

The Secretary proceeded to read the report submitted by Mr. SPENCER, from the Committee on Military Affairs, on the 12th of March, 1878, but before concluding he was interrupted by

Mr. PLUMB. I move that the further reading of the report, being merely the exhibit attached to it, be dispensed with.

The VICE-PRESIDENT. Is there objection?

Mr. MORRILL. The Senator who reported this bill does not appear to be present to make any explanation. It appears instead of a general bill to be a bill for the relief or for the benefit at least of a private individual who has already through trespass enjoyed a very large amount of benefit from the use of lands belonging to the United States. I think that this involves so large an amount that it is worthy of further investigation, certainly of some explanation. I object to its present consideration.

The VICE-PRESIDENT. The bill goes over under objection.

WARREN MITCHELL.

Mr. McCREERY. Mr. President, as the most obvious means of obtaining fair play in this body, I shall move that the Senate postpone the present and all pending orders and proceed to the consideration of Senate bill No. 855. The bill had been regularly reached on the Calendar; it was regularly under consideration when a motion was made to postpone it, and an old conference report which had just about subsidy enough in it to make it very attractive to this body came up; and if this bill is permitted to pass over at this time it will not be attended to at the present session, I fear. I desire a vote upon it. I therefore move the postponement of the present and all prior orders, to be followed by a motion to take up that bill.

The VICE-PRESIDENT The Senator from Kentucky moves to postpone the further consideration of the pending order and of all prior orders, and proceed to the consideration of the bill for the relief of Warren Mitchell.

The question being put, a division was call for; and there were 23 ayes.

Mr. McMILLAN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McMILLAN. The Senator from Kentucky suggested that the measure pending at the time this bill was taken up on a previous day in the Senate contained about enough of subsidy in it to be attractive to this body. I do not remember at this time what that measure was; but it seems to me that this claim of Mr. Mitchell has not any great precedence over any other subject that has been before the Senate at this session. Its merits are certainly not so obvious as to give it prominence in the meritorious business of the Senate.

Mr. HILL. Mr. President, I voted on the previous occasion to take up this bill, and I shall vote for the motion made by the Senator from Kentucky now to postpone all other orders and take up this bill and dispose of it. I do not know what may be the result of this motion. I deem it therefore proper to say that I do not wish it understood that by voting to take up the bill I am to be understood as intending to vote for the passage of the bill. There is perhaps no man in this Senate, on either side of this House, whose convictions are more firmly fixed upon principle to vote against what are known as war claims than myself. I shall vote against them. It will not even need a constitutional amendment to make me vote against them. I shall vote against them because I think they ought not to be paid, and I shall give my reasons for it if the question shall ever come before the Senate in proper form on the passage of this or any other bill of like character. At the same time I think it due to this case, and due to the gentleman, that we should take up his bill and dispose of it. If we are going to pass his claim, it ought to be passed. If we are not going to pass it, he ought to be notified of it, and, especially, as by a solemn vote of the Senate taken last week to take up this bill and dispose of it it was taken up and it lost its place by a motion to consider a conference report, I think it is nothing but fair that we should return to the bill and dispose of it. Therefore I shall vote to take up the bill; but I shall not vote for its passage.

Mr. KERNAN. Mr. President——

Mr. ANTHONY. Mr. President, I rise to a point of order.

Mr. KERNAN. Allow me a single word.

Mr. ANTHONY. I will make the point of order, Mr. President, that the resolution under which the Senate is now acting cannot be postponed except by unanimous consent. It is carrying into effect an order of the Senate.

Mr. KERNAN. Allow me to say a word before this point is pressed. This bill was up and pressed the other day, and I then desired that we should come to a vote upon it. I voted against its indefinite postponement, because I think we had better dispose of such bills when they are up and discussed. I say this because I have examined the bill and shall feel constrained to vote against its passage, but I am ready to vote to take it up and dispose of it now and let this man know whether he can get relief or not.

The VICE-PRESIDENT. The Chair does not think the point of order made by the Senator from Rhode Island is well taken. The order has no higher priority than a special order. A majority of the Senate may always control its business. The Chair overrules the point of order.

Mr. SAULSBURY. I shall probably vote against the bill when it is taken up, but the Senator from Kentucky [Mr. McCREERY] was on the floor for the purpose of making some remarks when we adjourned the other day. I think he should have an opportunity to present the merits of the case affecting the interests of one of his constituents. I hope, therefore, the Senate will consent that the bill be taken up.

Mr. HOAR. I rise simply to a parliamentary inquiry. The ruling just intimated by the Chair is exceedingly important, and it should be understood by the Senate for the government of their future action. I understood that the ruling last session was that the Anthony rule, so called, required unanimous consent to postpone the business which it covered during the morning hour, and that at the present session there has been a vote extending the operation of that rule until half past one daily.

The VICE-PRESIDENT. The Chair does not understand that to be the import of the resolution, which will be read for information.

Mr. HOAR. I do not rise for the sake of controverting the ruling of the Chair, but that it may be perfectly understood by the Senate.

The VICE-PRESIDENT. The Chair so understands. The rule under which the Senate is acting will be read.

The Secretary read the following resolution adopted by the Senate on the 20th instant:

Resolved, That at the conclusion of the morning business each day after this day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless upon motion the Senate shall at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

The VICE-PRESIDENT. The Chair does not understand this proceeding to be within the morning hour or to have any higher effect than a special order of the Senate which can be postponed by a majority of the Senate at all times.

Mr. MORGAN. I was a member of the committee that reported this bill and in committee I voted against the bill. I see no occasion to change my position at all, and yet I feel that it is a courtesy due to the Senator from Kentucky that I should vote to take it up. I have thought it proper to state that as a member of the committee I was against the bill, but I shall vote to take it up.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. COCKRELL. I desire to state that I did not concur in the report of the minority in this case, but joined with the majority. I desire the case considered, but when it comes to a vote on the question of passage I shall vote against the passage of the bill which has been recommended by the minority.

Mr. EDMUNDS. Mr. President, I wish to make a point of order now that everybody has spoken that wishes to, that debate on the merits of a proposition is not in order on a motion to take it up.

The VICE-PRESIDENT. The point is well taken.

Mr. EDMUNDS. I hope the Chair will enforce the rule.

The Secretary proceeded to call the roll.

Mr. MITCHELL, (when his name was called.) I am paired on this question with the Senator from Colorado, [Mr. TELLER.] If he were here, I presume he would vote against taking up this bill, and I should vote to take it up and consider it.

The roll-call was concluded.

Mr. EDMUNDS. I understand that the Senator from Kansas [Mr. PLUMB] and the Senator from South Carolina, [Mr. BUTLER,] who are at this moment absent from the Chamber, are paired on this question. Mr. PLUMB would vote "nay," and Mr. BUTLER would vote "yea."

Mr. MERRIMON, (who had voted in the affirmative.) I wish to say that if this is deemed by anybody a political question I propose to withdraw my vote.

Mr. EDMUNDS. I did not make that suggestion with any such reference; but word was sent up from below where these gentlemen are occupied that they were paired upon this question. That is all I know about it.

Mr. MERRIMON. It is pretty manifest that the Senator from Vermont treats this as a political question. I therefore ask leave to withdraw my vote.

The VICE-PRESIDENT. The Senator from North Carolina asks leave to withdraw his vote, to which the Chair hears no objection.

Mr. JONES, of Florida. I am in the same position with the Senator from North Carolina in regard to this matter.

The result was announced—yeas 31, nays 18; as follows:

YEAS—31.

Bailey,	Eaton,	Jones of Florida,	Sargent,
Barnum,	Garland,	Kernan,	Saulsbury,
Bayard,	Gordon,	Lamar,	Shields,
Beck,	Grover,	McCreery,	Voorhees,
Cockrell,	Harris,	McPherson,	Wallace,
Coke,	Hereford,	Maxey,	Whyte,
Davis of West Va.,	Hill,	Morgan,	Withers.
Dorsey,	Johnston,	Ransom,	

NAYS—18.

Allison,	Conkling,	Hoar,	Rollins,
Anthony,	Dawes,	Howe,	Saunders,
Blaine,	Edmunds,	McMillan,	Wadleigh.
Cameron of Pa.,	Ferry,	Morrill,	
Chaffee,	Hamlin,	Oglesby,	

ABSENT—27.

Booth,	Davis of Illinois,	McDonald,	Randolph,
Bruce,	Dennis,	Matthews,	Sharon,
Burnside,	Eustis,	Merrimon,	Spencer,
Butler,	Ingalls,	Mitchell,	Teller,
Cameron of Wis.,	Jones of Nevada,	Paddock,	Thurman,
Christiancy,	Kellogg,	Patterson,	Windom.
Conover,	Kirkwood,	Plumb,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. McCREERY. Mr. President, because I am a Senator from Kentucky and because a just demand is presented in favor of a gentleman who resides in that State, it is deemed altogether appropriate that I should say something in his behalf.

I would have been entirely willing that the discussion should have been confined to the committee who investigated the matter, and would have been content to place myself upon the record, but I know of nothing which should make me ashamed of the conclusion at which I have arrived or afraid to assign the reasons which have carried me to that conclusion.

I have taken small part in the matter of claims since I have been a member of the Senate. Some of them are just, some of them are probably exaggerated in amount, and some may be utterly fictitious and fraudulent; but the one now under consideration is not liable to a suspicion of exaggeration; it is entirely free from the slightest taint of fraud. The balance sheets of the Treasury assign the fixed and definite sum, and the history of the transaction from beginning to end is well understood. The cotton was seized by military order and after deducting all charges was sold for $128,692.22. Since it is conceded on all sides that the Government makes no pretense of right or title to this fund, we are led to inquire what steps have been taken to ascertain the ownership in order that possession might be restored. No one can say that the amount is too insignificant to justify such an inquiry, and few will assert that the Government can afford to keep the money unless after the most diligent search, it fails to find the owner. It is not thus indifferent in collecting its own revenues; but through its army of agents, attorneys, spies, and detectives, it strikes for the last cent. If the Government would inspire all men with an ambition and a determination to pay their honest debts, let it set an example of inflexible fidelity in discharging its own obligations. We

believe that the true owner of the cotton claim is now before the Senate.

Mr. HOAR. Will the Senator from Kentucky allow me to ask him a question for my own information?

Mr. McCREERY. I will answer your question when I get through if it will suit you as well.

Mr. HOAR. It is on precisely the point the Senator is now making, and I thought it would be agreeable to him.

Mr. McCREERY. I should prefer to proceed and answer the question when I get through. I am going simply to present my views and present them very briefly, as I have made no thorough investigation into the matter. The committee who have investigated the subject can answer questions as to matters of fact better than I can.

Warren Mitchell is a native of Kentucky. He has been too well established in the confidence of the people to render frequent changes of residence necessary, and his labors and his business operations have been confined to the neighborhood and the city of Louisville. By your decision you may entail poverty upon him in his old age; but there is one thing of which you cannot deprive him, and that is the good report which will follow a long life of incorruptible integrity. If he leaves no other inheritance to his family, they can cherish the memory of a character which neither prosperity nor adversity could shake from the solid foundation on which it stood. Louisville and Cincinnati have borne the amplest testimony to his standing, and from a State as remote as Colorado comes a sworn indorsement.

What, then, was the purpose of Warren Mitchell in going across the Federal lines, and how did he go? Did he go forth armed and equipped and covering his movements under the darkness of the night? These are important questions, as malice charged and proven is an essential ingredient of crime. His creditors lived in a loyal State and his debtors lived in the confederated States, and before he could pay his own debts it was necessary that he should make collections. If he had waited awhile a bankrupt's certificate might have relieved him of all his troubles; but that was not exactly according to his notions of the proper way of meeting his just obligations. Like all men at that time who had respect for the authority of the Government, he went straightway to the military headquarters, and he did not go alone. Virgil McKnight went with him, and his presence was a guarantee that there was neither trickery nor deception in the transaction. Virgil McKnight has gone to his grave, but no man in that good old State had more reputation as a man of integrity and no man was more attached to the Union of these States. Upon their representations General Anderson granted the permit, and Mitchell proceeded upon his perilous mission. His success may have surpassed his expectations; at least it furnished the committee occasion to doubt his loyalty, as his cotton was sold for more than the entire amount of his claims. The committee overlooked the important fact that cotton was higher outside than it was inside the confederated States, and that some of this cotton had been purchased before the article had reached its highest price.

To cast additional suspicion upon his loyalty two lines are quoted from a long letter from Judge Ballard, very favorable in other respects, in which he says:

> I do not know what were Mr. Mitchell's views of the rebellion. If he sympathized with it, and I have heard and believe he did, I regret it.

The high position and the high character of Judge Ballard cannot raise this statement above the dignity of hearsay evidence, and it falls to the ground when confronted by the sworn testimony of John B. Lewis, of Denver, Colorado, who saw Mitchell before the rebellion and during the rebellion, and at Louisville and at Nashville heard him express his violent opposition to secession.

No man had more reason to dread conflict than he had. He was not a soldier and had no taste for martial exercises. Diligently engaged in his commercial pursuits, meditating no wrong to others, relying on the law for protection and security, he was suddenly awakened by the cannonading at Sumter to an awful realization of the dangers which threatened destruction to himself and perhaps to his country.

He now sees his claim suspended between a charge of loyalty made by the Supreme Court of the United States and an insinuation of disloyalty in the Senate of the United States. The committee conclude that the disloyalty of the claimant is placed beyond question or doubt by the fact that he was engaged for a short time in pork-packing at Clarksville, Tennessee. It is no part of my purpose to evade the force of established facts, and candor compels the admission that under a sort of moral duress he did superintend that business for a term approaching six weeks.

I am not much of a believer in what are called special providences or the mysterious interposition of divine agencies in the affairs of men. If I were I might find a wonderful illustration in the locality and capacity of the pork-house at Clarksville. The campaign up the Cumberland was a flank movement, rendered successful by constant toil in the presence of constant danger. After the victory at Donelson the veterans of our Army were greatly fatigued and some of them were hungry. Who will describe their satisfaction when the well-stored pork-house at Clarksville disclosed its bountiful supplies? The odor of boiled meat, broiled meat, and fried meat rose from pot, skillet, and frying-pan, and toil and danger were forgotten amid the pleasures of the feast.

Warren Mitchell was opposed to the rebellion from the beginning of the war to the end, and at the age of three score years and ten it looks like grinding oppression to keep his money and send him forth as poor as Lazarus simply because he placed a little fresh pork in a position where it was certain to be taken and consumed by the Army of the Cumberland.

The bill was reported to the Senate without amendment.

Mr. EDMUNDS. I move that the bill be indefinitely postponed.

The VICE-PRESIDENT. The Senator from Vermont moves that the further consideration of the bill be indefinitely postponed.

Mr. EDMUNDS. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. DENNIS.] If he were present, I should vote "yea."

The roll call was concluded.

Mr. MITCHELL. As I stated a moment ago, and have stated several times, I am paired with the Senator from Colorado [Mr. TELLER] on this question. If he were here he would vote for the indefinite postponement and I should vote against it, in order that the bill might be considered further.

Mr. DAVIS, of West Virginia, (after having voted in the negative.) The Senator from Minnesota [Mr. WINDOM] is confined at home by sickness. I do not know how he would vote on this question. I am paired with him, and therefore I withdraw my vote.

Mr. JONES, of Florida, (after having voted in the negative.) I have to say that if there is any doubt about this matter I will ask to withdraw my vote, as I am paired with the Senator from Michigan [Mr. CHRISTIANCY] on all political questions.

Several SENATORS. This is not political.

Mr. JONES, of Florida. Some seem to think it is.

Mr. DAVIS, of West Virginia. It is due that I should make a further statement that this question was spoken of between the Senator from Minnesota and myself, and I am differently situated from other Senators, perhaps, where the question was alluded to between themselves and those with whom they are paired.

Mr. MERRIMON. I am strongly inclined to vote against the bill; but as I am paired on political questions, and this seems to be regarded as a political question, I will observe my pair.

Mr. JONES, of Florida. I will do the same, then, Mr. President; I withdraw my vote.

The VICE-PRESIDENT. The vote will be withdrawn.

The result was announced—yeas 21, nays 24; as follows:

YEAS—21.

Allison,	Davis of Ill.,	McMillan,	Saunders,
Anthony,	Dawes,	Morgan,	Sharon,
Cameron of Pa.,	Edmunds,	Morrill,	Wadleigh.
Chaffee,	Ferry,	Oglesby,	
Cockrell,	Hoar,	Rollins,	
Conkling,	Howe,	Sargent,	

NAYS—24.

Bailey,	Dorsey,	Hereford,	Ransom,
Barnum,	Eaton,	Hill,	Saulsbury,
Bayard,	Garland,	Johnston,	Shields,
Beck,	Gordon,	Kernan,	Voorhees,
Booth,	Grover,	Lamar,	Whyte,
Coke,	Harris,	McCreery,	Withers.

ABSENT—31.

Blaine,	Dennis,	McDonald,	Plumb,
Bruce,	Eustis,	McPherson,	Randolph,
Burnside,	Hamlin,	Matthews,	Spencer,
Butler,	Ingalls,	Maxey,	Teller,
Cameron of Wis.,	Jones of Florida,	Merrimon,	Thurman,
Christiancy,	Jones of Nevada,	Mitchell,	Wallace,
Conover,	Kellogg,	Paddock,	Windom.
Davis of W. Va.,	Kirkwood,	Patterson,	

So the motion was not agreed to.

Mr. HOAR. Mr. President, the Senator from Kentucky who just now addressed the Senate [Mr. McCREERY] promised that he would answer a question at the conclusion of his remarks. He left the Senate Chamber for a moment, probably having forgotten the promise, and I did not have an opportunity to address it to him.

Mr. McCREERY. I will answer it if I can.

Mr. HOAR. I understood the honorable Senator to state as the foundation of his argument that it was conceded and beyond question that the United States had no title whatever to this cotton, and that the only question therefore was to find the legal owner. I wish to ask the honorable Senator if he understands that this is a part of the large quantity of cotton captured at Savannah by General Sherman when he took that city, and if I am correct in understanding him to affirm that the United States acquired no title to any cotton by that capture, and is bound to restore it or its proceeds to the owners, when ascertained?

Mr. McCREERY. I have understood, so far as the cotton is concerned that belonged to rebels, that has to be restored under the decision of the Supreme Court of the United States, and I was arguing against the distinction against a Union man. That was the point of my argument. I understand that the Supreme Court has decided that if this cotton had belonged to a rebel he could have recovered it from the United States by a suit before the Court of Claims.

Mr. HOAR. Then I understand the Senator from Kentucky does affirm that it is the duty of the United States, in his judgment, to pay

all the owners of the cotton captured by Sherman at Savannah the price of the cotton if it was sold and turned into the Treasury.

Mr. MCCREERY. I would rather that the Senator from Massachusetts would understand me to advocate the bill that is before the Senate. I did not undertake to consider any other bill, and I would prefer to be considered as being in favor of the claim now before the Senate.

The VICE-PRESIDENT. Shall this bill be engrossed for a third reading?

Mr. HILL. Mr. President, I suppose that we had as well meet here as anywhere the question made by this bill. I shall vote against it. I shall vote against it because I think it ought not to pass. I am not driven to this course by what is called policy, because the gentlemen on the other side are seeking to make political capital out of this and like claims. I am influenced by no such consideration. On the contrary, if I were influenced in this case by the precedents which republicans have set us in previous Congresses, I should feel constrained to vote for the passage of this bill. I know that by act of Congress the United States Government have paid some very large claims for cotton seized by General Sherman at Savannah; and if the Senator from Massachusetts, [Mr. HOAR,] as is implied by the question he propounded to the Senator from Kentucky, [Mr. MCCREERY,] takes the position that none of the cotton seized by General Sherman at Savannah ought to be paid for by the Government, then the Senator from Massachusetts takes position against the payment of claims that have been allowed by the United States Government and by act of Congress. But I have not investigated to see which way that Senator voted on the question. It would be entertaining and interesting to examine and see how he did vote. One claim for cotton seized at Savannah by General Sherman, amounting to over $500,000, was paid by the votes of a republican Congress when the House and Senate were both I believe about two-thirds republican.

Mr. CONKLING. What case was that?

Mr. HILL. The case of Lamar. That was a very large claim. It certainly had very little loyalty behind it to push it through. I suppose we must conclude that that case was large enough to go through Congress by its own momentum.

Mr. DAWES. Was not that a judgment of the Court of Claims?

Mr. HILL. I have no recollection that it was. It may have been passed upon by the Court of Claims. I do not remember.

Mr. DAWES. I think it was.

Mr. HILL. Certainly there was nothing in that case which made it better than this and many others either before that court or before Congress. I do not know how that got through.

Mr. DAWES. I do not affirm that it was, but I will inquire. I think it was.

Mr. HILL. I only say to the Senator from Massachusetts that whether it went through one tribunal or another, I happen to know it went through under republican auspices. I mention this simply to show that I do not think our friends on the other side should be at this late day exceedingly virtuous on this subject of loyal claims. I have not made the examination. Others profess to have made that examination, and they say not only this claim but claims amounting to a hundred million dollars of like character have been paid by the republican party during the last ten years. I do not know whether they have or not; I am not a man to delve in this kind of records; but certainly we do know that a very large number have been paid amounting to very large sums of money. So if I should follow precedents in this case, the precedents set by gentlemen on the other side, I should feel it my duty to vote for this bill.

I am willing to concede, too, that this gentleman now asking relief at the hands of the Senate is not in the character of a great many others. He is most evidently an honest man from all the evidence I have. I know him but slightly personally; but I have a great many letters from a great many persons in relation to him, and I am satisfied from all the evidence that he is not only an honest man but that he is incapable of preferring a claim before this body, or any body, that he does not believe to be just and right. I believe all that the Senator from Kentucky has said on that subject is correct. So I do not vote against this claim because I have any suspicion that the gentleman who prefers it is any other than an honest, correct man, and that he sincerely believes his claim ought to be paid.

But, Mr. President, I vote against this bill because, in my judgment, it is what we call *par excellence* a war claim, and I am against the payment of all war claims, whether they be loyal or disloyal, unless it be perhaps some few exceptions in favor of religious, educational, and charitable institutions; and there are very few even of that character that I will except. I vote against their payment upon principle. I have considered this question very carefully, and for a long time, and to-day is the first occasion I have expressed publicly my views upon the subject, because I did not desire to express them until after careful consideration of the question.

Now, why do I vote against this claim? It is, as I have said, emphatically a war claim; that is, it is a claim for compensation by reason of losses incurred during the war and by act of war. My first reason for not voting for it is that we cannot pay all of this kind of claims. They would bankrupt the Government. It is impossible that the Government should be expected to pay all these claims and claims standing on as good footing as this in every respect. If we cannot pay them all, to undertake to pay some is unjust to the rest; it is an unjust discrimination; and why should it be made?

On this subject of loyalty it is a curious spectacle to witness in the Senate of the United States my excellent friends on the other side who are anxious to prove that this gentleman was disloyal, and therefore vote against this claim, and some gentlemen on this side seem exceedingly anxious to prove that he was loyal and therefore will vote for his claim. I shall not trouble myself to consider that question. The question of loyalty is one that must yet receive its definition in this country. It has never yet received it. The word "loyal" as used by gentlemen on the other side, and the word "loyalty" at all, in my judgment, is not a word applicable in a popular government. I do dislike, I confess, to hear it. What do you mean by "loyal?" Do you mean by "loyal" a man who was devoted to the union of the States under the Constitution? If you thus define it, there are thousands, many thousands in the South who are and ever have been loyal in the highest sense. It was an easy matter for gentlemen living in Maine and New York and Massachusetts during the terrible ordeal through which we passed to proclaim their devotion to the Union—a very easy matter. Everybody concurred with them. It would have required some courage for my friend here, [Mr. ALLISON,] in Iowa to have said that he was not for the Union. And where it was such an easy matter to have professed unbounded devotion to the Union, I do not think that such profession has much merit in it. But further down, where the sun was warmer and the feelings were more heated, it required courage when the test was made for a man to say he was devoted to the Union. That man is entitled to some credit, and I do know that there are thousands and tens of thousands who under the most trying ordeal to which human courage was ever subjected, stood up and proclaimed their fidelity to the Union to the last moment. Yes, sir, there were thousands of men throughout the Southern States who were fearlessly defending the preservation of the Union, and resisting the current that was against them, when hundreds and thousands who for years have been loudly blatant in declaring their devotion to the Union where it was safe to do so, would not have dared to open their mouths on that line. Yet these gentlemen up here are *par excellence* loyal, and those gentlemen down there who fought against secession until it became an accomplished fact and submitted to disunion as they would submit to the death of a father, from necessity only, and then in sorrow and sadness of heart, are denounced as disloyal because they did what they could only do in their conscience or fact, go with their own people when they were determined to go and did go—these men are now held up as disloyal, and Senators in this body are exerting their wits and exhausting their patience and industry to find some little circumstance that may taint somebody with disloyalty for the purpose of defeating his rights! As I say, this question of loyalty has yet to receive a definition. It has not yet received a proper definition, and cannot be properly defined until passion shall subside, and sound reason be fully restored.

I know thousands of men who were ready to give everything to prevent the act of secession, who were devoted in their hearts and lives to the preservation of the Union of these States; who felt conscientiously bound under the teachings of their life-time and under the circumstances that surrounded them, compelled as they were necessarily, compelled conscientiously, not by duress, compelled by honest convictions as the result of a policy which they did not approve, to go as they did go; and, sir, I know that they were just as devoted to the Union as gentlemen who in a different climate and on more convenient occasions could safely proclaim their loyalty and who are now denouncing them as disloyal. It is all wrong, Mr. President.

This gentleman I dare say was a Union man. I know thousands of Union men in the South who were never guilty of an act of infidelity to the confederacy and who yet never saw the hour nor the moment that they would not have terminated the war on the basis of honest reunion. They were ready at all times to do it and their sentiments were not concealed, yet they went with their section. Shall we say that this is disloyalty, and that they only were loyal who desired that one section should become the conqueror of another section of a common country? Is that what you mean by loyalty? If you mean by loyalty devotion to the Union, desire to preserve the Union, desire even that the result of the conflict on terms honorable to both should be the preservation of the Union—if that is the meaning of loyalty, there are thousands and millions in the South who were loyal and always were loyal. But if you mean by loyalty a desire that one section of a common country should become the conqueror of another section, it will be a fatality for this country if anybody is loyal. I am not ashamed to stand up here and say that I believed the greatest possible calamity that could happen to this country was for one section to become the conqueror of another section of a common country; and yet the sun has never shone for an hour when in my heart of hearts the highest political ambition I ever had was not to see the American Union under the Constitution preserved, perpetuated, and obeyed forever. And yet, sir, there never was an hour when I would not have laid down my life and my all rather than have seen one section of a common country become the conqueror of another section of that same common country, and I believe that the wise men of this country will yet wake up to the fact that the greatest misfortune that has ever befallen us among our many misfortunes is the fact that a successful party to a sectional war obtained immediate and unchecked control of the whole Government over both sections.

So this talk about loyalty and disloyalty has no weight whatever with me in this case. I vote against this bill from higher and different considerations altogether. I say that if the evidences of loyalty

in this case are to be accepted as satisfactory, and if that definition of loyalty which I believe is the only proper one is to obtain, then there are thousands of men who have been wronged, reduced to poverty, utter poverty, in the South, who, "in times that tried men's souls," gave higher evidence of devotion to the Union than has been given by equal thousands who are so ready to denounce them as rebels. It is very well for gentlemen who have never been put to the test, it is very well for gentlemen who have never had their courage tried, very well for gentlemen who have never been where it required courage to defend the right as they believed it, very well for gentlemen who could get up in the North and say they were for the Union and receive the undivided plaudits of every listener, very well for gentlemen of that sort to talk about their devotion to the Union and their loyalty, but I tell them their devotion and loyalty has never been tested.

Sir, I have seen men since I have been in the American Congress who have been, on all occasions, parading their devotion to the Union and using every occasion to denounce southern men as disloyal, who, in my heart I believe, if they had lived in the South, would have rivaled William L. Yancey in their devotion to secession. They have the same temperament, the same disposition, the same character of mind, and they would go on whichever side was popular, whether in the North or in the South, perhaps honestly so. The gentleman to whom I have alluded was honest in his convictions. A gentleman of naturally extreme temperament and extreme ways of thinking will take an extreme position in one climate or the other. The people of this country ought to wake up to the conviction that the late war was an honest war; it was a war based upon honest differences. The people of the South had been taught to believe in what was called the sovereignty of the States, but the first people who talked about secession were the people of New England. The North believed one way, the South believed the other. The North was opposed to slavery, the South was in favor of it; but yet the South did not bring the slaves to this country. It was an honest difference of opinion on the powers of government and the rights of property, and each man who was faithful to his own side ought to command the respect of every man on each side and on both sides. I like courage that is exhibited in defense of honest convictions, whether those convictions be right or wrong. I do not like that courage that is loudest when it is safest. Human courage under all circumstances is a thing for human admiration. We are told in classic verse that the very gods look upon it with favor, and I admit that those gallant men of the North, democrats and republicans alike, who met and slew the Hotspur of secession in the day of his vaunted power and strength were the right royal heirs of a truly regal heroism. But these men who, thirteen years after this Hotspur has been dead, are forever exhibiting their Falstaffian courage by sticking their tongue-swords in the thighs of this dead Hotspur for no purpose but to claim underserved rewards and honors from a deluded people, are not entitled to the respect of either gods or men. I do not say that anybody is doing it here, but this perpetual talk about loyalty and disloyalty, this perpetual talk about rebels, is all wrong. It does not come from a magnanimous spirit. Magnanimity in victory is a higher virtue than courage in battle. It is of the very essence of Divinity itself. And why cannot the American people, North and South, wake up to realize the fact that four million, or eight million if you choose to call them so, of people in the South honestly differed on questions of political duty and allegiance with a larger number, twenty millions or more, in the North, and unfortunately went to war on the subject? The war is over; the Union is restored; it is time that we should leave the passions of the war where I propose to leave its losses—behind.

But, Mr. President, I have been betrayed into saying a great deal that I did not intend to say. I merely intended to give my reasons briefly why I cannot vote for this or any other like bill. I will proceed to give another reason. To pay some of these bills and not all of them, is not only unjust in fact but unjust in its effects. Those who are not paid and are equally deserving have to be taxed in order to compensate those who are paid. Now, there are tens of thousands of people in the South who lost everything in the war who were devoted to the Union as far as sentiment could make them devoted, and who were faithless to the Union only in obedience to circumstances they could not control and a power they could not resist. They lost everything. Are you to tax them in order to pay my friend from Kentucky? Why, sir, throughout the South there are thousands upon thousands of soldiers who went to the war and who lost everything, lost their arms, lost their legs, lost their health; many of them lost their lives. They can never get anything for their losses; they will never ask anything for their losses. Nobody in this Hall on either side of it would pretend to pay one of those men or their widows and orphans for their losses. The maimed southern soldier will never come here and ask for a pension; his widow and orphans will never ask for a pension. They accept their losses as the penalty of failure, as brave men ought. Am I to tax these people, these wounded and limping soldiers, their destitute widows and orphans in the South, a great many of whom have nothing but their land and many have not that—am I to tax them for the purpose of paying these claimants that come here and say they must be paid because they are loyal and when my loyal friends on the other side will not believe they were loyal at that? It is not right.

The fact of the business is that the war which we have had in many respects cannot be judged by the rules which have been established for ordinary wars. It was a peculiar war, a war of a sectional character. It was a war between citizens of the same country unfortunately divided by sectional lines. You cannot repair the losses of the war. You could not do it if you were to undertake to do it, and, in my judgment, the sooner our people in the South are taught not to be looking here to Government for the reparation of their losses, the sooner they are taught that the only means by which they can repair their losses is to go to work like honest men and do it by frugality and industry and time, the better it will be for them, the better it will be for the country. The tens of thousands throughout the South who are best entitled to pay viewed from any stand-point, who are the most deserving, who made the greatest sacrifices, who are in the most need, can never get one dollar of compensation, and will never ask one dollar of compensation; and I protest against taxing them to pay a few others who have the ability to come here and worry Congress into granting them compensation. Let the losses of the war go, and if people want to avoid losses by wars in future let them be taught to avoid having wars at all. That is the best way.

I think, sir, all parties ought to take this position. It is a little painful to me to see gentlemen of one party seeking to make political capital out of cases of this kind, and the other side protesting that it is not right. Why not agree to take one common position, that these war losses cannot be paid? The Government is not able to pay them; the Government ought not to pay them, in view of their peculiar character and the circumstances of the war, and the sooner the people are taught that, the better, and let these constant irritations about the payment of war losses cease. As I said, I might make a few exceptions in favor of religious, educational, or charitable institutions, but I should make very few of that sort. Where the property destroyed was of such a character as to be of great public importance and great public benefit, not only to one section of the country, but to all sections of the country, I should think it would be legitimate and proper as a public benefit to pay that kind of loss. There are, I think, perhaps a few cases of that kind, but put them altogether, so far as my knowledge extends, they would not exceed half a million of dollars.

Mr. President, perhaps I ought not to take the time of the Senate, but I will give my idea of the character of these war claims, loyal and disloyal, by an illustration from real incidents. I will give you, first, the character of a claim that will not be paid, and it is a type of many millions. Early in the month of September, 1865, it became necessary for me, in the discharge of a professional engagement, to travel one hundred miles in the immediate track of Sherman's march through Georgia. One day, about two o'clock in the afternoon, I became exceedingly hungry. I said to the youth who was driving the horse: "You must stop at the first favorable opportunity and let me get something to eat." I shall never forget the expression of the young man. "Ah!" says he, "mister, I don't reckon you will find anything you will consider fit to eat in this part of the country; Sherman has been along here." "Well," I said, "but the people in this part of the country live on something, do they not?" "Oh, yes, but I don't hardly know how it is they live; they seem to live, though." "Well," I said, "I can live one day on what they live on constantly, I am pretty sure, and therefore we will stop at the most favorable chance apparent." It was not long before we came to a very good-looking frame dwelling, two stories high, a dwelling of a character very well known in the South, containing six rooms, well built, and indicating in former times a country family well-to-do in the world. The fencing was all gone. The chimneys were standing on the outside, showing that the outhouses had been burned, but there stood the main dwelling; and I said to the young man: "Stop here, and I will see if I can get something to eat;" and I went in. I was met at the door by a very excellent looking lady, modest, but evidently refined and educated, as she turned out to be—a country lady of great hospitality, but with evidence of poverty all around her, and she looked prematurely old. She said to me when I made known my purpose of stopping, "Why, my dear sir, I would be glad to give you anything that I could, but I have nothing that you will have I suppose, nothing that I feel inclined to offer you." "Anything that you have," I said, "will suit me, because I am exceedingly hungry." She said, "I can prepare for you nothing but some potatoes and some eggs, but I have nothing in which to cook the potatoes except the embers; we are in the habit of roasting them in the ashes. I have nothing in which to cook the eggs except the ashes or a broken skillet. I have not a whole piece of furniture or a whole kitchen implement on the premises; everything is broken." She handed me a seat. Said she: "I have handed you the best seat I have, and the back of that is broken as you see." "Why is all this?" "Why," she said, "Sherman's army passed along here and did all this." Well, I told her that I would take the potatoes and eggs, and she put them in the ashes accordingly, and while they were roasting I said to her: "Will you please give me an account of your experience and trials when Sherman's army passed along here?" She said she would. I cannot give it all to the Senate, but certainly it was one of the most interesting narratives I ever listened to in my life.

The lady was one who had married about eight years before the war began. She was well raised and graduated at a female college in Georgia. She and her husband settled that place and built that house; they had about one thousand acres of land, thirty slaves, and

all needed personalty, and were entirely out of debt, and perfectly happy. They had had three children born to them, the oldest at the time of my visit being only twelve years old.

Mr. BECK. Mr. President, I desire to ask whether Warren Mitchell got any of that woman's eggs and potatoes or not. We are trying his case now, not hers.

Mr. HILL. I will come to Warren Mitchell's case. I will show you how it applies to Warren Mitchell's case, but I shall do it in my own way.

It turned out that her husband went into the confederate army and lost his life in one of the battles in Virginia. His remains were brought home and buried in sight of where we were sitting. About a year after her husband was killed in Virginia in the confederate army, Sherman's army passed through Georgia, and all her slaves except one, her cook, called Aunt Millie, left. This Aunt Millie was raised with this lady, and had nursed her in her infancy and was given to her by her father; and she said she would never leave her under any circumstances, and she remained with her. But to make a long story short, everything they had was taken. All the stock, all the provisions were taken away. Everything that could not be carried away was killed or broken or burned, except one cow, two banks of potatoes, and one small crib of corn. The cow was saved by Aunt Millie claiming it as her own, which she did for the purpose of saving it. The corn-crib was saved in this way: the lady sat in her house with her three children and saw everything being burned; seeing the torch about to be applied to the last corn-crib she summoned courage and went out with her babe in her arms and her two little children by her side and said to the officer who seemed to have charge of the sport: "Sir, have you a family at home?" The officer said he had a wife and two children. "What would you think," said she, "if a southern army should pass through your country and take the last mouthful of bread your wife and children had?" The officer was a man. He lifted his hat most gallantly and then said to his squad, "Don't fire that crib," and said to the squad in the garden, "Don't disturb further those potatoes," and that is the way the lady saved the crib of corn and banks of potatoes. In the mean time the squad had gone into the house, pulled down all the pictures, defaced the walls, broke all the furniture, broke everything she had in the shape of kitchen utensils, and carried off all her silver-ware and cutlery. The last she saw they were pulling the covering from the grave of her husband, and supposing they were going to take his body off she fainted away. But Aunt Millie stopped them by telling them "for God's sake not to make war on the dead," and they left. This is a literal fact. That woman had raised a patch of one acre of potatoes and one small field of corn, working with her own hands and aided by this good woman Aunt Millie, and her three little children, and they had lived on that scant allowance from the time Sherman's army passed by until I met her.

Now, that woman will never come here to have her losses repaired; she will never come here with a claim before Congress and ask for compensation. And now I will give you another claim. A few weeks after I took my seat as a member of the other House in the Forty-fourth Congress I received a card one day by a messenger who said that a lady desired to see me in the Speaker's reception room. I went in. She was exceedingly well dressed. She had velvet and diamonds and laces all over her, and the first speech she made to me was to express the great gratification of all Georgians that I had been elected to Congress, "for now," she said, "all Georgians will get their rights." She soon made known the *animus* of that speech, for in the next sentence she said she had a claim before Congress which she desired me to support, and she knew I would support it because she was a Georgia lady, born and raised in Georgia, and she knew I would support her claim. "Well, who are you? If you were born and raised in Georgia and had losses in Georgia, why are you here in the condition I see you?" "Oh," she said, "when Sherman's army passed through Georgia they destroyed my property, but," she added, "I married one of the Federal officers [laughter] and came North."

Mr. HOAR. She took her revenge in that way. [Laughter.]

Mr. HILL. Yes, sir. She married a Federal officer. The first woman I mentioned lost her husband in the confederate army, and therefore is disloyal. The second woman married an officer in the Union Army and therefore is loyal! Well, her statement was true because she produced a very complimentary and flattering letter from General Sherman. Evidently the letter was genuine and not dictated by a woman. But I will say in justice to General Sherman that I am satisfied he gave that letter more on account of the woman's husband, who was a Federal officer, than on account of her claim. I assume and believe he did.

But I asked this lady "what is your claim for?" "Why," she said, "for personal property destroyed by Sherman's army." "How much is your claim for?" "Eight hundred thousand dollars," she said, whereupon I became bewildered. Eight hundred thousand dollars of personal property of one person destroyed by the war! Yes, she said, it was well proven, proven by the very officers and men who destroyed it, who set fire to it, and she named quite a number of republicans in the House who she said had promised to vote for her bill; but they had told her it was very important for her to get a democrat, and best of all a southern democrat, to introduce it. Therefore she came to me as a democrat and a southern democrat from her own State—her dear Georgia—to introduce her bill. She said the republicans assured her that if she would get a little re-enforcement from the South and from the democratic party her bill would certainly become a law. I said to the lady, "It will be very difficult to make me believe that the whole county ever at one time had eight hundred thousand dollars' worth of personal property." But she said "It is all proven, it is all right, and the republicans are ready to vote for it." I do not say they were; I can only tell you what the woman said, and as she is loyal you ought to accept her as a good witness. [Laughter.]

Seeing that her entreaties could do no good, she finally said to me that I had to vote for her bill; that she had a great many friends among the newspaper men, and she sometimes wrote for the newspapers herself; and, looking at me with all the air of command and of one having authority, she said "Mr. HILL, if you don't vote for my bill you will never go to the Senate." Thereupon, I made the lady a bow, gave her a flat refusal to have anything to do with her or her bill, and left.

Those are specimens of the character of what you call southern claims. This first claim will never come here; the second and cases like it will always be here; and I saw this same claim of $800,000 for the woman who became loyal by marriage and for whom republicans were ready to vote—I saw the same claim paraded through the northern press in the campaign of 1876 as evidence that if the southern democrats ever did get here in power and the democratic party had the majority, they would take everything there was in the Treasury. Now, should I vote to tax that woman who fed me on the eggs and potatoes to pay this woman in velvet, laces, and diamonds? But this claim, says my friend from Kentucky, is not Mitchell's claim. What is Mitchell's claim, to come to the honest truth of it? I have not an unkind feeling for Mr. Mitchell; I admit he is a good man; but does not everybody in the Senate know that it is a speculative claim? Is it not a mere speculative claim? The woman I spoke of in Georgia lost her living, the living of herself and her little children, and she does not come here to ask you for a dollar. Here is a gentleman, a good gentleman, who went by permission of the military authorities into the South during the war and bought a large amount of cotton by which he hoped to realize a fortune, as you all know. He took the chances of war in his speculation, and the chances were against him. Shall we tax that woman who fed me on the eggs and potatoes and tax the little land that she and her children are working for the purpose of paying these speculative losses of Mr. Mitchell? Would it be right? Would it be just? I will not do it.

All over the South there are hundreds and thousands of people, limping, weak, poor, impoverished by the war, laboring as best they can for a bare sustenance, asking Congress for nothing, not looking to the Government for compensation for their losses, and here and there is some man who has lost something, who has lost some property, or failed to make what he hoped for in some speculative venture, coming here and asking Congress to pay his losses, and that we shall tax these poor people to pay his losses. I for one shall not do it. I am against these bills, therefore, upon principle. I do not need any constitutional amendment to make me vote against them. There will be a great many hard cases, I concede. War is nothing but an ordeal of hard cases. I do not know anything produced by war except hard cases. You cannot repair all those hard cases. Mr. Mitchell has a hard case, but his case is not harder than thousands of others who lost like property or other property, and who were just as loyal as he was. You cannot repair these losses. Let it go forth, therefore, that we take the position distinctly and emphatically that this talk of paying southern war claims must end. Teach it to our people and teach it to all the people, and let all this political excitement on the subject end.

Mr. President, I am the humblest man in the democratic party. That party, after eighteen years of absence, I trust and believe, is about to return full-fledged to power. I think it will have possession of every department of this Government. It certainly will have it if we convince the people North and South that we deserve to have it; for evidently the people are well satisfied that the republican party does not deserve to be continued in power, and the only question with the people is whether the democratic party does deserve to be intrusted with power. If I had control of the party, as I have not, and shall never have, if my voice were worth anything, there are four things I would have the democratic party to proclaim to the world in most convincing terms and adhere to with unflinching fidelity. I would have the party to say:

1. We will not pay war losses, loyal or disloyal, unless we make a few exceptions of religious, educational, and charitable institutions, and very few of these.

2. We will vote no more of the public money and no more of the public credit, and no more of the public lands to build up or enrich mammoth monopolies in the shape of railroad corporations.

3. We will in good faith pay every dollar of the public debt, principal and interest, in good money of the standard value.

4. We will restore the Constitution to the country and honesty and economy to its administration, confining the General Government to its limited, delegated sovereign powers to promote the general welfare, and leaving the States unmolested in the exercise of their reserved sovereign powers to promote the local welfare of the people.

Do these four things, and, in my judgment, the child is not born who will witness the termination of democratic administration in this

country, and the tongue has not been gifted with language that can express the prosperity which will follow to all our people in every section of our country.

Mr. McMILLAN. Mr. President, the Senator from Georgia [Mr. HILL] has traveled over a great deal of ground this morning, but I am unable to see its application to the case now before the Senate. It seems to me the inquiry of the Senator from Kentucky [Mr. BECK] was very appropriate. The Senator from Georgia has great difficulty in defining what is loyalty to the Government. It seems to me the Senator must have forgotten some of the early lessons of this country and some of the teachings of the patriots of the country. I can refer him to a definition which will tell him what loyalty is; it is one that is familiar in this country, and one which, if the Senator and his compeers had remembered when they attempted to destroy the Government, would have prevented that attempt:

> Our country! * * * may she always be in the right; but our country, right or wrong.

If the Senator has so much difficulty in defining what is loyalty, if that is the condition of the members of the party to which he belongs, it will be a sad day for this country when the people come to the conclusion, as he says they have, that the republican party should not be intrusted with the powers of this Government, but that it should be transferred to the party to which the Senator belongs.

Mr. President, this claim is a claim depending upon its own facts, and the Senate will not be misled in regard to it. The Senators on the other side of the Chamber do not at all agree with the Senator who has just taken his seat in believing that no war claims should be paid. There are Senators there who do believe that war claims should be paid, and there are those who believe that this claim should be paid, war claim or not. This claim must depend upon its own facts, and whatever may be Mr. Mitchell's character as a citizen, whatever may be his honesty, his integrity in regard to his private life and transactions, in his conduct during the war he rendered aid and service to the confederate government. In doing that he acquired this cotton which was seized by the general of the Union Army and confiscated and sold. Mr. Mitchell remained there during the whole war, and not only purchased and traded there, but, as the Senator from Kentucky [Mr. McCREERY] himself says, engaged in supplying that army with provisions to maintain the confederate forces.

That is the condition in which he presents himself here claiming to be a loyal man, and, under the definition of the Senator from Georgia, he says he may be loyal or disloyal. I can come to but one conclusion from the facts in this case: that is, that he was disloyal during the war as is shown by all his acts and conduct during that time, whatever his professions may be now.

Mr. BECK. Mr. President, I had determined not to say a word on this subject, because I supposed other gentlemen would exhaust the subject, which is in a nutshell. I hope that at least one other Senator, [Mr. JONES, of Florida,] who was on the committee in the last Congress, will be heard; but I confess I am amazed at the stump speeches that have been made on this floor about national politics both by the Senator from Georgia and the Senator from Minnesota, both of whom being on the same side and voting against this bill might, I think, have reserved their opinions on great national politics till they found some occasion where they differed, instead of making a private claim the occasion of so much gush. Warren Mitchell either has an equitable right to this money he asks for or he has not; and, while I know that there are many so-called loyal war claims that I will oppose as earnestly as the Senator from Georgia or anybody else, if any citizen of any State presents as fair a claim as Warren Mitchell seems to me to do, I will vote to pay it to him whether he was loyal or disloyal.

The facts in this case are few and simple. Warren Mitchell, a citizen of Kentucky, who whether the Federal authorities had power to give him the right to go South or not believed they had, and they believed so, went there by authority of the commanding officer at Louisville, Kentucky, and had in his possession at the close of the war, in Savannah, Georgia, as his private property, a large amount of cotton, which, together with other cotton, was seized by the authorities of the United States. Out of the proceeds of this cotton—after paying all expenses, commissions, and fees to those who acted as agents of the Treasury, and they took nearly half of it—a large amount, some $128,000, is now in the United States Treasury, deposited there as the proceeds of the cotton of Warren Mitchell, not, as the Senator from Georgia suggests, money that his poor people have been taxed to furnish. If recovery is had, it is not to be had out of money levied or collected by taxation from the people, but simply a fund in the Treasury of the United States, the proceeds of the sale of property that belonged to Mr. Warren Mitchell, now held in the Treasury of the United States subject to the rights of the owner, if there is any right in any owner, and it is for Congress to determine whether there is or not. It is admitted on all hands, admitted by the Senator from Minnesota, that if the property then seized by the United States authorities had been the property of the Senator from Georgia, [Mr. HILL,] or the property of Mr. Jefferson Davis, or of any other official from brigadier-general up or down in the confederate service, he would have recovered it and would have the money in his pocket to-day, and many of them have recovered it for property seized at the same time and taken under the same circumstances: men who were high officials, brigadier and major-generals in the army of the confederacy during all the war, have made their demands on the Treasury and claimed it and had it allowed to them.

Mr. VOORHEES. And they got it by a vote of both republicans and democrats.

Mr. BECK. Yes: and they got it by a vote of the republican and democratic parties both, and by decisions of the Supreme Court of the United States. Now when an honest man who took no part in the war—to state his case in the worst aspect of it, did nothing except that he was inside their lines trying to collect the debts justly due him, and labored with his hands to make a living in order to keep from starvation, when there was nothing else to do—comes to demand his money, he cannot get it, and great indignation is raised by men who fought all through the war, as the Senator from Georgia I suppose did; when he and all the men who fought with him have received their money, Mr. Mitchell cannot get his, and they say it is an outrage for him to ask for it.

Mr. HILL. Will the Senator from Kentucky allow me?

Mr. BECK. I do not know whether the Senator from Georgia got any money out of the Treasury.

Mr. HILL. I never asked the Government to pay me anything, and I do not know anybody in the South in my condition who ever did ask it.

Mr. BECK. The Senator from Georgia has only to read the decisions of the Supreme Court of the United States in the case of Padelford, in the case of Pargoud, in the case of Armstrong, in the case of Klein, and in dozens of other cases, to find that millions of dollars have been paid to men in the South under circumstances exactly like those which surrounded him whose cotton was taken by the Federal authorities. The decisions of the Supreme Court in 9 Wallace, in 13 Wallace, and 21 Wallace, in 1 Otto, and in dozens of other cases—indeed, the reports are full of just such cases as those to which I allude, where the money was paid to confederate generals and high officials for cotton taken just as Mr. Mitchell's was. Let me read the reply of the Senator from Minnesota [Mr. McMILLAN] when the Senator from Tennessee [Mr. HARRIS] asked him a question.

Mr. HILL. I do not want to interrupt the Senator from Kentucky, but I will state to him that I have not recently looked at the cases he refers to. My recollection, however, is that in the cases he refers to the decisions of the Supreme Court were put on the ground that the claimants were pardoned before their property was seized.

Mr. JONES, of Florida. So was Mr. Mitchell pardoned.

Mr. BECK. Yes, sir; he too has a pardon, which wipes out his offenses.

Mr. HILL. Before his cotton was seized? Did Mr. Mitchell get an amnesty before his cotton was condemned as contraband of war?

Mr. JONES, of Florida. That could not well be.

Mr. BECK. The decision of the court was that the pardon of any one pardoned related back in all cases.

Mr. HILL. They did not state it justifiably, but they stated the exact fact and put it on that peculiar ground.

Mr. BECK. The fact is as I have stated it.

The Senator from Tennessee [Mr. HARRIS] put a question to the Senator from Minnesota [Mr. McMILLAN] when the bill was before the Senate last Thursday. Said Senator HARRIS:

> Where is the legal title to that cotton or to the proceeds?
> Mr. McMILLAN. It is not in Warren Mitchell.
> Mr. HARRIS. Will the Senator be kind enough to tell me where it is?
> Mr. McMILLAN. The Government of the United States has seized that property as a prize of war. Mr. Mitchell not only has no title to it technically, but he has no title to it under any view of the case you can take.
> Mr. BOOTH. Will the Senator allow me to ask him a question for my own enlightenment?
> Mr. McMILLAN. Certainly.
> Mr. BOOTH. Would this cotton have been liable to seizure and confiscation if it still remained in the hands of Mitchell's vendors?
> Mr. McMILLAN. No, sir; because his vendors were engaged in supporting the rebellion; they were citizens of the confederacy. That is the difference between his vendors and himself. They were doing acts which we recognized as being proper on their part to their own government.

That admits the whole case. Can the equity of an active confederate be greater than that of a private citizen of an adhering State?

The Senator from Minnesota stands up here and tells us that every one of those men who fought in the confederacy was doing acts proper to their own government, and therefore would under these circumstances be entitled to the proceeds of his property, and ought to have it, as the Supreme Court said they ought, and then he raises the cry that fraud is being perpetrated when a man like Warren Mitchell, seventy-odd years of age, who spent his fortune in paying the men he owed in Louisville and Cincinnati, many of whom were loyal and fought through the war on the Federal side, asks the same rights Mr. Davis would, as he admits, be entitled to. It is a horrible outrage, says the Senator, for him to come and ask it. He was in the possession of that property. All the decisions of the Supreme Court in the case of Klein and others show that seizure by the military does not divest the title of the man from whom it is seized; it does not work confiscation of the property; but it is held by the United States as a trustee for the man who is the owner of it. Klein having shown that he was the owner, they gave it to him. The Supreme Court said that seizures only reach to captures on the high seas, to abandoned property, the property of belligerent enemies used for the purpose of war, and that the property of a private citizen did not belong to the Government by reason of the Government taking it into its possession.

Warren Mitchell had that cotton in his possession. It was taken from him by a wrong-doer, as the court say. The Government had no right to take it. Although its proceeds are in the Treasury, they are there to his credit. The money never reached the Treasury by the taxation of a human being. No person ever paid a dollar of taxes to place that money there. The Government holds it, I repeat, as a trustee. The United States can only keep it from him by reason of the trespass committed on him; and no matter what his title is, it is a better title than the title of any trespasser. Even if there was illegality or wrong in the original contract and he had no right to buy cotton from the people of the South, yet, having bought it and having it in his possession, that possession gives him a better title than anybody else who has no title except that acquired by wrongful seizure. Although the courts may hold that the contract was illegal, yet the law will never interfere to take it away from him and vest title in a trespasser. To illustrate: I have a copy of the Revised Statutes of the United States in my hand. I claim it as mine. Does the Senator from Minnesota think that he could take that book out of my hand and claim it as his and deposit it in a court or in the Treasury or anywhere else and then with any plausibility argue the question that I have not a title to the book, that I got it wrongfully from Mr. HILL? It is none of his business where I got it. My title is better than his; he has no right to inquire into my title, and had no right to deprive me of my possessory title.

Mr. MCMILLAN. Mr. President——

Mr. BECK. I ask the Senator to wait until I get through with my illustration and then I will answer any question that is pertinent. I repeat, I am in possession of the book. I am claiming it as mine. The Senator from Minnesota takes it, and it is proven that he has no right to it; that he had no right to take it. When I ask to have it restored he has no right even to raise the question of how I got it. My possession protected me. When Warren Mitchell had that cotton the United States acquired no title by the seizure; and when the money is in the Treasury, as it is now, subject to the right of the owner, the United States has no right to raise the question as to how he got it or with whom he traded or whether he was loyal or disloyal. We had no right, even while at war, to go and take the property, the beds, th e moneys, the tables, or the dishes of the people of Savannah because the Federal forces captured that city. Here are the terms on which civilized war is carried on, and every man in the Senate and all except two in the House voted for the following resolution, when Mr. Crittenden, of Kentucky, moved it, on the 22d of July, 1861:

Resolved, &c., That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional government and in arms around the capital; that in this national emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease.

That was the spirit in which we *professed* to be carrying on the war. Here was a citizen of the United States, not a belligerent, with property belonging to him. The Government took his property. The Supreme Court decided that they had no right to take it, but decided that there was no law authorizing him to sue the United States. If it had been taken from Mr. Davis, or Mr. STEPHENS, or Mr. HILL, or any of the gentlemen from the South whom I see around me now, they could have sued and recovered it back, as many similarly situated did; and yet this Congress is to be told that when Mr. Mitchell had been deprived of property rightfully in his possession, which was wrongfully taken from him, which any confederate could have recovered, the United States has a good title to it, and that it is a fraud and an outrage to say that he ought to come to the Congress of the United States and ask the representatives of the people to put him in the same position in which Mr. Davis or Mr. HILL or any one else of the leading confederates has been placed.

It is said that in the country from which I and my ancestors came a celebrated man by the name of "Rob Roy" laid down the law to be—

> That they should take who have the power,
> And they should keep who can.

That is the law of the Senator from Minnesota and the Senator from Georgia, and all those who are maintaining that this money should be retained in the Treasury. You have got it; you have the power to hold it; it never was yours; it was taken wrongfully, but you are going to apply to the payment of taxes what never was derived by taxation from the people, an honest man's money that could not have been held by you if he had been engaged in red-handed rebellion, as many of you choose to call it; and not only that, but you rise and deliver tirades of abuse against the reputation of a peaceable citizen admitted to be honest, and to show how patriotic you are hold up your hands and say, "oh no! equity ought to close its doors against such a claim as this; no man can deny that the decisions of the Supreme Court are in our favor; on all the principles of justice and equity the right is in our favor, and the possession was unquestionably ours; that is all any legislator can properly inquire into." Mr. Mitchell was wrongfully deprived of it; the money is held, as it were, in chancery, to be interpleaded for, and who has a better title? If you can keep Mitchell's money, then you could have taken all the money, all the beds, all the clothing, and everything that the people in Savannah had in spite of the resolution I have read, which was passed when the war began, that we were fighting only to restore peace and proposed to fight only with the armies in the field.

The Supreme Court, if you would give it jurisdiction, would unanimously sustain this claim; the facts are with us; the equity of the case is in favor of Mr. Mitchell, and as he was a citizen of my State I could not sit by, although I had not intended to say a word, when I heard such abuse heaped upon him all around and his claim sneered at in the way it was, without stating the facts as the record shows them to be.

I am asked a question by the Senator from North Carolina, [Mr. MERRIMON:] what does the Supreme Court say about the case? In 21 Wallace, which I hold in my hand, which the Senator from North Carolina [Mr. MERRIMON] will, I hope, look at, the decision is simply that being a citizen of the State of Kentucky and not a citizen of one of the Confederate States he could not sue in that court; his domicile being in a loyal State, and the cotton being obtained by him and seized in another State, and having had business transactions there he had no standing in court. Not one word is said in that case against the merit of his claim. On the contrary, the court admits that if he had been a citizen of a disloyal State, if he had been in fact himself the commander-in-chief of the armies of the confederacy, residing in Georgia, the Government would have been compelled to pay him the money. There is nothing against him in the decision in 21 Wallace except the single fact of his residence.

This Congress cannot in my judgment afford to stand and resist his claim on that ground. I know that there are men who want the Treasury to take everything. There are gentlemen at the other end of the Capitol and here also I expect who want us to take England's money received from the Geneva award and place it in the Treasury, to take all we can, and hold all we can get. I would rather sink Warren Mitchell's money and all the money obtained at Geneva in the bottom of the ocean than disgrace the United States by holding money thus obtained and thus wrongfully held in the Treasury of the United States, when the Government would have paid it out to any of the confederate generals or to the president of the southern confederacy and yet holds it because the claimant was a citizen of a loyal State himself, an honest and a loyal man, and therefore he had not a status in the courts. It is guilty of a most disgraceful act if it does. This Congress would say by the rejection of this claim, "We will keep the money because we have got it, and you have not the power to take it away from us."

If it was not Warren Mitchell's cotton, it was the cotton of the man from whom he bought it. Suppose he had bought it from Mr. HILL. Mr. HILL could have gone into the courts and recovered it all. Suppose he had bought it from Mr. Davis or Mr. STEPHENS, or any of the high functionaries of the confederacy, they could have said that Mr. Mitchell did not vest himself with the title because the transaction was illegal, and they could have shown that fact and recovered it and have the money in their pockets now. That would be just and equitable, I suppose, even if Mr. Mitchell had paid them for it. But this Congress is asked to say, because it was taken wrongfully from a citizen of Kentucky, while it could not have been taken wrongfully from any of those high confederates, you will not give him a hearing, and will drive him forth in disgrace and poverty because you can make pretense that he is not a loyal claimant.

I am as much opposed to those so-called loyal claims as anybody here. I agree with the Senator from Georgia in that, at least; but I am not going to vote for this claim because this claimant was loyal or disloyal; that question is not worthy of consideration. I will vote for it because it is his, and not ours. There are high officers of the Federal Government who are now habitually making affidavits as to the loyalty of men whom they themselves imprisoned for disloyalty, because they can now share the profits of their claims; but Mitchell's is not a case of that sort. He is here representing himself, and telling the truth. Those men in the South owed him. He obtained the cotton, and it was wrongfully taken from him. He has paid $150,000 of debts to men in Louisville and Cincinnati, indeed all over the country, and he is almost a bankrupt at seventy years of age, and the Treasury is holding the money that he tried so hard to get to indemnify him, and honorable Senators propose to keep it. Yet nothing is proved against him except that, in order to make a living during the time he had to stay there, as he had to do some sort of work or starve, he did work that inured perhaps to the benefit of the Confederate States, when there was nothing else in the country that he could do. That is the whole case. You can vote it down if you desire; it will not be a record the men who do so will be proud of.

Mr. MORGAN. Mr. President, I intimated before this case was taken up for consideration that I intended to cast my vote against this bill; I expected to do so silently and without argumentation, standing upon the facts and upon the doctrine stated in the report of the majority of the committee. I still adhere to my opinions. I have not felt myself dislodged from those convictions by any remarks that have fallen from any Senator on this floor either in reference to the question of justice or of the injustice on the part of the United States, or in reference to any supposed influence that such a vote may have on the *status* or future prospects of political parties. So far as Mr. Mitchell personally is concerned I have for him great respect, and I may add that the people of Alabama have also for him great respect,

having for a series of years enjoyed commercial intercourse with him, and having received from him favors of which we are not forgetful.

I suppose that no case will ever come before the Senate in which I shall follow the convictions of my own mind with more reluctance than I shall in this case, for I not only prize the character of this gentleman, but I sympathize with and commiserate his misfortunes. But, sir, this is a question that ought to be considered by the Senate of the United States with reference to principle. It is not a question whether Mr. Mitchell is seventy years old, and infirm, and poor, but the question is whether or not we shall commit ourselves to a certain doctrine which overturns the judicial decisions of the highest tribunal of the United States. Upon all questions that come within the range of the jurisdiction of that august body, it is a fixed principle, I may say, with me, to follow its decisions so long as they are consistent at all with common sense and with my views of the Constitution, and upon all debatable propositions I yield my judgment to that of the Supreme Court of the United States.

The Government of the United States, after the war had ceased, made what I conceive to be a liberal and generous provision of law, by which persons who felt themselves aggrieved by seizures made during the war might come into a court constituted by Congress for the purpose of presenting their claims to the consideration of that court, giving also a right of appeal to the defeated party, whether the United States or the plaintiff in the action, to the Supreme Court of the United States, and fixing the right of claimants to the indemnity upon the same basis that the rights of individuals were before fixed in litigations between each other. After having provided a court of that sort, after having provided an appeal from that court to the Supreme Court of the United States, the question is whether Congress ought to fly in the face of a decision of the Supreme Court of the United States and in a fit of generosity, which may be excited either by political affiliation or by sympathy for the personal misfortunes of any man, undertake to overturn that decision, go counter to it, and vote an appropriation of money in favor of an individual who the Supreme Court has decided is not entitled to any compensation whatever.

Although when Mr. Mitchell came to Alabama he may have come for the purpose of collecting debts, in order that out of the proceeds of those collections he might pay debts that he owed to northern creditors, he came really in violation of the laws of the country. It was found to be necessary in the late war, as it has been found to be necessary in all wars, that rules of non-intercourse should be established either by congressional action or by presidential proclamation, the President being the chief commander of the Army and Navy, which should prohibit the citizens of the different belligerent localities from carrying on a commercial intercourse with each other. Mr. Mitchell came to the Southern States in violation of these rules of non-intercourse, and, while thus violating a law of the United States essential for the prosecution of the war itself, he acquired or supposed that he had acquired a title to certain property in the South, cotton, which I must say he acquired in part by purchase and in part by speculation. At all events he acquired that which was considered in the States that he visited a title as against all other individuals to this particular cotton. He concentrated it at the port of Savannah, with a view to its speedy shipment after the war might close to some port for sale. During the war, while belligerent hostilities were prevailing, while the war was flagrant in the country, General Sherman, in an attack that he made on the city of Savannah, captured this property along with a great deal of other property in that city. General Sherman, if the rules of war that prevailed between civilized countries had been afterward carried into execution between the United States and the Confederate States, might have transferred every dollar of the property that he captured in Savannah to the United States Treasury, and no man in the South under the public laws of war between separate and distinct nations could have claimed that he had an individual right or any right whatsoever to the cotton thus captured or its proceeds.

But the Government of the United States afterward made an exception in favor of those men whose private property had been taken, and gave to those men who could prove their title to their private property the right to go into the Court of Claims and there assert that right as against the Government, and to pursue that right so as to reclaim from the Government the amount of money which was the proceeds of cotton that might actually have found its way into the Treasury of the United States. This was an act of grace on the part of the Government. It was an act that the Government of the United States were not under public law compelled to do; and I will not be found on the floor of the Senate flying in the face of a law which I consider at once liberal and generous and, I must say also, just.

Mr. Warren Mitchell, availing himself of this law, went into the courts of the United States; he preferred his claim there, in what capacity? As the owner of these bales of cotton. He could not have come as a suitor against the Government of the United States in any other capacity than that of the owner of these bales of cotton. The question that the Government of the United States permitted him to argue in its tribunals was not one of naked equity; it was not one purely of conscience; but it was a question of legal right; and when he came to the threshold of that court and presented his demand he had to come with a legal right or else he came with no right at all.

When Warren Mitchell went into the Court of Claims, as I insist he went there, for the purpose of having the question decided by that tribunal whether he was the owner of this cotton, it was decided adversely to him by a divided court. That case was appealed to the Supreme Court of the United States, and upon full consideration of all the evidence that he was able to produce in affirmance of his title, it was decided that he was not the owner of this cotton. Now, then, we can ask for no higher adjudication, no more solemn judgment on the claim of Warren Mitchell than that which has been pronounced by the Supreme Court of the United States which excludes him from the ownership of this cotton because of his having violated the laws of the United States in obtaining possession of it in the Confederate States. The proposition is that whereas he was a citizen of the State of Kentucky, domiciled therein, and had no right to go into the enemy country for the purpose of traffic with the citizens of that country without the permission of a certain authority of the Government, he had not obtained that authority, he went contrary to law, and in every act that he performed while in the State of Alabama he violated the laws of the United States.

Now, sir, it makes no difference how strongly my sympathies might move me in the direction of recompensing the losses he may have met, I cannot find that it is my duty as a Senator, or indeed my right as a Senator, to give him out of the Treasury of the United States money arising from the proceeds of the sale of property which did not belong to him. The question is asked here "to whom did it belong?" If you will consult the act of Congress in reference to captured and abandoned property, you will see at once to whom it belonged, because the Government of the United States took jurisdiction of the disposal of all property left in the precise condition that this was and converted it into property, the proceeds of which should be paid into the Treasury of the United States. When the money thus realized got there, it got there legitimately for all public purposes, and it is not for us now to discuss whether Warren Mitchell might have from conscientious or moral duress obtained the title of the vendors of the cotton or some of them. The laws of the country have said the proceeds of this cotton have rightfully gone into the Treasury of the United States. If we take them out and pay them to Warren Mitchell, we pay them contrary to those laws.

Mr. MITCHELL. May I ask the Senator a question?

Mr. MORGAN. Yes.

Mr. MITCHELL. I desire to ask the Senator from Alabama whether if upon all the facts presented by this case the claimant, instead of being a loyal citizen residing in the State of Kentucky, had been a disloyal citizen residing in the State of Alabama, he would vote to pay this claim under his views of public law and the decisions of the Supreme Court?

Mr. MORGAN. If I had been on the Court of Claims, and the case had come there for judicial decision, not barred by the statute of limitations, I think it is very likely I would have decided that he was entitled to the cotton, if he had been pardoned and was also a citizen of Alabama, because his title to the property in that instance would not have been acquired by a violation of the laws of the United States.

Mr. MITCHELL. Then I understand the Senator from Alabama to hold and to declare to the Senate and the country that if he had been a member of the Court of Claims or a member of the Supreme Court of the United States, and this case had come before either of those courts of which he might have been a member, upon precisely the same facts as are presented by this case, with the exception that the claimant had been a rebel and a resident of a disloyal State, he would have voted to pay the claim under his views of public law.

Mr. MORGAN. I do not know whether the Senator from Oregon has ever been president of a Sunday-school or not; but he certainly is a master of catechism.

Mr. MITCHELL. I have put a very simple question.

Mr. MORGAN. I do not propose to answer every question that may arise in the mind of the Senator from Oregon. It is sufficient for me to answer those questions which arise on the record of the case. I will say to him, however, that if I had had the good fortune to have been on the Court of Claims, or even the Supreme Court of the United States, and a man who had been pardoned, though he had been a rebel, had found his cotton taken without authority of law and converted into the Treasury of the United States, I should have been compelled, under the laws of the United States, to vote to give him the proceeds of that cotton unless in the acquisition of the title to that property he had violated some law of the United States, which a rebel would not have done.

Mr. MITCHELL. Now, if I do not interrupt the Senator, the only reason, as I understand him, why the Senator would not as a member of either of those courts or as a member of Congress vote to pay this claim is because the claimant at the time the transaction occurred was a loyal man, a citizen of a loyal State, and was not a disloyal man and a citizen of a disloyal State.

Mr. MORGAN. The reason in that case would have been that the man who was thus situated would not have violated the laws of the United States in an endeavor to acquire a title to this property. If the Senator cannot understand that distinction, he will excuse me from undertaking to educate him on this subject.

Mr. MITCHELL. I am willing to receive all the light my friend from Alabama can give me on the subject. I do not profess to be as wise as my friend from Alabama.

Mr. MORGAN. The reason why he was not entitled to the ownership of this cotton is that a law of the United States had prohibited him, being a citizen of Kentucky, from going down South and trafficking with our people for the acquisition of the property. That legal infirmity was in his title, which he could not overcome, and from which to-day we have no right to excuse him. That dispenses with all inquiry really in reference to his loyalty or disloyalty. Mr. Mitchell stands here to-day as a man against whom it has been decided by the Supreme Court that he is making claim to money the result of sales of cotton which did not belong to him under the laws of the country. Therefore his appeal comes to us in the nature of a petition for a charity, a benefaction to be conferred by Congress. When he comes upon that ground I have great personal sympathy for him, and, as I have remarked, I have great respect for him. At the same time I do not suppose that his loyalty is of that supreme and immaculate character that would justify us in taking $110,000 out of the Treasury for the mere purpose of rewarding that sentiment of his mind, which I must say was not very fully portrayed in the actions and conduct of his life during the period of the rebellion.

I do not profess to be a perfect judge of that description and quality of loyalty which entitles a man to come to the Congress of the United States and demand some recompense at our hands as a reward for that loyalty under which he asserts no positive legal title. On that subject I am disposed to defer to those gentlemen who have better ideas and views of what constituted loyalty to the Government of the United States than I have been able to form or than I possess. I can only say this: if the Confederate States had succeeded in their effort at emancipation from the Union and had succeeded in the establishment of an independent government, and this cotton had been destroyed by the same means or taken by the same means that the cotton was taken by the capture of Savannah, I never should have found it in my heart as one of the confederate soldiers or confederate lawmakers to have denied Mr. Mitchell compensation upon the ground of his disloyalty to the confederacy, for, though gentlemen may think he was entirely loyal to the Union, I believe that he was as loyal to the confederacy as a man could be whose home was in a non-belligerent or rather in a loyal State. I mean by that loyalty evinced by sympathy and sentiment, and I might add loyalty as evinced by conduct while he was within our lines during the whole period of the war and which enabled him to participate in the benefit of contracts for furnishing supplies to the confederate army.

When we propose to reward loyalty I want to reward the pure article. I do not want to reward any article of loyalty that seems to be in the least degree under suspicion; and I am determined in my conduct in the Senate, when men come from the South, or from the North either, claiming the rewards of their loyalty, that they shall prove it to a demonstration before I will undertake to reward them on that account. I am not satisfied on that subject here, and yet I have rendered my judgment as a member of the committee and as a Senator upon the ground that we have to undo a decision of the Supreme Court, we have virtually to repeal the laws of the United States, before we can ever get at this money in the Treasury for the purpose of returning it to Warren Mitchell.

Mr. HAMLIN. Mr. President, I move that the Senate proceed to the consideration of executive business. I do it now as I suppose there are other Senators who wish to speak on this bill.

Mr. JONES, of Florida. Will the Senator withdraw that motion for a few moments?

Mr. HAMLIN. How long?

Mr. JONES, of Florida. Ten minutes.

Mr. HAMLIN. Others desire to speak on the question. I hope the Senator will postpone his remarks until another day.

The PRESIDING OFFICER, (Mr. ROLLINS in the chair.) It is moved by the Senator from Maine that the Senate proceed to the consideration of executive business.

The motion was not agreed to; there being on a division—ayes 18, noes 21.

Mr. JONES, of Florida. If this bill can be left as the unfinished business for to-morrow, very well; I have no particular desire to go on this evening.

Mr. EDMUNDS. If the Senator from Florida does not claim the floor to speak now, I should like to make a motion. I move to postpone the present and all prior orders and take up the resolutions that I offered the other day on the subject of the constitutional amendments and instructing the Committee on the Judiciary to report a certain bill.

Mr. JONES, of Florida. I cannot yield to that.

Mr. CONKLING. Does the Senator from Florida prefer to proceed to-day rather than to-morrow if this bill goes over as unfinished business?

Mr. JONES, of Florida. I would rather speak to-morrow if the bill goes over as the unfinished business; but if it is to lose its place on the Calendar, I prefer to go on now.

Mr. CONKLING. So I apprehend; and yet I think Senators around the Senator from Florida voted against the motion to proceed to executive business supposing that he preferred to speak to-night. If he does not prefer to speak to-night, then I venture to renew the motion that the Senate proceed to the consideration of executive business. That will leave this bill as the unfinished business for to-morrow, and the Senator from Florida will be entitled to the floor. I make that motion.

The PRESIDING OFFICER. The Senator from New York moves that the Senate proceed to the consideration of executive business.

Mr. HARRIS. I rise to inquire, if the Senate proceeds now to the consideration of executive business, does it leave this bill as the unfinished business?

Mr. CONKLING and others. Certainly it does.

Mr. HARRIS. That was my impression, but I desired to know it certainly.

Mr. EDMUNDS. If my motion should not prevail now to take up the resolutions I have had the honor to propose, I shall try to move them to-morrow.

Mr. HARRIS. I of course understand that if the motion of the Senator from Vermont shall be carried by the Senate it postpones the consideration of the bill; but the motion of the Senator from New York to proceed to the consideration of executive business, as I understand, leaves this bill as the unfinished business and the business in order for to-morrow?

Mr. CONKLING. No doubt about it.

The PRESIDING OFFICER. It is moved by the Senator from New York that the Senate now proceed to the consideration of executive business.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 796) for the relief of Jenkins A. Fitzgerald, assistant surgeon United States Army;

A bill (H. R. No. 1173) for the relief of Joseph R. Pratt;

A bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others;

A bill (H. R. No. 1502) for the relief of Ella P. Murphy;

A bill (H. R. No. 1545) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased;

A bill (H. R. No. 1614) for the relief of S. T. Marshall, of Lee County, Iowa;

A bill (H. R. No. 3378) to change a term of the district court in the County of Pennington, in the Territory of Dakota;

A bill (H. R. No. 3434) releasing the title to a certain cemetery lot to the city of Montgomery, Alabama;

A bill (H. R. No. 4007) for the relief of private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina;

A bill (H. R. No. 4116) authorizing the board of commissioners of the Soldiers Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers Home;

A bill (H. R. No. 4123) for the relief of Germain H. Mason, of Michigan;

A bill (H. R. No. 4143) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased;

A bill (H. R. No. 4290) for the relief of William S. Hansell and sons;

A bill (H. R. No. 4418) for the relief of John D. McGill;

A bill (H. R. No. 4419) for the relief of Peter Meagher;

A bill (H. R. No. 4554) for the relief of James G. Harrison;

A bill (H. R. No. 5300) to provide for the holding of terms of the district and circuit courts of the United States at Fort Scott, Kansas;

A bill (H. R. No. 5822) for the relief of Henry T. Fuller and others, sureties upon the official bond of William H. Waterman;

A bill (H. R. No. 5984) to amend section 688 of the Revised Statutes of the United States;

A bill (H. R. No. 6159) granting a bounty land warrant to Elisha Franklin, a survivor of the war of 1812;

A bill (H. R. No. 6169) to establish a district and circuit court at Chattanooga, Tennessee;

A bill (H. R. No. 6170) for the better organization of the district court of the United States within the State of Louisiana; and

A joint resolution (H. R. No. 105) authorizing the Secretary of the Treasury to pay certain officers of the internal-revenue service the amounts due them for their services as such officers previous to the time of executing their bonds and taking the oath of office as prescribed by law.

The message also announced that the House had passed the following bills and joint resolution:

A bill (S. No. 43) to provide for taking testimony to be used before Congress in cases of private claims against the United States;

A bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of the Territory of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses over the veto of the governor of said Territory;

A bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent;

A bill (S. No. 1060) authorizing the Secretary of War to erect headstones over the graves of Union soldiers who have been interred in private, village, or city cemeteries;

A bill (S. No. 1277) to extend the jurisdiction of the district and circuit courts of the United States for the southern district of Florida; and

A joint resolution (S. R. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri.

The message further announced that the House had passed the following bills, with amendments in which it requested the concurrence of the Senate:

A bill (S. No. 623) to amend sections 900 and 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d day of February a holiday within said District; and

A bill (S. No. 1151) to amend section 5497 of the Revised Statutes.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire.

The message further announced that the House had agreed to the amendments of the Senate to the concurrent resolution of the House providing for the printing of 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region, being volume 2, Contributions to North American Ethnology, in quarto form.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution of the House providing for the printing of 3,000 copies each of volumes 3, 8, and 13 of the final reports of the Geological and Geographical Survey of the Territories, in quarto form, with the necessary illustrations.

The message further announced that the House had agreed to the amendments of the Senate to the concurrent resolution of the House providing for the printing of 3,000 copies of the report of the Geographical and Geological Survey of the Rocky Mountain Region relating to the geology of the High Plateau of Utah, in quarto form, with the illustrations and charts.

The message also announced that the House had passed a concurrent resolution providing for the printing and binding at the Government Printing Office, for the use of the Department of the Interior, of 2,000 copies of Professor Hayden's tenth annual report of the Geological and Geographical Survey of the Territories for 1876, uniform with the edition ordered by Congress.

The message further announced that the House had passed a concurrent resolution for the printing in the CONGRESSIONAL RECORD of the memorial exercises in honor of Professor Henry, held in the Hall of the House of Representatives on the 16th day of January, 1879; in which the concurrence of the Senate was requested.

The message also announced that the House had passed a concurrent resolution providing that whenever the proper officer having charge thereof shall have received a sufficient number of orders for Professor Hayden's Atlas of Colorado, accompanied by the cost price thereof, with 10 per cent. additional, to warrant, in his opinion, the expense of putting the plates to press, he shall cause an edition thereof to be published; in which the concurrence of the Senate was requested.

The message further communicated to the Senate, in compliance with its request, a copy of the testimony of James E. Anderson, given before the committee of the House of Representatives on investigation of alleged frauds in the electoral vote of the States of Louisiana and Florida, so far as it affects Hon. STANLEY MATTHEWS, a Senator from the State of Ohio.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army;

A bill (H. R. No. 4200) relating to the National Road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road;

A bill (H. R. No. 5052) to amend section 3835 of the Revised Statutes of the United States relating to deficiency in postmasters' accounts; and

A bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives, and for other purposes.

PAPER CONTRACTS INVESTIGATION.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be authorized to send for persons and papers and to employ a stenographer in any matter that may arise out of the award of the recent contracts for paper.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter of the Chief of Ordnance inclosing a special estimate and recommendation for the purchase of land to enlarge and protect the San Antonio arsenal, Texas; which was referred to the Committee on Military Affairs.

He also laid before the Senate a letter of the Secretary of War, transmitting a copy of a preamble and resolutions adopted by the Chamber of Commerce of Pittsburgh, Pennsylvania, on the 13th instant, recommending that appropriations for the completion of the Davis Island Dam be made; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, communicating, in obedience to law, a report of Major G. L. Gillespie, Corps of Engineers, of a survey of the bar at the mouth of Columbia River, Oregon; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, communicating, in obedience to law, the report of the board of officers appointed to examine the works in progress of construction by James B. Eads at the mouth of the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, transmitting copies of communications from W. J. Murtagh, offering to sell to the Government the property in the city of Washington at the southwestern corner of Pennsylvania avenue and Thirteenth street, known as the "Republican building"; which was referred to the Committee on Appropriations, and ordered to be printed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After two hours and ten minutes spent in executive session the doors were reopened, and (at five o'clock and forty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 27, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at ten minutes past twelve o'clock. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

Mr. TOWNSEND, of New York. I ask unanimous consent that this order be allowed to continue, without regard to the expiration of the hour, until all the States and Territories are called.

Mr. WRIGHT. I object.

MOUNT PLEASANT RAILROAD COMPANY.

Mr. HENDEE introduced a bill (H. R. No. 6175) to incorporate the Mount Pleasant Railroad Company of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

DARWIN JOHNSON.

Mr. JOYCE introduced a bill (H. R. No. 6176) granting a pension to Darwin Johnson, late a private in Company C, Eleventh Regiment Vermont Volunteer Infantry, war of 1861; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EBENEZER G. BIGELOW.

Mr. JOYCE also introduced a bill (H. R. No. 6177) granting a pension to Ebenezer G. Bigelow, late a private in Second Vermont Battery, war of 1861; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PENSIONS TO SOLDIERS OF WAR OF 1812.

Mr. JOYCE also introduced a bill (H. R. No. 6178) to amend the act of March 9, 1878, relating to pensions for service in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

CONDEMNED ORDNANCE FOR SOLDIERS' MONUMENT.

Mr. RICE, of Massachusetts, introduced a bill (H. R. No. 6179) donating four condemned cannon to the town of Sutton, State of Massachusetts, to be used in the erection of a soldier's monument; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

OPHELIA E. SIMMONS.

Mr. CRAPO introduced a bill (H. R. No. 6180) granting a pension to Ophelia E. Simmons, widow of David A. Simmons, late a master's mate in the Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WORK ON PUBLIC BUILDINGS.

Mr. MULLER introduced a joint resolution (H. R. No. 219) asking the President to appoint a board to examine into and report on a better system of doing work on our public buildings; which was read a first and second time, referred to the Committee on Education and Labor, and ordered to be printed.

EDWARD G. QUINCY.

Mr. DWIGHT introduced a bill (H. R. No. 6181) granting an increase of pension to Edward G. Quincy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE FISHER.

Mr. STARIN introduced a bill (H. R. No. 6182) for the relief of the minor children of George Fisher, late of Company E, One hundred and fifty-third Regiment New York Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANK V. EDMONDS.

Mr. LOCKWOOD introduced a bill (H. R. No. 6183) granting a pension to Frank V. Edmonds; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DUNBAR R. RANSOM.

Mr. LOCKWOOD also introduced a bill (H. R. No. 6184) to authorize the President to restore Dunbar R. Ransom to his former rank in the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. LOCKWOOD also introduced a bill (H. R. No. 6185) amending section 2305 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN ODELL.

Mr. CUTLER introduced a bill (H. R. No. 6186) for the relief of John Odell, of New Jersey, a private in the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

OLIVER JACOBS.

Mr. WARD introduced a bill (H. R. No. 6187) to place the name of Oliver Jacobs, Company A, Fifty-eighth Regiment Pennsylvania Volunteers, on the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARK WALKER.

Mr. HARMER introduced a bill (H. R. No. 6188) for the relief of Mark Walker, late first lieutenant Nineteenth Infantry and brevet captain United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SAMUEL M. FREEMAN.

Mr. HENKLE (by request) introduced a bill (H. R. No. 6189) to remove the charge of desertion from the military record of Samuel M. Freeman, late a private of Company G, Third Maryland Potomac Home Brigade Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN M. TAYLOR.

Mr. VANCE introduced a bill (H. R. No. 6190) granting a pension to John M. Taylor, Company A, Second Kansas Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ADDITIONAL GROUNDS AND BUILDINGS FOR CONGRESS.

Mr. MONEY (by request) introduced a bill (H. R. No. 6191) for the purchase of additional grounds and buildings for the Congress of the United States; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

EMILY THREADGILL.

Mr. ATKINS introduced a bill (H. R. No. 6192) granting a pension to Emily Threadgill; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARTHA JANE DOUGLASS.

Mr. ATKINS also introduced a bill (H. R. No. 6193) granting a pension to Martha Jane Douglass; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPEAL OF THE DUTY ON QUININE.

Mr. ATKINS also introduced a bill (H. R. No. 6194) to repeal the duty on quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ANDREW I. HOOPER.

Mr. DIBRELL introduced a bill (H. R. No. 6195) to restore the name of Andrew I. Hooper, of McMinn County, Tennessee, to the pension-roll; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARINE HOSPITAL, MEMPHIS, TENNESSEE.

Mr. YOUNG, of Tennessee, introduced a bill (H. R. No. 6196) to provide for the construction of a marine hospital in the city of Memphis, Tennessee; which was read a first and second time, referred to the Select Committee on Epidemic Diseases, and ordered to be printed.

BURRELL SAULS.

Mr. YOUNG, of Tennessee, also introduced a bill (H. R. No. 6197) for the relief of Burrell Sauls, of Hardeman County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

TREATY WITH MEXICO.

Mr. YOUNG, of Tennessee, also introduced a joint resolution (H. R. No. 220) providing for a treaty with the Republic of Mexico; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

CLEMENT A. WILLIAMSON.

Mr. HANNA introduced a bill (H. R. No. 6198) for the relief of Clement A. Williamson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MEDICINES ON FREE LIST.

Mr. HANNA also presented a joint resolution of the Legislature of Indiana, asking that certain medicines be placed on the free list; which was referred to the Committee of Ways and Means, and ordered to be printed.

LOVELL EDRINGTON.

Mr. SEXTON introduced a bill (H. R. No. 6199) for the relief of Lovell Edrington, of Vevay, Indiana; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SAMUEL AND DAVID WILSON.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 6200) for the relief of Samuel and David Wilson, of Urbana, Illinois; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

LOUISE HOME.

Mr. BUCKNER (by request) introduced a bill (H. R. No. 6201) to exempt the Louise Home, in the city of Washington, from taxation; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ENTRANCE TO CUMBERLAND SOUND.

Mr. DAVIDSON introduced a bill (H. R. No. 6202) making an appropriation for dredging and improving the entrance to Cumberland Sound, in the States of Florida and Georgia; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHARLOTTE HARBOR AND PEACE CREEK.

Mr. DAVIDSON also introduced a bill (H. R. No. 6203) making an appropriation for the improvement of Charlotte Harbor and Peace Creek, in the State of Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ACCOUNTS OF ARMY AND NAVY OFFICERS.

Mr. OLIVER introduced a bill (H. R. No. 6204) to re-enact and continue in force the act of June 23, 1870, entitled "An act to authorize the settlement of accounts of officers of the Army and Navy;" which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

STURGEON BAY SHIP-CANAL.

Mr. POUND introduced a bill (H. R. No. 6205) making appropriations for lighting the western approaches to the Sturgeon Bay Ship-Canal in Wisconsin, and for a pier-head light on Lake Michigan to guide into the Harbor of Refuge; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF PETALUMA CREEK.

Mr. LUTTRELL introduced a joint resolution (H. R. No. 221) for the survey and improvement of Petaluma Creek, between the City of Petaluma and the Bay of San Francisco, California; which was read a first and second time by its title.

Mr. EDEN. I call for the reading of the joint resolution.

The joint resolution was read *in extenso*, and was referred to the Committee on Commerce, and ordered to be printed.

LAND CLAIMS IN CALIFORNIA.

Mr. WIGGINTON introduced a bill (H. R. No. 6206) to authorize the claimants to certain lands in Los Angeles County, California, to submit their claims to the United States district court for that State for adjudication; which was read a first and second time by its title.

Mr. EDEN. I call for the reading of the bill.

The bill was read *in extenso*, and was referred to the Committee on Private Land Claims, and ordered to be printed.

STATE UNIVERSITY, CALIFORNIA.

Mr. DAVIS, of California, introduced a bill (H. R. No. 6207) for the relief of the State University of California, and for other purposes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

FRANCIS W. SEELEY.

Mr. STRAIT introduced a bill (H. R. No. 6208) for the relief of Francis W. Seeley; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

MRS. H. M. FOOTE.

Mr. STEWART introduced a bill (H. R. No. 6209) for the relief of Mrs. H. M. Foote; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LAND DISTRICT IN NEW MEXICO.

Mr. ROMERO introduced a bill (H. R. No. 6210) to create an additional land district in the Territory of New Mexico to be called Lincoln; which was read a first and second time by its title.

Mr. EDEN. I call for the reading of the bill.

The bill was read *in extenso*, referred to the Committee on Public Lands, and ordered to be printed.

INDIAN DEPREDATIONS IN 1878.

Mr. FENN introduced a bill (H. R. No. 6211) to ascertain and report the losses of citizens of the State of Oregon and the Territories of Idaho and Montana on account of the destruction of property by hostile Indians in the year 1878; which was read a first and second time by its title.

Mr. EDEN. I call for the reading of the bill.

The bill was read *in extenso*, referred to the Committee on Military Affairs, and ordered to be printed.

TIMBER LANDS IN CALIFORNIA, ETC.

Mr. FENN also introduced a bill (H. R. No. 6212) extending the provisions of an act approved June 3, 1878, entitled "An act to provide for the sale of timber lands in the States of California, Oregon, and Nevada, and Washington Territory, and the Lewiston land district, Idaho Territory; which was read a first and second time by its title.

Mr. EDEN called for the reading of the bill.

The bill was read *in extenso*, referred to the Committee on Public Lands, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The call of the States and Territories is now completed and the Chair will recognize gentlemen who were not present when their States or Territories were called.

MRS. ROWENA GUEDALLA.

Mr. ELLIS introduced a joint resolution (H. R. No. 222) authorizing the President of the United States to return the Twiggs swords to Mrs. Rowena Guedalla; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. ELLIS. I am in doubt as to the proper reference. I presume that it should go to the Committee on Military Affairs.

The SPEAKER. The gentleman is right; it should go to the Committee on Military Affairs.

AMENDMENT TO THE CONSTITUTION.

Mr. FINLEY introduced a joint resolution (H. R. No. 223) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

REDUCTION IN COST OF PUBLIC PRINTING AND BINDING.

Mr. RICE, of Ohio, (by request,) introduced a bill (H. R. No. 6213) to reduce the cost of the public printing and binding; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

SECTION 4698½ REVISED STATUTES.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 6214) to amend section 4698½ of the Revised Statutes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FRANKLIN AMOS.

Mr. RICE, of Ohio, also introduced a bill (H. R. No. 6215) for the relief of Franklin Amos, late of Seventh Kentucky Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GILBERT A. PHILLIPS.

Mr. WILLIS, of Kentucky, introduced a bill (H. R. No. 6216) granting a pension to Gilbert A. Phillips; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SAMUEL BEATTY.

Mr. TURNER introduced a bill (H. R. No. 6217) for the benefit of Samuel Beatty, of Lee County, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

METRICAL SYSTEM.

Mr. MAISH introduced a joint resolution (H. R. No. 224) authorizing the Public Printer to print 20,000 copies of House report No. 53, on the adoption of the metric system; which was read a first and second time, referred to the Committee on Weights and Measures, and ordered to be printed.

ELMER A. SNOW.

Mr. RICE, of Ohio, introduced a bill (H. R. No. 6218) granting a pension to Elmer A. Snow; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CASIMIRO GIUESI.

Mr. BLOUNT (by request) introduced a bill (H. R. No. 6219) for the relief of Casimiro Giuesi; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PATENTS FOR PRIVATE LAND CLAIMS.

Mr. GUNTER introduced a bill (H. R. No. 6220) to provide for the issue of patents for private land claims confirmed by act of Congress; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

LOGAN GUARDS AND OTHERS.

Mr. BRIDGES introduced a bill (H. R. No. 6221) granting a medal to each of the survivors of the Logan Guards, Allen Guards, Washington Artillery, National Light Infantry, and Ringgold Light Artillery, Pennsylvania Volunteers, the first five volunteer companies that reached the city of Washington after the proclamation of the President for troops to suppress the late rebellion; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOHN SEFFREIN MAURY.

Mr. KIMMEL introduced a bill (H. R. No. 6222) to relieve John Seffrein Maury, late a lieutenant in the United States Navy, of political disabilities; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CHANGE OF NAME.

Mr. KIMMEL also introduced a bill (H. R. No. 6223) to allow the owners of the steam tow-boat Richard T. Garrett to change its name to R. C. Hays; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. MARGARETTA BENDER.

Mr. COLE introduced a bill (H. R. No. 6224) to refund to Mrs. Margaretta Bender certain money paid by her into the United States Treasury to compromise a violation of the revenue law by her insane husband; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

AMENDMENT OF APPROPRIATION BILL.

Mr. MONROE introduced a bill (H. R. No. 6225) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

RICHARD P. TAYLOR.

Mr. CANNON, of Illinois, introduced a bill (H. R. No. 6226) granting a pension to Richard P. Taylor, of Westville, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN H. LONGBOTTOM.

Mr. McKINLEY introduced a bill (H. R. No. 6227) granting a pension to John H. Longbottom, late of Company D, One hundred and twenty-sixth Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES O'NEIL.

Mr. BANKS (by request) introduced a bill (H. R. No. 6228) granting a pension to James O'Neil; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN BARTOW.

Mr. BREWER introduced a bill (H. R. No. 6229) granting a pension to John Bartow, of Lansing, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

FEES OF EXAMINING SURGEONS.

Mr. BREWER also introduced a bill (H. R. No. 6230) fixing the fees of examining surgeons; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

WILLIAM H. YOUNG.

Mr. ELAM (by request) introduced a bill (H. R. No. 6231) for the relief of William H. Young; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

JOHN CORNELL.

Mr. WHITE, of Indiana, introduced a bill (H. R. No. 6232) for the relief of John Cornell, postmaster at Transitville, Indiana; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

DUTY ON MINERAL WATERS.

Mr. STARIN introduced a bill (H. R. No. 6233) to amend title 33, section 2504, of the Revised Statutes of the United States, second edition; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

JOSEPH HUFF.

Mr. METCALFE introduced a bill (H. R. No. 6234) granting a pension to Joseph Huff; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

LEVI J. ALLEN.

Mr. ELLSWORTH introduced a bill (H. R. No. 6235) granting a pension to Levi J. Allen, of Montcalm County, Michigan; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. ATKINS.

SENATE AND HOUSE EMPLOYÉS.

Mr. HALE (by request) introduced a joint resolution (H. R. No. 225) in relation to committee clerks and other employés of the Senate and House of Representatives; which was read a first and second time, referred to the Committee of Accounts, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

DANIEL B. HUFFMAN.

Mr. GIDDINGS (by request) introduced a bill (H. R. No. 6236) granting a pension to Daniel B. Huffman, of Austin, Texas; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

EMILY C. ATCHISON.

Mr. BURCHARD introduced a bill (H. R. No. 6237) granting a pension to Emily C. Atchison, widow of John Atchison, late quartermaster in the Black Hawk war; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. HARRIS, of Virginia.

HARRIET B. RICHARDSON.

Mr. PHELPS introduced a bill (H. R. No. 6238) granting a pension to Harriet B. Richardson, guardian of the minor child of Edmund Bradley Richardson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The bill was read at length on the demand of Mr. EDEN.

NAVIGABLE WATERS OF THE UNITED STATES.

Mr. DUNNELL, by unanimous consent, from the Committee on Commerce, reported, as a substitute for House bills No. 2464 and No. 4953, a bill (H. R. No. 6239) to declare and define the jurisdiction of the United States over the harbors and navigable waters of the United States; which was read a first and second time, recommitted to the Committee on Commerce, and ordered to be printed.

Mr. DUNNELL. I desire to give notice that when the Committee on Commerce is called I will report the bill just introduced as a substitute for the two bills mentioned.

ORDER OF BUSINESS.

Mr. STEPHENS, of Georgia. Has the call of States and Territories for bills been completed?

The SPEAKER. It has.

Mr. STEPHENS, of Georgia. I then ask unanimous consent of the House to set aside Friday evening, February 7, from seven and a half o'clock, to consider reports from the Committee on Coinage, Weights, and Measures.

Mr. BRIGHT. I object. Friday night has already been assigned.

Mr. STEPHENS, of Georgia. Not of next week.

Mr. BRIGHT. I misunderstood the gentleman; I withdraw my objection.

Mr. CONGER. I object, because the Chair rules that the consent given in such cases as this cannot be overruled by a majority of the House.

The SPEAKER. On the question of consideration the Chair so rules.

Mr. CONGER. And I think very properly. Therefore I dislike to have the business of the House placed beyond its control by a special order of this kind.

Mr. HALE. Under that ruling of the Chair it will not do to have any special assignments made.

The SPEAKER. The Chair is not aware that there has been any ruling by a Speaker different from that.

Mr. HALE. Without calling in question the ruling of the Chair or its grounds, I simply wish to say that it may as well be understood that no agreement will be made by unanimous consent for any future assignment. I give notice to that effect.

GOVERNMENTAL AID TO ACTUAL SETTLERS.

Several members called for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Pennsylvania [Mr. WRIGHT] (coming over as unfinished business from Monday, December 18) to suspend the rules so as to discharge the Committee of the Whole on the state of the Union from the further consideration of House bill No. 110 and to pass that bill. The bill will be read.

The Clerk read as follows:

A bill supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act any person who is entitled to and shall comply with the provisions of the act to which this is supplemental, as well as all the requirements imposed by this act, shall receive from the Treasury of the United States, out of any moneys not otherwise appropriated, the sum of $500 in a loan, to be repaid as hereinafter provided; which money so loaned shall be appropriated solely, by the person who shall receive the same, in improvements upon the land entered and settled upon, under the terms and conditions imposed by the said homestead law, including the erection of buildings, the purchase of seeds, implements of husbandry, and such necessary household articles and means of subsistence as may be necessary in the commencement of a permanent farming residence.

SEC. 2. Every person having thus complied shall, in addition, produce to the register or receiver of the land office of the United States convenient to the homestead selected satisfactory proof to the said register or receiver, by affidavit or otherwise, that he or she does not own goods or effects, money or other property, in excess of $300; that it is his or her intention bonafidely to settle upon and occupy the land entered and selected under the provisions of the said homestead law, and to make the same a permanent abode; that such person shall also make and subscribe an affidavit before the said register or receiver that the money so received under the provisions of this act shall be expended for no other purpose than that named in the first section of this act, which affidavit and all other evidence shall be filed and preserved in the land office of the United States where the proceedings are had.

SEC. 3. Whereupon the said register or receiver shall cause to be prepared a mortgage to the United States, to be duly executed by the applicant, conveying the land so selected and entered, and which he or she contemplates settling upon, conditioned for the payment of $500, with interest at the rate of 3 per cent. per annum, as follows: $100, with interest thereon, on the fifth year after the date of the mortgage, and $100, with its interest, yearly thereafter, till the whole sum shall be fully paid, when the said mortgage shall be satisfied by the said register or receiver, or by such person as may be designated for that purpose by the Commissioner of the General Land Office. A copy of each mortgage made in pursuance of this act shall, after the original has been duly recorded in the proper office for the recording of deeds most convenient to the land described therein, under the certificate and seal of the register of the land office where executed, be forwarded to the General Land Office at Washington, the original to be retained in the land office where executed. The said registers shall keep a journal of all loans, the names of the persons making them, their places of birth, and their respective ages. The said certified copies are hereby declared to be evidence on the part of the United States, and suits for foreclosure may be instituted upon them as effectually as upon the originals. The said several registers and receivers shall make monthly reports to the General Land Office of the United States of all acts done by them in the premises.

SEC. 4. Upon a full compliance of the terms and conditions hereinbefore stated, as well as those of the law to which this act is supplemental, by the person availing himself or herself of the benefits thereof, the receiver of the land office where the proceedings have taken place shall pay him or her $100, and $100 monthly thereafter till the said sum of $500 shall have been fully disbursed. But before the payment of any one installment of $100 subsequent to the first one, the said receiver shall be satisfied by other testimony than the oath of the applicant that he or she has expended the money loaned, and will expend the money received, in accordance with the true intent and meaning of this act. And if it shall appear that any money has not been so expended, no further payment in the particular case shall be made, and the mortgage given shall be forthwith foreclosed, and all rights and privileges under this act, and the one to which it is supplemental, shall become forfeited, and the title to the land entered shall revert to the United States. The several duties to be performed by the register and the receiver shall be generally under the direction and control of the Commissioner of the General Land Office, and who shall also fix a schedule of fees for each officer, in each separate case, but which shall not exceed $10 for them both. And the said Commissioner of the General Land Office, in conjunction with the Secretary of the Treasury, shall make and establish such rules and regulations as to the mode and manner of the transmission and payment of the money appropriated by this act as they may deem proper.

SEC. 5. No patent shall be issued under the act of May 20, 1862, and to which this act is supplemental, where a mortgage has been given under the terms of this act, until such mortgage has been fully paid.

SEC. 6. All such parts and clauses of the said act of May 20, 1862, which prohibits persons from the benefits of the same, "who have borne arms against the United States Government, or given aid and comfort to its enemies," are hereby repealed.

SEC. 7. Whenever the amount of the loan hereby created shall have reached the sum of $10,000,000 this act shall cease and determine, so far as the appropriation of money is concerned. And the certificate of the Secretary of the Treasury, that that sum has been applied as herein stated, shall be evidence of the same.

SEC. 8. All the several penalties imposed in the act to which this is supplemental for false swearing, and other offenses therein named, are herein incorporated and made a part of this act.

Mr. WRIGHT. I ask the indulgence of the House that I may explain briefly the provisions of this bill.

The SPEAKER. What time does the gentleman desire?

Mr. WRIGHT. Thirty minutes. I hope this favor will be granted. I have not asked such a favor before.

The SPEAKER. The gentleman from Pennsylvania asks consent that he may be allowed thirty minutes to explain the provisions of the bill.

Mr. TOWNSEND, of New York. I object.

Mr. WRIGHT. I hope the gentleman will withdraw his objection.

The SPEAKER. The gentleman from New York is appealed to by the gentleman from Pennsylvania.

Mr. TOWNSEND, of New York. The appeal is denied.

The SPEAKER. The gentleman from New York denies the appeal of the gentleman from Pennsylvania.

Mr. WRIGHT. Well, I hope the Lord may take care of the man who objects, for his constituents never will. [Laughter.]

Mr. HALE. The gentleman from Pennsylvania can accomplish his object by moving to suspend the rules so as to give him half an hour to explain the bill.

Mr. WRIGHT. Very well, sir.

The SPEAKER. The gentleman from Pennsylvania, as the Chair understands, modifies his motion; but if this motion be voted down, the Chair cannot recognize the gentleman from Pennsylvania a second time. The present motion of the gentleman, as the Chair understands, is to suspend the rules so as to discharge the Committee of the Whole on the state of the Union from the further consideration of this bill, and to bring it before the House for consideration for thirty minutes.

The motion was agreed to, two-thirds voting in favor thereof.

The SPEAKER. The gentleman from Pennsylvania [Mr. WRIGHT] is recognized for thirty minutes.

Mr. WRIGHT. Mr. Speaker, I thank the Chamber for their courtesy in granting me its unanimous consent, with a single exception, to make a few remarks explanatory of the bill under consideration. It provides for making a small loan to any citizen of the United States who does not possess property, either real or personal, exceeding $300 in value. It is not in the nature of a gift; it is a loan, to be secured by a mortgage upon his homestead, to be repaid at the expiration of ten years, in annual installments, at 3 per cent. per annum. This sum is to be advanced by the Government, providing that it must be made to appear by satisfactory proof that each installment has been faithfully expended in the improvement of the homestead before the next installment will be paid, each installment being $100; the loan thus made to be secured by mortgage on the homestead.

The bill is carefully guarded against all efforts of the settler to obtain the money and then abandon his location. The little farm must show how the expenditure of money on the part of the settler has been appropriated. The same penalties, so far as applicable, contained in the homestead law of 1862 are made part of the bill. I have bestowed much care in drafting the bill so that the Government may be protected from imposition and fraud. Its whole object and aim are to furnish those of our people having small means to make the homestead law available; and, while the ten millions which the bill appropriates may not provide for a very large number of our poor laboring people, the passage of the bill into a law will become a precedent for its further extension. Keeping in view that this project of law is a loan and not a gift, it may meet the objection of those who may have conscientious scruples in giving it their support, for there are many members of this body who would favor this measure but for constitutional objections. I prefer this method of affording present aid to our laboring people of small means to the system of colonization, for the reason that there is less machinery in carrying out the details of the bill before us and much less expense. It is provided that $10 in each case shall cover all the expenses, and this amount shall be paid by the settlers. In this method the whole sum granted will be relieved from salaries and other large outlays that will be necessarily incident to the system of colonization.

I have thus, Mr. Speaker, in as few words as practicable, defined the nature and character of the bill. Having done this, let me next inquire as to the propriety of administering this kind of relief. I will not discuss the question as to its necessity. That ought to be self-evident to all, including the gentleman from New York, [Mr. TOWNSEND,] who alone, of all the members of this honorable body, denied me the poor privilege of speaking in behalf of the laboring-men of the nation. But to come down to the question of the propriety of Congress stepping out of the path of class legislation and looking to the happiness and comfort of that other class who fight our battles, help to pay our taxes, erect our public works, build our railroads and canals, and give our country fame and renown, what shall we say to these momentous matters? That seems to me to be a very important inquiry. It may strike others differently, but it does not me. I am one of those, sir, who believe in the philanthropic idea that our first duty here is to take care of the toiling men of the land, and capital next; labor, sir, first, and capital next; or you may class them equally. To this I will not take exception; but I will never while I am the Representative of the twelfth congressional district of Pennsylvania submit to the idea that there is any other class in this broad land which shall subordinate the rights and privileges of the laboring-man. Such may claim equality, but not preference. To one common standard let them all approach, but no superiority should be conferred by money or social position. This is my idea. And who here or elsewhere has the temerity to controvert the position?

But, sir, as to the propriety of this measure of relief. We all know the depression of the business affairs of the country; we know that the black cloud of adversity has been suspended over us for the last five years; we know that the mines and the mills and the manufactories are all at the lowest and most depressed financial situation. This will not be denied. And such being the situation, vast numbers of laboring-men who have had employment are of necessity thrown out of their occupations. The employés of these branches of trade and industries, once prosperous and with the ability to supply themselves and their families with the necessary wants of life, and some of its luxuries, are now in destitution. It is said, and upon what I accept as good authority, that there are two millions of workingmen in our country who to-day are in idleness because they cannot get employment. It is no fault of theirs that many of them are wandering about our streets asking for alms. It is a wonder to me, Mr. Speaker, that they have become reconciled to this humiliating position and still comply with the laws of the country. Want and starvation, in many cases, have become their daily companions. Go with me to the iron-mills in Pennsylvania, where in the days of prosperity strong men were about the forge, the furnace, the great hammers beating and crushing red-hot blooms, and other machinery rolling them into rails for your thousand miles of roads; when mirth and contentment filled the red-glowing chambers, and when the wolf dare not approach the humble but well-supplied tenements of the bold, defiant, and stalwart owners. Or to the mines, where all was industry, happiness, and contentment. How now? You shall see idle, half-clad men, with faces of despondency depicted on them—not crime—standing in groups at the entrances of the mill and the mine and the machine-shop, waiting in the vain hope of procuring employment. And there they are, by day and by night. God help them! When will they have employment? When will they have aid from the Government, whose children they are, by birth or adoption?

When? Why, sir, when the greedy maw of capital shall have drained the Treasury of its last farthing, the men of the country may have the wrappers that contained the bundles of legal-tenders, with which they may patch the broken panes of their chill, desolate, and inhospitable tenements.

"Tramps!" Who heard this name applied to a distinctive class in this country till within the last five years? Who are "tramps?" The great majority of them have been men of good habits, industrious, kind to their children, and willing to labor, if they but had the chance and the opportunity to procure employment. Having failed in this, and endured privation till it could no longer be endured, they have turned their backs upon their cheerless and desolate homes and wandered away in the hope of finding some one to give them an opportunity to labor. Failing in every effort, they have wandered on till crime became necessary to save life. They committed it, and have been hastened to the prison and the mad-house. Mr. Speaker, you or I would have done the same thing, before we would submit to death by starvation. "Tramps," therefore, have become a class in the land. Wandering mendicants, going from door to door begging for alms, when they would willingly labor if they had the opportunity, and reduced to that sordid, squalid condition which poverty alone can impose. It is our duty to protect and take care of our people. Humanity demands it. It is the moral as well as positive law of our civilization.

We have always had, as a nation, the reputation of liberality. We sent our ships ladened with corn to Greece and Ireland in the day of famine. We would do so again if the same state of things should exist in any other country where civilization asserted its dominion. The English Queen and Empress of India furnishes free transportation to all her subjects who cannot find employment at home, and who desire to emigrate to her provinces. Cannot we do as much for the laboring citizen as she does for the laboring subject? Shall it be said, in answer, that the same cause does not exist on this side of the sea? It is not so. There is an immense amount of suffering in this country. But when one dares proclaim it boldly, capital puts it in the mouth of some one of its satellites to bawl "demagogue and lunatic." What are they paid for the effort?

This House cannot be insensible to the wretched condition of the great portion of our laboring class. Those members who live in rural districts—far removed from the mills, the mines, the manufactories, and the thickly settled cities, may not be so sensible of it. In the absence of this knowledge they should turn their eye upon the thousands of petitions which lie upon our table for information. I have myself presented more than fifty thousand names. Men praying for aid—humbly. But who has taken the time to read the humble prayer that has come up to us, by more than a hundred thousand of our people? Gilded capital demands and has a hearing. And gilded capital does this with freedom and impunity. No man who advocates class, and votes millions to it, is called "demagogue or lunatic." Oh, no! The press is silent; but let the cause of the poor be made in public halls—and this, in their consideration, is the voice of the madman.

I state here to-day that there is want and destitution. You do know it; and knowing it, there is a moral and legal duty to help alleviate it—not by building penitentiaries and mad-houses, but by enabling this countless multitude to settle down upon God's great farm, thereby becoming thrifty men and surrounded by happy families. It contains more than fifteen hundred millions of acres. True, the best part of it has been granted away to railroads, corporations, and credit mobiliers as a free gift. There is much of it left. Instead of giving to the poor man some money to build his cabin in the wilderness and procure some seeds to plant and implements to cultivate the soil with, loan him a few dollars on the security of his homestead. Give your millions of dollars of money and your millions of acres of land to capital, but lend, pray lend, on ample security, a few dollars to the men in want, but upon whose broad shoulders and strong arms rest the destiny as well as prosperity of the country. A loan, a very small loan, that is all. Your rich gifts and largesses, let them go elsewhere if you will; if this must be. Concede to me, as you must, that there is an alarming state of distress and suffering in the country, does not relief become an absolute duty? Suppose that some terrible disease should overshadow the country, and men, women, and children were its victims in great numbers, would you hesitate about granting immediate relief? Do you not believe that there is quite as great a calamity now? Do not shut your eyes to it. It is so; and not only here but throughout a great part of Europe. England stands to-day on the

crest of a volcano. Strikes and bread riots are things of daily occurrence; labor two shillings a day and beef two shillings a pound. Germany has become restive, and the people are only kept in order by the largest standing army in time of peace that Europe ever saw. Distress and gloom are there as well as here. Will not our legislators look at the case as it is, and not as capital would represent it? Something, you all say, should be done—pray do it. You have the power, but lack the inclination. The time will come, and in this House, too, when there will be an influence that will neither shake nor tremble before the power of money and incorporated power. By this I mean a result from a fair and honest expression of political opinion at the polls. Call me no communist—I despise the word! And I equally denounce the idea of agrarianism. They are alike to me offensive. I want equal and just laws. Class has no rights in this House that laboring men have not. Capital and poverty should stand on the same level.

To grant relief to the laboring masses I would do many things not agreeable to me. I have never voted subsidies nor grants of land in the many years of my legislative life. I would to-day vote subsidies to the Texas Pacific road. I would do so in the hope of putting the iron-mills of my own State in motion, thereby furnishing employment to idle men—idle because they have no demand for their labor. I would vote the subsidy for the purpose of employing idle men in the construction of the road, and who, having completed their labor, might find homes in a new and unoccupied country.

I would vote liberal appropriations for making the navigation of the Mississippi thorough and complete, although I would not justify my vote, under the idea expressed by Mr. Calhoun, that "it is an inland sea," and therefore comes within the constitutional power of Congress. These are reasons which, in my judgment, would justify me in allowing subsidies on the part of the Government. One of the first duties demanding our attention is to care for the general welfare. And tell me how you can better accomplish this than to provide homes for the homeless, food for the hungry, and clothing for the naked? To give aid and support to any of our suffering people, is a duty we owe them; to refuse this, is an act of injustice; and especially when destitution has resulted from no delinquency upon their part. How tauntingly cruel to tell laboring-men "to go to work," when they can find no employment! A great disaster has fallen upon the country. It has overtaken those who employ as well as those employed. All feel it alike. Prosperity cannot come so long as half-fed, half-clad laboring-men walk the streets in idleness, and their wives and children go from door to door begging for bread. And this is the case in most of our mining districts and manufacturing towns. There was a time when universal prosperity shone upon us. It has gone. And at a time when the granaries of the great West are filled with corn and the shops of the East are overstocked with all kinds of manufactured goods, gaunt and repulsive want stride through the land. All industries seem paralyzed. It is our duty to make a bold effort for the common relief.

An effort to direct the attention of our people to the cultivation of the soil is the true line of legislative policy.

Our crop of corn the last year was some fifteen hundred million bushels; our crop of wheat nearly a third of that. The two entire products, if sold at the price they generally demand in our eastern markets, would almost cancel the nation's debt. If that debt is ever paid the products of the earth must do it. How immeasurably small do the results of the money and stocks and speculations on change compare with these! Dust only in the balance! With but a trifling commerce upon the sea and but a tithe of our machinery in motion upon the land, and our people in great numbers out of employment, what a spectacle is presented for our reflection and consideration! The policy of the Government seems to be confined to the sale of bonds and taking from the channels of trade what little currency we have that should be employed in the re-establishment of the industries of the land. Bad, in my opinion, is the lesson which teaches the man who has saved $500 to invest it in a Government bond, at 4 per cent., instead of putting it in land for cultivation, or in some useful business pursuits. It is so much dead capital; but small benefit to him, and none to the country. It is the lesson of speculation. It is the fatal lesson of indolence; teaching the idea of living upon the interest upon the bond in the place of manual labor or some useful occupation. Had we an overplus of money beyond the public wants, it might be different; but such is not the fact. The necessities of trade demand an increase of currency; it becomes daily less and less. And this continual pinching and contraction of the circulation of currency falls with heavy weight upon labor. Every dollar hoarded up in bonds is taken from the general stock in trade and withdrawn from the business affairs of the land.

Now, sir, I come to speak of the constitutional objection raised to the bill. It is a remarkable fact that whenever the interests of the man of toil are brought into question the Constitution is thrown across his path. Capital and incorporated associations are not troubled with this stumbling-block in their way. Credit Mobilier may raise its deformed head and throw its bristling mane into the face and eyes of the Constitution, and it disappears. The Constitution! It received its first great blow when the Government divided the receipts of the public lands among the States. Most of them took the spoils. Some of the States hesitated awhile, but finally accepted the glittering bauble. This has been followed by grants to railroads, corporations, and for State purposes of over two hundred millions of acres of the best and most productive land the sun ever shone upon, and gifts of money to capital of over two hundred millions of dollars. If these acts granting these vast subsidies were unconstitutional, what have our courts been about? Has the Constitution slept all this time? The lands thus given away have been placed beyond the reach of the hardy pioneer. He must go now farther west; deeper into the solitudes. The corporation land is good, near by the rail. It has a price put upon it by the owner that is beyond the acquisition of the laboring-man of small means.

What countless blessings would have fallen upon the laboring-men of this country had these gifts by the Government never have been made. These broad acres thus withdrawn from settlement would have been occupied with a prosperous, happy, and industrious people; wealth would have been added to Government, and thousands of penniless people would have rejoiced in all the necessary wants of life, but who now are in poverty. Oh, the Constitution, why is it construed by legislators and courts to protect the rights of the strong and denying its power to aid and comfort the weak! We passed the homestead law in 1862; I was in Congress and gave it my support. Was that less constitutional than a small loan in 1879? I would not invade this sacred deed of our fathers, nor does the bill before us make a single inroad upon the tattered shreds and defaced lineaments of this once grand and noble charter. What there is left of it I would guard and protect. What of it that has been destroyed, let those answer who mutilated its fair proportions.

Mr. BOONE. I would like to ask the gentleman from Pennsylvania under what provision of the Constitution he would justify an appropriation of money for this purpose?

Mr. WRIGHT. Upon the same principle upon which you would justify an appropriation to straighten the channel and course of the Mississippi—for the general welfare; upon the same principle the homestead act was passed; upon the same principle that you loaded our ships with corn to feed starving people in foreign lands; upon the same principle you would provide for those smitten with the plague; upon the same principle that this Government should protect the lives of its people; upon the same principle that the public health and the public prosperity demand the passage of such laws as may be necessary to preserve them. No constitutional barrier stands in the way of legislation by Congress in discharging its duty in the emergencies I have named.

Mr. COX, of New York. Will the gentleman from Pennsylvania concede that this law was unconstitutional? If the homestead bill was constitutional why not this in furtherance of it? There are conditions in the bill which may not be in all respects the best, but there is a clause in the Constitution respecting the right of Congress to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. If this can be used to give away land as homesteads and to railroads, why not for a great benevolent object and to relieve suffering labor? I favor the fair consideration of the bill.

Mr. BOONE. I would like to ask the gentleman from New York if he regards the Constitution as authorizing the appropriations contained in this bill?

Mr. COX, of New York. This law is in furtherance of the homestead law.

Mr. WRIGHT. I never entertained for a moment the thought that the bill was unconstitutional. I said in my answer to the last question of the gentleman from Kentucky that the bill was as constitutional in its character as the appropriation of money to clear out the Mississippi River and other objects, but it is too late in the day for conceding the point that it is unconstitutional after what Congress has done, by the joint action of both Houses, in numerous acts of legislation, if these shall stand as precedents, and when the court has solemnly decided that paper money is coin.

Mr. EDEN. Will the gentleman allow me to ask him a question upon the constitutional point?

Mr. WRIGHT. I do not propose to discuss the constitutional point further. I would speak of the rights of labor, and if the Constitution comes in conflict with quibbles only, under such an unfounded pretense, it must stand aside. [Laughter.] But happily the dilemma for a quibble is not presented in this bill, and therefore it is needless to speak further in that particular.

Mr. EDEN. Then the Constitution must get out of the way.

Mr. WRIGHT. As it does not happen to be in the way such an inquiry is not pertinent.

The view expressed by the gentleman from New York [Mr. COX] is probably a correct one—that Congress has power over the public lands. The grant of the public lands to the settler upon them would carry with it the right of aid connected with the grant. If the gift cannot be made available under the homestead act to all classes of our people, it seems to me that Congress clearly has the power to enforce and extend the original act so as to meet the provisions of this bill. The bill is a supplement to that law.

Mr. Speaker, I do not think there is a member in this Chamber who does not realize the lack of our wonted prosperity. I do not believe there is a member who does not feel in his heart that we should grant relief in some way to our suffering people, confined mostly to the laboring classes. Assuming that this view is correct, tell me in what measure you will join me. It has occurred to me that the plan

I have introduced into this bill is the most available. You may differ with me as to this. I am content to follow in your lead for any others; I will support almost any measure; but in Heaven's name let us do something. This idea of a small loan or mortgage did not originate in my "lunatic brain." It was the offspring and product of the brain of that great and distinguished "lunatic and demagogue," Benjamin Franklin! A century and a half ago he proposed a like measure for the settlement of the great counties of Bucks and Berks, Lancaster and Chester, then in the Province of Pennsylvania. The same propriety for the measure now is as manifest as it was then. Land and labor should go hand in hand in this country. The one should not be separated from the other. Our common prosperity and future and present greatness rest upon this union.

A distinguished lawyer and eminent judge of New Haven, Connecticut, in writing to me on the subject of this bill, regards it as one of the best and most available means that can be carried out as a remedy for the present distressed state of the country. Undoubtedly, if we can make our waste lands, with a little help upon our part, the happy homes of a suffering people, is it not our absolute duty to do it.

For what are governments instituted? Ours is declared to be "to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

I cannot believe that this the Forty-fifth Congress, now on the eve of its final adjournment, has given that close and careful consideration to those measures which would "promote the general welfare" that it should have done. In all the vast sums of money we have appropriated the "general welfare" has not had very much attention. We have provided food and raiment liberally for the red man, but what have we done for the white? And who come within the broad scope of those constitutional words, the general welfare? Two millions of our fellow-countrymen are to-day out of employment and their children crying for bread. They are not excluded, I hope, from the benefits of the general welfare. The truth is that we have become indifferent to the prayers of this class of people. The power of money and that other power, the press, which in too many instances is under the control of capital, intimidates legislative bodies. They tremble before it. The press has many honorable exceptions, I am glad to assert. Let any one dare talk of the rights of common men, he that moment is denounced as a demagogue or insane. Let them thunder their anathemas and invectives at me. I can sustain their abuse, nor shall it abate a particle of my determination or zeal. My judgment teaches me, and that is my guide, that there is want and destitution in the land, and I shall continue on so long as I am a member of this body striving by all honorable means to procure relief for those of our people who are in a suffering condition. I cannot charge upon my associates here that they are not in accord with me through any want of honesty of purpose; nor that they are less generous than I. I wish that they would bestow more attention upon the subject. Generally the advancement of new ideas are of slow growth in the legislative mind. The masses are almost always ahead in public opinion. They make public opinion.

And, sir, I honestly believe that if the principle of this bill could be submitted to a vote of the people of the Union it would be sustained by an overwhelming majority. I was a member of the Thirty-third Congress. It is more than a quarter of a century ago. Mr. Giddings, of Ohio, was then agitating the question of negro emancipation. He had less than a dozen followers in the House; and probably no man ever received so much personal abuse. But the doctrine that had a dozen supporters in the Thirty-third Congress I suppose has a united voice on the same question in the Forty-fifth. And I, too, was among those who called the old Ohio Representative a "demagogue and a lunatic." The probability is that I was somewhat mistaken. I think so. I cite this as an instance to exhibit a fact, that we should be very cautious how we condemn measures or men till we fully comprehend them, and be careful how we abuse them; and most especially when the mature opinion of a large portion of the educated intelligent people of this country have placed those opinions upon the public record. They are seldom wrong; and, if I do not mistake the conclusion of the popular mind, we shall see that labor will take an equal stand with class and capital, and at no great distance of time ahead. If it does not, then the fault will be their own. It possesses the elements of power; it is only the will that is required to carry out its purpose.

Mr. Speaker, I do not suppose for a moment that this bill will pass this House at this session. I am but too glad to say that my hopes have been fully realized as to the number who will give their votes for it. I know who they will be; and it is a pleasure to me to find about me gentlemen of their intelligence. I am not alone. But whatever may be the force the bill has in the Forty-fifth Congress I shall hope to add to it in the Forty-sixth. I shall not dispute with gentlemen as to our difference of opinion in the measure nor condemn their views. That shall not destroy our social relations. But, sir, it is impressed upon my mind with all the force and power of conviction that the constitutional clause "to promote the general welfare" carries along with it a command to look after the wants and necessities of the poor fellows who, through no fault of theirs, are out of employment, and they and their wives and children praying to a great and opulent Government for bread.

This command—constitutional command—I shall implicitly obey. I am aware of the low and vulgar abuse that, under the licentious practices of a portion of the American press, I must be subjected to. I have counted its cost. My honest convictions are that the principles of the bill are right and just, before God and man. I shall therefore maintain them to the extent of my ability. I shall not waver in my purpose. My language on all occasions shall be courteous and dignified, as becomes the great measure of national relief that I advocate. Let those who will, use the cant and slang of buffoonery; my words shall be in favor of the great principle I advocate, said in moderation, with due courtesy, and, I hope, with sincerity of purpose. I firmly believe that the bill I advocate, with a single amendment I shall at some future time offer, that the privileges conferred shall be in a *pro rata* proportion to the number of the citizens of each State and Territory, is the best plan yet suggested for national relief.

And now, sir, let its fate be what it may; I am pledged to stand by it—so long as I am a member of this body, without lack of faith, or shadow of turning.

The great future is before us. Time only shall test the justice and wisdom of those who may favor or oppose the policy of the measure. I am not a prophet. I form my opinions from the same stand-point as those who will cast their votes in opposition to the measure. But I shall record my vote for it with much satisfaction, because it contains the elements of relief; and I leave those who follow me to judge of the propriety of the measure and am willing to abide that judgment under the consciousness that it will meet in the end the approval of my countrymen.

The SPEAKER. The thirty minutes allotted the gentleman has expired.

Mr. THOMPSON. I ask that the gentleman be allowed further time.

Mr. WHITE, of Pennsylvania. I ask unanimous consent that thirty minutes' further time be given my colleague, [Mr. WRIGHT.]

Mr. TOWNSEND, of New York. I object.

Mr. WRIGHT. I am glad you do object; it does me good to have you object. [Laughter.]

Mr. TOWNSEND, of New York. Well, I do object.

Mr. WRIGHT. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. SAYLER. Is this question on a motion to suspend the rules?

The SPEAKER. The House gave consent for the consideration of this bill.

Mr. EDEN. And the question now is on the engrossment and third reading of the bill?

The SPEAKER. It is.

Mr. SAYLER. And will a majority vote pass the bill?

The SPEAKER. It can.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WRIGHT. On that question I call for the yeas and nays.

The yeas and nays were ordered; there being 53 in the affirmative.

Mr. EWING. Before the roll-call is commenced, I ask unanimous consent that members may have leave to print in the CONGRESSIONAL RECORD remarks touching the provisions of this bill which they have not had an opportunity under the rules to deliver on the floor.

There was no objection; and leave was granted accordingly.

Mr. WRIGHT. And I ask permission to publish the balance of what I intended to say. [Laughter.]

There was no objection.

The question was taken; and there were—yeas 23, nays 210, not voting 55; as follows:

YEAS—23.

Banning,	Errett,	Luttrell,	Reilly,
Bliss,	Franklin,	Mackey,	Sayler,
Bridges,	Harmer,	Muller,	Turney,
Butler,	Ittner,	Phelps,	Wilson,
Collins,	Kelley,	Rainey,	Wright.
Cox, Samuel S.	Killinger,	Randolph,	

NAYS—210.

Acklen,	Burchard,	Danford,	Gunter,
Aiken,	Burdick,	Davidson,	Hale,
Aldrich,	Cabell,	Davis, Horace	Hamilton,
Atkins,	Cain,	Deering,	Hanna,
Bacon,	Caldwell, John W.	Denison,	Hardenbergh,
Bagley,	Caldwell, W. P.	Dibrell,	Harris, Benj. W.
Bailey,	Calkins,	Dickey,	Harris, Henry R.
Baker, John H.	Camp,	Dunnell,	Harris, John T.
Baker, William H.	Candler,	Durham,	Hart,
Banks,	Cannon,	Dwight,	Hartzell,
Bayne,	Caswell,	Eames,	Hatcher,
Bell,	Chalmers,	Eden,	Hazelton,
Benedict,	Chittenden,	Elam,	Hendee,
Bicknell,	Claflin,	Ellis,	Henderson,
Blackburn,	Clark of Missouri,	Evans, James L.	Herbert,
Blair,	Clarke of Kentucky.	Evins, John H.	Hewitt, Abram S.
Blount,	Clark, Rush	Ewing,	Hewitt, G. W.
Boone,	Cobb,	Felton,	Hiscock,
Bouck,	Cole,	Fort,	House,
Boyd,	Conger,	Freeman,	Hubbell,
Bragg,	Cook,	Gardner,	Humphrey,
Brentano,	Covert,	Garfield,	Hungerford,
Brewer,	Crapo,	Garth,	Hunter,
Briggs,	Cravens,	Gause,	Hunton,
Bright,	Crittenden,	Gibson,	James,
Brogden,	Cummings,	Giddings,	Jones, Frank
Buckner,	Cutler,	Glover,	Jones, James T.

Jones, John S.	Morgan,	Robinson, M. S.	Tucker,
Jorgensen,	Morrison,	Ryan,	Turner,
Joyce,	Morse,	Sampson,	Vance,
Keightley,	Neal,	Scales,	Van Vorhes,
Kenna,	Norcross,	Sexton,	Waddell,
Knapp,	Oliver,	Shallenberger,	Walker,
Landers,	O'Neill,	Singleton,	Ward,
Lathrop,	Overton,	Sinnickson,	Warner,
Ligon,	Page,	Siemons,	Watson,
Lindsey,	Patterson, G. W.	Smalls,	White, Michael D.
Lockwood	Patterson, T. M.	Smith, A. Herr	Whitthorne,
Loring,	Peddie,	Smith, William E.	Wigginton,
Maish,	Pollard,	Southard,	Williams, C. G.
Manning,	Pound,	Sparks,	Williams, James
Marsh,	Powers,	Springer,	Williams, Jere N.
Martin,	Price,	Starin,	Williams, Richard
Mayham,	Pridemore,	Steele,	Willis, Albert S.
McCook,	Pugh,	Stenger,	Willis, Benj. A.
McGowan,	Rea,	Stephens,	Willits,
McKinley,	Reagan,	Stewart,	Wood,
McMahon,	Reed,	Stone, John W.	Wren,
Metcalfe,	Rice, Americus V.	Swann,	Yeates,
Mills,	Rice, William W.	Thompson,	Young, Casey
Mitchell,	Robbins,	Throckmorton,	Young, John S.
Money,	Robertson,	Tipton,	
Monroe,	Robinson, G. D.	Townsend, M. I.	

NOT VOTING—55.

Ballou,	Eickhoff,	Hooker,	Ross,
Beebe,	Ellsworth,	Keifer,	Sapp,
Bisbee,	Evans, I. Newton	Ketcham,	Shelley,
Bland,	Finley,	Kimmel,	Stone, Joseph C.
Browne,	Forney,	Knott,	Strait,
Bundy,	Foster,	Lapham,	Thornburgh,
Campbell,	Frye,	Lynde,	Townsend, Amos
Carlisle,	Fuller,	Majors,	Townshend, R. W.
Clark, Alvah A.	Goode,	McKenzie,	Veeder,
Clymer,	Harrison,	Muldrow,	Wait,
Cox, Jacob D.	Haskell,	Phillips,	Walsh,
Culberson,	Hayes,	Potter,	White, Harry
Davis, Joseph J.	Henkle,	Riddle,	Williams, Andrew.
Dean,	Henry,	Roberts,	

So the bill was not ordered to be engrossed for a third reading.

During the roll-call the following announcements were made:

Mr. STEELE. My colleague from North Carolina, Mr. DAVIS, is absent by leave of the House. If he were present, he would vote "no."

Mr. WRIGHT. How do you know he would? [Laughter.]

Mr. COBB. My colleague, Mr. FULLER, who is paired with my colleague, Mr. BROWNE, would, if present, vote "no."

Mr. LANDERS. My colleague, Mr. WAIT, has been compelled to leave the House on account of illness. If present, he would vote "no."

Mr. JONES, of Ohio. My colleague, Mr. KEIFER, is absent by leave of the House. If present, he would vote "no."

Mr. RYAN. My colleague, Mr. PHILLIPS, is absent on account of important business. If he were present, I think he would vote "no."

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. If he were present, I should vote "no."

Mr. HUNTER. My colleagues, Mr. FULLER and Mr. BROWNE, who are absent, are paired. If present, they would both vote "no."

Mr. EAMES. My colleague, Mr. BALLOU, is absent by leave of the House. If present, he would vote "no."

Mr. HASKELL. I am paired with the gentleman from Kentucky, Mr. KNOTT. If he were present, I should vote "no."

Mr. ELLSWORTH. I am paired with the gentleman from North Carolina, Mr. DAVIS. If he were present, I should vote "no."

Mr. MULDROW. On this question I am paired with the gentleman from Illinois, Mr. TOWNSHEND.

Mr. HUNTON. My colleague, Mr. GOODE, is detained from his seat by indisposition. If present, I believe he would vote "no."

Mr. METCALFE. I am paired with my colleague, Mr. BLAND, on all political questions. Not regarding this as such a question, I vote "no."

Mr. BUTLER. I desire to vote for the principle of this bill; I do not know the details. I vote "ay."

BUSINESS OF COMMITTEE ON COINAGE, WEIGHTS, AND MEASURES.

The SPEAKER. The gentleman from Georgia [Mr. STEPHENS] asks to submit in a modified form his proposition to fix the evening of Friday, the 7th of February, for the consideration of reports from the Committee on Coinage, Weights, and Measures. The Chair is advised that the gentleman from Michigan [Mr. CONGER] who made the objection awhile ago is willing now to withdraw it.

Mr. STEPHENS, of Georgia. I ask the Clerk to read the proposed order as modified.

The Clerk read as follows:

Ordered, That Friday evening, February 7, at half past seven o'clock, be specially set aside for reports from the Committee on Coinage, Weights, and Measures; but action on any report so made shall be subject to the question of consideration at the time proposed.

Mr. STEPHENS, of Georgia. The gentleman from Michigan [Mr. CONGER] agrees to the proposition with the modification which has been read; and our committee has no objection to it in that form.

Mr. CONGER. To the order as modified I make no objection.

The SPEAKER. The Chair hears no objection to the adoption of the order proposed by the gentleman from Georgia.

Mr. GARFIELD. I desire to ask whether it has been decided by the Chair that when a special order is made the question of consideration cannot be raised when the subject comes up at the time assigned?

The SPEAKER. The Chair has decided that when the House under a suspension of the rules or by unanimous consent, which is equivalent thereto, fixes a particular time for the consideration of a bill, the right to raise the question of consideration when the bill is reached is thereby waived, because the order fixes a definite time for the consideration of the particular measure. If its consideration was from day to day, then the Chair would submit the question of consideration at any time because thereby it would not lose in the future a time for consideration; but the measure being fixed for that particular time the Chair holds that the House in making the order debars itself from preventing the consideration of the measure by raising the question of consideration, and must either defeat the proposition upon a motion to lay on the table or other like adverse motion, or prevent the continuance of the session by a motion to adjourn.

Mr. GARFIELD. The Chair may be right in this ruling, but it has seemed to me that the right to raise the question of consideration connects itself with all business coming before the House.

The SPEAKER. The Chair thinks that the ruling is perfectly equitable in its operation. When under a suspension of the rules, or by unanimous consent, which is equivalent to a suspension of the rules, the House determines that particular business shall be taken up at a special time, it works no hardship to any one to construe that order as suspending the rule which gives the right to raise the question of consideration. If a majority of the House are against the bill when it comes up, they can defeat the measure by voting to lay it on the table, or can adopt a motion to adjourn, whereby the business fixed for that particular time loses its place.

Mr. BURCHARD. When a bill which has been made a special order in this way comes up for consideration, would not a motion to postpone be in order if a member obtained the floor to make it?

The SPEAKER. If a member had the floor to make that motion, it would be in order. The order fixing a time for the consideration of particular business merely vacates the right which under the rules allows a member to raise the question of consideration. The House in making the order determines that the business shall be considered at the time appointed.

Mr. GARFIELD. I would like the Speaker to state whether this is a new ruling or whether it is in accordance with former rulings?

The SPEAKER. The present occupant of the chair does not remember that he has ever made any other ruling. He has recently given a great deal of consideration to this particular question, and thinks that the ruling now under consideration is not only in harmony with the rules but equitable in its operation. It will tend to make the House careful in fixing special orders; for it will be understood that when by suspension of the rules or by unanimous consent a special order is fixed for a particular day and time, on that day the order brings that business up at the time appointed.

Mr. GARFIELD. Of course I do not wish to controvert the position of the Chair; but it seems to me that when we make special orders we always make them subject to the rules of the House, and one of those rules gives the right to raise the question of consideration.

The SPEAKER. The measure, when it comes up at the time fixed, is considered under the rules of the House; nothing is waived except the right to raise the question of consideration.

Mr. CONGER. The proposition of the gentleman from Georgia having been modified so as to provide that the question of consideration may be raised upon any business brought up at the time suggested, I make no further objection.

The SPEAKER. The Chair wishes to add a single remark upon this point. When the House fixes a time for the consideration of particular business, it practically suspends at that very instant the rule which gives the right to raise the question of consideration.

Mr. CONGER. What was added was added at my suggestion that in the motion to suspend the rules or to give unanimous consent the question of consideration in each case was reserved.

The SPEAKER. That is part of the order in this case.

Mr. CONGER. That is what I say; that in each case that question can be raised.

The SPEAKER. The gentleman has this assignment made for that evening with the understanding that so far as that evening is concerned any bill the committee may report shall have the right reserved to have the question of consideration raised against it.

Mr. HALE. All questions of order being reserved.

The SPEAKER. Of course.

Mr. HALE. I wish the gentleman would set a day instead of an evening, but I do not feel like objecting on that account. The gentleman from Georgia on looking it over has determined what is best for him to do, but I wish to say from my experience these assignments of special orders, unless for the ordinary business of the House which must go through, fail to bring out a quorum of members, and the evening sessions are spent in wrangling over questions of order or in calls of the House. I do not think it is proper to set apart evenings which will be so abused. In this case I will waive my objection in deference to the gentleman from Georgia.

The SPEAKER. The gentleman will observe that it rests with the body of the House, and not with the Chair.

Mr. HALE. Yes, sir; and I am taking to myself some blame for yielding out of good nature to the gentleman from Georgia, which I am going to do, but hereafter I will not do it.

The motion of Mr. STEPHENS, of Georgia, was then agreed to

HEAD-STONES OVER GRAVES OF UNION SOLDIERS.

Mr. HASKELL. I move, Mr. Speaker, to suspend the rules and pass a bill (S. No. 1060) authorizing the Secretary of War to erect head-stones over the graves of Union soldiers who have been interred in private, village, or city cemeteries. I wish to say it involves no appropriation.

The bill was read, as follows:

That the Secretary of War is hereby authorized to erect head-stones over the graves of soldiers who served in the regular or volunteer Army of the United States during the war for the Union, and who have been buried in private, village, or city cemeteries, in the same manner as provided by the law of March 3, 1873, for those interred in national military cemeteries; and for this purpose, and for the expenses incident to such work so much of the appropriation of $1,000,000 made in the act above mentioned, as has not been expended, and as may be necessary, is hereby made available.

The Secretary of War shall cause to be preserved in the records of his Department the names and places of burial of all soldiers for whom such head-stones shall have been erected by the authority of this or any former act.

The rules were suspended, (two-thirds voting in favor thereof,) and the bill was passed.

NEW PUBLIC BUILDINGS.

Mr. WHITTHORNE. I move to suspend the rules and pass the bill which I send to the Clerk's desk to be read.

The Clerk read as follows:

A bill (H. R. No. —) entitled an act for the erection of certain public buildings therein specified.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase sites for and cause to be erected suitable buildings, with proper fire-proof vaults, at the places and for the purposes hereinafter specified, the several sites and buildings thereon when completed, upon plans and specifications to be previously made and approved by the Secretary of the Treasury, not to exceed the amounts hereinafter specified.

For custom-house, post-office, United States court-rooms, at Augusta, Georgia, not to exceed $100,000.

For court-rooms and other purposes of the United States at Oxford, Mississippi, not to exceed $50,000.

For court-rooms and other purposes of the United States at Key West, Florida, not to exceed $100,000.

For court-rooms and other purposes of the United States at Lynchburgh, Virginia, not to exceed $75,000.

For post-office, United States court-rooms, land office, and revenue offices at Montgomery, Alabama, not to exceed $150,000.

For post-office, United States court-rooms, internal-revenue offices, and other purposes of the United States at Brooklyn, New York, not to exceed the sum of $250,000.

For court-rooms and other purposes of the United States at La Crosse, Wisconsin, not to exceed $65,000.

For court-rooms and other purposes of the United States at Erie, Pennsylvania, not to exceed $150,000.

For court-rooms and other purposes of the United States at Greensborough, North Carolina, not to exceed $50,000.

For court-rooms and other purposes of the United States at Council Bluffs, Iowa, not to exceed $75,000.

And one-half of the said several sums affixed as the limits of each building and site herein provided for is hereby appropriated out of any moneys not otherwise appropriated for the purposes hereof, except for the building at Oxford, Mississippi, for which the sum of $50,000 is appropriated: *Provided*, Said appropriations shall not be available until valid titles to the sites of said several buildings shall be vested in the United States and until the said several States wherein they are situated shall severally have conceded to the United States exclusive jurisdiction over the same during the time the United States shall be or remain the owner thereof for all purposes except the administration of the criminal laws of the said several States and the service of any criminal process thereon.

Mr. MILLS. Is there any provision in that bill for any building in the State of Texas? [Laughter.]

The SPEAKER. The Chair is unable to answer with certainty but thinks there is not.

Mr. EDEN. Let me make a parliamentary inquiry.

Mr. GARFIELD. Is this the report of any committee?

Mr. RICE, of Ohio. There is nothing in the bill for the State of Ohio either.

The SPEAKER. The Chair is unable to answer.

Mr. EDEN. As there are in this bill ten or fifteen new buildings provided for, I should like to know from the Chair whether there is any mode under the motion made by the gentleman from Tennessee by which we can have a separate vote on each particular building?

Mr. WHITTHORNE. I object.

The SPEAKER. The gentleman from Illinois has the right to ask a parliamentary question.

Mr. EDEN. Is there any way by which we can have a separate vote on each building?

The SPEAKER. The motion of the gentleman from Tennessee is not susceptible of division.

Mr. EDEN. If the proposition of the gentleman from Tennessee is voted down, can we have a separate vote on each proposition?

The SPEAKER. In that event the bill will not be before the House at all.

Mr. GARFIELD. I think the House ought to know if this is a report of the Committee on Public Buildings and Grounds.

Mr. HUMPHREY. This is a report from the Committee on Public Buildings and Grounds. That committee reported these bills favorably last session.

The SPEAKER. Debate is not in order.

Mr. MILLS. I move that the House do now adjourn.

The question being taken on the motion of Mr. MILLS, there were—ayes 115, noes 50.

Mr. SAPP. I call for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 32; not one-fifth of the last vote.

Mr. FORT. I call for tellers on the yeas and nays.

Tellers were ordered; and Mr. WHITTHORNE and Mr. MILLS were appointed.

Mr. KILLINGER. I rise to make a parliamentary inquiry. If this question goes over and we adjourn now, will it not come up next Monday?

The SPEAKER. It will.

Mr. KILLINGER. What is the use, then, of adjourning now?

The House divided; and the tellers reported—ayes 35, noes 136.

So the affirmative being more than one-fifth of the whole vote, the yeas and nays were ordered.

The question was taken; and there were—yeas 154, nays 80, not voting 54; as follows:

YEAS—154.

Acklen,	Eden,	Knapp,	Sayler,
Atkins,	Errett,	Landers,	Sexton,
Bacon,	Evans, James L.	Lathrop,	Shallenberger,
Bailey,	Evins, John H.	Lindsey,	Singleton,
Baker, John H.	Ewing,	Loring,	Slemons,
Bayne,	Foster,	Luttrell,	Smalls,
Bell,	Fuller,	Maish,	Smith, A. Herr
Benedict,	Gardner,	Majors,	Southard,
Bicknell,	Garfield,	Manning,	Sparks,
Blair,	Garth,	Marsh,	Springer,
Bliss,	Gunter,	Mayham,	Starin,
Blount,	Hale,	McCook,	Steele,
Boyd,	Hamilton,	McGowan,	Stenger,
Briggs,	Hanna,	McKinley,	Stephens,
Cabell,	Harris, Benj. W.	McMahon,	Stone, Joseph C.
Cain,	Hart,	Metcalfe,	Stone, John W.
Caldwell, W. P.	Hazelton,	Mills,	Strait,
Calkins,	Hendee,	Mitchell,	Thompson,
Cannon,	Henderson,	Money,	Throckmorton,
Caswell,	Hewitt, Abram S.	Monroe,	Townsend, Amos
Chalmers,	Hewitt, G. W.	Morgan,	Townsend, M. I.
Claflin,	Herbert,	Morse,	Tucker,
Clark of Missouri,	Hiscock,	Muller,	Turner,
Clarke of Kentucky,	Hooker,	Norcross,	Turney,
Clark, Rush	House,	O'Neill,	Van Vorhes,
Cobb,	Hubbell,	Overton,	Waddell,
Collins,	Humphrey,	Page,	Ward,
Covert,	Hungerford,	Pollard,	Warner,
Cox, Samuel S.	Hunter,	Potter,	Watson,
Crapo,	Hunton,	Powers,	White, Michael D.
Cummings,	Ittner,	Price,	Wigginton,
Danford,	Jones, James T.	Rainey,	Williams, C. G.
Davidson,	Jones, John S.	Rea,	Willis, Albert S.
Davis, Horace	Joyce,	Reilly,	Willits,
Deering,	Keightley,	Rice, Americus V.	Wood,
Dibrell,	Kelley,	Rice, William W.	Wren,
Dickey,	Kenna,	Ryan,	Wright.
Dwight,	Ketcham,	Sampson,	
Eames,	Kimmel,	Sapp,	

NAYS—80.

Aiken,	Caldwell, John W.	Gibson,	Pugh,
Aldrich,	Camp,	Giddings,	Randolph,
Bagley,	Campbell,	Hardenbergh,	Reagan,
Baker, William H.	Candler,	Harmer,	Reed,
Banks,	Cole,	Harris, Henry R.	Robbins,
Banning,	Conger,	Harris, John T.	Robertson,
Bisbee,	Cravens,	Hatcher,	Robinson, G. D.
Boone,	Crittenden,	James,	Robinson, M. S.
Bouck,	Cutler,	Jones, Frank	Scales,
Bragg,	Dean,	Jorgensen,	Sinnickson,
Brentano,	Denison,	Killinger,	Stewart,
Brewer,	Dunnell,	Ligon,	Tipton,
Bridges,	Durham,	Lockwood,	Walker,
Bright,	Elam,	Martin,	White, Harry
Brogden,	Ellis,	Morrison,	Whitthorne,
Buckner,	Felton,	Patterson, G. W.	Williams, Jere N.
Bundy,	Finley,	Patterson, T. M.	Williams, Richard
Burchard,	Fort,	Phelps,	Willis, Benj. A.
Burdick,	Franklin,	Pound,	Wilson,
Butler,	Freeman,	Pridemore,	Yeates.

NOT VOTING—54.

Ballou,	Ellsworth,	Knott,	Smith, William E.
Beebe,	Evans, I. Newton	Lapham,	Swann,
Blackburn,	Forney,	Lynde,	Thornburgh,
Bland,	Frye,	Mackey,	Townshend, R. W.
Browne,	Gause,	McKenzie,	Vance,
Carlisle,	Glover,	Muldrow,	Veeder,
Chittenden,	Goode,	Neal,	Wait,
Clark, Alvah A.	Harrison,	Oliver,	Walsh,
Clymer,	Hartzell,	Peddie,	Williams, Andrew
Cook,	Haskell,	Phillips,	Williams, James
Cox, Jacob D.	Hayes,	Riddle,	Young, Casey
Culberson,	Henkle,	Roberts,	Young, John S.
Davis, Joseph J.	Henry,	Ross,	
Eickhoff,	Keifer,	Shelley,	

So the motion was agreed to.

During the roll-call the following announcements were made:

Mr. HARTZELL. I am paired with Mr. PHILLIPS. If he were here I would vote "no."

Mr. OLIVER. I am paired with Mr. CARLISLE.

Mr. ELLSWORTH. I am paired with Mr. DAVIS, of North Carolina.

Mr. MULDROW. I am paired with Mr. TOWNSHEND, of Illinois.

Mr. GUNTER. I desire to announce that my colleague, Mr. GAUSE, is absent on account of sickness.

Mr. EAMES. I desire to announce that my colleague, Mr. BALLOU, is absent by leave of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, an-

nounced that the Senate had passed bills of the House of the following titles, with amendments in which the concurrence of the House was requested:

A bill (H. R. No. 5180) to abolish the volunteer navy of the United States; and

A bill (H. R. No. 1679) for the relief of Catharine and Sophia Germain.

The message further announced that the Senate had passed bills of the following titles; in which he was directed to ask concurrence of the House:

A bill (S. No. 1662) making an appropriation for the purchase of a site and for the erection thereon of a military post at El Paso, Texas; and

A bill (S. No. 1624) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island.

LEAVE OF ABSENCE.

The SPEAKER. Before announcing the result of the vote, the Chair desires to ask leave of absence for Mr. CARLISLE indefinitely, on account of important business.

There was no objection, and leave was granted.

The result of the vote was then announced; and accordingly (at three o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BACON: The petition of H. K. & F. B. Thurber & Co. and others, wholesale grocers and sugar brokers of New York City, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of Ethridge, Fuller & Co. and others, of Rome, New York, of similar import—to the same committee.

By Mr. BAILEY: The petition of G. A. Birch and others, wholesale grocers of Albany, New York, of similar import—to the same committee.

By Mr. BAKER, of Indiana: The petition of the sugar dealers of Indianapolis, Indiana, of similar import—to the same committee.

By Mr. BANKS: Memorial of John Beeson, remonstrating against the injustice done to the Indian tribes of this country—to the Committee on Indian Affairs.

Also, the petition of the women of Winthrop society and church, Charlestown district, Boston, Massachusetts, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BANNING: The petition of wholesale grocers and dealers in sugar, of Columbus, Ohio, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of wholesale grocers and dealers in sugar, of Cincinnati, Ohio, of similar import—to the same committee.

Also, the petition of wholesale grocers and dealers in sugar, of Toledo, Ohio, of similar import—to the same committee.

Also, the petition of wholesale grocers and dealers in sugar, of Steubenville, Ohio, of similar import—to the same committee.

Also, the petition of the National Workingmen's Assembly of the District of Columbia, for the organization of a bureau of industrial statistics—to the Committee on Education and Labor.

By Mr. BICKNELL: The petition of Anthony Behme and others, wholesale grocers and dealers in sugar of Evansville, Indiana, that the duty on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of Conduitt, McKnight & Co. and others, grocers and dealers in sugar of Indianapolis, Indiana, of similar import—to the same committee.

By Mr. BLACKBURN: The petition of wholesale grocers and dealers in sugar, of Washington, District of Columbia, of similar import—to the Committee for the District of Columbia.

By Mr. BLAIR: The petition of John Givens, F. C. Brittain, and others, citizens of Pittsburgh, Pennsylvania, for the passage of the Senate bill providing for the appointment of a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of A. H. Cragin and others, for compensation for damages done to their property east of the Capitol, in Washington, District of Columbia, by the cutting down and excavation of streets contiguous thereto—to the Committee for the District of Columbia.

By Mr. BLOUNT: The petition of the wholesale grocers of Macon, Georgia, that the tariff on sugar be regulated on the *ad valoreh* principle—to the Committee of Ways and Means.

Also, the petition of Casimire Givesi, to have refunded to him certain moneys alleged to have been illegally collected from him by United States revenue officials—to the Committee of Claims.

By Mr. BOYD: The petition of Mrs. L. O. Thompson and other ladies, of Peoria, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BREWER: The petition of John Stephens and others, merchants of Detroit, Michigan, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of 25 ladies of the Eighteenth street Baptist church mission, Detroit, Michigan, for legislation to suppress polygamy—to the Committee on the Judiciary.

Also, the petition of John Barton, for a pension—to the Committee on Invalid Pensions.

By Mr. BRIDGES: The petition of wholesale grocers of New York, Philadelphia, and Pittsburgh, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. BUNDY: The petition of sugar dealers of New York and Albany, New York, of similar import—to the same committee.

By Mr. BURDICK: The petition of J. T. Anderson and 101 others, citizens of Buchanan, Iowa, for the amendment of the patent laws so as to protect innocent purchasers of patented articles—to the Committee on Patents.

By Mr. CALKINS: The petition of Dr. J. H. Loughridge and others, for an increase of fees for examining pension applicants—to the Committee on Invalid Pensions.

By Mr. CAMP: The petition of Mrs. I. Dudley and other women, of Meridian, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CANDLER: The petition of P. and G. T. Dodd & Co., A. Haas & Brother, A. C. and B. F. Wyly & Co., and other sugar dealers of Atlanta, Georgia, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. CANNON, of Illinois: The petition of Ollie Jones, Mrs. James Shaw, and 200 others, of Rossville, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of L. J. Bond and others, of Piatt County, Illinois, that the name of Cyrus S. Huffman be placed on the pension-roll—to the Committee on Invalid Pensions.

By Mr. CLARK, of Iowa: The petition of Mrs. J. W. Dobbin and other ladies, of State Centre, Iowa, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. COLE: The petition of sugar dealers of Missouri, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. CONGER: The petition of John Stephens and 39 others, wholesale grocers of Detroit, Michigan, of similar import—to the same committee.

By Mr. CRAPO: The petition of Samuel D. Smith, president of the New York board of underwriters, and of merchants and ship-owners of New York, for an appropriation for the improvement of Nantucket Harbor—to the Committee on Commerce.

By Mr. CRITTENDEN: The petition of Samuel Charlton, for a pension—to the Committee on Invalid Pensions.

By Mr. DANFORD: The petition of sugar dealers of Steubenville, Indiana, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. DEAN: The petition of Wadley Andrews & Co. and 44 other mercantile houses, of Boston, Massachusetts, of similar import—to the same committee.

Also, the petition of Mary Ann Murphy, for a pension—to the Committee on Invalid Pensions.

Also, the petition of John C. Moulton and others, assignees in bankruptcy of the Bellerica and Bedford Railway Company, for compensation for carrying United States mails—to the Committee on the Post-Office and Post-Roads.

By Mr. DENISON: The petition of Louisa Cook and 53 other women, of South Strafford, Vermont, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. DICKEY: The petition of Mrs. E. Grand Girard and 70 other women, of Kingston, Ohio, of similar import—to the same committee.

By Mr. ELAM: The petition of William H. Young and F. Llewellen Young, to be refunded moneys expended by them for the benefit of the United States—to the Committee on War Claims.

By Mr. ELLIS: The petition of Dr. T. S. Verdi, for compensation for services rendered and expenses incurred as special sanitary commissioner for the District of Columbia—to the Committee for the District of Columbia.

By Mr. ERRETT: The petition of the wholesale grocers of Pittsburgh, Pennsylvania, against the passage of the bill (H. R. No. 6134) to regulate the duties on sugar—to the Committee of Ways and Means.

By Mr. EVANS, of Indiana: The petition of ladies of Noblesville, Indiana, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. EVANS, of Pennsylvania: The petition of ladies of Montgomery County, Pennsylvania, of similar import—to the same committee.

By Mr. EWING: The petition of sugar dealers of Ohio, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of the wholesale grocers and dealers in sugar, of Columbus, Ohio, of similar import—to the same committee.

By Mr. FREEMAN: The petition of sugar dealers of Pennsylvania, of similar import—to the same committee.

By Mr. GARFIELD: The petition of Sadie E. Ganger and 45 other ladies, of Kirtland, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. GLOVER: The petition of women of Hannibal, Missouri, of similar import—to the same committee.

By Mr. HANNA: The petition of the wholesale grocers of Indianapolis, Indiana, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. HARMER: Memorial of wholesale grocers and dealers in sugar in the city of Philadelphia, protesting against the recommendation of the Secretary of the Treasury that high-grade and low-grade sugars be admitted at one rate of duty, which would do away with the refining of low-grade sugars in the United States, and divert it to Cuba, England, and elsewhere—to the same committee.

By Mr. HART: The petitions of sugar dealers of New York, Albany, Troy, and Rome, New York, of similar import—to the same committee.

Also, the petition of sugar dealers of Rochester, New York, of similar import—to the same committee.

By Mr. HERBERT: The petition of Le Grand & Co., Schloss & Kahn, N. Greil & Brother, Tatum & Williamson, William B. Jones & Brother, J. Loeb & Brother, Warren & Burch, and Rice & Wilson, dealers in sugar, of Montgomery, Alabama, of similar import—to the same committee.

By Mr. HEWITT, of Alabama: The petition of wholesale grocers and dealers in sugar, of Montgomery, Alabama, of similar import—to the same committee.

By Mr. HISCOCK: Petitions of sugar dealers of New York and Syracuse, New York, of similar import—to the same committee.

By Mr. HUNTON: Petitions of sugar dealers of New York, Philadelphia, Pittsburgh, and of Alexandria, Virginia, of similar import—to the same committee.

By Mr. KIDDER: The petitions of Porter Warner and 132 others; of G. M. Wood and 112 others; of William Wallace and 50 others; of D. C. Henning and 47 others; of George Holland and 111 others; of James Clancy and 103 others; of M. Fitz and 20 others; of R. S. McCafferty and 56 others; of William White and 90 others; of George Obery and 31 others; of Henry Emerson and 10 others; of T. H. Clark and 110 others; of J. W. Johnson and 107 others; of Brown & Thum and 126 others; of George Stone and 121 others; of George W. Hackett and 100 others; of Hugh R. Blanding and 38 others; of Charles P. Higgins and 12 others; of John Johnson and 25 others; of R. E. Grimshaw and 107 others; of H. M. Lazell and 13 others; of C. M. Prickett and 14 others; of G. C. Boland and 16 others; of Harry Brundon and 24 others; of L. W. Valentine and 80 others; of David Hunter and 106 others; of John Morrison and 109 others; of D. T. Morrison and 105 others; of Thomas K. Wilson and 41 others; of Fawcett & Holden and 69 others; of C. G. Ankimey and 106 others, for an increase of appropriation for Government survey in the Black Hills, in the Territory of Dakota—to the Committee on Appropriations.

Also, a paper from the surveyor-general of Dakota, estimating the necessary surveys in the Black Hills—to the same committee.

By Mr. KIMMEL: Papers relating to the pension claim of Robert Hardie—to the Committee on Revolutionary Pensions.

By Mr. LAPHAM: Resolutions of the Board of Trade of Kansas City, favoring the opening of the Indian Territory to settlement—to the Committee on Indian Affairs.

By Mr. LIGON: The petition of sugar dealers of Alabama, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. LINDSEY: The petition of citizens of Matinicus, Maine, for an appropriation for the protection of the harbor at said place—to the Committee on Commerce.

By Mr. MAYHAM: The petition of George C. Ellison, for compensation as chief engineer of the House of Representatives from the 1st day of April, 1877—to the Select Committee on the Ventilation of the Hall.

By Mr. McGOWAN: The petition of the wholesale grocers and dealers in sugar of Detroit, Michigan, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. MONROE: The petition of Mrs. O. V. Rice and 12 other women, of Penfield, Ohio, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. MORSE: A paper from Jordon Marsh & Co. and 100 other firms, of Boston, Massachusetts, protesting against the recent ruling of the Postmaster-General in reference to postage on matter printed by the papyrographic process—to the Committee on the Post-Office and Post-Roads.

Also, the petition of wholesale grocers and dealers in sugar, of Boston, Massachusetts, that the duties on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of wholesale grocers and dealers in sugar, of the city of Philadelphia, of similar import—to the same committee.

By Mr. PRICE: The petition of citizens of Muscatine, Iowa, for an appropriation to improve the harbor at that place—to the Committee on Commerce.

By Mr. REED: The petition of John Winslow Jones, for an extension of a patent for packing green sweet-corn—to the Committee on Patents.

Also, the petition of George S. Hunt & Co. and other refiners and grocers, of Portland, Maine, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. RICE, of Massachusetts: The petition of Mrs. H. M. Stone and others, of Saundersville, Massachusetts, for the suppression of polygamy—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of sugar dealers of Ohio, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. SAMPSON: The petition of a citizen of Ohio, that the report of his self-examination be read before the committee to investigate the causes of the hard times—to the committee to inquire into the causes of the present depression of labor.

Also, the petition of Ida Wilson and 37 other women, of the Presbyterian church of Martinsburgh, Iowa, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SAYLER: The petition of sugar dealers of Ohio, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of wholesale grocers of Cincinnati, Ohio, of similar import—to the same committee.

By Mr. SMITH, of Pennsylvania: The petition of sugar dealers of Philadelphia, Pennsylvania, of similar import—to the same committee.

Also, the petition of sugar dealers of Pittsburgh, Pennsylvania, of similar import—to the same committee.

By Mr. SMITH, of Georgia: The petition of wholesale grocers, of Savannah, Georgia, of similar import—to the same committee.

By Mr. STENGER: The petition of the sugar dealers of Pennsylvania, of similar import—to the same committee.

By Mr. STONE, of Michigan: The petition of wholesale grocers and dealers in sugar, of Grand Rapids, Michigan, of similar import—to the same committee.

By Mr. THOMPSON: The petition of the sugar dealers of Philadelphia, Pittsburgh, and New York, of similar import—to the same committee.

By Mr. THROCKMORTON: The petition of W. A. Crank, W. G. Webb, H. S. Fox, and others, citizens of Houston, Texas, that jurisdiction be given to the Court of Claims, or some other impartial tribunal, to hear and determine the rights of claimants to the proceeds of the sale of captured and abandoned property—to the Committee on the Judiciary.

By Mr. TOWNSEND, of New York: The petition of ladies of Lansingburgh, New York, for the enforcement of the laws against polygamy—to the same committee.

Also, the petition of the sugar dealers of Troy, New York, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. TUCKER: The petition of merchants of Lynchburgh, Virginia, of similar import—to the same committee.

Also, the petition of merchants of Richmond, Virginia, of similar import—to the same committee.

Also, the petition of merchants of Alexandria, Virginia, of similar import—to the same committee.

Also, the petition of merchants of Norfolk, Virginia, of similar import—to the same committee.

By Mr. TURNEY: The petition of the sugar dealers of Pennsylvania, of similar import—to the same committee.

By Mr. VANCE: The petition of John M. Taylor, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. VAN VORHES: The petition of A. Nickerson and others, citizens of Ohio, for the establishment of a post-route from McConnellsville, via Hooksburgh and Olivet Church, to Lake Chute Dam, Ohio—to the Committee on the Post-Office and Post-Roads.

Also, the petition of sugar dealers of Ohio, that the tariff on sugar be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. WALKER: The petition of the wholesale grocers of Richmond, Virginia, of similar import—to the same committee.

By Mr. WARD: The petition of sugar dealers of Pennsylvania, of similar import—to the same committee.

By Mr. WATSON: The petition of sugar dealers of Pennsylvania, of similar import—to the same committee.

By Mr. WHITE, of Pennsylvania: The petition of 522 citizens of the United States, residing in New York, Philadelphia, East Boston, Boston, Newburyport, Portsmouth, New Hampshire, Portland, Searsport, Bath, Richmond, Freeport, and Thomaston, Maine, for the passage of the bill to regulate interstate commerce and to prohibit unjust discriminations by common carriers—to the Committee on Commerce.

By Mr. WHITE, of Indiana: The petitition of O. W. Pierce and others, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. WILLIAMS, of Alabama: The petition of wholesale grocers and dealers in sugars, of Montgomery, Alabama, of similar import—to the same committee.

By Mr. WILLIS, of New York. The petition of H. K. and F. B. Thurber & Co. and other importers, of New York, of similar import—to the same committee.

By Mr. WILLIS, of Kentucky: The petition of wholesale grocers of Louisville, Kentucky, of similar import—to the same committee.

Also, papers relating to the pension claim of Gilbert A. Philips—to the Committee on Invalid Pensions.

By Mr. WILLITS: The petition of the wholesale grocers of Detroit, Michigan, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

IN SENATE.

TUESDAY, *January* 28, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 796) for the relief of Jenkins A. Fitzgerald, assistant surgeon United States Army;

A bill (H. R. No. 1173) for the relief of Joseph R. Pratt;

A bill (H. R. No. 3434) releasing the title to a certain cemetery lot to the city of Montgomery, Alabama;

A bill (H. R. No. 4007) for the relief of private William Hines, Company F, Eighteenth United States Infantry, who lost his trousers and blanket by fire at Aiken, South Carolina;

A bill (H. R. No. 4290) for the relief of William S. Hansell and sons; and

A (bill (H. R. No. 6159) granting a bounty land warrant to Elisha Franklin, a survivor of the war of 1812.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (H. R. No. 1326) for the relief of Samuel B. Stauber and others; and

A bill (H. R. No. 4554) for the relief of James G. Harrison.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Indian Affairs:

A bill (H. R. No. 1502) for the relief of Ella P. Murphy; and

A bill (H. R. No. 1614) for the relief of S. T. Marshall, of Lee County, Iowa.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 4143) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased; and

A bill (H. R. No. 4419) for the relief of Peter Meagher.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 1545) for the relief of Ann Gregory, widow of Charles N. Gregory, deceased;

A bill (H. R. No. 3378) to change a term of the district court in the county of Pennington, in the Territory of Dakota;

A bill (H. R. No. 4116) authorizing the board of commissioners of the Soldiers' Home to sell certain property at Harrodsburgh, Kentucky, belonging to the Soldiers' Home;

A bill (H. R. No. 4123) for the relief of Germain H. Mason, of Michigan;

A bill (H. R. No. 5300) to provide for the holding of terms of the district and circuit courts of the United States at Fort Scott, Kansas;

A bill (H. R. No. 5822) for the relief of Henry T. Fuller and others, sureties upon the official bond of William H. Waterman;

A bill (H. R. No. 5984) to amend section 688 of the Revised Statutes of the United States;

A bill (H. R. No. 6169) to establish a district and circuit court at Chattanooga, Tennessee; and

A bill (H. R. No. 6170) for the better organization of the district court of the United States within the State of Louisiana.

The bill (H. R. No. 4418) for the relief of John D. McGill was read twice by its title, and referred to the Committee on Naval Affairs.

MEMORIAL EXERCISES TO PROFESSOR HENRY.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That the memorial exercises in honor of Professor Henry, held in the Hall of the House of Representatives on the 16th of January, 1879, be printed in the CONGRESSIONAL RECORD, and that 15,000 extra copies of the same be printed in a memorial volume together with such articles as may be furnished by the Board of Regents of the Smithsonian Institution; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 for the use of the Senate, and 5,000 for the use of the Smithsonian Institution.

HAYDEN'S REPORT FOR 1876.

The VICE-PRESIDENT also laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed and bound at the Government Printing Office, for the use of the Department of the Interior, 2,000 copies of Professor Hayden's tenth annual report of the Geological and Geographical Survey of the Territories for 1876, uniform with the edition ordered by Congress.

HAYDEN'S ATLAS OF COLORADO.

The VICE-PRESIDENT also laid before the Senate the following concurrent resolution from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That whenever the proper officer having charge thereof shall have received a sufficient number of orders for Professor Hayden's Atlas of Colorado, accompanied by the cost price thereof with 10 per cent. additional, to warrant, in his opinion, the expense of putting the plates to press, he shall cause an edition thereof to be published: *Provided, however,* That the number thus printed shall in no case exceed the number actually ordered and paid for in advance of said publication.

EMBEZZLEMENT BY REVENUE OFFICERS.

The VICE-PRESIDENT. The Chair lays before the Senate the amendment of the House of Representatives to the bill (S. No. 1151) to amend section 5497 of the Revised Statutes, to which he invites the attention of the Senator from Vermont, [Mr. EDMUNDS.]

The amendment of the House was read, being to amend the title of the bill by adding thereto the words:

Relating to embezzlement by officers of the United States.

Mr. EDMUNDS. Will the Chair let that be laid aside a moment? I do not remember the bill.

The VICE-PRESIDENT. The amendment of the House will lie on the table temporarily.

Mr. EDMUNDS subsequently said: I have no objection to the amendment of the title. I move to concur in the amendment of the House of Representatives.

Mr. CONKLING. May I inquire from what committee of the Senate this bill came originally?

The VICE-PRESIDENT. From the Judiciary Committee.

Mr. CONKLING. I wish to say as one member of the committee that I think the House is quite right in this amendment, and that it must have been inadvertent in the committee, certainly it would have been in me had I been present, to report any bill referring arbitrarily to a section of the Revised Statutes by number, without designating it in any way so that it could be carried into the index. I am quite sure I speak for all the members of the Judiciary Committee when I say they think the amendment of the House is a proper one in that respect.

The amendment was concurred in.

FEBRUARY TWENTY-SECOND.

The VICE-PRESIDENT. The Chair also lays before the Senate the amendment of the House to the bill (S. No. 623) to amend section 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d day of February a holiday within said District. The Chair invites the attention of the Senator from Arkansas, [Mr. DORSEY,] the chairman of the Committee on the District of Columbia, to this amendment.

The amendment of the House was read, being in line 7 of the bill to strike out "1878" and insert "1879."

Mr. DORSEY. That amendment ought to be concurred in, I think. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

TESTIMONY OF JAMES E. ANDERSON.

The VICE-PRESIDENT laid before the Senate a copy of the testimony of James E. Anderson, given before the committee of the House of Representatives on investigation of alleged frauds in the electoral vote of the States of Louisiana and Florida, so far as it affects Hon. STANLEY MATTHEWS, a Senator from the State of Ohio, communicated by the House of Representatives to the Senate in response to the resolution of the Senate of December 10, 1878.

Mr. ALLISON. I move that the testimony be referred to the special committee having charge of that subject, and that it be printed.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a letter from the Chief of Engineers and a report of Major F. W. Farquhar, Corps of Engineers, on surveys of the Mississippi River at and near Alexandria, Missouri, and of the harbor of Quincy, Illinois; which was referred to the Committee on Commerce and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. PADDOCK presented the petition of F. Engelliard and others, citizens of Nebraska, praying for the establishment of a post-route from Rising City to York City, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KERNAN presented a letter from John L. French, acting assistant postmaster-general, in relation to the establishment of a post-route between New Kirk Mills and Arietta, in the State of New York; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. HOAR presented the petition of Charles J. Brockway, of Newburyport, Massachusetts, praying to be indemnified for spoliations committed by the French prior to the year 1801; which was referred to the Committee on Claims.

He also presented the petition of Thomas C. Brophy, of Boston, praying that a copy of the CONGRESSIONAL RECORD be sent to each of the

free public libraries in the various towns of the United States during the sessions of Congress; which was referred to the Committee on Printing.

Mr. MORRILL. I present a memorial of the Capitol Hill and East Washington Improvement Association, in relation to the site for the Congressional Library. I move that the memorial, with the accompanying documents, be printed and referred to the Committee on Public Buildings and Grounds.

The motion was agreed to.

Mr. SAUNDERS. I present the petition of Maria Sochar, Barbara Springler, and several other ladies, of Norton County, Nebraska, praying for indemnity for property destroyed by the Indians on the plains. While the Cheyennes were on their flight from the Indian Territory last fall, in passing through Kansas and Nebraska, a number of persons were killed, and among the rest were the husbands of two of these women. Besides the loss of their husbands, their property was also taken, and inasmuch as the Government did not protect them they claim that they have a right to indemnity, or at least a return for the amount of property destroyed. I move that the petition be referred to the Committee on Claims.

The motion was agreed to.

Mr. SAULSBURY presented the petition of James S. Dungan and others, citizens of New Castle, Delaware, praying for an appropriation for the erection of a building in that city for the accommodation of the post-office and the deputy collector of customs; which was referred to the Committee on Public Buildings and Grounds.

Mr. BAYARD. I present the memorial of certain pilots, captains, vessel owners, and citizens of Lewes, Delaware, and vicinity, interested in the navigation of Delaware Bay, and particularly the harbor formed by the Delaware breakwater, setting forth the necessity of an appropriation for the removal of certain wrecks from the harbor caused by the breakwater. The memorial is signed by gentlemen whom I recognize as being deeply interested in and thoroughly informed of the matters whereof they speak.

I beg leave also to say that this harbor is a shelter not to the commerce of that bay, large as it is, but to the entire coastwise commerce of the United States. The point is one of the most important on the coast where shelter can be found from storm and danger in a very short period of time. The appropriation would not be a very large one, but it is essential, and essential I think to be obtained at once. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. BAYARD presented the petition of Miss M. M. S. Clemson and 10 other ladies, of Claymont, Delaware, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. WADLEIGH presented the petition of Alfred E. Jaques, postmaster at Wilton, New Hampshire, praying for the passage of a law remunerating him for loss occasioned by the robbery of the post-office at that place; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the memorial of G. W. Worthen and others, citizens of Lebanon, New Hampshire, remonstrating against the reduction of the tax on manufactured tobacco and cigars; which was referred to the Committee on Finance.

Mr. WALLACE presented the memorial of the city council of Pittsburgh, Pennsylvania, praying for an appropriation for completing Davis Island dam across the Ohio, and also for testing plans for the improvement of the Alleghany River; which was referred to the Committee on Commerce.

Mr. MAXEY presented the memorial of the principal chief and delegates of the Cherokee Nation of Indians, remonstrating against the passage of Senate bill No. 230 and House bill No. 228, authorizing the so-called "eastern band" of the Cherokees (citizens of North Carolina) to sue the Cherokee Nation; which was referred to the Committee on Indian Affairs.

Mr. CAMERON, of Pennsylvania, presented the petition of the College of Physicians of Philadelphia, signed by its officers, praying the publication by Congress of the subject-catalogue of the library of the Surgeon-General's Office; which was referred to the Committee on Printing.

Mr. HARRIS presented the petition of Elizabeth Bradfield, of Henderson County, Tennessee; the petition of Amanda McKey, of Henderson County, Tennessee; and the petition of Martha I. Wilkinson, of Henderson County, Tennessee, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which were ordered to lie on the table.

Mr. VOORHEES presented the petition of W. W. Frybayer, late colonel of Maryland artillery, now of the Soldiers' Home, Dayton, Ohio, praying to be allowed an increase of pension; which was referred to the Committee on Pensions.

Mr. LAMAR presented the petition of Edward Fontaine, of Louisiana, praying that certain plans of his invention for improving the navigation of harbors and rivers, together with the necessary maps and diagrams, be printed under his supervision and at the expense of the Government; which was referred to the Select Committees on the Levees of the Mississippi River.

Mr. WITHERS. I present the petition of D. M. W. Nash, of Portsmouth, Virginia, praying for the removal of his political disabilities. This petition is presented in consequence of an irregularity in a previous petition for the same purpose. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

LABOR STATISTICS.

Mr. DAVIS, of Illinois. Mr. President, I am charged with the presentation to the Senate of a memorial upon the labor problem. It was placed in my hands by Mr. W. Godwin Moody, of Boston, the author of a treatise on the subject, which shows him to be a close observer and student. These memorialists represent that multitudes of our people, popularly estimated by millions, are unemployed, and that this state of things demoralizes all our industrial interests, and calls upon Congress to ascertain the cause of the evil and its remedy. They complain that while the Government expends much time and money in ascertaining and improving the condition of our foreign trade, which does not exceed 5 per cent. of the great aggregate, it does absolutely nothing in the way of comprehensive effort in behalf of the 95 per cent. which is supposed to represent the home trade and consumption.

They do not believe, nor do I, that the problem can be solved by any theory based on data not known to be reliable. What they want is authoritative information obtained by the Government to inform the people of their real condition, and on which to predicate wise legislation. Such information can be taken as a safe basis for reasoning on this important subject, and without it there can be no correct reasoning at all.

To the end, therefore, that accurate statistics of every industry that employs labor may be procured, and the number and condition of the people who are at work or idle ascertained, these memorialists pray for the establishment of a separate bureau to have special charge of all industrial and trade interests, both foreign and domestic. In the mean time, as a new census is about to be taken, they ask, among other things, that the enumerators make report of the condition of every person over sixteen years of age, whether employed or unemployed, and, if unemployed, during what portion of the preceding year. This important information, I am advised, has never been obtained by any government.

Finally, as a preliminary step in solving our labor difficulty, they pray for the appointment of a special commission to inquire to what extent machinery has taken the place of manual labor in general production and manufacture, and what have been the general effects, in order to determine the legislation, if any, that is required to replace the labor that machinery has displaced.

This memorial, I am informed, has three thousand one hundred and ninety names attached to it, representing sixteen States, from Massachusetts to Texas. The first signature is that of a philanthropic woman of New York, Mrs. Elizabeth Thompson. Then follows a long list of some of the best-known names in Massachusetts. Among these are the governor, lieutenant-governor, secretary of State, treasurer, auditor, chief of the labor bureau, secretary of State charities; the mayors of Boston, Cambridge, Lynn, Lawrence, and Salem; Ex-Governor Gaston, Judge Abbott, and Wendell Phillips; Professor Pierce, of Harvard College, and its librarian; the editors of all the daily and religious press of Boston, eminent clergymen of the city, the collector of the port, and representatives of more than one hundred of the mercantile, manufacturing, and commercial houses of Boston.

It also bears the names of Smith Ely, the late mayor of New York, and George William Curtis, of that city; Mr. Corcoran, and other distinguished citizens of Washington; the mayors of Philadelphia, Wilmington, and Trenton, and business firms throughout the country. It is also signed by a large number of artisans, mechanics, and laboring-men. Mr. Moody, in handing it to me for presentation to the Senate, happily observed, "that it was the joint prayer of culture, wealth, and labor."

Whatever differences of opinion there may be, Mr. President, as to the cause of our labor difficulties, it is quite evident that the way out of them cannot be found without the statistical information asked for, and that the requests contained in the petition are reasonable and entitled to the careful consideration of Congress. And I am happy to say that the Special Committee on the Census have taken action on some of the subjects embraced in the memorial.

Mr. President, the labor question forces itself upon the attention of Congress and the country. It has already engaged a body of earnest thinkers and will enlist still more. The statesman who can bring it to a successful solution, so that every man willing to work can obtain employment, will receive the love and gratitude of his countrymen, and leave to history an imperishable name.

I move, sir, the reference of the memorial to the Committee on Education and Labor.

Mr. HOAR. In regard to the subject concerning which the Senator from Illinois has addressed the Senate, I think it proper to say and to remind him, as perhaps the subject may be somewhat new to his investigation, that a bill such as the memorialists pray for, to provide for taking the statistics of the condition of the laboring persons in this country, passed the House of Representatives in the last Congress but one almost by a unanimous vote. I had the honor of drawing and introducing the bill, and it received the nearly unanimous assent of

the House of Representatives. It was defeated in the Senate after a considerable discussion, partly I think in consequence of a want of apprehension of the scope and purpose of the bill.

While the men who have represented what may be termed the discontent of labor in this country and in Europe have advanced many unwise propositions, advocated many unwise and unjustifiable schemes, and have been sometimes very far astray in their notions of political economy and finance, they have united almost without an exception in praying of the several governments under which they live the initiation of measures which by the obtaining of proper and suitable statistics would throw light upon the condition of the laboring classes throughout Christendom, and upon the effect of the existing laws in relation to currency, finance, trade, protection, and other great subjects of legislation. The one thing upon which all this class of persons seem to have agreed, differing as they do among themselves in regard to other matters, is the desire that the Government would obtain for the laboring classes this statistical information for its own use and for their benefit. I have been amazed at the indifference, especially of this body, to the request of this vast number of laborers in this country, when it has been preferred heretofore, and when it has met the assent of the other branch of Congress. I trust the honorable Senator from Illinois will be successful in getting the favorable attention of the Senate to a proposition which has failed to receive it heretofore.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the petition of Thomas S. Ford, a private in Company M, Fourth United States Cavalry, praying that his legal disabilities under section 1218 of the Revised Statutes be removed, submitted a report thereon, accompanied by a bill (S. No. 1719) for the relief of Thomas S. Ford.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1210) for the relief of Charles Valier, late of Company M, Seventh Regiment of Illinois Cavalry, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. VOORHEES, from the Committee on Pensions, to whom was referred the bill (S. No. 1409) granting a pension to Amanda Holmes, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1220) granting a pension to Margaret Mills, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4980) granting a pension to John Dillinger, late a private Fifth Regiment United States Artillery, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 4794) granting a pension to Peter Yarnell, late a private in Company D, Twelfth West Virginia Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, to whom was referred the bill (S. No. 1035) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2294) to authorize the Secretary of War to place upon the rolls of Company H, Ninth Regiment West Virginia Volunteer Infantry the name of William S. Massie, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1650) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred a letter of the Secretary of War, transmitting a letter of the Chief of Ordnance inclosing a special estimate of $14,000, &c., for purchase of land to enlarge the San Antonio arsenal, Texas, reported a bill (S. No. 1720) to enable the Secretary of War to purchase land to enlarge and protect the San Antonio arsenal; which was read twice by its title.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1373) for the relief of Joseph C. Hess, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 1475) for the relief of the sureties, &c., of Samuel M. Reynolds, late additional paymaster of United States volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1286) granting relief to John T. Neale, an employé of the provost-marshal-general's department in 1861, for injuries sustained in the line of his duties, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1692) authorizing the President to nominate Herman Biggs to a second lieutenancy in the Army, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1260) for the relief of John W. Chickering, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3558) for the relief of Second Lieutenant Thomas T. Knox, regimental quartermaster First Cavalry, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2443) for the relief of citizens of Montana who served with the United States troops in the war with the Nez Percés, and for the relief of the heirs of such as were killed in such service, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1144) for the relief of Ann Annis, widow of Harvey Annis, late second lieutenant Company G, Fifty-first Regiment United States Colored Infantry, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2284) for the relief of David W. Stockstill, of Sidney, Ohio, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 2394) for the relief of Leonard L. Lancaster, late sergeant Second Regiment Cavalry, Wisconsin Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1901) for the relief of Philip W. Stanhope, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1301) for the relief of Henry E. Wilkinson, late first lieutenant of Company I, Ninety-ninth Regiment Pennsylvania Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WADLEIGH, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1162) for the relief of Alfred Muller, late acting assistant surgeon United States Army, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4289) for the relief of Thomas W. Segar, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Lucia M. B. Peck, of Burlington, Vermont, in relation to her husband's alleged wrongful imprisonment in the Old Capitol prison, Washington, District of Columbia, during the late war, and praying remuneration for damages alleged to have accrued to him personally and to his business by reason of such imprisonment, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. PADDOCK, from the Committee on Public Lands, to whom was referred the bill (S. No. 1564) to extend the time to pre-emptors on the public lands, reported it with amendments.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2852) for the relief of James M. Ruby, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1163) for the relief of the heirs of Charles B. Smith, deceased, reported it without amendment, and submitted a report thereon, which was ordered to be printed.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1478) for the relief of settlers on public lands, reported it with an amendment.

Mr. BOOTH. From the Committee on Patents, to whom was referred the petition of Helen Francis Manville praying the extension of reissued patent numbered 6535, I submit a minority report. I move that it be printed, to be considered in connection with the bill (S. No. 1629) to allow the Commissioner of Pensions to extend the patent numbered 6535 of reissues, which was reported from the Committee on Patents and is now on the Calendar.

The motion was agreed to.

Mr. DAWES, from the Committee on Public Buildings and Grounds, to whom was referred a joint and concurrent resolution of the twenty-ninth General Assembly of the State of Missouri urging the removal of the National Capital to a more central point in the American Union, asked to be discharged from its further consideration; which was agreed to, and the resolution was ordered to lie on the table.

Mr. DAWES. I am also directed by the same committee to report back a concurrent resolution of the General Assembly of the State of Missouri passed at another session for the same purpose and ask to be discharged from its further consideration.

The VICE-PRESIDENT. That order will be entered.

Mr. DAWES, from the Committee on Public Buildings and Grounds, to whom was referred the petition of mechanics of Philadelphia praying for restoration of wages on public buildings and protesting against a violation of the spirit of the eight-hour law, asked to be discharged from its further consideration; which was agreed to.

REPORT OF ENTOMOLOGICAL COMMISSION.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print 10,000 copies of the second report of the United States entomological commission, to report it with an amendment, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 10,000 copies of the second report of the United States entomological commission; 5,000 copies of which shall be for the use of the House of Representatives, 2,000 copies for the use of the Senate, 2,000 copies for the use of the Department of the Interior, and 1,000 for the use of the commission.

The resolution was reported from the Committee on Printing with amendments, to make it read:

That there be printed 5,000 copies of the second report of the United States entomological commission; 3,000 copies of which shall be for the use of the House of Representatives, 1,500 copies for the use of the Senate, and 500 for the use of the commission.

The VICE-PRESIDENT. The question is on agreeing to the amendments reported by the Committee on Printing.

Mr. PADDOCK. I ask the Senator from Rhode Island to let the resolution lie over for a day. I should like to make an inquiry of the entomologist in respect to the number of volumes authorized to be printed. It strikes me that the amendments are very wrong.

Mr. ANTHONY. The number is reduced to the number printed of the first volume. The Senate passed a resolution like the original of this resolution for the first volume, but the House reduced the number one-half; and the Committee on Printing have reduced the number to be printed of the second volume one-half so as to make the number correspond with the number printed of the first volume.

Mr. PADDOCK. My recollection is that a very much larger number of the first volume was printed than is provided for the second volume even in the House resolution.

Mr. ANTHONY. I have no objection to let the resolution lie over. The Senator from Nebraska can take charge of it and call it up after he looks into the matter.

The VICE-PRESIDENT. The resolution will be placed on the Calendar.

INSECTS AFFECTING COTTON.

Mr. ANTHONY. I am directed by the Committee on Printing, to whom was referred a resolution to print 30,000 copies of the special report from the Department of Agriculture on insects affecting the cotton-plant, to report it with an amendment, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed 30,000 copies of the special report from the Department of Agriculture on the insects affecting the cotton-plant, with the necessary illustrations, to be made by the Public Printer under the direction of the Joint Committee on Public Printing; 15,000 of which shall be for the use of the House of Representatives, 10,000 for the use of the Senate, and 5,000 for the use of the Department of Agriculture.

The resolution was reported from the Committee on Printing with amendments:

That there be printed 10,000 copies of the special report from the Department of Agriculture on the insects affecting the cotton-plant, with the necessary illustrations, to be made by the Public Printer under the direction of the Joint Committee on Public Printing; 5,000 of which shall be for the use of the House of Representatives, 3,000 for the use of the Senate, and 2,000 for the use of the Department of Agriculture.

Mr. PADDOCK. It strikes me that the amendments ought not to be adopted, and that the House resolution provides for the printing of no more copies of this report than ought to be printed. I call the attention of Senators representing the States in which cotton is the staple product to this matter.

Mr. SARGENT. The committee have made provision for a very liberal printing of this report. It is one which, although important, is local. The Representatives from most of the States have no occasion for these books, and very readily, as they do in all such cases, will give them to their brother Senators and Representatives who are interested, so that one-half or perhaps one-third of the number of copies ordinarily printed of this book will supply the demand. The committee thought the number provided in the amendments was very large indeed. Although the demand is local, it is, I think, a very important document. The trouble is that this business of printing grows upon our hands, so that it seems to be almost uncontrollable and we have to keep it down to answering the purposes of the Printing Office and of distribution. The amount provided for by the amendment is very large, and hereafter if it shall be found necessary to print an additional edition it may be done at that time from the stereotype plates without much greater cost than if the printing were ordered now. I think the Senate had better pass the resolution as reported from the committee.

Mr. PADDOCK. So far as printing and providing information on the subject of agriculture is concerned, I for one insist upon the most liberal rule possible. If there is to be a curtailment in the printing of public matter, let it come from another source, and in regard to other matters. However, if Senators whose constituencies are more specially interested in the cotton production are satisfied with the amendments of the Committee on Printing, I certainly shall not oppose them for one.

Mr. SARGENT. One remark, Mr. President. We print more of the agricultural reports than we print of any other of public documents. We take great pains to distribute agricultural information. But I think the agriculturists as well as other classes of citizens do not desire that even to disseminate such information they shall be taxed inordinately, and it is to keep down taxation of that class, and of all other classes, that we try to restrain extravagant printing.

The VICE-PRESIDENT. The question is on agreeing to the amendments of the Committee on Printing.

The amendments were agreed to.

The resolution, as amended, was agreed to.

BILLS INTRODUCED.

Mr. CAMERON, of Pennsylvania, (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1721) for the relief of Edward Shields and others; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. EDMUNDS. Under similar request, and without committing myself to any views about the bill, I ask leave to introduce a bill without previous notice.

By unanimous consent, leave was granted to introduce a bill (S. No. 1722) authorizing the President to prescribe suitable police regulations for the government of the various Indian reservations, and to provide for the punishment of the crimes of murder, manslaughter, arson, rape, burglary, and robbery committed upon the various Indian reservations; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1723) granting arrears of pension to Mrs. Jane Dulaney; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GORDON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1724) granting the right of way to the Atlantic and Mexican Gulf Canal Company, of Georgia and Florida, through the lands and waters of the United States along said canal route; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SARGENT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1725) for the erection of a building for a post-office and United States courts in San Francisco, California; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1726) for the relief of Julia A. Nutt, widow and executrix of Haller Nutt, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. HARRIS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1727) to authorize the commissioners of the District of Columbia to remit certain charges, penalties, commissions, interest, and other expenses, upon payment of the original amounts of the general and special taxes and assessments recited within the act within ninety days from and after the passage of the act, and for other purposes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

AMENDMENTS TO BILLS.

Mr. MORRILL submitted an amendment intended to be proposed by him to the bill (S. No. 1591) to provide additional accommodations for the Library of Congress; which was ordered to lie on the table.

Mr. PLUMB submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

ADMISSION TO CORRIDOR AND MARBLE ROOM.

Mr. EDMUNDS. I offer the following resolution after consultation with a great many Senators on both sides, and I ask for its present consideration:

Resolved, That during the remainder of the present session of the Senate no person not entitled to the privileges of the floor shall be admitted to the corridor in rear of the Senate Chamber, or to the Marble Room.

The VICE-PRESIDENT. Is there objection to the present consideration of this resolution?

Mr. WITHERS. Let it go over.

The VICE-PRESIDENT. The Senator from Virginia objects, and the resolution goes over.

COMPETING TELEGRAPH LINES.

Mr. MITCHELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Railroads be instructed to inquire into the expediency of authorizing railroad companies operating interstate railroads to construct and operate lines of telegraph for commercial purposes; and of authorizing the connection of lines of different companies, with a view of encouraging competition in the telegraphic business of the country, and to report by bill or otherwise.

ORDER OF BUSINESS.

Mr. MORRILL. I call up the bill (S. No. 1685) to provide for taking the tenth and subsequent censuses, in accordance with previous notice that it would be called up this morning after the morning hour.

The VICE-PRESIDENT. The morning hour has expired, but the Senator from Vermont asks the Senate to take up the bill he has indicated.

Mr. HARRIS. Is the request of the Senator from Vermont for unanimous consent?

Mr. MORRILL. No, sir. I suppose as a matter of business the bill will come up in its regular order this morning.

Mr. HARRIS. The unfinished business of the Senate I think is another matter that I hope the Senate will vote upon and end very promptly; and I feel constrained to ask for the regular order.

The VICE-PRESIDENT. The resolution under which the Senate is considering the calender of general orders now operates until half past one o'clock.

Mr. MORRILL. Then I move to postpone that and all prior orders for the purpose of taking up Senate bill No. 1685.

Mr. HOWE. I want to interpose a word here, addressed quite as much to the Senator from Vermont as to the Senate. I gave notice the other day that this morning I would ask the Senate to proceed to the consideration of a bill which I am sure the Senator from Vermont takes deep interest in—a bill to provide additional accommodations for the Library of Congress. The Senator from Vermont has obtained the floor and has first submitted his motion to the Senate, and I am rather too discreet a man to come in collision with the Senator from Vermont when I can avoid it. Unless the Senator will in the exercise of his own excellent judgment allow me to submit that motion, I shall have to defer it until a more convenient season, I am afraid.

Mr. MORRILL. I desire to say to the Senator from Wisconsin that I am anxious to have action upon the bill to which he refers. I desire also to say to him that I this morning introduced an amendment to the bill, which is not yet printed but will be printed by to-morrow, and also a memorial containing various documents and facts that I think may be essential to the consideration of the subject. Therefore I ask the Senator to allow the bill to go over at least until to-morrow when the amendment and the memorial with the accompanying documents shall be printed both for his information and my own.

Mr. HOWE. I shall acquiesce the more readily because the Senator seems to be himself employed in expediting that piece of legislation. He has already, as he says, prepared one amendment. I again renew the request that other Senators whose views may differ from those presented in the bill and may differ from those presented in the amendment offered by the Senator from Vermont will prepare such amendments as they desire to move and have them ready for the sitting to-morrow.

The VICE-PRESIDENT. The question is on the proposition of the Senator from Vermont, [Mr. MORRILL.]

Mr. EDMUNDS. I wish to give notice, as I do every day and did yesterday and the day before and so on indefinitely backward, that as soon as Warren Mitchell (who seems to be more important to a majority of the Senate than any other public consideration) is disposed of, if not sooner, I shall move to take up the resolutions that have been so often referred to, whatever stands in the way.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont, [Mr. MORRILL.]

Mr. SPENCER. I desire to move that Friday after the morning hour be set apart for the consideration of bills from the Committee on Military Affairs. There are about seventy-five bills on the Calendar from that committee, and I should like to have Friday set apart for that business. I make that motion.

Mr. EDMUNDS. I object to that motion. You would have to change the rules to do that. And making that objection I wish to say to my friend from Alabama that I think experience has shown over and over again that setting apart a particular day for particular committees is injurious to the proper transaction of public business. We shall not do any more business in the whole in that way; and we shall do it a great deal better if we take the Calendar in the order in which cases have been reported from all committees.

Mr. SPENCER. I suppose a single objection puts my motion over until to-morrow. I give notice that I shall call it up to-morrow.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont [Mr. MORRILL] that the pending and all prior orders be laid aside, and that the Senate now proceed to the consideration of the census bill.

Mr. THURMAN. Before that is voted on I wish to make an inquiry of the Senator from Vermont: whether it is his expectation to press that bill to a vote to-day, or whether he simply wants it taken up in order that he may address the Senate? I feel very much indisposed to consent to the disposition of that bill to-day. It is a bill very few persons have studied yet, and it requires, I think, a great deal of study. If the Senator only wishes to have it called up for the purpose of addressing the Senate upon it, I certainly will assist in getting it up.

Mr. MORRILL. Oh, no, Mr. President. The committee on the part of the Senate have reported this bill unanimously, and I desire to have it taken up and acted upon to-day. I think when it is read and explained it will not take a great deal of time, and I do not propose myself to occupy more than a very brief time in making simply a plain statement in explanation of the provisions of the bill. I shall occupy not more than fifteen or twenty minutes.

Mr. THURMAN. There will be several amendments offered to that bill, and it cannot pass in a hurry, I take it.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont, [Mr. MORRILL.]

The question being put, a division was called for; and the ayes were 17.

Mr. MORRILL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. Mr. President, I ought to have known, but I must confess I did not know, that the Senator from Vermont intended or had given notice that to-day, being the 28th, he would call up a bill reported on the 23d of January. The bill is not a simple one, nor does it relate to a trifling or simple subject. Those who have been long in the Senate will remember that on the last occasion of taking the census there was a good deal of discussion in the Senate on this subject. That discussion took place a year later relatively than this. I believe in every instance a census bill has been passed a year later relatively than this; and therefore it was that I did not understand that the committee deemed it important so promptly to act on this subject.

However, that is no excuse; and I should have been ready to vote upon this bill, but I am not. I observe it provides that the Secretary of the Interior shall on or before the 1st of April, 1880, proceed to appoint supervisors of the census. The Senate will see that before April, 1880, if the Government continues, there will be some months of congressional session, and therefore I had not supposed it was important that at this session at all a census bill should be adopted. I know it has been said—it was said ten years ago—that it was important it should be done a year in advance. The Senate and House then thought otherwise, and on that occasion the bill was passed some time after the 1st of January of the year on which the census was to be taken.

Now, like the Senator from Ohio, I think this an important bill, and I should like to have, as I have not had an opportunity to be able to understand it myself and to receive the understanding of several persons whom I know, and who have large information on this subject, some of them here and some of them elsewhere.

Therefore, although accustomed to vote for any motion made by the honorable Senator from Vermont, it would convenience me at all events, as the Senator from Ohio says it would him, if this bill could stand for a few days until we can know more about it. I certainly could not vote upon it to-day intelligently; to be quite frank about it, I see some provisions in the bill which I do not think I could vote for on any day unless new light, which we did not have before on some equivalent proposition should be presented.

The yeas and nays were taken.

Mr. PLUMB, (after having voted in the affirmative.) I believe I am paired on this question with the Senator from Maryland, [Mr. DENNIS.] I therefore withdraw my vote.

The result was announced—yeas 23, nays 27; as follows:

YEAS—23.

Allison,	Dawes,	Kellogg,	Paddock,
Anthony,	Dorsey,	Matthews,	Rollins,
Burnside,	Edmunds,	McMillan,	Sargent,
Cameron of Pa.,	Ferry,	Mitchell,	Saunders,
Chaffee,	Hamlin,	Morgan,	Wadleigh.
Davis of Illinois,	Howe,	Morrill,	

NAYS—27.

Bailey,	Davis of W. Va.,	Johnston,	Saulsbury,
Bayard,	Eaton,	Jones of Florida,	Shields,
Beck,	Garland,	Lamar,	Thurman,
Booth,	Gordon,	Maxey,	Voorhees,
Butler,	Harris,	McCreery,	Wallace,
Cockrell,	Hereford,	McPherson,	Withers.
Coke,	Hill,	Ransom,	

ABSENT—26.

Barnum,	Dennis,	Kirkwood,	Sharon,
Blaine,	Eustis,	McDonald,	Spencer,
Bruce,	Grover,	Merrimon,	Teller,
Cameron of Wis.,	Hoar,	Oglesby,	Whyte.
Christiancy,	Ingalls,	Patterson,	Windom.
Conkling,	Jones of Nevada,	Plumb,	
Conover,	Kernan,	Randolph,	

So the motion was not agreed to.

BILLS OBJECTED TO.

The VICE-PRESIDENT. The Secretary will proceed with the call of the Calendar of general orders.

The bill (H. R. No. 1888) for the relief of Macon, Georgia, which was reported adversely from the Committee on Claims, was announced as the bill regularly in order on the Calendar.

Mr. SARGENT. I move the indefinite postponement of the bill.

The motion was agreed to.

Mr. GORDON. I did not hear that bill.

The VICE-PRESIDENT. It will be again reported.

The bill was read.

Mr. GORDON. I ask that that go over.

Mr. SARGENT. I have no objection.

The VICE-PRESIDENT. The vote to postpone indefinitely will be regarded as reconsidered, and the bill will stand on the Calendar going over. The next bill will be read.

The next bill on the Calendar was the bill (S. No. 910) for the relief of the book agents of the Methodist Episcopal Church South.

Mr. ALLISON. That will lead to debate.

Mr. McMILLAN. Does an objection take the bill over?

The VICE-PRESIDENT. It does.

Mr. McMILLAN. I object.

The VICE-PRESIDENT. The Secretary will report the next bill on the Calendar.

The next business on the Calendar was the resolution (S. R. No. 19) in reference to the disapproval of an act of the Territory of Arizona.

Mr. ALLISON. That will lead to debate.

Mr. EDMUNDS. I guess not. I do not believe it will. That is a simple act. It had better be read.

Mr. GARLAND. I do not think that resolution will lead to any debate. I ask that it be read in full.

The VICE-PRESIDENT. The resolution will be read in full, and then objection will be called for.

The resolution was read, as follows:

Whereas it is provided by section 1850 of the Revised Statutes of the United States that all laws passed by the Legislative Assembly and governor of any Territory, except in the Territories of Colorado, Dakota, Idaho, Montana, and Wyoming, shall be submitted to Congress, and, if disapproved, shall be null and of no effect; and

Whereas it is also provided by section 1889 of the Revised Statutes that the Legislative Assemblies of the several Territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon-roads, irrigating-ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable, or scientific association; and

Whereas the Legislative Assembly of the Territory of Arizona has passed an act entitled "An act to secure the construction and operation of certain railroad and telegraph lines, and to provide for other matters relating thereto," which was approved by the governor of said Territory on the 7th day of February, A. D. 1877; and

Whereas from an examination thereof said act of the Legislative Assembly of said Territory is found to be a private charter, by special act creating the Southern Pacific Railroad Company a corporation within said Territory, with perpetual succession, without any reservation of the right of amendment or repeal, for the purpose of constructing lines of railroad and telegraph into and across said Territory, one as near as may be on the line of the thirty-fifth parallel of north latitude and the other as near as may be to the line of the thirty-second parallel of north latitude, and to that end conferring on said corporation certain especial privileges, amongst others an exemption, for a period of years, of all the property of said corporation from taxation, and granting to said corporation the right to regulate the time and manner in which passengers and property shall be transported over its road, and the tolls or compensation to be paid therefor, with no limitation thereon, except a maximum of ten cents per mile for each passenger and fifteen cents per mile for each ton, by weight or measurement, of freight transported on its roads: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said act of the Legislative Assembly of the Territory of Arizona, entitled as aforesaid, and hereinbefore recited, be, and the same is hereby, disapproved.

Mr. MITCHELL. I ask that that resolution go over. I want to examine it.

The VICE-PRESIDENT. The consideration of the resolution is objected to. The next bill on the Calendar will be stated.

The next bill on the Calendar was the bill (S. No. 306) amendatory of the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon."

Mr. EDMUNDS. We cannot pass any railroad bills within the morning hour, evidently, either for Arizona or Oregon.

The VICE-PRESIDENT. The bill goes over.

The next bill on the Calendar was the bill (S. No. 474) to authorize the Southern Pacific Railroad Company to extend its railroad and telegraph line easterly from its eastern terminus in Arizona to a point on the Rio Grande at or near El Paso and to aid in building the same.

Mr. EDMUNDS. That is a railroad bill too, Mr. President.

The VICE-PRESIDENT. The bill goes over.

The next bill on the Calendar was the bill (S. No. 942) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the several acts amendatory thereof and supplementary thereto.

Mr. EDMUNDS. That is a railroad bill.

The VICE-PRESIDENT. The bill goes over.

NATIONAL BANK OF WESTERN ARKANSAS.

The next bill on the Calendar was the bill (S. No. 250) for the relief of the National Bank of Western Arkansas, which was reported adversely from the Committee on Claims.

Mr. DORSEY. I move that that bill be indefinitely postponed.

The motion was agreed to.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had this day approved and signed the following acts:

An act (S. No. 109) defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives;

An act (S. No. 605) for the relief of William M. Kendall;

An act (S. No. 753) to confirm a certain private land claim in the Territory of New Mexico; and

An act (S. No. 854) for the adjudication of title to lands claimed by José Apis and Pablo Apis, in the State of California.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 5315) to restore the records and files in the district and circuit courts of the United States for the western district of Texas, lately destroyed by fire; and it was thereupon signed by the Vice-President.

RICHMOND FEMALE INSTITUTE.

The bill (S. No. 61) for the relief of the Richmond Female Institute, of Richmond, Virginia, was announced to be the next business in order on the Calendar.

Mr. EDMUNDS. Let us hear the report.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. HOAR March 18, 1878:

The Committee on Claims, to whom was referred the bill (S. No. 61) for the relief of the Richmond Female Institute, of Richmond, Virginia, have considered the same and report that it ought to pass.

This bill has already passed both Houses, but failed to be presented to the President in time to receive his signature before adjournment. The petitioners are an incorporated charitable institution. April 9, 1865, their buildings were taken possession of for Army headquarters and occupied as such and for the Freedmen's Bureau until October 10, 1866. A board of officers was convened by General Terry, under orders from Major-General Turner, who, after hearing evidence, found $400 a month to be a reasonable rent for the premises. This rent was paid by the quartermaster until October 1, 1865. Payment of rent then ceased by order of the Quartermaster-General, who subsequently recommended the payment of rent from April 2, 1866, but claimed the right to compel repayment of the rent paid from April to October, 1865, as having been received by the institute contrary to law.

We are of opinion, first, that the United States having voluntarily paid the rent from October to April, 1865, there is no reason for attempting to recover it back; second, that the rent from April 6 to October 10, 1866, is clearly due to the petitioners, the United States having used and occupied their premises after the close of the war and the complete restoration of the authority of the United States.

As to the period from October 1, 1865, to April 2, 1866, the owners' claim lacks the technical foundation of the assent of the Quartermaster-General to the contract of hiring. But the premises were taken and occupied under an assurance that they should be paid for, given by the commander of the department and approved by his successor. This was long after the actual termination of hostilities, and when a hostile capture of private property for purposes of military use would have been justly regarded by the whole country as an act of unjustifiable severity. Under such circumstances, where the commanding officer, instead of destroying or taking as enemies' property an institution of learning, sees fit to treat it otherwise and to hire it, in our judgment public policy requires that his act should be ratified.

The committee further submit, for the information of the Senate, a report made from the Committee on Claims, April 26, 1876, by Mr. COCKRELL, relating to the same case——

Mr. HOAR. It is not necessary to read the appended report.

Mr. EDMUNDS. I should like to hear it.

The Secretary proceeded to read a report submitted by Mr. COCKRELL, April 26, 1876.

The VICE-PRESIDENT. The time within which the Calendar of general orders is to be considered under the special order has expired, and the Senate will resume the consideration of its unfinished business.

Mr. HOAR. I ask unanimous consent that the reading of this report, which is nearly completed, may be finished; otherwise it will have to be read all over again.

The VICE-PRESIDENT. Is there objection? The Chair hears none.

The Secretary resumed and concluded the reading of the report submitted by Mr. COCKRELL, April 26, 1876, as follows:

"The Committee on Claims, to whom was referred the petition of the Richmond Female Institute, through its trustees and treasurer, Wellington Goddin, have duly considered the same, and submit the following report:

"The Richmond Female Institute was duly incorporated by the Legislature of the State of Virginia on March 2, 1853, for the education of females, and placed under the charge and control of a board of trustees, with a treasurer, and Wellington Goddin was duly appointed treasurer, and has ever since continued and now is the treasurer, duly qualified and acting.

"Soon after incorporation, large and expensive buildings were erected for school purposes, and a female school opened and continued.

"On the 9th day of April, 1865, Colonel James, quartermaster, took possession of the institute buildings for Army headquarters for General Schofield. Very soon afterward the treasurer, Mr. Goddin, made application to Colonel James for rent, and the matter was referred to the commanding officer, and a board of officers was convened by General Terry, under orders of Major-General Turner, to estimate and determine the rate of rent or rental value of the institute buildings.

"In July, 1865, this board of officers duly met and considered the question of rent, heard evidence, and decided that the institute buildings so used by the Army were reasonably worth $400 per month.

"About October 24, 1865, Colonel James, the quartermaster, in pursuance of the estimate and decision of the board of officers, paid to Treasurer Goddin the rent,

at the rate of $400 per month, from April 9, 1865, to October 1, 1865, amounting to $2,293. Application for this payment of rent was made about October 1, 1865.

"The buildings were occupied for Army purposes, and were necessary for such purposes, up to October 10, 1866. Rent is now claimed at the rate of $400 per month from October 1, 1865, to October 10, 1866, amounting to $4,933.33.

"No rent was paid after said payment made October 24, 1865, as above stated.

"October 25, 1865, by order of the Quartermaster-General, the further payment of rent was stopped.

"July 31, 1866, a claim for rent from October 1, 1865, to August 1, 1866, ten months, was presented, and General Terry, commanding at Richmond, indorsed on same:

"'The building of the Baptist Female Institute was seized immediately after the evacuation of Richmond for the headquarters of the department, and is still occupied as such. I propose to restore it to its owners on the 1st of September. Inasmuch as it belongs to an educational and charitable institution, which could not have taken part in the rebellion, I respectfully recommend that this bill for rent be paid.'

"August 28, 1866, Hons. Joseph Segar and Parker, of Virginia, applied to have the buildings restored.

"September 7, 1866, General Schofield, commanding at Richmond, indorsed the same as follows:

"'Respectfully returned to the War Department, with report that the building referred to accommodates all the officers connected with department headquarters, including those of the Freedmen's Bureau, and that no other suitable building can be obtained for the purpose in Richmond.

"'Therefore I cannot consent to the proposed surrender of the building. But I recommend, for the reasons stated by General Terry in the within indorsement of July 31, that the claim for rent be paid.'

"February 26, 1867, the following letter was addressed to the Secretary of War, namely:

"QUARTERMASTER-GENERAL'S OFFICE,
"*Washington, D. C., February 26, 1867.*

"SIR: I have the honor to return herewith the papers in the claim of the Richmond Female Institute, through Wellington Goddin, treasurer, for the use of the building by the military authorities from April 2, 1866, to October 12, 1866, at the rate of $400 per month, amount, as stated, $2,533.33, said rental being fixed by a board convened by General Terry, the claim having been referred to this office by the War Department, January 18, 1867, together with previous papers, for report.

"I have the honor to report that a claim for rent of this property, amounting to $4,000, was presented August 15, 1866, by Rev. J. B. Jeter, which was returned disallowed August 17, 1866, by reason of 'the building being used as a hospital by the rebels; the owners were rebels. It was a public building in a captured city, and the sum of $2,293 has already been paid contrary to the rules and orders governing the Quartermaster's Department.'

"November 9, 1866, the claim was received back, and on the 14th of that month it was returned to the Third Auditor, again disallowed. The following extract appears in the letter to the Third Auditor: 'No rent can be paid for this property previous to April 2, 1866, the date of the President's proclamation, as existing orders from the War Department forbid the payment of rents for property used by the United States in the late rebellious States before that time.'

"January 4, 1867, E. M. Garnett, attorney, forwards to General Blunt amended account, dating from April 2, 1866, which account is referred by the War Department, January 18, 1867, for report, (as previously herein stated.)

"In view of the facts as stated, I respectfully recommend that payment of rent be allowed the claimant, at a rate to be approved by the commanding general of Department of the Potomac, from April 2, 1866, during period of United States occupation of the premises: *provided*, that the amount of rent paid previous to April 2, 1866, $2,293, be deducted from the amount which may be due for rent since April 2, 1866, the date of the proclamation of the President.

"Very, respectfully, sir, your obedient servant,

"D. H. RUCKER,
"*Acting Quartermaster-General, Brevet Major-General,*
"*United States Army.*

"Hon. E. M. STANTON,
"*Secretary of War, Washington, D. C.*

"ADJUTANT-GENERAL'S OFFICE, *March* 9, 1867.

"Respectfully referred to Major-General E. R. S. Canby, president claims commission.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*

"The claim was then referred by the Adjutant-General to Major-General E. R. S. Canby, president claims commission, and on March 14, 1867, the claims commission made the following decision, to wit:

"WAR DEPARTMENT,
"OFFICE OF THE CLAIMS COMMISSION,
"*Washington, D. C., March 14, 1867.*

"In the matter of the claim of the Richmond Female Institute for compensation for the use and occupation of the institute building by the United States military authorities from April 2, 1866, to October 12, 1866. No. 862.—Decision.

"It appears from the papers and the evidence on file with the commission that this claim comes within the prohibitory clauses of the act of Congress approved July 4, 1864, as amended and construed by an act passed by the Thirty-ninth Congress, entitled 'An act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and commissary supplies furnished to the Army of the United States,"' received by the President on the 9th of February, 1867, which amendatory act provides that the aforesaid act of July 4, 1864, 'shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by, the armies of the United States; nor for the occupation of, or injury to, real estate; nor for the consumption, appropriation, or destruction of, or damage to, personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the southern rebellion, in a State, or part of a State, declared in insurrection by the proclamation of the President of the United States dated July 1, 1862, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government.'

"It is therefore rejected.

"A true copy.

"DE WITT CLINTON,
"*Brevet Lieutenant-Colonel, Recorder.*
"ADJUTANT-GENERAL'S OFFICE, *March* 18, 1867.

"Respectfully submitted to the Secretary of War.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*

"WAR DEPARTMENT, *March* 21, 1867.

"The decision of the claims commission, rejecting the claim of the Richmond Female Institute for compensation for the use and occupation of the institute building by the United States military authorities, from April 2, 1866, to October 12, 1866, is approved and confirmed; and the case is referred to the Quartermaster-General in order that the decision may be noted, these papers to be returned to the War Department for file.

"By order of the Secretary of War.

"LOUIS H. PELOUZE,
"*Assistant Adjutant-General.*

"ADJUTANT-GENERAL'S OFFICE, *April* 5, 1867.

"Respectfully transmitted to the Quartermaster-General, U. S. A.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*

"QUARTERMASTER-GENERAL'S OFFICE,
"*April* 20, 1867.

"Respectfully returned to the Secretary of War. The action has been noted on Quartermaster-General's decision-book No. 6229.

"D. H. RUCKER,
"*Acting Quartermaster General, Brevet Major-General.*

"This decision was approved by the Secretary of War.

"From the foregoing it is admitted that the rent is properly payable from April 2, 1866, to October 10, 1866, but the Quartermaster's Department claims the right to deduct from such rent the amount voluntarily paid from April 9, 1865, to October 1, 1865.

"Your committee can see no just grounds upon which this deduction can be claimed or allowed, and find that the rent from April 2 to October 10, 1866, six months eight days, amounting to $2,506.66, is justly due to the claimant.

"The material and more difficult question is, whether rent from October 1, 1865, to April 2, 1866, can be properly allowed.

"The President, in pursuance of the act of Congress, approved July 13, 1861, did, by his proclamation of August 16, 1861, declare that the inhabitants of the State of Virginia, excepting the inhabitants of that part of Virginia lying west of the Alleghany Mountains, and of such other parts of that State as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by the United States forces, to be in a state of insurrection.

"By act of Congress, approved December 31, 1862, provision was made for the recognition of the State of West Virginia as a separate State in the Union, based upon the action of a convention assembled in Wheeling, November 26, 1861, and a general election held in pursuance of the action of said convention on May 3, 1862, and upon an act of the Legislature of Virginia, passed May 13, 1862, consenting to the formation of a new State within the jurisdiction of the State of Virginia, to be known as West Virginia.

"On the 9th day of May, 1865, the President, by executive order, declared the authority of the United States re-established in Virginia, and directed the Secretary of State, the Secretary of the Treasury, the Postmaster-General, the district judge of said district, the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior to put in force all laws of the United States pertaining to their respective departments, and guaranteed to Francis H. Pierpont, governor of the State of Virginia, the aid of the Federal Government, as far as may be necessary, in all lawful measures for the extension and administration of the State government throughout the geographical limits of the State.

"On April 2, 1866, the President, by proclamation, declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end. The claimant, the Richmond Female Institute, as a body-politic or incorporation, did not participate in the rebellion, and although its property might be the lawful subject of seizure and occupation by the United States troops at the capture of Richmond, Virginia, by reason of its locality, yet this was a right which the Government could waive, and, as your committee think from the actions and proceedings of Generals Terry, Turner, and Schofield, did waive in this case, and had the rental value of the buildings duly determined, and voluntarily paid the rent up to October 1, 1865.

"In view of all the facts in this particular case, your committee think the claimant entitled to the rent from October 1, 1865, to October 10, 1866, amounting to $4,933 33, and recommend the passage of the accompanying bill herewith reported. In addition to the foregoing there is another view of this particular case. It is this: by the law of nations institutions of learning are exempted by all civilized nations from the hostilities of war. They are to be classed, in this respect, with public libraries, hospitals, &c.

"Our Government in its 'instructions for the government of armies in the field,' originally prepared by Dr. Lieber, revised by a board of officers, of which Major-General Hitchcock was president, and approved by President Lincoln in 1863, binds itself by these rules, as follows: 'As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one, but it may be taxed or used when the public service may require it.' See paragraph 34, General Orders No. 100, Adjutant General's Office, section 2.

"This order, in connection with the acts of the officers in charge of our armies in Richmond, clearly shows that the Government occupied the institution with the express understanding and intention of paying rent for same."

WARREN MITCHELL.

The VICE-PRESIDENT. The unfinished business of the Senate is the bill (S. No. 855) for the relief of Warren Mitchell; and the pending question is, shall the bill be engrossed and read a third time, upon which the Senator from Florida [Mr. JONES] is entitled to the floor.

Mr. JONES, of Florida. Mr. President, my principal object in addressing the Senate to day upon this case is to try to eliminate it, if I can, from some of the irrelevant matter with which it has been surrounded. A great deal has been said in connection with it that really has no bearing whatever upon it. It involves in my judgment no question of politics, no question of party, no question calculated to excite the hostility of sections. It is a plain demand of an honest citizen upon his Government, which should be considered in a calm, deliberate, and impartial way. I was pained and astonished yesterday to hear the debate on this bill. I was pained to hear sectionalism brought into it, politics brought into it, great questions of public policy connected with it, when it really has nothing to do with any of them.

It was my fortune two years ago to make a report upon this case. I looked over the papers and I thought I had discovered in the facts presented to me an honest claim. I said so then. Nothing that has occurred since then has changed my opinion, and with a view of supporting the opinions that I then presented to the Senate in the short

report that I made, I am here to-day to offer a few additional suggestions.

The first thing that I have always found it to be my duty to do in investigating matters of this kind, is to look at the facts. Sometimes lawyers put aside the facts. I have always thought it to be the best course to present them fully, and always presume that I am surrounded by those who have sufficient legal intelligence to apply the law to these facts.

Now, Mr. President, what are the facts of this case as we find them embodied in the report of the Committee on Claims, and about which there can be no dispute? We find first that Mr. Mitchell was a citizen of the State of Kentucky, and that in the early part of the war, about the 13th of July, 1861, I think, he made application to the officer in command of the military forces of the United States in that part of the country for a permit to enter the lines of the confederacy. I heard it said the other day, I think by the Senator from Minnesota, [Mr. McMILLAN,] who manifested a great deal of unnecessary feeling about this matter, if I am to judge from the way he discussed it, that the object of this man's mission to the confederacy was unknown.

Mr. McMILLAN. The Senator will permit me to correct him in that regard. I think I stated distinctly that at the time this pass was obtained it was stated that it was for the purpose of permitting the claimant to go South to collect debts due to firms of which he was a member.

Mr. JONES, of Florida. I misapprehended the Senator.

Mr. McMILLAN. Yes, sir, but that did not appear in the pass.

Mr. JONES, of Florida. The fact cannot be denied that the purpose of this man was made known at the time. He did not seek to enter the confederate lines in a stealthy way. He made no concealment as to the objects or purposes of his mission. He went to the functionary who above all others at that time represented the authority and the power of this Government, and laid his case before him, and in company with another citizen whose character has been vouched for by the Senator from Kentucky [Mr. McCREERY] it was stated, and very clearly stated, what the object and purpose of this man's mission was. He was in embarrassed circumstances; his creditors were pressing him; his whole fortune was invested in assets at the South. Civil war was upon the country. His loyalty was not disputed or questioned at that time; on the contrary, it was vouched for by Mr. McKnight, who was with him; and under all these circumstances, in July, 1861, the officer representing the power, the dignity, the authority of this Government said to the citizen, "I consent that you shall go into the confederacy for the purpose stated; I take the responsibility upon my shoulders in this matter." So declared a major-general representing, as I say, the power of this Government. Nothing was said as to the time it would take to arrange this business; no limitations were put upon the citizen in regard to the matter at all; but he was permitted to go to consummate his mission, to collect his debts, to withdraw his property as best he could from the beleagured section in order that he might satisfy his creditors at home. This fact cannot be denied.

He entered the confederacy in pursuance of that permission. Now, Mr. President, I need not tell you or the Senate that at that precise period of time no living man, no prophet, however wise, was able to foresee the direful events that lay behind; nobody was able to tell how long the fearful war which followed was going to last. Some imagined that it would be of three or four months' duration Others there were, I know, who supposed it would be a protracted and a fearful contest; but at the time Mr. Mitchell entered the lines of the confederacy, in July, 1861, there was a great division of opinion among the people of this country in regard to the character and probable duration of the struggle. I have no doubt that Mr. Mitchell supposed, as many honest citizens did, that it would be only a matter of a few months, and that he could enter the confederacy under the permission granted to him, settle up his business, and return home and satisfy his creditors. But, sir, after he entered the confederacy, things changed. Time added to the intensity and the fierceness of the struggle, and without knowing anything about the subject, I can very well understand how at that time it was much easier to enter the confederate lines in the way that he did than to get out of them in a similar manner.

But, sir, he went to work to accomplish the object of his mission. He collected all the debts that he could. He used the money in the purchase of cotton from persons who resided in the confederacy. He did not ship any of it out of the confederacy. He did not enter into the business of smuggling in violation of law, or any clandestine operation. Every dollar's worth of property that he purchased while there was kept within the confederate lines, and not one dollar's worth of it went out until it went out under the seal of Federal authority.

Mr. President, I am not unmindful of the character of the tribunal that I am addressing to-day. I am not here before a court which strains itself on tiptoe to measure the phraseology of a sentence in a statute. I am here before a body representing the sovereignty and the power of a great people. I am here before a body that has authority to set aside the law if the interests of justice or humanity demand it. I am not addressing myself to the creature of the statute. I am making no appeal to the Court of Claims, or to any other inferior tribunal, which has no power to move a step unless it finds it in the authority of the written law. I am here addressing myself to the great power of the Senate, representing in part the sovereignty of this Government, from which there is no appeal.

This question has been argued as though it was a question of law presented to a court of limited jurisdiction, bound down and tied down by the narrow and technical rules of jurisprudence. We are in no such body, sir, and this, I would say to my much esteemed friend from Alabama, [Mr. MORGAN,] is not, in my judgment, the kind of case in which it can be said that the Supreme Court has made the law on the subject, as I understand him to assert. Sir, the Supreme Court, with all its great dignity and power, does not make the law for the Senate of the United States. It may expound and interpret the laws that we enact for its government and guidance, but it makes no laws for us. This is not a contest between individuals where when that court decides the case it cannot be interfered with except by a violation of private right. When the judicial tribunals of the country determine a question between man and man, that is the end of it; but where a court decides a question between the sovereign and the citizen, between the government and a subject, it is not necessarily the end of it. That citizen has a right to appeal to the magnanimity of his government; that citizen has a right to appeal to the justice of his sovereign and say to him, as this citizen says to-day, "You must not take advantage of this judgment." Such an appeal to a private party we know from our knowledge of human selfishness would be vain; but when the address is made to the great sovereign power of a great country, it is always listened to, and sometimes with effect. The records of Congress show numerous cases in which this power has been invoked. How often has Congress said where a judgment was rendered against a surety on an official bond that he should be exonerated from the payment of the penalty that the court had no power to relieve him of? I think I remember a case that came up here a year or two ago from the State of my distinguished friend from Georgia wherein this very power was invoked, and invoked successfully, to set aside a judgment obtained by the Government against a surety on an official bond and to do that justice which it was not in the power of the local tribunal to do. This is a familiar and ordinary exercise of jurisdiction on the part of the sovereign power. I would therefore say that that argument which undertakes to prove that because the Supreme Court, following the letter of the law, denied this man the relief which he sought we ought not to look beyond the head-notes of the decision, ought not for a moment to be considered.

Mr. MORGAN. May I interrupt the Senator?

Mr. JONES, of Florida. Certainly.

Mr. MORGAN. I ask him whether it is not true in almost every Southern State that the decisions of their supreme courts establish the doctrine that dealings between citizens of the Confederate States and of the loyal States during the war were void, and that there could be no recovery for the value of property thus contracted for?

Mr. JONES, of Florida. I do not know what the adjudications of the supreme court of the State of Alabama may have been on that subject, for I never looked into them. They may go to the extent stated by the Senator, and no doubt they do, and I certainly know they do if he says so; but I know of no such decision in my State.

Mr. MORGAN. I will say to the Senator that the decisions in the Southern States are very numerous on that point, and many contracts have been avoided by the judgments of the supreme courts of the Southern States on the ground that the property had been brought from the loyal States contrary to the laws of intercourse between the loyal and disloyal States, and men have been discharged from those obligations.

Mr. JONES, of Florida. In contests between individuals?

Mr. MORGAN. Yes.

Mr. JONES, of Florida. Well, I will show a little different law from that before I get through, and with all due deference to the judgment of those courts I might be disposed to differ with them, for after all it is a question of reason, and the Senate of the United States, anxious to do what is right and proper, will try to find out which is the better reason. I have in my hand a decision of the supreme court of Massachusetts, which, from the manner it has gone into this question, shows that it left nothing untouched—one of the most enlightened judgments, I think, that I have ever read on this subject, wherein the contrary doctrine is clearly and emphatically announced. I am glad that it has come from that quarter. I am glad to be able to say in my place here that in advocating this demand I can stand upon a Massachusetts decision, one that does credit to that grand old Commonwealth and to the men who preside over her tribunals of justice. It shows me one thing, Mr. President, that in the highest judicial seats of that State the rancor and the bitterness of politics have not entered; and when they permitted a citizen of the State of Mississippi to go into their local courts and sue a citizen of Massachusetts on a deed for land made in the State of Mississippi during the war and recover a judgment against him with this very defense interposed, it presents to my mind the highest evidence of judicial impartiality. Here it is. Here is the case of Kershaw vs. Kelsey, decided as late as 1868, after a full review of this whole doctrine. After listening to every argument that could be interposed against the right of the Mississippi citizen to recover upon the ground that the contract violated public policy, this learned court went into an examination of this doctrine from the time that it first received judicial sanction in England under Sir William Scott, that great civil jurist, down to the present day, and they held that a leasing of land and a contract with

respect to cotton and corn entered into in the State of Mississippi between a citizen of that Commonwealth and a citizen of Massachusetts who maintained his allegiance to the Government of the United States, even after the commencement of the war, was not in violation of any law or public policy of this country, and they held that he was entitled to recover, and gave him a judgment for over $5,000 against the loyal citizen of Massachusetts in her own courts, although the plaintiff had adhered to the confederacy during the whole period of the civil war. I say, sir, it is the finest commentary that could be made upon the intelligence and impartiality of that tribunal.

Mr. DAWES. Will the Senator from Florida give us a reference to the book?

Mr. JONES, of Florida. Certainly. It is the case of Kershaw *vs.* Kelsey, reported in 100 Massachusetts Reports, page 501. No man who reads the opinion of that enlightened tribunal, no lawyer at least, can put down the book without having firmly fixed one conclusion in his mind, and that is, that all that was said here yesterday in regard to the subject of non-intercourse has properly no application to this case, and inasmuch as this great tribunal is not bound by any law, but must speak for the better reason, it is at liberty to take any decision which in its judgment throws the most light upon this most important and intricate subject.

In looking over the judgment of our own Supreme Court in this very case, I was astonished to find a cause treated in the manner in which it was, and I could not help contrasting it with the manner in which this painstaking court in Massachusetts dealt with this great question. Why, sir, the latter decided that it is not every trading or every dealing on the part of a citizen of a loyal State with a citizen of a disloyal one that will work a violation of the law of non-intercourse. They go on to show in as clear a manner as possible that what the law meant when it said that no intercourse should take place between the citizens of the loyal and disloyal States was that no external commerce should be carried on; that no transfers of properties or credits from one section or one State to another should take place during the existence of hostilities, which might have the effect to build up and to increase the power of the opposite belligerent; but they went on to say that any dealings purely internal within the body of the community, between citizens even of the hostile sections, could not be reprehended either in morals or in law. That is the true distinction; and they go on to show that, notwithstanding all the *dicta* and all the very unsatisfactory opinions that have been given for the last hundred years on this subject, the true doctrine is, so far as the law of nations is concerned, and our statute follows it, that it only means to interdict commercial intercourse between the citizens and people of two distinct sections or nations that are at war.

Here was a purchase, then, which no one will pretend to say carried with it any exportation. There was no transfer of property from the confederate to the Federal lines, except what was carried on by the Federal authorities after they came into possession of this man's goods. He did not send a bale of cotton outside of the confederacy; he did not send a pound of bacon outside of it. Everything that he did was done within the confederate lines, and was purely internal, and was the product of his own credits that were invested in that section before he had come there.

Mr. MORGAN. Will the Senator yield to me for a moment?

Mr. JONES, of Florida. Certainly.

Mr. MORGAN. I call the attention of the Senator from Florida to the decision of Kershaw *vs.* Kelsey, which is a very lengthy one, but there are certain points in it which the Senator ought to be able to explain. He asserts that this is the authority of the supreme court of Massachusetts on his side of this proposition. The first point in it to which I ask his attention is the statement that—

> It does not appear whether the defendant went into Mississippi before or after the beginning of the war of the rebellion; and there is no evidence of any intent on the part of either party to violate or evade the laws, or oppose or injure the Government of the United States.

Again:

> No answer in the nature of a plea of alien enemy has been filed in this case, and no objection made to the capacity of the plaintiff to sue, but only to the validity of the contract sued on; and therefore no question of the personal disability of the plaintiff is involved or need be considered, except so far as to show that it is wholly independent of the merits of the cause of action.

Again——

Mr. JONES, of Florida. I will give all the time anybody wants after he reads that decision for him to explain it. I have read it, and the Senator I think will concur with me after he reads it fully, when I say that those points he mentions are utterly immaterial, and the court treats them as immaterial. It was no matter whether the defendant went there before or after the commencement of hostilities for the purposes of the reasoning of that case.

Mr. MORGAN. At all events, the supreme court of Massachusetts, after stating the issues in the cause, and after stating that the questions which I understand the Senator to be now arguing were not involved in those issues, proceeds to declare that the various decisions of the Supreme Court of the United States were *obiter dicta*. In an *obiter* of the supreme court of Massachusetts they overhaul and declare *obiter* various decisions of the Supreme Court of the United States.

Mr. JONES, of Florida. Well, sir, the decision of the supreme court of Massachusetts I am anxious shall speak for itself, without any comment; and in addressing itself to the mind of the country, it will explain itself fully.

Mr. DAWES. I do not wish to interrupt the Senator from Florida, and will not do so if it will embarrass him at all; but it does seem to me that he is entirely mistaken in the decision he cites. I have not read it for a good while, but I have understood it to be that there was upon the record an entire absence of any element that distinguished the case from an ordinary contract that might have existed whether there was war or not, though there was an effort to impart to the case that character after the pleadings were completed. I am not certain about it, but that is my impression.

Mr. JONES, of Florida. I do not know about that, but I know this: I know that in no decision that has been made in recent days has this subject been more thoroughly examined; and, without being able to say what the condition of the pleadings was, the court have gone into this subject; they have reviewed all the cases that were decided before, and inasmuch as the decision has been referred to, I will read one or two extracts:

> The result is, that the law of nations, as judicially declared, prohibits all intercourse between citizens of the two belligerents which is inconsistent with a state of war between their countries; and that this includes any act of voluntary submission to the enemy, or receiving his protection; as well any act or contract which tends to increase his resources; and every kind of trading or commercial dealing or intercourse, whether by transmission of money or goods, or orders for the delivery of either, between the two countries, directly or indirectly, through the intervention of third persons or partnerships, or by contracts in any form looking to or involving such transmission, or by insurances upon trade with or by the enemy. Beyond the principle of these cases the prohibition has not been carried by judicial decision. The more sweeping statements in the text-books are taken from the *dicta* which we have already examined, and in none of them is any other example given than those just mentioned. At this age of the world, when all the tendencies of the law of nations are to exempt individuals and private contracts from injury or restraint in consequence of war between their governments, we are not disposed to declare such contracts unlawful as have not been heretofore adjudged to be inconsistent with a state of war.
>
> The trading or transmission of property or money which is prohibited by international law is from or to one of the countries at war.

What does that mean? Let me read it again:

> The trading or transmission of property or money which is prohibited by international law is from or to one of the countries at war. An alien enemy residing in this country may contract and sue like a citizen. (2 Kent Com., 63.)

That is, a citizen of a country at war with the United States may contract and sue like a citizen.

> When a creditor, although a subject of the enemy, remains in the country of the debtor, or has a known agent there authorized to receive the amount of the debt, throughout the war, payment there to such creditor or his agent can in no respect be construed into a violation of the duties imposed by a state of war upon the debtor; it is not made to an enemy, in contemplation of international or municipal law; and it is no objection that the agent may possibly remit the money to his principal in the enemy's country; if he should do so, the offense would be imputable to him.

Now, sir, we have an inquiry here about reason, about what is right, and I am as anxious that we arrive at a correct conclusion as any man——

Mr. MORGAN. I would ask the Senator from Florida whether the Supreme Court of the United States have not decided this particular issue between Warren Mitchell and the United States, and decided upon the facts presented to that court that Warren Mitchell because of his violation of the non-intercourse laws had acquired no right to this property; and if that be the decision of the Supreme Court of the United States, does the Senator expect the Senate of the United States to reverse that decision?

Mr. JONES, of Florida. I will answer the Senator, because I intended to come to that after a while if he would only let me alone, for I know that that is the whole basis of the argument.

Mr. MORGAN. I beg the Senator to excuse me.

Mr. JONES, of Florida. Certainly, and I will yield every time the Senator wishes me to do so.

Now, I say, and say very candidly, that the decision of the Supreme Court on this subject is a very unsatisfactory one. I do not think it has gone into the question at all. It affirmed the judgment of the Court of Claims, and it speaks of the domicile of Mitchell as being in Kentucky, and I infer from its conclusion—because I stated so in my report in 1877 in this very case, which I have in my hand—that the decision of the Supreme Court was that on a sheer technicality it concluded that man was not entitled to relief.

Mr. MITCHELL. With the Senator's permission I will say a word. I agree with very much that the Senator from Florida has said in regard to this case, but I submit to him if the court in Massachusetts did not distinctly state, so far as that case was concerned, that in the absence of any question being raised as to the capacity of the party to sue, they would hold the contract valid, thereby plainly indicating that if the question had been raised as to the capacity of the party to sue they would not have sustained the case.

Mr. JONES, of Florida. I do not take that view of it, because they have gone into the whole question and decided it upon its merits, and said that the leasing of a plantation by a citizen of the State of Mississippi to a citizen of the State of Massachusetts in time of war and a contract which stipulated for the delivery and payment of corn for the use of it violated no law or public policy of the United States.

Mr. McMILLAN. Will the Senator from Florida allow me to ask him a question?

Mr. JONES, of Florida. Certainly.

Mr. McMILLAN. The Senator has referred to the fact that at a

former session of Congress he examined this case and made a report upon it. I desire to ask the Senator whether he applies the case in Massachusetts to the facts as he found them to exist at that time, or if he applies that authority to the facts as they are reported in this case at this time?

Mr. JONES, of Florida. I do, emphatically; and I say that there is nothing in the facts of this case to take it out of the principle laid down by the Massachusetts court.

Mr. McMILLAN. The Senator says he does emphatically, but my question was in the alternative and I would like to know to which of the alternatives the Senator applies his answer—whether he applies the decision in Massachusetts to the case as reported by him or to the case as reported by the committee at this time.

Mr. JONES, of Florida. I apply it to the case as reported by myself, and I do not know that the facts are materially different. I have never heard from any of the debates here that there was any great difference in the facts reported by me.

Mr. McMILLAN. I should like to ask the Senator if at the time he made his report it appeared that the claimant here had taken charge of and exercised supervision over a contract between his partner and the confederate government to supply that government with pork?

Mr. JONES, of Florida. I have never yet been satisfied that that was a fact. I understood that the claimant, Mr. Mitchell, in the affidavit attached to his petition disclaims it, and that has been one of the disputed questions.

Mr. McMILLAN. Will the Senator allow me to ask him if at the time he made his report that question was raised in the committee at all?

Mr. JONES, of Florida. It was not, I am free to say.

Mr. McMILLAN. So I thought.

Mr. JONES, of Florida. It was a matter that was afterward brought to the attention of the committee.

Mr. McMILLAN. The Senator is correct.

Mr. JONES, of Florida. Since then I have not looked into that matter very fully. I have glanced over the affidavit made by Mr. Mitchell himself, in which I understand he states that he had no connection with the contract entered into by the man who was employed by the government of the confederacy, and that he put it at an end as soon as he discovered it.

Mr. McMILLAN. Does the Senator not understand Mr. Mitchell himself to testify that he did participate in the performance of that contract, for the term of six weeks?

Mr. JONES, of Florida. I think that Mr. Mitchell states the fact that he assisted in the slaughtering of meat that was to be delivered to the confederate government under a contract made with another party of which he had no notice or knowledge.

Mr. MITCHELL. He does not state that even. He states that the confederate government had a contract with John Doe made in his absence and without his knowledge, that John Doe made a subcontract with Richard Roe without his knowledge and in his absence, and that this Richard Roe, the third man, without his knowledge and in his absence made a contract with his partner. Those are the facts.

Mr. JONES, of Florida. The Senator from Oregon is more familiar with the subject than I am, and I take that as an answer to the question of the Senator from Minnesota.

In regard to what the Senator from Alabama said a while ago I was about to give an answer, but I was interrupted by the Senator from Minnesota, and it brought about rather a confusion of ideas in regard to the matter, but I will try to answer the Senator from Alabama as to the decision in Warren Mitchell's case.

I tried to state to the Senate when I opened this discussion to-day, that I did not consider it to be the function or the province of the Supreme Court to make law for the Senate. I said that in any case which arises between the Government and the citizen the Government represented here in this sovereign body has a right in the exercise of discretion to avail itself or not of a judgment that may have been rendered in its favor by one of its own courts. I say that this power has been exercised, since the commencement of the Government, and it will be exercised as long as the Government shall live; and the Senator's reasoning, however applicable it may be to controversies between parties with which the Government has nothing to do except to see that the judgments in all cases of that kind are carried out, has no application in reason or in law or in morals to a controversy where a citizen of the country is on the one side and the United States of America is on the other.

I say, sir, that this power has been repeatedly exercised, as in the case of sureties that I have instanced. When the party can have no relief at law, when the equity of his case is so strong as to strike the conscience of the people, he makes appeal to the Government, and very frequently it has granted him relief. The only question we have here to-day is whether we have that kind of a case before us.

The Senator says the decision of the Supreme Court is conclusive and shuts out all inquiry. I deny it. I say that we are at perfect liberty in dealing with this question to inquire into the reasonableness of this man's claim, and if we can find in the judgment of the supreme court of Massachusetts more solid reasons for allowing it than we can find in the decision of the Supreme Court of the United States for denying it, we ought to accept the doctrine of the former. Now I say in regard to that judgment that under the law of nations, which our statute merely follows, it is not unlawful or illegal for a citizen of a country at war to make a contract within the limits of the country with which his own is at war that has no relation to commercial intercourse, that has not for its object commercial intercourse, and that is not in its effects and tendencies calculated to promote and to advance the strength and the interest of the party at war. That is the ground.

Sir, so particular was the Government of the United States on this subject that it was not willing that the question should remain to be decided according to the unsettled and unsatisfactory judgment of the courts of law. The Congress of the United States was not willing that this question should be determined by the *dicta* of Sir William Scott, or Chancellor Kent, or any other of the great jurists who had passed upon it. They, in other words, were not willing that the people of this country should be driven to the musty libraries of counsel or of judges to ascertain what the law on this subject was, but in the very commencement of the late civil war Congress enacted a statute to show the people of the country what their views of this matter were, and I will say to the Senate that that statute followed precisely the language of the Massachusetts case, and the Massachusetts case refers to this statute of the United States in regard to the subject of non-intercourse. What is it?

SEC. 5301. Whenever the President, in pursuance of the provisions of this title, has called forth the militia to suppress combinations against the laws of the United States, and to cause the laws to be duly executed, and the insurgents shall have failed to disperse by the time directed by the President, and when the insurgents claim to act under the authority of any State or States, and such claim is not disclaimed or repudiated by the persons exercising the functions of government in such State or States, or in the part or parts thereof in which such combination exists, and such insurrection is not suppressed by such State or States, or whenever the inhabitants of any State or part thereof are at any time found by the President to be in insurrection against the United States, the President may, by proclamation, declare that the inhabitants of such State, or of any section or part thereof where such insurrection exists, are in a state of insurrection against the United States; and thereupon all commercial intercourse by and between the same and the citizens thereof and the citizens of the rest of the United States shall cease and be unlawful so long as such condition of hostility shall continue; and all goods and chattels, wares and merchandise, coming from such State or section into the other parts of the United States, or proceeding from other parts of the United States to such State or section, by land or water, shall, together with the vessel or vehicle conveying the same, or conveying persons to or from such State or section, be forfeited to the United States.

That is the law of this country on the subject of non-intercourse. It did not leave it, I say, to the judgment of Sir William Scott or Chancellor Kent or any of the other great jurists who had been disputing over this question for the last one hundred or more years, but it took the precaution to put down in precise and marked language what should constitute a violation of the law of nations in the late civil struggle; that is, commercial intercourse between a State in rebellion or insurrection, as it was called, and the States adhering to the Union. That is the doctrine, and the decision in Massachusetts adopts this language and says most emphatically that there is nothing in it inconsistent with the views that it has expressed, and it holds emphatically to the doctrine that every contract by parties whose countries may be at war is not necessarily in violation of public policy or the law of nations. Why, sir, you remember the great case of Martin *vs.* Hunter, reported in first Wheaton, where the Supreme Court of the United States, following the judgment of the court of appeals of Virginia, decided that an alien in the midst of the revolutionary war could acquire a title by purchase to real estate in the State of Virginia. Why was that? He could not inherit it, because according to the common law an alien has no inheritable blood; but he could acquire by purchase or by grant, and the great principle decided in Martin *vs.* Hunter, one of the grandest judgments on the records of our courts, was that an alien enemy in the midst of the revolutionary war could acquire title to a large portion of the domain of Virginia in the midst of that terrible struggle, and the title was maintained. Why was that? Plainly because it involved no commercial intercourse, because there was no question of the transmission of credits or of money or of property from the one country to the other involved in it. The land lay in Virginia, and the passing of the title to the British alien did not affect at all the struggling patriots who were fighting in the cause of liberty, and the title was maintained. Now, sir, the purchase by Mitchell of this cotton did not affect in any way the government of the confederacy. It did not strengthen them in the least, any more than the purchase of the land in Virginia strengthened the British government when it was engaged in its contest with the colonies. There was no transmissions of assets contemplated, no transportation provided for. It was the intention and the desire of the party to hold the cotton until the end of the war, and then to avail himself of it for the purpose stated, of discharging his honest debts.

So much, sir, in regard to the laws of war upon the subject of commercial intercourse. I heard it stated in the debate here yesterday that according to the laws of war the private property of subjects or citizens of belligerent powers is liable to capture and to appropriation and to confiscation. I concede most emphatically that it is in the power of a party who has the advantage of the battle-field to do anything he pleases. There is nothing to guide him but that great moral and natural force that comes from on high. But if there is anything better settled in international jurisprudence than another; if there is anything that has received more than another the almost universal sanction of every writer who is worthy of the name that

has penned a line on the subject of jurisprudence as it concerns the nations of the earth, it is that the private property on land of citizens of countries engaged in war is not liable to capture. I know that there is an exception in the case of property on the sea; and if the reason of that exception was open now, if we were sitting here now in a council of nations to decide whether there ought to be an exception in the case of property on the sea, I am sure there would not be found an intelligent man in the land who would say that exception ought to prevail. No, sir; it is not the doctrine of the law of nations; but, on the contrary, it is the universal principle that the private property of citizens and non-combatants in war is not subject to capture, and it is to be regretted that the binding force of that great code has not been more fully carried out.

Why, sir, we have numerous examples of this. The best dispatches that Wellington ever wrote, the best productions that ever came from his pen, were on this subject; and our own commanding general, Scott, in the invasion of Mexico, as we know, took great pains to have this great principle observed, but was not always able to do it. The doctrine was that his army should pay for what it took in the captured country, and that the property and rights of the people were not absolutely at the command of every military officer or his soldiery.

Now, what does the statute that I read a while ago tell you? Does it not tell you that all property which is found passing from one part of the country to the other in time of war should be subject to forfeiture? It goes no further than that. It says nothing about the internal transactions of citizens, but it subjects to forfeiture all property found passing between the sections at war, and that is as far as the Government in the exercise of its rigid powers at that time felt disposed to go. This property was captured not *in transitu*, not in passing from Georgia to New York, not on the public highway of transportation, but it was carried to and stored in Savannah and was there in the possession of its rightful owner, the man who had devoted years of toil and exertion to acquire it. It was not in any sense abandoned property; it was not in my judgment in any sense captured property, because the capture of a country by the forces of another at war does not carry with it the transfer of the private rights of individuals. It is a well-established principle of the law of nations that even the most successful conqueror, when he succeeds by the force of arms in putting down his adversary, succeeds to nothing more than the sovereign powers of government; he succeeds only to the great prerogative of dealing out to them the principles of human justice and seeing to the preservation of order. That is all. This cotton was not the property of the Confederate States; this cotton was not in military custody; this cotton never contributed in any way toward the aid of the confederacy. It was in every respect in which the question can be regarded private property of a citizen, and, according to the decision of the Supreme Court in this very case, a loyal citizen of the country, and taken from his possession by the hand of the successful military commander who obtained possession of the town.

Tell me not, sir, that this is a legitimate war capture. Not at all. The Supreme Court in a number of cases now upon the record have held that money arising from the sale of cotton like this is a trust fund. They have said it. They have said in many cases, I think, that they were unable to dispose of it, owing to the state of the law; but they have held it to be a trust fund. I listened with delight and pleasure the other day to the distinguished Senator from New York not now in his seat, [Mr. CONKLING,] when he gave us a description of a trust fund in discussing the Indian question, and wherever there is a trust, says he, it involves a confidence and an assent of honor that places it beyond the power of the trustee to touch; and so it is in this case. The proceeds of this man's property did not come from taxation; they did not come from any source but from the sale of his own goods; and when he made application for its return he was told that a technical difficulty was in the way, and he could not be permitted to get it.

My friend from Georgia [Mr. HILL] yesterday, in speaking of this case, compared it to some extent with a case that arises out of the unauthorized raid, so to speak, of the soldiery on the march. Now, sir, if there is anything clearer than another, it is the distinction that must always exist in cases of this kind between what is done or has been done by the unauthorized soldier on the march not acting under the control of or in subordination to his officers, and what is done by the responsible representatives of the Government dealing with the property of the citizen and transferring its proceeds into the public Treasury. If there is any analogy between those two cases, I cannot see it. It may be owing to my want of perception.

Take an army on the march: they plunder and they burn and they raid and make inroads upon private rights such as are inseparable from hostilities in a country. Nobody pretends to say that such transactions as those would furnish any ground of demand against the Government to which such forces belong. But take the case of a responsible officer acting under the authority, it may be the express wishes, of his Government, who seizes my estate and transfers the proceeds of it into the public Treasury, and then undertake to settle the one case by the principles applicable to the other. That is not reason; it is not law; it is not justice.

Why, sir, the other day those people whom we have been in the habit of talking so severely about, that hold dominion over the island of Cuba, succeeded in putting down the rebellion in that island. They succeeded after a long and weary struggle, I believe, in disarming the few noble men who resisted oppression and despotism on that fairest of American isles. And what did they do? Notwithstanding all that we have heard about Spanish cruelty and injustice, after they had issued a pardon and amnesty to the insurgents of that island they restored to every man his estate. It is a wellknown fact that the estates of numbers of the people in arms were embargoed; the estates of numbers of them who were supposed to be in sympathy with that contest had been seized pending the struggle; but when they pardoned them they conceded full restoration of liberty and property. They did not deal out a half measure. They gave it all up. They said, "We seized your estates in the midst of hostilities to prevent it being used against our power; but now the war is over, now the contest is ended; we have told you that we would give you back your estate; we give it to you." This is all that Warren Mitchell asks, to put his case in the worst possible condition, even if he is to be treated as a disloyal citizen, which is the most I have heard said against him from the other side. You have pardoned him, and you have said in that pardon that he shall be entitled to full restoration of the rights of property, and still after that pardon is granted and with $100,000 or more of his estate locked up in the Treasury, which he acquired by his honest exertions, you tell him that the pardon can have no application, and some gentlemen get up here and say that the Supreme Court has decided so! Oh, no. I wish the decisions of the Supreme Court in cases of this kind were more fully regarded. The Supreme Court has decided that when you pardon a man you must restore to him his property. There is the decision; I have not time to read it, but it is founded in honesty as well as in law; and this man, notwithstanding what has been said, was accorded full pardon for everything that he did. If his crime were that of purchasing cotton, then he was pardoned and placed upon the footing of the most favored citizen.

Mr. President, I had no idea of detaining the Senate this long, but the interest of the questions involved has carried me farther than I intended.

Mr. VOORHEES. Mr. President, as I have to cast my vote on the pending measure I deem it best to state very briefly the reasons which will govern me in doing so. The bill under consideration does not present a claim against the Government in the sense in which a claim is popularly understood. It does not seek an appropriation of any money from the Treasury which is a part of the public revenue or which has been placed there by taxation of the people. If it becomes a law the people whom I represent will not have a dollar of the amount involved to pay, nor will the constituents of the Senator from Georgia, [Mr. HILL,] nor the constituents of any other Senator on this floor. The simple question here is whether the money taken from Mr. Mitchell shall be returned to him or be retained by the Government. It stands on the books of the Treasury, not as public funds in the Treasury, but stands to the account of cotton belonging to Mr. Mitchell, which was seized and sold by the United States authorities. If it is returned he will receive the proceeds of what no one disputes was his own property, honestly bought and paid for; nor will its return add a single cent to the burden of the tax-payer, while its retention by the Government will take from him the entire fruits of a long and industrious life-time. The policy of confiscation was long ago abandoned in the dealings of the Government with those most active and conspicuous in the rebellion.

Is there anything in this case calling upon us to confiscate the entire estate of Warren Mitchell? That is the question. What are the facts in the premises demanding the forfeiture of all his property to the Government when such a course has long since been abandoned toward all others? I understand from the papers on file that Warren Mitchell was an extensive business man at Louisville, Kentucky, when the war broke out in 1861; that he was indebted to creditors living in loyal States, and had large sums due and owing to him in the seceding States. Under these circumstances he applied to General Anderson of the Federal Army for permission to go South for the purpose of collecting his debts in that section. This permission was granted, and General Anderson received no rebuke from the Government for his action in the case. I think it a poor plea now to urge that General Anderson's act was unauthorized in order that we may keep Mr. Mitchell's money. If it was unauthorized it should have been so held at the time. In fact I do not believe that General Anderson's act was unauthorized. I do not believe that any officer of his position and character would at that time have passed a citizen through his lines into the lines of the enemy without the sanction of those above him. Such permission was rarely given, and only in cases where it was thought that the cause of the Union would be benefited by doing so. In this instance Mr. Mitchell's motive was a friendly one to the people of the loyal States, and was fully understood by General Anderson.

Mr. Mitchell did not go South to aid the enemy. He did not go there to join their warlike ranks. He was not on a hostile mission. His mission was one of peace and for the benefit of his creditors living in the States attached to the Union. Others were in several instances allowed to do the same during the war. In the prosecution of this purpose Mr. Mitchell, after much delay and many vicissitudes, secured between seven and eight hundred bales of cotton. It was seized near the close of the war, sold, and the proceeds placed in the Treasury, as I have described.

It will be seen from these facts that this cotton was not bought or accumulated at Savannah "in aid of insurrection or rebellion against the United States," to quote the clause of the constitutional amendment. It was not to be used to assist the enemies of the Government, but the very reverse; nor were the motives or efforts of Mr. Mitchell in obtaining it those of disloyalty.

By section 5308 of the Revised Statutes it is provided that property to be liable to confiscation must have been purchased "with intent to use or employ the same, or to suffer the same to be used or employed in aiding, abetting, or promoting such insurrection." There is no pretense of such an intent here. On the contrary, it is clearly shown that he purchased the cotton with the intention of sending it to a loyal State for the purpose of paying his debts to loyal creditors. Neither was this cotton destroyed by the operations of the Army in the prosecution of the war, nor was it taken to afford supplies for our troops. Its seizure grew out of no military requirement whatever. The return of the proceeds of its sale, therefore, to its acknowledged owner is not forbidden by the letter or the spirit of the Constitution or any of its amendments.

It is insisted, however, that the conduct of Mr. Mitchell while in the South was such as to justify us in confiscating or declaring forfeited to the Government everything he has in the world. It appears from the papers in the case that his partner, Mr. Armstrong, now dead, became interested in a slaughter-house at Clarksville, Tennessee. This was at first without the knowledge or consent of Mr. Mitchell, but he afterward for the space of about six weeks assisted in the management of the establishment. If this one act is sufficient to warrant us in withholding the proceeds of all his property while we have reinstated everybody else in the enjoyment of all their possessions, except slaves, then this bill must fail. A careful examination of the facts in this case, however, has convinced me that Warren Mitchell was a Union man, one of that class of conservative business men living in a border State, doing business with the people of both sections, and attached to his Government from motives of interest as well as sentiments of patriotism. Nor do I think there is anything in his motives or his conduct in going South, or while there, calling on us to visit him with such a tremendous penalty as the opponents of this bill desire to inflict upon him, a penalty which has been spared to the promoters, the leaders, and the chieftains of the late rebellion.

The law of this case has been stated by the Senator from Tennessee, [Mr. HARRIS.] The Supreme Court of the United States simply found that Warren Mitchell never having changed his residence from a loyal State to a disloyal one, being still a citizen of Kentucky and intending to return there after transacting his business in the South, could not, under the laws of war, make a contract with a citizen of a seceding State during hostilities which the courts of this Government would recognize. That is all there is of the decision, and it in no way touches or attempts to touch the merits of this case except in so far as it establishes the fact that Mr. Mitchell did not change his residence or intend to do so, and that is a circumstance favorable to his loyalty to the Government.

In former decisions, however, the Supreme Court of the United States has broadly and plainly declared the law to be that if Warren Mitchell had in fact removed from Kentucky and acquired a home in Georgia or any other seceding State; had thereupon cast in his fortunes with the southern confederacy, been elected to the confederate congress, or led its armed forces in the field, his property or its proceeds would have been restored to him without question.

In Pargoud, *vs.* U. S., 13 Wallace, 157, the words of the Supreme Court are as follows:

> We have recently decided in the case of Armstrong *vs.* U. S., 13 Wall., 154, that the President's proclamation of December 25, 1868, (15 Stats., 711,) granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieves the claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States. The judgment of the Court of Claims dismissing the petition is reversed.

The same position is taken in several other cases, but it is not necessary to cite them as the point under consideration is not even disputed. The law of this case, as I stated, has not been disputed and will not be by a single member of this body on this floor. With it, therefore, as the admitted law of the land that Mr. Mitchell would have his property returned to him if he had been a more unfaithful citizen than he in fact was; that he would have a legal right to the relief prayed for in this bill if he had been the president of the southern confederacy, or a senator or member in its legislative councils, or a soldier in its armies, I cannot for the life of me see either justice or sound policy in treating him with a severity unknown in all other cases.

Sir, I have aimed to determine my duty in regard to this case as I shall every other that comes before this body. The section from which a claim comes, whether from Massachusetts or Mississippi, whether from Vermont or South Carolina, should not decide its fate. Is it just? Do the facts and the law demand its allowance? These are the sole questions to be answered, and they must be answered by each individual case on its own merits or demerits. This case is answered on its merits to my mind, and it ought to be allowed, and I shall vote for this bill.

Mr. MCMILLAN. Mr. President, the Senator from Florida, [Mr. JONES,] in citing a decision of the supreme court of Massachusetts as applicable to this case, stated, in response to my inquiry to him, that he applied that decision to the facts of the case as they are stated in a former report made by him as a member of the Committee on Claims and not to the facts as they are found to exist now and reported to the Senate by the report under consideration. At the time of the report made by the Senator from Florida it was not known that Mr. Warren Mitchell had committed any of the acts which are of a treasonable character, as I view them, stated in this report. It was the mere naked question of this cotton being found in Savannah acquired by him, sold by the Government of the United States after the capture by General Sherman, and the proceeds paid into the Treasury of the United States.

The case as presented now is wholly different from that. The facts here show that Mr. Mitchell proceeded to the South within the confederate lines early in the summer of 1861, avowedly for the purpose of collecting debts due to the firms of which he was a member. He remained there during the whole war, passing from one State to another, purchasing cotton in different places, not transporting it from the place it was purchased directly to Savannah but purchasing in one place and selling in another; proceeding year after year in this way during the war until he arrived near Savannah and had there a large investment of money in cotton, and had it at last transported there, or he may have purchased the cotton himself in Savannah, it does not appear distinctly which. A portion of it was transported to Savannah, and in the course of the transportation of this cotton Mr. Mitchell entered into contracts for the transportation of it, and with corporations within the confederate lines and with persons who were engaged in running and controlling the railroads in the confederacy.

Mr. BAILEY. Will the Senator from Minnesota permit me to ask him a question?

Mr. MCMILLAN. Yes, sir.

Mr. BAILEY. I should like to know how the trading operations of Mr. Mitchell within the limits of the Confederate States, and having no reference to commerce with other people and other nations, could have added to his guilt or in any manner have embarrassed or injured the Government of the United States?

Mr. MCMILLAN. A sufficient answer to that question is that these acts were prohibited by law, according to the decision of the highest tribunal in the land. But permit me further to say to the Senator from Tennessee that Mr. Mitchell must have liquidated the debts due to him from citizens of the confederacy. He received either in money or in cotton the payment of those debts, and according to his own statement, with the proceeds of that indebtedness, in money no doubt and in cotton, he proceeds to enter into the ordinary and common purchase from time to time, in different places, of cotton which is contraband of war. Whether he remained within the lines of the confederacy or not, he was a citizen of a loyal State, claiming to be loyal to the Government of the United States, and within the lines of the confederacy engaged in commercial pursuits, giving circulation to their funds, converting their cotton into money, enabling them by these facilities to carry on the operations of the war; because, who can doubt that the transaction of commerce within the lines of the confederacy aided them in carrying on the war? Suppose there had been no commercial transactions in the Confederate States during that time; suppose the business, the commerce of the Confederate States had been destroyed entirely, would not that have affected their capacity to carry on the war? If a loyal citizen goes within their lines, establishes a commercial business, enters into commercial transactions, exchanging commodities, giving cash or cotton for cotton in exchange, can it be said that this is not commercial intercourse? Can it be said that this is not rendering aid and comfort to that confederacy?

It is said that because the citizens of the southern confederacy would not forfeit their title to property acquired in such commercial transactions, therefore Mr. Mitchell, a citizen of a northern State, who did not commit so great a crime against the country as those who were in rebellion did, should not have less rights or favor at the hand of the Government. The case between a citizen of a loyal State who is a traitor going over to the enemies of his country and aiding them in fighting their battles against the country is worse than that of those who were recognized as belligerents, because they were recognized as enemies under the law of nations, and we knew what we had to meet when we fought against them; but when men who were our own citizens, who told us that they loved this country, that they rendered their allegiance to it, proved traitors to us and went to the confederacy and secretly aided them, they were the persons who injured us worse than the confederates themselves; and it was from such persons that our severe injuries came.

Mr. Mitchell does not stand in the position here of a fair and honorable enemy of the country, but as a professed friend abusing the confidence of the Government and aiding an enemy. That is the reason why he could not acquire a title to this property. That is the reason why he does not stand here in a position to receive the favor of the Government. That is the reason why a citizen of this Government cannot acquire a legal right in a transaction such as he participated in in this case.

It is claimed by the Senator from Florida that a general pardon

having been issued to Mr. Mitchell he is restored to all his rights of property under the decision of the Supreme Court of the United States. It is true that the Supreme Court of the United States made the decision referred to by the Senator from Florida and the Senator from Indiana [Mr. VOORHEES] who has just taken his seat; but that decision is not applicable to this case, because Mr. Mitchell acquired no property in this cotton. He had no property to be restored by a pardon. No title passed to him in this cotton, as the Supreme Court of the United States have decided. He never had any property in it, and the pardon restored no title or conferred none upon him. That decision is not at all applicable. I have not been able to read the entire decision cited by the Senator from Florida in the case in Massachusetts.

Mr. JONES, of Florida. Will the Senator from Minnesota permit me to ask him a question?

Mr. MCMILLAN. Yes, sir.

Mr. JONES, of Florida. I ask the Senator if the evidence in this case does not show that the cotton was in the possession of Mr. Mitchell when it was seized?

Mr. MCMILLAN. No, sir.

Mr. JONES, of Florida. Is not that the fact?

Mr. MCMILLAN. No, sir, not as I understand it. The cotton was with a large quantity of cotton stored in the city of Savannah, and was seized with all the cotton seized by General Sherman in that city. It was sold as a part of the entire cotton seized by General Sherman, and the expense of the sale, the expense of the conversion of that cotton into money, is not even deducted from Mr. Mitchell's claim. According to the reports from the Secretary of the Treasury, even if this claim were to be allowed, the expense of the Government apportioned to this cotton amounts to more than $12,000.

The case in Massachusetts, as I understand it, goes only to this extent, conceding for the purposes of this argument the correctness of the decision, that all contracts made by citizens of one country with the citizens of another at war with it are not void. But that was the case of a single contract for a piece of land, and therefore did not come within the prohibition of commerce. That is the principle decided in the case cited by the Senator from Florida, and nothing more. This is not such a case. Here is no contract. This is not a suit between two citizens for the enforcement of a contract, or the recovery of any proceeds from such contract. This is a claim presented by a citizen against the Government of the United States, and it appears that in the acquisition of that property the claimant was engaged in the transaction of ordinary commercial business in the hostile country.

Mr. HEREFORD. Will the chairman of the Committee on Claims allow me to ask him a question?

Mr. MCMILLAN. Yes, sir.

Mr. HEREFORD. I should like to ask the chairman of the committee a question of law, whether the General Government acquired any title to this property?

Mr. MCMILLAN. The Government seized this property as prize of war, and acquired the title to it conferred by that act.

Mr. HEREFORD. Were there any proceedings to confiscate this property?

Mr. MCMILLAN. No, sir.

Mr. HEREFORD. Then, if it belonged to the General Government, why did they not keep the money in the Treasury of the United States, and why put it among the proceeds of captured property?

Mr. EDMUNDS. It is in the Treasury of the United States.

Mr. HEREFORD. But it is a separate fund, a trust fund. This money is held there as a trust fund, and it was so decided by the Supreme Court.

Mr. EDMUNDS. The Senator is mistaken, both about the decision as to a trust fund and of the law. In the year 1868, I think it was, Congress passed an act which declared that all that money should be turned into the Treasury of the United States, and it is no more a trust fund than is any other money in the Treasury that is liable, upon the decision of Congress or of the courts, to respond to some claim.

Mr. HEREFORD. The Supreme Court has decided that it is a trust fund.

Mr. EDMUNDS. I cannot help that.

Mr. HEREFORD. I understand the Senator, then, not to be willing to be bound by the decision of the Supreme Court in this very case?

Mr. EDMUNDS. I do not know when that decision of the Supreme Court was made, but whenever it was made, I wish to say, as I have said often before, when my duty as a law-maker is called upon for action, while I shall treat with great respect the decisions of the Supreme Court of the United States, I must say that their decisions can have no more influence over me than mine over them.

Mr. HEREFORD. Will the Senator from Vermont allow me to ask him a question? Does the Senator from Vermont maintain that the title to this property has passed to the General Government?

Mr. EDMUNDS. I have not said anything about that.

Mr. HEREFORD. I put that question to the Senator from Vermont. I put the question to the Senator from Vermont as the chairman of the Judiciary Committee, whether in this particular case the title has passed to the General Government?

Mr. EDMUNDS. As chairman of the Judiciary Committee, I have no authority to answer, because I am not instructed by that committee.

Mr. HEREFORD. As a Senator I put the question to the Senator from Vermont.

Mr. EDMUNDS. As one of the Senators on this floor I will answer with the permission of my friend from Minnesota, because I do not wish to prolong this business; it is altogether too juicy to be kept back from the supreme moment of decision. I will say that in my judgment the cotton to which this man makes a claim is just as much the property of the United States as the cannon that may have been captured when General Sherman captured Savannah, and all the cannon in it, because like the cannon this cotton was contraband of war.

Mr. HEREFORD. I understand the Senator from Vermont to maintain that this cotton is like the cannon captured at the same time. Then if it be like that, under the decision of the Supreme Court, if the parties to whom the cannon belonged were confederates they could have sued for it and had a judgment for this very cannon against the Government; and the Supreme Court has so decided. Those cases are parallel. Certainly the Senator from Vermont will not maintain such a proposition.

Mr. MCMILLAN. Mr. President, what difference does it make, so far as Mr. Mitchell's claim is concerned here, whether the Government of the United States has any title or not to this cotton?

Mr. HEREFORD. It makes this difference, if the Senator will allow me to interrupt him——

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) Does the Senator from Minnesota yield to the Senator from West Virginia?

Mr. MCMILLAN. Yes, sir.

Mr. HEREFORD. The chairman of the Committee on Claims says it makes no difference whether the Government owns this property or not.

Mr. MCMILLAN. I asked the question whether it did, so far as this claim is concerned.

Mr. HEREFORD. I say that with me when I come to cast my vote it makes a great deal of difference, and the difference is this: this Government as an honest Government will never keep property which does not belong to it; it would be dishonest to do so.

Mr. MCMILLAN. Then the Senator in his action here, because the Government should not do that, would authorize the Secretary of the Treasury to pay $128,000 to some person who is not entitled to it. That is the condition Mr. Mitchell is in here. He has no title to this property. The Supreme Court has decided distinctly that he has no title to the property, and yet the Senator from West Virginia would by his vote take from the Treasury of the United States this large amount of money and give it to Mr. Mitchell.

The Senator from Florida puts this question upon the right ground. There is no law for it, it is against the law, but Congress as the supreme legislative authority of the country can make a law. That is the position of the Senator from Florida, and he appeals to the Senate to pass a law conferring this right upon Warren Mitchell, because he was, as he says, a faithful and honest citizen during the war. At the time the Senator from Florida made his report upon this claim nothing whatever was known of the action of Mr. Mitchell during his sojourn within the confederacy. The Senator from Florida, having made his report to the Senate, moved, on the 2d of March, 1877, that the Senate proceed to the consideration of the bill for the relief of Warren Mitchell.

Mr. CAMERON, of Wisconsin. I object to the consideration of the bill.

I read from the CONGRESSIONAL RECORD, volume 5, part 3, Forty-fourth Congress, second session, page 2079, and following:

The PRESIDENT *pro tempore*. The Chair will submit it to the Senate. The question is on the motion of the Senator from Florida to proceed to the consideration of this bill.

The question being put, it was declared that the noes appeared to prevail.

Mr. JONES, of Florida. I ask for a division.

Mr. CONKLING. May I inquire from what committee the bill is reported?

Mr. JONES, of Florida. From the Committee on Claims.

Mr. CAMERON, of Wisconsin. Would it be proper for me to make a statement in regard to this bill?

The PRESIDENT *pro tempore*. It would be.

Mr. CAMERON, of Wisconsin. A bill for the relief of the claimant was referred to the Committee on Claims at the last session of the present Congress. It was considered by the committee during that session. It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently the bill was recommitted to the committee. It was again considered by the Committee on Claims and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Connor Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky; and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the confederate government at Nashville prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the confederate government. He had a contract with the confederate government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the confederate government and retain the rest of the hog for his pay. Immediately before the occupation of Nashville by the Federal forces he left with the confederate army and went South. This testimony, I will state, was not before the Committee on Claims at the time the bill was reported from the committee.

Subsequent debate ensued and the bill was recommitted. This fact and others all appear in the present report adverse to the claim.

Much has been said of the loyalty of Mr. Mitchell before the war. It is stated in the affidavit of Robert Floyd, in speaking of the claimant Mitchell:

> I regarded him as a true Union man and supporter of the Government until the leading public men of Kentucky published an address to the people announcing a neutral position. After that I think Mr. Mitchell held that doctrine, but was quiet and unobtrusive. I so regarded him when he left for the South.

Hon. Bland Ballard, in a letter submitted among the papers, dated May 30, 1876, addressed to Hon. John W. Stevenson, then a Senator from Kentucky, says:

> I do not know what were Mr. Mitchell's views of the rebellion. If he sympathized with it, and I have heard and believe he did, I regret it.

With this, to say the least, doubtful condition, Mr. Mitchell passed through the lines upon a permit from General Anderson and entered into these transactions with persons in the southern confederacy, not procuring the cotton which paid his debts alone, but, as I said on a former day during this debate, he procured cotton worth $12,000 more than the entire indebtedness shown upon the books of both firms of which Mitchell was a member. It is not to be supposed that Mr. Mitchell could collect the whole amount of that indebtedness; he must have collected a comparatively small portion of it; and yet we find him with cotton in Savannah amounting to $12,000 more than the whole indebtedness. We find him making contracts for the transportation of this cotton with persons who had an interest in it with him, delivering it in Savannah, and keeping it there with the other cotton owned by those who were citizens of the confederacy.

Mr. President, so far as the loyalty of Mr. Mitchell is concerned, the facts here show conclusively to my mind that he was a disloyal man, and upon that ground that he cannot claim anything from the Government of the United States; and, as a matter of law, it is settled by the highest tribunal in the land that he has no claim whatever.

The PRESIDING OFFICER. The question before the Senate is, Shall the bill be engrossed and read the third time?

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MITCHELL. I move that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. Oh no, let us finish this business.

The PRESIDING OFFICER. The question is on the motion of the Senator from Oregon, that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. EATON. Mr. President, I do not propose to discuss this question at any length whatever, but in voting as I shall against the payment of this claim, I desire to say a word or two. From all that I can learn, the claimant is a very respectable gentleman, a man occupying a high position in the community where he lives and where he is best known. I should be very glad if I could consistently vote to give him the sum of money which he demands; but the highest court in the land has said that he has no claim of title to this property.

I am sorry to see that this is regarded as a political question; but I shall not allow politics to get into my vote if I can help it. It has been said that there are to be two thousand million dollars—that is the round number—paid for what, forsooth, they call southern claims; and as this is the first one in the year 1879 that I am to vote upon I want to vote against it, so that the people whom I in part represent upon this floor may know exactly where I shall stand hereafter if I live and represent them. I understand there have been paid, some say one hundred, others two hundred, million dollars of southern claims. That amount has been paid to good loyal republican citizens by the action of a republican House and a republican Senate. It is about time to put a stop to it, and I propose to begin now with this claim. I have examined at some length very many of the claims that are now pending here called southern war claims. I have made up my mind that I shall vote for a very few of them, not to exceed half a dozen, so far as I now know, and the whole amount will not be over $500,000. I want that to go to the people I represent as well as to the people whom I do not represent at the South who are making these claims.

In saying this I have said about all that I care to say with regard to this matter. If the Supreme Court had decided that the claimant had a legal title to this property he would have been paid long ago; he would have been paid by the action of that very court. I do not feel quite like my honorable friend from Vermont in this particular instance. I believe I have no criticism to make upon the action of the Supreme Court; I shall follow to its legitimate result the action of that court, and therefore I shall vote against the payment of this claim.

The PRESIDING OFFICER. The question before the Senate is, Shall the bill be engrossed and read the third time, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. DAVIS, of West Virginia, (when his name was called.) The Senator from Minnesota, [Mr. WINDOM,] with whom I am paired, is at home sick, and I refrain from voting, not knowing how he would vote on this question.

Mr. EDMUNDS. I think, speaking for the Senator from Minnesota, that if the Senator from West Virginia wishes to vote in favor of this bill, he is paired; but if he wishes to vote against it, I think the Senator from Minnesota would also vote that way.

Mr. DAVIS, of West Virginia. Is the Senator from Vermont authorized to speak for the Senator from Minnesota?

Mr. EDMUNDS. Only on general principles, Mr. President.

Mr. DAVIS, of West Virginia. I shall withhold my vote.

Mr. JONES, of Florida, (when his named was called.) On this question I am paired with the Senator from Nevada, [Mr. SHARON.] If he were here, I should vote "yea" and he would vote "nay."

Mr. MATTHEWS, (when his name was called.) On this question I am paired with the Senator from Indiana, [Mr. MCDONALD.] If he were here, I suppose he would vote "yea," and I should certainly vote "nay."

Mr. MITCHELL, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. TELLER.] If he were here, he would vote "nay" and I should vote "yea."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. DENNIS.] If he were here, I should vote "nay."

Mr. SARGENT, (when his name was called.) On this question I am paired with the Senator from Virginia, [Mr. JOHNSTON.] If he were present, I should vote "nay."

Mr. WADLEIGH, (when his name was called.) I am paired with the Senator from Maryland [Mr. WHYTE] upon political questions. Not deeming this to be such, I shall vote "nay."

The Secretary concluded the call of the roll.

Mr. MCMILLAN. My colleague [Mr. WINDOM] is absent, detained from the Senate by sickness. I feel authorized to say he would vote "nay" upon this bill if he were present.

Mr. BUTLER. I am paired with the Senator from Florida, [Mr. CONOVER.] Not knowing exactly how he would vote upon this question, I shall refrain from voting.

Mr. MERRIMON. I am paired with the Senator from Kansas, [Mr. INGALLS.] I do not know how he would vote upon this question, and I decline to vote.

The result was announced—yeas 17, nays 31; as follows:

YEAS—17.

Bailey,	Gordon,	Lamar,	Voorhees,
Beck,	Grover,	McCreery,	Withers.
Booth,	Harris,	Patterson,	
Dorsey,	Hereford,	Shields,	
Garland,	Jones of Nevada,	Spencer,	

NAYS—31.

Allison,	Cockrell,	Hamlin,	Morrill,
Anthony,	Coke,	Hill,	Oglesby,
Barnum,	Conkling,	Hoar,	Ransom,
Bayard,	Davis of Illinois,	Howe,	Rollins,
Blaine,	Dawes,	Kernan,	Saulsbury,
Burnside,	Eaton,	McMillan,	Saunders,
Cameron of Pa.,	Edmunds,	McPherson,	Wadleigh.
Chaffee,	Ferry,	Morgan,	

ABSENT—28.

Bruce,	Eustis,	Matthews,	Sargent,
Butler,	Ingalls,	Maxey,	Sharon,
Cameron of Wis.,	Johnston,	Merrimon,	Teller,
Christiancy,	Jones of Florida,	Mitchell,	Thurman,
Conover,	Kellogg,	Paddock,	Wallace,
Davis of West Va.,	Kirkwood,	Plumb,	Whyte,
Dennis,	McDonald,	Randolph,	Windom.

So the bill was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the resolution of the Senate of January 17, 1879, to print 1,000 copies of the Narrative of the Polaris Expedition, for sale by the Public Printer, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the resolution of the Senate of December 16, 1878, providing for binding the copies of Walker's Statistical Atlas heretofore ordered, with an amendment, in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. No. 43) to provide for taking testimony to be used before Congress in cases of private claims against the United States;

A bill (S. No. 878) to disapprove and annul an act of the Legislative Assembly of the Territory of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses over the veto of the governor of said Territory;

A bill (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent;

A bill (S. No. 1060) authorizing the Secretary of War to erect headstones over the graves of Union soldiers who have been interred in private, village, or city cemeteries;

A bill (S. No. 1277) to extend the jurisdiction of the district and circuit courts of the United States for the southern district of Florida;

A bill (S. No. 623) to amend sections 900 and 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d day of February a holiday within said District;

A bill (S. No. 1151) to amend section 5497 of the Revised Statutes, relating to embezzlement by officers of the United States; and

A joint resolution (S. R. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

Mr. EDMUNDS. I move that the Senate now proceed to the consideration of the resolutions I had the honor to offer some days ago, which are well understood by the Senate.

The PRESIDING OFFICER. The resolutions will be reported by the Secretary to the Senate for information.

The resolutions were read.

Mr. GORDON. I move that the Senate do now adjourn.

Mr. ALLISON. I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MATTHEWS, (when his name was called.) On this question I am paired with the Senator from Indiana [Mr. MCDONALD.] I should vote "nay" if he were here.

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Nevada [Mr. SHARON] upon political questions. If this is regarded as a political question I shall not vote.

Mr. EDMUNDS. It looks very much like it.

Mr. RANSOM. I should like for his colleague, the Senator from Nevada, [MR. JONES,] to say whether he regards it as a political question or not, and if he thinks it is I shall not vote.

Mr. JONES, of Nevada. I so regard it now.

Mr. RANSOM. I shall not vote.

Mr. SARGENT, (when his name was called.) I am paired on political questions with the Senator from Virginia, [Mr. JOHNSTON.] I should like to inquire of his colleague [Mr. WITHERS] if he considers this to be a political question?

Mr. WITHERS. Judging from the character of the vote, it will be so treated.

Mr. SARGENT. I withhold my vote.

The roll-call was concluded.

Mr. BAILEY, (after having voted "yea.") As the vote on the motion to adjourn is assuming a political cast, I shall observe my pair with the Senator from Wisconsin [Mr. CAMERON] upon political questions, and therefore withdraw my vote.

Mr. GARLAND. I am paired with the Senator from Iowa [Mr. KIRKWOOD] on all political questions and I decline to vote upon the pending motion. If he were here, I should vote "nay" on this motion. I cannot say how he would vote.

Mr. BUTLER, (after having voted "yea.") I am paired with the Senator from Florida [Mr. CONOVER] on all political questions. This being regarded as a political question by some, I ask leave to withdraw my vote.

Mr. HARRIS. I should like to ask the Senator from North Carolina [Mr. RANSOM] if he considers this to be a political question?

Mr. EDMUNDS. We cannot very well have a debate on this question.

Mr. HARRIS. I voted "nay" myself, and I intend to stick to that vote because I desire that the Senator from Vermont may get his resolutions up for consideration.

Mr. EDMUNDS. I only say that we cannot have debate on this question.

The PRESIDING OFFICER. Did the Senator from Tennessee rise to ask a question of the Chair?

Mr. HARRIS. I simply rose to ask the Senator from North Carolina if he considers this to be a political question?

Mr. EDMUNDS. That is debate, Mr. President.

Mr. HARRIS. Then I withdraw my question.

Mr. MERRIMON. I desire to announce that I am paired with the Senator from Kansas [Mr. INGALLS] on political questions. I cannot doubt that quite a number of Senators regard this as a political question, and therefore I shall observe my pair.

Mr. DAVIS, of West Virginia, (after having voted "yea.") I withdraw my vote. I am paired with the Senator from Minnesota, [Mr. WINDOM.] I supposed when I voted that this was not a political question, but it has taken that turn.

Mr. WADLEIGH. I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "nay."

Mr. CHAFFEE, (after having voted "nay.") Upon all political questions I am paired with the Senator from Louisiana, [Mr. EUSTIS.] As this is regarded as a political question I withdraw my vote.

Mr. JONES, of Florida. On all political questions I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I should vote "yea" and I suppose he would vote "nay."

Mr. CAMERON, of Pennsylvania, (after having voted "nay.") I am told that this is a political question. I am paired with my colleague, [Mr. WALLACE,] and I withdraw my vote.

Mr. PADDOCK. On this question, which seems to be considered as a political one, I am paired with the Senator from New Jersey, [Mr. RANDOLPH.]

Mr. PLUMB, (after having voted "nay.") As this seems to be a political question, I withdraw my vote. I am paired with the Senator from Maryland, [Mr. DENNIS.]

Mr. GROVER, (after having voted "yea.") I beg leave to withdraw my vote. I am paired on political questions with the Senator from Colorado, [Mr. TELLER,] who is absent.

The result was announced—yeas 17, nays 26; as follows:

YEAS—17.

Barnum,	Eaton,	McCreery,	Voorhees,
Bayard,	Gordon,	McPherson,	Withers.
Beck,	Hereford,	Saulsbury,	
Cockrell,	Kernan,	Shields,	
Davis of Illinois.	Lamar,	Thurman,	

NAYS—26.

Allison,	Dawes,	Howe,	Morrill,
Anthony,	Dorsey,	Jones of Nevada,	Oglesby,
Blaine,	Edmunds,	Kellogg,	Rollins,
Booth,	Ferry,	McMillan,	Saunders,
Bruce,	Hamlin,	Maxey,	Spencer.
Burnside,	Harris,	Mitchell,	
Conkling.	Hill,	Morgan,	

ABSENT—33.

Bailey,	Dennis,	McDonald,	Sharon,
Butler,	Eustis,	Matthews,	Toller,
Cameron of Pa.,	Garland,	Merrimon,	Wadleigh,
Cameron of Wis.,	Grover,	Paddock,	Wallace,
Chaffee,	Hoar,	Patterson,	Whyte,
Christiancy,	Ingalls,	Plumb,	Windom.
Coke,	Johnston,	Randolph,	
Conover,	Jones of Florida,	Ransom,	
Davis of W. Va.,	Kirkwood,	Sargent,	

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Vermont to proceed to the consideration of the resolutions offered by him, which have been reported.

Mr. EDMUNDS. Let us have the yeas and nays, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BUTLER, (when his name was called.) On all political questions I am paired with the Senator from Florida, [Mr. CONOVER.] I suppose there can be no doubt about this being a political question, and therefore I shall not vote.

Mr. CAMERON, of Pennsylvania, (when his name was called.) I am paired with my colleague, [Mr. WALLACE.] If he were here, I should vote "yea."

Mr. CHAFFEE, (when his name was called.) On all political questions I am paired with the Senator from Louisiana, [Mr. EUSTIS.] If he were present, I should vote "yea."

Mr. GARLAND, (when his name was called.) On all political questions I am paired with the Senator from Iowa, [Mr. KIRKWOOD.] This I assume to be a political question. If he were here, I should vote "nay;" I suppose he would vote "yea;" and therefore I decline to vote.

Mr. GROVER, (when his name was called.) On political questions I am paired with the Senator from Colorado, [Mr. TELLER.] If he were present, I should vote "nay."

Mr. MATTHEWS, (when his name was called.) On this question I am paired with the Senator from Indiana, [Mr. MCDONALD.] If he were here, I should vote "yea."

Mr. MERRIMON, (when his name was called.) On this vote I shall observe my pair with the Senator from Kansas, [Mr. INGALLS.]

Mr. PADDOCK, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, I should vote "yea."

Mr. PLUMB, (when his name was called.) On this question I am paired with the Senator from Maryland, [Mr. DENNIS.] If he were present, I should vote "yea."

Mr. RANSOM, (when his name was called.) I am paired with the Senator from Nevada, [Mr. SHARON.] I should vote "nay" if he were here.

Mr. SARGENT, (when his name was called.) I am paired with the Senator from Virginia, [Mr. JOHNSTON,] and I would vote "yea" if he were here.

Mr. WADLEIGH, (when his name was called.) I am paired with the Senator from Maryland, [Mr. WHYTE.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. JONES, of Florida. On all political questions I am paired with the Senator from Michigan, [Mr. CHRISTIANCY.] If he were here, I presume he would vote "yea," and I should vote "nay."

The result was announced—yeas 29, nays 16; as follows:

YEAS—29.

Allison.	Dawes.	Jones of Nevada,	Oglesby,
Anthony,	Dorsey,	Kellogg,	Patterson
Bayard,	Edmunds,	Kernan,	Rollins,
Blaine,	Ferry,	McMillan,	Saunders.
Booth,	Hamlin,	McPherson,	Spencer.
Bruce,	Harris,	Mitchell,	
Burnside,	Hill,	Morgan,	
Conkling,	Howe,	Morrill,	

NAYS—16.

Barnum,	Davis of Illinois,	Lamar,	Shields,
Beck,	Eaton,	McCreery,	Thurman,
Cockrell,	Gordon,	Maxey,	Voorhees,
Coke,	Hereford,	Saulsbury,	Withers.

ABSENT—31.

Bailey,	Conover,	Hoar,	Matthews,
Butler,	Davis of W. Va.,	Ingalls,	Merrimon,
Cameron of Pa.,	Dennis,	Johnston,	Paddock,
Cameron of Wis.,	Eustis,	Jones of Florida,	Plumb,
Chaffee,	Garland,	Kirkwood,	Randolph,
Christiancy,	Grover,	McDonald,	Ransom,

Sargent,	Teller,	Wallace,	Windom.
Sharon,	Wadleigh,	Whyte,	

So the motion was agreed to; and the Senate proceeded to consider the resolutions submitted by Mr. EDMUNDS on the 7th of January relative to the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States.

Mr. MORGAN. I move that the Senate do now adjourn.

The VICE-PRESIDENT. The question is on the motion of the Senator from Alabama, that the Senate now adjourn.

The motion was agreed to—ayes 27, noes 17; and (at four o'clock and fifteen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 28, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

NARRATIVE OF THE POLARIS EXPEDITION.

The SPEAKER. The unfinished business coming over from Saturday is a report from the Committee on Printing, presented by the chairman of that committee, the gentleman from Mississippi, [Mr. SINGLETON,] and is the Senate resolutions to provide for the publication of an edition of the Narrative of the Polaris Expedition. The pending question is upon the amendment offered by the gentleman from Texas, [Mr. MILLS.]

Mr. MILLS. I withdraw that amendment.

The question was then taken on the amendment offered by the committee to the resolutions of the Senate; and the amendment was agreed to.

The question recurred upon concurring in the resolutions of the Senate as amended; and they were concurred in.

Mr. SINGLETON moved to reconsider the vote by which the resolutions were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF WALKER'S ATLAS.

Mr. SINGLETON, from the Committee on Printing, reported back, with an amendment, a resolution of the Senate providing for the printing of Walker's Statistical Atlas.

The resolution was read, as follows:

Resolved, (the House of Representatives concurring,) That the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress be bound by the Public Printer.

The amendment was read, as follows:

At the end of line 3 insert the words "and the Department of the Interior."

At the end of line 4 insert the following: "In cloth with American Russia leather and backs and ends."

The amendments were agreed to; and the resolution, as amended, was adopted.

Mr. SINGLETON moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC DOCUMENTS IN INTERIOR DEPARTMENT.

Mr. SINGLETON also, from the Committee on Printing, reported back the letter from the Secretary of the Interior, transmitting a statement showing the number of public documents received by that Department for distribution on behalf of the Government during the fiscal year ending June 30, 1878; which was ordered to be printed and recommitted.

ENROLLED BILL SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. No. 5315) to amend the Revised Statutes of the United States relating to the records and files of district and circuit courts of the United States lost or destroyed.

Mr. MILLS. Is not the morning hour the regular order?

The SPEAKER. It is not.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS, by unanimous consent, from the Committee on Appropriations, reported a bill (H. R. No. 6240) making appropriations for the legislative, executive and judicial departments of the Government for the fiscal year ending June 30, 1880; which was read a first and second time, and referred to the Committee of the Whole on the state of the Union.

Mr. PAGE. I desire to reserve all points of order on that bill.

Mr. ATKINS. I give notice that I will call up this bill for consideration upon the conclusion of the Army bill.

PRESENTMENT OF THE UNITED STATES COURT, NEW YORK.

Mr. ATKINS also, by unanimous consent, from the same committee, reported back a letter from the clerk of the United States circuit court of New York City, transmitting a presentment of the grand jury made at a recent term of that court; which was read a first and second time, and referred to the Committee on the Judiciary.

PUBLIC DAMS AT FALLS OF SAINT ANTHONY.

Mr. STEWART, by unanimous consent, introduced a bill (H. R. No. 6241) to authorize the construction of a flume or sluiceway through the public dams and other works at the Falls of Saint Anthony on the Mississippi River, to regulate the use thereof and to appropriate money therefor; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

PENSIONS FOR THE BLIND.

Mr. KNAPP. I ask unanimous consent to introduce for consideration at this time a bill for the relief of soldiers and sailors becoming totally blind in the service of the country.

The SPEAKER. The bill will be read, after which objections will be in order.

The bill was read, and provides that the act of June 17, 1878, entitled "An act to increase the pensions of certain soldiers and sailors who have lost both their hands, or both their feet, or the sight of both eyes in the service of the country," shall be so construed that all soldiers and sailors who have become totally blind from causes occurring in the service of the United States shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid to them in the same manner as pensions are now paid such persons, the sum of $72 per month.

Mr. CONGER. I call for the regular order.

The SPEAKER. The regular order is the special assignment for to-day.

Mr. KNAPP. Then I ask that the bill I have introduced be referred to the Committee on Invalid Pensions.

Mr. CONGER. I supposed that had already been done when I called for the regular order. I think if the gentleman will ask for the passage of the bill at this time there will be no objection.

The SPEAKER. The demand for the regular order interrupted the consideration of the bill.

Mr. CONGER. I supposed that the gentleman introduced the bill for reference only and that it had been referred.

Mr. KNAPP. I asked for its passage.

Mr. CONGER. I have no objection to that.

Mr. TIPTON. I think that is the law now.

Mr. KNAPP. It is not the law now.

The SPEAKER. The bill will be again read.

The bill was again read.

Mr. HEWITT, of Alabama. Is this bill introduced for reference?

The SPEAKER. It is not. The gentleman introducing it asks for its present consideration.

Mr. HEWITT, of Alabama. I think it should be referred.

The SPEAKER. If the bill shall be referred the Chair thinks it might be lost, as the committee may not be called again, unless the committee is clothed with power to report at any time.

Mr. LUTTRELL. I hope the gentleman will withdraw his objection. It is only justice to those soldiers who are totally blind.

The SPEAKER. The Chair will submit the question to the House, that this bill be referred to the Committee on Invalid Pensions and that they have the right to report it back at any time.

Mr. BANNING. I think the objection is withdrawn.

The SPEAKER. The Chair understands it is not withdrawn.

There being no objection the bill (H. R. No. 6242) was received, read a first and second time, ordered to be printed, and referred to the Committee on Invalid Pensions, with leave to report the same back at any time for consideration.

UNSURVEYED ISLANDS, ETC.

Mr. ELAM, by unanimous consent, introduced a bill (H. R. No. 6243) to convey any title the United States may have to any unsurveyed islands and beds of meandered lakes and sloughs and ponds not navigable to the respective States in which they are situated; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CHINESE IMMIGRATION.

Mr. WILLIS, of Kentucky. I now call for the regular order.

The SPEAKER. The regular order is the special assignment for to-day after the reading of the Journal, being the bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States, reported from the Committee on Education and Labor with amendment. The bill will be read.

The bill, with the committee amendments, was read, as follows:

Strike out the parts in brackets, and insert the parts in italics.

Be it enacted, &c., That no master of any vessel owned in whole or in part by a citizen of the United States, or by a citizen of any foreign country, *nor other person*, shall take on board such vessel, at any port [of] *or place within* the Chinese Empire, or at any other foreign port or place whatever, any number exceeding [ten] *fifteen* Chinese passengers, whether male or female, with the intent to bring such passengers to the United States, or shall bring such passengers to any number exceeding [ten] *fifteen* on one voyage within the jurisdiction of the United States.

SEC. 2. That whenever the master *or other person in charge* of any such vessel takes on board the same, at any foreign port or place, any greater number of Chinese passengers than is prescribed in the first section of this act, with intent to bring such passengers to the United States, or bring such passengers to any number exceeding [ten] *fifteen* on one voyage within the jurisdiction of the United States, he shall be deemed guilty of a misdemeanor, and shall for each passenger *so* taken on board or brought within the jurisdiction of the United States exceeding the number

of [ten] *fifteen*, be fined $100, and may also be imprisoned for not exceeding six months.

SEC. 3. That the master of any vessel arriving in the United States, or any of the Territories thereof, from any foreign place whatever, at the same time that he delivers a manifest of the cargo, and if there be no cargo, then at the time of making report or entry of the vessel pursuant to law, shall, in addition to the other matters required to be reported by law, deliver and report to the collector of the district in which such vessel shall arrive a separate list of all Chinese passengers taken on board the vessel at any foreign port or place, and of all such passengers on board the vessel at that time; such list shall be sworn to by the master in the same manner as directed by law in relation to the manifest of the cargo; and the refusal or neglect of the master to comply with the provisions of this section shall receive the same penalties, disabilities, and forfeitures as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

SEC. 4. That the amount of the several penalties imposed by the foregoing provisions shall be liens on the vessels violating those provisions; and such vessel shall be libeled therefor in any circuit or district court of the United States where such vessel shall arrive.

[SEC. 5. That informers shall be entitled to one-half of any penalty or fine collected under the provisions of this act upon their information.]

SEC. [6] 5. That nothing herein contained shall be held to repeal or modify any law forbidding the importation of coolies, or of females for immoral purposes, into the United States: *Provided*, That no consul or consular agent of the United States, residing at any port from which any vessel taking Chinese passengers may take her departure, shall grant the certificate provided for in section 2162 of the Revised Statutes for more than [ten] *fifteen* Chinese passengers on any one vessel.

SEC. [7] 6. That this act shall take effect from and after the first day of [September] *July*, eighteen hundred and seventy-[eight] *nine*.

When the Clerk in reading the bill had read section 5,

Mr. WILLIAMS, of Oregon, said: I ask permission to offer an amendment to come in after section 5.

The SPEAKER. The bill is not being read for amendment; merely for information.

The Clerk resumed and concluded the reading of the bill.

Mr. WILLIS, of Kentucky. I now ask that the report be read.

Mr. CONGER. Before the report is read we may as well come to an understanding about this matter. The first reading of the bill, as I understand it, was for information merely. Will it be again read by sections for amendment?

The SPEAKER. This is a report from a committee, and the question will be subject to the will of the majority of the House.

Mr. CONGER. I ask the gentleman who has charge of the bill whether it is proposed to allow amendments and discussion of this bill?

Mr. WILLIS, of Kentucky. As soon as the report is read I will submit a motion which will determine that.

Mr. CONGER. I ask the gentleman now whether it is proposed to have the bill read for amendments?

Mr. WILLIS, of Kentucky. My instruction from the committee is to secure the passage of this bill without further amendments than those reported from the committee. As soon as the report is read I will demand the previous question on the bill, and the time will then be equally divided between the friends and opponents of the bill.

Mr. CONGER. I understand that the committee have proposed some amendments.

Mr. WILLIS, of Kentucky. Those amendments are incorporated in the bill.

Mr. CONGER. But they have not been read as amendments.

The SPEAKER. The Chair will have them read for action. The Chair understands the gentleman from Kentucky in charge of the bill [Mr. WILLIS] to give notice that he will demand the previous question on the bill and amendments of the committee. If that demand shall be sustained the effect of it will be to cut off any amendments from any other quarter.

Mr. CONGER. Must not this bill be read by sections even for the committee amendments?

The SPEAKER. The Chair will have the bill read by sections; but that does not change the position of the matter. The amendments as reported by the committee will be read in connection with each section. If the previous question be sustained, the effect, as heretofore stated by the Chair——

Mr. WILLIAMS, of Oregon. I hope the demand for the previous question will be voted down.

Mr. CONGER. I understand that the gentleman from Kentucky [Mr. WILLIS] refuses now in advance to admit amendments to be voted on except those of the committee, or to permit discussion other than what may come after the previous question is seconded.

The SPEAKER. There would be an hour for discussion if the gentleman from Kentucky should so desire; and that gentleman has indicated to the Chair that he is under obligation to yield to the gentleman from New York, [Mr. TOWNSEND.]

Mr. CONGER. But that will be after the previous question is seconded.

The SPEAKER. It is for the House to decide whether the call for the previous question shall be sustained; if not, the bill will of course be open to amendment and debate.

Mr. CONGER. But if on the other side of the House there is no agreement, but on the contrary a distinct refusal to permit any amendment, or any discussion except that which may follow the previous question, we desire to know it now, that we may resort to any parliamentary remedies we may have.

The SPEAKER. The Chair understands that it is the purpose of the gentleman from Kentucky to demand the previous question, and if it should be sustained, to allow the debate which the rules permit after the previous question is seconded, but to shut out amendments other than those that have been agreed upon in committee and are now reported to the House with the bill.

Mr. CONGER. I submit that when this House consents to a special order——

Mr. COX, of New York. I object to debate.

The SPEAKER. The Chair desires to hear the gentleman from Michigan.

Mr. COX, of New York. But he is making a speech, not propounding a parliamentary inquiry.

Mr. CONGER. I submit that when this House consents to the consideration of a bill either by unanimous consent or by a suspension of the rules the bill comes up for consideration as it would in other cases.

The SPEAKER. This bill does not occupy a different position from any other bill that might be before the House for consideration.

Mr. CONGER. There are many gentlemen on this side of the House who favor the passage of the bill; but we desire to offer some amendments and to discuss it.

The SPEAKER. But if the House chooses to shut out amendments by sustaining the previous question, that is a matter for the House.

Mr. WILLIAMS, of Oregon. I hope the previous question will be voted down.

Mr. PAGE. Mr. Speaker, when this bill was made a special order it was generally expected that the day would be given for the discussion of the bill. Many members on this side would like——

The SPEAKER. The Chair has nothing to do with that matter.

Mr. COX, of New York. I object to debate.

Mr. PAGE. It was expected that the day would be given for discussion and that at four o'clock the previous question would be called.

Mr. COX, of New York. I object to debate.

The SPEAKER. The gentleman from New York objects to debate.

Mr. PAGE. I am not debating the bill.

Mr. LUTTRELL. The people of California want action, not words.

The SPEAKER. The gentleman from California is not in order.

Mr. PAGE. This bill has been made the subject of a caucus on the other side, while this side has had no opportunity to consider it at all. I hope, however, that no gentleman on this side will oppose the seconding of the previous question.

The SPEAKER. The gentleman from Kentucky demands the previous question on the bill and amendments.

Mr. CONGER. Pending that, I move that this bill be considered by the House as in Committee of the Whole.

The SPEAKER. The first question is on seconding the demand for the previous question. If this be voted down, the Chair will recognize the gentleman from Michigan.

Mr. CONGER. But if the motion which I submit is in order, it decides the question.

The SPEAKER. But it is not in order in preference to the demand for the previous question.

Mr. CONGER. Then I move to refer this bill to the Committee of the Whole. That I believe is in order.

The SPEAKER. That is not in order pending the demand for the previous question.

[Cries of "Regular order!"]

Mr. CONGER. I ask the Chair to have the rule read in reference to the motion to refer as a privileged motion.

The SPEAKER. The effect of a demand for the previous question is to exclude all other motions except a motion to adjourn. If it be sustained, it will cut off the offering of amendments, and will allow, under the rule, one hour for debate. If not sustained, it throws the bill open to amendment and to lengthened debate. The remedy of the gentleman from Michigan is to induce a majority of the House to vote down the previous question.

Mr. CONGER. I ask the Chair whether a motion to refer does not take precedence of the demand for the previous question?

The SPEAKER. It does not; for the reason that the House has the right by a majority vote to control action on the bill.

Mr. COX, of New York. The gentleman from Michigan has not the floor to make the motion to refer.

The SPEAKER. The gentleman from Michigan is not recognized for that purpose. The bill is in charge of the gentleman from Kentucky who reports it, and until there is an adverse vote of the House it will continue under his control.

Mr. BURCHARD. I rise to a parliamentary inquiry. How is this bill before the House at the present time? I notice that in the "order of business" it is stated that this bill was recommitted to the committee. If that statement is correct, the bill is not now before the House.

The SPEAKER. The gentleman from Kentucky reports the bill from the committee, as he has a right to do.

Mr. BURCHARD. It has been reported back this morning?

The SPEAKER. Yes, sir, by the gentleman from Kentucky.

The question being taken on seconding the demand for the previous question, it was agreed to; there being—ayes 116, noes 33.

The main question was then ordered.

Mr. COX, of New York, moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATKINS. Mr. Speaker, I ask that the report of the committee be read.

Mr. CONGER. I object to the reading of the report. I ask the main question be now put.

The SPEAKER. It is part of the remarks of the gentleman from Kentucky.

Mr. ATKINS. I ask the gentleman from Kentucky to allow the reading of the report to come out of his time?

Mr. CONGER. That has not been proposed yet.

The SPEAKER. The gentleman from Kentucky has the control of the hour if he wishes it.

Mr. WILLIS, of Kentucky. I ask for the reading of the report.

Mr. CONGER. Is that part of the remarks of the gentleman having the floor?

The SPEAKER. It is. The Clerk will now read the report of the committee.

The Clerk read as follows:

Mr. WILLIS, of Kentucky, from the Committee on Education and Labor, submitted the following report:

The Committee on Education and Labor, having had under consideration sundry bills in regard to Chinese immigration, beg leave to submit the following report:

Briefly stated, this bill provides that no master of a vessel shall take on board at any port in China, or elsewhere, more than fifteen Chinese passengers with intent to bring them, or shall bring them, within the United States. The violation of this provision is made a misdemeanor, punishable by a fine of $100 for each passenger and imprisonment for six months. The master is required, under like penalties, to report on his arrival a sworn list of all Chinese passengers. The penalty is made a lien upon the vessel. The bill becomes operative on the 1st day of July, 1879.

Waiving for the present any consideration of the merits of the bill, the first question is whether such legislation is within the power of Congress?

CAN CONGRESS REPEAL A TREATY?

The existing treaty with China gives its subjects an unlimited right of immigration to the United States. The second clause of article 6 of the Constitution provides that "this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the land."

It is contended that any law restricting Chinese immigration would contravene this provision of the Constitution, and would therefore be null and void.

Such a construction cannot be sustained either upon principle or authority. The objects for which the Constitution was formed are higher than any power granted under it. The general welfare, justice, domestic tranquillity, and the blessings of liberty are of supreme importance, and cannot be taken from the people by any treaty however solemnly ratified. The treaty-making power is limited by these objects. Moreover, both in nature and by international law, the first duty is self-preservation. If, therefore, it be true that the presence of the Chinese endangers the peace or prosperity of our people, no mere technical considerations should intervene to prevent an increase of the evil.

The clause of the Constitution above quoted does not, however, admit of the construction contended for. It elevates treaties from the status of mere compacts to the dignity of laws, but does not clothe them with any additional superiority.

Laws made in pursuance of the Constitution are equally as binding and authoritative as treaties, and, if last enacted, control any contravening treaty. This conclusion is enforced by numerous decisions both of the executive and judicial departments of the Government. In 1851, in the case of the Florida claims, an apparent conflict between a treaty and a subsequent act of Congress was decided by Attorney-General Crittenden in these words: "An act of Congress is as much a supreme law of the land as a treaty. They are placed on the same footing, and no preference or superiority is given to the one or the other. The last expression of the law-giving power must prevail, and just for the same reason and on the same principle that a subsequent act must prevail and have effect, though inconsistent with a prior act; so must an act of Congress have effect, though inconsistent with a prior treaty." (Opinions Attorney-General, volume 5, page 345.)

To the same effect is the decision of Attorney-General Akerman in the case of the Choctaw Indians. "There is nothing in the Constitution which assigns different ranks to treaties and to statutes; both the one and the other, when not inconsistent with the Constitution, seem to stand upon the same level and to be of equal validity; and as in the case of all laws emanating from an equal authority, the earlier in date yields to the later." (Opinions Attorney-General, volume 13, page 357.)

These decisions of the Executive Department, confirmed as they are by the teachings of Madison, of Hamilton, and of Jefferson, have been followed by the judiciary. In the case of Taylor *vs.* Martin, 2 Curtis, C. C. Rep., 454, the court says: "It is impossible to maintain that under our Constitution the President and Senate exclusively possess the power to modify or repeal a law found in a treaty. If this were true, no change in a treaty could be made without the consent of some foreign government. That the Constitution was designed to place our country in this helpless condition is a supposition wholly inadmissible. It is not only inconsistent with the necessities of a nation, but negatived by the express words of the Constitution. That gives to Congress, in so many words, power to declare war, an act which, *ipso facto*, repeals all treaties inconsistent with a state of war. It cannot, therefore, be admitted that the only method of escape from a treaty is by the consent of the other party to it or a declaration of war. To refuse to execute a treaty for reasons which approve themselves to the conscientious judgment of a nation is a matter of the utmost gravity; but the power to do so is a prerogative of which no nation can be deprived without deeply affecting its independence. That the people of the United States have deprived their Government of this power I do not believe. That it must reside somewhere, and be applicable to all cases, I am convinced, and I feel no doubt that it belongs to Congress."

Similar opinions have been delivered in the circuit courts of the country. These decisions were finally reaffirmed by the Supreme Court of the United States in the Cherokee Tobacco Case, reported in 11 Wallace, page 616. The court says: "The effect of treaties and acts of Congress, when in conflict, is not settled by the Constitution. But the question is not involved in any doubt as to its proper solution. A treaty may supersede a prior act of Congress, (2 Peters, 314,) and an act of Congress may supersede a prior treaty, (2 Curtis, 454; 1 Woolworth, 155.) In the cases referred to, these principles were applied to treaties with foreign nations. Treaties with Indian nations cannot be more obligatory. They have no higher sanctity, and no greater inviolability or immunity from legislative invasion can be claimed for them. The act of Congress must prevail, as if the treaty were not an element to be considered. If a wrong has been done, the power of redress is with Congress, not with the judiciary."

Upon principle, therefore, as well as upon the authority of precedents, judicial and administrative, it would seem clear that Congress has the right, by appropriate legislation, to change or to abrogate any existing treaty. Indeed, Congress has in one instance expressly exercised this power. The act of July 7, 1798, declares that the existing treaties with France are no longer obligatory upon the United States. (1 Statutes at Large, page 578.)

PREVIOUS EFFORTS AT RELIEF.

The evils of Chinese immigration have been fully recognized upon the Pacific slope for many years. Welcomed at first as a unique addition to the society and a valuable ally in the development of the material resources of their new home, the Chinese, by their sordid, selfish, immoral, and non-amalgamating habits, within a very short time reversed the judgment in their favor and came to be regarded as a standing menace to the social and political institutions of the country.

The State laws which had been enacted having been declared unconstitutional by the Supreme Court, and every other means of relief proving ineffectual, it was finally determined to appeal to Congress. Accordingly, as early as the 23d of December, 1869, at the second session of the Forty-first Congress, an effort was made, but without success, to secure restrictive legislation. In the Forty-second Congress, and also in the Forty-third Congress, numerous memorials, resolutions of public meetings, and petitions, one of which numbered over 16,000 signatures, were presented to the same effect and with the same result. At the first session of the Forty-fourth Congress these renewed appeals for relief met for the first time with a favorable response. A joint resolution was introduced and passed calling upon the President of the United States to "open negotiations with the Chinese government for the purpose of modifying the provisions of the treaty between the two countries and restricting the same to commercial purposes."

Subsequently, at the same session, another joint resolution was passed, requesting the President to present to the Chinese government an additional article to the treaty of July 28, 1868, reserving mutually to the two governments the right to regulate, restrict, or prevent immigration to their respective countries. These authoritative requests on the part of Congress failed to secure the desired relief. In the mean while the question had assumed dangerous proportions. The conviction that Chinese immigration was a great evil was so deep-seated and unanimous that mob violence was openly threatened, and in many instances the arm of the law seemed powerless to protect. Recognizing the exigency, the Legislature of California appointed a special committee, whose report, based upon the testimony of witnesses familiar with the subject, ably and graphically sets forth the objections to the Chinese. Subsequently to this, a joint committee appointed by the Forty-fourth Congress collected voluminous testimony upon the same subject, and by a majority report urged upon the executive department the necessity for an immediate change of the Burlingame treaty, to the end that such immigration might be restricted or prevented. These reports, together with other official documents upon the subject, were laid before the present Congress.

Your committee, in view of the importance and urgency of the question, after a patient hearing of the evidence and argument on both sides, at an early date after its organization presented a resolution which with a slight modification passed both Houses of Congress. This resolution again called attention to the obnoxious features in the Burlingame treaty, and requested prompt action on the part of the executive department in securing its change or abrogation. In view of the almost unanimous sentiment of the people of the Pacific slope as to the necessity of such action, it was hoped that these successive resolutions of Congress, together with the various petitions, memorials, and official data in the possession of the Government, would cause negotiations to be opened for that purpose. Such action would have been preferable to the direct interference by Congress, inasmuch as it would have been free from all doubt as to its legality, and would not have jeopardized the friendly feelings and commercial intercourse between the two countries. Moreover, when a change of the treaty was first suggested by Congress and indeed up to a very recent date, it is believed that the Chinese government would have made no serious objection, as its policy was opposed to the emigration of its citizens. However desirable such a result, it has thus far not been accomplished. The petitions to secure remedial legislation were presented within a year after the ratification of the Burlingame treaty. These were vigorously renewed at every subsequent session until finally in the Forty-fourth Congress the resolution already referred to was passed, calling the attention of the executive department to the necessity of a change in the treaty. This resolution was again presented and passed in the second session of the present Congress, but has not, as far as your committee is informed, called forth any practical effort at action. So long a period of non-action proves either the unwillingness or the inability of the treaty-making power to cope with the question. In either event your committee consider that further delay would work great injustice to a large portion of our country, provided the evils whereof they complain are well founded.

RESTRICTIVE LEGISLATION NECESSARY.

That these complaints are not without cause cannot, upon the evidence, be doubted. Your committee, in a report accompanying joint resolution H. R. No. 123, at the second session of this Congress, endeavored to present what seemed to them some insuperable objections to Chinese immigration. Further examination of facts only confirms the conclusions therein stated. This whole question is not one of right, but of policy. There is no principle upon which we are compelled to receive into our midst the natives of Asia, Africa, or any other part of the world. The character, source, and extent of immigration should be regulated and controlled with reference to our own wants and welfare. The difficult problems, economic and political, resulting from the presence of the red and black races would be renewed in a more aggravated and dangerous form by the yellow race. The Mongolian, unlike the Indian, is brought in daily contact with our social and political life; and, unlike the African, does not surrender any of his marked peculiarities by reason of that contact. It is neither possible nor desirable for two races as distinct as the Caucasian and Mongolian to live under the same government without assimilation. The degradation or slavery of one or the other would be the inevitable result. Homogeneity of ideas and of physical and social habits are essential to national harmony and progress. Equally grave objections may be urged against the Chinese from an industrial stand-point. Our laboring people cannot and ought not to be subjected to a competition which involves the surrender of the sacred and elevating influences of home and the sacrifice of the ordinary appliances of personal civilization. The question, therefore, is not one of competition, but of a substitution of one kind of labor for another.

No self-governing country can afford to diminish or destroy the dignity, the welfare, and independence of its citizens. Justice to the people of the Pacific slope, the dictates of common humanity and benevolence, as well as the plainest suggestions of practical statesmanship, all demand that the problem of Chinese immigration shall be solved while it is yet within the legislative control.

Governed by these views, your committee present and recommend the passage of the bill accompanying this report.

Mr. WILLIS, of Kentucky. How much time have I remaining of my hour?

The SPEAKER. Forty-five minutes; fifteen minutes have been consumed in the reading of the report.

Mr. WILLIS, of Kentucky. I desire, then, to yield to the gentleman from New York [Mr. TOWNSEND] one-half of that time.

Mr. PAGE. I should like to ask the gentleman from Kentucky if he will yield to me for ten minutes?

Mr. WILLIS, of Kentucky. There are a number of gentlemen who desire me to yield to them, and if I yield to one I must yield to all. My desire is to divide the time between the opponents and friends of the bill.

The SPEAKER. The Chair understands the gentleman yields twenty-five minutes to the gentleman from New York.

Mr. WILLIS, of Kentucky. Yes, sir: one-half of my remaining time.

Mr. CONGER. The gentleman informed the House he would give one-half of the time to this side.

The SPEAKER. The usual practice has been to give one-half of the time to the opponents and the other half to the friends of the bill.

Mr. CONGER. That would give thirty minutes to this side of the House.

The SPEAKER. The gentleman from Kentucky gives one-half of the remaining time allowed for debate to the other side.

Mr. TOWNSEND, of New York. I will yield five minutes of my time to the gentleman from California, [Mr. PAGE.] He prefers, I understand, to use the last of the time, and if the Chair will have the kindness to remind me when twenty minutes have elapsed I will be obliged to him.

The SPEAKER. The Chair will do so with pleasure.

Mr. TOWNSEND, of New York. In speaking, Mr. Speaker, on this subject I disclaim all intention to speak for the republican party or for any party but myself. I stand here, sir, as an individual of the human race with my rights officially upon this floor, and I stand here to oppose the virtual breaking of social and political relations with one-third of the human race. I have nothing to charge against the dominant party in this House, although the first treaty under which these immigrations have occurred was negotiated in good old democratic days, but it was in days when the light of heaven sometimes reached the brain of the democracy. [Laughter.] And, sir, I credit to the democracy not only the making of the treaty, but the prosperity which has accrued to the Pacific coast from the adoption of it. California owes what she is in the agricultural world, her grains, her fruits, her agricultural prosperity to the treaty of 1858 and the one subsequently negotiated. It was before Kearney came and before Kearney was represented in the national halls.

But it is said we must take unusual ground for the benefit of the laboring classes in this country. The laboring classes in this country, the gentleman from Pennsylvania [Mr. WRIGHT] said, are starving. "Two hundred millions of them," [laughter,] said the gentleman from Pennsylvania, "are starving!" Two hundred millions in this country are starving! [Great laughter.] And he said, besides, that there are in Pennsylvania five thousand in the lunatic asylum from the hardness of the times. Let me say to the gentleman from Pennsylvania that lunatics sometimes are made by hardness of the times, sometimes by unrequited love, and lunatics are sometimes made from unsatisfied ambition, [laughter,] and the Pennsylvania lunatics made by the latter cause do not always stay at home within the State of Pennsylvania. [Great laughter.]

I stand here not to disparage, not to underrate the suffering of the laboring classes or other classes in this country. It has been very great; it is very great to-day; it has been always very great in the world. The struggle to keep the wolf away from the door is the hardest struggle humanity has to make, and yet it is what has made humanity what it has come to be in the better portions of Christendom. The hard soils of Pennsylvania—there are some good soils there—the hard soils of the hardest part of New York, and the hard soils of New England have made a body of men whom we may be proud of before the world and before Heaven.

But, sir, do not let us forget another thing, that in the midst of these hard times the year 1878 in the United States of America was the year of the greatest prosperity that has ever occurred to any people since the dawn of creation. There never has been a period in any land when labor could buy with its rewards so much to eat, to drink, and to wear and with which to provide for its loved ones, as the year 1878; and all this has occured to a great degree because we have overridden the fanatics of the olden time. It is the "Heathen Chinee" to-day that we are called to suppress. I say to the gentleman from Kentucky [Mr. WILLIS] who has charge of this bill and who represents Louisville, Kentucky, that I remember the day when the cry was against the Catholic Irish, against the condemned Germans, and when the streets of his city flowed with blood and when the streets of Saint Louis, in Missouri, flowed with blood in the riots against the Irish and the Germans because they were coming here to take away the labor of the American citizen and rob his children of their bread. Those who got up those riots were overruled. Thank God, I had a hand in it. I was in a minority. The great men of the democratic party, many of them of the State of New York, were on the other side. Erastus Brooks of the Evening Express, a trusted leader of the party to-day, was, if I remember rightly, the head of what was called the American Order, organized to protect the country against the inroads of what they deemed hordes of Irish and Germans. But, sir, we put them down by the use of hard common sense. We beat them, though we were in a minority. My State gave 200,000 majority in favor of oppression and exclusion. But, sir, our unparalleled prosperity which has crowned us in this country has been due in a great degree to the sturdy, stalwart labor of the Irish and the Germans.

Some one says "demagogue." Is it Bill Nye that says it? [Laughter.] I have Bill Nye here, [holding up a volume,] [laughter,] and I will allow Truthful James in a few moments to read his dreadful indictment against the "Heathen Chinee."

Now, sir, I did not join in that raid against the Irish and the Germans. I have never yet joined in a raid against anybody, and now that old age is upon me I hope that God will give me grace for the future hours I have to live to keep me from joining in a crusade against any portion of the race that has descended from Adam.

Sir, this Chinese immigration is put in a light that will bear a great deal of criticism. The only accurate information that I can get of what the number of the Chinese in the West amounts to is from the census of 1870, which shows the total number of Chinese in Oregon, in California, and in Nevada was in that year only fifty-five thousand. I once spent a week in the Golden State and the best information I could get about the number of the Chinese there was that the number did not exceed seventy-five thousand on the Pacific coast. For the last three years they have not materially, if at all, increased; and I do not believe that there are to-day more than seventy-five thousand men that we are called upon to legislate against.

What is the matter with these men? A gentleman in Washington now, a distinguished merchant of California, whom for political reasons I will not name, has said to me, within the last week, "I have dealt to the amount of more than half a million of dollars in small sums with the Chinese merchants in San Francisco. They never violated their word, and I never lost a dollar by them." Do not these men earn their fee and bounty? The charge is that they come and make us rich and do not take away money enough to pay for their services.

Ah, but we have a new school of philosophers; such as went before our labor committee and for weeks twaddled about overproduction. I refer to the committee presided over by my friend Mr. HEWITT, of New York. They declared that the sufferings of the laboring people in this country arose from the fact that there was too much production; we were ruining our laboring people by furnishing them too much clothing; by furnising them too much food; the country was getting to be all piled up with food, all loaded down with clothing, and hence starvation and nakedness.

Sir, these are not the laboring-men. They are demagogues and idlers at corner groceries; men who are supported by the labor of their wives and never do a day's work from year's end to year's end. These are really the men represented by my friend from Pennsylvania in his half hour's speech of yesterday. What labor does Kearney perform? He is blowing his trumpet; he is hounding on his wild followers to the destruction of all we hold dear. What does he do to earn an honorable subsistence?

Mr. RYAN. He passes round the hat.

Mr. TOWNSEND, of New York. Now, fifteen minutes or twenty minutes is no time for discussing this question; but I want to call the attention of the House to another fact. I have spoken of two races that we have raised that we have endeavored to repress and drive from the country. We have had great parties, that at one time cast a large majority of all the votes in this Union, formed to destroy or drive back the coming Germans and the Irish.

But neither oppression nor repression succeeded. I have another instance of a people whom neither oppression nor repression destroyed. The Jewish people all through the ages dressed differently from their Christian neighbors. They had a different face. They lived by themselves and had a different faith. Some of their race centuries before had participated in the crucifixion of the Saviour of mankind. That crime could not be forgiven them for ages and ages. I trust we have got up to higher ground in this day. We have reached to-day the point where the next great crime to the crucifixion is even forgiven to those who committed it. And I rejoice in our higher Christianity and better civilization. These men, as I say, were persecuted; they were mobbed; they were taxed; they were oppressed; they were murdered in the streets by mobs. The mob of the middle ages played in advance all the fiendish tricks practiced by the hoodlums of California upon the "Heathen Chinee."

Time ran on, and in the nineteenth century no prince in Europe can declare war, no nation in Europe can declare war until they have asked the consent of a Jew. They must first ask for money at the counter of the Rothschilds. In the three western countries of Europe where the persecution of the Jews was the most persistent and most abominable the Jew stands to-day as the interpreter of the law and the leader of public opinion and public measures. Castellar is to-day the actual leader of the public sentiment of Spain. Gambetta in France is the leader of the republican party and of the power of that great and regenerated nation. In England Disraeli, the Earl of Beaconsfield, certainly sways the destinies of the proudest race, the most successful race, and the country of the widest possessions on earth. I do indeed indulge the hope that we shall have wisdom enough to outstrip her in the race of prosperity; but we can never do so if we take Kearney as our leader.

Mr. HEWITT, of New York. Will the gentleman allow me to ask him a question?

Mr. TOWNSEND, of New York. Don't interrupt me, for Heaven's sake. I am willing to be oppressed, I may be overridden, but I do not want to be interrupted.

Now, sir, it is said these Chinese are wicked; yes, they are wicked. I have no doubt they are wicked. All mankind are wicked. But I have never known a people who were not wicked—if you listen to those who wish to do them wrong. In the Middle Ages the Jews, it is said, stole children and crucified them. They massacred children and boiled them down so as to get their fat to conjure with.

It was said in 1854 that if we allowed Catholicism to come into our country our liberties would be gone. How many men on the oppo-

site side of the House come here to-day except by permission of St. Patrick? I stood by him in the dark days, and I am happy to say that he did not desert me when it was proposed to send me here.

I have another thing to say about the Chinese. It is said by those who hound on the hoodlums to wrong and torture them in their quiet labor by which they shun your poor-houses that they cannot be induced to adopt the Christian religion. I say to such, and I say to all men, if you wish to make Christians of the Chinese treat them in a manner becoming Christians. A Chinese boy was in the service of an excellent Christian lady in San Francisco. She one day said to him, "John, I hope you will always be a good boy, and oh! how I wish you would love Jesus." The boy replied, "Give me a dollar a week more and I will love your Jesus."

Now, if you want these men to commingle with you, give them a dollar a week more, and I undertake that they will accept it with thanks. The real wrongs which are chargeable to the Heathen Chinee are well represented in the complaint of the gamblers Truthful James and Bill Nye, who sat down to rob Ah Sin at cards.

I read the story of the "Heathen Chinee" as recorded by Bret Harte" in the

PLAIN LANGUAGE FROM TRUTHFUL JAMES.

Which I wish to remark—
And my language is plain—
That for ways that are dark
And for tricks that are vain
The Heathen Chinee is peculiar;
Which the same I would rise to explain.

Ah Sin was his name;
And I shall not deny,
In regard to the same,
What that name might imply.
But his smile it was pensive and childlike,
As I frequent remarked to Bill Nye.

It was August the third,
And quite soft was the skies,
Which it might be inferred
That Ah Sin was likewise;
Yet he played it that day upon William
And me in a way I despise.

Which we had a small game,
And Ah Sin took a hand.
It was Euchre. The same
He did not understand;
But he smiled as he sat by the table
With the smile that was childlike and bland.

Yet the cards they were stocked
In a way that I grieve,
And my feelings were shocked
At the state of Nye's sleeve,
Which was stuffed full of aces and bowers
And the same with intent to deceive.

But the hands that were played
By that Heathen Chinee
And the points that he made
Were quite frightful to see,
Till at last he put down a right bower
Which the same Nye had dealt unto me.

Then I looked up at Nye,
And he gazed upon me.
And he rose with a sigh
And said, "*Can this be?*
We are ruined by Chinese cheap labor."
And he went for that Heathen Chinee.

In the scene that ensued
I did not take a hand.
But the floor it was strewed,
Like the leaves on the strand,
With the cards that Ah Sin had been hiding
In the game "he did not understand."

In his sleeves, which were long,
He had twenty-four jacks;
Which was coming it strong;
Yet I state but the facts.
And we found on his nails, which were taper,
What is frequent in tapers—that's wax.

Which is why I remark,
And my language is plain,
That for ways that are dark
And for tricks that are vain
The Heathen Chinee is peculiar;
Which the same I am free to maintain.

I do not know where Bill Nye lives, but one of my friends on the other side must pardon me for saying that when I saw how the Heathen Chinee was shaken up from time to time in this House I came to the conclusion that his home was at Santa Rosa, (the home of Mr. LUTTRELL.)

Now, I have not in the time allotted been able to discuss this question. I have only been able to make a few remarks upon it. I deem it an important question—a proposition to sever all social and commercial intercourse with one-third of the human race.

Sir, when James Buchanan negotiated that first treaty, which was afterward so much enlarged by the Burlingame treaty under Lincoln, he made a step forward in the advance of civilization, Christianity, and commercial prosperity, and a step in favor of the human race; and when the treaty of Japan was negotiated the two treaties together opened to Christianity and prosperity and fraternity a portion of the world which had been shut up for centuries.

I am not for taking a step backward. I am for going forward and treating the human race as brothers. I will quote upon this subject the language of a man who does not live in California, the language of one whose lyre was always resonant with the best sympathies of humanity; I refer to the immortal Robert Burns:

Then let us pray that come it may,
As come it will for a' that,
* * * * * * *
When man to man, the warld o'er,
Shall brothers be for a' that.

[Applause.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced to the House that the President of the United States had approved bills of the following titles:

A bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878;

A bill (H. R. No. 5501) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879; and

A bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

CHINESE IMMIGRATION.

Mr. PAGE. Mr. Speaker, ever since my advent into Congress and even before taking my seat here as a member of this body, for the past eight years or more I have been an advocate of some restrictive legislation to prevent what I regarded as one of the greatest evils of our time, an over-influx of Chinese immigration; and perhaps many members of this House have regarded the position I have taken on this question as representing extreme and perhaps harsh views. But, sir, I declare I have not been and am not now actuated by any views that are not in keeping and full accord with the generous and liberal sentiments and advanced ideas of the party to which I have had the honor to belong, and with which I have been in full accord for the past twenty years, but I trust that I am now and will be ready at all times to subscribe to every sentiment and to vote for every proposition that has in view the welfare of the country, the peace, and quietude of its citizens, the recognition of the guaranteed rights of all, without regard to race, color, or previous condition, and the protection of all alike under one flag in accordance with the Constitution of the country.

A statement of facts will appropriately precede the discussion of the bill under consideration by the House. San Francisco is the entrepôt of Oriental commerce and immigration; the point from which both are distributed to the Pacific States and the communities intermediate to the Pacific Ocean and Mississippi River. California and the adjacent States and Territories furnish not only an opening to Pacific commerce, but in the fertility of its lands, the salubrity of its climate, the remunerative wages offered to labor, and its just and generous institutions present great attractions to Oriental immigration. These considerations have operated in individual cases to bring a very limited number of intelligent Mongolians to our shores; but in the main they have led to the formation of companies which seek to utilize the cheap labor of China for their own benefit, and under contract and by monopolistic combinations, in violation of the spirit both of the treaty and laws, have introduced multitudes of the lowest classes of these aliens in our midst. These people, with facilities thus furnished, have come in hundreds and thousands, until their number has been increased in the State of California to one hundred and fifty thousand, one-sixth of the population of the State.

Of this number all but about four thousand females are adults, and the females, with a few honorable exceptions, are held in slavery by their own people for the basest purposes. If the family institution existed among them upon the ratio of numbers in American families, there should be instead of an adult population equal to the full vote of the whole State of California only twenty-five thousand adult Chinese among us.

The profits of labor go principally to the Chinese companies who introduce and control these aliens, with only a very limited pittance to the laborer himself; and of the grand aggregate of profits made by the companies and individuals comparatively little is invested in the State.

Of the six hundred millions of taxable property in California, only one and a half millions is owned by the Chinese, upon which they pay less than $10,000 annual taxes. A population of one-sixth of that of the State, paying less than one four-hundredth part of the revenues required to support the government—their annual contribution to the revenues of the State being less by $12,000 than the cost yearly to our people of supporting the Chinese criminals in the State. It is estimated that the criminal classes among them rate as seven to one, and this fact, when considered in connection with the total absence of domestic restraint among the Chinese, and their thoroughly un-American ideas of morals and government, suggests dangers to society

and public virtue and order that demand immediate attention. With demands restricted to their simplest animal needs, freed from the cost of domestic life and the burdens of government, they have been placed upon vantage-ground as competitors with American laborers, and have succeeded in obtaining exclusive control of certain industries in California.

They construct the railroads and other works of improvement, occupy the fields of placer mining and agriculture, fill the places of domestic servants, and have absorbed the work and business of manufacturers in certain interests. The effect of their presence and influence has been to exclude and retard desirable immigration from Europe and the States east of the Mississippi River; to produce great distress among American laborers; to inspire a profound irritation and discontent among the citizens of all classes, and to create finally among us an alarming apprehension of the still greater dangers that threaten to spring from this source. In corroboration of the truthfulness of the picture I have drawn of our condition, and as an expression of the views entertained on this subject by the working classes of our State, I submit a memorial presented to Congress, and signed by seventeen thousand of the workingmen of California. I introduce this memorial further to show that this movement is indorsed not by the ignorant and vicious, but by the intelligent and law-abiding citizens of California:

PETITION.

The petition of the undersigned citizens, resident in the State of California, respectfully shows:

That your petitioners view with great alarm the systematic importation and immigration of Chinese laborers into the United States to be employed at rates of wages ruinous to the free labor of our citizens.

That the vast sums granted by Congress in bonds and public lands to aid in the construction of transcontinental railways are perverted to the employment of this debased Asiatic labor while thousands of our own citizens in all parts of the Republic are destitute of work.

That your petitioners cannot regard such a misdirection of the revenues collected from the industry of the people but as a flagrant abuse of the objects contemplated in these munificent grants of the national resources.

That in all future measures of congressional aid provision should be embodied against such abuse, and that supplementary legislation to this end should be provided in the exercise of existing grants.

That our recent history shows with what devotion to the great principles of freedom our citizens placed their lives at the command of the Government and poured out their blood and treasure to terminate the blighting influence of slavery in our midst. Yet an equally and, if possible, a more insidious danger must eventuate by the great increase of this servile population.

That this immigration is in no manner homogeneous with us as a people; that their social wants, habits, and character differ so materially that the standard of labor must be debased to such a degree by their vitiating influence as to repel vast bodies of our most valuable operatives, and not only degrade the social status and moral welfare of our producing classes, but arrest the advancement of our civilization.

That the Asiatic has displaced to a great extent the citizen operatives formerly engaged in the various manufactures of the city of San Francisco, and is rapidly displacing others.

That all occupations giving profitable employment to both male and female have suffered through this cause.

That the aggregate diminution of wages to American citizens cannot be less than $9,000,000 annually.

That the expenditure of such vast industrial resources thus withdrawn from circulation has entailed privation among the working classes, taxed the most generous benevolence, and operated most detrimentally against the prosperity of the city.

That the spread and augmentation of the number throughout the State of California has seriously discouraged the increase of the most desirable class of European immigrants, such additions to our industrial population seeking homes where labor is less degraded or in greater demand.

That your petitioners would urge upon your honorable consideration the necessity of an immediate revision of our treaty relations with China to restrain this overwhelming evil.

That all treaty stipulations should be based on the principle of reciprocal advantages, not mutual privileges. The right or privilege for a citizen of the United States to migrate to China and for a subject of China to migrate to the United States are not mutual in advantages, for it is an advantage to the subject while it is disadvantageous to the citizen to migrate. Hence such provision in the treaty is impolitic and unwise.

That the inundation of incompatible races into the various avenues of labor, which are still so inadequate to supply employment to our own producing classes, must eventually lead to the most disastrous consequences.

That your petitioners are actuated by no illiberal feeling inimical to the less advanced races. On the contrary, it is their earnest desire that all the offices of friendly intercourse should be generously fulfilled; that religious instruction and the advantages of scientific education should be placed at their command; that instead of permitting the unchristian sordidness of our own race using them to degrade the social condition of our people and to desecrate the noblest hopes of our national destiny, we should render them every service to elevate their civilization.

That a cause which projects and accelerates the concentration of wealth, and thus erects in the very bosom of the nation a power destructive of republican institutions, as evidenced by every record of history, and which draws into conflict the millions whose sole dependence and property consist in labor, and therefore sacred to the interests of their families, impeaches equally the justice and wisdom of such a policy.

That we are but in the first stages of this fatal policy.

That its destructive influence on the industrial condition of California is the inevitable result which must follow its extension into every other State of the Union.

That it now be arrested by the foresight and sagacity essential to the guardianship of a great nation, while the delay or neglect of necessary measures will leave the growing antagonism of interests to gather force and ultimately consolidate its power in resistance to the most salutary legislation.

That your petitioners earnestly hope that your honorable body, pre-eminent under the Constitution in its deliberative functions, will not disregard their prayer nor underrate the solemn importance of a subject so grave.

That large numbers of our most valuable operatives have withdrawn from this degrading competition, while others are preparing to abandon a State where a beneficent Providence has spread such immeasurable blessings over its fair villages.

This assuredly demonstrates how limited is governmental knowledge in the administration of Divine bounty, and how much the prosperity of a nation depends on the wisdom of its statesmen

I submit also an estimate of Chinese character, given by a distinguished American citizen, lately deceased, which is entitled to great consideration. Bayard Taylor, in his work entitled "India, China, and Japan," published in 1855, says:

It is my deliberate opinion that the Chinese are, morally, the most debased people on the face of the earth. Forms of vice, which in other countries are barely named, are in China so common that they excite no comment among the natives. They constitute the surface level, and below them are deeps and deeps of depravity so shocking and horrible that their character cannot even be hinted. There are some dark shadows in human nature which we naturally shrink from penetrating, and I made no attempt to collect information of this kind; but there was enough in the things which I could not avoid seeing and hearing, which are brought almost daily to the notice of every foreign resident, to inspire me with a powerful aversion to the Chinese race. Their touch is pollution, and harsh as the opinion may seem, justice to our own race demands that they should not be allowed to settle on our soil. Science may have lost something, but mankind has gained, by the exclusive policy which has governed China during the past century.

This brief historical statement suggests the necessity and supplies the reasons for the legislation recommended by the committee and provided for in the pending bill.

We propose to act in good faith with the government and people of China and to recognize scrupulously any rights acquired under the treaty and exercised according to law. But at the same time, moved by a love for our institutions and a sense of justice to the people of our own State and the States of the Union, we propose to initiate effective measures to correct an existing evil of great magnitude and to avert a danger threatening imminent and most disastrous results to the Pacific States immediately and the whole country ultimately.

The restriction upon the introduction of this population into our midst will be opposed because of its alleged antagonism to the policy of the Government in the matter of foreign immigration and the spirit of our institutions. Under the necessities of a new country, we have sought population, and under the generous influence of free government, we have invited strangers to our shores by a naturalization system most liberal. The immigration sought has always been Caucasian, and the invitation has proceeded upon the presumption that the people who might make up the volume of foreign population should not only be of a class which the American people should deem competent for and entitled to citizenship in the Republic, but such as would from race and religious sentiment desire to become not residents only but citizens of the country, such as would seek refuge from oppression and want a home and find it in America, on the condition that they should adjust themselves to the institutions of the country and become a permanent and homogeneous element in our population. A part of this honorable responsibility that we have assumed in the interest of oppressed people is the exercise of a wide discretion in the introduction of new elements into our population and civilization—such a discretion as will effectually prevent the demoralization of the one and the corruption of the other.

The late modification of the naturalization law that extends its benefits to the African race was not made because population from Africa was desired or expected, but as a necessary incident to the enfranchisement and protection of the millions of Christianized and Americanized people of that race who already were in our midst. The Mongolian, especially the Chinese, unwilling to become a citizen apparently, and essentially incapable of assimilation to our institutions, seeking on our soil a point of trade for profitable money return, (all the benefits of which will accrue to a foreign and distant people,) and specifically denied citizenship by our laws because deemed unworthy of it, was never intended to be the recipient of the benefits embraced in the American policy, so much commended, yet so much misunderstood. There is, therefore, judging the policy and institutions of our people on the question of immigration by the laws and practices of the country, nothing unworthy, ungenerous, or un-American in the pending measure.

Within the limitations that I have suggested and for the reasons stated I appreciate and indorse the great and humane sentiment that this country should be the home of the oppressed and down-trodden of other countries, that it should be the asylum of those who come here to better their condition; and all those who would flee from the iron yoke of despotism to escape tyranny, oppression, and religious persecution shall ever be welcome.

To all such our doors are wide open and our generous laws accord them equal protection with us. We invite them to become citizens, finally to have a voice in our elections and to help make and administer our laws. To such we are ever ready to extend the open hand and welcome them to our political and social franchises and privileges; and far be it from me and the honorable constituency I represent on this floor to shut the doors against any of this class. Our laws not only shelter and protect them while here, but demand for them the same rights and protection accorded to American-born citizens wherever our flag floats, whether on land or sea; and to this end we will, if necessary, use the strong arm of the military and naval forces of the United States.

But I deny that this land is an asylum for that class, who seek our shores for the mere purpose of curiosity or trade, with no appreciation of our free institutions; who refuse to adopt our customs or conform to our habits; who are not devoted to the cause of liberty or equality; who come here simply for purposes of temporary profit, or are brought here as coolies by companies formed in China under contract for servile labor; who refuse to assimilate with us, and who are unfitted by education, habits religious superstition, and by their in-

born prejudices to assume any of the duties that society imposes on the citizen. All other countries have shown their appreciation of our institutions by accepting in good faith the generous invitation we have extended to their citizens or subjects. Some of the best citizens of other countries have come here for the purpose of making it their home. Distinguished at home, they have acquired additional honor here. Our history is full of examples of those who have thus occupied positions in both branches of Congress, in the Cabinet, and in almost every branch, civil and military, of our Government.

I do not suppose it will be generally claimed by the opponents of this measure that Congress has not full power to legislate on this subject. The right of Congress is unquestionable.

The only question that may arise in this connection is that of good faith, and of that I shall speak hereafter. I shall quote only one opinion on this point, which I believe to be conclusive of the question. I send to the Clerk's desk to be read an opinion of Justice Curtis, of the Supreme Court of the United States, Sanford *vs.* Scott, 19 Howard's Reports, 629:

By a treaty with a foreign nation the United States may rightfully stipulate that the Congress will or will not exercise its legislative power in some particular manner on some particular subject. Such promises when made should be voluntarily kept with the most scrupulous good faith. But that a treaty with a foreign nation can deprive the Congress of any part of the legislative power conferred by the people, so that it no longer can legislate as it was empowered by the Constitution to do, I more than doubt.

The powers of the Government do and must remain unimpaired. The responsibility of the Government to a foreign nation for the exercise of those powers is quite another matter. That responsibility is to be met and justified to the foreign nation according to the requirements of the rules of public law, but never upon the assumption that the United States had parted with or restricted any power of acting according to its own free will governed by its own appreciation of duty.

The second section of the sixth article is—

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

This has made treaties part of our municipal law, but it has not assigned to them any particular degree of authority, nor declared laws so enacted shall be irrepealable. No supremacy is assigned to treaties over acts of Congress. That they are not perpetual and must be in some way repealable all will agree. If the President and the Senate alone possess the power to repeal or modify a law found in a treaty inasmuch as they can change or abrogate one treaty only by making another inconsistent with the first, the Government of the United States could not act at all to that effect without the consent of some foreign government. I do not consider, I am not aware it has ever been considered, that the Constitution has placed our country in this helpless condition. The action of Congress in repealing the treaties with France by the act of July 7, 1798, (7 Statutes at Large, 578,) was inconformity with these views.

In the case of Taylor *vs.* Morton (2 Curtis's Circuit Court Reports, 454) I had occasion to consider this subject, and I adhere to the views there expressed.

This is a dissenting opinion in what was popularly known as the Dred Scot case. This opinion, however, was indorsed at that time by the people of one section of this country, and is now recognized as being in accordance not only with the principles of liberty, but the dominant sentiments of the country. I regard it as a fortunate circumstance that I am able to refer to a case that involves the question of freedom and free labor in this country, and I invoke the principles announced in that opinion to justify this House in passing a law that involves the present and future happiness of the citizens of this country as well as the immediate settlement of a question that involves the peace and good order of the Pacific coast.

The only restriction to the exercise of the power herein claimed under the Constitution and public law, as inherent in the Government of the United States, is in the contingency suggested by Justice Curtis, in which the United States may have for reasons satisfactory to it bound itself not to use its powers in a given direction. There is nothing in the treaty with China that indicates a relinquishment of power on our part, and there cannot therefore be a reasonable ground upon which this Congress should decline to take jurisdiction and action upon the subject of discussion.

A consideration of the structure of treaties between foreign powers, and emphatically the treaty with China, will show that such instruments indicate the purposes toward each other of the contracting parties, but do not even suggest generally, much less prescribe, the specific action that each shall take to enforce the purposes declared. The methods by which treaties are enforced are questions of administration, and are left to the discretion and judgment of the several parties thereto. This quality of treaties would seem to be necessary in order to preserve the political integrity and independence of the several sovereignties interested, while at the same time it is expedient, in view of the better knowledge of local conditions possessed by the power that claims and exercises this discretion.

In determining the measure to which this discretionary power may be exercised by Congress reference must be had to the declared purpose of the treaty and to the scope of the municipal laws currently in operation in the country. Up to this extent there is no restriction upon the action of the United States Government, and for this end both general and special laws may be enacted and enforced. The proposed introduction of any objectionable population, whether pauper, criminal, cooly, or any other class who may be deemed dangerous and undesirable by the people, will furnish appropriate and sufficient occasion for the interposition and action of the Government.

We have enacted naturalization laws that discriminated against the Mongolian as a race, we have enacted laws against the cooly trade that discriminates against them as a specific class of population, and the great State of New York is now, by memorial of her people, seeking to re-enact under national jurisdiction and authority a system of legislation once in force under State authority for a period of thirty years, by which it is proposed to regulate the matter of immigration, through the imposition of a *per capita* tax on the immigrant, or impositions of guarantee-bonds upon the officers or owners of the vessels that bring immigrants to our shores.

Now, Mr. Speaker, the pending measure is of the same class, in principle, with this general legislation sought by New York, but is supplemental and rendered necessary thereto to meet social and industrial conditions of the Pacific States and to relieve us of a danger that grows out of these conditions. If objection is made by gentlemen that this measure is exceptional and not in accord with the established policy of the Government on the subject of immigration, we reply that the restrictions proposed to be placed upon the Chinese aliens who have cursed California by their advent are in accordance with the discrimination against them in the naturalization and cooly laws, and recognized in the treaty itself.

Hence the measure cannot be opposed to the policy of the Government or in violation of the provisions of the existing treaty between the two countries. A vague impression exists in the minds of some gentlemen that in the matter of emigration the Chinese stand on the same plane with the most favored nations, and enjoy equality of rights with them. This impression proceeds upon a total misapprehension of the provision of our treaty with China, and a reference to the fifth and sixth articles of the treaty will sustain the conclusion I have reached and now state. In the fifth article the right of free migration and emigration is recognized; but, as is evident by reference to the concluding clause of this article, the word "free" is used as the opposite of "involuntary," and does not convey nor is intended to convey the idea or the right of unrestricted introduction of the Chinese into this country, nor does it debar the United States, by legislation or otherwise, from limiting and regulating the volume of this people that may seek our shores.

Further consideration confirms the intepretation that I have placed on the fifth article of the treaty with China, and will show beyond a peradventure the character and extent of the right recognized. What is recognized? "The inalienable right" inherent in both the Chinese subject and American citizen of free "migration and emigration." Take notice that this is not a right originating in the treaty, but inalienable and inherent; is not a right belonging to the empire of China, but to a subject of that empire; and a right not belonging to him as a Chinese subject, but as a man—a natural right belonging to all men.

The right of the person, Chinese or American, whatever it may be, is naturally and equally recognized by the two governments, and it cannot be given a meaning and significance in the one case that does not equally apply to the other. I repeat, what is the right recognized in the phrase "free migration and emigration?" Does it mean that each party in question possesses the inalienable right of voluntary in contradistinction to coerced migration and emigration from one to the other country? This would seem to be the meaning of the word "free," and the latter section of the article sustains this signification. Does it mean by free, unlimited, and unrestricted emigration that the several governments themselves cannot and will not impose any restriction on the volume of population that may attempt and seek to move from one country to the other? This cannot be the import of the word or phrase, because China excludes all migration from some of its territory. It permits immigrants only to land at certain ports of the empire. An unlimited volume of emigration at the will of the parties was certainly not contemplated by China.

There is an additional and further view of this article which is conclusive of this question and unanswerable.

The article under consideration contains two sentences. The first contains the recognition of a right, and the second the guarantee of the right mutually recognized by the two governments. The two sentences of this article not only interpret but measure each other—no more, no less. Whatever right is recognized applies to the population alike of each land, and the respective governments agreed, under the sanction of a treaty, to protect it. "What is guaranteed?" Voluntary migration and emigration in opposition to involuntary. "It is agreed and guaranteed by the two governments that emigration shall be free" and not coerced, or, in other words, not "cooly" in its character.

This is the full significance of the guarantee, which not only determines but measures the right confirmed. There is, therefore, I repeat, nothing in the article that precludes such legislative and administrative limitation, out of the volume of Mongolian population who may seek our shores, as the sentiments and interests of the country may make desirable and necessary.

By reference to the sixth article, which confers certain rights upon Chinese subjects equally with the most favored nations, it will be found that the provision does not refer to the introduction of this alien population, but only to their rights after they shall have reached our shores. It does not confer any rights of immigration at all, but deals with them after they shall become residents; securing them, simply and only, "rights of residence and travel" similar and equal to those of the most favored nations. I affirm that not only does the United States possess the power to legislate adequately on this subject, not only has it heretofore legislated in this direction, but the

contemplated measure is in strict harmony with the policy of the Government, and perfectly consistent with the provisions of existing treaties and the good faith upon which said treaties proceed.

We urge this measure in the interest of society, for the preservation of the purity, order, and prosperity of the intelligent communities that make up the great commonwealths of our free Republic. Wise statesmanship proposes that the civilization and prosperity of the country shall depend upon a population entitled to citizenship and qualified therefor, and should provide that this citizenship shall be protected and matured in its excellencies by the sanctity of the marital relations and the restraints of domestic life.

Any conception of the American Republic that would truthfully accord with either the quality or measure of our national greatness must rest the success of the Republic upon its citizens, and not upon its alien population, and must glorify and honor the citizen by conceiving of him as the center of an American home. This people, by the deliberate judgment of the American Government, is pronounced unworthy of citizenship, and everything forecasting and characterizing their advent and presence here shows that they lack every element that enters into American home life—aliens, not to be trusted with political rights, and utterly as a class devoid either of the personal or social qualities that make them a reliable and desirable element, possessing industry and economy that may make them peers of the ants, but possessing no elements that make them valuable in building up either the social or industrial interests of the country.

We support this measure in behalf of the industrial development of the Pacific States. A homogeneous, intelligent, patriotic, and Americanized population is a necessity to our section. We need them, and invite them to come into our midst. Now, sir, this alien element not only substitutes and excludes—to the measure of its volume—the class of American and foreign emigration we seek, but by the settled aversion to these aliens, inspired by their servile condition, their filthy habits, and their personal debasement generally, and by the cheapness of their labor, under the monopolistic agencies that control it, American population, from the East, North, and South, is deterred from coming among us. As free labor shunned the healthful, opulent States of the South because of the prejudice to slavery so this element will equally effectually drive back the better classes of workers who would otherwise seek our States; the unequal competition and the degraded contact are alike dreaded and will each be shunned.

We advocate the proposed bill, finally, in the interest of the workingmen of our own section and of our whole land, because the limitation to the introduction of this debased element is not only necessary to their immediate protection in many localities, but the measure involves a principle of law and equity which it may be needful to invoke hereafter in behalf of the men upon whose honest toil the prosperity and advancement of the country so largely depend.

But I suggest, as pertinent to this discussion, that in order to bring relief to the workingmen of the country they shall be protected by legitimate legislation not only against contact but competition with the paupers and criminals of other lands.

In the construction of the impost system, from which the revenues to support Government are mainly derived, the tariff of duties imposed on foreign productions refers directly to the financial needs of the Government; but in determining the rate of duties reference is distinctly had also to the protective influence of such tariff upon the industrial interests of the country. Another and important factor in determining the application of our revenue system is the right of protection of the American laborer against the competition of the pauper classes, who so largely produce the articles from which the imposts are levied and collected. The taxes are heavy, and by some alleged to be unequal and oppressive; but we submit, as a sufficient answer to all objections, that the system, if at fault in minor detail, is based upon a sound philosophy, just in principle and vindicated in its results; that if temporary hardships exist in individual cases or classes, the measure is justified because it will bring ultimately cheaper prices than could otherwise be obtained, and that in the mean time it guarantees the creation and permanent vigor of certain great essential industries on our own soil and under our own jurisdiction, alike necessary to national greatness and independence, and that, finally, it protects the workers of the land against an otherwise degrading and destructive competition, and thus builds up not only industrial prosperity, but social order and public content.

Now, sir, if a radical and sudden change should occur in our system of revenue, a disastrous blow would be struck at the interests of all the great commercial and manufacturing commonwealths in the land, and society and the individual would in many prosperous communities stagger under the stroke. This condition of things would be a deplorable misfortune to the entire country, and those who should produce it would be guilty of a great folly and wrong. Permit me to suggest that while gentlemen who represent the honorable and valuable interests I have referred to are guarding their front they are liable to a more disastrous attack from the rear. The danger to our manufacturing interest will not come from European competition and population, but from those of Asia; and the point of attack is not on the Atlantic, but on the Pacific coast. China can spare ten millions of hardy, industrious paupers, and, under present legislation and administration on this subject, it is only a question of time as to the period that shall mark their coming.

From this overflowing hive, under auspices and agencies similar to those by which our people have been overrun by these aliens, they can be moved in disturbing volume to every section of the Union. They can establish factories first in the Pacific States and then farther East upon a system that brings little or no revenue to the Government, no increase of prosperity or comfort to the communities in which they settle, and can proceed, for the reasons heretofore given, to establish a competition against both American products and American workmen, before which both will fall and disappear. This somber picture may become a reality; and our present inaction in the direction of restrictive legislation against the influx of Mongolians upon our soil invites and renders practicable every evil I have endeavored fairly to depict. In the interest of American productions and American producers, I implore this honorable body to interpose and avert these threatening ills.

The proposed measure affects the interests of the whole country and the rights of citizens of every political party. It is not a partisan measure, nor will I lower the subject by urging it upon partisan grounds. But, owing to the fact that the other side have made this the subject of a party caucus, with the expectation of driving a sufficient number of republicans from its support, that it will endanger the success of the bill, with a view of giving to the other side a partisan advantage, but which will be understood by the people on the Pacific coast, and will be regarded as a cheap method of bolstering up the waning fortunes of the democratic party in California—I say in view of these facts, I may with propriety allude to gentlemen of this body who agree with me in political sentiment in view of the record of the republican party on the rights of the workingmen of America.

The republican party was born amid the contending and opposing forces of freedom and slavery, baptized in the bloody conflict waged against freedom and free labor in the then Territory of Kansas, nurtured and reared in manhood amid the throes of civil war—a war, sir, waged by one party for the purpose of extending the institution of slavery in the free Territories of the Republic and riveting more closely the shackles of human bondage upon four millions of its people; conducted, on the other hand, by those who looked upon the institution of slavery as the enemy of free labor and indeed the common enemy of all our institutions.

The conflict resulted not only in the preservation of the integrity of the institutions and soil of the Republic, but in the destruction of the institution of slavery, in the elevation of labor by removing from every class of toilers the stigma of servility. The republican party has not only dignified labor by its work of emancipation and enfranchisement, but by putting in operation a wise and equitable homestead system, available to the humblest citizen, it is possible for the workingmen of our country to become independent and comfortable, and individual labor self-sustaining and self-respectful. With such a record as a party on the question of labor, I may appeal with confidence to gentlemen who share my political opinions to give the pending measure favorable consideration.

In conclusion, Mr. Speaker, allow me to say this movement for protective legislation against Mongolian emigration is one of great unanimity among my constituents. It has extended to every county, possessed every public journal, and thoroughly mastered the public sentiment of all our communities. It does not originate in prejudice, but springs from matured thought and is the result of a settled conviction among our people. It rests upon grave and weighty considerations that address themselves to the sober and best judgments of the whole country, and unless some adequate action is taken by this honorable body the destroying evils that immediately threaten us will speedily extend their shadows over the more densely populated States of the West, North, and South.

[During the remarks of Mr. PAGE the hammer fell. Mr. PAGE asked permission to print in the RECORD the remainder of his remarks upon this subject. There was no objection, and the speech of Mr. PAGE is given in full above.]

Mr. WILLIS, of Kentucky. I now yield four minutes to the gentleman from California near me, [Mr. LUTTRELL.]

Mr. LUTTRELL. I thank the gentleman for yielding to me.

Mr. WIGGINTON. I ask consent that any member of the House who desires may have permission to print in the RECORD remarks touching the bill now under consideration.

There was no objection, and leave was granted accordingly.

Mr. LUTTRELL addressed the House. [See Appendix.]

Mr. WILLIS, of Kentucky. Mr. Speaker, twice before in our history we have been called upon to determine questions arising from the difference of races. Our first experience was with the red race. Millions of money and thousands of valued lives have been sacrificed in the vain effort to make the Indian either an obedient subject or a willing citizen. He is to-day the same sullen, unconquered alien savage that he was in the earliest colonial history of our country. The "Indian policy" is as much a vexed problem of legislation in this as it has been in every preceding Congress since the organization of our Government.

Our next experience was with the black race. Need I recall the bitter animosities, the sectional strife, the political and religious dissensions which marked its progress, until the problems which the wisest statesmanship had failed to solve were finally determined by the arbitrament of arms?

And now before our trials and difficulties with the red and black races are fully ended we are invited to another and even more difficult experiment with the yellow race. If our experience has been a failure, or at best a doubtful success, with the African and the Indian, what can we expect from the Mongolian, who has neither the docility and humility of the one, nor the consciousness of inferior civilization which distinguishes the other. The bill which is now before the House puts an end to this third experiment with an alien race. Avoiding the example of the gentleman from New York [Mr. TOWNSEND] I will confine myself to the merits of the bill. As to its terms it hardly needs any explanation. It proposes after the 1st of next July, under penalty of fine or imprisonment, to restrict the number of Chinese immigrants to fifteen for every vessel coming to this country.

But two questions are involved in the passage of the bill: have we the constitutional right to enact such a law? and, if so, ought we in this instance to exercise that right?

Upon the first of these questions the decisions which have just been read from the report are, it seems to me, conclusive. A treaty under the Constitution is not more sacred or binding than a law. The last expression of the legislative mind, whether by treaty or by law, is the controlling one. If, therefore, Congress passes this bill the Burlingame treaty, as far as it conflicts with its provisions, will become null and void. Admitting, then, the right, a right not founded upon any doctrine of higher law, but based upon the principles and precedents of the Constitution, the next and more practical question is, shall we exercise it? Is it good policy? Is it expedient or necessary to enact a restrictive law of this kind? Do the facts justify it?

The first fact to which I would call the attention of the House is that wherever the Chinese have gone the judgment of condemnation against them is almost unanimous. The States of our own country in which they have secured a foothold have been pronounced and often violent in their opposition. Their governors have issued messages and proclamations, their Legislatures have enacted laws, their courts have rendered judgments, the avowed object and purpose of which were to put an end to Chinese immigration. There are to-day in the hands of our committee the joint resolutions of four State Legislatures, the memorial of the constitutional convention of California, passed only a few days ago without a single dissenting voice, together with the proceedings of innumerable societies, religious bodies, labor conventions, and the petitions of over one hundred thousand private citizens, setting forth from different stand-points the evils of Chinese immigration, and urging upon Congress the necessity for prompt and vigorous measures of relief.

When it is borne in mind that the people of these States were not at first hostile to the Chinese, but on the contrary welcomed them as valued allies in the development of their material resources, the weight of this adverse testimony is greatly increased. If, as is contended for by some, the Chinese make useful citizens and worthy members of society, why this unanimous desire to get rid of them. If the evil of their presence did not exceed, did not far outrun the good, would not self-interest join with justice to prevent such a result. As it is, the free, unprejudiced, and deliberate judgment of so many different communities, not confined to any one but held by all classes, is certainly worthy of the gravest and most careful consideration. And especially, Mr. Speaker, should it be respected when it is confirmed and enforced by that of every country in the world where the Chinese have found a lodgment. In Java, in Siam, in Singapore, in the Phillipine Islands, and in the Australian colonies, as has been shown by my esteemed friend from California, [Mr. DAVIS,] the same opposition has been aroused and the same results realized long ago which we to-day see upon the Pacific slope. Everywhere they have made themselves obnoxious; everywhere heavy penalties and restrictive legislation have been found necessary means of protection. In Java the Chinese have lived for hundreds of years, but this long residence has neither diminished nor destroyed the objectionable features of their character. Years ago they were declared by the official authorities to be a very dangerous people, a pest to the country, for which the only remedy was their expulsion. We are not, therefore, the only people who object to the Chinese.

Nor, Mr. Speaker, if we pass this bill will we be the only nation that has set aside a treaty which worked injury and injustice to its citizens. Both France and England have treaties with China which, like our own, provide for free immigration, but neither government has hesitated to impose special taxes and restrictions upon them. As far back as 1855 the English colony of Victoria levied a capitation tax of $50 upon every Chinese immigrant. In 1861 a similar tax was imposed by the colony of New South Wales, and in 1877 by the colony of Queensland and also by the French colony of Saigon. We, sir, may well profit by the older and riper experience of these countries. If restrictive laws have been found necessary and have proved successful with them, why should we not use the same means for our own protection?

The briefest inquiry, Mr. Speaker, into the reasons for such legislation will show both its propriety and its necessity. The Chinaman, whether as a laborer, as a member of society, or of the body-politic, is an undesirable and dangerous element in any community. Crowded, huddled together, forty or fifty in a room not larger than would accommodate with decency and with comfort one man with a family, discarding or disregarding all the usual ordinary appliances of personal civilization as to diet and clothing, cooking, eating, and sleeping in the same apartments, they have succeeded in reducing the cost of living to its minimum and thus wherever located have forced the laboring classes to the wall. As laborers, therefore, the Chinese can only exist to the exclusion or degradation of all others in the community.

Nor as members of society are they less objectionable. The personal habits consequent upon their mode of life in these squalid dens, their low groveling ideas of virtue and religion, and their peculiar social views have been commented upon and condemned by every nation with whom they have come in contact.

As members of the body-politic the complaints against them have been equally strong and widespread. Nearly fifty years ago we find the government of Java complaining that they form a distinct class, refusing to mingle with or be absorbed by the society around them; preserving their own costume, their own habits, traditions, social organization, and nationality.

These objections to the Chinese, Mr. Speaker, whether from an industrial, social, or political stand-point, are worthy of serious consideration in any community. In a self-governing one, however, such as ours, they deserve especial attention. Here, if anywhere, it should be the aim of the Government, of its legislative representatives, to elevate the dignity and preserve the self-respect of all of its citizens. As are the people so will be the government. If the people are corrupt, if they are ignorant, selfish, or unpatriotic, the government will reflect these ignoble traits in its own features.

The introduction, therefore, of a class of men like the Chinese, who are without homes or families, whose education and habits disqualify them for citizenship, whose cheap wages degrade labor, and whose want of morality and self-respect unfit them for society, is fraught with great danger to our republican institutions, and should be promptly and effectually checked.

We say in theory to our citizens that they are to be protected in all their rights and privileges; we say to them in theory that the Government respects and honors labor—honors the bone and sinew of the land. How, then, can we hope to secure a bold, defiant, independent citizenship among the laboring-men who comprise four-fifths of our population if we declare to them by our conduct, by our practical legislation that these generous theories are but myths, but glittering generalities? Shall we subject them to a competition—to a mode of life—that will make these grand and inspiring truths utter impossibilities? Shall we say to them that the rights and honors of American citizenship are one thing, and their possession, their enjoyment another and a different thing? Shall we, in other words, compel any class of our fellow-citizens to surrender church, home, and school to become mere "hewers of wood and drawers of water," by subjecting them to the shame and degradation which curse the Chinese laborer?

I hope and believe that no such declaration will ever go forth from this body, but that we will recognize the equal rights and dignity of all of our citizens by the prompt passage of this bill.

Such a result is demanded by political no less than by industrial considerations. We welcome to our shores all who desire or intend to make this their home or who expect to become permanent citizens of our Government. The German, the Irish, the French, and other immigrants to our country have quickly and successfully adapted themselves to our institutions. Prompt to defend the honor and to promote the interests of their adopted land, yielding ready and cheerful obedience to its laws and customs, they have illustrated in their lives and vindicated by their conduct the wise policy of immigration. As kindred drops of water they have mingled and been lost in the great stream of American life. The Chinese have no such intention or experience. They do not come to seek homes. They disdain to accept our institutions; they look with contempt upon our social customs; they defy the authority of our laws; they retain all the distinctive features and characteristics of their national life. Twenty-five years of residence and contact with our people have left them unchanged and unimproved in any important particular. The argument, therefore, which the gentleman from New York [Mr. TOWNSEND] bases upon a comparison of this race with our Irish and German fellow-citizens is utterly without foundation. The Chinese, unlike them, have always been and will always be an alien element in our midst. We want no such indigestible substance in the body-politic. We want a brave, patriotic, self-reliant, assimilative citizenship.

[Here the hammer fell.]

The SPEAKER. The time allowed for debate under the operation of the previous question has expired.

Mr. PAGE. I wish to ask the gentleman from Kentucky [Mr. WILLIS] whether he will not permit an amendment which would be a notice to the Chinese government that when this bill goes into effect, that is, on the 1st of July——

[Cries of "Regular order!"]

The SPEAKER. The gentleman from Kentucky has no power to admit amendments.

Mr. WILLIS, of Kentucky. I am not at liberty to admit any amendment.

Mr. PAGE. Then I ask unanimous consent for an amendment providing that notice be given to the Chinese government that the fifth

and sixth articles of the treaty shall be abrogated on and after a certain day.

Several members objected.

The SPEAKER. The Chair thinks that the most intelligible mode of voting on the amendments of the committee will be to read each section of the bill in its order, and then, in connection with each section, the amendments relating thereto. The first section will now be read.

The first section of the bill was read, as follows:

That no master of any vessel owned in whole or in part by a citizen of the United States or by a citizen of any foreign country, shall take on board such vessel, at any port of the Chinese Empire, or at any other foreign port or place whatever, any number exceeding ten Chinese passengers, whether male or female, with the intent to bring such passengers to the United States, or shall bring such passengers to any number exceeding ten on one voyage within the jurisdiction of the United States.

The amendments of the committee were read, as follows, and severally agreed to:

In line 5, after the word "country," insert the words "nor other person;" after the word "port," in line 6, strike out the word "of," and in lieu thereof insert "or place within;" in line 7, strike out "ten" and insert "fifteen;" and in line 10, strike out "ten" and insert "fifteen."

The second section was read, as follows:

SEC. 2. That whenever the master of any such vessel takes on board the same, at any foreign port or place, any greater number of Chinese passengers than is prescribed in the first section of this act, with intent to bring such passengers to the United States, or bring such passengers to any number exceeding ten on one voyage within the jurisdiction of the United States, he shall be deemed guilty of a misdemeanor, and shall, for each passenger so taken on board or brought within the jurisdiction of the United States exceeding the number of ten, be fined $100, and may also be imprisoned for not exceeding six months.

The amendments of the committee were read, as follows:

In line 1, after the word "master," insert "or other person in charge;" in line 7 strike out "ten" and insert "fifteen;" and in line 11 strike out "ten" and insert "fifteen."

Mr. CANNON, of Illinois. I desire, Mr. Speaker, to ask unanimous consent, and I hope I shall have the attention of the gentleman from Kentucky who has reported the bill, to make an exception to the provisions of section 2 excepting travelers and diplomatic representatives coming to the United States or passing through our territory, or students visiting the United States for the purposes of education.

Mr. LUTTRELL. I object, because they would send diplomatic representatives and students by every steamer.

The amendments of the committee were agreed to.

Sections 3 and 4 were read, as follows:

SEC. 3. That the master of any vessel arriving in the United States, or any of the Territories thereof, from any foreign place whatever, at the same time that he delivers a manifest of the cargo, and if there be no cargo, then at the time of making report or entry of the vessel pursuant to law, shall, in addition to the other matters required to be reported by law, deliver and report to the collector of the district in which such vessel shall arrive a separate list of all Chinese passengers taken on board the vessel at any foreign port or place, and of all such passengers on board the vessel at that time; such list shall be sworn to by the master in the same manner as directed by law in relation to the manifest of the cargo, and the refusal or neglect of the master to comply with the provisions of this section shall receive the same penalties, disabilities, and forfeitures as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

SEC. 4. That the amount of the several penalties imposed by the foregoing provisions shall be liens on the vessels violating those provisions, and such vessel shall be libeled therefor in any circuit or district court of the United States where such vessel shall arrive.

The SPEAKER. No amendment has been proposed by the committee to those sections.

The fifth section of the bill was read as follows:

SEC. 5. That informers shall be entitled to one-half of any penalty or fine collected under the provisions of this act upon their information.

The SPEAKER. The amendment of the committee is to strike that section out.

Mr. CONGER. I ask Mr. Speaker that a provision be inserted in place of section 5, so as not to prevent the arrival on the coast of the United States of Chinese embassies or Chinese officers.

Mr. LUTTRELL. I object.

Mr. CONGER. As objection has been made I will modify my amendment so as to provide that ministers and their suites from China shall be excepted from the provisions of this bill.

Mr. LUTTRELL. I object. We want this bill passed and the gentleman from Michigan does not.

The amendment of the committee was agreed to.

The next section of the bill was read, as follows:

SEC. 6. That nothing herein contained shall be held to repeal or modify any law forbidding the importation of coolies, or of females for immoral purposes, into the United States: *Provided*, That no consul or consular agent of the United States residing at any port from which any vessel taking Chinese passengers may take her departure shall grant the certificate provided for in section 2162 of the Revised Statutes for more than ten Chinese passengers on any one vessel.

The pending amendment moved by the committee was to strike out "ten" and insert "fifteen."

Mr. CONGER. I ask that a proviso be attached to this section that it shall not apply to shipwrecked Chinese who may be brought from the islands of the Pacific to the coast of the United States.

The SPEAKER. Is there objection to receiving that amendment?

Mr. CONGER. My amendment is that this shall not apply to the bringing of shipwrecked Chinese from islands where they may have been cast away into the first port they may arrive at on our coast.

Mr. COX, of New York. I object to the amendment. There will be no difficulty on the score of humanity.

Mr. CONGER. I ask who objects to my amendment?

Mr. LUTTRELL. I do not object to the shipwrecked Chinese, but I want the bill passed, and these amendments are only made to delay its passage.

Mr. CONGER. Who objects to the shipwrecked Chinese?

The SPEAKER. The gentleman from California [Mr. LUTTRELL] and the gentleman from New York [Mr. COX] object.

The amendment of the committee was agreed to.

The next section was read, as follows:

SEC. 7. That this act shall take effect from and after the 1st day of September, 1878.

The amendments of the committee were to strike out "September" and insert "July" and to strike out "eight" and insert "nine."

The amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill as amended.

Mr. GARFIELD. I ask unanimous consent, Mr. Speaker, to offer an amendment that this bill shall not take effect until due notice has been given to China according to the usages of international law of the termination of the treaty against which it is a palpable and flat violation.

The SPEAKER. That is in the nature of debate.

Mr. GARFIELD. My amendment will be received unless this bill is merely for party capital.

Mr. COX, of New York. I object, unless I have a chance to answer the gentleman from Ohio.

The SPEAKER. The Chair will see no debate takes place out of order.

The bill, as amended, was ordered to be engrossed and read a third time.

The SPEAKER. The clerk will read the bill a third time.

Mr. CONGER. Has the bill been engrossed?

The SPEAKER. It has not.

Mr. CONGER. Perhaps it had better be engrossed; and while it is being engrossed, we may have further time to debate its provisions.

Mr. COX, of New York. I move to adjourn.

Mr. LUTTRELL. And I call for the yeas and nays on that motion.

Mr. CONGER. I withdraw the demand for the reading of the engrossed bill if the House is to adjourn. I wanted to use the time in debate.

The SPEAKER. The Chair thought the gentleman wanted the engrossed bill, as that is what he stated.

Mr. CONGER. While the bill was being engrossed I wished the time taken up in discussion; but if that cannot be done I withdraw my demand.

The bill was then read the third time.

Mr. WILLIS, of Kentucky. I now demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. COX, of New York, and Mr. CONGER demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 72, not voting 61; as follows:

YEAS—155.

Acklen,	Davidson,	Hooker,	Reilly,
Aiken,	Davis, Horace	House,	Rice, Americus V.
Aldrich,	Deering,	Hubbell,	Robertson,
Atkins,	Dibrell,	Hunton,	Robinson, M. S.
Bailey,	Dickey,	Ittner,	Rosa,
Baker, John H.	Durham,	Jones, Frank	Ryan,
Baker, William H.	Eden,	Jones, James T.	Sapp,
Banning,	Elam,	Keightley,	Sayler,
Bayne,	Ellis,	Kenna,	Scales,
Beebe,	Ellsworth,	Ketcham,	Shallenberger,
Bell,	Errett,	Killinger,	Singleton,
Benedict,	Evans, James L.	Kimmel,	Slemons,
Bicknell,	Evins, John H.	Knapp,	Smith, William E.
Blackburn,	Ewing,	Landers,	Southard,
Blair,	Felton,	Ligon,	Sparks,
Bliss,	Finley,	Lockwood,	Steele,
Blount,	Fort,	Luttrell,	Stenger,
Boone,	Foster,	Mackey,	Throckmorton,
Brentano,	Freeman,	Maish,	Townsend, Amos
Brewer,	Garth,	Majors,	Townshend, R.W.
Bright,	Gause,	Manning,	Turner,
Buckner,	Gibson,	Martin,	Turney,
Cabell,	Giddings,	Mayham,	Vance,
Caldwell, John W.	Glover,	McMahon,	Van Vorhes,
Caldwell, W. P.	Gunter,	Metcalfe,	Walker,
Calkins,	Hale,	Mills,	Ward,
Campbell,	Hamilton,	Money,	White, Michael D.
Chalmers,	Hanna,	Morse,	Whitthorne,
Clarke of Kentucky,	Harmer,	Muldrow,	Wigginton,
Clark of Missouri,	Harrison,	Neal,	Williams, Jere N.
Cobb,	Hartzell,	O'Neill,	Williams, Richard
Cole,	Hatcher,	Page,	Willis, Albert S.
Cook,	Hayes,	Patterson, T. M.	Willits,
Covert,	Hazelton,	Peddie,	Wilson,
Cox, Jacob D.	Henkle,	Pollard,	Wren,
Cox, Samuel S.	Herbert,	Potter,	Wright,
Cravens,	Hewitt, Abram S.	Pound,	Yeates,
Crittenden,	Hewitt, G. W.	Rea,	Young, John S.
Cummings,	Hiscock,	Reagan,	

NAYS—72.

Bacon,	Crapo,	Lathrop,	Sampson,
Bagley,	Cutler,	McCook,	Sexton,
Banks,	Danford,	McGowan,	Sinnickson,
Bisbee,	Denison,	Mitchell,	Smalls,
Bouck,	Dunnell,	Monroe,	Smith, A. Herr
Bragg,	Dwight,	Morgan,	Starin,
Briggs,	Eames,	Norcross,	Stephens,
Brogden,	Hardenbergh,	Overton,	Stewart,
Bundy,	Harris, Benj. W.	Patterson, G. W.	Strait,
Burchard,	Harris, Henry R.	Phelps,	Swann,
Burdick,	Hart,	Pridemore,	Thompson,
Cain,	Hendee,	Pugh,	Tipton,
Candler,	Henderson,	Rainey,	Townsend, M. I.
Cannon,	Humphrey,	Randolph,	Waddell,
Caswell,	Hungerford,	Reed,	Warner,
Chittenden,	James,	Rice, William W.	Watson,
Clark, Rush	Jones, John S.	Robbins,	Williams, C. G.
Conger,	Joyce,	Robinson, G. D.	Williams, James.

NOT VOTING—61.

Ballou,	Evans, I. Newton	Lapham,	Springer,
Bland,	Forney,	Lindsey,	Stone, John W.
Boyd,	Franklin,	Loring,	Stone, Joseph C.
Bridges,	Frye,	Lynde,	Thornburgh,
Browne,	Fuller,	Marsh,	Tucker,
Butler,	Gardner,	McKenzie,	Veeder,
Camp,	Garfield,	McKinley,	Wait,
Carlisle,	Goode,	Morrison,	Walsh,
Claflin,	Harris, John T.	Muller,	White, Harry
Clark, Alvah A.	Haskell,	Oliver,	Williams, Andrew
Clymer,	Henry,	Phillips,	Willis, Benj. A.
Collins,	Hunter,	Powers,	Wood,
Culberson,	Jorgensen,	Price,	Young, Casey.
Davis, Joseph J.	Keifer,	Riddle,	
Dean,	Kelley,	Roberts,	
Eickhoff,	Knott,	Shelley,	

So the bill was passed.

During the call of the roll the following announcements were made:

Mr. MULLER. On this question I am paired with my colleague from New York, Mr. WILLIS. If he were present, he would vote "no" and I would vote "ay."

Mr. HUNTON. My colleague, Mr. GOODE, is absent by reason of sickness and is paired with Mr. CAMP, of New York.

Mr. HAMILTON. My colleagues, Mr. BROWN and Mr. FULLER, are absent and paired. I do not know how they would vote if they were here.

Mr. PHELPS. I desire to announce that on this question Mr. BALLOU, of Rhode Island, is paired with Mr. HENRY, of Maryland.

Mr. HERBERT. My colleague, Mr. FORNEY, is absent by order of the House, serving on a committee.

Mr. TUCKER. I am paired generally on all political questions with Mr. LAPHAM, of New York.

Mr. HARRIS, of Virginia. I am paired with Mr. WAIT, of Connecticut.

Mr. RYAN. My colleague, Mr. PHILLIPS, is absent on important business. If present, I think he would vote "ay."

Mr. HALE. My colleague, Mr. FRYE, is absent by order of the House, serving on a committee.

Mr. BAKER, of Indiana. My colleague, Mr. BROWN, is absent by reason of sickness.

Mr. METCALFE. I am paired with my colleague, Mr. BLAND. As I am assured that if present he would vote "ay," I will vote "ay."

Mr. STONE, of Iowa. I am paired with Mr. SHELLEY, of Alabama. If he were here, I would vote "no."

Mr. HENKLE. On political questions my colleague, Mr. HENRY, is paired with Mr. BALLOU, of Rhode Island.

Mr. BOYD. I am paired with Mr. ROBERTS, of Maryland.

Mr. OLIVER. I am paired with Mr. CARLISLE, of Kentucky. If he were here, I would vote "no" and I am informed he would vote "ay."

Mr. McKENZIE. I am paired with Mr. POWERS, of Maine.

Mr. HASKELL. I am paired with Mr. KNOTT, of Kentucky.

Mr. WHITE, of Pennsylvania. I am paired with Mr. McKINLEY, of Ohio.

Mr. BRAGG. My colleague, Mr. LYNDE, is absent by order of the House, serving on a committee.

Mr. MAISH. My colleague, Mr. CLYMER, is absent on account of sickness.

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. CLYMER.

The result of the vote was then announced as above stated.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the amendments of the House to bills of the Senate of the following titles:

A bill (S. No. 623) to amend section 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d day of February a holiday within said District; and

A bill (S. No. 1151) to amend section 5497 of the Revised Statutes.

The message further announced that the Senate had passed, and requested the concurrence of the House in, a resolution providing for the printing of 10,000 copies of the special report from the Department of Agriculture on the insects affecting the cotton-plant.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 43) to provide for taking testimony to be used before Congress in cases of private claims against the United States;

An act (S. No. 623) to amend section 993 of the Revised Statutes of the United States for the District of Columbia, so as to make the 22d of February a holiday within said District;

An act (S. No. 878) to disapprove and annul an act of the Legislative Assembly of the Territory of New Mexico, passed on the 18th of January, 1878, by a two-third vote of both houses over the veto of the governor of said Territory;

An act (S. No. 1038) for the relief of Jesse Turner and others, sureties upon the official bond of George W. Clarke, formerly Indian agent;

An act (S. No. 1060) authorizing the Secretary of War to erect headstones over the graves of Union soldiers who have been interred in private, village, or city cemetery;

An act (S. No. 1151) to amend section 5497 of the Revised Statutes relating to embezzlement by United States officials;

An act (S. No. 1277) to extend the jurisdiction of the district and circuit courts of the United States for the southern district of Florida; and

A joint resolution (S. R. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri.

POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT. I move that the House now resolve itself into Committee of the Whole for the further consideration of the post-office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. COX, of New York, in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of proceeding with the consideration of the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes. The Clerk will read the pending paragraph of the bill.

The Clerk read as follows:

For transportation by railroad, $8,715,310: *Provided*, That the runs or routes of railway post-office clerks, route agents, railway post-office cars, or apartments, shall not fix the termini of railroad routes under the act of March 3, 1873; and that hereafter no more than one separate and independent post-route or railroad route shall be established and paid for over any one railroad for a greater distance than ten miles in any case.

Mr. BAKER, of Indiana. I move to amend the paragraph just read by striking out in lines 53 and 54 the words "$8,715,310," and inserting, in lieu thereof, "$9,000,000." My reason for moving this amendment is the fact that the sum of $8,715,310 will, in the judgment of the Post-Office Department, leave a necessary deficiency for this item. The sum of $9,000,000 is recommended as being the least that will be sufficient to cover this branch of the service.

The committee on Saturday increased the appropriation for the star service, and it is necessary to increase the appropriation also of what is known as the railway service. There are three reasons why it is important that this appropriation should be increased. For the fiscal year ending June 30, 1878, the cost for the transportation of the mails was $8,470,144. The bill appropriates for the fiscal year ending June 30, 1880, only two hundred and forty-eight or two hundred and forty-nine thousand dollars more. There will be an increase for the year 1880 over the year 1878 of four thousand in the number of miles of railroad lines which, at a cost of $50 per mile, will make an increase of not less than $200,000. There will also be an increased expense, and it is estimated at not less than $100,000 for the cost of reweighing of this service, and in addition to that an addition to third-class mail matter now registered.

Now, Congress has greatly enlarged the amount of mail matter of the third class, and the result will be that a very large proportion of the packages weighing pounds and under, which have heretofore been transported by express companies, will now be sent by mail. My judgment is that it will require an increase of not less than $100,000 to meet the wants of this service. I have a carefully prepared letter, written to me since this bill was reported to the House, prepared in the office of the Second Assistant Postmaster-General, giving the reasons why this is necessary, and I will ask to have read the portion I have marked.

[Here the hammer fell.]

Mr. RYAN obtained the floor and yielded his time to Mr. BAKER, of Indiana.

Mr. BAKER, of Indiana. I desire to say in reference to the increase that the articles transported through the mails are of all sorts imaginable. For the purpose of illustrating this I send to the Clerk's desk and ask to have read the portion of the letter to which I have referred from the postmaster at Fort Yuma, Arizona, to the Second Assistant Postmaster-General.

The Clerk read as follows:

One package iron-bound stirrups.

One telegraph battery.
Twelve packages hardware.
Five bundles of slippers.
One bag of potatoes, supposed to be for seed.
One iron coupling for two-inch gas-pipe.
Two boxes candy.
Ten four-pound boxes (tin) tea, broken and contents strewn among the mail.
Two bundles dry goods.
Three bundles boots and shoes.

Mr. BAKER, of Indiana. It is everything, from a pair of boots and shoes up to a horse-shoe, that is now transported through the mails, and so long as the Post-Office Department is required to transport this matter it is important that Congress shall vote money essential to the service. The registration of this sort of matter is ordered, and gentlemen can readily see the pressure which has existed thus far since the law went into effect in October. This branch of the service has been increased.

I will state that the item of eight cents paid for registration more than compensates for the expense, but the money is covered into the Treasury, and if that item could be appropriated for the service of the Department it would in a large measure decrease the necessity for this appropriation.

I now send to the Clerk's desk and ask to have read as part of my remarks a letter from the Second Assistant Postmaster-General.

The Clerk read as follows:

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., January 22, 1879.

SIR: In reply to your inquiry of this morning, whether $8,714,424 would be sufficient to cover the cost of transportation by railroad for other than railway post-office cars for the fiscal year ending June 30, 1880, I beg leave to explain that the appropriations for all items of transportation by railroad for the fiscal year ending June 30, 1879, is $9,550,000 The cost of the railway post-office service on the 31st December, 1878, was at the rate of $1,084,856, which leaves $8,470,144 to cover the cost for the weight of mails to June 30, 1878. Deducting this sum, $8,470,144, from the sum you mentioned, $8,714,424, leaves a balance of $244,280 to cover all increase of cost for other than railway post-office cars for the year ending June 30, 1880. It is estimated that there will be not less than four thousand (and probably more) miles of new railroad built during the fiscal year of 1880. (See letter to you of January 15, 1879, giving statistics of new service for 1877, 1878, and 1879.) This at $50 per mile would amount to $200,000. Then there is additional cost arising from a reweighing of the mails in the regular contract divisions each year. The division to be readjusted from July 1, 1879, comprises the States of Illinois, Iowa, Michigan, Wisconsin, Minnesota, and Missouri. In addition to this it is necessary to weigh the mails on certain routes in other States. For instance, the leading lines out of New York were weighed and payment readjusted from January 1, 1878, and the result was an increase of cost on account of increased weight of over $100,000 per annum. Considering the rapid increase in the weight of mails carried, it is more than probable that the present adjustment of pay cannot be maintained beyond 1st January, 1880, which would cover a period of two full years. And there are other routes on which it is necessary to reweigh the mails in order to deal fairly and justly with the companies.

In presenting this statement I desire simply to express to you, and through you to the committee, that it is my opinion that the sum of $8,714,424 will be altogether insufficient to cover the cost of the railroad service, apart from the cost of railway post-office cars, for the fiscal year ending June 30, 1880, and that to avoid a deficiency or embarrassment to the service the appropriation should not be less than $9,000,000.

I inclose herewith a table showing the expenses of the Post-Office Department, so far as audited, for the quarter ending September 30, 1878. It is proper to explain with regard to the cost of the railroad service that some accounts are not yet adjusted, and that the amount due for all, or nearly all, of the new service ordered since July 1, 1878, is not included in the $2,325,608.11 reported as paid, as the rates have not yet been ascertained.

Very respectfully, &c.,

THOS. J. BRADY,
Second Assistant Postmaster-General.

Hon. J. H. BAKER,
House of Representatives.

Mr. REAGAN. Where did the gentleman obtain that information?

Mr. BAKER, of Indiana. It was furnished by the Second Assistant Postmaster-General at my request.

Mr. BLOUNT. Mr. Chairman, it is almost impossible, under the five-minute rule, to review the speech of the gentleman or the long letter read here. I must be exceedingly brief.

The Committee on Appropriations found in the year 1878 that the appropriations as compared with the year 1877 had increased 500 or 600 per cent. They found on examination that 2¾ per cent. of that increase was attributable to the increase of the postal-car service.

I have a letter, which I will print as a part of my remarks, comparing the service of the year 1878 with the year 1879, with the estimate from the Department, which shows that the estimate of the Department as to the service of the current fiscal year exceeds that heretofore made by 4.15 per cent.

POST OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., January 8, 1879.

SIR: In compliance with your verbal request, I have the honor to submit that the cost of the railroad service to June 30, 1878, as audited, is $9,553,035 per annum.

The amount appropriated, in all, for 1879 is $9,550,000. Add to this the decrease by the abatement of 5 per cent. $400,000, and the cost for 1879 will be $9,950,000, which is 4.15 per cent. over the audited cost for 1878.

It is proper to note in this connection that of the cost for 1878, $100,337.27 was from increase occasioned by increase in the weight of mails on the great lines from January 1, 1878. See letter to you from this office dated December 13, 1878. As a similar increase in the cost, for the same reason on the same lines, is more than probable before the expiration of the fiscal year 1880, the estimates for 1880 should, therefore, be made with some reference to this probability.

A tabular statement is submitted showing the amounts paid out of the $150,000 appropriated by act of March 3, 1877. Between the figures given last year in the table of the amount to be paid, &c., and the figures given in this table there is a slight difference, which, as explained to you personally, is attributable to an inaccuracy in the mathematical operation through which the results given in the table of last year were obtained.

Very respectfully, &c.,

THOMAS J. BRADY,
Second Assistant Postmaster-General.

Hon. J. H. BLOUNT,
House of Representatives.

Now, the Department asks an increase of 8 per cent. in this fiscal year.

The gentleman from Indiana misapprehends, as the House will see, the purport of the letter. Then the letter declares that there will be an increase of four thousand miles during this year, and there is an increase in the building of railroads every year, which the gentleman omits to state.

In 1877, 1878, and 1879, and more or less every year that was the case, so likewise we may add in reference to mails they reweigh every year.

I cannot concur in the practice of the Department to reweigh the mails every year on the great trunk railways. The law on that subject requires that the mails must be reweighed once in every four years. They are reweighed on these lines in the business seasons of the year and in every season on the great lines.

[Here the hammer fell.]

Mr. CANNON, of Illinois, I move to strike out the last word.

Having twelve hundred or thirteen hundred miles of railway in my district, and that being a pretty fair sample of the West generally, and as there is a considerable amount of new road about being completed, I feel an interest in this matter specially on behalf of my own people and generally on behalf of the people of the whole country.

In regard to this branch of the service, I call the attention of the House to the fact that there can be no cheating in it. I agree that there ought to be liberal appropriations to the star service. Those were made the other day. You can expedite the schedule; you can increase the number of trips; you can put the service on a great many additional routes; but you cannot tell how much it will be till the year closes. Here is a general statute which says what the compensation of railroads shall be; no more and no less. Here is a general law which makes every railroad a post-route. Here is the fact that there is no railroad that is operated which ought not to be a post-route and mail service placed upon it.

Now, sir, I fear if this appropriation is not increased that the service cannot in the latter part of the coming fiscal year be placed on the new roads. If you give them $600 or $800 or a thousand or a million of dollars more, the service could not cost a cent more than if you refuse to give it, provided you put the service on at all, because it can only be so much; that is, according to the weight carried. The gentleman has separated the appropriation for railway transportation from the postal-car appropriation. I think that was wise. The Department was given what it thinks it can get along with for the postal cars.

That was the only place where money could be improperly spent, that is, by putting postal cars on some routes which perhaps did not require them; but in this case the money cannot be improperly spent, because, whether you have one trip or one hundred trips over a railroad within a given time, the pay can be no more and no less than the weight calls for.

If it were not for the expense of weighing the mails, I believe the Government would save a large amount of money by weighing every year. I only wish weighings were three or four times as frequent as they are, because it sometimes happens that one or two years after the weighing the mails upon that route are diverted to some other route; but until a reweighing there can be no change in the pay.

[Here the hammer fell.]

Mr. BLOUNT. I desire to state that under this bill the percentage of increase as compared with the current year is 5.36 per cent., whereas for the present year as compared with last year it was only 4.15 per cent. I desire to state further that the Postmaster-General has failed to admit in his communication any advantage resulting from the operations of the act of 1876 and the act of 1878 with regard to roads upon which the advantage could not be realized hitherto by reason of contracts which could not be interfered with. The expiration of these contracts will bring into operation these reductions for the next fiscal year. Thus there are $110,000 of which no note is taken at all. The committee in their estimate have allowed an increase of one thousand miles, or about $50,000.

Now, when I find in the readjustment of weights an increase of several hundred thousand dollars, I cannot understand how the Government is benefited by the reweighing of the mails on great lines annually and at the busiest season of the year. If the rates were not enormous already, if they were not already beyond the freight rates to the general public, we might reasonably be asked to waive the protection which the law allows us, and adopt the method of weighing every year and at the busiest season. But under the circumstances, there is nothing in the way of justice that these roads can claim at the hands of the Government.

The committee have made these calculations carefully, and they believe they are correct. The estimates of the Department hitherto have gone very far beyond the actual results. I see nothing at all in the letter which has been read that would justify this House in adding to the appropriation, and especially adding $300,000, making an increase of nearly 9 per cent., when the current year shows an increase of only 4.15 per cent.

Mr. FOSTER. Mr. Chairman, the gentleman from Georgia has a great deal to say about percentages—a matter which it is quite difficult for me to comprehend. Here is an appropriation which the law itself administers; the law regulates the pay that the railroad companies are to receive for carrying the mails. The officials who administer this appropriation tell us in plain figures just what the cost of this service will be. They do not enter into any calculation about percentages; but they tell us what the cost of the service under the law was last year, and what the increase will be next year, and this increase makes the appropriation reach about the sum of $9,000,000. My friend from Georgia and a majority of the Committee on Appropriations refused last year to take the figures of the Post-Office Department and made up their bill upon his system of percentages. What was the result? He was in the unpleasant predicament of coming in here, before the expiration of the year, with a deficiency bill to the amount of $450,000. And let me tell the gentleman that just so certainly as this appropriation passes at the sum he has fixed, he will next year be confronted with a deficiency of about $300,000.

Why should we hesitate to grant the amount which the Department declares to be necessary for this purpose? Not one dollar can be expended except in accordance with law. The Department has no discretion in administering this appropriation. It is proper, therefore, that we should grant it what it states will be enough. If it is not all used the balance will go back into the Treasury. But the Department shows us by incontrovertible figures that it will require about $9,000,000 to run this service. Therefore I think it wise for this House to appropriate that sum.

[Here the hammer fell.]

Mr. BLOUNT. Mr. Chairman, if the gentleman from Ohio [Mr. FOSTER] had said less upon the subject of deficiencies during the last Congress we should not have had the spectacle of an utter recklessness on the part of the Department as to the will of this House, not only in the matter of pay to railroads, but in the matter of steamboat transportation and in other branches of the service.

The fact that a deficiency arose in connection with the railway service grew out of an abuse encouraged by the gentleman from Ohio and his prophecy. This House, when it met here this winter, was informed that unless an increased appropriation was made the postal-car service must be abandoned; and the Department undertook to lecture this House upon the subject of deficiencies. But, sir, in the matter of steamboat service, where there was no law requiring the Department to go on as it has done, it has gone forward under the gentleman's prediction recklessly increasing expenditures. In the matter of route agents and postal-car clerks, where there was no law requiring an increase of the service, but on the contrary a law prohibiting it, the Department has gone on in the same spirit. This Department has been as reckless of law and as contemptuous of the will of this House as the Navy Department. It matters not what Congress may do; while the gentleman from Ohio and other gentlemen on that side condemn our policy in restraining the expenditures of the Department and withhold any animadversions upon the conduct of the Department, we shall be met with deficiencies.

There was no occasion for that deficiency. The gentleman's argument is we must take just whatever the Department says. He knows nothing about percentages, but he does know what the Departments ask. That is the argument upon which this House is to act. It is idle for the Committee on Appropriations to meet; it is idle for this House to discuss any proposition in reference to governmental expenditure if the standard of right is to be the estimates of the Departments, and if there is to be found absolute verity. In relation to the service for next year we have prevented in this bill any such increase.

Again, sir, I have already given notice to this House that I shall ask that such sums as may not be necessary for the use of the postal service may be transferred to the payment of service by weight. My impression is that the money appropriated for this postal-car service will not all be needed. The Department says we have the finest postal-car service in the world. An enormous increase has been had. Why should this sum be used? I cannot think it will be necessary. I have had intimations from the Department itself that they do not think so, and have been requested to make this amendment.

[Here the hammer fell.]

Mr. FOSTER. I withdraw my amendment.

Mr. ATKINS. I move a *pro forma* amendment.

I only wish to state one or two facts, Mr. Chairman, in connection with this subject. In 1873 the maximum rate paid for this service was $375 per mile per annum. The maximum rate to-day is over $1,000 per mile per annum. Now, that simple fact it seems to me should be sufficient to put this House on its guard as to further increase of this appropriation.

It will be remembered, Mr. Chairman, too, that within this time the railroads have diminished their rates upon freight at least 100 per cent. in many instances, and upon many descriptions of freight over 100 per cent. And yet the Government is called upon to increase the appropriation for the transportation of the mail matter over 300 per cent.

Mr. FOSTER. I want to ask my friend if this is not a matter of law?

Mr. ATKINS. It is a matter of law to some extent.

Mr. FOSTER. Is it not to a great extent?

Mr. ATKINS. But it is more a matter of administration than of law.

Mr. FOSTER. I should like to ask the gentleman to tell me what discretion the Postmaster-General has?

Mr. ATKINS. I might reply to the gentleman right there in reference to a matter he alluded to a moment ago concerning deficiencies, for my friend is a great prophet on the subject of deficiencies——

Mr. FOSTER. And a very sure one.

Mr. ATKINS. He spoke a moment ago of a deficiency we had to supply a few weeks since of $450,000. How was that brought about? Was that brought about by a compliance with the law? No, sir. I disliked to say it when the subject was up before, indeed I moved around the fact which ought really to have been brought out, and I did it simply on personal considerations, but I am bound now to say since the gentleman has called me out that that deficiency was brought about in my opinion by a violation of the spirit of the law by the Postmaster-General in putting on this service in a greater ratio for the first two quarters of the fiscal year than it should have been done. He should have taken that appropriation and applied it proportionately to the entire fiscal year and not to the first two quarters, and in applying it to the first two quarters he violated in my judgment the spirit of the law. I trust the gentleman is answered.

Mr. FOSTER. But he did not violate the law itself.

Mr. ATKINS. What is the difference if the administrative officer violates what he knows to be the intention of the law-makers? It is the same thing.

Mr. Chairman, I trust this House will stop and ponder this question one moment. If the railroads can carry the freight of the country 100 per cent. less than five years ago it does seem to me they should be willing to stop at 300 per cent. increase over what they carried it in some instances for five years ago. For, as I stated at the outset, we are now paying in some instances over $1,000 per mile per annum, when the maximum in 1873 was only $375 per mile per annum.

[Here the hammer fell.]

Mr. BAKER, of Indiana. Now, Mr. Chairman, I confess I am unable to appreciate the force of the argument of my friend from Tennessee. His statement that the average cost of transportation of mails in 1874 was $375 per mile and now the cost reaches the sum of $1,000 has no earthly weight at all in view of the complexion this bill wears as it is brought into the House. If they should receive to-day on some of the roads $1,000 per mile per annum, it is by virtue of the fact there is a law upon the statute-book which not only authorizes but requires the Post-Office Department to award a thousand dollars a mile. If this bill proposed to readjust the rate of compensation for railroad companies in the carriage of mail matter there would be point to the observations of the gentleman from Tennessee.

I desire to say, Mr. Chairman, that in the discussion of plain, practical business questions I am tired beyond all possibility of expression by hearing men clamor about the heads of Departments because they call to our attention the fact we have been niggardly and parsimonious in the appropriation of money for the necessary wants of the service.

This service is a service that the law compels the Post-Office Department to conduct. The law requires that all classes of mail matter offered to be carried shall be carried. The law fixes the compensation that shall be paid to those companies for it; and it is a simple matter of arithmetic that we might as well face now as hereafter whether or not the amount of $9,000,000 is too much for it.

My friend from Georgia [Mr. BLOUNT] misapprehended, I perceived, not only what I said in reference to the increase of railroads, but I think he misapprehended the letter as well which was read at the Clerk's desk—the statement in the letter, and in my remarks of which it formed the basis, that with the present average percentage of increase in railroad construction the number of miles of new service that will have to be provided for in 1880 over the present fiscal year will be more than four thousand miles, and that of itself involves at the lowest rate not less than $200,000, while this bill only proposes $244,000 more than was appropriated before a single mile of this additional service was provided for.

The gentleman complains of reweighing the mails. He would have this Government, when it agrees to pay a certain compensation for carrying the mails by weight, delay more than two years the reweighing, in order that it may compel the railroads, by refusing to reweigh, to perform the service without the compensation which, according to the law and fair dealing, they would be entitled to receive. I think the rule adopted by the Department of reweighing mail matter once in two years, in order to readjust the rate of compensation, does not make the weighing any too often, taking into view the fact that our population increases 3 per cent. a year, and that the postal service of the country increases very nearly at the rate of 8 per cent. a year; I mean all the various branches of the service, not selecting out this and that particular one, as the gentleman from Georgia does. The general average is what I have mentioned. These considerations show that it is impossible to get along with less than $9,000,000.

[Here the hammer fell.]

Mr. BLOUNT. My friend from Indiana has as yet failed to discover the fact that there are $110,000 of which he takes no cognizance, under the acts of 1876 and 1878, for the compensation of railroads. Neither does the communication which the gentleman has had read at the Clerk's desk take any notice of it. The gentleman complains that there is a querulous spirit toward the heads of Departments on

account of deficiencies. I have already stated the reason we had for complaint in that respect; and before this debate is through we will reach other instances where there has been manifestly a violation of law. Now that the railroad service is paid for at so much, according to weight, there is no pretense at all for going beyond the appropriations, except the absolute will of the official as against the will of this House. I have been careful, sir, I trust, since I have been here, to make no complaint except with just cause. The history of this service during the past year will show that I am correct. And I undertake to say that the administration of the Post-Office Department will prove to be as expensive in its recommendations as any administration of that Department has ever been. I will not say that of all the Departments. It affords me pleasure to commend the gentleman who is at the head of the Navy Department, and who adheres rigidly to law and respects the will of this Congress as formulated in legislation. I regret, sir, that the Post-Office Department is in striking contrast to it.

Gentlemen reiterate here their complaints about the deficit as though it was something unusual. Why, sir, just last winter we appropriated $175,000 on account of the failure on the other side to appropriate money enough for postmasters. In the very first conference committee between the two Houses in the Forty-fourth Congress, it was alleged that in the State of Texas alone six hundred miles of railroad service had not been given by reason of insufficiency of appropriation. Yet gentlemen talk about the deficit here as though it were a novelty, born of the democratic party in this House, when the history of all their own appropriation bills furnishes similar facts.

Sometimes the estimates are too large; sometimes they are too small. Sometimes the appropriations are too large; sometimes they are too small. This is a matter that belongs to all parties; this and nothing more. Why, sir, in the last Congress it is well known that the great deficiency bill that we passed consisted of deficiencies coming over from republican Congresses; I do not know how much of it was right or how much was wrong; deficiencies are always to be found. The calculations and estimates we have made I believe, sir, are correct, and I think this House ought to exercise its own judgment instead of acting under the dictation of the Department.

[Here the hammer fell.]

Mr. TOWNSEND, of Ohio. I move to strike out the last word. We would be led to the conclusion from the discussion here to-day, if we did not know any better, that the Postmaster-General is now paying $1,000 a mile for services that in 1873 and 1874 cost only about $300 a mile. Now the fact is, the law fixes that contract with the roads and makes it the duty of the Postmaster-General to follow up the law, and the compensation of the roads is governed entirely by the amount of weight of mail matter carried. And the cost is fixed thereby; and the revenue of the Government derived from this amount of mail matter carried is in exact ratio to the amount carried. Hence it is a question if the Government pays only a fair compensation for the matter carried on a railroad when it pays $300, whether when it pays $1,000 it does not also get value for that when the wants of the people have demanded the increased tonnage of mails carried and it has become the duty of the Government to supply those wants.

Mr. FOSTER. I would not have risen at this time had it not been for the attack made on the Post-Office Department by the gentleman from Tennessee and the gentleman from Georgia. They tried to draw a comparison between the administration of the Navy Department and the Post-Office Department to the disadvantage of the Post-Office Department.

Now, Mr. Chairman, I do not know what knowledge these gentlemen possess that the rest of us do not have, and I do not know myself of a single deficiency created by the Post-Office Department that was in the discretion of the Post-Office Department itself. My friend from Tennessee undertakes to say that the Postmaster-General in accommodating the great northern belt of our country with fast mails violated the spirit of the law.

Well, now, gentlemen may differ with my friend from Tennessee as to the spirit of the law. There is one thing that is true, and which the gentleman must confess, and that is, that the Post-Office Department is giving to the people of the country faster time and prompter delivery of mail matter than it has ever done before. I challenge my friend from Georgia to name a single item in this appropriation where there is a deficiency that lies at the discretion of the Post-Office Department. The only deficiencies are those growing out of the execution of the law itself.

I am not surprised at the course taken by my friends. I have been a prophet and a very true one.

I have pointed out this deficiency from year to year, and yet my friends will not learn anything. As my friend from Indiana says, it is simply a question of arithmetic. If my friend from Georgia had been in a northern school and had learned to read, write, and cipher, he would have made a better bill than this.

No man that takes up this question can fail to see that it will take $9,000,000 to execute the law for the year ending June 30, 1880.

Mr. BLOUNT. I am sorry that I was not raised in a northern school. The gentleman from Ohio was, and has unfortunately not learned to cipher at all. But he has asked me to show a single item in this deficiency which did not necessarily result from the law. If he will turn to the report of the Second Assistant Postmaster-General he will find a deficiency of $44,000 for the pay of railroads.

Mr. FOSTER. That was the law.

Mr. BLOUNT. I want to point out to him that Congress appropriated a given sum of money. They declared that there should be no expenditure beyond the amount appropriated. There was an ample sum to put service on every railroad that there was in the country. The deficiency grew out of the fact that he made a decided increase in the postal-car service, which the law did not compel him to do. That $44,000 to pay for railroads is for increase of the postal-car service. During that year 3 per cent. of the whole cost of the railroad postal system of this country was put in postal cars, and this deficiency was in 1871.

I give the gentleman that item, and he may work upon that, and afterward I will give him another one.

Mr. FOSTER. I do not agree with him about the law.

Mr. BLOUNT. Then he had better go to school again.

The question was taken on Mr. BAKER'S amendment; and on a division there were—ayes 89, noes 85.

Mr. BLOUNT and Mr. ATKINS called for tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. BAKER of Indiana were appointed.

The House again divided; and the tellers reported—ayes 89, noes 76.

So the amendment was agreed to.

Mr. BLOUNT. I shall call for a yea-and-nay vote in the House upon that amendment.

The Clerk read the next clause of the bill, as follows:

For transportation by steamboat routes, $750,000.

Mr. CHALMERS. I move to amend that clause by striking out, in lines 63 and 64, the words "seven hundred and fifty" and inserting in lieu thereof the words "nine hundred."

I desire to state, Mr. Chairman, that upon an examination of the question I find this is the exact amount asked for in the estimates of the Department; but, sir, my object in offering the amendment is not so much to comply with the estimates as to do justice to this service. Upon an examination of the appropriations made in 1860 it appears that at that time we had but 15,000 miles of steamboat route in the United States, and at that time the appropriation made for this service was over $1,000,000. Now we have 18,000 miles of steamboat mail-routes, and the appropriation as asked for by the Department is only $900,000. And yet this estimate has been cut down by the Committee on Appropriations to $750,000; and we who live upon the banks of navigable rivers are to be deprived of the mail facilities extended to the more fortunate inhabitants on railroads.

Now, I do not think the gentlemen of the Committee on Appropriations have any desire to curtail the facilities of the people who live upon the banks of rivers. Their desire should be and doubtless is to extend the mail facilities to every portion of our country equally, and I am informed that they supposed that the increased railroad service compensated for the decrease of the river service, but a further examination of that question will, I think, satisfy my friends that they are wrong. They ought not to take away from us who live upon the banks of rivers and who are entirely dependent upon steamboats for our mails the facilities that we previously enjoyed, simply because some places on the river can be reached by railroads. The length of the steamboat lines is now far greater than in 1860. The weight of the mails may not be so great, but still the people who are cut off from railroad facilities, and who look alone for their mail supplies by river, are to-day scattered over more territory than they were in 1860, and it is the object of the Post-Office Department to extend facilities to the remotest portions of the country. For this reason I think the demand from the Department is not unreasonable, and should be granted. Just after the war we had mails but once a week on the Mississippi River. Last year we were promised mails semi-weekly, but in fact were served only semi-occasionally. We are entitled to the same service that is given to railroad communities, and I therefore ask an increase of appropriation sufficient to give it.

Mr. GARFIELD. I desire to say a word, not merely in regard to this clause, but in regard to all similar clauses in this bill. I need not say to the gentlemen who have charge of the bill that they will always find me assisting them, but there are things which as an economist and a member of Congress I feel bound to refer to. Among other things I am bound to rejoice in certain classes of increase of appropriation; I mean those wherever the growth of this country develops such a growth in some of the departments of the country as to require an enlarged appropriation to meet it. In such cases I rejoice in an increase of appropriation as a sign of prosperity, as a sign of the enlargement of the interests and the greatness of this country.

In all the branches of the service, I know of no place where we have as good a right to be glad of an increase of appropriations as in the Post-Office Department, so long as it is done with due economy in the methods by which it is accomplished. When the Postmaster-General tells me that the increase of real mail service in this country is very great, so great that he needs more money to carry it on than was appropriated last year for the purpose, I hold it as a sign of the prosperity of our people in all that is worthy in their business, in their intelligence, and in their communications with each other. When the Postmaster-General tells us that the railway service needs a larger appropriation than the committee have put in this bill, I think we ought to give it. When he tells us that the steamboat serv-

ice needs a larger appropriation in order to meet the growing demands of the country, I think we ought to give it.

I shall vote for the amendment offered by the gentleman from Mississippi, [MR. CHALMERS,] and with great pleasure. While I say this, I agree with the Committee on Appropriations that all possible economical arrangements should be made to get the service done as cheaply and as honestly as possible. But when the law has fixed the method of compensation, when the law determines the rate per mile for steamboat service, or railroad service, or star service, or what not, I do not see how, without courting a deficiency, without creating a deficiency, we can deliberately cut it down very far below the estimate of the Department. Perhaps we ought to some, but I think not as much as the committee have done in this case.

Mr. BLOUNT. Will the gentleman permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. BLOUNT. The gentleman says that the rate of compensation for steamboat service is fixed by law at so much per mile.

Mr. GARFIELD. Oh, I referred more particularly to the star service.

[Here the hammer fell.]

Mr. BLOUNT. The distinguished gentleman who has just taken his seat speaks one way and his record is another. In the last appropriation bills prepared under his direction there was a decrease in the steamboat service. In the bill making appropriations for 1875 the decrease was 2.94 per cent.; in 1876 the decrease was 5.14 per cent. I take it that when the gentleman had this subject immediately before him and was considering it deliberately, he rather preferred his own judgment to that of the Postmaster-General more than he seems to do when his mind is directed to other matters.

My friend from Mississippi [Mr. CHALMERS] institutes a comparison between the steamboat service before the war and the steamboat service subsequent to the war, both as to the miles of service and the pay per mile. I wish I had time to take up the reports and show how from various points on the Mississippi River, from Saint Paul, Minnesota, to New Orleans, from Alton, Illinois, to New Orleans, from Memphis to New Orleans, the great through mails of the country are now being carried by railroad instead of by steamboat. I would like it if gentlemen could take time to examine the reports of the Postmaster-General from year to year and see how he has anticipated the incoming railway service and taken off the mails from the steamboats, and then they will be able to apprehend to the fullest extent the great revolution that has occurred in the carrying of the mails in that section of the country. They would then understand that to institute a comparison between that time and now would be almost as just as to institute a comparison between the present time and a time before the beginning of railroad service at all.

Let us come down to a later period in the steamboat service. If gentlemen will examine pages 232 and 233 of the report of the Postmaster-General, they will find that the committee have recommended in this bill a higher sum for the steamboat service than has been appropriated at any time since the year 1871. I trust, therefore, that the Committee of the Whole will not seek to reinstate the old steamboat service on the Mississippi River, on the idea that it is needed.

The report of the distinguished gentleman from Tennessee, Mr. Browne, who has charge of this department of the service, shows the improvements, the reductions in expenditures, and all the reasons for the steamboat service. He tells you that this long line from way up in Minnesota has been abandoned. The conclusion of the matter is that the steamboat service on the Mississippi River, so far as carrying the mails is concerned, has been cut down until it amounts now to nothing else but supplying the local mails along the river, and even that the Postmaster-General declares can be better supplied from the railroad lines.

[Here the hammer fell.]

Mr. BAKER, of Indiana. I very heartily concur in the amendment offered by the gentleman from Mississippi, [Mr. CHALMERS.] While it is true that the section of the country which I in part represent is not directly interested in this line of the service, I am not one of those bound by the interest of the various portions of the country by geographical considerations or by difference of locality.

I invite the attention of this committee to one single consideration which, in my judgment, ought to be decisive in favor of the amendment offered by the gentleman from Mississippi. I hold in my hand a letter from the Post-Office Department dated January 13, 1879, addressed to my distinguished colleague on the committee, the gentleman from Georgia, [Mr. BLOUNT,] in which a statement is made in reference to the expenses of the steamboat mail service of the country on the 1st day of October, 1878, that ought to satisfy every man, whether he is liberal in his views or whether he is parsimonious in his views, that the sum of $750,000 is inadequate for the steamboat service.

The Second Assistant Postmaster-General says in that letter:

I have the honor to inform you that the cost of the service—

That is, the steamboat service—

on the 1st of October, 1878, was at the rate of $756,771 per annum—

Being at the rate of nearly $7,000 a year more last October for actual service than is proposed to be allowed for the service during the fiscal year ending June 30, 1880. This bill not only fails to provide for any increase in the mail facilities by steamboats during the next eighteen months, but it actually makes a reduction to the extent of $7,000 in the service as it was in operation on the 1st of October last.

Now, Mr. Chairman, if you apply the rule, the propriety of which as demonstrated by the Department must be obvious to every man who will reflect upon it, that the increasing population and business of the country require an increase of from 6 to 8 per cent. in the mail facilities with each successive year, you will see at once that the amount named in the amendment of the distinguished gentleman from Mississippi is none too large. I trust that amendment may be agreed to. It is an amendment in the right direction.

Mr. BLOUNT. As I see the gentleman from Ohio [Mr. FOSTER] now before me, I take pleasure in furnishing him another instance of the violation of the law by the Postmaster-General in the matter of deficiencies, where there was no law requiring an increase of the service beyond the amount appropriated. When the post-office appropriation bill was up last year this House was informed that the cost of the steamboat service at that time was $717,619.24, and that the cost under the new letting for steamboat service would be $684,803.24. The gentleman from Indiana has stated to the House, not the cost of the steamboat service at the end of the fiscal year, but what it was in October after the Postmaster-General had been notified that but $700,000 could be expended for that purpose. I cannot see how we are to secure any responsibility in this Department unless we hold it down to the requirements of the law. There is no provision requiring the Department to pay any given sum for steamboat service; it may put it on or take it off according to the means at its disposal. It has no right to make contracts for steamboat service which will bind this House in excess of the appropriation made for such service.

The question being taken on the amendment of Mr. CHALMERS, it was agreed to, there being—ayes 97, noes 71.

Mr. BLOUNT. I will not take time by insisting upon a vote by tellers, but I give notice that in the House I shall ask a vote by yeas and nays on this amendment.

The Clerk read as follows:

For transportation by postal cars, $1,250,000.

Mr. BLOUNT. I move to amend by adding after the clause just read the following:

Provided, That at no time during the year shall there be supplied such an amount of postal-car service as at that rate per annum will exceed the amount herein appropriated.

I had proposed to explain this amendment briefly, but unless there is objection to it I will not take time in discussing it.

The amendment was not agreed to; there being—ayes 34, noes 61.

Mr. BLOUNT. I shall ask a vote in the House on this amendment. I move further to amend by inserting the following:

Provided, That the Postmaster-General may use such portion of the postal-car service appropriation as may be spared from it to supply any deficiency that may arise from insufficient appropriations in the item for railway transportation.

Several MEMBERS. No objection; all right.

The amendment was agreed to.

Mr. BLOUNT. I offer also the following amendment, rearranging some parts of the bill:

Transpose lines 65 and 66, as amended, to be first paragraph under "Second Assistant Postmaster-General;" lines 53 to 62 inclusive, to follow as second paragraph; lines 63 and 64 as third; and lines 50 to 52, as fourth paragraph.

The amendment was agreed to.

Mr. WADDELL. I move to amend by adding after the clause now pending the following:

Provided, That hereafter in making his estimates for railway mail service the Postmaster-General shall separate the estimate for the postal-car service from the general estimates; and in case any increase or diminution of service by postal cars shall be made by him the reasons therefor shall be given in his annual report next succeeding such increase or diminution.

The amendment was agreed to.

Mr. TUCKER. I move to amend by inserting after the amendment last adopted the following:

And the proviso to the act entitled "An act to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879," approved December 21, 1878, shall be amended and re-enacted, as follows:

Provided, That no increase in the postal-car service beyond what has existed at some time during the fiscal year beginning July 1, 1878, and ending June 30, 1879, shall be made during said fiscal year.

Mr. BLOUNT. I move that the committee rise.

Mr. TUCKER. I hope there will be a vote on this amendment.

Mr. BLOUNT. I ask that the amendment be again read.

The Clerk again read the amendment.

Mr. BLOUNT. I must reserve a point of order on that amendment.

The CHAIRMAN. The point of order will be reserved.

The question being taken on the motion of Mr. BLOUNT that the committee rise, there were—ayes 115, noes 71.

Mr. ROBINSON, of Massachusetts, and others called for tellers.

Tellers were ordered; and Mr. FOSTER and Mr. BLOUNT were appointed.

The committee divided; and the tellers reported—ayes 98, noes 90.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6143) making appropriations for the service of the

Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

CONSTRUCTION OF RAILWAYS ON PUBLIC LANDS.

Mr. STEELE. I ask unanimous consent to introduce the following resolution of inquiry:

The Clerk read as follows.

Resolved, That the Secretary of the Interior be requested to communicate to this House as early as practicable what information he may have as to the authority, if any, by which the Southern Pacific Railroad Company are locating and constructing their road over the land of the United States in the Territory of Arizona.

Mr. FORT. I do not object if that resolution of inquiry is for reference to a committee.

The SPEAKER. It is for asking for information from the Secretary of the Interior.

Mr. FORT. It asks the Secretary of the Interior for a legal opinion.

Mr. STEELE. It is merely for information.

Mr. CONGER. I object.

Mr. STEELE. I do not object to its reference.

Objection was withdrawn; and the resolution was referred to the Committee on the Territories.

ARMSTEAD BLACKWELL.

Mr. EDEN. I ask unanimous consent, Mr. Speaker, to introduce, and have referred the bills which I send up to the Clerk's desk. I do so on behalf of Mr. BLACKBURN, who is absent on committee service.

There was no objection.

Mr. EDEN, by unanimous consent, introduced a bill (H. R. No. 6244) making an appropriation to pay the claim of Armstead Blackwell against the United States; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

GREEN CLAY SMITH.

Mr. EDEN also introduced a bill (H. R. No. 6245) providing for the relief of Green Clay Smith, and for other purposes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. WHITE, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 6246) to amend section 2305 of the Revised Statutes, which allowed services in the Army, Navy, and Marine Corps to be deducted from the time to perfect title in homesteads; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PAGE moved the House adjourn, but subsequently withdrew the motion.

HENRY C. DE AHNA.

On motion of Mr. PHELPS, by unanimous consent, the bill (S. No. 1592) for the relief of Henry C. De Ahna, late collector of customs at Sitka, Alaska, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means, not to come back on a motion to reconsider.

UNITED STATES COURTS OF COLORADO.

On motion of Mr. PATTERSON, of Colorado, by unanimous consent, the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, with amendments of the House, was taken from the Speaker's table, the amendments of the House insisted on, and the conference asked by the Senate agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. STENGER, Mr. PATTERSON, of Colorado and Mr. CONGER.

INTERNATIONAL INDUSTRIAL EXPOSITION.

Mr. DURHAM. I ask unanimous consent to introduce a joint resolution (H. R. No. 226) in relation to the international industrial exposition held at Paris in 1878.

The resolution was read, as follows:

Resolved by the Senate and the House of Representatives, That the Secretary of State be, and he is hereby, directed to transmit to Congress as soon as practicable a detailed statement of all expenditures which may have been incurred under joint resolution of Congress approved December 15, 1877, making appropriations for the international industrial exposition held at Paris in 1878.

Mr. BANKS. That should be directed to the President, not to the Secretary of State.

Mr. DURHAM. Permit me to say to my friend the resolution is drawn according to the law.

Mr. BANKS. I do not object, but it should go to the President.

Mr. DURHAM. The law requires the Secretary of State to make the statement to Congress, and consequently I have made the resolution conform to the law.

Mr. BANKS. The act should not have been drawn in that way.

Mr. DURHAM. I assure the gentleman it is so. I would have directed the inquiry to the President but for that fact.

Mr. BANKS. I waive my objection.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DURHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDINGS.

Mr. ALDRICH. I ask unanimous consent to submit the following resolution:

That the House Committee on Public Buildings and Grounds be instructed to inquire into the working and investigate the present system and method of constructing public buildings throughout the United States with a view of ascertaining the existence of any abuses or irregularities which may be connected with the same and also of reporting to Congress by bill or otherwise such legislation in respect thereto as may be best calculated to promote efficiency and economy in this branch of the public service; and for this purpose said committee is hereby empowered to send for persons and papers, and to report the result of their investigation at any time.

Mr. TOWNSEND, of New York, objected, but subsequently withdrew his objection.

Mr. CONGER. Of course if the resolution comes in it is subject to the question of consideration being raised against any report coming from that committee.

Mr. EDEN. Will this resolution give the committee the right to report anything it may choose? In other words, will it give the committee the right to report propositions for the erection of new buildings?

Mr. ALDRICH. Not at all, and that is not the purpose of the resolution.

Mr. EDEN. If it would bear that construction, I certainly must object to it.

Mr. ALDRICH. It has no purpose, but is merely a resolution of inquiry.

The SPEAKER. If there is no objection, the resolution will be considered as adopted.

Mr. CONGER. Of course, subject to the question of consideration being raised at the time the report is made.

The SPEAKER. The gentleman from Illinois had better withdraw the resolution and modify it as requested by gentlemen.

Mr. ALDRICH. I will withdraw the resolution and modify it as suggested.

OLD POST-OFFICE PROPERTY, NEW YORK.

Mr. CHITTENDEN. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be requested to inform the House of Representatives what use is now made by Government of the old post-office property in the city of New York. If rented, to whom and for what term of years and the amount of yearly rental, with a full statement of taxes and all other charges against such rental.

Mr. MULLER. I object.

KLAMATH INDIAN RESERVATION.

Mr. WIGGINTON, by unanimous consent, from the Committee on Public Lands, reported back, as a substitute for House bill No. 5295, a bill (H. R. No. 6247) to adjust the claims of the owners of lands within the limits of the Klamath Indian reservation in the State of Oregon; which was read a first and second time, ordered to be printed, and recommitted, not to be brought back by a motion to reconsider.

WINGATE K. WACHTEL AND OTHERS.

Mr. REA, by unanimous consent, introduced a bill (H. R. No. 6248) for the relief of Wingate K. Wachtel, Thomas M. Pitman, David W. Terhune, Valentine Graff, Coleman S. Carter, and Sanford Stoner; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CO-OPERATIVE COMMERCIAL ASSOCIATION.

Mr. LINDSEY, by unanimous consent, introduced a bill (H. R. No. 6249) to incorporate the Co-operative Commercial Association and Manufacturing Exchange (of the Workingmen) of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ADDITIONAL LAND DISTRICT IN IDAHO.

Mr. HEWITT, of Alabama, by unanimous consent, reported back from the Committee on Public Lands, with the recommendation that it do pass, the bill (S. No. 1135) to create an additional land office in the Territory of Idaho.

The bill was read. It creates in the Territory of Idaho a new land office to be called Oneida land district, the office of which shall be located at Oxford, in Oneida County.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. CONGER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF CHEYENNE INDIANS, ETC.

Mr. SCALES. I ask unanimous consent to offer for present consideration the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Committee on Indian Affairs be, and is hereby, instructed to inquire into all the circumstances which led to the removal of the Cheyenne Indians, their recent escape from Fort Robinson, and their subsequent slaughter by the United States forces who were charged with their custody; and that said committee report its findings to this body.

Mr. McCOOK. I object.

MISSISSIPPI LEVEE BILL.

The SPEAKER. The Chair desires to state that a session was assigned by the House for this evening, commencing at half past seven o'clock, for the consideration of the questions involved in the bill known as the Mississippi levee bill. There are papers here that relate to the subject, which the Chair thinks ought to be printed prior to the consideration of that bill, and in this opinion he has the concurrence of the gentlemen who have the bill in charge. They ask, therefore, that this evening's session be vacated and that they may have the evening of this day week with like rights for the consideration of the bill. Is there objection?

There was no objection.

TWO-CENT POSTAL CARDS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Postmaster-General, relative to the issue of postal cards of the denomination of two cents, for circulation in the universal postal union mails; which was referred to the Committee on Appropriations.

PAY OF MILITARY ACADEMY CADETS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting estimate for deficiency in pay of cadets at the Military Academy for the present fiscal year; which was referred to the Committee on Appropriations.

COUNTRY BETWEEN FORT GARLAND AND PAGOSA SPRINGS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting maps showing details of the country between Fort Garland and Pagosa Springs; which was referred to the Committee on Appropriations.

UNITED STATES IRON-CLAD MONADNOCK.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, relative to the delay in the completion of the United States iron-clad Monadnock; which was referred to the Committee on Appropriations, and ordered to be printed.

REVENUE STEAMERS IN ALASKA.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, relative to an appropriation for the maintenance of revenue steamers in Alaska; which was referred to the Committee on Appropriations.

WEST POINT MILITARY ACADEMY.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to a professorship of modern languages at West Point Military Academy; which was referred to the Committee on Appropriations.

APPROPRIATIONS FOR POST-OFFICE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Postmaster-General, relative to certain appropriations for the Post-Office Department; which was referred to the Committee on Appropriations.

POST AT PAGOSA SPRINGS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting recommendation for an appropriation of $50,000 for a four-company post at Pagosa Springs; which was referred to the Committee on Appropriations, and ordered to be printed.

PAY OF GOVERNOR OF WYOMING TERRITORY.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to the compensation of the governor of the Territory of Wyoming; which was referred to the Committee on Appropriations.

SHREWSBURY RIVER, NEW JERSEY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of the north and south branches of Shrewsbury River, New Jersey; which was referred to the Committee on Commerce.

IMPROVEMENT OF RED RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of Captain Benyaurd, Corps of Engineers, relative to the survey and proposed improvement of Red River; which was referred to the Committee on Commerce.

IMPROVEMENT OF MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of the Board of Engineers on the improvement of the low-water navigation of the Mississippi River below Cairo, Illinois; which was referred to the Committee on Commerce.

COLUMBIA RIVER, OREGON.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the report of Major G. L. Gillespie, Corps of Engineers, relative to the survey of the bar at the mouth of the Columbia River, Oregon; which was referred to the Committee on Commerce.

CONTINGENT EXPENSES OF THE WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of expenditures on account of contingencies in the Army; which was referred to the Committee on Expenditures in the War Department.

MILITARY POST AT EL PASO, TEXAS.

The SPEAKER also laid before the House a letter from the Secretary of War, in reply to a resolution of the House concerning military posts at El Paso, Texas; which was referred to the Committee on Military Affairs.

D. L. SMITH.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the claim of D. L. Smith; which was referred to the Committee of Claims.

WOMAN'S RIGHTS.

The SPEAKER also laid before the House a memorial of Elizabeth Cady Stanton, Matilda Joselyn Gage, and Susan B. Anthony, officers of the National Woman's Suffrage Association, asking that Senate resolution No. 12 (second session Forty-fifth Congress) be taken from the Calendar and passed, and that the House Judiciary Committee be relieved from the further consideration of the sixteenth amendment to the Constitution; which was referred to the Committee on the Judiciary.

THE CHEROKEE NATION.

The SPEAKER also laid before the House a letter from Hon. Charles Thompson, principal chief of the Cherokee Nation, transmitting a joint resolution of the National Council of the Cherokee Nation, remonstrating against any change of government over such nation; which was referred to the Committee on the Territories.

Mr. TURNER. I ask to have printed the report from the Secretary of War upon the survey for the improvement of the Kentucky River.

The SPEAKER. In referring this communication the House omitted to make the order to print.

Mr. CONGER. There were two or three reports from the War Department in regard to the improvement of rivers that were not ordered to be printed, and I ask that the order include those other communications.

There was no objection, and it was so ordered.

CONSTRUCTION OF PUBLIC BUILDINGS.

Mr. ALDRICH. I ask unanimous consent to offer the following resolution for consideration at this time:

Be it resolved by the House of Representatives, That the House Committee on Public Buildings and Grounds be instructed to inquire into the workings, and investigate the present system and method of constructing public buildings throughout the United States, with a view of ascertaining the existence of any abuses or irregularities which may be connected with the same, and also of reporting to Congress by bill or otherwise, such legislation in respect thereto as may be best calculated to promote efficiency and economy in this branch of the public service; and for this purpose said committee is hereby empowered to send for persons and papers and to report the result of their investigations at any time, subject to the question of consideration.

Mr. BRAGG. I object.

WILLIAM A. STEELE AND CHARLES P. CHOTEAU.

Mr. COLE. I desire to ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the petitions of William A. Steele and Charles P. Choteau, with the report thereon, and that the same be recommitted to the Committee on Naval Affairs, not to be brought back on a motion to reconsider.

There was no objection, and it was so ordered.

Mr. WILSON, of West Virginia. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER: The petition of Henry Erne, late United States consul at Basle, for relief—to the Committee of Claims.

By Mr. ALDRICH: The petition of Reid, Murdoch & Fischer, Sprague, Warner & Co., Gray Brothers, and 21 other firms and individuals engaged in the jobbing grocery trade in Chicago, Illinois, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. BEEBE: Two petitions of women of Orange County, New York, for legislation to make effective the present laws against polygamy—to the Committee on the Judiciary.

Also, the petition of women of West Town, New York, of similar import—to the same committee.

By Mr. COX, of Ohio: The petition of wholesale grocers of Toledo Ohio, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. FORT: The petition of M. J. Wagner and 120 others, of Blackstone, Illinois, for the enforcement of the law against polygamy—to the Committee on the Judiciary.

By Mr. GIDDINGS: The petition of F. A. Chase, of Galveston, Texas, for compensation for services as ship-carpenter on dispatch-boat Estella—to the Committee on Naval Affairs.

Also, the petition of citizens of Brazos County, Texas, for an appro-

priation to remove the bar at the mouth of Brazos River, Texas—to the Committee on Commerce.

By Mr. HENDEE: The petition of Mrs. Best and 15 other women, of Highgate, Vermont, that the anti-polygamy law of 1862 be made effective—to the Committee on the Judiciary.

By Mr. HUNTON: Papers relating to the war claim of Harriet Shacklett—to the Committee on War Claims.

By Mr. LUTTRELL: A paper relating to the claim of Riley, Harden & Taylor for compensation for property taken and destroyed by hostile Indians—to the Committee on Indian Affairs.

By Mr. McGOWAN: The petition of J. J. Curtis and 25 other women, of Charlotte, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Mrs. Charles Slates and 32 other women, of Charlotte, Michigan, of similar import—to the same committee.

By Mr. OLIVER: The petition of Celestia Sweetland and 33 other women, of Greene County, Iowa, of similar import—to the same committee.

By Mr. REA: The petition of Sanford Stoner, for the correction of his military record—to the Committee on Military Affairs.

Also, the petition of Coleman S. Carter, of similar import—to the same committee.

Also, the petition of Thomas M. Pitman, of similar import—to the same committee.

Also, the petition of Valentine Graff, of similar import—to the same committee.

Also, the petition of David W. Terhune, of similar import—to the same committee.

Also, the petition of Wingate K. Wachtel, of similar import—to the same committee.

By Mr. REAGAN: The petition of David Tooke and 55 others, citizens of Colorado County, Texas, for compensation for property seized by Government authority as captured and abandoned property—to the Committee of Claims.

By Mr. RICE, of Ohio: The petition of James King, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. ROSS: The petition of Mary I. Tait and other ladies, of the First Presbyterian church of Metuchen, New Jersey, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SPRINGER: The petition of wholesale grocers of Chicago, Illinois, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

By Mr. TIPTON: The petition of Allie Randolph and 78 other women, of Pleasant Grove Circuit, Logan County, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WALSH: The petition of M. N. Rohrback and other grocers, of Frederick City, Maryland, for the repeal of the present rate of duties on sugars, and for the imposition of the same rate of duties on all grades of raw sugars—to the Committee of Ways and Means.

By Mr. WILLIAMS, of Wisconsin: The petition of Anna C. Fisher, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

WEDNESDAY, *January* 29, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

NARRATIVE OF POLARIS EXPEDITION.

The VICE-PRESIDENT. The Chair lays before the Senate the amendment of the House of Representatives to the resolution of the Senate to print 1,000 copies of the Narrative of the Polaris Expedition, for sale by the Public Printer, to which he calls the attention of the Senator from Rhode Island, [Mr. ANTHONY.]

The amendment of the House of Representatives was read, being to strike out all after the resolving clause, and insert in lieu of the matter stricken out:

That whenever the Public Printer shall have received a sufficient number of orders for copies of the Narrative of the Polaris, accompanied by the cost price thereof, with 10 per cent. additional, to warrant in his opinion the expense of putting the plates to press, he shall cause an edition thereof to be published: *Provided, however*, That the number of copies thus at any time printed shall not exceed the number ordered and paid for in advance of said publication.

Mr. ANTHONY. I move that the Senate disagree to the amendment of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and by unanimous consent it was—

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

WALKER'S STATISTICAL ATLAS.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the resolution of the Senate providing for binding the copies of Walker's Statistical Atlas heretofore ordered.

The amendment of the House of Representatives was read, being to insert, at the end of line 3, the words "and the Department of the Interior;" and at the end of line 4 to insert "in cloth with American Russia leather backs and ends;" so as to make the resolution read:

Resolved, (the House of Representatives concurring,) That the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress and the Department of the Interior be bound in cloth with American Russia leather backs and ends by the Public Printer.

Mr. ANTHONY. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. GARLAND presented the memorial of I. L. Garvin, principal chief of the Choctaw Nation of Indians, remonstrating against the establishment of a territorial form of government for the Indian Territory; which was referred to the Committee on Territories.

Mr. BUTLER presented the petition of Beverly Kennon, of Washington, District of Columbia, praying for an appropriation by Congress of $15,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of War or Navy, to test his invention of a cannon-poise battery; which was referred to the Committee on Military Affairs.

Mr. HOAR presented the petition of Sarah G. Temple and other women, of Reading, Massachusetts, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. THURMAN presented the petition of William Wright and others, citizens of Ohio, praying for the establishment of a post-route from Coshocton to New Moscow, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PLUMB. I present the petition of "Old Settler," or Western Cherokee Indians, praying for a settlement of their claim against the Government of the United States under treaty stipulations. I move that this petition be printed without the great number of names attached to it; simply the body of the petition.

The VICE-PRESIDENT. The petition will be printed, omitting the names, and referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. BAILEY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2927) to restore to the pension-roll the name of Michael S. Corl, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Smith, late of Company E, Twenty-sixth Maine Volunteers, praying for a pension, submitted a report thereon accompanied by a bill (S. No. 1728) granting a pension to John Smith.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1055) granting a pension to Samuel B. Robertson, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 247) to grant a pension to George D. Phillips, a soldier of the war of 1812, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1197) granting a pension to Fielding Bradford, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 3150) granting a pension to Joseph Ward, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2321) granting a pension to Andrew A. Gooding, of Fentress County, Tennessee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom were referred the following bills, submitted adverse reports thereon; which were ordered to be printed, and the bills were postponed indefinitely:

A bill (H. R. No. 511) granting a pension to George W. Wright, of Brown County, Illinois, a soldier of the war of 1812;

A bill (H. R. No. 2520) granting a pension to George Andrews, private Sixth Maine Battery of Artillery;

A bill (H. R. No. 2623) granting a pension to Nelson M. Farrar;

A bill (H. R. No. 2826) granting a pension to John H. Ferrell, late a pilot on the United States steamer Moose in the Mississippi squadron;

A bill (H. R. No. 3266) granting a pension to Dalton Hinchman, late a private in Company G, Second Michigan Cavalry;

A bill (H. R. No. 4681) granting a pension to Joseph Odell, late private Company I, Sixty-fifth Regiment Indiana Volunteer Infantry;

A bill (H. R. No. 4792) granting a pension to Calvin Halstead;

A bill (H. R. No. 4970) granting a pension to John H. McBruyer; and

A bill (H. R. No. 4978) granting a pension to James Johnston.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 982) for the relief of the late George Plunkett, paymaster United States Navy, submitted an adverse re-

port thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1610) for the relief of Commander Robert Boyd, United States Navy, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2364) to regulate the appointment of sail-makers in the United States Navy, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the bill (H. R. No. 3737) for the relief of V. H. McCormick, reported it without amendment, and submitted a report thereon: which was ordered to be printed.

BILLS INTRODUCED.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1729) to authorize the President to restore Bernard Reilly, jr., to his former rank in the Army.; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ROLLINS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1730) to reduce the number and fix the relative rank of the civil engineers in the Navy: which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. GARLAND (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1731) authorizing the Secretary of the Treasury to make contracts for the recovery of money, property, or the proceeds of the sales of property belonging to the United States, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1732) providing for the repeal of the act approved March 3, 1877, entitled "An act to provide for the disposition of the Fort Dalles military reservation;" which was read twice by its title, and referred to the Committee on Military Affairs.

WILHDRAWAL OF PAPERS.

On motion of Mr. WITHERS, it was

Ordered, That the representative of Jacob Senseney have permission to withdraw the papers in the case from the files of the Senate.

ADMISSION TO CORRIDOR AND MARBLE ROOM.

Mr. EDMUNDS. Mr. President, I move to take up the resolution I offered yesterday relating to admission to the corridor and the Marble Room.

The VICE-PRESIDENT. Under the order of "concurrent and other resolutions," the Senator from Vermont asks the Senate to consider the resolution submitted by him yesterday. Is there objection?

The Senate, by unanimous consent, proceeded to consider the following resolution:

Resolved, That during the remainder of the present session of the Senate no person not entitled to the privileges of the floor shall be admitted to the corridor in rear of the Senate Chamber, or to the Marble Room.

Mr. SAULSBURY. I hope the resolution will not be adopted. The people of this country have a right to be admitted to the corridors of the Capitol. I do not see any special necessity for the resolution. I hope the word of any Senator is sufficient to resist the importunities of lobbyists or anybody else who may come here. I have no disposition to seek to exclude the people from the Capitol of the country, provided they do not incommode Senators in their Chamber. There is no necessity, in my judgment, for the passage of any such resolution, and I hope it will not be passed.

Mr. EDMUNDS. I think there is necessity for the passage of the resolution, for the health and comfort and convenience of Senators, in the first place. This Chamber is one which does not open to the open air anywhere. The rear corridor and the Marble Room were intended to be a part of the Senate Chamber, and are so by the standing rules, with the modification that has been made by an order providing that Senators may introduce persons there, as they cannot bring them on the floor.

When we come to the press of business, with the Senate filled up to the full number of all the States, and occupied as it is, the benefit of having the rear corridor and the Marble Room for the consultation of Senators, for their comfort and relief, when they want to get a moment's air, without disturbing anybody, is of great account, in my belief: and there is plenty of room in the Capitol for visitors.

Mr. BLAINE. There is a fine reception room for them.

Mr. EDMUNDS. There is a fine, large reception room, and there are fine, large corridors all around the Senate Chamber, where citizens of the United States can be just as comfortable as they can be there; and there is plenty of room in the galleries where they can see what is going on.

The remark of the Senator from Delaware would apply to this Chamber as much as to the Marble Room, and therefore we ought to have the whole floor open to any Senator to introduce anybody into the Chamber, or provide that anybody well behaved may come in; that every citizen has an equal right here, and every gentleman in the galleries who hears me now has the same right that any other citizen has to come into this Chamber, and so the interests of public business would be disregarded.

But what we are obliged to attend to makes it practically inconvenient for that to be done. We can make no distinction except the very narrow one of the official relations with persons who come here officially to see us upon business, like the Secretaries, and judges, and so on. If we take another step forward we must take it in favor of everybody, in favor of equal rights; and yet every one knows that is an impossible thing. It is just so in respect of the Marble Room, which was intended for the convenience of Senators, where they could consult and breathe, and do all other things necessary for health and the transaction of business without disturbing the business that is going on here; and now at the end of the session when everything is pressing, in my belief, is the time for it.

Mr. WITHERS. I call the attention of the Senator from Vermont to the fact that, as I understand the resolution, it is rather too broad in its expression, and if adopted would exclude Senators from the privilege of taking into the Marble Room for conference such persons as they might desire to confer with, inasmuch as it restricts admission to the rear corridor to the rule of special admission to the floor of the Senate.

Mr. EDMUNDS. Certainly.

Mr. WITHERS. It seems to me the resolution ought to be amended in that particular.

Mr. EDMUNDS. This is the very form of resolution that has been adopted toward the end of nearly every session, when we were pressed and crowded, and it has been found to work entirely satisfactorily. The theory upon which people get in there now is that Senators bring them in. The Senator who brings somebody in cannot wait to see that he goes out again; everybody who comes in stays; and therefore there is a jam. It has been found by actual experience hitherto that an order in this very form, putting the rear corridor and Marble Room upon the same footing as this floor exactly, has been a great advantage to Senators.

Mr. WITHERS. I move to amend the resolution by adding the words "except at the request of a Senator."

Mr. DAVIS, of West Virginia. I suggest to my friend from Virginia simply to say "when accompanied by a Senator," so that the privilege would only be extended to a visitor while a Senator was there in conversation with him.

Mr. WITHERS. I accept the modification suggested by the Senator from West Virginia.

Mr. ANTHONY. That would admit strangers upon the floor if accompanied by a Senator.

Mr. HILL. The exception applies to the Marble Room?

Mr. WITHERS. Yes, I cannot agree with the view of the Senator from Rhode Island.

Mr. ANTHONY. Let the resolution be reported at length.

The VICE-PRESIDENT. The resolution as proposed to be amended will be reported.

The Secrefary read as follows:

Resolved, That during the remainder of the present session of the Senate no person not entitled to the privileges of the floor shall be admitted to the corridor in the rear of the Senate Chamber or to the Marble Room, except when accompanied by a Senator.

Mr. ANTHONY. I was wrong. The Senator from Virginia is right.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Virginia.

The amendment was agreed to; there being on a division—ayes 32, noes 18.

Mr. BLAINE. How does the resolution now stand, as amended?

The VICE-PRESIDENT. It will be reported as amended.

The resolution, as amended, was read.

Mr. BLAINE. That leaves the rule practically just about where it is to-day.

Mr. WITHERS. Oh, no.

Mr. BLAINE. The rule is that to-day, unless you intend that each Senator shall stand guard over his visitor and see that he is put out just as soon as he is through talking with him. If the amendment just adopted means anything it means just that, that as soon as you are through with your visitor you must say to him, "Now seat! Leave!"

Mr DAVIS, of West Virginia. There are other persons I suppose charged with that duty. The resolution now reads that the privilege is only to be extended to a visitor when accompanied by a Senator.

Mr. BLAINE. And when the Senator is through, the Capitol police I suppose must come in and seize the visitor, whether a lady or gentleman, by the collar and put him out.

Mr. WITHERS. As I understand the Senator he says that the adoption of my amendment practically leaves the rule as it is now. Therefore that can be done under the rule now.

Mr. BLAINE. I say that would be the close construction. The idea now is that no person comes there except for an interview with a Senator. If that be allowed to go on as it is now, I am not more incommoded than Senators in general; but the way the resolution now stands, that is the construction of it. I do not want any friend of mine, lady or gentleman, to have it understood to be a warning that he or she must leave as soon as I do.

Mr. WITHERS. If I understand the Senator, he says the passage of the resolution as amended will leave the rule exactly as it is now. Therefore, I do not see that he is at all subjected to a different rule by its non-passage.

Mr. BLAINE. I think there was a great deal of ground for the

Senator from Vermont in offering the resolution; not as a permanent rule, but there will be a very crowded condition of things from this day forward to the end of the session. It is a very short session, and there will be a great deal of business; and I think it is not the slightest indignity to the friend of any Senator to simply say that for the remainder of the session the rear corridor and the Marble Room are reserved for Senators. If you make no exception you leave them free to Senators. If you make this exception it is invidious, and it will be very inconvenient also. I hope the resolution as amended will not be adopted.

Mr. SAULSBURY. I hope the resolution both as offered originally and as amended will be voted down. There can be no practical good resulting from it. There are times when gentlemen come here from various parts of the country to look at the Capitol of their country. They like to look upon their representatives here in the Senate. Frequently the galleries of the Senate are so crowded that they cannot possibly get into them. Such was the case in the month of December when the Senator from Maine made his great speech. Many of his constituents and countrymen were anxious to listen to his eloquent voice, and yet if they had been excluded from the rear corridor they would have been excluded entirely from hearing his eloquence on that occasion. I am anxious to let everybody see the Senate and to let everybody look upon the beauty displayed in this Chamber whenever any one desires to do so.

The amendment which has been added would subject us to great inconvenience. Here comes a gentleman from the State of Delaware. He desires to see the Marble Room or the President's Room. As the resolution now stands, he would be excluded. He sends for me to come and accompany him through these halls; he cannot go without me, so that the amendment really subjects every member of this body to a greater inconvenience than he would be subjected to without it. I am opposed to the whole thing. This is a democratic government, and I belong to the democratic party, and the democrats of this country should look upon our doings and criticise them as they very frequently deserve to be. It is a restraint upon our action here.

Mr. MORRILL. May I ask the Senator from Delaware if he thinks the crowd in the lobby will be a democratic crowd?

Mr. WITHERS. I will say that every argument advanced by the Senator from Delaware applies with equal force to admission upon the floor of the Senate.

Mr. EDMUNDS. That is it exactly.

Mr. BLAINE. I hope that an exception may be made for all democrats from Delaware who are visiting the Marble Room for the first time. [Laughter.]

Mr. HILL. I voted for the amendment of the Senator from Virginia, but I think the suggestions made by the Senator from Maine are sensible and correct. If it is in order, therefore, having voted for that amendment, I move to reconsider the vote by which the amendment was adopted, with a view to adopting the original resolution without amendment. I think it is right to pass the resolution as offered by the Senator from Vermont.

The VICE-PRESIDENT. The question is on the motion of the Senator from Georgia [Mr. HILL] that the vote be reconsidered by which the amendment of the Senator from Virginia [Mr. WITHERS] was adopted.

The motion to reconsider was agreed to; there being on a division—ayes 29, noes 25.

The VICE-PRESIDENT. The question now is, will the Senate agree to the amendment proposed by the Senator from Virginia, [Mr. WITHERS?]

Mr. WITHERS. I wish simply to state that if the amendment is rejected, although I believe we suffer from the evil indicated by the Senator from Vermont, I shall feel constrained myself to vote against the resolution, because I want to reserve the privilege to myself, if opportunity or necessity requires, to introduce a friend into the corridor or the Marble Room for consultation, or any other purpose.

Mr. EDMUNDS. I wish to suggest to my friend from Virginia that if he will try the experiment of this order, as I propose it, for a few days, and he should become dissatisfied with its practical working, anybody can move to discharge it; but I think he will find that the balance of convenience to his constituents and to himself and to the public business will be largely in favor of the proposition. This order can be discharged any day, if it is found really to work inconvenience to Senators.

Mr. WITHERS. I will state before the vote is taken another point, which it seems to me ought to have some bearing in the decision of this question. Those of us who sit on this side of the Chamber have very few places in the Capitol to which we can invite friends for a brief conference. We do not have control of all the committee-rooms; they are controlled by our friends on the opposite side of the Chamber. Only one or two committee-rooms are under the control of the democratic members, and it is a very great convenience to us to have the Marble Room and the rear corridor for the purposes of conference with our constituents, without being subjected to the inconvenience of meeting them in places open to the public generally.

Mr. EDMUNDS. I wish to be excused if I say one word upon that topic There is one very fine committee-room of which as chairman I have the ostensible charge, but ever since I have been chairman of it, (and it was so before, I am sure,) every member of that committee, no matter what his politics were, has a key, and is at perfect liberty—which he exercises at all times, just as much as the chairman does—to take his friends there for consultation or any other purpose.

A committee-room belongs to every member of the committee, and every member of the committee that I am speaking of understands that perfectly well.

Mr. HAMLIN. I want to add to what the Senator from Vermont has said that there is another committee-room, very eligible, very accessible, to which every member of that committee has access at all times. He may take his friends there, as I take mine; and I have never known any other rule to obtain in this body in relation to any committee.

Mr. WITHERS. Such is not the practice, I know, at least. I do not mean to be understood as saying that democratic members are excluded from the committee-rooms, but I say that the democratic members as a general rule do not feel at liberty to introduce their friends into committee-rooms from the fact that it is known they are controlled by the chairmen of the committees.

Mr. BLAINE. I think my friend from Virginia will hardly apply that to a committee on which he and I have the pleasure to sit together. I am sure the Appropriation Committee room is as open, (and I say that in the absence of the chairman,) and every democratic member of that committee must feel quite as much at liberty and quite as much at home in it with his friends as the republican members of the committee.

Mr. WITHERS. That is not meeting the point at all. I do not assert that every democratic member of a committee has not the right to enter his committee-room, but I say the practical operation of the system is that they feel a delicacy in doing so; that is all.

Mr. BLAINE. We have tried to make them feel altogether at home because we want a little of the same courtesy next year ourselves. [Laughter.]

Mr. MAXEY. In regard to the point made by the Senator from Virginia, that the democrats have no control over the committee-rooms, I would say that that is a mere question of time, which will very soon settle itself. The Senator from Delaware says that he is a democrat; that this is a democratic Government, and therefore he insists that persons should be permitted to go into the rear corridor and into the Marble Room. I think I am about as good a democrat as anybody, and I am in favor of a democratic form of government; and it is because I am in favor of it that I favor the resolution of the Senator from Vermont. The States have sent us here to do the work of the people of this country, the work of forty-five million people, and the States have a right to demand that no few persons hanging around the corridors of the Capitol and in the Marble Room shall interfere with the business of the States. The very same argument which would admit them there would admit them into the Senate Chamber, and thus the business of the States would be so interrupted and clogged that it would be impossible for us deliberately to do that business which we are sent here to perform. It is within the knowledge of every Senator on this floor that it is almost impossible to hear a single speech, however interesting that speech may be, without having a dozen or more cards sent in during the progress of the debate, and being called out.

In regard to the argument in support of the position taken by the Senator from Delaware that persons were excluded from hearing the speech of the Senator from Maine not long since, I should like to know who could have heard that speech from the Marble Room? If a man being in the Marble Room could have heard a word that the Senator from Maine said, he has better ears than most men in this country.

The point which was made by the Senator from Vermont is conclusive. The Government has provided magnificent galleries, which, so far as their capacity will go, every citizen has a right to enter and hear the proceedings, while this Chamber and the rear corridor and the Marble Room were reserved because the demands of public business required that there should be some place where the representatives of the States could act deliberately without the business of the country being clogged or interfered with, or without being subjected to constant interruption pending a measure upon which they had to deliberate as representatives of the States. The resolution in my judgment is eminently proper and correct, and I hope it will pass.

Mr. HOAR. It seems to me that the point made by the Senator from Virginia is not met by the Senator from Vermont and the Senator from Maine. Senators need a very much better place, to which they can invite persons who come to see them on business during the session of the Senate for brief consultation, than the corridors outside of the entrance doors or than the reception room in the rear. The modification of the resolution permits that exact thing. A person comes to see a member of the Senate; he wishes to have a minute's interview, and he ought to be at liberty to take him into the Marble Room for that brief consultation, in his presence, and while he is there, and that is all the amendment contemplates, as I understand it. The committee-rooms are not conveniently situated for such a purpose. Who wants to go up stairs to the room of the Committee on Claims, or down stairs to the room of the Committee on the Judiciary for an interview of that kind? It seems to me that the amendment places the proposed rule in the most convenient possible shape. It excludes everybody from the rear corridor and the Marble Room, but permits Senators, during the continuance of personal interviews

with persons with whom they have business, to take them there. Of course that would involve the briefest possible intrusion of strangers into those places, because it is only during the existence of an interview which takes the Senator himself from his seat that this privilege will be accorded.

Mr. EDMUNDS. That is the substance of the rule now.

Mr. WITHERS. If that conclusion were clearly deducible from the language of the resolution, I should not have a word to say; but I contend that the resolution as it stands denies a Senator that privilege.

Mr. MERRIMON. It seems to me that the point made by the Senator from Virginia is not met. Many times during the day Senators are called upon by persons who desire to consult them upon business that requires but a few minutes, and time would not allow the Senator to retire and go to a committee-room. When he is allowed to see the person wishing to see him in the Marble Room very briefly, it adds greatly to his comfort and convenience to do so. He does not want to go out into the corridors around the Senate Chamber or into the public reception-room, or elsewhere. Besides, the rule proposed by the Senator from Vermont overrides a standing order of the Senate, in these words:

Resolved, That the ante-room, known as the Marble Room, being designed as a retiring-room for Senators and such persons as they may think proper to invite into the same, the officers of the Senate be directed not to interfere with such use of said room during the open sessions of the Senate.

That contemplates the very thing that the amendment of the Senator from Virginia provides for. It would cut every one of the Senators off from a very great comfort and convenience in seeing persons who ought to see them during the sessions of the Senate if the resolution passes as originally proposed.

Mr. DAVIS, of West Virginia. In view of the rule just read by the Senator from North Carolina, I ask whether or not the resolution of the Senator from Vermont is in order. It overrides a standing rule of the Senate, as I understand.

The VICE-PRESIDENT. The Chair rules that it is in order, no objection having been made and the discussion having proceeded for half an hour.

Mr. DAVIS, of West Virginia. I simply ask for information of the Chair whether or not a standing rule can be interfered with, though the resolution itself may have been discussed for a considerable time.

Mr. EDMUNDS. If the Senator will allow me, if this were a standing rule instead of an order of the Senate, I take it we could change it by a resolution on a day's notice, previously introduced, as this was.

The VICE-PRESIDENT. The rule provides for that.

Mr. DAVIS, of West Virginia. But the Senator did not give notice.

Mr. EDMUNDS. But I introduced the resolution yesterday.

Mr. DAVIS, of West Virginia. I beg pardon; the Senator gave notice of a resolution, but not that he would move to have a standing rule of the Senate changed.

Mr. EDMUNDS. This very resolution was introduced here yesterday.

Mr. DAVIS, of West Virginia. But, as I understand it, the Senator said nothing about changing the standing rules when he gave notice of the resolution which he has this morning called up. However, it is not a point that I insist upon.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Virginia, [Mr. WITHERS.]

The amendment was agreed to; there being on a division—ayes 28 noes 17.

The VICE-PRESIDENT. As thus amended, will the Senate agree to the resolution of the Senator from Vermont?

Mr. PATTERSON. Let the resolution be read as amended.

The VICE-PRESIDENT. It will be read.

The Secretary read as follows:

Resolved, That during the remainder of the present session of the Senate no person not entitled to the privileges of the floor shall be admitted to the corridor in the rear of the Senate Chamber or to the Marble Room, except when accompanied by a Senator.

The resolution, as amended, was agreed to; there being on a division—ayes 36, noes 12.

JOHN C. BIRDSELL.

Mr. WHYTE. I ask unanimous consent to take up the bill (S. No. 501) for the relief of John C. Birdsell, which was passed over the other day under an objection.

Mr. WITHERS. I hope the Senate will not take up that bill. It will operate as an effectual estoppel to the consideration of the bills on the Calendar. It will certainly lead to very protracted discussion, and one that will extend far beyond the morning hour.

Mr. WHYTE. Objection being made, I move to postpone the present order of business, and, that being carried, I shall then move to take up this bill.

Mr. EDMUNDS. I should like to make an inquiry while the Clerk is hunting for the bill, whether that will have the effect to displace the unfinished business when it is reached.

The VICE-PRESIDENT. The Chair rules that it would not, this being within the morning hour.

Mr. KERNAN. I desire to say from what I know of the views of Senators that in my judgment this is not a bill which can be acted on without a good deal of discussion. There ought to be a good deal of examination into it.

The VICE-PRESIDENT. The question is on the motion of the Senator from Maryland, that the pending and all prior orders be laid aside, and that the Senate now proceed to the consideration of the bill the title of which has been reported.

A division was called for.

Mr. DAWES. May we have the bill read before we vote on the question of taking it up?

The VICE-PRESIDENT. It can be reported if the Senator desires it.

Mr. DAWES. That is the object of my rising.

The VICE-PRESIDENT. The Senator from Massachusetts desires that the bill be read at length: the Secretary will read the bill.

The bill was read.

Mr. THURMAN. What is the motion?

The VICE-PRESIDENT. The motion is that the pending and all prior orders be laid aside, and that the Senate now proceed to the consideration of the bill just read by the Secretary.

Mr. THURMAN. That bill will be debated at very considerable length. It cannot pass between now and one o'clock.

Mr. WHYTE. We have till half past one.

Mr. THURMAN. It cannot be passed between now and two o'clock. I have a great many remonstrances from my State against it that I feel it my duty to present to the Senate.

Mr. WHYTE. I think our friends who object to the consideration of this bill are unnecessarily alarmed. It is the poor little clover-thrasher that has been doing a large amount of beneficial work in the southern country within the last few years, and the people there are very willing to have the patent continued, that they may enjoy the benefit of this machine for a few years longer. There are two or three objectors who think that they have got an invention that rivals it, but it is a delusion and a snare, and, consequently, I should like to have this matter disposed of at once and let them turn their attention to the purchase of this Maryland patent.

Mr. WITHERS. It is not a Maryland patent.

Mr. WHYTE. It is a patent which to-day employs from one hundred and fifty to two hundred men in Maryland making this machine alone. The patent was obtained just before the war. The war closed out the whole southern market. Those fertile fields were closed to these Maryland people, and the consequence is that they have only been able in the last few years to get this thrashing-machine into use in the southern country. The committee have reported favorably. They have shown that it is a machine of great utility and that the extension of the patent will not be any serious tax upon the community at all.

Under the circumstances, Mr. President, I do not believe that any serious argument can be made against it, and therefore I ask that the Senate take it up and allow it to be disposed of. It will not create one-third of the argument that the Warren Mitchell claim did that we disposed of yesterday in a short time. I hope the Senate will agree to take it up and vote it up or vote it down and dispose of the case.

Mr. WITHERS. I can assure the Senator that it will be debated at considerable length, and as he appears peculiarly as the representative of the agricultural interest I tell my friend he has not hay-seed enough in his hair to represent the agriculturists on this floor; on this question he may represent the manufacturers, not the agriculturists. The patent has run twenty-one years; the inventor has made more than a million dollars out of it; it is a tax on the agricultural interest, selling the machine at more than one hundred times its actual cost. This is a tax that the farmers of the country are required to pay; and as a representative of that agricultural interest I desire to be able to procure for them as cheap agricultural implements as it is possible to procure. This patent having already run for twenty-one years I shall oppose any further extension.

Mr. HOAR. As a reason why I think the sense of justice of the Senate will induce it to take up this report, whatever disposition it may finally make of the subject, I may mention that this was one of the first reports made from the Committee on Patents at the last session of the Senate last year and it was thoroughly heard before the Committee on Patents, a report made, and the case reached for decision and taken up in the Senate. Then an opponent of the extension said that he had requested a particular Senator to make known his opposition to the committee and to secure for him a hearing, and that Senator by inadvertence had forgotten to make the communication; and thereupon the friends of the patent, in order that there might be no possible complaint of the forgetfulness of a member of this body, consented to have the case recommitted to the committee and a new and full hearing given.

Now, it seems to me that whatever disposition shall be made of the bill on the merits of the report, the Senate will be willing that the case may be restored to the position in order for a hearing that it had before the recommitment.

Mr. KERNAN. That was done; and it was put on the Calendar as of the time of the original report.

Mr. HOAR. No, that was not done. It was actually reached for hearing when its recommitment took place and the discussion had begun in the Senate.

Mr. WADLEIGH. Mr. President, I should like to ask the Senator from Massachusetts whether there was any evidence before the Committee on Patents showing that this inventor had received any million of dollars for this patent as stated by the Senator from Virginia.

Mr. HOAR. That matter was very thoroughly examined on the

evidence, and the evidence shows very clearly that the Senator from Virginia has been misled in making that statement.

Mr. WITHERS. I do not understand the Senator.

Mr. HOAR. The Senator from New Hampshire asked me whether there was any evidence before the committee in support of the statement that this patentee had received a million dollars, to which I replied that that matter was thoroughly heard before the committee, and the evidence before the committee showed very clearly that the Senator from Virginia had been misled when he expressed his belief of that fact.

Mr. WITHERS. Possibly evidence may have come into the possession of the Senator from Virginia differing from that which came before the committee, and the Senator from Virginia may prove to be correct.

Mr. HOAR. Undoubtedly. I am merely answering as to the fact of the evidence before the committee.

Mr. KERNAN. I wish to state for the information of the Senate that the petition of this gentleman, which was laid before the committee in printed form, shows on page 12 a "statement of receipts from every source on account of the invention." Then there is a statement year by year, and the amount as appears there is $1,081,790. Then there is an estimate below of the present value of certain things, making $1,881,570 under the head of "receipts." Then he gives the expenditures, including divers fires, expenses, and losses, making the expenses somewhat larger—larger by less than $100,000. Any gentleman who takes up the papers with this petition must analyze them and say whether, as the public has paid more than a million of money, the parties can get up a loss because their shops were burned and their lawyers charged high, and so on. I believe the committee heard no evidence beyond the affidavits and papers which were laid before the Senate.

The VICE-PRESIDENT. The morning hour has expired, and the Senate will proceed to the consideration of the Calendar of general orders under the special order.

Mr. FERRY. Is not the morning hour until half past one?

The VICE-PRESIDENT. The Chair does not understand the resolution of the Senator from Rhode Island [Mr. ANTHONY] to extend the morning hour, except for the consideration of the Calendar, until half past one.

Mr. FERRY. I ask that the resolution be read.

The VICE-PRESIDENT. It will be read.

The Secretary read the following resolution, adopted by the Senate on the 20th instant:

Resolved, That at the conclusion of the morning business each day after this day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless upon motion the Senate shall at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

Mr. FERRY. I understand this is a case on the Calendar taken up within the time of half past one. Is it the construction that it applies only to those cases where a single objection does not obtain?

The VICE-PRESIDENT. This case has been passed over on the Calendar upon objection.

Mr. FERRY. But it is taken from the Calendar; it stands on the Calendar.

The VICE-PRESIDENT. It remains on the Calendar in its original position. The resolution calls for the consideration of the Calendar at the point at which it was left off on the last day of the call.

Mr. FERRY. It retook its place I suppose when the consideration was passed before.

The VICE-PRESIDENT. It retains its place upon the Calendar unquestionably. It is not now in order without a motion to set aside the pending and prior orders.

Mr. FERRY. That is the motion of the Senator from Maryland.

Mr. WHYTE. That was the motion I made.

The VICE-PRESIDENT. But it was made within the morning hour.

Mr. WHYTE. Then I make the motion now.

The VICE-PRESIDENT. The Senator from Maryland now renews his motion that the pending and all prior orders be set aside.

Mr. HAMLIN. I thought the Chair recognized me.

The VICE-PRESIDENT. The Chair cannot do that in justice to the Senator from Maryland, he having the floor on this question. The question is on the motion of the Senator from Maryland.

The motion was not agreed to; there being on a division—ayes 16, noes 25.

CHAPLAINS IN THE NAVY.

Mr. HAMLIN. Mr. President, I have asked the indulgence of the Senate on no occasion during this session to consider any bill out of its order. I now ask the body to indulge me by taking up Senate bill No. 1446, being a bill reported from the Committee on Naval Affairs, and as I am informed unanimously agreed to by that committee, for promoting the efficiency of the corps of chaplains of the United States Navy. I think it will provoke no debate.

The VICE-PRESIDENT. The Senator from Maine asks unanimous consent that the Senate will at this time consider the bill (S. No. 1446) for promoting the efficiency of the corps of chaplains of the United States Navy. The Chair hears no objection, and the bill will be considered before the Senate as in Committee of the Whole.

The Committee on Naval Affairs reported the bill with an amendment to strike out all after the enacting clause and in lieu thereof to insert the following:

That section 1396 of the Revised Statutes be so amended as to read as follows: "A chaplain in the Navy shall not be less than twenty-five nor more than thirty-five years of age at the time of his appointment. No person shall be appointed as chaplain until he shall furnish proof that he is a regular minister of some religious denomination, in good standing at the time of his appointment, together with a recommendation for such appointment from some authorized ecclesiastical body or from not less than five accredited ministers of said denomination; and further, no person shall be appointed as chaplain unless he has been pastor or assistant pastor of some church for at least one year."

SEC. 2. That section 1479 of the Revised Statutes be so amended as to read as follows: "Chaplains in the Navy shall have relative rank as follows: Four the relative rank of captain, eight that of commander, and all others that of lieutenant-commander. No chaplain shall be promoted to the relative rank of captain until he has had six years' sea service as a chaplain. Whenever a vacancy shall occur in the highest grade it shall be filled by promoting from a lower grade the senior chaplain who has the requisite amount of sea service and is otherwise qualified: *Provided*, That the restriction as to sea service shall not prevent the promotion of the first four chaplains holding the relative rank of commander at the time of the passage of this act."

SEC. 3. That the paragraph of section 1556 of the Revised Statutes which refers to chaplains be repealed; and the paragraph which refers to surgeons, paymasters, and chief engineers be amended so as to read as follows: "Surgeons, paymasters, chief engineers, and chaplains who have the same rank with paymasters during the first five years after date of commission, when at sea, $2,800; on shore duty, $2,400; on leave or waiting orders, $2,000; during the second five years after such date, when at sea, $3,200; on shore duty, $2,800; on leave or waiting orders, $2,400; during the third five years after such date, when at sea, $3,500; on shore duty, $3,200; on leave or waiting orders, $2,600; during the fourth five years after such date, when at sea, $3,700; on shore duty, $3,600; on leave or waiting orders, $2,800; after twenty years from such date, when at sea, $4,200; on shore duty, $4,000; on leave or waiting orders, $3,000

SEC. 4. That section 1395 of the Revised Statutes be so amended as to read as follows: "There shall be in the Navy not exceeding twenty chaplains, who shall be appointed by the President with the advice and consent of the Senate; and no appointment of a chaplain shall be made until the whole number is reduced within the limit herein specified."

Mr. SAULSBURY. I should like the chairman of the Committee on Naval Affairs to inform us whether that increases the salaries of these chaplains.

Mr. HAMLIN. There is a report accompanying this bill which will perhaps give the fullest information on the whole subject.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. MCPHERSON on the 24th instant:

The Committee on Naval Affairs, to whom was referred Senate bill No. 146, to promote the efficiency of the corps of chaplains of the United States Navy, after consideration thereof, beg leave to report back the same with a substitute therefor, and recommend the passage of the latter.

SECTION 1.

The first sentence changes the limits of age at the time of appointment. The present limits are twenty-one and thirty-five years. It needs no argument to show that no man is fit for a position of so much responsibility unless he is at least twenty-five years of age. The second sentence provides for reasonable limitations upon the appointment of chaplains. It is an exact rescript of the statute with reference to Army chaplains. As amended it cannot possibly be distorted into excluding any one on account of creed. It simply provides that any man who is appointed to the position must be of good standing and reputation among his own people. The requirement of at least one year's previous experience will commend itself to the judgment of all.

SECTION 2.

The first part of this section introduces no innovation and provides no new rank. It simply corrects an error in the act of March 3, 1871. Previously to that all chaplains entered the service with the relative rank of lieutenant-commander, and, after twelve years of service, were promoted to the relative rank of commander—the highest rank then held in the staff of the Navy. The act of March 3, 1871, provided higher rank for the staff, and, without their solicitation, four chaplains were granted the relative rank of captain. Seven were also ranked as commanders, but the next lower grade was limited to seven, making the total number granted relative rank only eighteen, while the statutes allow twenty-four chaplains. Thus six chaplains were entirely unprovided for, and have for nearly eight years occupied an entirely anomalous position, causing great inconvenience to themselves and great trouble to the Navy Department. The circumstances which make relative rank necessary for the eighteen who have it, make it equally necessary for the six who do not have it. Chaplains have no desire for rank at all, *per se*, but, in a military organization, the thousand and one questions of precedence can be settled in no other way.

The second part of this section is inserted to insure a just proportion of sea duty to each one. The relative rank of captain carries with it the privilege of continuous shore duty, and no one ought to have that unless he has done his share of disagreeable duty. If any chaplain does not wish to go to sea, let him find a work that suits him better.

SECTION 3.

This section increases the pay of chaplains, placing them on an equality, in this respect, with surgeons or paymasters, and chief engineers. No professional man can be expected to leave civil life and subject himself to long absences from his family unless he has the inducement of such preferment and increased pay as his talents and constantly enlarging experience would give him in civil life. This is recognized in every corps except that of chaplains. All other staff officers, after certain grades, have their pay increased up to fifteen and twenty years of service. Chaplains have now only one increase, at the end of five years, so that a chaplain who has served five years gets as much pay as one who has served forty years. The natural tendency of this is to drive out the men we need to keep, and keep men we could well spare. Such has been the fact, except in the case of a few worthy men who have remained from conscientious principles. Of the twenty-four chaplains now in the service, only two have served sixteen years, and fifteen have not served ten years. This shows a rapidity of change which is not healthy. Other things being equal, the longer a man is in the service the more efficient he can be, especially in dealing religiously with sailors, who form a class so distinctly *sui generis*. Chaplains simply ask to be put on the same footing with officers whose equals they are expected to be in every respect, and with whom they share equally all expenses, including heavy mess bills and fees for official entertainments, which are provided for in other navies at the national expense. Chaplains have the entire charge of the religious and educational instruction of men and boys, including the hundreds of apprentices under the new system. They have no subordinates or clerks to assist them as other officers have. Abundant testimony can be brought to the fact that no other officer can be so efficient in securing comfort, good order, and

good discipline among the men. The question then comes down to this: "How shall we secure an efficient, worthy corps?" Only by making it an object for good men to come in and stay in. If chaplains are to accomplish any good, it must be evident that the power which creates them intends them to be respectable and respected.

SECTION 4.

As an offset to the increased expenditure involved in section 3, this amendment proposes to reduce the number of chaplains to twenty. In the opinion of the Chief of the Bureau of Navigation, and of the chaplains themselves, this can be done without impairing the efficiency of the corps.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HAMLIN. At the suggestion of a friend I move to amend the bill in the fourteenth line of the first section, after the word "church," by inserting "or congregation." It has been suggested to me that in some parts of the country the word "church" would bear a technical construction; that there are many religious societies which have places of worship that are not churches.

Mr. SARGENT. The phrase used in the bill is an exact transcript of the phrase used in the Army, and if it is sufficient in that service it certainly ought to be in this.

I should be in favor of going further and requiring that a person should have graduated at some institution, that he should have a degree of master of arts at least, especially in the case of Navy chaplains, because when they go abroad they are invited to preach before foreign officers and on other occasions, and ought to display to a certain degree the culture of their profession among the American people. I would not like at any rate to reduce the standard any lower.

Mr. HAMLIN. With that explanation by the chairman of the Committee on Naval Affairs, not seeking to change the text of the existing law, I withdraw my motion.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OSAGE CEDED LAND SUITS.

Mr. PLUMB. I ask the Senate to proceed to the consideration of the bill (H. R. No. 2153) providing for the payment of counsel fees in Osage ceded land suits.

Mr. SARGENT. That does not come up on the Calendar.

The VICE-PRESIDENT. It does not. The Senator from Kansas asks unanimous consent that the Senate now consider it.

Mr. SARGENT. I object.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States; and

A joint resolution (H. R. No. 226) in relation to the expenditures at the industrial exposition in Paris in 1878.

The message further announced that the House had passed the bill (S. No. 1135) to create an additional land district in the Territory of Idaho.

The message also announced that the House insisted on its amendment to the bill (S. No. 763) to provide for holding terms of the circuit and district courts in the district of Colorado, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM S. STENGER of Pennsylvania, Mr. T. M. PATTERSON of Colorado, and Mr. O. D. CONGER of Michigan, managers at the same on the part of the Senate.

POST-ROUTE BILL—REVENUE LEGISLATION.

Mr. EDMUNDS. That message reminds me of what I had forgotten, and that is to ask that the Chair have authority to appoint the select committee ordered by the Senate the other day in regard to the bill (H. R. No. 4286) to establish post-routes, &c. I make that motion.

The VICE-PRESIDENT. Shall the Chair have authority to appoint the select committee to whom the post-route bill was referred? Is there objection? The Chair hears none. It is so ordered.

PENSION BILLS.

Mr. VOORHEES. There are a number of bills on the Calendar granting pensions, to which there will be no objection, and I rise to ask the consent of the Senate to call up the pension cases that are on the Calendar and have them disposed of. There are a great many persons entitled to the relief which these bills give who are in great need of that relief at once. For that purpose, I move that the Senate dispose of that branch of business on the Calendar.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Indiana that the Senate now consider the pension cases on the Calendar?

Mr. CONKLING. Is my friend's request to select the pension cases under the rule?

Mr. VOORHEES. Yes, sir.

Mr. CONKLING. I have no objection.

Mr. SARGENT. I have no objection, provided the case of William B. Whiting, which has been greatly discussed, is not one.

Mr. WITHERS. I reported that case, and I am willing that it shall not be considered now as it will lead to debate.

Mr. VOORHEES. I want to pass those that are not objected to.

The VICE-PRESIDENT. The Chair hears no objection to the request of the Senator from Indiana, and the Secretary will report the pension cases on the Calendar in the order in which they occur.

LAURENA C. P. HASKINS.

The bill (S. No. 413) to increase the pension of Laurena C. P. Haskins, which was reported adversely from the Committee on Pensions, was announced to be the first pension bill on the Calendar.

Mr. WITHERS. Let that be indefinitely postponed.

The VICE-PRESIDENT. It will be so ordered unless objection be made. It is ordered.

CATHARINE D. HUNT.

The bill (H. R. No. 3376) granting a pension to Catharine D. Hunt, which was reported adversely from the Committee on Pensions, was announced to be the next pension bill on the Calendar.

Mr. WITHERS. Let it be indefinitely postponed.

The VICE-PRESIDENT. The bill will be indefinitely postponed.

ANDREW J. MORRISON.

The bill (H. R. No. 3572) granting a pension to Andrew J. Morrison was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Andrew J. Morrison, at the rate of the pension allowed for the rank of captain of infantry.

Mr. WHYTE. Why do you pass over the bill for Julia Watkins which has passed the House?

Mr. VOORHEES. Because it is reported adversely.

Mr. WHYTE. But I should like to have a vote on it. I believe the Senate will overrule the committee.

Mr. VOORHEES. Let this bill be acted on.

Mr. SAULSBURY. I should like to make an inquiry of the Senator from Indiana who has charge of these bills. I observe that this bill places Morrison on the roll, "subject to the provisions and limitations of the pension laws." I should like to inquire whether under that language he will be entitled to the arrears of pension that we provided for the other day?

Mr. VOORHEES. I do not think the bill allows that; but that will be a matter of construction at the Pension Office. I think I may say that the Committee on Pensions do not put that construction on it.

Mr. SAULSBURY. But it seems to me from the phraseology of the bill that it may bear a construction which will give pension back to the time the disability occurred.

Mr. EDMUNDS. I did not hear the Senator from Indiana when he made his response to the Senator from Delaware as to the effect of this bill under the arrears of pension act as it is called.

Mr. VOORHEES. I will answer as best I can.

Mr. EDMUNDS. I was unable to hear the Senator.

Mr. VOORHEES. In all legislation that we have had granting pensions in special cases, we have provided for the name of the applicant being placed on the pension-roll subject to existing laws and regulations. We cannot do anything else now. If we have changed the law by recent legislation and made a different construction necessary, that will be found out hereafter from the bureau, and if it necessitates some changes we shall have to make them; but how to do otherwise than to provide for putting the names of pensioners on the rolls subject to existing laws and the regulations of the office I cannot imagine. This bill follows the course of our previous legislation upon this subject. How far it will be affected by the act on the subject of arrears of pensions, if is not my province to say, because the construction of the Pension Office has not yet been made on that subject. But, as I said to the Senator from Delaware, I think I may say that the sense of the Pension Committee is that in these special cases there will be no arrearages of pension.

Mr. EDMUNDS. I was not in favor of the passage of the arrears of pension bill, but it is the law and being the law it must be followed. Now that bill says:

That all pensions which have been granted under the general laws regulating pensions, or may hereafter be granted, in consequence of death,

shall date back to the time of discharge or the time of disability, which is a doubtful question on the act as it stands, which will lead to a good deal of mischief and trouble; but if this bill passes (and I do not say it should not because I do not know why this poor fellow should be distinguished from the others who are provided for by this general law,) it is clear to my mind that he will be entitled to draw from the date of his disability or the date of his discharge, as the case may be, which is the other question that I will not go into; and I do not see why he ought not to. If the Pension Office has wrongfully or by mistake or otherwise failed to give this man a pension that he is entitled to, as we decide now that he is entitled to it if we pass this bill, why should he not stand upon as good a footing as those who got their pensions because the Pension Office decided right in the first instance? I do not see any ground of distinction; and therefore this being the law, I do not see any reason to complain of this bill because he may draw arrears. If we pass the bill it must be upon the ground, which the Committee on Pensions have found to be

a good one, that he was disabled by military service and through some defect of one sort or another that does not affect the merits of the matter he has been unable to get the Pension Office to allow it. We correct that error. I do not see why he should be made to suffer because we have to correct an error of the Pension Office, or correct a defect of proof, if we find the fact to be so. So it is no objection in my mind to the passage of this particular bill that this gentleman is going to draw $10,000, or whatever it may be, for arrears. He has just as good a right to it, if the committee is right—as I have no doubt it is—that his is a just case, as if he had got the pension through the ordinary operation of the law.

Mr. WITHERS. I merely wish to state that the views of the Pension Committee in reference to that subject, as I understand them, were that the provisions of the arrears of pension bill would apply only to cases where pensions were granted under the provisions of the general laws, and would not apply to cases of pensions granted by special act. They may have erred in their construction, but that was the construction of the committee.

Mr. SAULSBURY. I desire to say that I shall vote against this bill without knowing anything of the merits of it. I voted against the arrears of pension bill, because I thought it improper that such a bill should pass at this time. I cannot vote now to give this gentleman arrears of pension from this time back to the period he was disabled, it may have been in 1862, 1863, or 1864, I cannot tell when; but because it does in my judgment give to him the arrears of pension which I think ought not to have been given to any of these pensioners of the Government, I shall be compelled to vote against the passage of the bill.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PENSION BILLS.

The VICE-PRESIDENT. The time within which the Calendar of general orders is to be considered under the special order has expired. The Senate proceeds to the consideration of its unfinished business, being the resolutions of the Senator from Vermont.

Mr. WITHERS. I ask that the morning hour be extended.

Mr. VOORHEES. I beg the Senator from Vermont to allow us half an hour to dispose of this pension calendar. There are a great many cases in want where we have found that the parties are entitled to relief, and we want to give it now. It will take but a short time.

Mr. EDMUNDS. Mr. President, nobody has ever appealed to me in respect of the granting of pensions for actual sufferers, in vain; but the Senator from Alabama [Mr. MORGAN] is fairly entitled to the floor upon his amendment to the resolutions I have offered. If he is willing to have these pension cases go on for half an hour, I have not the slightest objection. I should be glad to have it done.

Mr. MORGAN. The Senator from Vermont is very kind. I am not entitled to the floor except through his courtesy. I made the motion yesterday to adjourn the Senate until to-day. He can have the floor on his resolutions, and is really entitled to it. However, if the Senator is determined that I shall take the floor and puts upon me the question of courtesy whether the pension bills shall go on, I shall yield to them.

Mr. VOORHEES. I am very much obliged to the Senator from Alabama.

The VICE-PRESIDENT. Shall the unfinished business of the Senate be postponed for one-half hour without prejudice? To this the Chair hears no objection. The Secretary will report the next pension bill on the Calendar.

LYDIA A. MORRIS.

The bill (H. R. No. 4364) granting a pension to Lydia A. Morris was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Lydia A. Morris, widow of John K. Morris, late private Company A, Fifth Ohio Volunteer Cavalry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANN M. PAULDING.

The bill (S. No. 1454) granting a pension to Ann M. Paulding, widow of Hiram Paulding, late senior rear-admiral of the United States Navy, was considered as in Committee of the Whole. It proposes from and after the 20th of October, 1878, to place the name of Ann M. Paulding, widow of Hiram Paulding, late the senior rear-admiral of the United States Navy, on the pension-roll, and to pay her from the interest on the naval pension fund at the rate of $50 per month.

Mr. SAULSBURY. I move to add to that:

Provided, The law granting arrears of pension shall not apply to this act.

Mr. VOORHEES. I hope that amendment will not be made. I think these bills are placed on the proper ground by the Senator from Vermont, and that it should be no objection to their passage because the parties may derive the same benefit which others do under the bill for arrearages of pension. I do not want to take up the little precious time that has been kindly granted in discussing this proposition, but I hope the Senate will not attach such an amendment to these bills. Let them go to the Pension Bureau; we shall soon have a construction upon them, and if there is any injustice done by that office we can correct it here.

Mr. SAULSBURY. I have been informed that at the Pension Bureau some of the estimates are that a very large class of persons who had hitherto not applied for pensions, finding that they will be entitled under the operation of the law granting arrearages of pension to a large sum of money, have now come forward with claims for pensions; and it is to prevent any application of that kind to obtain arrears of pension that I propose to say in these acts granting pensions that the claims of persons coming now by special act to get pensions shall be limited to the laws existing prior to the law granting arrears of pension. I do not know personally anything about what may be the amount taken out of the Treasury by the act we passed granting arrears of pension, but there are various estimates, and some very high, and I understand, as I before remarked, that according to one estimate a large number of persons who had hitherto not applied for pensions, perhaps technically entitled to them, will now come forward because of the vast amount of money which they will get under that act. I hope the Senate will adopt this amendment.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN G. ECKLES.

The bill (S. No. 1474) granting a pension to John G. Eckles was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of John G. Eckles, late chaplain of the Fourth Iowa Infantry, at $24 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ROSA GALE.

The bill (S. No. 1419) granting a pension to Mrs. Rosa Gale was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Rosa Gale, widow of Captain Benjamin B. Gale, late of Atchison, Kansas, at the rate of $30 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ELIZA H. FRAILEY.

The bill (H. R. No. 4975) granting an increase of pension to Mrs. Eliza H. Frailey was considered as in Committee of the Whole. It increases the pension of Mrs. Eliza H. Frailey, widow of James Madison Frailey, late a commodore in the United States Navy, to $50 per month.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JAMES B. TREADWELL.

The bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

H. LOUISE GATES.

The bill (H. R. No. 4986) granting a pension to H. Louise Gates was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of H. Louise Gates, at the rate of $50 per month, instead of the pension now paid her.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN WARD.

The bill (H. R. No. 2296) to authorize the Secretary of the Interior to place upon the pension-roll the name of John Ward, late sergeant of Company K, Second Regiment West Virginia Volunteer Cavalry, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BELINDA M'DONALD.

The bill (H. R. No. 5219) granting a pension to Belinda McDonald was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Belinda McDonald, widow of Christopher R. McDonald, late colonel Forty-seventh Regiment New York Volunteer Infantry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANDREW F. HIGGINS.

The bill (H. R. No. 309) for the relief Andrew F. Higgins, of Brown County, Ohio, was considered as in Committee of the Whole. Its object is to place the name of Andrew F. Higgins, late private in the Fourth Independent Company, Ohio Volunteer Cavalry, in the war of the rebellion, on the pension-roll.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LOUIS S. BLAIR.

The bill (S. No. 1182) granting a pension to Louis S. Blair was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Lewis S. Blair, late major of the Eighty-eighth Regiment Indiana Volunteers, at $20 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MILES L. REED.

The bill (H. R. No. 1789) granting a pension to Miles L. Reed, of Newcastle, Indiana, was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Miles L. Reed, of Newcastle, Indiana, late a private in Battery K, First Regiment United States Artillery.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JAMES H. WOODARD.

The bill (S. No. 1414) granting a pension to James H. Woodard was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of James H. Woodard, late hospital steward of the Eighty-sixth Regiment of Indiana Volunteers, (who now draws a pension of $8 per month, dating from July 12, 1875,) to date from the 7th of March, 1864, to the 12th of July, 1875, at the rate of $8 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MARY E. WALKER.

The bill (S. No. 1645) granting a pension to Mary E. Walker was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to place on the pension-roll the name of Mary E. Walker, late a contract surgeon, United States Volunteers, at the rate of $20 per month in lieu of the pension she now receives.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PHŒBE C. DOXSIE.

The bill (S. No. 1646) granting a pension to Phœbe C. Doxsie was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to place on the pension-roll the name of Phœbe C. Doxsie, widow of the late James W. Doxsie, first lieutenant of Company G, Twenty-Seventh Regiment Michigan Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

AMOS ARGLE.

The bill (S. No. 1214) granting a pension to Amos Argle was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Amos Angle, late a private in Company G, Seventh Regiment Indiana Volunteer Infantry.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY A. ARMSTRONG.

The bill (S. No. 1210) granting a pension to Henry A. Armstrong was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Henry A. Armstrong, late surgeon Second Regiment of New York Heavy Artillery.

The bill was reported from the Committee on Pensions with an amendment, which was to add at the end of the bill:

At the rate of $25 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM R. BROWNE.

The bill (H. R. No. 837) granting a pension to William R. Browne was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of William R. Browne, late a volunteer lieutenant, commanding the United States ship Restless.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY FRAZEE.

The bill (H. R. No. 4971) granting a pension to Mary Frazee was considered as in Committee of the Whole. It places on the pension-roll the name of Mary Frazee, dependent mother of Thomas B. Frazee, deceased, late a private of Company A, Ninetieth Ohio Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MRS. ELIZA B. ANDERSON.

The bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army, was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Mrs. Eliza Bayard Anderson, widow of Robert Anderson, late brigadier-general United States Army, at the rate of $50 per month.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM DENENE.

The bill (H. R. No. 3583) granting a pension to William Denene was considered as in Committee of the Whole. It places on the pension-roll the name of William Denene, a private of Company F, Eleventh Regiment Maine Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JULIA WATKINS.

Mr. VOORHEES. I now yield to the Senator from Maryland.

Mr. WHYTE. House bill No. 3111 was passed over inadvertently. I ask that it be taken up.

Mr. EDMUNDS. Is that a pension bill?

Mr. VOORHEES. It is a pension bill with an adverse report, and I told the Senator from Maryland he might have it considered.

The bill (H. R. No. 3111) granting a pension to Julia Watkins, widow of Thomas H. Watkins, late captain Company B, Purnell Legion, Maryland, was read.

Mr. EDMUNDS. Which way was the report?

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The bill is reported adversely.

Mr. WHYTE. There was an adverse report made by the Senate committee, but not in writing. There is a report made by the House committee, and the House passed the bill. I think if the Senator from Vermont will allow that report to be read he will consent to the passage of this bill.

Mr. EDMUNDS. I do not know but that I should consent anyhow; but I should not want to consent upon having a House report read here to influence the action of the Senate, as a matter of propriety.

Mr. WHYTE. The Senator will allow me to read it and adopt it as part of my own remarks. I was only going to put it in that form. I should like to state this case. It will not take three minutes, and it might as well be voted on now as not.

This is a very peculiar case, a case that of all others addresses itself to the Senate as a case in which Congress ought to do something for this poor woman. I know some of the circumstances of this case.

Watkins, as soon as the war broke out, volunteered, in 1861 went into the Federal Army, and discharged his duty with great fidelity as a soldier. He was ordered to arrest a man by the name of Boyle, a confederate. He arrested him and brought him into the camp. Boyle swore that at the first opportunity he could get he would take Watkins's life. Watkins was wounded in the war. He went home, returned to his command, and was I think either discharged or again went home on furlough, I cannot tell which, but I will take it in the worst phase of the case that he was discharged and was not reinlisted. He went home to see his family, and on that visit to his family while he was at home this man went to his house, found him sitting at the side of his wife with his children around him, entered that house, and deliberately shot him while he there sat.

Mr. EDMUNDS. The confederate that he had arrested?

Mr. WHYTE. Yes, sir; who had threatened that on the first opportunity he would kill him, and this was the first opportunity that he had of killing him.

Mr. EDMUNDS. You have said enough to convince me, if that is your case.

Mr. WHYTE. That is the case and I am familiar with it because it happened close to the seat of government where subsequently I acted as governor and understood the circumstances.

Mr. WITHERS. In the absence of the chairman of the committee I scarcely think it is right for my friend to press this claim, inasmuch as he has reported adversely upon the case, and no written report appearing to be submitted no one except the chairman of the committee can be cognizant of the reasons which prompted him to make the adverse report. I think the Senate, not being in possession of the reasons which influenced him or the committee, should not take action on the case in his absence.

Mr. VOORHEES. Generally I should concur with the Senator from Virginia, and I do not rise to dissent from his view now; but I do rise to assure the Senate that the Senator from Maryland has stated the facts of this case correctly, and I presume the adverse report was made by the chairman of the committee because the man did not technically and literally lose his life in the line of duty in the service; but in point of fact this man lost his life at the hands of the enemies of the Government as much as if he had been slain in battle. There is no question about that.

Mr. ALLISON. It seems to me, if the Senator from Maryland has stated the case correctly, that this pension ought to be granted. I know of a few exceptional cases of this character, and I want to call the attention of the Senators on the Pension Committee to one other now pending before the committee. That is the case of John S. Corlett, who did not lose his life but who was not mustered into the service and yet lost his leg in the service by reason of the fact that he was actually in the service. It seems to me that the rule adopted by the Senate Committee on Pensions is hardly a just one, that the people who are making application for pensions must have been mustered regularly into the United States service. It seems to me where service was being rendered and in the act of that service loss of a limb or an arm or loss of life occurred the parties are entitled to pensions. Therefore I shall vote for this bill.

Mr. WITHERS. I do not like to antagonize the bill, and if my friend from Indiana is clear in his recollection that the facts as stated by the Senator from Maryland were proved before the committee, I will withdraw my objection; but such is not my recollection of the facts of the case. My recollection is—and it is a mere matter of mem-

ory—that it was established before the committee that this man was not in the military service at all, that it was after his discharge and after the war was over that this shooting occurred. That is my recollection of it.

Mr. EDMUNDS. That is what the Senator from Maryland stated, if I correctly understood him. If I correctly understood him, the case was this: the husband of this poor widow was regularly in the military service of the United States, and in the performance of his duty he arrested this other person, a confederate or whatever they called him, and did his duty in bringing him to headquarters or wherever it was. This person who was arrested was angry about it and threatened at the first opportunity to take the life of the soldier. The soldier either from wounds or from the expiration of his term of service was discharged and went home. Having got home this same man who had made this threat went and murdered him in his own house and on account of that fact. Now I say if there is any case——

Mr. WITHERS. There is exactly the point in the case. There are two points. One is this: if we admit that a man who once served in the Army and was subsequently killed after the conclusion of the war is entitled to a pension, that establishes a law different from the pension law.

Mr. EDMUNDS. That is not the point I make at all.

Mr. WITHERS. According to my recollection, the evidence did not substantiate the allegation that it was in consequence of the previous arrest that this outrage was committed. That is the point.

Mr. EDMUNDS. Let us see how that was. Both the Senators appear to agree that while this man was in the service he did a particular piece of public duty that he was bound to perform. The man whom he took into custody then and there threatened on that account that he would kill him at the first opportunity. This poor fellow was wounded and discharged and went home, and this man did kill him on the first opportunity. Now I repeat that if there is any case that appeals to the sense of justice and of fair play in the Congress of the United States toward the soldiers in the Union Army, I think his widow is entitled to a pension as clearly as if this man had been shot in battle if he was out of the service, because it was a consequence of his doing his regular duty that he was brutally murdered without having the fair chance that people do in a fair battle. I shall vote for the bill with the greatest satisfaction.

Mr. WHYTE. I want to add to what the Senator from Vermont has said this fact, that he was compelled to leave the Army by reason of wounds received at the time of arresting this very confederate or rebel.

Mr. EDMUNDS. You have a good case.

Mr. WITHERS. That which alone impels me to say anything in the matter is the fact that the chairman of the committee who made the report is not here. He is alone cognizant of the facts in the case which prompted him to draw an unfavorable conclusion. His conclusion was sustained by the committee, evidently. Although I do not recollect with sufficient distinctness to state it to the Senate, as definitely proved and established, the impression on my mind is what I have stated. But I want to call the attention of the Senate to the point whether it is proper, in the absence of the chairman of the committee who has examined into the whole case, to act upon it without a full knowledge of the facts.

Mr. VOORHEES. In order to relieve myself from any misconstruction, I desire to call the attention of the Senator from Virginia to the fact that I am not pressing the passage of this bill in the absence of the chairman. I as an act of courtesy, which it afforded me great pleasure to grant the Senator from Maryland, yielded to him to call this case up and submit it to the Senate. It has been done. I think the Senator from Maryland has correctly stated the facts. The bill was reported adversely by the committee as I said, and I have no doubt on the ground that technically this man was not in the service at the time of his death; but the Senate is now in possession of all the facts as fully as it could be if the Senator from Kansas were here, and as the bill is now before the Senate I presume it is as well to vote upon it.

Mr. COCKRELL. Under the circumstances, in the absence of the Senator from Kansas who reported this bill, while it is a very unpleasant thing to do, I feel constrained to object to it.

Mr. WHYTE. An objection will not do. We have agreed to take up all these pension cases.

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) The pension bills were taken up by unanimous consent.

Mr. WITHERS. Where there was no adverse report.

Mr. WHYTE. There was no limitation about it.

Mr. COCKRELL. We only agreed to act upon unobjected cases on the pension calendar.

Mr. SARGENT. It seems to me there is some haste in passing this bill. The Senator from Kansas will undoubtedly be here in a few days. There is some confusion in reference to the facts of the case. There is a doubtful principle involved, whether, when a person who is out of the service is slain after having left the service, his widow and children are entitled to a pension. That certainly is a doubtful principle. We all understand very clearly that if we make an exception in this case and say that the principle shall be construed in favor of the claimant, we must extend the same relief in many other cases. Now, was this person killed by the confederate whom he arrested for the reason that he had arrested him? I understand the Senator from Virginia to say that as far as he remembers the discussion and evidence before the committee that was not so, but it was for some other cause. He may have been killed by the same person, but killed from a new cause of quarrel; or he may not have been killed by the same person.

Mr. WHYTE. He was killed by the same person. It was a matter of public notoriety in Maryland. Nobody doubted it. He went to the man's house, and shot him in his own house.

Mr. SARGENT. There still may have been another cause of quarrel. It may have arisen out of an entirely different state of circumstances. If it is clearly shown to the Senate that this person was killed by this confederate for the acts the person had done; if that is the fact, I shall be disposed to vote for the bill; but at present doubt is thrown on the facts. I certainly am in doubt, and I presume there are also other Senators in the same position, and it is only fair that the chairman of the committee who has made the adverse report should be heard. It is very well known that his absence is only temporary. It seems to me the haste for pressing this bill is a little extraordinary.

Mr. WHYTE. There is no haste about it.

Mr. CONKLING. I wish the floor a moment, if the Senator from Maryland will allow me, because I think the objection made by the Senator from Missouri deserved a treatment which was denied it. The Senate is proceeding under a request made by the Senator from Indiana. I took pains to ask him whether that request was that the pension bills should proceed under the rule, one feature of which is that the Senator from Missouri or any other Senator may object "at any stage," in the language of the rule. The honorable Senator from Indiana said yes, that was his request. I said then I do not object.

The PRESIDING OFFICER. The Chair desires to state, if the Senator from New York will yield, that the present occupant of the chair was not in the chair at that time. If that was the case, certainly the objection made by the Senator from Missouri would be good.

Mr. CONKLING. I rose to make that statement because I know that both the Senator from Indiana and the Senator from Maryland—I make no observations upon the bill, because I know nothing about it—would wish to have executed the understanding as it really was.

Mr. VOORHEES. Certainly.

Mr. WHYTE. I did not so understand it.

Mr. CONKLING. The understanding was with the acting chairman of the committee, who sits here, and who says he did so understand. Certainly I did so understand.

Mr. VOORHEES. When I asked unanimous consent of the Senate to take up pension cases the Senator from New York did ask me whether we were to proceed under the rule; that is, to take up cases that were not objected to, and I agreed to proceed under the rule. That is the fact.

The PRESIDING OFFICER. An objection, then, at any stage would be good. The Senator from Missouri having objected, the bill goes over. The half hour having expired, the Senate proceeds to the consideration of the resolutions of the Senator from Vermont.

EXECUTIVE BUSINESS.

Mr. CONKLING. If the Senator from Alabama will yield to me, I move that the Senate do now proceed to the consideration of executive business.

Mr. MORGAN. I will state again for the information of the Senate that personally I do not claim the floor from the Senator from Vermont; but still if he persists in considering the resolutions that he offered in the Senate as in my charge I will yield to the Senator from New York.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York, that the Senate now proceed to the consideration of executive business.

The motion was agreed to.

HOUSE BILLS REFERRED.

The VICE-PRESIDENT. The Chair will lay before the Senate a bill of the House of Representatives for reference.

The bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States was read twice by its title.

Mr. SARGENT. A bill of which that is a copy with one slight variation has been before the Committee on Foreign Relations during this Congress. I desire that this bill shall go to that committee, and wish also to direct their attention to the bill, hoping that we may have a report upon it very soon.

The bill was referred to the Committee on Foreign Relations.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After one hour and four minutes spent in executive session the doors were reopened.

COMMITTEE SERVICE.

On motion of Mr. EDMUNDS, it was

Ordered, That Mr. CHRISTIANCY be excused from further service as a member of the Committee on the Judiciary, and that Mr. ALLISON be appointed to fill the vacancy occasioned thereby.

On motion of Mr. CHAFFEE, (at three o'clock and fifteen minutes p. m.,) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 29, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Journal of yesterday was read and approved.

MORRIS DWIGHT.

Mr. HEWITT, of Alabama. I ask unanimous consent to report for consideration at this time, from the Committee on Invalid Pensions, a bill which I send to the Clerk's desk.

The SPEAKER. The bill will be read, after which objections will be in order.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Morris Dwight, dependent father of the late Colonel A. W. Dwight, of the One hundred and twenty-second Regiment New York Volunteers.

Mr. SMITH, of Pennsylvania. Is there a report in this case?

Mr. HEWITT, of Alabama. A report upon a similar bill was made during the last Congress.

Mr. SMITH, of Pennsylvania. Let that report be read.

The report was read, as follows:

That the late Colonel A. W. Dwight was killed in the service of his country as a soldier at the battle of Fort Steadman on the 25th day of March, 1865. His father and mother are both living, but for about forty years have lived in a state of separation. The son performed, prior to his death, his filial duty alike to both, but by his will left his estate to his mother, who is amply provided for. At the time the son made his will, his father, Morris Dwight, who is now about eighty years old, was the prospective heir to certain property in Virginia, which would have placed him also out of reach of want, and this consideration prevented the son from making provision for his father by will. The property which the father would have received has been lost without the default of the father, and he is now left in his old age almost penniless. Had the son lived, the father would not thus have been left in want, and as the son's death was for his country, the country should discharge, on account of the services and wounds of his son, this debt.

Your committee would therefore recommend the passage of the accompanying bill.

There being no objection, the bill (H. R. No. 6250) granting a pension to Morris Dwight was received, read three several times, and passed.

Mr. HEWITT, of Alabama, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REORGANIZATION OF MILITIA.

Mr. STONE, of Michigan, by unanimous consent, introduced a bill (H. R. No. 6251) to reorganize and discipline the militia of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COAST SURVEY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a report of expenditures on account of coast survey for the fiscal year ending June 30, 1878.

Mr. PATTERSON, of Colorado. I ask that that report be laid on the table and printed. The bill to which it was intended to relate was reported to the House yesterday, and referred to the Committee of the Whole.

The motion of Mr. PATTERSON, of Colorado, was agreed to.

MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report from the board of engineers upon the improvement of the low-water navigation of the Mississippi River; which was referred to the Committee on Commerce, and ordered to be printed.

PETER D. RANKE.

Mr. BREWER asked unanimous consent for leave to withdraw the papers relating to the claim of Peter D. Ranke, now before the Committee on Military Affairs.

The SPEAKER. There having been an adverse report in this case, under Rule 164 the request will be referred to the Committtee on Military Affairs.

EDWARD H. LEIB.

Mr. REILLY, by unanimous consent, introduced a bill (H. R. No. 6252) granting an increase of pension to Edward H. Leib; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HALE. I call for the regular order.

Mr. BLOUNT. I move that the rules be suspended and the House now resolve itself into Committee of the Whole on the state of the Union for the further consideration of the post-office appropriation bill.

Mr. CONGER. Are we not to have a morning hour?

The SPEAKER. The motion of the gentleman from Georgia [Mr. BLOUNT] is now in order.

Mr. HOOKER. Is not the regular order the morning hour?

The SPEAKER. It is not. The motion of the gentleman from Georgia [Mr. BLOUNT] is in order at any time, and the Chair recognizes the gentleman to make that motion because he knows it is in reference to an appropriation bill.

Mr. CONGER. If that motion is voted down will the morning hour follow?

The SPEAKER. It will, unless interrupted by some question of higher privilege.

Mr. HOOKER. I desire to ask a further question.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. Is it not in the power of the House by its own action to defeat the motion of the gentleman from Georgia [Mr. BLOUNT] and give us a morning hour at this time?

The SPEAKER. That is a question which the gentleman can answer for himself. The majority of the House has it in its power to proceed with its business as it may see fit.

Mr. HOOKER. Then I hope the motion to go into Committee of the Whole will be voted down.

The question was taken upon the motion of Mr. BLOUNT; and upon a division there were—ayes 88, noes 73.

Before the result of this vote was announced,

Mr. CALKINS called for tellers.

Tellers were ordered; and Mr. BLOUNT and Mr. CALKINS were appointed.

The House again divided; and the tellers reported—ayes 88, noes 82.

Before the result of this vote was announced,

Mr. CONGER called for the yeas and nays upon the motion to go into Committee of the Whole.

Upon ordering the yeas and nays, upon a division there were—ayes 32, noes 92.

So (more than one-fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and there were—yeas 117, nays 116, not voting 55; as follows:

YEAS—117.

Acklen,	Dean,	Ketcham,	Smith, William E.
Aiken,	Dickey,	Killinger,	Southard,
Atkins,	Durham,	Kimmel,	Sparks,
Bacon,	Eden,	Knapp,	Springer,
Banning,	Elam,	Landers,	Steele,
Beebe,	Ellis,	Ligon,	Stenger,
Bell,	Evins, John H.	Lockwood,	Swann,
Benedict,	Felton,	Maish,	Townshead, R. W.
Bicknell,	Finley,	Manning,	Tucker,
Blackburn,	Franklin,	Martin,	Turner,
Bliss,	Fuller,	Mayham,	Turney,
Blount,	Garth,	McKenzie,	Vance,
Boone,	Gibson,	McMahon,	Veeder,
Bouck,	Giddings,	Money,	Waddell,
Bridges,	Goode,	Morrison,	Walker,
Briggs,	Gunter,	Morse,	Warner,
Bright,	Hamilton,	Muller,	Whitthorne,
Brogden,	Hardenbergh,	Patterson, G. W.	Wigginton,
Cabell,	Harris, Henry R.	Phelps,	Williams, James
Caldwell, John W.	Harris, John T.	Potter,	Williams, Jere N.
Candler,	Harrison,	Rea,	Willis, Albert S.
Cbittenden,	Hart,	Reagan,	Wilson,
Clark of Missouri,	Hatcher,	Reilly,	Wood,
Clarke of Kentucky,	Herbert,	Rice, Americus V.	Wright,
Covert,	Hewitt, Abram S.	Sayler,	Yeates,
Cox, Samuel S.	Hewitt, G. W.	Scales,	Young, Casey
Cravens,	Hunton,	Shelley,	Young, John S.
Crittenden,	Jones, Frank	Singleton,	
Cutler,	Jones, James T.	Slemons,	
Davidson,	Kenna,	Smith, A. Herr	

NAYS—116.

Aldrich,	Davis, Horace	Joyce,	Robinson, G. D.
Bagley,	Deering,	Keightley,	Robinson, M. S.
Bailey,	Denison,	Kelley,	Ryan,
Baker, John H.	Dibrell,	Lathrop,	Sampson,
Baker, William H.	Dunnell,	Lindsey,	Sapp,
Banks,	Eames,	Luttrell,	Sexton,
Bayne,	Errett,	Marsh,	Shallenberger,
Bisbee,	Evans, James L.	McCook,	Sinnickson,
Boyd,	Fort,	McGowan,	Smalls,
Brentano,	Foster,	McKinley,	Starin,
Brewer,	Gardner,	Mills,	Stephens,
Browne,	Garfield,	Mitchell,	Stewart,
Bundy,	Hanna,	Monroe,	Stone, Joseph C.
Burchard,	Harris, Benj. W.	Muldrow,	Stone, John W.
Cain,	Haskell,	Neal,	Strait,
Caldwell, W. P.	Hayes,	Norcross,	Thompson,
Calkins,	Hendee,	Overton,	Throckmorton,
Camp,	Henderson,	Page,	Tipton,
Campbell,	Hiscock,	Patterson, T. M.	Townsend, Amos
Cannon,	Hooker,	Peddie,	Townsend, M. I.
Caswell,	House,	Pollard,	Van Vorhes,
Chalmers,	Hubbell,	Pound,	Ward,
Claflin,	Humphrey,	Price,	Watson,
Clark, Rush	Hungerford,	Pugh,	White, Michael D.
Cole,	Hunter,	Rainey,	Williams, Andrew
Conger,	Ittner,	Randolph,	Williams, C. G.
Cox, Jacob D.	James,	Rice, William W.	Williams, Richard
Cummings,	Jones, John S.	Robbins,	Willits,
Danford,	Jorgensen,	Robertson,	Wren.

NOT VOTING—55.

Ballou,	Carlisle,	Culberson,	Forney,
Blair,	Clark, Alvah A.	Davis, Joseph J.	Freeman,
Bland,	Clymer,	Dwight,	Frye,
Bragg,	Cobb,	Eickhoff,	Gause,
Buckner,	Collins,	Ellsworth,	Glover,
Burdick,	Cook,	Evans, I. Newton	Hale,
Butler,	Crapo,	Ewing,	Harmer,

Hartzell,	Loring,	O'Neill,	Ross,
Hazelton,	Lynde,	Phillips,	Thornburgh,
Henkle,	Mackey,	Powers,	Wait,
Henry,	Majors,	Pridemore,	Walsh,
Keifer,	Metcalfe,	Reed,	White, Harry
Knott,	Morgan,	Riddle,	Willis, Benj. A.
Lapham,	Oliver,	Roberts,	

So the motion of Mr. BLOUNT was agreed to.

During the call of the roll the following announcements were made:

Mr. HERBERT. My colleague, Mr. FORNEY, is absent by order of the House, serving on a committee.

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas. If he were present, I would vote "ay."

Mr. COBB. I am paired with Mr. BLAIR, of New Hampshire. If he were here, I would vote "ay."

Mr. TOWNSEND, of New York. By request I change my vote from "ay" to "no." [Laughter.]

Mr. WAIT. I am paired with Mr. PRIDEMORE, of Virginia. If he were here, he would vote "ay" and I would vote "no."

Mr. METCALFE. I am paired with my colleague, Mr. BLAND.

Mr. OLIVER. I am paired with Mr. CARLISLE, of Kentucky.

Mr. ELLSWORTH. I am paired with Mr. DAVIS, of North Carolina. If he were here, I would vote "no."

Mr. LANDERS. I have been requested to announce a pair on all political questions between Mr. BALLOU, of Rhode Island, and Mr. HENRY, of Maryland.

The result of the vote was then announced as above stated.

POST-OFFICE APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole, (Mr. COX, of New York, in the chair,) and resumed the consideration of the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes.

The pending question was upon the following amendment offered yesterday by Mr. TUCKER:

Insert after the amendment last adopted the following:

And the proviso to the act entitled "An act to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879," approved December 21, 1878, shall be amended and re-enacted, as follows:

Provided, That no increase in the postal-car service beyond what has existed at some time during the fiscal year beginning July 1, 1878, and ending June 30, 1879, shall be made during said fiscal year.

Mr. FOSTER. I move to amend the amendment by striking out all after the figures "1878," in the third line, and inserting the words, "is hereby repealed." The effect of this amendment is to repeal the restrictive clause in the act referred to. That restriction prohibited the Post-Office Department from increasing the postal-car service beyond what it was on the 1st of December, 1878. This amendment, in repealing that restriction, leaves the Post-Office Department free to manage this service as it may think proper; but the Postmaster-General, in a conversation which I had with him this morning, said that he did not expect to increase the service beyond the existing appropriation. I think that my amendment, which leaves a discretion to the Department in this matter, is better than the amendment of my friend from Virginia, [Mr. TUCKER.]

Mr. BLOUNT. I think that the amendment of the gentleman from Virginia is ample for all purposes. We are aware that during the last year, by reason of an excessive use of the appropriation for this purpose, deficiencies have occurred. The Committee on Appropriations agreed—with unanimity so far as I could understand at the time—to this restrictive provision. It turns out that at the time it was adopted there were mails taken off certain lines. It was not the purpose of the committee to interfere with the service as it then stood.

The contrary was true. The agreement of the committee was to let that service alone. They believed it was excessive but they did not care to take away a service they had already given.

And the object of the amendment of the gentleman from Virginia [Mr. TUCKER] is just to leave it exactly where the committee intended. The language proposed does not meet the circumstances of the case, the committee not having been informed of them. The object of the amendment is to leave the postal-car service with all the increase the committee has given to it during this year—to let it stand there until the next fiscal year. I trust the amendment to the amendment of the gentleman from Ohio will be voted down and that the amendment of the gentleman from Virginia will be adopted.

Mr. FOSTER. My amendment comes in at the fifth line of the written amendment of the gentleman from Virginia and of the third line of the amendment in the RECORD. I ask the Clerk to read my amendment as it will be if adopted.

The Clerk read as follows:

And the proviso to the act entitled "An act to provide for the deficiency in the appropriations for transportation of mails by railroads for the fiscal year ending June 30, 1879," approved December 21, 1878, is hereby repealed.

Mr. FOSTER. I will say a word further, Mr. Chairman, to meet the objection of my friend from Georgia. If he has a mind to put a restrictive clause on that amendment providing there shall be no deficiency caused thereby I will have no objection to it.

Mr. BLOUNT. I will accept that proposition as that is the object I have in view, to avoid a deficiency.

Mr. FOSTER. Let the gentleman from Virginia [Mr. HUNTON] offer his restrictive clause.

Mr. HUNTON. Then I offer this as an addition to the amendment of the gentleman from Ohio.

The CHAIRMAN. An amendment to the amendment is pending, and further amendment is not in order.

Mr. FOSTER. I accept the amendment of the gentleman from Virginia [Mr. HUNTON] as a modification of my amendment.

Mr. HUNTON. I move, then, to add as follows:

Provided, That the Postmaster-General shall make no deficiency in the appropriation for the current fiscal year by placing postal-cars on any line.

Mr. BLOUNT. That will be satisfactory.

Mr. TUCKER. I wish to say that the modification of my friend from Virginia of the amendment of my friend from Ohio [Mr. FOSTER] is perfectly satisfactory to me, and I hope those who have the same purpose in view as I have in making my amendment will vote for the amendment as modified.

Mr. FOSTER's amendment to the amendment as modified was agreed to; and Mr. TUCKER's amendment, as amended, was then adopted.

The Clerk read as follows:

For route agents, $1,075,000.

Mr. BAKER, of Indiana. I move the following amendment:

In line 71 strike out "and seventy-five thousand" and in lieu thereof insert "one hundred and twenty-five thousand;" so it will read:

One million one hundred and twenty-five thousand dollars.

Mr. Chairman, this amendment is in accordance with the recommendation of the Department, and it is not a larger amount for this service than will be actually needed. There are already twelve hundred miles of railroad upon which service of this character cannot now be placed. The service during the fiscal year ending June 30, 1880, the length of railroad miles of service, will be increased unquestionably by four thousand. The appropriation for the fiscal year 1879 is $1,030,000 for this item. The Department has already been compelled to discharge ninety-six clerks from the various classes of this service, postal route agents, &c., and it will be necessary to discharge at least sixty more during the present fiscal year, making a reduction of one hundred and fifty-six, unless the amount recommended here is increased by the amount I suggest, for the service in 1880 will be greatly enlarged.

I send to the Clerk's desk a letter received by me from the superintendent of railroad mail service, with the concurrence also of the Second Assistant Postmaster-General, giving detailed information. Before they are read I wish to add that the service has been put on in Virginia, and it becomes more than ever necessary the Department shall have the amount I provide in my amendment.

The Clerk read as follows:

REDUCTIONS IN FORCE AND APPROPRIATIONS.

POST-OFFICE DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT OF RAILWAY MAIL SERVICE,
Washington, D. C., January 22, 1879.

SIR: In compliance with your verbal request of this date, I have the honor to inform you that there has been made the following number of retirements from this service since December 1, 1878, on account of the inadequacy of the appropriation and in compliance with a circular-letter issued from this office to the division superintendents under date of December 17, 1878, a copy of which is herewith inclosed:

Railway post-office clerks	40
Route agents	30
Mail-route messengers	9
Local mail agents	16
Total	95

In connection with the above, I desire to say that about sixty more employés will have to be retired in order to bring the number within the limits of the appropriation. If we are compelled to make still further reductions I fail to see how this can be done, unless we abandon the use of clerks and agents on some of the lines and send the mails in charge of baggagemen.

I would further state that there are at present twelve hundred miles of new service where there are no agents, and unless some provision is made whereby agents can be appointed, instead of reductions being made, it will cause the Department much annoyance and the people residing along the lines of these routes an unjust delay in receiving their mails.

In making the estimates for the fiscal year ending June 30, 1880, they were made as close as they possibly could be. It is estimated that there will be in the neighborhood of four thousand miles of new railroads completed upon which service will be required and agents appointed, and if the full amount that was estimated by the Postmaster-General for route agents is not appropriated the greater portion of the new service cannot be properly performed.

There is a growing necessity for local agents, and reductions have been made in this branch of the service this year to bring it within the appropriation, and this to the detriment of the service, as there should be agents at junctions and all important points where mails are transferred.

It is my earnest desire that the full amount that was estimated for the fiscal year ending June 30, 1880, be appropriated.

Very respectfully,

W. B. THOMPSON,
General Superintendent.

Approved:

THOS. J. BRADY,
Second Assistant Postmaster-General.

Hon. JOHN H. BAKER,
House of Representatives, Washington, D. C.

WASHINGTON, D. C., *December 17, 1878.*

SIR: Referring to circular-letter from this office dated November 11, 1878, informing you that "the appropriations for the different classes of employés in this service are inadequate, and it will be necessary to soon make considerable reductions," you will please forward to this office as soon as it is possible to make it, a list of

names of all railway post-office clerks, route agents, and local agents that can possibly be retired in your division without detriment to the service.

In making this list you will give the names of the least efficient. If by transfers from one route or railroad to another you can in any way improve the service you will make recommendations to that effect.

All employés dropped after December 1 up to January 1 will be accredited to each division; and if with those recommended for retirement the whole number does not sufficiently decrease the service, this office will make up the number to be dropped, assigning its quota to each division.

The full record of the employé must accompany the recommendation for retirement.

Very respectfully,

W. B. THOMPSON,
General Superintendent.

Mr. BLOUNT. I ask the attention of the committee to the letter which has been read at the desk and to the speech of the gentleman from Indiana.

The proposition before this House is not how much shall be spent during the fiscal year 1878 for the service to which the letter that has been read relates, but it is as to what the service shall be for the year 1880. I want to say, however, before going to what that service shall be in 1880, that what is disclosed by that very communication manifests the purpose that I charged yesterday in relation to other branches of the service when I said that the Department had disregarded the will of this House in the matter of expenditures.

The House had provided that there should be used for this year the sum of $1,030,000; and by the statement of the gentleman from Indiana they have employed more than ninety persons beyond the number authorized by law; and they have got to turn them loose again unless we add more to the appropriation. Now, sir, I want to call the attention of the committee to the fact that during the last year, the year 1878, these very route agents were increased beyond what they had been for a number of years. A statement on page 232 of the report of the Postmaster-General discloses that in the year 1875 there was a decrease in the compensation of route agents. In 1876 there was an increase of $43,000; in 1877 an increase of $19,000; in 1878 an increase of $34,000. And the number of employés in 1875 was increased by 51; in 1876 there was an increase of 30; in 1877 there was an increase of 48; and in 1878 there was an increase of 78 persons; and the increase during this fiscal year has been in the same proportion. The increase for the next fiscal year is in like proportion. And yet notwithstanding this large, liberal percentage of increase that we have been voting for the years 1878 and 1879, and are proposing now, we are actually told that the Department is expending more, going beyond the appropriation, in the employment of men by scores, and making its way as rapidly as it can toward deficiencies. In the railway service, the steamboat service, the employment of route agents, whenever they please, they go on and employ men in violation of the law and then hold up that very thing to the House as a rebuke.

Sir, I do trust that this House will stand by the action of the Committee on Appropriations. We have taken into consideration the growth of this service year by year; and the fact that the superintendent of mail transportation has employed so many more men this year than he was authorized by law to employ, and that he must therefore discharge some of them, has nothing to do with the service for the year 1880.

[Here the hammer fell.]

Mr. BAKER, of Indiana. If the gentleman from Georgia had permitted the letter that I sent to the Clerk's desk to be read, he would have been able to give a better analysis of its contents than he has. The letter refers distinctly to the wants of the service for the year 1880. And I wish to say, Mr. Chairman, that the Post-Office Department does not violate the law, as charged by the gentleman from Georgia, in regard to this service, to the extent of one single cent. They have obeyed the law. The fact is, that there was not last year a sufficient amount of money appropriated for this branch of the service to meet the absolute requirements of the public; and when it was discovered that the service then existing was so large that it could not be carried through the fiscal year on that basis, they found it necessary to cut down the service. The gentleman will find that at the end of the year 1878 the service was less than at the end of the year preceding.

Mr. BLOUNT. Does the gentleman from Indiana mean to say there was not more appropriated?

Mr. BAKER, of Indiana. I have not time to yield.

The complaint that the service grows is a complaint that cannot be fairly laid to the charge of the Post-Office Department. The population of the country increases more than twelve hundred thousand a year. The number of miles of railroad increases more than four thousand miles a year. The whole service of the country increases. And to talk about there being seventy-eight more men employed now than there was a number of years back is a species of argument that would go to show, if it showed anything, that we ought to bring back the postal service to the limits within which it was confined in the days of George Washington, when we had seventy-five post-offices and about four or five thousand miles of post-routes.

As suggested by the gentleman from Massachusetts, [Mr. BANKS,] there are twelve hundred new towns springing up every year; more than twelve hundred new post-offices are established every year; and the business of the railroad transportation of mails increases to the extent of at least 8 per cent. every year. And is it possible that this service can be provided on the principle that seems to guide the conduct of my friend from Georgia of cutting down year by year, instead of taking into consideration the natural and necessary increase of this service with the growth and development of our great and growing country?

While I believe in economy I am opposed to this pinching parsimony that would deny the people the benefits that would be derived from this great disseminator of intelligence and this great avenue for the purpose of enlarging the business of the country. Let us have an appropriation, Mr. Chairman, that shall be equal to the wants of this service; an appropriation that shall be equal to the wants of the people, and I for one will ask not a dollar more. But I insist on having as much as my own conscientious convictions resulting from a careful study of this question satisfy me is sufficient; and I trust my colleagues on the floor of the House will stand by me in seeing to it that neither this nor any other branch of the postal service for the year 1880 shall be crippled.

[Here the hammer fell.]

Mr. YOUNG, of Tennessee. The gentleman from Indiana [Mr. BAKER] has already said a good deal of what I intended to say in support of his amendment. I live in a large commercial city that is largely interested in the efficiency of the postal service, and I have had occasion, therefore, to give this matter some little personal observation, the result of which is I have become satisfied that the increase asked for by the gentleman from Indiana is one absolutely required for the interests and efficiency of this most important branch of the public service.

I would remind the gentleman from Georgia, [Mr. BLOUNT,] as the gentleman from Indiana has already done, that the world moves; this country is growing; new towns and cities are springing up everywhere; new mail-routes are being established, and we are extending mail facilities all over the continent. It is not surprising, therefore, that the number of employés in the Post-Office Department has increased in the past few years. It is very reasonable to suppose that if we continue to extend mail facilities in 1880 as we have heretofore done, a still larger increase will be necessary in all the branches of the postal service both as to clerks, route agents, and every other kind of employés.

There is no department of the Government that should be protected and fostered by liberal appropriations more than our postal service. There is none that more directly promotes the interests of the people and the prosperity of the whole country than that.

I have complaints coming to me almost every day from my district of the imperfect and irregular delivery of the mails. On inquiry at the Post-Office Department, I am informed by the officials there that it is utterly impossible for them to discharge their duties faithfully and efficiently with the present force of employés. I know nothing about deficiencies created by violations of previous laws, but I am perfectly satisfied from the personal examination which I have given to the subject that the appropriation asked for by the gentleman from Indiana is a proper one and it ought to be made. It is not wise economy to curtail the postal service in any particular, and it is not a character of reform that the people of this country desire or that they will approve. I hope, therefore, that the amendment offered by the gentleman from Indiana [Mr. BAKER] will be adopted.

Mr. FORT. I move to strike out the last word. Mr. Chairman, while I desire that the Post-Office Department should be conducted with strict economy, I may say that so far as my own district is concerned it seems that a larger appropriation is necessary.

There is a new railroad running through my district with regular trains, which has been in operation for nearly one year, upon which there is no accommodation at all, no mail messenger, no person whatever to take charge of the mails, and we are informed that it is impossible to put the service on that road until the appropriations are increased.

Now, sir, for one I say that while railroads are supplied with route agents in other parts of the country, it is certainly right and reasonable that they be put upon this road.

Mr. HUMPHREY. What is the length of that line?

Mr. FORT. I cannot tell exactly, sixty or seventy miles, and trains run upon it twice a day, and there is no mail agent at all and the people living upon that line are entitled to be served with mails as others are, and I hope the amendment will be adopted.

Mr. DUNNELL. I desire to support the amendment which is now pending because I think it is an absolute necessity. I have not at all before interfered with this bill, although it is one that has a very great interest especially in the large frontier States lying on a railroad, and one of which I have the honor in part to represent here.

During the last year there has been built in Minnesota three hundred and eighty-eight miles of railroad—a larger length of railroads has been built in Minnesota by three hundred miles than in any other State. On this three hundred and eighty-eight miles there is no route agent, no mail messenger, and we are unable to get a single messenger appointed, because there is no money wherewith to pay the salaries; and, as the gentleman from Illinois has remarked, some of these routes pass through the older portions of the State. These roads have been built by the men along the line of the roads and are not land-grant railroads. They have been built through the older portions of the State, the middle, and where they anticipated at once mail facilities and expect mail routes and mail facilities.

I called upon the Postmaster-General and urged that upon one of these lines, sixty-six miles in length, they should put at least a messenger to take care of the mail-pouches. The reply was that there was no money at all wherewith to pay for this service.

This additional amount asked for in this amendment is declared to be a necessity. Wherefore seek to avoid it? It is not good legislation. The Government is able to pay for this service. There is no deficiency in the Treasury that calls upon us to hold back $50,000, when that $50,000 is needed to perfect any given branch in the service.

I trust there will be no objection to the proposed amendment.

Mr. BLOUNT. Before the committee come to a vote I desire to disabuse the minds of the House in the matter of an increase in this service.

The gentleman from Indiana in his speech said that the post-office service grew with the population and material interests of the country, and that therefore he was opposed to such a proposition as that of the gentleman from Georgia to cut down this service, intimating to this House that the Committee on Appropriations, or the majority of it, were asking for a reduction.

In order that this may be understood I will state that in 1875 there was a positive decrease in the appropriation in the compensation of route agents. In 1876 it was $43,761; in 1877 the increase was $93,508; in 1878, $34,150; and in this bill we propose to increase it $45,000. This is the cutting down that the gentleman from Indiana objects to.

The gentleman from Tennessee [Mr. ATKINS] reminds me of the fact that the service is growing and that we cannot afford to cut it down, and he knows something about it.

The Committee of the Whole will therefore see that instead of there being a reduction in the amount appropriated under this head, the amount contained in this bill is larger than the amount which has been appropriated for the same service for a period of years—larger than the amount appropriated for 1878, when provision was made for an increase to the extent of seventy-eight men. Perhaps my friend from Indiana [Mr. BAKER] thinks that a long time ago, to go back to last year; that we might just as well go back to the time of George Washington. But the report to which I refer is the last giving us tables showing the expenditures. Gentlemen cannot give any reason for the proposed increase except a sort of general complaint that they want to put in service a lot of men and they cannot get it done because there is no money to pay them.

Mr. CANNON, of Illinois. I desire to call the attention of the gentleman from Georgia [Mr. BLOUNT] and of the Committee of the Whole to this proposition, that it is cheaper to give the money and employ the necessary route agents and mail messengers than it is to perform the pouch service of these roads without the mail messengers. To illustrate, the gentleman from Minnesota [Mr. DUNNELL] says that there are in his State more than three hundred and eighty miles of railway without mail messengers or route agents. They have there what is called the pouch service. The train starts with pouches made up for the different offices, to be thrown off when those offices are reached. At each office various pouches are made up with the mail for the other offices along the line of that road. The baggage-master throws off the pouches as he reaches the different places.

Now, gentlemen can see at once that the weight of these mail-sacks is three or four times what it need be and what it would be if there were a mail messenger on the road to take charge of the mail sacks upon them and distribute the mails, in which case there would be no necessity for any considerable number of sacks. With mail messengers the compensation to the railroad company and the weight of the mail-sacks would be less than in the case of pouch service. Therefore where the railroad service is used the route-agent and mail-messenger service should be employed rather than pouch service. In the interest of economy, of dollars and cents, this amendment ought to be adopted.

The question was then taken upon the amendment of Mr. BAKER, of Indiana, to increase the appropriation for route agents from $1,075,000 to $1,125,000; and upon a division it was agreed to—ayes 106, noes 70.

Mr. BLOUNT. I give notice that I will call for a separate vote in the House.

The Clerk read the following:

For local agents, $120,000.

Mr. FENN. Mr. Chairman, I move to amend the clause just read by striking out "$120,000" and inserting "$130,000." I move the amendment for the purpose of making some remarks which I was not allowed to make on Saturday last. The gentleman from Georgia [Mr. BLOUNT] at that time made the following remarks, which I read from the RECORD:

> Then, too, comes my friend from Idaho [Mr. FENN] making complaint. Why, Mr. Chairman, his Territory has more service and more frequently than many of the States of the Union. That little Territory, sparsely settled, far out on the frontier, has more service than many of the States, and yet the Delegate comes here and becomes furious over the economy of the Committee on Appropriations. In answer to what he said I had only to refer to existing facts.

In answer to what the gentleman there said I will refer to existing facts. I will refer to the report of the Postmaster-General, from which the gentleman has often read during this discussion, and to which authority I presume he will bow with respectful deference.

The gentleman from Georgia says that the Territory of Idaho is a "little Territory" "far out on the frontier." I wish that gentleman to bear in mind that the Territory of Idaho has a greater extent by six thousand square miles than all the New England States, New Jersey, Maryland, and Delaware combined. It has over 40 per cent. larger area than the State of Georgia. That is the "little Territory of Idaho."

As shown by the report of the Postmaster-General that I hold in my hand, and from which the gentleman from Georgia has so often quoted, it appears that the Territory of Idaho has 1,928 miles of star mail service; no railroad service at all as shown by the report of the Postmaster-General. The total annual actual service in Idaho amounts to 437,698 miles, less than the postal service of any State in the Union except the little State of Delaware, which would not make a fraction of a county in our Territory. [Laughter.]

During the winter of 1862-'63 I lived in the town of Florence, in Idaho Territory, a town which had a population of over one thousand. During that winter I paid $2 for every letter and $1 for every newspaper that I received through a private expressman. And if by raising my voice here I can prevent it I do not intend that the people of my Territory to-day shall suffer as I and my friends at Florence suffered in 1862-'63 for want of star mail service.

[Here the hammer fell.]

Mr. FENN. I withdraw the amendment.

The Clerk resumed the reading of the bill and read the following:

Office of the Third Assistant Postmaster-General:

For manufacture of adhesive postage-stamps, of official stamps, and of newspaper and periodical stamps, $92,000.

Mr. LATHROP. I move to amend the paragraph just read by adding to it that which I send to the Clerk's desk.

The Clerk read as follows:

If said stamps can be furnished by the Bureau of Engraving and Printing of the Treasury Department at less than the same now cost, the work of printing the same shall be given to said bureau, when not in violation of existing contract.

Mr. BLOUNT. I raise the point of order on that amendment, that it is a change of existing law.

Mr. WILLIAMS, of Oregon. It proposes to reduce expenditures.

Mr. BLOUNT. It does not appear that it retrenches expenditures.

Mr. LATHROP. My proposition is to give this work to the Bureau of Engraving and Printing only when so doing will save money to the Government. If that is not in the direction of economy I would like to know what is.

The CHAIRMAN. The Chair is unable to determine by the amendment whether it would save money or not.

Mr. BAKER, of Indiana. The very words of the amendment will show that.

Mr. BLOUNT. The amendment may be unobjectionable, but we have no information from the Department upon the subject, and I must insist upon my point of order.

The CHAIRMAN. The Chair will not rule the amendment out of order; there may be economy in it.

The question was taken on the amendment; and it was agreed to.

The Clerk read as follows:

For the manufacture of postal cards, $200,000.

Mr. LATHROP. I offer another amendment of the same character as the one just adopted. I move to amend by inserting at the end of the clause just read the following:

If such postal cards can be produced and furnished by the Bureau of Engraving and Printing of the Treasury Department at less than the same now cost, the work shall be given to said bureau when not in violation of existing contracts.

Mr. CANNON, of Illinois. Before this amendment is voted upon I wish to submit a single suggestion. I intended to say something upon a similar amendment touching stamps; but the vote was taken before I could get an opportunity.

These amendments provide that the work shall be given to the Bureau of Engraving and Printing if it can be done by that bureau at "less than the same now costs." Now take the item of stamps. Under the contract prior to the present one——

Mr. BLOUNT. Can the gentleman state when the present stamp contract will expire?

Mr. CANNON, of Illinois. I think in about a year. I am not sure as to that, however.

Under the former contract for stamps, as I now recollect, the compensation paid for furnishing them was fourteen cents a thousand. It is now a little less than ten cents a thousand. What the contract is for postal-cards, I cannot just now state; but no doubt, as in the case of stamps, it is much less than the price under the former contract.

Now, for one, I am not willing to say that when the existing contract expires the Government shall not invite competition for a new contract, provided the Bureau of Engraving and Printing will do the work for a shade less than the price now paid. I think it very likely that upon proposals for a new contract the stamps may be printed and the postal-cards manufactured at less than the present rate. I am not willing, therefore, to tie the hands of the Department by the adoption of the amendment.

Mr. BLOUNT. I would like to ask the gentleman whether he considers that the hands of the Department would be tied by this proposition?

Mr. CANNON, of Illinois. As I understand, you cannot by this amendment interfere with any contract now in existence; but when the existing contract expires, if the Bureau of Engraving and Printing will do the work for a thousandth part of a cent less than is now

paid by contract the Department will be prohibited from having the work done even at a cheaper price by an outside party upon a new contract.

Mr. FINLEY. How are we to know that the Bureau of Engraving and Printing can do the work for less? How is that to be ascertained?

Mr. CANNON, of Illinois. I accept the gentleman's question as an argument against the amendment. I think it is a very pertinent one.

The amendment was not agreed to.

The Clerk read as follows:

For pay of agent and assistants to distribute postal-cards, and expenses of agency, $7,300.

Mr. YOUNG, of Tennessee. I move to amend by adding after the clause just read the following:

Provided, That from and after the passage of this bill all appointments in the Post-Office Department shall be apportioned among the different States and Territories and the District of Columbia according to population.

Mr. BLOUNT. I reserve a point of order on that amendment.

Several MEMBERS. Make it now.

Mr. BLOUNT. I make the point of order that the amendment changes existing law. Besides I do not think it right in principle, because it tends to embarass the executive department of the Government.

Mr. YOUNG, of Tennessee. It may be that the amendment is not correct in principle, though I think it is; it is certainly not open to the point of order which the gentleman from Georgia [Mr. BLOUNT] suggests. It does not propose to change any existing law, for there is now no law on the subject, but the whole matter of appointments is within the discretion of the Postmaster-General. This amendment corresponds precisely with the provision of law now in force in reference to the Treasury Department; I have copied the precise language of that act from the statute.

Now, it is very well known that a good many of the States of this Union are not being fairly dealt with by the Government in respect to appointments—especially Ohio, Virginia, and perhaps Maryland. Everybody is aware that these States are hardly represented at all in the administration of the Government. As to my own State I have nothing to complain of; we have perhaps more than we are entitled to, as we have the Postmaster-General and the Solicitor of the Post-Office Department; and these are probably all we have a right to ask. But I have some concern for gentlemen who represent other States—Illinois for instance, represented by the gentleman on my left, [Mr. EDEN,] who is too modest to ask for anything. It seems to me that this regulation might just as properly prevail in reference to the Post-Office Department as in regard to the Treasury Department. I think it a proper and just provision as applied to any Department of the Government, and I can see no reason why any gentleman on this floor should oppose it. Every section and locality in a republican government should be fairly and as nearly as possible equally represented in the administration of its affairs.

The CHAIRMAN. Does the gentleman from Georgia [Mr. BLOUNT] insist on his point of order?

Mr. BLOUNT. Yes, sir.

The CHAIRMAN. The Chair overrules the point of order.

The question being taken, the amendment was declared not agreed to.

Mr. FORT. I call for a division. This amendment ought to be adopted.

The question being again taken, there were—ayes 49, noes 53.

Mr. YOUNG, of Tennessee, called for tellers.

Tellers were not ordered.

So the amendment was not agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. WADDELL. I desire to offer an amendment under instructions from the Committee on the Post-Office and Post-Roads; and I ask unanimous consent to insert it in a portion of the bill already passed—at the end of line 20 on page 2.

Mr. BAKER, of Indiana. I will hear the amendment read, reserving the right to object.

Mr. WADDELL. Certainly. The gentleman will not object when he hears it.

The Clerk read as follows:

At the end of line 20, page 2, insert the following:

For preparing and publishing a new edition of the laws and regulations of the Post-Office Department, $20,000, of which sum $2,000, or so much thereof as may be necessary, may be paid upon the order of the Postmaster-General and in his discretion to such officers of the Department as he may designate to prepare and superintend the publication of the volume: *Provided*, That the time so employed shall in no wise interfere with the regular duties of such officers; the appropriation herein provided for to be immediately available.

Mr. BAKER, of Indiana. I have no objection to that; I believe it is necessary.

Mr. ATKINS. I suggest, Mr. Chairman, there is already sufficient clerical force to prepare it without paying some man $2,000 to do it. It can be done by the Postmaster-General's private secretary, or by his law clerk.

Mr. WADDELL. It requires some skill to perform this work. It is a modification of all the laws and regulations of the Department. There has been no publication since 1873. All the post-offices in the country are in a state of confusion about the rules in the Department and what the law is, and it requires something beyond mere clerical ability to perform the duty, and of course it ought to be paid for if done by a competent person. I should think the $2,000 allowed the Postmaster-General to be applied to that purpose is not too much.

Mr. BLOUNT. I have no instructions from the committee on the subject. I concur with the gentleman from North Carolina in reference to this book. It contains all the postal laws and regulations, and is of great value and convenience to every member of the House.

Mr. ATKINS. I do not object to the book.

Mr. BLOUNT. Often and again I have had occasion to use it. In making investigations in reference to the law I have had to go through the Revised Statutes, and very often have had great difficulty in finding what I wanted. This book is of great convenience, and, as stated, has not been published since 1873, and I hope the House will adopt the amendment.

The amendment was adopted.

Mr. BLOUNT moved the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and Mr. EDEN having taken the chair as Speaker *pro tempore*, Mr. COX, of New York, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the bill (H. R. No. 6143) making appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. BLOUNT. I demand the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. BLOUNT. I ask for a separate vote on each amendment.

First amendment:

At the end of line 20, page 2, add the following:

For preparing and publishing a new edition of the Laws and Regulations of the Post-Office Department, $20,000; of which sum $2,000, or so much thereof as may be necessary, may be paid upon the order of the Postmaster-General and in his discretion to such officers of the Department as he may designate to prepare and superintend the publication of the volume: *Provided*, That the time so employed shall in no wise interfere with the regular daily duties of such officers. The appropriation herein provided for to be immediately available.

Mr. BLOUNT. We have no objection to that amendment.

The amendment was concurred in.

Second amendment:

At the end of line 32 add the following:

Provided, That from and after April 1, 1879, the post-office employés on railroads who receive mail matter and cancel the stamps thereon shall keep an account of the stamps so canceled by them, and the same shall be credited to the postmasters at the stations where such mail matter is placed on the cars, respectively, in making a basis for fixing the salaries of said postmasters.

The amendment was concurred in.

Third amendment:

In line 34, page 2, strike out "$460,000" and insert "$600,000;" so it will read: For the compensation of clerks in post-offices, $3,600,000.

Mr. BLOUNT. On this I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 121, nays 109, not voting 58; as follows:

YEAS—121.

Acklen,	Crapo,	Jones, John S.	Robinson, G. D.
Aldrich,	Cummings,	Jorgensen,	Robinson, M. S.
Bacon,	Danford,	Joyce,	Ryan,
Bagley,	Davis, Horace	Keightley,	Sampson,
Bailey,	Deering,	Ketcham,	Sapp,
Baker, John H.	Denison,	Killinger,	Sexton,
Baker, William H.	Dunnell,	Lathrop,	Shallenberger,
Banks,	Dwight,	Lindsey,	Slemons,
Bayne,	Eames,	Luttrell,	Smalls,
Bisbee,	Ellis,	Majors,	Smith, A. Herr
Blair,	Errett,	Marsh,	Starin,
Boyd,	Evans, James L.	McCook,	Stewart,
Brentano,	Fort,	McGowan,	Stone, John W.
Brewer,	Foster,	McKinley,	Stone, Joseph C.
Briggs,	Freeman,	Metcalfe,	Strait,
Brogden,	Gardner,	Mitchell,	Thompson,
Browne,	Garfield,	Monroe,	Townsend, Amos
Bundy,	Hanna,	Neal,	Townsend, M. I.
Burchard,	Harmer,	Norcross,	Van Vorhes,
Burdick,	Harris, Benj. W.	Oliver,	Wait,
Cain,	Haskell,	O'Neill,	Ward,
Calkins,	Hayes,	Overton,	Watson,
Camp,	Hendee,	Page,	White, Michael D.
Campbell,	Henderson,	Patterson, G. W.	Williams, Andrew
Cannon,	Henkle,	Pollard,	Williams, C. G.
Caswell,	Hubbell,	Pound,	Williams, Richard
Chittenden,	Humphrey,	Price,	Willits,
Claflin,	Hungerford,	Pugh,	Wren.
Clark, Rush	Hunter,	Rainey,	
Cole,	Ittner,	Randolph,	
Conger,	James,	Rice, William W.	

NAYS—109.

Aiken,	Bright,	Crittenden,	Finley,
Atkins,	Buckner,	Cutler,	Fuller,
Beebe,	Cabell,	Davidson,	Garth,
Bell,	Caldwell, John W.	Dean,	Giddings,
Benedict,	Caldwell, W. P.	Dibrell,	Glover,
Bicknell,	Candler,	Dickey,	Gunter,
Blackburn,	Chalmers,	Durham,	Hamilton,
Blount,	Clarke of Kentucky,	Eden,	Hardenbergh,
Boone,	Clark of Missouri,	Elam,	Harris, Henry R.
Bouck,	Cobb,	Evins, John H.	Harris, John T.
Bragg,	Covert,	Ewing,	Harrison,
Bridges,	Cravens,	Felton,	Hart,

Hatcher,	Manning,	Rice, Americus V.	Turney,
Herbert,	Martin,	Robbins,	Vance,
Hewitt, Abram S.	Mayham,	Robertson,	Veeder,
Hewitt, G. W.	McKenzie,	Ross,	Waddell,
Hooker,	Mills,	Scales,	Walker,
House,	Money,	Shelley,	Warner,
Hunton,	Morgan,	Singleton,	Whitthorne,
Jones, Frank	Morrison,	Smith, William E.	Williams, James
Jones, James T.	Morse,	Southard,	Williams, Jere N.
Kenna,	Muldrow,	Sparks,	Willis, Albert S.
Kimmel,	Patterson, T. M.	Springer,	Wilson,
Knapp,	Phelps,	Steele,	Yeates,
Landers,	Pridemore,	Swann,	Young, John S.
Ligon,	Rea,	Throckmorton,	
Lockwood,	Reagan,	Townshend, R. W.	
Maish,	Reilly,	Turner,	

NOT VOTING—58.

Ballou,	Ellsworth,	Knott,	Sinnickson,
Banning,	Evans, I. Newton	Lapham,	Stenger,
Bland,	Forney,	Loring,	Stephens,
Bliss,	Franklin,	Lynde,	Thornburgh,
Butler,	Frye,	Mackey,	Tipton,
Carlisle,	Gause,	McMahon,	Tucker,
Clark, Alvah A.	Gibson,	Muller,	Walsh,
Clymer,	Goode,	Peddie,	White, Harry
Collins,	Hale,	Phillips,	Wigginton,
Cook,	Hartzell,	Potter,	Willis, Benj. A.
Cox, Jacob D.	Hazelton,	Powers,	Wood,
Cox, Samuel S.	Henry,	Reed,	Wright,
Culberson,	Hiscock,	Riddle,	Young, Casey.
Davis, Joseph J.	Keifer,	Roberts,	
Eickhoff,	Kelley,	Sayler,	

So the amendment was concurred in.

During the vote,

Mr. SMITH, of Georgia, said: My colleague, Mr. COOK, is detained from the House by sickness.

Mr. BRAGG. My colleague, Mr. LYNDE, who is absent by order of the House on committee service, is paired with my other colleague, Mr. HAZELTON. If Mr. LYNDE were present he would vote "no."

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas. If he were present, I would vote "no."

Mr. HUNTON. My colleague, Mr. GOODE, is detained from his seat by sickness.

Mr. MAISH. My colleague, Mr. CLYMER, is absent on account of sickness.

Mr. HENKLE. My colleague, Mr. HENRY, is paired with Mr. BALLOU, of Rhode Island.

Mr. TUCKER. I am paired on all these questions, I suppose, with the gentleman from New York, Mr. LAPHAM.

Mr. RAINEY. Mr. ELLSWORTH, of Michigan, is paired with Mr. DAVIS, of North Carolina.

Mr. OLIVER. Mr. CARLISLE, of Kentucky, is paired with Mr. KELLEY, of Pennsylvania, on this question.

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. If he were present, I would vote "ay."

The vote was then announced as above recorded.

Mr. THOMPSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Fourth amendment:

In line 35, page 2, strike out "$1,900,000" and insert "$2,000,000;" so it will read:

For payment to letter-carriers, $2,000,000.

Mr. BLOUNT. I demand the yeas and nays on that amendment.

The House divided; and there were ayes 34; not one-fifth of the last vote.

Mr. SINGLETON called for tellers on the yeas and nays.

Tellers were ordered; and Mr. BLOUNT and Mr. THOMPSON were appointed.

The House again divided; and the tellers reported ayes 57; more than one-fifth of those present.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 137, nays 93, not voting 58; as follows:

YEAS—137.

Acklen,	Cole,	Harrison,	Money,
Aldrich,	Conger,	Hart,	Monroe,
Bacon,	Cox, Samuel S.	Hayes,	Morse,
Bagley,	Cummings,	Hendee,	Muller,
Bailey,	Cutler,	Henkle,	Neal,
Baker, John H.	Danford,	Hubbell,	Norcross,
Baker, William H.	Davis, Horace	Humphrey,	O'Neill,
Banks,	Deering,	Hungerford,	Overton,
Bayne,	Denison,	Hunter,	Page,
Bisbee,	Dunnell,	Ittner,	Patterson, G. W.
Blair,	Dwight,	James,	Peddie,
Bliss,	Eames,	Jones, John S.	Phelps,
Boyd,	Ellis,	Jorgensen,	Pollard,
Brentano,	Errett,	Joyce,	Pound,
Briggs,	Evans, James L.	Keightley,	Price,
Browne,	Ewing,	Ketcham,	Pugh,
Bundy,	Foster,	Killinger,	Rainey,
Burdick,	Franklin,	Kimmel,	Randolph,
Cain,	Freeman,	Lathrop,	Reed,
Caldwell, W. P.	Gardner,	Lindsey,	Reilly,
Calkins,	Garth,	Luttrell,	Rice, William W.
Camp,	Hamilton,	McCook,	Robertson,
Caswell,	Hanna,	McGowan,	Robinson, G. D.
Chittenden,	Hardenbergh,	McKinley,	Robinson, M. S.
Claflin,	Harmer,	Metcalfe,	Ryan,
Clark, Rush	Harris, Benj. W.	Mitchell,	Sampson,
Sapp,	Stone, John W.	Veeder,	Williams, C. G.
Sexton,	Stone, Joseph C.	Waddell,	Williams, James
Shallenberger,	Strait,	Wait,	Williams, Richard
Sinnickson,	Swann,	Walker,	Willis, Albert S.
Slemons,	Thompson,	Ward,	Willits,
Smalls,	Tipton,	Watson,	Wren.
Smith, A. Herr	Townsend, Amos	White, Harry	
Starin,	Townsend, M. I.	White, Michael D.	
Stewart,	Van Vorhes,	Williams, Andrew	

NAYS—93.

Aiken,	Cobb,	Hewitt, Abram S.	Reagan,
Atkins,	Covert,	Hewitt, G. W.	Rice, Americus V.
Beebe,	Cravens,	Hooker,	Robbins,
Bell,	Crittenden,	House,	Ross,
Benedict,	Davidson,	Hunton,	Scales,
Bicknell,	Dean,	Jones, Frank	Shelley,
Blackburn,	Dibrell,	Jones, James T.	Singleton,
Blount,	Dickey,	Kenna,	Smith, William E.
Boone,	Durham,	Knapp,	Sparks,
Bouck,	Eden,	Landers,	Springer,
Bragg,	Elam,	Ligon,	Steele,
Brewer,	Evins, John H.	Lockwood,	Throckmorton,
Bridges,	Felton,	Maish,	Townshend, R. W.
Bright,	Finley,	Manning,	Turner,
Brogden,	Fort,	Martin,	Turney,
Buckner,	Fuller,	Mayham,	Vance,
Burchard,	Giddings,	McKenzie,	Warner,
Cabell,	Glover,	Mills,	Whitthorne,
Caldwell, John W.	Hale,	Morgan,	Williams, Jere N.
Candler,	Harris, Henry R.	Morrison,	Yeates,
Cannon,	Harris, John T.	Muldrow,	Young, John S.
Chalmers,	Hatcher,	Patterson, T. M.	
Clarke of Kentucky,	Henderson,	Pridemore,	
Clark of Missouri,	Herbert,	Rea,	

NOT VOTING—58.

Ballou,	Ellsworth,	Kelley,	Sayler,
Banning,	Evans, I. Newton	Knott,	Southard,
Bland,	Forney,	Lapham,	Stenger,
Butler,	Frye,	Loring,	Stephens,
Campbell,	Garfield,	Lynde,	Thornburgh,
Carlisle,	Gause,	Mackey,	Tucker,
Clark, Alvah A.	Gibson,	Majors,	Walsh,
Clymer,	Goode,	Marsh,	Wigginton,
Collins,	Gunter,	McMahon,	Willis, Benj. A.
Cook,	Hartzell,	Oliver,	Wilson,
Cox, Jacob D.	Haskell,	Phillips,	Wood,
Crapo,	Hazelton,	Potter,	Wright,
Culberson,	Henry,	Powers,	Young, Casey.
Davis, Joseph J.	Hiscock,	Riddle,	
Eickhoff,	Keifer,	Roberts,	

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. MAJORS. I am paired with the gentleman from Texas, Mr. CULBERSON. If he were present, I should vote "ay."

Mr. OLIVER. I am paired with Mr. CARLISLE, of Kentucky.

Mr. TUCKER. I am paired with Mr. LAPHAM, of New York.

Mr. CRAVENS. My colleague from Arkansas, Mr. GUNTER, is absent from the House on important business.

Mr. HARTZELL. I am paired with the gentleman from Kansas, Mr. PHILLIPS. If he were present, I should vote "no."

Mr. HENKLE. My colleague from Maryland, Mr. HENRY, is paired with Mr. BALLOU, of Rhode Island.

The result of the vote was then announced as above recorded.

Mr. THOMPSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The fifth amendment reported from the Committee of the Whole was read, as follows:

At the end of the first paragraph, under the head of office of Second Assistant Postmaster-General, insert the following:

Provided, That the Postmaster-General may use such portion of the postal-car-service appropriation as may be spared from it to supply any deficiency that may arise from insufficient appropriations in the item for railway transportation.

The amendment was agreed to.

The sixth amendment reported from the Committee of the Whole was read, as follows:

To the end of the amendment just read add the following:

Provided, That hereafter in making his estimates for railway mail service the Postmaster-General shall separate the estimate for the postal-car service from the general estimates; and in case any increase or diminution of service by postal cars shall be made by him the reasons therefor shall be given in his annual report next succeeding such increase or diminution.

The amendment was agreed to.

The seventh amendment reported from the Committee of the Whole was read, as follows:

Insert after the amendment last adopted the following:

And the proviso to the act entitled "An act to provide for a deficiency in the appropriation for transportation of mails by railroads for the fiscal year ending June 30, 1879," approved December 21, 1878, is hereby repealed: *Provided*, That the Postmaster-General shall make no deficiency in the appropriation for the current fiscal year by placing postal cars on any line.

The amendment was agreed to.

The eighth amendment reported from the Committee of the Whole was read, as follows:

In the fourth paragraph, under the head of office of Second Assistant Postmaster-General, in lines 51 and 52, strike out "$5,690,663" and insert "$5,900,000;" so that it will read:

For inland mail transportation, namely: For transportation on star routes $5,900,000.

Mr. BLOUNT. I call for the yeas and nays on agreeing to that amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 172, nays 53, not voting 63; as follows:

YEAS—172.

Acklen,	Deering,	Killinger,	Ryan,
Aldrich,	Denison,	Lathrop,	Sampson,
Bacon,	Dibrell,	Ligon,	Sapp,
Bagley,	Dunnell,	Lindsey,	Scales,
Bailey,	Dwight,	Luttrell,	Sexton,
Baker, John H.	Eames,	Majors,	Shallenberger,
Baker, W. H.	Elam,	Manning,	Shelley,
Banks,	Ellis,	Martin,	Singleton,
Banning,	Errett,	McCook,	Sinnickson,
Bell,	Evans, James L.	McGowan,	Slemons,
Bisbee,	Ewing,	McKenzie,	Smalls,
Blair,	Felton,	McKinley,	Smith, A. Herr
Bliss,	Fort,	Mills,	Smith, William E.
Boone,	Freeman,	Mitchell,	Starin,
Boyd,	Gardner,	Money,	Steele,
Brentano,	Garfield,	Monroe,	Stewart,
Brewer,	Garth,	Morgan,	Stone, John W.
Briggs,	Giddings,	Muldrow,	Stone, Joseph C.
Bundy,	Gunter,	Muller,	Strait,
Burchard,	Hanna,	Neal,	Thompson,
Burdick,	Harmer,	Norcross,	Throckmorton,
Cabell,	Harris, Benj. W.	Oliver,	Tipton,
Cain,	Hart,	O'Neill,	Townsend, Amos
Caldwell, John W.	Hatcher,	Overton,	Townsend, M. I.
Caldwell, W. P.	Hayes,	Page,	Turner,
Calkins,	Hendee,	Patterson, G. W.	Vance,
Camp,	Henderson,	Peddie,	Van Vorhes,
Campbell,	Herbert,	Phelps,	Veeder,
Cannon,	Hooker,	Pollard,	Waddell,
Caswell,	House,	Pound,	Wait,
Chalmers,	Hubbell,	Powers,	Walker,
Chittenden,	Humphrey,	Price,	Ward,
Clark of Missouri,	Hunter,	Pugh,	White, Harry
Clark, Rush	Hungerford,	Rainey,	White, Michael D.
Cole,	Ittner,	Randolph,	Williams, Andrew
Conger,	James,	Rea,	Williams, C. G.
Crapo,	Jones, James T.	Reagan,	Williams, Jere N.
Cravens,	Jones, John S.	Reilly,	Williams, Richard
Crittenden,	Jorgensen,	Rice, William W.	Willits,
Cummings,	Joyce,	Robbins,	Wilson,
Danford,	Keightley,	Robertson,	Wren,
Davidson,	Kenna,	Robinson, G. D.	Yeates,
Davis, Horace	Ketcham,	Robinson, M. S.	Young, John S.

NAYS—53.

Aiken,	Cobb,	Hardenbergh,	Rice, Americus V.
Atkins,	Covert,	Harris, Henry R.	Ross,
Bayne,	Cox, Samuel S.	Harris, John T.	Sayler,
Beebe,	Cutler,	Harrison,	Sparks,
Benedict,	Dean,	Hewitt, Abram S.	Swann,
Bicknell,	Dickey,	Hewitt, G. W.	Townshend, R. W.
Blackburn,	Durham,	Jones, Frank	Turney,
Blount,	Eden,	Kimmel,	Warner,
Bragg,	Evins, John H.	Landers,	Whitthorne,
Bridges,	Finley,	Lockwood,	Williams, James
Brogden,	Franklin,	Mayham,	Willis, Albert S.
Buckner,	Fuller,	Morrison,	
Candler,	Glover	Morse,	
Clarke of Kentucky,	Hamilton,	Pridemore,	

NOT VOTING—63.

Ballou,	Ellsworth,	Keifer,	Riddle,
Bland,	Evans, I. Newton	Kelley,	Roberts,
Bouck,	Forney,	Knapp,	Southard,
Bright,	Foster,	Knott,	Springer,
Browne,	Frye,	Lapham,	Stenger,
Butler,	Gause,	Loring,	Stephens,
Carlisle,	Gibson,	Lynde,	Thornburgh,
Claflin,	Goode,	Mackey,	Tucker,
Clark, Alvah A.	Hale,	Maish,	Walsh,
Clymer,	Hartzell,	Marsh,	Watson,
Collins,	Haskell,	McMahon,	Wigginton,
Cook,	Hazelton,	Metcalfe,	Willis, Benj. A.
Cox, Jacob D.	Henkle,	Patterson, T. M.	Wood,
Culberson,	Henry,	Phillips,	Wright,
Davis, Joseph J.	Hiscock,	Potter,	Young, Casey.
Eickhoff,	Hunton,	Reed,	

So the amendment was agreed to.

During the roll-call the following announcements were made:

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas. If he were here, I should vote "no."

Mr. BOUCK. I am paired with Mr. CLAFLIN. If he were present, I should vote "no."

Mr. OLIVER. I desire to announce that Mr. CARLISLE is paired with Mr. KEIFER, of Ohio.

Mr. METCALFE. I am paired upon this question with my colleague, Mr. BLAND. If he were here, I should vote "ay."

Mr. RAINEY. I desire to announce that Mr. ELLSWORTH is paired with Mr. DAVIS, of North Carolina.

Mr. HASKELL. I am paired with Mr. KNOTT, of Kentucky.

The result of the vote was then announced as above recorded.

Mr. BAKER, of Indiana, moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had agreed to the amendments of the House to the concurrent resolution of the Senate providing for binding the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of Eighty-fifth Regiment Pennsylvania Volunteers;

A bill (H. R. No. 309) for the relief of Andrew F. Higgins, of Brown County, Ohio;

A bill (H. R. No. 837) granting a pension to William R. Browne;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana;

A bill (H. R. No. 2296) to authorize the Secretary of the Interior to place on the pension-roll the name of John Ward, late sergeant of Company K, Second Regiment West Virginia Volunteer Cavalry;

A bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison;

A bill (H. R. No. 3583) granting a pension to William Denene;

A bill (H. R. No. 4364) granting a pension to Lydia A. Morris;

A bill (H. R. No. 4971) granting a pension to Mary Frazee;

A bill (H. R. No. 4975) granting a pension to Mrs. Eliza H. Frailey;

A bill (H. R. No. 4986) granting a pension to H. Louise Gates; and

A bill (H. R. No. 5219) granting a pension to Belinda Macdonald.

The message further announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 1210) granting a pension to Henry A. Armstrong;

A bill (S. No. 1214) granting a pension to Amos Argle;

A bill (S. No. 1414) granting a pension to James H. Woodard;

A bill (S. No. 1419) granting a pension to Mrs. Rosa Gale;

A bill (S. No. 1446) for promoting the efficiency of the corps of chaplains of the United States Navy;

A bill (S. No. 1454) granting a pension to Ann M. Paulding, widow of Hiram Paulding, late senior rear-admiral in the United States Navy;

A bill (S. No. 1474) granting a pension to John G. Eckles;

A bill (S. No. 1645) granting a pension to Mary E. Walker; and

A bill (S. No. 1646) granting a pension to Phœbe C. Doxsie.

POST-OFFICE APPROPRIATION BILL.

The House resumed the consideration of the post-office appropriation bill, reported from the Committee of the Whole with amendments.

The Clerk read the ninth amendment, reported by the Committee of the Whole, as follows:

Transpose lines 65 and 66, as amended, to be first paragraph under "Second Assistant Postmaster-General;" lines 53 to 62, inclusive, to follow as second paragraph; lines 63 and 64 as third; and lines 50 to 52, as fourth paragraph.

Mr. BLOUNT. I desire unanimous consent to offer an amendment to this amendment. It is merely for the purpose of changing the arrangement.

The Clerk read as follows:

In the transposition of paragraphs yesterday, (see RECORD,) lines 50 to 52 are intended to read: "For transportation on star routes, $5,900,000."

There was no objection; and the amendment to the amendment was entertained and agreed to; and the amendment, as amended, was adopted.

The tenth amendment reported from the Committee of the Whole on the state of the Union was read, as follows:

Amend by striking out, in lines 53 and 54, "$8,715,310," and inserting "$9,000,000;" so as to make the clause read:

For transportation by railroad, $9,000,000.

Mr. BLOUNT. On this amendment I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 118, nays 97, not voting 73; as follows:

YEAS—118.

Aldrich,	Deering,	Keightley,	Robinson, M. S.
Bacon,	Denison,	Ketcham,	Ryan,
Bagley,	Dunnell,	Lathrop,	Sampson,
Bailey,	Dwight,	Majors,	Sapp,
Baker, John H.	Eames,	Marsh,	Shallenberger,
Baker, William H.	Ellis,	McCook,	Sinnickson,
Banks,	Errett,	McGowan,	Smalls,
Bayne,	Evans, James L.	McKinley,	Smith, A. Herr
Bisbee,	Fort,	Mitchell,	Starin,
Blair,	Foster,	Monroe,	Stewart,
Boyd,	Franklin,	Morse,	Stone, John W.
Brentano,	Freeman,	Muller,	Stone, Joseph C.
Briggs,	Gardner,	Neal,	Strait,
Browne,	Hanna,	Norcross,	Thompson,
Bundy,	Hardenbergh,	Oliver,	Tipton,
Burchard,	Harmer,	O'Neill,	Townsend, Amos
Burdick,	Harris, Benj. W.	Overton,	Townsend, M. I.
Cain,	Hatcher,	Page,	Van Vorhes,
Camp,	Hayes,	Patterson, G. W.	Wait,
Campbell,	Hendee,	Peddie,	Ward,
Cannon,	Henderson,	Phelps,	Watson,
Caswell,	Hubbell,	Pollard,	White, Harry
Chalmers,	Humphrey,	Pound,	White, Michael D.
Clark, Rush	Hungerford,	Powers,	Williams, Andrew
Cole,	Hunter,	Price,	Williams, C. G.
Conger,	Ittner,	Pugh,	Williams, Richard
Crapo,	James,	Rainey,	Willits,
Cummings,	Jones, John S.	Randolph,	Wren.
Danford,	Jorgensen,	Rice, William W.	
Davis, Horace	Joyce,	Robinson, G. D.	

NAYS—97.

Aiken,	Crittenden,	Killinger,	Scales,
Atkins,	Cutler,	Kimmel,	Shelley,
Banning,	Davidson,	Landers,	Singleton,
Beebe,	Dibrell,	Ligon,	Smith, William E.
Bell,	Durham,	Lockwood,	Southard,
Benedict,	Eden,	Mackey,	Sparks,
Bicknell,	Elam,	Maish,	Steele,
Blackburn,	Evins, John H.	Manning,	Swann,
Blount,	Ewing,	Martin,	Throckmorton,
Boone,	Felton,	Mayham,	Townshend, R. W
Bragg,	Garth,	McKenzie,	Turner,
Brewer,	Giddings,	Mills,	Turney,
Bridges,	Glover,	Money,	Vance,
Brogden,	Hamilton,	Morgan,	Waddell,
Buckner,	Harris, Henry R.	Morrison,	Warner,
Cabell,	Harris, John T.	Muldrow,	Whitthorne,
Caldwell, John W.	Herbert,	Pridemore,	Williams, James
Caldwell, W. P.	Hewitt, Abram S.	Rea,	Williams, Jere N.
Candler,	Hewitt, G. W.	Reagan,	Willis, Albert S.
Clark of Missouri,	Hooker,	Reilly,	Wilson,
Clarke of Kentucky,	House,	Rice, Americus V.	Yeates,
Cobb,	Hunton,	Robbins,	Young, John S.
Covert,	Jones, Frank	Robertson,	
Cox, Samuel S.	Jones, James T.	Ross,	
Cravens,	Kenna,	Sayler,	

NOT VOTING—73.

Acklen,	Dickey,	Henkle,	Roberts,
Ballou,	Eickhoff,	Henry,	Sexton,
Bland,	Ellsworth,	Hiscock,	Slemons,
Bliss,	Evans, I. Newton	Keifer,	Springer,
Bouck,	Finley,	Kelley,	Stenger,
Bright,	Forney,	Knapp,	Stephens,
Butler,	Frye,	Knott,	Thornburgh,
Calkins,	Fuller,	Lapham,	Tucker,
Carlisle,	Garfield,	Lindsey,	Veeder,
Chittenden,	Gause,	Loring,	Walker,
Claflin,	Gibson,	Luttrell,	Walsh,
Clark, Alvah A.	Goode,	Lynde,	Wigginton,
Clymer,	Gunter,	McMahon,	Willis, Benj. A.
Collins,	Hale,	Metcalfe,	Wood,
Cook,	Harrison,	Patterson, T. M.	Wright,
Cox, Jacob D.	Hart,	Phillips,	Young, Casey.
Culberson,	Hartzell,	Potter,	
Davis, Joseph J.	Haskell,	Reed,	
Dean,	Hazelton,	Riddle,	

So the amendment was concurred in.

During the vote,

Mr. FINLEY said: I am paired on this question with Mr. CALKINS, of Indiana. If he were present, I would vote "no."

Mr. BOUCK. I am paired with Mr. CLAFLIN. If he were present, I would vote "no."

Mr. LANDERS. I announce the pair of Mr. BALLOU with Mr. HENRY.

Mr. TOWNSEND, of New York. I wish to state that Mr. ACKLEN, of Louisiana, has been called from the House by important business.

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. If he were present, I would vote "ay."

Mr. METCALFE. I am paired with my colleague, Mr. BLAND. If he were present, I would vote "ay."

Mr. HASKELL. I am paired with Mr. KNOTT.

Mr. OLIVER. Mr. KEIFER is paired with Mr. CARLISLE.

Mr. TUCKER. I am paired with Mr. LAPHAM on all these questions.

Mr. FULLER. I am paired with Mr. SEXTON.

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Arkansas.

On motion of Mr. BAKER, of Indiana, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

Mr. BAKER, of Indiana, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Eleventh amendment:

In lines 63 and 64, strike out "750" and insert "900;" so it will read:
For transportation by steamboat routes, $900,000.

Mr. BLOUNT. I demand the yeas and nays.

Mr. BAKER, of Indiana. I hope that will not be insisted on.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 86, not voting 82; as follows:

YEAS—120.

Bacon,	Chalmers,	Freeman,	Mackey,
Bagley,	Clark, Rush	Gardner,	Majors,
Bailey,	Cole,	Giddings,	Marsh,
Baker, John H.	Conger,	Glover,	McCook,
Baker, William H.	Crapo,	Harmer,	McGowan,
Banks,	Cummings,	Harris, Benj. W.	McKinley,
Bayne,	Danford,	Hayes,	Mills,
Bisbee,	Davidson,	Hendee,	Mitchell,
Blair,	Davis, Horace	Henderson,	Morgan,
Brentano,	Deering,	Hubbell,	Neal,
Brewer,	Denison,	Humphrey,	Noroross,
Briggs,	Dunnell,	Hungerford,	Oliver,
Browne,	Dwight,	Hunter,	O'Neill,
Bundy,	Eames,	Ittner,	Overton,
Burchard,	Elam,	James,	Page,
Burdick,	Ellis,	Jones, John S.	Patterson, G. W.
Cain,	Errett,	Jorgensen,	Peddie,
Camp,	Evans, James L.	Joyce,	Pollard,
Campbell,	Ewing,	Keightley,	Pound,
Cannon,	Fort,	Ketcham,	Price,
Caswell,	Foster,	Lathrop,	Pugh,
Rainey,	Shallenberger,	Stone, John W.	Watson,
Randolph,	Shelley,	Strait,	White, Michael D.
Rice, William W.	Sinnickson,	Thompson,	Williams, Andrew
Robertson,	Slemons,	Throckmorton,	Williams, C. G.
Robinson, G. D.	Smalls,	Tipton,	Williams, Richard
Robinson, M. S.	Smith, A. Herr	Townsend, Amos	Willits,
Ryan,	Starin,	Townsend, M. I.	Wren,
Sampson,	Stewart,	Van Vorhes,	Young, Casey
Sapp,	Stone, Joseph C.	Ward,	Young, John S.

NAYS—86.

Atkins,	Durham,	Kenna,	Singleton,
Banning,	Eden,	Kimmel,	Smith, William E.
Beebe,	Evins, John H.	Landers,	Southard,
Bell,	Felton,	Ligon,	Sparks,
Bicknell,	Franklin,	Lockwood,	Springer,
Blackburn,	Garth,	Maish,	Steele,
Blount,	Gunter,	Manning,	Townshend, R. W.
Boone,	Hamilton,	Martin,	Turner,
Bragg,	Hardenbergh,	Mayham,	Turney,
Bright,	Harris, Henry R.	McKenzie,	Vance,
Brogden,	Harris, John T.	Money,	Veeder,
Cabell,	Harrison,	Morrison,	Waddell,
Caldwell, John W.	Hart,	Muldrow,	Walker,
Clarke of Kentucky,	Hatcher,	Phelps,	Warner,
Clark of Missouri,	Henkle,	Rea,	Whitthorne,
Cobb,	Hewitt, Abram S.	Reagan,	Williams, James
Covert,	Hewitt, G. W.	Reilly,	Williams, Jere N.
Cravens,	Herbert,	Rice, Americus V.	Willis, Albert S.
Crittenden,	Hooker,	Robbins,	Wilson,
Cutler,	House,	Ross,	Yeates.
Dibrell,	Hunton,	Sayler,	
Dickey,	Jones, Frank	Scales,	

NOT VOTING—82.

Acklen,	Cook,	Hazelton,	Potter,
Aiken,	Cox, Jacob D.	Henry,	Powers,
Aldrich,	Cox, Samuel S.	Hiscock,	Pridemore,
Ballou,	Culberson,	Jones, James T.	Reed,
Benedict,	Davis, Joseph J.	Keifer,	Riddle,
Bland,	Dean,	Kelley,	Roberts,
Bliss,	Eickhoff,	Killinger,	Sexton,
Bouck,	Ellsworth,	Knapp,	Stenger,
Boyd,	Evans, I. Newton	Knott,	Stephens,
Bridges,	Finley,	Lapham,	Swann,
Buckner,	Forney,	Lindsey,	Thornburgh,
Butler,	Frye,	Loring,	Tucker,
Caldwell, W. P.	Fuller,	Luttrell,	Wait,
Calkins,	Garfield,	Lynde,	Walsh,
Candler,	Gause,	McMahon,	White, Harry
Carlisle,	Gibson,	Metcalfe,	Wigginton,
Crittenden,	Goode,	Monroe,	Willis, Benj. A.
Claflin,	Hale,	Morse,	Wood,
Clark, Alvah A.	Hanna,	Muller,	Wright.
Clymer,	Hartzell,	Patterson, T. M.	
Collins,	Haskell,	Phillips,	

So the amendment was concurred in.

During the vote,

Mr. HARTZELL said: I am paired with Mr. PHILLIPS, of Kansas. If he were present, I would vote "no."

Mr. BOUCK. I am paired with Mr. CLAFLIN. If he were present, I would vote "no."

Mr. AIKEN. I am paired with Mr. MONROE. If he were present, he would vote "ay" and I would vote "no."

Mr. PRIDEMORE. I am paired with Mr. WAIT. If he were here, I would vote "no."

Mr. METCALFE. I am paired with my colleague, Mr. BLAND. If he were present, I would vote "ay."

Mr. OLIVER. Mr. CARLISLE is paired with Mr. KEIFER.

On motion of Mr. DUNNELL, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

Mr. BAKER, of Indiana, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. DUNNELL. I move the House take a recess until half-past seven o'clock this evening.

Mr. WILSON. I move the House adjourn.

Mr. DUNNELL. This evening's session was set apart by order of the House for the consideration of reports from the Committee on Commerce, and I hope the gentleman will not insist on the motion to adjourn.

Mr. SPRINGER. Is it in order to ask what will be the special order this evening?

The SPEAKER *pro tempore*. This evening's session has been set apart for the reception of reports from the Committee on Commerce.

Mr. BURCHARD. Was not the hour fixed for taking the recess?

Mr. DUNNELL. This evening's session was set apart for the business of the Committee on Commerce, and I hope the committee will not be deprived of its right.

Mr. REAGAN. I hope the gentleman from West Virginia will withdraw his motion to adjourn, so a recess may be taken and the business of the Committee on Commerce may be taken up under the special order of the House.

Mr. WILSON. I withdraw my motion to adjourn.

The SPEAKER *pro tempore*. The motion cannot be withdrawn, as the House is dividing.

The House divided; and there were—ayes 47, noes 100.

So the House refused to adjourn.

And then (at four o'clock and thirty-five minutes p. m.) the House took a recess until seven o'clock and thirty minutes p. m.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

DUTY ON QUININE.

Mr. TOWNSHEND, of Illinois, by unanimous consent, introduced a bill (H. R. No. 6253) to repeal the duty on quinine; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

VOTES ON POST-OFFICE APPROPRIATION BILL.

Mr. HAZELTON. I desire to state that upon the votes taken at the session to-day upon the post-office appropriation bill I had paired with my colleague, Mr. LYNDE; but my colleague, Mr. WILLIAMS, omitted to state the pair. I wish now to state that if Mr. LYNDE had been present, I should have voted in favor of all the amendments to that bill, and I presume he would have voted in the negative.

NATIONAL GOLD BANKS.

Mr. PAGE, by unanimous consent, introduced a bill (H. R. No. 6254) authorizing the conversion of national gold banks; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

DRAWBACKS ON IMPORTED SUGAR AND MOLASSES.

Mr. BURCHARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the House the amounts respectively, and to whom drawbacks have been paid, during the last fiscal year on exported sugar and molasses claimed to have been refined or manufactured from imported sugar, melada, or molasses, and the rules and regulations under which such drawbacks have been allowed.

Mr. BURCHARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMPENSATION OF UNITED STATES DISTRICT ATTORNEYS.

Mr. DURHAM, by unanimous consent, reported back with amendments, from the Committee on Expenditures in the Department of Justice, the bill (H. R. No. 4789) fixing the compensation of United States district attorneys, and for other purposes; which was ordered to be printed and recommitted, not to be brought back upon a motion to reconsider.

ORDER OF BUSINESS.

The SPEAKER. The session of this evening was assigned by order of the House for the consideration of reports from the Committee on Commerce.

SURVEY OF MISSISSIPPI RIVER.

Mr. REAGAN. The Committee on Commerce, to whom was referred the letter of the Secretary of War of January 10, 1879, concerning the duplication of the survey of the Mississippi River by the Coast Survey, have directed me to report the same back with a recommendation that the coast survey above New Orleans be suspended, and to move that the communication and accompanying papers, together with the report, be referred to the Committee on Appropriations.

There being no objection, the communication, with the accompanying papers and report, was referred to the Committee on Appropriations.

SITES OF FORTIFICATIONS ON DELAWARE RIVER.

Mr. REAGAN. The Committee on Commerce have also directed me to report back a communication from the Secretary of War, transmitting a letter of the Chief of Engineers relative to estimates of amounts required for protection from overflow of sites of fortifications on the Delaware River. I move that the Committee on Commerce be discharged from the further consideration of this communication and that it be referred to the Committee on Appropriations.

There being no objection, the communication was referred to the Committee on Appropriations, not to be brought back on a motion to reconsider.

REGULATION OF STEAM AND SAIL VESSELS.

Mr. REAGAN, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 5504) to amend section 4234 of the Revised Statutes of the United States.

The bill was read. It provides that section 4234 of the Revised Statutes of the United States be amended by substituting for the last paragraph of said section, beginning with the words "every such vessel" and ending with the word "offense," the following words:

Every sail vessel navigated without complying with the provisions of this and the preceding section, shall be liable to a penalty of $200; and every steam-vessel navigated without complying with the provisions of the preceding section, shall be liable to a penalty of $500, one-half of which penalties shall go to the informer, and for these respective penalties the vessels so navigated shall be liable, and may be seized and proceeded against by libel in any district court of the United States having jurisdiction of the offense.

Mr. PAGE. I would like to hear some explanation of this bill.

Mr. REAGAN. I send up a letter of the Secretary of the Treasury which shows the necessity for the passage of this bill. I ask that the letter be read.

The Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., December 10, 1878.

SIR: The question has arisen in the execution of the navigation laws as to whether the penalty provided by section 68, act of February 28, 1871, for steam-vessels violating the law with regard to lights, fog-signals, &c., is preserved in the Revised Statutes or not.

To definitely settle this question, and to free the execution of this law from all doubt, I have the honor to transmit herewith an amendment to section 4234, Revised Statutes, for the consideration of your honorable committee and presentation to the House of Representatives.

Any information which you may desire on this subject will be furnished by this Department.

Very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. JOHN H. REAGAN,
Chairman Committee on Commerce, House of Representatives.

The bill was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORTS OF PRODUCTS OF FISHERIES.

Mr. REAGAN. The Committee on Commerce have directed me to report a joint resolution for securing reports of the products of the fisheries. This resolution has been prepared in the Treasury Department, and the committee recommend its passage. The resolution is accompanied by a letter from the Secretary of the Treasury.

The joint resolution (H. R. No. 227) for securing reports of the products of the fisheries was read a first and second time.

The joint resolution provides that the master of every vessel of the United States enrolled and licensed for employment in the fisheries, or for the coasting trade, and provided with a permit to touch and trade at foreign ports shall every year make out and deliver to the collector of customs at the home port of such vessels a record of the kind and amount of fish caught by such vessels and the regions where they were caught, and such other particulars as may be required in the form to be prescribed by the Secretary of the Treasury, and shall deliver a record of the kind and amount of fish, if any, caught in foreign territory to make up her cargo; and if the master of any such vessel shall fail to deliver such record within one year from the date of her last license he shall be debarred from receiving a new license until such record shall have been produced, and be liable to a penalty of $50 which may be collected and distributed in the same manner as are the fines for violations of customs laws. The form and record of such report shall be prescribed by the Secretary of the Treasury and all such records shall be returned by collectors of customs for filing in the Bureau of Statistics. The pecuniary penalty prescribed shall be subject to remission or mitigation by the Secretary of the Treasury if upon investigation he shall be satisfied that it was incurred without willful disregard of law.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. REAGAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLLECTION DISTRICT OF BEAUFORT, SOUTH CAROLINA.

Mr. REAGAN, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 5743) to extend the customs collection district of Beaufort, South Carolina.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That section 2557 of the Revised Statutes of the United States be so amended as to extend the collection district of Beaufort eastward to South Edisto River, so as to include all the waters of the Combahee River and the sounds and inlets on the coast between said river Edisto and the Back River in Georgia.

Mr. REAGAN. This bill is recommended by all the parties concerned. There are several letters accompanying the bill, and in order to save the time of the House I will state briefly the reasons for the passage of this bill. The collector of customs at Beaufort, the collector of customs at Charleston, from whose district this territory is to be taken, and also the Treasury Department recommend the passage of this bill. It is a matter of convenience and advantage to the shipping interest.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. SMALLS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIGHT-HOUSES IN FLORIDA.

Mr. FELTON. I am directed by the Committee on Commerce to report back favorably and to move the reference to the Committee on Appropriations of the bills which I send to the Clerk's desk.

The Clerk read the titles of the bills, as follows:

A bill (H. R. No. 3665) making an appropriation for the erection of

a light-house at the port of Punta Rassa, in Monroe County, Florida; and

A bill (H. R. No. 4184) to establish a light-house at Mosquito Inlet, Florida.

Mr. EDEN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. EDEN. Will the reference of these bills to the Committee on Appropriations be received as an instruction to that committee?

The SPEAKER. The Committee on Commerce by this bill recommend that a light-house be erected at the site named in the bill.

Mr. REAGAN. Of course the Committee on Commerce do not have and do not assume the authority of instructing any committee. Since I have been here, for the last four years, the practice has been to refer to the Committee on Commerce all bills for erecting light-houses. I do not know how that practice came up, but I know such is the practice. If the Committee on Commerce report against the bill, that ends it. If they report favorably, the practice has been for them to report the bill back to the House with a recommendation that it be referred to the Committee on Appropriations for the consideration of that committee.

Mr. DAVIDSON. Why has that practice obtained?

The SPEAKER. The Chair supposes the reason is that the Committee on Commerce have properly that character of business under consideration, and they inquire into the facts concerning the necessity of the proposed light-houses. The Committee on Commerce having reported in favor of the construction of a light-house, the bill then goes to the Committee on Appropriations, and if they see fit they report an appropriation for the purpose.

Mr. EDEN. The reason I made the inquiry is this, not because I want to antagonize these bills or because I know anything about them. If it is understood to be an instruction to the Committee on Appropriations, then I think we ought to investigate them.

The SPEAKER. The Chair cannot say what the Committee on Appropriations might consider it. Of course the recommendation of the Committee on Commerce would have its due weight with the Committee on Appropriations.

Mr. REAGAN. The Committee on Commerce only passes its judgment upon the necessity of the work; as to whether the money shall be appropriated for it is a question for the Committee on Appropriations.

Mr. BURCHARD. If this bill should be referred to the Committee on Appropriations and reported back by them, would it not be subject to a point of order?

The SPEAKER. It would.

Mr. BURCHARD. Then I do not see the necessity of sending it to the Committee on Appropriations. Let the House pass upon the question. It seems to me that general appropriation bills are the bills for the Committee on Appropriations to consider. Their jurisdiction does not extend to all appropriation bills. The Committee on Pensions, as well as other committees of the House, every day report bills making appropriations.

The SPEAKER. The gentleman from Illinois [Mr. BURCHARD] will remember that on all general appropriation bills points of order are usually reserved, and if there be any provision in the bill not authorized by law it is competent for any one member of the House to raise the point of order upon it, which, if it contains an appropriation, requires its first consideration in Committee of the Whole.

Mr. HUBBELL. Since I have been in the House, I have watched these bills introduced and referred to the Committee on Commerce for the construction of light-houses, and have seen the Committee on Commerce examine into the necessity for them, and have seen these bills referred to the Committee on Appropriations. For the life of me I cannot see why these matters should be referred to the Committee on Appropriations any more than when the Committee on Commerce determines there is a necessity for making an appropriation for a harbor, that the bill appropriating money for such harbor should be referred to the Committee on Appropriations.

The SPEAKER. That was formerly the practice.

Mr. HUBBELL. Of course it used to be the practice; but I can see no reason why the Committee on Commerce should spend their time in examining into the necessity for such appropriations, as it is they only who are supposed to know whether or not they are necessary; and after they have determined that question why it should go to the Committee on Appropriations, for them to pass judgment on what the Committee on Commerce have recommended. Why should not the Committee on Commerce report bills making such appropriations for the action of the House?

The SPEAKER. The Chair will answer the gentleman from Michigan that a report of the Committee on Commerce usually has great weight with the Committee on Appropriations. These bills, for instance, if a point of order was made against them, would go to the Committee of the Whole, and would probably never be reached; whereas if they go to the Committee on Appropriations, with a strong report as to their necessity from the Committee on Commerce, and if they are inserted by the Committee on Appropriations in a general appropriation bill, they do not often have points of order raised against such, and thus the construction of light-houses is facilitated.

Mr. EDEN. I withdraw any objection to the reference of the bill.

Mr. DAVIDSON. I desire to ask a question for information. Would it not be competent for the House to pass a bill on the recommendation of the Committee on Commerce without referring it to the Committee on Appropriations?

The SPEAKER. The Committee on Commerce have not made that recommendation.

Mr. DAVIDSON. I make the parliamentary inquiry whether it would not be competent for the House to do so.

The SPEAKER. It would be competent for the House when the bill is reported to do so. The House can pass any bill when once within its control. Such a bill would, however, be subject to a point of order.

Mr. BURCHARD. And then it would be the duty of the Committee on Appropriations to report an appropriation in the general appropriation bill, unless they thought in the interest of economy the money should not be appropriated?

The SPEAKER. No; such a bill would have to pass the Senate and be signed by the President before it would have any compulsory force on the Committee on Appropriations or be free from points of order. The Chair does not recollect that points of order have ever been taken on appropriations for light-houses when reported in sundry civil appropriation bills.

Mr. HUBBELL. They are subject to points of order.

The bills were referred to the Committee on Appropriations.

TRANSPORTATION OF GOODS.

Mr. DUNNELL, from the Committee on Commerce, reported back, with an adverse recommendation, the memorial of M. W. Galt and others, citizens of Washington, District of Columbia, for transportation of goods on equal terms with other cities.

The memorial was laid on the table, and the report ordered to be printed.

Mr. DUNNELL moved to reconsider the vote by which the memorial was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANCLOTE A PORT OF ENTRY.

Mr. DUNNELL also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 4056) making Anclote, in the county of Hernando, in the State of Florida, a port of entry.

The bill was laid on the table, and the accompanying report ordered to be printed.

Mr. DUNNELL moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELIEF OF CITIZENS OF ALLEGHENY COUNTY, PENNSYLVANIA.

Mr. DUNNELL also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 2218) for the relief of certain citizens of Allegheny County, Pennsylvania; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

CHANGE OF NAME OF BARGE.

Mr. DUNNELL also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5633) authorizing the changing the name of the barge Cockade City, of Washington, District of Columbia, to Republic.

The bill was read. It authorizes and directs the Secretary of the Treasury to allow the owners of the barge Cockade City, a vessel or boat of American ownership and license, to change her name, and hereafter be known as the Republic.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DUNNELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PORT OF NEW YORK.

Mr. DUNNELL also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5824) extending the limits of the port of New York.

The bill was read, as follows:

Be it enacted, &c., That the collection district of the port of New York shall hereafter include, in addition to the other territory embraced therein, all that part of the county of Hudson, in the State of New Jersey, and the waters adjacent, now within the collection district of Newark, New Jersey.

The assistant collector at Jersey City, authorized by section 2535 of the Revised Statutes, shall have power to enter and clear vessels, and perform all other acts which are allowed by law to be performed at a port of entry and delivery, under such instructions as he shall from time to time receive from the collector of the port of New York.

Mr. PEDDIE. Mr. Speaker, in reference to the bill (H. R. No. 5824) to extend the limits of the port of New York now under consideration, I desire to say that I have not had time to look into the merits of the bill. This I demand as a matter of justice and right due to my constituents. They have a deep interest in the subject-matter, but their views have not been presented; and hence I ask that the whole subject be recommitted.

The SPEAKER. Does the gentleman from Minnesota yield to the gentleman from New Jersey to make that motion?

Mr. DUNNELL. I will yield for that purpose.

Mr. HARDENBERGH. I desire to be heard for a moment upon this matter. The collection district of Jersey City has been for the last twenty years a disturbing element to the people, a part of its territory lying along the Hudson and Hackensack Rivers, and about twelve miles in extent, one-half of which is in the territory of Newark and the other in the port of New York. A bill is on the Calendar, reported by the Committee on Commerce, providing that the whole of Hudson County be made a port of entry. Objections having been made by certain citizens, I took the precaution to have a committee, headed by the ex-governor of the State and fifteen citizens, to examine into the whole subject and see at what conclusion they could arrive. No one can entertain more kindly feelings to my colleague who represents the Newark district than I, but my duty to my constituents has compelled me to differ with him. In order that we may harmonize on this question I have an amendment to offer, so that all the territory west of Newark Bay is to continue within the district of Newark, and that lying east of Newark Bay and the Hackensack River is to continue within the district of Jersey City.

I am in hopes that the amendment will be satisfactory to my colleague, and I offer it.

Mr. PEDDIE. I withdraw my motion to refer the bill, for the purpose of hearing the amendment read.

The Clerk read the amendment, as follows:

Amend, in seventh line, after the words "New Jersey," by inserting "east of Newark Bay and the Hackensack River."

Mr. HARDENBERGH. I think that will cover the point aimed at.

Mr. PEDDIE. I accept the amendment, which I think will be satisfactory to my constituents.

The question was taken upon the amendment offered by Mr. HARDENBERGH, and it was agreed to.

Mr. HARDENBERGH. I understand that the Treasury Department objects to the second section of the bill. I have no wish that this bill should go to the Senate and then come back to the House with an amendment. There was no objection to the first section. Grant us that, and we will take time to complete another section. I move to strike out the second section of the bill.

Mr. BURCHARD. What is the second section of the bill? Let it be reported.

The SPEAKER. The Clerk will read the second section of the bill.

The Clerk read as follows:

The assistant collector at Jersey City, authorized by section 2535 of the Revised Statutes, shall have power to enter and clear vessels, and perform all other acts which are allowed by law to be performed at a port of entry and delivery, under such instructions as he shall from time to time receive from the collector of the port of New York.

Mr. KENNA. Who is to discharge the duties provided for in the second section of the bill?

The question was taken on Mr. HARDENBERGH'S amendment; and it was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDENBERGH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEAMBOAT CITY OF FREDERICTON.

Mr. DUNNELL also, from the same committee, reported back, with a recommendation that it do pass, the bill (H. R. No. 5881) authorizing the issue of an American register to the steamboat City of Fredericton, and to change the name of the same.

The report was read.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HUBBELL. I did not suppose that the passage of this bill would be pressed now. I would call the attention of the House to the report which has been read in connection with this bill. It does not show that this vessel is free from debt. It does not appear from the report that there are no charges against it. For aught we know the granting of an American register to this foreign-built vessel may tend to deprive some parties of their just rights. I hope the bill will not be passed.

Mr. DUNNELL. I am answered by the gentleman from Massachusetts [Mr. LORING] that there are no charges against this boat. She runs upon the Merrimac River, and is used simply for excursion purposes. She is substantially constructed by American labor, and has been largely repaired by American capital; only the keel was really laid upon English soil.

Mr. HUBBELL. I move that the bill be recommitted; and upon that motion I shall call for the yeas and nays.

The SPEAKER. Does the gentleman from Minnesota [Mr. DUNNELL] yield for that purpose?

Mr. DUNNELL. I do not. I call the previous question on the engrossment of the bill.

The question was taken upon seconding the previous question; and upon a division there were—ayes 68, noes 9.

Mr. HUBBELL. No quorum has voted.

Mr. DUNNELL. I trust the gentleman from Michigan [Mr. HUBBELL] will not raise the point that there is no quorum voting. He is aware that we have some important bills to report to-night. This bill is reported with the favorable recommendation of a majority of the committee of which he is a member.

The SPEAKER. The point of order having been raised that no quorum voted, the Chair will appoint tellers.

Mr. HUBBELL. I requested that this bill be held back to-night and not reported.

Mr. DUNNELL. I am informed that the gentleman from Michigan [Mr. HUBBELL] understood that I would not report this bill to-night. I therefore ask unanimous consent to withdraw the bill.

There was no objection, and the bill was accordingly withdrawn.

OPERATIONS OF LIGHT-HOUSE BOARD IN MINNESOTA AND WISCONSIN.

Mr. DUNNELL also, from the same committee, reported back, with an amendment, the bill (H. R. No. 5030) to extend the operations of the Light-House Board over the Saint Croix River and Lake in the States of Minnesota and Wisconsin, and the Chippewa River in the State of Wisconsin.

The bill was read, as follows:

Be it enacted, &c., That the jurisdiction of the Light-House Board, created by the act entitled "An act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes," approved July 31, 1852, is hereby extended over the Saint Croix River and Lake in the States of Minnesota and Wisconsin, and the Chippewa River in the State of Wisconsin, for the establishment of such lights, day-beacons, and buoys as may be necessary for the use of vessels navigating said rivers and lake.

The amendment of the committee was to strike out "July" and insert "August."

The amendment was agreed to; and the bill as amended was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. STEELE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OAKLAND, CALIFORNIA.

Mr. REA, from the Committee on Commerce, reported back adversely the bill (H. R. No. 2080) to constitute Oakland, in the State of California, a port of delivery; and the same was laid on the table, and the accompanying report ordered to be printed.

Mr. REA moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DAY BEACON, SAN FRANCISCO HARBOR.

Mr. REA also, from the same committee, reported back, with a favorable recommendation, the letter of the Secretary of the Treasury recommending an appropriation of $1,500 to complete the establishment of a day beacon on Anita Rock, San Francisco Harbor; which was referred to the Committee on Appropriations, not to be brought back on a motion to reconsider.

BRIDGE ACROSS THE MISSOURI RIVER.

Mr. REA also, from the same committee, reported back, with an amendment, the bill (H. R. No. 2985) to authorize the construction of a bridge across the Missouri River at or near Lexington, Missouri.

The bill was read, as follows:

Be it enacted, &c., That the Chillicothe and Des Moines City Railroad Company be, and is hereby, authorized to construct and maintain a bridge, and approaches thereto, over the Missouri River, at such point as it may select, at or within twelve miles of Lexington, in the county of La Fayette, in the State of Missouri. Said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the corporation by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot-passengers.

SEC. 2. That any bridge built under this act and subject to its limitations shall be a lawful structure and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over the railroad or public highways leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States.

SEC. 3. That if said bridge shall be made with unbroken and continuous spans, the spans thereof shall not be less than three hundred feet in length in the clear, and the main span shall be over the main channel of the river. The lowest part of the superstructure of said bridge shall be at least fifty feet above extreme high-water mark as understood at the point of location, and the bridge shall be at right angles to, and its piers parallel with, the current of the river: *Provided*, That if the same shall be constructed as a draw-bridge, the draw or pivot shall be over the main channel of the river at an accessible navigable point, and the spans shall not be less than one hundred and sixty feet in length in the clear, and the piers of said bridge shall be parallel with, and the bridge itself at right angles to, the current of the river, and the spans shall not be less than ten feet above extreme high-water mark, as understood at the point of location, to the lowest part of the superstructure of said bridge: *Provided, also*, That said draw shall be opened promptly, upon reasonable signal, for the passing of boats; and said company or corporation shall maintain at its own expense, from sunset till sunrise, such lights or other signals on said bridge as the Light-House Board shall prescribe. No bridge shall be erected or maintained under the authority of this act which shall at any time substantially or materially obstruct the free navigation of said river; and if any bridge erected under such authority shall, in the opinion of the Secretary of War, obstruct such navigation, he is hereby authorized to cause such change or alteration of said bridge to be made as will effectually obviate such obstruction; and all such alterations shall be made and all such obstructions be removed at the expense of the owner or owners of said bridge. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, caused or alleged to be caused by said bridge, the case may be brought in the district court of the United States of the State of Missouri in which any portion of said obstruction or bridge may be located.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches thereto, upon payment of a reasonable

compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any one of them, desiring such use, shall fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties.

SEC. 5. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and, to secure that object, the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge, and a map of the location, giving, for the space of one mile above and one mile below the proposed location, the topography of the banks of the river, the shore-lines at high and low water, the direction and strength of the currents at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the Secretary of War, the bridge shall not be built; and should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The Clerk read the report. It states that the committee caused the bill to be submitted to the Secretary of War for information touching its provisions and received communications from him and from Charles R. Suter, major of engineers, in charge of the Missouri River, by which it appears that the provisions of the bill are approved and deemed amply sufficient to protect the interests of navigation. Under the provisions of the bill the bridge, at the option of the corporation by which it is built, may be used for the passage of wagons, vehicles, animals, and foot-passengers; and for this reason the committee recommend that the bill be amended by adding the following as a new section:

SEC. 7. If said bridge shall be built for the passage of wagons, vehicles, animals, and foot-passengers, then the Secretary of War shall have authority, and it shall be his duty, upon the petition of citizens wishing to use the bridge, to fix the rates of toll for wagons, vehicles, animals, and foot-passengers over said bridge; and he may change the same from time to time as justice and right may require.

The SPEAKER. The question is upon the amendment reported by the committee.

Mr. EDEN. I would like to make an inquiry of the gentleman from Missouri [Mr. REA] in reference to the amendment. This bridge, as I understand from the reading of the bill, is to be built by a corporation organized under the laws of the State of Missouri; and it occurs to me if any person or officer is to have authority to fix the tolls, that to give such authority to the Secretary of War would be sending the people of that neighborhood a long distance from home in order to get justice done them.

Mr. REA. I will state to the gentleman that in all the bills which have been passed here authorizing the building of bridges by railroads, there has been, so far as I have examined them, a provision that all the railroads terminating at the point designated for the erection of the bridge might use the road upon the payment of proper compensation, and in case of disagreement between the companies as to the compensation to be paid, it has been left to the Secretary of War to fix that compensation. It occurs to me, therefore, as proper that the Secretary of War should be authorized in this case to fix the compensation for passengers, vehicles, &c.

Mr. EDEN. The section to which my remarks refer is that relating to the fixing of tolls for wagons, vehicles, foot-passengers, &c. There might be a very good reason why the Secretary of War should settle the rate of toll as to these great railroad corporations; but when the question is one as to the rights of private parties using a bridge, it occurs to me that the settlement of the question should be referred to some officer or tribunal more accessible to the people of the vicinity than the Secretary of War.

Mr. TOWNSEND, of New York. The gentleman is right; this question ought to be referred to the governor of the State.

Mr. POLLARD. I will state that the corporation asking the building of this bridge derives its charter both from the State of Missouri and the State of Iowa. Hence the propriety of the provision.

Mr. TOWNSEND, of New York. The use of this bridge for the passage of teams, &c., will be a matter entirely within the State of Missouri; the bridge will probably be a distance of one hundred miles from the line of the State of Iowa.

Mr. CRITTENDEN. A greater distance than that.

Mr. TOWNSEND, of New York. I entirely concur, therefore, with the gentleman from Illinois [Mr. EDEN] that this question as to the tolls to be paid by the people crossing this bridge in wagons or on foot ought to be regulated by some home authority, as such things are regulated everywhere else. The governor of the State of Missouri ought to have the control of this question.

Mr. CRITTENDEN. I think there is a law of the State of Missouri regulating the charges upon these bridges; I am not certain about that; but if there is not, there should be some provision in this bill in reference to the matter.

Mr. TOWNSEND, of New York. If we do not legislate at all on the subject the local law, whatever it is, will control this matter; but if we undertake to legislate and to designate the officer who shall fix the rates of toll, our action may control.

Mr. CRITTENDEN. The Legislature of Missouri should have full control over this matter.

Mr. EDEN. I shall be compelled to vote against the bill if this amendment be adopted. I think the State of Missouri should have the exclusive right to regulate matters of this sort.

The SPEAKER. If the House disapproves the amendment, it can vote it down.

Mr. CRITTENDEN. I move to amend the amendment by striking out "the Secretary of War" and inserting, "the Legislature of the State of Missouri."

Mr. EDEN. The Legislature can regulate this matter without asking any authority from us; they have such authority already. All that is necessary is that we omit this provision about the Secretary of War.

Mr. TOWNSEND, of New York. It will not do any harm to insert the language suggested by the gentleman from Missouri, [Mr. CRITTENDEN.]

Mr. REA. So far as I am concerned I assent to the amendment of my colleague, [Mr. CRITTENDEN.]

Mr. EDEN. The gentleman from Missouri [Mr. CRITTENDEN] certainly does not intend to insert an amendment by which Congress would undertake to confer upon the Legislature of Missouri authority to regulate the tolls upon a bridge crossing a river within that State.

Mr. ELAM. I suggest to the gentleman from Illinois that in the absence of any provision conferring authority upon the Secretary of War it would naturally follow that this corporation, operating a bridge within the State of Missouri, would be controlled by the Legislature of that State.

Mr. REAGAN. If the corporation is allowed to build the road, and nothing is said about the right of regulating tolls, a legal question will be raised which may be productive of difficulties. It can do no harm to the State to recognize this subsequent auxiliary action on the part of the State government without trenching on the reserved powers of the States. It cannot have that effect, but simply looks to the auxiliary action of the State for the benefit of the people. I think there can be no objection to it. This recognizes the right of the State and avoids the legal difficulty which otherwise might arise.

Mr. EDEN. Does the gentleman from Texas maintain that Congress can confer on the Legislature of Missouri this power?

Mr. REAGAN. I do not say Congress can require the Legislature to take this action, but Congress can recognize the authority on the part of the Legislature without trenching on the rights or dignity of the State in any way.

Mr. EDEN. Has not the State of Missouri the power to do this without any authority being conferred by Congress?

Mr. REAGAN. Unless distinct provision is made for this regulation of tolls the persons who control these corporations, under the principles of the Dartmouth College case, are placed beyond the power of legislation, State or Federal; and if we do not reserve the right we get the people into difficulty and the corporation may levy any rates that they think proper. Congress may recognize the auxiliary action of a State. We do not give the authority, but simply recognize the authority of the State to protect the rights of its citizens.

Mr. EDEN. The difficulty about the argument of the gentleman from Texas consists in the fact that we are not creating this corporation at all that is to build this bridge. This corporation is the creature of the law of the State of Missouri, and the only reason why they come to Congress is because this river being a navigable stream they cannot build a bridge without the authority of Congress; and all that is necessary is the consent of Congress for the construction of the bridge. When we give that consent and put the necessary restrictions around the bill to protect the rights of commerce we have done all we have any right to do and the Legislature of the State of Missouri without coming to Congress to ask any questions has the right to regulate these tolls. When we undertake to say it may do it or it may not do it, we are trenching upon the rights of the State and do something we have no right to do.

Mr. REAGAN. I will only say one word in relation to what the gentleman from Illinois has now suggested. It is as to whether this bridge is built under the law and authority of the State or under the authority of the Federal Government. The object of this act of Congress is to enable the railroad company to build the bridge across that river. We propose to do that because the State of Missouri cannot do it, as that is a navigable river over which Congress has exclusive jurisdiction. It has that jurisdiction; and when the bridge is built, though it may be by a corporation whose existence is derived from laws of the State of Missouri, it is still under an act of Congress, and without this amendment there is no reservation of the right on the part of anybody else to protect the people there against the power of the corporation.

Surely, there can be no harm in protecting the people to the extent of the amendment which has been proposed with the modification accepted by the gentleman from Missouri, [Mr. REA,] which allows the Legislature of Missouri to regulate the rates of toll. It commands nothing; but it saves to the people the difficulty that might arise, that the right not being reserved to any one cannot be exercised by any one. It seems to me that the objection the gentleman makes defeats the very object he has in view, the protection of the people.

Mr. CRITTENDEN. I desire to enlarge my amendment by moving to strike out the whole section.

The SPEAKER. The quicker mode would be to vote down the amendment if the gentleman wants that result reached.

Mr. CRITTENDEN. Very well.

Mr. HEWITT, of Alabama. I desire to make an inquiry. Is it intended to grant a power to the State of Missouri?

Mr. BRIGHT. As I understand the proposition I think it is a very simple one. Here is a national stream. Congress is appealed to for a privilege. That privilege is granted so as not to interrupt the commerce of the country; and the question or rather the duty of fixing the tolls is remitted to the State of Missouri. That is all there is in it, and I do not think there is any difficulty about it.

Mr. TOWNSEND, of New York. I desire to say one word. This is a matter for the State of Missouri, but it does seem to me that it would be better for the citizens of Missouri to have this amendment adopted. The railway corporation very possibly may claim that Congress has given them the power to have a bridge for wagons and foot-passengers, and has left them to charge precisely what they please in the matter of tolls; and some private individuals may have to carry the question to the courts of the United States; some private individual will have to contend with the corporation.

If the seventh section be put in the bill, nobody will ever have any doubt as to what Congress meant; and I think we may safely say that State-rights and anti-State-rights will neither of them be in the least danger of being hurt by this provision. It seems to me to be a very simple question, and that it is better to have the section in.

Mr. EDEN. Allow me to make this suggestion: if we give authority to this corporation to make this wagon road over the bridge, subject to the legislation of the State of Missouri to complete it, it leaves the whole matter in the hands of that Legislature, and that is all there is of it.

Mr. TOWNSEND, of New York. No right is absolutely given to make a wagon bridge. We put the power in the Legislature to regulate the tolls.

Mr. REA. It does seem to me that it is a clear proposition that if the Legislature now has that power independent of Congress, the passage of this section can do no harm.

Mr. STEELE. Do you not think that if any such assumption as this be made by Congress, it would be held as a precedent hereafter?

Mr. REA. The bill recognizes the right of the State, and saves all questions by the incorporation of that provision in the act. In my judgment it is very doubtful whether the State would have the right to build the bridge without the sanction of Congress.

Mr. HUMPHREY. It seems to me that the question is a very simple one. Congress in passing this act takes cognizance and exercises its jurisdiction over this river. It has the power to delegate to the State Legislature of Missouri a particular duty the same as a State delegates questions to grant franchises for ferries to counties and the same as the United States gives jurisdiction to a State. Until it takes cognizance by exercising its jurisdiction itself there is no power which could be more safely exercised, from the fact that every individual injured by excessive tolls could go to the State courts and get justice and not be obliged to litigate in the courts of the United States. It seems to me there is no doubt about the power. It is one of the safest provisions we could incorporate in the bill.

The question was taken on the amendment; and it was agreed to.

Mr. CRITTENDEN. I move now to strike out in line 6, in the first section of the bill, the words "or within twelve miles of;" so that it will read:

That the Chillicothe and Des Moines City Railroad Company be, and is hereby, authorized to construct and maintain a bridge, and approaches thereto, over the Missouri River, at such point as it may select, at Lexington, in the county of La Fayette, in the State of Missouri. Said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the corporation by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot-passengers.

That fixes the bridge at Lexington, the leading and important town in that county. I think it will be better to fix it there at that point, as that is the main point in that county, than to carry it twelve miles above or below. I am unwilling to agree to one mile above or below but wish to have it at or as near Lexington as practicable. I will state that a better foundation can be had for a bridge at Lexington than at any other point for twelve miles above or below.

Mr. POLLARD. I am willing to admit that.

Mr. CRITTENDEN. As near as practicable.

Mr. POLLARD. Then say three miles.

Mr. CRITTENDEN. I cannot consent to say three miles, because it might injure the town very much. I will say within the corporate limits of the town.

Mr. POLLARD. Make it larger than that.

Mr. CRITTENDEN. I cannot consent to the distance of one mile above or below Lexington.

Mr. POLLARD. That will do.

Mr. CRITTENDEN. Then say "at or near Lexington."

The amendment was agreed to.

Mr. PATTERSON, of New York. I find here a provision that reads as follows: after the word "foot-passengers," "then the Legislature of the State of Missouri shall have authority, and it shall be their duty, to" do so and so. Now, I want to know whether the Congress of the United States has the right to direct the Legislature of Missouri as to what is their duty or not.

The SPEAKER. The amendment has already been adopted.

Mr. PATTERSON, of New York. Then I ask unanimous consent to strike out from the amendment the words "and it shall be their duty."

Mr. REA. I must object to that amendment.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CRITTENDEN. I have another amendment which I wish to offer, to come in after line 12.

The SPEAKER. Under the rules of the House the bill is not now amendable, but the gentleman can move a reconsideration of the vote by which it was ordered to be engrossed.

Mr. CRITTENDEN. I will make that motion in order that I may offer a simple amendment to it. It is to add the words:

Provided, That if said bridge is not completed within three years from the date of the passage of this bill, then the charter therein granted shall be forfeited.

Mr. ITTNER. I desire to know if the directory clause in the amendment was stricken out.

The SPEAKER. It was not.

The question was taken upon the motion to reconsider, and it was agreed to.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. CRITTENDEN. I move to insert after line 12 of the first page the following:

Provided, That if said bridge is not completed within three years from the date of the passage of this bill the charter hereby granted shall be forfeited.

Mr. REA. I hope that amendment will not pass: three years is too short a time.

Mr. CRITTENDEN. I will modify it and make it four years. I will state that the road has not been completed upon either side of the river, either at Lexington or on the other side of the river, and my object in moving this amendment is to prevent this or any other corporation from getting the privilege of building a bridge and holding it to be sold to somebody else. I think if Congress gives them the charter to build a bridge at this point they should do the work within a reasonable time, and I think four years is ample time.

Mr. POLLARD. If the gentleman had built many bridges across the Missouri River he certainly would not expect that this bridge could be built in three years. I most emphatically hope that the amendment will not be adopted.

Mr. CRITTENDEN. I will state, if my colleague will permit me, that a bridge has been built in a district adjoining mine within two years.

Mr. CLARK, of Missouri. I will state that Congress gave to a railroad company the right to build a bridge at Glasgow, and it was built within eight months after the charter was given them.

Mr. CRITTENDEN. I will accept the amendment to make the time four years.

The question was taken on Mr. CRITTENDEN's amendment as modified; and it was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time.

Mr. COLE. Would it be in order to move an amendment to the second section, to strike out that portion of it which instructs the Legislature of Missouri? It seems to me that the provision to instruct the Legislature of the State of Missouri to perform certain acts is not within our constitutional power.

Mr. REAGAN. The gentleman mistakes the language of the section. I do not think it is liable to that construction.

The Clerk read as follows:

If said bridge shall be built for the passage of wagons, vehicles, animals, and foot-passengers, then the Legislature of the State of Missouri shall have authority, and it shall be their duty, upon a petition of citizens wishing to use the bridge, to fix the rates of toll for the passage of wagons, vehicles, animals, and foot-passengers over said bridge. And the said Legislature may change the same from time to time as justice and right may require.

Mr. REAGAN. I trust that by unanimous consent the words "and it shall be their duty" will be struck out. They ought not to be in the section, and I did not know they were there.

Mr. REA. I ask that those words be struck out.

The SPEAKER. If there be no objection, the section will be amended by striking out those words.

There was no objection; and the section was amended accordingly.

The bill, as amended, was ordered to be engrossed for a third reading; was accordingly read the third time, and passed.

Mr. REA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TWELVE-MILE BAYOU.

Mr. REA also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4878) to improve the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, and for other purposes.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of improving the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, by preventing the wasting of water from Soda Lake into Cross Lake, and to relieve the said city of Shreveport from miasmatic influences arising from the stagnant water of the lake known as Cross Lake, the overflowed lands in the bed of said lake, situated in townships 18, ranges 14, 15, and 16, and township 17, range 14, in the parish of Caddo, State of Louisiana, be, and the same are hereby, granted to John G. McWilliams, E. M. Smith, W. D. Wylie, R. B. Patterson, L. L. Tomkies, jr., B. F. Wharton, and W. S. Frierson, and their associates, their successors and assigns, upon conditions that said named persons, their successors and

assigns, shall, within five years from and after the passage of this act, cause the water in said lake to be drained, and the land in the bed of said lake reclaimed from overflow, by building of the necessary levees and the making of proper drainage.

SEC. 2. That whenever said persons shall have complied with the provisions of this act, it shall be their duty to file in the office of the Secretary of the Interior a report, in writing, stating that the provisions of this act have been complied with; whereupon the Secretary of the Interior shall cause said work to be inspected by three competent engineers of the Army of the United States; and upon the report of such officers, showing that said persons have fully complied with the terms and provisions of this act, and have drained said lake and reclaimed said lands from overflow, the Secretary of the Interior shall execute and deliver to the said persons a patent for the land hereinbefore described; and the title to said land shall not vest in said persons until the execution and delivery of said patent.

SEC. 3. That if said persons shall fail to comply with the terms of the provisions of this act within five years after its passage, they shall forfeit all right to said land, or any part thereof; and it shall not be necessary in such case for a forfeiture to be declared by judicial process or legislative enactment.

SEC. 4. That nothing herein contained shall be so construed as to interfere with, or impair, any valid claim or claims to said land, or any part thereof, now held by any person or persons, State, or corporation.

SEC. 5. That the above-named persons shall, within twelve months from the date of the passage of this act, or as soon thereafter as practicable, incorporate themselves into a body politic and corporate, under the laws of the State of Louisiana, for the purpose of carrying out the provisions of this act relating to the drainage of said lake.

Mr. REA. I ask that the report of the committee accompanying this bill be read.

Mr. EDEN. I wish to reserve a point of order on the bill until the report has been read.

The Clerk read as follows:

The Committee on Commerce, to whom was referred the bill (H. R. No. 2576) to incorporate the Cross Lake Canal and Drainage Company, having had the same under consideration, beg leave to report as follows:

Cross Lake is a shallow lake in Caddo Parish, in the State of Louisiana, near the city of Shreveport, overflowing about eighteen thousand acres of land, as near as your committee can learn. The bill proposes to create a corporation in the State of Louisiana, for the purpose of draining said lake by means of a canal or ditch and levees, so as to reclaim the lands now covered and overflowed with water, and to grant to said corporation the overflowed lands in the bed of said lake, as a consideration for services rendered in draining said lake.

The committee caused the bill to be referred to the Secretary of the Interior for information touching its provisions, and received the following letter in answer thereto from the Commissioner of the General Land Office:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 29, 1878.

SIR: I have the honor to submit herewith my report upon House bill No. 2576, "to incorporate the Cross Lake Canal and Drainage Company," referred to me on the 12th instant by Hon. DAVID REA, of the Committee on Commerce, for an expression of my views.

The bill provides for the incorporation of a body politic created by the act, for the purpose of draining by means of a canal or ditch, with proper levees, &c., what is known as Cross Lake, covering a large portion of several townships of land in Caddo Parish, Louisiana, and for a grant of the lands thereby reclaimed to the company so created as a consideration for the completion of the work.

Mr. REA asks whether or not the bill properly defines the line between the surveyed land and the lake.

To this I have to answer that the meander lines of this lake were fixed by the survey of 1839, and the public lands bordering thereon have been thus far disposed of according to such plats of survey, except in township No. 18 north, of range 14 west, which was resurveyed in 1871, so far as respects the lake in that township, and the public surveys and subdivisional lines were extended over its bed, as shown on the diagram furnished herewith, and the newly-surveyed area thus formed has been treated as public land and subject to disposal since that date, some of it having already been entered.

It is not easy to fix upon the diagram the specified point of intersection named in the bill between Cross Lake and Twelve-mile Bayou, for the reason that said bayou appears to have been the original eastern boundary of the lake, and although meandered on its western bank, if bank it had, the same meander is shown as the eastern line of the lake, and the allottings of the public lands are made to bound on the eastern bank of the bayou, except a small distance at its entrance into Red River, in section 23, and the survey of 1871 abuts upon the western bank of the bayou as the boundary of the former lake bed. The point might be made definite by reciting its exact location by reference to the official plats of survey, and thus all misunderstanding be avoided.

Mr. REA also invites suggestions "as to the propriety of the passage of this bill."

Upon this point I would remark that I am not aware of any public interest that would require the creation of a body-corporate under United States laws to construct a small canal across a single township in one of the States of the Union, or justify the conferring of grants for such purpose similar to those bestowed upon the constructors of great national works of public improvement. Such local matters should in my judgment be left to the States, to be carried on by the municipal authorities more particularly interested, or in such other manner as any State by her Legislature shall specially direct.

The lands and lake lie along the line of the Vicksburgh and Shreveport Railroad grant of June 3, 1856; and a possible question of title under the statute may embarrass the attempt to bestow them in the manner provided in this bill.

But whatever may be said on this point, I consider the main question to lie upon the condition of these lands as the bed of an alleged shallow lake, a portion of which has already been subjected to the extension of the public surveys, and the whole of which is claimed to be susceptible of reclamation.

Upon lands in this situation I have fully expressed my views on page 11 of my last annual report, in which I recommend that whatever of title may still remain in the United States be surrendered by an act of Congress to the States respectively in which they may lie, leaving all further questions of right respecting them open for settlement by the proper judicial tribunal.

Not deeming this case in any manner an exception to the general class falling under such recommendation, I would favor its disposal in the same manner, either by special act or by public statute embracing the whole class.

I inclose the bill, with a copy of Mr. REA's communication.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

The title to unsurveyed overflowed lands in the bed of lakes covered with water remains in the United States and does not pass to the States in which they are situated under swamp-land grants. (See letter of Commissioner of the General Land Office, dated January 25, 1873, Ex. Doc. No. 31, third session Forty-second Congress.)

It is the opinion of the committee that the drainage of this lake would relieve the city of Shreveport and surrounding country to a very great extent from miasmatic diseases incident to that locality in consequence of decayed vegetation and stagnant waters. On this subject the committee beg leave to submit the following communication from the mayor of said city of Shreveport:

SHREVEPORT, LA., *March* 18, 1878.

DEAR SIR: On the part of the city of Shreveport, we would like to have you respectfully represent to the members of Congress that it is a matter of great importance that Cross Lake, near the city of Shreveport, should be drained, as it would add very materially to the general health of the city, and do away in a great measure with the miasma that caused the yellow fever and other miasmatic and other diseases so malignant in our vicinity, and would also give us some assurance of better navigation to Jefferson, Texas.

Yours, respectfully,

N. W. MURPHY, *Mayor.*

W. D. WYLIE, Esq.,
Washington City, D. C.

In the judgment of the committee, the building of the necessary levees to drain said lake will prevent the flowage of water from Twelve-mile Bayou into said Cross Lake, and will thereby improve the navigation of Twelve-mile Bayou and other waters between Shreveport and Jefferson, Texas.

There are precedents where the lands in the beds of lakes have been granted to counties for reclamation. (See act granting the lands in Beaver Lake, Indiana, to the county of Newton, in said State, United States Statutes at Large, volume 17, page 409; also act granting lands in bed of Tarkeo Lake in Holt County, Missouri, to said county, United States Statutes at Large, volume 16.)

It is the opinion of the committee that Congress has no constitutional power to create a private corporation within a State for such purposes as are proposed in this bill.

A careful consideration of this subject has satisfied the committee of the propriety of the proposed work. The committee therefore reports the accompanying bill as a substitute and recommends the passage of the same.

The substitute grants the overflowed lands in the bed of said lake to certain persons therein named, their successors and assigns, on the conditions that they shall within five years from the passage of the bill cause the water in said lake to be drained and the said lands reclaimed from overflow.

These persons are to be incorporated under the laws of the State of Louisiana for the purpose of carrying out the provisions of the bill; and when the lake has been drained and the lands reclaimed and the terms of the bill have been complied with by said corporation, then it is their duty to make a report, in writing, to the Secretary of the Interior to that effect; whereupon it is made the duty of said Secretary to cause the work to be inspected by three competent engineers of the Army of the United States, and upon their report that the terms and provisions of the bill have been complied with and the lake drained and said lands reclaimed, then it is the duty of the Secretary of the Interior to execute and deliver to said persons a patent for said lands; and the title to said lands shall not vest in said persons until the execution and delivery of said patent. If said persons fail to comply with the terms of the bill within five years from its passage, they forfeit all right to said lands or any part thereof.

The rights of all valid claimants to any portion or part of said lands are reserved and protected by the bill.

Mr. EDEN. Mr. Speaker——

Mr. CONGER. I reserve a point of order upon this bill.

The SPEAKER. The point of order has already been reserved by the gentleman from Illinois, [Mr. EDEN.]

Mr. EDEN. Mr. Speaker, I cannot see any possible reason why, if this work should be done, (and it occurs to me it should be,) the land should not be granted to the State, or to the particular county interested, for this specific purpose. The grant should certainly not be made to four or five individuals.

The SPEAKER. The point of order applies equally, whether the grant be to individuals or to the State.

Mr. EDEN. In the present shape of the bill, I shall insist upon the point of order.

Mr. ELAM. What is the point of order?

The SPEAKER. The point of order is that the bill proposes to part with property of the United States.

Mr. REAGAN. I hope the point of order will not be insisted upon.

The SPEAKER. The point of order has been reserved by two gentlemen—the gentleman from Michigan [Mr. CONGER] and the gentleman from Illinois, [Mr EDEN.]

Mr. REAGAN. I wish to say that the land referred to in this bill is immediately in the rear of the city of Shreveport; and it has generated yellow fever and other diseases there. It is now covered by a lake, but by ditching and draining it may be reclaimed and the healthfulness of the place thus promoted. The persons proposing to do this work think that the land reclaimed will pay for the expense of doing it. This land at present is worthless to the Government. The bill simply authorizes a corporation to reclaim this land and bring it into useful cultivation, thus promoting the healthfulness of the city of Shreveport, which is now endangered.

Mr. DUNNELL. If the point of order is to be insisted upon it is hardly fair to the committee, who have other business, to consume time in debate.

The SPEAKER. The Chair is always disposed to hear gentlemen upon a point of order; and the gentleman from Texas [Mr. REAGAN] has been appealing to the two gentlemen who raised the point of order to induce them to withdraw it. The Chair does not think that this is indulging debate to an improper extent.

Mr. MILLS. Mr. Speaker, as I understand, the business of the Committee on Commerce has been fixed for this evening's session by unanimous consent and under a suspension of the rules; if so, has not the rule requiring this bill to receive its first consideration in Committee of the Whole been suspended?

The SPEAKER. The rules have only been suspended so far as to provide that this business shall be considered this evening. Of course in every other respect it is subject to the rules of the House.

Mr. MILLS. Some days ago when a bill in regard to issuing the bonds of the Government was reported from the Committee of Ways

and Means, I took the ground that it must receive its first consideration in Committee of the Whole because it disposed of property of the United States, but the Chair held that that measure was before the House by virtue of a suspension of the rules.

The SPEAKER. Before the House for consideration. The Chair thinks that the gentleman does not state the position of the Chair correctly.

Mr. MILLS. The Chair will not deny that that bill was acted on in the House without any reference to the Committee of the Whole?

The SPEAKER. The Chair is not certain that there was a point of order applicable to that bill.

Mr. ELAM. If this bill is before the House now for consideration, what is meant by consideration?

The SPEAKER. Bringing the bill up to be acted on—giving it a status in the House.

Mr. ELAM. And that implies that it is to be discussed. You cannot consider a proposition without discussing it. Now, I ask that the committee reporting this bill, as well as myself, who introduced it, be permitted to discuss it, so as to show its character and effect.

The SPEAKER. But the point of order is raised under Rule 112 that the bill disposes of some of the property of the United States, and therefore must receive its first consideration in Committee of the Whole.

Mr. ELAM. What is the property referred to in this bill? Is it land? No, sir; it is water; we propose to make land by draining it.

Mr. CONGER. If the gentleman will amend the bill so as to give merely the water on this land to these parties I will not insist on the point of order.

Mr. ELAM. We want to divert the water of this land into the Twelve-mile Bayou, so as to improve the navigation of that stream and other waters between Shreveport, Louisiana, and Jefferson, Texas.

Mr. CONGER. So the land when you get the water off belongs to this corporation.

Mr. ELAM. When we get the water into the bayou then we have land, but not before.

The SPEAKER. The Chair thinks this is something which the United States owns, and he sustains the point of order.

The bill accordingly was referred to the Committee of the Whole on the Private Calendar.

BRIDGE ACROSS THE WABASH RIVER.

Mr. REA also, from the same committee, reported back, with amendments, the bill (H. R. No. 5016) to authorize the construction of a bridge across the Wabash River.

The bill was read, as follows:

Be it enacted, &c., That the Palestine Bridge Company, a corporation organized under an act of the Legislature of the State of Illinois, is hereby granted the right to construct an iron or wooden bridge for railroad purposes, or for railroad and highway purposes, and as a public highway, either with a draw or continuous span, as it may determine, across the Wabash River, at any point said corporation may select, at or within six miles of the town of Merom, in Sullivan County, State of Indiana: *Provided*, That the bridge to be constructed under the authority hereby granted shall not interfere with the free navigation of said stream beyond what is necessary in order to carry into full effect the rights and privileges hereby granted, and shall be built at right angles with the current of the stream where said bridge may be erected, and that a span of at least one hundred and seventy feet over the main channel of said stream shall be left between the piers of said structure: *And provided further*, That if said bridge shall be built with a draw of not less than one hundred feet in width, and said draw is kept in repair for the passage of boats at all times, the detention of passing said bridge shall not be construed as interfering with the navigation of the stream: *And it is further provided*, That said bridge shall be, and be considered, a legal structure, and shall be a post-road for the transmission of the United States mails: *And provided further*, That in case said bridge is built with a continuous span, the bridge shall be built at such height as not to interfere with the navigation of said river by steamboats.

SEC. 2. That any bridge authorized to be constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and to secure that object the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawing of the bridge, and a map of the location, giving for the space of one mile above and one mile below the proposed location the topography of the banks of the river, the shore-lines at high and low water, the direction and strength of the currents at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the Secretary of War, the bridge shall not be built. And the Secretary of War shall determine the proper length of the spans of said bridge, and the height thereof above high-water mark, and as to the plan of the bridge in all respects; and if it shall be found at any time that such bridge unnecessarily or materially obstructs navigation, he shall require the necessary changes to be made therein, in the interest of such navigation, at the expense of said company.

Mr. REA. Let the report be read.

The report was read, as follows:

The Committee on Commerce, to whom was referred the bill (H. R. No. 5016) to authorize the construction of a bridge across the Wabash River, in the State of Indiana, having had the same under consideration, beg leave to report that, after a consideration of the provisions of the bill and of the information brought before the committee, it is their opinion that the bill ought to be amended as follows:

In the third and fourth lines of the first section strike out the words "Palestine Bridge Company, a corporation organized under an act of the Legislature of the State of Illinois," and insert in lieu thereof the words, "Bloomfield Railroad Company, organized under the law of the State of Indiana, and the Quincy, Payson and Southeastern Railroad Company, a corporation organized under the law of the State of Illinois, or either of them."

After the word "or" and before the word "corporation," in line 5, section 2, insert the word "companies;" and after the word "corporation" and before the word "shall," in said line 5, insert the words "or corporations or either of them."

At the end of the bill insert the words, "or companies, and said company or companies shall maintain at its or their own expense, from sunset till sunrise, such lights or other signals on said bridge as the Light-House Board shall prescribe."

When thus amended your committee recommend that the bill pass. The letter of the Secretary of War, dated June 7, 1878, and the letter of the Chief of Engineers, dated June 4, 1878, accompanying the report, are made a part thereof.

The question being taken on the amendments, they were severally agreed to.

Mr. CONGER. Before the question is put on the engrossment and third reading of the bill I desire to ask the gentleman in charge of it one or two questions. I desire to ask whether this bridge is to be built according to specifications approved by the Secretary of War?

Mr. REA. Yes, sir.

Mr. CONGER. Has the bill all the usual guards imposed in reference to such bridges in bills passed heretofore?

Mr. REA. Yes, sir.

Mr. CONGER. And does the bill fix the height above water, or is it a draw-bridge?

Mr. REA. It is a draw-bridge, with power to change it at any time with the approval of the Secretary of War.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. REA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES CALER.

Mr. OVERTON, from the Committee on Commerce, reported, as a substitute for House bill No. 39, a bill (H. R. No. 6255) for the relief of James Caler, of Stamford, Connecticut; which was read a first and second time.

The bill, which was read, authorizes and directs the proper accounting officer of the Treasury of the United States to pay to James Caler, of Stamford, Connecticut, the sum of $4,845 for work done by him under a contract with the United States in the dredging and excavation of the bar at Rutherford Park in the Passaic River, New Jersey.

Mr. EDEN. I make the point of order on that bill.

Mr. OVERTON. I move that it be referred to the Committee of the Whole on the Private Calendar, and that the bill and accompanying report be printed.

The motion was agreed to.

NEGOTIATION OF BILLS OF LADING, ETC.

Mr. BLISS, from the Committee on Commerce, reported back, with a favorable recommendation, the bill (H. R. No. 3255) to facilitate the negotiation of bills of lading and other commercial instruments, and to punish fraud therein; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

REGISTRY OF STEAM-FERRYBOAT GENEVA.

Mr. BLISS also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1475) granting American registry to the Canadian steam-ferryboat Geneva.

The bill was read. It authorizes and directs the Secretary of the Treasury to grant an American registry to the Canadian steam-ferryboat Geneva, now owned by B. W. Folger and M. H. Folger, citizens of the United States, and residing at Cape Vincent, New York, upon the payment into the United States Treasury of the duties legally chargeable upon said vessel.

Mr. CONGER. What is the tonnage of this vessel?

Mr. BLISS. The vessel is a very small one, and is only used for excursions and pleasure parties. I will state for the information of the gentleman from Michigan that this is regarded by the committee as an exceptional case, and the passage of the bill is unanimously recommended.

Mr. EDEN. Let it pass.

Mr. DUNNELL. It passed the House once before.

Mr. CONGER. Where is this ferry-boat used now?

Mr. BLISS. It is used between Cape Vincent, in the State of New York, and Kingston, in Canada West.

Mr. WARD. I ask that the report may be read.

The SPEAKER. The report will be read.

Mr. CONGER. This being a small pleasure-boat, and one of the class which there is no danger in having registered as an American boat, I have no objection to the passage of the bill.

Mr. BLISS. I am sure there is no danger of that kind.

Mr. WARD. After the explanations which have been given, I withdraw the call for the reading of the report.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLISS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGULATION OF STEAM-VESSELS.

Mr. BLISS also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5897) to amend section 4400 of title 52 of the Revised Statutes of the United States concerning the regulation of steam-vessels.

The bill was read, as follows:

A bill to amend section 4400 of title 52 of the Revised Statutes of the United States, concerning the regulation of steam-vessels.

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 4400 of the Revised Statutes of the United States be amended and enlarged by adding thereto, at the end of said section as it now appears, the words: "And all foreign private steam-vessels carrying passengers from any port of the United States to any other place or country shall be subject to the provisions of sections 4470, 4471, 4472, 4473, 4479, 4482, 4486, 4488, and 4489 of this title, and shall be liable to visitation and inspection by the proper officers in any of the ports of the United States respecting any of the provisions of the sections aforesaid."

Mr. EDEN. I would like to hear some explanation of that bill.

Mr. BLISS. The bill was introduced by my colleague, [Mr. COX,] and he can explain it.

Mr. COX, of New York. I will not take more than a minute to explain it.

These sections referred to in the Revised Statutes, about seven of them, all have reference to provisions against fire, combustibles, and provisions for the preservation of life upon steamboats.

The idea is to place foreign vessels that come into our ports, in the same relation to commerce and the preservation of life as our own vessels are placed. The idea is to give additional safety and sanctity to human life.

I will say that in the steamboat bill passed by the House last session, and now in the Senate, there is a clause providing that all steam-vessels of other countries shall be subject to the same provisions as our own. I will read it:

SEC. 4400. All steam-vessels navigating any waters of the United States, excepting public vessels of the United States and of other countries, shall be subject to the provisions of this title. Steam-vessels of other countries, other than public vessels, shall be subject to the provisions of this title so far as relates to equipment, outfits, and navigating, and the transportation of dangerous articles as freight or stores.

This bill goes no further, indeed it hardly goes so far, as the measure that passed last session, and I therefore hope the bill will pass without further objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COX, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVIGABLE WATERS OF THE UNITED STATES.

Mr. DUNNELL, from the Committee on Commerce, reported back, with a recommendation that it do pass, the bill (H. R. No. 6239) to declare and define the jurisdiction of the United States over the harbors and navigable waters of the United States as a substitute for House bills Nos. 2464 and 4953.

Mr. EAMES. I reserve the point of order upon that bill.

The SPEAKER. The gentleman from Rhode Island reserves all points of order upon the bill.

The bill was read, as follows:

A bill to declare and define the jurisdiction of the United States over the harbors and navigable waters of the United States.

Be it enacted, &c., That whenever the Secretary of War is reliably informed, or has reason to believe, that in any harbor or navigable waters of the United States navigation is impeded, or shoals, bars, or other impediments to navigation have been created by reason of the improper extension of wharves, piers, and other structures into such harbors or navigable waters, under the authority of local laws, or by individuals without such authority, or by depositing ballast, slabs, or any other material, or that the future usefulness of such harbors or navigable waters is imperiled by such structures or deposits to the injury of commerce, he shall cause to be made, by the Corps of Engineers of the Army, full and complete survey and examination of such harbor or navigable waters, and plans and descriptions thereof, showing the depth of water in the same, and the location, size, and description of all piers, wharves, and other structures and obstructions or deposits therein, and the extent to which the same encroach upon the channels and water-ways used for navigation, and further to lay down and mark on such plans and descriptions lines which should limit the boundaries within which any wharf, pier, or other obstruction or deposits shall thereafter be erected, constructed, placed, or projected in any harbor or navigable waters. And such plans and descriptions shall be on a scale and of a kind, to be fixed by the Secretary of War, so that they may be easily understood and examined by all parties interested; and the Secretary of War shall be, and is hereby, authorized, upon the application of the governor of any State, or the municipal authority of any city, town, or county to which the harbor or navigable waters of any such plan and description pertain, to have the same lithographed, or otherwise copied, at the expense of said State or municipal authority, and to supply such number of copies thereof as they may require.

SEC. 2. If it shall be found by the officers making such surveys, examinations, plans, and descriptions that there are any existing wharves, piers, or other obstructions or deposits in any harbor or navigable waters, surveyed, examined, planned, and described by them, which are injurious to, and impede the navigation thereof, by being situate beyond the lines established by them, they shall so report to the Secretary of War, who shall report to Congress, to the end that proper steps may be taken by Congress for the removal of the same, and whether any compensation to the owners thereof should be made by the United States, if the same have been erected by State or municipal authority, or if not erected by such authority, then to take order for the removal thereof as nuisances by proper legal proceedings.

SEC. 3. That no bridge shall be built and extended across any navigable river until a plan in duplicate showing the location and situation thereof has been presented to the Secretary of War and approved by him, and that his approval, if given, shall be certified on one of said plans, and that the duplicate thereof shall be retained and preserved in the War Department: *Provided*, That this act shall not be construed so as to give authority to erect such bridge without an act of Congress.

SEC. 4. And whereas the harbors and navigable waters of the United States are frequently injured and obstructed, and the navigation thereof impeded, by wrecked and sunken vessels, and no competent or effective authority now exists for the removal of the same, it is further enacted that it shall be the duty of the collector of the customs at every port of the United States to cause proper reports to be made to him by some one of his inspectors of the wrecking or sinking of any vessel or the making deposits as aforesaid within the harbor or navigable waters of his district, and thereupon immediately to give notice in writing to the master or owner of such wrecked or sunken vessel to raise and remove the same within twenty days after such notice has been given, or to remove the deposits aforesaid. And if such owner or master neglects or refuses to raise and remove the same, or cannot be found, then the said collector shall be, and he is hereby, authorized to enter upon and seize such wrecked or sunken vessel, and proceed without delay to raise and remove the same, at the expense of the United States, and his vouchers therefor, when indorsed and approved by the Secretary of the Treasury, shall be paid out of any moneys in the Treasury not otherwise appropriated, to be refunded as hereinafter provided in this act, and thereupon to cause the remains of such wrecked or sunken vessel to be sold at public sale, giving twenty days' notice of such sale by advertisement in some newspaper of general circulation printed and published in his district, and also by notice posted on the remains of such wrecked or sunken vessel if it be practicable to do so, and pay the proceeds of such sale to the assistant treasurer of the United States in his district, for the use of the United States. And he shall thereupon report to the attorney of the United States for his district the cost of raising and removing said wrecked or sunken vessel, and the proceeds of the sale thereof, if any; and it shall be the duty of said district attorney, if said sunken vessel shall be insured, forthwith to bring suit against the master or owner of such wrecked or sunken vessel for the recovery of the balance due the United States, after deducting the net proceeds of such sale, for the cost and expense of such raising and removal; and a notice of such suit or proceeding, duly served under the direction of the court in which the suit shall be instituted, on the company or companies issuing such policy or policies of insurance on said vessel, shall give the United States a lien on so much of the insurance money as may be necessary to reimburse the United States for the balance due as aforesaid; and said attorney shall forthwith institute proceedings by attachment or otherwise, for the benefit of the United States, for collecting said insurance, or so much thereof as may be necessary, for the purpose aforesaid, which sum, when so collected, shall be paid into the Treasury as above provided.

SEC. 5. With a view to carrying out the provisions of this act, the Secretary of War is hereby required to include in the annual estimates to be submitted by him to Congress such sum as may, in his judgment, be necessary to enable him to comply therewith: *Provided*, That none of the surveys or examinations contemplated by this act shall be commenced until a special estimate shall have been submitted therefor by the officer detailed to make such examination or survey, and such estimate shall have been approved by the Secretary of War.

SEC. 6. It shall further be the duty of the Secretary of War, when he is reliably informed that in any harbor or navigable waters of the United States navigation is about to be impeded by the improper extension of wharves, piers, or other structures or deposits aforesaid, to give notice to the party or parties about to make such wharves, piers, or other structures or deposits, that he will order an immediate survey of such harbor; and when such notice has been given, it shall not be lawful for such party or parties to proceed in the erection of such wharves, piers, or other structures, or to make such deposits, until such survey has been made.

Mr. EDEN. I make the point of order upon that bill.

The SPEAKER. The gentleman from Rhode Island [Mr. EAMES] reserved all points of order.

Mr. EAMES. I want to reserve it until I hear what the object of the bill is.

The SPEAKER. The gentleman cannot reserve the point of order until the bill has been discussed.

Mr. EDEN. I make the point of order because this bill should be carefully discussed, and it cannot be done to-night.

The SPEAKER. The gentleman will indicate what his point of order is.

Mr. EDEN. It is that the bill appropriates money; line 20, page 4.

The SPEAKER. The Clerk will read Rule 112.

The Clerk read as follows:

All proceedings touching appropriations of money, and all bills making appropriations of money or property or requiring such appropriations to be made, shall have their first consideration in Committee of the Whole.

The SPEAKER. That clause merely has in view the expenditure of public money, for it affirms the manner in which it shall be refunded. The Chair thinks that the fifth section comes within the rule.

Mr. SPARKS. Section 5 is certainly subject to the objection.

The SPEAKER. That section will be read.

The Clerk again read the fifth section.

The SPEAKER. The Chair thinks that that is touching a matter which requires an appropriation to be made, and therefore he sustains the point of order, and rules that the bill must have its first consideration in Committee of the Whole.

Mr. DUNNELL. I desire to make a single statement with a view of asking that by unanimous consent some time shall be fixed for the consideration of this bill.

Mr. EDEN. I object.

Mr. CONGER. I desire to make a remark preliminary to a motion to go into Committee of the Whole to consider this bill.

I desire to say that in the expenditure of money upon the improvement of rivers and harbors, it is absolutely necessary——

Mr. EDEN. Is debate in order?

The SPEAKER. It is not.

Mr. EDEN. Then I object to debate.

Mr. CONGER. I ask permission to make a single statement.

Mr. EDEN. I object; and I move that the House do now adjourn.

The SPEAKER. The Chair desires to state that he will necessarily be absent from the House at the opening of to-morrow's session, and he has appointed Mr. SAYLER to take the chair at the opening.

The question was taken on Mr. EDEN's motion, and it was agreed to; and accordingly at (nine o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLAIR: The petition of S. C. Baker and 219 others, for an amendment to the Constitution prohibiting the manufacture and sale of intoxicating liquors, and for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. BLOUNT: Papers relating to the petition of Casimiro Ginesi to have refunded to him certain moneys alleged to have been illegally collected from him by United States revenue officials—to the Committee of Claims.

By Mr. BROGDEN: Memorial of citizens of the fifth congressional district of North Carolina, preferring certain charges against Dr. W. H. Wheeler, collector of internal revenue for said district, and asking for an investigation—to the Committee on Expenditures in the Treasury Department.

By Mr. BUNDY: The petition of C. G. Hall, of New Berlin, New York, for securing an intelligent ballot by the publication by the Government of a paper which shall be sent each week free to each family in the United States; in which paper shall be printed in the course of the year the Constitution of the United States and of the several States, the proceedings of Congress, the duties of the officers of the Government and their salaries, the reports of all Government expenditures, the amount of money received by the Government, the purposes to which applied, a monthly statement of the public debt, &c.—to the Committee on Printing.

By Mr. CAMPBELL: The petition of women of Blair County, Pennsylvania, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CORLETT: Two petitions of citizens of Wyoming Territory, for the establishment of a post-route from Green River City to Big Piney, via Fontenelle and La Barge, Wyoming Territory—to the Committee on the Post-Office and Post-Roads.

By Mr. DENISON: The petition of Martha S. Bennett and 26 other ladies, of South Tunbridge, Vermont, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. FENN: The petition of Mary E. Johnson and other women, of Oneida County, Idaho, of similar import—to the same committee.

By Mr. FULLER: The petition of ladies of the Latter-day Saints church, of Lilly Dale, Indiana, of similar import—to the same committee.

By Mr. GARFIELD: The petition of Mrs. Jane Lazarus and 24 other ladies, of North Benton, Ohio, of similar import—to the same committee.

By Mr. GOODE: The petition of sugar dealers of Virginia, that the tariff on sugars be regulated on the *ad valorem* principle—to the Committee of Ways and Means.

Also, the petition of wholesale grocers of Norfolk, Virginia, of similar import—to the same committee.

By Mr. HART: The petition of Mrs. Mary King and 509 other ladies, of Rochester, New York, that the anti-polygamy law of 1862 shall be made effective—to the Committee on the Judiciary.

By Mr. McKINLEY: The petition of William Arnett and 26 others, of Fox Lake, Wisconsin, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

Also, the petition of George Armbruster and 31 others, of Seneca County, Ohio, of similar import—to the same committee.

Also, the petition of S. A. Leech and 32 others, citizens of Mohican, Ohio, of similar import—to the same committee.

By Mr. MORRISON: The petition of Mrs. Alma Stone and 247 women, of Bunker Hill, Illinois, for the enforcement of the anti-polygamy laws—to the Committee on the Judiciary.

By Mr. RICE, of Ohio: The petition of J. W. Smith and others, against the extension of the Birdsell clover-huller patent—to the Committee on Patents.

By Mr. SPARKS: The petition of women of Clay and Richland Counties, Illinois, to make effective the anti-polygamy laws—to the Committee on the Judiciary.

By Mr. STEWART: The petition of 304 women of Saint Cloud, Minnesota, of similar import—to the same committee.

By Mr. TUCKER: The petition of J. H. Rives, of Virginia, for compensation for expenses incurred in collecting the public revenues—to the Committee of Ways and Means.

By Mr. WILSON: The petition of Mrs. Mayhew and 15 others, of Belleville, West Virginia, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Hon. J. B. Jackson and 90 other gentlemen, of Parkersburgh, West Virginia, for the construction at said place of stone piers as ice-breakers to prevent the destruction of steamboats and the loss of life—to the Committee on Commerce.

IN SENATE.

THURSDAY, *January* 30, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

POST-ROUTE BILL—REVENUE LEGISLATION.

The VICE-PRESIDENT appointed Mr. EDMUNDS, Mr. FERRY, Mr. THURMAN, Mr. HOAR, and Mr. WHYTE as the select committee on the matters of difference between the two Houses touching certain amendments of the Senate to the bill (H. R. No. 4286) to establish post-routes in the several States herein named.

NARRATIVE OF POLARIS EXPEDITION.

The VICE-PRESIDENT appointed Mr. ANTHONY, Mr. SARGENT, and Mr. WHYTE as the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the resolution of the Senate to print 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 226) in relation to the expenditures at the industrial exposition in Paris in 1878 was read twice by its title, and referred to the Committee on Foreign Relations.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and a report of Lieutenant-Colonel John Newton, Corps of Engineers, in relation to the improvement of the Harlem River, New York, in accordance with the river and harbor act of June 18, 1878; which was referred to the Committee on Commerce, and ordered to be printed.

PATENT OFFICE REPORT.

The VICE-PRESIDENT also laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with the requirements of section 494 of the Revised Statutes, as his annual report, a detailed statement of the work of the Patent Office for the calendar year ending December 31, 1878; which was ordered to lie on the table.

The VICE-PRESIDENT. As these documents are very voluminous, the question of printing them will be referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented resolutions of the National Cigar Manufacturers' Association, adopted at a meeting of that association in New York on the 15th instant, remonstrating against the passage of House bill No. 5430, now pending in the House of Representatives, and the bill (H. R. No. 4414) to amend the laws relating to internal revenue; which were referred to the Committee on Finance.

Mr. SAUNDERS presented the petition of Ella Gregg, Lizzie Robb, and other women, of Otoe County, Nebraska, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. JOHNSTON presented the petition of Arthur Watson and others, sureties on the official bond of Edward K. Snead, deceased, late collector of internal revenue, first district of Virginia, praying for the passage of a law relieving them from responsibility as such sureties on account of an alleged defalcation of Snead; which was referred to the Committee on Finance.

Mr. MORRILL. I have four petitions here, coming from different parts of the country but all upon the same kind of paper and with the same type. I present the petition of Durand & Co., of Chicago, Illinois; the petition of Joseph R. Peebles & Sons, of Cincinnati, Ohio; the petition of James H. Laws & Co., and Charles H. Wolff, of Cincinnati, Ohio; and the petition of Charles S. Higgins, of New York, praying for the passage of the bill (S. No. 1561) for the interchange of subsidiary silver coins and United States notes. I move their reference to the Committee on Finance.

The motion was agreed to.

Mr. KERNAN presented a petition, numerously signed by citizens of the State of New York, praying for the passage of the bill (H. R. No. 4234) granting arrears of pensions; which was ordered to lie on the table.

Mr. HILL presented the petition of the State of Georgia, by its agent, W. O. Tuggle, praying for an accounting and payment of moneys expended by that State for military service during the revolutionary war, the war of 1812, and subsequent wars; which was referred to the Committee on Appropriations.

Mr. CONKLING presented the petition of Samuel Raynor & Co. and others, merchants and ship-owners of New York, and the petition of John D. Lobb and others, of New York, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce, and to prohibit unjust discriminations by common carriers; which were referred to the Committee on Commerce.

He also presented the petition of Colonel William H. Young and F. Lewellyn Young, of Buffalo, New York, praying to be reimbursed certain moneys expended by them in recruiting, enrolling, and subsisting one regiment of cavalry known as "Young's Kentucky Light Cavalry," in the year 1861; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HAMLIN, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 683) for the relief of the American Grocers' Association of the City of New York, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 3860) for the relief of Charles C. Reynolds, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3866) for the relief of Mrs. F. A. Perrin, reported it with

amendments, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. No. 3854) for the relief of John Tweedy, postmaster in Danbury, Connecticut, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3863) for the relief of Nathaniel G. Smith, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1733) granting Mrs. Elizabeth Wirt Goldsborough, widow of the late Admiral Goldsborough, a pension of $50 per month out of the naval pension fund; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1734) authorizing the President to appoint Dr. Thomas Owens a surgeon (not in the line of promotion) in the regular Navy of the United States; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1735) creating Tampa, in the State of Florida, a port of entry and delivery; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAWES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1736) for the relief of E. W. Blackinton; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1737) for the relief of Julia E. Seeley; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BLAINE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1738) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. GROVER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 53) in relation to adjusting certain Indian accounts; which was read twice by its title, and referred to the Committee on Indian Affairs.

AMENDMENTS TO BILLS.

Mr. CHAFFEE, Mr. BECK, and Mr. GORDON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, reported the following amendment intended to be proposed to the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed:

That the Postmaster-General is hereby authorized to adopt a uniform ink for all post-offices for canceling postage stamps, which by proper tests and experiments shall prove to be best calculated to protect the postal revenues from frauds, and to distribute said canceling ink in the same manner as other supplies are now distributed to the different post-offices; and for this purpose the sum of $25,000 annually is hereby appropriated out of any money in the Treasury not otherwise appropriated.

THE CALENDAR.

Mr. ANTHONY. I offer the following resolution:

Resolved, That the order of the Senate of January 20, 1879, relative to the consideration of bills on the Calendar shall not be suspended unless by unanimous consent, or upon one day's notice.

Mr. DAVIS, of West Virginia. I think that had better lie over until the Senate is full. There are very few Senators in their seats now.

Mr. ANTHONY. I think no Senator will object to the resolution. It is the construction that was given to the rule, drawn rather differently, at the last session. The rule is of no sort of use unless this is appended to it, because the consideration of the Calendar is constantly put aside for other business.

Mr. VOORHEES. I do not understand the resolution, and I ask that it be reported.

The VICE-PRESIDENT. It will be again reported.

Mr. DAVIS, of West Virginia. It goes over on my objection. However, let it be reported.

The Secretary read the resolution.

The VICE-PRESIDENT. The Senator from West Virginia objects, and the resolution goes over for the day.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 29th instant approved and signed the following acts:

An act (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army; and

An act (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

COUNSEL FEES IN OSAGE LAND SUITS.

Mr. PLUMB. I move that the Senate proceed to the consideration of the bill (H. R. No. 2153) providing for the payment of counsel fees in Osage ceded land suits.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay out of the Indian civilization fund, from any of the funds arising from the sale of any of the Osage ceded lands in Kansas, the following sums, in full for all claims for counsel fees, to wit: to J. S. Black, $12,833.33; to McComas and McKeighan, $12,233.33; to William Lawrence, $12,633.33; to Wilson Shannon, his heirs or assigns, $10,383.33.

Mr. DAVIS, of West Virginia. I know nothing of the merits of this bill, but the amount named, probably $50,000, seems to be a very large sum to be paid to four or five gentlemen as fees. I should like to know something about the bill before I am prepared to vote for it. I wish to know exactly what is meant by this payment.

Mr. PLUMB. This bill passed the House unanimously, after the consideration of the Indian Committee of that body. It also received the consideration of the similar committee on the part of the Senate. It simply recognizes the result of certain litigation which has taken place at the instance of certain settlers in the State of Kansas, whereby the Indian fund has derived a very large benefit as well as the Government itself, which litigation resulted in a determination adverse to the rights of certain railroad companies to certain lands in that State, whereby this benefit has been derived to the Government and to the Indians. It is a case of very strong equity, and I do not think there can be any possible objection to the bill.

Mr. DAVIS, of West Virginia. I still am not aware why these gentlemen should be paid $50,000 out of the Treasury of the United States for litigation in regard to certain lands which was had between the railroad companies and the Indians. I do not understand the bill.

Mr. PLUMB. If the Senator will excuse me, the money is not to be paid out of the Treasury of the United States at all.

Mr. DAVIS, of West Virginia. Out of what is it to be paid?

Mr. PLUMB. It is to be paid out of a certain Indian fund which derived benefit from this litigation, and not out of the Treasury at all.

Mr. DAVIS, of West Virginia. Where is the fund?

Mr. PLUMB. The fund is in the Treasury, but it is in the Treasury for the benefit of the Indians themselves, as the result of the sale of their lands.

Mr. DAVIS, of West Virginia. I should like to inquire whether or not this bill comes from the Indian Committee? I have asked one member of that committee who sits near me, and he says he does not know anything about it.

Mr. PLUMB. I will state the exact condition of the bill so far as the Calendar is concerned. The House bill came here and went on the Calendar, but previously to that time a bill of precisely the same kind had been considered by the Senate Committee on Indian Affairs favorably, and it had been reported back and was also on the Calendar. Of course whether this be the House bill or the Senate bill is of no consequence whatever, the subject-matter having been considered by the Indian Committee of the Senate.

Mr. DAVIS, of West Virginia. Is there a report accompanying the bill?

Mr. PLUMB. There is a report from the House committee accompanying the bill.

Mr. DAVIS, of West Virginia. I should like to know the facts before I am willing to vote for the bill. Money is to be taken from an Indian fund and paid to certain gentlemen, and it amounts probably to more than $50,000, as I heard the bill read. We ought to be careful how we take money from the Indians and give it to others as a fee. If it does not come directly from the Treasury now, it will in the future, in some way or other, be paid by the United States.

Mr. PLUMB. I will state to the Senator very briefly what the facts of the case are. In 1866 a treaty was made between the United States and the Osage Indians, whereby these Indians ceded a certain body of land in the State of Kansas to the United States to be sold. That treaty recognized the right of certain settlers then on the lands to purchase them at a dollar and a quarter an acre. Subsequently, in 1869, Congress passed a joint resolution authorizing the sale of those lands to actual settlers at a dollar and a quarter an acre. Under the invitation of that joint resolution a very large number of people went on those lands, esteeming themselves entitled to go there because the joint resolution provided in substance and in terms that they should have the right to purchase the lands at a dollar and a quarter an acre. They went upon the lands.

About that time two railroad companies set up a claim to the land by reason of a grant of lands made to them long before that. Thereupon the case was brought before the Secretary of the Interior, who decided in favor of the railroad companies. Pending that decision, however, the settlers had purchased under the terms of the joint resolution of Congress land from the Government amounting to about $300,000, for which they had paid their money. When the decision of the Secretary of the Interior was promulgated of course it operated to cut them out, not only from their money, but from all rights by reason of the purchase, and it ousted them from their homes. They

thereupon instituted litigation in the courts of Kansas. That went on for three or four years, and of course the result was adverse to the settlers as they found that they had no standing in court, because they had no title, the Government having by the action of its executive officers cut them out from that standing.

Then, on the application of Mr. Crozier, then Senator from the State of Kansas, the Attorney-General authorized a suit to be prosecuted for the purpose of determining what the rights of these people were, that is to say, between the Government on the one side and the railroad companies on the other, and authorized the intervention of the settlers by counsel for the purpose of determining the question. This litigation was carried on by the settlers by their counsel, and the result of it was that the circuit court first and the Supreme Court of the United States subsequently decided that the right was not in the railroad companies, but that the settlers under the joint resolution of 1869 had a right to purchase this land at a dollar and a quarter an acre.

Prior to that time, however, and in anticipation of the result to be derived from the joint resolution authorizing settlers to go upon the land, the Government had advanced to the Indian civilization fund the sum of $300,000, reserving to itself the right to be reimbursed from the sale of this particular tract of land. If the suit had been determined adversely to the settlers the Government would have had no fund from which to have been reimbursed this sum of $300,000, because the railroad companies would have taken it wholly under their grant. The result of the litigation was to reimburse to the Government $300,000 which before that time it had advanced to the Indian civilization fund, and gave to the Indian civilization fund in addition some six or seven hundred thousand dollars, which otherwise it would have been deprived of. This litigation was necessary because the Government first by its joint resolution had invited these people to go upon the land and in pursuance of the terms of the resolution had taken their money from them in payment for the land, and by a subsequent decision of the Secretary of the Interior it had sought to oust them, and did in fact oust them in favor of the railroad companies.

It is true that this is not a singular case, and that cases somewhat similar have been going on under the decisions of the General Land Office for years, whereby men have been ousted for the benefit of railroad companies from homesteads to which they had made claims and upon which they had made improvements. It is singular alone because it is a case of the largest magnitude of any similar case that has ever occurred under the construction of the land laws of the United States. That is the only singular thing about it.

Mr. SAUNDERS. Will the Senator from Kansas allow me to ask him a question? Did not the settlers employ these men and pay them their fees?

Mr. PLUMB. They employed them by the request or by the understanding of the Attorney-General of the United States. When he directed the district attorney for the district of Kansas to bring this suit, he specially required that officer to permit the settlers to appear by counsel, and they did so appear, and the litigation was practically carried on by them, not only in the circuit court of the United States, but in the Supreme Court of the United States, and they have not been paid by the settlers.

Mr. SAUNDERS. What is the meaning of the clause in the bill which provides that if they have been paid their fees they shall refund them? What is there for them to refund?

Mr. PLUMB. That is simply to cover that possibility, which of course is not covered by my statement here. I make a verbal statement here to the effect that they have not been paid, but that of course does not bind anybody except myself. The object is to fix the bill in such a way that if it should prove that they received anything thereby it shall be refunded. The fact is that they have not received anything, and consequently there is nothing to refund.

Mr. SAUNDERS. My understanding of this subject is that these attorneys were employed by the settlers and the settlers paid them, and afterward having gained the suit, they wished to take a larger fee probably, and to take it out of this Indian fund, and they returned the other fee. I do not know whether there is any justice in that. My understanding is, I will say to my friend from Kansas, that the Attorney-General has refused to acknowledge this claim in any way or to advise any one to favor the payment of this money. I understand that he has been called upon in regard to this subject, and has actually refused to take part in it. Therefore I think the bill should go over, at any rate for the present, until the matter can be further investigated.

The VICE-PRESIDENT. An objection does not carry the bill over. The question is, Are there amendments, as in Committee of the Whole, to the bill?

Mr. DAVIS, of West Virginia. If the Senator from Kansas has finished, I wish to say a word. In the explanation the Senator has given I have not heard that the Indians have made the request that their money should be taken and paid to the counsel in this case. Certainly we ought to have their consent before their money is taken, if we are to take it at all. Again, I notice the chairman of the Committee on Indian Affairs in his seat, and as yet he has not had a word to say. I presume that he knows something about this bill. It has been considered by his committee, and I should be glad to hear what he has to say about it.

Mr. PLUMB. So far as the matter concerning the consent of the Indians is concerned, when the Secretary of the Interior decided that not only the Indians themselves but the settlers had no right to these lands, I am not informed that he ever consulted the Indians about it at all. He simply decided that the railroad companies had a right to these lands, and thereby cut out both the Indians and the settlers. That would have been the time when, as I think, some philanthropic gentleman ought to have intervened in favor of the Indians and suggested that their consent should be obtained before that decision was ratified, taking away from them not only all this domain and this fund, but also the rights of the Government. The Indians ought to have been consulted, and perhaps the Government ought to have been consulted.

Mr. HEREFORD. I desire to ask the Senator from Kansas a question. Are these attorneys' fees that are provided for in the bill the result of a contract between the Indians and the attorneys?

Mr. PLUMB. They are not the result of a contract between the Indians and the attorneys, because the Indians did not employ them and did not intervene in the litigation at all. They are the result of a contract between the settlers and these attorneys, and the Indians themselves were neither a party to the suit nor a party to the contract for the payment of the fees.

Mr. HEREFORD. Then I would ask the Senator from Kansas, if the fees fixed in the bill are not the result of a contract between the Indians and the attorneys, and if it be correct, as said by the Senator, that the Indians never did employ these attorneys, why take these fees out of moneys belonging to the Indians to pay the attorneys when the attorneys appeared for other parties?

Mr. PLUMB. For a very obvious reason: that if this litigation had not taken place the Indians themselves would not have derived this benefit. In other words, the Indians were not represented by anybody. The Indians had no chance of being represented by anybody. They were entirely silent in this matter; they had no chance to be represented; and, while it be true that the settlers undertook this litigation primarily for their own benefit, the result was much larger to the Indians beneficially than to anybody else except to the General Government.

Mr. HEREFORD. But have not the attorneys already been paid by the settlers?

Mr. PLUMB. They have not.

Mr. HEREFORD. Why not? Why have not the settlers paid the attorneys instead of asking that they be paid out of the Indian fund?

Mr. PLUMB. That is one of those questions the Senator can answer perhaps as well as I can. The fact is that the benefit of that litigation resulted to the Government and to the Indian fund, and not to the settlers themselves, who went into litigation simply for the purpose of maintaining their rights under the laws, of which they had been wrongfully deprived by a decision of the Interior Department and their lands given to the railroad companies. The court decided that they were entitled to those lands. Thereupon the Indian fund received nearly $900,000 as the result of that litigation. Of course the Indians were not in condition to consent, neither were they in a condition to object, simply because they were not parties to the suit and had no means of becoming parties to the suit. The result of the labor of these attorneys, under the operation of these settlers, (and this represents a very small proportion of the cost which these settlers undertook and which they have incurred in carrying on this litigation,) was to put into the civilization fund, as I said, about $900,000, of which $300,000 had been advanced by the Government, for which the Government could not have been reimbursed except for the result of this litigation.

Mr. HEREFORD. I am reliably informed that there was a written contract between some one or all of these attorneys with their clients, the settlers, giving these very attorneys a fee; and if they have a written contract and their clients are bound to pay these attorneys, why should the Indians be made to pay them?

Mr. PLUMB. The question whether there was a written contract or a verbal contract does not cut any figure in the case. One is just as binding as the other. There is no doubt in the world—of course it would be an insult to these gentlemen to suppose that they served without a contract with somebody. They would have had no status in court unless they had been employed. As I stated before, when the Attorney-General of the United States authorized the institution of the suit he especially required the district attorney for Kansas to permit the attorneys for the settlers to come in, and if these gentlemen had not been the attorneys of the settlers they could not have come in to represent the settlers or anybody else. There is no doubt of the fact that these parties did have a contract with the settlers for the payment of their fees; but as I said before, the fact back of this is that this suit became necessary because of the unjustifiable and arbitrary ruling of the Interior Department whereby these men were cut out of homes that they had paid for. They had paid into the Treasury of the United States nearly $300,000 under the terms of the joint resolution of 1869 authorizing them specifically to go on these lands and to acquire title by settlement and by payment. That money was in the Treasury. They were not only fighting for the money they had paid, but they were fighting for their homes which had been taken away from them, and which the Supreme Court of the United States said had been arbitrarily, unjustly, and illegally taken away from them. It became necessary for them in pursuance of that right which they

held dear, which was all they could have in the world almost, to cause this suit to be instituted and carry it on; and it was ultimately determined by the Supreme Court of the United States that the action of the Commissioner of the General Land Office and of the Secretary of the Interior giving these lands to the railroad companies and taking them away from the settlers was illegal, was arbitrary, was unjust, and therefore they were enabled to go on and obtain title to this land. As the result of this litigation, the Indian civilization fund was enabled to reimburse the General Government $300,000 which before that time had been advanced by the General Government, and besides was supplied with $600,000 more, which the settlers paid in for lands acquired subsequently to the termination of the litigation.

Mr. MORRILL. May I ask the Senator from Kansas whether these settlers were not reimbursed by the Government of the United States by giving them other lands in lieu of those that they were called on to surrender?

Mr. PLUMB. The settlers have been reimbursed in no way. All the privilege they obtained by reason of this litigation was the same privilege they had under the joint resolution of 1869, of buying these lands at one dollar and a quarter an acre. In other words, the result of the litigation simply restored the original status so far as they were concerned.

Mr. MERRIMON. But why should these large fees be paid out of the Indian fund?

Mr. PLUMB. Because the Indian fund itself was primarily interested in the decision of this suit and derived the largest benefit from it. In the first place, I think the entire benefit derived by the decision in this suit in favor of the settlers gave to the Indian fund about $900,000 in cash. If the land had gone under the decision of the Commissioner of the General Land Office, unappealed from, to the railroad companies, of course the Indians would not have got one single dollar; the railroad companies would have had the land, the settlers would have been minus their homes, and the Indian fund would have been minus $900,000, which, since that time, the settlers have paid into it under the joint resolution of 1869 and the subsequent legislation.

Mr. DAWES. Mr. President, I think the facts of the case are all in a nutshell. A joint resolution authorized the sale of these Indian lands. Certain settlers purchased under that sale. Some railroad companies undertook to take the whole lands, claiming them under a grant. A suit arose between the settlers who had purchased a portion of them and the railroad companies. The result of that suit was in favor of the settlers, but it decided the question also as to the whole of the lands claimed by the railroad companies. The whole of the proceeds of the lands went to the Indian trust fund. The suit under which these counsel fees are claimed was between the settlers and the railroad companies, as I understand.

Mr. PADDOCK. May I inquire of the Senator what effect an adverse decision to the rights of the settlers would have had upon the Indians?

Mr. DAWES. If the decision had been the other way, of course it would have settled questions of law that would have determined the title to all the lands. In other words, the railroad companies under that decision would show that they had a right not only to the lands contested in this suit but to all the other lands; and in that sense it is that the Indian trust fund was benefited indirectly by this suit between the settlers and the railroad companies. Now, the settlers employed these counsel and agreed to pay them a contingent fee, as I understand.

Mr. PADDOCK. That is, the Indians would not have received the proceeds of the sales?

Mr. DAWES. The Indians would not have received the proceeds of this sale. The Indians never had anything to do with this suit. But when the railroad companies came to claim the lands that were still a part of the Indian Territory, the law decided in this suit would probably have settled that case.

Now, this was a contingent fee going to these attorneys from the settlers. The settlers think that the Indians ought to pay their counsel and so they be relieved from paying their own counsel. That is the way it strikes me. They say that the Indians have had decided for them in this suit a question which otherwise they would have had to have litigation about. Now they seem to think that it is right that the Indians should pay their counsel who were employed in the suit between them and the railroad companies. In settling the question between them and the railroad companies they prevailed on a contingent fee. They think that because the Indians indirectly have had the benefit of that discussion of law and judgment of the court the Indians ought to pay their counsel fees. That is the way I understand it.

When a man makes a contract with an attorney to attend to a litigation between him and a third party the question is whether it is proper, because another man's case is indirectly decided in that suit, for this man in this suit to shift his attorney's fees off on to the other man and say, "the other man is profited a great deal more in consequence of this suit which I have carried on by my attorney, and therefore he should pay his fees." That is the way it strikes me. I may be wrong about it.

Mr. PLUMB. There is one very material difference, I think, between the facts of the case and those stated by the Senator from Massachusetts in this: He says that the settlers were a party to this suit. That is not the case. The suit was on the part of the United States against the railroad companies, but these counsel representing the settlers were authorized to and did appear and did make up the case, and did try the case in favor of the United States against the railroad companies. The settlers had no standing in court, as of course they could not have any. The Secretary of the Interior had not only decided against them, but he had decided in favor of the railroad companies, and had proceeded to patent every single acre of the land to the railroad companies, and of course the settlers could not have any standing in court because they had no paper title, no title of any kind whatever. They were under the law naked trespassers upon these lands which they had been invited to go upon by the joint resolution of 1869, and for which they had under that same invitation paid their money into the Treasury of the United States; and therefore they were not only contending for the rights of the Government, but for their own rights guaranteed to them as they conceived by Congress. They were not parties to the suit; they employed counsel in behalf of the United States; and while the result of that litigation was to give them the title to their land, it gave to the Government itself the money which it had advanced to the Indian civilization fund, and gave to the Indian civilization fund a very large sum of money besides. They were not carrying on alone their own litigation; they were carrying on their own litigation, and also the litigation of the Government and the Indians. They were carrying on the litigation of the Indians and the Government, and the Indians received more benefit from it than the settlers did. More than that, these men were contending for rights under a law of Congress, and it does not lie in the mouth of Congress now to say that because these men relied on the faith of that legislation, therefore they should be cut out of their rights to these lands and cut out of the money they had paid for them. Is it to be held that they have no right to come in and ask Congress to restore them that which they were justly entitled to?

Mr. DAWES. Mr. President, it may not lie in the mouth of the United States to say that they will not pay the counsel employed by the settlers, but that is no answer to the question whether we shall make the Indian pay them or not. It may be very proper that the United States should pay these fees; and on that point I do not express an opinion, for I do not know the relation between these settlers and their rights and the United States. Why there was an intervening of other counsel in a suit represented by the district attorney of the United States, I do not understand. I do not care to inquire about that; but I do not see that it follows that this expense should be visited upon the Indian fund. This is a fund that belongs to the Indians, and I do not know why, when the United States may be obligated to pay these counsel, they should turn over and charge it upon some trust fund which they hold for the Indians. The Indians were entitled to this fund. If a set of railroad men were after the fund and the United States had sold the settlers this property, it was the duty of the United States to intervene between the railroad companies and the settlers and to vindicate the right of the settlers under the resolution of Congress. That was their business as much as it is my business when I give a deed to my neighbor to intervene and defend the title which I give him; but that I should be permitted to charge over my counsel fees under those circumstances to somebody else, to a fund I am holding in trust because indirectly it may appear that in deciding this suit it was my duty to litigate I also saved myself the trouble of deciding it in another suit in which the Indians are a party. I do not criticise the charge of the counsel nor the propriety of the United States paying it; that may be so or it may not be so. I desire to inquire in all good faith why any doubtful question should be settled in this short way by charging it over to some trust fund that has no representative to resist it.

Mr. ALLISON. Mr. President, I was not aware that this bill was coming up this morning, nor had I heard it read, nor was I aware of the exact character of the bill. Now I desire to make an inquiry. Do I understand that the bill as it stands appears as reported from the Committee on Indian Affairs?

The VICE-PRESIDENT. It does not. It has never been referred. It was read the first and second time, and placed on the Calendar.

Mr. ALLISON. I see from the bill as read at the Clerk's desk that it is proposed to pay this money out of the Indian trust fund. I agree with the Senator from Massachusetts that to pay this money out of the Indian trust fund would be an act of injustice to them. They were in no sense parties to this litigation. As I understand, (and I am speaking now from memory, because this matter was before the Indian Committee more than a year ago and some of the facts may have escaped my mind,) the Indians were in no sense interested in the result of this litigation. The Government of the United States undertook to remove the Osages from their reservation in Kansas to the Indian Territory, and advanced, as I remember, a sum out of the Treasury, amounting to about $300,000, for the purpose of securing this removal and fixing them in their new home. The Indians were removed. The United States was to be reimbursed by the sale of their reservation in Kansas, and the remainder of the fund, whatever it was, was to go into the Treasury, and bear an interest of 5 per cent. for the benefit of this civilization fund so called.

Mr. KERNAN. Will the Senator allow me to inquire of him if the Indians have asked that this be paid out of their money?

Mr. ALLISON. I should think not. There was a contest going on in the State of Kansas for some years as to how these lands should be sold. They were sold I believe at one time at the rate of twenty-

five cents an acre or perhaps eighteen cents an acre. That sale was set aside. After that a resolution of some character passed Congress authorizing the sale of these lands at $1.25 per acre. They might be sold at that rate to a single person or to a number of persons. In the mean time a large number of settlers entered upon these lands, the Senator from Kansas says by authority of law under a joint resolution of 1869. If such a resolution was passed, I think it will be found that it was inadvertently passed. I have not that resolution before me. I trust it will be read as I do not remember its exact provisions. But in the mean time the Department of the Interior, as I remember, sold these lands in a body to one or two railroad companies at $1.25 per acre and patents were issued to the railroad companies. Meanwhile settlers were flocking upon these lands and taking them up. They were valuable lands, worth more than a dollar and a quarter per acre, and the contest then rested between these settlers, who it was claimed by the railroad companies had entered on these lands without authority of law, and the railroad companies, who pretended to be the actual purchasers of the lands. These suits were instituted by authority of Congress in the district court of the United States for Kansas, by direction of the Attorney-General, the district attorney appearing in the cases. The attorneys for the settlers intervened and became parties to the suit in some way. The suit was finally carried to the Supreme Court of the United States. There was a long litigation and a difficult litigation, and the result was that the settlers triumphed over the railway companies; and the question now before us is whether the settlers shall be compelled to pay these fees themselves, whether the United States shall pay these fees, or whether the Indians shall have these fees paid out of their trust fund?

Whatever else may be done, I do not believe Congress can afford to say that this money shall be taken out of the trust fund of the Osage Indians. I have no objection to the payment of reasonable and proper fees, if they are to be paid, out of some proper fund; I do not know but that these fees are proper and legitimate and not exorbitant. If they are to be paid, though, they should be paid by the Treasury of the United States, or else out of the fund raised by these settlers, and not out of this trust fund.

And while I am up, as I see the Senator from Indiana [Mr. VOORHEES] in my eye listening to what I say, I remember that only two or three days ago he introduced a bill, and referred it to the Committee on Indian Affairs, asking that the Osage Indians be reimbursed for the sixteenth and thirty-sixth sections of land on this identical reservation, which by a joint resolution passed in 1870 or 1871 the Congress of the United States undertook to donate to the State of Kansas, and which Congress had no more right to donate, in my judgment, than they have to donate your private possessions or mine.

Now, at this distance of time, after the State of Kansas has taken the sixteenth and thirty-sixth sections from the Osage reservation, we are called upon, and, so far as I have been able to examine the case, justly, to refund to these Indians the price of the sixteenth and thirty-sixth sections. Now, it is proposed to deplete this Indian fund still further by the payment of what may be proper and legitimate attorneys' fees out of that fund which is in no sense interested, as I understand the case, in its payment.

I did not understand until this bill was read at the Clerk's desk that it was proposed to use the Indian fund for the purpose of paying these attorneys' fees. I do not think that it ought to be done under any circumstances.

The VICE-PRESIDENT. The morning hour has expired. The Secretary will proceed with the call of the Calendar at the point where it was left off under the call of yesterday.

JOHN C. BIRDSELL.

Mr. VOORHEES. I desire the attention of the Senate for a moment, and in doing so I am satisfied I am taking a course which will expedite business. I move to postpone the Calendar and all prior orders and take up the bill (S. No. 501) for the relief of John C. Birdsell, and on that I desire to be heard a moment.

Senators of course desire to vote on the actual state of facts presented by a bill. It is very easy to create a prejudice by saying that a bill belongs to a certain class of legislation, as that it proposes to extend a patent. This bill proposes to do nothing of that kind, and I wish to call the attention of the Senate to the exact nature of the bill that I desire taken up.

The bill provides that the Commissioner of Patents shall have power to consider an application for the extension of a patent in all respects similar to the power he exercises under the act of July, 1870. That act provides for a publication of notice of the application for sixty days, also for a thorough investigation as to the novelty and originality of the invention, for the regular examination and cross-examination of witnesses in favor of and in opposition to the application, and for a full hearing as to the novelty and utility of the invention and the propriety of the extension in respect to the public interest, and whether or not the inventor, after having used proper diligence, has been sufficiently remunerated. Now, on behalf of a worthy and most respectable citizen of Indiana, against whose application there comes not one single remonstrance from his own State, I humbly request the Senate to consider this bill in its regular order on the Calendar.

Mr. MERRIMON. What is the invention?

Mr. VOORHEES. It is an invention for the purpose of thrashing and cleaning clover-seed. It has been postponed, under the rule under which we are operating, by a single objection heretofore. It has been passed over on the Calendar. My object this morning is simply to have it considered, and if the sense of the Senate is against allowing this gentleman to apply to the Commissioner for an extension let it be so recorded, but do not treat him as if he was asking legislation that was not worthy of our consideration.

I am enforced in my application to the Senate by the fact that the Committee on Patents has made a report granting his request, made a report in favor of this bill, and there is no minority report coming from that committee against it. I will read the report of the Committee on Patents, a committee as highly honored in its ability and integrity as any other committee of this body; a committee composed of gentlemen of the highest standing, character, and talents. The Senator from Massachusetts [Mr. HOAR] was instructed by that committee to present the following report, which I will read:

> The Committee on Patents, to whom was referred the bill (S. No. 501) for the relief of John C. Birdsell, have considered the same, and heard evidence in support thereof, and report that the same ought to pass.
>
> They find the following facts established by the evidence:
>
> First. The invention is one of great public utility. It has cheapened the cost of clover-seed from one to two dollars a bushel, and thereby greatly increased the use of a most valuable method of fertilizing.
>
> Second. The inventor has failed to receive any considerable reward for his invention.

These are not my words; they are the words of a committee of this body charged with the investigation of this subject, and speaking from the facts submitted to them.

> He has been compelled—

Continue the committee—

> during nearly the whole life of his patent to contend with a powerful and wealthy combination, over whom his final victory was achieved by the judgment in his favor of the Supreme Court of the United States, rendered in April, 1874. He has also sustained very heavy losses by fire.
>
> Third. The extension of the patent will not, to any great degree, and probably not at all, operate as a tax upon the public. The machine patented is complicated and costly, requiring for its construction expensive works and machinery. It will be afforded to the public more perfectly and as cheaply by the petitioner if, in the necessary expenditure for its construction, he can be secure of the exclusive right to the manufacture.
>
> The bill authorizes the Commissioner to extend the patent only in case he shall find, on hearing, that the said Birdsell, without fault or neglect on his part, has failed to obtain from the use or sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it and the introduction of it into use, and that it is just and proper, having due regard to the public interests, that the term of the patent should be extended.

The Committee on Patents report that for these reasons this gentleman ought to have a chance under the law to apply for an extension of that patent for his valuable invention. That application is to be published sixty days. Notice is to be publicly given to all the world when it will be heard in the Patent Office. Every opponent of the extension will have an opportunity to appear, be heard, cross-examine the witnesses of Mr. Birdsell, and introduce witnesses on his own behalf under oath. Is it to be said that a respectable American citizen shall not have a hearing when he asks simply for the privilege of submitting the merits of his case to the Commissioner of Patents? Shall he be denied a hearing? Will the Senate say that a man shall not have his claim for relief considered? The Senate may vote it down; but I apprehend the Senate is not going to say day after day that a modest request like this, coming from the respectable source that it does, upon a question so important to the public interests, shall not be considered.

I am not pleading the merits of the question. I am not standing before the Commissioner of Patents asking that this patent shall be extended. I am asking the American Senate to consider a bill introduced into this body and reported favorably by one of its most important committees. If you say it will lead to debate, let it lead to debate. It is the business of the Senate to consider this bill reported by one of its own committees. Are Senators afraid that they will not vote right, and therefore say they will not consider it at all? I am not in the habit of meeting questions in that way. All I ask is that this bill, placed on the Calendar by the Committee on Patents, without any minority report, shall be considered if it is worthy of consideration. I say if it is not worthy of consideration, if this gentleman cannot have his business done on the Calendar, I know of no other bill that has higher claim, and we may as well pause in attempting to proceed under the rule for unanimous consent to take up cases on the Calendar.

One word further. Sir, I might well pause on the point of the right of this gentleman to have his business considered, but I will say further that he himself is modest, he himself demands no extension of the patent from Congress; he simply asks the right to go and try the question before the Commissioner of Patents, and that alone, with sixty days' notice, and with all the world—everybody—having the same chance as himself to give evidence. That is all that is asked; and are you afraid to trust the Commissioner of Patents? I know General Paine, the present Commissioner of Patents. I served with him in the House. I esteem him to be an honest man and know him to be an intelligent one. Whether he is in the majority or the minority, I believe in his honest judgment, and I ask that he may have a chance to consider the question whether this patent should be extended.

The law in regard to the extension of patents is very clear. The

Commissioner has to investigate all these allegations and charges. Will gentlemen maintain that we can sit here and report and try these facts better than the Commissioner can under the provisions of the law? I am not going into the merits of the claim now. I am not asking the Senate to consider them, nor does the bill ask the Senate to consider them. If Senators are opposed to allowing any one to go and ask for a renewal of his patent, that is another thing. I do not think any one is desirous to do that.

I expected this measure to be presented by my colleague, [Mr. MCDONALD,] who is now absent in the South on an investigating committee. He has more thoroughly investigated it than I have, and taking a deep and profound interest in it, I regret his absence on this occasion extremely. But if we are going to do the business on the Calendar reported by the committees of the Senate, I ask in fair play and in the spirit of simple justice that this gentleman shall have his business considered in its proper order.

Mr. KERNAN. Mr. President, I think my honorable friend has made quite a speech on asking to have this bill taken up out of order. I am not going to argue the merits of it now, but being one of the committee who did not concur in the report, I wish to say a word.

Mr. VOORHEES. I beg the Senator's pardon. I ask him whether he made any minority report?

Mr. KERNAN. I did not. The majority report is very short.

Mr. VOORHEES. It is very good, and I have read it.

Mr. KERNAN. I have read it and have it on my table. The question here is, whether this case in preference to all others on the Calendar shall be taken up out of its order.

Mr. VOORHEES. That is not the question.

Mr. KERNAN. Allow me to state my ground. We are proceeding to consider unobjected cases. We are not calling the Calendar when the bills that I want to move can be moved, if anybody suggests that they will take time, that they will have to be discussed, that there is difference of opinion about them. It is asked to be taken up out of the regular order, I repeat.

Mr. VOORHEES. The Senator will pardon me for saying that it has been passed over twice already.

Mr. KERNAN. It has been passed over under a call for unobjected cases, not otherwise. We have not yet got to the Calendar where a man can say, "I insist on my right to have a case called on the Calendar when it is reached." We are proceeding under a call to take up those cases that there is substantially no objection to and no discussion to be had about. The Senator considers this one of them, although it was said by the Senator from Ohio [Mr. THURMAN] and the Senator from Virginia [Mr. WITHERS] and others that this is one that they desire and intend to discuss.

There is an appeal made to Senators over this as if it were an unusual bill for the purpose in view. Why, sir, the committee do not report any bill to extend a patent by statute. All that is asked in any case is that we give the parties a chance by special law to go again before the Commissioner. This patent was granted in 1858. The patentee has had one renewal, which is not quite out yet. He has enjoyed his patent twenty-one years, and we are asked to pass a bill (which we sometimes report) that he be allowed to go to the Patent Office and see if they will again permit an extension of his patent. I think I may say that no bill goes through here to authorize an extension of a patent by the Commissioner on the theory that that is the place to try the question. It appeared before the committee that this gentleman has a chance to try it now in a pending suit, where they are taking evidence, where they say that he was not the original inventor, where they say that evidence that he was not the original inventor has been discovered since. I know nothing about it except what I heard in argument before the committee. We cannot investigate all that here; I am not going to discuss the merits. I am simply saying that this is a case that the man has a right to have heard; but I do not think he has a right over plenty of other men on this Calendar who will be heard before him if we go through the regular call of the Calendar, and we were proceeding to hear those cases where there was no difference of opinion substantially, where there was no real objection, where all that was necessary was to have the bill explained to the end that those might not wait until a regular call of the Calendar, where each man is heard on a litigated case according to its order on the Calendar.

Now, sir, I will not say a word about the merits of this bill. I merely say this much because it is suggested that there is something extraordinary in the view that this bill cannot be taken up as an unobjected case. If it is taken up, it is taken up as the rest where Senators from other States than New York have said they have had many petitions and they desire to be heard in opposition, and I yesterday indicated that there were things in the face of the applicant's petition that would lead every Senator to want to examine and hear, before we come to a conclusion. Our committee has reported exceptional cases where a man had not had twenty-one years' enjoyment of his patent; and it is for the Senate to decide whether there is anything in this case that should take it out of its regular order and bring it up now. I am not one of those who have made objection; I am merely saying that it is a case which will have to be discussed, and it seems to me it ought to be discussed before Senators vote upon it. If the Senate chooses to take it up now, very well. I am not struggling to prevent its having a hearing; but I want to say, that it is no argument that there is to be a trial in the Patent Office when many of the controversies that come before the Patent Committee arise out of the very sort of trials that are sometimes had there, by people not getting notice, or by a decision being made by one man in reference to matters that are strongly litigated which is not satisfactory.

Mr. VOORHEES. In response to the argument of the Senator from New York as to this being taken up out of order, it is well known on the floor of the Senate and is within the personal recollection of Senators that for weeks and I might say months of the last session this bill was put over and postponed by exactly the tactics pursued by the Senator from New York, by objections whenever it was called from day to day and week to week, until this gentleman went home denied the privilege of having his business considered, and it has now been twice treated in the same way during the present session.

All I have to say is that when this bill is reached, I hold that this gentleman has as much right to the time and consideration of this body as any other American citizen, and it is really just that his case shall be considered now.

Mr. KERNAN. I agree to that, but during the last session I stood here for constituents of mine where all the committee united in the report, and yet I could not get the case heard because some one thought it would take time and therefore it has to await the regular call of the Calendar where an objection does not send it over.

Mr. VOORHEES. I did not object.

Mr. KERNAN. I do not say the Senator did, and he very rarely objects; but it is perfectly fair for a gentleman to object and say "this takes time."

Mr. EDMUNDS. May I ask, Mr. President, what effect the adoption of the motion of the Senator from Indiana to postpone the present and all prior orders and take up this patent bill will have upon the unfinished business of yesterday?

The VICE-PRESIDENT. To throw it aside so that it will lose its place.

Mr. EDMUNDS. Then I hope the Senator from Indiana will not insist on that.

Mr. VOORHEES. When this case is disposed of the unfinished business can go on.

Mr. EDMUNDS. No, sir. Then when the unfinished business has gone by we shall have another struggle to get it up again.

Mr. VOORHEES. I hope my distinguished friend from Vermont will not find that this poor little bill antagonizes his great and stupendous resolutions. I think it has opposition enough without that. I do not want to antagonize the Senator from Vermont at all, and I hope that it may not be found that this motion of mine does.

Mr. EDMUNDS. That is to be the effect of it, and it is now only ten minutes to half past one.

Mr. VOORHEES. Let me modify my motion then to lay aside informally the unfinished business.

Mr. EDMUNDS. The resolutions that I have offered have been a long time before the Senate, and they may as well be disposed of one way or the other to-day, and I say this in no hostility to the bill the Senator is speaking of, because my present inclination is, from what I have heard said about it, to favor the bill. I may not do so when I hear it further discussed; but that is my present impression. It was expected that we should have disposed of these resolutions yesterday, but the intervention of other business and an executive session threw them over; and I desire very much that at half past one we shall proceed with them and finish them. Then we shall be able to dispose of the other business afterward.

Mr. THURMAN. Do I understand the Senator from Indiana to move to postpone, or to lay aside the unfinished business informally?

The VICE-PRESIDENT. He moves to postpone the pending and all prior orders, which motion prevailing will dispose of the unfinished business.

Mr. VOORHEES. I modify it.

Mr. THURMAN. I understood the Senator to move to lay aside the unfinished business informally.

The VICE-PRESIDENT. The Senator can move to postpone the pending order, which will not affect the unfinished business that will be reached in five minutes more.

Mr. THURMAN. I understood the Senator to withdraw that motion and ask to lay aside the unfinished business informally. Can he do that before we reach the unfinished business?

The VICE-PRESIDENT. He cannot.

Mr. JOHNSTON. My colleague [Mr. WITHERS] takes great interest in the bill which the Senator from Indiana desires to get up. He was here yesterday, but was called away, and will not be here to-day. I know he desires to discuss the bill.

Mr. VOORHEES. Mr. President, inasmuch as I can only have five minutes if we get the consideration of this bill up until it will antagonize the resolutions of the Senator from Vermont, I will, with the understanding that I shall renew this motion whenever we reach the Calendar to-morrow, withdraw the motion for the present. I do not wish to antagonize the Senator from Vermont, and it will not be profitable to do so inasmuch as there are but five minutes remaining in which we could act on the bill to-day.

Mr. SAULSBURY. There will be opposition to-morrow.

Mr. VOORHEES. I know. I expect to have opposition.

The VICE-PRESIDENT. The motion is withdrawn for to-day.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1475) granting American registry to the Canadian steam-ferryboat Geneva;

A bill (H. R. No. 2985) to authorize the construction of a bridge across the Missouri River at or near Lexington, Missouri;

A bill (H. R. No. 5016) to authorize the construction of a bridge across the Wabash River;

A bill (H. R. No. 5030) to extend the operations of the Light-House Board over the Saint Croix River and Lake in the States of Minnesota and Wisconsin, and the Chippewa River in the State of Wisconsin;

A bill (H. R. No. 5504) to amend section 4234 of the Revised Statutes of the United States;

A bill (H. R. No. 5633) authorizing the changing the name of the barge Cockade City, of Washington, District of Columbia, to Republic;

A bill (H. R. No. 5743) to extend the customs collection district of Beaufort, South Carolina;

A bill (H. R. No. 5824) extending the limits of the port of New York;

A bill (H. R. No. 5897) to amend section 4400, of title 52 of the Revised Statutes of the United States, concerning the regulation of steam-vessels;

A bill (H. R. No. 6250) granting a pension to Morris Dwight; and

A joint resolution (H. R. No. 227) for securing reports of the products of the fisheries.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CONKLING, it was

Ordered, That the petition of John Caleb be taken from the files and referred to the Committee on Pensions.

RICHMOND FEMALE INSTITUTE.

The VICE-PRESIDENT. The call of the Calendar will be now resumed at the point where it was left off yesterday. The first bill in order is the bill (S. No. 61) for the relief of the Richmond Female Institute, of Richmond, Virginia.

Mr. EDMUNDS. That I think needs a little looking into, certainly on the subject of damages and the period of time that is covered from October, 1865, to April, 1866, according to the report. Therefore I must ask that the bill go over.

The VICE-PRESIDENT. The bill is objected to.

Mr. HOAR. I desire to ask the Senator from Vermont, considering the fact that this is a unanimous report of the committee and that a great portion of the time which was expended in the debate the other day will be lost, two long reports having been read then, whether he will not allow the bill to be disposed of? I think the Senator from Vermont will be of opinion, when the facts are stated to him, that it is a claim beyond any possible question.

Mr. EDMUNDS. I will withdraw my objection long enough to hear the case stated by the honorable Senator.

Mr. HOAR. I am not aware that anybody has declined to pay rent for buildings occupied by our Army after the close of the war or even during the war when there was an actual contract to pay rent by an authorized officer. This Richmond Female Institute was taken possession of earlier than October, in the year 1865. A board of officers sat upon it and determined what a proper rental was, which rental was actually paid down to October, 1865; and the building was used from that time until a period in 1867, partly for the headquarters of the Army in Richmond and partly for the Freedmen's Bureau, the same building serving the purposes of both for a period of some twelve or fourteen months; the report states the dates. It was a time when there was not anywhere in the United States any property captured for military purposes. A considerable portion of the time was after the period in 1866 when the war was deemed closed by the proclamation of the President, and it comes within the principle because, although there was not a formal promise by a quartermaster to pay a particular sum for rent, there was, what was much stronger, an actual sitting by a board appointed for the purpose and the rent actually paid down to October, and this is merely for the continuance.

Mr. EDMUNDS. But was it not held by the Department afterwards that this payment that had been made was illegal?

Mr. HOAR. It was on the technical ground that the statute had prohibited the payment of rent in the insurrectionary States by the Department. It is a case where, although there was not a technical promise to pay rent, there was the convening of a board of Army officers and the fixing of the rent, and an actual payment down to October, 1865. The premises were used partly for the Freedmen's Bureau and partly for the headquarters of the army at Richmond, a great portion of the time being after the close of the war, in 1866, and the rest being at a time when nowhere in the country were we exercising the hostile right of capture of real property for Army occupation.

Mr. EDMUNDS. Mr. President——

The VICE-PRESIDENT. The morning hour has expired. The Senate proceeds to the consideration of its unfinished business, being the resolutions introduced by the Senator from Vermont, [Mr. EDMUNDS.]

ARMY REORGANIZATION.

Mr. BURNSIDE. By the kindness of the Senator from Alabama [Mr. MORGAN] I ask one moment's time to consider the amendment I have offered to Senate bill No. 1491, to reduce and reorganize the Army of the United States, and to make rules for its government and regulation. I wish the bill taken up with a view to adopting this amendment I have submitted, and then allowing further action to be passed over.

Mr. EDMUNDS. I cannot yield for the adoption of any amendment. If the Senator merely wishes to make a motion to refer, or something of that kind, I have no objection.

Mr. BURNSIDE. I beg to say that the amendment does not involve any change in the bill at all. It is simply an amendment striking out a portion of the bill, which latter portion has been introduced as a separate bill and referred to the Military Committee.

Mr. EDMUNDS. It would give me great pleasure to agree to all this, but I objected to my friend from Indiana bringing up his little bill for his constituent, and have stopped the Richmond Female Institute, to go on with my resolutions. I am afraid the Senate will get quite as sick of me as they are of the resolutions if I do not have them disposed of now. I hope the Senator will pardon me.

Mr. BURNSIDE. I must say that I made this motion because I thought it was the understanding.

Mr. EDMUNDS. I misunderstood the Senator. I thought he merely wished to make a formal motion.

Mr. BURNSIDE. So I understand that it is a formal motion. It is simply the division of a bill. It asks to do nothing or take nothing from it. However, I beg pardon of the Senator.

Mr. EDMUNDS. I misunderstood what the Senator meant to ask.

THIRTEENTH, FOURTEENTH, AND FIFTEENTH AMENDMENTS.

The Senate proceeded to consider the following resolutions, submitted by Mr. EDMUNDS on the 7th instant:

Resolved, as the judgment of the Senate, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified, and are as valid and of the same paramount authority as any other part of the Constitution; that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union, and that it is alike the right and duty of Congress to enforce said amendments, and to protect every citizen in the exercise of all the rights thereby secured by laws of the general character already passed for that purpose, and by further appropriate legislation, so far as such enforcement and protection are not secured by existing laws; and that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution, and of Congress to appropriate all moneys needful to that end.

Resolved, further, That it is the duty of Congress to provide by law for the full and impartial protection of all citizens of the United States, legally qualified, in the right to vote for Representatives in Congress, and to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report, as soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

The VICE-PRESIDENT. The Senator from Alabama [Mr. MORGAN] is entitled to the floor.

Mr. MORGAN. Mr. President, I have no proposition pending before the Senate, nor have I taken the floor on the resolutions of the Senator from Vermont. When the Senator from Vermont, with the consent of several gentlemen on our side, expressed a wish to get up his resolutions, and got them up for consideration after several efforts to do so, it being late in the afternoon after a fatiguing session, I arose and moved that the Senate adjourn. I took the floor for the purpose of moving that the Senate adjourn. The motion was carried, and of course my right to the floor there ended. The Senator from Vermont is entitled to the floor if he chooses to occupy it.

Mr. EDMUNDS. Mr. President, I do not want to occupy anything. I merely want a vote on the resolutions, if that is all we have to do.

The VICE-PRESIDENT. The question is, will the Senate agree to the resolutions proposed by the Senator from Vermont.

Mr. MORGAN. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HOAR. I should like to understand whether the resolutions which were read to the Senate some days since as coming from the Senator from Alabama are pending as an amendment?

Mr. EDMUNDS. He has not offered them.

Mr. MORGAN. I have not offered them, but I propose to offer them now and speak upon them, having ascertained distinctly that the Senator from Vermont does not intend to discuss his own resolutions.

Mr. EDMUNDS. The Senator has made a mistake in that.

Mr. MORGAN. Then I will yield to the Senator from Vermont, so that he may discuss his resolutions, and will offer mine as an amendment in order that he may have the opportunity of discussing both propositions in connection.

Mr. EDMUNDS. Why, Mr. President, the Senator greatly misunderstands me. I do not wish to take any time, as the case now stands, to advance the propositions contained in the resolutions I had the honor to offer. I think they are strong enough to go alone. If the Senator offers any amendment, or opposes the resolutions with his usual skill and ability, very likely it may be necessary in order to preserve the even temper of the Senate that something should be said.

Mr. MORGAN. The Senator from Vermont has been very happy in his efforts to preserve the even temper of the Senate. He came in on the 8th day of January, a sort of national celebration day, in a rather festive spirit, and presented these terms of peace, these emblems of reconciliation, peace in the North and reconciliation in the West,

with an expression that they would be very happy in their effects if they were adopted unanimously. Otherwise I suppose the Senator might have expected they would be very unhappy. But the Senator from Vermont has, as I understand him, persistently declined to explain his resolutions to the Senate of the United States, and now stands upon the proposition that they are simply axiomatic and need no explanation; that they are in themselves a sufficient recommendation to the intelligence of the Senate and to the acceptance of the Senate without a word being said on his behalf in their support. He stands upon that ground, and I therefore feel authorized at this stage of the case, after the Senator from Vermont has three or four times made ineffectual efforts to bring these resolutions to the attention of the Senate during a period of now more than twenty-two days, and after he has been unable to obtain the consent of the Senate until those on our side assisted him in getting these resolutions to the attention of the Senate—I feel authorized to proceed to object to them upon the hypothesis that he considers them, as I have observed, entirely axiomatic, needing no explanation or support on his side, and that the whole burden of objection to them rests upon those who think the resolutions are not tenable and not proper to be considered at this moment of time.

The first extraordinary point in reference to these resolutions, Mr. President, is the time at which they have been offered.

Does the Chair understand that I have offered my substitute?

The VICE-PRESIDENT. The Chair does not, as yet.

Mr. MORGAN. I have so offered it.

Mr. EDMUNDS. Let us hear the amendment proposed by the Senator read before he commences his remarks.

The VICE-PRESIDENT. The amendment will be read.

Mr. MORGAN. It is offered as a substitute.

Mr. EDMUNDS. Yes, sir, to strike out all after the word "resolved" and insert, I suppose.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. The proposed amendment is to strike out all after the word "resolved" and insert:

1. ———, *as the judgment of the Senate*, That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States are as valid and binding as any other part of the Constitution; that the people of the United States have a common interest in the enforcement of the whole Constitution in every State and in the Territories of the United States; and that it is alike the right and duty of the United States, so far as the power has been delegated to them, to enforce said amendments and to protect every citizen in the exercise of all the rights thereby secured.

2. *Resolved*, That the Government of the United States and the governments of the several States are distinct, and each has citizens of its own, who owe it allegiance, and whose rights within its jurisdiction it must protect; that the Government of the United States is one of delegated powers alone; its authority is defined and limited by the Constitution; all powers not granted to it by that instrument, nor prohibited by it to the States, are reserved to the States respectively or to the people; and that no right can be acquired under the Constitution, or secured through the laws of the United States, except such as the Government of the United States has the authority to grant or secure.

3. *Resolved*, That the Constitution of the United States has not conferred the right of suffrage upon any one, and the United States have no voters of their own creation in the States; but the fifteenth amendment of the Constitution has invested the citizens of the United States with a new constitutional right, which is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude; and it is within the jurisdiction of the Government of the United States, which Congress may exert by appropriate legislation, to prevent the denial or abridgment, by a State, of the right of a citizen to vote, when such denial or abridgment is on account of the race or color or previous condition of servitude of the voter.

4. *Resolved*, That when such right to vote is denied or abridged by the conduct of a person who is not so acting by the authority and in obedience to the laws of a State, the jurisdiction to punish such conduct is in the State government, and is not in the Government of the United States.

Mr. MORGAN. Mr. President, the most remarkable thing about these resolutions is the time of their introduction. The first proposition in the resolutions of the Senator from Vermont is:

That the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been legally ratified and are as valid and of the same paramount authority as any other part of the Constitution.

The thirteenth amendment to the Constitution was promulgated in pursuance of law on the 18th of December, 1865. The fourteenth amendment was promulgated on the 24th of July, 1868. The fifteenth amendment was promulgated on the 20th of March, 1870. Many Senators have come into the Senate of the United States from various parts of the Union between those periods and the present day. They have all been brought before the Senate, and they have taken upon themselves an oath to support the Constitution, and no Senator has been sworn here who has not perfectly understood that his oath of office included the thirteenth, fourteenth, and fifteenth amendments. Whether he may have come from the South, the East, the West, or the North, every Senator has felt that the obligation imposed upon him to support the Constitution of the United States without mental reservation was an obligation that included the thirteenth, fourteenth, and fifteenth amendments, and no Senator on either side of this Chamber, so far as I have observed, has by any vote or motion or speech or the expression of any sentiment indicated that he did not consider himself under the full obligation of that oath to support these amendments as he did all the rest of the Constitution of this country.

In view of these solemn asseverations on the part of Senators which if men have consciences left bear upon those consciences so as to constrain them to an honest compliance with the obligations they have taken, the Senator from Vermont, it seems, has never considered it necessary until the 8th day of January instant to put the question before the Senate and before the country whether these three amendments are of full force and obligation upon the country and upon the Senate. He seems to think that some new affirmation is needed; he seems to suppose that there will be some reluctance on our part in taking upon ourselves by voting for his resolutions these new affirmations he now requires us to make of the same things to which we have committed ourselves by solemn oaths in the presence of Almighty God. He seems to think, following up the notion which pervaded this country some time past, that it is necessary in order to compel a man to observe an oath that he must give security to keep the oath. There was a time which I well remember, and which I dare say is well remembered by many Senators here, when oaths were prescribed to citizens of the United States having reference to loyalty, and bond and security was required that the man who swore would keep his oath. Now it seems that at this late day the same spirit has found its lodgment in the bosom of the Senator from Vermont which was brought into existence and fostered by the acrimony and bitterness of the great struggle of hostilities between the contending sections and that the Senator wants us now to pledge by a resolution that we will observe and support our oaths solemnly taken with reference to the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States.

If he feels himself weakening on this subject, if he feels that he is not bound to support the Constitution of the United States until he has repeated that obligation in the form of a solemn resolution, I must say to him that there are few Senators I think on this floor who sympathize with him in that line of thought or in tolerating such a doubt of their own fidelity, and they would rather be left to the influence that the obligation itself has on their consciences sanctioned as it is by an appeal to God than to endeavor to strengthen the obligation by a mere political and partisan resolution introduced here for the purpose of vamping it up.

The thirteenth amendment to the Constitution of the United States was promulgated, almost no one objecting. Indeed, so far as the State of Alabama is concerned it had accepted the action of the United States Government and the obvious results of the war, and had already abolished slavery before the Congress of the United States had submitted a proposition to them for that purpose.

As to the fourteenth amendment of the Constitution, there was a doubt lingering in the minds of some Senators on the republican side of this Chamber as to whether or not the ratifications of that amendment had been in constitutional form, whether or not the Legislatures of the different States had been permitted to give a free and full expression of the voice of the sovereignty of all the respective States in its ratification. The Congress of the United States therefore passed joint resolutions declaring the ratification of that amendment by the States and its promulgation (which had preceded these joint resolutions) by the Secretary of State as being obligatory on the country, and the Senator from Vermont was in this Chamber and I believe voted for those resolutions.

Now, as to the fourteenth amendment will not this one vote suffice the Senator? Will he, after having participated in a joint vote of the two Houses by which the promulgation and the ratification of the fourteenth amendment were solidly established even beyond the power of legislative repeal, now come and ask the Senate of the United States, upon a resolution that does not express the joint views of the two Houses, upon a resolution which he entitles a resolution to be "resolved as the judgment of the Senate" alone, again bring this subject back to the attention of the country and again demand the adoption of a resolution by the Senate that the fourteenth amendment is a part of the Constitution of the United States?

When shall we cease resolving, and when shall we cease confirming or affirming that which we have so solemnly expressed before the world? When the Senator comes to reply, as he seems to feel the necessity of having a reply upon his own resolutions on which he refuses to speak, rather than an opportunity to vindicate them and to explain the necessity of their adoption before the country, let him reply how often does he expect this resolve to be adopted by one House of Congress. When will his demand cease, and when will his eager conscience be satisfied that pledges enough have been given by himself as well as by other honest men that they will comply with their oaths?

The fifteenth amendment was carried so indisputably through the Legislatures of the different States of the Union, and the process of reconstruction had become so fully recognized on the part of the different States who were seeking or had accepted rehabilitation in the Government of the United States, that it was not thought necessary even by the Senator from Vermont, who for years has had an honorable leadership in this body as the great judicial light of the Senate on the republican side, to offer a resolution of like kind with that which was adopted in reference to the fourteenth amendment so as to fasten that upon the conscience of the country. He has left that amendment to stand from the 30th day of March, 1870, until the memorable 8th day of January, 1879, without ever having expressed the existence of a doubt in his own mind, or a suspicion that a doubt existed in any other mind, of the validity of the fifteenth amendment. State after State in the South has conformed its constitution to the fifteenth amendment; and yet the State of Vermont and many States in the North have disdained to do that. Their constitutions stand to-day without actual modification, so far as the acceptance of the fifteenth

amendment is concerned, while all the States of the South, except Kentucky, have gone into convention and have conformed by actual ordinances their constitutions precisely to the fifteenth amendment.

Why has it never occurred to the Senator from Vermont to use his justly deserved powers of influence and control, not merely in Vermont and in the Senate of the United States, but throughout the northern country, by going among the Northern States that have reluctantly withheld their confirmation of the fifteenth amendment, and by asking them to do that which the Southern States have done with an earnest desire to show the people of this country that they love its institutions and intend to uphold them? We have heard nothing from him on that subject. Perhaps his engagements in the great duties of the Senate have forbidden him to do it; and I am gratified to know that the expected departure of the Senator from power with his great party following him has at last awakened him to a sense of national duty and that we may expect from him now, the South having conformed its action to the fifteenth amendment, that he will convert himself from this time forward into a sort of missionary agent with a view of trying to induce the Northern States to conform their constitutions to this amendment.

The resolutions which I have had the honor to offer as a substitute for the resolutions of the Senator from Vermont affirm the validity of the thirteenth, fourteenth, and fifteenth amendments of the Constitution. They do not drag before the country any unnecessary debate or inquiry into the question of the manner of the ratification, or the question whether or not a legal promulgation of a constitutional amendment is not quite sufficient though the States may not have lawfully ratified it, at least until the promulgation is revoked. They do not seek to bring before the country any disturbing question for debate and controversy, having no essential connection with the merits of such a proposition as this; but they fasten themselves at once solidly upon the ground that the thirteenth, fourteenth, and fifteenth amendments are valid as part of the Constitution and are just as valid as any other parts of it.

Is not the Senator from Vermont satisfied when we declare, and also when we swear, that the thirteenth, fourteenth, and fifteenth amendments are valid as parts of the Constitution of the United States? Must he go behind the declaration and behind the oath and pick out the facts and the grounds on which we base, in our judgment, the other and only essential fact of the validity of the amendments? Must he probe into our consciences to see whether or not in the processes of reasoning by which we arrive at the conclusion that these constitutional amendments are valid we happen to agree with him and to move with him in lines of perfect parallelism through the whole line of the argument? Or will he not leave us to choose the ground upon which we placed our declaration of their validity when at last we concur with him, as I hope and believe I know that Americans throughout the country do concur, that the amendments are valid? Is not that enough? If it be not enough, I ask the Senator from Vermont to indicate when he comes to reply to my argument, if he shall do so, or any other he may choose to reply to, in what respects he is dissatisfied with the pledge we lay before him, before the country, and before God.

So that far we are agreed, and to that extent the felicitations of the Senator so joyfully expressed by him on the introduction of these resolutions did come happily forth for the peace of the country, and the 8th of January was duly celebrated in this Chamber by our adhesion to an agreement which the Senator supposed we had never made, that these constitutional amendments are actually valid. He had supposed, doubtless, that only the republicans recognized these three amendments as parts of the Constitution when all Senators were sworn to support and obey that instrument.

Now, Mr. President, at this point the divergence begins, and upon one side of these lines of divergence is the Senator from Vermont and those who may choose to follow him in the adoption of his resolutions, and on the other side is the law of the land as declared by the Supreme Court of the United States in various express decisions and in various analogies of law which are embodied in solemn decisions of that great tribunal. I had supposed until yesterday that the Senator from Vermont in this discussion preferred to antagonize only the democratic party; but when certain remarks were made by the Senator yesterday, which doubtless came from the fullness of his soul, I discovered that his real quarrel, both in fact and in intention, was with the Supreme Court of the United States. When I discovered that the honorable Senator's attack was at last intended to fall upon the Supreme Court more heavily than upon the democratic party, then I felt great consolation. Until then I feared that in our weakness and in the midst of all the fallacies and errors of which we have been so long supposed to be guilty, perhaps we had failed to surround ourselves with a sufficient protection to resist the shafts of the distinguished Senator. When the case of Warren Mitchell was under consideration a day or two ago, the Senator from Vermont [Mr. EDMUNDS] said:

> I do not know when that decision of the Supreme Court was made, but whenever it was made, I wish to say, as I have said often before, when my duty as a lawmaker is called upon for action, while I shall treat with great respect the decisions of the Supreme Court of the United States, I must say that their decisions can have no more influence over me than mine over them.

I was very glad indeed to find that the Senator from Vermont was willing to treat the decisions of the Supreme Court of the United States with respect. I dare say that the court must feel complimented with the respect paid to them by the Senator; but that respect it seems is altogether personal, it is a kindly indulgence to their opinions. It certainly is not a respect for the authority of the grave and august tribunal into whose hands I believe, and have always believed, the Constitution of the United States has committed the final decision of questions of constitutional law, and especially those questions of constitutional jurisdiction which separate the different departments of the Government one from another. I have always been led to believe, and I believe it as a democrat, as a Jeffersonian and a Jacksonian democrat, that the decisions of the Supreme Court when they define the boundaries of legislative and judicial jurisdiction between the States and the Federal Government and between the different great departments of the Government of the United States are to be accepted not merely by the people, but also by the States, by the judiciary, by the Congress of the United States, and by the Senate of the United States, as being the lawful and conclusive decision upon those questions. And if the Senator from Vermont desires to attack this doctrine, allow me to say to him that he will have the pleasure also of attacking a democratic principle. His resolutions are distinctly an attack upon that doctrine, and therefore they are an attack upon the democratic party, an attack which we are willing again to accept, which we have many years battled against, and which when we refuse to meet it the democratic party will have gone to naught, its mission will have ended, and its purpose will be no longer for the good of the country. We claim on our side that questions as to the constitutional distribution of powers and jurisdiction between the executive, the judicial, and the legislative departments of this Government may be conclusively decided upon when a case for judicial cognizance arises, in all matters which relate to the boundaries of the jurisdiction, by the Supreme Court of the United States.

The resolutions of the Senator from Vermont remind one of an inverted pyramid, the base of which, being the whole constitution, is high in the air, and the apex of which, being a doctrine applicable to but one amendment, rests upon the earth. The final point in the resolutions and that upon which the whole weight of the structure is brought to bear is as to the power of the punishment of individuals for the violation of certain laws of Congress enacted or to be enacted for the enforcemen of a single amendment. It is very singular, indeed, that the chairman of the Judiciary Committee, a man whose abilities I need not even refer to in the Senate for the purpose of convincing any one of their high claim to respect, during ten years of experience and observation upon this subject, should not have discovered until this moment that it was necessary to enact some additional laws for the purpose of exerting the power of Congress over the people under these amendments, and that he had never matured in his own mind any such measure that he could afford to present to the Congress of the United States. He says in the concluding sentence of his resolutions:

> And to this end the Committee on the Judiciary be, and it hereby is, instructed to prepare and report, as soon as may be, a bill for the protection of such rights, and the punishment of infractions thereof.

Why should it be necessary that the Senate should instruct the Senator who is chairman of the Committee on the Judiciary to prepare and report a bill all the details of which are hidden away in his own mind?

The Senator from Vermont is a man of great experience; and if in all his thinking over this subject under the pressure, as I suppose he will urge, of great public necessity, he has not been able to frame a measure to offer to the Senate, or even to suggest in his resolutions the terms or provisions of a specific measure necessary to carry into effect this power of Congress which he asserts, it is remarkable. It is remarkable that after so many years of solemn reflection he should at last leave us so sadly in the dark, and that he should undertake to relieve us by nothing better than a resolution that has no defined purpose and no meaning beyond vague instructions to a committee to inquire as to what is best to be done, unless indeed his present effort has a covert political meaning only, and is not necessary to any practical result that will benefit the country.

The resolutions start out with the proposition that the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States have been ratified and are therefore valid. They then present some very specious, plausible, and well-sounding phraseology upon the subject of interests that are common to the people of the States, to which I shall presently advert. Then they go on to infer a duty on the part of Congress to enact laws of a certain general character without specifying the statutes which we should enact. That the Senator should have found his mind so burdened by this great subject, that it should have pressed so heavily upon him as that he was unable to relieve himself of the pressure sufficiently to determine the specific measures by which he hoped to give relief to the country, is something to be lamented. But feeling, I suppose, the enormous weight, the great pressure of public necessity which nobody but the Senator feels, he concluded that it was necessary that he should give to the country at least some wholesome advice in the form of an opinion of the Senate that some additional laws of a certain general character should be enacted for the benefit of the people embraced in the thirteenth, fourteenth, and fifteenth amendments. I would have been pleased to see the Senator come to particulars in

this matter. It would have gratified an admiring people to see him add or try to add to the catalogue of laws, many of which have been torn to rags and tatters by the Supreme Court, some additional laws of the same general character, but specific in their nature, which he supposes are necessary for the purpose of carrying into effect the amendments of the Constitution; but the Senator has forborne to allow the country to know precisely what is in his mind upon this interesting subject. He merely informs us that he is impressed with the necessity of some legislation, and he proceeds to state its general character without giving us one single particular.

He then proceeds, after he gets through with the duty of Congress, to comment upon the duty of the executive department, and he makes a wild appeal to the executive powers of the country. He says they ought to be exercised with great vigilance and impartiality in the execution of such laws as Congress has enacted and such as Congress will enact, the provisions of which, I have observed before, the Senator has entirely withheld from us.

He then leaves "the whole Constitution" without any guardianship and comes down to the thirteenth, fourteenth, and fifteenth amendments. He singles them out from the rest of that instrument and undertakes to impress the Senate and the country with the idea that all the interest of this land should be focalized upon the thirteenth, fourteenth, and fifteenth amendments, the enforcement of which the Senator evidently understands must not only be paramount by comparison with all other parts of the Constitution of the United States, but paramount to every other duty of life, whether performed in this Chamber or out of it.

In order to get this subject fully before the Senate and to lay down certain premises and predicates which the Senator thought were necessary to justify the conclusion stated in the second resolution, (for the whole pith and marrow of this subject is contained in the second resolution,) he proceeds to enunciate certain views of duty and of right and power on the part of certain peoples and communities in the United States, which I think he will find by comparison with the doctrines laid down by the Supreme Court of the United States are not tenable under our Constitution and are not consistent with our form of government. The resolutions declare "that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union." It is somewhat remarkable that the Senator should have left out the Territories and the District of Columbia. Does the honorable Senator suppose that the Constitution of the United States has no force in the District of Columbia or in the Territories? Or is it only in the States that the people of other States have a common interest in having the whole Constitution enforced?

Why is it that, in laying down a constitutional platform for his party, (as I suppose this is to be for his party a broad platform of constitutional orthodoxy,) he omitted the Territories and the District of Columbia? Surely his statesmanship took within its grasp all that belongs to this great country in all its borders, but he seems to have confined himself to the States without reference to the District of Columbia or to the Territories. This was done for the purpose, I suppose, of giving peculiar point and emphasis to the final conclusion through which he expects to visit upon the people of certain States of the Union penalties which Congress has no power to visit upon them. The Senator declares that—

> The people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union.

Well, that is a poor apology for an American declaration of a right of the people to define it as an interest in the enforcement of the Constitution of the United States, and to so confine the definition that it should stop short of the Territories and of the District of Columbia. Was this a mistake on the part of the Senator from Vermont? No, Mr. President, he is never guilty of such mistakes. He is one of those who never omit to state all that they intended to state. No word gets into his statement which is an expletive; none is left out that is necessary to the full perfectness of the expression. So when he left out the Territories and the District of Columbia he did it *ex industria*. He did it because he did not believe that the fourteenth and fifteenth amendments were applicable to the District and the Territories. Does the Senator expect the republican party to confine the Constitution of the United States within these meager and sparing boundaries? The Senator found an inconvenience, probably, in the course of an argument that must include the District of Columbia within all the provisions of the fourteenth amendment.

But he says:

> The people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union.

That means, of course, in each and every State. Now, let us test that just a moment and let us see whether the people of each State have a common interest in the enforcement of the Constitution in every other State. What is meant by "a common interest?" Does it mean a sentiment? Does it mean a mere concern for another? Does it mean an affectionate regard for the welfare of another State? Does it mean a privilege, a right of interference with the affairs of another State? Or when the Senator uses the word "interest" does he connect the idea with something that is tangible, something that is worth while considering, something that is powerful and influential, that can be put into action?

Now, Mr. President, I must make a disclaimer on the part of the people of Alabama. We never have considered that we had any "common interest" in the enforcement of the Constitution in the State of Vermont; that is, as the people of Alabama, as a people of a State, who under some circumstances and in some sort and on some occasions—all persons allow that they have what is called sovereignty—these people, thus aggregated in Alabama, do not claim that they have an immediate and direct interest in the enforcement of the Constitution in the State of Vermont. They claim that they as citizens of the United States have got an interest in the enforcement of the Constitution of the United States and of the laws thereof in the different States of the Union through the organized constitutional and legal tribunals of this Federal Government; but as the people of the State of Alabama they do not claim that they have either right or jurisdiction to send petitions to Vermont, to send remonstrances to Vermont, to complain of her legislation, to complain of the election of her public agents for the discharge of the duties of the government of that State. They do not claim that they have got the right or power to enforce the "whole Constitution of the United States" in the State of Vermont. If a man is deprived of the right of trial by jury in Vermont, the people of Alabama are not conscious of the fact, or, if they are, they do not think that they have a right as a people to complain of it. If a man, by the constitutional authority of Vermont, has been denied his right to vote under circumstances where he would have the right to vote in Alabama, we do not consider that we have a right as the people in Alabama to complain of the people of Vermont. Neither directly, in applications made to them or by objections suggested to their Legislatures or their governors nor through this common agency the Congress of the United States, do we claim such jurisdiction over Vermont.

The Senator from Vermont in his resolutions declares in effect that the people of Alabama have the right to demand the enforcement of the whole Constitution of the United States in every State of the Union, and Vermont of course is included. We respectfully disavow this delicate and onerous guardianship.

Now, if we turn to the amendments to the Constitution we find that the first amendment relates to the establishment of religion, or the prohibiting the free exercise thereof; to abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

These constitute one class of rights secured by the Constitution to the people of the United States. One of the classes of rights that the Congress of the United States have no right to violate, nor has the government of any State a right to violate them, nor has any judicial tribunal within any State, or any executive officer within any State, a right to violate them; and in order to protect these rights the Constitution of the United States must be enforced within those States. But through what agency must it be enforced? What right, I ask, have the people of Alabama to insist upon the enforcement of rights of this character in the State of Vermont? They may have a moral right; they may have an interest in common with the American people in desiring it; but they have no common agent empowered by law with the jurisdiction to enforce this right on their demand; and therefore, as there is no common agent between these States for this purpose and as these States are themselves independent and separate sovereignties, that which is declared in the resolutions of the Senator from Vermont to be a right of the people of each State is not a right of the people of any State. So with equal force may we refer to the third amendment to the Constitution, which provides that—

> No soldier shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

So in regard to the fourth amendment to the Constitution, which provides that—

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

If rights of this kind are violated in the State of Vermont, have I a right, as a citizen of Alabama, (and by a right I mean a legal right, a right coupled with authority, with power to enforce it, a right that can be enforced,) have I an "interest" or right in virtue of which I can go to Vermont and question the conduct of her people and the action of her authorities, and to reverse, interfere with, and to set aside that action? Yet the Senator's resolution includes the whole Constitution and extends to every State, and he declares that the people of each State have the right, under the Constitution of the United States, to enforce the entire instrument in every State of the American Union. If this is not declared by the resolutions nothing of practical value is declared by them.

The utter impossibility of that proposition is apparent upon its face. It would be apparent if we considered nothing but the general outline and character of our Government; but when we come to consider the fact that no intermediary has been named in the Constitution, that no agent has been established there who can exercise these extensive powers on the demand of the State of Vermont or the State of Alabama, then we find the utter fallacy of this generalization of the Senator from Vermont so cleverly expressed in his resolutions.

A common interest to be of any value must be a common right. What is a common right? It is a right that is enjoyed in common, equal to all possessors, if not in degree at least in kind, a right which all may exercise, a right which belongs in community to all. There-

fore we would have a common right in the people of all the States, according to the resolutions, to arraign any little State that may be supposed to be violating some provision of the Constitution and compel her to obey it according to our construction of the same. New Hampshire for a long time violated the Constitution, as its doctrines are generally accepted in the United States, by excluding men from office, and I believe even from the right to vote, who were not professors of the Protestant religion. Could the people of any other State have called New Hampshire to account for this? Mr. President, there is no such common right in this country.

Mr. EDMUNDS. If I do not disturb my honorable friend, I should be glad to have him read any part of these resolutions where it is said that the people of each State have a common right to enforce the Constitution. The copy that I have printed reads "that the people of each State have a common interest in the enforcement of the whole Constitution in every State in the Union," and that it is the duty of Congress to see that the whole Constitution is enforced.

Mr. MORGAN. I am very glad that I have brought the Senator from Vermont at last to his feet. I think I have accomplished something, for the Senate should be entitled to hear at least something from him on his own resolutions.

Mr. EDMUNDS. I did not hear the honorable Senator.

Mr. MORGAN. I say I think I am entitled to congratulate myself that I have at last got the Senator from Vermont to consent to make some explanation of his resolutions.

Mr. EDMUNDS. Oh no, I have made no explanation, I only asked the Senator to read the resolutions as they stand in the print.

Mr. MORGAN. I have read them. Probably the Senator did not understand my point. I undertook to draw a distinction between a common interest and a common sentiment, and I said I had supposed that the Senator in his careful use of words when he put the word "interest" in his resolutions meant something more than sentiment; because if there is nothing else in question but sentiment I should be disposed to gratify the Senator from Vermont in the indulgence of any amount of kindly interest he may have for the people of Alabama. Indeed I do not know but that under certain circumstances I should be entirely willing to commit the guardianship of those people to the tender care of the Senator from Vermont, for he always takes such good care of his own people, provides so well for them, sees that they have all the rights that they are entitled to under the Constitution of the United States and all the benefactions and all the bounties that this Government can bestow, he is so particularly careful, prudent, wise, and comprehensive in the guardianship of his own people, that if I were compelled to intrust the care of my people to any one as a matter of rightful guardianship I do not know who I would rather have take the charge of my State than the honorable Senator from Vermont. If this were a mere sentimental affair I would be wasting my time in the discussion of it. If the Senator from Vermont will avow on the floor of the Senate that the word "interest" in his resolution does not mean anything more than a concern for, a sentiment for, an interest in, the welfare of the people of the different States, I shall dismiss this branch of the argument.

Mr. EDMUNDS. I will send my friend a dictionary rather than disavow it.

Mr. MORGAN. As a matter of course I understand that the Senator from Vermont uses no word without consideration, and when he uses the word "interest" he means the greatest possible interest rather than the least possible interest—I do not know how more justly to express it—than as the greatest possible right rather than the least possible right to go into the States armed with the authority of the people of Vermont for the purpose of exercising such power as they possess to enforce their interest, their right in the control of the people of the different States. Therefore I have not misinterpreted the resolutions of the Senator from Vermont, and after this little colloquy between us I am gratified to know that he has at least come to my construction of his own resolutions.

The Senator from Vermont seems at a late period of my argument to have been disturbed by the suggestions which I have had the honor to make, and I shall not repeat that which is already upon the record, but which I think he will find some occasion to notice when he comes to reflect upon it. But, sir, the interest that he means is the right of control; it means no more and no less than that. The proposition, when put into plain, undisguised English is that the people of Vermont have the right to control the people of Alabama whenever, by act of omission or act of commission, they violate the Constitution of the United States in withholding from a man any right that he may enjoy under the "whole Constitution," or in imposing upon him any burden that he may not be rightfully compelled to bear. That is his proposition; and that is the proposition that I combat. I know it is concealed; it is hidden away in the verbiage used by an astute mind rather to conceal than to portray the actual meaning of the phrase; still there it is. There is the declaration, and that brings us back to the old field of controversy between the federalists and the democrats, wherein it was asserted on the part of the democrats, when they came into the Union, as well as afterward, in the almost contemporaneous amendments to the Constitution, that this right of interference by one State in the local affairs of another State through Congress as a common agency does not exist under the Constitution of the United States. There is the democratic proposition, and there is the issue. Why else did the Senator immediately after the statement of these premises in his resolutions refer to the right and duty of Congress? He says in his resolutions:

> And that it is allke the right and duty of Congress to enforce said amendments

Why did not the Senator say "to enforce the whole Constitution?" When he comes to define the rights and powers and duties of Congress to enforce, why does he limit himself to three amendments and leave out the rest of the Constitution?

It is "the right and duty of Congress." The Senator might have said, "and therefore it is the right and duty of Congress," for that is the proper connection in the syllogism which the Senator presents for our consideration. The first proposition being stated, that the people of the different States have a common interest, a common right, in the enforcement of the Constitution in every State of the Union, then the next step in the statement is, "and it is therefore the duty of Congress to enforce." That duty of Congress is inferred from what? Not from powers granted to Congress by the States that created it; but that duty is inferred from the right, the interest which the Senator says each State has in the enforcement of the Constitution in every other State. I had supposed that it was the American doctrine, accepted by all parties, that the Government of the United States derived its just powers not only from the consent of the governed, but that it derived its just powers by actual and express grant to be found in the Constitution of the United States. But the Senator has found another fountain-spring of authority from which he deduces this power of Congress to control States. That new fountain, no, that old fountain, which has been sealed since the confederation of the States was dispensed with and the new Constitution was adopted, has at last been unsealed by the magic power of the Senator from Vermont, and now we are to be flooded with imperialism as contradistinguished from democracy. We are now to be flooded with that torrent which has threatened to break down all barriers almost every decade for years and years. We are to be told upon the floor of the Senate that these powers which Congress possesses do not arise from the conjoined powers of the different States exercised in the adoption of the Constitution of this country, through which the States bestowed upon the Government of the United States all the powers it possesses, but they arise out of the common interest and common right that the different States have to interfere in the matters which concern locally the people of other States. There is the distinction between the Senator's doctrine and that of the democratic party, and there is the distinction also between the Senator and the Supreme Court of the United States.

Mr. ROLLINS. Will the Senator from Alabama yield to me for a moment? He made some allusion a short time since, I understand, to the constitution of the State of New Hampshire. I think he stated that some portion of the inhabitants of that State were disfranchised on account of their religion, and not allowed to vote.

Mr. MORGAN. No; I said I thought so. They were deprived of holding office, I know.

Mr. ROLLINS. But that is not correct. They are not deprived of the right to hold office or vote because of their religion.

Mr. MORGAN. I know that at a very recent date even the State of New Hampshire has thawed beneath the genial influence of American principles, and she has at last permitted freedom of religion to get into her constitution.

Mr. ROLLINS. No man is prohibited from holding office in New Hampshire on account of religion.

Mr. MORGAN. She has now allowed him to come in free from religious intolerance. When was that? Will the Senator inform me how long since you made this modification in your constitution?

Mr. ROLLINS. In regard to the right to vote?

Mr. MORGAN. No, in regard to the right to hold office.

Mr. ROLLINS. Since the republican party has had control of the State.

Mr. MORGAN. When was that? I should like to know the date.

Mr. ROLLINS. In 1877 the amendments to the Constitution were ratified by the people.

Mr. MORGAN. There is one other question I should like to ask the Senator from Vermont. Did the Senator from Vermont and his colleague, exercising the right or the interest which the people of Vermont had in the affairs of New Hampshire, go over there and undertake to compel them to reform their constitution so as to make it conform to American principles of government? They lived alongside of New Hampshire for many years. They saw this ban of religious exclusion. They saw every Roman Catholic that was in the State or that might go into it excluded from holding office for many years, for nearly a century. Did the people of the State of Vermont exercise this common interest in the enforcement of the whole Constitution in every State and go across the border and implore or compel the people of New Hampshire to put this amendment in their constitution? There it stood; there it glared fiercely and defiantly down upon all the rest of the sister republics of the American Union; and the two Senators from Vermont seem to have reconciled themselves to the existence of this uncharitable, this irreligious view of their rights under the Constitution of the United States, without ever having made an effort to have it abrogated from the constitution of New Hampshire.

But there was another tribunal that you might have gone to, indicated in the resolutions of the Senator from Vermont. That was

Congress. It was open here to your complaints. I never heard of a democrat who undertook to exclude a man from his right to the full and free enjoyment of religion in this country. If there be such a man in our party to-day, and he will avow it, we will give him a leave of absence, and he shall never return if we can help it unless he reforms his opinions. There stood the Senator, his State side by side with New Hampshire for year after year, and never once thought of coming to Congress to employ this common agent of the Constitution to compel New Hampshire to strike this odious feature out of her Constitution. That is what I am lamenting; that is what I am commenting on. What I feel very much surprised at is that the Senator from Vermont, the author of the resolutions, should to-day find himself compelled by some sudden necessity to undertake to reform the condition of all the rest of the States in the American Union after having so long neglected his duty in reference to his sister State of New Hampshire.

I have the authority of some Senators who are near me for saying that President Pierce, who in the South was as much beloved as he ever was in New Hampshire, was indeed the most doughty champion of the striking out of this odious provision from the constitution of New Hampshire. If this amendment is to be credited to republican progress then I must say that there is that one feature in the conduct of the republican party which I had failed to observe, which entitles them at least to some credit.

Mr. ROLLINS. The party with which President Pierce acted during his life-time, for a long number of years had complete control of New Hampshire, and they did not change the constitution in that respect.

Mr. MORGAN. I am not familiar with the history of that, and I do not propose to get off into the discussion of a question of that kind.

Mr. ROLLINS. I only desire that the Senator should not misrepresent the constitution of New Hampshire; that is all. He stated on the floor of the Senate that a portion of the people of New Hampshire were disfranchised and did not have the right to exercise the right to vote on account of their religion. That is not the case. The people of New Hampshire never deprived any man of his right to vote on account of his religion or color.

Mr. MORGAN. The Senator misunderstood me.

Mr. ROLLINS. He stated again that the people of New Hampshire were not allowed to hold office by reason of their religion. That is not true.

Mr. MORGAN. I said that under the constitution of New Hampshire as it formerly existed the people there were not allowed to hold office unless they were members of the Protestant religion.

Mr. ROLLINS. They are allowed to hold office now, and practically even under the old constitution Catholics were allowed to hold office. They were members of our Legislature and were never refused admission.

Mr. MORGAN. I stated distinctly that I understood that the provision related to the right to vote. It seems it never related to the right to vote, but it certainly did relate to the right to hold office. The question that I had on my mind and which I tried to present to the Senate was why it was that these gentlemen who are so eager now to enforce, under the powers and rights of the different States, the Constitution of the United States and apply it to every other State of the American Union were so long asleep upon this proposition.

But I pass from that, Mr. President. The next agency which is called up by the Senator from Vermont for the purpose of carrying into effect his new programme for the enforcement of these three amendments of the Constitution of the United States is the executive department. I will read what the resolution provides on that subject:

> And that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution.

That means all the laws that exist and all that can exist on this subject. I do not wish to criticise too narrowly the resolution of the Senator from Vermont, and yet, when we remember some very illustrious instances in the life of the Senator, we find ourselves compelled to be very wary in construing his words. When I find a word in a sentence written by him, I suppose naturally that it has some force and a meaning adapted to carry out the precise thought which he wishes to enforce by the adoption of the resolution he proposes. Therefore, when he says that it is the duty of the executive department of the Government faithfully and with diligence to carry all such laws into impartial execution, and then supplements that with a demand for more money to be taxed out of the people by saying that it is the duty of Congress "to appropriate all moneys needful to that end," I naturally stop to inquire how much power the Senator intends to attribute to the executive department of the United States in the enforcement of all such laws now existing, or that may hereafter exist, having relation to this right, which he asserts, of the people of the different States to enforce upon the people of other States their views of the Constitution of the United States.

There is some general misunderstanding about the powers of the executive department in reference to the enforcement of the laws. When the executive department of the United States is put at the head of the Army in the person of the President and the sword is drawn and war is declared, and all laws relating to civil matters are sometimes dispensed with because of the prevalence of a state of war, I can understand then how it becomes the duty of the Chief Executive of the executive department of the Government of the United States, during a time of war, to enforce laws civil and perhaps criminal, and certainly all that are military. I have seen during our late war, and have heard that in previous wars, and particularly in the war with Mexico, the executive department of the United States Government by the use of the sword enforced even civil authority upon subjugated communities. It was done in New Orleans; it was done in Nashville, and in various other places, and before the late war it was done in the city of Mexico. But in a time of peace, when the Constitution prevails, when the civil authority in the land is in full exercise, when there is no impediment or obstruction to the entire and complete enforcement of every law of the land, I do not understand precisely what is meant when it is declared by a resolution of the Senate that it is the duty of the executive department of the Government to enforce all laws.

The first duty of the executive of a government is to obey the laws, not to take them into his own hands and become, according to his own unbridled and uncontrolled will, the enforcer of the laws. That part of the law enacted by Congress which is put into force; that part of it to which the word enforcement relates; that part by which punishments are to be inflicted and penalties are to be enforced, depends for its enforcement not upon the executive department directly and immediately, but upon the judiciary. The executive department is simply the right hand of the judiciary for the purpose of enforcing not the law merely, but the law as declared by the judges and applied to the subject by the courts. The courts enforce the laws, and the executive power aids the courts in executing them. But it was the meaning of the Senator from Vermont, and if it were not, when he takes the floor I ask him to deny it, to leave out of consideration the power and right of the judiciary of the country and to place the enforcement of the law right where his resolutions place it, in the hands of the Executive.

Mr. EDMUNDS. Lest I should forget it, I will deny it now.

Mr. MORGAN. The Senator denies it.

Mr. EDMUNDS. Lest I may forget it.

Mr. MORGAN. Then with great respect and deference, I commend to the Senator from Vermont some improvement in the language of his resolution. Then he means, as I understand him, that it is the duty of the Executive, in reference to the civil authority and civil law prevailing in time of peace, without obstruction, that he will first receive from the courts their judgments and their decisions, and he will enforce them; or, if it be necessary to put the courts into action through the Department of Justice, that he will cause the executive officers of the Government connected with the Department of Justice to bring the laws of the United States into action by giving information and by making prosecutions of offenders in the courts. If that be the meaning of the Senator from Vermont, then I concur with him; but if he means instead of this that the Executive of the United States has the right to use the Army in the enforcement of a law, when no court has required its use; if he means that the President of the United States can use the Army to levy an execution or to conduct a man to jail who has been condemned to imprisonment, or to collect a fine out of a man who has been amerced; if he means to attribute to the executive department of this Government the constitutional right and authority to employ other agencies than those that are prescribed by the civil law to assist the courts, and to use them in what he calls the enforcement of the law, then the Senator and I differ in regard to the constitutional power of the Executive of this land on that subject. Especially do we differ if the Senator uses the word "enforce" in the sense of executing the judgment of the law as pronounced by the Executive, instead of the judgment as pronounced by the courts.

I was led to make this inference more particularly by the fact that in the selection of agencies to enforce the supposed rights of the people of the States against the people of other States, the Senator entirely overlooks the Supreme Court of the United States and entirely omits to pay any attention to the judicial power of the country. The judges or the courts are not mentioned in his resolutions. If he had put some glimpse of judicial authority within our view in the wording of his resolutions, we might at least have had the consolation to believe that the Senator did not intend, through the alleged common interest of the people of the several States under the Constitution and the power of Congress, to enforce their common interest and the power of the Executive to put its decrees into execution; to usurp all authority over individual men in every State in the Union, to the exclusion of the courts and their powers; to declare the law, and to declare its judgments.

But the Senator may, as indicated in his remarks made the other day, have some want of respect for the authority of the Supreme Court of the United States, and I dare say that his omission to allude to the Supreme Court of the United States in his resolutions was in consequence of the fact that he regarded the court as being more his antagonist upon the propositions in his resolutions even than Senators on this side of the Chamber. It may be, and I believe it to be, true that every Senator on this side of the Chamber does not concur in every expression that the Supreme Court has made upon these identical questions. That may be so; but we believe that when the Supreme Court of the United States has solemnly decided that Congress has not a certain power over States and the citizens thereof, it is not within the com-

petency of the Senate of the United States, to say the least of it, nor do we believe that it is within the competency of both Houses backed by the approval of an act of Congress by the President of the United States, to annul that decision. The court can annul their decisions, but who can annul the court's decrees? The Senator passes by the courts; he makes no allusion to them. He does not appear to want their assistance in the enforcement of his views of constitutional law in this matter. He would rather not have assistance from them. They are against him, and as a matter of course he does not wish their aid. He does not think it is a proper time to appeal to an enemy to assist him in getting through with the difficulties which he is now experiencing in his own mind, and so he passes them by. But how different is the situation of the people of this country. Let me ask the Senators on this floor if they are aware of any sentiment in the American mind stronger than that of reverence, love, and confidence in the honest judicial tribunals of the land. These are the tribunals where the law makes its immediate approach to and comes directly in contact with the individual man. Men feel the power of the law as well as the benignity of its justice through the agencies of the courts of the country. The Government scarcely ever touches them except through the power of the judiciary and of the tax-collector. The tax-collector comes as a man to demand tribute for the support of the institutions of the Government, and he is received always with reluctance; but the judge comes with that sort of sacred authority which seems to have descended, as in the old times upon the Israelitish tribes, through a commission from Heaven; and the people look upon the judges with awe and with reverence, with love and confidence. I would not disturb that confidence. I would not dislodge the affections of the American people from the judiciary. If I were going to lay a vandal hand upon that which is the most useful and at the same time the most vital principle of our Government, I would lay it upon the ermine of the judges. I would tear them from their benches and I would disperse them amid the rabble. If I desired to poison the whole land and fill it with woes I would corrupt the judiciary.

No, sir, there is no one thing the American people—and by the American people I speak of the great mass of mankind included in those forty millions of our fellow-citizens—there is no one thing that they look to with so deep and fond regard, with such a strong feeling of attachment as they do to the protecting power of the judiciary and to its sense of justice. No man, it makes no difference how great he may be, will ever succeed in winning his way to the profound confidence of the American people who commences by discarding the authority of the supreme tribunal of the land. I am for the protection of this beneficent department of the Government. I am for making the people always feel, if possible, that the judges are pure and upright; that their sentences are delivered from clean breasts, and that justice is executed with clean hands. So long as we can keep the minds of the American people wedded to this one great fact, or to the belief of it, we need have no fear of the falling away or final destruction of our institutions. In the midst of the deepest disasters and darkest gloom this one feeling will recall to their minds the benefits of this form of government, and they will love it in spite of its shame and degradation, and they will restore it, after a fall, in preference to all other forms of government.

I believe, and I think I am authorized to speak for the democratic party in this Chamber and elsewhere, that they believe in the right of the Supreme Court of the United States to declare and to decide finally questions of constitutional law. That is my belief. I yield obedience to it. I do so as a Senator as well as a citizen. I never have supposed that the commission which I have the honor to bear from my State gave me authority to come here and to controvert with that tribunal in reference to the constitutional powers which we may exercise as the Senate of the United States in the enactment of laws. I am not for bills to be introduced and carried through here to repeal decisions of the Supreme Court in reference to the powers of Congress. When any Senator rises in his place with a bill entitled, as such bills ought to be, a bill to repeal the law as declared in a decision of the United States Supreme Court, that decision being with reference to the constitutionality of a law of the United States, I shall hold and claim that that measure is out of order, and that we have no right to legislate upon it.

Such is the effect of the resolutions of the Senator from Vermont. The resolutions of the Senator from Vermont, as I shall proceed to show upon authority, are resolutions to repeal decisions of the Supreme Court of the United States, and though he with his great learning and ability, which all acknowledge, may believe in his conscience that these laws were not justly declared to be constitutional, that these decisions were inadvertently or unwisely made, yet I must stand by the tribunal which as a co-ordinate department of the Government has the right assigned to it by the Constitution of sitting in judgment upon all questions that arise between the United States and the people that come before it in the due course of law.

The Senator will have to excuse me if I cannot go with him, however much I might be charmed by the clearness and force of his objections, in refusing to observe a decision of the Supreme Court of the United States upon a constitutional question. I now pass to those decisions. After having shown that the Senator from Vermont passed them by on the other side, I desire to do that which I should despair of doing without such support—to fortify myself in these great constitutional barriers thrown around the position which I have chosen to occupy on this occasion against the otherwise dangerous power of the Senator from Vermont. When the Senator comes to reply to me he will have a very difficult task, not because of anything that I have said or anything that I may say, but before the Senator can get at me to lay his ponderous hand on me to crush me, as doubtless he thinks he may, into dust, he must pass the barricades of the Supreme Court of the United States behind which I take shelter. The war is not between me and the Senator from Vermont. The war is between the Supreme Court of the United States and the Senator from Vermont, and I think myself most happy, at all events, being new here and from a country whose opinions are not always entirely acceptable, that I have the opportunity on this occasion of expressing my opinions which are stated in my substitute by merely literal extracts from the decisions of the Supreme Court.

But I must do an honorable Senator on this floor some justice before I read these opinions of the Supreme Court. I allude to my friend from Ohio, [Mr. THURMAN.] The speech of that Senator from which I ask the Secretary to read some extracts was delivered in this Chamber on the 23d of January, 1872, upon a discussion of the civil-rights bill. My purpose in having this speech or parts of it read is to show that the doctrines which were afterward stated in the decisions of the Supreme Court, which I shall presently read, were democratic doctrines. Here was the Senator from Ohio, then in quite a small minority in this Chamber, without much support anywhere, and I might say with no support at all except the friendly sympathy of the few Senators who clustered about him and a firm belief in the great principles of the Constitution as he understood them and as they were understood by the democratic party, rising to a discussion of that most exciting subject and forecasting almost in words, certainly in fullness and completeness of statement, all the ideas that were embraced in the decisions of the Supreme Court that were afterward made on these very questions. So I think, without going further back to trace historically the origin of these principles of government, and these distinctions between the powers of the different departments of the Government, than to the date when the honorable Senator from Ohio presented his argument, I may safely say that that argument was a full portrayal of the doctrines which are now held by the democratic party. I believe I shall take shelter under both the Supreme Court and the Senator from Ohio. I ask the Secretary to read the part which I have marked in the speech of the Senator from Ohio.

The Secretary read as follows:

> Now, let us have a word or two upon the Constitution, for my friend from Indiana has considered that the Constitution must be looked into a little. He lays down this broad proposition, that whatever rights are conferred upon citizens of the United States by the Federal Constitution are taken under the protection of that Constitution, and may be enforced by Congress by appropriate legislation. I might grant that proposition and it would not touch the question before us; for there would still remain to be considered whether the rights of the citizen are conferred by the Federal Constitution. That is the first question. Then, secondly, if rights, &c., are so conferred, are the rights, privileges, or immunities assumed by the Senator from Massachusetts in his amendment among them? If either of these questions be answered in the negative, then the Senator's proposition has no application. Thirdly, comes the question, assuming that we have the power to enforce or secure rights, privileges, and immunities conferred or guaranteed by the Constitution, in what manner are we authorized to enforce or secure them; *quo modo* can we enforce or secure them? And if it be found that you cannot constitutionally enforce or secure them in the mode proposed by the Senator from Massachusetts, that is a conclusive answer to his amendment. If there is some other mode in which you can enforce them according to the Constitution, that other mode is the proper mode. That is the "appropriate legislation" which it is provided that Congress may adopt.
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> But, says the Senator, these are questions not left to the courts, because it is provided in the fourteenth amendment, in the last clause of it, that "Congress shall have power to enforce by appropriate legislation the provisions of this article." Need the Senator from Indiana be told that Congress would have precisely the same power if that section were stricken out; that that section is no broader than the section of the original Constitution which gives to Congress the power to enact all legislation necessary to carry into effect the provisions of the Constitution or the powers conferred upon any department of the Government by it?
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> This very language, "appropriate legislation," is taken from an opinion of Chief Justice Marshall in the case of McCulloch *vs.* Maryland, if my memory is right, in which he makes the terms "necessary legislation" and "appropriate legislation" synonymous and convertible terms. So that this language, "Congress shall have power by appropriate legislation to enforce the provisions of this article," is nothing more than the implied power which Congress would have if the section were stricken out of the article altogether; nothing more than Congress had under the old provision authorizing it to enact all legislation necessary to carry out the powers conferred upon the Government or upon any department thereof. That is all. It is not a substantive grant of power; it is simply putting into the form of an express power that which would have been an implied power were this provision not in the Constitution at all. Does that take the question out of the jurisdiction of the courts? No, sir; not at all. What, then, is "appropriate legislation?" I will tell you what is appropriate legislation. The Constitution consists of several categories or classes, so to speak. One is a grant of powers to the Federal Government; another class is a prohibition against the exercise of powers by the Federal Government; and the third class is a prohibition upon the exercise of certain powers by the States. This is the Constitution of the United States: affirmatively, a grant of power; negatively, a prohibition of power on the part of the Federal Government, and a prohibition against the exercise of power by the State governments. The fourteenth amendment in the main is confined to this latter category or class. It prohibits the States from exercising certain powers, and the remedy is precisely the same if a State shall violate that provision of the Constitution that it would be if it were to violate one of the provisions in the original Constitution.
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> What says the original Constitution? "No State shall coin money." Suppose a State does coin money, how do you get at that? You get at that under your law in this way: the act of legislation which authorized the coinage is declared by your Federal courts, to which the question can be taken, to be a violation of the Constitution of the United States and void. So with any other prohibition. Here the fourteenth amendment declares, and it is unnecessary to read any more of it perhaps than that which bears on this bill: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." That operates directly on the State. It cannot be denied that that operates directly on the State as a political entity, because it cannot be contended for a moment that

a manager of a theater can make a law of the State, and yet this bill is leveled at him; that an innkeeper can make a law of the State, and yet this bill is leveled at him; that a railroad company can make the law of the State, and yet this bill is leveled at it. No, sir, the law of the State can be made only by the legislative power of the State, its General Assembly.

When, therefore, this Constitution says that no State shall make a law abridging the privileges or immunities of a citizen, it is the same as if it had said that no Legislature of any State shall pass any such law, for that is the only way in which the State can make a law. But it would have been, perhaps, a lame instrument if that was all, and hence it says no State shall enforce any law which abridges the privileges or immunities of a citizen of the United States. Why is that word "enforced" put in there? It was put in for a twofold reason: first, because there were already on the statute-books of some of the States enactments that did discriminate between different classes of citizens; that is, between those who were made citizens by this amendment and those who were formerly citizens. For instance, in the State of Kentucky, at the time this amendment was passed, a negro man could not testify against a white man; and I am told that the State law on that subject has not been repealed. Very well. Here, then, comes in this constitutional provision that Kentucky shall not enforce that law. It was because of these statutes that were upon the statute-books of some of the States already made, not to be made, that this provision was put in that the States shall not enforce any law which makes any such discrimination. But I am willing to go further than that, and say that a State shall not enforce a common-law principle of that State which makes a discrimination forbidden by this Constitution, and that if the State, through its highest authority entitled to enforce that law, does enforce it, if it makes a discrimination repugnant to the Constitution of the United States, then that matter shall be reviewed and justice done, and the Constitution vindicated. But how can that be? How can such a case happen? It can only happen when the highest judicial power in the State has determined to enforce such a law repugnant to the Constitution of the United States. That is the only way in which it can be enforced.

Mr. MORGAN. That, Mr. President, was the democratic forecast of the doctrines of the Constitution of the United States in reference to a measure, of which there is a series close akin to each other, which was then being urged by the Senator from Vermont, and which since that time has been considered by the Supreme Court of the United States. I think if the people of the United States had no other cause of high regard for the Senator from Ohio than that which is disclosed in the remarks which I have just had read from the Clerk's desk, followed up as they have been by decisions of the Supreme Court of the United States fully affirming them, he would be entitled to their profound gratitude throughout his life and through coming ages; for the circumstances in which those doctrines were enunciated were dark and dangerous, and it required the heroism of one who fully comprehended what the Constitution of the United States required and permitted, to rise at that time and invoke the principles of that great instrument as the basis upon which he planted his opposition to measures that at that moment of time commended themselves to a most excited state of political feeling.

I have been totally unable to see any practical good that could result from a discussion of these resolutions, and have therefore from time to time voted against their being called up, and I am still unable to see that there is any practical good to the country to arise from their discussion, which on my part I intend to conduct in perfectly good temper. I have been at a loss to understand or conjecture even why the Senator from Vermont should have been so urgent in his efforts to force them upon the attention of the country now for more than twenty days; but I suppose that the Senator from Vermont, in taking his farewell of the power of control in the Senate, feels that it is necessary that he should leave some memorial behind him from which we could gather a very express declaration, if not a very clear one, under the solemn form of a last will and testament in reference to the principles of construction of the Constitution of the United States. Under these painful and even mournful circumstances I have thought that it was perhaps proper, and that it was a matter of due respect to the Senator from Vermont, though not a very useful diversion from our business, that the country should pause in all of its great interests for a while to hear his dying declaration upon the Constitution. Yet I have sometimes thought in considering this matter that perhaps he was like the man who was found by our Saviour wandering among the tombs. While the man was perfectly sane, as it appeared, he yet was possessed of some tormenting spirit. He was possessed of some inward disturbance which in spite of the man would cry out, "We know thee, who thou art." I suppose the Senator is moved by a feeling of resentment which lingers if it does not rankle in his bosom, when he comes to think of the decisions of the Supreme Court of the United States, and while he is bidding farewell to power, and is wandering through the great radical national cemetery, he, like the man wandering among the tombs, cries out, when he finds resting upon him the eye of the Supreme Court, "We know thee, who thou art! Why hast thou come to torment us before the time?"

Mr. EDMUNDS. There is another passage of Scripture that I think will apply better.

Mr. MORGAN. Let me have it, and I will make my comment.

Mr. EDMUNDS. No, I will not disturb you. I am not at all surprised that the Senator, even possessed as I supposed he might be, should quote Scripture, for we have high authority for it.

Mr. MORGAN. Some have been very apt at the business.

Mr. EDMUNDS. We have not only one very apt, but we have the example just now.

Mr. MORGAN. I now propose to read an extract from the United States *vs.* Fox, 5 Otto, 672:

> There is no doubt of the competency of Congress to provide by suitable penalties for the enforcement of all legislation necessary or proper to the execution of powers with which it is intrusted. And as it is authorized "to establish uniform laws on the subject of bankruptcies throughout the United States," it may embrace within its legislation whatever may be deemed important to a complete and effective bankrupt system. The object of such a system is to secure a ratable distribution of the bankrupt's estate among his creditors, when he is unable to discharge his obligations in full, and at the same time to relieve the honest debtor from legal proceedings for his debts upon a surrender of his property.

I do not care to read the entire decision. I have shown the sort of case in which the following declaration of law was made by the Supreme Court. The court proceed to say:

> Any act committed with a view of evading the legislation of Congress passed in the execution of any of its powers, or of fraudulently securing the benefit of such legislation, may properly be made an offense against the United States. But an act committed within a State, whether for a good or a bad purpose, or whether with an honest or a criminal intent, cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress, or to some matter within the jurisdiction of the United States. An act not having any such relation is one in respect to which the State can alone legislate.

Mr. EDMUNDS. What was the act in that case?

Mr. MORGAN. It was the making of a fraudulent assignment before the proceedings in bankruptcy were commenced. Upon like authority I will proceed to show how the powers of Congress and the jurisdiction of the United States originate, because unless we understand how the powers of Congress and the jurisdiction of the United States originated we never shall be able to understand the reach of those powers or the conditions upon which they may be exercised. I read now from Munn *vs.* Illinois, 4 Otto, 123. Mr. Chief-Justice Waite delivered the opinion of the court. It is a very lengthy opinion, and I propose to read only a few extracts from it, but such as pertain to the adjudication in the case. One of the judges dissented, Mr. Justice Strong. The chief-justice said:

> The question to be determined in this case is whether the General Assembly of Illinois can, under the limitations upon the legislative power of the States imposed by the Constitution of the United States, fix by law the maximum of charges for the storage of grain in warehouses at Chicago and other places in the State having not less than one hundred thousand inhabitants, "in which grain is stored in bulk, and in which the grain of different owners is mixed together, or in which grain is stored in such a manner that the identity of different lots or parcels cannot be accurately preserved."

That was the question to be determined. Chief-Justice Waite proceeding to ascertain the grounds of this jurisdiction declared as follows:

> The Constitution contains no definition of the word "deprive" as used in the fourteenth amendment.

I desire to call attention again to that proposition:

> To determine its signification, therefore, it is necessary to ascertain the effect which usage has given it, when employed in the same or like connection.
>
> While this provision of the amendment is new in the Constitution of the United States, as a limitation upon the powers of the States, it is old as a principle of civilized government. It is found in Magna Charta, and, in substance if not in form, in nearly or quite all the constitutions that have been from time to time adopted by the several States of the Union. By the fifth amendment, it was introduced into the Constitution of the United States as a limitation upon the powers of the National Government; and by the fourteenth, as a guarantee against any encroachment upon an acknowledged right of citizenship by the Legislatures of the States.
>
> When the people of the united colonies separated from Great Britain they changed the form, but not the substance, of their government. They retained for the purposes of government all the powers of the British Parliament, and through their State constitutions, or other forms of social compact, undertook to give practical effect to such as they deemed necessary for the common good and the security of life and property. All the powers which they retained they committed to their respective States, unless in express terms or by implication reserved to themselves. Subsequently, when it was found necessary to establish a national government for national purposes, a part of the powers of the States and of the people of the States was granted to the United States and the people of the United States. This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people. The reservations by the people are shown in the prohibitions of the constitutions.

Without further following in this opinion a very extensive elaboration of the same proposition and numerous citations of authorities in its support, I rest upon that part of the opinion that I have read as containing the proper definition of the origin of the jurisdiction of the United States and of the powers of Congress, and also as containing perhaps as strong a statement as was ever made by Thomas Jefferson in any of his utterances or resolutions of the doctrine of the reserved powers of the States and of the people in all their breadth and fullness and intensity.

Mr. EDMUNDS. I will suggest to my honorable friend in that connection that the word "deprived" I think does not occur in Magna Charta.

Mr. MORGAN. I neither said that the word "deprived" occurred in Magna Charta nor did I say it occurred in the Constitution of the United States except in the instances I cited, but that the Supreme Court of the United States have decided that there is no constitutional definition of the word "deprive."

Mr. EDMUNDS. I understood my honorable friend to say that it was in Magna Charta.

Mr. MORGAN. Oh, no, I read from the book. The book does not so state it.

I am making this discussion much longer than I would have done because the Senator from Vermont has compelled me to anticipate him in the argument, and I cannot know in advance what ground the Senator will take. The next proposition, however, that I propose to discuss, or rather to cite authority upon, is, How are the powers of Congress and the jurisdiction of the United States, taking the

Government as a whole, related to or affected by the question of citizenship? For the purpose of getting a complete definition of citizenship I refer to the Slaughter-house cases in 16 Wallace. For the purpose of getting the pith of this decision before the Senate in a condensed form I will read but little from the body of the decision, but I shall read the syllabus of the case, which I believe has been fairly extracted by the reporter. I have not compared every part of the syllabus with the body of the decision, but I have not any doubt that this very accurate and careful reporter has fully presented the points of decision:

2. The Parliament of Great Britain and the State Legislatures of this country have always exercised the power of granting exclusive rights when they were necessary and proper to effectuate a purpose which had in view the public good, and the power here exercised is of that class, and has until now never been denied.

Such power is not forbidden by the thirteenth article of amendment and by the first section of the fourteenth article. An examination of the history of the causes which led to the adoption of those amendments and of the amendments themselves demonstrates that the main purpose of all the three last amendments was the freedom of the African race, the security and perpetuation of that freedom, and their protection from the oppressions of the white men who had formerly held them in slavery.

3. In giving construction to any of those articles it is necessary to keep this main purpose steadily in view, though the letter and spirit of those articles must apply to all cases coming within their purview, whether the party concerned be of African descent or not.

While the thirteenth article of amendment was intended primarily to abolish African slavery, it equally forbids Mexican peonage or the Chinese cooly trade, when they amount to slavery or involuntary servitude; and the use of the word "servitude" is intended to prohibit all forms of involuntary slavery of whatever class or name.

The first clause of the fourteenth article was primarily intended to confer citizenship on the negro race, and secondly to give definitions of citizenship of the United States and citizenship of the States, and it recognizes the distinction between citizenship of the State and citizenship of the United States by those definitions.

The second clause protects from the hostile legislation of the States the privileges and immunities of citizens of the United States as distinguished from the privileges and immunities of citizens of the States.

These latter, as defined by Justice Washington in Corfield *vs.* Coryell, and by this court in Ward *vs.* Maryland, embrace generally those fundamental civil rights for the security and establishment of which organized society is instituted, and they remain, with certain exceptions mentioned in the Federal Constitution, under the care of the State governments, and of this class are those set up by plaintiffs.

4. The privileges and immunities of citizens of the United States are those which arise out of the nature and essential character of the National Government, the provisions of its Constitution, or its laws and treaties made in pursuance thereof; and it is these which are placed under the protection of Congress by this clause of the fourteenth amendment.

It is not necessary to inquire here into the full force of the clause forbidding a State to enforce any law which deprives a person of life, liberty, or property without due process of law, for that phrase has been often the subject of judicial construction, and is, under no admissible view of it applicable to the present case.

5. The clause which forbids a State to deny to any person the equal protection of the laws was clearly intended to prevent the hostile discrimination against the negro race so familiar in the States where he had been a slave, and for this purpose the clause confers ample power in Congress to secure his rights and his equality before the law.

Mr. EDMUNDS. Did he not say a little more on that same topic?

Mr. MORGAN. I have not read from the body of the opinion; the body of the opinion is too extensive.

Mr. EDMUNDS. I beg pardon of the Senator.

Mr. MORGAN. I read the syllabus. If there is anything said beyond this in the decision that changes or in the slightest degree affects the accuracy of the syllabus I have not been made aware of it. I will read now on page 72 from the body of the opinion, which relates to the subject of citizenship:

The first section of the fourteenth article, to which our attention is more specially invited, opens with a definition of citizenship—not only citizenship of the United States, but citizenship of the States. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the Executive Departments, and in the public journals. It had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union. Those, therefore, who had been born and resided always in the District of Columbia or in the Territories, though within the United States, were not citizens. Whether this proposition was sound or not had never been judicially decided. But it had been held by this court, in the celebrated Dred Scott case, only a few years before the outbreak of the civil war, that a man of African descent, whether a slave or not, was not, and could not be, a citizen of a State or of the United States. This decision, while it met the condemnation of some of the ablest statesmen and constitutional lawyers of the country, had never been overruled; and if it was to be accepted as a constitutional limitation of the right of citizenship, then all the negro race who had recently been made freemen were still not only not citizens, but were incapable of becoming so by anything short of an amendment to the Constitution.

To remove this difficulty primarily, and to establish a clear and comprehensive definition of citizenship which should declare what should constitute citizenship of the United States, and also citizenship of a State, the first clause of the first section was framed:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The first observation we have to make on this clause is, that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase, "subject to its jurisdiction," was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign States born within the United States.

The next observation is more important in view of the arguments of counsel in the present case. It is, that the distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.

We think this distinction and its explicit recognition in this amendment of great weight in this argument, because the next paragraph of this same section, which is the one mainly relied on by the plaintiffs in error, speaks only of privileges and immunities of citizens of the United States, and does not speak of those of citizens of the several States. The argument, however, in favor of the plaintiffs rests wholly on the assumption that the citizenship is the same, and the privileges and immunities guaranteed by the clause are the same.

The language is: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." It is a little remarkable, if this clause was intended as a protection to the citizen of a State against the legislative power of his own State—

Or, I might add, against interference with the legislative power of another State—

that the word citizen of the State should be left out when it is so carefully used, and used in contradistinction to citizen of the United States, in the very sentence that precedes it. It is too clear for argument that the change in phraseology was adopted understandingly and with a purpose.

Of the privileges and the immunities of the citizen of the United States, and of the privileges and the immunities of the citizen of the State, and what they respectively are, we will presently consider; but we wish to state here that it is only the former which are placed by this clause under the protection of the Federal Constitution, and that the latter, whatever they may be, are not intended to have any additional protection by this paragraph of the amendment.

If, then, there is a difference between the privileges and immunities belonging to a citizen of the United States as such, and those belonging to the citizen of the State as such, the latter must rest for their security and protection where they have heretofore rested, for they are not embraced by this paragraph of the amendment.

I will now omit much of what I expected to have read from the body of this decision merely out of deference to the Senate, whose time I have already occupied longer than I could have desired to do, and whose attention I would certainly not have imposed upon to this great extent had it not been that I felt it incumbent upon me, not merely as a Senator, but as a representative of one of the States which seem to be in the mind's eye of the Senator from Vermont, to try to place the argument upon which we protect ourselves against his resolutions upon ground that has received the sanction of the Supreme Court of the United States. I will therefore omit to read much of this opinion and proceed to this extract:

Having shown that the privileges and immunities relied on in the argument are those which belong to citizens of the States as such, and that they are left to the State governments for security and protection, and not by this article placed under the special care of the Federal Government, we may hold ourselves excused from defining the privileges and immunities of citizens of the United States which no State can abridge, until some case involving those privileges may make it necessary to do so.—*Slaughter-House Case*, 16 Wallace, 78.

I now proceed, Mr. President, to the consideration of the matter involved in the second resolution of the Senator from Vermont, but to which the first was intended as a prelude or a preface, the jurisdiction of Congress over the subject of the right to vote; and here I would remark, as every Senator knows very well, that there is a broad distinction between the right to vote and the regulation of the manner of the exercise of that right; and while it has been contended in Congress and elsewhere that the Congress of the United States has the unquestioned right to direct the manner of voting in elections for Representatives, the question as presented now to the consideration of the Senate has no relation to the manner of voting, but the primary and fundamental question is in reference only to the right to vote.

First, this right to vote, so far as it is affected by the Constitution of the United States, relates only to those who receive citizenship directly as a grant from the Constitution, and who by reason of race, color, or previous condition of servitude are capable of having the right to vote denied to them upon this ground. Those who receive their citizenship by direct and positive grant from the Constitution of the United States may have their right to vote protected by the laws of Congress to the extent that that right is interfered with by any State, on account of race, or color, or previous condition. The power of Congress is confined to the power of preventing the denial by the State or by the United States of the right of such person to vote, when that right is denied or abridged on account of race, color, or previous condition of servitude.

The fourteenth and fifteenth amendments are exhaustively discussed and almost every question that can arise under them has been decided by the Supreme Court of the United States in the case of Cruikshank *vs.* the United States and in the case of Reese, both of which are reported in the second volume of Otto's Reports. In the case of the United States *vs.* Reese, which originated in the district of Kentucky, Mr. Chief-Justice Waite again delivered the opinion of the court:

This case comes here by reason of a division of opinion between the judges of the circuit court in the district of Kentucky. It presents an indictment containing four counts under sections 3 and 4 of the act of May 31, 1870—

An act of Congress—

against two of the inspectors of a municipal election in the State of Kentucky, for refusing to receive and count at such election the vote of William Garner, a citizen of the United States of African descent. All the questions presented by the certificate of division arose upon general demurrers to the several counts of the indictment.

In this court the United States abandon the first and third counts, and expressly waive the consideration of all claims not arising out of the enforcement of the fifteenth amendment to the Constitution.

After this concession, the principal question left for consideration is whether the

act under which the indictment is found can be made effective for the punishment of inspectors of elections who refuse to receive and count the votes of citizens of the United States, having all the qualifications of voters, because of their race, color, or previous condition of servitude.

That proposition involved the whole question of the power and jurisdiction of Congress over these individuals within the States.

If Congress has not declared an act done within a State to be a crime against the United States, the courts have no power to treat it as such. (United States *vs.* Hudson, 7 Cranch, 32.) It is not claimed that there is any statute which can reach this case unless it be the one in question.

Looking, then, to this statute, we find that its first section provides that all citizens of the United States who are or shall be otherwise qualified by law to vote at any election, &c., shall be entitled and allowed to vote thereat without distinction of race, color, or previous condition of servitude, any constitution, &c., of the State to the contrary notwithstanding. This simply declares a right without providing a punishment for its violation.

The opinion goes on then to state the provisions of the second, third, and fourth sections of this law, which I will remark here is one of the laws of the same general character mentioned in the resolutions of the Senator from Vermont, and yet the Supreme Court of the United States declares in this decision that these laws are not within the jurisdiction of Congress for the purpose of punishing a citizen of a State who in a State election denies to a colored man the right to vote on any account except that of race, color, or previous condition, and leaves the question open as to this one only exception. The court go on to state their reasons for their adjudication:

The fifteenth amendment does not confer the right of suffrage upon any one.

I should be glad to hear the Senator from Vermont combat with the Supreme Court of the United States upon that proposition.

I might have contented myself in this argument with simply stating this proposition. But it seems that we have not only to convince the Senator and those who may follow him of what the Supreme Court has declared to be the law, but we are also required to convince them, or at least to try to do so, that that law thus declared has any just influence or obligatory force upon the conscience of Senators on this floor.

This fifteenth amendment, in reference to which the court further proceeds to discuss, is thus treated:

It prevents the States, as the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before this adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, &c., as it was on account of age, property, or education.

I will read before I take my seat the provisions of the constitutions of several of the States as they now remain, and particularly those of Massachusetts and some other States which expressly forbid the exercise of the right of suffrage within those States except upon the condition expressed in the constitution that a person should be compelled to read or perhaps to read and write. I have the volume before me and will presently call attention to it. But Senators who are interested in protecting the power of their own States that through constitutional ordinances have imposed these restrictions upon the right of voting in their States, whether that right is claimed by citizens of the United States or by citizens of the States, I think will feel interested in the support which the Supreme Court has given to the constitutionality of their own constitutions when considered with reference to the supreme law of the land, for this court declares, and declares rightfully, that it was then and is yet as much within the power of a State to exclude citizens of the United States from voting on account of race, &c., as it was on account of age, property, or education, except so far as the fifteenth amendment has abridged that right by prohibiting to the States the power to exclude from the right of suffrage those who are excluded on the ground of race, color, or previous condition of servitude:

If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment, there was no constitutional guarantee against this discrimination; now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress.

And that language I have copied into the substitute which I have had the honor of offering to the Senate.

That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. This, under the express provisions of the second section of the amendment, Congress may enforce by "appropriate legislation."

This leads us to inquire whether the act now under condsideration is "appropriate legislation" for that purpose.

The Senator seems to have adopted this act and all acts of a kindred character as "appropriate legislation," because he refers to them as I have frequently observed by a general characterization, having relation to that class of legislation which the Congress of the United States has heretofore enacted without reference to what may have been done with those acts under the decisions of the Supreme Court of the United States.

I read further:

The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. The effect of article 1, section 4, of the Constitution, in respect to elections for Senators and Representatives, is not now under consideration. It has not been contended, nor can it be, that the amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at State elections.

And yet the resolutions of the Senator from Vermont, as I understand, comprehend all this power and demand its exercise on the part of the Senate.

It is only when the wrongful refusal at such an election is because of race, color, or previous condition of servitude that Congress can interfere and provide for its punishment. If, therefore, the third and fourth sections of the act are beyond that limit, they are unauthorized.

And so the Supreme Court go on to argue and decide:

If Congress had the power to provide generally for the punishment of those who unlawfully interfere to prevent the exercise of the elective franchise without regard to such discrimination, the language of these sections would be broad enough for that purpose.

Certainly they would be broad enough, but the difficulty with the argument is that Congress does not possess the power, it is not found in the Constitution, and you cannot impute the power to Congress under the Constitution by mere argumentation, induction, or inference. You must when you come to look for this power on the part of the Congress of the United States find it in the Constitution, either arising by an express grant or by a necessary implication in favor of its right declared in the Constitution to pass all laws necessary for carrying the provisions of the Constitution of the United States into effect. I read again as follows:

There is no attempt in the sections now under consideration to provide specifically for such an offense. If the case is provided for at all, it is because it comes under the general prohibition against any wrongful act or unlawful obstruction in this particular. We are, therefore, directly called upon to decide whether a penal statute enacted by Congress, with its limited powers, which is in general language broad enough to cover wrongful acts without as well as within the constitutional jurisdiction, can be limited by judicial construction so as to make it operate only on that which Congress may rightfully prohibit and punish.

The court then go on to say that they are not bound, neither are they authorized, when they find Congress exercising a part of its power and in the same enactment or resolution exercising an authority that does not belong to it, to separate that which is bad and superfluous from that which may be good and enforce only that which may be good under the Constitution, because the legislative will of Congress went further and comprehended more, it transgressed the domain of authority in which it had no rightful influence and therefore its undertaking to spread its authority so broadly vitiated the entire act.

The courts enforce the legislative will when ascertained, if within the constitutional grant of power. Within its legitimate sphere, Congress is supreme, and beyond the control of the courts; but if it steps outside of its constitutional limitations, and attempts that which is beyond its reach, the courts are authorized to and when called upon in due course of legal proceedings must, annul its encroachments upon the reserved power of the States and the people.—*United States vs. Reese et al.*, 2 Otto, 215-221.

Thus the Supreme Court of the United States declared their solemn duty, as well as their right, to annul the encroachments of Congress upon a domain of power not conferred on Congress in the Constitution of the United States, and though Senators may choose to differ in opinion with the Supreme Court, no Senator, no Senate, no Congress, no enacting power of the United States which embodies its will in the form of a law can ever put that law into execution, when it is challenged in the Supreme Court of the United States, if that tribunal declares that Congress has transgressed its power in its efforts to enact such a law.

If the Senator from Vermont can find a better doctrine of constitutional law anywhere in supreme court reports or even in his own massive and profoundly instructed brain, I shall be interested to hear him declare it. But I must say that if Bacon, Coke, or any other of the great constitutional jurists of England were here, indeed if all were here to focalize upon this question the light of all their great learning in the science of jurisprudence and in reference to free constitutional government, there would not be one I think that could, when considering our form of government, and the careful distribution of its powers, declare that this utterance of the Supreme Court in reference to its rightful authority to declare void an unconstitutional law was not strictly within the powers that they justly possess.

Mr. MCCREERY. Mr. President——

The PRESIDING OFFICER, (Mr. MITCHELL in the chair.) Does the Senator from Alabama yield to the Senator from Kentucky?

Mr. MORGAN. Yes, sir.

Mr. MCCREERY. I move that the Senate adjourn.

Mr. EDMUNDS. Has the Senator from Alabama concluded?

Mr. MCCREERY. No, sir.

Mr. MORGAN. I am not through with my remarks; but the Senator from Kentucky, finding I was speaking long, has concluded that I could condense my remarks more by postponing them till to-morrow.

Mr. EDMUNDS. If the Senator is too tired to go on, I shall not object to an executive session.

Mr. MORGAN. I fear I have wearied the Senate to-day.

Mr. EDMUNDS. No, we have listened to the Senator with great pleasure. If the adjournment is at his request on account of his fatigue, I shall have nothing to say if it be turned into a motion for an executive session; but if it be merely because the Senator from Kentucky is tired, I hope we shall not adjourn.

Mr. MCCREERY. I will change my motion. I am not tired at all. I supposed the Senator from Alabama might be tired, and I wanted to give him an opportunity to rest. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Kentucky for the purpose indicated?

Mr. MORGAN. I yield.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty-three minutes spent in executive session the doors were reopened.

COMMITTEE SERVICE.

Mr. EDMUNDS. I wish to have an entry in the Journal corrected. The Journal states the motion yesterday made by me in reference to excusing the Senator from Michigan [Mr. CHRISTIANCY] from service on the Committee on the Judiciary and providing for the appointment of the Senator from Iowa [Mr. ALLISON] somewhat incorrectly. The purpose was simply to provide that the Senator from Iowa should serve during the absence of the Senator from Michigan, instead of which the Journal actually excuses the Senator from Michigan from further service upon the committee.

The PRESIDING OFFICER. If there be no objection, the Journal will be corrected in the respect stated by the Senator from Vermont.

The corrected Journal entry is as follows:

Ordered, That during the absence of Mr. CHRISTIANCY, Mr. ALLISON serve in his stead as a member of the Committee on the Judiciary.

CHARLES VALIER.

On motion of Mr. OGLESBY, it was

Ordered, That the vote by which the bill (H. R. No. 1210) for the relief of Charles Valier was indefinitely postponed be reconsidered, and that the bill be recommitted to the Committee on Military Affairs.

ARMY REORGANIZATION.

Mr. BURNSIDE. I have heretofore submitted an amendment from the joint committee on Army reduction and reorganization to the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation, to strike out all after the enacting clause and insert a brief substitute, leaving the first eighteen pages of the bill untouched. I move that that amendment be now agreed to.

The PRESIDING OFFICER. The first question is whether the Senate will take up the bill for consideration for this purpose.

Mr. CONKLING. For what purpose?

The PRESIDING OFFICER. For the purpose of submitting this amendment.

Mr. BURNSIDE. For the purpose of making this amendment.

Mr. EDMUNDS. The regular order for to-morrow to be the unfinished business when we went into executive session.

The PRESIDING OFFICER. Certainly.

Mr. CONKLING. It is not important that I should understand about this military bill except just far enough to enable me to vote understandingly. Considering the number of letters which come to me all the time, and of late most of them of loud complaint against what I understand to be the military bill so-called, I feel bound if I can to exert some activity as I go along to keep track of it. Now I do not comprehend at all what this movement means, and I should like to have explained what it is.

Mr. BURNSIDE. I will state to the Senator from New York that I was instructed by the joint committee on Army reorganization to move to strike out all after the eighteenth page of the bill and to present the part stricken out to the Senate as a new bill to be referred to the Committee on Military Affairs. The reason for that was that that latter portion contains matter which at this short session of Congress cannot properly be legislated upon or considered. There is too much of it; a great many Senators think so at any rate; and it was deemed wise to move to strike that out. I have offered that part of the bill as a separate measure and had it referred to the Committee on Military Affairs.

Mr. CONKLING. Shall I understand the Senator to say that the part which is to be stricken out he proposes to refer to another committee?

Mr. BURNSIDE. It has been done already, and been referred as a separate bill. Now I ask that the amendment be adopted by the Senate, which will place the first eighteen pages of the bill, without the change of a letter, before the Senate for consideration, the same as the entire bill was before this amendment was adopted.

Mr. CONKLING. Is it not before the Senate now?

Mr. BURNSIDE. It is before the Senate now, but the bill as amended is not before the Senate, and so it comes up for consideration, and I desire to have it come up as amended on a vote, thus avoiding the consideration of the latter part of the bill, which is too bulky, until it is reported from the Committee on Military Affairs of the Senate. It is simply to avoid reading a bulky bill that I have made this request. The motion that I have made involves the necessity of a change of the title of the bill, also.

Mr. GORDON. I want to suggest to my friend from Rhode Island that probably the simplest and quickest way to dispose of the question would be to recommit the whole bill and let the Military Committee report the substitute in form.

Mr. BURNSIDE. The bill has never been before the Military Committee of the Senate. It is reported from the joint committee on the reorganization of the Army.

Mr. GORDON. I think my friend will save time by the course I suggest, by just recommitting the bill with his amendment to the Military Committee.

Mr. BURNSIDE. Recommit it to them?

Mr. GORDON. Well, refer it to the Military Committee.

Mr. BURNSIDE. It never has been to the Military Committee.

Mr. GORDON. Let it be referred to that committee, and my friend can report it back to-morrow.

Mr. BURNSIDE. It is a bill that was reported from the joint commission on the reorganization of the Army.

Mr. HAMLIN. Will the Senator from Rhode Island listen to me for one moment? This bill, I understand the Senator to say, has never been referred to a committee.

Mr. BURNSIDE. It has been reported from a committee—the joint committee on the reorganization of the Army.

Mr. EDMUNDS. That was not a committee, but a commission.

Mr. HAMLIN. The Senator now desires to divide it into two bills.

Mr. BURNSIDE. Yes, sir.

Mr. HAMLIN. Now, if the Senator will make a motion to recommit the whole subject, the committee can report it back in forty bills if they please.

Mr. BURNSIDE. The joint committee on Army reorganization have instructed me to report it back in these two bills; I am doing it at their request. Now I simply ask that the original bill be amended by striking out all after a certain page which is indicated by my amendment. It will not take a minute; I see no harm in it.

The PRESIDING OFFICER. The residue to be treated as the text of a new bill?

Mr. BURNSIDE. All there is of it will be Senate bill No. 1491.

Mr. DAWES. If the Senator from Rhode Island is instructed to report that in two bills, why does he not let the old one lie in peace on the table and make these two reports?

Mr. BURNSIDE. Simply for the reason that the new bill is in the hands of the Military Committee now by the action of the Senate; it has been referred.

Mr. DAWES. Then why not let it rest there as well as on the table?

Mr. BURNSIDE. I am perfectly willing.

Mr. DAWES. Let that stay there. If the Senator is instructed by his committee to report two bills in place of that, I do not see any difficulty.

Mr. MAXEY. The original bill as reported from the joint committee covered the subject of the reorganization and reduction of the Army, and also a code of regulations for the Army. Now, the joint committee, through the chairman, the Senator from Rhode Island, proposes to strike out all that portion of the bill which refers to the code of regulations and to the articles of war, and to submit that to the Committee on Military Affairs, thus leaving in the possession of the Senate only so much of the bill as relates to the reorganization and reduction of the Army. That is the simple proposition. The bill, I find, never was before the Committee on Military Affairs, and therefore it ought to be referred to that committee now.

Mr. EDMUNDS. I want to state to the Senator from Rhode Island that if his object is now accomplished of amending this bill on the Calendar by striking off half of it, when it comes up for consideration according to my present views I shall move that it be referred to a committee of this body, the Committee on Military Affairs. The bill came from a joint commission or committee, I do not care what name you call it, made up of a consolidated body of members of the two Houses, and I do not know but of outsiders too. I do not remember how that was.

Mr. COCKRELL. No; only members of the Senate and House.

Mr. EDMUNDS. Now I wish to have a committee of this body consider that bill, be it big or little, and if the Senator does not consent to have it referred now he must take his chances of having it referred by and by.

Mr. BURNSIDE. I have no objection to any Senator in this body making any motion he pleases; but I would not pass this bill if I could pass it by asking any one Senator here to vote for it. It has not been a pleasant duty for me to report this bill. I now simply ask that I may have the necessary aid in getting the bill before the Senate for consideration. I think that is only fair.

Mr. EDMUNDS. That is fair; and the best way to do it, as the Senator wishes to amend the bill by taking out half of it or more, is to refer it to the Committee on Military Affairs, of which he is a member, that can report it to-morrow if it wishes, stripped down to just the barest bones that the committee like.

Mr. BURNSIDE. I am acting under the instructions of the committee for the reorganization of the Army. That was a committee organized by a joint resolution, and I shall not at any suggestion of the Senator from Vermont—I do not mean any disrespect—or any other Senator disobey the instructions of that committee. If the Senate chooses to allow me to make this motion and permits this bill to be amended, and then the Senator from Vermont or the Senator from New York or any other Senator chooses to move the reference of it to the Military Committee, he will not find me opposing the wish of the Senate in that regard. I am now obeying the instructions of the joint committee on the reorganization of the Army, and I am subordinate to that committee and doing exactly as I am told to do. I ask to put it to the Senate to allow me to do just what I ask leave

to do, and then if they want to refer it to the Committee on Military Affairs I have no objection, and I shall not oppose the motion.

Mr. EDMUNDS. The difference between the Senator from Rhode Island and the rest of us is that he is under orders from the joint committee and bound to do it and we are not.

Mr. BURNSIDE. I do not ask you to do it.

Mr. EDMUNDS. And, therefore, what binds him does not bind the rest of us. We think, or certainly the Senator from Georgia stated, and I agree with him entirely, that the correct disposition of this bill, as it is not in the condition that the joint committee itself wishes to have it acted upon now, would be to refer it to our own Committee on Military Affairs; and, if the Senator says he is not going to object to such a motion, I will make that motion.

Mr. ANTHONY. I think that the request which my colleague makes is one that I never saw refused in this body. He has presented a bill, and he asks to amend it by leaving out a portion of it, striking out a portion of it.

Mr. EDMUNDS. That may be the very part that the rest of us want.

Mr. ANTHONY. Then the rest of us can move to put it in again; but a man who has charge of a bill is always allowed to amend it by striking out.

Mr. HOAR. I desire to ask the Senator from Rhode Island if this is anything more in substance than a request on the part of his colleague to be permitted to modify this report? That is all there is of it.

Mr. BLAINE. That is all there is of it; merely modifying a report.

Mr. ANTHONY. That is all; and I never knew such a request refused.

Mr. HOAR. He makes a report from the commission, and he says the commission, finding that a large part of the subject-matter cannot be considered in the short session, ask to be permitted to modify their report by changing a part of it and leaving the rest. That is the whole of it. The question is whether that is not a courtesy due to an organ which the Senate has itself created.

The PRESIDING OFFICER. The Chair will state his understanding of the situation. The Senator from Rhode Island [Mr. BURNSIDE] has asked unanimous consent that this bill be taken up temporarily for the purpose of submitting an amendment.

Mr. EDMUNDS. Subject to the regular order.

The PRESIDING OFFICER. The Senate has heard that request, and the bill is now before the Senate. The Senator from Rhode Island moves to amend the bill by striking out the portion indicated by him.

Mr. MAXEY. I have all along believed that this bill, before the Senate acts on it, should be referred to the Committee on Military Affairs. The reply which is made by the Senator from Rhode Island does not answer the question. This body has not the opinion or matured judgment of its own committee upon that bill. While it is true that it came from a joint committee, it was not the committee appointed by this body to consider such bills; and my belief is, and always has been, that the bill ought to be committed to the Committee on Military Affairs. I submitted that question to the very superior judgment on parliamentary rules of the Senator from Rhode Island. He differed with me, taking the position that, coming from a joint committee, it did not have to go to the Committee on Military Affairs. I do not understand the rules, and do not pretend to comprehend them; but according to reason the Military Committee of this body was organized for the purpose of giving to the Senate its matured judgment upon matters pertaining to military affairs, and therefore it seems to me that this body ought to have the opinion of that committee upon this bill.

The PRESIDING OFFICER. The pending question is the motion of the Senator from Rhode Island.

Mr. COCKRELL. I am opposed to this simply because I am called upon to join the Senate in an act striking out something that I know nothing about in the world. Now, I am not in the habit in this body of acting and voting upon a proposition that I know nothing about at all. If this motion be made and insisted upon that this Senate shall by its record action strike out portions of that bill that I know nothing about in the world and that nine out of every ten of the Senators may be opposed to striking out, and we are to stand committed to that record, I propose to have it read in full and then I shall know whether I will consent to striking it out or not.

I understand the object of the Senator from Rhode Island; but he wants us to say that we will strike this part out. Now if he wants to divide this portion of the report, I have no objection to giving unanimous consent to its withdrawal, but I will not give the consent of the Senate to act upon it until it is read, and that is my privilege and right.

Mr. ANTHONY. That is precisely the same thing. Then let the Senator withdraw that portion of the report.

The PRESIDING OFFICER. Does the Senator modify his motion?

Mr. BURNSIDE. I ask leave to withdraw that part of it.

The PRESIDING OFFICER. The Senator from Rhode Island modifies his proposition so that now he asks unanimous consent of the Senate to withdraw certain portions of the bill. Is there objection? The Chair hears none, and the consent is given.

Mr. ALLISON. I move that the Senate adjourn.

The motion was agreed to; and (at four o'clock and forty-three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 30, 1879.

The House met at twelve o'clock m., Mr. SAYLER in the chair as Speaker *pro tempore*. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MEMORIAL SERVICES FOR DECEASED MEMBERS.

Mr. GIDDINGS. I ask unanimous consent that Saturday the 15th of February, at two o'clock, be set apart for addresses in memory of the late Gustave Schleicher, of Texas.

There was no objection, and it was so ordered.

Mr. LOCKWOOD. And I ask unanimous consent that Monday the 3d of February, at three o'clock, be set apart for like services in memory of the late Terrence J. Quinn, of New York.

There was no objection, and it was so ordered.

Mr. COOK. I ask that Tuesday, February 11, at half past three o'clock, be set apart for similar services in memory of the late Julian Hartridge, of Georgia.

Mr. COX, of New York. Before that order is made I would like to ask a question of the Chair. The census bill is fixed as a special order for that day, after the reading of the Journal. Can the next day be fixed for that purpose?

The SPEAKER *pro tempore*. That can be done by unanimous consent.

Mr. ATKINS. Subject to appropriation bills.

The SPEAKER *pro tempore*. The Chair does not know how the original order was worded.

Mr. ATKINS. That was the order before.

Mr. COX, of New York. Of course, subject to appropriation bills, as the original order was.

The SPEAKER *pro tempore*. The change will be made if there is no objection.

There being no objection, Tuesday, February 11, at half past three o'clock, was set apart for services in memory of the late Julian Hartridge, and the census bill was made the special order for the next day, after the reading of the Journal, subject to appropriation bills.

ARREARS OF PENSIONS.

Mr. RICE, of Ohio, by unanimous consent, presented the following resolutions of the house of representatives of the Ohio Legislature; which were laid on the table, and ordered to be printed in the RECORD:

Resolved, That the thanks of this house are hereby tendered to the Congress of the United States for passing, and to the President for approving, the arrears of pensions bill.

Resolved, That a copy of these resolutions be transmitted to our Senators and Representatives in Congress and to the President of the United States.

JAMES E. NEAL,
Speaker of the House.
L. A. BRUNNER,
Clerk of the House.

BUSINESS FROM THE COMMITTEE ON PUBLIC LANDS.

Mr. FULLER. I ask unanimous consent that the order be now made that on Wednesday next at half past four o'clock the House shall take a recess until seven and a half o'clock p. m., and that the evening session shall be for the consideration of reports from the Committee on Public Lands.

Mr. HALE. Subject of course to any business of the Committee on Appropriations.

Mr. EDEN. There is to be a night session Tuesday night of next week. If we have one the next night we will be crowding things, will we not?

Mr. ATKINS. I shall have to object. There are four large appropriation bills not yet considered by the House. I cannot consent to any more special orders until we get farther along with the appropriation bills. [After a pause.] I will have no objection to the proposition if it is made subject to the consideration of appropriation bills.

The SPEAKER *pro tempore*. That is what the Chair understood to be the proposition.

Mr. FULLER. That is my proposition.

Mr. ATKINS. Then I have no objection.

There being no objection, it was so ordered.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. ELLIS, by unanimous consent, introduced a bill (H. R. No. 6256) to secure from loss the depositors in the Freedman's Savings and Trust Company; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HALE. I now call for the regular order.

The SPEAKER *pro tempore*. The regular order being called for, the House will now resume the consideration of the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, reported from the Committee of the Whole with amendments. The Clerk will report the next amendment.

Mr. HOOKER. Before the Clerk proceeds, I would inquire if the regular order is not the morning hour?

The SPEAKER *pro tempore*. It is not. The regular order is the post-office appropriation bill, coming over from yesterday under the operation of the previous question.

Mr. HOOKER. Then I desire to give notice to the House that when this bill shall have been disposed of I shall insist upon a morning hour, in order that we may proceed with the consideration of the unfinished business in the morning hour.

Mr. BAKER, of Indiana. We will assist you in that.

The Clerk read the pending amendment reported from the Committee of the Whole, which was, in lines 71 and 72, page 4 of the bill, to strike out "$1,075,000" and to insert in lieu thereof "$1,125,000;" so that the clause will read:

For route agents, $1,125,000.

Mr. BLOUNT. On that amendment I call for the yeas and nays.

Mr. BAKER, of Indiana. I hope the gentleman will not insist upon the yeas and nays. The House has already intimated very clearly its purpose in regard to these amendments.

Mr. BLOUNT. I insist upon it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 125, nays 103, not voting 60; as follows:

YEAS—125.

Acklen,	Dunnell,	Loring,	Sampson,
Aldrich,	Dwight,	Luttrell,	Sapp,
Bacon,	Eames,	Majors,	Sexton,
Bagley,	Ellsworth,	Marsh,	Sinnickson,
Baker, John H.	Errett,	McCook,	Slemons,
Baker, William H.	Evans, James L.	McGowan,	Smalls,
Banks,	Fort,	McKinley,	Smith, A. Herr
Bisbee,	Gardner,	Mills,	Stephens,
Boyd,	Garfield,	Mitchell,	Stewart,
Brentano,	Giddings,	Monroe,	Stone, Joseph C.
Brewer,	Hanna,	Morgan,	Stone, John W.
Briggs,	Harmer,	Morse,	Strait,
Browne,	Harris, Benj. W.	Neal,	Thompson,
Burchard,	Hart,	Norcross,	Throckmorton,
Burdick,	Hatcher,	Oliver,	Tipton,
Cain,	Hayes,	O'Neill,	Townsend, Amos
Caldwell, W. P.	Hendee,	Overton,	Townsend, M. I.
Camp,	Hiscock,	Page,	Van Vorhes,
Cannon,	Hubbell,	Patterson, G. W.	Wait,
Caswell,	Humphrey,	Peddie,	Ward,
Chittenden,	Hungerford,	Phelps,	Watson,
Claflin,	Hunter,	Pollard,	White, Harry
Clark, Rush	Ittner,	Pound,	White, Michael D.
Cole,	James,	Price,	Williams, Andrew
Conger,	Jones, John S.	Pugh,	Williams, C. G.
Cox, Jacob D.	Joyce,	Rainey,	Williams, Richard
Crapo,	Keightley,	Randolph,	Willits,
Cummings,	Kelley,	Reed,	Wren,
Danford,	Ketcham,	Rice, William W.	Young, Casey.
Davis, Horace	Killinger,	Robinson, G. D.	
Deering,	Lathrop,	Robinson, M. S.	
Denison,	Lindsey,	Ryan,	

NAYS—103.

Aiken,	Cutler,	Hooker,	Shelley,
Atkins,	Davidson,	House,	Singleton,
Banning,	Davis, Joseph J.	Hunton,	Smith, William E.
Beebe,	Dibrell,	Jones, Frank	Southard,
Bell,	Dickey,	Jones, James T.	Sparks,
Bicknell,	Durham,	Kenna,	Steele,
Blount,	Eden,	Kimmel,	Swann,
Boone,	Eickhoff,	Landers,	Townshend, R. W.
Bouck,	Elam,	Ligon,	Turney,
Bragg,	Ellis,	Lockwood,	Vance,
Bridges,	Evins, John H.	Malsh,	Veeder,
Bright,	Ewing,	Manning,	Waldell,
Brogden,	Felton,	Martin,	Walker,
Buckner,	Franklin,	McKenzie,	Warner,
Cabell,	Fuller,	Morrison,	Whitthorne,
Caldwell, J. W.	Garth,	Muldrow,	Wigginton,
Candler,	Gause,	Patterson, T. M.	Williams, James
Chalmers,	Gibson,	Potter,	Williams, Jere N.
Clark of Missouri,	Glover,	Pridemore,	Willis, Albert S.
Clarke of Kentucky,	Gunter,	Rea,	Willis, Benj. A.
Cobb,	Hamilton,	Reagan,	Wilson,
Cook,	Hardenbergh,	Reilly,	Wood,
Covert,	Harris, Henry R.	Rice, Americus V.	Wright,
Cox, Samuel S.	Herbert,	Robbins,	Yeates,
Cravens,	Hewitt, Abram S.	Ross,	Young, John S.
Crittenden,	Hewitt, G. W.	Scales,	

NOT VOTING—60.

Bailey,	Collins,	Hazelton,	Muller,
Ballou,	Culberson,	Henderson,	Phillips,
Bayne,	Dean,	Henkle,	Powers,
Benedict,	Evans, I. Newton	Henry,	Riddle,
Blackburn,	Finley,	Jorgensen,	Roberts,
Blair,	Forney,	Keifer,	Robertson,
Bland,	Foster,	Knapp,	Sayler,
Bliss,	Freeman,	Knott,	Shallenberger,
Bundy,	Frye,	Lapham,	Springer,
Butler,	Goode,	Lynde,	Starin,
Calkins,	Hale,	Mackey,	Stenger,
Campbell,	Harris, John T.	Mayham,	Thornburgh,
Carlisle,	Harrison,	McMahon,	Tucker,
Clark, Alvah A.	Hartzell,	Metcalfe,	Turner,
Clymer,	Haskell,	Money,	Walsh,

So the amendment was concurred in.

During the vote,

Mr. STENGER said: I am paired on this question with my colleague, Mr. SHALLENBERGER. If present, he would vote in the affirmative and I would vote in the negative.

Mr. HUNTON. My colleague, Mr. GOODE, is confined to his room by indisposition.

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas.

Mr. SHELLEY. My colleague, Mr. FORNEY, is absent by order of the House.

Mr. CALKINS. I am paired with Mr. FINLEY, of Ohio. If he were present, he would vote "no" and I would vote "ay."

Mr. TUCKER. I am paired with Mr. LAPHAM, of New York.

Mr. LANDERS. Mr. BALLOU is paired with Mr. HENRY.

Mr. HAZELTON. I am paired with my colleague, Mr. LYNDE, who is absent by order of the House. If he were present, I would vote "ay" and he would vote "no."

Mr. FOSTER. I am paired with Mr. BLACKBURN. If he were present, he would vote "no" and I would vote "ay."

Mr. EVANS, of Pennsylvania. I am paired with my colleague, Mr. CLYMER. If he were present, I would vote "ay."

Mr. HASKELL. I am paired with Mr. KNOTT, of Kentucky.

Mr. OLIVER. Mr. CARLISLE is paired with Mr. KEIFER, of Ohio.

On motion of Mr. TOWNSEND, of Ohio, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

Mr. BAKER, of Indiana, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER *pro tempore*. The Clerk will report the next amendment reported from the Committee of the Whole on the state of the Union.

The Clerk read as follows:

At the end of line 85 add the following:

If said stamps can be furnished by the Bureau of Engraving and Printing of the Treasury at less than the same now cost, the work of furnishing the same shall be given to said bureau when not in violation of existing contracts.

The amendment was concurred in.

Mr. BLOUNT. It was the understanding, Mr. Speaker, yesterday the footings should be made in accordance with the amendments adopted. I therefore move the following:

In lines 3, 4, and 5, section 2 of the bill, strike out "$4,296,319.10" and insert in lieu thereof "$5,250,250.10;" so it will read:

SEC. 2. That if the revenue of the Post-Office Department shall be insufficient to meet the appropriations made by this act, then the sum of $5,250,250.10, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post-Office Department for the year ending June 30, 1880.

The SPEAKER *pro tempore*. That is in accordance, the Chair understands, with the agreement.

There was no objection, and the amendment was received and adopted.

The bill, as amended, was ordered to be engrossed and read a third time.

Mr. BLOUNT demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. BLOUNT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. HEWITT, of New York. I now move, Mr. Speaker, that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up and considering the Army appropriation bill.

Mr. BANNING. I wish to call attention of the gentleman from New York for a moment——

Mr. HEWITT, of New York. I yield to the gentleman from Ohio if he wishes to make an explanation. I do not know what his purpose is.

Mr. BANNING. I wish to state to the gentleman from New York that the bill to reorganize the Army, agreed to unanimously by the joint committee, stands to be taken up immediately after the morning hour. Before he proceeds to the Army appropriation bill I ask that we shall be permitted to take up the bill for the reorganization of the Army and have it considered, so legislation concerning the Army shall not be put on an appropriation bill, but shall be considered and acted on in a separate proposition.

Mr. CALKINS. Let me ask the gentleman from Ohio a question if the gentleman from New York will yield for that purpose.

Mr. HEWITT, of New York. With pleasure.

Mr. CALKINS. Is it the purpose of the Committee on Military Affairs to have this Army bill considered by the House before the appropriation bill for the Army?

Mr. BANNING. That is the purpose I have in view. The bill for the reorganization of the Army has been made the special order in the House, and we think it ought to be considered before the bill making appropriations for the Army.

Mr. CALKINS. That is precisely what I think.

Mr. BANNING. Therefore, if the gentleman from New York will permit me, I will move the House proceed to the consideration of the bill for the reorganization of the Army.

Mr. HOOKER. After the morning hour.

The SPEAKER *pro tempore*. That cannot be done, because the bill referred to by the gentleman from Ohio is the special order only after the morning hour, and the regular order of business, if the motion of the gentleman from New York is withdrawn, would be the demand for the morning hour. The bill of the gentleman from Ohio cannot be reached until the close of the morning hour. Besides that, at two o'clock the District of Columbia business has control of the floor.

Mr. HEWITT, of New York. It was for that reason I was quite willing the motion of the gentleman from Ohio should prevail, or rather unanimous consent should be given to it, because there is an interval of an hour during which this bill could be disposed of, and the disposition of that bill by the House would greatly simplify the work of the Committee on Appropriations in reference to the Army appropriation bill. I trust the House will give unanimous consent. It is only a question of time whether it should come before or after the morning hour. It seems to me it will be the wisest thing to do.

The SPEAKER *pro tempore*. The Chair will submit the question to the House. Is there objection to proceeding to the consideration of the bill for the reorganization of the Army?

Mr. TOWNSEND, of New York. I object. [Cries of "Order!"] I object to all measures for harassing the Army. We ought not to harass the Army. Sitting Bull will come soon; it should be left to him to harass our brave boys. [Cries of "Order!"]

Mr. WHITE, of Pennsylvania. It is a brief bill and will not take much time.

Mr. HOOKER. I raise the point of order against the proposition that the morning hour is first in order.

Mr. WHITE, of Pennsylvania. I move——

The SPEAKER *pro tempore*. There is pending before the House a privileged motion of the gentleman from New York, [Mr. HEWITT,] which must first be disposed of.

Mr. WHITE, of Pennsylvania. I ask the gentleman to give way for a motion to suspend the rules to proceed to the consideration of the bill for the reorganization of the Army.

The SPEAKER *pro tempore*. That motion would not be in order to-day.

Mr. HEWITT, of New York. I yield for a moment to allow the gentleman from Pennsylvania [Mr. O'NEILL] to introduce a bill.

SIGNAL STATION ON DELAWARE BREAKWATER.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 6257) to establish and maintain a signal station on the breakwater, Lewes, Delaware; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HAYES and others called for the regular order.

Mr. WHITTHORNE. I rise to a question of order. I remember that a week ago the bill (H. R. No. 2240) was made a special order for to-day. I desire to ask the Chair whether it was not fixed to come up immediately after the reading of the Journal.

A MEMBER. What bill is that?

Mr. WHITTHORNE. A bill to amend sections 1417, 1418, 1419, 1420, and 1624 of the Revised Statutes, relating to the Navy of the United States.

The SPEAKER *pro tempore*. The Chair is informed by the journal clerk that the bill referred to was made a special order for to-day after the morning hour and not after the reading of the Journal.

Several MEMBERS. Regular order!

The SPEAKER *pro tempore*. The regular order is the motion of the gentleman from New York, [Mr. HEWITT.]

Mr. HOOKER. I rise to make a parliamentary inquiry. Did I not understand the Chair to say a few moments ago that the regular order after the post-office appropriation bill should be disposed of would be the morning hour?

The SPEAKER *pro tempore*. That is the regular order; but a motion to go into Committee of the Whole to consider one of the regular appropriation bills is a privileged motion; it is a motion to suspend the rules.

Mr. HOOKER. But the House may reject it?

The SPEAKER *pro tempore*. Certainly. The motion of the gentleman from New York must be first submitted; and unless the House by a majority vote determine to go into Committee of the Whole, then of course the business of the morning hour will come up.

Mr. BANNING. If the motion of the gentleman from New York should prevail, may he not then give way for the consideration of the bill to reorganize the Army?

The SPEAKER *pro tempore*. As the Chair understands, he cannot.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, informed the House that he had approved and signed bills of the following titles:

An act (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes, and to appropriate $40,000 for the miscellaneous expenses of the House of Representatives, and for other purposes;

An act (H. R. No. 613) subjecting the Fort Wayne military reservation, in the State of Arkansas, to entry as other public lands in said State; and

An act (H. R. No. 4200) relating to the national road in the State of Maryland, and to give consent of the United States to a certain act of the General Assembly of Maryland in relation to said road.

ORDER OF BUSINESS.

Mr. DANFORD. Will the Chair please state what is the pending question?

The SPEAKER *pro tempore*. The pending question is the motion of the gentleman from New York [Mr. HEWITT] that the rules be suspended and that the House resolve itself into Committee of the Whole on the state of the Union for the consideration of the Army appropriation bill.

Mr. TOWNSEND, of New York. I make the point that the House cannot be asked to suspend the rules on this day.

The SPEAKER *pro tempore*. The Chair will inform the gentleman from New York that the House may at any time, by a majority vote, suspend the rules for the purpose of going into the Committee of the Whole on the state of the Union. The Chair directs Rule 104 to be read.

The Clerk read as follows:

104. The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole on the state of the Union.

Mr. HENDEE. At two o'clock the Committee for the District of Columbia are entitled to the floor. I desire to inquire whether if the House is in Committee of the Whole at that hour the committee will rise by the action of the Chairman or whether it will be a question for the committee?

The SPEAKER *pro tempore*. The committee will rise by the action of the Chairman of the Committee of the Whole. At two o'clock it will be his duty to leave the chair and it will be taken by the Speaker *pro tempore*. The rights of the Committee for the District of Columbia will be protected.

The question being taken on the motion of Mr. HEWITT, of New York, there were—ayes 81, noes 87.

Mr. HEWITT, of New York. I call for tellers.

Tellers were ordered; and Mr. HEWITT, of New York, and Mr. HOOKER were appointed.

The House again divided; and the tellers reported—ayes 96, noes 101.

Mr. HEWITT, of New York. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 113, nays 123, not voting 52; as follows:

YEAS—113.

Aiken,	Dean,	Jones, Frank	Ross,
Atkins,	Dickey,	Jones, James T.	Scales,
Bacon,	Durham,	Joyce,	Shelley,
Bagley,	Dwight,	Kenna,	Smith, A. Herr
Beebe,	Eden,	Killinger,	Smith, William E.
Bell,	Eickhoff,	Kimmel,	Southard,
Benedict,	Elam,	Knapp,	Sparks,
Bicknell,	Ellis,	Landers,	Springer,
Blackburn,	Evins, John H.	Ligon,	Steele,
Bliss,	Felton,	Lockwood,	Stenger,
Blount,	Finley,	Luttrell,	Swann,
Bouck,	Franklin,	Maish,	Townshend, R. W.
Boyd,	Fuller,	Martin,	Tucker,
Bridges,	Garth,	Mayham,	Turner,
Brogden,	Gause,	McMahon,	Turney,
Buckner,	Gibson,	Morgan,	Walker,
Cabell,	Hamilton,	Morrison,	Warner,
Caldwell, John W.	Hardenbergh,	Morse,	Whitthorne,
Candler,	Harmer,	Patterson, G. W.	Williams, James
Clark of Missouri,	Harris, Henry R.	Patterson, T. M.	Williams, Jere N.
Clarke of Kentucky,	Harris, John T.	Phelps,	Willis, Albert S.
Cobb,	Hart,	Pridemore,	Wilson,
Cook,	Hatcher,	Rainey,	Wood,
Covert,	Hayes,	Rea,	Yeates,
Cox, Samuel S.	Henkle,	Reagan,	Young, Casey
Crittenden,	Herbert,	Reilly,	Young, John S.
Cutler,	Hewitt, G. W.	Rice, Americus V.	
Danford,	Hunton,	Rice, William W.	
Davidson,	Hungerford,	Robbins,	

NAYS—123.

Aldrich,	Conger,	House,	Overton,
Baker, John H.	Cox, Jacob D.	Hubbell,	Page,
Baker, William H.	Crapo,	Humphrey,	Peddie,
Banks,	Cravens,	Hunter,	Pollard,
Banning,	Cummings,	Ittner,	Pound,
Bayne,	Davis, Horace	James,	Price,
Bisbee,	Davis, Joseph J.	Keightley,	Pugh,
Blair,	Deering,	Kelley,	Randolph,
Boone,	Denison,	Lathrop,	Reed,
Bragg,	Dibrell,	Lindsey,	Robinson, G. D.
Brentano,	Dunnell,	Loring,	Robinson, M. S.
Brewer,	Eames,	Mackey,	Ryan,
Briggs,	Ellsworth,	Manning,	Sampson,
Bright,	Errett,	Marsh,	Sapp,
Browne,	Ewing,	McCook,	Sexton,
Bundy,	Fort,	McGowan,	Shallenberger,
Burchard,	Foster,	McKenzie,	Singleton,
Burdick,	Gardner,	McKinley,	Sinnickson,
Cain,	Garfield,	Mills,	Slemons,
Caldwell, W. P.	Giddings,	Mitchell,	Stephens,
Camp,	Hale,	Money,	Stewart,
Cannon,	Hanna,	Monroe,	Stone, John W.
Caswell,	Harris, Benj. W.	Muldrow,	Stone, Joseph C.
Chalmers,	Hendee,	Neal,	Strait,
Chittenden,	Henderson,	Norcross,	Thompson,
Clark, Rush	Hewitt, Abram S.	Oliver,	Tipton,
Cole,	Hooker,	O'Neill,	Townsend, Amos

Townsend, M. I.	Wait,	White, Michael D.	Willis, Benj. A.
Vance,	Ward,	Williams, Andrew	Willits,
Van Vorhes,	Watson,	Williams, C. G.	Wren.
Waddell,	White, Harry	Williams, Richard	

NOT VOTING—52.

Acklen,	Evans, I. Newton	Hiscock,	Powers,
Bailey,	Evans, James L.	Jones, John S.	Riddle,
Ballou,	Forney,	Jorgensen,	Roberts,
Bland,	Freeman,	Keifer,	Robertson,
Butler,	Frye,	Ketcham,	Sayler,
Calkins,	Glover,	Knott,	Smalls,
Campbell,	Goode,	Lapham,	Starin,
Carlisle,	Gunter,	Lynde,	Thornburgh,
Claflin,	Harrison,	Majors,	Throckmorton,
Clark, Alvah A.	Hartzell,	Metcalfe,	Veeder,
Clymer,	Haskell,	Muller,	Walsh,
Collins,	Hazelton,	Phillips,	Wigginton,
Culberson,	Henry,	Potter,	Wright.

So the motion was not agreed to.

During the roll-call the following announcements were made:

Mr. HARTZELL. I am paired with the gentleman from Kansas, Mr. PHILLIPS.

Mr. ACKLEN. I am paired with the gentleman from Pennsylvania, Mr. CLYMER, on this question.

Mr. MAJORS. I am paired with the gentleman from Texas, Mr. CULBERSON.

Mr. HASKELL. I am paired with the gentleman from Kentucky, Mr. KNOTT.

Mr. HEWITT, of New York. I change my vote. I voted in the negative.

Mr. METCALFE. I am paired with my colleague, Mr. BLAND.

Mr. OLIVER. I desire to announce that Mr. CARLISLE is paired with Mr. KEIFER.

Mr. HENKLE. I desire to announce that upon all political questions my colleague, Mr. HENRY, is paired with Mr. BALLOU.

Mr. WILLIAMS, of Wisconsin. My colleague, Mr. HAZELTON, is paired with Mr. LYNDE. If here, he would vote "no."

The result of the vote was then announced as above recorded.

Mr. HEWITT, of New York. I move to reconsider the vote just taken.

Mr. HOOKER. I move to lay the motion to reconsider upon the table.

Mr. HEWITT, of New York. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered, 63 members voting therefor.

The Clerk proceeded to call the roll, and had reached the name of Mr. LANDERS.

The SPEAKER *pro tempore*, (interrupting the roll-call.) The Chair is compelled to interfere with the further calling of the roll under a special order of the House, which will now be reported by the Clerk.

The Clerk read as follows:

On motion of Mr. BLACKBURN, by unanimous consent, ordered that on Thursday, January 30, after two o'clock p. m., the remainder of the session of that day be devoted exclusively to the consideration of reports from the Committee for the District of Columbia.

The SPEAKER *pro tempore*. Under this order the Committee for the District of Columbia is entitled to the floor, and the Chair recognizes the chairman of that committee, the gentleman from Kentucky, [Mr. BLACKBURN.]

Mr. GARFIELD. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. GARFIELD. It was decided the other day by the Speaker—it is of no consequence in the world in this case except as a question of the rules—that nothing can interrupt the roll-call, except a final adjournment of Congress. The roll was being called, and the House had ordered that a recess should be taken, and the Speaker decided that the roll-call must be finished.

The SPEAKER *pro tempore*. The Chair does not think that was the decision of the Speaker, but he is upon the floor and can answer for himself.

Mr. RANDALL, (the Speaker.) The Chair made no such decision. If the gentleman will hear read the remarks made by the Speaker on that occasion he will see that he is mistaken.

Mr. GARFIELD. I may have misunderstood the decision of the Chair, but that was my impression.

Mr. RANDALL, (the Speaker.) The gentleman will know better what the decision of the Chair was after hearing it read the second time.

Mr. GARFIELD. My understanding was that it was the order of the House to take a recess at half past four o'clock. The roll was being called upon a motion for the adjournment, and the question was whether the roll-call should not be completed, even though it took a longer time than was fixed for the recess. The Speaker decided that the roll-call must continue, the yeas and nays having been ordered by the House.

The SPEAKER *pro tempore*. The Chair will have read the decision of the Speaker on that occasion.

The Clerk read as follows:

Mr. BUNDY (at four o'clock and fifteen minutes p. m.) moved that the House adjourn; on which motion the yeas and nays were ordered, one-fifth of the members present voting in favor thereof.

During the calling of the roll on said motion, Mr. CONGER made the point of order that the House having previously ordered that a recess should be taken at four o'clock and thirty minutes p. m. until seven o'clock and thirty minutes p. m., and the latter hour having arrived, the previous order of the House must now be executed.

The SPEAKER overruled the point of order on the ground that the motion to adjourn was the only one by which the House would have the opportunity to change its mind except the motion to reconsider the vote by which the recess was ordered, which motion was now precluded by the motion to adjourn. If the roll-call was upon a motion relating to the pending bill, it would be the duty of the Chair to execute the order of the House at four o'clock and thirty minutes p. m. by declaring the House to be in recess until seven o'clock and thirty minutes p. m.

Mr. RANDALL, (the Speaker.) The Chair still adheres to that opinion.

Mr. GARFIELD. I think the Chair was correct.

The SPEAKER *pro tempore*. There is reason why a vote upon a motion to adjourn should not be interrupted, because it is the privilege of the House to adjourn at any time.

Mr. RANDALL, (the Speaker.) If the House were acting upon any question on the pending bill, then the order for a recess would interrupt it immediately at the time at which the recess was fixed should arrive.

HENRY C. DE AHNA.

Mr. PHELPS, by unanimous consent, from the Committee of Ways and Means, submitted a report in writing upon the petition of Henry C. De Ahna; which was ordered to be printed, and recommitted to the Committee of Ways and Means.

LICENSES IN DISTRICT OF COLUMBIA.

Mr. CLAFLIN, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 4466, a bill (H. R. No. 6258) imposing a license on trade, business, and professions practiced or carried on in the District of Columbia, and providing for the enforcement and collection of fines and penalties for carrying on business in the said District without license, and for other purposes; which was read a first and second time, recommitted to the Committee for the District of Columbia, and ordered to be printed.

WASHINGTON EYE, EAR, AND THROAT HOSPITAL.

Mr. HUNTON, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 3089, a bill (H. R. No. 6259) to incorporate the Washington Eye, Ear, and Throat Hospital; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That William A. Maury, William H. Morrison, John A. Baker, Wright Rives, Daniel B. Clarke, William M. Galt, Johnson Elliot, doctor of medicine, Samuel C. Busey, doctor of medicine, John C. Riley, doctor of medicine, Alexander Y. P. Garnett, doctor of medicine, Louis Mackall, doctor of medicine, Noble Young, doctor of medicine, and two members of the House of Representatives and one member of the Senate of the United States, to be appointed respectively by the Speaker of the House and President of the Senate, and their successors duly chosen, are hereby constituted a body-corporate in the District of Columbia, by the name of the Washington Eye, Ear, and Throat Hospital, to be used as a hospital and dispensary for the gratuitous treatment of the medical and surgical diseases of the eye, ear, and throat: *Provided, however*, That the board of trustees may permit the admission of patients able and willing to defray the expenses of such treatment.

SEC. 2. That said corporation shall consist of fifteen members, constituting a board of trustees, six of whom shall be regular practitioners of medicine and members of the Medical Society of the District of Columbia, two members of the House of Representatives, and one member of the Senate of the United States, to be appointed as specified in section 1, and six laymen, citizens of the District of Columbia.

SEC. 3. That the fifteen corporators named in section 1 shall constitute the first board of trustees. Said board, exclusive of the members of the Senate and House of Representatives of the United States, shall be divided into six classes, consisting of one physician and one layman. The time of service of each class shall be for five years: *Provided*, That the service of the first class shall terminate on the first Monday of December, 1880, and the other classes, in numerical succession, in 1881, 1882, 1883, 1884, and 1885. The five physician members shall constitute the consulting medical board of the hospital and dispensary.

SEC. 4. That vacancies occurring in the board of trustees by death, resignation, or expiration of term of office, except in the case of members of the Senate and House of Representatives, shall be filled by a vote of the contributing members of the institution.

SEC. 5. That any person who may pay into the Treasury on or before the first Monday in December, annually, the sum of $5 in lawful currency, shall become a contributing member of the institution, and entitled to one vote, either in person or by proxy, at the election of trustees. No one shall be a trustee who is not a contributing member.

SEC. 6. That the board of trustees shall make all necessary rules and regulations for the government of the hospital, shall have power to provide suitable buildings and all necessary appliances for the hospital, and make and carry into effect all necessary arrangements for the support of the same. The officers of the board shall be a president, vice-president, secretary, and treasurer.

SEC. 7. That the board of trustees shall elect two attending physicians, who shall be regular practitioners and members of the Medical Society of the District of Columbia, and skilled in the treatment of diseases of the eye, ear, and throat, who shall not be removed except for cause, after regular trial on charges duly prepared, with the right to said physicians to introduce testimony and be read in their defense thereon, and only upon the concurrence of two-thirds of said board. The attending physicians shall have the privilege of attending meetings of the board, but shall not vote upon any question.

SEC. 8. That said corporation shall have power to accept, purchase, receive conveyances of, and hold property, either personal or real, to any amount necessary for the full accommodation, convenience, and support of the institution, and those participating in its benefits.

SEC. 9. That the property, personal or real, so held by said corporation, shall be exempt from taxes and assessments levied under act of Congress or by authority of any municipal corporation or board within the District of Columbia.

SEC. 10. That Congress may at any time hereafter alter, amend, or repeal this act.

Mr. HUNTON. The bill under consideration is merely to incorporate the Eye, Ear, and Throat Hospital of the city of Washington. It contains no appropriation; and unless some gentleman desires to speak upon it I will call for a vote.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REAL-ESTATE TITLES IN THE DISTRICT OF COLUMBIA.

Mr. HUNTON also, from the same committee, reported back, without amendment, a bill (H. R. No. 4950) to quiet title to real estate in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That whenever any person or persons shall have held any real estate in the District of Columbia by exclusive adverse possession for twenty years or upward by him or them, or those under whom he or they claim, such person or persons may file a bill in equity in the proper court of said District against all persons claiming, or who may claim, an interest therein, as the persons last seized thereof prior to the commencement of such adverse possession, or the heirs, devisees, or representatives of such persons last seized, and any and all parties in interest, so far as the same may be known to the complainant or complainants in such bill in equity; and if no parties are known to the complainant or complainants proper to be made defendants on account of their interest, or claim of interest, then such complainant or complainants may file a bill in the nature of proceedings *in rem* against the property itself; and thereupon such proceedings shall be had as are usual in equity causes. And if it shall appear by proper evidence that the complainant or complainants have been in such exclusive adverse possession for twenty years or upward before the filing of the bill, then such decree shall be rendered in favor of the complainant or complainants as shall assure to him or them such title in the premises as the first grantee had therein.

SEC. 2. That the adverse possession mentioned in the foregoing section may be either actual or constructive; and payment of taxes on such property by the complainant and those under whom he holds for such period of twenty years or upward shall be deemed constructive possession.

SEC. 3. That upon the filing of any such bill as hereinbefore mentioned notice of publication shall be inserted in such newspaper in the city of Washington as may be designated by the court, notifying all parties in interest to appear and defend the suit, and specifying in such notice the real estate in which it is proposed to perfect the title of the complainant or complainants. And personal service, also, shall be had, as in other cases, upon such interested parties as may be within the jurisdiction of the court, and a copy of the notice of publication shall be transmitted by mail to the address of such interested parties outside of the jurisdiction of the court whose address may be known. And proper proof of such notice of publication, and of such personal service, and of such transmission of notice, as the case may require, shall be essential to give the court jurisdiction.

SEC. 4. That appeals may be had in such cases as in other suits in equity.

SEC. 5. That any person claiming an interest in the premises may, at any time within the period of one year from and after the date of the rendition of the decree in any such cause, intervene therein, upon reasonable cause shown, and have such decree reopened, and be allowed to defend his interests in the premises.

SEC. 6. That unless reversed upon appeal or so reopened and subsequently altered or modified, such decree shall have the force and effect of a final assurance of said property to the complainant or complainants; and no previous defect in the title shall be allowed in any manner to prejudice the complainant's title therein; and in all suits in ejectment hereafter to be instituted in said District of Columbia, any party in interest may deduce title from any such decree that may have been rendered in the premises to the same effect as though such decree were an original grant from the State of Maryland or from the United States.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPITOL AND NORTH O STREET RAILWAY.

Mr. HENKLE, from the Committee for the District of Columbia, reported back with amendments the bill (H. R. No. 5371) to incorporate the Capitol, North O Street and South Washington Railway Company.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, &c., That the act to incorporate the Capitol, North O Street and South Washington Railway Company, approved March 3, 1875, be, and the same is hereby, amended, so as to authorize said company to lay a single or double track and run its cars from its present line on E and Eleventh streets northwest eastward on E street to Tenth street, thence south on Tenth street to D street, thence eastward on D street to Eighth street, thence south on Eighth street to Market Space, thence eastward on said Market Space to Seventh street, thence across Seventh street to Louisiana avenue, thence eastward on Louisiana avenue and Indiana avenue, to connect with the tracks of the said company on First street; also to extend their road with single or double track, connecting with their tracks on Fourteenth street and Ohio avenue southwest, thence south along Fourteenth street to B street south, thence east along B street to Virginia avenue, thence along their present line on Virginia avenue to Eleventh street, thence south along Eleventh street to Water street, thence east along Water street to M street, which shall be the southern terminus of said road; also to extend their road with single or double track, connecting with their track on Eleventh street northwest, thence north along Eleventh street to Boundary street north, which shall be the northern terminus of said road.

SEC. 2. That the said company shall complete the tracks and run its cars along the streets named without additional fare within eighteen months, and that the said company may, at their discretion, discontinue the use of their tracks on Ohio avenue and Twelth street southwest, and that the said company shall have the right to use the tracks of any other duly incorporated company which may coincide with portions of the route above indicated, upon terms to be mutually agreed between the companies, or, in case of disagreement, by the supreme court of the District: *Provided*, Said company shall be subject to all the restrictions and requirements in the construction, repairing, and operating of the additional road hereby authorized as set forth in the original charter of said company, except as hereinbefore provided.

The amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HENKLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOUNT PLEASANT AND POTOMAC SIDE RAILWAY.

Mr. HENKLE also, from the same committee, reported back with amendments the bill (H. R. No. 5370) to incorporate the Mount Pleasant and Potomac Side Railway Company.

The bill, as proposed to be amended, was read as follows:

Be it enacted, &c., That S. P. Brown, William Dickson, Lysander Hill, George P. Goff, and John W. Bell, and their associates and assigns, be, and they are hereby, created a body-corporate, under the name of the Mount Pleasant and Potomac Side Railway Company, with authority to construct and lay down a single or double track railway, with the necessary switches and turnouts, in the city and county of Washington, District of Columbia, through and along the following streets and avenues: Commencing at Boundary and Sixteenth streets, and running thence due south along said Sixteenth street to its intersection with H street northwest, thence east along H street northwest to Fourteenth street, thence south along Fourteenth street to B street southwest, thence east along B street southwest to Twelfth street southwest, thence south along Twelfth street to its intersection with Water street, thence along said Water street to the Sixth street steamboat landing, with the right to run public carriages thereon, drawn by horse-power, receiving therefor a rate of fare not exceeding five cents a passenger for any distance on said road, from its beginning to its terminus on Water street: *Provided*, That wherever the foregoing route may coincide with the route of any other duly incorporated street railway company in the District of Columbia, or connect portions of such route, but one set of tracks shall be used by both companies, which are hereby authorized and empowered to use such tracks in common, upon such fair and equitable terms as may be agreed upon by said companies; and in the event the said companies fail to agree upon satisfactory terms, either of said companies may apply by petition to the supreme court of the District of Columbia, which shall provide for proper notice to and hearing of all parties interested, and shall have power to determine the terms and conditions upon which, and the regulations under which the company hereby incorporated shall be entitled so to use and enjoy the track of such other street railway company, and the amount and manner of compensation to be paid therefor: *And provided further*, That neither of the companies using such track in common shall be permitted to make the track so used in common the depot or general stopping-place to await passengers, but shall only be entitled to use the same for the ordinary passage of their cars, with the ordinary halts for the taking-up and dropping of passengers.

SEC. 2. That the road of said company, with all its property and franchises, shall be liable to taxation as is or may be provided by law, and their cars or vehicles shall be subject to the provisions of such laws as to license and fees therefor.

SEC. 3. That the said railway shall be laid as near the center of the streets and avenues in the city of Washington as practicable, (without interfering with or passing over the water or gas pipes,) in the most approved manner adapted to street railways, with rails of the most approved pattern, with a flat bearing for street vehicles, exclusive of the car-wheel bearing, similar to that used by the Washington and Georgetown Railway Company, laid upon an even surface with the pavements of the streets and avenues; and the space between the two tracks (where two are laid) shall not be less than four feet nor more than six feet in width, and the carriages shall not be less than six feet in width, the gauge to correspond with that of the Capitol, North O Street and South Washington Railway.

SEC. 4. That the said corporation hereby created shall be bound to keep said tracks and a space of two feet beyond the outer rails thereof, and also the space between the tracks, at all times well paved and in good order, in such manner and with such material as may be directed by the board of commissioners of the District of Columbia; and if there be at any time no such board, then by the Secretary of War, without expense to the United States or the said city. That when any street or avenue through which the said railroad runs shall be paved, said railroad company shall bear all the expenses for that portion of the work lying between the exterior rails of the tracks of said road, and for a distance of two feet from and exterior to such track or tracks on each side thereof, and of keeping the same in repair; but the said railway company, having conformed to the grades established by the commissioners, may use such cobble-stone or Belgian blocks for paving their tracks or the spaces between their tracks as the commissioners may direct.

SEC. 5. That nothing in this act shall prevent the government or the proper authorities of the District of Columbia, at any time, at its option, from altering the grade, or otherwise improving all avenues and streets occupied by said road, or the said District from so altering and improving such streets and avenues, and the sewerage thereof, as may be under their respective authority and control; and in such event it shall be the duty of said company, at its own expense, to change its said railway so as to conform to such grade and pavement.

SEC. 6. That nothing in this act shall be so construed as to authorize said body-corporate to issue any note, token or device, scrip, or other evidence of debt, to be used as currency; but it may issue interest-bearing bonds of such denominations and running for such length of time or times as the stockholders may direct, to an amount not exceeding the sum of $100,000.

SEC. 7. That the capital stock of said company shall not be less than $100,000 nor more than $400,000; and that the stock shall be divided into shares of $50 each, and shall be deemed personal property, transferable in such manner as the by-laws of said company may direct.

SEC. 8. That the said company shall place first-class cars on said railway, with all the modern improvements, for the convenience and comfort of passengers, and shall run cars thereon during the day and as late at night as eleven o'clock, and as often as every ten minutes.

SEC. 9. That the said company shall provide such passenger-rooms, offices, stables, and depots at such points as the business of the road and the convenience of the public may require; and said company is hereby authorized to lay such rails through transverse streets or avenues as may be necessary, not exceeding one block in distance in any one place, for connecting the said stables, depots, and offices with the main tracks; and the said company is hereby authorized to purchase or lease such lands or buildings as may be necessary for the passenger-rooms, ticket-office, stables, and depots above named, and not to exceed $200,000 in value.

SEC. 10. That all articles of value that may be left in any of the cars or other vehicles of said company shall be taken to its principal depot and entered in a book of record of unclaimed goods; which book shall be open to the inspection of the public at all reasonable hours.

SEC. 11. That within thirty days after the passage and approval of this act, the corporators named in the first section, or a majority of them, or if any refuse to act, then a majority of the remainder, shall cause books of subscription to the capital stock of said company to be opened and kept open in some convenient and accessible place or places in the city of Washington, for a period to be fixed by said corporators, not less than two days; and said corporators shall give public notice by advertisement in not less than two daily papers published in the city of Washington of the time when and place where said books shall be opened, and subscribers on said books to the capital stock of the company shall be held to be stockholders: *Provided*, That no one individual shall be allowed to subscribe for more than two hundred shares of said stock: *Provided further*, That every subscriber shall pay at the time of subscribing 5 per cent. of the amount by him subscribed to the treasurer of said company, or his subscription shall be null and void; and said payment shall in no case be withdrawn or loaned to any member of said company. And when the books of subscription to the capital stock of said company shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse to act, then a majority of the remainder, shall, within ten days thereafter, call the first meeting of the stockholders of said company, to meet within ten days thereafter, for the choice of seven directors, of which public notice shall be given

for three days in not less than two newspapers published daily in the city of Washington, or by written or printed personal notice to each stockholder by the secretary or clerk of the said corporation. And in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

SEC. 12. That the government and direction of the affairs of the company shall be vested in a board of directors, seven in number, who shall be stockholders, and who shall hold their office for one year, or until others are duly elected and qualified to take their places as directors. And the said directors (a majority of whom shall constitute a quorum) shall elect one of their number to be president of the board, and who shall also be president of the company; and they shall also choose a treasurer, who shall be a stockholder, and who shall give bonds, with security, to said company, in such sum as the said directors may require, for the faithful discharge of his trust; and said board shall also elect a secretary, who shall also be a stockholder, and who shall perform such duties as usually pertain to said office. In case of a vacancy in the board of directors, by death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 13. That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper respecting the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter or the laws of the United States or of the District of Columbia: *Provided*, That the directors of said company shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time (after the first installment) and in such manner and amounts as they may deem proper; and if any stockholder shall refuse or neglect to pay any installment as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of his said stock as shall pay said installment, (and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due,) under such general regulations as may be adopted in the by-laws of said company; or said body-corporate may sue and collect the same from any delinquent subscriber in any court of competent jurisdiction; and no part of the capital paid in shall at any time be withdrawn by said company or any member thereof.

SEC. 14. That there shall be an annual meeting of the stockholders for choice of directors, to be holden at such time and place, under such conditions, and upon such notice as the said company in their by-laws may prescribe; and said directors shall annually make a report of their doings to the stockholders in general meeting.

SEC. 15. That if any person or persons shall willfully and unnecessarily obstruct or impede the passage of the cars of said railway, or destroy or injure the cars, depots, stations, or other property belonging to said railway, the person or persons so offending shall forfeit and pay for each such offense the sum of $10 to said company, to be recovered and disposed of as other fines and penalties in said District, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 16. That unless said corporation shall commence to lay the said track within four months and complete their said railway within eighteen months from and after the passage of this act, then this act shall be null and void, and no rights whatever shall be acquired under it.

SEC. 17. And the said company is hereby authorized and empowered to construct an extension to said route on and along the following streets and roads within the city and county of Washington, to wit: Commencing at Sixteenth and Boundary streets, and running east on Boundary to Fourteenth street; thence north along the Fourteenth street road to its junction with Park street at Mount Pleasant: *Provided*, That the Mount Pleasant Railroad Company of the District of Columbia do not construct a railroad along the streets and roads above named before September 1, 1879, in accordance with a charter granted by act of Congress; *And, provided*, That said extension is commenced within one year and completed within two years from and after the passage of this act. And the said company may charge additional fare, not exceeding two cents, for any distance on said extension.

SEC. 18. That no person shall be prohibited the right to travel on any part of said road, or ejected from the cars thereof, for any other cause than that of being drunk, disorderly, unclean, contagiously diseased, refusing to pay the legal fare exacted, or to comply with the lawful general regulations of the company.

SEC. 19. That each of the stockholders in the said railway company shall be liable individually for all the debts and liabilities of the said company to an amount equal to the amount of stock held by such stockholder.

SEC. 20. That said company shall make such reports of expenditures, earnings, and otherwise, to the authorities of the Government, as may be required by law.

SEC. 21. That this act may at any time be altered, amended, or repealed by the Congress of the United States.

The amendments reported from the Committee for the District of Columbia were agreed to.

The question was upon ordering the bill as amended to be engrossed and read a third time.

Mr. PRICE. I noticed, while listening to the bill as it was read, that section 13 provides for the forfeiting of the stock upon the non-payment of installments, "after reasonable notice." I suggest to the gentleman in charge of the bill that in place of the word "reasonable" there be inserted a certain number of days, say "thirty days."

Mr. HENKLE. If the gentleman will prepare an amendment to that effect I will have no objection.

Mr. PRICE. Then I move to strike out the word "reasonable" and insert "thirty days;" so that portion of the section will read as follows:

Provided, That the directors of said company shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time (after the first installment) and in such manner and amounts as they may deem proper; and if any stockholder shall refuse or neglect to pay any installment as required by a resolution of the board of directors, after thirty days' notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of his said stock as shall pay said installment, (and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due,) under such general regulations as may be adopted in the by-laws of said company.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. HENKLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPECIAL ASSESSMENTS FOR IMPROVEMENTS.

Mr. DAVIS, of California, from the Committee for the District of Columbia, reported a bill (H. R. No. 6260) for the collection of the special assessments for the improvements of the streets about the Capitol, and to amend the act of March 3, 1873; which was read a first and second time, and, with the accompanying papers, ordered to be printed, and recommitted to the Committee for the District of Columbia.

GOVERNMENT OF DISTRICT OF COLUMBIA.

Mr. MAYHAM, from the Committee for the District of Columbia, reported a bill (H. R. No. 6261) supplemental to an act entitled "An act providing for a permanent form of government for the District of Columbia," approved June 11, 1878; which was read a first and second time, ordered to be printed, and recommitted, not to be brought back on a motion to reconsider.

DESCENTS AND INHERITANCE.

Mr. BOUCK, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (S. No. 1028) declaratory of the law relating to descents and inheritance in the District of Columbia in certain cases.

The bill was read. It provides that the issue of any marriage of colored persons, contracted and entered into according to any custom prevailing at the time in any of the States wherein the same occurred, shall, for all purposes of descent and inheritance and the transmission of both real and personal property within the District of Columbia, be deemed and held to be legitimate, and capable of inheriting and transmitting inheritance, and taken as next of kin and distributee according to law, from and to their parents, or either of them, and from and to those from whom such parents, or either of them, may inherit or transmit inheritance, anything in the laws of such State to the contrary notwithstanding. But nothing herein is to be construed as implying that any such marriage is not valid, or such issue legitimate for all purposes.

The bill was ordered to a third reading, read a third time, and passed.

Mr. BOUCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DISTRICT TAXES AND TAX SALES.

Mr. HENDEE, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (S. No. 1344) relating to tax sales and taxes in the District of Columbia.

The bill was read. It provides that it shall be the duty of the collector of taxes for the District of Columbia to prepare and keep in his office, for public inspection, a list of lots and squares, arranged in numerical order, of all real estate in the city of Washington heretofore sold, or which may hereafter be sold, for the non-payment of any general or special tax or assessment levied or assessed upon the same; said list to show the date of sale and for what taxes sold, in whose name assessed at the time of sale, the amount for which the same was sold, when and to whom conveyed if deeded, or, if redeemed from said sale, the date of redemption. And it is made the duty of the collector, whenever called upon, to furnish, in addition to the regular tax bills, a certified statement, over his hand and official seal, of all taxes and assessments, general and special, that may be due and unpaid at the time of making such certificate, and which may in any manner be a lien upon any real estate located in the District; and for each and every certificate so furnished by the collector the party requesting the same shall pay into the treasury of the District a fee of fifty cents; and this certificate, when furnished as aforesaid, shall be a bar to the collection and recovery from any subsequent purchaser of any tax or assessment omitted from and which may be a lien upon the real estate mentioned in the certificate; and such lien shall be discharged as to such subsequent purchaser, but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same. It is declared that all public records which have any reference or in any way relate to real or personal property in the District shall be open to the public for inspection free of charge.

The bill was ordered to a third reading, read the third time, and passed.

Mr. HENDEE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DAMAGES TO REAL ESTATE IN THE DISTRICT OF COLUMBIA.

Mr. HENDEE also, from the same committee, reported, as a substitute for House bill No. 1973, a joint resolution (H. R. No. 228) authorizing the commissioners of the District of Columbia to receive and report upon unadjusted claims for damage to real estate in the District of Columbia.

The joint resolution was read. It recites in the preamble that by the provisions of an act approved June 20, 1874, entitled "An act to provide a government for the District of Columbia, and for other purposes," and also of joint resolution approved December 21, 1874, a board of audit was constituted to examine and audit for settlement claims for damage to real estate in the District of Columbia, sustained by reason of public improvements or repairs; that the said board of audit examined and settled a number of such claims; that a

joint resolution of Congress of March 14, 1876, abolished said board before it had completed the auditing and settlement of such claims; and that other claims for damage to real property, by reason of public improvements or repairs, have arisen since June 20, 1874, which were not cognizable by said board of audit. The bill therefore authorizes and directs the commissioners of the District of Columbia to give public notice for ten days in two newspapers published in the District for all persons having unadjusted claims for damage to real estate by reason of public improvements or repairs in the District that have not heretofore been presented for settlement to the late board of public works or board of audit of the District, or, if presented, were not adjudicated upon their merits, to present the same, with the proof of such damage, under oath, to the commissioners of the District before the 1st day of October, A. D., 1879; and the commissioners shall thereupon examine such claims, taking into consideration any special advantages or benefits the property damaged may derive from such improvements or repairs, and determine the amount that such real estate so damaged may be equitably entitled to receive, and shall make a tabulated report of the same to Congress on the first Monday of December, A. D., 1879, together with such recommendations for their settlement as may seem to them best in the premises; and it is declared that no claim which shall not have been presented as above authorized before the 1st day of October, 1879, shall hereafter be considered, but that any neglect to so present such claim before that date shall be taken and construed as a perpetual bar to the prosecution thereof before any tribunal hereafter.

Mr. LATHROP. I move to amend by adding to this resolution the following:

Provided, That the passage of this resolution shall not be deemed or taken as in any manner committing the United States to the payment of such claims or any of them, nor as a recognition of their justice or legality.

Mr. HENDEE. I have no objection to that amendment.

Mr. EDEN. I would like to make a suggestion to the gentleman from Vermont, [Mr. HENDEE.] If I have heard the provisions of this joint resolution correctly, it simply provides that the claimants shall file their affidavits before the commissioners.

Mr. HENDEE. It provides for filing the claims and affidavits, and for a report to be made to Congress.

Mr. EDEN. Consequently, whatever evidence there may be in reference to these claims will be purely and entirely *ex parte*. I do not think that sort of testimony will be worth very much.

Mr. BUCKNER. Is that all the testimony the commissioners will be authorized to take?

Mr. HENDEE. Certainly not; by this resolution they are authorized to examine into the merits of the claims.

Mr. EDEN. I do not see anywhere in the resolution anything authorizing the commissioners to take any testimony at all. The commissioners of the District of Columbia have no judicial functions unless we confer them. This joint resolution simply authorizes these commissioners to receive the claims that may be filed, with the affidavits of the claimants, and then to examine the claims. They can only examine them by examining the accounts filed and the affidavits of the claimants, unless we give them some further power.

Mr. HENDEE. The words of the joint resolution are, "with the proof of such damage, under oath."

Mr. EDEN. The proof by the claimant—that is, his affidavit.

Mr. HENDEE. These claims are simply to be reported to the next Congress.

Mr. EDEN. Certainly. The only reason I make the suggestion is that if this labor of the commissioners is to be of any value at all it seems to me they ought to have power to take testimony on behalf of the Government; they ought to have the means of making some further investigation than simply taking the affidavit of the claimants.

Mr. HENDEE. Would it be satisfactory to the gentleman to add a word or two after the word "claims" in the sixteenth line, as follows: "and the said commissioners of the District of Columbia shall thereupon examine such claims, taking such testimony as they may see fit."

Mr. EDEN. That would help it.

Mr. BUCKNER. They should have power to take testimony.

Mr. HENDEE. Add the words "with power to take testimony" after the word "claims," sixteenth line.

Mr. EDEN. I do not know whether these commissioners have the power to administer oaths or not.

Mr. HENDEE. I do not know, but I think they have.

Mr. EDEN. Somebody should have power to administer oaths.

Mr. HENDEE. Add the words "with power to take testimony and administer oaths."

Mr. LATHROP's amendment was adopted; and then the amendment of Mr. HENDEE was agreed to.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HENDEE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOUNT PLEASANT RAILROAD COMPANY.

Mr. HENDEE also, from the same committee, reported back the bill (H. R. No. 6175) to incorporate the Mount Pleasant Railroad Company, with amendments.

The bill was read, as follows:

Be it enacted, &c., That William H. Beck, William Orme, Lyman S. Emery, George W. Riggs, Gilbert Vanderwerken, John T. Lenman, J. S. Brown, William R. Riley, and their associates and assigns, be, and they are hereby, created a body-corporate, under the name of the Mount Pleasant Railroad Company, with authority to construct and lay down a single or a double track railway, with the necessary switches and turnouts, in the county of Washington, District of Columbia, from the junction of Fourteenth and Boundary streets northwest, through and along west side of Fourteenth street extended, northwardly to its junction with what is known as Park street, in the village of Mount Pleasant, the location of the track to be under the direction of the commissioners of the District of Columbia, with the right to run public cars thereon, drawn by horses, receiving therefor a rate of fare not exceeding three cents for each passenger for any distance between the termini thereof.

SEC. 2. That said road shall be deemed personal property, and with other, real and personal, of said body-corporate, shall be liable to taxation as other real and personal property in the county of Washington.

SEC. 3. That the said corporation hereby created shall keep its track at all times in good order without expense to the United States or the city or county of Washington, shall place or cause to be placed first-class cars thereon, and make connection with the Washington and Georgetown Railroad Company at the junction of Fourteenth and Boundary streets northwest; and said cars shall be run during the day at least as often as once every half hour, and at night at least as often as once every hour until twelve o'clock.

SEC. 4. That nothing in this act shall prevent the Government from altering the grade or otherwise improving the streets that may be occupied by said road; and in such event it shall be the duty of said company to change their said railroad so as to conform to such altered grade.

SEC. 5. That this act may at any time be altered, amended, or repealed by the United States.

SEC. 6. That the capital stock of the said company shall be $30,000; and that the said stock shall be divided into four hundred shares of $50 each, and shall be deemed personal property, transferable in such manner as the laws of said company may direct.

SEC. 7. That the said road shall be completed and in running order by September 1, 1879; and unless it shall be finished at that time this act shall be void. And the track herein authorized shall be four feet eight and one-half inches wide, and the rails to be laid shall be of the most approved pattern. And said company shall in all respects conform to the laws governing other horse railroad companies in the District relative to the grading and paving of the street beside and between their tracks.

SEC. 8. That the corporators herein named are authorized to open books of subscription for the capital stock of the said company at such times and places as they shall deem most convenient, and to solicit subscriptions thereto: *Provided, however*, That every subscriber shall, at the time of making his subscription, pay 25 per cent. in money; otherwise said subscription shall be null and void. And when the capital shall all have been taken, the corporators named in the first section, or a majority of them, shall call the first meeting of the stockholders of the said company for the choice of directors; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

SEC. 9. That the government and direction of the affairs of the company shall be vested in a board of seven directors, who shall hold office for one year, and until others are duly elected and qualified to take their place as directors; and the said directors (a majority of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company, and they shall also choose a treasurer, who shall give bond, with surety, to said company, in such sum as the said directors may require, for the faithful discharge of his trust. In case of a vacancy in the board of directors by the death, resignation, or otherwise of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 10. That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter or the laws of the United States.

SEC. 11. That there shall be an annual meeting of the stockholder for choice of directors, to be held at such time and place, under such conditions, and upon such notice as the said company in their by-laws may prescribe; and such directors shall annually make a report in writing to the stockholders and to the commissioners of the District of Columbia.

SEC. 12. That all acts and parts of acts heretofore passed which are inconsistent with any of the provisions of this act, for the purposes of this act are hereby repealed so far as the same are inconsistent herewith.

The amendments of the committee were read, as follows:

In section 1, line 12, strike out "west side of" and "extended;" and in section 5 insert the words "Congress of" before the words "the United States."

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HENDEE moved to reconsider the vote by which the bill, as amended, was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROCK STREET, GEORGETOWN.

Mr. CLAFLIN, from the Committee for the District of Columbia, reported back favorably a bill (H. R. No. 4468) to abandon a portion of Rock street, in the city of Georgetown, and for other purposes.

The bill, which was read, provides that so much of Rock street in the city of Georgetown, in the District of Columbia, as lies north of Bridge street, south of Olive street, and west of Monroe street, be abandoned as a public street or highway; and the title to the land heretofore occupied by said Rock street between the limits aforesaid shall vest in the owners of the lots or parcels of land on either side thereof and abutting thereon, respectively, that is to say, from the front line of their said lots or parcels of land to the center of said street, and in their heirs or assigns forever; and such lands shall hereafter be subject to taxation, and be taxed in the same manner and to the same extent as other lands in said city of Georgetown.

Mr. CLAFLIN. I desire to say that a portion of Rock street has been abandoned by the commissioners and a new street laid out to take its place. The portion abandoned is now in a dangerous condition. By the laws of the District streets when abandoned revert

to the original owners. The bill is recommended by the commissioners, and should be passed at once.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HOLMEAD'S CEMETERY.

Mr. CLAFLIN also, from the same committee, reported back a bill (S. No. 1108) to protect Holmead's Cemetery, in the District of Columbia, with an amendment in the nature of a substitute.

The substitute was read, as follows:

Be it enacted, &c., That all the right and title of the United States to and in square No. 109, in the city of Washington, commonly known as Holmead's Cemetery, be, and the same is hereby, granted to and vested in the District of Columbia, and shall be used by said District for public-school purposes, and for none other. The commissioners of the District, or their successors in office, may at any time sell any part or the whole of said square; but the proceeds of such sale or sales shall be exclusively invested in sites for public schools or in the erection or purchase of school-buildings, and shall be used for no other purpose whatever. But before making any disposition of the said square, the District of Columbia shall remove all the bodies remaining interred therein to some suitable burial-ground, together with all tombstones or other monuments remaining at the graves from which the bodies are so removed.

The substitute was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. CLAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. CLAFLIN. The committee also recommend an amendment to the title, as follows:

A bill to transfer the title of the United States to square 109 to the District of Columbia for the benefit of public schools thereof.

The amendment to the title was agreed to.

STREET RAILROADS.

Mr. CLAFLIN also, from the same committee, reported back a bill (H. R. No. 4579) concerning street railroads in the District of Columbia, with an amendment.

The bill, which was read, in the first section provides that package tickets issued by any street-railroad corporation, in the usual form of tickets sold by such corporation, and good for a fare not exceeding five cents, upon its route from a point in the District of Columbia to any other point in said District, in a car run therein by said corporation, shall be received as good for a passage between any two points in said District by any other street railroad corporation in any car wherein a fare not exceeding five cents is receivable; and every such corporation shall, once in a week, redeem all such tickets issued by it which shall be presented by any other such corporation, by paying therefor at the rate of four cents in money for each ticket so presented.

The second section provides that any street railroad corporation refusing to receive, as above provided, any such ticket issued by any other such corporation, or refusing to redeem, as above provided, any such ticket of its own issue, shall forfeit, for each ticket which it shall so refuse, the sum of $1, to be recovered in action of tort by the person or corporation presenting the same, to his or its own use.

The amendment of the committee was read, as follows:

SEC. 3. That all street-railroad corporations which have for the past year or longer issued commutation tickets at less rate than charged for single fare shall be required to continue to issue them at the same rate, or less, as now charged by said street-railroad corporations; and all acts and parts of acts inconsistent with this act are hereby repealed.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GROUNDS SOUTH OF CAPITOL.

Mr. DAVIS, of California, from the Committee for the District of Columbia, reported a joint resolution (H. R. No. 229) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes; which was read a first and second time.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $15,000 be, and the same hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of employing the poor of the District in the work of filling up, draining, and placing in good sanitary condition the grounds south of the Capitol, along the line of the old canal. The commissioners of the District shall determine the plan of said work, shall see that it is properly conducted, and shall disburse the money: *Provided*, That a further appropriation be, and is hereby, made of the sum of $5,000, out of any moneys in the Treasury not otherwise appropriated, for the purpose of providing medical attendance, medicine, and food for the sick and infirm poor of the District, and the same shall be disbursed under the direction of the commissioners of the District.

SEC. 2. That the commissioners of the District be, and they hereby are, authorized to expend $15,000 for the relief of the poor, $7,500 to be derived from the Central Market rents and $7,500 from the general fund of said District.

Mr. BUCKNER. Is that joint resolution subject to a point of order?

The SPEAKER *pro tempore*. If the gentleman from Missouri insists on the point of order that the joint resolution must have its first consideration in Committee of the Whole, the Chair will feel compelled to sustain it.

Mr. BLACKBURN. If the gentleman from Missouri will allow me I will simply state, with the indulgence of the House, that the joint resolution is undoubtedly liable to the point of order if it is insisted on. It does make an appropriation and it is just that appropriation that is made every year. It appropriates $15,000 from the Federal Treasury; and it provides for the appropriation of a similar amount from the District of Columbia for the purpose of filling up this canal, which is the property of the Federal Government, not one inch of which the District of Columbia owns. The ground from which the earth is to be taken to fill up the canal belongs to the Federal Government; the ground through which the canal itself goes belongs to the Federal Government; and I do not think anybody will be disposed to make objection on that ground. If with this statement the gentleman from Missouri insists upon the point of order, I take it the Chair will have no hesitation in declaring it must be sustained and that the bill goes to the Committee of the Whole.

The SPEAKER *pro tempore*. The Chair will state that if the bill is sent to the Committee of the Whole it will be competent at once to move that the House resolve itself into Committee of the Whole for the purpose of considering business reported by the District Committee.

Mr. BUCKNER. I do not insist on the point of order.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly engrossed and read the third time, and passed.

Mr. DAVIS, of California, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUFFRAGE IN THE DISTRICT OF COLUMBIA.

Mr. BLACKBURN. I yield to the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I hold in my hand a petition of the Labor League, citizens of the District of Columbia, praying for such change in the form of government for the District of Columbia as will grant to the people the right of suffrage. I ask that it be referred to the Committee for the District of Columbia, and that it be printed in the RECORD.

There was no objection, and it was so ordered.

The petition is as follows:

To the honorable the House of Representatives of the United States of America:

Your petitioners represent that they are citizens of the District of Columbia and resident tax-payers therein; that in 1874 they were deprived of the natural right of suffrage, with the distinct understanding that at the next session of Congress a permanent form of government, with the suffrage restored, would be given to the people of the District of Columbia. Since then your petitioners have patiently waited for the different committees that were appointed by Congress to make their report giving a permanent form of government to the District with the suffrage restored; but no such has appeared, and your petitioners have patiently submitted to outrage upon outrage until to-day themselves and families are on the very verge of starvation.

Your petitioners respectfully represent that it is unrepublican and undemocratic to govern this District without giving the people thereof a voice in the selection of their servants, and there is no city to-day in the civilized world of the population of Washington governed in the despotic and un-American manner in which we are here. The existing government of the District by three proconsuls, who have no just powers derived from the consent of the governed, is a notorious contradiction of the laws of God and man, and can only be construed as a direct attack upon popular sovereignty in America; and we earnestly request your honorable body to restore to us our old time-honored mayor, common council, and a full member in Congress. If two hundred thousand of the most intelligent people in the United States who now reside in this District are not entitled to be represented in Congress by a full member of Congress, then our popular government is a failure; for if the people, who are sovereigns and the source of all power, are not capable of governing themselves in Washington they cannot be said to be more capable elsewhere in the States.

The members of the Labor League of the District of Columbia during the recent strike were mainly instrumental in preserving order in the District, and one of the grievances of those who wanted to create disturbance was that we had no representation either local or national, and consequently had no more rights than dogs, and they averred that it was only through violence that the rights of labor could be achieved. Your petitioners believing otherwise and preferring to appeal to Congress under the Constitution for a full redress of grievances, passed their resolution for law and order, prevented such an outbreak in the District, and are now entitled to have their petition treated with proper respect and their many grievances redressed by law.

JOHN POPE HODNETT,
President and Founder Labor League, United States of America.
LUKE McGARVY,
Chairman Committee of Safety, District of Columbia.
THOMAS J. BURNS,
Secretary.
MARSHALL BURRIEL,
PETER STEWART,
RICHARD RAILEY,
For and in behalf of the Labor League of the District of Columbia.

ORDER OF BUSINESS.

Mr. BLACKBURN. The business of the Committee for the District of Columbia having been disposed of, I am ready in obedience to the resolution of the House to move that we do now adjourn.

Mr. BUCKNER. I ask the gentleman to yield to me for a moment.
Mr. BLACKBURN. I yield to the gentleman.

HOUR OF MEETING.

Mr. BUCKNER. I offer the resolution which I send to the desk.
The Clerk read as follows:

Resolved, That from and after Monday, the 3d of February, the hour of meeting of this House shall be at eleven o'clock a. m. during the remainder of the present session.

Mr. BUCKNER. I offer this resolution in order to avoid the necessity of having night sessions.
Mr. O'NEILL. I would like to suggest to the gentleman from Missouri whether we could not also fix an hour for adjourning, and sit later than half past four o'clock, so as to avoid the necessity of night sessions; because in the two hours from eleven o'clock till twelve and from the usual hour of adjournment till half past five we can do more business and more satisfactorily to ourselves and to the country than we can by coming here for night sessions when the House is slimly attended, members not wishing to come out at night.
Mr. BUCKNER. The object of the resolution is, if possible, to get rid of night sessions.
The SPEAKER *pro tempore*. The Chair cannot allow discussion until the resolution is before the House for consideration. Does the gentleman from Pennsylvania object?
Mr. O'NEILL. I do not. I merely suggest an amendment that we may do away with night sessions for the next week or two, at any rate until it is impossible for us to get along without them. We can certainly do more business in six hours during the day than we can by meeting at night.
The SPEAKER *pro tempore*. Is there objection to the present consideration of the resolution?
There was no objection.
Mr. SPRINGER. Is it intended that the House should begin on Monday to meet at eleven o'clock?
The SPEAKER *pro tempore*. The language of the resolution is "from and after Monday."
Mr. DUNNELL. I move to amend the resolution by striking out "the third" and inserting "the tenth."
Mr. ITTNER. I hope that amendment will not be made.
Mr. BUCKNER. I am willing to accept the amendment suggested by the gentleman from Minnesota.
The SPEAKER *pro tempore*. Objection is made to it.
The question being taken on Mr. DUNNELL'S amendment, it was agreed to.
Mr. SPRINGER. I move to amend by striking out the word "from" and inserting the word "on;" so that it will read "on and after Monday the 10th of February," &c.
Mr. O'NEILL. I move further to amend by adding that the House shall adjourn at five o'clock p. m.
Mr. EDEN. We cannot fix the hour of adjournment.
Mr. O'NEILL. I will withdraw the amendment, but will express the hope that we will act as sensible men and do our work in the daytime.
The amendment of Mr. SPRINGER was agreed to; and the resolution, as amended, was adopted.
Mr. BUCKNER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed a bill (S. No. 1182) granting a pension to Louis J. Blair; in which he was directed to ask the concurrence of the House.
The message further announced that the Senate had disagreed to the amendments of the House to the concurrent resolution of the Senate providing for a publication of an edition of the Narrative of the Polaris Expedition, for sale, &c., and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ANTHONY, Mr. SARGENT, and Mr. WHYTE conferees on the part of the Senate.

SURVEY OF THE MISSOURI RIVER.

The SPEAKER *pro tempore* laid before the House a letter from the Secretary of War, transmitting survey of the Missouri River at Cedar City, Missouri; which was referred to the Committee on Commerce.

MILITARY WAGON-ROADS IN IDAHO.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, relative to military wagon-roads in Idaho Territory; which was referred to the Committee on Military Affairs.

REPORT OF COMMISSIONER OF PATENTS.

The SPEAKER *pro tempore* also laid before the House a letter from the Commissioner of Patents, transmitting his annual report for the year ending December 31, 1878; which was referred to the Committee on Patents, and ordered to be printed.

PURCHASE OF CONFEDERATE RECORDS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, relative to the purchase of confederate records; which was referred to the Committee on Appropriations.

INDIAN HOSTILITIES IN OREGON, ETC.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of the Adjutant-General on the bill (H. R. No. 6096) creating a commission to examine a report on expenses of the State of Oregon and the Territories of Idaho and Washington incurred in the suppression of Indian hostilities; which was referred to the Committee on Military Affairs.

IMPROVEMENT OF HARLEM RIVER, NEW YORK.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of Lieutenant-Colonel John Newton, corps of engineers, relative to the improvement of the Harlem River, New York; which was referred to the Committee on Commerce.

REBUILDING OF OFFICERS' QUARTERS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting plans for rebuilding officers' quarters at Madison Barracks, Sackett's Harbor, New York; which was referred to the Committee on Appropriations.

MISSOURI RIVER NEAR GLASGOW, MISSOURI.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of the Missouri River near Glasgow, Missouri; which was referred to the Committee on Commerce.

MILITARY POST IN IDAHO TERRITORY.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of the Adjutant-General on the bill (H. R. No. 6098) providing for a military post in Lemhi Valley, Idaho Territory; which was referred to the Committee on Military Affairs.

PRINTING AND BINDING.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, relative to deficiencies in appropriation for printing and binding for the year ending June 30, 1879; which was referred to the Committee on Appropriations.

STAUNTON RIVER, VIRGINIA.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting examination of Staunton River, Virginia; which was referred to the Committee on Commerce.
Mr. CONGER. I move that all the reports from the Secretary of War in regard to the improvement of rivers and harbors be printed.
The motion was agreed to.

SURVEY OF MUSKINGUM RIVER, OHIO.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting survey of Muskingum River, Ohio; which was referred to the Committee on Commerce, and ordered to be printed.

REMOVAL OF HEADQUARTERS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of the Quartermaster-General as to the probable cost and continuing expenses of carrying into operation the existing law in reference to removal of headquarters of military departments from leased buildings into buildings belonging to the United States Government; which was referred to the Committee on Military Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:
To Mr. KILLINGER, for one week; and
To Mr. WILLIAMS, of New York, for ten days, on account of important business.

WITHDRAWAL OF PAPERS.

On motion of Mr. WHITTHORNE, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of H. S. Wetmore, there being no adverse report thereon.
On motion of Mr. PRICE, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of Dr. Lathrop, there being no adverse report thereon.
Mr. BLACKBURN. I desire to ask that one of the reports which has been presented by the Speaker shall be printed. I want to know whether the request of the gentleman from Michigan [Mr. CONGER] for the printing covered only such communications as relate to the improvement of rivers and harbors?
The SPEAKER *pro tempore*. It includes everything relating to the improvement of rivers and harbors.
Mr. BLACKBURN. There is a communication from the Secretary of War covering a letter from the Chief of Engineers relative to the Coast Survey, which I desire to have printed.
The SPEAKER *pro tempore*. If there be no objection the order to print will be made.
There was no objection; and it was ordered accordingly.

LOSSES BY INDIAN DEPREDATIONS.

Mr. LUTTRELL, by unanimous consent, introduced a bill (H. R.

No. 6262) to ascertain and report the losses of citizens of the States of California and Oregon, and the Territories of Idaho and Montana, on account of the destruction of property by hostile Indians in the year 1878; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ELIZABETH VERNON HENRY.

Mr. BEEBE, by unanimous consent, introduced a bill (H. R. No. 6263) granting a pension to Elizabeth Vernon Henry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SOLDIERS AND SAILORS OF THE WAR OF 1812.

Mr. WILSON. I desire to call up a joint resolution which was offered some time ago, and which has been agreed to by the two committees on pensions. It is a joint resolution to construe the act passed March 9, 1878, granting pensions to soldiers and seamen of the war of 1812.

The Clerk read the joint resolution, as follows:

Whereas, anticipating war with Great Britain, the Government of the United States received into its military and naval service persons who were discharged from such service less than fourteen days subsequent to June 18, 1812, the date of the formal declaration of war; and

Whereas, owing to the imperfect means of communication which existed at the date of the President's proclamation that peace had been established (February 18, 1815) between the United States and Great Britain, many persons who were received into the military and naval service of the United States to serve in the war of 1812 were retained in such service a considerable time after the establishment of peace; Now,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of claims for pension and bounty lands on account of service in the war of 1812 the Commissioner of Pensions shall compute all the time the soldier served between June 1, 1812, and March 4, 1815, including the day of discharge.

Mr. WILSON. This joint resolution has been prepared by the Commissioner of Pensions, and is acceptable to the two pension committees of the House.

Mr. RAINEY. I desire to state that when this joint resolution was up before I objected to it for certain reasons. Having since had it explained to me, I withdraw my objection.

Mr. LOCKWOOD. I renew the objection.

The SPEAKER *pro tempore*. Objection being made, the joint resolution is not before the House.

BUSHROD B. TAYLOR.

Mr. HANNA, by unanimous consent, from the Committee on Naval Affairs, reported back House joint resolution No. 162, for the relief of Bushrod B. Taylor, with sundry amendments of the Senate thereto, and with the recommendation that the amendments of the Senate be concurred in.

The amendments of the Senate were as follows:

In line 4, after the word "opportunity," insert the words "from any cause whatever;" and in line 4 strike out the words "in person."

The amendments of the Senate were concurred in.

The title was also amended to read as follows:

A joint resolution for the relief of Bushrod B. Taylor and other naval officers.

Mr. HANNA moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

KANSAS WAR CLAIMS.

Mr. HASKELL, by unanimous consent, introduced a bill (H. R. No. 6264) to authorize the Secretary of the Treasury to ascertain and report to Congress the amount of money expended and indebtedness assumed by the State of Kansas in repelling invasions and suppressing Indian hostilities; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SHIP-CANAL IN NEW JERSEY.

Mr. PEDDIE, by unanimous consent, introduced a bill (H. R. No. 6265) to aid in the construction of a ship-canal across Bergen Neck, in the county of Hudson, in the State of New Jersey, to connect the waters of the bay of New York with the waters of Newark Bay, and to shorten the water route between the port of New York and the port of Newark, New Jersey; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JOHN H. ANDERS.

Mr. SAMPSON, by unanimous consent, introduced a bill (H. R. No. 6266) for the relief of John H. Anders; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

The motion of Mr. BLACKBURN was then agreed to; and accordingly (at three o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Mrs. Samuel Beers and other women, of Chicago, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BLOUNT: The petition of W. O. Tuggle, agent for the State of Georgia, that the proper accounting officers may be instructed to examine the accounts between the United States and the several States growing out of moneys expended for military purposes in the revolutionary war, the war of 1812, and various Indian wars, and that there be paid to such States any amounts found due them—to the Committee on Appropriations.

By Mr. BRENTANO: The petition of M. B. Spofford and 452 others, citizens of Waukegan, Lake County, Illinois, for an appropriation to make a survey for a harbor at said place—to the Committee on Commerce.

By Mr. BREWER: The petition of Celia A. Stinson and 52 other ladies, of Goodrich, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. CANNON, of Illinois: The petition of Abby M. Batchelder and 30 others, of Illini, Illinois, of similar import—to the same committee.

By Mr. CRAPO: The petition of the Boylston Mutual Insurance Company and other underwriters of Boston, for an appropriation for the improvement of Nantucket Harbor—to the Committee on Commerce.

Also, the petition of owners and masters of vessels belonging to Provincetown, Massachusetts, for the abrogation of the fishery articles of the Washington treaty—to the Committee on Foreign Affairs.

By Mr. CUMMINGS: Senate memorial and joint resolution of the Legislature of Nevada, relative to the regulation of interstate railroads—to the Committee on Commerce.

By Mr. DENISON: The petition of Mrs. H. J. Curtiss and 40 other ladies, of Orange, Vermont, for legislation to render effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. ERRETT: The petition of 15 ladies of Pittsburgh, Pennsylvania, of similar import—to the same committee.

By Mr. GLOVER: The petition of citizens of Macon County, Missouri, for an appropriation to survey and sectionalize a certain township of land in said county—to the Committee on Public Lands.

By Mr. HAMILTON: The petition of citizens of Huntington County, Indiana, that gravel and plank roads be made free for the mails of the United States—to the Committee on the Post-Office and Post-Roads.

By Mr. HARDENBERGH: Resolutions of the riparian commission of New Jersey, favoring appropriations for the removal of obstructions to navigation in the Delaware River—to the Committee on Commerce.

Also, senate memorial and joint resolution of the Legislature of Nevada, relative to the regulation of interstate railroads—to the same committee.

By Mr. HENDEE: Two petitions of citizens of the District of Columbia, for compensation for property damaged by the board of public works of said District—to the Committee for the District of Columbia.

By Mr. LUTTRELL: The petition of Hon. M. Doyle and 500 others, citizens of the city of Petaluma, California, for the improvement of the navigation of Petaluma Creek, California—to the Committee on Commerce.

By Mr. MONROE: The petition of Mrs. Jennie E. Ayers and 60 other women, of Perrysville, Ohio, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. SAMPSON: Papers relating to the claim of John H. Anders—to the Committee on Military Affairs.

By Mr. SAPP: The petition of Margaret J. Reid and 200 others, citizens of College Springs, Iowa, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. STONE, of Iowa: The petition of citizens of Washington County, Iowa, that the patent laws be so amended as to protect innocent purchasers—to the same committee.

By Mr. THOMPSON: Senate memorial and joint resolution of the Legislature of Nevada, relative to the regulation of interstate railroads—to the Committee on Commerce.

By Mr. WARD: The petition of A. K. Owen, civil engineer, for the survey of the Austin-Topolovampo Pacific route—to the Committee on Appropriations.

By Mr. WILLIAMS, of Wisconsin: The petition of Charles Moe and 27 others, of Waterford, Wisconsin, for legislation to prevent the adulteration of food—to the Committee of Ways and Means.

By Mr. WILLIS, of Kentucky: A paper relating to the pension claim of Gilbert Phillips—to the Committee on Invalid Pensions.

By Mr. WILLITS: The petition of Mrs. T. A. Waldrow and 75 other ladies, of Oakland County, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. WILSON: The petition of M. Reilly and 11 others, sugar dealers of Wheeling, West Virginia, against a proposed change in the tariff on sugars—to the Committee of Ways and Means.

By Mr. WOOD: The petition of the National Cigar Manufacturing Association, against bills providing for annexing a coupon stamp to cigars—to the same committee.

IN SENATE.

FRIDAY, *January* 31, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of George G. Vest, chosen by the Legislature of Missouri a Senator from that State for the term beginning March 4, 1879; which were read and ordered to be filed.

COMMITTEE SERVICE.

Mr. WALLACE. I suggest that the vacancy upon the Committee on Railroads and the Committee on Enrolled Bills occasioned by the retirement of the late Senator from Missouri [Mr. ARMSTRONG] be filled by the appointment of his successor, the present Senator from Missouri, [Mr. SHIELDS.]

The VICE-PRESIDENT. To this suggestion the Chair hears no objection, and it is so ordered.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 1475) granting American registry to the Canadian steam-ferryboat Geneva;

A bill (H. R. No. 2985) to authorize the construction of a bridge across the Missouri River at or near Lexington, Missouri;

A bill (H. R. No. 5016) to authorize the construction of a bridge across the Wabash River;

A bill (H. R. No. 5030) to extend the operations of the Light-House Board over the Saint Croix River and Lake in the States of Minnesota and Wisconsin, and the Chippewa River in the State of Wisconsin;

A bill (H. R. No. 5504) to amend section 4234 of the Revised Statutes of the United States;

A bill (H. R. No. 5633) authorizing the changing the name of the barge Cockade City, of Washington, District of Columbia, to Republic;

A bill (H. R. No. 5743) to extend the customs collection district of Beaufort, South Carolina;

A bill (H. R. No. 5824) extending the limits of the port of New York;

A bill (H. R. No. 5897) to amend section 4400, of title 52, of the Revised Statutes of the United States, concerning the regulation of steam-vessels, and

A joint resolution (H. R. No. 227) for securing reports of the products of the fisheries.

The bill (H. R. No. 6250) granting a pension to Morris Dwight was read twice by its title, and referred to the Committee on Pensions.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Public Printer setting forth the condition of the appropriation for printing and binding for the War Department for the present fiscal year, and recommending an additional appropriation of $30,000 to meet any deficiency in that Department for that purpose; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. FERRY presented the memorial of the Marine City Stave Company and 11 others, citizens of Michigan, remonstrating against levying a restrictive tariff on the lower grades of sugar; which was referred to the Committee on Finance.

Mr. EATON. I rise to present a rather singular memorial this morning. I present a memorial signed by 475 workingmen of the towns mostly of East Windsor and Windsor, Connecticut, remonstrating against the expenditure of the money of the people for the pretended navigation of the Connecticut River above Hartford.

Mr. DAWES. I wish to put on record my opinion that that is a very singular memorial. I agree with the Senator from Connecticut that it is singular.

The VICE-PRESIDENT. The memorial will be referred to the Committee on Commerce.

Mr. VOORHEES presented the memorial of B. F. Overton and others, delegates from the Indian Territory, remonstrating against the passage of House bill No. 2687, and all kindred measures providing for a Delegate in Congress from the Indian Territory; which was referred to the Committee on Indian Affairs.

Mr. WHYTE presented the petition of Nicholas Phelan, of Baltimore, Maryland, praying for the passage of the bill granting compensation to the heirs of John Phelan, deceased, for the value of a land warrant improperly issued to a party fraudulently claiming to be the true heir of that gentleman; which was referred to the Committee on the Judiciary.

Mr. BOOTH presented the petition of J. G. Rutherford and others, citizens of California, praying for the passage of a law reducing the price of public lands within the limits of railroad grants in that State to $1.25 per acre, and allowing *bona fide* settlers to homestead one hundred and sixty acres, in place of eighty as heretofore, within those limits; which was referred to the Committee on Public Lands.

He also presented the petition of Jacob Underhill & Co. and others, citizens of San Francisco, California, praying to have refunded to them out of the unexpended balance of the Geneva award the amount of certain extra rates of insurance called war premiums paid to insurance companies who have been indemnified for their losses out of that fund; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. PATTERSON, from the Committee on Territories, to whom was referred a letter of the Secretary of the Interior in relation to the inadequacy of the salary of the present governor of Wyoming Territory, and recommending that the salaries of all territorial governors be restored to the former rates of compensation, asked to be discharged from its further consideration and that it be referred to the Committee on Appropriations; which was agreed to.

Mr. HAMLIN. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 226) in relation to the expenditures at the industrial exposition in Paris in 1878, have had the same under consideration, and have directed me to report it with a recommendation for its indefinite postponement. I will state the reasons which have brought the committee to this conclusion. The joint resolution only repeats what is now the law. It is made the duty of the Secretary of State to make the report called for when he shall be able to ascertain what the expenses are. It will be made at that time probably. It is impossible to make it now, because, as the committee learn, there are accounts yet unsettled for transportation both by ships and railroads; they are in the process of negotiation, but cannot to-day be ascertained. It would duplicate the work to enact this measure, and there is therefore, in the opinion of the committee, no necessity for the passage of the joint resolution, and they recommend its indefinite postponement.

Mr. DAVIS, of West Virginia. Do I understand the Senator from Maine to report adversely on the joint resolution which came from the House calling for a detailed statement of the expenditures of the commissioners at the Paris exposition?

Mr. HAMLIN. Yes.

Mr. DAVIS, of West Virginia. I agree with the Senator from Maine fully in what he has stated in regard to that joint resolution. I noticed it when it passed the House, and believe that it is perfectly right to have it postponed indefinitely.

The VICE-PRESIDENT. The joint resolution will be indefinitely postponed.

Mr. VOORHEES, from the Committee on Pensions, to whom was recommitted the bill (H. R. No. 989) granting a pension to Mrs. Eliza A. Semple, reported it without amendment.

He also, from the same committee, to whom was recommitted the bill (H. R. No. 4687) granting a pension to Georgine Thomas, widow of General Charles Thomas, deceased, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 1723) granting arrears of pension to Mrs. Jane Dulaney, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3575) granting an increase of pension to Josephine Da C. Thomas, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4294) to increase the pension of Mrs. Elizabeth S. Roberts, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 2711) granting a pension to Thomas Buroughs, late a private in Company G, First Vermont Cavalry Regiment, reported it without amendment.

Mr. VOORHEES. I am instructed by the same committee, to whom was referred the petition of Margaret Conley, widow of M. Conley, late of Company A, Seventy-seventh Regiment New York Volunteers, praying to be allowed a pension, to report it with a statement that the petition prays for arrearages, and is covered by the recent act on that subject. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. BAILEY, from the Committee on Pensions, to whom was referred the petition of Peyton R. Mayo, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (H. R. No. 4689) granting pension to Thomas R. Cross, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Matthew O. Regan, late of Company E, Third United States Artillery, praying for an increase of pension, submitted a report thereon accompanied by a bill (S. No. 1739) granting a pension to Matthew O. Regan.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Rebecca Williams, praying for a pension, submitted a

report thereon accompanied by a bill (S. No. 1740) granting a pension to Rebecca Williams.

The bill was read twice by its title, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1514) granting a pension to Simeon Ingalls, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4392) for the relief of Lucinda C. Dillahenty, of Tennessee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 550) granting a pension to Mary A. Allen, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. KELLOGG, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2519) for the relief of Mrs. Julia H. Totten, widow of James Totten, late lieutenant-colonel and assistant inspector general, United States Army, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (S. No. 1509) granting a pension to John Willans, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 4983) granting a pension to Sarah H. Bradford, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 480) granting a pension to William W. Stephenson, captain of Company H, Twenty-fourth Regiment Indiana Volunteers, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 3408) granting a pension to Samuel V. Adams, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1045) to place George W. Browning on the pension-roll, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4987) granting a pension to James H. Cook, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Elizabeth McNeil Benham and Frances McNeil Potter, daughters of General John McNeil, United States Army, praying to be allowed a pension on account of services rendered the Government by their father during the war of 1812, submitted two reports thereon accompanied by the following bills:

A bill (S. No. 1741) granting a pension to Elizabeth McNeil Benham; and

A bill (S. No. 1742) granting a pension to Frances McNeil Potter.

The bills were severally read twice by their titles, and the reports were ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the letter of the Commissioner of Patents, communicating, in obedience to law, his annual report for the calendar year ending December 31, 1878, asked to be discharged from its further consideration, and that it be referred to the Committee on Patents; which was agreed to.

Mr. WADLEIGH, from the Committee on Military Affairs, to whom were referred resolutions of the Society of the Army of the Potomac in favor of an appropriation for continuing and completing the history of the battle of Gettysburgh by John Batchelder, and also a letter from the Secretary of War, communicating, in answer to Senate resolution of March 4, 1878, information concerning the data from which the positions of the troops were added to the engineer maps of the Gettysburgh battle-field recently published, submitted a report thereon accompanied by a bill (S. No. 1744) to provide for the compilation and preservation of data showing the various positions and movements of troops engaged in the battle of Gettysburgh, and for a descriptive account of the same, with illustrations and diagrams.

The bill was read twice by its title, and the report was ordered to be printed.

TRANSFER OF INDIAN BUREAU.

Mr. SAUNDERS. The joint committee appointed by the two Houses of Congress at the last session, to inquire into the expediency of transferring the Indian Bureau and the management of Indian affairs from the Interior Department to the War Department, have had that matter under consideration and have spent a good deal of time in examining the subject; but they are unable to agree upon a report. The committee being equally divided, we are unable to make a report to the two Houses; but we have unanimously agreed to make two statements, or reports if they may so be called, and to ask that they be received by the respective Houses for consideration. I ask that privilege this morning of the Senate.

The VICE-PRESIDENT. The papers will be received.

Mr. SAUNDERS. In connection with the views to be presented for myself and those who agree with me, I ask leave to introduce a bill which we think is important, in order to carry out properly the report I present to the Senate, and I ask that the bill be printed and laid upon the table subject to the order of the Senate.

By unanimous consent leave was granted to introduce a bill (S. No. 1743) to authorize the President temporarily to transfer the custody, control, and management of certain Indian tribes from the Interior to the War Department, and for other purposes.

The bill was read twice by its title, and ordered to lie on the table.

Mr. SAUNDERS. I give notice, inasmuch as there is considerable importance attached to this measure, that I shall at an early day endeavor to have the bill taken from the table and secure the action of the Senate upon it.

WINDHAM NATIONAL BANK.

Mr. MORRILL. I am instructed by the Committee on Finance, to whom was referred the bill (S. No. 1560) authorizing the Windham National Bank to change its location, to report it without amendment; and I am also directed to ask for its present consideration, as it will take less time to consider it now than hereafter.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment.

Mr. MORRILL. I desire to say that there can be no possible objection to this bill. It is in the usual form, approved by the Comptroller of the Currency, and is merely for the change of a bank from one village to another to get on the line of a railroad.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLERICAL FORCE OF PENSION OFFICE.

Mr. VOORHEES, from the Committee on Pensions, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, instructed to report to this body, without delay, what additional clerical force is necessary in the Pension Office and in the office of the Surgeon-General of the Army to secure to applicants for pensions a prompt adjustment of their claims and to the pensioners of the Government a speedy and efficient transaction of their business.

BILLS INTRODUCED.

Mr. KERNAN. I ask leave without previous notice to introduce a bill by request. I know nothing about the merits of the bill.

By unanimous consent, leave was granted to introduce a bill (S. No. 1745) for the relief of Martha W. Chubb and Mary L. Chubb, and Martha W. Chubb as administratrix of her father, Thomas J. Chubb, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Patents.

WITHDRAWAL OF PAPERS.

On motion of Mr. ALLISON, it was

Ordered, That the petition and papers of William T. Pate & Co. be taken from the files and referred to the Committee on Finance.

RAILROADS IN TEXAS.

Mr. COKE. I submit a resolution, to lie upon the table for the present, and I give notice that next Tuesday at the conclusion of the morning business I shall ask leave to submit some remarks upon it.

The resolution was read, and ordered to lie on the table, as follows:

Resolved, That the Committee on Railroads be requested to consider Senate bill No. 1498, providing for the construction of a railroad from Galveston, Texas, to a point on the Rio Grande River, opposite Camargo, in the Republic of Mexico; and Senate bill No. 853, providing for the construction of a railroad from San Antonio, Texas, to Laredo, on the Rio Grande; and make report on them at their earliest convenience.

AMENDMENTS TO BILLS.

Mr. PLUMB and Mr. JOHNSTON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. KELLOGG submitted an amendment intended to be proposed by him to the bill (H. R. No. 6240) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations.

RECOMMITTAL OF A BILL.

Mr. SARGENT. I move that the bill (S. No. 963) to amend the record of a naval officer be taken from the Calendar and re-referred to the Committee on Naval Affairs.

The motion was agreed to.

SITE OF FORT CLARK, TEXAS.

Mr. MAXEY. I move that the Senate proceed to the consideration of the bill (S. No. 1627) making appropriation for the purchase of Fort Clark, Texas; which was reported from the Committee on Military Affairs without amendment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $50,000 for the purchase by condemnation or private contract, by the Secretary of War, as to him may seem best, of the site of Fort Clark with all the improvements thereon, but before the payment of the money good and sufficient title to the land is to be made to the United States.

Mr. SAULSBURY. I should like to have the Senator from Texas explain the bill.

Mr. MAXEY. The bill is the result of a letter from the Secretary

of War submitted to the Senate through the Vice-President, asking that this matter might come before Congress for prompt action.

The reason for the passage of the bill is that the title to the site of Fort Clark is not in the United States, but in a private person. The United States Government has expended upon the property about $269,000, according to the report of the Quartermaster-General. The owner of the property proposes to compromise and settle the matter by receiving the amount of $50,000 in full discharge of the title. It is a patent title from the Republic of Texas to the present owner, and the Secretary of War as well as all the other officers who have charge of the matter recommend that the purchase be made and thus quiet the title. It is the most important post in the State. There are now eleven companies there, and a schedule of the property accompanying the bill shows that the property of the Government amounts to $269,000.

The fort was originally established upon this property in 1852 by the United States Government, amounting to 3,867½ acres, under a lease between Samuel A. Maverick, the patent-holder of the title, and the deputy quartermaster-general, Colonel Tompkins, and the establishment was regularly approved by the commander of the Department of Texas, and so on by the proper officers all the way up. By the terms of that lease, a copy of which I have here, it was agreed that the United States Government might buy the property at any time within twenty years from and after the date of the lease, but that if the Government failed to do so the property should revert to the owner of the soil. That time expired in 1872. Even at common law it would be the property of the holder, but by the express terms of the lease the United States Government had full notice and knowledge that the property belonged to Samuel A. Maverick. He has since died, and the property now belongs to his widow.

A statement was called for from the Quartermaster-General to show the extent of the improvements made by the Government. Their cost is put by him at $269,000. The commanding officer at Fort Clark, General Mackenzie, testified before the committee that the same property could not be replaced for less than $150,000; that the fort was necessary, and would so remain as long as the Rio Grande continued the boundary-line of the United States, and that while another place might be got in the immediate vicinity which would probably be as eligible, there was no place more eligible than this, and the Government had expended the amount of money there that I have stated.

These are the facts in regard to this matter. The report of the Committee on Military Affairs upon the bill will show fully, if any one desires to have it read, the whole facts of the case.

Mr. EDMUNDS. I should like to hear the report read.

The VICE-PRESIDENT. The report will be read.

Mr. MAXEY. I have the lease here, with the other papers, and they can be read also if any Senator desires.

The Secretary read the following report, submitted by Mr. MAXEY on the 16th instant:

The Committee on Military Affairs, to whom was referred the bill (S. No. 1627) making an appropriation for the purchase of Fort Clark, Texas, respectfully submit the following report:

The land upon which Fort Clark is situated was located by virtue of part of the headright of Samuel A. Maverick, now deceased, and is survey No. 234, containing 3,867¼ acres, less a small strip about 146 varas (about 134 yards) wide, patented by the State of Texas to Samuel A. Maverick, September 20, 1851, No. 404, vol. 9. This being a first-class headright, acquired during the coverture of said Samuel A. Maverick, deceased, and Mary A. Maverick, his widow, she is by the laws of Texas entitled in fee to one undivided half thereof. 2. By the will of said Samuel A., duly probated, a certified copy of which is offered in evidence before the committee, Mrs. Maverick is duly authorized to bargain, sell, and convey, with good and sufficient title, any and all the lands of the testator. 3. The children and heirs of the said Samuel A. unite in a deed of relinquishment, duly authenticated, of all their interest in said land to their mother, said Mary A. An authenticated copy of said deed was also offered in evidence. A certified copy of the patent for said land covered by said survey 234, from the general land office of the State of Texas, was also offered in evidence, dated September 20, 1851, No. 404, recorded in vol. 9, record of patents, general land office of Texas. The title to said land is perfect, and in Mrs. Maverick, and has been so recognized by the Government by leases thereof since 1852 until recently, Fort Clark being situate thereon.

The War Department has heretofore urgently recommended appropriate legislation to secure title to posts in Texas. (See annual report for 1878 and the following extracts from pages 11 and 12:)

[Extract from Annual Report of the Secretary of War for 1878.]

"MILITARY SITES IN TEXAS.

"Ex. Doc. No. 282, Forty-third Congress, first session, contains the history of the efforts to obtain ownership of the sites of military posts in Texas occupied to restrain hostile Indians on the north and western frontiers of that State and to preserve the peace and protect property and life along the Rio Grande frontier.

"A board, assembled under a law of Congress, reported in favor of purchasing a number of posts on both frontiers. The Lieutenant-General, considering the doubt as to the propriety of expending money in purchase of lands for sites of posts occupied on what was supposed to be an advancing frontier, recommended the purchase of the posts along the Rio Grande only.

"Congress appropriated, 3d March, 1875, $45,000 for purchase of sites of three posts only—Fort Brown, Ringgold Barracks, and Fort Duncan—and so restricted the War Department that to this day the United States has no title to any one of these posts, and has not been able to use the money appropriated for the purchase.

"Fort Clark, which is some thirty miles from the Rio Grande, though a post on that frontier, was excluded from the appropriation, and no appropriation was made for its purchase. It has been a military post since 1852. Whenever a military post is established on unclaimed land in the wilderness of Texas, which the law of the United States does not allow the War Department to purchase from its lawful owner, the State, some person soon appears as owner with a title derived from the State, and increases with the expiration of every lease his demands for rent, though settlement has not except by the United States' own improvements yet appreciated the value of lands in its neighborhood. The buildings, temporary or permanent, necessary to protection and shelter of troops and military supplies, become under general law the property of the land-owner on termination of a lease, and the officers of the United States are helpless to guard the interests of the Government, which from want of judicious legislation is obliged to submit to the demands of the claimant as to rental, or to abandon improvements, with great damage to the United States, and great suffering to the troops, and thus incur the expenditure necessary to build a new post in some other locality on another lease, and run the same road of improvidence again, or else to abandon posts on the frontier indispensable to the defense of the people of Texas against such atrocities as are filling the newspapers of the day.

"Were the law to trust the Executive with the power to purchase sites for such military posts as it may be found necessary to establish on this Texas frontier, land could be bought for all of them at insignificant prices—fifty cents to $1 per acre; while, after spending in military occupation, and in huts, barracks, and store-houses, many thousands of dollars, these same sites are held against the United States at $10 to $100 per acre, or even higher.

"The Quartermaster-General further reports that the removal of division and department headquarters to military posts, where possible, has caused considerable expenditure to provide suitable accommodations as offices and quarters, and this expenditure makes unusual demands upon the appropriations for barracks and quarters. This additional expenditure is, however, only temporary, and it is believed that the changes in this respect required by the act of Congress passed at the last session will in the end prove to be both beneficial and economical."

In a communication of January 15 instant to Mr. MAXEY, of this committee, the Secretary requests that an appropriation for the purpose [purchase of Fort Clark] be made at the present session of Congress, in such sum as the committee may determine. The Secretary's letter is inserted, as follows:

WAR DEPARTMENT,
Washington City, January 15, 1879.

SIR: I have the honor to return the letter of the 18th ultimo from Mrs. Mary A. Maverick, of San Antonio, Texas, inclosed in your letter of the 9th instant, as requested.

Mrs. Maverick's proposition is as follows: "I am willing to sell the survey upon which Fort Clark is located, being survey number 234, containing 3,867 acres, (excepting a narrow strip, 146 varas in width, running across the northeastern side of the survey,) together with my interest in the buildings and improvements located thereon, for $50,000, provided that my proposition is accepted and the transfer completed prior to April 1, 1879. Title to survey, of course, warranted."

I inclose a report of the Quartermaster-General upon this proposition, dated January 13, 1879; copy of House Ex. Doc. No. 282, Forty-third Congress, first session, relative to military sites in Texas; copy of letter from Mrs. Maverick to General Vincent, assistant adjutant-general, Department of Texas, dated April 29, 1878, with the indorsements thereon; and copy of my letter of May 15, 1878, transmitting the same to the House of Representatives. I also inclose copy of my last annual report, on page 11 of which the subject of "Military sites in Texas" is considered.

Draught of a bill to authorize the purchase of Fort Clark is inclosed, with request that an appropriation for the purpose be made at the present session of Congress, in such sums as the committee may determine.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. S. B. MAXEY,
Of Military Committee, United States Senate.

The Quartermaster-General, under date January 13, 1879, in a communication to the Secretary of War, states that Mrs. Maverick proposed, April 29, 1878, to sell the site of Fort Clark, with all improvements, for $25,000, "*provided* money was paid previous to June 3, 1878." General Ord, commanding Department of Texas, under date May 1, 1878, indorsed on said proposition, recommends acceptance thereof, and in connection therewith states the buildings, &c., on said land are worth from $100,000 to $200,000.

General Ord further states that "the post [Fort Clark] is the most important one in the department." This is an indorsement on a letter addressed by Mrs. Maverick to the Adjutant-General's Department of Texas, April 29, 1878, containing the proposition referred to. General Sheridan, commanding Military Division of Missouri, under date May 6, 1878, indorses the same as follows: "Not one moment should be lost in securing the offer made by the owner of the site of Fort Clark. The post will have to be retained for many years. It is of great value to us in every way, and the price asked is very low," &c.

The site selected for Fort Clark is admirably adapted to the purpose, and, situate conveniently to the Rio Grande frontier, will undoubtedly be important for many years to come. The committee here inserts the description thereof as furnished by Hon. Gustave Schleicher, now deceased, lately representing the sixth congressional district of Texas, which embraces Fort Clark:

"I desire to state that the large tract of land on which Fort Clark is situated is a remarkable tract for its fine situation, its excellent land, and beautiful pure stream of water. The head spring of las Moras, a large spring, and a bold stream of clear water issuing from that spring are contained in the tract. The country is settling fast, and lands are increasing rapidly in value. The tract is in the center of an admirable grazing country, fitting it peculiarly for a post for a large cavalry force. The improvements are of a superior order, all permanent, and constructed of hard stone; and altogether I consider the price very reasonable and the purchase of it by the Government as an act of wise economy. The geographical position is such that it will fit this place peculiarly for a permanent station near the national boundary. I strongly recommend prompt action on this proposition.

"G. SCHLEICHER."

This indorsement was made by Mr. Schleicher on a copy of the letter of Mrs. Maverick, dated December 18, 1878, containing her present proposition to sell for $50,000.

The Government failed to accept Mrs. Maverick's proposition of $25,000 according to its terms, or at all, because Congress, although strongly recommended by the Secretary of War to make the necessary appropriation, failed to do so.

Mrs. Maverick, in a communication bearing date December 18, 1878, makes proposition as follows:

"I am willing to sell the survey upon which Fort Clark is located, being survey No. 234, containing 3,867 acres, (excepting a narrow strip, 146 varas in width, running across the northeastern side of the survey,) together with my interest in the buildings and improvements located thereon, for $50,000, provided that my proposition is accepted and transfer completed prior to April 1, 1879. Title to survey, of course, warranted."

She states that at the time her first proposition was made it was quite important to her pecuniarily to make prompt sale, but that the Government having failed to accept, other arrangements were made, and the special necessity for ready money no longer exists. She proposes now to convey, with covenant and clause of general warranty, said land with its improvements for $50,000. The committee, in addition to the evidence hereinbefore referred to, took the testimony of Colonel R. S. Mackenzie, commanding Fourth Cavalry, with headquarters at Fort Clark, who agrees with Generals Ord and Sheridan as to the importance of Fort Clark, and puts the value of the improvements at $150,000, stating that like improvements could not be built for a less sum, and states that a post in that vicinity is a necessity, and will continue to be so long as the Rio Grande remains the boundary, and that if Fort Clark is abandoned another will have to be erected in same vicinity without being more eligible, and thereby the Government would suffer heavy loss. It is

entirely clear to the committee that it is greatly to the interest of the Government to own the land upon which it has expended so large a sum in the erection of this fort, which is yet, and for years will be, important to the protection of the frontier. The failure to accept Mrs. Maverick's first proposition ($25,000) was a costly failure.

Mrs. Maverick's present proposition is $50,000, to be kept open till April 1, 1879. The committee has no statement to show that she will take less.

It may be said that less than a year ago she proposed to take $25,000, and that if she could afford to take that price then she could afford to take less than $50,000 now, and that the chief value of the land consists in the improvements placed there by the Government. It is doubtless true that the land would be worth nothing like that sum without these improvements, and that the land with the improvements would probably not be worth $50,000 to any party save the Government; but at last the fact is still untouched that the Government placed these improvements there with knowledge of the title under which she claims; that General Ord places the improvements at from $100,000 to $200,000; that Colonel Mackenzie, commanding the post, places the improvements at $150,000; that all agree that a post there or in that vicinity is a necessity, and will so continue so long as the Rio Grande remains the boundary; and that there is no place more eligible in the vicinity; and that if the Government abandons this post it will have to build in the same vicinity at a cost at least from $100,000 to $200,000, or, as definitely fixed by Colonel Mackenzie, at $150,000. It is also to be considered that the buildings there are substantial stone buildings, made from stone taken from the survey, as stated by Colonel Mackenzie, and these buildings, of course, the lease having expired, become under general law the property of the land-owner; so the only question left to consider, in view of the premises, is, What is the interest of the Government?

It may be said the Government acted unwisely in placing itself at so great disadvantage in erecting costly buildings on land not its own. With that the committee has nothing to do, as the Government has done so. It seems to the committee sound economy to appropriate $50,000, or so much thereof as may be necessary, for the purchase by the Secretary of War of said property. The committee amended the bill by filling the blank in amount with the words "fifty thousand dollars," and after the words "appropriated for the purchase," and before "by the Secretary of War," by inserting the words "by condemnation or private contract," and after the words "by the Secretary of War," the words "as to him may seem best," and, as amended, recommend the passage of the bill.

Mr. EDMUNDS. It is evident, Mr. President, that we are not in a very agreeable situation about this property. As the Senator from Texas says, we appear by this lease to have hired this property twenty-five years ago at the rate of $600 a year; and it is now proposed that the Government shall buy it at the price of $50,000, the owner or the alleged owner having a year ago offered to sell it to us for $25,000, but there being no authority without an act of Congress to buy it, it has got up to $50,000 this year, with the prospect I suppose of making it $75,000 next year, if we do not buy it now, and so on. Whether it is not better to throw up the whole thing and lose the money that we have expended rather than to submit to extortion, will be a question for consideration.

But I submit to the Senator from Texas that on his theory the bill ought to require some little amendment. I propose, therefore, to amend the bill by striking out in line 4 the words "the purchase" and inserting the words "the acquisition."

Mr. MAXEY. I have no objection to that amendment.

Mr. EDMUNDS. I presume my friend will have no objection to any of the amendments I suggest. I do not want to make any concession by this bill in case we cannot do anything. In line 5 I move to strike out the words "condemnation or private contract," and also in line 5 after the word "war" to insert the words "in his discretion," and in line 6 strike out the words "as to him may seem best" to continue the same idea lest it might be construed to compel him to give $50,000.

Mr. MAXEY. That is right.

Mr. EDMUNDS. Then in line 7 I propose to strike out the words "improvements thereon" and insert "appurtenances thereto belonging," so as to leave open the question as to whether these improvements are ours or theirs. I presume my friend has no objection to these amendments.

Mr. MAXEY. I have no objection whatever to the amendments.

The amendments were agreed to.

Mr. EDMUNDS. I shall make no proposition further to amend the bill as I think it ought to be amended, to provide the machinery for condemnation in case of an inability to agree, because I find it requires some care and some time to draw it up; but I merely wish to say that it seems rather obvious to me that without such a provision the Secretary of War, if he gets this land and this property, will have to pay the owner the price that the owner demands. I have no doubt, as the Supreme Court has decided, (and as my friend from Alabama [Mr. MORGAN] would say, that must make it so,) of the power of the United States to acquire private property for any proper public use in the same way that a State does, from a citizen of the United States. That has been decided in an Ohio case, and decided rightly, as I believe; but it is necessary, inasmuch as it is taken under the authority of the United States, that the officers of the United States should have the proper authority and machinery to proceed for condemnation. This bill does not contain it, and therefore I fear that the condemnation authority cannot be exercised.

There is one other question I should like to just mention, although as I say I do not interpose to stop the passage of the bill; and that is, supposing the United States buy this property from this private owner, not having any cession from the State of Texas to exercise dominion over it, then does it not follow,—I merely put it as a question,—that the State of Texas will exercise entire political dominion over this military station, and have the authority to execute its process in its ordinary ways over all the soldiery and everybody else within that fort?

Mr. MORRILL. And so as to taxation?

Mr. EDMUNDS. Perhaps it is not quite so clear about the question of taxation; I should somewhat doubt on that point perhaps; but the idea of the Constitution was that all these places for forts, and arsenals, and navy-yards, &c., should be within the exclusive jurisdiction of the United States as a government, and in all the normal cases, where we are not pressed for time, and have acquired private property for these public uses, provision has always been made, or almost always,—I do not know any exceptions,—for a cession by the State where the property is of this jurisdiction. I merely call the attention of the Senate to that matter for its consideration.

Mr. MAXEY. I will state for the information of the Senator from Vermont that there is a general statute of the State of Texas which confers on the United States exclusive jurisdiction of such property as may be needed for forts, arsenals, and dock-yards within the limits of the State. That point is covered by a law now in existence in the State.

So far as the question of settlement is concerned the bill followed the view presented by the Secretary of War, because the bill was submitted by him, and I have not the slightest doubt on earth that Mrs. Maverick, who is a very elegant lady, and the Secretary of War will have no difficulty in agreeing on the mode and manner of settling the price of the property. The urgency of the matter consists in the fact that her proposition ceases on the 1st of April. I ask that the bill be put on its passage.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4468) to abandon a portion of Rock street, in the city of Georgetown, and for other purposes;

A bill (H. R. No. 4579) concerning street railroads in the District of Columbia;

A bill (H. R. No. 4950) to quiet title to real estate in the District of Columbia;

A bill (H. R. No. 5370) to incorporate the Mount Pleasant and Potomac Side Railway Company;

A bill (H. R. No. 5371) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company;

A bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes:

A bill (H. R. No. 6175) to incorporate the Mount Pleasant Railroad Company of the District of Columbia;

A bill (H. R. No. 6259) to incorporate the Washington Eye, Ear, and Throat Hospital;

A joint resolution (H. R. No. 228) authorizing the commissioners of the District of Columbia to receive and report upon unadjusted claims for damage to real estate in the District of Columbia; and

A joint resolution (H. R. No. 229) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes.

The message also announced that the House had passed the following bills:

A bill (S. No. 1028) declaratory of the law relating to descents and inheritance in the District of Columbia in certain cases; and

A bill (S. No. 1344) relating to tax sales and taxes in the District of Columbia.

The message further announced that the House had passed the bill (S. No. 1108) to protect Holmead's Cemetery, in the District of Columbia, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers;

A bill (H. R. No. 309) for the relief of Andrew F. Higgins, of Brown County, Ohio;

A bill (H. R. No. 837) granting a pension to William R. Browne;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana;

A bill (H. R. No. 2296) to authorize the Secretary of the Interior to place upon the pension-roll the name of John Ward, late sergeant of Company K, Second Regiment West Virginia Volunteer Cavalry;

A bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison;

A bill (H. R. No. 3583) granting a pension to William Denene;

A bill (H. R. No. 4364) granting a pension to Lydia A. Morris;

A bill (H. R. No. 4971) granting a pension to Mary Frazee;
A bill (H. R. No. 4975) granting an increase of pension to Mrs. Eliza H. Frailey;
A bill (H. R. No. 4986) granting a pension to H. Louise Gates; and
A bill (H. R. No. 5219) granting a pension to Belinda Macdonald.

AMENDMENT TO POST-ROUTE BILL.

Mr. OGLESBY submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes herein named; which was referred to the Committee on Post-Offices and Post-Roads.

HOUSE BILL REFERRED.

The bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

EXECUTIVE SESSION.

Mr. CONKLING. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three hours and thirty-three minutes spent in the consideration of executive business the doors were reopened, and (at four o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 31, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SCHOONER LEDGE, DELAWARE RIVER.

Mr. O'NEILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish a copy or copies of any report or reports which may have been or may be submitted to the Chief of Engineers of the Army by Colonel Macomb or Captain Ludlow, engineers in charge upon the proposed improvements in the Delaware River at or near Schooner Ledge.

VINCENNES UNIVERSITY.

Mr. FULLER. I ask unanimous consent to have Senate bill No. 748 taken from the Speaker's table and referred to the Committee on Public Lands.

There being no objection, the bill (S. No. 748) to amend an act approved March 3, 1873, entitled "An act authorizing the award to the Vincennes University of certain vacant and abandoned lands in Knox County, Indiana," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands, not to be brought back on a motion to reconsider.

CAPTURED AND ABANDONED PROPERTY.

Mr. CONGER, by unanimous consent, from the Committee on the Judiciary, reported as a substitute for House bill No. 1357, in relation to the proceeds of captured and abandoned property remaining in the Treasury of the United States, and House bill No. 1152, relating to proceeds of captured and abandoned property in the Treasury of the United States, a bill (H. R. No. 6267) to declare the legal effect of permits granted by the President of the United States to purchase products of the insurrectionary States, accompanied by a report in writing; which was read a first and second time, with the accompanying report ordered to be printed, and recommitted to the Committee on the Judiciary, not to be brought back on a motion to reconsider.

SIMON M. PRESTON.

Mr. SAMPSON. I ask unanimous consent that the petition of Simon M. Preston be taken from the table of the House and recommitted to the Committee of Claims.

There was no objection, and it was so ordered.

INDIAN RESERVATION.

Mr. SCALES, by unanimous consent, from the Committee on Indian Affairs, reported a bill (H. R. No. 6268) to authorize the Secretary of the Interior to allot land in severalty to the Indians residing upon the various reservations within the United States, and to issue patents therefor; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Indian Affairs, not to be brought back on a motion to reconsider.

VOLUNTEER NAVY OF THE UNITED STATES.

Mr. WHITTHORNE. I ask unanimous consent that the bill (H. R. No. 5189) to abolish the volunteer navy of the United States, which has been returned from the Senate with an amendment, be taken from the Speaker's table, and that the amendment be non-concurred in.

There being no objection, it was ordered accordingly.

Mr. WHITTHORNE. I move that the House ask a conference with the Senate on the disagreeing votes of the two Houses upon this bill.

The motion was agreed to.

The SPEAKER subsequently announced the appointment of Mr. WHITTHORNE, Mr. HARRIS of Massachusetts, and Mr. GOODE as the committee of conference on the part of the House.

GEORGE W. BRINTNALL.

Mr. SMITH, of Pennsylvania, by unanimous consent, introduced a bill (H. R. No. 6269) granting a pension to George W. Brintnall; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MILITARY POST AT EL PASO, TEXAS.

Mr. THROCKMORTON. I ask unanimous consent to have taken from the Speaker's table for action the bill (S. No. 1662) making an appropriation for the purchase of a site and for the erection thereon of a military post at El Paso, Texas.

Mr. EDEN. If unanimous consent be given to take this bill up, can a point of order be made upon it after it has been read?

The SPEAKER. It can.

The bill was read. It appropriates $40,000, or so much thereof as may be necessary, for the purchase of the necessary grounds and the erection thereon of a military post at El Paso, Texas, to be expended under the direction of the Secretary of War. Before the expenditure of any of the appropriation thereby made, good and sufficient title is to be made to the United States for the land contemplated by the act.

Mr. EDEN. Should not this bill be referred to the Committee on Military Affairs?

Mr. BANNING. I will state to the gentleman from Illinois [Mr. EDEN] that the Committee on Military Affairs had this question referred to them by the War Department, the Secretary of War recommending the appropriation for the establishment of this military post. The committee have unanimously directed me to ask, whenever the matter might come up before the House, that the bill be passed.

There being no objection, the bill was taken from the Speaker's table, ordered to a third reading, read the third time, and passed.

Mr. THROCKMORTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CLAIM OF ANNA M. CLARK.

Mr. McGOWAN. I ask unanimous consent to have taken from the Speaker's table and put upon its passage the joint resolution (S. R. No. 31) approving the adverse decision of the Commissioner of the General Land Office in the claim of Anna M. Clark.

The joint resolution was read. It provides that the decision of the Commissioner of the General Land Office, adverse to the claim of Anna M. Clark, (Executive Document No. 12, House of Representatives, first session, Forty-fourth Congress,) be approved, and that the said claim be rejected.

Mr. McGOWAN. I ask that this bill be put upon its passage. It is necessary in order to perfect certain homestead claims.

Mr. WHITE, of Pennsylvania. We ought to know something about the bill before passing it.

Mr. McGOWAN. The matter has been examined by the appropriate committees of the House and the Senate.

Mr. EDEN. I call for the regular order.

ORDER OF BUSINESS.

The SPEAKER. The morning hour now begins at thirty-one minutes after twelve o'clock. The unfinished business coming over from the morning hour of last Friday is the bill (H. R. No. 4886) to authorize the correction of boundaries of certain lands in San Mateo County, California. There are remaining eight minutes of the time of the gentleman from California, [Mr. DAVIS.]

Mr. DAVIS, of California. The gentleman from Arkansas, [Mr. GUNTER,] chairman of the Committee on Private Land Claims, has a statement to make.

Mr. GUNTER. I will state that out of courtesy to the gentleman from New York, [Mr. LAPHAM,] who is now absent, and who desires to take part in the discussion of this bill, it has been agreed by members of the committee, and also by the opponents of the bill, to ask that its consideration be postponed until the morning hour of next Friday.

The SPEAKER. That will require unanimous consent.

Mr. GUNTER. This proposition is acceptable to all the parties interested.

The SPEAKER. The gentleman from Arkansas, chairman of the Committee on Private Land Claims, with the concurrence of the gentleman from California, [Mr. DAVIS,] asks unanimous consent that this bill go over till the morning hour of next Friday, to have on that day the same rights that it has to-day.

This request is made for the reason that the gentleman from New York, [Mr. LAPHAM,] who is now absent performing duty assigned him by the House, desires to be heard.

There being no objection, it was ordered accordingly.

Mr. GUNTER moved to reconsider the order just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POTTAWATOMIE MISSION.

Mr. SCALES, from the Committee on Indian Affairs, reported back a bill (S. No. 351) for the relief of the domestic and Indian missions

and Sunday-school board of the Southern Baptist convention, with the recommendation that it do pass.

The bill, which was read, appropriates the sum of $2,546.87, out of any money in the Treasury not otherwise appropriated, for the payment to the domestic and Indian missions and Sunday-school board of the Southern Baptist convention the sum due under contract with the United States for clothing and tuition furnished to the pupils in the Pottawatomie mission-school in Kansas for the quarters ending September 30, 1860, and December 31, 1860.

Mr. EDEN. I ask for the reading of the report.

Mr. SCALES. The Committee on Indian Affairs have adopted the report made in the Senate.

The Clerk read as follows:

On the 4th day of November, 1848, the American Indian Mission Association on the one part and the United States, acting by William Medill, Commissioner of Indian Affairs, of the other part, entered into a written contract under seal by which the association agreed to erect in the country occupied by the Pottawatomie Indians in Kansas, for the education of their children, a suitable building of a character particularly specified for the accommodation of at least ninety pupils, to the acceptance of the United States and the agent of the tribe, and to clear, fence, and stock and furnish with tools a farm of at least one hundred acres of land, and equip workshops for the instruction of the children of the tribe in agriculture and the mechanic arts. They further contracted to receive, maintain, clothe, and educate at least ninety scholars of said tribe, or a less number if so many could not be induced to attend.

The United States agreed to pay $4,000 toward the erection of the building, and $1,000 toward clearing the land and purchasing tools, animals, &c., for the shop and farm. The United States further agreed to pay $50 a year quarterly for each pupil, and at that rate for any part of a year, toward the maintenance of the pupils.

This agreement was performed by both parties, and the amounts duly rendered, audited, and paid down to the close of the quarter ending June 30, 1860. The accounts for the two succeeding quarters were duly rendered, vouched, and allowed at the Treasury, but payment was not made for the sole reason that the office had not at its control sufficient funds for the purpose. The rebellion broke out soon after and the sums due for these two quarters have never been paid. There is due for the quarter ending September 30, 1860, the sum of $1,265.62, and for the quarter ending December 31, 1860, the sum of $1,281.25, making in all $2,546.87.

The American Indian Mission Association, by deed dated June 20, 1855, transferred all its property and rights, schools and missions, to the Southern Baptist Association, a corporation created by the laws of Georgia, and the grantee took upon itself the duties, contracts, obligations, and missionary work of the grantor. A copy of this contract was furnished to the United States, put on file at the Indian Office, and the Government signified its assent to the substitution by making payments, as aforesaid, from 1855 to 1860, to the Baptist Association. After the suppression of the rebellion the claim was presented to the Commissioner of Indian Affairs, and certified by him to be correct, March 24, 1874, but disallowed by the Second Auditor solely on the ground that proof of the loyalty of the claimant was not furnished, and that that office had, therefore, no power to allow the claim. (See resolve approved March 2, 1867.)

The American Indian Mission Association was one of the instrumentalities through which the Baptist denomination carried on its charitable and missionary work. The Southern Baptist convention represented that denomination in most if not all of the Southern States, and its members were divided in sentiment in regard to the rebellion pretty much like the rest of the population. Its jurisdiction and membership extended into the States of Kentucky and Missouri. Its work was purely religious and charitable. The contract out of which the present claim arises is for a missionary operation in the Territory of Kansas. Under these circumstances there is no propriety in making the loyalty of every member or every officer of the convention a condition of the fulfillment of the contract of the Government.

The committee therefore report the accompanying bill, and recommend its passage.

Mr. CONGER. Is not the bill subject to the point of order?

Mr. SCALES. The gentleman from Michigan will not insist on his point of order.

Mr. CONGER. I do not insist upon it.

The SPEAKER. The Chair would have been compelled to sustain it.

Mr. SCALES. I knew it was liable to the point of order. The report of the Senate committee fully explains the whole matter, and it is unnecessary to add anything further.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCALES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES O. ROBERTSON.

Mr. BOONE, from the Committee on Indian Affairs, reported back favorably the bill (H. R. No. 957) for the relief of James O. Robertson; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ROLLIN J. REEVES.

Mr. BOONE also, from the same committee, reported back favorably the bill (H. R. No. 1729) for the relief of Rollin J. Reeves; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ABSENTEE SHAWNEE LANDS.

Mr. MORGAN, from the Committee on Indian Affairs, reported back the bill (H. R. No. 4258) for the relief of settlers on the absentee Shawnee lands in Kansas, and for other purposes, with the recommendation that it do pass.

The bill, which was read, provides that the provisions of the joint resolution approved April 7, 1869, for the relief of the settlers upon the absentee Shawnee lands in Kansas, be extended so as to allow any *bona fide* settler now occupying said lands, and having made improvements thereon, or the heirs at law of such, who is a citizen of the United States, or who has declared his intention to become such according to the naturalization laws, to purchase for cash the land so occupied and improved by him, not to exceed one hundred and sixty acres in each case, at not less than $2.50 per acre, at any time within one year after the passage of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and that any lands not claimed by such settlers at the expiration of that period shall be offered at public sale at the minimum rate of $2.50 per acre, notice of such sale to be given by public advertisement of not less than thirty days; and, further, that any tracts not then sold shall be thereafter subject to private entry at the same minimum.

Mr. CONGER. Is it proposed to pass that bill at this time?

The SPEAKER. It is.

Mr. CONGER. Is there a report?

Mr. MORGAN. There is.

Mr. CONGER. I ask, then, for the reading of the report.

The Clerk read the report, as follows:

From statements received by your committee from the Secretary of the Interior and evidence submitted, it appears a small portion of the Shawnee absentee lands in Kansas, the sale of which was provided by joint resolution of Congress approved April 7, 1869, has not been disposed of at the present date. The bill under consideration provides simply that the provisions of the resolution of 1869 be extended so as to allow *bona fide* settlers now upon the tracts of land undisposed of to purchase the same at the same price and under the same rules and regulations as the main body of the lands were sold for. There being but two or three pieces of land which will be affected by this act, not exceeding, in the aggregate, three hundred acres, and the land now occupied by settlers who, under the provisions of this act, are allowed to purchase, the committee unanimously recommend the passage of the bill.

Mr. CONGER. I move to insert, before the words "$2.50 an acre," the words "not less than;" so it will read "at not less than $2.50 per acre."

Mr. MORGAN. I am willing to accept that amendment.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

L'ANSE AND VIEUX DE SERT INDIANS.

Mr. PAGE, from the Committee on Indian Affairs, reported back, with amendments, a bill (H. R. No. 1763) to authorize the Secretary of the Interior to invest in the bonds of the United States the unexpended balance of the money appropriated to the L'Anse and Vieux de Sert bands of Lake Superior.

The bill, which was read, authorizes and directs the Secretary of the Interior to invest in the bonds of the United States bearing interest at a rate not to exceed 5 per cent. per annum the unexpended balance, together with interest thereon at the rate of 5 per cent. per annum from the 22d day of June, 1874, of the money appropriated to the L'Anse and Vieux de Sert bands of Chippewas of Lake Superior, under the provisions of the act entitled "An act making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal years ending June 30, 1873 and 1874, and for other purposes," approved June 22, 1874; the principal sum and interest thereon to be expended as provided in said act.

The amendments were to strike out "five," in line 5, and insert "four;" so it would read "bearing interest at a rate not to exceed 4 per cent."

And, in lines 6, 7, 8, and 9, to strike out the words "together with interest thereon at the rate of 5 per cent. per annum from the 22d day of June, 1874."

Mr. CONGER. I should like to have some explanation of that bill and the amendments proposed to it.

Mr. HUBBELL. The bill is all right.

The amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PAGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMANDA M. COOK.

Mr. STEWART, from the Committee on Indian Affairs, reported back a bill (H. R. No. 2623) for the relief of Amanda M. Cook, with an amendment.

The bill, which was read, directs the Secretary of the Interior to deduct from any annuities due or to become due to the Cheyenne or Arapahoe Indians the sum of $5,000, and pay the same to Amanda M. Cook, formerly Amanda M. Fletcher, whose mother was killed and herself captured by the Cheyenne and Arapahoe Indians in the Territory of Wyoming, in August, 1865, while *en route* from the State of Illinois to California.

The amendment of the committee proposed to strike out "$5,000" and insert "$2,000" in lieu thereof.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEWART moved to reconsider the vote by which the bill was

passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CALIFORNIA INDIAN WAR BONDS.

Mr. STEWART also, from the same committee, reported back a bill (H. R. No. 1185) for the payment of certain Indian war bonds of the State of California, with an amendment.

The bill, which was read, directs the Secretary of the Treasury to pay to W. W. Wallace, of Washington, District of Columbia, out of any money not otherwise appropriated, the sum of $1,416.88, the amount of four Indian war bonds issued by the act of the Legislature of California approved May 3, 1852, for the suppression of Indian hostilities in that State, and for which Congress assumed the payment, appropriating the sum of $924,263, August 5, 1855, the unexpended balance of which appropriation was covered into the United States Treasury June 29, 1863.

The amendment of the committee was to add, in the seventh line, after the word "bonds," the following:

Numbered respectively 164, 166, 167, and 168.

Mr. EDEN. Let the report be read.

The report was read.

The SPEAKER. The question will first be on the amendment.

Mr. THOMPSON. I desire to reserve the point of order. I do so for the purpose of asking the gentleman who reports the bill why this is an appropriation direct to the holders of the bonds, instead of to the State of California, which the Government agreed to indemnify?

The SPEAKER. The gentleman cannot make the point of order and then go on to debate the bill.

Mr. WHITE, of Pennsylvania. I make the point of order.

The SPEAKER. The point of order is sustained, and the bill is referred to the Committee of the Whole on the Private Calendar.

ESTATE OF DARIUS B. RANDOLL.

Mr. GUNTER, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (H. R. No. 2434) to provide for the payment of Loyol P. Brown, administrator of the estate of Darius B. Randoll, deceased, for certain improvements relinquished to the United States for the use of the Nez Percé Indians; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOANNA W. TURNER.

Mr. BRAGG, from the Committee on Military Affairs, reported back the bill (H. R. No. 4189) for the relief of Joanna W. Turner, widow of Dr. William W. Turner, late surgeon and late colonel of the Eleventh United States Colored Infantry; and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on War Claims.

The motion was agreed to.

JOSEPH B. COLLINS.

Mr. BRAGG also, from the same committee, reported as a substitute for House bill No. 4648, to authorize the President to reinstate certain officers of the United States Army, a bill (H. R. No. 6270) for the relief of Joseph B. Collins; which was read a first and second time.

The substitute, which was read, authorizes the President to reinstate Major Joseph B. Collins, late of the United States Army, and to retire him in that grade as of the date he was previously mustered out, charging him with all extra pay and allowances paid him at that time.

Mr. EDEN. Let the report be read.

The report was read, as follows:

Mr. BRAGG, from the Committee on Military Affairs, submitted the following report:

The Committee on Military Affairs, to which was referred House bill 4648, submits the following report thereon:

The committee have carefully considered the said bill, and find from the report of the Adjutant-General of the Army that the bill, though general in its terms, is applicable but to one officer, Joseph B. Collins, late a major and brevet colonel of the United States Army.

The history and merit of this officer are well worthy of consideration, showing that merit and faithful service are sometimes, if not always, recognized in the military service; and a further recognition of them by the National Legislature, making provision for him in the declining years of his life, cannot but result in encouraging the rank and file to follow in like paths, hoping to receive what every true soldier struggles for—recognition at least by the country for which he imperils his life to serve.

Colonel Collins, though not bred to arms, enlisted as a private soldier at the breaking out of the Mexican war in 1846. His attention to duty and soldierly conduct soon caused his promotion to a non-commissioned officer.

He participated in the siege and surrender of Vera Cruz and the storming and capture of Cerro Gordo, in which last battle he was wounded and lost the sight of his left eye, and was discharged by reason of disability.

He was recommended by General P. F. Smith, the commanding officer of his regiment, and by his company commander, for a commission in the regular Army on account of gallant and soldierly conduct on the field of battle.

On the 29th of March, 1848, by reason of such recommendation, Collins was commissioned second lieutenant Fourth United States Infantry, and remained in the same regiment until the latter part of June, 1865, when he was ordered to Second Regiment, United States Army, having been promoted thereto.

In 1859 Colonel Collins campaigned against the Indians in California and had several engagements, in all of which he was successful.

Soon after the outbreak of the rebellion he came from California with two companies of his command and one company of the Sixth United States Infantry and joined the Army of the Potomac before Yorktown, participated in the seven days' battle before Richmond in command of his company, and from Gaines's Mill to the battles of Malvern Hill and second Bull Run was in command of his regiment. At the last-named battle he was severely wounded, from which he still suffers, and being unable by reason thereof to do field duty he was assigned to duty as chief mustering and disbursing officer of the State of Massachusetts, and was subsequently appointed military commandant.

In 1863 he had so far recovered from his wounds as to be able to do duty in the field temporarily, and joined his regiment in New York, where it was ordered to quell riots, and while there was ordered to Milwaukee, Wisconsin, as mustering and recruiting officer. He returned to the field in February, 1865, at City Point, and commanded his regiment (though but a captain) until after Lee's surrender, and then served for a time as provost-marshal in Richmond, Virginia, until he was ordered to the Second Infantry as major of that regiment, and served with it until 1869, when, upon the consolidation of the Second and Sixteenth Infantry, he was left unassigned. And without an opportunity to be heard, and without any reason or cause to him made known, a junior in rank to him was selected for the majority of the new regiment made by the consolidation, and he was forced out of the service under act of July 15, 1870, by the action of the Secretary of War, without having his case submitted to the board of officers appointed under the act.

When Colonel Collins was so forced to abandon the service there were retained of majors who were his juniors in rank and service seventeen of infantry, ten of artillery, and twenty-four of cavalry.

This discrimination against an officer who rose from the ranks and who reached the grade of major and was twice brevetted for gallant conduct in the field and twice severely wounded, and of whom all his superiors and comrades testify that he was gallant, brave, soldierly, and in all things meritorious, does not speak well of the judgment of some of the officers authorized to carry into execution the provisions of the act of July 15, 1870. The facts are a sufficient commentary.

Colonel Collins's wounds in a great measure incapacitate him for the duties of civil life. His youth and the best part of his manhood have been given his country, and it is not meet that he or others like him, entitled to consideration, should be left uncared for when they have reached the sere and yellow leaf of manhood.

The Legislature of California at its last session passed a joint resolution instructing their representatives to use their efforts to obtain justice for this officer, who was identified with her people as a protector of them from the marauding Indians who disturbed and massacred the early settlers of her territory.

The committee unanimously agree that Colonel Collins is entitled to the measure of relief provided for in this bill, but direct a special bill for his relief to be reported as a substitute for the original bill, and recommend that such substitute do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTAIN J. B. CAMPBELL.

Mr. BRAGG also, from the same committee, reported a bill (H. R. No. 6271) for the relief of Captain J. B. Campbell, of the United States Army; which was read a first and second time.

Mr. BRAGG. This is a bill for the relief of Captain J. B. Campbell, of the United States Army, from a judgment that was recovered against him in the district court in Oregon on account of his executing an order of his superior officer in removing a person who was violating the law in the Indian Territory. I ask that the bill be put upon its passage.

Mr. EDEN. Let the report be read.

The report was read.

Mr. MILLS. I make the point of order that the bill makes an appropriation, and should have its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

L. T. GREEN.

Mr. BRAGG also, from the same committee, reported back, with an adverse recommendation, the bill (S. No. 634) for the relief of L. T. Green; and moved that the same be laid on the table, and that the accompanying report be printed.

Mr. DIBRELL. I move non-concurrence in the report of the committee, and that the bill be put upon its passage.

The SPEAKER. The bill will be read.

The bill was read. It directs the Secretary of the Treasury to pay the sum of $51, without interest, to L. T. Green, for rent of two houses in Chattanooga, Tennessee, from August 1, 1865, to October 31, 1865, occupied under contract with said Green, and for which said rent vouchers, properly signed, certified, and reported by the proper quartermaster, were given; and the bill appropriates the sum of $51 to pay the same.

Mr. DIBRELL. That bill passed the Senate on the recommendation of the Quartermaster-General.

Mr. BRAGG. I believe I have the floor.

The SPEAKER. The gentleman from Wisconsin is recognized as having control of the floor.

Mr. BRAGG. I call the previous question on the motion to lay the bill on the table.

Mr. DIBRELL. I believe I had the floor to move that the House non-concur in the report of the committee.

The SPEAKER. The gentleman's object can be reached by a vote on the motion of the gentleman from Wisconsin [Mr. BRAGG.]

Mr. EDEN. If we are to be called upon to vote on this bill, I should like to hear the report read.

The report was read.

Mr. DIBRELL. I ask that the Senate report be read.

The SPEAKER. The Chair is informed that the report of the Senate is not among the papers.

Mr. WHITE, of Pennsylvania. Is the bill under consideration now?

The SPEAKER. The Chair does not understand whether the gentleman from Illinois [Mr. EDEN] desired to reserve the point of order.

Mr. EDEN. I do not make the point of order.

Mr. WHITE, of Pennsylvania. Then I make the point of order.

Mr. EDEN. The motion made by the gentleman from Wisconsin was to lay the bill on the table.

The SPEAKER. The gentleman from Pennsylvania makes the point of order.

Mr. WHITE, of Pennsylvania. What becomes of the bill?

The SPEAKER. It would go to the Committee of the Whole on the Private Calendar if the point of order is insisted upon.

Mr. WHITE, of Pennsylvania. I do not make the point of order against the motion to lay the bill on the table.

The SPEAKER. The gentleman cannot make a qualified point of order.

Mr. DIBRELL. I desire to have the bill put upon its passage.

Mr. WHITE, of Pennsylvania. I will withdraw the point of order if the pending motion is to lay the bill upon the table and we can have a vote upon that.

Mr. BANNING. I renew the point of order.

The SPEAKER. The point of order being made, the bill will be referred to the Committee of the Whole on the Private Calendar.

DONATION OF CONDEMNED CANNON.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1811) donating condemned cannon to Bayard Post, No. 8, Grand Army of the Republic, of Trenton, New Jersey, to be placed in a lot in Greenwood Cemetery, Trenton, held as a free burial-place for ex soldiers, sailors, and marines; which was referred to the Committee of the Whole on the Private Calendar, and ordered to beprinted.

Mr. BRAGG also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5176) to donate condemned ordnance to the Union Township Monumental Association at Milford Centre, Ohio.

Mr. MAISH. I ask for the passage of the bill.

The SPEAKER. The morning hour has expired.

ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A bill (H. R. No. 124) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers;

A bill (H. R. No. 309) for the relief of Andrew F. Higgins, of Brown County, Ohio;

A bill (H. R. No. 837) granting a pension to William R. Browne;

A bill (H. R. No. 1789) granting a pension to Miles L. Reed, of New Castle, Indiana;

A bill (H. R. No. 2296) to authorize the Secretary of the Interior to place upon the pension-roll the name of John Ward, late sergeant of Company K, Second Regiment West Virginia Volunteer Cavalry;

A bill (H. R. No. 3070) granting a pension to Mrs. Eliza Bayard Anderson, widow of General Robert Anderson, United States Army;

A bill (H. R. No. 3572) granting a pension to Andrew J. Morrison;

A bill (H. R. No. 3583) granting a pension to William Denene;

A bill (H. R. No. 4364) granting a pension to Lydia A. Morris;

A bill (H. R. No. 4971) granting a pension to Mary Frazee;

A bill (H. R. No. 4975) granting an increase of pension to Mrs. Eliza H. Frailey;

A bill (H. R. No. 4986) granting a pension to H. Louise Gates; and

A bill (H. R. No. 5219) granting a pension to Belinda MacDonald.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following case:

To Mr. O'NEILL, for two days, beginning to-day.

BARK GRAPESHOT.

Mr. PHELPS, by unanimous consent, from the Committee of Ways and Means, reported back, with a favorable recommendation, the bill (S. No. 964) for the relief of the owners of the bark Grapeshot, and moved that it be recommitted to the committee and ordered to be printed.

Mr. CONGER. Where is the bill?

The SPEAKER. It is in committee; the gentleman only asks that the bill with the accompanying report be printed and recommitted, not to be brought back by a motion to reconsider.

There was no objection, and the motion was agreed to.

E. E. RICE.

Mr. COX, of New York, by unanimous consent, from the Committee on Foreign Affairs, reported a bill (H. R. No. 6273) providing to compensate E. E. Rice for property transferred by him to the Government of the United States for the use of the diplomatic and consular representatives at Hakodadi, in Japan; which was read a first and second time, recommitted to the committee, and ordered to be printed.

PROTESTANT EPISCOPAL SEMINARY.

Mr. BRIGHT. I move that the House resolve itself into Committee of the Whole on the Private Calendar, and pending that motion I move that all debate upon the pending bill (H. R. No. 943) for the relief of the trustees of the Protestant Episcopal Seminary and High School in Virginia be closed in ten minutes.

Mr. CONGER. I object to that. I think it is not necessary to limit debate until we have been heard upon the bill. There will be no trouble about limiting it to a reasonable time for debate.

Mr. BRIGHT. How much time does the gentleman desire?

Mr. CONGER. I cannot say.

Mr. BRIGHT. I have no wish to cut off debate, but the bill has already been debated.

Mr. CONGER. I think the motion had better not be made now. The committee can rise, if necessary to close debate.

Mr. BRIGHT. I think ten minutes will be sufficient for gentlemen to state their opposition to the bill. Unless there is some other time insisted on, I shall adhere to my motion to limit debate to ten minutes.

Mr. WHITE, of Pennsylvania. I suggest to the gentleman to modify his motion so as to limit general debate to one hour.

Mr. BRIGHT. I cannot do that.

Mr. WHITE, of Pennsylvania. Then I make that motion.

The question was taken on the amendment of Mr. WHITE, of Pennsylvania; and upon a division there were—ayes 43, noes 53.

Mr. WHITE, of Pennsylvania. No quorum has voted.

Tellers were ordered; and Mr. WHITE, of Pennsylvania, and Mr. BRIGHT were appointed.

The House again divided; and the tellers reported that there were—ayes 59, noes 74.

No further count being called for, the amendment of Mr. WHITE, of Pennsylvania, was not agreed to.

Mr. WHITE, of Pennsylvania. I understand the gentleman will accept half an hour.

Mr. BRIGHT. I would have done so before, for I am disposed to be liberal.

The SPEAKER. The Chair thinks time will be saved by coming to some understanding.

Mr. BRIGHT. I will modify my motion so as to limit general debate to thirty minutes.

The motion, as modified, was agreed to.

Mr. BRIGHT. I suppose the time will be equally divided between the two sides.

The SPEAKER. That is usual and just.

Mr. BRIGHT moved to reconsider the vote limiting debate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORTIFICATION APPROPRIATION BILL.

The SPEAKER. The Chair is advised that the gentleman from Pennsylvania [Mr. CLYMER] is sick and will be unable to serve as one of the conferees on the part of the House on the disagreeing votes of the two Houses upon the amendments of the Senate to the fortification appropriation bill. If there be no objection, the gentleman from Pennsylvania [Mr. CLYMER] will be excused, and the Chair will appoint in his place Mr. SPARKS, of Illinois.

There was no objection.

ORDER OF BUSINESS.

The SPEAKER. The question recurs upon the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House now resolve itself into Committee of the Whole, for the purpose of proceeding with the business upon the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole, Mr. COVERT in the chair.

PROTESTANT EPISCOPAL SEMINARY, VIRGINIA.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the business upon the Private Calendar. The pending bill, when this character of business was last under consideration, was the bill (H. R. No. 943) for the relief of the trustees of the Protestant Episcopal Seminary and High School in Virginia. By order of the House all general debate on this bill has been limited to thirty minutes.

Mr. WHITE, of Pennsylvania. This claim is of so dangerous a character as a possible precedent that I beg to add briefly to the argument I made against it when it was before the House two weeks ago. I must repeat the ground of legal liability I then resisted. In examining this and other bills of kindred character recently I have found some precedents which are exactly in point and controlling the pending measure. I speak of them here by way of emphasis of the resistance I felt it my duty to make when this bill was last before the House when I spoke at more length. I am opposed heart and soul to claims of this and similar character. I know the seductive influence of church associations upon members of Congress as well as upon other people. This bill has the persuasive moral aid of a theological seminary for a most influential Christian church. The names of Bishop Meade, Bishop Johns, and other clerical gentlemen of most eminent and reputable character, can be echoed in favor of what I deem the extravagant demands of the trustees of the Protestant Episcopal Seminary and High School of Virginia. Let us, however, turn a deaf ear to soft whisperings from churches or clergymen we love and look at a legal question.

The Committee of the Whole will observe, by reference to the report of the standing committee reporting the bill and to the debate in the House when the bill was before us two weeks ago, that the claim for damages done to the property by the soldiery during the war is said to be withdrawn. The well-defined principles of public law so clearly ignore any claim for damages through the ravages of war done to this theological seminary at Alexandria that it is denied the appropriation here contemplated is an indemnity for war damages. A more seductive expedient is employed. The legal liability of the Government, which raises a moral obligation to pay, is artfully presented. The claim, forsooth, of rent for use and occupation by the Government troops of the property as a hospital is set up, the legal liability of the United States for rent! How is it? The report recites the application of this bill is only for the rent—*the just and reasonable* rent—of the property from 1861 to 1865. Twenty thousand dollars are asked. The claim itself is extravagant and unreasonable. But let us inquire as a dry question of law if, under any legal principles controlling us, there is a Government liability. Read the report and the arguments of the gentleman from Virginia [Mr. HUNTON] and the gentleman from New York, [Mr. POTTER,] and there is no allegation of a contract; there never was a contract made between the reputed owners of this property and any agent or authority of the Government of the United States.

The fact is this property was taken possession of by United States troops while war was flagrant, in 1861, at a time when the Government was erecting fortifications around the city of Alexandria to resist the advance of the enemy. Alexandria was to be a strategic point for operations against the enemy then threatening Washington. The whole atmosphere of that locality was full of treason and rebellion. It was in the enemy's country, indeed. This property, this seminary for which rent is claimed, was just on the line of fortifications, just within the defenses. It was in the very theater of war during the entire period for which payment is now claimed. If that is so, and there is no question about it, there is no legal liability on the part of the Government. Disguise it as you may, this is essentially a war claim, a claim for the use and occupation of property in a portion of the country where war was flagrant.

The argument made against that position is that the city of Alexandria was within the lines of the Union Army, that practically it was under the complete control and jurisdiction of the Federal Government, and consequently a claim of *quantum meruit* can be properly set up against the Government of the United States for the use and occupation of this property even if there was no specific contract, either in writing or by parol.

In point of fact, as matter of history, war was practically flagrant at Alexandria during all this period. At no time was it regarded otherwise by Mr. Lincoln when he issued the proclamations by virtue of the acts of Congress authorizing him to make them. It will be observed that while he did issue a proclamation in 1861 to induce persons to return to their allegiance to the Government, Alexandria was not named in that proclamation; it was not intended that it should be included in it, because it was between the lines of the two armies, and under section 5302 of the Revised Statutes it was so contiguous to the enemy's lines that all commercial intercourse between the citizens of Alexandria and the rebels was practically forbidden.

More than this, the Forty-third Congress set a precedent in a very much stronger case than this. I hold in my hand the report made on the 22d of June, 1874, by the then chairman of the Committee on War Claims in the case of the Mount Vernon Manufacturing Company of Alexandria, Virginia. That was a claim made by a corporation; and the same point was urged that is presented here—that the charge of disloyalty could not be raised against a corporation. It was claimed that an officer of the United States Government when he took possession of the factory of the Mount Vernon Manufacturing Company for a prison in which to confine rebel prisoners, made a contract to pay the owners a stipulated price; and upon this state of facts they came to Congress in 1874 and sought to obtain an appropriation in fulfillment of that contract.

In that case the question now presented was made in all its bearings. I read from the report made by the then chairman of the Committee on War Claims in disposing of that question:

> Alexandria was in a State proclaimed in insurrection. The alleged occupancy of this factory was during flagrant war. The President's proclamation of August 16, 1861, mitigated the severe rules of international law in some respects in favor of districts permanently conquered.
>
> But these exceptions—

Mark the language:

> But these exceptions were withdrawn by the proclamation of April 2, 1863, except as to a few favored localities, of which Alexandria was not one.
>
> And the act of Congress which took effect February 21, 1867, prohibited payment for use and occupation. This act was declaratory of public law, and fixed the position of the Government.

Now, observe it was not damages claimed in that case. It was for rent on a contract, the claimants averring Alexandria, where their property was located, was not in insurrectionary territory, but under continual jurisdiction and control of United States authorities. That was the same Alexandria as the one before us now.

It will be thus seen that in the Forty-third Congress a precedent was established in a case presenting stronger legal grounds than this, a case where there was a specific contract made between the agents of the Government and the owners of the property. This House rejected that claim, and the decision has never been reversed. I defy the gentleman from Virginia who reported this bill or any one advocating it, to cite me a precedent for payment by the Government for use and occupation of property belonging to disloyal persons during the war in Alexandria.

Furthermore, the Government, through the Quartermaster's Department, made a decision in 1865, in what is known as the Murfreesborough case, reciting the position I now contend for. This was the decision in the claim of Mrs. C. S. D. Willard. In that case it was contended, and in evidence, too, that a contract had been made between Mrs. Willard and proper Government authority. The officer of the Government to whom this case was referred, in deciding it uses the following language:

> Murfreesborough was a hostile town captured by our troops from an enemy who did not surrender on terms, but was driven out by force of arms. Everything in it was prize of war, as at Savannah and Atlanta. Buildings were occupied for shelter of troops, and for sick and wounded soldiers of the capturing enemy.
>
> It does not appear that the military department should order payment of any rents under such circumstances. When active operations of war are over, and peace is restored to the district, the Government will doubtless give up the property which it does not confiscate as rebel property, or as used against it, or will pay rent from the time of restoration of peace and re-establishment of civil authority.
>
> Claims for destruction of property, fences, crops, &c., in hostile districts by the march or occupation of troops are on the same footing as claims for rent of buildings in captured towns.

The decision in this Murfreesborough case represents the recognized practice of the Government upon claims of this kind. It epitomizes the true legal doctrine regulating claims for use and occupation of property within the territory of the enemy, or for what has been wrested from them. To pay the present claim would violate the doctrine of *stare decicis*, would defy both law, well defined public law, and repeated precedent. The decision I have just cited is one made by the proper accounting officer of the Government under the statute of July 4, 1864, authorizing the settlement of claims kindred to this. The same principles determine claims for the use of property in Charleston, Atlanta, Nashville, and other towns captured by the Union Army. Alexandria, I submit in all fairness, comes within the same category. In the case I have just cited the circumstances were much stronger than in that now before us, because it was claimed that there was a contract for the payment of rent. The evidence in the case sustained the allegation; yet Congress refused to pay because Alexandria was insurrectionary territory.

I submit that under the rules of international or public law the Government is not responsible for the destruction or use of property when war was flagrant. It is not responsible for the use and occupation of this property after getting control of it, because this property was in a State that was in insurrection. If the proclamation of the President of August 16, 1861, could be construed as specially excepting Alexandria and similarly situated places from the effects of such proclamation, that condition of things was modified and entirely changed by the proclamation of April 2, 1863, which placed all those States that were in actual rebellion, Virginia included, upon the same basis.

Hear the proclamation of April 2, 1863, or so much of it as affects this bill; you will find it in the Statutes at Large, volume 13, page 731:

> Now, therefore, I, Abraham Lincoln, President of the United States, do hereby revoke the said exceptions—

Meaning those mentioned in the proclamation of August 16, 1861—

> and declare that the inhabitants of the States of Georgia, South Carolina, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, Florida, and *Virginia* (except forty-eight counties of Virginia designated as West Virginia) are in a state of insurrection, &c.

Now, Alexandria City is in Alexandria County, Virginia, and is not embraced in the language or spirit of the exception in the proclamation. Then let me ask gentlemen to read in this connection also section 5302 of the Revised Statutes.

It has been said Alexandria was represented in our Congress during the time the rent is claimed for this property. This is a mistake. The existing condition of things was recognized by Congress in 1863. This territory was recognized as peopled by a population disloyal to the Government, and representation in Congress was denied. It was represented, however, all the while in the rebel congress at Richmond. Disregarding all prejudices, this is a war claim and has no standing here. It will not do to say this claim is *sui generis*—that there are but a few of such cases. Why, sir, the valuable report which I hold in my hand epitomizes a series of claims of this character presented up to 1874. They embrace the claims of Methodist churches, Episcopal churches, Christian churches, universities, and colleges, whose buildings all over the Southern States were occupied for hospital purposes when the Government established posts there. Why, indeed, we have claims from counties for using their court-houses during the war for hospital purposes. There is an avalanche of claims of this nature. This list I have in my hand amounts to more than $2,000,000. Sir, they will be piled Pelion upon Ossa if we heed not the line of safe precedent and reject them all. Let us stop right here.

Let us stand upon the record which was made by the Forty-third Congress and refuse to appropriate money to pay this claim. The well-recognized legal principles I have just invoked sufficiently dispose of this bill. I had occasion when the bill was before us heretofore to discuss that other feature which is fatal to the bill. While

true it is a corporation—an eleemosynary corporation—the management of it was disloyal. There may have been and were certainly loyal men of the Episcopalian Church North interested in this seminary; yet the substantial interests were in Virginia and were disloyal. The influence of the institution at the beginning of the war was against the Government. The policy of the act of 1867, established by Congress, forbids the payment of such claims to disloyal claimants. There is no claim, then, legal or equitable, on the American Congress to pay indemnity to citizens and interests which were disloyal to the Government, and who aided to bring the sufferings of the rebellion upon us.

Mr. Chairman, how much time have I occupied?

The CHAIRMAN. Ten minutes.

Mr. WHITE, of Pennsylvania. I will reserve my remaining five minutes.

Mr. GOODE. If no gentleman on the other side desires to address the committee now, I will take the floor and yield ten minutes to my colleague [Mr. HUNTON] in whose district this seminary is located.

Mr. HUNTON. It has never been maintained, as asserted by the gentleman from Pennsylvania, Mr. Chairman, that there was a legal claim on the Government of the United States for the payment of this rent. If such had been the case we would not have been before the Congress of the United States asking an appropriation. The very fact that we are here seeking at the hands of the Congress of the United States a law authorizing the payment of this claim is certainly to all intents and purposes a declaration or admission on our part that there is no law now under which this claim can be paid.

What we do maintain is that this claim comes within the spirit of the laws on the subject of the payment of such claims, and is only prohibited by a technical ruling of the law of 1867. And it is because this claim comes within the equity of the law for payment of such claims that we ask the Congress of the United States to pass a bill to pay it.

The gentleman says there are precedents against this claim, that one arose in Atlanta, Georgia. That, I submit to the committee, has no sort of bearing on this case.

Mr. WHITE, of Pennsylvania. Murfreesborough, Tennessee.

Mr. HUNTON. It was not permanently within the lines of the Federal Government during the war.

Mr. WHITE, of Pennsylvania. It was always, after we took it.

Mr. HUNTON. I maintain, Mr. Chairman, that Alexandria and the surrounding country were certainly within the line of fortification of the Federal troops to defend the city of Alexandria, and by the declaration of the President of the United States it was loyal territory, within the possession and under the control of the Federal Government and the Federal Army from the first day the ordinance of secession was ratified in that State until the termination of the war. The gentleman says this theological seminary was in the line of fortification. That is a mistake. It was not in the line of fortification, but within the line. The line of fortification to defend Alexandria embraced every building for which we ask rent in this bill, and being within the line of fortification, it was as much a part of the Federal territory during the war as any square foot in the District of Columbia. That being the case, Mr. Chairman, according to the decision of the Supreme Court of the United States rendered in regard to New Orleans the doctrine was settled that a territory thus situated in the permanent occupancy and under the permanent control of the Government of the United States was under the protection of the Federal Government.

Then, sir, if that be so, and surely it is, because as I stated the other day this territory upon which these buildings are located was represented in the Congress of the United States for four years of the war, there can be no good ground of opposition to the payment of this claim for rent. For there was in the State of Virginia during the war what was known on this side of the river as the loyal Legislature of the State of Virginia. That loyal Legislature soon after the beginning of the war—I am not prepared to say at what exact period—had its domicile in the city of Alexandria.

Mr. TUCKER. After May, 1863.

Mr. HUNTON. I am informed that it was after May, 1863. That government was represented by two Senators in the other wing of the Capitol, and this very territory where these buildings are situate sent delegates to the convention for the purpose of nominating a member to this House of Representatives. Yet we are told on this floor, notwithstanding the decision of the Supreme Court of the United States, notwithstanding the fact that this territory was represented in both wings of the Capitol, notwithstanding all that, we are told it was a disloyal territory, under the control of the confederate government, and therefore this is a southern war claim which ought not to be paid.

Mr. WHITE, of Pennsylvania. Was it not represented at Richmond in the confederate congress?

Mr. HUNTON. No, sir.

Mr. WHITE, of Pennsylvania. Was not all this territory represented in the confederate senate?

Mr. HUNTON. There was an election for officers of the confederate government in the confederate army. I should like to know how an election could be held in Alexandria or within this territory for the confederate congress, when the territory itself was within the fortifications of the Federal Army.

Mr. WHITE, of Pennsylvania. Did not the confederate congress recognize the officials thus elected?

Mr. HUNTON. They recognized those who were elected by the confederate army. There was not a vote cast within the limits of this territory for any confederate official of any description at any time after the date I have mentioned. I trust the gentleman is answered.

This claim has been represented as fair and proper by Federal officers. It was recognized by Mr. Stanton while Secretary of War; it was recognized by Mr. Belknap while he was Secretary of War, and the only reason why Mr. Belknap did not pay it was that after he had promised to pay it he discovered what he had forgotten at the time, that the provisions of the law of 1867 prohibited the payment of any claim within the boundary of any seceded State. Mr. Belknap, however, recommended the very course which these people are pursuing to-day in having recourse to Federal legislation. I desire to have read as part of my remarks a letter which I have received on the subject just alluded to.

The Clerk read as follows:

ALEXANDRIA, VIRGINIA, *January* 25, 1879.

About the year 1866, while Mr. Stanton was Secretary of War, the claim of the Theological Seminary and High School of Virginia, for the use of their property for hospital purposes, which claim embraced rent, loss of furniture, fencing, trees, and some buildings, was made out and presented to the War Department. The Secretary of War was called upon by Dr. Sparrow, who was then a professor in the seminary, and also by Rev. Dr. Hall, of Washington, now of New York. Mr. Stanton had at the time organized a military commission to examine into the many claims which were then being presented to the Department, some of which he, I suppose, thought ought to be paid, and others he knew ought not. He referred this claim to this commission, and recommended it, as I understood, by indorsement to the favorable consideration of the commission. I remember calling at the office of the commission, with the view of urging action on the case, and of seeing the papers in the hands of the clerk. Shortly afterward the commission was dissolved, as I understood, in consequence of the act of 1867. I have several times tried to get possession of these papers by application at the War Department, but they seem to have been lost or mislaid.

I had a case of my own for rent of a warehouse in Alexandria, used by the commissary department. My partner had been in the South during the war, and I had not been further South than Alexandria. I applied to the quartermaster for payment for my half of the rent, &c., and was refused. I appealed to Mr. Stanton, and in my interview with him referred to a letter from my brother-in-law, Henry Winter Davis, giving his opinion that I ought to be paid. Mr. Stanton heard my statement, took the papers from my hands, indorsed on them, overruling the decision of the quartermaster, and ordering payment, and I got the money.

When General Belknap was Secretary of War I went to see him, in company with the late Dr. Sparrow, in reference to this seminary claim. We stated the case to him. Without any qualification or hesitation, he said that we were entitled to rent, and that he would pay a bill for a reasonable and proper rent, but would not pay for damages or loss of property. At his suggestion a bill was made out for rent only and sent to him, which had the approval of the medical department. He replied that when he promised payment he had overlooked the act of 1867, and that we would have to go to Congress.

I think one reason that led the Secretaries of War, Stanton and Belknap, to favor the payment of rent for these buildings was the fact that they were located in what was considered loyal territory; that they had been in the hands of the Federal Government from the beginning to the close of the war; and also that there was no such institution like situated to make a claim upon the Government to be used as a precedent.

CASSIUS F. LEE.

Mr. HUNTON. It appears from that communication that this claim for rent, after all the claims for damages were excluded from it, was indorsed as right and proper by the Surgeon-General of the Army and two Secretaries of War, and would have been paid but for the law of 1867. Nay, more; it appears from this communication that Cassius F. Lee, one of the trustees of this institution, was by Mr. Stanton paid the rent for a warehouse in the city of Alexandria, which was used by the Federal troops for somewhat similar purposes.

[Here the hammer fell.]

Mr. HARRIS, of Virginia. I move that my colleague be allowed ten minutes more.

The CHAIRMAN. That cannot be allowed under the order of the House.

Mr. WHITE, of Pennsylvania. I have no objection to the gentleman's proceeding, but his time cannot be extended under the order of the House.

The CHAIRMAN. The colleague of the gentleman has five minutes of his time remaining.

Mr. WHITE, of Pennsylvania. I make no objection.

Mr. HUNTON. I have but a few remarks more to make. It appears from this communication—which is as true as any part of the Bible, because the gentleman who makes it is incapable of telling anything but the truth—that the Secretary of War, Mr. Stanton, actually paid to the author of this communication, who was one of the trustees for this theological seminary, rent for his warehouse in Alexandria, occupied for similar purposes by the Federal troops. The claim has been indorsed by all the Departments of the Government, and the very course we are pursuing here is the course recommended by these Federal officers for us to pursue.

Something was said the other day by the gentleman from New York [Mr. TOWNSEND] about the faculty of the seminary. I desire to say a word or two on that subject, and I shall read from a communication I have received, which gives me the information:

The first professor was Rev. Dr. Keith, of Vermont, who was connected with the seminary from its origin, in 1823, till his death in 1842. He now lies buried at Sheldon, in his native State. The next is Rev. Dr. Packard, of Maine, who is still there. The third was Rev. Dr. May, of Pennsylvania, who died in Philadelphia during the war. The fourth was Rev. E. R. Lippitt, who was professor in this seminary from 1826 to 1842. He was a native of Rhode Island. Rev. Dr. Sparrow, who succeeded Dr. Keith in 1842, and continued till his death in 1874, was a native

of Massachusetts, though for some years a professor at Kenyon College, Ohio, from whence he came to Virginia. At Kenyon he was the preceptor of Mr. Stanton and Henry Winter Davis, who were very much attached to him, and I believe also the present President of the United States. The professor who succeeded Dr. Sparrow is Rev. Dr. McElheny, a native of Pennsylvania, who came to Virginia from Ohio since the war, and is still connected with the seminary. The only other professors are Messrs. Walker and Nelson.

I read this in order to show that this institution was not in any sense of the word a sectional institution; its professors mainly, if not all of them, came from Northern States, and its students, both of divinity and of the literary course in the high school, were from all parts of the United States, and in no sense that I can imagine can any sectional feeling or sectional action be attributed to the Theological Seminary of Virginia.

[Here the hammer fell.]

Mr. CONGER. I am pleased to see this returning sense of justice to the distinguished Secretary of War, Mr. Stanton. When my friend from Virginia claims the passage of this bill because one of its officers was the preceptor and the intimate friend who gave tone to the views and energy to the life of that distinguished Secretary of War, Mr. Stanton, I rejoice to see my southern friends claiming the payment of all these war debts on the ground that those interested in them were the especial friends of that distinguished Secretary. I wish that admiration and that excessive love for the distinguished Secretary had existed in prior days and had exhibited itself somewhat during his life-time.

Sir, the letter which the gentleman from Virginia has had read, claiming that the writer received pay from Mr. Stanton on the recommendation of his brother-in-law, Henry Winter Davis, comes under the same category. Because Henry Winter Davis was a loyal man of Maryland, and because his brother-in-law was paid for a warehouse, the whole of these claims, in the mind of the gentleman from Virginia, seem to turn upon the relations of kindness and friendship which existed between the different claimants and their friends and Mr. Stanton. Justice will yet be done to that great man, and I rejoice to see it coming so rapidly even in the prosecution of war claims.

But, sir, we cannot ignore the fact that this Fairfax Seminary, the grounds on which it stood, and all its buildings, were inclosed all around by fortifications. It stands in the center yet of the earthworks erected to protect this Capitol and this city and Alexandria and all our troops, and rent is demanded for all these buildings for four years when the report shows they were not occupied by our troops for four years. For a longer time than they were occupied rent is demanded, for the use of buildings which we were compelled to build fortifications around in order to protect them from destruction by the enemy. We inclosed them within a circle of fortifications. We planted our guns from these buildings as a center, pointing forth in all directions toward the enemy, and we preserved these buildings from destruction.

Was it a proper place, I ask, for these holy men to pursue their lessons of divinity amid the firing of cannon and all the uproar of war? Shall we pay rent for these buildings for the time during which we protected them from destruction? We protected the seminary, and handed it back to these holy men unimpaired; perhaps not quite unimpaired; we had somewhat injured these buildings, and the Government of the United States, with a generosity becoming our great Government, expended about $900 in the repair of the buildings so occupied by them in order to put them in as good condition as it found them.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, was received, informing the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1560) authorizing the Windham National Bank to change its location; and

A bill (S. No. 1627) making appropriation for the purchase of Fort Clark, Texas.

The Committee of the Whole resumed its session.

PROTESTANT EPISCOPAL SEMINARY, VIRGINIA.

The CHAIRMAN. General discussion on the pending bill is now exhausted, and the question is upon laying aside the bill to be reported to the House with a favorable recommendation.

Mr. HUNTON. The five minutes occupied by me was by consent of the committee.

Mr. CONGER. That was understood.

The CHAIRMAN. The Chair inclines to the belief that the committee has not the power to give that extension of time. The time was limited by the direction of the House.

Mr. GOODE. It was certainly understood that five minutes additional was given to my colleague and it was conceded upon the other side of the House.

The CHAIRMAN. The Chair will so regard it.

Mr. GOODE. I yield five minutes to the gentleman from New York, [Mr. POTTER.]

Mr. POTTER. The first duty of the Government is to do justice, and it is as much its duty to do justice about war claims as about peace claims. Now what is justice about war claims? The settled rule of law is that the Government is not liable for property destroyed in the enemy's country by the operations of war or taken for the use of the Government forces. That is a settled and necessary rule. We made an exception to that in this country by providing by statute a right—not a remedy, a right—for loyal citizens in the South for property taken for the use of the Army. The right provided by that statute has expired. I said the other day that I thought it ought not to be revived. Why? Because the proportion of loyal citizens in the South who had no opportunity to present their claims is very small, and because to restore such a right would open the door for a flood of pretended claims, and because at this late period it would be so difficult to distinguish between real and fraudulent claims, for which reasons the general public policy is against the revival of that class of claims.

Now, let me say here that these claims by loyal citizens, although called southern claims, are not necessarily so, since a large portion of the claimants have since the war moved into the Northern States. I have numbers of them now in my district, as have other gentlemen from the North. But wherever they reside, they have had their day in court; their opportunity has gone by, and if Congress again restores them a right to recover it would, on the whole, I think, be a mistake, and not for the interest of either the South or the North. But how is it in regard to this claim? If I understand it, claims like these are not war claims, and are not subject to the objection that they are claims for property destroyed in the enemy's country. This seminary building was wanted for a hospital, and an officer of the United States Army applied for it for that purpose and took possession of it. There was an implied contract then that the owner of the property should be paid, just as there was an implied contract in the case of the Alexandria mill, discussed at the last session. Now, why ought not such a claim to be paid? The parties could have gone into the Court of Claims before 1867 and recovered on their implied contract but for the repeal of the statute which took away from the Court of Claims jurisdiction of such cases. But that repeal did not destroy the right; it only took away the remedy; and when there is a right we are bound to supply a remedy. A man has no right to recover for property taken in the enemy's country by the march of our armies. But this property did not lie in insurrectionary territory at all, but in territory excluded from the proclamation of President Lincoln.

Mr. WHITE, of Pennsylvania. Has the gentleman recently read the proclamation of the President of 1863, declaring that all the States engaged in war, without exception, were insurrectionary States?

Mr. POTTER. That proclamation excepted this identical territory.

Mr. WHITE, of Pennsylvania. Upon the question of fact allow me to differ with my distinguished friend from New York. I have in my hand the proclamation of the President. Will the gentleman allow me to read it?

Mr. POTTER. Let the gentleman send it to me.

This territory never was in the enemy's country. It lay within the defenses of Washington, and never was in the possession of the enemy at all. It does not, therefore, come under the rules of the law which prohibits parties from recovering for property destroyed in the enemy's country. On the contrary it was always within our lines and the owners stood in the same position with every other person within our lines, and the only reason why they cannot recover in the Court of Claims for the use of this property is because this little piece of territory was included in the general statute abridging the jurisdiction of the Court of Claims. The owners were therefore left without a forum, and had to come to Congress for relief, not because they had no right, but because they had no tribunal in which to establish their right.

If it is right to pay this claim it should be paid without reference to whether the claimant is a religious institution or not. It is quite true that this was a religious institution supported chiefly by persons in my own State and Pennsylvania, but quite independent of that it had a right, as it seems to me, to be paid a fair price for the rent or use and occupation of buildings taken for hospital purposes. Does this bill cover anything more?

Mr. HUNTON. Nothing else.

Mr. TOWNSEND, of New York. Then we shall have to pay rent for all the lands occupied by the Government for the building of forts to protect this city.

Mr. WHITE, of Pennsylvania. Does the gentleman know that Congress refused to pay Pennsylvania for the use and destruction of property at Gettysburgh?

Mr. POTTER. Certainly not; for those were occupied and destroyed by acts of war—not this case at all.

The CHAIRMAN. The time allowed for the discussion of this bill has more than expired.

Mr. POTTER. Let me read the proclamation of the President. It is as follows:

Except the inhabitants of that part of Virginia lying west of the Alleghany Mountains and of such other parts of that State and the other States hereinbefore named as might maintain a legal adhesion to the Union and the Constitution.

Now, I understand that proclamation to have been modified in 1863, and there is some confusion from the general terms of the later proclamation. But, as a fact, it is nonsense to talk of territory always within our lines and where the State government of Virginia recog-

nized by our Government sat, and which was represented in the Congress, as being enemy's territory.

The question was taken on laying the bill aside with a favorable recommendation; and on a division there were—ayes 57, noes 45.

Tellers were ordered; and Mr. CONGER and Mr. GOODE were appointed.

Mr. CONGER. I will withdraw the point of order as to the absence of a quorum; we can have a vote upon it in the House.

Mr. BRAGG. I renew the point of order.

Mr. BURCHARD. Pending the question now before the committee, I move to strike out the enacting clause of this bill.

Mr. EDEN. Is that in order? The question before the Committee of the Whole is upon ordering the bill to be laid aside to be reported favorably to the House. A vote was taken upon that question and the point of order raised that no quorum had voted. The committee therefore is still dividing on that question.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Illinois, [Mr. EDEN.]

Mr. CONGER. I withdrew the point of order that no quorum voted.

The CHAIRMAN. The point of order was renewed by the gentleman from Wisconsin [Mr. BRAGG] and the Chair will appoint that gentleman one of the tellers in place of the gentleman from Michigan, [Mr. CONGER.] The tellers will take their places.

The committee again divided; and the tellers reported that there were—ayes 64, noes 53.

Mr. TOWNSEND, of New York. No quorum has voted.

The CHAIRMAN. The tellers will continue their count, and the Chair trusts that every member will vote on one side or the other, so that the committee will not find itself without a quorum.

The tellers proceeded with the count, but before the announcement was made,

Mr. TOWNSEND, of New York, withdrew his point of order.

The CHAIRMAN. The point of order having been withdrawn, the bill will be laid aside to be reported favorably to the House.

Mr. BRAGG, (one of the tellers.) I beg pardon of the Chair; but I ask the Chair to announce the vote so far as the tellers have made it.

The CHAIRMAN. The vote as reported from the tellers so far as continued is ayes 68 noes 70. Therefore the bill will not be laid aside to be reported favorably to the House.

Mr. HUNTON. The point of order that no quorum voted was withdrawn while members were passing between the tellers. In consequence of that, I think that some members did not come forward and vote.

The CHAIRMAN. If there is any dispute in regard to the count, the Chair will direct the tellers to resume their places and the vote will be again taken.

Mr. JONES, of Ohio. I rise to a parliamentary inquiry. I understand this to be the condition of the vote; it is distinctly understood and agreed to all around that the vote as first announced was in favor of the bill: but after other members had voted there was a majority against the bill. The inquiry I desire to make is whether the vote shall be as first announced or as announced the second time?

The CHAIRMAN. The vote will be taken again.

Mr. JONES, of Ohio. A new vote?

The CHAIRMAN. An entirely new vote.

Mr. BURCHARD. If there should be an adverse vote, will the bill be left in Committee of the Whole or reported to the House with that adverse vote?

The CHAIRMAN. It will be left in Committee of the Whole.

Mr. WHITE, of Pennsylvania. Is it competent now to move that the bill be laid aside to be reported adversely to the House?

The CHAIRMAN. That motion is not now in order. The committee is dividing upon the question of laying aside the bill to be reported favorably to the House.

The committee again divided; and the tellers reported that there were—ayes 76, noes 78.

So the proposition to lay the bill aside to be reported favorably to the House was not agreed to.

Mr. BURCHARD. I move to strike out the enacting clause of the bill.

The motion was agreed to, upon a division—ayes 88, noes 44; no further count being called for.

The CHAIRMAN. The bill will be laid aside to be reported to the House with the recommendation that the enacting clause be stricken out.

Mr. EDEN. Must not the committee now rise and report this bill to the House with the recommendation that the enacting clause be stricken out?

The CHAIRMAN. That will be the report to the House when the committee shall rise.

Mr. GARFIELD. I think it is the duty of the committee, when the enacting clause of a bill is stricken out, to at once rise and report that fact to the House.

The CHAIRMAN. Under what rule?

Mr. GARFIELD. I have not the rules before me, but I think that is required.

The CHAIRMAN. The Chair will direct the Clerk to read the rule upon the subject.

The Clerk read as follows:

123. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole, with a recommendation to strike out the enacting words, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House. But before the question of concurrence is submitted, it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House, it shall be referred to the Committee of the Whole without debate, and resume its original place on the Calendar.

Mr. GARFIELD. I think the custom has been (I speak, of course, only from memory) that whenever the enacting clause of a bill is stricken out in Committee of the Whole, the committee immediately rises for the purpose of ascertaining whether the House will agree to such recommendation, or whether the bill shall resume its place upon the Calendar in Committee of the Whole.

Mr. WHITE, of Pennsylvania. I move that the committee now rise and report the action of the Committee of the Whole to the House upon the pending bill.

The motion was agreed to.

The committee accordingly rose; and (Mr. EDEN taking the chair as Speaker *pro tempore*) Mr. COVERT reported that the Committee of the Whole had had under consideration the Private Calendar, and particularly the bill (H. R. No. 943) for the relief of the trustees of the Protestant Episcopal Seminary and High School in Virginia, and had directed him to report the same to the House with the recommendation that the enacting clause be stricken out.

The SPEAKER *pro tempore*. The question is now upon concurring in the recommendation of the committee to strike out the enacting clause of the bill, the title of which has been reported to the House.

Mr. BURCHARD. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 89, not voting 77; as follows:

YEAS—122.

Bacon,	Davis, Horace	James,	Robinson, M. S.
Bagley,	Deering,	Jones, Frank	Ryan,
Bailey,	Denison,	Jones, John S.	Sampson,
Baker, John H.	Dickey,	Joyce,	Sapp,
Baker, William H.	Dunnell,	Keightley,	Sexton,
Bayne,	Dwight,	Ketcham,	Sinnickson,
Blair,	Eames,	Landers,	Smith, A. Herr
Bouck,	Ellsworth,	Lathrop,	Sparks,
Bragg,	Errett,	Lindsey,	Springer,
Brentano,	Evans, I. Newton	Lockwood,	Stewart,
Brewer,	Evans, James L.	Marsh,	Stone, Joseph C.
Briggs,	Fort,	Mayham,	Strait,
Browne,	Foster,	McCook,	Thompson,
Bundy,	Fuller,	McGowan,	Tipton,
Burchard,	Gardner,	McKinley,	Townsend, Amos
Caldwell, W. P.	Garfield,	Mitchell,	Townsend, M. I.
Calkins,	Hamilton,	Monroe,	Townshend, R. W.
Camp,	Hanna,	Neal,	Turney,
Campbell,	Hardenbergh,	Norcross,	Van Vorhes,
Caswell,	Harris, Benj. W.	Oliver,	Wait,
Claflin,	Harrison,	Overton,	Ward,
Clark, Rush	Hart,	Page,	Warner,
Cobb,	Hartzell,	Patterson, G. W.	Watson,
Cole,	Hayes,	Peddie,	White, Harry
Conger,	Henderson,	Pollard,	White, Michael D.
Covert,	Hiscock,	Pound,	Williams, C. G.
Cox, Jacob D.	Hubbell,	Price,	Williams, Richard
Crapo,	Humphrey,	Pugh,	Willits,
Cummings,	Hungerford,	Rea,	Wright.
Cutler,	Hunter,	Rice, William W.	
Danford,	Ittner,	Robinson, G. D.	

NAYS—89.

Aiken,	Cox, Samuel S.	Hewitt, G. W.	Robbins,
Aldrich,	Cravens,	Hooker,	Ross,
Atkins,	Crittenden,	House,	Scales,
Beebe,	Davis, Joseph J.	Hunton,	Shelley,
Bell,	Dibrell,	Jones, James T.	Singleton,
Bicknell,	Durham,	Jorgensen,	Smalls,
Bisbee,	Eden,	Kenna,	Smith, William E.
Blackburn,	Elam,	Kimmel,	Steele,
Bliss,	Evins, John H.	Ligon,	Stenger,
Blount,	Felton,	Mackey,	Throckmorton,
Boone,	Finley,	Maish,	Vance,
Bridges,	Franklin,	Manning,	Waddell,
Brogden,	Garth,	Martin,	Walker,
Buckner,	Giddings,	McKenzie,	Whitthorne,
Butler,	Glover,	Money,	Wigginton,
Cabell,	Goode,	Muldrow,	Williams, James
Caldwell, John W.	Gunter,	Muller,	Williams, Jere N.
Candler,	Harris, Henry R.	Patterson, T. M.	Willis, Albert S.
Chalmers,	Harris, John T.	Phelps,	Willis, Benj. A.
Clark, Alvah A.	Haskell,	Potter,	Wilson.
Clark of Missouri,	Hatcher,	Rainey,	
Clarke of Kentucky,	Herbert,	Reagan,	
Cook,	Hewitt, Abram S.	Rice, Americus V.	

NOT VOTING—77.

Ackley,	Cannon,	Ewing,	Henkle,
Ballou,	Carlisle,	Forney,	Henry,
Banks,	Chittenden,	Freeman,	Keifer,
Banning,	Clymer,	Frye,	Kelley,
Benedict,	Collins,	Gause,	Killinger,
Bland,	Culberson,	Gibson,	Knapp,
Boyd,	Davidson,	Hale,	Knott,
Bright,	Dean,	Harmer,	Lapham,
Burdick,	Eickhoff,	Hazelton,	Loring,
Cain,	Ellis,	Hendee,	Luttrell,

Lynde,	Powers,	Slemons,	Walsh,
Majors,	Pridemore,	Southard,	Williams, Andrew
McMahon,	Randolph,	Starin,	Wood,
Metcalfe,	Reed,	Stephens,	Wren,
Mills,	Reilly,	Stone, John W.	Yeates,
Morgan,	Riddle,	Swann,	Young, Casey
Morrison,	Roberts,	Thornburgh,	Young, John S.
Morse,	Robertson,	Tucker,	
O'Neill,	Sayler,	Turner,	
Phillips,	Shallenberger,	Veeder,	

So the motion was agreed to.

During the vote,

Mr. TUCKER said: I am paired with Mr. LAPHAM.

Mr. ELAM. My colleague, Mr. ELLIS, is paired with Mr. O'NEILL.

Mr. HERBERT. My colleague, Mr. FORNEY, is absent in New York by order of the House.

Mr. HUNTON. My colleague, Mr. PRIDEMORE, is paired with Mr. WILLIAMS, of New York.

Mr. POWERS. I am paired on political questions with Mr. CARLISLE, of Kentucky. If he were present, I should vote "ay."

Mr. LANDERS. Mr. BALLOU is paired with Mr. HENRY.

Mr. WAIT. Mr. O'NEILL, who is absent from the House on important business, is paired with Mr. ELLIS, of Louisiana.

Mr. CANNON, of Illinois. I am paired with Mr. TURNER on all political questions. I desire further to announce that Mr. ACKLEN is absent on business.

Mr. SHALLENBERGER. I am paired with Mr. EICKHOFF. If he were present, I would vote in the affirmative.

Mr. WILLIAMS, of Wisconsin. On this question, my colleague, Mr. HAZELTON, is paired with my other colleague, Mr. LYNDE. If present, Mr. HAZELTON would vote "ay."

Mr. RYAN. My colleague, Mr. PHELPS, is absent on important business. If present, he would vote "ay."

Mr. MAJORS. I am paired with Mr. CULBERSON.

Mr. SAMPSON. My colleague, Mr. BURDICK, is paired with Mr. BENEDICT. If present, Mr. BURDICK would vote "ay."

Mr. METCALFE. I am paired with my colleague, Mr. BLAND.

Mr. LINDSEY. My colleague, Mr. REED, is detained from the House by sickness.

Mr. BOYD. I am paired with Mr. ROBERTS.

Mr. STRAIT. Mr. MORGAN is paired with Mr. KNAPP.

Mr. BRAGG. My colleague, Mr. LYNDE, is absent by order of the House. If present, he would vote in the affirmative.

Mr. HARRIS, of Virginia. My colleague, Mr. PRIDEMORE, is paired with the gentleman from New York, Mr. WILLIAMS. If present, my colleague would vote in the negative.

Mr. OLIVER. Mr. CARLISLE is paired with Mr. KEIFER.

On motion of Mr. BURCHARD, by unanimous consent, the reading of the names was dispensed with.

The vote was then announced as above recorded.

Mr. WHITE, of Pennsylvania, moved to reconsider the vote by which the enacting clause was stricken out; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVATE CALENDAR.

Mr. WHITE, of Pennsylvania, moved the House resolve itself into the Committee of the Whole on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the Private Calendar, Mr. COVERT in the chair.

HEIRS OF BRIGADIER-GENERAL WILLIAM THOMPSON.

The first business on the Private Calendar was the bill (H. R. No. 934) for the relief of the heirs of Brigadier-General William Thompson, of the revolutionary army.

The bill, which was read, authorizes and directs the proper accounting officers of the Treasury to state an account in favor of the heirs of William Thompson, who was a brigadier-general in the revolutionary army, from Pennsylvania, for the seven years' half pay provided for under the resolutions of Congress of May 15, 1778, August 24, 1780, and June 3, 1784; and whatever sum of money so found is hereby directed to be paid to Fannie A. Thompson, one of said heirs and administratrix *de bonis non* of said William Thompson; and a sufficient sum of money to pay the amount found is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendments of the Committee on Revolutionary Pensions were read, as follows:

In line 12 strike out the words "one of said heirs," and in lines 13 and 14 strike out the words "and a" and in lieu thereof insert "for the heirs of said William Thompson," and add to the end of the bill "provided that no interest be allowed on said claim."

Mr. EDEN. Mr. Chairman, that claim belongs to a class which involves some important questions and a good deal of money. There has been pending almost from the foundation of the Government a claim of this character on behalf of the heirs of certain revolutionary officers. There was a law passed under which they were entitled to half pay for five years, and afterward another law was passed under which a sum certain was paid to them as commutation for this half pay. That commutation has been paid to them already, but the heirs of those officers now claim that the amount of commutation was not sufficient. They have had their claims before Congress for at least sixty or seventy years, claiming in lieu of the gross sum which was given as commutation they should have received the amount of half pay. The law providing for commutation was passed, I believe, at the request of the officers themselves, and the amount under that law was received and accepted by them; and, whether just or unjust, it was a long time ago, and as the law was never opened in favor of those officers in their own life-time it occurs to me as hardly right it should now be opened in favor of their great-grandchildren.

The amount involved in these claims is variously estimated at from five to twenty-five million dollars. As a matter of course, if we pay one we must pay all. I happen to know something about these claims of the heirs of revolutionary officers for the reason that ever since I have been connected with the Committee on War Claims we have had bills before us for the purpose of giving relief, I suppose, like that proposed in this bill.

And if we intend to pay in one case we ought to pay in all. The House and the committee ought not to take favorable action in this case without being fully informed both as to its merits and the effect it would have as a precedent. It does not occur to me that there is any great amount of merit in claims of this sort for the benefit of persons so remote from the men who actually rendered the service. I am not aware that the revolutionary officers themselves in their life-time ever claimed anything after they received the commutation that the law gave them in lieu of the half pay of the five years, or whatever the number of years may have been. Therefore I think this bill ought not to pass.

Mr. MACKEY. I desire to ask the gentleman from Illinois a question. What is the amount of pay involved in this bill?

Mr. EDEN. I do not know what amount is involved in this particular bill, because I have not made the calculation. But I do know the amount involved in a bill pending before the Committee on War Claims at this time to pay the heirs of these revolutionary officers the full half pay that had been once promised to them, and which was afterward commuted by a gross sum and paid to the officers at their request and received by them. I do know that if that bill is enacted into a law it will take an amount variously estimated at from five to twenty-five millions of dollars.

Mr. THOMPSON rose.

Mr. WHITE, of Pennsylvania. I desire to ask the gentleman from Illinois a question. Does the gentleman say that these officers accepted the commutation in full?

Mr. EDEN. I so understand.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. THOMPSON] has the floor.

Mr. EDEN. I had not quite got through. I yielded to the gentleman from Pennsylvania [Mr. WHITE] to ask a question.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. THOMPSON. The bill under consideration proposes by special legislation to reach one out of probably a hundred cases embraced in the general bill now before the Committee on War Claims and which has been submitted to me as a subcommittee. I have not yet had time to investigate the matter fully; but from my observations heretofore made it will involve a very intricate examination and a very considerable amount of money should the bill be reported favorably and passed.

I believe, in answer to my colleague's question, that the commutation was received by these officers in full of all claims upon the Government; but it is insisted now, and probably fairly, that they did it at a certain time under the pressure of circumstances they could not very well then resist; and now their representatives want, not as a legal right but as an equitable claim against the Government, compensation for rights they legally waived and in full of which they were legally paid.

I do not propose to judge this bill in advance; but my objection to it now is there is no reason known to me why this should be a special case and why it should not stand with kindred claims which are identical in every feature and for which the general bill fully provides. If the general bill is a good one, this claim will be paid; if it is not a good one, this claim should not be paid. And therefore I join the gentleman from Illinois in requesting that this bill be postponed and no favorable action had upon it for the present until the general bill is fully considered.

Mr. MACKEY. Will my colleague allow me to ask him a question?

Mr. THOMPSON. With pleasure.

Mr. MACKEY. Will the gentleman state what is the amount involved in this particular bill?

Mr. THOMPSON. I do not know.

Mr. MACKEY. The amount is about $4,200. It has been said that this is an old claim. It is true it is an old claim, but its merits are equal to its age.

Mr. THOMPSON. My objection to the bill is not that it may not be a good bill; I do not know but it is. My objection is this: there are hundreds of claims like this all embodied in one general bill now under consideration; and if this one bill is to be considered as a specialty then every other single and individual bill embraced in the general bill ought on the same ground also to be considered. I say, Mr. Chairman, let them all stand together or fall together. There is no distinction between them and there should be none in the treatment of them by the House.

Mr. MACKEY. I desire to have read a communication from the claimant.

The Clerk read as follows:

WASHINGTON, D. C., *November* 13, 1877.

GENTLEMEN: A bill is now pending before your honorable body for the relief of the heirs of the late Brigadier-General William Thompson, of the revolutionary army. I have been in Washington many years endeavoring to obtain from Congress an appropriation to pay the amount the heirs consider was due grandfather for his services and his sufferings in the war for the independence of our country. My father died while endeavoring to secure relief from Congress for the same purpose. While here prosecuting this claim I have been compelled by destitution to act as nurse and in other menial capacities to earn my bread. The other heirs are all as poor as I am.

Grandfather gave his money, his time, his health, and finally his life, to his country for its independence. Little did he think that when the nation for which he sacrificed so much was celebrating its centennial in the grandest manner ever known in the history of the world, his descendants would be starving in the streets of Washington, waiting for the pitiful pay promised to him and the other devoted patriots of the Revolution. Grandfather was very wealthy. The records of Congress will show that he paid his regiment while in captivity out of his own pocket; that he left a luxurious home and suffered the torture of a British prison; that he did all that man could do to obtain the benefits of independence which all the Representatives in Congress are now enjoying. He did not even ask during his life for repayment of the money advanced by him to his troops for food, clothing, and other necessaries, and doubtless intended making that a present to his country. The annals of Congress will show that it was asked for by his executor and paid years after his death. I do not come, gentlemen, asking charity or a gratuity. I only ask you to carry out in good faith the pledges of your predecessors in Congress, and pay to the heirs of General Thompson, who are so needy and deserving, the money which he so hardly earned, and which has been paid to five hundred representatives of officers having the same claim. I pray you to report the bill favorably now before you, which gives me nothing more than what has been given to others, and ask its passage; and in this, the one hundred and first year of our Independence, you will have the satisfaction of knowing that you have not only done an act of justice but also one that will entitle you to the grateful prayers of the poor heirs of a gallant revolutionary soldier.

FANNIE A. THOMPSON.

To the honorable COMMITTEE ON REVOLUTIONARY PENSIONS
in the House of Representatives.

Mr. BANNING. Is there a report accompanying this bill?

The CHAIRMAN. There is; a somewhat lengthy one.

Mr. BANNING. Let it be read.

The Clerk proceeded to read the report. Before he concluded the reading,

Mr. BRAGG said: I move that the further reading of the report be dispensed with, and that the reading of the seventh volume of Bancroft's History of the United States be substituted.

Mr. MACKEY. I object.

The Clerk continued and concluded the reading of the report, which is as follows:

Mr. MACKEY, from the Committee on Revolutionary Pensions, submitted the following report:

The Committee on Revolutionary Pensions, to whom was referred the bill (H. R. No. 934) for the relief of the heirs of Brigadier-General William Thompson, of the revolutionary army, having had the same under consideration, submit the petition of one of the heirs herewith as part of their report:

"*To the honorable Committee on Revolutionary Pensions,*
"*House of Representatives:*

"Your petitioner incloses two Senate and one House committee reports favorable to her claim for seven years' half-pay due her grandfather, General William Thompson, of the revolutionary army.

"The claim is now brought under the resolutions of Congress of May 15, 1778, August 24, 1780, and June 3, 1784, and your attention is asked to the following statement:

"Robert C. Thompson, administrator, and grandchild of General William Thompson, brought the claim by bill in the Senate in 1854. It was referred to the Committee on Revolutionary Claims, reported favorably, and passed the Senate July 7, 1854. Senator Cooper, in his speech on this bill, (see Congressional Globe, volume 28, page 1622, part 3,) indorsed General Thompson's claim in the strongest manner as just and equitable. It passed by a yea-and-nay vote, 22 for to 12 against, after debate.

"In the House the claim was referred to the Court of Claims for decision. On the 15th of December, 1857, the court reported that the claim was barred by the statute of limitations, (see C. Cls. R., volume 2, Thirty-fifth Congress, first session, page 2,) but admitted the justice and equity of the claim.

"The Committee on Revolutionary Claims in the House, May 29, 1858, reported that this claim, having just merits, the statute of limitations ought never in justice to preclude it from a fair hearing and an honorable settlement, and reported a bill for its payment. Before the House acted on this bill the Thirty-fifth Congress expired, and before the meeting of next Congress the claimant died. The claim is now brought by his daughter, Fannie A. Thompson, who is administratrix *de bonis non*.

"Your petitioner humbly states that General Thompson's heirs are very poor; that but recently one of them has been buried by charity; that her father died while endeavoring to obtain what is due from the Government, and she has spent many years and all her money in the hope of obtaining relief. General Thompson paid his regiment out of his own pocket when they were in captivity. (See Journal of Congress, volume 2, pages 168, 169.) He loaned money to his State and the United States to aid the patriot cause. He died wealthy, and his relatives did not present his claim to Congress until forced to do so by poverty.

"Your petitioner merely asks now that Congress will not discriminate against General Thompson, but will grant his heirs the same relief it has extended to fifteen hundred similar cases.

"Your attention is called to some few precedents:

"Dr. S. J. Axson (U. S. Stats. at L., vol. 6, p. 494, act June 15, 1832,) allowed five years' full pay as surgeon, and interest.

"Robert H. Harrison, allowed five years' full pay as lieutenant-colonel. (Act May 29, 1830, vol. 6, U. S. Stats. at L., p. 437.) Allowed interest by act July 14, 1832. (Vol. 6, p. 524.)

"Thomas Davenport allowed five years' full pay as captain, with interest. (Vol. 6, p. 518, act July 14, 1832.)

"John Thornton allowed five years' full pay as colonel, with interest. (Vol. 6, p. 533, act February 9, 1833.)

"Peter Foster allowed five years' full pay as lieutenant, with interest. (Act of March 2, 1833, p. 540, vol. 6.)

"John Thomas allowed five years' full pay as captain, with interest. (Act March 2, 1833.)

"Thomas H. Baird, surgeon, given five years' full pay and interest. (Act August 15, 1856, Stats. at L., vol. 11, p. 467.)

"James B. Stafford, lieutenant in the Navy, allowed seven years' half pay under the present laws of Congress. (Vol. 17 Stats. at L., p. 681, act June 8, 1872.)

"The attention of the committee is earnestly invited to the case of Dr. Thomas H. Baird, reported in the first Court of Claims, 1855-'56, pages 62, 63. This case was paid two years after General Thompson's case had passed the Senate.

"Hon. Montgomery Blair, solicitor of the United States, argued that the acts passed giving half pay and interest to revolutionary officers conferred a gratuity and could not be enforced. The opinion of the court was 'that it was not a gratuity but a contract.'

"'It was a right earned by meritorious services, and conferred upon him in consideration of the sacrifice of his time and talents for the good of the cause which all had at heart. The law giving interest was a voluntary contract on the part of the United States, which no subsequent legislation could release without the assent of the other party.

"'It may be added that up to the year 1837 there was paid interest on 1,510 claims of officers for personal services, the statutes of limitations as to such claims having been suspended.'

"The principles governing this case are identical with those of General Thompson's, and your petitioner humbly prays that you will pass the bill now before your body, without any amendment, as a matter of justice to the heirs.

"FANNIE A. THOMPSON,
"*Administratrix de Bonis Non.*"

[Senate report No. 201, Forty-first Congress, second session.]

"JUNE 3, 1870.—Ordered to be printed. Mr. Fowler made the following report, to accompany bill S. No. 967:

"The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Brigadier-General Thompson, having had the same under consideration, report:

"That William Thompson, of Pennsylvania, was, on the 1st of March, 1776, chosen by Congress a brigadier-general in the Continental service in the war of the Revolution, and directed by Congress to repair to New York. (See Journals 1776, vol. 1, page 277.) This appointment was announced to him from Philadelphia, March 2, 1776, with the following letters of the above date:

"'SIR: The Congress, from a sense of your merit and zeal in the American cause, have been induced to appoint you a brigadier-general in the Continental Army. I do myself the honor of inclosing your commission, and shall only add that I have it in charge from Congress to direct that you repair as soon as possible to New York, there to join the Continental troops under the command of General Lee.

"'I am, sir, &c.'

"On the 27th of March, 1776, General Washington writes from Cambridge as follows:

"'SIR: Lord Sterling, in his letter of the 20th instant, has informed me of your arrival in New York to take command of the army there.

"'I take this opportunity of congratulating you on your promotion, and am vastly pleased that the Congress have anticipated my application in your favor, which was dated on the 7th instant. I have now to inform you that the fleet have, within a very few hours, left Nantucket Road, and on the morrow another brigade will march from here under the command of General Sullivan. I will, with the main body, march to your assistance very soon, if nothing occurs, which I cannot at present forsee.

"'I am, with great regard, sir, your most humble servant,

"'GEORGE WASHINGTON.

"'General THOMPSON.

"'P. S.—General Putnam will set off to-morrow or next day, and if General Schuyler is absent, will take command of the troops.'

"Under date of a letter from the commissioners sent to Canada, at Montreal, of the 27th of May, 1776, to General Thompson, he is requested to attend a council of war at Chambly, of Thursday following, and to inform him that on that morning a firing of small-arms and cannon was heard toward Fort Saint Ann's, at the extremity of the island of Montreal, and hoped that the enemy would be intercepted in their retreat and our prisoners recovered.

"On the preceding day (May 26) General Arnold wrote to General Thompson as follows:

"'LACHINE, *May* 26, 1776.

"'DEAR GENERAL: I am much obliged to you for your agreeable favor of the 22d, and kind offer of coming to my assistance. With 450 men, which I now have, when joined by Colonel De Haaes, I believe we shall be a match for the enemy. By the best information I can obtain, they are 500 or 600 strong. Their advance-guard was at Point Claire (three leagues above this) last night, and gave out that they intended to attack us this morning. We are well prepared to receive them.

"'I heartily condole with you the loss of poor Major Sherbaup. I am told his party fought well, and many were killed. I cannot learn if he is among the number. Our prisoners are at Saint Ann's, and used well. I hope by sending up a strong party by water to cut off the retreat of the enemy and to retake our prisoners; at the same time, I intend to attack their main body here. I hope soon to transmit you a more favorable account of matters here.

"'I am, with great esteem and affection, your obedient humble servant,

"'B. ARNOLD.

"'General THOMPSON.'

"*Instructions to General Thompson.*

"'DEAR SIR: You are to march as soon as possible with Colonel Irvine and Colonel Wayne's regiments, together with those of Colonel St. Clair, now remaining at this place, and join Colonel St. Clair at Nicholett, and take command of the whole party; and unless you find the number of the enemy at Three Rivers to be such as would render all hazardous, attack upon them. You will pay particular attention to the preservation of your batteaux, keeping them at a convenient distance above the shipping, which lies at or near Three Rivers.

"'I would by no means advise you to attack if the prospect of success is not much in your favor, as a defeat of your party at this time might prove the total loss of this country. Sir, as I have (without flattery) the highest opinion of the bravery and good conduct of yourself and the officers you command, I forbear attempting particular instructions, being well assured that neither prudence nor resolution will be wanting to answer the great purpose we have in view. I have the highest opinion of the bravery and resolution of the troops you command, and doubt not but under the direction of a kind Providence you will open the way for our recovering that ground which former troops have so shamefully lost. Wishing you the greatest safety and success,

"'I am, dear sir, your obedient servant,

"'JOHN SULLIVAN,
"'*Commander of the Continental Forces in Canada.*

"'Brigadier-General THOMPSON.

"'June 6, 1776, (Thursday.) Sundry letters were laid before Congress and read. One from Brigadier-General Thompson, of the 25th of said month, (May,) to the commissioners. (See Journals, vol. 1, page 366.)

"'Two thousand of their best men, headed by General Thompson, embarked at the Sorel and fell down with the tide, keeping on the south side of the river till they arrived at a place called Nicholett, opposite to Three Rivers. * * * Unfor-

tunately for their design, the time they took in crossing the river was so long that, though they passed the shipping unobserved, they were discovered at their landing. The alarm being given, General Frazier prepared to meet them. * * * The provincial commander was taken with about two-hundred of his men.' (See Andrews American War, vol. 2, pages 165, 166, and 167.)'

"The following is an abstract from a letter from General Thompson to Major Scull, dated at Quebec Harbor, August 3, 1776, while he was a prisoner:

"'Through the great humanity of his excellency General Carlton, all the prisoners in Canada are allowed to return to the Colonies on their parole, and will embark for New York this day or to-morrow.

"'In Congress, August 6, 1776: "*Resolved*, That General Schuyler be directed to apply to General Burgoyne and propose a general exchange of prisoners on the terms agreed on by Congress, and particularly the delivering Brigadier-General Prescott, in possession of the United States, in lieu of Brigadier-General Thompson, in the possession of the enemy." (Journals, volume 1, page 434.)

"'In Congress, November 23, 1776: "*Resolved*, That General Washington be directed to propose to General Howe an exchange of William Franklin, esq., late governor of New Jersey, for Brigadier-General Thompson."

"'In Congress, December 3, 1776: "*Resolved*, That General Washington be directed, in case he has not entered into a negotiation with General Howe for exchanging Governor Franklin for General Thompson, to suspend the execution of that matter till further orders."'

"The following is an extract from a letter written by General Thompson to Major Scull, dated at Carlisle, January 17, 1777:

"'As I can't learn that there are any hopes of my being exchanged shortly, and I don't like to go to camp before I am at liberty to act, I have inclosed you my account from my leaving New York to my return to the Colonies. * * * If I am to remain a prisoner, I would advise you to push for promotion in one of the Pennsylvania regiments.'

"The last letter from General Thompson bears date June 4, 1781, at Carlisle, and would indicate that he had not yet been exchanged; and if he had been, or had been dropped from the service previous to his death, the records would doubtless show it.

"The certificate of the Third Auditor is:

"'The records of the revolutionary war in that office afford no evidence when General Thompson went into service, or the date of his death, or that he was on parole and never exchanged; but afford evidence, however, that he was in the service, and that funds were placed in his hands to pay the officers and soldiers of his command who returned from captivity, and his own pay and rations to the 1st of August, 1780, &c. But his seven years' half pay is not found to have been included in the settlement. As his death did not transpire until the 3d of September, 1781, it is obvious there could be no settlement of the seven years' half pay then.'

"RESOLUTION IN CONGRESS, AUGUST 24, 1780.

"'*Resolved*, That the resolution of the 15th of May, 1778, granting half pay for seven years to the officers of the Army who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service; to commence from the time of such officer's death, and continue for the term of seven years; or if there be no widow, or in case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it recommend to the Legislatures of the respective States to which such officers belong to make provisions for paying the same on account of the United States.'

"It is proper that the committee should state that none of the testimony hereinbefore referred to was filed or made evidence before the Court of Claims, and which was not deemed necessary, or was accessible at that time, except the brief of the attorney for the claimants, which cited to history and the journals of Congress. But it appears there was other evidence filed which your committee deemed pertinent, and some deficiencies filed since, namely, that Catherine Thompson, before named, was the widow of Brigadier-General William Thompson, and that she never remarried, and died the widow of said General Thompson, in December, 1809.

"In the testimony filed in the original application is the declaration of John Johnston, in whose favor the court, before whom he made his declaration, declare their opinion that he was a revolutionary soldier, and that he served as he stated. He states that he was a private in Colonel Irvine's regiment, Pennsylvania Line, and was in the battle of the Three Rivers, in Canada, about fifty miles from Quebec; that in the month of June, 1776, they were attacked by the British and defeated, and that General Thompson and Colonel Irvine were both taken prisoners.

"Mary Thompson, who is certified to be a person of good repute, testifies that she was personally acquainted with General William Thompson, and married his eldest son, on the 20th July, 1786, and that General Thompson died a prisoner, September 3, 1781.

"It appears from proper certificates from the state department of Pennsylvania that neither the widow nor the heirs of General Thompson have ever received the seven years' half pay promised by the foregoing resolution.

"The court says:

"'There is no doubt but that General Thompson is a brigadier-general in the Continental army of the Revolution, and that he died before the end of the war, namely, about the 3d of September, 1781. It may also be considered, though the point is not clear, that he was in the service at the time of his death; * * * but, independently of these defects (defects since cured) the case is barred by statute of limitation.'

"The Committee on Revolutionary Claims in the House reported a bill on the 29th day of May, 1858, in favor of the payment of the seven years' half pay, notwithstanding the decision of the Court of Claims, which bill was not acted on before the adjournment of the Thirty-fifth Congress; and before the next Congress could take action upon it, the claimant died, and the war of 1861 coming on soon after, the case has gone until now, when the present claimant, Fannie A. Thompson, great-grandchild and administratrix *de bonis non*, appears by petition, and proves her right to what Congress had before almost given her father. Your committee therefore report a bill granting the seven years' half pay, promised by said resolution of Congress, as brigadier-general in the Continental army, to Fannie A. Thompson, and recommend its passage."

[Senate report No. 221, Forty-second Congress, second session.]

"MAY 30, 1872.—Ordered to be printed. Mr. Pool submitted the following report, to accompany bill S. No. 1177:)

"The Committee on Revolutionary Claims, to whom was referred the petition of Fannie A. Thompson, legal heir and representative of Brigadier-General Thompson, having had the same under consideration, report:

"That William Thompson, of Pennsylvania, was, on the 1st of March, 1776, chosen by Congress a brigadier-general in the Continental service in the war of the Revolution, and directed by Congress to repair to New York. (See Journals, 1776, volume 1, page 277.) This appointment was announced to him from Philadelphia, March 2, 1776, with the following letters of the above date:

"'SIR: The Congress, from a sense of your merit and zeal in the American cause, have been induced to appoint you a brigadier-general in the Continental army. I do myself the honor of inclosing your commission, and shall only add that I have it in charge from Congress to direct that you repair, as soon as possible, to New York, there to join the Continental troops under the command of General Lee.

"'I am sir, &c.'

"On the 27th March, 1776, General Washington writes from Cambridge as follows:

"'SIR: Lord Stirling, in his letter of the 20th instant, has informed me of your arrival in New York, to take command of the army there.

"'I take this opportunity of congratulating you on your promotion, and am vastly pleased that the Congress have anticipated my application in your favor, which was dated on the 7th instant. I have now to inform you that the fleet have, within a very few hours, left Nantucket Road, and on the morrow another brigade will march from here under the command of General Sullivan. I will, with the main body, march to your assistance very soon, if nothing occurs, which I cannot at present foresee.

"'I am, with great regard, sir, your most humble servant,

"'GEORGE WASHINGTON.

"'General THOMPSON.

"'P. S.—General Putnam will set off to-morrow or next day, and if General Schuyler is absent, will take command of the troops.'

"Under date of a letter from the commissioners sent to Canada, at Montreal, of the 27th May, 1776, to General Thompson, he is requested to attend a council of war at Chambly, of Thursday following, and to inform him that on that morning a firing of small-arms and cannon was heard toward Fort Saint Ann's, at the extremity of the island of Montreal, and hoped the enemy would be intercepted in their retreat and our prisoners recovered.

"On the preceding day (May 26) General Arnold wrote to General Thompson as follows:

"'LACHINE, *May* 26, 1776.

"'DEAR GENERAL: I am much obliged to you for your agreeable favor of the 22d, and kind offer of coming to my assistance. With four hundred and fifty men, which I now have, when joined by Colonel De Haaes, I believe we shall be a match for the enemy. By the best information I can obtain, they are five hundred or six hundred strong. Their advanced guard was at Point Claire (three leagues above this) last night, and gave out that they intended to attack us this morning. We are well prepared to receive them. I heartily condole with you the loss of poor Major Sherbaup. I am told his party fought well, and many were killed. I cannot learn if he is among the number. Our prisoners are at Saint Ann's and used well. I hope by sending up a strong party by water to cut off the retreat of the enemy and retake our prisoners; at the same time, I intend to attack their main body here. I hope soon to transmit you a more favorable account of matters here.

"'I am, with great esteem and affection, your obedient, humble servant,

"'B. ARNOLD.

"'General THOMPSON.'

"June 6, 1776, (Thursday.) Sundry letters were laid before Congress and read; one from Brigadier-General Thompson of the 25th of said month (May) to the commissioners, (see Journals, vol. 1, page 336:)

"'Two thousand of their best men, headed by General Thompson, embarked at the Sorel and fell down with the tide, keeping on the south side of the river till they arrived at a place called Nicholett, opposite to Three Rivers. * * * Unfortunately for their design, the time they took in crossing the river was so long that, though they passed the shipping unobserved, they were discovered at their landing. The alarm being given, General Frazier prepared to meet them. * * * The provincial commander was taken, with about two hundred of his men.' (See Andrews's American War, vol. 2, pages 165, 166, 167.)

"The following is an abstract from a letter from General Thompson to Major Scull, dated at Quebec Harbor, August 3, 1776, while he was a prisoner:

"'Through the great humanity of his excellency General Carlton all the prisoners in Canada are allowed to return to the Colonies on their parole, and will embark for New York this day or to-morrow.'

"'In Congress, August 6, 1776: "*Resolved*, That General Schuyler be directed to apply to General Burgoyne and propose a general exchange of prisoners on the terms agreed on by Congress, and particularly the delivering Brigadier-General Prescott, in possession of the United States, in lieu of Brigadier-General Thompson, in possession of the enemy." (Journals, vol. 1, page 434.)

"'In Congress, November 23, 1776: "*Resolved*, That General Washington be directed to propose to General Howe an exchange of William Franklin, esq., late Governor of New Jersey, for Brigadier-General Thompson."

"'In Congress, December 3, 1776: "*Resolved*, That General Washington be directed, in case he has not entered into negotiations with General Howe for exchanging Governor Franklin for General Thompson, to suspend the execution of that matter till further orders."

"The following is an extract from a letter written by General Thompson to Major Scull, dated at Carlisle, January 17, 1777:

"'As I can't learn that there are any hopes of my being exchanged shortly, and I don't like to go to camp before I am liberty to act, I have inclosed you my account from my leaving New York till my return to the Colonies, * * * If I am to remain a prisoner I would advise you to push for promotion in one of the Pennsylvania regiments.'

"The last letter from General Thompson bears date June 4, 1871, at Carlisle, and would indicate that he had not yet been exchanged. And if he had been, or had been dropped from the service previous to his death, the records would doubtless show it.

"The certificate of the Third Auditor is:

"'The records of the revolutionary war in that office afford no evidence when General Thompson went into service, or the date of his death, or that he was on parole and never exchanged; but afford evidence, however, that he was in the service, and that funds were placed in his hands to pay the officers and soldiers of his command, who returned from captivity, and his own pay and rations to the 1st of August, 1780, &c. But his seven years' half-pay is not found to have been included in the settlement. As his death did not transpire until the 3d of September, 1781, it is obvious there could be no settlement of the seven years' half-pay then.'

"RESOLUTION IN CONGRESS, AUGUST 24, 1780.

"'*Resolved*, That the resolution of the 15th day of May, 1778, granting half pay for seven years to the officers of the Army who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service, to commence from the time of such officer's death, and continue for the term of seven years; or if there be no widow, or in case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any, and that it recommend to the Legislatures of the respective States to which such officers belong to make provision for paying the same on account of the United States.'

"It is proper that the committee should state that none of the testimony hereinbefore referred to was filed or made evidence before the Court of Claims, and which was not deemed necessary, or was accessible at that time, except the brief of the attorney for the claimants, which cited to history and the journals of Congress. But it appears there was other evidence filed which your committee deem pertinent, and some deficiencies filed since, namely, that Catharine Thompson, before named, was the widow of Brigadier-General William Thompson, and that she never remarried, and died the widow of said General Thompson in December, 1809.

"In the testimony filed in the original application is the declaration of John Johnston, in whose favor the court, before whom he made his declaration, declare their opinion that he was a revolutionary soldier, and that he served as he stated. He states that he was a private in Colonel Irvine's regiment, Pennsylvania Line, and was in the battle of the Three Rivers, in Canada, about fifty miles from Que-

bec; and that in the month of June, 1776, they were attacked by the British and defeated, and that General Thompson and Colonel Irvine were both taken prisoners.

"Mary Thompson, who is certified to be a person of good repute, testifies that she was personally acquainted with General William Thompson, and married his eldest son on the 20th of July, 1786, and that General Thompson died a prisoner, September 3, 1781.

"It appears from proper certificates from the state department of Pennsylvania that neither the widow nor the heirs of General Thompson have ever received the seven years' half pay promised by the foregoing resolution.

"The Committee on Revolutionary Claims in the House reported a bill on the 29th day of May, 1858, in favor of the payment of the seven years' half pay, which bill was not acted upon before the adjournment of the Thirty-fifth Congress, and before the next Congress could take action upon it the claimant died, and the war of 1861 coming on soon after, the case has gone on till now, when the present claimant, Fannie A. Thompson, great-grandchild and administratrix *de bonis non*, appears by petition and proves her right to what Congress had before almost given her father. Your committee therefore report a bill granting the seven years' half pay, promised by said resolution of Congress as brigadier-general in the Continental army, to Fannie A. Thompson, and recommend its passage."

[House report, No. 457, Forty-fourth Congress, first session.]

"MAY 4, 1876.—Committed to a Committee of the Whole House, and ordered to be printed. Mr. DAVIS, by unanimous consent, from the Committee on Revolutionary Pensions and War of 1812, submitted the following report, (to accompany bill H. R. No. 1678:)

"The Committee on Revolutionary Pensions and War of 1812, to whom was referred the bill (H. R. No. 1638) for the relief of the heirs of Brigadier-General William Thompson, of the revolutionary army, having had the same under consideration, report:

"That William Thompson was a brigadier-general in the Continental service in the war of the Revolution.

"By a resolution of Congress, adopted on the 15th of May, 1778, it was provided 'that all officers commissioned by Congress, who now are, or who may hereafter be, in the service of the United States, and shall continue therein during the war, shall, after the conclusion of the war, receive annually, for seven years, if they live so long, one-half the present pay of such officers.'

"By a resolution adopted August 24, 1780, it was declared 'that the resolution of the 15th day of May, 1778, granting half pay for seven years to the officers of the army who should continue in the service to the end of the war, be extended to the widows of those officers who have died, or who shall hereafter die, in its service, to commence from the time of such officer's death and continue for the term of seven years; or if there be no widow, or in the case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any, and that it recommend to the Legislatures of the respective States, to which such officers belong, to make provisions for paying the same on account of the United States.'

"This claim is based upon these resolutions of Congress, and was first brought by Robert C. Thompson, administrator and a grandchild of General William Thompson, in 1854, and a bill was introduced into the Senate allowing the claim. This bill was referred to the Committee on Revolutionary Claims, reported upon favorably by the committee, and passed the Senate. In the House it was referred to the Court of Claims for a report. From the report of the Court of Claims and the evidence, it fully appears that William Thompson was a brigadier-general in the revolutionary war, and that he died in service (or a prisoner on parole) in 1780, and that he left a wife and children, who have since died, leaving children.

"The court say that there was no evidence before them that Catharine Thompson was the widow of General Thompson, nor did it appear before the court that she lived unmarried seven years after his death, or for any specified period after that event, or that she died or married again before the expiration of the seven years.

"There is evidence, which was not before the Court of Claims, which shows that Catharine Thompson was the widow of General Thompson, and that she remained and died his widow in 1809, but the court say that 'independently of any defects in the evidence, the claim is barred by the statute of limitations,' and that the claimants have no cause of action. Notwithstanding this report of the Court of Claims the House Committee on Revolutionary Claims reported a bill on the 29th May, 1858, in favor of the payment of the seven years' half pay. This bill was not acted upon, and no action was taken by the next Congress.

"Robert Thompson died, and the claim was revived before the Forty-first Congress by the petition of Fannie Thompson, a great-grandchild and administratrix *de bonis non*. On the 3d June, 1870, the Senate Committee on Revolutionary Claims made a report, accompanied by a bill granting seven years' half pay, and recommending its passage. This was not acted upon.

"Application was again made to the Forty-second Congress, and on the 30th May, 1872, the Senate Committee on Revolutionary Claims reported again in favor of the claim, accompanying the report by a bill granting seven years' half pay. This was not acted upon.

"There is no explanation of the long delay in the presentation of this claim, and the present bill only asks that the Court of Claims be authorized and directed to adjudicate the claim upon its merits, without regard to the statute of limitations, authorizing the court to use the evidence heretofore taken.

"The application to be allowed to be heard before the Court of Claims upon the merits seems to the committee reasonable, and they recommend the passage of the bill with a proviso that in no event shall more than the principal that may be found due upon such claim be allowed, and the bill is reported back so amended, with the recommendation that it do pass."

The statement of the heirs as to the passage of the bill for their relief by the Senate in 1854 and the subsequent progress of the claim is verified by the records of Congress and the Court of Claims. The precedents quoted are also found to be correct.

The bill in effect simply asks that the statute of limitations, which Congress has suspended in over fifteen hundred cases of precisely the same nature, may be removed so that General Thompson's claim may be adjudicated and settled by the proper officers of the Treasury Department upon the same principles the others have been.

In view of the fact that in every instance where bills for the relief of these heirs have been before Congress favorable reports have been made, (five reports;) that the Senate passed a bill for claimant at one session and the House at another; that it is twenty-three years since the Senate passed its bill, (1854;) that the first claimant died urging the claim; that the present claimant has been petitioning Congress for sixteen years for relief; that the heirs are in destitute circumstances; that Congress has passed bills recently for similar claims; that General Thompson's services during the war for Independence were so "zealous and meritorious" as to elicit the thanks of General Washington and promotion by Congress, and that he died a prisoner of war, your committee report that in their judgment the heirs are entitled to the relief asked for, and in the language of the report of the committee of this House upon the bill for the relief of General Thompson's heirs, May 29, 1858, recommend the passage of the present bill:

"The claim having just merits, the statute of limitations ought never in justice to preclude it from a fair hearing and honorable settlement."

Mr. EDEN. I move that the bill be laid aside to be reported adversely to the House.

The question being put, there were—ayes 75, noes 22.

Mr. FRANKLIN. A quorum has not voted.

The CHAIRMAN. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Missouri, Mr. FRANKLIN, and the gentleman from New York, Mr. BAKER.

The committee again divided; and the tellers reported—ayes 96, noes 20.

So (further count not being insisted on) the motion was agreed to, and the bill was laid aside to be reported to the House with an adverse recommendation.

SURETIES OF THE LATE JESSE J. SIMKINS.

The next business on the Private Calendar was the bill (H. R. No. 186) for the relief of the sureties of the late Jesse J. Simkins, collector of the port of Norfolk, Virginia, reported by Mr. HARRIS, of Virginia, from the Committee on the Judiciary.

Mr. GOODE. Since that bill was reported the parties for whose relief it was intended have made an arrangement with the Government which is satisfactory. They have paid a certain amount which has been accepted in full; and I move that the bill be laid aside to be reported to the House with a recommendation that it be recommitted to the Committee on the Judiciary.

The motion was agreed to.

HENRY M. MEADE.

The next bill on the Calendar was the bill (H. R. No. 138) for the relief of Henry M. Meade, late paymaster in the United States Navy.

The bill was read, as follows:

Be it enacted, &c., That the accounting officers of the United States Treasury Department be, and are hereby, authorized to adjust the accounts of Henry M. Meade, late a paymaster in the United States Navy, and credit him with the sum of $2,545.22, for unavoidable losses and checkages sustained by him in the legitimate performance of his duties as paymaster in the United States Navy, from 1862 to 1872, which sum stands now charged against him at the United States Treasury Department.

Mr. DIBRELL. I call for the reading of the report.

The report was read, as follows:

The said Henry M. Meade was paymaster, United States Navy, from January 31, 1862, to February 23, 1872, more than ten years, during more than three years of which war existed. During this period of war he was stationed part of the time as assistant paymaster on the receiving-ship North Carolina, in the port of New York, and part in the sounds of North Carolina, on board the Mattabesett, as paymaster, distributing stores to other vessels which had not paymasters, and acting also as chief of powder division; all of these positions being of extraordinary responsibility, often without adequate accommodation, and compelled to employ agents of whom he could know but little, and therefore unusually liable to loss occasioned by the confusion incident to the character of the service in which those vessels were engaged. During the remainder of this term of service, seven years, he was almost constantly assigned to active service. Notwithstanding the embarrassments under which said Meade discharged a large part of his arduous and responsible duties, the large sums received and disbursed, and the vast stores distributed by him were satisfactorily accounted for, except the small sum, comparatively, of $2,555.43, in items so small as to show the almost impossibility of avoiding such losses in so large a business consisting of transactions so small. The items of loss are as follows:

Unavoidable losses on clothing and small stores from 1862 to 1872	$1,052 53
Sustained on payments from 1862 to 1872	556 20
In a sale of condemned beef	87 97
In coffee stolen	49 98
Erroneous checkage by Paymaster James Fulton	93 42
Erroneous checkage by Charles Stewart	100 00
Amount overdrawn by W. S. Huddell, paymaster's clerk	425 33
Amount due by Commander T. H. Eastman, United States Navy	190 00
Total	2,555 43

Excepting the last four months of this long and arduous service, when it was the misfortune of Mr. Meade to fall suddenly into habits of dissipation, caused by domestic concern, during which period no part of this loss occurred, his conduct deserved the very highest commendation of his commanding and associate officers and of others with whom he held official relations, as is evinced by the testimonials herewith submitted, sustaining his character for capacity, zeal, industry, and integrity, and from the Fourth Auditor of the Treasury for the promptness and accuracy with which his accounts were rendered, who sees no impropriety in passing a bill for his relief.

Mr. KIMMEL. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

Mr. HENDERSON. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. COVERT reported that the Committee of the Whole had had under consideration the Private Calandar, and had instructed him to report sundry bills; some with a favorable and some with an unfavorable recommendation.

JESSE J. SIMKINS.

The first bill reported from the Committee of the Whole was the bill (H. R. No. 186) for the relief of the sureties of the late Jesse J. Simkins, collector of the port of Norfolk, Virginia, reported from the Committee on the Judiciary, by Mr. HARRIS of Virginia, with the recommendation that it be recommitted to the Committee on the Judiciary.

The question was taken; and the bill was recommitted to the committee.

Mr. CONGER moved to reconsider the vote by which the bill was recommitted to the committee; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY M. MEADE.

The next bill reported from the Committee of the Whole was the bill

(H. R. No. 138) for the relief of Henry M. Meade, late paymaster in the United States Navy, reported from the Committee on Naval Affairs by Mr. KIMMEL, with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KIMMEL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BRIGADIER-GENERAL WILLIAM THOMPSON.

The next bill reported from the Committee of the Whole was the bill (H. R. No. 934) for the relief of the heirs of Brigadier-General William Thompson, of the revolutionary army, reported from the Committee on Revolutionary Pensions by Mr. MACKEY, with the recommendation that it do not pass.

The bill was laid on the table.

Mr. EDEN moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRANSFER OF INDIAN BUREAU.

Mr. BOONE. It will be remembered that at the last session of the Forty-fifth Congress a joint commission was appointed on the part of the Senate and House of Representatives to take into consideration the expediency of transferring the management of the Indian Bureau to the War Department. At a meeting of the committee after our investigation upon the subject we were unable to agree upon a majority report.

Mr. CONGER. Is this a privileged matter?

The SPEAKER. The Chair thinks it is, in view of the fact that the law directed that the report should be made, and in view of the further fact that under such a construction of the law a report has been made in the other branch of Congress.

Mr. CONGER. This is a public bill and this is private bill day.

The SPEAKER. There is no private business intervening and the Chair recognized the gentleman from Kentucky.

Mr. CONGER. This is a report from a commission.

The SPEAKER. The House seems to have disposed of all the private business it desired to do and the Chair desires to recognize both gentlemen who have the respective reports from the Indian commission.

Mr. CONGER. The House has set apart to-night and to-morrow night for the consideration of private bills. If in fact we have no private business this evening we might as well adjourn.

The SPEAKER. There is no private business presenting itself by any motion at this time and hence the Chair under the rule is authorized to entertain public business, and the Chair will feel compelled to recognize the gentleman from Kentucky for the reason that the law compels the commission to report to the House before the month closes.

Mr. CONGER. Well, the month is closed.

The SPEAKER. No, we are on the last day of the month.

Mr. CONGER. I move that the House take a recess until half past seven o'clock.

Mr. BOONE. The gentleman cannot take me off the floor. I had not yielded for any such purpose.

The SPEAKER. The Chair has recognized the gentleman from Kentucky.

Mr. HALE. Supposing that the House should take a recess, could anything but private business be done this evening?

The SPEAKER. Nothing can be done except under the terms of the order.

Mr. HALE. Do not the terms of the order exclude everything but private business?

The SPEAKER. The session for this evening is for the consideration of the Private Calendar, as if on objection day.

Mr. HALE. Does not that exclude all public business?

The SPEAKER. It does.

Mr. MILLS. Was not to-night set apart for the consideration of bills from the Committee on Coinage, Weights, and Measures?

The SPEAKER. No; that is Friday the 7th of February.

Mr. HALE. Under the order made, can the House get itself into such a condition that anything else but private business can be done?

The SPEAKER. It cannot.

Mr. BURCHARD. I understand that the gentleman from Kentucky [Mr. BOONE] claims the right to make this report, because the law requires that it shall be made before the 1st of February.

The SPEAKER. The law requires that the report shall be made before to-morrow.

Mr. BURCHARD. Is it a committee or commission?

The SPEAKER. It is a commission.

Mr. BURCHARD. Well, then, they can send their report to the Speaker and he can lay it before the House, but it seems to me that no member of a commission can claim the floor to make a report. They must send their report to the Speaker, and it must be laid before the House by him.

The SPEAKER. The Chair thinks the gentleman from Kentucky could do that, and that the report could be presented through the Chair.

Mr. CONGER. I cannot understand how the commission has any right on this floor except through the Speaker.

The SPEAKER. The commission is composed of members of Congress, and it is to report to Congress before its term expires. The bill for the reorganization of the Army was reported in the same way.

Mr. BURCHARD. We would have no objection to having the report laid before the House through the Speaker; but if the gentleman from Kentucky [Mr. BOONE] claims the right to report a bill for the action of the House——

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. Under the resolution creating this commission——

The SPEAKER. It was a law which created the commission.

Mr. HOOKER. I proposed to quote the law. That law required the commission to report on or before the 1st day of January, 1879. By the action of the House and of the Senate the time was extended until the 1st day of February, 1879. Therefore to-day is the last day on which this commission can make its report under the law. By reference to the law authorizing this commission, and prescribing their duties and the time within which they should perform them, there will be found this provision:

Said committee shall be authorized to send for persons and papers, to employ a clerk and stenographer, and to sit during the recess of Congress. It shall be the duty of said committee to make final report on or before the 1st day of January, 1879.

By action of the House and the Senate the time was extended to the 1st day of February, and after to-day they will have no time in which to make a report.

Mr. BURCHARD. The very provision which the gentleman has read shows that the commission has no more right to rise on this floor to make a report here than the Secretary of the Treasury has.

The SPEAKER. The same course was pursued in regard to the bill for the reorganization of the Army, which was provided for in the same law.

Mr. CONGER. But no objection was made to that, and there is to this.

Mr. SPRINGER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. This commission is composed of members of the House.

Mr. BURCHARD. And members of the Senate also.

Mr. SPRINGER. Yes; and there is no law which can deprive any member of this House of any right which he may possess under the rules.

Mr. BURCHARD. Or to give him any additional right.

The SPEAKER. The Chair desires to state that he has come to an understanding with both sides upon this question, so that the two sides may present their views to-day. After the gentleman from Kentucky [Mr. BOONE] shall have submitted the views he desires to submit, the Chair will then immediately recognize the gentleman from Ohio [Mr. VAN VORHES] to submit the views of the other side.

Mr. BURCHARD. What action is proposed to be had upon the report?

The SPEAKER. No action, as the Chair understands.

Mr. BURCHARD. What is proposed to be done with it?

The SPEAKER. Have it printed.

Mr. BURCHARD. If they simply desire to submit their report and have it printed, that can be done through the Chair.

A MEMBER. And recommitted.

The SPEAKER. The Chair thinks there is no desire to recommit the report.

Mr. BOONE. We do not want to recommit it. We simply desire to bring the report before the House and have it printed.

The SPEAKER. That is what the Chair understands and has stated.

Mr. CONGER. Pending that, I move that the House now take a recess until half past seven o'clock this evening.

Mr. MILLS. I move that the House now adjourn.

The SPEAKER. The motion to adjourn takes precedence.

The question was taken on the motion to adjourn; and upon a division there were—ayes 76, noes 65.

Before the result of the vote was announced,

Mr. BRIGHT said: I call for tellers. This evening's session has been set apart by order of the House for the consideration of the Private Calendar. I hope the motion to adjourn will be voted down.

Tellers were ordered; and Mr. MILLS and Mr. BRIGHT were appointed.

The House again divided; and the tellers reported—ayes 67, noes 78.

So the motion to adjourn was not agreed to.

Mr. CONGER. I suppose my motion for a recess now comes up.

Mr. BRIGHT. I hope the gentleman will withdraw that motion and allow this report to be made.

Mr. CONGER. I insist upon the motion.

The question was taken; and upon a division there were—ayes 42, noes 96.

Before the result of the vote was announced,

Mr. CONGER called for the yeas and nays.

Mr. WHITE of Pennsylvania. I move that the House now adjourn.

The SPEAKER. The yeas and nays are called for upon the motion for a recess.

Mr. WHITE, of Pennsylvania. Is not my motion in order pending that call.

The SPEAKER. The Chair will entertain it.

The motion to adjourn was not agreed to; upon a division, ayes 10, noes not counted.

Mr. CONGER. Now let the count on the motion for a recess be finished.

The SPEAKER. The question is upon ordering the yeas and nays upon the motion for a recess.

The yeas and nays were not ordered; there being but 3 in the affirmative.

So the motion for a recess was not agreed to.

Mr. BOONE. I was proceeding to state that the commission were unable to agree on a report; they were equally divided in sentiment on this question. It was expressly understood and agreed in the committee that each side—those favoring and those opposed to the transfer—should present to the different Houses their views upon this question by way of a report. In accordance with that agreement I now ask to file a report, and move that it be printed.

Mr. CONGER. I demand that it be read.

Mr. SCALES. Before that is done let the report from the other side come in.

The SPEAKER. The Chair suggests that the report on the other side be allowed to come in, and then, if necessary, both reports can be read.

Mr. VAN VORHES. On behalf of those members of the committee who take a different view from that presented in the report of the gentleman from Kentucky [Mr. BOONE] I submit an adverse report, and ask that both reports may go together and be printed.

The SPEAKER. The Chair asked that the report of the gentleman from Ohio [Mr. VAN VORHES] be received before acting on the request of the gentleman from Michigan, [Mr. CONGER,] because the Chair had obligated himself to recognize the gentleman from Ohio for this purpose.

Mr. CONGER. Before the question is taken on ordering the printing I ask that both reports be read.

Mr. MILLS, and Mr. WHITE of Pennsylvania, moved that the House adjourn.

The SPEAKER. These reports are presented merely for printing, not for reference at all.

Mr. EDEN. Under what rule has a single member the right to demand the reading of these papers?

Mr. WHITE, of Pennsylvania. I have submitted a motion that the House adjourn.

The SPEAKER. The Chair is about to have a rule read.

The Clerk read as follows:

Where papers are laid before the House or referred to a committee every member has a right to have them once read at the table before he can be compelled to vote on them.

The SPEAKER. This is not a motion requiring a member to vote upon these reports, under the terms and spirit of the rule.

Mr. CONGER. Is not this a motion to print?

The SPEAKER. The gentleman asks that the House make an order for printing.

Mr. CONGER. So I supposed.

The SPEAKER. The Chair proposes to submit that question to the House.

Mr. CONGER. When that is submitted, then I will ask that the reports be read.

The question being put, the Speaker declared the motion agreed to.

Mr. CONGER. On that question I demand a division; and pending that demand I ask that the reports be read.

Mr. BRIGHT. I move that the House take a recess till half past seven o'clock in accordance with the order of the House.

The SPEAKER. The gentleman from Michigan demands a division upon the question of printing.

Mr. CONGER. And pending that demand I ask that the reports be read.

Mr. WHITE, of Pennsylvania. I move that the House adjourn.

The question being taken on the motion of Mr. WHITE, of Pennsylvania, there were—ayes 66, noes 69.

Mr. WHITE, of Pennsylvania, and others, called for tellers.

Mr. PRICE. I move that the House take a recess till half past seven o'clock.

The SPEAKER. If the House should adjourn or take a recess the motion to print will come up as unfinished business; and when it again comes up the Chair will recognize the gentleman from Michigan to demand the reading of the reports.

Mr. BRIGHT. I move that the House take a recess till half past seven o'clock.

Mr. MILLS. Will not the motion to print come up as unfinished business if the House should adjourn?

The SPEAKER. It will. If the House should take a recess it will not come up this evening for the reason that to-night has been set apart by order of the House for particular business.

Mr. WHITE, of Pennsylvania. I have called for tellers on the motion to adjourn.

Tellers were ordered; and Mr. WHITE, of Pennsylvania, and Mr. SCALES were appointed.

The House divided; and the tellers reported—ayes 73, noes 57.

Mr. ATKINS. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 67, nays 83, not voting 138; as follows:

YEAS—67.

Aiken,	Covert,	Landers,	Sapp,
Aldrich,	Cravens,	Lathrop,	Shelley,
Bailey,	Denison,	Ligon,	Sinnickson,
Baker, John H.	Dwight,	Maish,	Smalls,
Bayne,	Evans, I. Newton	Majors,	Smith, A. Herr
Bell,	Evins, John H.	Marsh,	Steele,
Bragg,	Felton,	Martin,	Strait,
Buckner,	Finley,	Mayham,	Tipton,
Bundy,	Franklin,	McGowan,	Townsend, M. I.
Cain,	Gunter,	Morse,	Wait,
Campbell,	Hanna,	Peddie,	Ward,
Cannon,	Herbert,	Pollard,	Watson,
Clark, Alvah A.	Hewitt, G. W.	Rainey,	White, Harry
Clark of Missouri,	Humphrey,	Rea,	Williams, James
Clark, Rush	Hungerford,	Reagan,	Williams, Jere N.
Cobb,	Jorgensen,	Robbins,	Young, John S.
Cole,	Keightley,	Ryan,	

NAYS—83.

Atkins,	Crittenden,	Harris, Benj. W.	Pugh,
Bagley,	Cummings,	Harris, Henry R.	Randolph,
Baker, William H.	Cutler,	Hartzell,	Rice, William W.
Banning,	Davis, Joseph J.	Hatcher,	Robinson, G. D.
Beebe,	Dean,	Henderson,	Robinson, M. S.
Blair,	Deering,	Hooker,	Ross,
Blount,	Dibrell,	Ittner,	Sampson,
Boone,	Dickey,	Kenna,	Scales,
Bouck,	Dunnell,	Kimmel,	Singleton,
Brewer,	Durham,	Lindsey,	Springer,
Bright,	Eames,	Mackey,	Stewart,
Brogden,	Eden,	Manning,	Stone, Joseph C.
Burchard,	Elam,	McKenzie,	Throckmorton,
Cabell,	Ellsworth,	McKinley,	Townsend, Amos
Caldwell, John W.	Errett,	Mills,	Townshend, R. W.
Candler,	Fort,	Money,	Van Vorhes,
Chalmers,	Gardner,	Norcross,	Warner,
Claflin,	Giddings,	Oliver,	Whitthorne,
Clarke of Kentucky,	Glover,	Patterson, G. W.	Willis, Benj. A.
Conger,	Hamilton,	Patterson, T. M.	Yeates,
Cox, Samuel S.	Hardenbergh,	Price,	

NOT VOTING—138.

Acklen,	Ewing,	Ketcham,	Sexton,
Bacon,	Forney,	Killinger,	Shallenberger,
Ballou,	Foster,	Knapp,	Slemons,
Banks,	Freeman,	Knott,	Smith, William E.
Benedict,	Frye,	Lapham,	Southard,
Bicknell,	Fuller,	Lockwood,	Sparks,
Bisbee,	Garfield,	Loring,	Starin,
Blackburn,	Garth,	Luttrell,	Stenger,
Bland,	Gause,	Lynde,	Stephens,
Bliss,	Gibson,	McCook,	Stone, John W.
Boyd,	Goode,	McMahon,	Swann,
Brentano,	Hale,	Metcalfe,	Thompson,
Bridges,	Harmer,	Mitchell,	Thornburgh,
Briggs,	Harris, John T.	Monroe,	Tucker,
Browne,	Harrison,	Morgan,	Turner,
Burdick,	Hart,	Morrison,	Turney,
Butler,	Haskell,	Muldrow,	Vance,
Caldwell, W. P.	Hayes,	Muller,	Veeder,
Calkins,	Hazelton,	Neal,	Waddell,
Camp,	Hendee,	O'Neill,	Walker,
Carlisle,	Henkle,	Overton,	Walsh,
Caswell,	Henry,	Page,	White, Michael D.
Chittenden,	Hewitt, Abram S.	Phelps,	Wigginton,
Clymer,	Hiscock,	Phillips,	Williams, Andrew
Collins,	House,	Potter,	Williams, C. G.
Cook,	Hubbell,	Pound,	Williams, Richard
Cox, Jacob D.	Hunter,	Powers,	Willis, Albert S.
Crapo,	Hunton,	Pridemore,	Willits,
Culberson,	James,	Reed,	Wilson,
Danford,	Jones, Frank	Reilly,	Wood,
Davidson,	Jones, James T.	Rice, Americus V.	Wren,
Davis, Horace	Jones, John S.	Riddle,	Wright,
Eickhoff,	Joyce,	Roberts,	Young, Casey.
Ellis,	Keifer,	Robertson,	
Evans, James L.	Kelley,	Sayler,	

So the House refused to adjourn.

During the vote,

Mr. WAIT said: Mr. O'NEILL, who is absent by leave of the House, is paired with Mr. ELLIS.

Mr. WARD. My colleague, Mr. SHALLENBERGER, is paired with Mr. EICKHOFF. Mr. SHALLENBERGER, if present, would vote "no."

Mr. WILLIAMS, of Oregon. I am paired with Mr. THOMPSON on this subject.

Mr. SAMPSON. My colleague, Mr. BURDICK, is paired with Mr. BENEDICT. Mr. BURDICK would vote "no."

Mr. BRIGGS. I am paired with Mr. VANCE, of North Carolina. If he were present, I would vote "no."

Mr. TOWNSHEND, of Illinois. My colleague, Mr. KNAPP, is paired with Mr. MORGAN.

Mr. BURCHARD. I move the reading of the names be dispensed with.

Mr. FRANKLIN. I object.

Mr. WHITE, of Pennsylvania. I think that dispensing with the reading of names will not be objected to now. I move they be dispensed with.

Mr. TOWNSEND, of New York. I object. If gentlemen want to stay here, why let them.

The vote was then announced as above recorded.

Mr. BRIGHT. I move the House take a recess until half past seven o'clock, in pursuance of previous order.

The SPEAKER. The Chair desires to have read (so members may

understand fully the question of order before they meet again, as this question will come up as unfinished business to-morrow) the general parliamentary interpretation from Jefferson's Manual on this point, which is made part of the rules of this House when not inconsistent with specific rules.

The Clerk read as follows:

SECTION XXXII.—READING PAPERS.

Where papers are laid before the House or referred to a committee, every member has a right to have them once read at the table before he can be compelled to vote on them; but it is a great though common error to suppose that he has a right, *toties quoties*, to have acts, journals, accounts, or papers on the table read independently of the will of the House. The delay and interruption which this might be made to produce evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote that when he desires the reading, if it be seen that it is really for information and not for delay, the Speaker directs it to be read without putting a question, if no one objects; but if objected to, a question must be put.—2 *Hats.*, 117, 118.

The SPEAKER. The Chair will decide the point when the House next meets, and the unfinished business is in order.

Mr. WAIT. When private bills come up to-night, and one member objects, will that prevent the passage of the bill?

The SPEAKER. The order of the House will be read.

The Clerk read as follows:

Resolved, That Friday and Saturday evenings of next week be set apart for the consideration of the Private Calendar, to be considered as objection days.

The SPEAKER. The call of the Private Calendar will commence where it left off last objection day.

Mr. CONGER. I desire to say if the Speaker will state what position this report, when printed, will be in—whether it can be brought up on the call of the member reporting it, or what other position it will be in—I would know and the House would know whether they desire to hear it read or not.

The SPEAKER. It is a report which a commission under the law was directed to make, and as it is before the House it will come up on the motion to print; which question is undecided, and consequently unfinished.

Mr. CONGER. I understand that; but suppose it is ordered to be printed and that is disposed of?

Mr. BOONE. That disposes of the report.

The SPEAKER. The Chair is not so clear on that point.

Mr. BOONE. That at least is all my motion comprehends.

The SPEAKER. The Chair will look into the question, which is a new one.

Mr. CONGER. That is the only reason why I demanded the reading of the report, so we might know whether this question could be sprung upon the House at any time or not.

The SPEAKER. It could never be sprung upon the House.

Mr. CONGER. I mean whether it could be called up.

The SPEAKER. The Chair thinks it has lost its privilege of being considered and would go over as any other subject under the rules of the House to the Calendar.

Mr. CONGER. Then I move to amend the pending motion. I withdraw my demand for the reading of the reports.

The SPEAKER. There is a place on the Calendar provided for such reports.

Mr. CONGER. I move the bill be referred to the Committee of the Whole on the state of the Union.

Mr. BOONE. I have made the motion that the reports be printed.

Mr. CONGER. And I move the motion be so amended that the reports shall be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The place where the rule requires it to go. The rule will be read.

Mr. CONGER. It would if it came through the Chair undoubtedly.

Mr. BURCHARD. The gentleman from Kentucky says he desires no action, but only that the report shall be received and ordered to be printed. If that be so I presume there will be no further objection.

Mr. CONGER. That is all I want.

Mr. BOONE. That is all my motion comprehends.

The SPEAKER. This is the report of a commission and will go to the Calendar as undisposed of.

Mr. CONGER. Can it be brought up as a privileged question?

The SPEAKER. Only by the usual action under the rules. It has no precedence over any other business now.

Mr. CONGER. If that is its position it meets all I desire, and I withdraw my motion.

Mr. BOONE's motion to print was then agreed to.

Mr. CONGER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The House will meet this evening at seven o'clock and thirty minutes p. m.

Mr. FRANKLIN. That is if there is a quorum here to take a recess.

Mr. BRIGHT. I move that the House take a recess.

The House divided; and there were—ayes 39, noes 51.

Mr. WHITE, of Pennsylvania. I move the House adjourn.

Mr. ITTNER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 55, not voting 168; as follows:

YEAS—65.

Baker, John H.	Crittenden,	Majors,	Steele,
Bayne,	Cutler,	Marsh,	Strait,
Blount,	Davis, Joseph J.	Martin,	Tipton,
Bouck,	Dean,	Mayham,	Townsend, M. I.
Bragg,	Eden,	McGowan,	Townshend, R. W.
Bundy,	Evans, I. Newton	McKenzie,	Tucker,
Cabell,	Evins, John H.	Peddie,	Wait,
Cain,	Franklin,	Pollard,	Ward,
Caldwell, John W.	Hanna,	Reagan,	Watson,
Candler,	Hartzell,	Robbins,	White, Harry
Cannon,	Herbert,	Ryan,	Williams, James
Clark of Missouri,	Hewitt, G. W.	Scales,	Williams, Jere N.
Clarke of Kentucky,	Humphrey,	Shelley,	Willits,
Clark, Rush	Hungerford,	Singleton,	Yeates.
Cole,	Lathrop,	Sinnickson,	
Covert,	Ligon,	Smalls,	
Cravens,	Maish,	Smith, A. Herr	

NAYS—55.

Aldrich,	Cummings,	Harris, Benj. W.	Pugh,
Atkins,	Deering,	Henderson,	Rice, William W.
Baker, William H.	Dibrell,	Hooker,	Robinson, G. D.
Banning,	Dickey,	Ittner,	Robinson, M. S.
Beebe,	Dunnell,	Kenna,	Sampson,
Blair,	Durham,	Lindsey,	Springer,
Boone,	Eames,	Mackey,	Stewart,
Bright,	Elam,	Manning,	Stone, Joseph C.
Brogden,	Ellsworth,	McKinley,	Throckmorton,
Burchard,	Gardner,	Money,	Townsend, Amos
Chalmers,	Giddings,	Norcross,	Van Voorhes,
Claflin,	Glover,	Oliver,	Williams, Richard
Conger,	Hamilton,	Patterson, G. W.	Willis, Benj. A.
Cox, Samuel S.	Hardenbergh,	Patterson, T. M	

NOT VOTING—168.

Acklen,	Dwight,	Jones, James T.	Reed,
Aiken,	Eickhoff,	Jorgensen,	Reilly,
Bacon,	Ellis,	Joyce,	Rice, Americus V.
Bagley,	Errett,	Keifer,	Riddle,
Bailey,	Evans, James L.	Keightley,	Roberts,
Ballou,	Ewing,	Kelley,	Robertson,
Banks,	Felton,	Ketcham,	Ross,
Bell,	Finley,	Killinger,	Sapp,
Benedict,	Forney,	Kimmel,	Sayler,
Bicknell,	Fort,	Knapp,	Sexton,
Bisbee,	Foster,	Knott,	Shallenberger,
Blackburn,	Freeman,	Landers,	Slemons,
Bland,	Frye,	Lapham,	Smith, William E.
Bliss,	Fuller,	Lockwood,	Southard,
Boyd,	Garfield,	Loring,	Sparks,
Brentano,	Garth,	Luttrell,	Starin,
Brewer,	Gause,	Lynde,	Stenger,
Bridges,	Gibson,	McCook,	Stephens,
Briggs,	Goode,	McMahon,	Stone, John W.
Browne,	Gunter,	Metcalfe,	Swann,
Buckner,	Hale,	Mills,	Thompson,
Burdick,	Harmer,	Mitchell,	Thornburgh,
Butler,	Harris, Henry R.	Monroe,	Turner,
Caldwell, W. P.	Harris, John T.	Morgan,	Turney,
Calkins,	Harrison,	Morrison,	Vance,
Camp,	Hart,	Morse,	Veeder,
Campbell,	Haskell,	Muldrow,	Waddell,
Carlisle,	Hatcher,	Muller,	Walker,
Caswell,	Hayes,	Neal,	Walsh,
Chittenden,	Hazelton,	O'Neill,	Warner,
Clark, Alvah A.	Hendee,	Overton,	White, Michael D.
Clymer,	Henkle,	Page,	Whitthorne,
Cobb,	Henry,	Phelps,	Wigginton,
Collins,	Hewitt, Abram S.	Phillips,	Williams, Andrew
Cook,	Hiscock,	Potter,	Williams, C. G.
Cox, Jacob D.	House,	Pound,	Willis, Albert S.
Crapo,	Hubbell,	Powers,	Wilson,
Culberson,	Hunter,	Price,	Wood,
Danford,	Hunton,	Pridemore,	Wren,
Davidson,	James,	Rainey,	Wright,
Davis, Horace	Jones, Frank	Randolph,	Young, Casey
Denison,	Jones, John S.	Rea,	Young, John S.

During the roll-call the following announcements were made:

Mr. PUGH. I desire to announce that Mr. BRIGGS is paired with Mr. VANCE. If he were present, Mr. BRIGGS would vote "no."

Mr. WAIT. I desire to state that Mr. O'NEILL is absent by leave of the House, and he is paired with Mr. ELLIS.

Mr. ITTNER. Mr. HAYES is absent on account of sickness.

Mr. TOWNSHEND, of Illinois. My colleague, Mr. KNAPP, is paired with Mr. MORGAN.

Mr. WARD. Mr. SHALLENBERGER is paired with Mr. EICKHOFF. If he were present, Mr. SHALLENBERGER would vote "no."

ENROLLED JOINT RESOLUTION SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor and other naval officers; when the Speaker signed the same.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SHALLENBERGER for three days.

WITHDRAWAL OF PAPERS.

Mr. TUCKER asked unanimous consent to withdraw from the files of the House the papers relating to the claim of Mrs. E. T. Morehead, there having been an adverse report by the Committee of Claims in the Forty-third Congress.

Under the rule the request was referred to the Committee on Claims.

The result of the vote was then announced as above recorded.

And accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. ALDRICH: The petition of Mary A. Blanchard and 195 other women, of Wheaton, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Field, Leiter & Co. and 56 other firms, importers and consignees of imported goods, of Chicago, Illinois, for the repeal of the immediate-transportation act of July 14, 1870—to the Committee of Ways and Means.

By Mr. BRIDGES: The petition of the president of the National Cigar Manufacturers' Association, against a change of the present method of stamping cigars—to the same committee.

Also, memorial and joint resolution of the Legislature of Nevada, relative to the regulation of interstate railroads—to the Committee on Commerce.

Also, the petition of Mary Byrd Dallas, widow of the late Commodore Alexander James Dallas, of the United States Navy, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. COX, of New York: The petition of J. W. Forshay and 80 others, citizens of New York City, for the redemption of small coin with legal-tenders—to the Committee on Coinage, Weights, and Measures.

By Mr. ELLSWORTH: The petition of Miriam C. Miller, Jesse W. Miller, Marianne S. Morse, Julia A. Roseman, Lucy R. Garbutt, and 40 other women, of Stanton, Michigan, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. HAYES: The petition of Frank Searles and others, for such legislation as will prevent the adulteration of sweets—to the Committee of Ways and Means.

By Mr. McMAHON: The petition of Peter Jordon, for a pension—to the Committee on Invalid Pensions.

Also, the petition of Michael Maher, for an increase of pension—to the same committee.

By Mr. MITCHELL: The petition of women of Allegheny, Pennsylvania, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. MONEY: The petition of Francis M. Albaugh, for a pension—to the Committee on Invalid Pensions.

By Mr. PHELPS: The petition of Mrs. R. E. Ingham and 37 other ladies, of Saybrook, Connecticut, for the enforcement of the law against polygamy—to the Committee on the Judiciary.

By Mr. POTTER: The petition of members of the Monumental Association of Tarrytown, New York, for an appropriation for the erection of a monument to the captors of Major Andre—to the Committee on the Library.

Also, the petition of women of North Castle, New York, against polygamy—to the Committee on the Judicary.

By Mr. POWERS: The petition of James H. Tunks, for a pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of the Women's Christian Temperance Union and 70 others, of Muscatine, Iowa, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

Also, the petition of Mrs. E. A. Pierson and 32 others, of similar import—to the same committee.

Also, the petition of the Women's Christian Temperance Union of Keota, Iowa, and 50 others, of similar import—to the same committee.

Also, the petition of the Women's Christian Temperance Union and 170 others of College Springs, Iowa, of similar import—to the same committee.

By Mr. ROSS: The petition of masters, agents, and owners of vessels engaged in the coasting trade between the Chesapeake Bay and northern ports, for the erection of a breakwater at the mouth of Chincoteague Inlet, Virginia—to the Committee on Commerce.

By Mr. SMITH, of Pennsylvania: The petition of George W. Brintnall—to the Committee on Invalid Pensions.

By Mr. SPARKS: The petition of the women of Greenville, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. STEWART: The petition of the Duluth (Minnesota) Chamber of Commerce, for an appropriation for the construction of a wagon-road from Duluth to the boundary-line between the United States and Canada—to the Committee on Appropriations.

By Mr. TOWNSEND, of New York: The petition of the president of the National Cigar Manufacturers' Association, against changing the present method of stamping cigars—to the Committee of Ways and Means.

Also, the petition of C. R. Doolittle and others, that he be appointed a mail agent on the Boston, Hoosac Tunnel and Western Railroad—to the same committee.

By Mr. WILLITS: The petition of 53 women of Alpena, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

IN SENATE.

SATURDAY, *February* 1, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. No. 4468) to abandon a portion of Rock street, in the city of Georgetown, and for other purposes;

A bill (H. R. No. 4579) concerning street railroads in the District of Columbia;

A bill (H. R. No. 4950) to quiet title to real estate in the District of Columbia;

A bill (H. R. No. 5370) to incorporate the Mount Pleasant and Potomac Side Railway Company;

A bill (H. R. No. 5371) to amend the act incorporating the Capitol, North O Street and South Washington Railway Company;

A bill (H. R. No. 6175) to incorporate the Mount Pleasant Railroad Company of the District of Columbia;

A bill (H. R. No. 6259) to incorporate the Washington Eye, Ear, and Throat Hospital;

A joint resolution (H. R. No. 228) authorizing the commissioners of the District of Columbia to receive and report upon unadjusted claims for damage to real estate in the District of Columbia; and

A joint resolution (H. R. No. 229) making an appropriation for filling up, draining, and placing in good sanitary condition the grounds south of the Capitol along the line of the old canal, and for other purposes.

HOLMEAD'S CEMETERY.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. No. 1108) to protect Holmead's Cemetery, in the District of Columbia.

The amendment of the House of Representatives was read, being to strike out all after the enacting clause of the bill and in lieu thereof to insert:

That all the right and title of the United States to and in square No. 109, in the city of Washington, commonly known as Holmead's Cemetery, be, and the same is hereby, granted to and vested in the District of Columbia, and shall be used by said District for public-school purposes, and for none other. The commissioners of the District, or their successors in office, may at any time sell any part or the whole of said square; but the proceeds of such sale or sales shall be exclusively invested in sites for public schools or in the erection or purchase of school buildings, and shall be used for no other purpose whatever. But before making any disposition of the said square, the District of Columbia shall remove all the bodies remaining interred therein to some suitable burial-ground, together with all tombstones or other monuments remaining at the graves from which the bodies are so removed.

And to amend the title so as to read:

A bill to transfer the title of the United States to square 109 to the District of Columbia for the benefit of public schools thereof.

The amendment was referred to the Committee on the District of Columbia.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers, communicating further information respecting the plan of a national survey proposed by the National Academy of Sciences.

The VICE-PRESIDENT. The communication will be referred to the Committee on Appropriations.

Mr. SARGENT. If the communication, which I did not hear distinctly, relates to the cost of executing surveys I ask that it be printed. Is that the subject-matter?

The VICE-PRESIDENT. The Chair thinks not. The Chair understands that there is a communication from the Superintendent of the Coast Survey among the papers transmitted.

Mr. SARGENT. I move that it be printed and referred to the Committee on Appropriations.

The motion was agreed to.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting five sheets of drawings to accompany the letter from Captain James B. Eads which was forwarded to the Senate on the 27th of January with a report from a board of officers appointed to examine the works in progress of construction at the mouth of the Mississippi River; which was referred to the Committee on Commerce.

He also laid before the Senate a communication from the Secretary of War, transmitting a communication from the Commissary-General of Subsistence relative to the organization of the Subsistence department as proposed in the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation; which was referred to the Committee on Military Affairs.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Attorney-General relative to extravagant damages awarded by local juries in the State courts in cases arising out of the Fox and Wisconsin River improvement act.

The VICE-PRESIDENT. The communication will be referred to the Committee on Commerce.

Mr. SARGENT. Ought it not to go to the Committee on the Judiciary?

The VICE-PRESIDENT. It relates to the Fox and Wisconsin River improvement.

Mr. SARGENT. It refers to the matter of giving jurisdiction to the circuit courts in certain cases named therein.

The communication was referred to the Committee on the Judiciary.

The VICE-PRESIDENT also laid before the Senate a communication from the Secretary of War, transmitting special estimates of appropriations required for the service of the War Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Legislature of Colorado, in favor of the passage of the bill providing for the holding of the terms of the United States district court at certain places in that State; which was referred to the Committee on the Judiciary.

Mr. EDMUNDS presented the petition of Mrs. E. B. Stebbins and a large number of other women, citizens of Sheldon, Vermont, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. KIRKWOOD presented the petition of Mrs. D. B. Gordon and 67 other ladies, of Nevada, Iowa, praying for the passage of an act making effective the anti-polygamy act of 1862; which was referred to the Committee on the Judiciary.

Mr. WITHERS presented the petition of James B. Brown and 681 others, members of Auburn Mills Grange No. 113, and a large number of farmers of Hanover County, Virginia, praying for a reduction of the tax on tobacco; which was referred to the Committee on Finance.

Mr. SARGENT. I present the memorial of William Coleman & Co., Pope & Talbot, and other firms of San Francisco, California, among whom I recognize the names of many merchants, who style themselves "merchants, ship-owners, and other citizens of the United States," who during the late rebellion paid war premiums to underwriters for insurance against loss in case of destruction or capture by the Alabama or other confederate cruisers. They represent that "the insurance companies having been indemnified for the losses they have been called upon to pay on account of captures or destruction of property by such cruisers, by the extra rates commonly called war premiums, which your memorialists and others have paid, we claim that in justice and in equity so much of the Alabama claims fund as will reimburse the insured citizens of the United States for war premiums so paid, should be applied and disposed of for that purpose; and we respectfully pray Congress to enact such laws as may be necessary to accomplish this end." I believe the legislation appropriate to that prayer has passed the House of Representatives and is now before the Judiciary Committee of the Senate. I hope that we shall have a report at this session in time to act upon it. I move the reference of the memorial to that committee.

The motion was agreed to.

Mr. CAMERON, of Pennsylvania, presented the memorial of Ed. A. Smith, president of the National Cigar Manufacturers' Association, remonstrating against the proposed change in the present method of stamping cigars by attaching a coupon stamp; which was referred to the Committee on Finance.

Mr. McMILLAN presented a memorial of the Chamber of Commerce of Duluth, Minnesota, in favor of an appropriation for the improvement of the wagon-road between Duluth and Nett Lake in that State; which was referred to the Committee on Appropriations.

He also presented the petition of Mary L. Carroll and 3,539 others, citizens of Minnesota, praying for the passage of a law to prohibit the sale of intoxicating liquors in the District of Columbia except for medicinal, mechanical, and scientific purposes; which was referred to the Committee on the District of Columbia.

Mr. HILL presented the petition of J. M. Dodd and others, citizens of Gwinnell County, Georgia, praying for the establishment of a post-route from Duluth to Warsaw, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KIRKWOOD presented the petition of C. C. Horton, of Muscatine, Iowa, praying for a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. BOOTH, from the Committee on Patents, to whom was referred the bill (S. No. 1430) for the relief of Daniel M. Cook, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the petition of G. Nelson, daughter of and one of the executors of the estate of W. F. Nelson, deceased, late chaplain of the United States Army, praying to be allowed an amount of money equal to the amount of commutation for quarters and rations claimed to be due to her late father while on duty at Washington Park United States hospital at Cincinnati, Ohio, submitted a report thereon accompanied by a bill (S. No. 1746) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor of the estate of W. F. Nelson, deceased.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. HOAR. The minority of the Committee on Privileges and Elections, to which committee were referred sundry petitions asking for an amendment of the Constitution forbidding the prohibition of the right of suffrage on account of sex, had leave of the Senate to submit a minority report, which I now present, and I ask that the majority report and the minority report may be printed together.

The VICE-PRESIDENT. That order will be entered.

TRANSFER OF INDIAN BUREAU.

Mr. McCREERY. I present the report of four members of the joint committee appointed by the two Houses of Congress at the last session to take into consideration the expediency of transferring the management of the Indian Bureau from the Interior Department to the War Department. The committee are equally divided. Four members have already submitted their report, and I now submit the report of the others. I ask that it be printed.

Mr. ALLISON. I suggest to the Senator from Kentucky that these two reports be printed in a single volume.

Mr. McCREERY. Certainly.

The VICE-PRESIDENT. That order will be observed.

BILLS INTRODUCED.

Mr. SAUNDERS (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1747) to restore records of the Patent Office which have been burned or lost; which was read twice by its title, and referred to the Committee on Patents.

Mr. WINDOM (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1748) for the relief of William Webster; which was read twice by its title, and referred to the Committee on Claims.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1749) granting a pension to Thomas J. Anthony; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1750) making appropriations for military roads in the Territory of Idaho; which was read twice by its title, and referred to the Committee on Military Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1751) providing for a military post in Lemhi Valley, Idaho Territory; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO BILLS.

Mr. COKE submitted an amendment intended to be proposed by him to the bill (S. No. 1498) to authorize the Secretary of War to contract with the Galveston and Camargo Railway Company for the immediate construction of its line of road to Rio Grande City, opposite Camargo, Mexico, as a coast defense, and for the purpose of establishing a commercial and military rail highway to the Rio Grande; which was referred to the Committee on Railroads, and ordered to be printed.

Mr. COCKRELL submitted an amendment intended to be proposed by him to the bill (H. R. No. 6126) to establish post-routes in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. BECK and Mr. MITCHELL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 138) for the relief of Henry M. Meade, late paymaster in the United States Navy;

A bill (H. R. No. 1763) to authorize the Secretary of the Interior to invest in the bonds of the United States the unexpended balance of the money appropriated to the L'Anse and Vieux de Sert bands of Lake Superior;

A bill (H. R. No. 2633) for the relief of Amanda M. Cook;

A bill (H. R. No. 4258) for the relief of settlers upon the absentee Shawnee lands in Kansas, and for other purposes; and

A bill (H. R. No. 6270) for the relief of Joseph B. Collins.

The message also announced that the House had passed the following bills:

A bill (S. No. 351) for the relief of the domestic and Indian missions and Sunday-school board of the Southern Baptist convention; and

A bill (S. No. 1662) making appropriation for the purchase of a site and for the erection thereon of a military post at El Paso, Texas.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. No. 5180) to abolish the volunteer navy of the United States, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. C. WHITTHORNE of Tennessee, Mr. BENJAMIN W. HARRIS of Massachusetts, and Mr. JOHN GOODE of Virginia managers at the conference on its part.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had

signed the joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor and other naval officers; and it was thereupon signed by the Vice-President.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following act and joint resolution:

An act (S. No. 623) to amend section 993 of the Revised Statutes of the United States for the District of Columbia so as to make the 22d day of February a holiday within said District; and

A joint resolution (S. R. No. 27) providing for transportation by the military authorities of John J. Manuel and two infant daughters from Camp Howard, Idaho Territory, to Saint Charles, Missouri.

ABOLITION OF VOLUNTEER NAVY.

The Senate proceeded to consider its amendment to the bill (H. R. No. 5180) to abolish the volunteer navy of the United States disagreed to by the House of Representatives.

On motion of Mr. SARGENT, it was

Resolved, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

The Vice-President appointed Mr. SARGENT, Mr. ANTHONY, and Mr. MCPHERSON.

HOUSE BILLS REFERRED.

The bill (H. R. No. 6270) for the relief of Joseph B. Collins was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. No. 138) for the relief of Henry M. Meade, late paymaster in the United States Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Indian Affairs:

A bill (H. R. No. 1763) to authorize the Secretary of the Interior to invest in the bonds of the United States the unexpended balance of the money appropriated to the L'Anse and Vieux de Sert bands of Lake Superior;

A bill (H. R. No. 2633) for the relief of Amanda M. Cook; and

A bill (H. R. No. 4258) for the relief of settlers upon the absentee Shawnee lands in Kansas, and for other purposes.

PRIVATE LAND CLAIMS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill (S. No. 376) to provide for ascertaining and settling private land claims in certain States and Territories. This bill was referred to the Committee on Private Land Claims on the 6th of December, 1877, and reported with an amendment on the 20th of May, 1878, by myself, under the direction of that committee. As it involves interests important to the United States and to the settlers in sundry southwestern Territories, and as I think it will only occupy a very short time, I ask the Senate to take it up.

The VICE-PRESIDENT. Is there objection?

Mr. VOORHEES. Is not the bill on the Calendar?

Mr. EDMUNDS. It is on the Calendar, and was reported on the 20th of May last.

Mr. VOORHEES. We have not yet reached the Calendar in the order of business.

Mr. EDMUNDS. No, sir; the Calendar comes up at one o'clock.

Mr. VOORHEES. Do I understand the Senator to say that he thinks the consideration of this bill will not take much time?

Mr. EDMUNDS. I think it will not, because it meets the unanimous approval of the committee, and it is a matter of detail and regulation. I had the impression, therefore, that it would probably be disposed of without any serious discussion.

Mr. VOORHEES. I do not want to antagonize the Senator's bill, but I simply remind him that there is also upon the Calendar a bill with a report in its favor that was reported to this body eleven months ago, it will now soon be a year. I make no objection to the bill being taken up.

The VICE-PRESIDENT. To the request of the Senator from Vermont the Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Private Land Claims with an amendment.

Mr. EDMUNDS. Although the amendment is very like in many respects the original bill, as it is a complete redraft, I presume there will be no objection to reading the amendment in place of the bill.

The VICE-PRESIDENT. The substitute will be treated as the original bill.

The amendment reported from the Committee on Private Land Claims was read, being to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That it shall and may be lawful for any person or persons, or their legal representatives, claiming lands within the limits of the Territory derived by the United States from the Republic of Mexico and now embraced within the Territories of New Mexico, Wyoming, Arizona, or Utah, or within the States of Nevada or Colorado, by virtue of such lawful Spanish or Mexican grant, concession, warrant, or survey, as the United States are bound to recognize by virtue of the treaties of cession of said country by Mexico to the United States, which, at the date of the passage of this act, have not been confirmed by act of Congress, or otherwise decided upon by lawful authority, in every such case to present a petition, in writing, to the judge of the district court of the United States in a State or Territory for the judicial district in which such lands may be situate, setting forth fully the nature of their claims to the lands, and particularly stating the date and form of the grant, concession, warrant, or order of survey under which they claim, by whom made, the name or names of any person or persons in possession of or claiming the same, or any part thereof, otherwise than by the lease or permission of the petitioner; and, also, the quantity of land claimed, and the boundaries thereof, where situate, with a map showing the same, as near as may be; and whether the said claim has heretofore been confirmed, considered, or acted upon by Congress, or the authorities of the United States, or been heretofore submitted to any authorities constituted by law for the adjustment of land-titles within the limits of the said Territory so acquired, and by them reported on unfavorably or recommended for confirmation, or authorized to be surveyed or not; and praying in such petition that the validity of such title or claim may be inquired into and decided. And the said courts respectively are hereby authorized and required to take and exercise jurisdiction of all cases or claims presented by petition in conformity with the provisions of this act, and to hear and determine the same, as hereinafter provided, on the petition and proofs in case no answer or answers be filed after due notice, or on the petition and the answer or answers of any person or persons interested in preventing any claim from being established, and the answer of the district attorney, where he may have filed an answer, and such testimony and proofs as may be taken; and a copy of such petition, with a citation to any adverse possessor or claimant, shall, immediately after the filing of the same, be served on such possessor or claimant in the ordinary legal manner of serving such process in the proper State or Territory, and in like manner on the district attorney of the United States; and it shall be the duty of the United States attorney for the proper district, as also any adverse possessor or claimant, after service of petition and citation, as hereinbefore provided, within thirty days, unless further time shall, for good cause shown, be granted by the judge or court to whom said petition is presented, to enter an appearance, and plead, answer, or demur to said petition; and in default of such plea, answer, or demurrer being made within said thirty days, or within the further time which may have been granted as aforesaid, the court shall proceed to hear the cause on the petition and proofs, and render a final decree according to the provisions of this act; and in no case shall a decree be entered otherwise than upon full legal proof and hearing; and in every case the court shall require the petition to be sustained by satisfactory proofs, whether an answer or plea shall have been filed or not.

SEC. 2. That all proceedings subsequent to the filing of said petition shall be conducted as near as may be according to the rules of the courts of equity in the proper Territory or court of the United States in the States, except that the answer of the attorney of the United States shall not be required to be verified by his oath, and no continuance shall be granted unless for good cause shown; and the said courts shall have full power and authority to hear and determine all questions arising in said case relative to the title of the claimants, the extent, locality, and boundaries of said claim, or other matters connected therewith, fit and proper to be heard and determined, and by a final decree to settle and determine the question of the validity of the title and the boundaries of the grant or claim presented for adjudication, according to the law of nations, the stipulations of the treaty concluded between the United States and the Republic of Mexico, at the city of Guadalupe Hidalgo, on the 2d day of February, A. D. 1848, or the treaty concluded between the same powers at the City of Mexico, on the 30th day of December, A. D. 1853, and the laws and ordinances of the government from which it is alleged to have been derived, and all other questions properly arising between the claimants or other parties in the case and the United States, which decree shall in all cases refer to the treaty, law, or ordinance under which such claim is confirmed or rejected; and in all cases the party against whom the judgment or decree of said district court may be finally rendered shall be entitled to an appeal to the supreme court of the proper Territory, or if the case be in a United States court in a State to the Supreme Court of the United States, which shall be taken and allowed in the manner now prescribed by law for taking appeals from said courts; which Supreme Court shall retry the cause, as well the issues or questions of fact as of law, and may hear testimony in addition to that given in the court below; and either party shall be allowed one year in which to appeal from the decision of the supreme court of such Territory or the district court in a State to the Supreme Court of the United States, in which court every question shall be open, and whose decision shall be final and conclusive; and should no appeal be taken, the judgment or the decree of the said district court shall in like manner be final and conclusive, as also the decision of the supreme court of the Territory unless appealed from.

SEC. 3. That the testimony which has been heretofore lawfully and regularly received by the surveyor-general of the proper Territory or State, or by the Commissioner of the General Land Office, upon all claims presented to them respectively, shall be admitted in evidence in all trials under this act when the person testifying is dead, so far as the subject-matter thereof is competent evidence; and the court shall give it such weight as, in its judgment, under all the circumstances, it ought to have.

SEC. 4. That it shall be the duty of the Commissioner of the General Land Office of the United States, the surveyors-general of such Territories and States, or the keeper of any public records who may have possession of the records and testimony pertaining to any land-grants or claims for land within said States and Territories, in relation to which any petition shall be brought under this act, on the application of any person interested, or by the attorney of the United States for either of said Territories or districts, to furnish copies of such records and testimony, certified under his official signature, with the seal of office thereto annexed, if there be a seal of office; which copies, if the originals are not within the jurisdiction of the court, shall have the same effect as testimony that the originals would have if produced. The legal fees shall be paid for such copies by the parties applying for the same, except the attorney of the United States.

SEC. 5. That the provisions of this act shall extend only to such claims as may be presented and filed within three years from the date of its passage; and all petitions under this act may be presented in vacation or term-time, but the final hearing on the same shall be had and the final decree rendered only at the regular terms of the district courts; and the judges of said district courts and the supreme courts in the said Territories are hereby authorized, in vacation, in all cases arising under this act, to grant all orders for taking testimony, or otherwise to hear and dispose of all motions, and do all other things necessary to be done to bring the same on to a final hearing.

SEC. 6. That upon the final decision of any claim prosecuted under this act, in favor of the claimant or claimants, it shall be the duty of the clerk of the court in which such final decree is had to transmit a duly certified copy of the decree to the surveyor-general of the proper Territory, who shall thereupon cause the lands specified in said decree to be surveyed at the expense of the United States. Triplicate plats and certificates of the survey so made shall be returned into his office, one of which shall remain in his office, and one, duly authenticated, shall be delivered, on demand, to the party interested therein, and one shall be sent to the Commissioner of the General Land Office; on receipt and approval of which survey and plat by said Commissioner, the President of the United States shall issue a patent to said claimant, subject to the provisions of this act; but one-half the necessary expense of making such survey and plat shall be paid by the claimant, and

shall be a lien on said land, which may be enforced by sale of so much thereof as shall be necessary for that purpose, after a default of payment thereof for six months next after the approval of such survey and plat; and no patent shall issue until such payment.

SEC. 7. That the clerk of the court in which such petition may be filed shall, and he is hereby directed, when any petition or claim is filed under the provisions of this act, before any proceedings thereon, subject to the direction of a judge, to require reasonable security for all costs and charges which may accrue thereon in prosecuting the same to a final decree; and the district attorney, clerk, marshal, and witnesses shall severally be allowed such fees for their services and attendance as may be allowed by law for the like services and attendance in the United States courts for the proper State or Territory.

SEC. 8. That it shall be the duty of the attorney of the United States for the proper Territory, in every case when the decision or decree of the district court is against the United States, to appeal the cause to the supreme court of the Territory; and if the decision of the latter court be against the United States, a copy of the decree, with a statement of the legal questions involved, shall be transmitted by the district attorney to the Attorney-General; and in like manner he shall transmit a copy of the decree in any case in the district court in a State, and, unless the Attorney-General shall otherwise direct, the district attorney shall appeal the cause to the Supreme Court of the United States.

SEC. 9. That if in any case it shall so happen that the lands decreed to any claimant under the provisions of this act shall have been sold or granted for a valuable consideration by the United States, it shall be lawful for such claimants, or their legal representatives, at any time within one year after the rendition of the final decree in their favor, to execute and file, in the office of the Commissioner of the General Land Office, a release to the United States of all right, title, or claim to the land so sold or granted by the United States; and thereupon there shall be issued by the said Commissioner, (under such regulations as may be prescribed by the Secretary of the Interior,) to such claimant or his legal representatives, scrip for an equal amount of acres so released in quantities not exceeding six hundred and forty acres each, which scrip shall be assignable in such form as may be prescribed by said Secretary, and shall be receivable in payment for any public lands in either of said Territories or States respectively that may be subject to private entry.

SEC. 10. That the provisions of this act shall extend to any city lot, town lot, village lot, farm lot, or pasture lot held under a grant from any corporation or town to which lands may have been lawfully granted for the establishment of a city, town, or village by the Spanish or Mexican government, or the lawful authorities thereof; but the claim for said city, town, or village shall be presented by the corporate authorities of the said city, town, or village, or, where the land upon which said city, town, or village is situated was originally granted to an individual, the claim shall be presented by or in the name of said individual.

SEC. 11. That all claims which are capable of being prosecuted under the provisions of this act shall, after three years from the taking effect of this act, if no petition in respect to the same shall have been filed as hereinbefore provided, be deemed and taken, in all courts and elsewhere, to be abandoned, and shall be forever barred.

SEC. 12. That all the foregoing proceedings and rights shall be conducted and decided, subject to the following provisions, as well as to the other provisions of this act, namely:

First. No claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the government of Spain or Mexico, or, if incomplete, one that at the date of the acquisition of the territory by the United States the claimant would have had a lawful right to make perfect, had the territory not been acquired by the United States, and that the United States are bound, upon the principles of public law, or by the provisions of the treaty of cession, to respect and permit to become complete and perfect.

Second. No claim shall be allowed that shall interfere with or overthrow any just and unextinguished Indian title or right to any land or place.

Third. No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed under provided for and effected the donation or sale of such mines or minerals to the grantee; but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act.

Fourth. No claim shall be allowed for any land the right to which has hitherto been lawfully acted upon and decided by Congress, or under its authority.

Fifth. No proceeding, decree, or act under this act shall conclude or affect the private rights of persons as between each other; all which rights shall be reserved and saved to the same effect as if this act had not been passed; but the proceedings, decrees, and acts herein provided for shall be conclusive of all rights as between the United States and all persons claiming any interest or right in such lands.

Sixth. No confirmation of or decree concerning any claim under this act shall in any manner operate or have effect against the United States otherwise than as a release by the United States of its right and title to the land confirmed; nor shall it operate to make the United States in any manner liable in respect of any such grants, claims, or lands, or their disposition, otherwise than as herein provided.

Seventh. No confirmation shall in any case be made or patent issued for a greater quantity than eleven square leagues of land, to or in the right of any one original grantee or claimant, nor for a greater quantity than was authorized by the respective laws of Spain or Mexico applicable to the claim.

SEC. 13. That section 8 of the act of Congress approved July 22, A. D. 1854, entitled "An act to establish the offices of surveyor-general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and all acts amendatory or in extension thereof, or supplementary thereto, and all provisions of law inconsistent with this act, be, and the same are hereby, repealed.

Mr. SARGENT. This is a very important bill, and I do not think it ought to pass without at least an explanation. I think there ought to be a very careful examination before we pass this bill.

Mr. EDMUNDS. I will make all the explanation I can that any gentleman requires. The bill is designed to settle the land titles derived from the Spanish and Mexican governments only, in the Territories and States of the United States that came to the dominion of the United States from the governments either of Spain or of Mexico. Part of these Territories we obtained from Spain through France, part we obtained from Spain directly; and part we obtained from Spain through Mexico, which is the largest part. This is only a provision such as was made for California, with such changes as experience has proved to be necessary to enable the United States to perform the duty that it undertook to perform by the treaties through which it acquired dominion over this country, and that is, to recognize and protect rights of property derived from the governments from whom we obtained these Territories.

The necessity for such legislation I need hardly speak about. It has been attempted to be obviated in these Territories hitherto for many years by a variety of empirical contrivances—if I may use such a term—of having surveyors-general and recorders of land titles, and all sorts of executive people take evidence and report to the General Land Office, and so on, and allow confirmations or rejections to be made upon that. The evils of that method have been discovered to be enormous. If a claim was rejected under that method of investigation, the claimant was never satisfied, and year after year he or his grantees or assignees or heirs would continually apply to Congress to confirm the grant which the executive officers under the law had already rejected; and like most cases of such application persistence at last would very frequently win, when if the case had been determined upon judicial principles and in a judicial court where there was no outside elbowing and button-holing and pressure and sympathy, there is not one in ten of them probably that have ever been confirmed by Congress which were originally rejected by the executive officers that would have been allowed, or should have been.

Experience also has demonstrated very largely in cases of these confirmations of particular grants by Congress, that Congress very often was led into confirming a grant to a particular ranch or claim by name instead of by metes and bounds. The consequence has been discovered to be in many instances to make grants a hundred times greater than the original grant was intended to be by the Spanish or the Mexican governments; but the act of Congress having used a description that was capable of such elasticity as a description by name is, there was no help for it, and these people got the land. Several cases of that kind have been discovered in the courts through disputes between private persons, where the fraud turned out to be enormous.

Then, on the other hand, in respect of the cases that the surveyors-general and the Commissioners of the General Land Office have confirmed, it has been too frequently discovered that the surveyors-general and the local officials whoever they were who had to do these things in these distant Territories and at the land offices, and so on, would either through prejudice, or ignorance, or bias, or something worse, allow a case on paper to be made up of the validity of a claim which had no real foundation at all, and would send on the certified statements of their findings, &c., to the General Land Office in the Interior Department, where everything would appear to be perfectly fair, and get a patent in that way.

These Territories, particularly Arizona and New Mexico, where the largest part of these unadjusted claims now exist, are rapidly settling up through the introduction of railroads and otherwise, and the necessity for the peace and prosperity of these Territories, and the good order of society, of having the land titles quieted, is of course very great.

The original draught of the bill proposed commissioners in the fashion of the original California proceeding. The committee thought, after a careful investigation, after hearing the views of the Department of the Interior, the views of Senators and Delegates from these Territories, the views of many claimants of claims themselves, who claimed to be owners of these grants, that it was better for all parties concerned, in respect of speed as well as in respect of the due administration of justice between them all, to begin at once in the district courts of the Territories, or where it happens to be in a State, of which there are a very few instances, in the United States district court for the State, for the reason that if you begin with commissioners every case has to be reported to the district court, or may be appealed there, where it is retried as an open case upon the evidence as well as upon the questions of law that arise. The committee all thought that it was much better in respect of economy and diligence as well as safety to have the territorial district courts and the district courts of the United States in the States take original jurisdiction of these matters and proceed upon ample notice to everybody, never *ex parte* in the sense of taking anything for granted, always upon proof, to determine all these questions.

That explains in a general way the nature and object of the bill.

Mr. COCKRELL. I should like to suggest an amendment to the Senator from Vermont, on page 5, line 55, of the first section, where the substitute reads:

> And in default of such plea, answer, or demurrer being made within said thirty days, or within the further time which may have been granted as aforesaid, the court shall proceed to hear the cause on the petition and proofs, and render a final decree according to the provisions of this act.

I do not think that the district attorney ought to be intrusted with the power of permitting a default to be entered against the Government. I think that the default should be only as to other contestants or claimants, and that the district attorney ought to be made to defend on the part of the United States.

Mr. EDMUNDS. We do make it so in another part of the amendment.

Mr. COCKRELL. I know; but in the sentence above, in lines 49 and 50, the district attorney and the adverse claimants are required to file their plea or answer demurrer within thirty days; and in default of that then certain proceedings are to be had. That would apparently give the district attorney power to suffer a default.

Mr. EDMUNDS. I see the point of my honorable friend's observation; but I think if he will read the whole clause he will see that we have provided against it in every way that it can be provided

against with justice to a claimant. Beginning at the foot of page 14 we read,—notice being served upon the district attorney—

It shall be the duty of the United States attorney for the proper district, as also any adverse possessor or claimant, after service of petition and citation, within thirty days or such further time as may be allowed, to enter an appearance, and plead, answer, or demur.

In default of that, that is, if they do not do it, what then? That the petition shall be taken as confessed? By no manner of means. In default of that—

The court shall proceed to hear the cause on the petition and proofs, and render a final decree. * * * and in no case shall a decree be entered otherwise than upon a full legal proof and hearing.

Mr. COCKRELL. I understand that point, but I refer to the clause "in default of such plea, answer, or demurrer on the part of the district attorney or any adverse possessor or claimant." I think that ought to be limited to the adverse possessor or claimant, and that the district attorney ought not to be placed in such a position that he can permit a default to be taken against the Government.

Mr. EDMUNDS. The consequence of putting it in the way the Senator proposes would be this: if there was ever so just a claim, or no matter whether the claim was just or unjust, if opposing interests desired to have it heard and disposed of, and the district attorney through negligence or corruption or any other cause should be induced not to enter an appearance and file an answer, the case would be hung up and the court could not take another step. The Senator does not mean to do that.

Mr. COCKRELL. Make it his imperative duty to file an answer, and then if he does not do it the court could take action in the matter. I presume if forced to do it, however corrupt he might be, he would not exhibit his corruption by a violation of a plain statute.

Mr. EDMUNDS. Well, here is the plain statute, which says it shall be his duty to file an answer, and that may be essential to justice; and if, in despite of its justice, positively commanded by law, the district attorney for any reason does not file an answer, the provision is that the case shall not thereby be hung up and the original claimant or the original opponent prevented from having a hearing. The substitute provides that then the case shall go on, but it shall not go on upon any defaults, upon any confessions, but only upon full legal proof and hearing. I think the Senator on reflection will see that it would be highly unjust to make even the wrongful misconduct of the district attorney in failing to perform his duty a means of suspending proceedings in the cause to the injury of all the claimants.

Mr. GARLAND. I wish to offer an amendment.

The VICE-PRESIDENT. Does the Senator from Missouri offer an amendment?

Mr. COCKRELL. I made a suggestion. I think the bill ought to be amended in that way; but I will not offer any amendment until the other is disposed of.

The VICE-PRESIDENT. The Senator from Arkansas [Mr. GARLAND] proposes an amendment, which will be read.

The SECRETARY. The amendment is to strike out, in line 35, section 2, page 16, after the word "and," the words:

And may hear testimony in addition to that given in the court below.

Mr. GARLAND. I offer the amendment more for the purpose of getting some explanation from the Senator from Vermont. Upon principle I am opposed to making the Supreme Court anything but what the Constitution contemplates it to be, that is, a court of review entirely. I think it is not good policy that new matter should be brought before that court and bushels of testimony heard which could as well be heard in the court below.

Mr. EDMUNDS. That subject was considered very carefully by the committee, and it was discussed by people from the Interior Department and by gentlemen having claims there, and we gave a very full hearing to it; and we thought, owing to the very extensive area of many of these claims in New Mexico and Arizona, some of them I believe covering more than a hundred thousand acres of land, that inasmuch as the district court of the Territory has jurisdiction which is composed, as the Senator will remember, of a single judge, a territorial judge, it would not be safe in some of these cases of such very large consequence to the public as well as to the claimants to make the finding of facts and the hearing of witnesses final in a court held by a single judge in some distant part of a Territory, and that in a proper case of appeal to the Supreme Court it should be open to a full rehearing. We all came to that conclusion in the interest of protecting just claimants and protecting the rights of the United States against the enormous influences that in some of these tremendous grants might be brought to bear to get a legal decision of a court composed of one judge.

Mr. GARLAND. It struck me that the jurisdiction already given to the Supreme Court to review both the issues of fact and of law was sufficient. I could not very well think this was an exceptional case where we should provide for the Supreme Court hearing testimony. I am willing, however, to withdraw the amendment on the explanation of the Senator from Vermont.

Mr. EDMUNDS. I will say in reply to my friend further as to the Supreme Court that, according to the course of practice in that court, unless we expressly require it by law, though every question is open on the record, they would not retry the facts unless we authorized it.

Mr. SARGENT. The general object of this bill has my most hearty concurrence. It is certainly a great necessity of the Territories and State mentioned here that these land titles should be settled, but it is very important that the settlement should be such that only lands which belong to the claimants shall be confirmed to them. In my own State I think, under the system devised before, the result was that a large proportion or a considerable proportion of the grants were fraudulent, and recently a case was before the Supreme Court where a patent has not yet been issued, but there was an attempt to set aside a judgment on the ground that the papers were forged after the admission of the State into the Union, and, consequently, there could not have been any grant from the Mexican government, but the Supreme Court held that the judgment was binding, bound the Government, and, notwithstanding this obvious fraud was proposed to be shown, that it could not be shown and thereby protect the Government and the people of the United States.

In the case of California the system was the appointment of a commission and an appeal from them to the United States district court, and thence to the United States Supreme Court. It seems to me that very little safeguard is left in this bill where the whole jurisdiction of the first United States court or of the commission is given to a district judge who receives but $2,500 a year to pass upon all these important questions. I should like to have the attention of the Senator who reports this bill to the fact that the judge in whose hands this great power is to be placed receives but $2,500 a year for his services. You cannot get the highest order of talent—I say nothing of integrity—for such a price as that in the Territories or in the States, and it seems to me it is too much power to put in the hands of a man whose services, he being a lawyer, can be procured for so small a sum.

In some of the Territories the amount of business created by this bill will be enormous. The dockets will be crowded with these petitions. One feature of this bill should be, I think, that until this class of cases is disposed of or a reasonable time is allowed for their disposition, a higher salary should be paid to these judges, or else the bill ought to create a special tribunal to try these cases. I am not in favor of trying again the experiment of a commission, for I believe the proceedings on the former commission were extremely loose, and almost anything in the nature of a grant went readily and easily through their hands to confirmation, so far as they were concerned. Perhaps a judge, where the proceedings are more formal before him and who is accustomed to give reasons for decisions, would be a better tribunal to try such cases; but certainly not a judge who receives so small pay as we give to our territorial judges.

Another proposition of this bill, it seems to me, is in conflict with the decision of the Supreme Court in the Mariposa case. It is years since I have seen that decision; but I think the court there decided that mineral lands, even if they were claimed as mineral claims as they were in that case as mining claims, go with the grant and should be patented to the claimant provided he is entitled to the land. That is my recollection of the decision in that case; and although I do not now recollect the reasoning of the court, it seems to me that the position they took was that the laws of Mexico under which these grants were made contemplated that mineral lands should pass by the grants.

That decision of the Supreme Court, whether good law or not—and I am bound to presume it was good law—was wholesome, so far as preserving the peace of communities in California was concerned. If the owner of land is not entitled to everything which it contains, but any one else may enter upon it to search for or develop that which it contains, there at once arises a conflict of interest amounting in some cases in my State where it has arisen between agricultural claimants and mining claimants to bloodshed. The peace of communities has been disturbed, and more property destroyed perhaps than the mines were worth in the eagerness of men to acquire, where the right was doubtful and the courts could not step in at once and decide it.

This seems to me to be a license to persons, where minerals may be found, to enter upon land which has been patented to the claimants.

The VICE-PRESIDENT. The morning hour has expired. Is there objection to the further consideration of the bill?

Mr. SARGENT. I do not wish to object to the consideration of the bill, but I should like time to examine that decision and see whether my recollection of it is correct, and I should like to know, if I am correct in this opinion of the Supreme Court, why this legislation takes away from these claimants, as I think against public policy as well as that decision as to private rights, the rights conferred by the grant.

Mr. EDMUNDS. I certainly do not wish to press this bill against any just desire of Senators to examine it. It is only a duty that the Committee on Private Land Claims imposed upon me last spring after months of time spent in the study and consideration of the subject and hearing the views of everybody upon it, and the very views that are now being suggested by my honorable friend from California were elaborately presented to us upon this point of reserving out of these confirmations the right to mine for precious metals.

The ground upon which we did that was that, as we understood the Spanish and the Mexican law respecting land grants, as it existed at the time the United States acquired these Territories, grants of land *eo nomine* did not carry from the sovereign the right to the precious metals, gold and silver, that lay beneath the soil; I will not say what quicksilver might be considered to be. Therefore the theory of this bill being under the treaties only to perfect and make good to

the claimant exactly the title to real estate, and no other, that he had acquired by his grant, there was no justification so far as his rights were concerned in giving him more.

Then, when we came to the other suggestion as to the liability to conflict, &c., it appeared to us that the law was so plain that the fact that a confirmed land grant under this act contained in it a gold mine would not justify all the people of the United States or any one of the people of the United States in going upon that man's land either to work the gold mine or to hunt for it. We could not see any authority of law for saying that because the Government has reserved the dominion over gold that lies beneath my farm, therefore every citizen of that government or any citizen of that government has any more authority to go on my farm to hunt for that gold, or to dig it, than he has to go on it and cut my corn or do anything else because he has not any title to the gold. It is in the United States. It would then resolve itself into the question, the private proprietor being the owner of the soil and the United States having the dominion over the gold that lay beneath it, how are their respective rights to be adjusted? The United States has a right that it cannot exercise without invading the possession of the owner of the soil. I grant for a moment for the purpose of this argument that the United States would have a right by law to appropriate so much of his private property as was necessary for the public use of mining for that gold; but they must do it under the authority of law, and they must grant to him such compensation for this use of his property as under the circumstances is just.

Then as to the policy of the thing, it appeared to us in view of the particular situation of things in these two Territories of New Mexico and Arizona, to which this almost entirely applies, that if we say in advance that every confirmed land grant shall carry with it the mines of precious metals that it may contain, there is then a still stronger temptation on the part of false combinations and false claimants to get up a fabricated set of evidence in order to get possession and property in a gold mine that they think exists or know exists beneath this particular piece of soil, and we did not wish to hold out in respect of these enormous grants that exist in those Territories any such temptation. First, let us ascertain who is the proprietor of the land under the treaties, merely executing the treaties according to their true construction. Having ascertained that, if it turns out that under any of these lands thus found to be private property the United States has any interest in a mine of the precious metals, then there will be time enough for Congress to provide the suitable means of having those mines worked without injury to the proprietor of the soil. That was the view of the committee; we may have been wrong, but it struck us that it was right.

Mr. SARGENT. Mr. President, this bill does not refer to minerals merely under another man's land, but it says that mines are reserved, which means, of course, not only the minerals, but the land containing the minerals, because a mine is made up of the minerals and the land which contains them or the rock in place or otherwise. This bill reserves—

> Any right or title to any gold, silver, or quicksilver mine or minerals.

So that it reserves the mines. Now, the Senator says that because these mines are the property of the United States there is no reason why any individual should have a right to explore them, to enter upon them, or enter upon the land of another, in order to work them. I show that it is not the land of another, but the land of the United States, because that is what is reserved, and the general mining law declares that all the mining lands of the United States are open for exploration and occupation by citizens of the United States. So, construing this bill, if it becomes a law, and the general mining law of the United States, the very condition which was not contemplated by the committee will occur, or which they thought would not occur, must necessarily occur under the law, and the law consequently must be imperfect in this respect.

The Senator says the desire is that there shall be no temptation held out to people to forge papers and forge cases in order to acquire these lands by allowing them to acquire mines. That is entirely unnecessary. The additional temptation afforded by mines would be very slight. Rich agricultural lands are those which are usually sought for in grants like these; and it is a fact that the experience of the United States in every part of it has shown wherever gold or silver or quicksilver mining has been carried on that the profits arising from mining are less than the average profits made by agriculturists, and that is very well understood by land-grabbers. Mines are usually in small parcels, requiring a great deal of labor frequently to develop, extremely fluctuating and uncertain in their profits, very frequently worked at a great loss, ordinarily worked at a loss. There are here and there occasional glittering prizes which stimulate the general body of miners to continue in the business; but as a rule the public get the advantage of their work, and not the individuals. In other words, as I said before, and I say it after some thought and examination of the subject, I believe it is a demonstrable fact that the profit which has been made by miners, notwithstanding the thousands of millions poured into the currency of the world, is less than that which has been made by agriculturists in those States where mining and agriculture have been carried on.

Of course gold or silver has a fixed value. It cannot be sold, no matter what the cost of production, above a certain rate, whereas every other article of production has a value dependent upon the labor of its production, on the expense of producing it; so that if gold in a State costs more to produce it, its citizens, governed only by the price of the article elsewhere, cannot charge an extra price there for it. Gold has an intrinsic value; and if it costs fifty dollars an ounce to extract it and it is only worth sixteen or eighteen or twenty dollars an ounce, it is worth no more and no less than if it cost five or six dollars to extract it.

I do not understand the Senator from Vermont to say in his recollection the decision of the Supreme Court in the Mariposa case was not based upon the idea that the grant from Mexico carried the right to the minerals contained within the land. If that is the unreversed opinion of the Supreme Court, then this bill is a nullity. I understand the Senator to say that the committee thought, differing perhaps from the Supreme Court, that the colonization laws of Mexico did not confer upon grantees the right to these mines. If the Supreme Court has said that those laws did confer these rights, this bill is contrary to the decision of the Supreme Court and must be nugatory when brought to the test of the Supreme Court, because they must hold that the United States has not a right to deprive without compensation persons of their individual property. It is not proposed by the bill to take this for public uses in the ordinary sense of the term, or make any compensation for it at all. It simply proposes that this shall be the property of the United States and shall not go to the parties who own the grants. If that is in opposition to the doctrine laid down by the Supreme Court, of course it will only stand until such time as the Supreme Court can pass upon the different titles.

It seems to me worth while to examine that question. For one I do not feel prepared to vote on the bill now. But even if the Supreme Court shall have put it upon some ground of expediency, not upon the right of the parties, and are not clear upon that proposition, still I hold that for the sake of the peace of these Territories it is better to settle this question now, and to let the person who takes the patent to the land take whatever the land contains. I believe so from what I have observed in my own State and what I have read as occurring in the neighboring State of Nevada and other States, and it is better not to have this fire-brand—for that is what it will amount to—thrown into the Territories and into the State of Nevada. The benefit the Government of the United States will derive from the possible sale of this land hereafter will be nothing in comparison with the mischief that would be done by setting the people of the Territories by the ears together, leading them into controversies and lengthy struggles such as have occurred heretofore over questions of this kind.

Mr. EDMUNDS. I should not be able ever to agree, going upon the theory that these Mexican and Spanish grants do not carry the gold and silver mines, that we should confirm these grants without any limitations as to the quantity and a very small quantity. There is in this bill a limitation of eleven square leagues.

Mr. SARGENT. I think that is right.

Mr. EDMUNDS. That makes a very large area of land,—eleven square leagues.

Mr. SARGENT. I do not object to that at all.

Mr. EDMUNDS. The duty under the treaty is to give to every man his own; and we finding under the Spanish and Mexican laws that there was no clear reason for supposing that any grants to which their attention had been drawn, that had been finally perfected (and it is certainly so as to those that had not been finally perfected) were ever given for more than eleven square leagues, and the most of them for much less, therefore we say in no case will we make a confirmation for more than eleven leagues and in every other case within that for no more than what is called for.

That being the state of the case, I submit to my honorable friend that if we are to add anything in the way of mining rights to the title that a man claims, and to which he has no claim except that we give it to him, then I would not give any one man or any set of men, any chance to get any mining rights in any eleven square leagues of land or in any three square leagues of land. That leads to great combinations and mischiefs, and affects society in a thousand ways that I cannot spend your time to enumerate.

But the fundamental idea of the bill, as I stated before, is that we are to give to every man what belongs to him and to give him nothing more. That is the object of this bill. If he wishes for anything more let him, like any other citizen of the United States who wishes to engage in mining or whatever it may be, proceed under the general laws of the United States or under special grants if he can get them in his own case, whatever they may be.

Now in reference to my friend's opinion of the decision of the Supreme Court, I will state frankly that at this moment I have forgotten precisely what the Supreme Court decided in the Mariposa case, although that was before us at the time we framed this clause; but my friend has not noticed apparently the exact nature of this limitation clause which will stand in harmony with every case in which the true construction of the grant does carry a mine. Hear it:

> No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed under provided for and effected the donation or sale of such mines or minerals to the grantee.

We say, therefore, that wherever the grant was of a nature that either by express provision or by some implication of law the grantee did get the right to what was by the general principles of the Spanish and Mexican law a royal reservation, there we give him that right,

because by the treaty we have engaged to give it to him; but where the effect of his grant is not to give him a right to the mine we say that this bill shall not give it.

Mr. SARGENT. After the word "minerals," on line 18 of section 12, I move to insert "known to exist at the time of filing the petition."

I certainly concede the ability of the argument made by the Senator from Vermont, and I am not entirely sure but that where no mines existed at the time stated, it might not be well as a matter of public policy to exclude them from the confirmation; but I should like to guard against this class of cases: where a person has a grant in good faith from the government of Mexico, and presents that grant, and it passes safely through the various tribunals of the United States to the Supreme Court, and is honest and fair, and is confirmed; he sells that grant out to a great many individuals; towns may spring up on it; in these growing Territories all this is within the range of possibility. Now, if there is a primary right held in the Government that in case minerals, rich or otherwise, thickly settled or thinly scattered, shall be found thereon, then the title to all this property shall become uncertain, it shall be in the Government, and somebody has got to extinguish that, I can see a condition of things extremely undesirable. If it is known at the time of the petition that there are mines, or I might even say at the time of confirmation that there are mines, upon this land, or that it is mineral land, exclude the minerals; but if such a fact is not known, and it is honestly taken as agricultural land, then let the person have it, and if mines are subsequently discovered thereupon, let him work them or let him sell them, dispose of them as he sees fit.

I am not proposing any strange principle here. I suppose that the Committee on Private Land Claims have not had their attention called to the mineral laws of the United States so much as some other Senators who from their locality are compelled to understand these things and follow the legislation, and therefore it is not strange that in legislating upon a question of this kind, which is a little mixed in its character, they do not see its bearings always. It is different with those of us who are compelled to look at them from the experience which we have in our own neighborhoods and from the participation which we had in drawing the original bills and being upon the committees which reported them, or debating them in the Senate, and the arguments which would be forcible to our minds at that time and to other Senators perhaps might not be listened to by the mass as not interesting or might be soon forgotten. Now, we have exactly the principle which I propose here, incorporated in the general mineral law in the case of placer claims, which Senators understand are where the mineral is distributed more or less thinly through a body of agricultural land or not in rock in place. I refer to page 428 of the Revised Statutes, section 2333.

If at the time of the application for the purchase of a placer claim a known vein of quartz containing mineral is in the area desired to be bought, then it must be segregated and bought separately and paid for separately and at a higher price; but if the claim is sold and it is not known that there is any such vein, its subsequent discovery does not divest the possession of the purchaser or his ownership; and the object of that is, as I say, to prevent these disputes, one man entering upon the land of another under that eager thirst for gold which men have which leads them to pry into the land of others, no matter how much disturbance it may be to them, the glittering prize being sufficient to justify in their own eyes any action of that kind, especially if it is sanctioned apparently by the laws of the United States.

I ask the Clerk to read the whole section, as I am a little feeble.

The Secretary read as follows:

SEC. 2333. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of $5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of $2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 2320, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Mr. SARGENT. The party there, if at the time he applies he is not aware of the existence of such vein has the lands: the patent conveys them; and by this means, of course, the Government throws away apparently or sells for what it considers an inadequate price a valuable mine. That mine may subsequently be worth millions of dollars.

THIRTEENTH, FOURTEENTH AND FIFTEENTH AMENDMENTS.

The VICE-PRESIDENT. The hour of half past one o'clock having arrived, the Senate will proceed to the consideration of its unfinished business, being the resolutions introduced by the Senator from Vermont, [Mr. EDMUNDS,] upon which the Senator from Alabama [Mr. MORGAN] is entitled to the floor.

Mr. MORGAN. Mr. President, when I last had the floor I was about to bring to the attention of the Senate the case of the United States *vs.* Cruikshank, in 2 Otto, upon which the substitute that I have had the honor to offer to the Senate is based chiefly; but before reading the body of the opinion I desire to call attention to a point in it that decides the question left open in the case of Reese *vs.* The United States, from which I read extensive extracts on the day before yesterday. The point left open in the case of Reese *vs.* The United States was whether or not the Congress of the United States had the power under the fifteenth amendment to the Constitution to provide for the punishment of those voting at State elections who denied to a person the right to vote in consequence of race, color, or previous condition of servitude. The authority to which I now call the attention of the Senate settles that point, and seems to reduce every question that could possibly arise in debate in reference to this whole matter down to those propositions which are stated in the substitute now before the Senate for its consideration. On page 556 of 2 Otto, United States *vs.* Cruikshank, the seventh and fifteenth counts of the indictment are considered together by the court. The court say:

> The seventh and fifteenth counts are no better than the sixth and fourteenth. The intent here charged is to put the parties named in great fear of bodily harm, and to injure and oppress them, because, being and having been in all things qualified, they had voted "at an election before that time, had and held according to law by the people of the said State of Louisiana, in said State, to wit: on the 4th day of November, A. D. 1872, and at divers other elections by the people of the State, also before that time had and held according to law. There is nothing to show that the elections voted at were any other than State elections or that the conspiracy was formed on account of the race of the parties against whom the conspirators were to act. The charge as made is really of nothing more than a conspiracy to commit a breach of the peace within a State. Certainly it will not be claimed that the United States have the power or are required to do mere police duty in the States. If a State cannot protect itself against domestic violence, the United States may, upon the call of the executive, when the Legislature cannot be convened, lend their assistance for that purpose. This is a guarantee of the Constitution, (article 4, section 4,) but it applies to no case like this.

That ruling upon the question presented in the seventh and fifteenth counts of this indictment seems to settle absolutely the proposition that the Congress of the United States have no right to enact laws under the clause authorizing them to enact laws appropriate to carry into effect the fifteenth amendment, to prescribe penalties against persons who in a State election deny to a colored person the right to vote on account of race, color, or previous condition of servitude, placing the decision upon the ground that in State elections the regulation of this right by State laws and its enforcement also by State officials is a mere police regulation of the State, which it is not within the jurisdiction or province of Congress to regulate.

I will read further from this decision that portion of it which I understand bears directly upon and sustains to the fullest extent the substitute which I propose to discuss very briefly before the Senate. And in order to get the bearing of this decision properly before the Senate, I will read from the statement of the case as made by the reporter the questions that were in controversy in that case:

> The *first* count was for banding together, with intent "unlawfully and feloniously to injure, oppress, threaten, and intimidate" two citizens of the United States, "of African descent and persons of color," with the unlawful and felonious intent thereby" them "to hinder and prevent in their respective free exercise and enjoyment of their lawful right and privilege to peaceably assemble together with each other and with other citizens of the said United States for a peaceable and lawful purpose."
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> The *second* avers an intent to hinder and prevent the exercise by the same persons of the "right to keep and bear arms for a lawful purpose."
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> The *third* avers an intent to deprive the same persons "of their respective several lives and liberty of person, without due process of law."
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> The *fourth* avers an intent to deprive the same persons of the "free exercise and enjoyment of the right and privilege to the full and equal benefit of all laws and proceedings for the security of persons and property" enjoyed by white citizens.
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> The *fifth* avers an intent to hinder and prevent the same persons "in the exercise and enjoyment of the rights, privileges, immunities, and protection granted and secured to them respectively as citizens of the said United States, and as citizens of the said State of Louisiana, by reason of and for and on account of the race and color" of the said persons.
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> The *sixth* avers an intent to hinder and prevent the same persons in "the free exercise and enjoyment of the several and respective right and privilege to vote at any election to be thereafter by law had and held by the people in and of the said State of Louisiana."
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> The *seventh* avers an intent "to put in great fear of bodily harm, injure, and oppress" the same persons, "because and for the reason" that, having the right to vote, they had voted.
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> The *eighth* avers an intent "to prevent and hinder" the same persons "in their several and respective free exercise and enjoyment of every, each, all, and singular the several rights and privileges granted and secured" to them "by the Constitution and laws of the United States."
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> The next eight counts are a repetition of the first eight, except that, instead of the words "band together," the words "combine, conspire, and confederate together" are used. Three of the defendants were found guilty under the first sixteen counts, and not guilty under the remaining counts.

The parties convicted moved in arrest of judgment. This was a case that at the time excited much public attention. It was the notorious Grant Parish case, which at the time was a very exciting cause of disturbance throughout the country, particularly in political circles. Three of the accused persons were convicted; and as I have stated moved in arrest of judgment. On this motion the judges in the circuit court were divided in opinion, and the presiding judge held "that the several counts in question are not sufficient in law, and do not contain charges of criminal matter indictable under the laws of the United States, and that the motion in arrest of judgment should be granted;" and that brought the case into the Supreme Court of the United States for its consideration. The acts of Congress on which the indictment was based were laws of like general character with the general legislation upon this subject by Congress to which the Senator from Vermont alludes in his resolutions. The Supreme Court here passes upon these laws, examining the foundations of constitutional law upon

which they rest; examining the condition of the persons to whom they are supposed to be applicable, examining the power of Congress in the infliction of punishment for the offenses here charged, examining indeed every view and phase of the case which it seems to me could possibly have arisen under what is called the enforcement law; and, notwithstanding the conviction of these persons was at the time in conformity to a general public sentiment, especially in the majority section, as it was then, of the United States, the Supreme Court felt bound to reverse and annul this decision and to discharge the prisoners. I venture to say that the genius of the Senate of the United States, if it were concentrated upon the proposition of devising a law for the purpose of carrying into effect the fourteenth and fifteenth amendments to-day, and if it were undertaking to meet and overcome great resistance and great obstruction to the execution of those provisions of the Constitution, would not be able to devise a more ingenious, a broader, a more complete, a more far-reaching and deep-searching system than that which was contained in the civil-rights bill to which the case of Reese refers, and in the enforcement act to which this case refers.

It is intimated in the resolutions that there is some ground of legislation which has not hitherto been occupied on this subject, but it is intimated only in very general terms; and, as I have observed before, the able Senator from Vermont, who has been chairman of the Judiciary Committee for a long time, has never ventured to bring before the Senate or Congress of the United States a measure which indicates how much further Congress could go in an effort to enforce these amendments than it has gone under the enforcement law and civil-rights laws.

The decision in Cruikshank's case, it seems to me, covers every principle that can hereafter be appealed to or invoked for the purpose of legislation in the further effort to carry the fourteenth and fifteenth amendments into legal effect among the people of the United States. Chief-Justice Waite delivered the opinion in this case also. The court say:

> This case comes here with a certificate by the judges of the circuit court for the district of Louisiana that they were divided in opinion upon a question which occurred at the hearing. It presents for our consideration an indictment containing sixteen counts, divided into two series of eight counts each, based upon section 6 of the enforcement act of May 31, 1870. That section is as follows:
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> "That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen, with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court—the fine not to exceed $5,000, and the imprisonment not to exceed ten years—and shall, moreover, be thereafter ineligible to, and disabled from holding, any office or place of honor, profit, or trust created by the Constitution or laws of the United States."—16 *Statutes*, 141.

I can hardly conceive of any other words that could be put into that enactment to make it broader in its scope than it is. The court proceed:

> The question certified arose upon a motion in arrest of judgment after a verdict of guilty generally upon the whole sixteen counts, and is stated to be whether "the said sixteen counts of said indictment are severally good and sufficient in law, and contain charges of criminal matter indictable under the laws of the United States."
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> The general charge in the first eight counts is that of "banding," and in the second eight that of "conspiring" together to injure, oppress, threaten, and intimidate Levi Nelson and Alexander Tillman, citizens of the United States of African descent and persons of color, with the intent thereby to hinder and prevent them in their free exercise and enjoyment of rights and privileges "granted and secured" to them "in common with all other good citizens of the United States by the Constitution and laws of the United States."
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> The offenses provided for by the statute in question do not consist in the mere "banding" or "conspiring" of two or more persons together, but in their banding or conspiring with the intent or for any of the purposes specified. To bring this case under the operation of the statute, therefore, it must appear that the right, the enjoyment of which the conspirators intended to hinder or prevent, was one granted or secured by the Constitution or laws of the United States. If it does not so appear the criminal matter charged has not been made indictable by any act of Congress.
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> We have in our political system a Government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other.—*Slaughter-House Cases*, 16 Wall., 74.
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> Citizens are the members of the political community to which they belong. They are the people who compose the community, and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights. In the formation of a government the people may confer upon it such powers as they choose. The government when so formed may, and when called upon should, exercise all the powers it has for the protection of the rights of its citizens and the people within its jurisdiction, but it can exercise no other. The duty of a government to afford protection is limited always by the power it possesses for that purpose.

Therefore when the Senator from Vermont avers, as he does in his resolutions, that the people of all the States have a common interest in the enforcement of the whole Constitution in every State of the Union, that statement, when it comes to assume a legal form and is put into shape under the restrictions which judicial authority imposes upon it, must be qualified to this extent, that the duty of a Government to afford protection is limited always by the power it possesses for that purpose. If the Government possesses no power for the purpose of affording protection to the people of a State, if in the Constitution there is no such actual grant of power to the Government of the United States or to Congress, then Congress has no such power, and it cannot be asserted as matter of law, and especially as matter of constitutional law, that the interest which the people of the several States are supposed to have in the enforcement of the Constitution in every other State of the Union is that sort of legal, tangible, direct, and valuable interest which entitles them to go into a State through the assistance of the common agency, Congress, and demand its execution or its enforcement. The court proceed:

> Experience made the fact known to the people of the United States that they required a national government for national purposes. The separate governments of the separate States, bound together by the articles of confederation alone, were not sufficient for the promotion of the general welfare of the people in respect to foreign nations, or for their complete protection as citizens of the confederated States. For this reason the people of the United States, "in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty" to themselves and their posterity, (Const. preamble,) ordained and established the Government of the United States, and defined its powers by a Constitution, which they adopted as its fundamental law and made its rule of action.
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> The Government thus established and defined is to some extent a government of the States in their political capacity. It is, also, for certain purposes, a government of the people. Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme and above the States, but beyond it has no existence. It was erected for special purposes and endowed with all the powers necessary for its own preservation and the accomplishment of the ends its people had in view. It can neither grant nor secure to its citizens any right or privilege not expressly, or by implication, placed under its jurisdiction.
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> The people of the United States resident within any State are subject to two governments, one State and the other national, but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes and have separate jurisdictions. Together they make one whole and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance, and that of the State by the breach of peace in the assault. So, too, if one passes the counterfeited coin of the United States within a State it may be an offense against the United States and the State; the United States, because it discredits the coin, and the State, because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen cannot complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return he can demand protection from each within its own jurisdiction.
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> The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people. No rights can be acquired under the Constitution or laws of the United States except such as the Government of the United States has the authority to grant or secure. All that cannot be so granted or secured are left under the protection of the States.

This definition is by no means new; it is contemporaneous with the organization of this form of our Government. When we passed from the government of confederated States into the Union, these doctrines were then in full force and effect and had a bearing upon every mind in the country. They were discussed by the greatest men of that age, and I think we may justly say in favor of our own history that no greater men ever lived. It was then settled. The final security of this doctrine was afterward, in consequence of some doubts about the interpretation of the Constitution, placed in the form of amendments to that instrument, and from that day to this the doctrine which the Supreme Court has here so plainly stated has been the recognized doctrine at least of the democrats in the United States. The democratic party would have no basis or foundation upon which it could rest if that doctrine were stricken out of the Constitution. It is the respect of the law-making power of this country for these definitions of the power of Congress and these definitions of the prohibitions upon the States and these definitions of the reserved rights of the States and of the people, upon which rests to-day the security of liberty in this country as it is understood at least by the democratic party.

Earlier in my argument I made some reference to the amendments of the Constitution of the United States in connection with the question of the power of Congress to enforce those amendments by penal statutes against the people of the States. In the further reading of this opinion it will be seen that these different amendments are discussed, and the powers of Congress are measured by these amendments. There are many rights secured in the first twelve amendments of the Constitution of the United States, or in most of them, which are entirely personal to the individual citizen, whether of a State or of the United States. These rights at the time this Government was ordained, and at this time, too, are supposed after all to be the most vital rights which belong to Americans; for, Mr. President, it is of but little worth to a man that he may claim the honors, privileges, and immunities of an American citizen if in virtue of that citizenship he cannot claim freedom from arrest without due cause supported by oath or affirmation; if he cannot have the benefit of the right of trial by jury; if he cannot be tried according to due process of law; if cruel or unusual punishments may be inflicted upon him; if soldiers may be quartered in his house in time of peace, or if his property may be taken without just compensation. These things and many others which are mentioned in these amendments of the Constitution as belonging as matter of individual right to the man as a citizen of the country are to him, to the voter of this country, not only the most

sacred, but at the same time the most valuable of all the rights that he possesses.

When these constitutional amendments were put into the Constitution for the better security of these rights, and when the declaration of the bill of rights in the original Constitution was also made for the purpose of withholding the hand of power from an illegal assault upon or interruption of these rights, it was supposed that one of the greatest duties that this people owed to themselves had been performed in the ordaining of the Constitution of the United States. And when a common agent was created between these different States and the people thereof, and when the "common interests" to which the Senator from Vermont refers in his resolutions which all the people had in the maintenance and enforcement of the Constitution in favor of citizens everywhere was considered, the question almost immediately arose for judicial decision, has not this common agent, this Congress of the United States, that stands between all these people, the right, the power, the jurisdiction, the authority, so to enact, so to provide, so to appropriate money, so to supply all efficient agencies that the Government may need as to carry into effect every right of every citizen of the United States mentioned in these various amendments. But by decision after decision, commencing I believe within less than five years after the Constitution was first adopted and coming on down to this day, the Supreme Court of the United States has declared that Congress was never created as a common agent for the purpose of the preservation of these sacred rights of individuals under this instrument. Often and over men have come to the Supreme Court of the United States appealing to it against the laws and the constitutions of States for protection against their own local governments, on the idea that the Congress of the United States, being the power to enforce all the guarantees, privileges, and immunities of the Constitution of the United States, was the rightful authority to protect these citizens. But that court has felt itself compelled always to decide that Congress had no such power. Why has not Congress such power? Because Congress was not created for that purpose; these are not national purposes; they are local and individual purposes. They have no necessary connection with the administration of the Government of the United States. Their connection is solely and only with the local institutions under which these people happen to live.

Congress has also often disclaimed such power, until a recent date when it has undertaken to apply another rule, and the Supreme Court have set themselves steadfastly against the new aggression and have decided that the Congress of the United States was no place in which to make laws for the government of men in their capacity merely of citizens of the different States. I do not want to legislate for the government of the constituency of the Senator from Vermont; I do not wish to take upon my hands the charge of the affairs of the people in Oregon or in Florida. I was not sent here for the purpose of undertaking to rectify and correct within those States whatever might strike my mind as being an invasion by those States or by their officers of the Constitution of the United States. The functions which I have the right to discharge here, the duties in which I have a right to participate here, are those that are conferred upon Congress by the Constitution of the United States, and those only; and when I leave this field of jurisdiction and authority and undertake to pass beyond its boundary and interfere with affairs in the local governments of the various States, according to the decision in this case and according to the decision in every other case that has been made in the Supreme Court of the United States, I have violated my duty as a legislator.

The different counts in the indictment are considered by the court in Cruikshank's case with reference to several different amendments of the Constitution of the United States. I will proceed to read further:

> The first and ninth counts state the intent of the defendants to have been to hinder and prevent the citizens named in the free exercise and enjoyment of their "lawful right and privilege to peaceably assemble together with each other and with other citizens of the United States for a peaceful and lawful purpose."

Suppose that the Legislature of Vermont—a thing I know that it will never do—should undertake to pass a law by which the right of the citizens of that State peaceably to assemble together with each other or with other citizens of the United States should be prohibited, there would be flagrant, open violation of the Constitution of the United States. Does it not look reasonable that Congress should have the power to repeal that law, or that Congress should have the power to punish those who might undertake to enforce it? Does it not look just as reasonable that Congress should have the power to enforce a right of the citizens of that State as it does that Congress should have the right to interfere with some man who would go to a crowded, peaceable assembly, and break it up because they were conversing about elections, or prevent persons from peaceably assembling because they intended to discuss an election that was pending? Now let us see what the Supreme Court says about this matter, because here is a crucial test in regard to these powers. It says:

> The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact it is, and always has been, one of the attributes of citizenship under a free government. It "derives its source," to use the language of Chief-Justice Marshall, in Gibbons *vs.* Ogden, 9 Wheat., 211, "from those laws whose authority is acknowledged by civilized man throughout the world." It is found wherever civilization exists. It was not, therefore, a right granted to the people by the Constitution. The Government of the United States when established found it in existence, with the obligation on the part of the States to afford it protection. As no direct power over it was granted to Congress, it remains, according to the ruling in Gibbons *vs.* Ogden, 9 Wheat., 203, subject to State jurisdiction. Only such existing rights were committed by the people to the protection of Congress as came within the general scope of the authority granted to the National Government.
>
> The first amendment of the Constitution prohibits Congress from abridging "the right of the people to assemble and to petition the Government for a redress of grievances." This, like the other amendments proposed and adopted at the same time, was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National Government alone. (Barron *vs.* The City of Baltimore, 7 Pet., 250; Lessee of Livingston *vs.* Moore, 7 Pet., 551; Fox *vs.* Ohio, 5 How., 434; Smith *vs.* Maryland, 18 How., 76; Withers *vs.* Buckley, 20 How., 90; Pervear *vs.* The Commonwealth, 5 Wall., 479; Twitchell *vs.* The Commonwealth, 7 Wall., 321; Edwards *vs.* Elliott, 21 Wall., 557.) It is now too late to question the correctness of this construction. As was said by the late chief justice, in Twitchell *vs.* The Commonwealth, 7 Wall., 325, "the scope and application of these amendments are no longer subjects of discussion here." They left the authority of the States just where they found it, and added nothing to the already existing powers of the United States.
>
> The particular amendment now under consideration assumes the existence of the right of the people to assemble for lawful purposes, and protects it against encroachment by Congress. The right was not created by the amendment; neither was its continuance guaranteed, except as against congressional interference. For their protection in its enjoyment, therefore, the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States.

When did the right to vote in the United States have its origin? How long has that privilege of free government been exercised on this continent? When was it that privilege was not exercised since civilization first got a foothold here? It is one of the ancient and established rights of citizenship, first of the colonies and afterward of the confederated States, and afterward of the States of the Union. The Government found it here, adopted it, could not discard it. The people of the United States would never have formed governments, local or national, upon the exclusion of their right to vote and participate in the management of their public affairs. So this ancient and thoroughly established right was a part of the common law of America, part of what jurists and publicists call "the law of the land," when this Government was ordained. It was as much so as the right to life, liberty, and property, the right of free speech, and more so than the right of free religion. This right to vote was recognized and enforced everywhere within the borders that were afterward included within the jurisdiction of the United States under the Constitution. No more is this old right to vote subject to the power of Congress to control, prevent, prohibit, or qualify it by conditions, than was the right of peaceable assemblage of citizens to discuss questions that might be political, religious, or polemical.

The second and tenth counts of this indictment and the law upon which the second and tenth counts were framed had reference to the execution of the second amendment to the Constitution. The court say:

> The second and tenth counts are equally defective. The right there specified is that of "bearing arms for a lawful purpose." This is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed; but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the National Government, leaving the people to look for their protection against any violation by their fellow-citizens of the rights it recognizes, to what is called in The City of New York *vs.* Miln, 11 Pet., 139, the "powers which relate to merely municipal legislation, or what was, perhaps, more properly called internal police," "not surrendered or restrained" by the Constitution of the United States.

Now is not the right to bear arms in this country a right that no State can violate? Can any State pass a law saying that "no citizen of this State shall hereafter have the right to bear arms?" Certainly not; but a State can say you shall not carry them concealed beneath your clothing; you shall not carry them concealed unless you are traveling upon the public highways or upon a journey; you shall not carry them to a place where large assemblages of citizens meet; you shall not carry them into or about a drinking saloon; you shall not carry them under such circumstances that they may become dangerous to society. The right, however, the State cannot deny except by imposing legal qualifications, by limitations upon the exercise of the right. This right Congress cannot abridge at all, because it was one of the original rights existing at the time of the adoption of the Constitution which rested upon the right of citizenship of the people of the different States, and had its origin long before the Constitution of the United States came into existence.

The third and eleventh counts are based on that part of this statute which had its foundation in the fifth amendment of the Constitution:

> The third and eleventh counts are even more objectionable. They charge the intent to have been to deprive the citizens named, they being in Louisiana, "of their respective several lives and liberty of person without due process of law."

It would seem that if the Congress of the United States had any jurisdiction over an individual citizen of that State at all, it might be and it ought to be a jurisdiction for the protection of his life and his liberty, for it is for the purpose of protecting life and liberty that this Constitution was ordained, more, perhaps, than for all other purposes.

> This is nothing else—

Say the Supreme Court—

> than alleging a conspiracy to falsely imprison or murder citizens of the United States, being within the territorial jurisdiction of the State of Louisiana. The rights of life and personal liberty are natural rights of man.

Just as we might say about the right to vote being a natural right

of the citizen of a free government, and especially of a free constitutional republican government.

"To secure these rights"—

That is, the right to life and liberty—

says the Declaration of Independence, "governments are instituted among men, deriving their just powers from the consent of the governed." The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these "inalienable rights with which they are endowed by their Creator." Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

Now we come to the fourteenth amendment, which was the first step, chronologically considered, of the new institution in our organic law of certain rights, powers, privileges, immunities in favor of citizens, and certain restrictions upon the power of States as they then existed, which grew out of the late civil war. At the time of the adoption of the fourteenth amendment the necessities of the republican party had not got to be so great as they were when the fifteenth amendment was offered. It was supposed that the influence of the fourteenth amendment upon the legislation of the States and upon the conduct of the General Government would be altogether sufficient to perpetuate the power of the republican party, which seemed, from the time it laid its hands upon the scepter of power in the Southern States, thereafter to forget every other purpose of its mission than the mere perpetuation of its authority over the people. It may have been a blessing to the land or it may not have been; but whether a blessing or a curse there was one supreme idea connected with it in the minds of those who took charge of it, and that was *esto perpetua*. "There shall be no end to republican rule" was the idea that was embraced in the fourteenth amendment to the Constitution of the United States, and was afterward intensified and intended to be made irrevocable by the fifteenth amendment; and by keeping our eyes somewhat upon the movement of this great party which ordained this constitutional amendment and forced it upon the States we shall begin to appreciate something of the progress and the grounds of progress and the extent to which the progress has gone in restrictions upon the power of the States, and also in conferring new powers upon the Congress of the United States under these two amendments. Say the court:

The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property, without due process of law, but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guarantee against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society. As was said by Mr. Justice Johnson, in Bank of Columbia *vs.* Okely, 4 Wheat., 244, it secures "the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice." These counts in the indictment do not call for the exercise of any of the powers conferred by this provision in the amendment.

The fourth and twelfth counts charge the intent to have been to prevent and hinder the citizens named, who were of African descent and persons of color, in "the free exercise and enjoyment of their several right and privilege to the full and equal benefit of all laws and proceedings, then and there, before that time enacted or ordained by the said State of Louisiana and by the United States; and then and there, at that time, being in force in the said State and district of Louisiana aforesaid for the security of their respective persons and property, then and there, at that time enjoyed at and within said State and district of Louisiana by white persons, being citizens of said State of Louisiana and the United States, for the protection of the persons and property of said white citizens." There is no allegation that this was done because of the race or color of the persons conspired against. When stripped of its verbiage the case as presented amounts to nothing more than that the defendants conspired to prevent certain citizens of the United States, being within the State of Louisiana, from enjoying the equal protection of the laws of the State and of the United States.

The fourteenth amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, and which we have just considered, add anything to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the National Government is limited to the enforcement of this guarantee.

It is no part of the duty of Congress to say that any individual citizen, though he may be a citizen of the United States claiming the protection of this provision of the Constitution of the United States, is protected against any other citizen not acting under the authority of the laws of a State when that other citizen undertakes to deprive him of his rights under that fourteenth amendment.

No question arises under the civil rights act of April 9, 1866, (14 Stat., 27,) which is intended for the protection of citizens of the United States in the enjoyment of certain rights, without discrimination on account of race, color, or previous condition of servitude, because, as has already been stated, it is nowhere alleged in these counts that the wrong contemplated against the rights of these citizens was on account of their race or color.

Another objection is made to these counts that they are too vague and uncertain. This will be considered hereafter in connection with the same objection to other counts.

The sixth and fourteenth counts state the intent of the defendants to have been to hinder and prevent the citizens named, being of African descent and colored, "in the free exercise and enjoyment of their several and respective right and privilege to vote at any election to be thereafter by law had and held by the people in and of the said State of Louisiana, or by the people of and in the parish of Grant aforesaid." In Minor *vs.* Happersett, 21 Wall., 178, we decided that the Constitution of the United States has not conferred the right of suffrage upon any one, and that the United States have no voters of their own creation in the States. In United States *vs.* Reese *et al.*, *supra*, p. 214, we hold that the fifteenth amendment has invested the citizens of the United States with a new constitutional right, which is, exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. From this it appears that the right of suffrage is not a necessary attribute of national citizenship, but that exemption from discrimination in the exercise of that right on account of race, &c., is. The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been.

Inasmuch, therefore, as it does not appear in these counts that the intent of the defendants was to prevent these parties from exercising their right to vote on account of their race, &c., it does not appear that it was their intent to interfere with any right granted or secured by the Constitution or laws of the United States. We may suspect that race was the cause of the hostility, but it is not so averred. This is material to a description of the substance of the offense, and cannot be supplied by implication. Everything essential must be charged positively, and not inferentially. The defect here is not in form but in substance.

That case of Happersett *vs.* Minor in 21 Wallace very powerfully sustains the view that I take, and it was afterward affirmed in the decision in the case of Cruikshank.

Now, it seems to me, Mr. President, that these declarations of law by the Supreme Court of the United States remove almost every possible cloud that the imagination of man could bring upon this subject. It looks to me as if there was left almost no possible field of disputation or debate about it. But the Senator from Vermont has seen for a long time, I suppose—I really do not know whether it is a sudden revelation or whether it is the result of a long process of mental examination and incubation—but he seems to have seen that which he has withholden from us, that which he has not done us the honor even to intimate to us, that there is still some legislative action which may be taken and ought to be taken by the Congress of the United States for the further and better protection of the rights of persons under the fourteenth and fifteenth amendments, and even under the thirteenth, for he puts them all in. It has been my inability to conjecture what the precise characteristics of these laws may be upon which the mind of the Senator from Vermont has been so long cogitating that has made it necessary for me to examine in this opening, which I have been compelled to make upon his own resolutions, all possible and all imaginable grounds on which it might be supposed there could arise any necessity for legislation upon this subject which I hoped had gone to the tomb of the Capulets.

I will content myself with these references to law. I have desired to bring these opinions distinctly before the Senate of the United States for the purpose of arousing the attention of Senators on either side of this Chamber to the inquiry whether or not there is some need of further legislation, or whether there is any possible ground of further legislation that has not been already occupied by existing statutes in reference to the enforcement of the rights of the colored people under the fourteenth and fifteenth amendments. I have therefore been compelled to assume in the argument which I have made here that it was the intention of the Senator from Vermont by some sweeping act of congressional legislation to wipe out every supposed obstruction that might exist in State laws and State constitutions to the full and complete enforcement of the fourteenth and fifteenth amendments. I have not any doubt that if he can get the consent of the Senate he will go further than that and commence legislating directly for the States in these particulars, and against individuals of the States, and that men will be hauled into the Federal courts of the United States and tried for the violation of laws which are in their nature purely local and are not and never have been within the jurisdiction of Congress.

But, Mr. President, the people of the United States have at last gotten far enough away from the exciting struggle of 1861 to 1865 to begin to contemplate their own Constitution with reference to the blessings it may bring upon the land instead of the curses that it may yet be made to fasten upon individual men. And I hope that in whatever legislation we may attempt in Congress hereafter we shall be controlled and directed by a desire to benefit the country rather than by a desire to expose it again to harrowing investigations and criminal prosecutions, which it seems to me any man must see are of doubtful authority, and which the Supreme Court of the United States have said we have not the power to set on foot.

In my remarks made the day before yesterday I referred to the fact that every State in the South except Kentucky had amended its constitution so as to make it conformable to the fourteenth and fifteenth amendments. Now I propose to show the Senate a little of the work we have in hand whenever we undertake this matter of making the laws and constitutions of the different States of the American Union conform to our views of the rights of the citizens in those different States under the Constitution of the United States.

Kentucky, for instance, never abolished slavery; she refused to ratify the thirteenth amendment; and when you read her constitution you find the provisions in reference to slavery still there. Indeed, sir, you find them in the Constitution of the United States; for all the constitutional provisions in reference to the surrender of fugitive slaves remain in the Constitution of the United States, and slavery even is not impossible under our form of government at this day, because in the thirteenth amendment we made the reservation that a man might be enslaved as a punishment for crime, and therefore under the laws of the States, I suppose, or the laws of the United States a man might be enslaved as a punishment for crime under the thirteenth amendment. We may condemn a white man to slavery for denying a negro a right to vote, as a punishment for this newly created crime, if Congress has any power to punish such a denial on the part of an individual.

Mr. EDMUNDS. Everybody in State prison is in legal sense a slave.

Mr. MORGAN. No; he is put in prison as a punishment for an offense; his liberty of action is not taken away from him, it is only restrained for a time, and he is not deprived of the right to make a contract.

Mr. EDMUNDS. I thought everybody in prison for a felony was civilly dead and could not make a contract.

Mr. MORGAN. The Senator said everybody who was in prison.

Mr. EDMUNDS. In the State prison I said, in the penitentiary.

Mr. MORGAN. You may slay a man civilly for crime, and so you may put him in slavery for crime, but when you enslave him you do not slay him. When you enslave him you want him to live; you want him to be in a condition in which you can use him, not bury him. Servitude or slavery is not civil death. It may be equally as harrowing or torturing a penalty upon a man who has nice sensibilities, but it is not the same in fact.

Mr. EDMUNDS. The old legal slavery of the South was civil death was it not? The slaves could not contract or do anything else.

Mr. MORGAN. It was a denial that there had ever been any civil birth, not the taking away from a man of his civil life and civilly killing him.

Mr. EDMUNDS. Very well, the difference between not existing and death, I will not stop to consider.

Mr. MORGAN. It was the fact that the man when he came here came as a slave from his native land, was bought from slave-owners in his native land under a law of that country, brought into this country under the sanction of the Constitution of the United States, which not only impliedly sanctioned it, but expressly provided for its continuance for ten years after the year 1798. He came here a slave; he was never brought here, nor was any man ever brought here, that I am aware of, as a freeman, to be carried into slavery except those Indians in the Island of Cuba for whom our friends in the northeastern country swapped the negroes after they got them here, but were not satisfied with them. Those men might have been put to civil death by slavery; I think they were; but the institution as it existed in the South never involved that hideous feature. We never took a man who was free in his own country; we did not go and capture him there in his native woods and make a slave of him. We bought him from men who sold him to us. When our friends bought the Indians in Cuba they did not buy slaves; they bought freemen and made slaves of them, and so when they bought the Indians of the Narragansett tribe and others around there they bought freeman and made slaves of them, and sometimes transported them to Cuba and exchanged them for slaves, some of whom were Africans and some were Indians. There is the difference.

I refer to these things not for the purpose of bringing up unpleasant historical reminiscences, but for the purpose of illustrating by the facts of history a distinction which I am surprised the Senator has not seen, for there is scarcely a distinction in the world that is not absolutely visible to his eyes.

Mr. EDMUNDS. I certainly see the distinction of my honorable friend from Alabama always; that is too apparent to be misunderstood by anybody. But, if he will pardon me for this digression, I should like him to tell me what the difference is in respect of buying, as my friend says, his people did a colored man who was brought from Africa who was captured in Africa by a body of slave-hunters who went there for that purpose by force of the sword and the bayonet and the gunpowder and brought to the partaker who bought with a knowledge of how he came, and the case of the Indians that he states—whether he states it correctly or not I do not know, I should like to see a little more historical proof than he now presents; but taking that to be so what is the difference in the two cases and what great difference does it make, to come down to a practical point, to the slave himself whether he was bought and held in slavery or whether he was captured and held in slavery?

Mr. MORGAN. I do not think it makes a particle of difference to the slave, and I am not quite sufficiently well versed in the conduct of those gentlemen at the North who went over and bought slaves abroad to dispute with the Senator historically on that subject. It is a matter I suppose he has studied out for himself very thoroughly, because the whole of that transaction was conducted through those among whom I suppose were the older people of his own country who carried on this traffic and brought the slaves from Africa. We have not familiarized ourselves with nice questions of historical reminiscence on this subject not having had the opportunity. We were not slave-hunters. We were slave-buyers.

Mr. EDMUNDS. The Senator will pardon me on the subject of the responsibility of my country, as he calls it, for what his imagination has conjured up in respect to the Northeast. I wish to inform my honorable friend from Alabama that the State of Vermont, which happens to be my native land, was never anybody's country until it was its own, and that it was set up for itself before the independence of America was achieved. The Congress would not take it in, and of course it would not submit to the British king, but it had an independent government of its own as Texas had for a while before it came into this Union, and the first constitution of that State declared against any involuntary servitude, and the first slave that ever was attempted to be reclaimed for some southern owner in that State was brought before a judge, and that judge—I believe he was a Federal one, but I am not sure about that—declared that when the southern owner could show a bill of sale from God Almighty he could have the man and not before. That is the attitude that my particular constituents always occupied. The other Northeastern States can speak for themselves.

Mr. MORGAN. And I suppose that accounts very naturally for the fact that the Senator from Vermont in carrying out the views of his own people has always taken occasion to plant himself in the face of the Constitution of the United States whenever it is violated in his own State to gratify a public sentiment.

Mr. EDMUNDS. I do not think I have, Mr. President. That remains to be proved.

Mr. MORGAN. Your people, it seems, had no sort of idea of obeying that mandate in the Constitution which required the delivery up of fugitive slaves under its express requirements, and your celebrated judge, who had more respect for a bill of sale coming from God, when he knew that God was not in the habit of giving title papers, than he had for that oath which he took to support the Constitution of the United States, may be a sufficient model of judicial honor and propriety for the Senator from Vermont, but I thank God we have never had such a judge in the South, at least while we had judges who were not strangers in the land.

Mr. EDMUNDS. I am sure it would have been so if I had been the judge; but my honorable friend who is so familiar with the course of judicial history ought not to forget that wherever the Constitution of the United States enforces duties it generally provides its own instruments for the execution of them, and whether it is the duty of a State tribunal to execute an act of Congress is a question that would require considerable discussion to prove. Therefore it does not necessarily follow that this judge in Vermont violated the Constitution of the United States on being called upon to exercise this function and refusing.

Mr. MORGAN. The Supreme Court of the United States has often decided that it was a violation of the Constitution of the United States to refuse to deliver a fugitive slave. Really I am quite aware of the fact that a very large part of the inciting motive to the struggle that took place between the South and North was an effort to get rid of or to disregard the effect of the Dred Scott decision. I regret that so small a circumstance as that should have ever led us to a feeling of such bitter animosity toward each other. If the spirit of obedience to the law as ruled by the great supreme judicial tribunal in this country was inculcated everywhere and every man was encouraged to feel and believe that it was his duty to assist in executing these decisions instead of trying to thwart them, perhaps we would have a much more amiable and peaceable time in the country than we have had in times past.

While we are on this subject of freemen and free negroes, &c., I should like to ask the Senator from Vermont for information, what is the meaning of the word "freemen" in the constitution of Vermont?

Mr. EDMUNDS. I am not prepared to answer.

Mr. MORGAN. Does it not mean a man who is not a slave?

Mr. EDMUNDS. I do not know.

Mr. MORGAN. It is in the constitution of the Senator's own State.

Mr. EDMUNDS. It may be there.

Mr. MORGAN. The word "freemen" is introduced in the constitution of that State as one of the qualifications of a voter. He must be a free man. In one of the amendments which they have adopted to that constitution the same term is used. I will read article 8:

> That all elections ought to be free and without corruption, and that all freemen, having a sufficient evidence, common interest with, and attachment to the community, have a right to elect officers and be elected into office, agreeably to the regulations made in this constitution.

Now, the Senator says he does not know what the word "freemen" means there.

Mr. EDMUNDS. I think now on reflection I can state one thing it means. It means to distinguish between free men and free women. I can see that far without further reflection.

Mr. MORGAN. That is a very nice distinction; a very small variation.

Mr. EDMUNDS. It is quite important sometimes.

Mr. MORGAN. We have got it now down to the difference between a free man and a free woman. Recollect this is the constitution of 1793. Everybody in the United States understands, I expect, at least would understand upon the mere reading of it, without the explanation of the Senator from Vermont, that it meant to contradistinguish a man who was free from a man who was not free, and not a man from a woman. I do not think there was any constitutional prescription put into the constitution of Vermont for the purpose of distinguishing a man from a woman. I think that was hardly a subject of ordination in that constitutional convention. The distinction was between free men and men who were not free. I will read section 21:

> Every man, of the full age of twenty-one years, having resided in this State for the space of one whole year next before the election of representatives, and is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a freeman of this State:
>
> You solemly swear (or affirm) that whenever you give your vote or suffrage touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any man.

That is the solemn oath of a man who holds an office in the State of Vermont. There is a pledge of allegiance to the State of Vermont of the most peculiar character that I think I have ever read. When

ever you go to vote, if you ever exercise the privilege of voting, you must do it as in your conscience "will most conduce to the best good of the same" the State of Vermont; there is but one thing needed to make it perfect, and that is that you shall so vote without reference to the Constitution of the United States or of any other State beside Vermont.

Mr. EDMUNDS. But it does not happen to be there.

Mr. MORGAN. It is not there except by implication. It is an encouragement to those people to attend to their own business, which I am delighted to see is in their constitution. I have no doubt that some good will come of that some of these days. This constitution of 1793 was amended in 1828:

No person, who is not already a freeman of this State, shall be entitled to exercise the privilege of a freeman, unless he be a natural-born citizen of this or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress.

As late as 1828 the State of Vermont kept up this idea of freeman as contradistinguished from a man who was not free, notwithstanding that that State has always been so full of the spirit of freedom that a slave could not live upon its soil. A man who had ever been a slave could scarcely live there under the repressing influence of a constitution like that. If that very language was put into the constitution of Alabama to-morrow as it is to-day in the constitution of Vermont, I dare say that an army would be mustered in twenty-four hours and sent down there for the purpose of compelling us to strike it out. When, therefore, the Senator suggests to the Senate, as I suppose he will do some day, a further provision for the enforcement of the fifteenth amendment, having for its object the security of the rights of life, liberty, and property, and also the right of freedom on the part of all the citizens of the United States everywhere, I hope he will put in a clause which will make some impression upon the constitution of the State of Vermont.

Again, the State of Kentucky, as I was observing, still retains in her constitution all the provisions relating to slavery. These are all broken down by the force and effect of the Constitution of the United States, notwithstanding Kentucky refused to ratify the thirteenth amendment.

Mr. EDMUNDS. Before the Senator gets to Kentucky, which came into the Union the same year Vermont did, I wish he would read that other clause of the constitution of Vermont on the subject of involuntary servitude and slavery. In the bill of rights I think he will find it.

Mr. MORGAN. In the bill of rights?

Mr. EDMUNDS. I think so; that is, if the Senator is really serious in maintaining that there is now or ever was anything in the constitution of the State of Vermont that recognized, by implication or otherwise, the right of one man or set of men to enslave any other man or set of men, except on the judgment of a court to send them to prison or to a workhouse somewhere for crime.

Mr. MORGAN. I have not assumed, neither have I suggested at all, that the State of Vermont had ever committed itself to the doctrine that any man had a right to assume mastership or ownership over another under the system of laws relating to the institution of slavery. Not at all; but still the State of Vermont seems to have recognized the existence of such an institution. It seems to have recognized the fact when it used the word "freemen" to distinguish between men who were and men who were not free.

Mr. EDMUNDS. If the Senator will read the other clause he will see that he is mistaken in that implication altogether.

Mr. MORGAN. If I am mistaken in that I can conceive of no purpose that word has in that constitution; and I certainly cannot understand that the Senator from Vermont has lived but a brief lifetime even under that constitution with that word always before him, and which was reincorporated in the amendment made in 1828, and never has made a protest against its existence.

Mr. EDMUNDS. If my friend is really serious about this business, and I now perceive he is, just let me suggest to him that, if he reads the clause in the bill of rights, which declares that slavery or involuntary servitude being contrary to human rights and the law of God, &c., shall never be tolerated for a moment, he can find an explanation of the meaning of the word "freemen" not only as distinguishing between the sexes in the exercise of political rights, but also in respect of those who are lawfully restrained of their liberty as a punishment for crime, because people who are in the State prison and jails under sentence in our State are not thought to be worthy members of community to exercise political rights in voting. That, if my friend is serious, I will state to him is the serious explanation of the use of the word.

Mr. MORGAN. The little debate which we have had on the subject of Vermont and its constitution could all have been saved if the Senator in the outset instead of saying that he did not know what the word "freemen" meant, and undertaking to say that it was a distinction between man and woman, had said that it referred to persons who were restrained of their liberty in consequence of punishment for crime.

Mr. EDMUNDS. Frankness requires me to say to the Senator that I told him at that moment the simple truth, for I had not thought of it for twenty years.

Mr. MORGAN. I have no doubt about the Senator's telling the truth.

Mr. EDMUNDS. But hearing my honorable friend's discussion, and finding it to be serious, I can readily on a moment's reflection supply to him the answer.

Mr. MORGAN. I have no doubt at all about the Senator's entire sincerity in what he has said on this subject, but I was greatly surprised that he should not have understood what the meaning of the word "freemen" was in that constitution so as easily to have given an explanation to the Senate, and I was disturbed by it, not that I desire at any time to go to Vermont or to send anybody there from Congress or elsewhere to ask the people of Vermont to reform their constitution, but I could not help thinking that if we were probably so unfortunate in Alabama as to use such a word as that in our constitution what a terrible fate would be visited upon us through some act of Congress.

Mr. EDMUNDS. Your constitution used the words "free white men," I think; did it not?

Mr. MORGAN. It did; but before the Congress of the United States proposed to us an amendment on this subject we held our State convention and struck out slavery. That is the sort of readiness we have shown in accepting the situation and conforming to it. There is nothing in our State constitution to-day which is against the most rigid theory of the anti-slavery party, nor is there anything there which is against the most rigid theory of the anti-secession party; for we have said in our constitution in Alabama that we have not the right of secession. All the Northern States have retained the right if they ever had it. Not one of them has ever stricken it out as I believe. In Massachusetts it is a question of interpretation. Massachusetts thought she had the right in 1812 and 1813. She thought it was her right and she insisted that it was. She first started the idea in the United States Government which unfortunately we undertook to ingraft upon our institutions, the result of which has been so disastrous to us that we have stopped taking lessons in that school.

I wish, Mr. President, to show the extreme jealousy of the different States in the American Union in reference to this right of voting. I want to show how in every constitution of every State in the American Union there is a separate chapter or article on the subject of the elective franchise or suffrage, and to show how the various States have in their organic law made provision, sometimes by positive ordination and sometimes by making room for legislative action, so that the right to vote in these different States might conform to the peculiar idiosyncrasies of different people; as, for instance, in the State of Colorado. I will commence, however, with Kansas. The constitution of that State provides that—

Every white male person, of twenty-one years and upward, belonging to either of the following classes, who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election, shall be deemed a qualified elector.

The free State of Kansas lying right west of Missouri in the bosom of that magnificent plain, where we supposed that the spirit of liberty would sweep over the people like the free winds sweep over the plains, has yet got the word "white" in her constitution. Shall we send some missionary or some congressional commission over there for the purpose of investigating that subject and having the word "white" stricken out of the constitution of Kansas? That is a good republican State, living yet under a slave constitution. The constitution thus executed in Kansas or attempted to be executed in Kansas would prevent a negro from voting in that State, if the effort were successful, and who would we punish then for this transgression of the fifteenth amendment?

Mr. EDMUNDS. What is the date of that constitution?

Mr. MORGAN. Eighteen hundred and fifty-nine, the last one.

Mr. EDMUNDS. That was in the time of a democratic Congress. I am very sorry it allowed the State to come in under such a constitution.

Mr. MORGAN. The democratic Congress always had respect for the rights of all persons in all parts of the United States which were guaranteed by the Constitution, and though there was many a democrat in the North averse to the institution of slavery, and who would liked to have seen it wiped out, he never felt that he had a right to do it until the Constitution was amended.

Mr. EDMUNDS. Does my friend mean to say that the democrats of the United States as a body believed that slavery could lawfully exist in the Territories, and that Congress had no power to prevent it? Kansas being a Territory, and no State being entitled to admission into the Union as a State except by the consent of Congress, why was Congress bound to approve slavery?

Mr. MORGAN. So many of the old-time democrats who were such before the war have found their way into the republican party that I do not have the same privilege of speaking of them now that I used to. If I felt at liberty to speak about them I might say something that would hurt their feelings, and therefore I had better not discuss a subject that runs so far away from the point of my argument.

The Senator's inquiry reminds me of a little matter that occurred in Alabama. An old gentleman who was a very devout democrat used to listen to my friend Pugh down there, an eloquent and a splendid democrat, argue the Kansas and Nebraska question. His boys went into the war, and all or nearly all of them were killed. He gave up his negroes and all the property he had, but he was very cheerful about it. Finally one day after the war was over he thought he would

come to town, having been secluded for a long time; but before coming he thought he would rehabilitate himself, and he went to his carriage driver Jack, who had been made a justice of the peace, and he got Jack to take him back into the Union by administering an oath of allegiance, as was then prescribed by the republican party to us. Feeling himself thoroughly rehabilitated, and doubtless very much refreshed, he came to town to see his old friend Pugh. "Well," said he, "Pugh, we have got through the war." "Yes," said Pugh, "we have." Said he, "my niggers are all gone, Pugh." "Yes," was the reply. "And my money is all gone; and my bank-stock; and I am old, and the old woman is old, and those poor boys of mine, they are all lying in their graves. I have got a great deal to regret, but nothing to take back. But," said he, "there is one thing I should like to know of you, Pugh. What has become of the New-braska question?" [Laughter.] The Senator from Vermont seems to be in hot search this morning of the "New-braska question," and he wants to know what has become of that.

Mr. EDMUNDS. Oh, no, Mr. President, my good friend brings forward the Nebraska question himself by the democratic constitution of Nebraska or Kansas of 1859, and supports it by his Alabama anecdote.

I can only say that I wish everybody in the South felt just as that good old man did, who took a sincere oath of allegiance to his old coachman.

Mr. MORGAN. If the Senator will come down to Alabama he will discover that the whole people of Alabama, almost without exception, feel just as that old man did. When they gave up sons and negroes, and everything of the kind, they uttered a brief sigh over the subject, and turned their backs upon it forever. They have no bitterness and no animosity at all in reference to the war or its losses, because, like men, they fully accepted the result, and having sustained defeat, they have buried their recollection of their losses with all their grievances in oblivion forever.

Mr. EDMUNDS. They are all for equal rights?

Mr. MORGAN. All for equal rights.

Mr. EDMUNDS. They will favor my resolutions, then.

Mr. MORGAN. They want to get their equal rights from the proper source. They do not want them from the hands of the Senator from Vermont as a Congressman here. They would rather go to their own Legislature and State constitution and get their rights from the fountain source of authority where their fathers did. There is the issue; there is the difference between us. The Senator is determined he will give us something he considers equal rights. We prefer to have the judgment of those who live among us and know us better than he seems desirous of knowing us, and who have feelings of greater sympathy and commiseration for us than the Senator from Vermont. So much for that.

California amended her constitution in 1862, during the war, and she made no change in her previous constitution; in which she had the word "white" as a requisite of the right to vote.

Every white male citizen of the United States and every white male citizen of Mexico, &c.—

Having other qualifications, shall be entitled to vote.

The constitution of Connecticut is a very good one indeed. That State without such a constitution never would have produced such men as we see here. That State would never have produced such a democrat for instance as my friend who is now absent from his seat [Mr. EATON] unless the people of Connecticut had been under a wise and good constitution, one adapted to their own people, one calculated to bring forward civilization, to establish all the valuable institutions that have in them rich benefactions for mankind. When I read the provisions of the constitution of that State I do not read complainingly; I do not read with the idea that I or any other man ought to undertake to interfere with it, but I read it for the purpose of showing that it would be a very poor constitution for the people of the section of country in which I live; and if we were to attempt even in Alabama to adopt it or had ever adopted it, we should have had armies and navies there for the purpose of repealing it.

The constitution of Connecticut provides that—

All persons who have been, or shall hereafter, previous to the ratification of this constitution, be admitted freemen, according to the existing laws of this State, shall be electors.

SEC. 2. Every white male citizen of the United States who shall have gained a settlement in this State, attained the age of twenty-one years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector at least six months preceding, and have a freehold estate of the yearly value of $7 in this State; or, having been enrolled in the militia, shall have performed military duty therein for the term of one year next preceding the time he shall offer himself for admission, or, being liable thereto, shall have been, by authority of law, excused therefrom, or shall have paid a State tax within the year next preceding the time he shall present himself for such admission, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

What would have become of the carpet-baggers who went down South if they had been required to sustain and prove a good moral character, not only before they voted but before they took possession of the States? It would have been a happy thing for us if we had had such a constitution as that; but if we had dared to exercise our rightful authority as a coequal of Massachusetts in this great Union in the ordination of such a constitution as that, bayonets would have bristled around us and heavy artillery would have been trained upon us, and we would not have been permitted to do it.

I was going to read from the constitution of Delaware, that good, old-fashioned State which has scarcely crept out of the shell of her old British character as yet, and the conservatism she has exercised in her institutions, her laws, and over her people has produced perhaps as good a population as can be found in the United States, and has contributed immensely to the credit of the Senate of the United States and to the welfare of the people of the entire country. Delaware has in her constitution to-day the words "free white male citizen of the age of twenty-two years," as a qualification of a voter. Indiana has a similar requisition: Maryland has a similar one. Massachusetts I will notice. No man who wants to get a good example of life and who wants to understand all the essential arts of success would in any manner pass by Massachusetts without observing upon her constitution. The amendment to the constitution of 1780, ratified in 1857, is the first one to which I shall call attention:

No person shall have the right to vote, or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language, and write his name: *Provided, however*, That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upward at the time this amendment shall take effect.

It is said, and I suppose is so meant, in the resolutions of the Senator from Vermont, that the Constitution of the United States in the fourteenth and fifteenth amendments confers citizenship upon the negro, and with citizenship the right to vote, and the attempt is made here, or I suppose it will be made, to deraign that right to vote from the Constitution of the United States through these two amendments. The constitution of Massachusetts prescribes that a man to have the right to vote there shall be able to read the constitution in the English language and write his name. Suppose one of the black citizens of my State should go to Massachusetts to settle, who cannot write his name and cannot read the constitution of Massachusetts and he should dare attempt to vote there, would it be understood in Massachusetts or here either that the fourteenth and fifteenth amendments repealed that part of the constitution of that State as to a negro and left it standing as to a white man; that a white man who went from Alabama to Massachusetts would not have the right to vote unless he could read and write, while a negro who went there would have the right to vote under the guarantee of the fifteenth amendment, whether or not he could read or write? There is a fair and just presentation of the question involved in the debate between the Senator from Vermont and myself, and in his resolutions.

It was proper in Massachusetts to have this provision in the constitution of that State. Massachusetts saw the necessity of educating the great masses of the people upon whose enlightened convictions and on whose honest and enlightened judgment and conduct free institutions at last have to be based, and she has held to this provision in her constitution year after year, amid the jeers and complainings of other States and other people, I might say with almost heroic persistence, believing it to be necessary for the welfare of that great and distinguished Commonwealth. But as to Alabama, if we should undertake to incorporate this provision into our State constitution, I dare say the whole republican party of the United States would rise as one man to denounce the iniquity of putting a condition upon the people of Alabama that they should be able to read their own constitution and write before they could vote, for it would be understood in all republican circles that we intended to disfranchise the great mass of the negro population. That is what would be said to us; and who can conjecture what would not be done to us for assuming to enjoy so much of sacred liberty?

They have a constitution in Massachusetts that could not exist in Alabama for the reason that the Congress of the United States would not allow it to exist there. Can Congress come in between us and equalize these rights and privileges under the Constitution of the United States so as to take from Massachusetts this provision of her constitution or so as to prevent us from adopting it? Sir, there is no such power. When such power is exercised in this country, then there is usurpation on the part of Congress which is absolutely destructive of the individuality, the independence, and the sovereignty of the different States. Gentlemen, while they are voting upon resolutions which contain broad and high-sounding declarations about constitutional law, would do well to inquire when these principles are carried into final effect what may be the result upon their own States. We are not afraid of them so far as we are concerned. You may take a few of our people and land them in the penitentiary or lock them up in jails to add some higher sanctity to the sacred names of liberty and justice, but our constitution is so framed that it is out of the reach of any disturbance. It cannot be made wider than it is; it cannot be made freer than it is; it cannot be made less objectionable to the demands of the republican party than it is. We have surrendered everything in our constitution except simply the right of local self-government. We do not ask any State in any part of the Union to surrender anything at all. We do not ask the Senator from Vermont to give up his freemen restrictions, nor we do not ask Kansas to strike "white" out of her constitution. We do not ask Connecticut to strke out of her constitution the provisions there which are so favorable to her progress and sustentation. We do not ask Massachusetts to strike out the provision of disqualification because a man cannot read and write. Let them all stand; let every community, every State, judge for itself that which is best to make it not merely a contributor to the general welfare of the people of the United States, but a contributor also to the general welfare, the enlightenment, the prosperity, the Christianization, and the civilization of the entire world. Leave

them free and let them be trusted as men ought to be trusted in the land of this great "composite race" which is leading all the hosts now moving in the march of civilization and intellectual triumph, and whose splendid conquests are decorating the entire world with the trophies of art, science, and industry.

Peculiarities exist in the constitutions of different States not yet mentioned by me, in Michigan, Nevada, New Hampshire, Ohio, Oregon, Pennsylvania, Rhode Island, and Wisconsin. I will not detain the Senate, though I intended when I took the floor this morning to have done so, by reading from these different State constitutions the provisions relative to the subject. I have long enough dwelt upon this subject to bring it to the attention of the Senate, and I dare say it is a subject which in the further discussion of these matters will be somewhat elaborated. I will therefore close my remarks before I intended to have done so according to the programme which I had arranged in my own mind for the argument of this grave subject.

The resolutions of the Senator from Vermont are too broad in their sweep, they are too indefinite in their expressions, they are too complex in their arrangment, they are too concealed to enable me to give to them my sanction. They are unnecessary because they do not suggest any necessary measures of legislation. No good can grow out of the adoption of them because they are confined simply to the expression of the opinion of the Senate and do not ask the concurrence of the House in anything. They seem to have been brought forward in the Senate for no other purpose than merely to gain an expression of opinion. We have the opportunity to give enough of expression of opinion here in the form of votes upon measures of substantial value and advantage to this country not to use the public time, it seems to me, in the expression of opinions upon questions which are non-essential and must be fruitless of good to the people.

The resolutions as I have undertaken to portray them, for I have had to gather their substance from the reading of them simply and not through any explanation given by the Senator from Vermont, it seems to me mingle and confuse together certain premises and deductions which bear no legitimate and logical relation the one to the other. The premises themselves in some instances I have undertaken to show are faulty; the deductions are not logical; but on the contrary there is a vast gap between the premises laid in the first resolution and the conclusions drawn in the second.

The substitute which I have had the honor to bring before the Senate is copied almost literally from the decisions of the Supreme Court of the United States. The question remains for the Senate to determine whether they will accept the suggestions of the Senator from Vermont in the form in which he chooses to present them here, whether or not his *ipse dixit* shall become the law of the Senate and, as far as we have influence upon it, the law of the land, or whether, on the other hand, we will take the decision of the Supreme Court of the United States, a co-ordinate tribunal and department in this great Government, and follow that decision at least until we find that it carries us upon some hidden rock or some unknown shore.

What is the office and function of the Supreme Court? Why was it put in the Constitution as one of the departments of this Government? Why are its jurisdiction and powers expressly mentioned in the body of the Constitution, as also are the powers of the Executive and of Congress? Why was it made one of the great elemental powers and departments of this Government if it is to have no influence upon the destiny of the Government except to decide mere rights of *meum* and *tuum* controversies between private individuals that cannot bind the States or the Congress? Sir, I must discard if I do not denounce the doctrine that the Congress of the United States, or the Senate of the United States, taking it as a separate body, have the right to define the boundaries of their own jurisdiction contrary to the provisions of the Constitution of the United States as they are declared by the Supreme Court of this country. Whenever we sanction a doctrine of that kind we sanction the doctrine of legislative usurpation. The next step in the progress is to say, "We do not care what the Supreme Court has decided; we ourselves have jurisdiction, and having the right to declare the extent and limits of our jurisdiction we will declare it against the judgment of the Supreme Court." A law has been passed here of some important public character, as very many laws have been. The Supreme Court in a case made between two individuals residing in different States, or between a State and the people of another State, or it may be between two States, has taken the subject under advisement and consideration, has heard argument upon it, and has decided that the law of Congress is null and void because it violates the Constitution of the United States.

Mr. EDMUNDS. Which decision was that?

Mr. MORGAN. Many decisions.

Mr. EDMUNDS. Does the Senator think the Cruikshank decision is one of them?

Mr. MORGAN. I was not referring to that case.

Mr. EDMUNDS. I beg the Senator's pardon.

Mr. MORGAN. Does the Senator from Vermont undertake to say that the Supreme Court has never declared void a law of Congress?

Mr. EDMUNDS. Oh, no, I do not undertake to say that.

Mr. MORGAN. Would the Senator in the face of such a decision re-enact the law?

Mr. EDMUNDS. I would, if I thought it right to do so.

Mr. MORGAN. You would?

Mr. EDMUNDS. Most decidedly.

Mr. MORGAN. Then there is the difference between us, and that difference is not going to be forgotten. There is the great point of issue between us. You would re-enact the law if you thought it constitutional, though the Supreme Court had decided to the reverse. I would not. There is the difference between us, and there, Mr President, is the difference between the Senator's resolutions and mine. There the whole pith and core of the subject is. As he was ready in reference to the Dred Scott decision, the Senator is ready now, to fly in the face of any decision of the Supreme Court of the United States which abridges his powers in this Senate and declares void his legislative acts. I, on the contrary, believe that this Government is to be maintained in all of its parts and all of its departments. I believe that this Government is a government which when it was first put in operation was balanced between three great departments of the country. I believe that the right of final judgment upon all questions of constitutional law was given to the judiciary, and when we take that power of final judgment away, and after they have decided against us, we reassert the laws and undertake to put them in force, we do nothing more than to go back to that which of all others was the most provoking cause of trouble in this country, the higher law; and the question to-day is as presented by the Senator in his remarks and his resolutions, simply a question between the higher law and the Constitution of the United States.

As this great Senator leads his hosts from the field of defeat, flying before the decree of the people, he cannot give up the struggle as he marches out of power, until he has put his shield behind him and hurled his Parthian arrows back upon the column of the people who are approaching under constitutional banners. He wants to break the Constitution down and assert his higher law wherever and whenever he pleases. I had supposed that the experience of the last twenty years had rather put a wet blanket upon the subject of a higher law in this country. We will never fight you for it again; we will never war against you for it again under this Government or any other.

Mr. EDMUNDS. I think you warred against it.

Mr. MORGAN. We fought you as we thought outside, but now we will stand inside of this Government claiming this constitutional organization, claiming its powers, claiming the just distribution of those powers between the different departments, and by appealing to the great heart of the people, by appealing to the enlightened consciences of Americans, we will re-engage in this battle again, not with arms, but with persuasion, with argument, with importunity, and imploration. We beg you not to bring back that aggravating cause of disturbance between the States of this Union. Do not assert your right because you and I are members of the Senate and also members of Congress to go to Massachusetts and compel the honorable Senator who sits at your side [Mr. HOAR] to take out of the constitution of his State that provision which relates to the ability of a man to read the constitution and to write his name, and thereby disfranchise thousands of voters; because when you turn loose this spirit of higher law there is no check; there is no restraint to it. A law that is higher than the Constitution is higher than everything else. A law that is higher than the Constitution is such a law as impelled republicanism in the latter part of the last century in France to overturn governments and institutions and in their place inaugurated bloodshed, the guillotine, the prison, and universal destruction. While the Senator, if he had taken his legitimate part in this discussion and had opened it, might not have committed himself openly to these doctrines, yet in the colloquy with me to which he has been provoked while I have been upon the floor he has disclosed at last his contempt of the Supreme Court and his intention to place the powers of the Constitution of the country again in conflict with the doctrine of a higher law, espousing the higher law and assuming its championship against the Constitution.

Mr. EDMUNDS. Mr. President, I only want to say just now, because it has not any legitimate connection with the resolutions that are before the Senate, that my notions of constitutional law and of higher law only differ from those of the Senator from Alabama in the way of applying them. I do not believe in the right of a party against whom the Supreme Court of the United States has pronounced judgment to resist the execution of that judgment by force on the theory of a higher law. I believe that it is his duty to submit. There may be possible exceptions to that; I am only now speaking of the general rule. But I do believe that it is not higher law, but fidelity to the Constitution of the United States, that compels me, on my oath as a Senator, when I am called upon to pass a law, to be my own judge on my own oath and conscience and intelligence of whether the Constitution permits me to pass such a law or not. In considering whether I ought to pass it in the light of the Constitution, I should pay great respect to any judgment of the Supreme Court of the United States that should bear upon that question. I should approach the passage of a law that should differ from their opinions in the light of the Constitution with great reluctance; but if after fair consideration and due deliberation and study it should be my opinion that that law was warranted by the Constitution, and that the public expediency and good also required it to be passed, I should believe that I was a perjurer to my oath if I failed to pass it because of the opinion of a co-ordinate branch of the Government.

It is scarcely necessary to cite illustrations, but I will take one. Suppose the Supreme Court of the United States should decide that it was the judge of the elections and qualifications of members of this

body, and should upon a suit, before a man had got his seat here, by another man instituted in the name of a State, so that it would have original jurisdiction on the face of the Constitution, undertake to decide that A and not B was the true member of this body, would anybody maintain, even my honorable friend from Alabama, that that opinion could have the slightest effect upon my duty here?

Mr. MORGAN. I desire to say one word. I would not say that such a decision was valid, because the Supreme Court had violated its constitutional jurisdiction in taking cognizance of the question.

Mr. EDMUNDS. Exactly; that is the case.

Mr. MORGAN. All the remarks I made are in reference to a decision made by the Supreme Court, within the limits of their constitutional jurisdiction, upon a question relating to the people of different States, individuals, property, boundary-lines between the States. Within the express jurisdiction given them in the Constitution of the United States they have the right to make final decisions which we cannot question.

Mr. EDMUNDS. Yes. Then we have got right on one part of the broad proposition of my honorable friend, and that is that where the Supreme Court of the United States decide against the Constitution we are not bound to regard it; where they decide according to the Constitution, we are. So say I. The question is, who is to judge? Where the Constitution imposes upon us the duty of passing laws just as it does the duty of deciding upon the qualifications and elections of our own members, and not otherwise, is it to be said that the Supreme Court can invade the duty that the Constitution has charged upon us and decide in advance whether we are authorized to pass a particular law or not?

I do not need to pursue it now, Mr. President. I only wanted to get myself out of the apparent bad public repute that my small fortunes would be in as being held up as a person who would defy not only the Supreme Court but the Constitution for the sake of some imaginary higher law. I do not wish to occupy that ground.

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) The question is on the amendment of the Senator from Alabama [Mr. MORGAN] to the resolutions of the Senator from Vermont, [Mr. EDMUNDS,] on which the yeas and nays have been ordered.

Mr. BAYARD. Before the question is taken on the original resolutions, or on the amendment, I have a few words to say.

Mr. RANSOM. Will the Senator from Delaware give way to a motion to adjourn?

Mr. EDMUNDS. I suggest an executive session. I do not urge going on now.

Mr. RANSOM. Very well.

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from North Carolina?

Mr. BAYARD. I give way for that purpose.

Mr. RANSOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at three o'clock and thirty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 1, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

FORT CLARK, TEXAS.

Mr. GIDDINGS. I ask unanimous consent that the bill (S. No. 1627) making appropriation for the purchase of Fort Clark, Texas, be taken from the Speaker's table for the purpose of being referred to the Committee on Military Affairs.

There was no objection, and the bill (S. No. 1627) was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs, not to be brought back on a motion to reconsider.

Mr. SAYLER. I call for the regular order.

MAGGIE BARRON AND OTHERS.

The SPEAKER. The regular order is the morning hour, which commences at seventeen minutes past twelve o'clock; and the House resumes as the unfinished business of the morning hour the consideration of the bill (H. R. No. 6131) for the relief of Maggie Barron, Henry P. Gorman, and Walter Gorman, children and heirs at law of George Gorman, deceased. The gentleman from Texas [Mr. MILLS] is entitled to the floor.

Mr. ACKLEN. I ask the gentleman from Texas to yield to me for a moment that I may make a request.

Mr. MILLS. If it comes out of my time I cannot yield. Every moment I have is disposed of.

Mr. ACKLEN. I will not occupy two minutes of the gentleman's time. I merely desire to have a matter disposed of.

Mr. MILLS. I decline to yield for that purpose. I yield twenty minutes to the gentleman from Mississippi, [Mr. CHALMERS.]

Mr. CHALMERS. Mr. Speaker, I care nothing for the payment of southern war claims to southern loyalists, for if they were loyal then to the Union, they were disloyal to everything that I held dear. But that there were men in the South who were faithful to the flag of the Union in the midst of a terrible trial to their faith is unquestionably true, and I do not envy the cheap political capital that a Union soldier can make by telling such men that he has no more confidence in their honesty than a mouse has in a dead cat stuffed with straw. Under the rules of civilized warfare, which supplanted the barbarous usages of Tamerlane and Ghengis Khan, every nation has paid to individuals in the enemy's country for supplies taken to subsist their armies in the field. This Government refused to pay such claims to enemies in the South, but resolved to pay all such claims when presented by loyal men within two years when their loyalty could be established in its own courts. The claim now under consideration comes from minors and women, against whom statutes of limitation seldom run, and the Committee on War Claims has recommended that their claim shall be heard and adjudged by the courts, notwithstanding the bar of the statute of limitations. The gentleman from Wisconsin [Mr. BRAGG] objects, and taking advantage of the well-known opposition everywhere to war claims, seeks to blend them with claims for southern improvements, and endeavors to throw the odor of his dead cat over all demands coming from the South.

With a remarkable tendency to suspect fraud, he declares himself in advance unwilling to trust the honesty of either the claimants or the court. Such readiness to suspect corruption in others sometimes indicates an innate tendency to corruption in ourselves, and I am therefore not willing to charge corruption upon other men. I am here to do justice to all claimants, I hope without passion and without prejudice. The war and its issues are certainly dead with me. I have now but one political faith, and that is to preserve inviolate our local self-government; and but one political hope, and that is to build up the waste places in the South made desolate in war.

During last session I called attention to the difference in the spirit exhibited by northern republicans to improve a republican South and northern democrats to improve a democratic South. I now call attention to the speech of the gentleman from Wisconsin, [Mr. BRAGG,] not the one toned down in the RECORD next day, but the one made here and partially published in the New York Herald, and contrast it with the declarations of another distinguished Union soldier from New Hampshire, [Mr. BLAIR,] both of which appeared in the RECORD of the same day. In the RECORD he speaks as follows:

Mr. BRAGG. The gentleman from North Carolina says that 95 per cent. of the population of the South were true to the confederacy. That recalls to my mind the very eloquent remarks made yesterday by the gentleman from Mississippi, [Mr. HOOKER.] I was astonished that a claim so exceedingly loyal as this should find the gentleman from Mississippi as its champion. When did the Vicksburgh district before send a man here who represented the loyal people of that district, who should stand here and sing praises and chant paeans in honor of the loyal Southerners. [Laughter.] Ay, when I heard that speech, and saw in my mind's eye the long array of loyal claimants, and thought of their antecedents, I felt like saying to them what the mouse said when it saw the old cat hanging up against the wall: "Oh, you are there, my old friend, are you? You may stay there, for I would not trust you though your skin was stuffed with straw." [Laughter.]

Mr. CHALMERS. I would like to say to the gentleman that my colleague [Mr. HOOKER] is now out. He kept quiet the other day when my colleague was present. I do not think he should assail him behind his back.

Mr. BRAGG. It is not my purpose to assail any man; but if the gentleman says that I say behind his back what I would not say to his face, he mistakes the man whom he calls to order.

I beg pardon of the House if I have improperly alluded to the speech which the gentleman from Mississippi made yesterday in support of this claim; but I have got tired of seeing claims come here in one form, which, when this House expresses its sense upon them, are suddenly diverted into another channel, and of hearing persons talk about judicial examining and making laws fixing the rules of evidence to tie up the court, and then send the matter to accounting officers to determine what the value of the property taken was.

I would like to remind the gentleman from Ohio [Mr. KEIFER] how he quoted in his famous speech against the William and Mary College the well-settled law that no nation is responsible for the torts of its officers or soldiers, for the destruction of property in the course of war in insurrectionary territory; but, as I said, there has been in this House repeatedly a taunt thrown at us, and I regret to say that it comes from Mississippi.

We have been taunted with the $34,000,000 in the Treasury that belong to some one unknown or to the Government as proceeds of abandoned property and ought to be distributed in the South.

I would ask these gentlemen to take their eyes off from the $34,000,000 for a moment if they want to appreciate how we feel. Let them turn the glass over and look at another view—a sea of blood—thousands and tens of thousands of the best men in the land, North and South, weltering in their gore. Let them hear the cries of the wounded man from the battle-field as the cold chill of death strikes him, and by the cessation of the groans you knew that one more soul had gone to his final account.

Let them go and hear the piteous moans from the hospitals; let them go to the hill-sides and mountain-tops and to the valleys where thousands and hundreds of thousands are in mourning.

Then let them look at what is of the least account in the reckoning, the thousands of millions, the billions of money that were spent to put down this war; and when they place all these on the debtor side of the account, I would like to have them strike the balance—show, if they can, that the $34,000,000 of credit which belongs to somebody, they do not know whom, overcome the entries on the debit side.

I am not willing to sit here as the Representative of my constituents and allow these measures to be brought up in one form or another; from one member and another; from one committee and another, for the purpose of getting money out of the Treasury on the plea of loyalty.

These loyal men of the South are so few that the evil that will be done by leaving them out is nothing in comparison with the great evil that will be done if we open the door and allow the $17,000,000 for claims upon our Calendar to be passed and appropriations made for the benefit of men on the plea that they were loyal people of the South.

I have here time and again heard a threat thrown to the democracy upon this side of the House which I have thought for a long time needed an answer, and it came

from Mississippi. I have heard it said here upon the floor of the House that unless the democracy of the North is more liberal, that unless they would open their hands and give out money more lavishly from the Treasury, the solid South would soon go over to the other side.

I say, as one of the Representatives of the democracy of the North, that if there are any men in the South who propose to belong to the democratic party simply for the reason that the doors of the Treasury are to be opened to them, the sooner they go over the better for them, the better for our party; and when the people of this country see and feel, as they are beginning to do, that they can trust the interests of the country with the democratic party of the North and South, then we can make recruits in the Northern States that will fill up our ranks to the maximum.

We have no need of that class of gentlemen that we can only hold to party allegiance by golden ties, by giving them the promise of everything which they may ask out of the Treasury.

He is more correctly reported in the New York Herald, as follows:

He, representing the democrats of the North, would say that if there was a man who professed to belong to the democracy of the South simply for the reason that the doors of the Treasury were to be opened to them, the sooner they went over the better for them and the better for the democratic party. When the people of the country felt that they could trust the Treasury and the interests of the Government with the democratic party, with no danger of the democrats of the North selling out body and soul to the democrats of the South, that party could gather recruits in the Northern States that would fill up its ranks to the maximum, and it would have no need of that class of gentlemen whom it could hold only by giving them all they wanted.

The gentleman from New Hampshire, [Mr. BLAIR,] speaking of the Texas and Pacific Railroad, while opposed to the bill reported, said:

I have no doubts of the power of Congress, in its discretion, to make this appropriation, nor would I from any motive withhold from the great South or Southwest any boon which I would ask for other portions of our vast domain. The man who has not survived the hates of the war should have perished in it. We are, thank God! one people, and only one people. I pity the man who cannot see through and beyond this solid South and the wrongs by which she became and seeks to remain so, and the North rapidly solidifying in self-defense and for the rights of humanity, a solid *nation*, as indivisible and perpetual as the mountain-chains which bind them together, or the rolling girdle with which the Father of Waters forever clasps the teeming bosom of his bride.

The sun of our Austerlitz rose on the clouds of war, but has set in the glories of victory; and when this night of turbulent transition shall have passed away, as it will pass away, so sure as the revolutions of the universe proceed, the sun of peace and union will stand still in our heavens, not while some brief mortal wills it, but a full-orbed star, blazing in the zenith so long as the planet itself is inhabited by mankind.

And, sir, I would vote for any wise and necessary measure which will enlarge our commerce abroad as well as at home; any measure which will open to us new markets for the productions of every industry, whether northern or western or southern, or which will increase the demand for them, wherever one now exists, provided that individual or corporate enterprise is unable to accomplish the desired result.

When the West was in its infancy it was nurtured by the South with a fostering hand. Southern democrats aided Douglas on his Illinois Central Railroad bill. And when Mr. Pierce vetoed the bill to improve the Saint Clair Flats, very similar to the bill for the improvement of the Mississippi River, it was passed in a democratic Senate by a two-third vote over the veto, and Mississippi democrats stood by the democracy of Michigan.

Recently, when I was nominated for Congress the convention indorsed the Texas Pacific and at the same time the Northern Pacific Railroad bill.

I warned northern democrats last session that a refusal to recognize the just demands of the South might result in the defeat of southern democrats and the sending of other Representatives here who would form alliances with other parties. The rapid growth of independent candidates in the South has already sustained my declaration. I do not now take back a single line nor a single word of what I then uttered; but, recognizing that there are two classes of democrats and two of republicans, I repeat what I then said, that I hope the solid South may still be solid for the democratic party, but for that portion of it which has the courage and manliness to treat us as equals and not as inferiors in this Union.

The gentleman from Wisconsin, after having slept on my speech almost a year and after "nursing his wrath to keep it warm," now comes forward to excommunicate me from the democratic church and to give a general ticket-of-leave to all southern men who dare to ask justice and an equal distribution of appropriations from the Federal Treasury. He assumes to speak in the name of the northern democrats, and even if he had authority thus to speak I must say that this is the first time I ever heard of a minority undertaking to turn out the majority of a party. But this great leader from the solid democratic State of Wisconsin now proposes to show me to the door of the democratic party; and when the South asks but a small proportion of the Government aid that has been given to the North he treats her like a mendicant, and, with all the arrogance of Diedrich Von Beekman to old Rip Van Winkle in his own house, says, "Give her a cold potato and let her go." He proclaimed as the representative of northern democrats that they would not sell out body and soul to southern democrats. He rather intimated that he could do better and get more recruits in the North without a solid South than with it.

But, Mr. Speaker, I would like to know who made him the salesman of the northern democracy. I would like to know how many northern democrats he could deliver if he could find a purchaser, and I would especially like to know where he would find a purchaser for such democrats as he has shown himself to be. During the revolutionary war, when the British held the city of New York and our troops were encamped some distance above, there were guerrilla bands operating between the lines that were called "the Cow Boys and the Skinners." They were composed of deserters from both armies, and while they belonged to neither side they robbed indiscriminately from both and fled in the utmost terror when danger approached.

The gentleman from Wisconsin reminds me of these bands. He strikes first on one side and then on the other; but whenever a question comes up requiring the fearless courage of manhood to do justice to the South he rushes in frantic terror into the ranks of the most stalwart republicans to shelter his political head. If such men are democrats, I would like to know upon what principle of democracy they stand. When the war was over democratic soldiers met again as friends, and were ready to forgive on both sides; and when republicanism undertook to press the result of the war beyond the restoration of the Union and to the utter destruction of States' rights, men who had fought to save the Union said "Stop!" The new principle of the democratic party was peace and restoration—that the dead past might bury its dead, and that the bloody shirt should wave alone from the flag-pole of republican bummers. But the gentleman from Wisconsin has found a bloodier shirt than ever waved from the battlements of the republican party, and he is stretching his legs in a frantic effort to climb up to the republican platform and rob them of their last banner. He says, when we talk to him about thirty-four millions in the Treasury, the proceeds of captured and abandoned property, which the Supreme Court has held belongs to Southern citizens, but which they are barred from obtaining by a statute of limitations, that he will remind us of the war debt and the blood of Union soldiers for which the South is responsible. I would remind the gentleman that the war debt is not yet paid, and that the cotton and tobacco States have paid and are now paying far more of this debt than the State which he represents.

And as he has demanded a balance of accounts to be struck, I would ask him to calculate the value of four millions of slaves set free, the princely estates destroyed, the millions paid in pensions to Union soldiers and the decoration of national cemeteries, and the millions yet to be paid under the back-pension bill recently adopted, in all of which we bear our full proportion, and he will find that the balance of accounts is as largely in our favor as the difference in appropriations for internal improvements have been against us. But when the gentleman pleads the blood of Union soldiers as a set-off against the repayment of our money unlawfully taken since the war, he has reached a depth that the bitterest republican in the House has not yet descended to. With the skill of a camp-meeting funeral exhorter he harrows up our souls with a fearful picture of "a sea of blood," hecatombs of mangled bodies weltering in their gore, the groans of the dying and the cold chill of death, and asks us to look on this picture that we may not claim the money filched from our pockets. Like the junior member of "Quirk, Gammon, & Snap" he demands a pecuniary salve to soothe his wounded spirit. If his argument means anything, it means that we are to remain as inferiors in this Union, branded with the mark of Cain, with no rights except to pay taxes, and no powers except to fill offices with northern democrats. If he is a democrat I am not.

One word more, Mr. Speaker, and I am done with this subject. The gentleman talked very flippantly about men in the South who professed to belong to the democratic party. If I am correctly informed he has made professions on both sides; and I would reply to his summary dismissal of a certain supposed class of southern democrats that if there are any sore-headed or disappointed republicans in the North who cannot get into Congress without putting on the lion's skin of democracy, they should be very careful not to open their mouths too wide when they get here.

Mr. HOOKER addressed the House. [His remarks will appear in the Appendix.]

Mr. MILLS. Mr. Speaker, I had agreed to yield the remainder of my time to the gentleman from Pennsylvania [Mr. REILLY] whom I do not now see in his seat. As he is not here I will submit to the House a few thoughts, not upon the sectional and partisan aspects of this case, but upon the expediency of the course which we have been pursuing.

Since the cessation of hostilities and the restoration of the South to her political power on this floor, there has been a large amount of money expended from the National Treasury for the payment of "loyal claims." It has been recently discovered by some statesmen in the land that that is a bad policy, and it has been attributed to southern statesmen. It has been charged here and elsewhere that the country is in danger of being overwhelmed with war claims to be presented and passed through Congress by the votes of southern Representatives. How many rebel war claims have been passed through Congress by their votes? How many have been passed by the votes of any section?

Sir, no part of these claims have been paid to what is known as the confederate element in the southern portion of this country. I do not believe that one solitary dollar that has gone from the Federal Treasury has gone to reimburse any man whose heart beat in sympathy for that cause.

To whom has that money gone? It has gone to the exclusively "loyal" element in the South. Who is responsible for that legislation? I am sure her representatives can stand here and say to their accusers, "Thou canst not say I did it; shake not thy gory locks at me." Did not one of your most distinguished leaders in the North in 1876 boast to the people of Ohio that the party to which he belonged had poured out $100,000,000 of the public treasure to pay the loyal citizens of the South?

Loyalty at the South! Loyalty in that deadly struggle when every generous heart in that land, from the aged man tottering upon his staff to the child in its cradle, beat in sympathy for the success of her cause!

Whose were those spotless names in Sardis that walked in white through all the vigils of that night of temptation? Whose are the knees that did not bow at the altar of the idolator? Who are the brave patriots that clung to the floating planks of the Federal Union in that starless night of storm and shipwreck?

Where was loyalty found? Skulking behind her armies, in the bosoms of sutlers, speculators, contractors, and dead-beats, who had no devotion to either cause, but men in whose bosoms reigned supreme selfishness, upon the altar of whose hearts God had never kindled the fire of patriotism—bummers, speculators, and home-guards—men who had no country, and the only shrine at which they worshiped was the shrine of self. And in order to purchase that class as a political element the public Treasury was made to contribute, not under the leadership of southern democrats either, one hundred millions of dollars.

Since I have been a member of this House my distinguished friend from Pennsylvania [Mr. TURNEY] offered a resolution, for which I cheerfully voted, to shut down upon all applicants for claims arising out of the war, coming from any section of the Union, whether loyal or disloyal. It received only one vote on the other side of the House, and only twenty-four votes in the entire House. Yet that is the only true course and the only true line of statesmanship for us to pursue now. The only proper course is for us to regard this war terminated at Appomattox as waving the wing of oblivion over all these claims.

What justice is there in taxing the poor, persecuted people of the United States either in the North or in the South, exhausted by the most destructive and wasteful war that history gives any account of, taxing them to reimburse some who have merely a legal technicality as a claim to be presented against the United States? Why should the widow and the orphan whose husband and father poured out his blood for his country—why should they be taxed in their cotton and their woolen goods; taxed in their sugar, taxed in the medicine which they administered to them as they lay on beds of languishing and pain to pay the class now growing so numerous, who were loyal to their own sordid selfishness; who skulked behind the Army and now propose to take an oath that they did not sympathize with the cause of the Confederate States?

Sir, this is not right; it is all wrong. And these claims will increase in amount as we get away from the close of the war, and the hearts of those who present them will increase in loyalty and the claims will rise mountain-high as you recede from the bloody scenes of 1861 and 1864.

And the only proper, wise course for us to pursue is to adopt a constitutional amendment and say the war is ended, and all claims are paid or extinguished.

There was something which had to be determined by that war. It was left as a legacy by our fathers who founded this Government. They did not dare to settle the question upon which the North and South went to arms. It was left an open question for them in the Constitution. It came down and was debated for three generations, and at last 2,500,000 of the bravest men that ever trod the earth settled it in discussion on the bloody fields of battle, and to-day, to attest that settlement, perhaps a million of them are sleeping in their unmarked and unknown graves, while howling above them like jackals come these sutlers and bummers calling for their claims and appealing to the national honor to discharge its honest obligations.

Have they any higher or holier claim upon the national gratitude than the army of widows and orphans all over the Union whose husbands and fathers have laid down their lives for their country's welfare? Who is to pay them for their claims? Claims that cannot be estimated in figures, much less paid. Who is to lend a listening ear to the appeals that come from the grief-stricken households of the South, where the bier of death has been stretched by every hearthstone? Who can reimburse their claims? The cause for which her braves have fought is lost, and with it all was lost. Do you now propose to send the tax-gatherer to those households of poverty and extort from the pittance left them an annual contribution as long as they live to repay these so called loyalists? I shall vote against every one of them. [Applause on the democratic side.]

The SPEAKER. To whom does the gentleman yield the remaining portion of his time?

Mr. MILLS. I will yield to anybody who wants it. [Laughter.]

The SPEAKER. The Chair will then recognize the gentleman from Mississippi.

Mr. SINGLETON. Mr. Speaker, it is with sincere reluctance that I rise to take part in this debate. As long as charges such as were made by the gentleman from Wisconsin [Mr. BRAGG] against the South were confined to the republican side of this House and to the Senate I felt inclined to allow them to pass unnoticed, because I believed their purpose was to make political capital by drawing us into heated and imprudent discussions. But when the reproach is taken up by one who professes to be a democrat, and who intimates that southern Representatives and their constituents are held in the line of democracy simply by the hope of plunder to be obtained under the plea of loyalty of a part of our citizens, I think it is time I should speak for myself and the section of country which I in part represent.

The gentleman from Wisconsin, [Mr. BRAGG,] whose reconversion to democracy was quite as sudden, if not as important and interesting, as that of St. Paul to Christianity, has thought proper to make this charge indirectly against the South. Now, sir, I aver upon this floor and before the country that such a declaration is one of the most unfounded and unjust slanders ever put upon any portion of the people of the United States. Let us look for a moment to the facts of the case.

During the war, Mr. Speaker, "loyalty," as it was termed, which meant adherence to the Federal as against the confederate government, was at such a discount in the South as to produce social ostracism, and the man who proclaimed it openly scarcely felt his life secure. He was considered as an enemy to the South and to his people. Such was the intensity of feeling against these sentiments that men only uttered them with bated breath.

After the war was over the people of the North, appreciating what they termed "loyalty" and resolved to show their appreciation of such acts and opinions, established courts before which the claims of this class of citizens were to be heard and determined, and invited "loyal" men to come and propound them for settlement. These courts were organized with Union men as judges, who were lynx-eyed in their researches and deemed able to detect any fraud or imposition intended by what were called "rebels." When the cases were decided adversely to claimants they had the right of appeal to the Congress itself to revise the decisions of those courts. These tribunals were not established by southern men, much less by "rebels," but by Union men, northern democrats as well as republicans. When parties litigant could not get their claims through the courts fast enough they came to Congress where their claims have been urged in large numbers and millions of dollars have been paid upon them. "Rebels" had no part nor lot in all this matter. And even now be it known that we only introduce bills for our constituents—not that we indorse them, not that we come to the footstool of power and beg you to give these people what may or may not be due to them, but we do it because they are our constituents and have a right to our services in this matter. It is for gentlemen of this House to determine the question whether the claims are proper or not.

The gentleman talks about pecuniary losses sustained by his section during the war. If you will take into account the four million of slaves which were liberated, for which we received no compensation, you will find they were worth about $200,000,000. Add to this our losses by the depreciation, destruction, and confiscation of other property and the amount is almost beyond computation. Besides this, every battle, with a few exceptions, was fought upon southern soil, followed by spoliation and ruin. Your losses were not such as ours. I state these facts in no spirit of complaint, but simply for the truth of history. We went into the war with our eyes open, determined to win at all hazards, risking all we had upon the result.

It is not to be denied, however, that while the war was in progress many citizens in the North amassed immense fortunes by the manufacture of arms, munitions of war, clothing, and other necessary army supplies, and that in many localities the ravages and hardships of the war were scarcely felt. Not so with us. Its disastrous effects were felt everywhere. As to the losses of men in the respective sections, I have but a word to say. While the North by hiring substitutes and giving bounties to enlisted men was incurring a large proportion of the debt we are now endeavoring to pay off, there was scarcely a household in all the South which was not draped in mourning for the loss of father, husband, brother, or son.

The fighting we did was at the cost of the best blood of the South, while you were enabled by reason of having control of the Treasury of the United States to give bounty money to foreigners who fought your battles. I reiterate the statement that I am not complaining; I am uttering no reproach; but only declaring what yourselves know to be true.

Read us out of the party! Let me state a few facts which perhaps you have forgotten. Out of the thirteen Presidents of the United States elected up to the war we gave you seven—Washington, Jefferson, Madison, Monroe, Jackson, Polk, and Taylor; you gave us six—the elder and younger Adams, Van Buren, Harrison, Pierce, and Buchanan.

Mr. TOWNSEND, of New York. You took seven.

Mr. SINGLETON. The people elected them, and every part of the country accepted and honored them. I wish to say another thing to my friend from New York, not by way of taunt, but as a fact in history: while five southern Presidents were elected a second time, no northern President up to the war ever served more than four years.

Mr. TOWNSEND, of New York. You could not stand a northern man more than four years; you always beat our men the second time.

Mr. SINGLETON. I cannot yield further for interruptions.

During this period power was in the hands of southern Presidents forty-eight years, in the hands of northern twenty-four years. Did not the country prosper the while, and why, then, should we be read out of the party? Out of one hundred and thirty-six Cabinet officers of the United States up to the war we gave you sixty-seven—only one less than given by the North, having double our representation in Congress. Of Secretaries of State we gave you thirteen out of twenty-

three; of Attorneys-General, seventeen out of twenty-nine; of Secretaries of War, seventeen out of thirty-two. We have never had a President who seized upon that office against the will of the people. We have never had a Secretary who was charged and convicted of corruption or who ever sold the offices at his disposal.

Mr. TOWNSEND, of New York. What of Floyd, and Jake Thompson of your own State?

Mr. SINGLETON. The gentleman feels the force of what I have said, and I do not blame him at all that he squirms under it. The charges against Floyd and Thompson were nothing more than republican slanders.

Now, Mr. Speaker, I wish to say another thing which may have been forgotten. Every battle which was fought by our troops up to the late war in defense of the national honor or to repel invasion was fought under a southern President and our armies commanded by southern officers. The war of 1812 was begun and finished under the administration of Mr. Madison, General Jackson having brought it to a successful close. In this contest the principle of the right of search and the doctrine of expatriation were settled. The war of 1846 was carried on under the administration of Polk, a democrat and southern man; Scott and Taylor being the commanders of the Army.

I state further that there is not a foot of territory that has ever been acquired, either by purchase or conquest, outside of Alaska, that was acquired under any other than a southern President, not excepting the State of the gentleman from Wisconsin.

Now, sir, let the gentleman from Wisconsin consider these facts and say whether he thinks he has the right to read the South out of the party. Why, Mr. Speaker, if what I have heard of his political history be true, he is but a babe in democracy and needs to be fed upon the milk of the word until he shall have grown stronger, and even then he ought to tarry at Jericho till his beard is grown before he assumes to excommunicate the fathers in Israel and essays to be a leader in the party. [Laughter.]

It is said of the Greek poet Anacreon when he undertook on one occasion to change the notes of his harp, which had been accustomed only to songs of love, that he might celebrate deeds of arms and give out heroic strains, although his harp was strung anew for that purpose it refused to sound any but its accustomed notes of love. And so it may be with the gentleman from Wisconsin, who has been so in the habit of abusing southern democrats on account of "southern claims" and "raids upon the Treasury" that now his mouth refuses to speak anything but abuse of his southern party friends.

I hope, Mr. Speaker, we shall have no more of this. I am willing to shake hands with my brother, [Mr. BRAGG,] and with him bury the hatchet, that hereafter as democrats we shall be united. Unity in a party implies equality, and would that gentleman have us occupy a position inferior to his own? If so, I tell him it will not be done. Why, sir, out of the one hundred and fifty-seven members of our party on this floor the South has ninety-four, while the North has only sixty-three. If these southern gentlemen should take leave of the northern democrats, there is no telling what would be their fate; and yet you would read us out of the party! I trust southern Representatives are democrats from principle. We could long since, if we had adhered to party only for the loaves and fishes, have sold out to our friends on the other side of the House. [Laughter.] They are always ready for a trade. [Continued laughter.] You can learn that from the investigation which is now going on in the lower story of this building, where proof is being made that offices were sold to raise money for party purposes.

No, sir, we are not now, as we never have been, in market. Fully believing that this Government can only be administered safely upon the principles of the democratic party, we cast our fortunes in with it and shall share its fate be it good or bad. Talk no more to us of "the cohesive power of public plunder." It is not a plant of southern growth.

We are poor, it is true, but we are not ready to barter our honor, which has stood the test through all the past, for gold or the poor emoluments of office. We have nothing to ask of northern democrats but even-handed justice.

If the war is not ended, then raise troops and levy taxes to suppress the rebellion. Do not make war upon us in this House in an unmanly and covert way. If the war be over, then regard us as your equals and deal justly with us.

Are we in the Union or are we out of it? If we are in it, then behave toward us as friends and not as enemies. If out of it, then cease to intermeddle with our affairs and leave us to manage them as best we may. Let us have no more of these family quarrels, for nothing is more disgusting to the general public. Let us help each other in all that is right, and counsel each other in matters of party fealty. Otherwise we can be of little use to you or you to us.

Mr. HUMPHREY. That is as long as the gentleman from Wisconsin continues to run on the republican ticket.

Mr. SINGLETON. Of that I have nothing more to say. It has not been my purpose to say anything harsh to my political friends nor to gentlemen on the other side of this House. I have attempted to vindicate our motives and show by reference to the history of the past that we are at least worthy of some degree of consideration and confidence. If I have succeeded in this my only purpose has been accomplished.

Mr. MARTIN. I call for the previous question.

Mr. AIKEN. I ask the gentleman to keep his promise to me and allow me a few moments.

Mr. MARTIN. I will do it in the hour allowed to me to close debate.

Mr. AIKEN. I am opposed to the bill, and I simply wish to assign my reason for that opposition.

The SPEAKER. The gentleman from West Virginia [Mr. MARTIN] will have one hour in which to close the debate, and he can yield any portion of it to the gentleman from South Carolina.

Mr. MARTIN. I shall have an hour in the next morning hour, and the gentleman shall have all the time he wants. I will give my friend the time he asks for, but now I ask the previous question.

Mr. CONGER. I ask unanimous consent that the time be extended.

Mr. SAYLER. I object and demand the regular order.

The SPEAKER. The morning hour has expired. The Chair desires to state that the gentleman from Ohio [Mr. SAYLER] will occupy the chair for the remainder of the day.

REORGANIZATION OF THE ARMY.

Mr. CONGER. I call for the regular order, the morning hour having expired.

The SPEAKER *pro tempore*. The regular order is the consideration of the bill reported by the chairman of the Committee on Military Affairs, to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

Mr. BUCKNER. I desire to make a motion that the House go into Committee of the Whole.

Mr. CONGER. I call for the regular order.

The SPEAKER *pro tempore*. As the Chair has already stated, the regular order is the consideration of the Army reorganization bill reported by the gentleman from Ohio from the joint committee on the reorganization of the Army.

Mr. CONGER. I raise the question of consideration.

Mr. BUCKNER. I desire also to raise the question of consideration.

Mr. CONGER. I can do it alone.

The SPEAKER *pro tempore*. The gentlemen from Michigan raises the question of consideration upon the special order and the question is, will the House now consider the special order?

Mr. TOWNSEND, of New York. What is the special order?

The SPEAKER *pro tempore*. It is House bill 5499, to reduce and reorganize the Army of the United States and to make rules for its government and regulation.

Mr. BUTLER. I desire to reserve all points of order upon that bill.

Mr. HEWITT, of New York. If the House refuses to adopt this motion I will move to go into Committee of the Whole upon the Army bill.

Mr. BUCKNER. I desire to know how the Army bill has precedence?

The SPEAKER *pro tempore*. The Clerk will read the order made by the House on the 12th of December.

The Clerk read as follows:

Mr. BANNING, by unanimous consent, from the joint committee on the reform and organization of the Army of the United States, reported a bill (H. R. No. 5499) to reduce and reorganize the Army of the United States and to make rules for its government and regulation, accompanied by a report in writing thereon; which said bill was read twice, and, with the said report, was ordered to be printed and made a special order for January 9, 1879, after the morning hour, and from day to day thereafter until disposed of.

Mr. BUCKNER. On the 23d of April an order was made, not by a majority vote but by unanimous consent, to take up another bill. I desire to know if that bill has not priority now over this bill which the gentleman is trying to get up.

The SPEAKER *pro tempore*. The Chair is not mistaken. This is the special order, and the Chair is compelled to rule that it comes up. Now, if the majority of the House desire to consider the bill to which the gentleman refers they can vote down this motion.

Mr. CONGER. I ask whether the gentleman from New York [Mr. HEWITT] proposes to bring up an appropriation bill.

Mr. HEWITT, of New York. I do; and if this motion is voted down I will move to go into Committee of the Whole to consider the Army appropriation bill.

Mr. FORT. Is it in order now to move to lay the bill upon the table?

Mr. BURCHARD. The gentleman from Massachusetts [Mr. BUTLER] has reserved all points of order on the bill.

Mr. BANNING. The bill is a substitute for House bill 866. [Cries of "Regular order!"]

Mr. BURCHARD. I rise to a privileged motion.

The SPEAKER *pro tempore*. The Chair doubts whether the gentleman can do that while the gentleman from Ohio is occupying the floor, except to submit a conference report or to enter a motion to reconsider.

Mr. BURCHARD. Will not the Chair hear my motion?

The SPEAKER *pro tempore*. The Chair is not disposed to take the gentleman from Ohio from the floor. He is entitled to the floor under the recognition of the Chair, and the Chair must protect him in his rights.

Mr. BURCHARD. Will the Chair hear me on the point of order——

The SPEAKER *pro tempore*. The Chair cannot allow a member to be taken from the floor for a motion.

Mr. BURCHARD. The Chair certainly does not mean that.

The SPEAKER *pro tempore*. The Chair understood the gentleman to state that he wanted to submit a motion.

Mr. BURCHARD. Does the Chair decide that I cannot make any motion?

The SPEAKER *pro tempore*. Not while a gentleman is occupying the floor.

Mr. BURCHARD. I will call the attention of the Chair to a rule.

The SPEAKER *pro tempore*. If the gentleman rises to the point of order that the gentleman from Ohio [Mr. BANNING] is out of order in occupying the floor, the Chair will recognize him.

Mr. BURCHARD. The rule gives any member the right, after the expiration of the morning hour, to move to proceed to business upon the Speaker's table, and that motion will take a member from the floor. This is the rule, as will be found on page 172 of the Digest:

It is an unvariable practice, too, to permit a member, upon the expiration of the morning hour, to take the floor, even though another may be occupying it, to make the motion to proceed to business on the Speaker's table.

I now take the floor and submit that motion; and pending that motion I will yield to the gentleman from New York [Mr. HEWITT] to move that the House resolve itself into Committee of the Whole, for the purpose of proceeding with the consideration of the Army appropriation bill.

Mr. COX, of New York. I would like to inquire of the Chair, what is the question before the House? Is it to take up the Army appropriation bill, or to take up the bill of the gentleman from Missouri, [Mr. BUCKNER?] Suppose I vote "ay" on the pending proposition, for what am I voting? [Laughter.] Am I voting to take up the bill of the gentleman from New York [Mr. HEWITT] or the bill of the gentleman from Ohio, [Mr. BANNING?]

The SPEAKER *pro tempore*. The Chair has distinctly stated that the question of consideration has been raised upon the special order, being the bill in charge of the gentleman from Ohio, [Mr. BANNING.] Pending that, however, the gentleman from Illinois [Mr. BURCHARD] moves to proceed to business on the Speaker's table, and under the rule the Chair is required to recognize that motion. But after business on the Speaker's table shall have been disposed of, the Chair will recognize the gentleman from Ohio, [Mr. BANNING.]

Mr. BURCHARD. And pending that motion——

The SPEAKER *pro tempore*. The gentleman must submit the motion to go to business on the Speaker's table.

Mr. BURCHARD. And pending that motion I am entitled to move that the House resolve itself into Committee of the Whole on the Army appropriation bill.

Mr. HEWITT, of New York. I doubt whether the gentleman from Illinois [Mr. BURCHARD] has the right to make such a motion about a bill of which I have the charge.

Mr. BURCHARD. Any member has the right to make that motion; but if the gentleman from New York does not want to consider that bill now I will withdraw that motion.

Mr. HEWITT, of New York. The gentleman from Ohio [Mr. BANNING] has charge of a bill for the reorganization of the Army. If that bill is to be considered and acted upon by this House at all it is desirable that it shall be considered in advance of the Army appropriation bill, because it will in some measure affect the provisions of that bill. I have consented not to antagonize the gentleman from Ohio, [Mr. BANNING.] It is in the discretion of the House whether it will proceed to consider the bill of the gentleman from Ohio or not. I now give notice that if the House does not decide to go on with that bill I will then move to go into Committee of the Whole on the Army appropriation bill.

Mr. BURCHARD. Then I withdraw the motion to proceed to business on the Speaker's table.

The SPEAKER *pro tempore*. The question before the House is, will the House now proceed to consider the bill of which the gentleman from Ohio [Mr. BANNING] has charge?

Mr. GARFIELD. And that motion is not debatable.

The question was taken; and upon a division there were—ayes 77, noes 112.

Before the result of this vote was announced,

Mr. BANNING called for the yeas and nays.

The yeas and nays were not ordered, there being but 12 in the affirmative.

So the House determined not to proceed to the consideration of the bill for the reorganization of the Army.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate insisted on its amendment disagreed to by the House to the bill (H. R. No. 5180) to abolish the volunteer navy of the United States, agreed to the conference on the disagreeing votes of the two Houses, and had appointed Mr. SARGENT, Mr. ANTHONY, and Mr. MCPHERSON as conferees on the part of the Senate.

ARMY APPROPRIATION BILL.

Mr. HEWITT, of New York. I now move that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering the bill (H. R. No. 6145) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. SPRINGER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the bill making appropriations for the support of the Army.

Mr. HEWITT, of New York. I ask that the first and formal reading of the bill be dispensed with.

There was no objection.

Mr. HEWITT, of New York. Mr. Chairman, when two days ago I attempted to launch my little bark freighted with a public cargo I found that I was on a stormy sea, and so I put back into port. The storm has come and passed, and as usual is succeeded by a calm in which we can hope to get a patient hearing for the public business.

The bill for the support of the Army which we are now considering is based upon estimates of the Secretary of War to the amount of $29,084,500. The amount recommended by the bill under consideration is $26,747,300, which isless than the estimates by the sum of $2,337,200. It exceeds the amount appropriated by the corresponding bill of the last session by the sum of $969,112.82.

This excess arises from the fact that the bill as it passed the House at the last session made appropriations for the support of an army containing twenty thousand five hundred men. In the Senate the number was increased to twenty-five thousand. But the Senate did not change the money figures of the appropriation. There was no power in the committee of conference to change those figures; and the consequence was that the bill of last year did not appropriate a sufficient amount for the support of the Army.

I am glad to say, however, that owing to the great economy which has been shown in the various departments of the military service the deficiency, which would have been $1,260,000 if measured by the additional pay alone, has been reduced to $700,000; so that if the necessary sum had been appropriated last year for the support of an army of twenty-five thousand men the amount appropriated by this bill would be almost identical with the amount required for the support of the Army last year.

The saving which we have been able to make has been mainly in the item of subsistence—the rations—which were estimated last year at twenty-two cents and are estimated this year at twenty cents, owing to the great fall in the price of the necessaries of life. The consequence is that no material additional expenditure is authorized by the bill, and there is no considerable saving.

Here let me say to the House that I do not deem it possible to effect any further considerable saving in the cost of the maintenance of the Army as it is now organized. In my judgment every item is reduced to a minimum. If there be any serious abuses in the expenditures of the money appropriated I do not know where they are. If, therefore, saving is to be made hereafter, it must be by another process, the process of reorganization and reconstruction. This will be evident by a reference to the amounts appropriated since 1874. In that year the appropriations for the support of the Army were $31,796,008.81; in 1875 the amount appropriated was $27,788,500; in 1876, $27,933,830; making for the three years under what I may term, if gentlemen on the other side will allow me, republican rule, a total of $87,518,338.81. For the three years of democratic control of this House the appropriations for the Army were: in 1877, $25,987,167; in 1878, $25,612,500; and in 1879, $25,778,187.18; making a total of $77,377,844.18—a reduction of $10,140,494.63 in the three years since the democrats have been in power in this House, as compared with the three previous years.

But as I wish to do entire justice, I must say that the expenses of maintaining the Army had been in the natural course of things reduced by a fall in the cost of supplies. Moreover, from this apparent saving of $10,000,000, there is to be made an honest deduction of about $2,000,000 for deficiencies which have been created, and which, so far as not appropriated for, have not yet been made good. So that the sum total of saving which we can claim on the Army appropriation bills within the last three years may be said to be about $8,000,000. But it is right to observe that the deficiencies have been altogether due to the extra cost of the Indian wars, which had not been anticipated or estimated for when the appropriations were made. The saving, therefore, since the advent of the democrats to power in this House may therefore be set down as $8,000,000 to $10,000,000; a considerable sum, it is true, but small in comparison with the economy which might be effected by a proper reorganization of the Army.

LEGISLATION ON APPROPRIATION BILLS.

When I reported the Army appropriation bill last year, I undertook to show the House (and I think I succeeded in showing) that the Army could be reorganized so as not to impair its efficiency and still save annually about $4,000,000. According to the plan which I then submitted, about half that sum was saved by a reduction in the number of officers, for it is notorious that the Army is overloaded with officers; it is top-heavy. The other half was saved by reducing the number of men from 25,000 to 20,500 and by a reorganization of the regiments in such a manner as I believed would make this reduced number of men quite as effective as the number now in the Army—25,000. That proposition was adopted in the House, but was rejected in the Senate. The conference committee that had to pass upon this question was placed in one of the most embarrassing positions which

could possibly occur in the legislation of the country. The rule of the House is that any general legislation may be incorporated in an appropriation bill, provided it effects a retrenchment of expenditures. The rule of the Senate is that no general legislation can be attached to appropriation bills. As a matter of course, the rule of the Senate could not by any possibility restrict or infringe upon the constitutional right of this House to send to that body a bill in any shape or form it may choose; but, on the other hand, it is quite as impossible for this House to constrain the action of the Senate. If that body should think the general legislation upon an appropriation bill to be inadmissible, we have then presented this alternative—the failure of the bill or the surrender on the part of this House of its claim to legislate upon appropriation bills.

My own judgment and conviction, the fruit of very considerable study before I had the honor to be a member of this House, and of very much observation since I have been here, lead me to the conclusion that as a rule general legislation upon appropriation bills ought to be avoided. But, Mr. Chairman, the question presents itself whether at any time and under any circumstances this House can be justified in insisting upon legislation in an appropriation bill even to the extent of allowing the bill to fail. That question is answered by a reference to the history of the birth and growth of British liberty. Redress of grievances prior to the passage of appropriation bills, prior to grants of supplies, has been the only instrument by which the British Commons have constructed and maintained the edifice of civil liberty. When the question of personal liberty—the right of the subject as it is called in England, the right of the citizen as we call it—comes in question, then by every lesson of tradition, by every conclusion of statesmanship, this House is not only justified in insisting upon a redress of grievances before agreeing to a supply bill, but to do anything else would be to abdicate its powers and to be treacherous to the memory of that long line of patriots who went before us in building up the fabric of human freedom which we inherited from our British forefathers, and which it is our duty to conserve and protect with the same fidelity as the English people to this hour display through their representatives in the halls of Parliament.

THE CONFLICT.

Now, Mr. Chairman, such an occasion arose in the Forty-fourth Congress. There were two conflicts in that Congress, one of which determined the result of the presidential election. This House agreed to a method of settlement of the gravest of all political questions which had ever arisen in this country, and it was loyal to its engagements. The second question arose on the Army appropriation bill, and it arose in this wise: it was the conviction of a large majority of the members of this House that the result of the presidential election was not in accordance with the choice of the people, but was governed, influenced, and controlled by the use of the Army in the States of Louisiana and South Carolina. There was then presented to the majority of this House one of those crucial tests which try the patriotism and statesmanship of Representatives. True to the lessons of the past, they attached to the Army appropriation bill a provision in the exercise of the unquestionable right of Congress directing where, when, and how the Army should be used in the States of South Carolina and Louisiana; that the Army should not be used to maintain certain State governments which had been created and only kept in existence by the exercise of the military power under the orders of the President. I mean by his "military power" his control over the military forces of the country which he exercised under certain statutes passed at the close of the war. The Senate refused to assent to that provision.

Three several conference committees, composed of different members, met and conferred upon the matter in difference. They failed to come to an agreement, and the result was the Forty-fourth Congress adjourned without passing any bill for the support of the Army. For one, I approved the steps taken by this House. I felt that to have done less would have been a base surrender of the right of a free people to control the Army and determine to what use it should be put. I repelled then, and I repel now, the idea that the President of the United States has any other control as Commander-in-Chief of the Army except that which is in accordance with the statutes which Congress may adopt. He is the organ through which the orders of the people, expressed by Congress, are to be given to the Army; and to surrender the power of regulating and controlling the use of the Army would be to convert this Government into a centralized despotism.

Moreover, I was glad the bill failed. It would have been a misfortune to this country if common ground had been found on that occasion by which this question should have been passed by for the moment and put out of sight. The loss of the bill aroused the attention of the people of this country to the old story of British liberty forgotten amid the din of arms and the conflict of war. It revived to a youthful generation who knew not the history of those men who from the time of James I to that of William III, consecrated their lives and their fortunes to the cause of human freedom, and with stern unbending energy never yielded to the frowns, or the caprices, or the approaches of power until they had surrounded the right of the subject with a bulwark which has never been successfully attacked in England, and which could never have been attacked successfully in this country but for the fact of the civil war. The failure of that bill brought us back to the old landmarks, raised the old question and brought the public judgment to a conclusion on that subject which can never again be shattered.

THE EXTRA SESSION.

An extra session was made necessary by the failure of the Army bill. For one, I came to this House, to the Forty-fifth Congress, with a determination not to allow any question public or private to interfere with the restoration and the recognition of the right of Congress to control the Army. To me it was the question of questions. I was placed, to my own surprise, in charge of the Army bill. The question at once presented itself, shall we renew the issue upon this bill which failed, or shall we reserve it to the bill to come for the next fiscal year? It seemed to me that to raise the question upon the bill to take the place of the one which failed would be a mistake. I did not want to see the democratic party arrayed, either by implication or direct action, against the Administration which had come into power over their heads and against their wishes. I felt, and was the first to say, that the Administration had a title which could not be successfully attacked; and it seemed to me it would be a mistake to reopen the issue as it must necessarily have been reopened on that bill. I thought it was a mistake even to attempt any reorganization or reduction, and the bill was brought into this House without any reduction. And I ask pardon of gentlemen if I make this explanation, because I have been severely criticised in some quarters for what I did on that occasion. It was brought into this House without the reduction of a man, without an attempt to cut off an officer, without any provision looking to the assertion of the right of the people to control the Army. This omission was done purposely and the bill passed, and then disappeared, I trust forever, the wreck which surrounded the late presidential campaign.

THE POSSE COMITATUS CLAUSE.

When the new bill came along, the bill under which the Army is being maintained for the present year, then it seemed to me the question thus passed over ought to be raised anew. And here I want to make my acknowledgments to the distinguished gentleman from Kentucky, [Mr. KNOTT,] the chairman of the Committee on the Judiciary, to whom I applied for help on that occasion, and who, with the skill of a Somers, drew the clause which is now known as the *posse comitatus* clause.

I did not think it wise to insert that clause in the bill as reported by the committee. I preferred that the committee should come in under the rules of the House with provisions which should reorganize and reduce the expense of maintaining the Army. I preferred that the fight should be made upon the question of economy, and you, Mr. Chairman, [Mr. SPRINGER in the chair,] and other gentlemen here will bear witness that whatever power I had I exerted to the utmost to secure the economy which that bill would have produced; and it passed the House.

But I say now that I regarded the question of money involved in that bill and the question of reorganization which it presented as of utter insignificance compared with the provision which I had arranged with my friend from Kentucky [Mr. KNOTT] to offer in this House. It was offered; it was ruled in order; it was passed, and it went to the Senate where it and the entire reorganization scheme were rejected. Then came the conference committee, and an anxious conference it was. I had a perfect understanding with my colleague on that committee, I mean my democratic colleague, that while we would secure as much economy and reduction of expenditures as might be possible, yet we would surrender it all, every jot and tittle of the saving, if we could preserve the *posse comitatus* clause; and we also had a perfect understanding that, no matter what might be conceded in the way of reduction and economy, it would be no temptation for us to give up that provision upon which, as he and I believed, the future liberties of this country depended. I trust my colleague will pardon me if I say that this country and this House know not the debt of gratitude which they owe to him. During the hours, long and anxious, during which that provision was under discussion, he exhibited a patience, an acuteness, a breadth of comprehension, I was almost going to say an adroitness, which cannot be too highly commended; and if to any man we owe more than to another the securing of that great triumph, it is to my friend and colleague from Illinois, [Mr. SPARKS.]

REORGANIZATION OF THE ARMY.

But, Mr. Chairman, we secured more than the *posse comitatus* clause, we secured a clause providing for the reorganization of the Army; that is to say, creating a commission whose business it was made to examine into the whole question and make report by bill or otherwise to this House, and pending such report and action thereon by the House all appointments and promotions were suspended.

That provision will secure a reorganization of the Army, whether in this Congress or in the next I know not and I frankly say I care but little. If gentlemen suppose that I take to myself any earthly credit for having studied the Army question and having tried to make myself familiar with a subject with which I had no previous acquaintance whatever, I beg them to dismiss any such idea. I have studied it with all the care that I know how to bring to it, and all the experience of a man of business; but I do not pretend to sufficient knowledge to deal with a subject of such vast difficulty. Nevertheless, I find by the study of the past that armies have never been successfully reorganized by soldiers. From the earliest days to the present time it has been the work of statesmen. Pericles and Ximenes, Louvois, Chatham, Hardenberg, Carnot—who, as Napoleon said, "organized victory"—and Wellesley and Castlereagh, and in our own

country Calhoun and Stanton were the men who successfully organized armies. It is the work of statesmen and not of soldiers. For civilians to pretend to direct armies would be the height of folly; but questions of organization and administration are the very questions with which civilians who aspire to be called statesmen, or who are worthy of the name, are called upon and ought to deal; and army reorganization is one of the most conspicuous examples in which they have heretofore shown and will to the end of time show their capacity for successful administration.

REPEAL OF THE POSSE COMITATUS CLAUSE.

But, Mr. Chairman, our work is not done. The *posse comitatus* clause is objected to by the Secretary of War in his report. The Secretary of War is a lawyer of very great distinction; I had the honor to serve with him for two years in this House; he has no warmer admirer than I am and I would take his construction of a statute as readily as that of any man I have ever known. But in his report he has failed to grasp the magnitude of this question when he even suggests the idea of a repeal of the *posse comitatus* clause. Repeal never! I think that I am safe in saying that not a vote will ever be cast on this or the other side of the House for the repeal of that muniment of human liberty.

Mr. McCOOK. I would cast such a vote, for one.

Mr. HEWITT, of New York. My colleague from New York says he is ready to vote for its repeal. I hope the gentleman will live long enough to devote himself to the study of those underlying principles upon which the fabric of constitutional law has been built. The narrower construction of statutes I concede the gentleman has studied and in that he is possibly an expert, but when it comes to these questions which concern the very essence of free government, there is a work for him to do which he seems not yet to have undertaken.

Mr. McCOOK. If the gentleman will permit me——

Mr. HEWITT, of New York. I would rather not be interrupted. I am quite willing if the gentleman desires to answer anything I have said that he should do so at the close of my remarks. I would not have made any reference to him but for the fact that he interrupted me.

Now, sir, I say repeal, never! Definition, yes. The provision may be too broad. It may impede the action, the proper action of the Government. There may be cases wherein the military power might be employed properly and usefully in the execution of civil process. It is not for me who am no lawyer to say what those cases are, but I can understand that on the frontier and in the Territories of the United States there may be occasions when in the absence of police it may be necessary to invoke the aid of the Army, and I do not know that even that is prohibited by the clause; but if there be any prohibition which interferes with the security of life, liberty, and property then let us define and correct it, and I trust it will be the work of the next Congress to define when and where and how the military power of the country may be invoked. My colleague says he will vote for it. I commend to him an extract from a letter of one who is a great lawyer and who happens to be the chief cabinet officer of this country at this time; possibly his authority might go a little way with the gentleman. Mr. Evarts, then Attorney-General of the United States, in a letter addressed to a United States marshal used the language which I now ask the Clerk to read. Remember this was prior to the passage of the *posse comitatus* clause.

The CLERK. After quoting the act of '89 and the familiar opinion of Mr. Cushing in relation to the fugitive-slave act, Mr. Evarts says, addressing a United States marshal:

While, however, the law gives you this power to command all necessary assistance and the military within your district are not exempt from obligation to obey, * * * the special duty and authority in the execution of process issued to you must not be confounded with the duty and authority of suppressing disorder and preserving the peace which under our Government belongs to the civil authorities of the United States. Nor is this special duty of the marshal in executing process issued to him to be confounded with the authority and duty of the President of the United States in the specific cases of the Constitution under the regulations of the statutes to protect the States against domestic violence, or with his authority and duty under special statutes to employ military force in subduing combinations in resistance to the laws of the United States; for neither of these duties or authorities is shared by the subordinate officers except when and as the same may be specifically communicated to them by the President. * * * Nothing can be less in accordance with the nature of our Government or the disposition of our people than a frequent or a ready resort to military aid in execution of the duties confided to civil officers.

MILITARY INTERFERENCE AT THE POLLS.

Mr. HEWITT, of New York. That is sound law and it is statesmanship. Now, this work which we have undertaken is not yet completed. I ask the Clerk to read section 2002 of the Revised Statutes.

The Clerk read as follows:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls.

Mr. HEWITT, of New York. "Or to keep the peace at the polls." This statute was enacted in 1865 after the close of the war. It was enacted as a protection of the citizen in his right of voting against military interference that "no military or naval officer or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held." The object was to prohibit the presence of troops at the polls, and then as if in irony which is almost sublime the words follow, "except it may be necessary to repel the armed enemies of the United States *or to keep the peace at the polls*." I do not know who wrote that statute, but under favorable conditions he would have developed into a satirist of the highest order.

"To keep peace at the polls!" How easy is it to have a little disturbance at the polls. It can be got up to order, and generally without order, and then the military officer may march up his troops to preserve the peace, but where meanwhile is the voice of the people? *Inter arma silent leges.*

On the day of election the people are sovereign. That is the day when the soldier should not be seen. Moreover, it forms no part of the duty of the General Government to "keep the peace at the polls." That is the duty of the States; that is a part of the sovereign power which they kept to themselves.

Prior to 1865 no one ever suggested that the Federal Government could enter within the confines of a State and "keep peace at the polls." In saying this I do not mean to reflect upon my republican friends.

The close of the war, when this statute was passed, was a martial era. Men still breathed a military atmosphere; passion still reigned supreme, passion upon both sides. The judgment of men was paralyzed. They were in no condition to frame just and wise legislation. But how it happens that this clause has thus far been allowed to remain upon the statute-book passes my comprehension, and I appeal to gentlemen upon the other side of the House with the same confidence that I do to those upon this side, to help us to expunge it from the statute-book as a blot on the charter of American freedom.

THE BRITISH PRACTICE.

If the gentlemen want to know how monarchical governments protect the liberties of its subjects let them listen to the wise and solemn words of the British statute.

This statute which I will have read was enacted in the reign of Queen Victoria. It was the re-enactment of a statute passed during the reign of George II, and if I may be permitted to refer my colleague [Mr. McCOOK] to Blackstone, he will find some suggestive commentaries on the subject of this statute, which had been enacted just before their publication.

The Clerk read as follows:

SEC. 2. *And be it enacted*, That on every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election; and that every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered.

SEC. 3. *And be it enacted*, That when and so often as any election of any member or members to serve in the Commons House of Parliament shall be appointed to be made, the clerk of the Crown in chancery or other officer making out any new writ for such elections shall, with all convenient speed, after making out the same writ, give notice thereof to the secretary at war, or, in case there shall be no secretary at war, to the person officiating in his stead, who shall, at some convenient time before the day appointed for such election, give notice thereof in writing to the general officer commanding in each district of Great Britain, who shall thereupon give the necessary orders for enforcing the execution of this act in all places under his command.

Mr. HEWITT, of New York. It will there be seen that whenever an election for members of Parliament takes place the soldier must disappear from the scene. The people are sovereign on that day; and if a riot should break out upon that day the military force could not be used for its suppression. During the hours of election the soldier must be within his barracks. That there may be no mistake about this the clerk of the Crown is charged with the duty of making known through the war office that an election is to take place, in order that the symbol of force may retire and the majesty of the people may reign supreme, at least for one day, when the right of suffrage is exercised in the island of Great Britain.

Let me here recall the noble preamble of the mutiny act under which the standing army is maintained in Great Britain:

Whereas the raising or keeping a standing army within the United Kingdom of Great Britain and Ireland in time of peace, unless it be with the consent of Parliament, is against law;

* * * * * * * *

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm by martial law, or in any other manner than by judgment of his peers, and according to the known and established laws of this realm.

Oh, what a proclamation of the rights of the subject is that! No king, no potentate, no power but the law of the land can coerce the subject in time of peace.

In the forty-first section of that bill is another provision, which until it came under my eye the other day had escaped notice:

No person who shall be commissioned and in full pay as an officer shall be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor, portreeve, alderman, or to hold any office in any municipal corporation in any city, borough, or place in Great Britain or Ireland.

FREE ELECTIONS.

So jealous are they of the military power that they will not allow a military officer to hold a civil commission. They are not in England willing to have the power of the army confounded even for a day with the machinery by which civil process in enforced. Yet

we, in this country, have solemnly enacted that on an election day, "if it is necessary to keep the peace," the Army of the United States may be marched to the polls. Such a provision is at war with every principle for which our ancestors contended, and which is embodied in the frame-work of our Government. Every hour that we allow it to remain on the statute-book is treason to the great men who achieved liberty for us, who founded this Government of ours after fighting for the right of representation, who imbedded this right into the Constitution, who jealously guarded it from the foundation of the Government until 1860, and whose spirits, if they could speak to us in this Hall, would entreat us to remember the sacrifices by which this liberty was secured, and not allow it to be imperiled by the insidious use of the military power. But all this has been better said by Mr. David Dudley Field, in an article of his, published in the Albany Law Journal, in September, 1877, upon this very subject. It was written after a very full conference in which I enjoyed the benefit of his instructions and advice. He sums up the whole matter in language which I will ask the Clerk to read.

The Clerk read as follows:

The great maxims of free governments are the fruit, not of one generation or of one century, but of many generations and many centuries; they have been fought for and suffered for; they have been established and consecrated by blood and fire. If we would preserve them and profit by them, we must remember them, teach them, and stand by them. It is an accepted article of the political creed of every free country that the military is and must be subject to the civil power. Whoever teaches that any military officer, from the highest to the lowest, from the commander-in-chief to the sergeant of a guard, can lawfully command his soldiers to enter any place or do any act which the law-making power of his country forbids, should be accounted, as he is in fact, the enemy at once of his country and his race.

Mr. HEWITT, of New York. Now, I count upon the cordial support of both sides of this House in the attempt to amend the statute which I have just read, by striking out the words "or to keep the peace at the polls." At the proper time I shall offer an amendment for that purpose. This provision is not now in the bill as reported to the House, because I think it better that there should be a direct vote of the House taken as to whether it shall come in or not.

Mr. HALE. The gentleman proposes to move that as an amendment to the Army appropriation bill?

Mr. HEWITT, of New York. Yes, of course, subject to a point of order, which I trust no gentleman will make. I count, indeed, upon the unanimous support of both sides of the House of such an amendment. I know that on this side of the House we do not monopolize either the statesmanship or the patriotism of this country. I accord to gentlemen on the other side the fullest credit for a desire to preserve whatever we have gained in the direction of freedom, and to add to it by every possible means.

When this statute was passed it may possibly have been supposed that it was a provision for the protection of the constitutional rights of the citizen. But after even the very imperfect discussion I have given it I think it must be apparent to this House that so far from its being a protection it is a step backward which we ought to retrace at the earliest possible moment.

ARMY ORGANIZATION.

Having devoted much time to the study of army organization, and having enjoyed the benefit of the advice and assistance of one of the most competent of living military critics in this or any other country, I deem it best to include in these remarks what I was prepared to make in case my friend from Ohio [Mr. BANNING] had succeeded in getting the bill reported by the commission before the House. I trust that it may have some value when this important matter shall come up for final disposition.

Army organization, in the modern sense of the term, is the work of Louvois, the great war minister of Louis XIV. His "Royal Regulations" for the government of troops in field or in camp, for the distribution of authority and responsibility, for frequent inspection of troops, stores, and magazines, are used to-day by civilized governments. At the time and after, noblemen and gentlemen of wealth and influence raised regiments and maintained a proprietary interest in them. As proprietors they received money from government for pay, rations, and clothing, but the money more frequently provided for their debaucheries than for the necessities of their men. Without fear or favor of persons Louvois stopped these malpractices, and his inspector-general, the celebrated Colonel Martinet, whose name has become a synonym of strict discipline, arrested some of the greatest nobles of France. In the memoirs of Saint-Simon can be found an amusing description of the wild indignation of these worthies when Colonel Martinet overhauled their accounts.

The beginning and close of the eighteenth century produced the two great strategists of modern times, Marlborough and Napoleon; but armament and tactics experienced but little change until the last five-and-twenty years. Nothing was learned from the experience gained by our colonists in their combats with savage foes. Braddock and subsequent British commanders regarded the practice of fighting under cover as evidence of a cowardly spirit and scorned the colonial riflemen. Even after the Tyrolese marksmen, abandoned by Austria, had driven the French and Bavarians from their country, Napoleon seems to have attached no importance to their mode of fighting. Prior to the Crimean war the destructive force of armaments and consequent value of the different arms of military service may be stated as follows:

The effective range of the smooth-bore musket—the "Brown Bess," of Marlborough and Wellington—was sixty yards; extreme range, a hundred yards. In action no attempt at aim was made, and, indeed, would have been useless. To fire in the direction of the enemy was all that could be expected. The effective range of artillery, using grape or canister, was but three or four times greater than that of the musket, and at extreme range, solid shot was destructive by chance, even when directed against large masses. Shell firing from field or siege pieces is of recent date, mortars being exclusively used for that purpose. The heavy losses suffered in such actions as Oudenarde, Malplaquet, Borodino, and others were not due to the efficiency of the weapons employed, but rather to their inefficiency. Fighting was almost hand to hand, and when one party gave way the victors were upon them to slaughter at will. Under such conditions cavalry was of great importance. In a rapid charge upon infantry, but one, or at the most two, volleys had to be sustained, and none but the steadiest infantry could withstand the shock of saber or lance, even when formed in squares. The great range, precision, and rapidity of fire of the repeating breech-loader have changed this, and a few score of infantry, under cover of hedge or wall, would laugh at a battalion of cavalry. On neither side during our civil war was cavalry effective, except when dismounted and fighting on foot. In the Sadowa campaign, the superb Austrian cavalry, considered the best in Europe, accomplished nothing against the needle-gun. At Gravelotte a large part of the cavalry of the Prussian guard was sacrificed to stay a threatened forward movement of the French until infantry could come up. Had mounted infantry been employed, the same mobility would have been preserved and the object accomplished at much less expenditure of men. At Sedan, a French regiment attempted to charge a line of German infantry, but men and horses were annihilated before half the intervening space was passed. A glamour surrounds the jingling spur and clanking saber, but on a battle-field the cavalryman is as useless as would be a mailed knight. Mounted infantry, with the mobility of one arm and the fighting capacity of the other, is alone in harmony with existing armaments.

Napoleon largely employed the moral force of artillery, massing guns to thunder against some part of the enemy's position before launching his columns of attack. Veterans take small heed of the "*vox et præterea nihil*" of artillery. It is only when the whir of the bullet mingles with the thud of shot and shell that they feel the sense of battle. During the sepoy mutiny bodies of mutineers would hold together so long as they retained guns which the fear of losing prevented them from bringing into action. The British columns in pursuit directed their efforts to the capture of these guns, whereupon the sepoys dispersed. Some of this superstition yet lingers from times when guns were scarce and costly and their possession highly prized. To lose guns was disgraceful, and the point of honor with an artilleryman was to save his pieces under all circumstances. This had the effect of making commanders of batteries nervous at critical moments. Sound doctrine would teach that guns must be fought to the last moment, and are creditably lost when they have delayed and punished the enemy. At Buena Vista, Bragg with his battery was ordered to close the gap through which a heavy force of Mexicans was advancing. "I see no supports, general, and without them may lose my guns." "You must rely on me and my staff for support," replied the general, "there is none other. If the enemy pass this point, not only your guns but everything will be lost." Bragg unlimbered and went into action, with the enemy right upon him. The result is history; and this is the prose of the legend: "A little more grape, Captain Bragg."

Commanders of armies or corps on both sides in our civil war will admit that they were frequently burdened with too much artillery, which cut up and obstructed roads, required multitudes of wagons to transport ammunition, demanded troops of other arms for protection, and involved much forethought to keep it out of danger. The existing breech-loader has a range of from fifteen hundred to two thousand yards, and at these distances, securely under cover, a few marksmen can destroy a battery.

Horse, commonly called flying, artillery is alone effective in the field. It possesses great mobility, even over the most broken ground, and can go into or out of action with such rapidity as to make it independent of supports; but men and horses require long and constant drill, which governments must secure in time of peace. Captain Ramsay, of the British army, was the pioneer of horse artillery. The rapid movements of his battery on the field and its distinguished service appear in Wellington's dispatches and in Napier's Peninsular War.

Short range and small destructive power of arms determined infantry formation and tactics. Lines were of three, even four ranks, and the momentum of heavy columns was relied on to carry positions. Notwithstanding the feebleness of small-arms, the superiority of line over column in giving fire-front was asserted where infantry possessed unusual steadiness—a characteristic of the British.

At Albuera the "Buffs"—a British regiment—advanced in line on a heavy column of French veterans. By close and steady volleys the British swept away the French and prevented them from deploying, though animated by the presence of Soult. It was a noble feat of arms, and afforded a theme for the pen of Napier to write the grandest military description in any language. Had the experience of Waterloo occurred earlier in his career, Napoleon would have modified his tactics of attacking in column. As our civil war progressed, pluck

and armament being alike, though numbers were unequal, the fighting-place was the skirmish line; or the party acting beyond it suffered immense losses of men. Witness Grant's campaign in the Wilderness and Hood's at Franklin.

In their late war with France the Germans substantially followed our example, while the Russians, neglecting it and attacking in mass at Plevna, were mowed like grass by the Turks, squatting securely behind earthworks.

The skirmish-line is now the fighting line, and the company the fighting unit, which establishes the line, feeds it as occasion demands, and depends for support on the battalion.

With the battalion—the command of a major—as the unit of administration, the company and battery as fighting units, there is great waste in preserving antiquated regimental organizations with colonels and lieutenant-colonels, and in the line of the Army these latter grades can be dispensed with. Small companies are expensive and inefficient. Subtract sick, details for fatigue, and guard duties, and nothing remains for active service or company drills. Officers and men necessarily become apathetic. Pay of non-commissioned officers should be increased, and other means adopted to elevate their tone; and from them should be taken a fair proportion of commissioned officers. Germany has derived great advantage from this system, and other powers are following her example.

The foregoing statements and conclusions hardly admit of dispute, and may readily be applied to the organization of five-and-twenty thousand men, the present strength of our military establishment.

One major-general and six brigadier-generals would be adequate. The officer in command of the Army should have superiority of grade; for this, rather than seniority in the same grade, insures prompt obedience.

Stationed permanently at the seat of government and in contact with the civil power the staff of all armies tends to exalt itself at the expense of the line. It also subserves the vanity of executive power to surround itself with a numerous and gorgeous staff. In our service the staff has become like a swollen pasty, in whose depths the line is hardly visible; and it requires pruning both in rank and numbers. True, the staff is the brain of an army, but over-development of brain produces hydrocephalus, followed by atrophy of body and limbs. The grade of general—the yellow sash—should be the reward of military success and merit, and heads of staff departments limited to that of colonels; but as their duties force them to reside at the seat of government they should have higher pay than line officers of like grades who occupy public quarters and are enabled to live less expensively. An organization of staff departments fully adequate to the needs of our service would be as follows:

An adjutant and inspector-general's department, with one colonel and the necessary number of lieutenant-colonels, majors, captains, and lieutenants. The "Bureau of Military Justice" should be discontinued, and its duties discharged by the adjutant and inspector department, to which they belong.

A medical department, with one chief surgeon of the rank of colonel, surgeons of the rank of major, and assistant surgeons of the rank of captain and lieutenant.

A department of ordnance and artillery, with a chief of the rank of colonel, and such majors, captains, and lieutenants as are necessary, detailed from the corps of artillery for limited periods.

As the ordnance officers are the manufacturers for the Army at least one armory for the construction of small-arms should be maintained and operated by the Government, not merely as a school of instruction for artificers and inspectors and for the improvement of construction, but as a check upon private manufacturers in time of war or whenever a sudden demand for fire-arms might arise. So, also, arsenals for the construction of munitions of war are necessary and should be permanently maintained upon a limited scale.

In regard to uniting the Quartermaster's with the Commissary department there appears to be a wide difference of opinion. Mr. Calhoun favored the separation, while the modern French and German system unites them into one department of supply. Whether they be united or kept separate the organization should consist of a colonel, lieutenant-colonels, and majors adequate for the permanent direction of the business, while the lower grades of captain and lieutenant should be filled by details from the line, but the officers so detailed should be returned to line duty after service on the staff for four years, and all promotions to the grade of major in these departments should be made from line officers who had thus served.

The Pay department should in like manner be reorganized with a colonel at its head, with a lieutenant-colonel and a suitable number of majors, not exceeding forty, with a provision for details similar to that suggested for the department of supply.

One fails to understand the propriety of attaching the Signal bureau to the Army. Its duties specially concern commerce and agriculture and belong to the civil department of the Government. Officers of the staff could readily learn whatever is applicable to war in short assignments to signal duty; but it is well for the people to know the cost of their military establishment pure and simple.

The Corps of Engineers is of such importance to the civil as well as to the military interests of the country as to entitle it to great consideration. The knowledge and training required are of a special character, and cannot be improvised to meet emergencies. A chief engineer with rank of colonel, a liberal number of lieutenant-colonels, majors, captains, and lieutenants, and a small battalion of engineer troops should be maintained; but graduates from West Point, assigned to the engineers, should serve for a year with each of the three arms, cavalry, artillery, and infantry, before permanently joining the corps. This would make them better soldiers and none the worse engineers.

The corps of artillery should be organized with reference to the light or horse battery, which requires one captain, two first and one second lieutenants, and a hundred and twenty-five enlisted men. Two horse batteries should constitute a battalion under a major. In view of the importance of this arm and the instruction necessary to render it efficient, eight batteries or four battalions should be kept up. The remaining companies—say sixteen—of the corps should garrison seacoast fortifications and arsenals, repair arms, prepare fixed ammunition, and receive instruction in torpedo service. By transfers the duties appropriate to the corps can be learned by all, and the assistants needed by the chief of ordnance and artillery at headquarters should be detailed for limited periods from the officers of the corps.

Companies of cavalry and infantry should consist of a captain, one first and one second lieutenant and one hundred enlisted men; and four companies, under a major, should constitute a battalion.

The term cavalry is used for convenience, but the remarks concerning mounted infantry are to be remembered, and equipment and instruction conform thereto.

Subordinating the number of battalions and the relative strength of the different arms to the whole military force, as established by law, minor details can be readily worked out, but these facts must be borne in mind: the President is the constitutional Commander-in-Chief of the Army, which he governs through the Secretary of War, who is a civil officer with civil duties. He is no more a part of the Army than the engineer is part of the machine which he controls by letting on or shutting off steam.

Army regulations should be elastic, and are of necessity matters of administration, to be changed in conformity with circumstances. To convert regulations into statutes, which would require the submission of every trivial modification to Congress, would be absurd. As well put the Army into an iron cage.

To acquaint officers and men with field evolutions and the value and proper use of the different arms, camps of instruction are necessary; and one, comprising a battalion each of cavalry, horse-artillery, and infantry, with a detachment of engineers, should be established under the command of a general officer. The entire Army should in turn be thus instructed. Further, and of more importance than any other employment of the Army in time of peace, it should be made the duty of the Secretary of War to confer with the executives of the several States with the view to unite this camp of instruction with bodies of State troops for autumnal maneuvers.

These camps of instruction should be held successively in the several States, and the Federal Government should give every possible encouragement to the establishment of rifle ranges and the general diffusion of military knowledge. The supply of arms, uniforms, and even the giving of prizes, would, it seems to me, not be beyond the power confided by the Constitution to the Federal Government to secure the establishment of a national militia. If, in addition to all this, military drill were introduced, as it should be, into every common school in the land, the country will be spared the humiliating spectacle of governors of great Commonweaths calling as on ague-smitten Cæsar for help to suppress riots.

As Thiers said of a constitutional monarch, the Federal Government should reign, not govern. From his own State the weight of authority should be felt by the citizen. He can grumble, vote against the administration, or, at worst, move to another; but oppressed by Federal power, he is as helpless as would have been a Roman subject against the master of the world.

From abuse of local government comes anarchy as from that of centralization, despotism; and in proportion to their fear of one or hatred of the other, so men divide. These are the systole and diastole of our politics.

In a discussion with John Horne Tooke, Lord Grey observed that he preferred despotism to anarchy. "This is of a piece with the conduct of your ancestors at the Reformation," said Tooke, "for they rejected purgatory and kept hell." Whatever the religious convictions of our race, the majority differ in opinion with Lord Grey.

While the number and organization of our military establishment may be subjects for discussion, there should be but one opinion of the necessity of subordinating, at all times, the military to the civil authorities.

With uncovered head the general should stand respectfully in the presence of the humblest magistrate; for the magistrate represents the supremacy of law and sits on a pyramid built of all the aspirations, struggles, and achievements of the race since Magna Charta. As in the days of Tiglath Pileser, the soldier is but the representative of brute force; and many modern instances prove that he can display Assyrian ferocity.

Now, Mr. Chairman, unless some gentleman desires to occupy further time I shall move that the committee rise to close general debate, that we may then proceed to the consideration of the bill under the five-minute rule.

Mr. GARFIELD. I have no doubt that by unanimous consent general debate may be closed, and that we may go on under the five-minute rule.

Mr. HEWITT, of New York. I understand that the gentleman

from Pennsylvania, [Mr. WHITE,] who expected to speak on the Army reorganization bill if it should come up, desires ten minutes.

Mr. WHITE, of Pennsylvania. About that time.

Mr. BANNING. I desire to occupy some little time.

Mr. HEWITT, of New York. Then I shall not move at present to close general debate.

The CHAIRMAN. How much time does the gentleman from Ohio [Mr. BANNING] desire?

Mr. BANNING. I think about twenty minutes.

The CHAIRMAN. The gentleman from Ohio will proceed.

Mr. BANNING. Mr. Chairman, I propose, when we shall have reached that part of the Army appropriation bill which provides for reduction and reorganization of the Army, to move as an amendment to the bill the substitute reported by me to the House from the joint commission on the reorganization of the Army.

I desired to have this substitute considered in the House before the Army appropriation bill was taken up. Having failed in that, I will endeavor to secure this legislation on the Army appropriation bill, although I should have preferred to have had it separately discussed.

In the last four years this House has passed two bills reducing and reorganizing the Army not less radical than the proposed measure. Both have failed in the Senate, and all the Army reorganizations and reforms accomplished have been upon appropriation bills.

In June last, an act was passed authorizing the appointment of a commission to reform and reorganize the Army. All of the men appointed upon that commission had been soldiers either in the Union or confederate army in the war of the rebellion. All but one had been volunteer officers. The chairman of the commission, the distinguished Senator from Rhode Island, a graduate of West Point, served for many years in the regular Army, and, at one time, as is well known to all, commanded the army of the Potomac in the war of the rebellion.

The necessity for Army reorganization is so apparent and has been so often discussed and shown on this floor, that I will not stop to repeat it now; a regimental organization of a colonel, lieutenant-colonel, and major, with full commissioned and non-commissioned staff, in charge of the headquarters and in command of the regimental band; old captains and lieutenants reporting for duty in command of one non-commissioned officer and no private soldiers; companies that do not contain a corporal's guard—so farcical, ridiculous, and expensive withal as to cause commanding officers to recommend consolidation or an increase of the enlisted men of the Army; while our large and expensive staff, that feeds, clothes, and transports our little Army, has grown to such huge proportions, that it takes more money to pay them and the commissioned officers of the line than it takes to pay the entire army of enlisted men, non-commissioned officers, and private soldiers!

Reviewing this subject in 1869, the gentleman from Ohio, [Mr. GARFIELD,] in a report to this House, said:

> The staff departments or corps are, in the opinion of the committee, too numerous and too large in proportion to the line of the Army.
>
> There has been for a long time a tendency toward the multiplication of departments, increase of rank, and independence of control in the staff that ought to be checked.

At the time this report was made the line of the Army numbered thirty-four thousand enlisted men, since which it has been reduced to less than twenty-five thousand, while the staff, in place of being reduced accordingly, has been increased.

We have in our Army commissioned officers enough to command one hundred thousand men, staff enough to supply them, and regiments enough to contain them, if organized in accordance with modern military principles.

An old officer in his testimony before the committee says:

> It is rather stupid work for an officer to go out and drill four men. After having been a captain for ten years, I have frequently gone out with four men.

General Sheridan says:

> If you increase the size of the companies you diminish the expense. One great item of expense at present arises from the fact that the companies are so small as to be non-effective. In order to get an effective body of men for any purpose it is necessary to take three or four companies from different places. That kind of management, of course, is expensive, and that is what we are obliged to resort to at present.

The Adjutant-General in his report for 1877 said:

> From a very early day the military history of this country contains records of disasters due solely to the "skeleton" organization of companies. Dade's massacre may be cited for the sake of a commencement as to dates, and Gibbon's late affair with the Nez Percés as the most recent. Gibbon had 6 companies in all, numbering 15 officers and 146 men. His companies averaged about 24 men each. With this handful of men he inflicted severe loss on an enemy treble his numbers. If his companies had averaged 80 men, he would have outnumbered Joseph's band, and would probably have captured or exterminated it.

And again, in the same report:

> There are already regimental and company organizations quite enough for an army of 50,000 enlisted men.

For the information of those who desire to understand the condition of our skeleton Army, I give the following, taken from the statement of the muster-rolls furnished the committee last session by the Adjutant-General:

> The strongest regiment of the cavalry was the Tenth, which had 44 commissioned officers and 925 enlisted men, of whom there were present for duty 17 officers and 598 men.
>
> The weakest regiment of cavalry was the Ninth, which had 43 commissioned officers and 453 enlisted men, of whom there were present for duty 16 officers and 275 men.
>
> The strongest regiment of artillery was the Third, with 57 commissioned officers and 462 enlisted men, of whom there were present for duty 29 officers and 335 men.
>
> The weakest regiment of artillery was the Fifth, with 57 commissioned officers and 433 enlisted men, of whom there were present for duty 24 officers and 306 men.
>
> The strongest regiment of infantry was the Tenth, which had 35 commissioned officers and 463 enlisted men, of whom there were present for duty 18 officers and 251 men.
>
> The weakest regiment of infantry was the Twenty-first, which had 36 commissioned officers and 309 enlisted men, of whom there were present for duty 17 officers and 201 men.
>
> A close examination of these muster-rolls discovers some curious facts. I will give a few of them: the largest company in the strongest infantry regiment only numbered 49 enlisted men—non-commissioned officers and privates—present and absent.
>
> While in this, the strongest infantry regiment, Company E was able to muster 38 enlisted men for duty, Company K of the same regiment could only muster 19 men for duty, Company H only 23 men, Company I only 22, and Company G only 15. Of the 269 officers and enlisted men present for duty in this regiment only 175 were privates. In Company G of this regiment there were 1 captain and 6 non-commissioned officers to command the 9 privates present for duty.
>
> In the Twenty-first Infantry we find present for duty as follows: Company A, 8 commissioned and non-commissioned officers, commanding 10 privates and 2 musicians.
>
> Company E, 10 commissioned and non-commissioned officers, commanding 11 privates and 2 musicians.
>
> Company F, 8 commissioned and non-commissioned officers, commanding 12 privates and 1 musician.
>
> In Company K the 8 privates and 1 musician were drilled, disciplined, and commanded by 10 commissioned and non-commissioned officers.
>
> These are specimens of the bad effects of dividing up our little Army into 40 regiments and 420 companies. Nor are they by any means the worst. For instance, at the same muster, in the "present for duty" in the Seventh Regiment of Infantry, we find the following:
>
> Company A, 5 commissioned and non-commissioned officers to command 4 privates and 1 musician.
>
> In Company K, 8 commissioned and non-commissioned officers to command 4 privates and 1 bugler—2 officers for each private.
>
> In Company E there were present for duty 1 captain, 2 sergeants, 2 musicians—5 in all—but not a single private.
>
> Company G was less fortunate in the matter of officers, for while it had 1 sergeant, 2 corporals, 1 bugler, 1 musician, and 6 privates, a total of 11 present for duty, it was without any commissioned officers whatever.

Our military organization is not only (as shown by our best military critics) a weak and ridiculous one, but according to its size the most expensive one upon the face of the earth. It is with a view to correct these evils and make our Army, what General Hancock says it should be, "a small, complete, compact, vigorous, healthy body," that the commission framed and presented the bill now offered as an amendment to the Army appropriation bill.

It is manifest that it would be impossible at this stage of the session for the House to give the time required for the proper consideration of the bill originally reported by the commission. We have therefore submitted the substitute now under consideration, which is that portion of the original bill which relates to organization solely, but divested of certain features which excited hostile criticism. This has been done in the hope and expectation of meeting the great and immediate necessity for reorganization to which I have more than once directed the attention of the House.

As I have said, the substitute deals only with reorganization, and I do not hesitate to assure the House that its adoption by Congress will result in greater efficiency in the service and an ultimate reduction of expenditures.

Let me briefly review the provisions of the bill.

By section 2 the various component parts of the Army are clearly and distinctly classified—a provision, the necessity for which will be at once admitted by every one familiar with the subject.

Section 3 fixes the number of major-generals at two and brigadier-generals at four. A reduction of one major-general and two brigadier-generals, to be made by casualties. The provision respecting the grades of general and lieutenant-general is the same as in existing law.

Section 4 reduces the number of aids to the General from six to three.

Section 5 reduces the number of aids to the Lieutenant-General from three to two.

Section 6 reduces the number of aids to major-generals and brigadier-generals from three to two and from two to one, respectively.

Section 8 defines the general staff and fixes the number of officers in that branch, and, in connection with the eighth clause of the fortieth section of the bill, consolidates the present Adjutant-General's and Inspector-General's departments, resulting in an aggregate reduction of three colonels and three majors.

This consolidation is one of the most important and most needed measures of Army reform, and was urged upon the House ten years ago by the Committee on Military Affairs of the Fortieth Congress.

The provision in this section for the detail of officers of the line to the performance of duties in the general staff is the same as is contained in subsequent sections relating to several of the staff departments. The permanent grades below major in the general staff, the Quartermaster's, Subsistence, and Ordnance departments are abolished, and those grades are to be filled by the detail, for a period of three years, of captains and first lieutenants who shall have served not less than six years in their respective corps. Vacancies in the grade of major in these departments and in the Pay department (to which the same principle is applied) are to be filled by the promotion of officers who have been so detailed and shown the greatest proficiency. This constitutes what is known as the interchangeability of the staff, and is designed to diffuse a practical knowledge of staff duties throughout the line of the Army, and to provide a staff com-

posed of officers familiar with the requirements and necessities of the line and in sympathy with the body of the Army.

This is one of the most important reforms proposed by the bill, and if carried into effect will, in my judgment, prove of the greatest benefit to the staff itself as well as to the line of the Army.

The defects in the present system are obvious. In many instances a young and inexperienced officer, having the necessary political influence, is placed in the staff. He never returns to the line, and, spending his life in one department of the staff, he becomes in time what General Hancock has described "a mere clerk of a high order."

This reform is, of course, warmly opposed by the fortunate gentlemen now filling what the General of the Army calls "the soft places." These gentlemen have many friends upon this floor; they are courteous, attentive, and generous hosts, as many of you can testify; no doubt they have warned you of the dire consequences that will follow the adoption of this measure. Against their representations, (whatever they may have been,) passing over the many indorsements of this change by distinguished officers, I place a single statement of one of their own number:

As the staff of our Army is that portion by which the annual appropriations for the support of the Army are expended, a description of its duties, with some discussion of the manner in which these duties should be performed, would seem to be a matter not only of grave political importance, at this time especially, but of much personal interest to any one who pays taxes or who, as a voter, has a voice in the selection of the different members of the Government. Each voter or taxpayer in the country has an interest in requiring the efficiency of the staff to be raised to the highest degree, for by such efficiency only can the duties of the Army be performed in the most economical manner.

* * * * * * *

It is believed there are to-day officers in the staff departments, and, perhaps, even in the general staff, who are so ignorant of our own country and of military service on the frontier; who know so little of Indians and of their mode of warfare that if ordered to proceed from one frontier post to another, through a hostile Indian country, they would be unable to conduct their marches or manage their escorts so as to insure their own safety.

Such, sir, was the language used by Lieutenant-Colonel Robert Williams, a graduate of the Military Academy, an officer of twenty-seven years' service, and for the last eighteen years an assistant adjutant-general.

No one will deny that Colonel Williams is good authority upon this question, nor that his statement is conclusive evidence of the necessity for a change.

I might give many authorities in support of this provision of the bill. President Pierce recommended a similar measure in his message in 1855. Mr. Davis made a similar recommendation while Secretary of War. It was recommended by the Committee on Military Affairs of the Forty-third Congress, and is recommended by all of the field and line officers of our Army, so far as I have been able to procure their opinions.

Sections 13, 14, and 15 provide for the reorganization of the artillery so as to assimilate it to the organization provided by subsequent sections for the cavalry and infantry.

Sections 16 and 17 reduce the cavalry regiments from ten to eight, and fix the regimental and company organizations. This consolidation will dispense with two colonels, two lieutenant-colonels, and six majors, as well as the staff and company officers of two regiments The changes from the existing organization are to give an additional first lieutenant to each troop and to fix the maximum number of privates in a troop at seventy, so that the aggregate cavalry force in the new organization will amount to 8,432 officers and men.

Sections 18 and 19 provide for the reduction of the infantry regiments from twenty-five to eighteen, with the same battalion organization as in the cavalry.

The only change in the company organization is to fix the minimum of privates at seventy-five.

There are at present in the infantry:

Officers.	Present.	Bill.	Reductions.
Colonels	25	18	7
Lieutenant-colonels	25	18	7
Majors	25	54	.....
Captains	250	216	34
First lieutenants	300	216	84
Second lieutenants	250	216	34
Total net reductions	875	738	137

The infantry under this organization will consist of 13,500 officers and men.

All regiments are to have four battalions of four companies each, in time of war. The fourth battalion will be neither officered nor manned in time of peace nor until authorized by Congress.

Only eight companies or two battalions of each artillery and infantry regiment shall be manned, until ordered by Congress.

The cavalry is to be consolidated into two battalions to a regiment, as soon as the interest of the service will permit.

Appointments to the grade of second lieutenant are also restricted by this section to graduates of the Military Academy and meritorious soldiers.

The next changes are in section 26 and relate to the Quartermaster's Department. There are now in that department officers as follows:

Officers.	Present.	Bill.	Reductions.
Brigadier-general	1	1	.....
Colonels	5	2	3
Lieutenant-colonels	8	5	3
Majors	14	8	6
Captains	30	.....	30
Total	58	16	42

The detail of thirty captains and first lieutenants of the line to act as assistant quartermasters is also authorized by this section.

Section 27 relates to the Subsistence department and provides for reductions as follows:

Officers.	Present.	Bill.	Reductions.
Brigadier-general	1	1	.....
Colonels	2	1	1
Lieutenant-colonels	3	2	1
Majors	8	5	3
Captains	12	.....	12
Total	26	9	17

Like the preceding one, this section provides for the detail of captains and lieutenants of the line, not to exceed twelve in all.

Section 29 provides for the reduction and reorganization of the Ordnance department as follows:

Officers.	Present.	Bill.	Reductions.
Brigadier-general	1	1	.....
Colonels	3	2	1
Lieutenant-colonels	4	4	.....
Majors	10	8	2
Captains	20	.....	20
First lieutenants	16	.....	16
Second lieutenants	10	.....	10
Total	64	15	49

A detail of not exceeding thirty captains and first lieutenants of artillery to duty in the Ordnance department is also authorized by this section.

Section 31 reorganizes the Medical department and makes changes and reductions as follows:

Officers.	Present.	Bill.	Reductions.
Brigadier-general	1	1	.....
Colonels	6	6	.....
Lieutenant-colonels	10	10	.....
Majors	50	48	2
Captains and lieutenants	125	120	5
Total	192	185	7

Assistant surgeons are required by this section to serve for eight years before attaining to the rank of captain instead of five years as at present.

Section 33 prohibits the employment of contract surgeons except for and during an emergency and upon the recommendation of the commanding officer.

Section 34 proposes important changes in the Pay department. At present this department is organized as follows:

Officers.	Present.	The bill proposes.	Reductions.
Brigadier-general	1	1	.....
Colonels	2	1	1
Lieutenant-colonels	2	1	1
Majors	50	25	25
Total	55	28	27

A detail of ten captains and first lieutenants of the line to act as assistant paymasters when necessary is authorized by this section.

Section 37 relates to the Signal Bureau of the Army, but proposes no changes in existing law.

Section 38 reorganizes the Bureau of Military Justice as follows:

Officers.	Present.	Bill.	Reductions.
Brigadier-general	1	.....	1
Colonel	.....	1	.....
Majors	4	2	2
Total	5	3	2

The bill also authorizes the detail of three captains or lieutenants to act as assistant judge-advocates. There are now in the service four judge-advocates in excess of the number shown above, making eight in all. Under existing law their places are not to be filled as they become vacant.

RETIREMENT.

The bill provides for retirement and makes it compulsory at a certain age. The commission was impressed with the fact that the *personnel* of the Army is getting old, and in making reductions it seemed eminently proper that those who could not much longer serve the country should, with comfortable provision for the remainder of their days, make place for men who, though much younger, had been so long in the service as to unfit them for beginning at the bottom of the ladder in civil life.

The provisions for retirement differ from existing laws principally in the features of compulsory retirement for age and in graduating the pay of those upon the retired list, according as the case may be, to their length of service or the cause and degree of their disability. To these measures of reform there will of course be much opposition, but in my judgment it will come mainly from personal considerations. England and France have found it necessary to adopt a measure similar to the one proposed in this bill; that of England being far more radical than the one in the bill now under consideration.

It is not claimed that every officer of the Army becomes unfit for service at sixty-two years of age, but I do maintain that the great majority of American officers (for we live faster in this country than they do abroad) are at that age unfitted for active service, and that the retention of any officer of that age on the active list and in the line of and as a block to promotion works a positive injury to the service by retaining other officers in the lower grades until they have become too weary and aged for the proper performance of the duties of their subordinate positions. Not one of these aged officers, however distinguished, is indispensable to the country, and the interest of the younger officers are in this instance the interest of the country. There is, certainly, a time when officers become disqualified by age for the performance of their duties; many become unfit at sixty-two, and those who do not become unfit at that time become so very soon after. Taking the experience of other armies, our own experience in the Navy and observation in our own Army sixty-two is, in my opinion, and in the opinion of the commission, the best that could be adopted. Under the law as it now stands the President has the power to retire officers at sixty-two; so that if not retired before attaining that age on account of wounds or disability the officer hopes the President will retain him after that time.

Living in this hope—

writes an Army officer upon this subject,—

he neglects to make permanent arrangement for his old age, which he would make if retirement were compulsory. His postponed retirement, when at last it comes, finds him the more unprepared, and therefore seems to him the more cruel and unjust.

The same writer further says in favor of a law making retirement compulsory at sixty-two:

But the mischief of the matter in this connection is, that the present system itself tends to unfit the man over sixty-two for the performance of his duties. It is the strength and beauty of the service that its officers can act without fear or favor, according to their consciences, the best of their understanding, and the custom of war in like cases. This they can do, because they hold their places, not at the discretion of the President, but by the will of the people and until deprived of them by due course of law. The only exceptions to the independence secured through this most valuable principle are those of officers over sixty-two years of age. Their positions on the active list are dependent solely upon the President, who may displace them with or without cause or explanation. It is not human nature for an officer to be uninfluenced by this condition of his case. His official action, though he may not even know it, will very likely cease to be solely for the good of the service, and will be more or less governed by a desire simply to please the power which has such effective means of influencing him. The very circumstances, therefore, under which an officer by the present system remains on the active list after he is sixty-two tend to disqualify him for the performance of his duties according to the purest and highest Army standard.

In conclusion I give the reasons of another Army officer, which to my mind are unanswerable:

Such a law would relieve the Executive from many embarrassments and importunities; each officer on attaining the age of sixty-two years would retire, and no personal or political influence would grant him the favor of remaining while others went out.

Every officer would know the date when he must retire, and make his personal arrangements accordingly; but now the hope of securing a delay by influence prevents him from taking the necessary steps for the future.

It would not work a hardship to any one now on the active list. No one on the list now sixty-two years old remains in active service except by the personal favor of the President, to the evident injury and hardship of those below him, and injustice to those who have not been treated heretofore so leniently, thus giving color to the charge of partiality.

It is not right, just, or proper that the President should be called upon and influenced to keep an officer on the active list after he arrives at the age of sixty-two years, when one devoid of personal influence has to go.

It would save members of Congress much present annoyance in being called upon to intercede for some one desirous of retaining his position.

All the officers now eligible are of the general staff of the Army except one, which shows that practically the present law works a distinction in favor of the staff and against the line; that is, the law is practically obligatory as it affects the line, and discretionary as it affects the staff.

To retire an officer under the present law at the age of sixty-two years would seem to show prejudice against him individually, because there are and have been so many examples of others not more efficient being kept in the service after attaining that age, through personal or other influence.

But, Mr. Chairman, I will not take up the time of the House longer to explain the proposed amendments. Before I take my seat, however, I desire to call the attention of the House to the opinions expressed by Army officers of distinction concerning the proposed legislation. I send to the Clerk's desk to be read an extract from a letter of Captain Clapp, of the Sixteenth Infantry.

The Clerk read as follows:

Allow me to say that among officers of the line I hear no objections made to the bill reorganizing the Army, recently reported by you, but on the contrary it is spoken of with high favor, and there is an earnest wish that it may become a law. This is, I think, the opinion of a very large majority of the line officers of the Army, who see in it a chance for more varied service and a long stride in the direction of breaking down what is called the exclusiveness of the staff.

Mr. BANNING. I now ask to have read a letter of Colonel Dodge, of the Twenty-third Infantry.

The Clerk read as follows:

FORT HAYS, KANSAS, *December* 24, 1878.

GENERAL: I have just read the bill for the reorganization of the Army prepared by the joint commission.

By reason of long service and wide experience on the position, I may without vanity claim to be a fair exponent of the views and opinions of the line officers similarly situated. I therefore take the liberty of expressing them.

Aside from some few cases of injustice, even of real hardship, (inseparable from so radical a change, and the necessity for a rasher, mean economy, as for instance, the post chaplains,) I believe it would be impossible to frame a bill combining more admirable and valuable points. Taken as a whole, the organization proposed by this bill seems to me as nearly perfection as possible, and if Congress will pass the bill and allow it to work a few years without tinkering, I believe the result will be such as the committee, the Army, and the country may well be proud of.

To this end, however, it is most important that the bill pass in its entirety. If it is to be taken up and discussed section by section, modified here and there to suit the wishes of this or that staff officer, or changed to enable some influential head of a department to hold on to his position long after his days of usefulness have passed; if, in short, the most valuable features affecting the staff and retirements are to be thrown out under the pressure that will certainly be brought against them, the bill will result only in injustice and injury to individuals and incalculable mischief to the *morale* of the Army.

About two months ago I had the pleasure of discussing some of the questions involved with Senator PLUMB, without, of course, knowing what would likely be proposed by the bill.

Very respectfully, your obedient servant,

RICH'D I. DODGE,
Lieutenant-Colonel Twenty-third Infantry.

General A. E. BURNSIDE,
United States Senate.

Mr. BANNING. I now ask to have read an extract from a letter from Major Bates, paymaster, United States Army, stationed at San Antonio, Texas.

The Clerk read as follows:

The other three departments (meaning the Commissary, Quartermaster's, and Pay Departments) stand on the same basis. The personnel of all three is poor, *very poor*. Nearly all the officers who would be affected by the proposed change have obtained their positions through a *vicious system* of personal and political favoritism, which is at the bottom of all the opposition from these departments.

I know what I say, when I assert that there are not more than five or six men who now hold the positions of captains and quartermasters, captains and commissaries, and majors and paymasters, who would be selected by the commanding generals of our departments for any important duties *whatever*, to say nothing of placing them in positions where the comfort of the service and efficiency of the Army depend to a great extent on their personal ability.

* * * * * * *

I say that some legislation is necessary, and in all probability will be had soon on the Army, and that *this bill comes* nearer what we want than anything we are likely to get, or that we had or ought to hope for, and I see here a chance for our true friends in Congress to do us a good turn, and at the same time confer a great benefit on the country at large.

* * * * * * * *

I have talked with all the officers here, including General E. O. C. Ord, commanding, and can say the bill meets with the unanimous approval of all, both line and staff. General Ord authorized me to say that he saw no feature in the bill that would not work for the good of the service.

Mr. BANNING. I also ask to have read a letter of Colonel Andrews, of the Twenty-fifth Infantry.

The Clerk read as follows:

FORT DAVIS, TEXAS, *December* 30, 1878.

SIR: Permit me to express the hope that the bill recently presented by the select committee on Army reorganization may receive the favorable action of Congress. While the bill contains several objectionable provisions, which experience will demonstrate and future legislation probably eliminate, as a whole it is so decidedly a move in the right direction that all who have the true interest of the Army at heart and desire its greatest efficiency and economy must forego all selfish objections and earnestly desire the bill may become a law.

With compliments of the season, I am, very respectfully, your obedient servant,

GEORGE L. ANDREWS,
Colonel Twenty-fifth Infantry.

To Hon. H. B. BANNING, M. C.,
Washington, D. C.

Mr. BANNING. I now send to the Clerk's desk to have read a letter of Colonel Stanley, Twenty-second Infantry, a major-general in our

volunteer army, and one of the ablest and most accomplished officers in our service.

The Clerk read as follows:

BUFFALO, NEW YORK, *December* 15, 1878.

DEAR GENERAL: I have only seen a synopsis of the bill of the military commission, but have seen enough to induce me to congratulate you on your work. If this fails to become a law, Army reform may as well be given up. One thing I think is certain. *Our staff system must be reformed or it will pull the Army into the gutter.* Of course the abolishing of bands is distasteful and, I think, a mistake; but we can stand a little bitter with the sweet. I sincerely hope you may pass the bill. I believe nine-tenths of the line would indorse me.

Yours, truly,

D. S. STANLEY.

Mr. BANNING. I now ask to have read a letter of Colonel Shafter, Twenty-fourth Infantry, an officer of experience and capacity, who served with great distinction in our volunteer army during the late war.

The Clerk read as follows:

HEADQUARTERS DISTRICT OF THE NUECES.
Fort Clark, Texas, December 27, 1878.

DEAR GENERAL: I received the Army bill by last mail under your frank; am much obliged for your kindness. At this post (the largest in the United States, having infantry, cavalry, and artillery) there is not an opponent to the bill; on the contrary it gives the greatest satisfaction.

It is by far the most comprehensive and best system for the organization of the Army that has ever been presented to Congress.

I believe I can safely say for the whole line of the Army, and I know I can for our regiment of infantry, one of cavalry, and two companies of artillery, that it is the earnest wish of the officers that the bill be passed just as presented by the committee.

I am, dear general, very truly yours,

W. R. SHAFTER,
Lieutenant-Colonel Twenty-fourth Infantry.

Hon. H. B. BANNING, M. C.,
Willard's Hotel, Washington, D. C.

Mr. BANNING. I now ask to have read an extract from a letter of Colonel Upton, of the Fourth Artillery, one of our ablest military critics, who was recently sent abroad to study and report upon the military systems of European nations.

The Clerk read as follows:

As an officer of the line whose promotion may be retarded for two or three years, I desire to express my approval of all the main features of the new Army bill, which without any vital changes I trust may speedily become a law. The principles of expansion, interchangeability between the staff and the line in the lower grades and compulsory retirement, in connection with the new regulations will, if adhered to and adopted, mark the greatest improvement in military organization and policy ever accomplished by any one Congress.

Mr. BANNING. I now ask to have read the letter of Colonel Silas Casey, brevet major-general United States Army, a distinguished veteran of more than half a century of service, and who served during the late war as a major-general of volunteers in our Army.

The Clerk read as follows:

No. 155 SOUTH OXFORD STREET, BROOKLYN, *December* 25, 1878.

DEAR GENERAL: Having lately read the new Army bill, I cannot refrain from expressing to you my warm approbation of the following portion, which I consider eminently vital to the efficiency of the Army, and consequent for the good of the country:

First. Those sections which relate to a retired and reserved list.

Second. Those which require an examination for promotion until the grade of a field officer has been attained.

Third. Maintaining small staff permanent organizations and supplying the requisite number by details from the line.

Fourth. Fitting the permanent staff positions by the competition of line officers are happy ideas; the result will be to inspire with zeal and hope those subordinate officers of the Army who spend their lives on the remote frontier, away from civilization, and who from the need of something better to occupy their minds are apt to fall into habits of idleness and at times of dissipation.

They will now have some inducement to cultivate their minds and control their habits.

In short, the sections which I have enumerated tend to inspire hope and uniform good character.

The wisest laws for the government of an army will fail in their object without character to administer them.

I have no hesitation in saying that the committee will be entitled to be called public benefactors should they succeed in passing the bill through the Houses of Congress with the above-named vital principles intact.

Very respectfully, your obedient servant,

SILAS CASEY,
Brevet Major-General, United States Army.

General A. E. BURNSIDE,
Chairman Joint Committee Army Organization.

Mr. BANNING. I will detain the House with but one more letter, (although I have one from the General of the Army and letters from many other officers,) and that is from Major-General Schofield, whose opinions upon military law and army organization are held in esteem by all:

HEADQUARTERS DEPARTMENT OF WEST POINT,
UNITED STATES MILITARY ACADEMY,
West Point, N. Y., December 20, 1878.

DEAR GENERAL: I have made a careful examination of the fundamental provisions of the bill recently reported to Congress by the joint commission on the reorganization of the Army, and I do not hesitate to say that I believe the bill merits the cordial support of the Army. The provisions relating to organization, command, and administration are in conformity to the principles recognized by the foremost military nations of the present day, and are well adapted to the peculiarities of our military establishment, of our form of government, and of our country, considering the vast territory which our small Army must occupy.

After the very careful study I have given to this subject; especially during the last ten and a half years, during which I have devoted to it a large part of my time and best effort, it seems to me that we can hardly hope for a better military system than that which this bill proposes. I speak not of the details in which there may doubtless be some room for amendment, but of the essential principles, which I am sure are correct.

It cannot be expected that the staff department will generally support such a measure as this. No man, nor any body of men, ever voluntarily relinquished any part of the independent authority which has once been possessed and exercised. But a sound and healthy system once inaugurated, will soon have the cordial support of all.

Above all the bill proposes to give us what has long been sorely needed, namely, a well-matured system, complete in all its essential features, and established by law, in place of the heterogeneous mass of regulations, customs, and special legislation heretofore adopted, and incessantly changed to meet the views and interests of individuals or of special branches of the service.

The administrative details embodied in the bill are a careful compilation of the results of our experience of a hundred years. With slight exceptions they are the regulations now in force, so far as the most diligent research has given the knowledge what these regulations really are, a knowledge possessed by none but the very few officers who have devoted special study to that intricate subject.

It is certainly wise to now give to those well-matured rules the sanction and comparative stability of an act of Congress. The important changes which the bill proposes in these rules are only those necessary to regulate and fix the due responsibility and authority of all in the military service regarded as components of one harmonious organization—an army, in place of several independent or semi-independent military establishments. The organization proposed has the important merit of elasticity. It is capable of rapid expansion and contraction to meet the varying necessities of the country and the first demands of economy. But above all it gives great facilities for the highest education of the Army. It affords the young officers opportunities to become familiar with nearly all the branches of the service, and thus fits them in a high degree for the duties which the rapid organization, equipment, instruction, and command of a great army must require of them. Experience has already demonstrated that with few exceptions three or four years are as much time as a young officer can profitably spend in the duties of any one special service. Beyond that time his usefulness, even in that special service, no longer increases, and he rapidly becomes unfit for anything else. Promotion, giving him a wider sphere of duty, or a change of specialty, is essential to his full activity and to the continuous development of his faculties. But promotion in time of peace must needs be slow, far more slow than that which would give the greatest efficiency. Hence periodical changes of special service afford the necessary means for the best development of the young officer's character and faculties, in addition to the inestimable advantage of such general education and experience as will fit him for any duty which the sudden demands of a great war may require of him to perform.

Naturally enough we who are in the Army think the Army is already too small and dislike to see it reduced; but it is for Congress to judge how large an Army the country needs, and for us to do all in our power to make that Army as effective and useful as possible. If the number of officers must be reduced, certainly no one can complain that the provisions of this bill for the reduction are not just and fair.

I sincerely hope that this measure, which has manifestly been dictated by the best spirit toward the Army, as well as by a sense of duty to the country, will receive from all officers the cordial acquiescence and support which it merits.

I am, dear general, very truly yours,

J. M. SCHOFIELD,
Major-General United States Army.

General W. T. SHERMAN,
Washington, D. C.

Mr. Chairman, these approvals and commendations of the bill by such distinguished officers are certainly the very best evidences that the bill is a good one and should become a law. These officers all belong to the line, except Paymaster Bates, and his service is in Texas with troops. They assure the House that officers of the line are in favor of the bill and desire its passage.

I know, sir, the bill is opposed by the staff, and that they have lobbied long and hard and earnestly to prevent its passage—not in the interest of the Army, nor of the country—but for the sole and only purpose of preserving and saving for themselves the fat, comfortable, useless, extravagant, and expensive positions they now fill.

Sir, if this bill becomes a law it will accomplish the following organization of the engineers, artillery, cavalry, infantry, and Indian scouts, namely:

Line organization.

Arm of service.	Regiments.	Companies.	Brigadier-generals.	Colonels.	Lieutenant-colonels.	Majors.	Captains.	First lieutenants.	Second lieutenants.	Chaplains.	Adjutants.	Quartermasters.	Total commissioned.	Sergeant-majors.	Quartermaster-sergeants.	Principal musicians.	Sergeants.	Corporals.	Artificers.	Musicians.	Privates.	Total enlisted, three battalions manned.	Aggregate.	Total enlisted, two battalions manned in the artillery and infantry and three in the cavalry.	Aggregate, two battalions manned in artillery and infantry and three in the cavalry.	Remarks.
Engineers:																										
Company	....	....	....	....	....	1	5	....	6	....	1	1	.....	1	1	....	10	10	....	2	90	112	.....	.....	.....	Provided that total enlisted strength exclusive of signal soldiers (450
Battalion	....	5	....	....	....	1	5	....	6	....	1	1	.....	1	1	....	50	50	....	10	450	562	.....	.....	.....	
Corps	....	5	1	6	12	24	30	26	10	....	....	....	109	1	1	....	50	50	....	10	450	562	671	562	671	

Line organization—Continued.

Arm of service.	Regiments.	Companies.	Brigadier-generals.	Colonels.	Lieutenant-colonels.	Majors.	Captains.	First lieutenants.	Second lieutenants.	Chaplains.	Adjutants.	Quartermasters.	Total commissioned.	Sergeant-majors.	Quartermaster-sergeants.	Principal musicians.	Sergeants.	Corporals.	Artificers.	Musicians.	Privates.	Total enlisted, three battalions manned.	Aggregate.	Total enlisted, two battalions manned in the artillery and infantry and three in the cavalry.	Aggregate, two battalions manned in artillery and infantry and three in the cavalry.	Remarks.
Artillery:																										
Battery							1	2	1				4				5	4	2	2	47	60	64			
Regiment		12		1	1	3	12	24	12		1	1	53	1	1	2	60	48	24	24	564	734	777			
Corps	5	60		5	5	15	60	120	60		5	5	265	5	5	10	300	240	120	120	2,820	3,620	3,885	2,430	2,685	
Cavalry:																										
Troop							1	2	1				4				5	4	2	2	70	83	87			
Regiment		12		1	1	3	12	24	12	1	1	1	54	1	1	2	60	48	24	24	840	1,000	1,054			
Corps	8	96		8	8	24	96	192	96	8	8	8	432	8	8	16	480	384	192	192	6,720	8,000	8,432	8,000	8,432	
Infantry:																										
Company							1	1	1				3				5	4	2	2	75	88	91			
Regiment		12		1	1	3	12	12	12	1	1	1	42	1	1	2	60	48	24	24	900	1,060	1,102			
Corps	18	216		18	18	54	216	216	216	18	18	18	756	18	18	36	1,080	864	432	432	16,200	19,080	19,836	12,744	13,500	
Indian scouts																						600	600	600	600	Fourth battalion companies not counted in this table.
Total line	31	572											1,562									31,862	33,424	24,326	25,888	

does not exceed 25,000 men, cavalry companies may be increased to 100 men and infantry companies to 125, &c., and additional men may be added to light batteries. (§§15, 22, 33.)

For the information of those who desire to see the comparison of the present and proposed organization of the Army, I submit a table showing the whole subject in detail:

Statement in relation to the present and proposed organization of the Army.

Corps, departments, &c.	Regiments.	Companies.	General.	Lieutenant-General.	Major-generals.	Brigadier-generals.	Colonels.	Lieutenant-colonels.	Majors.	Captains.	First lieutenants.	Second lieutenants.	Chaplains.	Storekeepers.	Details.	Reduction.	
General officers—																	
Now			1	1	3	6											
Proposed					2	4											
Reduction			1	1	1	2										5	
Adjutant-General's department now						1	2	4	10								
Inspector-General's department now						1	3	2	1								
Total of the two departments						2	5	6	11								
Proposed "general staff"						1	3	6	8						15		
Reduction						1	2		3							6	
Quartermaster's Department—																	
Now						1	4	8	14	30				7			
Proposed						1	2	5	8						30		
Reduction							2	3	6	30				7		48	
Subsistence department—																	
Now						1	2	3	8	12							
Proposed						1	1	2	5						12		
Reduction							1	1	3	12						17	
Medical department—																	
Now						1	6	10	50	*125				4			
Proposed						1	6	10	48	*120							
Reduction									2	5				4		11	
Pay department—																	
Now						1	2	2	50								
Proposed						1	1	1	25								
Reduction							1	1	25						10	27	
Ordnance department—																	
Now						1	3	4	10	20	16			10			
Proposed						1	2	4	8						30		
Reduction							1		2	20	16			10		49	
Bureau of Military Justice and judge-advocates—																	
Now						1			8								
Proposed							1		2						3		
Reduction							1		6							6	
Addition								1									
Signal Bureau—																	
Now							1					2			6		
Proposed							1								6		
Reduction												2				2	
Post-chaplains abolished—																	
Reduction													30			30	
Total line officers detailed in "the staff"															106		
Total reduction in general and staff officers			1	1	1	4	6	5	47	†67	16	2	30	21		201	
The Corps of Engineers—no change		5				1	6	12	24	30	26	10					
The artillery—																	
Now	5	60					5	5	15	60	130	65					
Proposed	5	†60					5	5	15	60	120	60					
Reduction											10	5				15	
The cavalry—																	
Now	10	120					10	10	30	120	140	120	2				
Proposed	8	†96					8	8	24	96	192	96	8				
Reduction	2	24					2	2	6	24		24					58−58=0
Addition											52		6				
The infantry—																	
Now	25	250					25	25	25	250	300	250	2				
Proposed	18	†216					18	18	54	216	216	216	18				
Reduction	7	34					7	7		34	84	34				121	166−45=121
Addition									29				16				
Total reduction in the line	9	58					9	9		58	42	63				136	181−45=136
Additions to the line									23				32			201	
Total reduction in general and staff officers			1	1	1	4	6	5	47	67	16	2	30	21		337	
Total reduction whole Army	9	58	1	1	1	4	15	14	24	125	58	65	8	21			

*125 assistant surgeons. †Captains and assistant surgeons. ‡Does not include fourth battalion companies.

I desire also to submit and have read the proposed amendment as finally agreed upon by the joint commission.

The amendment was read as follows:

Mr. BANNING, from the joint commission on the reorganization of the Army, submitted the following amendment, proposed in the nature of a substitute for the bill (H. R. No. 5499) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation, viz: Strike out all after the enacting clause and insert the following:

That the Army of the United States shall consist of the regular Army and the volunteer forces that may be authorized by law.

ORGANIZATION.

SEC. 2. That the regular Army shall consist of—
First. A corps of general officers, namely:
One general;
One lieutenant-general;
Three major-generals;
Six brigadier-generals.
Second. The general staff.
Third. The line of the Army, namely:
A corps of engineers;
A corps of artillery;
A corps of cavalry;
A corps of infantry;
A force of Indian scouts.
Fourth. The staff departments, namely:
A quartermaster's department;
A subsistence department;
An ordnance department;
A medical department;
A pay department;
A signal bureau;
A bureau of military justice;
A military academy.
Fifth. The retired officers:

Provided, That "the staff" shall in general terms include all officers and soldiers employed for the time being on staff duties.

SEC. 3. That the offices of general and lieutenant-general and the offices of one major-general and two brigadier-generals shall expire as vacancies occur therein; and thereafter the corps of general officers shall consist of but two major-generals and four brigadier-generals.

SEC. 4. That the General shall have the title of General of the Army of the United States, and may select from the Army one military secretary and two aids-de-camp, who while so serving shall have the rank: the secretary of colonel; one aid, that of lieutenant-colonel; and the other, that of major.

SEC. 5. That the Lieutenant-General may select from the Army two aids-de-camp, who shall have while so serving the rank, respectively, of lieutenant-colonel and major.

SEC. 6. That each major-general may have two aids-de-camp, to be selected from the captains or first lieutenants of the line; and each brigadier-general may have one aid-de-camp, to be selected from the first lieutenants of the line.

SEC. 7. That an officer assigned to duty or command according to his brevet as a general officer may, under special sanction of the President, have the aids-de-camp allotted to the grade in which he is assigned to duty.

SEC. 8. That the general staff of the Army shall consist of one Adjutant-General, with the rank of brigadier-general; three colonels; six lieutenant-colonels; eight majors; the authorized aids-de-camp to the general officers; and such captains and first lieutenants of the line as may be deemed necessary by the President, not exceeding fifteen, to be detailed as hereinafter provided; and officers of the general staff other than aids-de-camp shall, according to the nature of their duties, be known as the adjutant or the assistant adjutant, or as the inspector or assistant inspector general, to the commands in which they are serving.

SEC. 9. That the Corps of Engineers shall consist of one Chief of Engineers with the rank of brigadier-general; six colonels; twelve lieutenant-colonels; twenty-four majors; thirty captains; twenty-six first lieutenants; ten second lieutenants; and a battalion of engineer soldiers.

SEC. 10. That the battalion of engineers shall consist of five companies, one sergeant-major, and one quartermaster-sergeant, who shall also be commissary-sergeant; and that a battalion-adjutant, a battalion-quartermaster, and appropriate officers to command the companies and the battalion, shall be detailed from the Corps of Engineers.

SEC. 11. That each company of engineer soldiers shall consist of ten sergeants, ten corporals, two musicians, and as many privates of the first and second classes, not exceeding forty-five of each class, as the President may direct.

SEC. 12. That the troops of the engineer battalion shall be recruited in the same manner, and with the same limitations, and shall be entitled to the same provisions, allowances, and benefits, in every respect, as are allowed to other troops of the Army.

SEC. 13. That the Corps of Artillery shall consist of five regiments. Each regiment shall consist of four battalions, of four batteries each, and shall have one colonel, one lieutenant-colonel, three majors, twelve captains, twenty-four first lieutenants, twelve second lieutenants, one sergeant-major, one quartermaster-sergeant, and two principal musicians.

SEC. 14. That each battery of artillery shall, in addition to its proper officers, consist of one orderly-sergeant, four sergeants, four corporals, two artificers, two musicians, and, except as hereinafter provided, of not exceeding forty-seven privates.

SEC. 15. That one battery of each artillery regiment shall be habitually equipped as light artillery and as a school of instruction for the regiment, and may have two additional sergeants and four corporals, and enough privates to complete the battery organization; and whenever the President deems it necessary he may direct that additional batteries be equipped as light artillery. The instruction light battery of each regiment shall be under the command of one of the majors of the regiment, and the captains and lieutenants shall be detailed for duty with it according to the roster, and under the direction of the Commanding General of the Army.

SEC. 16. That the Corps of Cavalry shall consist of eight regiments. Each regiment shall consist of four battalions of four troops each, and shall have one colonel, one lieutenant-colonel, three majors, one chaplain, twelve captains, twenty-four first lieutenants, twelve second lieutenants, one sergeant-major, one quartermaster-sergeant, and two principal musicians.

SEC. 17. That each troop of cavalry shall in addition to its proper officers consist of one orderly-sergeant, four sergeants, four corporals, two artificers, two musicians, and, except as hereinafter directed, of not exceeding seventy privates.

SEC. 18. That the Corps of Infantry shall consist of eighteen regiments. Each regiment shall consist of four battalions of four companies each, and shall have one colonel, one lieutenant-colonel, three majors, one chaplain, twelve captains, twelve first lieutenants, twelve second lieutenants, one sergeant-major, one quartermaster-sergeant, and two principal musicians.

SEC. 19. That each company of infantry shall in addition to its proper officers consist of one orderly-sergeant, four sergeants, four corporals, two artificers, two musicians, and, except as hereinafter directed, of not less than seventy-five privates.

SEC. 20. That every regiment of the line of the Army shall have one adjutant and one quartermaster, both to be detailed from the first lieutenants of the regiment; and details for regimental, post, or other bands are prohibited.

SEC. 21. That the word "company," as used in this act and in the regulations that may be made pursuant thereto, shall apply to the batteries of artillery, both light and foot, and to the cavalry troop, as well as to the companies of engineers and infantry.

SEC. 22. That, except as hereinafter provided, the third battalion companies of artillery and infantry shall not be manned; and the third battalion companies of cavalry shall be unmanned as rapidly as the interests of the public service, in the judgment of the President, will permit. Nor shall any of the fourth battalion companies be either officered or manned until Congress shall so direct; and when Congress shall direct the filling up of any of the fourth battalion companies the officers therefor (namely, one captain, two first lieutenants, and one second lieutenant to each company of artillery and cavalry, and one captain, one first and one second lieutenant to each company of infantry) shall be supplied by regular promotion in the several corps, and by appointment to vacancies in the lower grade, of graduates of the Military Academy and meritorious soldiers.

SEC. 23. That the President, when the exigencies of the service so require, may direct that any of the unmanned companies or battalions be filled up; or he may in addition to, or in lieu of manning those organizations, direct that those or any other companies may be increased by transfers or otherwise, to a total enlisted strength of one hundred in the cavalry, and one hundred and twenty-five in the artillery and infantry: *Provided*, That nothing in this act shall authorize any increase of the total enlisted strength of the Army, exclusive of the signal soldiers, to more than twenty-five thousand men; nor shall any of the fourth battalion companies be either officered or manned until Congress shall so direct, as provided in the preceding section.

SEC. 24. That at the discretion of the President, any portion of the artillery or cavalry may be equipped and employed as infantry, and any portion of the infantry may be mounted.

SEC. 25. That the force of Indian scouts shall consist of such number of enlisted Indians, not exceeding six hundred, and including a proper proportion of non-commissioned officers, as may be authorized by the President. They shall be employed as scouts in the Territories and in the Indian country, and shall be discharged when their services are no longer required, or at the discretion of the department commander.

SEC. 26. That the Quartermaster's Department of the Army shall consist of one Quartermaster-General with the rank of brigadier-general; two colonels, five lieutenant-colonels, and eight majors, all quartermasters; and such captains and first lieutenants of the line as may be deemed necessary by the President, not to exceed thirty, to be detailed as hereinafter provided, and to be styled assistant quartermasters.

SEC. 27. That the Subsistence department of the Army shall consist of one Commissary-General of Subsistence with the rank of brigadier-general; one colonel, two lieutenant-colonels, and five majors, all commissaries of subsistence, and such captains and first lieutenants of the line as may be deemed necessary by the President, not to exceed twelve, to be detailed as hereinafter provided, and to be styled assistant commissaries of subsistence; and not exceeding one hundred and fifty commissary-sergeants.

SEC. 28. That the commanding officer of each military post, or of a detachment in the field of two or more companies, when no officer of the Quartermaster's or Subsistence department is present for duty, may appoint from among the subalterns one to act both as assistant quartermaster and commissary, who shall be subject to all the rules and regulations for officers of these departments, and shall perform the duties thereof.

SEC. 29. That the Ordnance department of the Army shall consist of one Chief of Ordnance with the rank of brigadier-general, two colonels, four lieutenant-colonels, eight majors, such captains and first lieutenants of the artillery as may be deemed necessary by the President, not exceeding thirty, to be detailed as hereinafter provided, and not exceeding one hundred and fifty ordnance-sergeants.

SEC. 30. That the necessary guards for the arsenals and ordnance depots shall, as far as practicable, be detailed from the artillery.

SEC. 31. That the Medical department of the Army shall consist of one Surgeon-General with the rank of brigadier-general; one assistant surgeon-general and one chief medical purveyor, each with the rank of colonel; two assistant medical purveyors with the rank of lieutenant-colonel; sixty surgeons, four with the rank of colonel, eight with the rank of lieutenant-colonel, and forty-eight with the rank of major; and one hundred and twenty assistant surgeons with the rank of first lieutenant for the first eight years' service, and the rank of captain thereafter.

SEC. 32. That there shall be attached to the Medical department as many hospital stewards of the first class, not exceeding two hundred, as the service may require, to be appointed or enlisted as hereinafter directed, and to be employed exclusively at military posts and dispensaries, or with troops in the field.

SEC. 33. That no contract surgeon shall be employed in the Medical department except for and during an emergency, and upon an application from the Surgeon-General, approved by the Commanding General of the Army.

SEC. 34. That the Pay department of the Army shall consist of one Paymaster-General with the rank of brigadier-general; one colonel, one lieutenant-colonel, and twenty-five majors, all paymasters; and such captains and first lieutenants of the line as may be deemed necessary by the President, not exceeding ten, to be detailed as hereinafter provided, and to be styled assistant paymasters.

SEC. 35. That each paymaster and assistant paymaster may employ, while on duty, one civilian clerk, whose compensation shall not exceed $100 per month.

SEC. 36. That when volunteers or militia are called into the service of the United States in such numbers that the officers of the Quartermaster's, Subsistence, and Pay departments, authorized by law, are not sufficient for their proper maintenance, the President may, with the advice and consent of the Senate, add such number of captains, not exceeding one to each department for each brigade, as the service may require: *Provided*, That the additional quartermasters, commissaries, and paymasters shall be retained in service as such only so long as their services shall be necessary to the militia and volunteers.

SEC. 37. That the Signal Bureau of the Army shall consist of one Chief Signal Officer with the rank of colonel, such captains and first lieutenants as may be deemed necessary by the President, not exceeding six, to be detailed from the line as hereinafter provided, and to be styled signal officers, and an enlisted force of one hundred and fifty sergeants, thirty corporals, and two hundred and seventy privates, all of whom may, when necessary, be mounted.

SEC. 38. That the Bureau of Military Justice shall consist of one Judge-Advocate-General with the rank of colonel; two judge-advocates with the rank of major; and such captains and first lieutenants of the line as may be deemed necessary by the President, not exceeding three, to be detailed as hereinafter provided, and to be styled assistant judge-advocates.

SEC. 39. That on and after the 1st day of January, 1880, the office of post-trader shall be abolished, and thereafter no person shall have an exclusive privilege of trading on any military reservation or within any military camp or garrison.

SEC. 40. That in order to bring about the reduction and reorganization provided for by this act, it is authorized and directed—

First. That a "reserved list" be established, to which officers shall be transferred from the line and staff, when not otherwise disposed of, as hereinafter directed.

Second. That so much of existing laws as limits the number of officers that may at any one time be on the "retired list" is hereby suspended.

Third. That every officer who has been thirty years in service may, upon his own application, be placed upon the retired list; that every officer, other than of the

corps of general officers, who shall be sixty-two years of age at the passage of this act, and shall then have served for ten years as an officer, shall be at once retired; that all such officers who, at the passage of this act, shall be between the ages of sixty and sixty-two, shall be at once transferred to the reserved list, and as they attain the age of sixty-two they shall be placed on the retired list; and that every officer who shall be over sixty years of age at the passage of this act, and shall not then have rendered at least ten years' service as an officer, shall be discharged with the gratuity provided in clause 4 of this section: *Provided*, That each year's service in time of war shall count as two years' ordinary service.

Fourth. That every officer, other than those referred to in clause 3 of this section, who is unfit from any cause whatever for the proper and efficient discharge of his military duties, shall, as soon as may be after the passage of this act, be either discharged from the service or placed upon the retired list. If the disabilities be the result of intemperance or other vicious habits, the officer shall be discharged with a gratuity of one year's pay if he shall have served at least three years; if it be neither the result of vicious habits nor of any incident of the service, he shall be discharged with a gratuity at the rate of one year's pay for each period of five years' service rendered, either as an officer or soldier in the regular or volunteer forces of the United States; but if the disability be the result of injuries received or disease contracted in the line of his duty, the officer shall be placed upon the retired list.

Fifth. That the chiefs of the several departments and bureaus of the staff, the commanders of the several geographical divisions and departments, of the Corps of Engineers, of the several regiments and military posts, and of detachments in the field, shall, as soon as practicable, and before the 1st day of June, 1879, forward through and for the remarks of the Commanding General of the Army to the Secretary of War, a list of the officers belonging to their respective departments, bureaus, or commands deemed by them unfit from any cause for the proper and efficient discharge of their duty. The cause of such unfitness shall be fully and specifically set forth in each case, with a list of witnesses and reference to any documental evidence.

Sixth. That a board, to consist of not less than three of the highest general officers available for the purpose, and of two surgeons, and that shall have a recorder, shall be appointed by the President, to examine into the qualifications and habits of every officer affected by the reports or records referred to in clause fifth of this section, and not disposed of by age under clause third. The members of the board and the recorder shall be sworn to a faithful discharge of their duties; and the board shall have power to compel the witnesses necessary in any case, whether they be civilian or military, to appear and testify.

Seventh. That the reports and records called for by clause fifth of this section, and such special reports in relation thereto as may be deemed necessary by the Secretary of War, shall be referred to the board of examiners aforesaid, for the investigation necessary in each case; and upon the recommendation of the board, approved by the President, the officers unfavorably reported upon shall, in accordance with clause fourth of this section, be either retired or discharged: *Provided*, That no officer shall thus be retired or discharged until he has been allowed an opportunity to appear before the board and show cause against such action.

Eighth. That the present Adjutant and Inspector General's departments shall be consolidated into the department to be known as the general staff; that the present cavalry force shall be consolidated into eight regiments, and the present infantry force into eighteen regiments; and that the enlisted men of ordnance, artillery, cavalry, and infantry shall be so transferred as to establish as soon as may be the reorganization in view: *Provided*, That no non-commissioned officer or first-class private shall be forced to serve in a lower grade.

Ninth. That from the officers remaining upon the active list of the line and staff, after the process of elimination hereinbefore prescribed has been completed, and before the 1st day of January, 1880, the President, according to their seniority, shall, by retention in their present positions and by the necessary transfers and promotions, arrange the proper complement of officers to each of the departments and bureaus of the staff, and to the several corps and regiments of the line. Upon this arrangement being made, the supernumerary officers shall be transferred to the reserved list: *Provided*, That this act in discontinuing certain grades and titles of office shall not thereby vacate the commissions of the present incumbents, but they shall be retained, retired, transferred, promoted, or discharged, as other officers, according to the provisions of this act.

SEC. 41. That the "reserved list" shall be maintained for three years, or till Congress shall otherwise direct: *Provided*, That no additions shall be made thereto after the reorganization of the Army has been accomplished; and that the officers upon this list shall, except as hereinafter provided, receive the pay and allowances of officers of like rank retired by reason of age or length of service, and no more: *And provided further*, That any officer of the Army may, within six months from the passing of this act, upon his own application, and at the discretion of the President, be transferred to the reserved list.

SEC. 42. That every officer upon the reserved list who may tender his resignation within six months after his transfer thereto, shall be entitled, upon the acceptance of such resignation, to receive three years' full pay of his rank, less the amounts previously paid to him as an officer on that list.

SEC. 43. That officers upon the reserved list shall remain subject in all respects to the Rules and Articles of War, and when employed upon any duty that may be recognized by law, they shall receive the full pay and allowances of their rank.

SEC. 44. That officers of the regular Army shall be transferred from the active list to the retired list, on account of age, as follows, namely: first, general officers, upon attaining the age of sixty-five years, unless the President shall otherwise specially direct; second, all officers other than those hereinbefore mentioned, upon reaching sixty-two years of age: *Provided*, That nothing in this or in following sections shall be construed in derogation of the provisions of section 40 of this act.

SEC. 45. That any officer of the regular Army who shall have served forty years either as an officer or soldier in the regular or volunteer service, shall, upon his own application, be transferred to the retired list; and upon such application he may be thus transferred at the discretion of the President, at any time after twenty-five years' such service.

SEC. 46. That when any officer of the regular Army shall have become incapable of performing the duties of his office, he shall be either transferred to the retired list, or be discharged from the service, as hereinafter provided.

SEC. 47. The chiefs of the several departments and bureaus of the staff, and the commanders of the geographical divisions and departments, of the Corps of Engineers, and of the several regiments, shall from time to time, and at least once in each year, report to the Commanding General of the Army for the information of the Secretary of War and of the President, all officers belonging to their several departments, bureaus, or commands who are deemed incapable for the performance of the duties of their several offices; and the officers thus reported shall, as soon as practicable, be summoned before a retiring board for examination.

SEC. 48. That under the direction of the President, the Secretary of War shall from time to time assemble Army retiring boards to examine the cases of officers reported upon, as indicated in next preceding section, or who may for other reasons be deemed incapable for the performance of their proper duties.

SEC. 49. That a retiring board shall consist of not more than nine nor less than five officers, two-fifths of whom shall be selected from the surgeons of the Army, and as far as may be, the members, other than the medical officers, shall be senior in rank to the officer to be examined.

SEC. 50. That a retiring board shall inquire into and determine the facts touching the nature and occasion of the disability of any officer who appears to be incapable of performing the duties of his office; it shall have such of the powers of a general court-martial as may be necessary for that purpose; and the members shall be sworn in every case to discharge their duties honestly and impartially; and no officer shall be transferred to the retired list or be discharged upon the recommendation of the board without a full and fair hearing before it, if upon due summons he shall demand such hearing.

SEC. 51. That when a retiring board finds that an officer is incapacitated for active service, it shall also find and report the cause of such incapacity and whether or not it has resulted from an incident of the service. And the board shall recommend, upon due consideration of the officer's age and the other circumstances of the case, whether his disability shall be rated as total, three-fourths, or one-half.

SEC. 52. That the proceedings and findings of a retiring board shall be transmitted to the Secretary of War and shall by him be laid before the President for his action; and no decision of the board shall be carried into effect until the proceedings shall have been personally examined by the President and such decision personally approved by him.

SEC. 53. That when a retiring board finds that an officer is incapacitated for active service, and that the incapacity is the result of an incident of service, the officer shall be transferred to the retired list. If it be found that the incapacity results neither from an incident of the service nor from any vicious habit of the officer, he shall be transferred to the retired list or be discharged, as the President, upon the recommendation of the board, may direct. But if it be found that the officer's incapacity is the result of intemperance, idleness, or other vicious habit, he shall be discharged.

SEC. 54. That all officers hereafter transferred to the retired list shall be borne on that list with the corps rank actually held by them at the date of their retirement; or, if retired by reason of wounds received in action, upon the highest corps rank actually held by them, in the regular or volunteer service, at the time the disability was incurred.

SEC. 55. That officers transferred to the retired list on account of age or length of service shall thereafter be entitled to receive 2 per cent. of the current yearly pay of the rank upon which they are retired, for each and every year's service rendered, either as an officer or as a soldier in the regular or volunteer service: *Provided*, That the retired pay of an officer under this section shall in no case exceed 80 per cent. of the pay of the rank upon which he is retired; and that each year's service in time of war shall count as two years' ordinary service.

SEC. 56. That an officer transferred to the retired list on account of incapacity resulting from an incident of the service shall thereafter be entitled to receive the full pay of the rank upon which he is retired if the disability be total, 70 per cent. of that pay if the disability be three-fourths, and 50 per cent. if the disability be one-half or less. If the incapacity for which the officer is thus retired be not the result of an incident of the service, he shall be entitled to receive 70 per cent. of the pay of the rank upon which he is retired if the disability be total, 50 per cent. if the disability is three-fourths, and 25 per cent. if it be only one-half or less. But in no case shall the pay of an officer retired for incapacity be less than that which he would have received if retired on account of age or for length of service.

SEC. 57. That the officers now on the retired list shall, as soon as practicable, be rated for pay in accordance with the provisions of this act; and for the purpose of determining the pay of those transferred to that list on account of incapacity, the President is authorized and requested to appoint a special retiring board, consisting of one general officer, five colonels, (namely, one of artillery, one of cavalry, one of infantry, and two from the staff departments,) and three surgeons. Upon an examination of the records in each case, and after taking such additional testimony as may appear necessary, this board shall recommend whether, in view of the present circumstances of each case, the officer's disability should be rated as total, three-fourths, or one-half; but the pay of an officer shall not be reduced under the operation of this section without his having had a full and fair hearing before the board, if upon due notice of such contemplated reduction he shall promptly demand such hearing; nor shall the recommendation of the board determine the rate of pay in any case until it shall have been approved by the President.

SEC. 58. That when an officer shall be discharged under the provisions of section 53 of this act, for incapacity not resulting from his own vicious habits, he shall thereupon be entitled to receive a gratuity of not to exceed three years' pay of his rank, said gratuity to be fixed by the President, upon the recommendation of the board; and if the incapacity be the result of his own vicious habits, the officer may, at the discretion of the President, receive a gratuity upon his discharge, not exceeding one year's pay of his rank.

SEC. 59. That officers transferred to the retired list on account of incapacity shall from time to time, and at the discretion of the President, be re-examined by a retiring board, in order that any proper change in the rating of their disabilities may be made; and if it shall appear upon a re-examination that an officer has become fully qualified for active service, he may, on the occurrence of an appropriate vacancy, be transferred to the active list.

SEC. 60. That officers transferred to the retired list shall be withdrawn from command and the line of promotion, but shall continue subject to the rules and articles of war, shall be entitled to wear the uniform to which they were entitled on the active list, and their names shall be borne on the Army Register.

SEC. 61. That none other than retired officers shall be eligible for appointment as governor, deputy governor, or treasurer of the Soldiers' Home; that upon their own application retired officers may be placed in charge of unoccupied military posts, and while on such duty shall be entitled to fuel and quarters in kind; and upon like application they may be assigned to duty at any college or university entitled under the law to the detail of an Army officer; but they shall not be assignable to duties other than those herein indicated, nor shall they receive any compensation from the Government other than their pay as retired officers that is not expressly authorized by law.

SEC. 62. That the general officers shall be selected from the Army; the major-generals from the brigadier-generals, and the brigadier-generals from the field officers of the line.

SEC. 63. That the chiefs of the general staff of the staff departments and of the Corps of Engineers shall be selected from the Army; the Chief of Engineers from the field officers of that corps; the Surgeon-General from the officers of the Medical department above the rank of assistant surgeon; the Chief of Ordnance from the field officers of ordnance and artillery; and the chiefs of the other branches of the staff from the field officers either of the bureau or department in which the vacancy occurs or of the line.

SEC. 64. That appointments into the lowest permanent grades in the several departments and bureaus of the staff shall, except in the Medical department, be made by selection, upon competitive examination, from such officers as have served not less than three years in that branch of the staff in which the appointment is to be made.

SEC. 65. That promotion in the regular Army from the lowest commissioned grade into that of colonel shall, except as hereinafter provided, be made by seniority throughout the several lines of engineers, artillery, cavalry, and infantry, and in each of the departments of the staff, and not regimentally as heretofore. Graduated cadets of the same date shall take precedence in the order of rank established at the Military Academy.

SEC. 66. The details for duty in the general staff, other than aids-de-camp, and in the several staff departments and bureaus, except as provided in section 28 of this act, shall be made by the President by selections after consideration of the nominations that may be submitted by the Commanding General of the Army: *Provided*, That except in cases of emergency no officer shall be thus detailed against his will, nor in any case till he has served at least six years with his regiment, and that no such details shall be for a longer period than three years or, except at the Military

Academy, for two successive terms in the same department of the staff; and that as far as may be these details, except for ordnance duty, shall be equalized between the corps of artillery, cavalry, and infantry.

SEC. 67. That by transfers within each regiment a due proportion of officers shall be maintained with each of the manned battalions; and the President may from time to time make such temporary transfers to and from the cavalry as may be necessary to give that corps its proportion of the officers for staff duty, without impairing the efficiency of the cavalry service.

SEC. 68. That an officer detailed for duty in the staff shall not thereby forfeit either his lineal position, or right to promotion in the line; but when an officer is appointed into a permanent grade of the staff he shall thereupon vacate his commission in the line. Those officers appointed to the additional offices provided for in section 36 of this act, shall, upon discharge therefrom, be entitled to resume their relative positions in their proper corps, as though they had not been thus appointed.

SEC. 69. That general officers shall appoint their own secretaries and aids-de-camp; and the commanders of regiments, and of the engineer battalion, shall appoint their several adjutants and quartermasters: *Provided*, That hereafter no one shall be appointed secretary or aid-de-camp till he has served six years with his regiment or corps, nor shall any one remain on such duty for a longer period than three years.

SEC. 70. That for the purpose of promoting knowledge of military art and science among the young men of the United States, the President may, upon the application of any established college or university within the United States, having capacity to educate not less than one hundred and fifty male students at the same time, detail an officer of the Army to act as president, superintendent, or professor thereof; and the officers thus detailed shall be apportioned throughout the United States as nearly as may be according to population: *Provided*, That the number of officers to be thus detailed shall not exceed seventy-six from the reserved and retired lists; and such retired officers while serving on these details shall receive $20 a month extra pay.

SEC. 71. That the Secretary of War shall prescribe rules for the government of the officers detailed at the several colleges and universities aforesaid; he shall require those officers to state in their monthly reports the precise nature of their duties; and he shall cause inspections to be made from time to time in order to ascertain whether or not a proper course of military instruction is maintained at those institutions, and where such is not the case he shall withdraw the officer detailed.

SEC. 72. That the Secretary of War shall from time to time report to Congress whether or not a proper course of instruction in military tactics is maintained at the several colleges endowed with the proceeds of the sale of public lands, as stipulated in the act of July 2, 1862.

SEC. 73. That officers on duty at the several colleges and universities may during the stated vacations have leave of absence without deduction from their pay or allowances.

SEC. 74. That all acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. WHITE, of Pennsylvania. Mr. Chairman, I am obliged to the gentleman from New York, [Mr. HEWITT.] who has the Army appropriation bill in charge, for the courtesy of not objecting, at this time, to a discussion of some features of the Army reorganization bill, which indeed is cognate to an Army appropriation bill. The House having refused to proceed to consider the Army bill to-day, the intention now is, as I understand from the gentleman from Ohio, [Mr. BANNING,] to offer the different sections of the Army reorganization bill as an amendment to the pending appropriation bill. It is quite proper for me, then, to explain the proposed amendments. These amendments are embraced in the bill I hold in my hand, submitted by the gentleman from Ohio on the 24th of January by instructions of the joint committee on the reorganization of the Army, in the nature of a substitute for House bill No. 5499. To that I propose to speak. This, then, is a measure, sir, to reduce and reorganize the Army of the United States; it is brief and comprehensive. Any proposition affecting the United States Army always excites active interest, and usually here in Washington meets industrious opposition.

The influence of Army *personnel* reaches over the whole country. No proposition is ever made in Congress to reorganize or modify the military establishment in any way without encountering the charge of premeditated injustice and unfairness to a large class of individuals. Such criticism will not dismay or discourage the sincere public man in advocating those changes and reforms proper for this important department of the public service.

ARMY REORGANIZATION DIFFICULT.

Since our country has had an army, bitter resistance has always been made to any change in the existing organization. The establishment of any general principle usually affects here and there some individual interest, and I know individuals, possibly affected, have been most earnest in misrepresenting the provisions of this bill and industriously manufacturing public sentiment against it. Every member of Congress, doubtless, has been waited upon since this bill has been reported to the House, and informed of the anticipated resulting grievance if it is enacted into a law. The early days of the Republic furnish abundant parallel when legislation affecting the Army was proposed, and in this connection it may be entertaining to remark, that army reorganization encountered as much opposition in the infant days of the Government as now. In 1776, feeling the want of more system in the discipline of the Army, George Washington suggested to Congress the revision of the articles of war. John Adams and Thomas Jefferson were appointed a committee to discuss, be informed and report on the subject to the House.

JOHN ADAMS.

Mr. Adams, in his works, volume 3, page 68, says:

It was a very difficult and unpopular subject, and I observed to Jefferson that whatever alteration we should report with the least energy in it, or the least tendency to a necessary discipline of the Army, would be opposed with as much vehemence as if it were the most perfect. We might as well, therefore, report a complete system at once and let it meet its fate. Something, perhaps, might be gained. There was extant one system of articles of war which had carried two empires to the head of mankind, the Roman and the British; for the British articles of war were a literal translation of the Roman. It would be in vain for us to seek in our own inventions or the records of warlike nations for a more complete system of military discipline. I was, therefore, for reporting the British articles of war *totidem verbis*. Jefferson in those days never failed to agree with me in everything of a political nature, and he very cordially concurred in this.

And again, page 83, says Mr. Adams:

In Congress Jefferson never spoke, and all the labor of the debate on these articles, paragraph by paragraph, was thrown upon me, and such was the opposition and so undigested were the notions of liberty prevalent among the majority of the members, most zealously attached to the public cause, that to this day I scarcely know how it was possible that these articles could have been carried. They were adopted and governed the Army. Resolutions for raising eighty-eight battalions, with a bounty for enlisting the men during the war, granting lands, * * * were then passed. The articles of war and the institution of the Army during the war were all my work, and yet I have been represented as an enemy of a regular army.

While every public man will recognize the truth of what Mr. Adams said, when speaking on army discipline in 1776, "that it was our observation, founded on undoubted facts, that the prosperity of nations had been in proportion to the discipline of the forces by sea and land," yet for years past public inquiry has been repeated, "ought not something to be done to decrease the expense of the military establishment without in any way impairing its efficiency?" No wonder this inquiry should be made, for by reference to your appropriation bills for the current year it will be discovered that nearly $30,000,000 were appropriated for the use of the Army in its different departments! A comparison of these figures with appropriations for former years exhibit the fact that the expense of this arm of the public service is not rapidly decreasing. While there has been a commendable desire upon the part of all in authority to preserve its efficiency, there has been a laudable willingness to see if by prudent effort the expense of our Army could not be reduced.

ARMY COMMISSION.

Hence, at your last session in your Army appropriation bill there was made the provision that three Senators and five Members of the House should be appointed a joint committee, to whom the whole subject of army revision and reorganization should be referred, and that such "*committee shall carefully and thoroughly examine into the matter with reference to the demands of the public service, as to the number and pay of men and officers, and the proportion of the several arms; and also as to the rank, pay, and duties of the several staff corps, and whether any and what reductions can be made, either in the line, field, or staff, in numbers or in pay, by consolidation or otherwise, consistently with the public service, having in view a just and reasonable economy in the expenditure of public money, the actual necessities of the military service, and in the capacity for effective and rapid increase in time of war.*"

The proposed bill then comes from the hands of the committee thus authorized by law, and with the unanimous sanction of its members. On the 12th of December last this committee reported a bill, somewhat voluminous in character, to be found upon your files, No. 5499, and containing some seven hundred and twenty-four sections. While this bill was large in volume its exclusively new legislation embraced but small compass. The greater portion of it recited mere regulations for the business management of the Army. No formal Army regulations having been compiled or published since the Revised Regulations of 1863, it was deemed wise by the committee to collate and codify the regulations now in use, suggesting such changes as were deemed proper, so that if the bill was enacted by Congress it should embrace a complete system of laws organizing and regulating the military establishment in all its departments. A close scrutiny of the voluminous bill would have developed that its bulk was caused by inserting Army regulations which few would object to. Why, sir, the British army articles of war, which are somewhat voluminous, are re-enacted every year by Parliament in the mutiny act. Army regulations, indeed, should have the sanction of law, and hence they were reported as indicated for action. The magnitude of the bill 5499, as originally reported, discouraged many legislators from investigating its provisions.

The present session approaching its close the joint committee deemed it wise to divide the bill originally reported into two parts and let them be separately considered. In that form a new report has been made.

REORGANIZATION BILL BRIEF.

The bill we now propose, for which I now speak, embraces but seventy-four sections, containing practically all the bill originally reported, and relates to mere reorganization and reduction of the Army. There has been omitted from this bill those features relating to the transmission of all orders through the General of the Army and the prohibition of the further fabrication of arms at the Government arsenals. Those subjects, together with the mere regulation, are in the other bill, which is not pressed for action just now, but will be considered at another time. So, then, let it be understood that some necessary features of reorganization are omitted from the bill I hold in my hand. Pardon me while I present briefly some of its more salient provisions.

A PEACE ESTABLISHMENT.

The leading thought of this measure is to create an army on a peace establishment, so practical and plastic in its organization that it can be instantly developed in time of war to twice, indeed thrice, its

original strength without impairing efficiency or discipline. It has been said that our Army is top-heavy; that we have too many officers in the higher grades; that the staff departments are too numerous and too large for the line of the Army. To relieve this confusion is the great leading purpose of the bill. Under it the permanent general officers shall be two major-generals and four brigadier-generals.

GENERAL STAFF.

The Adjutant and Inspector general's departments are consolidated and called the general staff; to be composed of one brigadier-general, three colonels, six lieutenant colonels, eight majors. Captains and first lieutenants, not exceeding fifteen, to be detailed by the President.

The Quartermaster's Department to have as a permanent organization one brigadier-general, two colonels, five lieutenant colonels, eight majors. Captains and first lieutenants of the line, not exceeding thirty, to be detailed by the President.

The Subsistence department to have as a permanent organization one brigadier, one colonel, two lieutenant colonels, five majors. Captains and first lieutenants from the line, not exceeding twelve, to be detailed by the President.

The Medical department to have as a permanent organization one brigadier-general, six colonels, ten lieutenant colonels, forty-eight majors, one hundred and twenty assistant surgeons, with rank of first lieutenant for first eight years' service and captain thereafter.

Contract surgeons to be employed in the Medical department only in an emergency, upon application of the Surgeon-General and approved by the Commanding General of the Army.

The Pay department shall consist of one brigadier-general, one colonel, one lieutenant-colonel, twenty-five majors.

The Ordnance department shall have as a permanent organization one brigadier-general, two colonels, four lieutenant-colonels, eight majors, and such captains and first lieutenants of the artillery, not exceeding thirty, as the President may detail.

The Bureau of Military Justice shall have a judge-advocate-general with the rank of colonel, two judge-advocates with the rank of major, and such captains and first lieutenants of the line, not exceeding three, as may be detailed by the President.

The Signal Bureau shall consist of one signal officer with the rank of colonel, and such captains and first lieutenants from the line, not exceeding six, to be detailed by the President.

The Engineer department has not been changed.

Post-traders, after the 1st of January next, shall be abolished, and no person thereafter shall have an exclusive privilege of trading upon any military reservation or within any military camp or garrison.

In the staff departments thus enumerated by careful counting there will be a reduction of two hundred and one officers. It will be observed under this bill the permanent officers of staff departments shall not be below the rank of major. The captains and lieutenants necessary for duty will be supplied from the line by detail of the President for a period not exceeding three years at one time, and none to be detailed until they shall have served at least six years with their regiments. These details to be made from the artillery, cavalry, and infantry, respectively, as nearly equal as may be from these different corps; details for the Ordnance department to be made only from the artillery.

CHIEFS OF STAFF.

The chiefs of the general staff and of the staff departments and Corps of Engineers, when vacancies arise, shall be selected from the Army: the Chief of Engineers from the field officers of that corps, the Surgeon-General from the officers of the Medical department above the rank of an assistant surgeon, the Chief of Ordnance from the field officers of the Ordnance and Artillery. Appointments into the lowest permanent grades in the staff bureaus and departments, excepting in the Medical department, to be selected, after competitive examination, among officers who have served not less than three years in the branch of the staff in which the appointment is to be made.

THE LINE.

The line of the Army under this bill shall consist of five regiments of artillery, each regiment to have four battalions of four batteries each, with one colonel, one lieutenant-colonel, three majors, twelve captains, twenty-four first lieutenants, and twelve second lieutenants. That each battery of artillery shall consist of sixty men, including the non-commissioned officers. The cavalry shall be composed of eight regiments of four battalions each, four troops or companies to each battalion, one colonel, one lieutenant-colonel, three majors, one chaplain, twelve captains, twenty-four first lieutenants, and twelve second lieutenants. Each troop of cavalry shall have eighty-three men, including the non-commissioned officers. The corps of infantry shall have eighteen regiments, each regiment four battalions of four companies each, with one colonel, one lieutenant-colonel, three majors, one chaplain, twelve captains, twelve first and twelve second lieutenants. Each company of infantry shall have not less than eighty-eight men, including the non-commissioned officers. All regiments of the line shall have an adjutant and quartermaster, detailed from the first lieutenants of the regiment instead of in addition thereto. Now, it will be observed the fourth battalions of the different corps shall be neither officered nor manned until Congress shall so direct. The third-battalion companies of artillery and infantry shall be officered but not manned. The third-battalion companies of cavalry, all of which are now officered and manned, shall be unmanned by the President as rapidly as in his judgment the good of the public service will allow. The provision is also found that, if the President shall deem it wise, any portion of the artillery or cavalry may be equipped and employed as infantry and any portion of the infantry may be mounted for the service. This latter, indeed, does not change existing law.

PROMOTIONS.

The general officers shall be selected from the Army: major-generals from the brigadiers and brigadiers from the field officers of the line. The further provision is made that promotions from the lowest commissioned grade into that of colonel shall be made by seniority in the different lines of engineers, artillery, cavalry, and infantry, and in each of the departments of the staff.

Promotions shall not be regimentally, as heretofore, but in the entire corps of the different arms in the line of the Army. Details for staff duty shall be made by the President. These, then, sir, are substantially all the very material provisions for the reorganization of the Army. The title of the bill indicates that it is a measure to reduce as well as to reorganize the Army.

NO REDUCTION OF MEN.

Mark you, sir, no violent reduction of the rank and file of the Army is proposed nor provided in the pending measure. By the act of the 15th of June, 1870, it was provided that "there shall not be in the Army at one time more than 30,000 enlisted men." This was the law until last session the maximum of the rank and file of the Army was fixed at 25,000 enlisted men. This legislation so recent may be regarded as an authoritative expression of popular sentiment as to the size of the enlisted force of the Army. While the maximum of enlisted men is thus limited to 25,000, the President is authorized in the measure before you, when exigencies of the service require it, to fill up and man companies and battalions by transfers thereto, or to increase by transfers from one company to another, so as to make the strength of a cavalry troop 100 men and in the artillery and infantry 125.

DECREASE OF OFFICERS.

While, then, there is no decrease proposed for the effective strength of the Army, there is, it is submitted, a reasonable, fair, and necessary reduction in the officers of the Army. That you may discover this, let us look for a moment at the Army as it now is. Why, sir, you have now in service eleven different corps of the general staff.

ADJUTANT-GENERAL.

You have the Adjutant-General's department with one brigadier-general, two colonels, four lieutenant-colonels, ten majors; in all seventeen, as a permanent establishment, with several hundred enlisted men.

INSPECTOR-GENERAL.

An Inspector-General's department with one brigadier-general, three colonels, two lieutenant-colonels, one major; in all, seven, as a permanent establishment.

BUREAU OF MILITARY JUSTICE.

A bureau of military justice with one brigadier-general, eight majors, most of whom are brevetted to a higher rank, and possibly assigned to duty according to their brevets; nine officers in all.

QUARTERMASTER'S DEPARTMENT.

A quartermaster's department with one brigadier-general, four colonels, eight lieutenant-colonels, fourteen majors, thirty captains, seven military storekeepers, (captains,) being sixty-five officers in all.

SUBSISTENCE DEPARTMENT.

A subsistence department with one brigadier-general, two colonels, three lieutenant-colonels, eight majors, twelve captains; twenty-six officers in all, with one hundred and twenty-six commissary-sergeants.

PAY DEPARTMENT.

A pay department with one brigadier-general, two colonels, two lieutenant-colonels, fifty majors; fifty-five officers in all.

MEDICAL DEPARTMENT.

A medical department with one brigadier-general, six colonels, ten lieutenant-colonels, fifty majors, one hundred and twenty-five captains; one hundred and seventy-nine officers in all, with two hundred hospital stewards. There are still existing four medical storekeepers.

ENGINEERS.

A corps of engineers with one brigadier-general, six colonels, twelve lieutenant-colonels, twenty-four majors, thirty captains, twenty-six first lieutenants, ten second lieutenants; one hundred and seven officers in all, with two hundred enlisted men.

ORDNANCE DEPARTMENT.

An ordnance department with one brigadier-general, three colonels, four lieutenent-colonels, ten majors, twenty captains, sixteen first lieutenants, ten storekeepers, (captains.) Recent legislation, however, has provided for the discontinuance of ordnance storekeepers.

CHAPLAINS.

Thirty-four post and regimental chaplains, with the rank of captain.

SIGNAL SERVICE.

The signal service with one colonel and an enlisted force of four hundred and fifty-men.

STAFF OFFICERS.

In these different corps, by a careful addition you will observe, sir, there are five hundred and eighty-four commissioned officers, nine of whom have the actual rank of brigadier-general and others are brevetted to the same. There are but few lieutenants in this conspicuous array of staff officers. Why, sir, we have in the line to-day five artillery, ten cavalry, and twenty-five infantry regiments. With your eleven corps of the general staff, you have for every three regiments and a fraction a separate staff department with officers of so high grade and so numerous that it has been well said the "operations and interests of one corps are so independent from the other that the whole Army is top-heavy and to a great extent unwieldy." Turn from this picture of the staff and look at the line.

LINE.

Cavalry.—You have ten cavalry regiments, with ten colonels, ten lieutenant-colonels, thirty majors, one hundred and twenty captains, one hundred and forty first lieutenants, and one hundred and ten second lieutenants; in all 420 officers, with 7,443 enlisted force.

Artillery.—You have five artillery regiments, with five colonels, five lieutenant-colonels, fifteen majors, sixty captains, one hundred and thirty first lieutenants, and sixty-eight second lieutenants; in all 283 officers, with an enlisted force of 2,497 men.

Infantry.—You have twenty-five infantry regiments, with twenty-five colonels, twenty-five lieutenant-colonels, twenty-five majors, two hundred and fifty captains, three hundred first lieutenants, and two hundred and fifty second lieutenants; making in all 875 officers, with an enlisted force of 10,028 men.

ACTIVE LIST.

On the active list of the Army there are: one general, one lieutenant-general, three major-generals, fifteen brigadier-generals, sixty-seven colonels, eighty-six lieutenant-colonels, two hundred and forty-two majors, five hundred and eighty-nine captains, five hundred and ninety-two first lieutenants, four hundred and fifty-one second lieutenants, forty adjutants, forty regimental quartermasters; making a total of 2,127.

Thirty-four post-chaplains are not included in the above.

Now, you will observe, sir, this is a large number of officers for a peace establishment of the Army. There are, as regimental officers, forty colonels, forty lieutenant-colonels, seventy majors, four hundred and thirty captains, making a total of five hundred and eighty in all. Nine of the brigadiers, twenty-seven of the colonels, forty-six of the lieutenant-colonels, one hundred and seventy-two of the majors, one hundred and fifty-seven of the captains, belong to the general staff.

EXCESSIVE STAFF.

A general distribution of these staff officers in the line would allow to each regiment within a fraction of two colonels, more than two lieutenant-colonels, six majors, and fifteen captains. Now, sir, while I take pride in the Army of the United States, I think it is just to kindly criticise such a ponderous staff arrangement and seek to bring it more in proportion to the peace establishment of our Army and more in consonance with the views of the intelligent American people. Under the act of July 28, 1866, the Army was twenty thousand stronger than at present. Under the act of 15th July, 1870, twenty regiments have been disbanded, but no corresponding reduction has been made in your staff departments. They remain practically equal in numbers to the requirements of an army of one hundred thousand men, with no cordial sympathy between them and the active arm of the service in the field. Gentlemen may talk about injustice to the staff and its efficiency for active duty. Sir, I would not pluck a laurel from the wreath that crowns the staff departments and the staff officials of the American Army. As a member of the National Congress I make no war on them. I know our staff departments were efficient in our recent internecine strife, but now, in these days, while surrounded by the smiling arts of peace, it is becoming for us to try to restore a measure of harmony and contentment, as near as may be, between the line and the staff, and at the same time economize somewhat in the public expenditure. Why, sir, it is a fact that nearly 90 per cent. of the amount of almost a million of dollars annually appropriated for commutation in the Army is absorbed by the general staff, whose officers are usually assigned to duty in the populous centers of the country. Why, sir, let us compare our staff organization with that of the armies of Europe. We can gain entertaining instruction by the comparison:

EUROPEAN STAFF.

In France, with a regular army of 470,000 men, their staff department contains but 400 officers. In England, with a standing army of 228,624 officers and men, all duties in the staff department are performed by officers detailed from the line. In Prussia the staff corps is little more than 300 officers for an army of 800,000 men.

STAFF OF 1860.

Instructive contrast can be made between the present composition of our staff departments and their condition prior to the time the war of the rebellion increased the Army. The Adjutant-General's department, in 1860, had 13 officers, 4 less than we have now; the Inspector-General's department 2 officers, 4 less than we have now; the Bureau of Military Justice 1 officer, now 9; in the Quartermaster's Department there were 44 officers, now 65.

In the Subsistence department there were 11 officers; there are now 26. In the Medical department there were 107 officers; there are now 179, exclusive of contract surgeons. In the Pay department there were 28 paymasters; there are now 55. In the Engineer Corps they had 88 officers; we have now 107 officers. In the Ordnance department there were 55; there are now 64. By a singular coincidence, while formerly captains and lieutenants largely predominated in numbers in these departments, they now scarcely equal the field officers there.

Did the interest of the public service require the existence of our staff departments in their present permanent expensive organization, Congress and the country should not and would not complain. The contentment of the Army and the continued efficiency of the staff departments require some modification of their present organization.

STAFF CHANGES.

This remedy is one of the prominent features of the pending measure. While but two departments are consolidated, the permanent officers in these departments have been largely reduced. The field officers have been reduced 60. The lowest permanent grade in the staff department by this bill is that of major. Such captains and lieutenants as may be required are to be supplied by detail from the line of the Army.

INTERCHANGEABLE STAFF.

This, sir, is by the adoption of the policy of interchangeability from the line to the staff and from the staff to the line. This change is most material, and has for its wisdom the highest sanction. In Germany, Italy, Austria, and Russia officers are continually transferred from the line to the staff; then back to the line, except in Germany. There, when once sent back to the line, the officer may never be recalled.

GENERAL SHERMAN.

In approval of this policy a long line of distinguished officers of our Army have spoken. General Sherman, in answer to some inquiries submitted to him by the Military Committee of this House about three years ago, gave the interchangeability plan emphatic approval.

I quote question and answer:

Question. In your judgment, do the duties of the Ordnance and Engineer Corps, being scientific specialties, require their separation from the ordinary routine of Army duties? Do they require seclusion, as it were, from the Army?

Answer. I think not. I think, on the contrary, that all officers of the Army, in their own interest, should know what a soldier can do, in order to know what works of defense and offense are proper. I asked of Field-Marshal von Moltke, in Prussia, who, I suppose, at this moment stands at the very head of the military profession—I said to him: "You are chief of the staff, which embraces all the staff departments of the Prussian army. You bring young officers to Berlin to school, as we send our young men to West Point. Do you ever send them to their regiments?" His reply was, "Oh, yes; they go to their regiments. We never separate an officer from troops except by way of detail. He goes back to his troops again as soon as the special service is ended. No officer is ever permanently out of the line of the army." My understanding from the conversation I had with Von Moltke and others, however, was that officers of the staff departments in the Prussian army are detached as chiefs of staff and assigned to generals of corps, generals of divisions and brigades, but that these officers are at no time for a very long period separated from the troops of the line. In other words, every staff officer is required, for a considerable period of his life, to serve with soldiers. In our Army, as I have said, an ordnance or engineer officer knows no more about commanding soldiers and of the conduct of the men who carry the muskets than other well-educated gentlemen.

OPINIONS OF ARMY OFFICERS.

In addition to this opinion of the General of the Army I will cite the names of such experienced Army officers as Generals Crook, Barry, Roberts, Wood, Kingsbury, Sully, Brannan, Heintzelman, Franklin, Hooker, Hatch, Casey, Upton, Doubleday, Stanley, Gibbon, Grierson, Buell, Hazen, McClellan, Reynolds, Hunt, and others, and shall refer to their opinions, which can be read in the RECORD at the close of my remarks. To these I could add the opinions of several Presidents and Secretaries of War were it necessary. But, sir, not only is this policy wise for efficiency and economy, for I believe it will reduce the expense of our military establishment more than half a million of dollars and very soon more than a million, but it is a measure of harmony in the Army, ultimately establishing more cordial and kindly relations between the staff and the line. No careful observer can be ignorant of the jealousies and conflicts existing and growing between the line and staff officers. The idea obtains that staff appointments give "soft snaps," in Army parlance, to the recipients, and are secured by personal favoritism and political influence. The line officer in the unattractive peace, service, of the frontier longs for a staff position, that he may get nearer civilization for himself and family, and possibly under the shadow of political friends, influential at court, rapidly secure that increased rank staff officers enjoy. To the truth of this utterance I can produce evidence piling "Pelion upon Ossa." It is submitted, then, in all confidence, the changes proposed in our staff departments are wise and should prevail.

BATTALION FORMATIONS.

Turning from the staff features of the bill, I would press upon the

attention of the House the organic propositions for the line of the Army. I have said the enlisted force is not increased or decreased; yet the system of battalion formations in the different regiments, giving to each corps of the line three battalions, all officered and but two manned until the further direction of Congress, gives more effectiveness for the men already there and facilities for increase and mobilization of the forces when exigencies occur. Already in the cavalry, under existing law, we have the three-battalion regimental organization. Experience has demonstrated its wisdom. At present you have in your cavalry an enlisted force of 7,443 men. This is to be concentrated in two battalions in the respective regiments, and distributed into sixty-four companies. When the emergency arises the third battalion is already officered and ready to be manned, thus immediately adding thirty-two companies of seventy-nine men each, giving 2,528; so in the artillery, the third battalion of four companies for each regiment, making twenty companies of sixty men each, giving 1,200 men; so with your infantry, the third battalion with four companies of eighty-eight men each for eighteen regiments, making seventy-two companies, giving 6,336 men—thus, without any increase of officers or delays for organization, giving an instant increase of effective force in the line of the Army of 10,064 men. Adding these to your 25,000 men, you have an army of about 35,000 men. Then, sir, you have on paper your fourth battalion. Organize and man it without confusion or delay; you add about 10,000 more to your enlisted force, giving you an army of nearly 50,000 men instantly organized, "armed, and equipped for the fray;" and this by authority given in an act of Congress, when it is desired, of less than ten lines in length.

Sir, I shall not pause to further comment in tedious length on other features of the bill. But, sir, I hear it said you propose a reduction of some three hundred officers and that it is harsh to turn into the world so many men trained only to be professional soldiers. I shall not long tarry to parley with this criticism. The Government is, wants to be, and ought to be, kind to its soldiery. But, sir, in these times of shrinkage in values, business embarrassments, and decreasing revenues, the paramount inquiry is, Can the Government afford to continue in service officers the public necessities do not require? It is statesmanship to look this question in the face and pass upon it as intelligent business men, heedless of the personal appeals that reach us here in Washington and elsewhere from individuals and families personally interested.

GOVERNMENTS CANNOT RETAIN SUPERNUMERARY OFFICERS.

What government out of mere sympathy retains a large army list? England musters out officers and soldiers not needed. So does France. So does Germany. So have the United States always done after its great wars. In 1815 the number of major-generals, which had been six in number, was instantly reduced to two, and the brigadiers to four from six, and they, with many of lower rank, only allowed three months' pay proper. So after the Mexican war. The President, by act of June 18, 1846, was directed to select one major-general and two brigadiers out of those then in commission and all the rest to be mustered out. So it has always been and must necessarily be, agreeably to the genius of our institutions, which abhors unnecessarily large and expensive military establishments.

In reading a speech the other day of the honorable Senator from Maine [Mr. BLAINE] I was struck with the disproportion of the officers of staff and line in the Navy to the men enlisted there. From his statistics I discover the Navy by law is limited to 7,500 men. We have there 2,020 officers, exclusive of the retired officers there, or one officer to three men and a fraction. Some prudent reform could be made of this enervating extravagance. What has been said of the Navy can be said with great emphasis of the Army. Tell me not, sir, the provision for the retirement of such officers as may become supernumerary if this bill is enacted into a law are harsh to the American soldier.

RETIRED LIST.

Pause and read the bill where it provides generous care for the supernumerary officer. I cannot tarry to dwell in detail, but observe the fortieth section; a reserve list has been established for the benefit of officers who shall be transferred from the line and the staff and not otherwise disposed of. The present legal limit of three hundred for the retired list is suspended, and every officer who has been thirty years in the service may upon his own application be placed upon the retired list; that general officers shall not be retired until after the age of sixty-five years, and not then if the President otherwise directs, and officers of other rank not until they have reached the age of sixty-two. This reserved list which has been created to make provision for officers made unnecessary by this bill is continued for three years, and any officer upon this reserved list may resign within six months from his being placed on it and receive three years' full pay for his rank. Tell me not these are harsh provisions to the officer. The Government throws its great arm gently around those whose services are no longer required and lifts them into the walks again of private life with generous aid to start in their new career. As evidence of the value of this assistance, imagine a colonel after being ten years in the service transferred to this reserved list. His annual pay would be about $4,200. Should he desire to resign he would receive three years' pay immediately, giving him more than $12,000 to start in the new battle of life. The United States Government has been more generous, and wants to be, to its soldiers than any other enlightened government. I submit the studied care for the supernumerary officer this measure gives is in keeping with the history of our legislation in this behalf. But, sir, I cannot tarry to further discuss these features.

As I look around me, I observe here as our peers generals, colonels, lieutenant-colonels, captains, lieutenants, sergeants, privates,—ay, there are men here who served in the ranks of the Army as privates in the day of trial. The men who composed the Army of the Union have been distributed and mixed up in our business society. Their interests are—what? To have a large standing army, to have an expensive military establishment? No, sir. Let it not be said then, Mr. Chairman, that those who advocate this bill are unfriendly to the Army. The Army of the United States is popular. The country owes it a great debt of gratitude, a debt which it recognizes. But, sir, who compose the Army of the United States to-day? A very respectable class of gentlemen in the rank and file, most conspicuous and gallant men command our Army; many of them won honorable distinction in the war against rebellion.

But, sir, the great mass of the Army of the Union—the rank and the file—the gallant men who bore the cause of the Union to triumph and victory, are not in the Army to-day. They have retired according to our American system to the vocations of private life. Some of them are in this Hall, making laws for the nation. They are business men; they are patriotic men. All they desire is to have such an Army as the public necessities require, so that the burdens of the people may be lightened. Some of the men whose gallantry gave popularity to the Army in the recent past suffer because of the burdens upon their business to raise a revenue to pay for an expensive military establishment. Let it not be said, then, Mr. Chairman, that those who are in favor of this reasonable, this just, this practicable modification of the present organization of the Army are hostile to those men to whom the country will always be grateful.

I shall vote most cheerfully for the provisions of this measure.

APPENDIX.

OPINION OF ARMY OFFICERS QUOTED IN THE FOREGOING.

A brief notice of the opinions of some officers favoring details for the staff and opposed to entire permanency may not be unprofitable.

General Barry thinks that permanency in the Adjutant-General's and Inspector-General's department is injurious.

General Roberts says the tendency of permanence is to destroy the Army *esprit de corps* that should run through all branches; that officers cannot be eminently and generally useful when they are unfamiliar in the duties and practical functions of the great arms of service that play the principal parts in actual war; that experience has demonstrated that the more valuable officers were developed from the general service.

General Wood says the effect of permanency is to render staff officers to some extent arrogant and offensive to the great body of the Army, and to narrow and cramp their intellects for general usefulness at first, and after a long service for their own special duties; that staff officers should not be kept at one station more than a fixed term, not long, thus securing the greatest variety and breadth of experience. Up to the grade of field officer no one should be allowed promotion without standing the test of a thorough and searching competitive examination, embracing professional acquirements, moral character, and physical ability; that such competition would beget habits of industry, studiousness, attention, and devotion to duty, of morality, temperance, and sobriety among the younger officers. This would cut off the evil of promotion by seniority and by favoritism alike.

General Kingsbury says the tendency of the policy of permanency is to narrow the views of the officer, alienate his sympathies from other branches of the service, and encourage a species of corps exclusiveness. The effect of transfers from one duty to another is to enlarge the mind, liberalize the ideas of the officer, qualify him for a wider range of duties, and better fit him for the sudden exigencies of the service.

General Sully thinks that before an officer is appointed in the staff he should serve five years in the line, and that a certain number of company officers should be selected from the line and put on duty temporarily with that branch of the staff for which they may be thought to have a particular aptness, and after sufficient probation be put on the permanent staff.

General Brannan thinks the power of transferring to the line or dropping entirely from the service should be retained in case of inefficiency or worthlessness of staff officers.

General Heintzelman thinks the effect of permanency is to make staff officers more efficient in some respects, but on the other hand from not serving with troops they lose sight of the wants and requirements of the field. No officer should be permanently attached to the staff until he has served some time with troops in the field or on the frontier. A greater freedom of detail and transfer than at present would be beneficial.

General Ord thinks that the President should be allowed to transfer officers of the same rank from the staff to the line, or the reverse, at his option. This would be a check on disbursing officers, would result in the selection of men better fitted for the places, besides giving them instruction.

General Franklin thinks that as to officers of the Quartermaster's, Commissary, and Pay departments, their duties being connected with the supplies of the troops, that those officers ought to serve with the troops at intervals; that unless the officers of the Adjutant-General's department are placed in direct communication with the troops, there grows up in them a distaste to any but the merest routine office duty. Promotions ought to be within the corps if the idea of service with the troops can be carried out. If it cannot be, then divide the promotions, above the lowest grade of the corps, between the staff and regimental officers. It would improve the status of the Army if there could be assigned, from the graduates of the Military Academy, every year, a small number of officers who would be at once rated as staff officers. They should serve two years in each arm of the line (infantry, artillery, cavalry) as company officers; should then undergo a rigid examination, and, if found qualified, should then be eligible for appointment in the lowest grades of the staff, which in some corps should be lower than at present.

General Crawford thinks that the effect of permanency in the staff is to create a corps of experts, and, where the education is necessarily scientific, it would appear to be proper that the officers should be permanent and that promotion should take place only in these corps. That is true of the Engineer's, Judge-Advocate's, and Medical departments, but in the others, except in the highest grades, to be filled

by selection, the officers should be returnable, after a term of service, to the line, thus providing for a larger class of officers instructed in staff duties to draw from in emergencies.

General Hooker says, by the system of education at the Military Academy, officers are educated in all the arms of the service alike. This rule should be extended to the staff corps and preserved in the line of the Army after they become officers. All other things being equal, that army which is the best instructed in all the branches of the service will be the most efficient, and expands more readily.

General Hatch says the effect of continuing the same officer in a particular department of the staff and allowing only promotions in the same is bad. Such officers become so assured of their positions and advancement that they lose all emulation to excel, knowing that no degree of excellence can advance them. They should be selected from the Army at large.

General Casey says, let every officer of the Army be required to pass an examination for promotion until he reaches the grade of major.

General Augur says an officer should not be put on the general staff until he is thoroughly familiar with the duties and responsibilities of a line officer.

General Upton says in special corps, like the Engineer or Medical Corps, officers are unquestionably more efficient who are educated, trained, and promoted specially for these services. But in order to increase the amount of staff knowledge in the Army, and to keep the officers of the staff corps acquainted with the wants and requirements of the line, transfers from the staff to the line, and the reverse, for a period not exceeding four years, would in the highest degree be beneficial. The duties of the adjutants and inspectors general, quartermasters, commissaries, and paymasters are in no degree scientific, and can be learned by officers detailed from the line. Promotions to the grade of first lieutenant in the Ordnance and Engineer Corps should be made, not from the Military Academy, but by competitive examination from first and second lieutenants who have served three years in the line. Cadets who graduate with high honors may become indolent, but three years' continuous preparation for examination for promotion would be highly advantageous.

General Doubleday says the present system of continuing the same officers in a special branch of the service is not beneficial, except for the Engineer, Ordnance, and Medical departments. Everything in the Army should be subordinate to the fighting element. To transfer from the line to the staff and from the staff to the line has a tendency to bind all parts of the service together, and to excite the young officers to study and to emulate each other.

General Stanley says the effect of continuing the same officers in a particular department or corps of the staff, and of allowing only promotions therein, is to produce a set of narrow-minded and inefficient men, who, enjoying great ease and comfort during peace, are totally unfitted for war. A law making transfers between line and staff, and from one staff corps to another, up to the rank of major, would stimulate ambition and promote study and efficiency. The Prussian practice is the correct one: *i. e.*, to place staff officers on the most varied duties, and especially to serve a proper time in the line. Transfers should be made between the engineers and the line when engineer officers prove unapt and the line officer gave evidence of the necessary qualifications, as proved by examinations.

General Gibbon thinks that officers should be transferred from the staff to the different arms of the line, so as to serve for a term of years in each. The staff of an army should consist of the very first brains of the service, thoroughly conversant with all its details; and such a knowledge can only be attained by service in the different arms. When a vacancy occurs it should be filled not by promotion, but by selection from all of those of the next lower grade in both line and staff, the General-in-Chief making the selection from a certain number, say three, nominated by an advisory board. This would promote efficiency, put the best ability in the staff, and restore sympathy between the staff and line. Staff positions are a prize, and thus can be obtained by the deserving. This system should be adopted only with reference to those branches of the staff corps which, from the nature of their duties, are most intimately connected with the line, namely, the Adjutant's, Quartermaster's, Subsistence, Judge-Advocate's and Inspector's departments. This method of selection should be for grades below that of colonel. All persons educated, trained, and promoted for a specialty are more efficient for that specialty, but officers of the Army are not more efficient as military officers from being so educated; their efficiency should be increased by a greater freedom of detail and transfer.

General Grierson thinks that a greater freedom of detail in the staff corps would be beneficial, for the reason that an officer educated for one branch does not know enough of other duties. An opportunity should be given officers to be transferred, and every officer should be compelled to serve a portion of his time with troops in the field.

General Crook thinks that officers being so much stationed in cities and not with troops become fossilized, and lose sight of the wants of the troops in the field. If staff officers were to go more among the troops he thinks it would be better to have them educated, trained, and promoted for specialties of the service; but under the present management a greater freedom of detail and transfer is better.

General George P. Buell thinks the continuance of staff officers in the same department or corps begets narrow-mindedness, a partiality for their own corps, until an officer may not be capable in anything else. There is no branch of the staff, except the Engineer, Medical, and Ordnance departments, that any officer of ordinary education, good sense, energy, industry, ambition, pride, and courage cannot accomplish in a few years.

General McClellan thinks that the functions of the lower grades in the various staff corps should be performed by officers detailed from the line for a period long enough to instruct them fully, and that the higher grades should be permanently filled by selections from among the best of the line officers who have been thus detailed. These details should not continue longer than four years. In this manner the knowledge of staff duties would be widely spread through the line, to the benefit of the whole service. To provide for this without injury there should be a sufficient number of supernumerary officers.

Statement showing the present and proposed organization of the Army under reorganization bill.

Corps, departments, &c.	Regiments.	Companies.	General.	Lieutenant-General.	Major-generals.	Brigadier-generals.	Colonels.	Lieutenant-colonels.	Majors.	Captains.	First lieutenants.	Second lieutenants.	Chaplains.	Storekeepers.	Details.	Reduction.
General officers—																
Now	.....	.....	1	1	3	6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Proposed	.....	.....	.....	.....	2	4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Reduction	.....	.....	1	1	1	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	5
Adjutant-General's department now	.....	.....	.....	.....	.....	1	2	4	10	.....	.....	.....	.....	.....	.....	.....
Inspector-General's department now	.....	.....	.....	.....	.....	1	3	2	1	.....	.....	.....	.....	.....	.....	.....
Total of the two departments	.....	.....	.....	.....	.....	2	5	6	11	.....	.....	.....	.....	.....	.....	.....
Proposed "general staff"	.....	.....	.....	.....	.....	1	3	6	8	.....	.....	.....	.....	.....	15	.....
Reduction	.....	.....	.....	.....	.....	1	2	.....	3	.....	.....	.....	.....	.....	.....	6
Quartermaster's Department—																
Now	.....	.....	.....	.....	.....	1	4	8	14	30	.....	.....	.....	7	.....	.....
Proposed	.....	.....	.....	.....	.....	1	2	5	8	.....	.....	.....	.....	.....	30	.....
Reduction	.....	.....	.....	.....	.....	.....	2	3	6	30	.....	.....	.....	7	.....	48
Subsistence department—																
Now	.....	.....	.....	.....	.....	1	2	3	8	12	.....	.....	.....	.....	.....	.....
Proposed	.....	.....	.....	.....	.....	1	1	2	5	.....	.....	.....	.....	.....	12	.....
Reduction	.....	.....	.....	.....	.....	.....	1	1	3	12	.....	.....	.....	.....	.....	17
Medical department—																
Now	.....	.....	.....	.....	.....	1	6	10	50	*125	.....	.....	.....	4	.....	.....
Proposed	.....	.....	.....	.....	.....	1	6	10	48	*120	.....	.....	.....	.....	.....	.....
Reduction	.....	.....	.....	.....	.....	.....	.....	.....	2	5	.....	.....	.....	4	.....	11
Pay department—																
Now	.....	.....	.....	.....	.....	1	2	2	50	.....	.....	.....	.....	.....	.....	.....
Proposed	.....	.....	.....	.....	.....	1	1	1	25	.....	.....	.....	.....	.....	30	.....
Reduction	.....	.....	.....	.....	.....	.....	1	1	25	.....	.....	.....	.....	.....	10	27
Ordnance department—																
Now	.....	.....	.....	.....	.....	1	3	4	10	20	16	.....	.....	10	.....	.....
Proposed	.....	.....	.....	.....	.....	1	2	4	8	.....	.....	.....	.....	.....	30	.....
Reduction	.....	.....	.....	.....	.....	.....	1	.....	2	20	16	.....	.....	10	.....	48
Bureau of Military Justice and judge-advocates—																
Now	.....	.....	.....	.....	.....	1	.....	.....	8	.....	.....	.....	.....	.....	.....	.....
Proposed	.....	.....	.....	.....	.....	.....	1	.....	2	.....	.....	.....	.....	.....	3	.....
Reduction	.....	.....	.....	.....	.....	.....	1	.....	6	.....	.....	.....	.....	.....	.....	6
Addition	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Signal Bureau—																
Now	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	2	.....	.....	6	.....
Proposed	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	6	.....
Reduction	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	2
Post-chaplains abolished—																
Reduction	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	30	.....	106	30
Total line officers detailed in the staff	.....	.....	.....	.....	.....	.....	6	5	47	167	16	2	30	21	.....	291
Total reduction in general and staff officers	.....	.....	1	1	1	4	6	12	24	30	26	10	.....	.....	.....	.....
The Corps of Engineers—no change	.....	5	.....	.....	.....	1	6	12	24	30	26	10	.....	.....	.....	.....
The artillery—																
Now	5	60	.....	.....	.....	.....	5	5	15	60	130	65	.....	.....	.....	.....
Proposed	5	†60	.....	.....	.....	.....	5	5	15	60	120	60	.....	.....	.....	.....
Reduction	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10	5	.....	.....	.....	15
The cavalry—																
Now	10	120	.....	.....	.....	.....	10	10	30	120	140	120	2	.....	.....	.....
Proposed	8	‡96	.....	.....	.....	.....	8	8	24	96	192	96	8	.....	.....	.....

*125 assistant surgeons. † Captains and assistant surgeons. ‡ Does not include fourth battalion companies.

Statement showing the present and proposed organization of the Army, &c.—Continued.

Corps, departments, &c.	Regiments.	Companies.	General.	Lieutenant-General.	Major-generals.	Brigadier-generals.	Colonels.	Lieutenant-colonels.	Majors.	Captains.	First lieutenants.	Second lieutenants.	Chaplains.	Storekeepers.	Details.	Reduction.	
The Cavalry—																	
Reduction	2	24	.....	.....	.....	.....	2	2	6	24	.....	24	.....	.....	.....	.....	58–58=0
Addition	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	52	.....	6	.....	.....	.....	
The infantry—																	
Now	25	250	.....	.....	.....	.....	25	25	25	250	300	250	2	.....	.....	.....	
Proposed	18	*216	.....	.....	.....	.....	18	18	54	216	216	216	18	.....	.....	.....	
Reduction	7	34	.....	.....	.....	.....	7	7	.....	34	84	34	.....	.....	.....	221	166–45=121
Addition	.....	.....	.....	.....	.....	.....	.....	.....	29	.....	.....	.....	16	.....	.....	.....	
Total reduction in the line	9	58	.....	.....	.....	.....	9	9	.....	58	42	63	.....	.....	7	136	181–45=136
Additions to the line	.....	.....	.....	.....	.....	.....	.....	.....	23	.....	.....	.....	22	.....	5		
Total reduction in general and staff officers	.....	.....	1	1	1	4	6	5	47	67	16	2	30	21	.....	201	
Total reduction, whole Army	9	58	1	1	1	4	15	14	24	125	58	65	8	21	.....	337	

* Does not include fourth battalion companies.

This reduction of officers would increase the efficiency and decrease the expenses of the Army.

It is fair to assume that the pay of three hundred and thirty-seven officers would amount to about $700,000 annually.

Mr. DIBRELL. Mr. Chairman, the subject of reorganizing the Army and the necessity therefor has been thoroughly discussed for the last four years. All agree that certain branches of the Army is in bad shape and legislation is necessary to reform it, while many agree that some general law should be enacted to settle the question and get the Army out of the political discussions of the day. To that end Congress at its last session enacted that a joint committee of three Senators and five Representatives should be appointed with full power to prepare and report a bill for that purpose. In pursuance of that law said joint committee was appointed, and after great pains and labor and nearly six months' time this committee have reported to both Houses of Congress the bill under consideration, a substitute for House bill 5499, as the result of their joint labor.

The friends of this bill do not claim that the bill is perfect, nor do they claim that they were a unit in favor of all its provisions, but it was the best and most perfect system or bill they could agree upon, and I am free to confess it is a great improvement on the present organization. The bill reduces the staff of all of the general officers and reduces the expenses of the Army to that extent. It provides that the offices of General and Lieutenant-General shall expire when vacated by the present incumbents, and reduces the major-generals to two and the brigadiers to four as may happen by casualties.

It embraces many new and important provisions for the proper administration of the Army, and some provisions that are now the law. While I have always believed that a large standing army in time of peace was dangerous to the liberties of the people, yet I yielded my opinions in this case as to the number of enlisted men our Army should contain, believing that the rights of the citizens were, in the main, well guarded. The number of enlisted men as stated in the bill, at twenty-five thousand, is a question upon which good men differ, but if Congress should think the number should be greater or less, that should not vitiate and destroy the whole bill. Your committee, as stated before, were not a unit upon many important questions, although they all signed the report who were present and participated in the formation of the bill. The large frontier country to guard, the trouble with the Indians, with threatened trouble upon the Mexican border, make a respectable-sized army necessary, and twenty-five thousand enlisted men, under this organization, will be an army sufficient for all contingencies that are likely to arise in the next few years.

I am pleased to state that in all of our deliberations there was nothing that smacked of politics or selfishness, but each individual member of the committee appeared to look alone to the good of the service and to the efficiency and economy in the administration of the Army.

The consolidation of the twenty-five infantry regiments by reducing the number to eighteen is certainly a great improvement over the present skeleton regiments as now composed, and disposes of one hundred and thirty-six commissioned officers in the line of the entire Army. Under the present organization, our Army in some instances looks as if it was an army of officers without enlisted men. The proof taken by the Committee on Military Affairs at the last session of this Congress will astonish those not familiar with the present organization. (See Miscellaneous Document No. 56.) The cavalry regiments are reduced to eight instead of ten, but because of the addition of another battalion there is no reduction of officers in this branch of the service, which is deemed important in view of the large frontier country that the cavalry has to protect and patrol.

The artillery regiments remain at five as at present, with a reduction of fifteen officers. It was deemed expedient not to reduce the number of artillery regiments because of their necessity in guarding and protecting our coast defenses, and as a nucleus for a larger increase in case of a war with any foreign power.

In the various staff departments the number of officers dispensed with is 201, besides 180 contract surgeons who are not to be employed except in cases of emergency as provided in the bill, making a grand total of 337 commissioned officers and the 180 contract surgeons, being a net saving of at least 450 salaried officers costing the tax-payers of the country more than a million of dollars annually.

The bill consolidates the Adjutant and Inspector General's departments into the general staff, with a saving of six officers.

It does not affect the present Signal Service organization, nor does it change or affect the organization of the Engineer's department. These departments it is believed are necessary with their present force to meet the wants of the country.

Your committee had the opinion of many of the most distinguished officers of the Army upon the subject of reorganization, many of whom submitted plans, by bill and otherwise, and from all of these, with their own experience and judgment, they have agreed upon this bill, and presented it to Congress as the result of their joint labors. They believed that eight full regiments of cavalry, well officered and manned, would be more efficient than the ten regiments under the present law. And by the addition of the fourth battalion the strength of each regiment could in an emergency be greatly increased without the expense of additional field officers; and as cavalry is much more expensive than either of the other branches of the Army it may in the near future be practicable to even reduce the number of cavalry regiments, or at least to unman the third battalions of the cavalry regiments as provided in the bill. The bill also provides that the third battalions of infantry and artillery shall not be manned until ordered hereafter. It provides for the use of the artillery and cavalry as infantry, and for the use of the infantry as cavalry, as under existing laws. It provides that no contract surgeon shall be employed except in cases of emergency, approved by the general commanding the Army. This gets rid of an abuse that has long been practiced, costing the country from one hundred and eighty to two hundred and fifty thousand dollars annually.

We have now in the Army of commissioned surgeons and assistant surgeons one hundred and ninety-two officers. We have less than one hundred and forty military stations where troops are quartered, and where a medical officer is required; and in the face of this showing there has been employed from one hundred to one hundred and twenty-five surgeons upon contract, at an average of $1,500 each per year; from four to six in this city, with a like number in other cities where their services were not needed. Why should we pay four contract surgeons $6,000 per year for services in this city where we have probably a dozen commissioned surgeons with only about two hundred soldiers on duty or stationed at this point? Let us get rid of this useless expenditure, even if it does shut out the sons of the head of the department, who have been employed as I believe unnecessarily at a great cost to the country.

I would under no circumstances deprive the soldiers of the necessary medical attendance they require, nor of medicines and supplies, but I would compel the surgeons of the Army to discharge their duties first, and if additional medical aid is wanted let the order to contract for it be approved by the general commanding the Army, and let none be employed unless actually needed. My opinion from testimony taken by the Committee on Military Affairs is that a great waste of money has been had in the Medical department of the Army, and this proviso will stop at least the above estimates.

The bill makes a large reduction in the Department of Military Justice, which is right and proper; the reviewing of courts-martial and other duties required of this department can be easily performed by the force allowed by this bill.

The reserved list for supernumerary officers was agreed upon as the best plan to dispose of the large number of surplus officers. Giving

those who may wish a chance to resign upon favorable terms, and those unfit for duty either to be mustered out with a liberal gratuity or retired, and this reserved list shall be maintained for three years or until Congress shall otherwise direct. The retired list of officers is getting to be a heavy burden to the tax-payers of the country, and the number of officers now out of the Army as well as those in, trying to get on that list, strengthens that opinion. All of the officers upon the reserved list until finally disposed of can be used in some manner, either as instructors in colleges and schools, or they may take the place of civilians now employed by the Quartermaster-General in investigating claims at a cost of $125 per month and expenses paid, or employed in the Pension Office in working off the large number of cases that have accumulated there. But it is to be hoped that they will all accept the gratuity and resign, and relieve the tax-payers to that extent. There are various other new and important features in this bill which neither time nor space will allow to be discussed now, but taking the bill as a whole it is a great improvement on the present organization. And as I opposed several things in the bill, but yielded to the opinions of the majority of the committee, I now feel bound to yield to the bill as reported to the House my unqualified support.

That there is an organized opposition to the bill none will deny. This organization is strong, and will bring to bear a powerful influence upon Congress to defeat the bill; and why? Is it because they propose a better bill? Is it because it is against the interest of the tax-payers of the country who pay the money to support the Army? I answer, emphatically, no. It is not because they propose a better plan, not because they want to lessen the expenses of the Army below that proposed in this bill. No, sir; all of this organized opposition comes from interested parties with selfish motives. It provides for the appointing of retiring boards, so that every officer placed upon the reserved or retired list may have a fair hearing, and that he shall not be dismissed or retired without a hearing, thus avoiding much complaint that annually comes to Congress of the action of what is commonly called the benzine board. We want live, energetic men in the Army, men who can stand the hardships and privations of a frontier service, and are willing to perform it. And a retiring board would naturally select the best men for the service, placing all those incapacitated upon this reserved list, either to be retired or mustered out of the service with the gratuity as provided in the bill. It also provides for promotions by seniority, which is right and proper, and prevents the appointment of civilians to life-time positions in the Army over the heads of meritorious soldiers—a practice that has been frequently adopted, but it is against good military discipline, and should not be allowed. The provision requiring an officer to serve six years in the line before he can be transferred to the staff department is a wise and judicious one, and should be adhered to.

In my advocacy of this bill I have no friends to reward or enemies to punish, but simply a duty to perform to my country and to my constituents. No personal motives have influenced me in any instance upon any vote upon any part of this bill. I have labored to try to make the Army more efficient and less expensive, and to that end have worked and for that alone. And when I see the opposition arrayed to this bill by interested parties I again warn Congress against them; and those who have taken but little interest in the matter I respectfully ask to read the testimony of the various staff and Army officers taken by the Committee on Military Affairs at the last session of the present Congress, contained in Miscellaneous Document No. 56, second session Forty-fifth Congress. There they will see from the testimony of Army officers that many companies are almost destitute of enlisted men, that some regiments are mere skeletons, and that every intelligent officer favored reorganization in some way, so as to make the Army more compact and efficient.

There you will see from the sworn testimony many abuses heaped upon the tax-payers of the country by the staff officers in the renting of quarters, receiving forage for private horses used for private purposes, appointing of sons and brothers to fat offices on good pay with easy work; in fact, a general waste of public money. And this staff department are using every means in their power to defeat this bill. They have enlisted in the crusade against the bill all the friends in this city and elsewhere of the staff and Army officers on duty in staff departments, who are opposing the interchangeable system of the bill, by which a gallant staff officer who has bravely stood the toils and troubles of a city life for a certain period shall be required to enjoy the luxury of a frontier life among the Indians and Mexicans. This would be very hard, especially on the officer who has spent twenty years' service upon the frontier in fighting Indians, to be suddenly transferred to an easy staff department at the capital. But your committee, believing it was proper that line officers should perform and understand staff duty, and that staff officers should in the same manner perform and understand the duties of a line officer, ingrafted this wise provision in the bill, which I trust will not be stricken out. This will familiarize all line officers with staff duty, will diminish red-tapeism in the Army, will give us a more efficient staff department, and add greatly to the efficiency of the service.

In that same report will be seen reasons sufficient to justify the large reduction made in the Pay department. The testimony taken shows that the paymasters the preceding year were engaged upon an average just eleven days each for two months in paying the troops during the entire year, when each paymaster, with his clerk, quarters, forage, traveling expenses, &c., costs the tax-payers, say, about $7,000 annually; and still with this showing the Paymaster-General opposed any immediate reduction of paymasters. This may be taken as about a fair sample of the amount of service performed by most of the staff departments, nearly or quite all of whom oppose any reduction of the force in their departments, and thus antagonize this whole bill.

This bill makes large reductions in the staff departments generally, because the staff is the expensive part of the Army, and in fact it is getting to believe that it is the Army, and it is absolutely necessary to check this sentiment and teach them that the people are supreme and have rights that must be obeyed. The extravagant waste of money by this large and unnecessary class of officers is a great nuisance that ought to be abated.

This bill increases the number of officers that may be detailed to colleges as instructors to seventy-six instead of thirty as now provided by law, to be distributed among the States according to population when said officers are not required for active duty in the field. This is a wise provision. By a proper distribution of these officers to the different States, instructing the youth of the country in the arts and sciences of war, many young men would thus receive a military education that might in case of war be valuable to the country, for experience has proven that no country in the world has a better citizen soldiery than has the United States, nor has any one a citizen soldiery that will more promptly respond to their country's call than ours; hence the advantages to be derived from disseminating as much military knowledge in our schools and colleges as possible.

I append herewith Executive Document No. 23, third session Forty-fifth Congress, showing the strength of the Army at various periods down to the present time, as also the number of officers, enlisted men, &c., in each branch of the service, which is made a part of my remarks:

STRENGTH OF THE ARMY.

Compilation of the annual returns of the regular Army of the United States from 1789 to 1878, showing the actual strength thereof at a stated period in each year, furnished Hon. H. B. Banning, chairman of Committee on Military Affairs, House of Representatives, in compliance with his request, dated December 21, 1878.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Aug., 1789	Artillery and infantry	.....	672	.....	Officers not reported.
1790		.....	.....	.....	No returns.
1791		.....	.....	.....	
1792		.....	.....	.....	
1793		.....	.....	.....	
June, 1794		.....	3,578	.....	Officers not reported.
Dec., 1795	General staff	6	.....	6	
	Cavalry	9	240	249	
	Artillery	52	731	783	
	Infantry	145	2,257	2,402	
	Aggregate	212	3,228	3,440	
1796 to 1800		.....	.....	.....	No returns.

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Dec., 1801	General staff	10	.....	10	
	Dismounted cavalry	4	106	110	
	Artillery and engineers	103	1,517	1,620	
	Infantry	131	2,180	2,311	
	Aggregate	248	3,803	4,051	
1802		.....	.....	.....	No returns.
Dec., 1803	General staff	4	.....	4	
	Corps of Engineers	12	14	26	
	Artillery	71	1,157	1,228	
	Infantry	76	1,217	1,293	
	Surgeons and surgeons' mates	25	.....	25	
	Aggregate	188	2,388	2,576	
Dec., 1804	General staff	4	.....	4	
	Corps of Engineers	12	16	28	
	Artillery	73	1,265	1,338	
	Infantry	78	1,253	1,331	
	Surgeons and surgeons' mates	29	.....	29	
	Aggregate	196	2,534	2,730	
1805 to 1808		.....	.....	.....	No returns.
Nov., 1809	General and general staff	38	.....	38	
	Corps of Engineers	19	24	43	
	Dragoons	28	423	451	
	Artillery	91	1,927	2,018	
	Infantry	257	3,518	3,775	
	Riflemen	33	564	597	
	Recruits unattached to regiments	.....	32	32	
	Aggregate	466	6,488	6,954	
1810 & 1811		.....	.....	.....	No returns.
July, 1812		301	6,385	6,686	
Feb., 1813		1,476	17,560	19,036	Composition by arms or branches of service not of record for these years.
Sept., 1814		2,395	35,791	38,186	
Feb., 1815		2,396	31,028	33,424	
Dec., 1816	General staff	113	.....	113	
	Corps of Engineers	19	.....	19	
	Ordnance department	41	477	518	
	Artillery	209	3,121	3,330	
	Infantry	307	4,942	5,249	
	Riflemen	37	758	795	
	Aggregate	726	9,298	10,024	
Dec., 1817	General staff	115	.....	115	
	Corps of Engineers	23	101	124	
	Ordnance department	41	296	337	
	Artillery	181	2,950	3,131	
	Infantry	251	3,684	3,935	
	Riflemen	29	549	578	
	Aggregate	640	7,580	8,220	
Dec., 1818	General staff	106	.....	106	
	Department of Engineers	22	86	108	
	Ordnance department	56	295	351	
	Artillery	157	2,852	3,009	
	Infantry	271	3,185	3,456	
	Riflemen	28	618	646	
	Aggregate	640	7,036	7,676	
Dec., 1819		641	8,047	8,688	Composition by arms or branches of service not of record for this year.
1820 & 1821		.....	.....	.....	No returns.
Nov., 1822	General staff	88	.....	88	
	Corps of Engineers	22	.....	22	
	Artillery	178	1,578	1,756	
	Infantry	224	2,840	3,064	
	Ordnance men	.....	56	56	
	Recruits at rendezvous and *en route*	.....	225	225	
	Aggregate	512	4,699	5,211	
Nov., 1823	General staff	91	.....	91	
	Corps of Engineers	23	.....	23	
	Artillery	189	1,668	1,857	
	Infantry	218	2,692	2,910	
	Ordnance	4	55	59	
	Recruits at rendezvous and *en route*	.....	1,009	1,009	
	Aggregate	525	5,424	5,949	
Nov., 1824	General staff	91	.....	91	
	Corps of Engineers	22	.....	22	
	Artillery	193	1,718	1,911	
	Infantry	226	3,014	3,240	
	Ordnance men	.....	56	56	
	Orderlies	.....	16	16	
	Recruits at rendezvous and *en route*	.....	443	443	
	Aggregate	532	5,247	5,779	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Nov., 1825	General staff	10	.....	10	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	23	.....	23	
	Topographical Engineers	10	.....	10	
	Artillery	202	1,719	1,921	
	Infantry	245	2,992	3,237	
	Orderlies	.....	16	16	
	Recruits at rendezvous and *en route*	.....	430	430	
	Aggregate	562	5,157	5,719	
Nov., 1826	General staff	12	.....	12	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	23	.....	23	
	Topographical Engineers	10	.....	10	
	Artillery	194	1,785	1,979	Fifty-six men supernumerary for ordnance.
	Infantry	229	3,249	3,478	
	Orderlies	.....	18	18	
	Recruits at rendezvous and *en route*	.....	217	217	
	Aggregate	540	5,269	5,809	
Nov., 1827	General staff	12	.....	12	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	23	.....	23	
	Topographical Engineers	10	.....	10	
	Artillery	193	1,841	2,034	Fifty-six men supernumerary for ordnance.
	Infantry	236	3,064	3,300	
	Orderlies	.....	21	21	
	Recruits at readezvous and *en route*	.....	250	250	
	Aggregate	546	5,476	5,722	
Nov., 1828	General staff	12	.....	12	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	23	.....	23	
	Topographical engineers	10	.....	10	
	Artillery	194	1,746	1,940	Four officers and fifty-six men supernumerary for ordnance.
	Infantry	229	2,660	2,889	
	Recruits and unattached	.....	583	583	
	Aggregate	540	4,989	5,529	
Nov., 1829	General staff	14	.....	14	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	26	.....	26	
	Topographical engineers	10	.....	10	
	Artillery	211	1,935	2,146	Four officers and fifty-six men supernumerary for ordnance.
	Infantry	275	3,043	3,318	
	Recruits and unattached	.....	583	583	
	Aggregate	608	5,561	6,169	
Nov., 1830	General staff	14	.....	14	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	27	.....	27	
	Topographical engineers	10	.....	10	
	Artillery	218	1,761	1,979	Four officers and fifty-six men supernumerary for ordnance.
	Infantry	286	3,060	3,346	
	Recruits and unattached	.....	503	503	
	Aggregate	627	5,324	5,951	
Dec., 1831	General staff	14	.....	14	
	Medical staff	54	.....	54	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	26	.....	26	
	Topographical engineers	10	.....	10	
	Artillery	215	1,879	2,094	Fifty-six men supernumerary for ordnance.
	Infantry	276	3,081	3,357	
	Recruits and unattached	.....	296	296	
	Aggregate	613	5,256	5,869	
Nov., 1832	General staff	14	.....	14	
	Medical staff	64	.....	64	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	22	.....	22	
	Topographical engineers	10	.....	10	
	Ordnance department	13	66	79	
	Artillery	209	1,599	1,808	
	Infantry	284	2,903	3,187	
	Mounted rangers	25	660	685	
	Recruits and unattached	.....	215	215	
	Aggregate	659	5,443	6,102	
Nov., 1833	General staff	14	.....	14	
	Medical staff	68	.....	68	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	26	.....	26	
	Topographical engineers	10	.....	10	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Nov., 1833	Ordnance department	14	153	167	
	Dragoons	37	356	393	
	Artillery	203	1,585	1,788	
	Infantry	276	2,979	3,255	
	Recruits and unattached	.....	673	673	
	Aggregate	666	5,746	6,412	
Nov., 1834	General staff	14	.....	14	
	Medical staff	68	.....	68	
	Pay department	15	.....	15	
	Purchasing department	3	.....	3	
	Corps of Engineers	28	.....	28	
	Topographical engineers	10	.....	10	
	Ordnance department	14	227	241	
	Dragoons	39	597	636	
	Artillery	210	1,806	2,016	
	Infantry	268	3,122	3,390	
	Recruits and unattached	.....	403	403	
	Aggregate	669	6,155	6,824	
Nov., 1835	General staff	14	.....	14	
	Medical staff	68	.....	68	
	Pay department	15	.....	12	
	Purchasing department	2	.....	2	
	Corps of Engineers	28	.....	28	
	Topographical engineers	10	.....	10	
	Ordnance department	14	214	228	
	Dragoons	40	661	701	
	Artillery	207	1,776	1,983	
	Infantry	283	3,241	3,523	
	Recruits and unattached	.....	579	579	
	Aggregate	680	6,471	7,151	
Nov., 1836	General staff	14	.....	14	
	Medical staff	76	.....	76	
	Pay department	18	.....	18	
	Purchasing department	3	.....	3	
	Corps of Engineers	22	.....	22	
	Topographical engineers	10	.....	10	
	Ordnance department	14	195	209	
	Dragoons	68	806	874	
	Artillery	187	1,519	1,706	
	Infantry	260	2,661	2,921	
	Recruits and unattached	.....	430	430	
	Aggregate	672	5,611	6,283	
Nov., 1837	General staff	13	.....	13	
	Medical staff	76	.....	76	
	Pay department	18	.....	18	
	Purchasing department	3	.....	3	
	Corps of Engineers	28	.....	28	
	Topographical engineers	10	.....	10	
	Ordnance department	14	195	209	
	Dragoons	68	1,267	1,335	
	Artillery	185	1,421	1,606	
	Infantry	227	2,891	3,118	
	Recruits and unattached	.....	1,418	1,418	
	Aggregate	642	7,192	7,834	
Nov., 1838	General staff	56	.....	56	Thirty-seven general staff officers, belonging also to regiments or corps, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical staff	80	.....	80	
	Pay department	18	.....	18	
	Purchasing department	3	.....	3	
	Corps of Engineers	32	.....	32	
	Topographical engineers	29	.....	29	
	Ordnance department	28	280	308	
	Dragoons	68	1,107	1,175	
	Artillery	160	1,972	2,132	
	Infantry	264	3,759	4,023	
	Recruits and unattached	.....	834	834	
	Aggregate	701	7,952	8,653	
Nov., 1839	General staff	57	.....	57	Thirty-eight general staff officers, belonging also to regiments or corps, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	80	.....	80	
	Pay department	19	.....	19	
	Purchasing department	3	.....	3	
	Corps of Engineers	35	.....	35	
	Topographical engineers	37	.....	37	
	Ordnance department	28	269	297	
	Dragoons	68	1,338	1,406	
	Artillery	163	1,957	2,120	
	Infantry	264	4,474	4,738	
	Recruits and unattached	.....	950	950	
	Aggregate	716	8,988	9,704	
Dec., 1840	General staff	57	.....	57	Thirty-eight general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	82	.....	82	
	Pay department	19	.....	19	
	Purchasing department	3	.....	3	
	Corps of Engineers	36	.....	36	
	Topographical engineers	36	.....	36	
	Ordnance department	29	269	298	
	Dragoons	73	1,302	1,375	
	Artillery	170	2,072	2,242	
	Infantry	266	4,833	5,099	
	Recruits and unattached	.....	1,361	1,361	
	Aggregate	733	9,837	10,570	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers	Men.	Total.	Remarks.
Nov., 1841	General staff	57	.....	57	Thirty-eight general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	83	.....	83	
	Pay department	19	.....	19	
	Purchasing department	3	.....	3	
	Corps of Engineers	39	.....	39	
	Topographical engineers	36	.....	36	
	Ordnance department	32	279	311	
	Dragoons	73	1,371	1,444	
	Artillery	177	2,416	2,593	
	Infantry	273	5,570	5,843	
	Recruits and unattached	.....	779	779	
	Aggregate	754	10,415	11,169	
Nov., 1842	General staff	56	.....	56	Thirty-eight general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	71	.....	71	
	Pay department	16	.....	16	
	Purchasing department	2	.....	2	
	Corps of Engineers	46	.....	46	
	Topographical engineers	38	.....	38	
	Ordnance department	48	287	335	
	Dragoons	74	1,193	1,267	
	Artillery	182	2,343	2,525	
	Infantry	281	5,232	5,518	
	Recruits and unattached	.....	681	681	
	West Point detachment	.....	111	111	
	Aggregate	781	9,847	10,628	
Nov., 1843	General staff	54	.....	54	Thirty-six general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	70	.....	70	
	Pay department	16	.....	16	
	Purchasing department	2	.....	2	
	Corps of Engineers	44	.....	44	
	Topographical engineers	40	.....	40	
	Ordnance department	50	286	336	
	Dragoons	39	593	632	
	Artillery	189	2,185	2,374	
	Infantry	300	4,298	4,598	
	Riflemen	37	571	608	
	Recruits and unattached	.....	86	86	
	West Point detachment	.....	111	111	
	Aggregate	805	8,130	8,935	
Nov., 1844	General staff	55	.....	55	Thirty-seven general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	71	.....	71	
	Pay department	16	.....	16	
	Purchasing department	2	.....	2	
	Corps of Engineers	44	.....	44	
	Topographical engineers	41	.....	41	
	Ordnance department	49	288	337	
	Dragoons	76	1,032	1,108	
	Artillery	190	2,046	2,237	
	Infantry	306	4,020	4,326	
	Recruits and unattached	.....	252	252	
	West Point detachment	.....	121	121	
	Aggregate	813	7,760	8,573	
Nov., 1845	General staff	51	.....	51	Thirty-four general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	71	.....	71	
	Pay department	16	.....	16	
	Purchasing department	2	.....	2	
	Corps of Engineers	45	.....	45	
	Topographical engineers	43	.....	43	
	Ordnance department	51	279	330	
	Dragoons	78	1,126	1,204	
	Artillery	194	2,109	2,303	
	Infantry	309	3,582	3,891	
	Recruits and unattached	.....	327	327	
	West Point detachment	.....	100	100	
	Aggregate	826	7,523	8,349	
Dec., 1846	General staff	59	.....	59	Eighteen general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	71	.....	71	
	Pay department	19	.....	19	
	Purchasing department	2	.....	2	
	Corps of Engineers	46	72	118	
	Topographical engineers	43	.....	43	
	Ordnance department	52	355	407	
	Dragoons	79	1,427	1,506	
	Riflemen	43	607	650	
	Artillery	187	2,877	3,064	
	Infantry	278	4,147	4,425	
	Recruits and unattached	.....	243	243	
	West Point detachment	.....	83	83	
	Aggregate	879	9,811	10,690	
Nov., 1847	General staff	.....	.....	.....	No consolidated returns for the year 1847 showing the number of officers and enlisted men in each arm or branch of the service is in possession of the War Department. The aggregate here given is taken from the report of the Adjutant-General, dated November 30, 1847.
	Medical department	.....	.....	.....	
	Pay department	.....	.....	.....	
	Military storekeepers	.....	.....	.....	
	Corps of Engineers	.....	.....	.....	
	Topographical engineers	.....	.....	.....	
	Ordnance department	.....	.....	.....	
	Dragoons	.....	.....	.....	
	Mounted riflemen	.....	.....	.....	
	Artillery	.....	.....	.....	
	Infantry	.....	.....	.....	
	Voltigeurs	.....	.....	.....	
	Recruits and unattached	.....	.....	.....	
	West Point detachment	.....	.....	.....	
	Aggregate	1,353	20,333	21,686	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Nov., 1848	General staff	80	.....	80	Twenty-nine general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	81	.....	81	
	Pay department	31	.....	31	
	Military storekeepers	17	.....	17	
	Corps of Engineers	48	78	126	
	Topographical engineers	43	.....	43	
	Ordnance department	37	548	585	
	Dragoons	75	1,318	1,393	
	Mounted riflemen	38	351	389	
	Artillery	220	2,183	2,403	
	Infantry	288	3,850	4,138	
	Recruits and unattached	.....	645	645	
	West Point detachment	.....	133	133	
	Aggregate	929	9,106	10,035	
Nov., 1849	General staff	70	.....	70	Twenty-five general staff officers, belonging also to corps or regiments, in the strength of which they are included, are to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	92	.....	92	
	Pay department	27	.....	27	
	Military storekeepers	17	.....	17	
	Corps of Engineers	49	102	151	
	Topographical engineers	42	.....	42	
	Ordnance department	38	535	573	
	Dragoons	73	1,053	1,126	
	Mounted riflemen	39	634	673	
	Artillery	228	2,488	2,716	
	Infantry	295	3,799	4,094	
	Recruits and unattached	.....	917	917	
	West Point detachment	.....	112	112	
	Aggregate	945	9,640	10,585	
Nov., 1850	General staff	74	.....	74	Twenty-five general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Military storekeepers	17	.....	17	
	Corps of Engineers	48	82	130	
	Topographical engineers	41	.....	41	
	Ordnance department	38	563	601	
	Dragoons	78	1,295	1,373	
	Mounted riflemen	40	464	504	
	Artillery	221	2,513	2,734	
	Infantry	293	4,078	4,371	
	Recruits and unattached	.....	685	685	
	West Point detachment	.....	135	135	
	Aggregate	948	9,815	10,763	
Nov., 1851	General staff	71	.....	71	Fifteen general staff officers, belonging also to corps or regiments, in the strength of which they are included, are, to avoid counting them twice, excluded from the footings on the line of "Aggregate."
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Military storekeepers	17	.....	17	
	Corps of Engineers	50	86	136	
	Topographical engineers	40	.....	40	
	Ordnance department	38	287	325	
	Dragoons	77	1,286	1,363	
	Mounted riflemen	38	559	597	
	Artillery	217	2,214	2,431	
	Infantry	288	4,039	4,327	
	West Point detachment	.....	142	142	
	Recruits at depots and rendezvous	.....	981	981	
	Aggregate	944	9,594	10,538	
Nov., 1852	General officers	3	.....	3	Three assistant adjutants-general, seven assistant quartermasters, four commissaries of subsistence, four aids-de-camp, and one judge-advocate, belonging also to corps and regiments, and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	4	.....	4	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspector-General's department	2	.....	2	
	Quartermaster's Department	41	.....	41	
	Subsistence department	12	.....	12	
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Corps of Engineers	50	91	141	
	Topographical engineers	42	.....	42	
	Ordnance department	55	239	294	
	Dragoons	77	1,237	1,314	
	Mounted riflemen	39	688	727	
	Artillery	213	2,279	2,492	
	Infantry	300	4,514	4,814	
	Non-commissioned staff unattached to regiments	.....	59	59	
	Military Academy detachments	.....	138	138	
	Recruits at depots and rendezvous and *en route*	.....	1,000	1,000	
	Aggregate	957	10,245	11,202	
Nov., 1853	General officers	3	.....	3	Four assistant adjutants-general, six assistant quartermasters, three commissaries of subsistence, four aids-de-camp, and one judge-advocate, belonging also to corps or regiments, and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	4	.....	4	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspector-General's department	2	.....	2	
	Quartermaster's Department	40	.....	40	
	Subsistence engineers	12	.....	12	
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Corps of Engineers	49	88	137	
	Topographical engineers	44	.....	44	
	Ordnance department	52	256	308	
	Dragoons	76	1,200	1,276	
	Mounted riflemen	38	601	639	
	Artillery	216	2,322	2,538	
	Infantry	305	4,243	4,548	
	Non-commissioned staff unattached to regiments	.....	64	64	
	Military Academy detachments	.....	136	136	
	Recruits at depots and rendezvous and *en route*	.....	546	546	
	Aggregate	961	9,456	10,417	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Nov., 1854	General officers	3	.....	3	Four assistant adjutants-general, four assistant quartermasters, three commissaries of subsistence, three aids-de-camp, and one judge-advocate, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	3	.....	3	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspector-General's department	2	.....	2	
	Quartermaster's Department	40	.....	40	
	Subsistence department	12	.....	12	
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Corps of Engineers	47	64	111	
	Topographical Engineers	41	.....	41	
	Ordnance department	54	310	364	
	Dragoons	77	1,240	1,317	
	Mounted riflemen	37	486	523	
	Artillery	213	2,661	2,874	
	Infantry	304	3,745	4,049	
	Non-commissioned staff unattached to regiments	.....	72	72	
	Military Academy detachments	.....	158	158	
	Recruits at depots, rendezvous, and *en route*	.....	1,053	1,053	
	Aggregate	956	9,789	10,745	
Nov., 1855	General officers	3	.....	3	Three assistant adjutants-general, seven assistant quartermasters, two commissaries of subsistence, one judge-advocate, and four aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	4	.....	4	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspector-General's department	2	.....	2	
	Quartermaster's Department	39	.....	39	
	Subsistence department	12	.....	12	
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Corps of Engineers	44	80	124	
	Topographical Engineers	37	.....	37	
	Ordnance Department	52	248	300	
	Dragoons	71	1,391	1,462	
	Cavalry	70	1,349	1,419	
	Mounted riflemen	36	501	537	
	Artillery	210	2,967	3,177	
	Infantry	341	6,934	7,275	
	Non-commissioned staff unattached to regiments	.....	68	68	
	Military Academy detachments	.....	142	142	
	Recruits at depots, rendezvous, and *en route*	.....	1,030	1,030	
	Aggregate	1,042	14,710	15,752	
June 30, 1856.	General officers	3	.....	3	Two assistant adjutants-general, four assistant quartermasters, two commissaries of subsistence, one judge-advocate, and five aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	5	.....	5	
	Adjutant-General's department	14	.....	14	
	Judge-advocate's department	1	.....	1	
	Inspectors-general	2	.....	2	
	Quartermaster's Department	39	.....	39	
	Subsistence department	12	.....	12	
	Medical department	95	.....	95	
	Pay department	28	.....	28	
	Corps of Engineers	47	92	139	
	Topographical engineers	37	.....	37	
	Ordnance department	53	244	297	
	Dragoons	71	1,309	1,383	
	Cavalry	74	1,012	1,086	
	Mounted riflemen	37	794	831	
	Artillery	214	3,202	3,416	
	Infantry	351	6,662	7,013	
	Non-commissioned staff unattached to regiments	.....	67	67	
	Military Academy detachments	.....	142	142	
	Recruits at depots, rendezvous, and *en route*	.....	966	966	
	Aggregate	1,072	14,490	15,562	
June 30, 1857.	General officers	4	.....	4	One assistant adjutant-general, four assistant quartermasters, one commissary of subsistence, one judge-advocate, and five aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	5	.....	5	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspectors-general	2	.....	2	
	Quartermaster's Department	44	.....	44	
	Subsistence department	12	.....	12	
	Medical department	107	68	175	
	Pay department	28	.....	28	
	Corps of Engineers	47	88	135	
	Topographical Engineers	39	.....	39	
	Ordnance department	54	244	298	
	Dragoons	74	1,038	1,112	
	Cavalry	75	1,582	1,657	
	Mounted riflemen	37	694	731	
	Artillery	216	3,191	3,407	
	Infantry	350	6,225	6,575	
	Non-commissioned staff unattached to regiments	.....	72	72	
	Military Academy detachments	.....	136	136	
	Recruits at depots, rendezvous, and *en route*	.....	1,329	1,329	
	Aggregate	1,097	14,667	15,764	
June 30, 1858.	General officers	4	.....	4	One assistant adjutant-general, four assistant quartermasters, one commissary of subsistence, one judge-advocate, and five aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	5	.....	5	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspectors-general	2	.....	2	
	Quartermaster's Department	44	.....	44	
	Subsistence department	12	.....	12	
	Medical department	107	62	169	
	Pay department	28	.....	28	
	Corps of Engineers	47	99	146	
	Topograghical Engineers	40	.....	40	
	Ordnance department	55	369	424	
	Dragoons	74	1,252	1,326	
	Cavalry	73	1,524	1,597	
	Mounted riflemen	37	740	777	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
June 30, 1858.	Artillery	216	3,156	3,372	
	Infantry	352	6,555	6,907	
	Non-commissioned staff unattached to regiments	.....	77	77	
	Military Academy detachments	.....	142	142	
	Recruits at depots, rendezvous, and *en route*	.....	2,423	2,423	
	Aggregate	1,099	16,399	17,498	
Dec., 1859	General officers	4	.....	4	One assistant adjutant-general, five aids-de-camp, five assistant quartermasters, one commissary of subsistence, and one judge-advocate belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	5	.....	5	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspectors-general	2	.....	2	
	Quartermaster's Department	44	.....	44	
	Subsistence department	12	.....	12	
	Medical department	107	59	166	
	Pay department	28	.....	28	
	Corps of Engineers	46	89	135	
	Topographical Engineers	43	.....	43	
	Ordnance department	55	399	454	
	Dragoons	73	*1,375	1,448	
	Cavalry	71	*1,553	1,624	
	Mounted riflemen	35	*964	999	
	Artillery	209	*2,961	3,170	
	Infantry	341	*7,722	8,063	
	Non-commissioned staff unattached to regiments	.....	70	70	
	Military Academy detachments	.....	166	166	
	Aggregate	1,077	15,358	16,435	
Dec., 1860	General officers	4	.....	4	Two assistant adjutants-general, four assistant quartermasters, one commissary of subsistence, one judge advocate, and five aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Aids-de-camp to general officers	5	.....	5	
	Signal Officer	1	.....	1	
	Adjutant-General's department	14	.....	14	
	Judge-Advocate's department	1	.....	1	
	Inspectors-general	2	.....	2	
	Quartermaster's Department	44	.....	44	
	Subsistence department	12	.....	12	
	Medical department	115	71	186	
	Pay department	28	.....	28	
	Corps of Engineers	48	98	146	
	Topographical Engineers	45	.....	45	
	Ordnance department	59	421	480	
	Dragoons	74	*1,297	1,371	
	Cavalry	73	*1,461	1,534	
	Mounted riflemen	35	*847	882	
	Artillery	210	*2,959	3,169	
	Infantry	351	*7,849	8,200	
	Non-commissioned staff unattached to regiments	.....	77	77	
	Military Academy detachments	.....	179	179	
	Aggregate	1,108	15,259	16,367	
June, 1861	General officers	10	.....	10	
	Adjutant-General's department	16	.....	16	
	Judge-Advocate's department	1	.....	1	
	Inspector-General's department	2	.....	2	
	Signal Officer	1	.....	1	
	Quartermaster's Department	50	.....	50	
	Subsistence department	13	.....	13	
	Medical department	108	68	176	
	Pay department	25	.....	25	
	Corps of Engineers	42	99	141	
	Topographical Engineers	37	.....	37	
	Ordnance department	49	369	418	
	Cavalry†	167	3,547	3,714	† Including recruits at depot, rendezvous, and *en route*.
	Artillery	180	3,425	3,605	
	Infantry	303	7,674	7,977	
	Non-commissioned staff unattached to regiments	.....	46	46	
	Military Academy detachment	.....	199	199	
	Aggregate	1,004	15,418	16,422	
1862 to 1864		.....	.....	.....	During this period the usual annual returns of the Army were suspended.
May 1, 1865	General officers	15	.....	15	
	Chief of staff to Lieutenant-General	1	.....	1	
	Adjutant-General's department	20	.....	20	
	Bureau of Military Justice	2	.....	2	
	Inspectors-general	9	.....	9	
	Quartermaster's Department	78	.....	78	
	Subsistence department	29	.....	29	
	Medical department	177	931	1,108	
	Pay department	28	.....	28	
	Corps of Engineers	85	232	317	
	Ordnance department	73	636	709	
	Cavalry	204	2,653	2,857	
	Artillery	229	4,553	4,782	
	Infantry	655	10,690	11,345	
	Non-commissioned staff unattached to regiments	.....	163	163	
	West Point detachments	.....	242	242	
	Recruits in depots, &c	.....	685	685	
	Aggregate	1,605	20,705	22,310	
1866		.....	.....	.....	No consolidated returns were made this year.
Oct. 1867	General officers	17	.....	17	Forty-three aids-de-camp, one military secretary, one judge-advocate and two assistant quartermasters, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Chief of staff to the General	1	.....	1	
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	43	.....	43	
	Adjutant-General's department	20	.....	20	
	Inspectors-general	9	.....	9	
	Bureau of Military Justice	11	.....	11	

* Including recruits at depots, rendezvous, and *en route*.

† Including dragoons and mounted riflemen.

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Oct., 1867	Quartermaster's Department	91	.....	91	
	Subsistence department	29	.....	29	
	Medical department	188	464	652	
	Pay department	65	.....	65	
	Corps of Engineers	106	646	752	
	Ordnance department	79	999	1,078	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	406	8,892	9,298	
	Artillery	204	5,095	5,398	
	Infantry	1,500	31,183	32,683	
	Non-commissioned staff unattached to regiments	.....	119	119	
	Post or brigade bands	.....	264	264	
	Military Academy detachments	.....	254	254	
	Recruits at depots, rendezvous, and *en route*	.....	6,046	6,046	
	Aggregate	2,854	53,962	56,815	
Oct., 1868	General officers	17	.....	17	Forty-three aids-de-camp, one military secretary, one judge-advocate, and one assistant quartermaster, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footing on the line of "Aggregate."
	Chief of staff to the General	1	.....	1	
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	43	.....	43	
	Adjutant-General's department	20	.....	20	
	Inspectors-general	9	.....	9	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	89	.....	89	
	Subsistence department	29	.....	29	
	Medical department	173	471	644	
	Pay department	64	.....	64	
	Corps of Engineers	114	666	780	
	Ordnance department	79	1,107	1,186	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	424	8,780	9,204	
	Artillery	304	4,859	5,163	
	Infantry	1,473	30,102	31,575	
	Non-commissioned staff unattached to regiments	.....	119	119	
	Post or brigade bands	.....	300	300	
	Military Academy detachments	.....	259	259	
	Recruits at depots, rendezvous, and *en route*	.....	1,418	1,418	
	Aggregate	2,835	48,081	50,916	
Oct., 1869	General officers	15	.....	15	One military secretary and forty-two aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	42	.....	42	
	Adjutant-General's department	18	.....	18	
	Inspectors-general	9	.....	9	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	83	.....	83	
	Subsistence department	24	.....	24	
	Medical department	176	381	557	
	Pay department	65	.....	65	
	Corps of Engineers	108	690	798	
	Ordnance department	76	742	818	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	24	.....	24	
	Cavalry	418	6,680	7,098	
	Artillery	315	3,997	4,312	
	Infantry	859	17,949	18,808	
	Unassigned officers of infantry	495	.....	495	
	Non-commissioned staff unattached to regiments	.....	118	118	
	Post band at Military Academy	.....	24	24	
	Military Academy detachments	.....	241	241	
	Recruits at depots, rendezvous, and *en route*	.....	3,342	3,342	
	Aggregate	2,700	34,074	36,774	
Oct., 1870	General officers	14	.....	14	One military secretary, thirty-four aids-de-camp, one assistant quartermaster, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	34	.....	34	
	Adjutant-General's department	17	.....	17	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	80	.....	80	
	Subsistence department	28	.....	28	
	Medical department	172	335	507	
	Pay department	60	.....	60	
	Corps of Engineers	105	548	653	
	Ordnance department	72	703	775	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	418	8,576	8,994	
	Artillery	311	3,844	4,155	
	Infantry	864	15,087	15,951	
	Unassigned officers of infantry	347	.....	347	
	Supernumerary officers	5	.....	5	
	Non-commissioned staff unattached to regiments	.....	121	121	
	Post band at Military Academy	.....	20	20	
	Military Academy detachments	.....	249	249	
	Recruits at depots, rendezvous, and *en route*	.....	4,800	4,800	
	Indian scouts	.....	251	251	
	Aggregate	2,541	34,534	37,075	
Oct., 1871	General officers	14	.....	14	One military secretary and thirty-eight aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	36	.....	36	
	Adjutant General's department	15	.....	15	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	77	.....	77	
	Subsistence department	26	.....	26	
	Medical department	167	.....	167	
	Pay department	56	.....	56	
	Corps of Engineers	98	292	390	
	Ordnance department	63	434	497	
	Chief Signal Officer	1	.....	1	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Oct., 1871	Post-chaplains	30	.....	30	
	Cavalry	418	8,225	8,643	
	Artillery	292	3,119	3,411	
	Infantry	830	13,122	13,952	
	Non-commissioned staff unattached to regiments	.....	108	108	
	Post band at Military Academy	.....	24	24	
	Military Academy detachments	.....	190	190	
	Recruits at depots, rendezvous, and *en route*	.....	1,334	1,334	
	Aggregate	2,105	26,848	28,953	
Oct., 1872	General officers	13	.....	13	One military secretary and thirty-six aids-de-camp, belonging also to corps or regiments, and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids de-camp to general officers	36	.....	36	
	Adjutant-General's department	15	.....	15	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	70	.....	70	
	Subsistence department	26	.....	26	
	Medical department	163	.....	163	
	Pay department	54	.....	54	
	Corps of Engineers	103	282	385	
	Ordnance department	61	441	502	
	Chief Signal Officer	1	.....	1	
	Post chaplains	30	.....	30	
	Cavalry	423	7,707	8,130	
	Artillery	275	2,882	3,157	
	Infantry	852	12,810	13,662	
	Non-commissioned staff unattached to regiments	.....	116	116	
	Post band at Military Academy	.....	24	24	
	Military Academy detachments	.....	103	103	
	Recruits at depots, rendezvous, and *en route*	.....	1,706	1,706	
	Aggregate	2,104	26,071	28,175	
Oct., 1873.	General officers	11	.....	11	One military secretary and twenty-nine aids-de-camp, belonging also to corps or regiments, and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	29	.....	29	
	Adjutant-General's department	16	.....	16	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	69	.....	69	
	Subsistence department	26	.....	26	
	Medical department	158	.....	158	
	Pay department	49	.....	49	
	Corps of Engineers	106	319	425	
	Ordnance department	60	423	483	
	Chief Signal Officer	1	.....	1	
	Post chaplains	30	.....	30	
	Cavalry	426	8,088	8,514	
	Artillery	271	3,051	3,322	
	Infantry	835	13,016	13,851	
	Non-commissioned staff unattached to regiments	.....	261	261	
	Post-band at Military Academy	.....	22	22	
	Military Academy detachments	.....	178	178	
	Recruits at depots, rendezvous, and *en route*	.....	1,218	1,218	
	Aggregate	2,076	26,576	28,652	
Oct., 1874	General officers	11	.....	11	One military secretary and twenty-nine aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	29	.....	29	
	Adjutant-General's department	16	.....	16	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	65	.....	65	
	Subsistence department	26	.....	26	
	Medical department	154	219	373	
	Pay department	46	.....	46	
	Corps of Engineers	104	315	419	
	Ordnance department	56	419	475	
	Chief Signal Officer	1	.....	1	
	Post chaplains	29	.....	29	
	Cavalry	426	7,939	8,365	
	Artillery	278	2,931	3,209	
	Infantry	850	12,676	13,526	
	Non-commissioned staff unattached to regiments	.....	255	255	
	West Point detachments	.....	206	206	
	Recruits at depots	.....	511	511	
	Indian scouts	.....	420	420	
	Signal detachment	.....	473	473	
	Aggregate	2,080	26,364	28,444	
Oct., 1875	General officers	11	.....	11	One military secretary and thirty-six aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	36	.....	36	
	Adjutant-General's department	17	.....	17	
	Inspectors-general	8	.....	8	
	Bureau of Military Justice	10	.....	10	
	Quartermaster's Department	67	.....	67	
	Subsistence department	26	.....	26	
	Medical department	191	306	397	
	Pay department	53	.....	53	
	Corps of Engineers	108	268	376	
	Ordnance department	65	394	459	
	Chief Signal Officer	1	.....	1	
	Post chaplains	28	.....	28	
	Cavalry	424	6,825	7,249	
	Artillery	210	2,343	2,553	
	Infantry	849	10,447	11,296	
	Non-commissioned staff unattached to regiments	.....	255	255	
	West Point detachments	.....	225	225	
	Recruits at depots	.....	1,603	1,603	
	Indian scouts	.....	230	230	
	Signal detachment	.....	454	454	
	Aggregate	2,068	23,250	25,318	

Compilation of the annual returns of the regular Army, &c.—Continued.

Date.	Arm or branch of service.	Officers.	Men.	Total.	Remarks.
Oct., 1876	General officers	11	.....	11	One military secretary and thirty-one aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	31	.....	31	
	Adjutant-General's department	17	.....	17	
	Inspectors-General	8	.....	8	
	Bureau of Military Justice	9	.....	9	
	Quartermaster's Department	65	.....	65	
	Subsistence department	26	.....	26	
	Medical department	190	193	383	
	Pay department	53	.....	53	
	Corps of Engineers	107	245	352	
	Ordnance department	65	404	469	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	419	8,619	9,038	
	Artillery	279	2,615	2,894	
	Infantry	871	11,419	12,290	
	Non-commissioned staff unattached to regiments	.....	256	256	
	West Point detachments	.....	225	225	
	Recruits at depots	.....	1,395	1,395	
	Indian scouts	.....	254	254	
	Guards at military prison and recruits at artillery school	.....	82	82	
	Signal detachment	.....	422	422	
	Aggregate	2,151	26,129	28,280	
Oct., 1877	General officers	11	.....	11	One military secretary and thirty-three aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant-General	1	.....	1	
	Aids-de-camp to general officers	33	.....	33	
	Adjutant-General's department	17	.....	17	
	Inspectors-general	7	.....	7	
	Bureau of Military Justice	9	.....	9	
	Quartermaster's Department	65	.....	65	
	Subsistence department	26	.....	26	
	Medical department	184	186	370	
	Pay department	55	.....	55	
	Corps of Engineers	108	199	307	
	Ordnance department	64	346	410	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	439	7,911	8,350	
	Artillery	284	2,321	2,605	
	Infantry	877	8,778	9,655	
	Non-commissioned staff unattached to regiments	.....	262	262	
	West Point detachments	.....	183	183	
	Recruits at depots	.....	533	533	
	Indian scouts	.....	570	570	
	Guards at military prison	.....	74	74	
	Signal Corps	.....	404	404	
	Captain in United States Army, by act of Congress	1	.....	1	
	Aggregate	2,178	21,767	23,945	
Jan. 30, 1878	General officers	11	.....	11	One military secretary and thirty-three aids-de-camp, belonging also to corps or regiments and being reported in the strength thereof, are, to avoid counting them twice, excluded as staff officers from the footings on the line of "Aggregate."
	Military secretary to the Lieutenant General	1	.....	1	
	Aids-de-camp to general officers	33	.....	33	
	Adjutant-General's department	17	.....	17	
	Inspectors-general	7	.....	7	
	Bureau of Military Justice	9	.....	9	
	Quartermaster's Department	64	.....	64	
	Subsistence department	26	.....	26	
	Medical department	181	185	366	
	Pay department	55	.....	55	
	Corps of Engineers	108	195	303	
	Ordnance department	64	364	428	
	Chief Signal Officer	1	.....	1	
	Post-chaplains	30	.....	30	
	Cavalry	430	7,443	7,873	
	Artillery	284	2,497	2,773	
	Infantry	868	10,028	10,896	
	Non-commissioned staff unattached to regiments	.....	262	262	
	West-Point detachments	.....	192	192	
	Recruits at depots and *en route* and enlisted men unattached to regiments	.....	1,724	1,724	
	Indian scouts	.....	290	290	
	Guards at military prison	.....	74	74	
	Signal Corps	.....	411	411	
	Captain in United States Army, by act of Congress	1	.....	1	
	Aggregate	2,153	23,365	25,818	

E. D. TOWNSEND, *Adjutant General.*

ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., January 14, 1879.

From this it will be seen that in June, 1861, we had an army of 16,422 men all told, 1,004 officers, 344 of whom were staff officers. In January, 1878, we had an army of 23,000 men, in all nearly 26,000 men, with 2,153 officers, 596 of whom are staff officers. In October, 1867, we had an army of 56,815 men, with 2,853 officers, 674 of whom were staff officers, or one staff officer to each eighty-four men in the Army as against one staff officer to each forty-three men in the Army now. While the Army has been reduced, since 1867, 31,000 men, the staff has been reduced only 78 officers. Hence I say that a much greater reduction in the various staff departments can be made than this bill proposes without the least danger of crippling the service. But they have arrayed themselves so strongly against this bill that they may even become masters of the situation and control the action of Congress in defeating it, and the honest tax-payers may still have to groan under this useless and unnecessary burden to support this useless and unnecessary number of officers, living in ease and luxury, performing little work, and receiving large salaries.

In our Army we have a commissioned officer for each ten men. In France and Germany they have a commissioned officer for each fifty men. And we should not be more extravagant in foisting an army of commissioned officers upon the tax-payers of the country than other enlightened countries do. My candid opinion is that if we had but one commissioned officer to each fifty men we would have a more efficient Army and one that would be less troublesome to the commanding officers and to the country. This bill reduces the number of officers to one for each fourteen men, or the whole number of officers to 1,818, as against 2,157 officers now commissioned, besides the 180 contract surgeons paid $1,500 each per year and various persons employed in the military service at about the same price. It also reduces the number of staff officers in all 201 and the line officers 136, including the general officers whose offices expire when vacated by them, and reduces the staff to 395 as against 596 now on duty.

This bill has the approval of a large number of the best officers in the line of our Army; they know the necessity of reorganization and suf-

fer by abuses sought to be remedied by the bill. They desire the question of reorganization settled, that Congress and the Army may be at rest so far as the Army is concerned.

I believe that the passage of this bill is the very best thing that we can do for the Army, and, believing so, I earnestly invite my friends to aid us in passing the bill. Do not vote against the bill for fear some personal friend may have to leave the Army. If he is unfit for the service he should not be there. Besides, the gratuity paid for resigning or retiring is very liberal and is ample for any ordinary emergency.

Do not vote against it because of the interchangeable system which will cause the staff to interchange with the line and *vice versa*, one of the best provisions in the bill. The line should be familiar with staff duty and the staff should certainly be familiar with the duties of a line officer and service in the field.

As before stated, I have always believed large standing armies were dangerous to the liberties of the people. I also believe that for the first half century of our national existence such an idea as that of keeping a large standing Army was never entertained by the pure and enlightened statesmen that enacted laws for our government and protection; but of later years our people, to a greater or less extent, have been educated up to the belief that a standing Army is a national necessity, and just so long as that opinion predominates Congress will have to provide the Army and the means of supporting it. But when it becomes necessary to reduce the Army, it can be accomplished much easier by the proposed organization of thirty-one regiments than with its present organization of forty skeleton regiments

Mr. HEWITT, of New York. I now ask unanimous consent that general debate be closed and that the House proceed to consider the bill under the five-minute rule.

There being no objection, it was ordered accordingly.

The Clerk proceeded to read the bill by clauses for amendment, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1880, as follows:

For expenses of the commanding general's office, $2,560.

Mr. HEWITT, of New York. I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. SAYLER having taken the chair as Speaker *pro tempore*, Mr. SPRINGER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 6145) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. BRIGHT. I move that the House take a recess till half past seven o'clock p. m.

Mr. FRANKLIN. I move that the House adjourn.

The SPEAKER *pro tempore*. Several gentlemen desire to introduce bills, resolutions, &c., by unanimous consent; and if there be no objection, the Chair will recognize them.

Mr. EDEN. I have no objection to the Chair recognizing gentlemen for the purpose merely of introducing bills and other matters of that character; but I do object to recognizing any gentleman to put any bill on its passage.

PROCEEDINGS AGAINST MUNICIPAL CORPORATIONS.

Mr. HEWITT, of Alabama, by unanimous consent, presented a joint resolution of the General Assembly of the State of Alabama, requesting the Senators and Representatives in Congress from that State to urge the enactment of such laws as may be necessary to prevent the exercise of jurisdiction by the courts of the United States in proceedings against municipal corporations in the several States; which was referred to the Committee on the Judiciary, and ordered to be printed.

COLLECTION OF DIRECT TAXES.

Mr. BURDICK, by unanimous consent, submitted the following resolution; which was referred to the Committee of Ways and Means:

Resolved, That the Committee of Ways and Means be directed to inquire and report what legislation, if any, is necessary and expedient to enable the proper officers of the Treasury Department of the United States to collect the amount of the direct tax remaining unpaid and due from the various States and Territories apportioned to them under the act approved August 5, 1861.

Mr. BURDICK. I ask unanimous consent that a letter from the Commissioner of Internal Revenue upon the subject of this resolution be printed in the RECORD.

There was no objection; and it was ordered accordingly.

The document is as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, January 30, 1879.

SIR: In compliance with the request contained in your letter of the 29th instant, I herewith transmit to you a statement in regard to direct-tax matters that will give you an insight into the present condition of that tax. The amount remaining uncollected, you will observe, is something over $3,000,000. The machinery for its collection has disappeared for want of legislation and it is now a question with Congress whether the tax shall ever be collected.

Very respectfully,

GREEN B. RAUM, *Commissioner*.

Hon. T. W. BURDICK,
House of Representatives.

DIRECT TAX.

By the provisions of an act of Congress entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, a United States direct tax of $20,000,000 per annum was apportioned, *pro rata*, to the then existing States, Territories, and District of Columbia.

This tax, according to the original act, was to have been an annual tax, but Congress by an act approved July 1, 1862, limited the collection to that one tax until April 1, 1865, and by an act approved June 30, 1864, limited it to one year until further legislation.

Most of the Northern States and Territories formally assumed payment of their respective quotas and gave notice of their intention to pay the same. Some of them have liquidated the amounts charged against them in full, some only in part, while others have neglected to pay any part of their quota.

The following amounts still remain due, according to the records of this Department, from the loyal States and Territories.

Oregon, Utah, and Colorado have paid no part of their quotas.

	Tax due.
Kansas	$62,382 51
California	7,093 26
Oregon	35,140 66
Wisconsin	218,032 69
Utah	26,962 00
Washington Territory	3,487 17
Colorado	22,905 33
Total	376,023 62

Amount of direct tax remaining uncollected in the late insurrectionary States.

States.	Quota.	Uncollected.
Virginia	$937,550⅔	$286,499 37
North Carolina	576,194⅔	198,742 60
South Carolina	363,570⅔	152,781 35
Georgia	584,367½	501,939 86
Florida	77,522⅔	71,027 38
Alabama	529,313⅓	529,313 33⅓
Mississippi	413,084⅔	343,500 12
Louisiana	385,886⅔	71,385 83
Texas	355,016⅔	174,285 16
Arkansas	261,886	107,686 72
Tennessee	669,498	289,693 43
Total	5,153,891 33⅓	2,726,834 61⅔

The taxes in the late insurrectionary States were collected by boards of direct tax commissioners under the act of June 7, 1862, as amended. While the tax commissioners appointed under the act of June 7, 1862, were actively engaged in making assessments and collecting this tax, and had already collected about one-half the total amount apportioned to these eleven States, Congress, by an act approved July 28, 1866, authorized the suspension of further collection in these States until January 1, 1868, and collections were forthwith suspended by order of the Secretary of the Treasury.

The time specified in the act expired but the collections were not resumed; meanwhile most of the commissioners had been relieved from duty.

Again Congress, by an act approved July 23, 1868, provided for the further suspension of the collection of this tax in these States until January 1, 1869, since which no action has been taken by Congress further suspending said collections, nor have collections been resumed in any of these States.

Total amount of direct tax levied by the act of August 5, 1861, and remaining uncollected, $3,102,858.23.

CLAIM OF NORTH CAROLINA CHEROKEES.

Mr. HOOKER, by unanimous consent, presented (by request) the remonstrance of the principal chief and delegates of the Cherokee Nation objecting to bills (S. No. 230 and H. R. No. 228) authorizing the North Carolina Cherokees, citizens of North Carolina, to sue the Cherokee Nation; which was referred to the Committee on Indian Affairs.

Mr. HOOKER. I ask unanimous consent that this remonstrance be printed in the RECORD.

Mr. CONGER. I object to printing in the RECORD. Let it be printed as a document of the House, but not in the RECORD.

Mr. HOOKER. Very well. Let it be printed in that form and referred to the Committee on Indian Affairs.

There being no objection, it was ordered accordingly.

HARBOR OF REFUGE NEAR CINCINNATI.

The SPEAKER *pro tempore*, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the board of engineers upon the construction of a harbor or harbors of refuge near Cincinnati; which was referred to the Committee on Commerce, and ordered to be printed.

SURVEYS FOR INTERNAL IMPROVEMENTS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting copies of reports from Major W. P. Craighill, Corps of Engineers, upon survey of bars at the entrance to Annapolis Harbor, Maryland, and upon examination of west branch of Patapsco River; which was referred to the Committee on Commerce, and ordered to be printed.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting report of survey of Manasquan River, New Jersey; which was referred to the Committee on Commerce, and ordered to be printed.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a report in relation to removal of the wreck of the schooner Addie Walton from Delaware Bay; which was referred to the Committee on Commerce.

The SPEAKER *pro tempore* also laid before the House a letter from

the Secretary of War, transmitting report of the survey of landing-front at Muscatine, Iowa; which was referred to the Committee on Commerce, and ordered to be printed.

COLLECTION OF IMPORT DUTIES.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Treasury, inclosing a draught of a bill to amend the laws relating to the collection of duties on imports, prepared by S. W. Burt, esq., naval officer at the port of New York; which was referred to the Committee of Ways and Means, and ordered to be printed.

MUSCLE SHOALS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a letter from Captain William R. King, Corps of Engineers, in relation to titles to land needed in the work on Muscle Shoals Canal; which was referred to the Committee on Commerce.

IMPROVEMENT OF FOX AND WISCONSIN RIVERS.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a copy of a letter of the Attorney-General relative to extravagant damages awarded by local juries in State courts in cases arising out of Fox and Wisconsin River improvement acts; which was referred to the Committee on Commerce, and ordered to be printed.

REPORTS ON SAINT CROIX, CHIPPEWA, AND WISCONSIN RIVERS, ETC.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting copies of reports on the examination of the Saint Croix River, the Chippewa River, and the sources of the Mississippi, Saint Croix, Chippewa, and Wisconsin Rivers; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN DEPREDATION CLAIMS.

The SPEAKER *pro tempore* also laid before the House letters from the Secretary of the Interior, relative to the Indian depredation claims of W. R. Baker, Joseph Ellis, Dennis Tryon, J. H. Keith, J. S. O'Neal, John Lowry, W. B. Blanchard, José M. Vigil, William Smith, August Travarsie, James Chaves, and James Conlon; which were severally referred to the Committee on Indian Affairs.

ANTI-POLYGAMY LAW.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Interior, transmitting certain petitions for making effective the anti-polygamy act of 1862; which was referred to the Committee on the Judiciary, and ordered to be printed.

NEW WAR DEPARTMENT BUILDING.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting special estimate to provide for occupancy of new War Department building; which was referred to the Committee on Appropriations.

ROLL OF HONOR.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, recommending an appropriation of $20,000 for printing the revised Roll of Honor; which was referred to the Committee on Appropriations.

POINT PINOS LIGHT-STATION, CALIFORNIA.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of the Treasury, transmitting a copy of a communication from the chairman of the Light-House Board, asking an appropriation to pay the awards, costs, &c., in the matter of proceedings in condemnation of land required for the Point Pinos light-station, California; which was referred to the Committee on Appropriations.

SUBSISTENCE DEPARTMENT.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a letter from the Commissary-General of Subsistence relative to the organization of the Subsistence department as proposed in the bill reported by the joint committee on Army reorganization; which was referred to the Committee on Military Affairs.

LIEUTENANT F. H. E. EBBSTEIN.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, recommending the passage of an act for the relief of Lieutenant F. H. E. Ebbstein; which was referred to the Committee on Military Affairs.

NATIONAL SURVEY.

The SPEAKER *pro tempore* also laid before the House a letter from the Secretary of War, transmitting a letter from the Chief of Engineers respecting the plan of the national survey proposed by the Academy of Sciences; which was referred to the Committee on Appropriations, and ordered to be printed.

UNITED STATES COURTS IN COLORADO.

The SPEAKER *pro tempore* also laid before the House a memorial of the Legislature of the State of Colorado, in favor of the passage of the bill providing for the holding of terms of the United States district court at certain places in Colorado; which was laid on the table, and, on motion of Mr. PATTERSON, of Colorado, ordered to be printed in the RECORD.

The memorial is as follows:

[House joint memorial No. 2.]

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the General Assembly of the State of Colorado, respectfully recommend and urge the passage of the bill now pending in the United States Senate providing for the holding of terms of the United States district court at certain places in Colorado as a measure calculated to facilitate the administration of justice, promote the convenience of suitors, and of general benefit to the people of this State.

RIENZI STREETER,
Speaker of the House of Representatives.
H. A. W. TABOR,
President of the Senate.

Approved this 25th day of January, A. D. 1879.

FREDERICK W. PITKIN,
Governor of Colorado.

STATE OF COLORADO,
Secretary's Office, ss:

I, Norman H. Meldrum, secretary of state of the State of Colorado, do hereby certify that the above and foregoing is a true and correct copy of house joint memorial No. 2 as the same remains on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State, at the city of Denver, this 27th day of January, A. D. 1879.

[SEAL.] N. H. MELDRUM,
Secretary of State.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. METCALFE, for five days, on account of important business; and

To Mr. BRAGG, for one week, on account of important business.

WITHDRAWAL OF PAPERS.

Mr. BUTLER, by unanimous consent, obtained leave to withdraw from the files of the House papers in the case of William Kleingotz; no adverse report having been made.

NAVAL APPROPRIATION BILL.

Mr. BLOUNT. I ask unanimous consent that the naval appropriation bill, returned from the Senate with amendments, be taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

There being no objection, it was ordered accordingly.

ORDER OF BUSINESS.

Mr. WHITE, of Pennsylvania. I ask unanimous consent to withdraw certain papers in the case—— [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The regular order is the motion of the gentleman from Missouri, [Mr. FRANKLIN,] that the House adjourn.

The question being put, the motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAGLEY: The petition of citizens of Watertown, New York, for the release of steam pleasure-boats from inspection and license fees—to the Committee on Commerce.

By Mr. BICKNELL: The petition of Mrs. E. R. Day and 99 other women, of New Albany, Indiana, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. COLE: Resolutions of the Merchants' Exchange of Saint Louis, Missouri, favoring the resolutions of the Board of Trade of Kansas City relating to the settlement of lands in the Indian Territory—to the Committee on the Territories.

Also, resolutions of the Merchants' Exchange of Saint Louis, Missouri, favoring the passage of the bill to aid in constructing a military, commercial, and postal highway from the military headquarters of the United States Army at San Antonio, Texas, to the Rio Grande—to the Committee on Railways and Canals.

By Mr. COX, of Ohio: Memorial of T. Worthington, of Ohio, relating to the report of Mr. STRAIT, from the Committee on Military Affairs—to the Committee on the Judiciary.

By Mr. CUTLER: Memorial of the riparian commission of New Jersey, favoring appropriations for removing obstructions in the Delaware River—to the Committee on Commerce.

By Mr. DEAN: The petition of Sarah C. Woods and others, that the anti-polygamy law be made effective—to the Committee on the Judiciary.

By Mr. GOODE: Papers relating to the war claim of Anna Perry—to the Committee on War Claims.

By Mr. HENDERSON: The petition of Mrs. J. Eddy and 16 other women, of Rock Island, Illinois, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. HENKLE: The petition of women of Saint Mary's County, Maryland, of similar import—to the same committee.

Also, the petition of W. P. Howell, for relief from alleged unequal special taxation in the District of Columbia—to the Committee for the District of Columbia.

By Mr. HENRY: The petition of citizens of Dorchester County, Maryland, for an appropriation for the improvement of Secretary Creek—to the Committee on Commerce.

Also, the petition of citizens of Dorchester County, Maryland, for a modification of the law regulating the distillation of brandy—to the Committee of Ways and Means.

By Mr. JAMES: Resolution of the assembly of New York, against the ordnance provision of the Army reorganization bill—to the Committee on Military Affairs.

By Mr. MAYHAM: The petition of women of Kingston, New York, for such legislation as will make effective the anti-polygamy laws—to the Committee on the Judiciary.

By Mr. McMAHON: The petition of Sarah A. Kline, for a pension—to the Committee on Invalid Pensions.

By Mr. NORCROSS: The petition of Mrs. Arthur Shirley and others, of Conway, Massachusetts, for such legislation as will make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of Ann M. Bryant and others, of Easthampton, Massachusetts, of similar import—to the same committee.

By Mr. PRICE: The petition of the State Temperance Alliance of Iowa, for the prohibition of the liquor traffic in the District of Columbia—to the Committee for the District of Columbia.

By Mr. RYAN: The petition of 233 women of Newton, Kansas, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

Also, the petition of women of Glencoe, Kansas, of similar import—to the same committee.

Also, the petition of James W. Lansdown, for compensation for supplies furnished to and for property destroyed by the Union forces during the war of the rebellion—to the Committee on War Claims.

By Mr. STRAIT: The petition of Mrs. Alfred Post, Mrs. Jesse Seeley, and 125 others, of Lake City, Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. THOMPSON: The petition of women of Centreville, Pennsylvania, of similar import—to the same committee.

Also, the petition of women of Saegerstown, Pennsylvania, of similar import—to the same committee.

By Mr. WOOD: The petition of molasses-boilers of New York, that in case low grades of sugar are admitted at a duty less than is now paid molasses be admitted at five cents per gallon—to the Committee of Ways and Means.

IN SENATE.

MONDAY, *February 3*, 1879.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Saturday last was read and approved.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of DANIEL W. VOORHEES, chosen by the Legislature of Indiana a Senator from that State to fill the vacancy caused by the death of Oliver P. Morton.

The credentials were read; and the oaths prescribed by law having been administered to Mr. VOORHEES, he took his seat in the Senate.

The VICE PRESIDENT also presented the credentials of DANIEL W. VOORHEES, chosen by the Legislature of Indiana a Senator from that State for the term beginning March 4, 1879; which were read and ordered to be filed.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Quartermaster-General, reporting that in connection with the preparation of the lists of inscriptions for the head-stones recently erected in the national military cemeteries a revision of the Roll of Honor has been made, and recommending an appropriation of $20,000 for publishing copies of the work; which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the memorial of the Legislature of Colorado, in favor of such action by Congress as may be necessary to throw open the reservation of the Ute Indians to settlement and the removal of the Indians therefrom; which was referred to the Committee on Indian Affairs.

He also presented the memorial of the Legislature of Colorado, in favor of the passage of a law by Congress donating to that State all the lands within her boundaries not belonging to the United States, except those known as mineral lands, for the purpose of constructing a system of irrigation adequate to reclaim those lands from their present unfruitfulness; which was referred to the Committee on Public Lands.

Mr. PADDOCK. I present a memorial of the Legislature of the State of Nebraska, now in session, and as it is very brief and relates to a subject of very great importance in the State, I ask that it be read.

The VICE-PRESIDENT. The memorial will be reported at length.

The memorial was read, as follows:

MEMORIAL AND JOINT RESOLUTION.

To the honorable the Senate and House of Representatives of the United States in Congress now assembled:

Whereas a bill has been introduced and is now pending in the Senate of the United States extending the provisions of the act of Congress of September 28, 1850, and the 2d of March, 1855, relative to swamp and overflowed lands in Nebraska and other new States; and

Whereas it is but simple justice that the new States organized since the passage of said acts and amendments should enjoy the same rights under laws while assuming the same obligations of their older sisters: Therefore,

Your memorialists, the Legislature of the State of Nebraska, would most respectfully urge upon your honorable body the passage of said bill, Senate file No. 780.

Resolved, That the secretary of state be, and is hereby, instructed to transmit two certified copies of this memorial and joint resolution to each one of our Senators and Members of Congress without delay, who are hereby requested to use all means to secure the passage of the same.

CHARLES G. MATTHEWSON,
Speaker House of Representatives.

Mr. PADDOCK. As the bill to which the memorial relates has been reported favorably from the Committee on Public Lands and is now upon the Calendar, I ask that the memorial lie on the table until that bill shall be called up.

The VICE-PRESIDENT. That order will be made.

Mr. SAUNDERS presented a joint resolution of the Legislature of Nebraska, in favor of the passage of the bill (S. No. 780) to provide for indemnity to the several States under the acts of Congress approved March 2, 1855, and March 3, 1857, relating to swamp and overflowed lands; which was ordered to lie on the table.

Mr. WITHERS. I present certain joint resolutions passed by the Legislature of Virginia on the subject of the tobacco tax. I ask that they may be reported at length, as they are very brief.

The VICE-PRESIDENT. The resolutions will be reported.

The resolutions were read, and referred to the Committee on Finance, as follows:

Resolved by the General Assembly of Virginia, 1. That while we deem the whole system of tobacco taxation unjust and oppressive upon the producer of the great staple of our section of the country, we heartily indorse the efforts of our Senators and Representatives in Congress to procure the reduction of the tax to sixteen cents a pound.

2. And that in view of the fact that business has been sorely depressed by the long delay of Congress to reach final action on the question, we invoke them to insist on a speedy disposition of it, and to employ every legitimate means to consummate the partial relief desired.

3. That a copy of these resolutions be sent to each of the Senators and Representatives of Virginia.

Mr. SHIELDS presented the petition of Ward B. Burnett, of New York, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. McMILLAN presented a memorial of the Legislature of Minnesota, in favor of an appropriation by Congress for the removal of certain bars in the bed of the Minnesota River at its mouth and junction with the Mississippi River; which was referred to the Committee on Commerce.

Mr. CHAFFEE. I present a memorial of the Legislature of Colorado, urging the passage of the bill now pending in the Senate providing for holding terms of the United States court at certain places in that State. That bill is now in the hands of a committee of conference, and I move that the memorial lie upon the table.

The motion was agreed to.

Mr. BAILEY presented a memorial of the Legislature of Tennessee, in favor of the passage of a law providing for the payment of the claim of the Methodist Episcopal Church South for the use and occupancy of their property at Nashville, in that State, by United States troops during the late war; which was ordered to lie on the table.

He also presented the petition of Sarah J. Blankenship, of Henderson County, Tennessee, praying for the passage of a law granting her arrears of pension; which was referred to the Committee on Pensions.

He also presented the petition of Elizabeth Blankenship, of Henderson County, Tennessee, praying for the passage of a law granting her arrears of pension; which was referred to the Committee on Pensions.

Mr. HEREFORD presented a joint resolution of the Legislature of West Virginia, in relation to the sale of leaf-tobacco as affected by the provisions of the revenue laws of the United States, and in favor of such a modification thereof as will authorize the producer to sell his products to any person or in any quantity whatever; which was referred to the Committee on Finance.

Mr. DAVIS, of West Virginia, presented a joint resolution of the Legislature of West Virginia, in favor of an appropriation by Congress to complete the works begun on certain rivers in that State; which was referred to the Committee on Commerce.

He also presented a joint resolution of the Legislature of West Virginia, in favor of an appropriation for the improvement of the Little Kanawha River in that State; which was referred to the Committee on Commerce.

Mr. WALLACE presented a memorial of the Board of Trade of Philadelphia, Pennsylvania, in favor of a continuance of the appropriations for the signal service, and of an appropriation for establishing a signal station on the Delaware breakwater; which was referred to the Committee on Appropriations.

He also presented a memorial of the Board of Trade of Philadelphia, Pennsylvania, in favor of the passage of the bill (S. No. 1561) for the